HUMAN RIGHTS IN ISLAM

Papers presented at the
5th Islamic Thought Conference
Tehran
29th_31st January, 1987

Islamic Propagation Organization
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Edited by:
Sayyid Khadim Husayn Naqavi

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CONTENTS

Foreword 7
Conclusions and Recommendations of the 5th Islamic Thought Conference on Human Rights 9
Topics of the 5th Islamic Thought Conference on Human Rights in Islam 15
Inaugural Address at the 5th Islamic Thought Conference .... Hujjatul-Islam Seyed 'Alī Khāmeneī 17
The Islamic Bases and the Mutual Rights of the Imam and the Ummah .... Prof Al-Tayyib 'Abd al-Rahīm Muḥammad 35
Man's Success Through Tawhid .... Ayatullāh 'Abdullah Jawādi Āmulī 51
Right of Participation in the Fate of People and in the Makeup Socio-political System .... Hujjatul-Islam 'Abbās 'Alī 'Amīd Zanjānī 69

Humaa Rights in Islam: The General Theory .... Jamāluddīn Al-'Atiyyah 87
The Political Rights in Islam: The Mutual Rights Between the Ummah and the Imam .... Tāhir Sālih Al-Mue'qabi 129
The Origin of Rights .... Muhammad Taqī Misbāh Yezdī 139
The Rights of the Relatives in the Wealth .... Prof Hasan 'Abdullah Al-Amīn 167
Human Rights in Islam .... Dr. Seyed Jawād Mustafavī 177
Some of the Shortcomings of the Universal UN Declaration of Human Rights ..... Dr Jahāngīr Thānī 191
Role of Prophets in Elevation of Status of Man .... Hujjatul-Islam Muhammad Taqī Falsafī 205
Human Rights from Islamic Point of View– General Observation .... Hujjatul-Islam Seyed Muhammad Bāqir Hakīm 227
Human Rights for Woman in Islam and in other Laws .... Hujjatul-Islam Seyed Muhammad Khāmeneī 257
Islam the Best Religion for Preservation of Human Rights .... Engr Seyed Khādim Husain Naqavī 347
Fundamental Discussions on Rights .... Hujjatul-Islam Muhammad Yezdī 359
Freedom in the Islamic Framework of Human Rights with Special Reference to Nahj al-Balāghah .... Dr Seyed Waheed Akhtar 379

The Practical Application of Human Rights .... Allāmah Shaykh Ahmad Al-Zayn . 423
The Family Rights .... Muhammad al-Murtada Ambakee 431
Address at the Concluding Session of the 5th Islamic Thought Conference .... Ayatullāh Ahmad Jannati 449
Universal UN Declaration of Human Rights **465**

Foreword

Almost since the inception of the IPO, one of the main activities of vital importance has been the organization of international Islamic Thought Conferences on various topics every year. This was also to indicate that the Islamic Revolution was not only political but multi-faceted one including cultural. These conferences have been successfully organized and have provided an effective forum for deliberations and exchange of views by leading international Ulamā', scholars, scientists, professors, research scholars, thinkers and experts. Arrangements for presentation of papers were made in three languages – Arabic, English and Persian – with facilities of simultaneous translations. Papers received in languages other than English were translated into English and all were edited. All the conferences had remarkable local and international participation and were widely covered by the press, radio and television.

The 5th Islamic Thoguht Conference in the series was held on "Human Rights in Islam" during 29th to 31st January, 1987 at Tehran. This book contains the papers presented and addresses delivered at this conference by the leading experts and dignitaries. The IPO hopes that this book would serve as a thought-provoking source for people

in general and Muslims in particular to defend the rights of the human beings and the oppressed worldover.

International Relations Department
Islamic Propagation Organization

CONCLUSIONS AND RECOMMENDATIONS OF THE

5TH ISLAMIC THOUGHT CONFERENCE ON HUMAN RIGHTS

Note Human Right Day is observed on 10th December all over the world

O you men! Surely we have created you of a male and a female, and made you tribes and families so that you may know each other; Surely the most honourable of you with Allah is the one among you most careful (of his duty); Surely Allah is Knowing, Aware. (Holy Quran, 49:13)

The 5th Islamic Thoughts Conference was organized, coinciding with the 8th Anniversary of the victory of the Islamic Revolution of Iran, in Tehran from 28th Jamadi-ul-Awwal to 1st Jamadi-ul-Sani, 1407 Hijri Qamari (9th to 11th Bahman, 1365 Hijri Shamsi, ie, 29th to 31st january, 1987), taking into consideration the following points.

(a) The real worth of human being is hidden in his intellectual dimension and specialized nature and his source of perceptions, motives, and exalted tendencies take him towards perfection and make him distinguishable from other (materialistic) creatures.

(b) Islam is the only social religion whose viewpoints and systems harmonize with Nature; and Nature itself is the basis of human rights and Islam's only criterion.

(c) The Islamic teachings are generally based on negation of all types of discriminations such as of colour, race and other materialistic distinctions, and piety is the only criterion for superiority of human being through which he moves towards perfection; and that the human freedom does

not accept anything other than what is within the limits of worshipping Allah and negation of all types of submissions to devils and imaginary gods and abstinence from sensual desires which are obstructions in the way of one's individual and social perfection.

(d) Various viewpoints, ideologies and materialistic schools of thought which have attempted evaluation of human rights, have gone away from the reality and Nature.

(e) After the magnificent victory of the Islamic Revolution and revival of bases of human values in contemporary period, an overwhelming awareness has been created in the entire Islamic world and congratulates the humanity for its success.

(f) As the universal Human Rights Declaration of the United Nations was finalized under the influence of the Superpowers and world oppressive forces, beside positive points, it also contains serious lacunae and shortcomings.

The 5th Islamic Thoughts Conference has finalized the following conclusions and recommendations after detailed deliberations.

(1) As Islam is the origin for the development of human society in its progress towards perfection and achievement of true human rights and that various Human Rights Declarations lack in providing for such specialized factors, the Conference in general requests the scientists and experts, thinkers and reformers of human society for deep study and research on various dimernsions of Human Rights in Islam and reach to better understanding regarding bases of true human rights from the viewpoint of Islam. Similarly, the Conference requests all Islamic universities and institutions to set up separate departments for study on Human Rights and take steps for setting up an Islamic World Human Rights Organization.

(2) Since the materialistic schools of thought have drawn the intellectual human personality towards corruption, and contrary to their claims for defending the justice and human rights without giving any consideration to great intellectual dimension of humanity and by trampling upon the respect of humanity have disregarded true human rights, therefore, the Conference invites all the thinkers who appreciate the importance of human values to highlight these facts and the excesses rendered by these materialistic schools on the humanity and emphasize that these schools, by disregarding the nature and intellectual dimension of man, have no right to even talk about the human rights.

(3) Since Islam has provided for all the human rights to men, women, and children in all the age groups in all the fields of activity such as right to life, respect, freedom including freedom for practising Islam, security, justice including social, political and economic rights and that Islam provides for implementation method, the Conference calls upon all the people particularly all the Muslims all over the world to assert for administration of their complete rights particularly their political and social rights and rise up against all the types of excesses, exploitations, transgressions and dependencies or alignments.

(4) Since the *Ulama* are the successors of prophets and custodians of *Ummah* to safeguard its interests, the Conference calls upon them that in view of their Islamic and human responsibilities to make efforts and continue their Jihad crusade in appropriate fields for restoration of *Ummah's* human rights and for establishment of totally Islamic governments.

(5) Since the victory of Islamic Revolution of Iran, under the leadership of Imam of *Ummah* Ayatollah-ul-Uzma Imam Khomeini, has contributed largely towards success of Islamic

plans and projects in the contemporary period and has greatly helped the Islamic *Ummah* in its awakening and awareness and has given a ray of hope to all the Muslims and oppressed people of the world to enable them to rise up for restoration of their rights, the Conference once again declares its full support for this Revolution and its Great Leadership (under Imam Khomeini) and presents itself with full strength for the defence of real Islamic goals of this Revolution and supports for Islamic human rights as has been indicated in the Constitution of the Islamic Republic of Iran.

(6) As the exploitative forces, with the continuing pursuance of their plots for taking away and harming the rights of peoples and endangering the prelude and freedom of human beings and for achievements of their illegitimate gains and their transgressive desires, have been utilizing the services of world human rights organizations including so-called champions of human rights, the Conference severely denounces all such criminal activities and declares its support for all the oppressed people who are struggling for their independence and defence against transgression and exploitations and calls upon all the human forces under oppression to unite for getting back their lost legitimate rights and rise up face-to-face against so-called sanctioned exploitative and unjust regulation such as "veto power".

(7) The Islamic Thoughts Conference denounces meetings, sponsored conferences and unjust decisions which strengthen oppressive plots for justifying the historical crimes including denounceable Camp David Agreement, conspiracies with Zionist occupying regime on Palestine, and trampling upon the just rights of Muslim *Ummah* and support for oppressors and the Conference considers decisions of such organizations totally lacking in legitimacy and lawfulness.

(8) The Conference strongly condemns all types of transgressions by exploitative forces of the East and West in regard to the rights of the oppressed people of the world such as people of Palestine, Afghanistan, Lebanon and other peoples under oppression and requests all the justice demanding people and those who listen to the voice of Islam for performing duties to stand by those people who are struggling for their legitimate rights.

(9) The Conference strongly denounces the unjust war, imposed on Muslim *Ummah* and nation of Iran which has been imposed by transgressive Baathist regime ruling over Iraq with the help of the world exploitative forces so that Islamic Revolution of Iran could be contained and this Divine voice be fully suppressed; and the Conference also condemns wild criminal bombing. of residential areas, civilians, cities and rural areas including holy religious places, mosques religious institutions, hospitals, and using chemical weapons by Baathist regime violating all international laws and regulations and stands by the Muslim *Ummah* of Iran and declares its full support till its legitimate and just rights are restored and the present fire on the Islamic land of Iraq is extinguished.

(10) For more and more evaluation and research on human rights and with a view to improve deliberations on various topics detailed during the 5th Conference, it is recommended that those discussions should be continued in forthcoming conferences and their various aspects should be studied more and more.

Wassalāmu alaykum wa rahmatullāhi wa barakātuh.

Topics of the 5th Islamic Thought Conference

Tehran, 29th-31st January, 1987

(1) Basic discussions on the subject:

(a) The origin and meaning of the human rights

(b) The criterion of recognizing the rights and the role of religion in gaining such knowledge

(c) Men's equality in basic rights and the role of *Tawhīd* (monotheism) in this regard

(d) Prophets' role and their efforts to exalt man's dignity

(e) The divine rights of man

(f) Rights (obligatory and moral)

(g) Inadequacy of the World Declaration of Human Rights

(2) Right of living

(3) Right of being esteemed (respecting man's personality and supporting his prestige and reputation)

(4) Freedom:

(a) Freedom of thought

(b) Freedom of behaviour

(c) Freedom of propagation

(5) Right of equality

(6) Women's rights
(7) Right of enjoying security
(8) Right of residence
(9) Right of enjoying justice:
    (a) In human relations
    (b) In arbitration and adjudication
(10) Right of participating in developing the social life (taking part in determining the public destiny)
(11) Economic rights
    (a) Labourer's rights
    (b) Right of ownership
(12) Familial rights
    (a) Parents' rights
    (b) Reciprocal rights of couples
    (c) Children's rights
(13) Right of enjoying public education
(14) Right of enjoying sanitation and social security
(15) Political rights
    (Reciprocal rights of *Imãm* and the *Ummah*)
(16) Minorities' rights
(17) Right of refuge
(18) Right of citizenship
(19) Right of enjoying insurance and social security
    (The aged, children , the disabled and the helpless)
(20) Moral rights such as:
    (a) Neighbour's right
    (b) Servent's right
    (c) Friends' right
    (d) Master's right
    (e)Right of the brother-in-faith
    (f) Partner's right
    (g) Right of others

Inaugural Address at the 5th Islamic Thought Conference

Hujjatul-Islam Seyed 'Alī Khāmeneī

The issue of human rights is one of the most fundamental human issues and also one of the most sensitive and controversial. During the recent decades, this problem was more political than either ethical or legal. Although the influence of political motives, rivalries, and considerations have made difficult the correct formulation of this problem, but this should not prevent thinkers and genuine humanists from probing into this problem and ultimately obtaining a solution.

In the West, though the issue of human rights was raised by the thinkers of the post-Renaissance period, it is only since the last two hundred years or so that it became an issue of prominence among the political and social issues of the Western society and an issue of fundamental significance. Perhaps, when we examine the causes of many social changes and political upheavals, we will find the marks of its presence and its principal ideals. During the last decades this emphasis reached its climax in the West. With the formation of the UNO after the Second World War and the subsequent drafting of the Universal Declaration of Human Rights, a concrete model came into existence as a result of this emphasis that can serve as a criterion and basis of our judgement and analysis of the ideals voiced in this regard during the last two hundred years and especially in the last

few decades.

We Muslims, of course, know it very well that if the Western world and the Western civilization have paid attention to this matter in the recent centuries, Islam has dealt with it from all the various aspects many centuries back. The idea of human rights as a fundamental principle can be seen to underlie throughout Islamic teachings. And this does not need any elaboration for a Muslim audience. That the verses of the Quran and the traditions handed down from the Prophet (SA) and the Imams of his Household (AS), each one of them emphasizes the fundamental rights of man — something which has caught the attention of men in recent years — is known to Muslims, and there is no need for the scholars to be reminded about this fact. However, I would say, that today it is a big responsibility on the shoulders of the Islamic society to make this reality known to the world, and not to allow those essential teachings of Islam to be lost in the storm of political clamour and ballyhoo.

There were some questions which can be raised in this regard, and to answer them is my principal aim today. Of course, in the course of the conference you scholars would carry on useful and profound discussions on various aspects of human rights, which will itself serve as a source of information for the Muslim world and enlighten them about the viewpoints of Islam in this regard.

The first question is whether the efforts made during the last two centuries at least, and especially during the decades since the Second World War, in the name of human rights have been successful in their purpose or not. The addresses, the assemblies and the sessions held in the United Nations, and the claims made regarding human rights — have they succeeded in bringing men closer to their genuine rights, or to at least the major section of the deprived

humanity? The answer to this question is not so difficult; for an observation of the present world conditions is enough to prove that these attempts have not been successful till now. A glance at the conditions of the underdeveloped societies of the world, who form the major part of the human population, is sufficient to reveal the fact that not only the major part of humanity could not achieve their true rights during the last fifty years, but the methods of encroaching upon the rights of the deprived nations have become more sophisticated and complex and more difficult of remedy. We cannot accept the claims made by those who claim to be champions of human rights, while the bitter realities of the African and Asian nations and the hungry millions of the human race are before our eyes, and watch the constant spectacle of violation of the rights of several nations. Those who have been outspoken in advocating human rights during these last forty years, have themselves grabbed the most fundamental of human rights from the people of the Third-World countries. It is with their connivance that certain governments and regimes that deny men their most primary rights have managed to survive. The dictators of today's world and also the despots of the last fifty years in Asia, Africa and Latin America — none of them could have established and preserved their dictatorships on their own without reliance upon the big powers. These big powers are exactly those who have coined most of the slogans concerning human rights; it is they who have brought into being the UNO, and even today the UN is at their service.

The economic poverty, hunger and loss of life in several countries of the world are of course the result of intervention, repression, usurpation on the part of the big powers. Who has caused Africa, the land of plenteous resources to see this day? Who has kept the people of Bangladesh and India for years and years under exploitation, and, despite their natural

resources and great potentialities, has brought them to the point that today we hear people die of hunger in those countries? Who has plundered the wealth and resources of the Third-World countries, and has brought about hunger, poverty and misfortune for these nations, procuring sophisticated technologies and immense wealth for themselves? We see that the organizers of the United Nations Organization and the principal drafters of the Universal Declaration of Human Rights and those who even today shamelessly claim to be the supporters of this declaration are the real authors of these misfortunes. Otherwise there is no reason as to why Africa, the land of exuberance and bounties, Latin America with its natural wealth, and the great India, and many other Third-World countries should have lagged behind and remained backward in spite of sufficient manpower and natural resources. Today, the system of political domination of capital and power prevails in the world, and there is no doubt in it that this system of dominance of capital and power is controlled and steered by the same people who are the fathers of the Declaration of Human Rights. Under their wheel of capital, power and machine we see the nations of the world being crushed and struggling helplessly. The UN is the most outstanding product of the efforts made for human rights, yet what has it done in the past for the nations of the world, and what is it doing today? What active role could the UN play in solving the basic problems of nations and in relieving them of the calamities that befell them? In what instance did the UN emerge as a deliverer of the oppressed from the oppressor? At what point could the UN persuade the big tyrannical powers to refrain from making unjust demands? The UN has even lagged behind most of the nations in this regard. Today, despite all those claims, we are witnesses to the Apartheid regime in South Africa and to

many instances of racism and racial discrimination in the advanced countries themselves. Therefore, it is clear that the UN despite its being the most outstanding example of the endeavour for human rights, has not done anything in this regard. It has intervened in international problems in the role of a preacher or priest. The Security Council is one of the principal organs of the UN, and functions as the main decision-making body; in it the big powers have the right of veto. That is, every decision that is taken in the UN and in the Security Council against the real agents who handicap the nations, the same agents themselves, the big powers, are able to veto it. The United Nations and its organs, agencies and organizations, whether they are cultural, economic or technical, all of them are under the influence and domination of the big powers. The US pressures over its cultural agency like the UNESCO and others are known to everyone. Since a Muslim was the chief of the UNESCO who desired to maintain his own independence as well as that of the agency, you witnessed how the US subjected the UNESCO to pressures during these last two years. Consequently, we feel that the UN as the most significant outcome of the endeavour for human rights has proved to be an ineffectual and impotent element, which has been created as a consolation for nation that has no practical benefit. On account of the interference on the part of big powers, in cases it functions as their feudatory. We do not of course reject the UN; we believe that this organization ought to exist, and it must be reformed. We ourselves are its member. However, what I mean to say is that after all that effort, after all that clamour and the hopes that were attached to this organization, you can see how inadequate and ineffectual this organization has remained in securing human rights in the world today. Hence, the answer to the first question has become clear. We can say that the

efforts made for procuring human rights and the claims made in the name of human rights through the last several centuries and especially during the last few decades did not bear any fruit; they have failed to secure human rights.

The second question is whether, basically, these efforts had any sincerity? This question is of course historical in nature and may not have much practical value. Hence, I do not intend to discuss it at length. It suffices to mention here that, in our view, these efforts were not sincere. It is true that there were philosophers, thinkers and social reformers among the exponents of human rights, but the arena was dominated by politicians. Even the efforts of those thinkers and reformers were taken into the service of the politicians. If, in the annals of history thinkers, sages, apostles of God, mystics and men of conscience are seen to raise the cry for rights of man, today when we behold politicians and statesmen to raise this cry vociferously, we are justified in serious doubting their sincerity. Look around and see as to who are those who plead the case of human rights. The ex-president of the US projected himself as the defender of human rights during his election campaign, and won the election on account of it. In the beginning, from some of the speeches he made and steps that he took, it appeared as if he was serious in his intentions; but we have seen that ultimately he stood by the cruelest, the most barbarious and tyrannical of rulers, and the most adamant opponents of human rights in this region. He supported the Shah and the tyrants of occupied Palestine and other infamous dictatorships of our days. Even now those who plead the case of human rights, the statesmen and politicians who vociferously voice their support for human rights in conferences and international forums are not more sincere than their former counterparts. We do not find any signs of sincerity in their efforts. Those

who drafted the Declaration of Human Rights, and at their fore the USA, their aim was to extend their domination and hegemony over the world of that time. Their problem was not to safeguard the rights of men, the kind of rights that they had violated during the war. They are the same people who have wiped out tens of thousands of human beings by an atom bomb. They were the same persons who in order to fight a war which had nothing to do with the Asian and African nations had recruited the majority of soldiers from India, Algeria and other African and non-European countries. We do not believe that Roosevelt, Churchill and Stalin and their like had the smallest consideration for human rights in the true sense of the word and were sincere in forming the United Nations and drafting the Universal Declaration of Human Rights. Accordingly, the answer to the second question is also clear: No! We do not believe that the efforts made by the politicians and the most vocal advocates of human rights were sincere at all.

The third question, which is the most basic of them all, is, what was the reason for the failure of these attempts? This is the point to which more attention should be paid, and I shall discuss it briefly here. I believe it is the most basic point, because whatever has been presented before the world till now and is still being presented in the name of human rights is done within the framework of a defective and crooked system, a system of dominance which is repressive and tyrannical.

Those who have created the UN and have drafted the Universal Declaration of Human Rights, and those who most vehemently and vociferously plead for it today, regrettably the majority of them are statesmen and politicians who believe in the system of dominance and have accepted it. The system of dominance means that a group of men dominates

and should dominate another group of men. The system of dominance is backed by the culture of dominance. Today the world is divided into two groups: one is the group of those who dominate and the other is the group of the dominated. Both the groups have accepted the system of dominance, and the big powers believe that this system should be maintained. Even those who are dominated have accepted the system of dominance and have consented to its continuity. This is the biggest flaw in the existing world situation. Those who do not accept the system of dominance are those individuals or groups who are not satisfied with the social order in their countries or with the social and political state of world affairs, and rise in revolt against this system. The revolutionary groups who revolt against the global status quo or revolutionary governments are very few in number and are constantly subjected to pressures and victimized. The most iullustrative example of it is the Islamic Republic of Iran, which has rejected domination in all its forms, and has not accepted anybody's domination. The East as well as the West are the same for it in this respect. It does not give any priority to the powerful of the world or to its rich, while making decisions. The whole world is witness to the kind of pressures it had to face during the period of the last eight years since the Islamic Republic of Iran was established. It was subjected to political as well as military and economic pressures, and the pressures of world-wide propaganda launched against it. The cause of such pressures is clear. It was all done for the reason that the Islamic Republic has taken a clear and independent stand against the system of dominance. If some progressive governments have resisted Western and US domination, in majority of cases, there were observable signs of acceptance of and surrender to Eastern domination. Of course, all of them are not the same in this

regard. Some of them have completely surrendered themselves to the Eastern bloc and the USSR while some others show signs of independence in some cases. But if there is a government and a society that has never yielded to any pressures, it is the Islamic Republic, which has totally rejected the system of dominance. Wherever in the world there is any pressure, high-handedness and unjust demands made upon a certain nation by a big power in the world, we have made clear our stand and have openly and bluntly expressed our definite views without any reservations. But the majority of the world's nations have accepted this system. You can see that unfortunately the governments of the same countries which are subject to domination do not have the moral courage and guts to resist and oppose the domination of the big powers and fight them, while in our view it is quite possible. We believe that if the poor countries, the countries that have been under domination and in spite of their resources have been forced to fulfil the unjust demands made by the big powers — had they wished to stand against them, they could do so. No miracle is needed; it is sufficient that the governments should rely upon their own people. Unfortunately, the weakness of will to resist, and more than weakness the treachery on the part of heads of some states in some cases, did not allow them to rise against the system of dominance. This system of dominance prevails over the world economy, culture, international relations and international rights. Naturally the issue of human rights has been posed within the framework of this system of dominance and developed in the background of this system and its outlook. As a result the very persons who strive to secure freedoms, opportunities and means of welfare for their citizens in European countries in the name of human rights, they bomb and kill human beings in other countries by

thousands. What does it mean? Does it mean anything other than this that in the view of the **culture** of domination which prevails over the world, human beings are divided into two categories: the human beings whose rights are to be defended, and the human beings who have to rights whatsoever and it is permissible to kill, destroy, enslave and subjugate them and to seize their belongings. This system is prevalent all over the world and the conception of human rights is also the product of such a culture.

This is the framework of the system of rights in the world of today. Within this cultural and legal framework the superpowers constantly widen the gap between the weaker nations and themselves, and exert more and more pressure on them. The greater the rate of advancement in **technology** and its speed accelerates, the more are the weaker countries and nations threatened and subjected to mounting pressures. No one asks the big powers today as to what right they have to put greater pressure on other countries and nations than ever before with their greater advancement in technology and industrialization. Today the satellites launched into the space by the big powers are moving in their orbits around the globe, and gathering minutest details and probing into the secrets of other countries. Why? What gives them right to do that? Today, most of the communications between people on the global level, especially those between statesmen and heads of states, and political and scientific communications are accessible to those who possess sophisticated technology. Why? Does anyone ask them? Does anyone raise any objection? Since the US has launched those satellites and possesses the means of gathering and benefiting from intelligence, it is given the right by all to obtain that information. Doesn't the eavesdropping on the communications between the world's people amount to a

violation of their rights? Does anyone put this question to the US, USSR, UK, France and Germany? When this question is raised, will anyone affirm that such a question should be raised? No, everyone says to himself: they are strong so they can do it; they are capable of doing it, so they must use the opportunity. Today, the problem of atom bomb and the use of nuclear weapons is an issue all over the world. The superpowers themselves raise it because they are afraid of each other. They wrangle over it and each tries to dupe the other by limiting the nuclear arsenals of its rival while equipping itself with more and more. But, have the smaller countries ever thought of opposing the makers of nuclear bombs, by declaring that unless these bombs are destroyed and defused and unless peace of mind is restored to humanity, which is exposed to the nuclear danger every moment, they shall not have any relations with them, nor any trade nor any cooperation in any matter?

Have the Third-World countries, the non-aligned nations and other countries of the world—have they ever thought of making use of some kind of leverage against the race for nuclear arms? No. If you suggest this idea to them, they will say that it is an advanced technology, they possess it; they can, and so must produce such weapons.

It means that they have accepted the logic of dominance. The absence of balance in the present world conditions has equally been accepted by the oppressor as well as the oppressed nations. The culture of dominance has been imposed on the minds. When we denounce the East and the West in international fora on account of their acts, we clearly perceive the astonishment of heads of the states and representatives of countries. They consider it something odd and rash, whereas it is a natural stand by an independent nation. All the nations and states should behave in a like

manner, but they don't. The conclusion that we draw is that today the prevalence of the culture of dominance has become the biggest evil. It is something which has been greatly detrimental for the weaker nations, and encouraged the big powers to violate human rights. Whether it is the US's aggression against Grenada, or the massacre of defenceless Lebanese civilians by the US supported Israel, or the ruthless suppression of the black population — who are the real masters of the land — by the government of South Africa, which is backed by the US and some European governments — all these violations of human rights are easily tolerated. But when a frustrated individual infuriated by this state of affairs in some corner of the world does something, if an explosion takes place or something happens, it is deplored as an act of terrorism. But the US's aggression against Libya, the bombardment of the residence of the president of a country and the violation upon its territory, is not condemned by the world. Whenever there is a mention of terrorism, mostly that which comes to the minds of people is some desperate act of a youth, a victim of oppression fed up with life, from Palestine, or Lebanon, or some African or Latin American country, rather than the acts of such big powers as the US, the UK, and others. This is nothing but the result of the culture of dominance, the culture that unfortunately dominates human mentality all over the world.

In the culture of dominance, words also acquire peculiar connotations that suit the system of dominance. For instance, 'terrorism' is defined in a way so that the US's aggression against Libya, or its intimidation of Nicaragua or the invasion of Grenada, etc does not come under the definition of 'terrorism'.This is a big flaw in the present state of affairs. Therefore, the failure of the attempts made in the name of human right — even on behalf of those who are

sincere and earnest—is on account of the nature of the framework within which they want to lay down and declare the rights of the human beings — something which is not possible. This framework is to be broken and the system of dominance to be condemned. States, nations and countries should resolutely reject the unfair and unjust domination of the big powers so that human rights may be understood, pursued and restored.

Lastly, the fourth question: What is the remedy? In our view, the answer is return to Islam, and recourse to the Divine revelation. This is a prescription equally valid for Muslims as well as for non-Muslims. For this, the Islamic societies do not have to wait for anything. Return to Islam, revival of the Quran and of Islamic mode of thinking in society, recourse to Islamic sources (the Quran and the Sunnah) in legal matters -these are the things and that will enable us to understand the meaning of human rights and help us to identify those rights and guide us in our struggle to secure them. For the purpose of securing human rights, it is necessary once and for all to give up giving advice and lecturing, since they are of no use. The Quran says:

"Take by force that which We have given you." (2:63).

God Almighty has granted these rights to mankind, and they should secure these rights by force. The Islamic nations should resist the unjust demands and dominance of the big powers by relying upon the Islamic ideology. These are not the words of an idealist who speaks about Islamic issues and Islamic ideals from the corner of a theological seminary. These are the utterances of a revolution which has gone through experiences and has felt the actualities.

Our revolution is an experience that is available for study to all the nations. I do not say that we have solved all our problems. We haven't. There is no doubt that a great many

problems have been created for us on account of the Revolution and on account of its Islamic character. But we have solved the problem of dominance. Today the Iranian nation and the Islamic Republic can claim that they have rid themselves of all dominations and powers and that they can decide for themselves. Of course, when a nation tries to do away with all the forms of dependence, it has a long path to tread. And dependence if not accompanied with domination, pushing around, and unjust demands is something natural and tolerable. It is quite obvious that our revolution and the Islamic Republic inherited the legacy of a decadent society, a shattered economy, and a degenerate culture. What was handed down to the Revolution by the rulers of the past centuries, especially of the last fifty or sixty years, was an Iran beleaguered from all sides. It is not to be expected that the Revolution will be able to lead this dissipated heritage in a short time to the heights of cultural, ethical and economic achievement and scientific and industrial advancement. We do not make such claims, but, of course, we do anticipate a good future. We believe that it is possible for a nation to reach a high level of material advancement only through independence, self-reliance and by using its manpower and material resources.

But what we positively claim today is that the Islamic Republic is not under any political pressure or domination of any power whatsoever. Political pressures do not influence it to change its course or alter its decisions; it does not change its path or its momentum on account of any consideration for some superpower. It means that we have freed ourselves and our people from the domination of the big powers.

This is an experience, which, we believe, underlines the significance of the most basic and precious of human rights in Islam: the right to live, the right to be free, the right to benefit

from justice, the right to welfare, and so on. These and other such fundamental rights can be secured in an Islamic society. They can be derived from the Islamic sources and Islam has incorportated them in its commands to Muslims and drawn man's attention towards them, much before Western thinkers gave thought to these rights and values. It is essential to return to Islam.

Muslim thinkers are charged with the responsibility of thoroughly examining and studying the subject of human rights or rather the general structure of the Islamic legal system. This is also the mission of the present conference, which, I hope, will be a new step taken in this direction, and, God willing, this work whould continue. The nations of the world can benefit from the sublime outlook of Islam in this regard in coming closer to securing these rights. The Islamic governments may of course help their peoples in securing their rights, but on condition that they should have no reservations in regard to the big powers. Unfortunately, today we do not see such a state of affairs. Most of the regimes governing Islamic countries are under the influence of the big powers. The majority of them are dominated by the West and under US influence. Therefore, their actions and decisions comply neither with the Islamic principles, nor with the needs of Muslim nations.

A ready example in this regard is the conference held recently in Kuwait. You have seen that in this conference, instead of considering the basic problems of Muslims, what kind of problems were discussed and what kind of resolution was passed. It was by no means compatible with an Islamic approach to the problems. Instead of rejoicing over Iraq's aggression against a Muslim country and its waging of a war against an Islamic revolution, they should have denounced it and expelled it from the Conference. Instead of revealing the

part played by the imperialist powers in igniting the flames of this imposed war, they came out with a hollow and insipid demand for peace, and even expressed their satisfaction for Iraq's positive response to the call for peace. They did it without going into the core of the problem, without appreciating the fact that a nation's resolve to defend its own rights is something commendable, and without recognizing that the willingness of a government and a regime to be influenced by the pressure of imperialist powers in creating obstacles in the path of a revolution is something condemnable.

Of course, these resolutions, decisions and opinions are as much invalid and weightless as they are remote from Islamic principles and values. Accordingly, there is no nation or country in the world which looks forward to knowing what step the Islamic Conference takes in Kuwait so as to welcome it or be disappointed with it. It means that these decisions and resolution are so much so removed from reality, alien to the basic Islamic criteria, and the aspirations of nations that they remain completely indifferent to these. You will not find a single country in the world whose people should be waiting eagerly to know as to what the Islamic Conference has to say, so that its resolution promises a sense of obligation or the pleasure of receiving some good news. What is the reason? Why should a gathering of forty-six Islamic states organized on the highest level of heads of states and leaders be so ineffectual and so much devoid of consequence and content? It is on account of the unfortunate fact that most of these regimes are under the influence of the big powers. As long as this domination of the big powers and their awe and fear remain in their hearts, the affairs of the Muslim nations will be in disarray. If we wish to deliver the Muslim word form its present-day disarray and confusion, the first thing that is to

be done is to drive this fear and awe from the hears, as God Almighty has said: ... ... "...So fear not mankind, but fear Me..." They should not be afraid of anyone except God. If this happens, the condition of the Islamic nations will move towards betterment.

I conclude my speech with the hope that, God willing, this Islamic Thought Conference, during the few days that it will hold its sessions, will be able to make a significant contribution towards the understanding of the Islamic verities regarding human rights. Besides, the exchange of opinions between the Iranian and non-Iranian brothers will help the communication of the experience of the Islamic Revolution and the Islamic Republic and their better understanding by the non-Iranian brothers. It will provide them the opportunity to study that experience, so that other nations may view the revolution brought about by their brethren in Iran as a model and as a new path that can be possibly trodden.

Wassalām 'alaykum wa rahmatullāh wa barakātuh.

The Islamic Bases and the Mutual Rights of the Imam and the Ummah

Prof Al-Tayyib 'Abd al-Rahīm Muhammad

My paper is divided into three parts:

(1) The problems of the Muslims and their Islamic solutions through the Islamic bases and mutual rights between the Imām and the Ummah (Nation), or the leadership and the masses;

(2) The Salāt (prayer) and its cultural image to deepen the relationship between the leadership and the masses; and

(3) The conclusion and suggestions.

PART ONE

The subject which interests the Muslims of today most is how to choose the leadership and how this leadership should deal with the masses. Although I found this subject difficult and complicated, I attempted to discuss this issue. However, I have left the details to able scholars. One of the reasons that I found this subject difficult was due to the fact that most of the Islamic world lives under horrible dictatorial pressures led by the dictators whose only interests are filling their bellies and satisfying their lusts. The leaders of these countries made their masses nothing less than a flock of sheep without any will or ability to think. As such there is a great deal of ignorance of their rights due to this lack of communication and / or respect by the leadership for the masses.

In order to ease these difficulties it is necessary to emphasize political education, for such education would inform the Muslims of the necessity of striving to attain their political rights in a comprehensive manner. As such the individual would play a role in the running of the affairs of the state and society, choosing the leadership; and the relationship between the leadership and the masses would depend on the Islamic basis as a means for the following:

(1) Developing strong and faithful individual;

(2) The participation of an individual in developing the Islamic nation;

(3) Developing the Islamic state;

(4) Establishing the great Islamic caliphate;

(5) Making the individual content in the world; and

(6) Making the individual content in other world or eternal life.

These six points are considered as a reply to the *faqīh* (jurisprudent) when they say: "What is suitable to the Book and the *Sunnah* (tradition)?" Also these are a reply to the question: "Why was the Qur'an descended and was Muhammad (SA) sent as a messenger?" Finally, these are the objectives of the Islamic policy.

The Problems of the Muslims

(1) The numerous ideologies planted by imperialism in the body of the Islamic *Ummah* served the purpose of keeping it weak, separated and psychologically defeated.

(2) The domination of a great deal of the non-Islamic leadership, who were backed by the Great Satan and his allies, and by the small satan and his allies for the purpose of continuing the exploitation of the Islamic nation.

(3) The domination of the non-Islamic culture and education by which the leadership and their followers advocated the slogan: "Learn and work for yourself and do not care about the religious element or the divine power."

(4) The lack of distribution of wealth under the domination of individual in the capitalist system or the domination of a group in the leftist system: These leaders, agents, and supporters dominated all the sources of wealth and were able to smuggle more than 10 billion dollars to England and Switzerland.

(5) The domination of immoral principles by the Muslim rulers: These rulers take on a material and heathen character. Thus the relationship between the leadership and the masses

became one of hypocrisy and deceit causing a disruption of mutual rights between them.

(6) The absence of righteous, geographical and intellectual unity and equality.

(7) The devaluation of good leadership.

(8) The love of this life and world and a hatred for death.

(9) Hatred of inventiveness and renewability of a force to frighten the enemies.

These problems resulted in the long, deep sleep of the Muslims despite the attempts made by some Muslim individuals.

Islam's Solution to the Problems

These solutions are based on the basic mutual rights between the Imam and the *Ummah*. There are firm guarantees of a deep relationship between the *Ummah* and Islam. The solutions, themselves, include:

(1) Religious security, resembled by true faith "La Ilāha Illallah" (There is no god but Allah) in positive and complete meaning as it was understood by the Prophet Muhammad (SA) also the words"*shahadah*" made the Arabs a civilized, scientific, and progressive nation.

(2) The political security resembled by the Messenger Muhammad (SA) and those who followed his path. In other words, the leaders should be chosen from those whose definition of the Islamic Imamate fits beginning with the head of the state and ending with the smallest official of the state.

(3) The educational security resembled by prayer which is considered a guarantee of education of the individual socially, politically, economically and spiritually. It educates the individual to act righteously, for the cause of Allah, and in the path of Islamic aims. As the Almighty Allah says:

"Say surely my prayer and my sacrifice and my life and my death are (all) for Allah, the Lord of the Worlds (16:163)."

(4) Economic security resembled by imposing the *"Zakāt"* which means the total solution for the problem of poverty. It is a total and decisive solution to the problem of poverty because the Muslims' wealth (or Islamic treasury) is divided into four parts. Three parts are especially for the poor, and the remainder is for the *Zakāt* deservers. The fourth part is for government spending. These four parts include:

A. Compulsory *Zakāt*

B. Voluntary *Zakāt*

C. Gains

D. General production in all of its various sources.

(5) Moral security resembled in *sawm* (fasting) which educates the Muslim to work based on the rule that one should, "Work as if you see Allah, and if you don't seeHim, He sees you."

(6) Unitary security resembled by *Hajj* (pilgrimage) which teaches the Muslim the following:

— Unity of all the Muslims at the House of Allah.

— Unity of appearance: all wear the same attire.

— Unity of thought: all are working towards one aim — one of the Islamic goals and intentions. This may be evident by the unity of movement during *Tawaf* (circumambulation around Ka'bah) and the repetition of religious words by Muslims.

— Military unity, and the combatant aim: all the Muslims during *Hajj* throw stones *(Jamarat)* as symbol of fighting the devil and his followers.

— Political unity: all the Mulsims go towards 'Arafat mountain in order to get acquainted with each other for the purpose of establishing the Islamic state and the great Islamic

caliphate. They use the farewell address of the Messenger Muhammad (SA) — *Khutbatul Widā'* — as a guide for understanding the political rights between the leadership and the masses and / or between the Imam and the *Ummah.*

Imam and the Imamate

Imamate is a monitor over religion and the world. It is divided into the two following parts:

(A) A great Imamate resembled by the caliphate of the Muslims, in general; and

(B) A small Imamate which includes the rulers of regions, cities, and the heads of establishments, who are chosen by consultation to aid the Imam or caliph of the Muslims in all the worldly and religious affairs, including leading the masses in prayer.

Choosing the Imam or the Leader

The Imam is always chosen by consultation. As the Almighty Allah says:

> *"And those who respond to their Lord and keep up prayer, and their rule is to take counsel among themselves, and who spend out of what We have given them* (42:38)."

But who are those who make up the counsel? They are individuals from the Islamic *Ummah* who fulfil the following conditions:

1. Justice in its complete terms, and conditions;
2. The knowledge about an individual who is best suited for the post of the Imamate;
3. The opinion and wisdom which aids them in identifying who is best suited for the Imamate; and
4. Righteousness.

All the above should apply to those who participate in choosing the rulers of cities, regions, and villages.

The Qualifications of the Imam and the Rulers of the Regions

The executive person should have the following qualifications:

(1) He should be a Muslim who carefully follows the doctrines of the religion.

(2) He should be male.

(3) He should be a man with great knowledge, which would enable him to make the correct decisions, and lead him in *ijtihād* (Islamic jurisprudential investigation).

(4) His senses (sight, hearing and speech) should be in perfect working order. In other words, his body should not suffer from defects.

(5) He should have decisive opinions regarding all affairs in that he would be able to manage the political and social problems.

(6) He should be brave and courageous enough to fight the enemies.

(7) He should be chaste and righteous.

(8) He should not be the initiator of actions or concepts which are beyond the Islamic doctrine.

(9) He should be a free man in that he should be free from all the non-Islamic ideologies.

The qualifications of the Imam and the counselling are the right of the *Ummah:* Whenever an Imam is chosen, these qualifications must be fulfilled in order to fulfil the rights of the *Ummah.*

PART TWO

The *Salāt* and its Educational Effect on the Relationship between the Imam and the Ummah

The leadership must fulfil the above-mentioned qualifications, but the problem in regard to the relationship between the leader and his masses has remained unsloved throughout history. This problem can only be solved by adhering to Islam its doctrines and education. Plato found it necessary to choose the leadership from among the philosophers. However, he states that it is not necessary for the ruler to please or satisfy the people because he aims for the general interest, and welfare. He does not emphasize the issue of morals when choosing the ruler. Islam developed the unique course of emphasizing that the ruler be righteous and knowledgeable.

In the 20th Century unjust groups appeared who refused the latter traits. Rather, they depended on force in leading the masses. This force silenced the masses from speaking the truth. Thus, frank and constructive criticism disappeared. This activity caused some of the masses to use violence and changing by force the Islamic world into a field of undeclared war. Thus, I sought to solve this problem in this essay by taking the Islamic foundations, such as *Salāt* as a means to

educate and teach the Muslims about the way in which the relationship between the leadership and himself should exist. But prior to this discussion I would like to turn to an explanation of the Imam's duties which are considered the Imam's and the *Ummah's* rights. They are as follows:

1. Protecting the religion as a guardian of Allah's right on earth.

2. Executing the judgements, spreading Islam and the spirit of peace among subjects.

3. To protect the *wilāyah* (guardianship).

4. Executing the punishments against those who disobey the doctrines of the religion.

5. To give appropriate and fair aid from the *baytulmāl* (Islamic treasury).

6. To fight those who are against Islam.

7. To manage and direct the affairs by himself.

8. To monitor his representatives and give them sufficient amounts of money to aid the people.

9. To follow the path of the Messenger (SA) of Allah and be righteous in all of his deeds in order that the people should use him as an example. He must rule the people according to the Qur'ān and the *Sunnah* (traditions) of His Messenger (SA). He must remind them of their duties and forbid them from performing unlawful deeds which contradict the doctrines of the religion.

10. He must live a more simple life than those he leads.

Education in the Salāt

The Islamic principles are considered as a means to educate and teach the human beings to fulfil His message on earth. Salāt, itself, is an education and treatment for the diseases of our Islamic society. These diseases include:

1- The dictatorship over the masses.

2- The corruption of the leaders and followers.

3- The unawareness of the masses and the leadership of

their mutual rights. The remedy for the above diseases is that the ruler should be a man who leads the Salāt. As such he would live among the masses and know and understand each other's problems. If he made a mistake during the *salāt* the masses should make him aware of this mistake and he should accept this criticism from his followers. This type of acceptance will teach him modesty and keep him away from all kinds of diseases, such as dictatorship and the love for domination. Also it will prevent the leadership from delving into corruption and hypocrisy. In addition, the congregational *salāt* will make the *Ummah* aware of their rights and duties.

4- Weakness in all kinds of organization including the political one.

5- Devaluating the time spent among the leadership and the masses.

6- The poor performance of the government and the leadership. The remedy for these diseases is attained through the *salāt* which encourages the love for organization by the masses. It makes them appreciate a sense of time. In this way work can be accomplished in a more productive manner.

7- The lack of loyalty to the leadership.

8- The lack of truth.

9- A weakness in the human relationship between the masses and the leadership and among the masses, themselves.

10- The lack of feeling for the pains and sufferings of the oppressed.

The remedy for the above lies in the complete obedience of the leadership as long as it obeys Allah and His Messenger (SA). But if the leadership made an error, then the masses should not be silent. The masses should criticize the leadership in a calm constructive manner. The leader should accept this criticism without argument. This method of advice and criticism will strengthen the Islamic human relationship between the leader and the *Ummah*, and between

the leadership and its masses.

11- A lack of care given to cleanliness of the body, clothes, and working places. The remedy for this is purity, washing and *wudū* (ablution). These teach the Muslimsto be clean and tidy.

12- Sect discrimination or racial segregation.

The remedy for this lies in congregational ***salāt*** which are performed five times a day, side by side, without any distinction. This method teaches the individual quality, and prevents one from being arrogant.

13- A lack of understanding for the meaning of peace.

Will there be peace among the Muslims and those who work to destroy Islam by all means?

The remedy is in the *salāt* which begins with *Allāhu Akbar* and ends with recitation for peace. But to whom and for whom should this peace be? It is upon the Messenger Muḥammad(SA) and upon his followers, faithful worshippers of Allah and those non-Muslims who are peaceful.

14- The weakness of unpreparedness among the Muslims.

The remedy for this is readiness to conduct the *salāts* at their exact times even during war. This will teach the Muslim to consider himself a ready soldier.

15- The lack of understanding the meaning of opposition.

The remedy for this is in appropriate advice and criticism of the Imam whenever he makes an error. He must accept this advice and criticism without argument. But if he insists in pursuing the alternate route, then the masses should rebel and drive him out of authority.

16- The lack of understanding the meaning of the woman's participation in the general affairs. Some gave her complete freedom, and some confined her within the walls of the house.

The remedy is to allow her the right to participate in the *salat*, to go to *Hajj*, to participate in the affairs according to her nature and abilities and to give her the right to learn and be educated.

In conclusion, I would like to make a practical suggestion that is the necessity to establish an institute in Africa. The aims and objectives of such an institute will be the following:

1. Teaching the Qur'ān and the *Sunnah* in such a way that it deepens the human relationship between the leadership and its masses, and/or between the Imam and the *Ummah*.

2. Teaching Islamic knowledge and sciences, answering the questions: what, why, and how of all Islamic subjects. For example, educating one in the three stages of *wudū*:

(A) How *wudū* is done;

(B) Why *wudū* is done; and

(C) What are the benefits of *wudū*.

3. Teaching the Prophet's (SA) biography and Islamic history for the Purpose of creating a nation that loves its (good) leadership, loves martyrdom for the cause of Allah, loves progress and is able to face the enemies.

4. Teaching Islam as a comprehensive sense and making its aims clear.

5. There should be a method of teaching that explains to the Muslim the difference between war and peace and/or between Islam and blasphemy. This should be organised in order that they be aware of their religion and to follow the correct and good leadership.

My last words are praise be to Allah, the Lord of the worlds.

Man's Success through Tawhid

Ayatullah 'Abdullāh Jawādi Āmuli

The most essential right of man is existence. The factor that sets up harmony between thought and action is called "existence". A being which does not think is not alive; or a being which does think but which is inactive is not alive. Or,if a being thinks and is active but his thought is not imminent over his actions, he, too, is not alive. If, in his action, the being does not seek help from his thoughts, he is not alive either.

The factor which coordinates thought and action is called "existence". Since this existence is connected with knowledge and activity, in fact the existence and non-existence, whether in new creation and in survival, or in strength and weakness, is dependent on knowledge and activity. That which is immersed in plant life is alive, but it is a "plant" not as yet admitted to the "animal" sphere. One whose thought is limited only to eating better, glutting, and dressing daintily leads a plant life. Such a creation is not even an animal let alone a human being. One whose thinking transcends the bounds of eating, drinking, dressing, and adornment and steps into the realm of feelings and emotions has reached the domain of animal life.

As there are numerous boundaries for animal life, a rapacious animal is not trained. That which is careful to derive benefits from its animal life is considered to be a good animal. That is to say, if one does not breach his trust, he is a

disciplined animal. If one supports his subordinates, he is then a trained animal. Since a dog is a trained animal, we see that it does not breach its trust. As a domestic hen is a tender and responsible animal, it has motherly feelings and defends its chicken.

If such a feeling is not found in mankind, according to the Holy Qurān, "... *Nay, they are in worse errors...* (7:179)". All through this Book (*ie*, the Holy Qur'ān), there is not a single word that is indecent. This is because the Holy Qur'ān is the Book of Light and light is not compatible with indecency. When the Holy Qur'ān referred to a group by saying: "...*Nay, they are in worse errors...* (7:179)", it unveiled a reality. This is by no means a curse and damnation. The Holy Qur'ān has taught the people to respect the views of one another:

> "*And do not abuse those whom they call upon besides Allah, lest exceeding the limits they should abouse Allah out of ignorance...* (6:109)".

The Holy Qur'ān says: 'Do not abuse the idolators, for my culture is not for vituperation! If you vilify the idol worshipped by the idolator, he will abuse the God worshipped by the pious. There is no vituperation in this Book. Vilification pertains to action which is separate from the realm of means. If the Holy Qur'ān mentioned a group by "...*Nay, they are in worse errors...* (7:179)", it revealed a truth. In future, when reality comes to light, it will be known who is a human and who is an animal.

If thought and action transcend this limit, *ie*, the limit of sentimental feeling, and reach the domain of reason, man enters the border of humanity. Existence becomes more profound, therefore, in accordance with the depth of knowledge and action. This was the first issue.

The message of the prophets in general and of the Holy Qur'ān in particular is to free human beings from plant and

animal life, to lead them towards human life, and to revive them. Before reviving them, the prophets and the Holy Qur'ān encourage them to gain insight into their own souls: "*O you who believe! take care of your souls...* (5:105)". Do not detach yourself from your soul.

After encouraging them to attain insight into their souls, the prophets and the Holy Qur'ān tell them that they must be animated and that this animation is only possible by means of monotheism. A monotheist is alive while others are dead, even though they possess an animal or plant life. Whosoever is not a monotheist is not alive.

But what is *tawhīd* (monotheism)? What are its setbacks? What are its fruits? Who is the gardener of the blessed sapling and tree of *tawhīd?* These are all the messages of the prophets in general and of the last Prophet (SA) in particular. When the Holy Qur'ān raises the issue of *tawhīd,* it says:

> "*...Say: Allah; then leave them sporting in their vain disscourses* (6:92)."

It has also stated: What Allah has not set forth is at the level of a plant or an animal. For this reason, the last prophet (SA) stated:

> "Neither I nor any prophet befor me expressed a statement . glorious as There is no god but Allah.",

Man has not uttered any word better than *tawhīd.* Therefore, *tawhīd* is the price of paradise," is a statement tha t raises the issue of *tawhīd* by adducing logical reasons.

This conference is concerned with the reiteration of the difficulties of these issues and not with reasoning them out. The Holy Qur'ān has summed up, in two parts, the statements of those who have doubts about and difficulties concerning *tawhīd.* It has stated: "They either have scientific doubts or practical passion." For instance, in the issues of

Resurrection and revelation, the Holy Qur'ān has unveiled them in *Sūrah* (Chapter) *Qīyāmah,* because most deniers of religious principles are either entangled with scientific doubts or practical passion. The Holy Qur'ān has stated:

> *"Does man think that we shall not gather his bones? Yea! We are able to make complete his very finger-tips, Nay! man desires to give the lie to what is before him* (75:3-5)."

The denier of this does not have scientific doubts, rather he possesses practical passion. He wants the way to be open to his debauchery and revelation hinders this. Those who had scientific doubts, whether in the past or at present, found that man naturally attributes every phenomenon to a cause. So long as the cause was unknown, man lived through the period of myth and legend. Later, man committed himself to religion and then to philosophy. With the burgeoning of the period of science and experimentation, the rational fabrications of philosophers became complex; moreover, the message of revelation was (Allah forbid) rejected. Even what was devised by the narrators of legends was rejected.

They believe that, at first, there was the period of legend Later on, this period gave way to an era of religion. Thereafter, came the period of philosophizing. Afterwards, there is the period of science which specifies the cause of every phenomenon or which is on the threshold of discovering the source of every phenomenon. Such are entangled with scientific doubts which barred them from becoming monotheists and, as a result, gaining animation and recovering the noble human rights.

The prophets started with the simplest matters and reached the most complex ones. The prophets came and said: "A being whose existence is not its essence is in need of something which is mere existence." This holds good both for primary and for complex matters. Ibrāhīm(AS), from whose idol-breaking we are blessed with religions and from whose

path whoever deviated is foolish and not wise. *("And who forsakes the religion of Ibrāhīm but he who makes himself a fool...*(2:130)"),. presents reasons for the most primary matters in the same way that he adduces the proof of *tawhīd* for the most difficult matters pertaining to man's general concept regarding world, man, and existence. On the one hand, he says: "*...He Who gives me to eat and gives me to drin* (26:79)." On the other hand, he says: "*...I have turned myself, being upright, wholly to Him Who originated the heavens and the earth...* (6:80)." This means that even drinking water is not done without *tawhīd.* He Who created water, He Who gave due effect to water, he Who created the digestive system, He Who made it responsive to effects is the Almighty Allah. That Creator of food and that Provider of food is Allah. He Who grants ontological and religious guidance is Allah. That Giver of medicine and Restorer of health is Allah: "*Who created me, then He has shown me the way: and He Who gives me to eat and gives me to drink: and when I am sick, then He restores me to health* (26:78-80)."

For this reason: "*... I have turned myself, being upright, wholly to Him Who originated the heavens and the earth...* (6:80)." Which primitive person is there who cannot feel his thirst and who does not know that water quenches it? If the Divine *'Ulamā'* (theologians) maintain an origin for the world, it is not because they are looking for a cause and as this cause was not discovered, they turned to the Unseen. Neither does it mean that experimental science should set out to discover the strange and cheif cause and to fill in the vacuum. The Holy Qurān has replied to these scientific doubts in the best possible manner. The Holy Qur'ān has also resolved their practical doubts by means of sermons, promises, and threats. If these promises and threats do not produce the desired results and if they keep on saying: "*... he will prosper indeed this day who overcomes* (20:64)," the Holy Qur'ān

reveals the truth by saying: "*...man desires to give the lie to what is before him* (75:5)."

These claim deny Divine *tawhīd* as far as they can. When the efforts of the prophets became effective and when people believed in Allah, these very despotic heads who denied Divinity started to claim favour of Divinity. They said, "*...I am your Lord, the most High* (79:24)." They denied Divinity as far as possible. When they found the people accepting Divinity, they said, "People want a lord, but we are their lord." After Divinity came the issues of revelation and prophetic mission. The denied the prophetic mission as far as they could. When the efforts of the prophets rendered fruits and when the society accepted the revelation, these despotic heads said: "People cannot do without the prophets, but Mūsā and Īsā are not prophets, rather this group who are in connection with us are the prophets." Therefore, the number of the people pretending to be prophets is not less than the number of the prophets. They opposed prophecy as far as they were able to do. When they were defeated, they submitted themselves to pseudo-prophecy. For this reason, if you see that the book "*Milal wa Nihal*" (Nations and Religions) has two volumes; it is because a volume is entitled "prophets' nations" while the other volume is entitled: "religions of pseudo-prophets". When it was time to interpret Divine Books, they said there is no need for interpretation. When they saw that the society had the belief that exegesis of Divine Books was not possible without the presence of the *'Ulamā'* and spiritual leaders, these despot rulers said: "The presence of the *'Ulamā'* is indispensable, but the historians and monks that are in contact with us should interpret the Bible, because in the case of others: '*...they altered the words from their places...* (5:13).", After Allah and the prophet, scholar and commentator, they reached the belief of the mass. They considered faith as something foolish

and reactionary. After witnessing the establishment of faith in the society, they nourished the claim for hypocritical purity and belief. They said: "We are believers." The Holy Qur'ān unveiled this and stated: "He who said there was no lord nourished the claim of Divinity. He considers his thought as your religion and says: '...surely I fear that he will change your religion or that he will make mischief to appear in the land (40:26).' and the like!"

So much for the scientific doubts of experts and the practical passion of despot rulers. There is always a Mūsā for every Fir'awn and for every Mūsa, there is a Fir'awn as well. The Holy Qur'ān reiterated these issues one after another. It raised the scientific doubts and mentioned practical passions. It gave people warning. When the Holy Qur'ān enlightened the people, it stated: "You are alive when you serve Allah. This is not possible without *shahādat* (martyrdom) and without war." You thinkers of Islamic countries should pay close attention. If we want to live, we have no alternative but fighting. The Holy Qur'ān invites us to the factor conducive to existence. It states: "If you rise, you are alive. If you sit still, you are dead." If you rise, you are alive in all conditions. If you are martyred, you are alive before Allah. If you are victorious, you are alive before Allah. Even if you pass away naturally in the middle of your course, you are alive. Martyrdom is not the only thing that gives life to man. Victory also revives man before Allah. Death for the cause of battle revives man as well. Most of us have passed the period of youth and such is the world as we have seen. If a man wants to become a corpse, he must choose his own way because, "One should not be like a decomposed corpse among the relatives... and so he should endeavour for good deeds". These eminent statements have been made by the Eloquent Speaker, 'Alī(AS). He has stated that some people become inanimate like corpses. If a man is in majority or in minority,

he should think and choose the way. If he wants to become like a corpse, the way is open to him. If he wants to become revived, he should rise up.

Martyrdom is not the only thing that revives an *Ummah* (nation).

> *"And reckon not those who are killed in Allah's way as dead; nay, they are alive (and) are provided sustenance from their Lord* (3:168)."

Not only a martyr, but also one who strives in Allah's way is alive.

A man, admitted to visit the Holy Prophet (SA), said: "I am a man most willing to strive hard in the way of Allah." The Holy Prophet (SA) stated: "Then strive hard in Allah's way. Now that you are endowed with such zeal and willingness to fight against oppression, do so. If you are killed, you are alive and are provided sustenance from Allah. And surely your reward is with Allah. And if you return from the dattle victoriously, you will be cleansed from any sins before Allah."

He stated: "Rise up. If you are killed, you are alive. If you pass away while on the way before reaching the battlefield, you are still alive. And if you return from *Jihād* (holy war against unbelievers) victoriously, you are still alive. In all three cases, you are moving towards Allah."

The first part of the statement made by the Holy Prophet (SA) saying: "If you are killed, you are alive and are provided sustenance from Allah" is taken from the very famous Qur'ānic verse which states:

> *"And reckon not those who are killed in Allah's way as dead; nay, they are alive (and) are provided sustenance from their Lord* (3:168)."

The second part: "And surely your reward is with Allah" is exactly taken from the following Qur'ānic verse:

> *... and whoever goes forth from his house to Allah and His*

Apostile, and then death overtakes him, his reward is indeed with Allah... (4:100)."

If death overtakes a man on his way toward battle, his reward will still be with Allah. Revival is the main reward given by Allah. "And if you return from battle victoriously, you will be cleansed from any sins before Allah."

This is not important. To reach Allah is of significance. One may go for *tawbah* (repentance) and one goes for *tawbah* against sins is like someone for whom there is no sin as if he is newly born.

Repentance frees man from imperfection, but it does not enable him to meet Allah. Repentance means exercising a restraint against the ill-deeds of the post, *ie,* cleansing oneself of sins. But a man who rises against an oppressor not only cleanses himself of imperfection but also attains perfection. "He is the successful." Religion invites man to existence which is not feasible without *tawhīd.* The Holy Qur'ān reiterates and resolves all these scientific and practical doubts.

But what is the fruit of the blessed tree of existence? The fear and hope of a monotheist are governed on the basis of monotheism. He fears Allah, but he does not fear aught but Him. A man who is not a monotheist either does not fear anything at all, like the impetuous men of the Eastern Bloc, or fears from both Allah and other than Allah as is the case with hermits. Such a man is not a monotheist either in fear or in hope. A man might despair of everything:

"... *And despair not of Allah's mercy; surely none despairs of Allah's mercy except the unbelieving people* (12:87)."

He either despairs of eveything or becomes hopeful of everything. He is a polytheist both in hope and in fear. An atheist may impetuously rise against and overthrow a tyrant, but he will not maintain justice, for he has no dependence. This is why the Holy Qur'ān has praised the prophets for

these two positive and negative qualities. Man should be a monotheist even in fear, that is to say, he must fear Allah only, but he must not fear other than Allah at all:

"Those who deliver the messages of Allah and fear Him, and do not fear onyone but Allah.. (33:39)."

This negative statement has been made in this case. The statement: "They do not associate aught with Him," also has a negative context! That is to say, it does not endorse polytheism at all. Thus they are monotheist both in fear and in hope.

When speaking to the combatants, the Almighty Allah states: *"And be not weak-hearted in pursuit of the enemy...* (4:104)"; for *"...If you suffer pain, then surely they (too) suffer pain as you suffer pain...* (4:104)." If a place is being bombed here, there is under bomb attack as well. If your people are wounded, their people are wounded too. If your men are killed, their men are also killed. Both sides suffer pain and hardship equally, be they atheists or monotheists. But according to the following Qur'ānic verse: *"...And you hope from Allah what they do not hope* (4:104)"; the monotheist possesses something that an atheist does not do. You have something to rely on, but upon what source can the atheists rely? They only rely on their weapons. When they are disarmed, they despair. But you rely upon Allah, Who is Eternal.

The late Kulaynī (may Allah be pleased with him) relates that in one of the battlefronts, the Holy Prophet (SA) kept aloof from his army and began to rest atop a mountain slope. A man from among the enemy came to him and, while drawing his sword, asked: "Who is your saviour?" He then told the Holy prophet (SA): "Now that you are under the mercy of my sharp and polished sword and now that you do not have your army with you, who will save you?" The Holy Prophet (SA) replied: "Allah. Although the sharp edge of

your sword is within an inch of my head, according to the verse: "... *know that Allah intervenes between man and his heart*... (8:14)."

No sooner had the Holy Prophet (SA) said this that the man sneered, raised his sword, and lowered it, but he fell down in the meantime. The Holy Prophet (SA) rose, took the man's sword, and stated: "Who is your saviour (now)? I relied upon the power of the Unseen. (Allah). What power do you rely on?" The man told the Holy Prophet (SA): "I try to take the best." The Holy Prophet(SA) stated: "Get up, for I have excused you."

So in hope, a monotheist relies upon Allah and believes in monotheism. In fear, too, he is a monotheist. Thus a man who does not believe in monotheism is an atheist both in fear and in hope. He is also an atheist while having an inopportune feeling of security, for "... *But none feels secure from Allah's plan except the people who shall perish* (7:99)." He who fears nothing is an atheist. He who looks upon all causes and means from the viewpoint of weapons and weaponry and who feels he is in authority is an atheist: "...And the evil plans shall not beset any save the authors of it... (35:43)."

Existence, therefore, is the most sublime right of man. Existence is not feasible without *tawhīd* and without monotheistic thinking. Neither skepticism nor passion can bar the way to the adoption of a monotheistic outlook.

But who are the guardians of this blessed tree? Who must nourish this tree? The fact that, in our tradition, the pure statement of "There is no god but Allah" is taken as a strong fortress and that *imāmate*, guidance, leadership, guardianship, and the supervision of a monotheistic *ummah* (nation) are brought up as fortresses is not because there are two strong fortifications in Islam, namely, *tawhīd* and *imāmate*. This is not compatible with *tawhīd*, that is to say, the guardian of that fortress is the very *imāmate*. The

executor or the implementor of the rights of that fortress is the very *imāmate*. From the very beginning until the end of their lives whenever they spoke, the Holy Prophet and all Imāms (AS) stated: "We are the fortified. We are the way toward *tawhīd*." A statement handed down from the Holy Prophet (SA) noted that: "There is no god but Allah" is the fortress of Allah; but the love for divine guardians and the infallible ones is a fortification that makes this fortress what it is." The following statement is made by the Eloquent Speaker, 'Alī ibn Abī Tālib (AS):

> "There is no god but Allah" is the fortress of Allah and I am one of its prerequisites."

A group of people visited the fifth imām, Muhammad Bāqir (AS) and said: "Has the *hadīth* 'There is no god but Allah is a fortress' been related from the Messenger of Allah?" The Imām replied: 'Yes, truly it is so.' when they left, the Imām (AS) said: 'Call them back. There is a complementary statement to this.' When they came back, the Imām(AS) stated:

> 'There is no god but Allah entails conditions and I am one of its prerequisites'."

The famous *hadīth* of *Silsilat al-Dhahab* of Imam Ridā (AS) is also proverbial among all. That is to say, if the outlooks and tendencies of people are governed by monotheism, they demand an enforcer, an *imām*, a guardian, and a governor. A religion requires a representative both to carry out religious principles and to lead a group of people; otherwise, religion would have been and would still be a series of scribbles on the faces of white papers. That which guards this vital right and that which serves as the enforcer of human rights is the very *imāmate*, leadership, and guidance. Thus the

Almighty Allah has considered *imāmate* as complementary and supplementary to religion and as a blessing. So long as man is not religiously exemplary and so long as he is himself not a perfect monotheist, the monotheism which is the vital and the most important right of human societies will not be duly given to mankind. Using the verse, "*... and he will prosper indeed this day who overcomes* (20:64)." The righteous men of the world were introduced as mischief-makers:

"*... And that he will make mischief to appear in the land* (40:26)."

Using this same statement, they said: "These people will change your religion." Consequently, existence which is the most important right of man becomes clear. Also the various levels of existence will be reiterated. It also becomes clear that this very existence is the product of monotheism, for the Holy Qur'ān considers a polytheist as dead and states:

"*That it may warn him who would have life, and (that) the word may prove true against the unbelievers* (36:70)."

The following analogy can be drawn between one who is an unbeliever and the one who is alive. That is to say, man is either alive or an unbeliever. It means that he is either alive or dead.

By the following Qur'ānic verse:: "*That it may warn him who would have life, and (that) the word may prove true against the unbelievers* (36:70)."

The Almighty Allah did not order the prophets and particularly the last prophet to warn only the believers and those who are alive, rather from the beginning He stated:

"*... And warn thereby a vehemently contentious people* (19:97)."

Allah ordered them to warn and threaten those

who are contentious, adversary, and quarrel some. Admonition is aimed at contentious people, but such people do not profit from this warning. He who profits from this admonition is the living man.

The Holy Qur'ān states:

"That it may warn him who would have life... (36:70)."

It also states:

"... *And warn thereby a vehemently contentious people* (19:97)."

But it states: "*You are only a warner to him who would fear it* (79:45)"; because the living profit from it while those who are dead do not profit from it.

Tawhīd, therefore, is intended for revival. If a person is not a believer and a monotheist, he is indeed dead. His death is considered as the death of humanity, although he may lead an animal or a plant life. The factor which safeguards existence is the issue of *imāmate* and guardianship. For this reason, all prophets and Imāms (AS) have said that the leadership of a monotheist is the protector of human rights.

The Almighty Allah reiterates wisdom in the case of Ibrāhīm (AS) and states: "Do not keep aloof from this policy, else you will charge yourself with folly." Although all instructive discussions of Ibrāhīm are based on reason, Allah explains Ibrāhīm's rectitude in terms of his breaking idols. Then Allah states that when the right way is determined and when the one who leads to the right way is specified, he who keeps aloof from them is insane.

When you study the case of Ibrāhīm(AS) and when he explains how he broke the idols with his axe, you will find out that the following verse serves as a starting point for his action:

"And certainly We gave to Ibrāhīm his rectitude before, and We knew him fully well (21:51)."

Then Ibrāhīm (AS) broke the idols as stated hereunder:

"So he broke them into pieces, except the chief of them... (21:58)."

These monotheistic reasonings are brought up as a sign of the kingdom of the heavens and the earth:

"And thus did We show Ibrāhīm the kingdom of the heavens and the earth... (6:76)."

The Almighty Allah also mentions the following reasoning: *"...I do not love the setting ones* (6:77)." When the issue of taking up an axe and breaking idols is raised, rectitude serves as the starting point:

"And certainly We gave to Ibrāhīm his rectitude, and We knew him fully well (21:51)."

Then Allah explains how Ibrāhīm broke the idols into pieces. Then He sums up the whole thing in *Surah Baqarah:*

"And who forsakes the religion of Ibrāhīm but he who makes himself a fool... (2:130)."

If a person is detached from rectitude, he commits foolishness. If a person separates himself from the one wsho is rightly directed, he becomes a fool. If we want to attain an eternal life, we have no alternative but to resort to sacrifice and devotion and to recognize ourselves in terms of our responsibilities.

In the end, while appreciating and thanking all of you honourable guests, I will relate this valuable *hadīth* from the Messenger (SA) of Allah. Unless we are true men of knowledge and unless we regain our life, it will be impossible for us to be the heirs of the prophets. Now the *hadīth:* "Once the Holy Prophet (SA) was passing by as a way-farer. An insane man fainted and fell down.

The people gathered around him. The Holy Prophet (SA) asked, 'what is going on?' The people replied: 'He is an insane around whom we have gathered.' The Holy Prophet (SA) stated: 'He is sick but not insane.' The people asked the Holy Prophet (SA): 'Then who is insane?' The Holy Prophet (SA) replied: 'He who buys the world in exchange for the world Hereafter is insane'. This man is sick." With this, wisdom is illuminated. After knowing it, the duty of people in overthrowing the system ruled by tyrants becomes clear. The duty of men in establishing a government based on justice and equity will also become evident.

This is the secret why many jurisprudential texts insist on offering the key positions of Islam to people who possess absolute wisdom. Quite often it is said that wisdom alone is sufficient. It is said that the *salāts* (prayers) are obligatory for a wise person. Likewise *sawms* (fasting) and paying the *zakāt* (statutary 2.5% charity on certain items) are also obligatory for a wise person. An insane is not obliged to perform these religious duties. But who should be entrusted with the key positions of Islam? Who should be charged with the duty of judgment? The answer to this has been specified in a section of our jurisprudential texts: "Rely upon a judge who is possessed with an absolute wisdom." That is where the secret lies.

They said: "Entrust the key positions to intelligent and upright people who will not expose themselves to the fire." The language of the Qur'ān is one that states: *"Whoever calls the people to commit sins calls them to the Fire indeed. He should fight against the Fire and prepare himself to stand against it."*

The Holy Qur'ān has stated the following to combatant men:

"Do you know who you are going to fight with? You are going to fight against the Fire."

It has also stated: *"And we made them Imāms, who call to the Fire...* (28:41)." This is not stated figuratively. That is to say, calling toward sins ends up in the Fire. This is the mere truth. These are: "The fuel of the fire, like the striving of the people of Fir'awn."

The Holy Qur'ān stated:

> The Imāms of unbelief are the fire. They call the people to the fire and burn up your life. Try to put out these fires."

Consequently, if a person wants to maintain a key position and put out the fire, he should be possessed with an absolute wisdom.

We hope that the Almighty Allah will revive our hearts with the knowledge of *tawhīd*. May the Almighty Allah grant His rewards in this world and the world Hereafter to those honourable persons in charge of holding this conference, for the pains that they have taken and would continue to take. May Allah favour all of us with the blessing of being grateful to the pure bloods of our dear martyrs and to the self-sacrifice of our dear PoWs, those missing-in-action, and the disabled.

We pray to the Almighty Allah, for the sake of His absolute blessing, to safeguard the honourable and great Leader of the Islamic Revolution from any harm, under the protection of His guardian. We ask Allah to extend this Islamic Revolution to the re-appearance of the *Imām al-'Asr* (the Guardian of the Time), Imām Mahdī (may our souls be sacrificed for him.).

Right of Participation in the Fate of People and in the Makeup Socio-political System

Hujjatul-Islam 'Abbās 'Alī 'Amīd Zanjānī

To assess the extent of political awareness and culture of a nation as well as the level of democracy of a society, different criteria and means of comparison are used. Among these is the issue of people's participation in determinig their fate and the make up of a socio-political life and the extent of enjoyment of this right as a precise and general criterion. This criterion which has a direct causal-effectual correlation with the public political culture of every nation and with the extent of every society's democracy has always been the focus of attention and has been analysed by thinkers and experts of social and political sciences.

In societies in which the people enjoy the right of participation in the socio-political system, democracy generally has a desirable process, as the vindication of this right indicates that the political awareness and culture of the people is at a high level.

In political struggle too the right of participation in determining the fate of the country is used as a key solution and a fundamental principle and cause in attaining new transformations and in getting freed of the undesirable situation of the past.

Today in the political terminology of the world, the right of fulfilling a personal role in a community life and participating and influencing the make up of political power and government is part of the individual political rights of every citizen. But the impact of this right becomes evident onlv when it is vindicated and thus it does

not create any responsibility for a citizen.

On the other hand, from the viewpoint of Islam, participation in the makeup and guidance of a political society is not only restricted to the phase of its vindication. Rather the legal signs of participation far exceed a right, for Islam considers it a must to be vindicated and regards it as a responsibility for all people. Islam considers as indispensable any efforts for paving the way of vindicating this right.

In Islam, the right of participation in public destiny and in the makeup of a political system and a social life is not treated as a separate issue and a principle detached from other matters. On the other hand, in the political culture of Islam, this right or responsibility must be analysed alongside issue such as freedom, dependence on public opinion, right of collective control and council, independence, right of justice, leadership and imāmate.

On the other hand, the right of political participation must not be limited to the right of voting and enjoying political prerogatives, rather in Islamic thought this right makes way to the extent of leadership and imāmate. In Islam, the individual gains such rights and responsibilities that he assumes a key role in leading the society and that his decision, activity, and character become effective in the leadership of the society.

In this way, in the social and political life, an individual has the responsibility of participation on the basis of lawful freedom, by the use of the views of others and the principle of council, and by enjoying justice by means of control over the process of the system and polls in all matters pertaining to communal destiny, the selection of a leader and the officials of a society under the supervision of the Imām and the Islamic leader who is the guardian of the right of divine jurisdiction.

In Islamic texts, the right of participation in collective fate in the form of a heavy social responsibility can be studied by the following:

"All of you possess the capability of being a shepherd
and all of you have a responsibility towards the people

who possess less means for their life."

Now we will thoroughly discuss the above mentioned issues.

(A) Right of Participation : The Manifestation of Individual Freedom in the Society

The most salient example of the right of individual freedom in the makeup of a social life is the acceptance of the right of individual participation in determining collective destiny. For this reason, the issue of political freedom in investigating the principle of participation in a social structure must be viewed as a fundamental principle. In determining the quality and extent of individual participation in the make up of a socio-political life, the extent of legal freedom must be used as a criterion. For this reason, at the beginning of this discussion, we must throw light on the meaning of freedom.

Like many political terms, freedom embraces different meanings and is used in various ways. We are cognizant that in a society wherein people live on the basis of a series of commitments and undertakings, an individual cannot perform his desired actions at all times and places. Absolute freedom is nothing but chaos and violation of social commitments. Therefore, this truth must be acknowledged that social self-restraint is inevitable in a social life. Normally, the extent and criterion of these limitations are determined as to which of these factors can restrict the freedom of individuals and on what criterion, extent and limit.

On the otherhand, freedom in politics, economics, and in cultural, doctrinal and philosophical backgrounds together with civil freedom etc., are not mutually exclusive, rather they are in harmony with one another and dependent on each other. For this reason, formulating precise definition for freedom is very cumbersome and in its comprehensive form freedom does not lend itself to a definition.

Montesqview defines freedom as "performing what law has permitted." The French Human Rights Declaration (approved in 1789) defines freedom as the ability to do something which does not harm others, 2,3 some people believe freedom means a balance between the two conditions of a society's independence from compulsion and the extreme case of complete control over all actions of the people . Others have defined freedom as giving a chance to every individual to manage the affairs of his own life.

Among other definitions for freedom are deliverance from obligations within the sphere of law and also rights acquired by living under the sovereignty of an organized government. The main part of discussions on freedom is related to the relation betweeen an individual and a government or in other words between man and law. In fact, the main axis of the discussion of freedom is to what extent man can be immune from the interference of government and law in opinion and beliefs, their expression and in political, social, and economic activities? In other words, to what extent must the power of law and the sovereignty of government control the domains of actions performed by individuals?

The West considers the philosophy behind this freedom as the gratification of inclinations, wishes, and carnal and material desires. The west formulates the laws and determines the sovereignty of governments on the basis of the desire and passion of the majority.

By believing in historical determinism and the sovereignty of dialectical laws over the world and man, the East too considers man's freedom restricted to intensification of contrasts, formation of circumstances, and finally a kind of guidance doomed to dialectical laws. Each of the two approaches expresses man's need for freedom in a causal manner. One believes that animal and material desires of man are the main factors while the other considers as main factor the harmony of man with laws of development.

Islam maintains a human identify and factor for free-

dom. Islam believes that man is in possession of ample aptitude and sublime human inclinations. Islam names these very sublime aptitudes and inclinations as the source of man's freedom. Islam believes that freedom is based on what necessitates the human development of man. In this regard, freedom becomes a human right springing from human.

from human missed fasts when it is not harmful for the health.

(8) By way of making all able people learn medical treatment and medical profession to the extent of *wājib kifāī* (obligatory for all Muslims, but if some Muslim perform, others are absolved of the obligation.

(9) By way of making parents obligated to preserve the health of their children. This is a sign of their guardianship, thus the necessity of medical treatment and the restoration of the health of indigent parents is on the children and *vice versa*. The treatment of the illness of a wife is the duty of her husband.

(10) By way of emphasizing cleanliness and purity which lead to the maintenance of health.

It must be borne in mind that in its low level, health is among the rights of man. In its high levels, however, it exceeds the rights and assumes a precept. The first principle pertains to the right of disusing it and there is no necessity to be obligated by it. An obligatory precept, however, must necessarily be complied with and its renouncement is not permissible. Indeed, man can do something to catch fever for several days and to catch cold, although it is better that he should not do this in vain. For example, in the case of the eyes, hand, and feet, it is not permissible for others to cut them off. In like manner, it is not permissible for one to inflict such harm on himself. We bring discussion on this subject to a close by relating two traditions:

(a) Shaykh Sadūq relates the following from the Messenger (SA) of Allah on the basis of the authenticity from Imamm Sādiq (AS):

"Health and peace of mind (from entanglements) are two belssings which are not thanked for (and are not sufficiently used.)"[7]

(b) Based on the authenticity from Imām Sādiq (AS) Shaykh Kulaynī relates the following tradition:

"Many people take undue advantage of their salubrity and peace of mind."[8]

Finally, Islam's intense regard for man's health can be seen in *Salām* (Islamic salutation and greetings), the initiation of which is *mustahab* recommended) and the answer to which is *wajib* (obligatory), in which by the pronouncement of *"As-Salāmu 'alayk"* (peace be upon you) and the like, people pray for one another's health.

THE OBSERVATION OF MAN'S SOCIAL RIGHTS

Before discussing the observation of man's social rights from the viewpoint of Islam, it is appropriate to consider the point that contrary to what is commonly believed, man is not naturally civil. In his nature, man has not been invested with likeness for social life. It is clear and definite that man has liking and affection for his being. From this natural instinct two other attributes are derived: Repulsing harm and acquiring advantage.

As man clearly finds out that he does not have the ability to individually repulse harm and acquire advantage and to gain his prosperity, he reluctantly and naturally submits himself to social life. If he did not feel such a necessity, he would never replace his individual life with a social one. This is because entrance into a social order naturally entails the connivance of some personal interests for the sake of others and the acceptance of indemnity contrary to one's nature.

It is amply seen that although people take advantage of their social privileges, they often shirk their social responsibilities if possible. Except in the time of fear and

compulsion, they do not adhere to them, unless the level of their moral education is raised, so that they could perform social responsibilities with authority and willingness. Some people even display devotion and self-sacrifice much more than necessary, but this group have always constituted the minority in the course of history.

Thus the social rights of individuals, supposing that they are not strongly protected by sanctions, will often face a serious and perpetual danger. However, as a comprehensive Divine religion, Islam has paid special attention to the maintenance of the social rights of human beings. Detailed discussion on this aspect requires the compilation of a book, but I will quite briefly refer to it in the two following parts:

PART ONE:

THE EMPHASIS OF ISLAM THROUGH VARIOUS STATEMENTS ON THE OBSERVATION OF THE FOREGOING RIGHTS

(1) "...And help one another in goodness and piety, and do not help one another in sin and aggression...(5:2)."

Observing the rights of fellow men is surely considered as goodness and piety.

(2) "And as for him who fears to stand in the presence of his Lord and forbids the soul from low desires, then surely the garden – that is the abode (79:40-41)."

It is obvious that these very low desires which are the main source of violating the rights of others annihilate the social justice and spiritual perfection of man. Islam, therefore, has paid profound and serious attention to them.;

(3) "Surely Allah enjoins the doing of justice and the

doing of good (to the others) and the giving to the kindred, and He Forbids indecency and evil rebellion; He admonishes you that you may be mindful (16:90)".

Allah has attached great emphasis on doing justice and good (to others) in the Holy Qur'ān and the *Sunnah.*

(4) "And those who are keepers of their trusts and their covenant (23:8)."

(5) "...And sent down with them the Book and the balance that men may conduct themselves with equity...(57:25)."

In this Qur'ānic verse, the ultimate objective of sending down the Divine Books has been introduced as a means to raise the people to conduct themselves with equity and justice. This verse is worth paying attention to, because it makes the issue of social rights extremely important.

(6) "Say: My Lord has enjoined justice...(7:29)"

(7) "O you who believe! be upright for Allah, bearers of witness with justice...(5:8)".

(8) "...And I am commanded to do justice between you...(42:15)".

(9) "...Act equitably, that is nearer to piety...(5:8)."

(10) "...And when you speak, then be just though it be (against) a relative...(6:153)".

(11) "...And do not exceed the limits, surely Allah does not love those who exceed the limits (2:190)."

Exceeding the limit has been forbidden. It has been explained in jurisprudence *(the Book of Jihād).*

(12) "...And let not hatred of a people-because they hindered you from the Sacred Masjid - incite you to exceed the limits...(5:2)".

(13)"...And whoever goes beyond the limits of Allah, he indeed does injustice to his own soul...(65:1)...

This Qur'ānic verse with its best convincing expression persuades the people to observe the rights of others. This is because if a group of individuals disregard the observance of the rights of one another, this will never be a unilateral violation. Rather others will also violate it. Consequently, all people will sustain losses and no one will benefit from it.

To strengthen the foundation of the observance of social rights, the Holy Qur'ān has a valuable logic which consists of thinking of the brotherhood of the believers as stated in the following Qur'ānic verse:

"The believers are but brethren...(49:10)."

As related in traditions, the believers are the brothers of one another, the eyes of one another, the guides of one another. They do not do injustice to one another. They do not commit treason against one another and do not leave their brothers all by themselves. Thus, a brother does good to his brother, displays devotion and shows toleration and forgiveness, but he does not think of evil planning, doing injustice, and committing treason.

PART TWO:

MAN'S SOCIAL RIGHTS

As for man's social rights, the observance of which has been made incumbent upon and recommended to the people by Islam, we will, as an example, refer to a list of these rights as follows:

(1) Every man can reside in every country or city he wishes. No individual or authority may deprive him of this right, except that he should not reside in a place where he cannot perform his religious duties. At any rate, the political boundaries of today are abrogated from the viewpoint of Islam. The governments have no right to prevent the people from entering and leaving their place of residence except in the state of emergency.

(2) Everyone has the right to travel to any place he wishes.

(3) Everyone can exploit the nature in any legitimate manner as he desires and has the right to choose any occupation of his liking, except in cases where the occupation or business is religiously unlawful. There is no compulsion for any individual to abandon his occupation or to choose any particular business except in professions and occupations which are required to serve the cause of human beings. In this particular case, it is incumbent upon all those who have the ability to embark on establishing such a business to the extent required by *wajib kifai.*

(4) No one has the right to do injustice to, to infringe upon, or to annoy anyone else.

(5) No individual or authority has the right to monopolize the production or importation of any merchandise in a bid to deprive the people from using it, except in exceptional cases, provided the necessity of which is confirmed by the *wali al-amr*

(6) Governments should not enjoy absolute control over their subordinate people. Their authorities are rather limited and both sides, the government and the people, enjoy mutual rights under the protection of the law.

(7) Helping the oppressors, in particular helping the governments which oppress their people, is strictly forbidden. According to an authentic tradition, the people are prohibited ing these sorts of governments even in the construction of mosques:

"And do not help them in the building of mosques."

(8) Both women and men equally enjoy all human social rights. In case of choosing a husband, a virgin is required to take advantage of the consultation of her father or grandfather and to obtain his permission. After she is married, it would be incumbent upon her to observe the following two rights which are the sole rights of her husband:

(a) As a wife, she must obey her husband's wishes.

(b) She must not leave the house without the permission of her husband except in special cases.

On the other hand, the husband is under moral obligations to observe the two particular rights to which the wife is entitled. These are as follows:

(a) To provide her with alimony and with the necessary money required for her subsistence.

(b) To satisfy her sexual needs in the manner determined by jurisprudence.

In addition to the payment of alimony, the men are asked by the Holy Qur'ān to do the following:

"...and treat them kindly...(4:19)".

(9) The dead have special rights over the living.

(10) The children have the right over their parents with regard to subsistence and education.

(11) Penniless parents have the right of subsistence and respect over their grown-up children.

(12) The ignorant have the right of being guided by the *'Ulamā'*.

(13) Everyone can enjoy the right of the freedom of expression and writing, unless Islam declares this right as unlawful for the sake of safeguarding the rights of others.

(14) Everyone can associate and establish friendship with anyone he desires.

(15) Everyone can choose any form of clothing and housing as he wishes if it is not declared unlawful by Islam.

(16) He can manage his individual, social, political, and economic life in any manner he desires if it is in conformity

with the Islamic precepts.

(17) The right of education is substantiated for all. There are numerous traditions in this respect.

(18) Family members and relatives have the right of the ties of relationship over one another.

(19) Neighbours have the right of neighbourhood over one another.

(20) Muslims have rights over one another. Human beings too have rights over one another.

(21) Those who have been misled and those who have deviated from the right path are entitled to ask the righteous for guidance and reformation.

(22) The aggrieved and *Mustad'afīn* (Oppressed) are entitled to ask for the protection of the mighty. The person who is being backbited has a right over the listener of backbiting for stopping the backbiter from doing so.

(23) The needy have the right to ask for the help of others. There are countless traditions in this respect. If this is not possible, they are entitled to receive a response conforming to ethical norms and human honour.

(24) The insane, the silly, and the aged are entitled to guardianship.

(25) The orphans are entitled to guardianship.

(26) The person who takes counsel with someone else is entitled to receive right counselling. This counsel should be given to him in an honest way leading him to the truth.

(27) The children are to be treated compassionately, and the elderly are to be respected.

In the end, there are two other points that must be taken into consideration:

FIRSTLY: The fact that no fellow-citizenship right has been considered in Islam and that the political boundaries of today are devoid of credence. In this way, we can discover the legislative miracle of Islam.

Nationalism and showing partiality to the country of residence establish the foundation of colonialism and exploitation. These have created and will create thousands

of back-breaking afflictions for the people of the world.

For example, if a minister or a president of a great western country infringes upon the freedom of the individuals or if he commits corruption amounting to one hundred dollars from personal or governmental property, he will be scandalized. Sometimes, this will lead to his deposition. However, if such a person annihilates thousands of people outside the boundaries of his country and inflicts billions of dollars worth of property damage, he will not be blamed. He will rather receive a medal of honour for his action. Hundreds of thousands of defenceless Muslims were martyred in Afghanistan, but no one was put to trial in Moscow. Several million human beings were killed or became homeless in Algeria, Palestine, and Vietnam, but no one was found guilty. Today, Iran is facing destruction, but the criminal (the Iraqi ruler Saddām) receives billions of dollars as a bonus. These are all due to the inauspiciousness of the ominous nationalism.

SECONDLY: The fact that in Islam man's social rights are protected by sanctions can be found out by the following points:

(1) Heavenly reward and punishment:

"So, he who has done an atom's weight of good shall see it. And he who has done an atom's weight of evil shall see it (99:7-8)."

(2) Enjoining good and forbidding evil and guiding to the right path which is essential for everybody in the manner prescribed by *Wājib kifāi*

(3) The Islamic government should prevent the people from infringing upon the rights of others. In case such a violation is committed, the Islamic government should punish the violator on the basis of the criteria of penance and punishments prescribed by the law.

(4) The individual entitled to *Qisās.* (Islamic reprisal) and revenge can take vengeance justly:

"And there is life for you in (the law of reprisal ...(2:179)".

At this point, we will bring this paper to a close by mentioning some of the Holy Qur'ānic verses from *Surah* Hujarāt together with a tradition related from the last of the Prophets Muhammad (SA):

> *"The believers are but brethren, therefore, make peace between your brethren and be careful of (your duty to) Allah that mercy may be had on you. O you who believe! let not (one) people laugh at (another) people perchance they may be better than they, nor let women (laugh) at (other) woman, perchance they may be better than they; and do not find fault with your own people nor call one another by nicknames; evil is a bad name after faith, and whoever does not turn, these it is that are the unjust. O you who believe! avoid most of suspicion, for surely suspicion in some cases is a sin, and do not spy nor let some of you backbite others. Does one of you like to eat the flesh of his dead brother? But you abhor it; and be careful of (your duty to) Allah, surely Allah is off-returning (to mercy), Merciful. O you men! surely We have created you of a male and a female, and made you tribes and families so that you may know each other; surely the most honourable of you with Allah is the one among you most careful (of his duty); surely Allah is knowing, Aware (49:10-12)."*

Every believer has thirty obligations over his brother in faith, which he could not be said to have met unless he either performs them or is excused by his brother in faith from performing them. These obligations are: forgiving his mistakes; being merciful and kind to him when he is in a strange land; guarding his secrets; giving him his hand when he is about to fall: accepting his apology: discouraging backbiting about him; persisting in giving him

good advice; treasuring his friendship; fulfilling his trust; visiting him when he is ill; being with him at the time of his death; accepting his invitation and his favours; being grateful for his assistance; protecting his honour and property; helping him meet his needs; making an effort to solve his problems; saying to him: "God bless you", when he sneezes: guiding him to the thing he has lost; answering his greetings; taking him at his word (not drawing a bad interpretation of things he says); accepting his bestowals; confirming him if he swears to something; being kind and friendly towards him, not unsympathetic and hostile; helping him whether he is being unjust or is a victim of injustice (when we speak of helping him when he is being unjust, we mean that he must be kept from being unjust; when we speak of coming to his aid when he is a victim of injustice, we mean that he should be assisted in securing his rights); refraining from feeling bored or fed up of him; not forsaking him in the midst of his troubles. Whatever good things he likes for himself he should also like for his brother in faith, and whatever he dislikes for himself he should also dislike for his brother.10

Human Rights in Islam: The General Theory

Jamāluddīn Al-'Atiyyah

The aim of this paper is to specify the Islamic concept of human rights and the path which Islam follows regarding this subject. We will defferentiate between the general theory and its practice by explaining the contents of each right and its detailed laws.

We were unable to find a specific section on human rights under the Islamic *fiqh* (jurisprudence) or religious policy, or other sciences of the Islamic religion. The reason for this stems from the fact that the religion has treated every right from the *fiqh* point of view, so that it takes its practical shape in the body of the religion, and thus in practice in the life of the people, which is the basic aim of the religion.

If the religion's basis for the rights and their detailed laws is divided among the chapters of *fiqh*, then the base which explains the religion's frame for rights can be found in three chapters in the *'usūl* (fundamental) books: The discussion can be on the right, the choice judgement, and the task judgement. The discussion on the right explains the basis of the rights, the choice judgement explains the basis of freedoms, and the task judgement explains the duties. We have attempted to gather the general laws for the rights and freedoms from their scattered chapters, and followed them with a view to have an idea about the development of human rights in the established laws. The latter will be discussed under the following sections:

1- The Development of Human Rights in the Established Laws or Systems

2- The Rights in Islam

3- The Freedoms in Islam

4- The Duties in Islam

5- The General Laws for the Rights and Freedoms in Islam

6- Conclusion

1. The Development of Human Rights in the Established Laws or Systems

Our intention is not to give a history or an explanation of human rights. Rather we intend to clarify its main aspects in order to evaluate them in the light of the Islamic imagination.

(A) During the era of Ancient Rome it was said that religion must submit to the will of the state. However, with the birth of Christianity came the separation of religion and the state as well as a greater emphasis on human dignity and consideration for the Creator which has given this dignity. As a result the concept of natural law was born emphasizing the rights of individuals and their ability to resist tyranny. With the develpment of the latter concept its religious basis was forgotten and the brain was considered the creator of the law. It was perceived that the individual had natural rights hidden in human nature which are discovered by the brain. These natural rights of the individuals; include: the right to life, freedom, and possession. Through the individual's process of socializing within society he emphasizes his individuality in order to guarantee and protect his rights, for in this way he does not surrender his rights. At the same time the state's duty is to protect these rights in order that they continue to exist.

(B) Later the concept of the social contract was developed by which individuals surrendered some of their total liberties which they had in their natural life for the sake of establishing a higher authority which would protect and organize them. The reason for surrendering some of their liberties was due to the fear that if the state was unable to interfere it would lose its reason for its existence and ultimately violate the agreed upon base for its authority.

In the light of the latter concept, the first conventions of human rights were born: in Britain the Great Magna Charta in 1215, and the Rights Charter of 1688, in the United States

the Declaration of Independence of 1776, and in France the French declaration of Human Rights in 1789 and the Constitution of the French Revolution.

It is evident that individualism plays a significant role when discussing rights and liberties. For example:

1- Human rights and liberties are natural and cannot be given away, but the human being must not be forced to practise them.

2 - These rights and liberties are not absolute in the sense that they may be practised in an unorganized sense or without restrictions. Thus, restrictions must exist as a method of organization but they must not interfere with the basis of the right itself.

3- These rights have both a positive as well as negative side. For instance, the state is bound not to forbid the individuals from practising them and not to violate them. But, at the same time, the state is not asked to present these rights to the individuals, and these individuals do not have any right to force the state to present the sevices to them. Therefore, there is an obligation for the state not to do something but there is not an obligation for the state to present something.

4- These rights are individual and they are not for the masses for they are linked with individuals and not with a group.

(C) With the advent of industry in Europe and labour problems which accopanied it came Social and Economic Democracy. As a result human rights came to the forefront. With the 1848 Constitution of France and other European constitutions came hints of the states' obligation to protect, educate, and assist the citizens.

(D) In the period between the two World Wars, another and more serious development appeared. In some European constitutions appeared a slight inspiration of the socialist

thought. For the first time came the right of work, the right of social security, the right of forming unions and syndicates and some rights for the family. Thus, the principle of the states' interference, which contradicts individualism was confirmed. It was not soon after this that the Soviet Union was totally based on socialism and state interference was established.

(E) After World War II many constitutions based on the Soviet style were issued by East European countries. In addition, many African countries, after receiving their independence, issued constitutions which contained declarations of human rights. This was also the case in the new constitutions of West European countries. In addition, many international documents and conventions were issued, such as:

The International Declaration of Human Rights (October 12, 1948).

The International Treaty for Civil and Political Rights (December 16, 1966).

The European Treaty for Human Rights (April 11, 1950)

The International Treaty for Economic, Social, and Cultural Rights (December 16, 1966).

This period had the following characteristics:

1- Human rights and liberties began to be directed towards limitation (for the sake of the state) in order to achieve a coordination between liberties and rights.

2- Human rights developed from individualism to collectivity. In other words, rights, which can only be achieved by a group, such as the rights of the family, the rights of the national and regional minorities etc. These rights are considered as a means to serve the human being which is the main goal. In addition another development towards collectivity occurred in practising some rights, such as the right of mass worship, the right to form unions, and political

parties.

3- Human rights converted from negativeness to positiveness such as economic and social rights which imposes on the state positive obligations which guarantees these rights. There is an emphasis for the general authority to grant to individuals which serve their basic needs for their development, such as health care, social security, education, learning, and prosperity. In this way the whole society is able to reorganize its economic situation.

The states intervene by one of the means:

1- The ordinary means of intervention, as was used in Western European countries, was the issuance of social legislations which guarantees the interests of the poor classes, and grants economic domination to the people. The latter gave the people the power to choose the governments which believe in social ideas. In this way any changes that will occur will happen in constitutional ways.

2- When the ordinary means of intervention did not have any effect, there was not any choice but to change the ruling authority by way of a revolution. As a result this type of change gives place to those who are interested in social conversion. Generally, the new authority will not be satisfied with partial changes wihch are achieved by ordinary intervention. Rather it attempts to alter the democratic understandings by socialist ideas with force and oppression.

In their effort to change society from a system of individualism to a collective one suppression and terror were heedlessly used. An example of this can be seen in the Soviet Union, China and other Eastern European countries.

The important point to remember here is that both the ordinary and revolutionary form of intervention deny the characteristic of neutralism which is the role that the individualism system gave to the authority of the state. Both latter forms intervene in the economic affairs and in the right

of ownership. There is not any political liberty in a society in which the economy is dominated by a single group while the workng majority live in deep poverty. What is the meaning of the liberty of housing for a person who does not find a place to live in, or what is the meaning of the liberty of education for those who are unable to afford the expenses of education. Therefore, the new socialist ideas determined that it is the state's duty to organize the society and to achieve social justice among the individuals by emancipating them economically after they had been politically emancipated from democracy. The way in the state does this is to direct and plan the economic activity, and to intervene in organizing private ownership, and the management of the general productive projects.

The socialist ideas are numerous. Some of them depend on the revolution to achieve its philosophy. Some of them depend on a more gradual process. Some of them use the democratic means to convert to socialism like the British Labor Party. Some of them use the moderate thought which is a combination of the philosophy of individualism and socialism. This mode of thought maintains the values such as religion, family, the liberty of making contracts, and private ownership. At the same time it permits the state to intervene in a limited way to achieve those aims. On the economic side it calls for a directed economy which is less burdensome than total economic direction.

3- Many of the Third World countries, including the Islamic countries, received their independence after the Second World War. One of the characteristics of their independence was the issuance of modern constitutions which included codes of human rights. However, these codes were merely slogans which decorated their constitutions. Social, economic, political and cultural changes are not merely done by writing does in constitutions. They must be

preceded, and followed by many educational, propagational, and real reforms at all levels, and in all fields.

(F) When the traditional systems declared human rights, especially the English, the American, and the French, they took care in making practical guarantees to respect, and protect these rights even in their classical forms. These guarantees took many shapes and forms which were based on the sovereignty of the codes of human rights on other laws. Even though these rights were just slogans written in the constitution which did not have any legal value, these rights began to be recognized and have an obligational value. Some constitutional jurisprudents argued that these rights were not valued like the common laws. However, those who recognized their obligatory value regarded these rights on a higher level than the constitution. Some consider these rights on a level equal to the constitution. As a result they are obligatory for the constitutional jurisprudent. Some consider these rights on a level equal to the common laws. Thus they are obligatory for the administration, but not for the ordinary and the constitutional jurisprudents.

The French judiciary differentiated between the codes in the human rights declaration and in the heading of the constitution as such they are considered at the level of common laws and between the codes of the constitution and thus at a level with the constitutional laws.

In the United States, the two concepts of 'natural law' 'social contract', aiding in giving the Declaration of Independence and the Charter of Rights a higher rating than the ordinary common laws. Therefore, the ordinary jurisprudent is obliged to abide by them, and the judiciary which is separate from the legislative and executive branch is responsible for the legality of the laws.

The English, whose Parliament fulfils the role of the constitutional and ordinary jurisprudent, has the same

responsibility towards the rights and liberties as it has towards the ordinary laws. However, the Parliament is powerless in harming these rights because of the strength of public opinion and the need for Parliament to receive the authority from the electors in the legislations which include vital changes in the constitutional customs or the economical and social directions. Thus the ways in which the human rights guarantees were crystallized were:

1- To make a separation between the legislative, executive, and judiciary branches in order its power to be checked.

2- Constitutional supervision in order to guarantee that the laws are within the constitution.

3- Legal supervision in order to guarantee that all the individual and organizing decisions are within the constitution and the laws.

4- The Parliamentary commissioner system or the General Attorney's office who specialize in human rights.

5- The people's direct supervision in the direct democratic system by using the means of questionary objection.

6- The people's indirect supervision through means such as information, and propagational instruments, and by means of parties, syndicates and societies.

7- The formation of a special court for human rights such as the European Court in Strasbourg.

(G) The rights include:

1- The traditional rights, and liberties; and

2- The new rights (social and economic).

I- The traditional rights and liberties include legal authority and freedom:

1. Equality in general includes:
   a. Equality before the law
   b. Equality before the judiciary

c. Equality before the employment

2. Equality in social burdens includes:

a. Equality in paying taxes

b. Equality in fulfilling their military duty

II. The political rights include:

1. The right of election

2. The right of expression in the form of a referendum

III. The liberties which are related to the material interests of the individual include:

1. Personal freedom

2. Ownership freedom

3. Housing freedom

4. The freedom to work, trade and manufacture

IV. The liberties related to the moral interests of the individual include:

1. The freedom of religion and worship

2. The freedom of opinion, to organise meetings, and societies

3. The freedom of education

4. The freedom to make complaints

V. The new rights include:

1. The social rights

2. The economic rights

VI. The social rights include:

1. The right to work is the right to choose employment with fair and convenient working conditions with protection from unemployment and with suitable wages. This right also includes the right of rest and vacation, by limiting the working hours and paid leaves of absence.

2. The right of social and health care includes social and health insurance, free medical treatment, old age security, motherhood and childcare and security, care for victims of natural and general catastrophes, and care for veterans of wars and families of martyrs or deceased veterans.

3. The right to learn and education includes free learning in stages by making learning compulsory to a certain stage. Research and inventions are encouraged by presenting educational services such as libraries, and informational instruments in general.

4. The right to join unions and syndicates. The union's role is to negotiate with the administration on behalf of the workers.

VII. The economic rights include:

1. In terms of the state's ownership of large projects (for those states that depend on individualism), the national economy is protected, and monopolies are prohibited. Also there is an obligation for the state to provide a sufficient supply for all the needs, requirements and goods for the individuals of the state.

2. In terms of the socialist state, the state owns all of the means of production and limits private property to small agricultural and craft industries.

(H) We are unable to evaluate, in detail, the modern achievements in the field of human rights. Therefore, the following includes some of its most important elements:

1. Classically equality is merely a legality and formality. For those who are unable to take advantage of it, equality is not an achievable practicality. Realistically, equality is merely a slogan for it were not apartheid, in South Africa, or racial segregation in the United States or the abuse of women's rights in Europe would not exist.

2. Classically the formal liberties do not have any positive result. Their only value is limited to the state's negative attitude of forbiding to abuse them. Those who practice them have the ability. This caused only the powerful to get more powerful and the wealthy to get wealthier. As a result the states which depend on individualism to use social and socialist ideas is deciding upon the new rights.

3. The rights in their new image are not treated negatively by the state. There is an obligation for the state to achieve them, but this obligation is merely a political one, not a legal one. For example, the individual is unable to sue the state to fulfil a health service or a social guarantee. Also the individual does not have any right to act on behalf of the administration in achieving what it has not achieved. The only way in which the states may fulfil these rights is by deciding upon budgets which compels the voters to pay higher taxes. However, the state tries its best to avoid the implementation of higher taxes for fear that it may annoy the voters.

Socialist countries took care in fulfilling the material rights and ignored the moral liberties and rights. This caused a great deal of bitterness among individuals because there was a feeling of deprivation of these rights which are not less important and are as equally needed as the material rights.

4. Declaring the rights as empty slogans does not have any practical effect. Therefore, constitutions were formed in order to guarantee their fulfilment. For example, when the law considers a personal freedom it presents conditions required for the legality of arrests or when the law considers the sacredness of private life it places the required restrictions for searching the individuals, and their residences.

5. The rights and liberties are mandated in the law and the conventions are put in such a way that they include all the branches of the law. At the end of this section, a table is given explaining a distribution of the International Declaration of 1948 on the law. It is also possible to make a similar table including all the declarations and conventions.

The loss of the intention of practical execution of the rights caused the carelessness of the practical and scientific sequence in issuing them. An example of the practical and scientific sequence of the principles concerning the criminal

law permits transfering them from the international conventions to the interior laws they should be put in the following sequence. The legality of the principle, practising the proper law, the rights of the human being which are protected by punishment by the law, the characteristics of the punishment, the treatment of juveniles, the principle of the supposition of innocence of the accused, the guarantees of the accused in interrogation and trial, to try the individual only once for the crime, the right of compensation for the mistakes of the law, treating the prisoner according to the law limits the treating of prisoners,... etc.

6. The international conventions' intention was to give international protection for human rights. However, it lacks the means to achieve such protection due to the principle of the state's sovereignty, refusal of interference in the interior affairs of other states, and a lack of an internationally specialized instrument to monitor the state's regard for human rights and human basic liberties.

The European Agreement for the protection of human rights is presently considered one of the most advanced conventions in this field. However, it failed to recognize the individual's right to directly pursue legal action before the European Court for Human Rights. The individual is able to present his complaints to the European Committee on Human Rights which presents the complaint to the court. In addition, the committee of foreign ministers of the European countries specializes in investigating these case and complaints. During 1959-69, only nine cases were brought before the court. But, during 1955-69, the committee investigated and judged 3,800 cases, refused 3,600 cases, and discussed 200 cases. In the case of some traditional rights and liberties outside of the social and economic rights the European protection is limited. Also, the principle of the state's sovereignty which are used by the instruments formed

by the agreement very complicated and limited its effect.

2. The Rights in Islam

Right in Arabic language and in the definition of the *fuqahā,* (religious jurisprudents) is what has been fixed in the religion - Allah on the human being, and the human being for others.

The right has four divisions:

1. The fixed entity is comparable to money such as the price of a product, or advantage such as living in a rented house, or action such as selling, or all kinds of worship, and punishments, or refusal to perform an action such as the refusal of the woman of the house to allow anyone in the house without her husband's permission, and the refusal to commit a crime, or of other things such as consultation in governing and custody of a youngster.

2. Anyone who has rights whether it is a human being or the Almighty Allah.

3. Anyone who has the right over others (such as the task executor). This includes the right of a husband over his wife, or the right of a leader over his subjects, the right of the people over having the right of possessing properties, and money, and the right of freedom. All people must respect them and must not interfere in their use.

4. The legality of the right meaning the approval of the legislature body.

The rights vary according to these divisions. They can be divided accordingly:

(A) A decided right, and an abstract right

(B) A known right (kind and portion), and a total right

A. The decided right and the abstract right

1. The decided right is one which exists in a place which can be realized. It is either financial such as the ownership

and/or the advantage of something, or it is non-financial such as the right of divorce, the right of punishment, the right of a father to protect his children, the right of a son to belong to his father, and the natural rights such as the right to life and the right of equality. In terms of the financial aspect one may be compensated with money or it may be inherited. However, the non-financial aspect in some cases may be compensated with money such as the right of punishment and the right of divorce or it may not be compensated with money such as in the case of the right of a son to belong to his father, and the right of a father to protect his children.

2. The abstract right is one which does not exist in a place and is not decided. Dr Abu Sinnah has given many examples of such a right such as the right of pleading, the right of contracting, the right of oath, the political rights, the right to work in public occupations, and cultural rights, rights such as the right to write books, and the right of invention. The *fuqaha'* did not consider these abstract rights as properties because they restricted them on things which can be obtained and they have a value among the people. Therefore, the abstract rights may be divided into financial and non-financial, which cannot be compensated with money and cannot be inherited.

B. The Known right (kind and portion) and the total right

1. The known right does not need an origin for it is very clear such as the number of fasting days during Ramadan or the price of a product.

2. The total right needs an origin for explanation and decision. Its origin is between exaggeration and abuse. For example, "The proper duty of the father of a child is to feed and clothe nursing mothers". "A woman must be retained in honour or released in kindness". "Maintain forgiveness (O Muhammad!), enjoin kindness, and turn away from the

ignorant." "The *kaffārah* (expiation), therefore, is the feeding of ten of the needy with the average of that you feed your own folk."

C. The rights are divided according to the one who has the right such as the right of Allah and the right of the human being

The meaning of the rights of Allah is the right of the group. They are called Allah's rights to glorify and honour them. In addition to this are those who are unable to protect his right such as the juvenile and the baby. The *fuqahā*, divide the rights into four types:

1. A distinct right for Allah;
2. A distinct right for the human being;
3. The two rights are connected but Allah's right is pre-eminent; and
4. The two rights are connected but the human beings right is pre-eminent, such as punishment.

The origin of the third and fourth types is a joint combination of the right of Allah, and the right of the human being referred to as the mutual right. An example of this is man's protection of his life, mind, health and liberty from degradation and protection of his wealth (such as money and property) In terms of the latter Allah's right is the protection of these gifts, while the right of the human being is the right of his special interests. In examining this mutual right one must determine which of these two rights is pre-eminent. If the right of Allah is pre-eminent then the human being does not have any right to deal with or abuse them, and thus does not have the right to endanger his life, health, or spend his money uselessly.

Therefore, the rights are of two types:

1. A pre-eminent right of Allah which is called Allah's right.
2. A pre-eminent right of the human being which is

called the right of the human being.

1. The right of Allah includes:

(a) The meaning of the glorification of Allah such as the obligatory acts of worship (for example *Al-salāt* (prayers) and *Al-sawm* (fasting)).

(b) The meaning of the protection of the society.

(c) The meaning of protecting those who are unable to protect their rights.

The *Hanafī* restricted Allah's right to eight categories:

1. Pure acts of worship such as the *Al-salāt, Al-zakāt,* and *Hajj* (pilgrimage to Makkah)are duties in performing the religion making it a necessity for society.

2. Pure punishments, such as for adultery, stealing, and the consumption of alcoholic beverages is to preserve the society.

3. Limited punishments such as the deprivation of inheritance from the murderer. This punishment is limited because it does not punish the murderer in a positive way, and at the same time it is not useful for the deceased.

4. For those rights which are between worship, and punishment such as *kaffārah,* payment for unintentional murder or the breaking of the *Al-sawm* during Ramadan or the breaking of an oath, there is a sense of worship because they are performed what is considered as worship. Also, there is a sense of punishment, for they are committed as sin.

5. For some acts of worship there is a sense of helping such as the *kaffārah* for breaking *Al-sawm.* It is a sort of act of worship because it makes the person nearer to Allah, and means to help others.

6. A provision in which there is a sense of an act of worship is *Al-'ushr* (one-tenth) which is a tax on the agricultural lands of the Muslims.

7. A provision in which there is a sense of punishment is *Al-Khirāj* which is a tax on the agricultural lands of the non-

Muslims.

8. A fixed right such as *Al-Khums* (one-fifth) of one's wealth or what is found beneath the earth (treasure) has been declared by Allah to be spent for public welfare while four-fifths is for the owner of the wealth or the finder of the treasure.

The *Hanafis'* restrictions of the rights of Allah in terms of these types of acts of worship and punishments is a limitation of the rights of Allah and the rights of society. The rights of society are broader, and more diverse, and should be renewed with the development of life and the needs of society.

Ibn Taymiyyah's definition divided the rights into two categories while at the same time keeping in mind the Holy Qur'ānic verse that: "And if you judge between mankind, then you judge justly." Ibn Taymiyyah stated that when considering judgement of people the rights must be placed into following two categories:

(1) The rights are not meant for only certain people. They are meant for all and needed by all Muslims. These rights are called Allah's punishments, and Allah's rights. For example the latter includes the punishment of the outlaws, theives, and adulterers, and judgement in the affairs of property and wills.

(2) The right of the human being is called the private right such as the right of every person in his house, place of employment, etc. Therefore, the individual who possesses this right is able to demand his right, ignore it or refuse it. He has the ability to deal with it in any way he desires. For example, "*Al-Diyyah*" (blood-money) means a sum of money paid to the family of a person who is killed by another. Those who possess this right can accept this sum of money or they can drop their demand for this right.

Besides these rights, there are certain things with which the right of Allah and the right of the human being are

combined, such as punishment. Punishment achieves a general interest - it protects people's lives from one side, and relieves the anger of the killed person against his killer on the other side.

When discussing the human being's private right, we do not mean that society does not have any right to it. On the contrary, the society does have a right on the human beings in such cases as: war, starvation, epidemic, and floods. In addition, the possessor of the private right does not have the freedom to use it as one may think. In fact, the society has a general right in it in two ways:

(1) The possessor of the private right should use and deal with this right in such a way that others are not harmed by it. Therefore, the society or group has the right to prevent him from using this right when it harms them.

(2) Just as Allah has made a personal interest for the owner of the private right, He has made a social interest in it for the group. Therefore, Allah forbade the human being from wasting his money because this will cause harm for the society since Allah has ordered a part of this money as '*Al-Zakāt*, and '*Al-'ushr*'. The Almighty Allah stated in His Qur'an, "Give not into the foolishness of your wealth, which Allah has given has given you to maintain." "They who hoard up gold and silver and do not spend it in the way of Allah unto them are tidings of a painful doom."

The Characteristics of the Rights of Allah, and the Right of the Human Being

Allah's right has the following characteristics:

1. It cannot be dropped or ignored.

2. All the Muslims especially the 'Walī" (Islamic jurisprudent guardian) have to demand and protect it.

3. The Imam is deputized to impose the general

punishment.

4. If the crime against Allah's right were numerous and of one kind, the punishments would get intermixed. This means that the criminal would only get one punishment. However, if the crimes were numerous but not of the same kind, the criminal would get a punishment for each crime.

5. The punishment in this right is not transferred to the inheritors, that is, if the killer dies his inheritors must not be punished for his crime.

6. Allah's rights are based on forgiveness for harm cannot be done to the Almighty Allah.

The punishment on a human beings' right is either a special punishment or a fine or a guarantee.

The human being's right has the following characteristics:

1. The right of the human being can be dropped or not demanded.

2. The punishment in this right is acquired on the demand of the possessor of this right and no one else can drop it.

3. The private punishments do not intermix and therefore if the crimes were numerous each one receives one punishment.

4. The punishment in this right is transferred to the inheritors. This means that the inheritors of the killed person can demand their right from the killer but not from the inheritors of the killer.

D. The rights are divided acoording to their basic relations to the right in the wealth and a fixed right in debts

1. The right in the wealth means that the human beings' right is something similar to the right of the owner of a house on his property, *Al-zakāt*, the right of Allah in general and private wealth and the rights of the father to protect his

children.

2. The fixed right in debts means to fix a special right of a person on another with one of them as the creditor and the other as the indebtor. The fixed right in debts is either financial or non-financial such as prayer or the renting of a house. The one who is indebted must reimburse these rights positively such as performing the prayers or negatively such as refusing to complete the buiding of a house. The ways of paying this right differs according to the human beings mental and financial ability and according to the mode and nature of the indebtors.

These two rights have their own laws:

1. The right in debts need to be demanded to be collected, but the right in wealth do not need demanding.

2. The right in debts can be postponed or ignored, but the right in the wealth cannot be postponed or ignored.

3. The right in the wealth is acoording to the wealth regardless of who is the owner of the wealth.

4. The right in the wealth is cancelled when its owner dies. For example, when an owner of a house sells his house by a contract but dies before turning the house over to the buyer legally this contract is cancelled. But in the right in debts the contract remains valid.

E. The rights are divided into religious rights and legal rights

The religious right is fixed according to the religion but cannot be proved before the law, such as *Al-Salāt* and the *Hajj*. The legal right is fixed according to the religion and can be proved before the law.

3. The Freedom in Islam

The fundamentalists defined religious judgement as Allah's words regarding the deeds, whether as a task or a choice, of the doer.

(A) The choice of judgement means to do something, or not to do. The doer has the right to do that thing or not for the action is a free one.

(B) The general principle is that if there is not any exact order there is freedom to do or not to do something. "There is not any crime and there is not any punishment except by an exact verse or order." As the Almighty Allah says: "We never punish until We have sent messenger." In addition among the basic Islamic principles is that: "There is not any judgement passed against the actions of the doer before the existence of a verse or order". Also that: "The source in things and actions is freedom." These two principles mean that in order for something to be considered as a crime, the religious element considers the fact that an exact verse or order must exist which would forbid doing that thing.

(C) In terms of making contracts, the religion has placed certain limits on the contracts. However, if those parties concerned in the contract abide by the terms of the contract, their contracts will be correct and the terms obligatory, unless there is an exact verse or order which forbids these contracts and/or its terms.

(D) The religion's concept regarding freedom goes back to Allah's permission to the human being to do or not to do a specific deed, which one may call a free one. If there is not anything which indicates such permission, that action or deed will not be possible, blessed or acceptable. Therefore, if Allah has not granted his permission then there is not any freedom to perform this deed or action. In other words that action will be forbidden for the doer.

Types of Free Deeds

1- In considering the word itself, al-Ghazali divided the deeds into 3 parts:

(a) In examining the origin there was not any exact or

specific word from Allah regarding the forbiddance or acceptance of them.

(b) Religion did not give a choice in doing them or not doing them.

(c) Religion said nothing about giving a choice to do them or not. But there are indications that doing them or not is something for the doer to decide.

Therefore, al-Ghazali divides the free deed into two parts: one in which religion gives one a choice to do them or not, and other in which religion does not give any exact word, or origin to do them or not.

2- In considering it as an excuse to ask to do or not to do a deed. al-Sahti divided the free deed into 3 parts:

(a) An excuse to forbid the deed.

(b) An excuse to do the deed.

(c) A totally free deed which is not an excuse for doing anything.

In examining these three parts, it is evident that the last one is the free deed in which Allah gave a choice in order that one may be free to do it or not.

3- In considering the totality and partiality of the free deed,al-Shati stated that the free deed is of four parts:

First: Those things which are partially free, but totally needed such as eating, and drinking. These things are totally needed and if not performed would cause one harm.

Second: Those things or actions which are partially free, totally needed but not important. For example to eat more than one needs, and to have more clothes than one needs. These extras can be ignored or not done.

Third: Those things or actions which are partially free, and totally forbidden such as getting used to oaths, insulting and using words of abuse against one's own children. Though they are free by origin, their use and habituation is forbidden .

Fourth: Those things or actions which are partially free but totally hated such as the sound of birds' singing and/or walking in green yards. These things though they are free by origin, may be hated when it is considered to be taken as a habit.

4- In considering the totality and causality, al-Gharafi divided the freedom to do deeds into a total freedom and a causal freedom. He stated that this freedom may be total, and therefore the doer is completely free to do the deed, or that this freedom might be total because of a certain cause and the doer will be free to do the deed on account of that cause.

5- In considering the source of freedom, there is a division in which a freedom is given by Allah, and a freedom by the individuals.

6- In considering the generality and speciality of the freedom, the free deed is divided into a general freedom, and special freedom. The general permission of Allah causes a general freedom such as using or doing the things that Allah permitted. The special permission of Allah or of the legislative body will cause a special freedom such as the permission of the Messenger (SA) to a certain man to marry a woman by giving her only a Qur'ān, but not money.

7- In considering the reason for freedom, there is a division between the freedom of consumption, and the freedom of use. The freedom of consumption means to grant permission whether it is from the legislative body (Allah) or from another individual to consume something such as hunting or using the water. The freedom of using means to have the permission of the legislative body (Allah) for the human beings to use and take advantage of things such as going to the mosques, general parks, or reading books in general libraries.

(E) Differentiating between the rights of the human being and his liberties

There is a question whether human beings' liberties are a sort or part of his rights or whether they differ from the rights. This issue has been raised in the established law. The legislators have stated that the general liberties are common rights and one does not have them alone. Thus the meaning of liberties does not accurately agree with the meaning of the word rights. However, liberty means a right when an offence takes place against it.

The liberties are permission and freedom of deeds for all the people according to the law. But they grant a legal right if there is an offence against them. For example, the liberty to possess something is a freedom, but the property itself is a right. Therefore, the liberty is the ability to acquire the right.

The disputes regarding the right in its limited, and expanded usage, the dispute about the basic rights and liberties of the human being and whether they are rights in the accurate meaning, and the dispute about the link if the right with duty all lead to the refusal of the jurisprudents to give the name of right to the liberties. The problem is basically about whether the right is something legal and the law provides protection, or whether it is something moral or natural meaning that it does not have legal protection.

In the Islamic *fiqh* one finds the idioms of permission and freedom of deed are excessively used one in the place of the other. Therefore, the problem with idioms is that it leads to the inaccuracy in the judgement and the real meaning.

The word 'right' has many usages:

(a) It is used to declare what a person has or should have in terms of obligation to other like the right of the subjects on their ruler, and the right of the ruler on his subjects.

(b) It is used in the personal rights in the family relations such as the right of a husband on his wife, and the right of a

wife on her husband.

(c) It is also used for fixed orders or things which must take place as Allah states: "To help the believers is ever incumbent upon us."

(d) It is also used for the financial rights as the Almighty Allah states: "And in whose wealth there is a right acknowledged for the beggar and the destitute."

(e) It is used for moral and humane deeds such as the right of brotherhood, the right of friendship, and the right of neighbourhood.

(f) It is used under the meaning of general right which is a task for the people.

Al-Gharafi differentiated between the stages of right and gave examples:

1- If the Muslims received a lot due to a war, the combatants would have a right to demand their share of it.

2- If a person wanted to sell his share of property, his partner would have the right to buy all the property.

3- The poor, and those in need have the right to have what they deserve from the general treasury or what is called in Islam *"baytulmāl"*.

Dr. Sanhoori concluded that Al-Gharafi distinguished between Three situations and called them permission, right, and a grade between them:

1- The situation in which a person is able to possess something such as a servant, or a mule, or ability to marry or buy his relatives if they were slaves it is called permission. It is not a right.

2- The situation of a person who has a reason which leads to demand possession such as having a share in the lot or to have a share in the general treasury *"baytulmāl"* and the selling of a person's share to his partner. All of these cannot possess just because they have a reason to demand. This is the grade between permission and right.

3- The situation of a person who has a reason to possess, such as one who bought land or became a partner in a house. They have the right to possess.

Dr Sanhoori added that the man's right to possess is merely a permission or liberty which the legislative body protects, and by which he can possess. Therefore, if he really used it and possessed something this would be called the right of possession. Between permission and right is a grade which is more than permission and less than right. For example, if an individual wanted to buy a house which he liked, before accepting the agreement of the owner to sell the house is in a stage of having the right to possess the house or any other house. This is called permission. However, when this individual receives the agreement from the owner of the house to sell it and he accepts to buy it, then at this stage he will possess the house. Thus, this is called a right. The stage before there is an agreement from the owner of the house, and after he accepts it is between permission and right.

As stated in the above one comes to understand that the right goes through different stages, and its situation differs in each one of them. In one sense the right is an abstract right to possess something and in the second sense the right is regarding the acceptance of what is agreed upon, and in the third sense the right is the possession of something. These three aspects of the rights are all protected by the legislative body. The only problem is that the first and second stages of the right were not given the term 'right', for if one called each one of them right there would not be any use for the term of 'permission'.

In explaining another part of the problem one needs to differentiate whether the 'freedom' which was given by the legislative body is upon things or upon deeds.

If the freedom is upon things then they are public freedoms.

If the freedom is upon the deeds, then they are public liberties.

Public Freedom

These are freedom such as using general roads, public gardens, and taking advantage of the schools and hospitals etc. These are permitted by the legislative body, and they are common rights and the state must help to enable the people to use them.

Public Liberties

They are the legislative body's given freedom on deeds such as, the right to possess something, the freedom to organise meetings, the right to go from one place to another, all the political and cultural rights such as the right to elect, the right of opinion, the freedom of thought, etc. The freedoms in this sense mean that the person is free to practise these freedoms or not. These freedoms are for all the people. These public liberties are rights for the individuals and they have the right to practise them or not. The state which represents the society is duty-bound to protect these freedoms. These public liberties are all rights and they are part of Allah's right because they are meant to protect the society.

4. The Duties in Islam

There are a great deal of reasons to discuss the duties, but the following is a summary with their details:

1- Every individual's right is met by a task on another individual or on the state to perform or not to perform an action (duty).

2- The right, or freedom may in some cases be a task on the owner himself.

3- The fifth judgement might be used for one matter according to the diffrerent circumstances surrounding it.

4- The *walīe* (ruler) may change the judgement from the freedom to do or not to do, to take task or to forbid.

The following is a discussion regarding the unspecified task, and the general task.

(A) The unspecified task

The task or the duty is divided into two parts: A task which has a specified limit, and a task which does not have a specified limit.

(1) The specified one is a debt on the one who has an obligation to it such as to give the value of the thing which he buys, to recite prayers, etc.

(2) The task which does not have a specified limit means that the individual is obliged to do it but it is not a debt on the individual such as giving *sadaqah* (alms), helping those who are in need, *jihād* etc.

Thus the one who is able to afford it has two tasks: One which has a specified limit such as *Al-Zakāt*, and the second is a task without a specified limit. This is what Allah means in His saying in Holy Qur'ān: *"Goodness is not that you turn your faces towards the East and the West, but goodness is (that of) the one who believes in Allah and the Last Day and the angels and the Book, and the prophets, and gives wealth away out of love for him to the near, relatives and the orphans and the needy and the (Helpless) way-farers and the beggars and for (the emancipation of) the slavers, and keeps up salāt and pay the za'kāt... (2:177)."*

(B) The general task

This task is divided into a religiously demanded task and general task. An example of a religiously demanded task is performing five prayers a day. An example of a general task is saving the drowned, feeding a hungry person, etc.

The religiously demanded task is one which is demanded by the religion from every single person, etc.

The religiously demanded task is one which is demanded by the religion from every single person. The general task includes all the religious and worldly affairs. The general task differs from the religiously demanded task according to the legislative view. The meaning of the general task is the performing of the action itself because it has a positive effect. This is contrary to the other task in which the legislative body states to the doer himself, and if this doer could not fulfil his duty the legislative did not ask another one to do it. The *fuqahā*, agreed that if anyone did the general task the others would be absolved, and if none of them did this task all of them would be sinful. They also agree that this task is for all the people as it can be seen by Allah's words: "Warfare is ordained for you."(and) "Fasting is ordained for you." Some fundamentalists are of the opinion that some parts of the general task are addressed to some individuals in the nation, without specifying them. As Allah says: "Of every troop of them a group should only go forth in order that they may gain sound knowledge in religion that they may warn their folk when they return to them."

The parts of the general task are many, and they are divided into religious ones and worldly ones.

The religious ones concern the religion and are such as:

— To give the decisive proof that Allah is the Creator.
— To learn and study the religious sciences such as *hadīth'* and *'fiqh'*.
— To teach and understand the Qur'ān and *hadīth*.
— To teach the students the religious sciences.
— To carry out the legal affairs.
— To carry out the religious leadership.
— To fight against those who attack the Muslims *(jihād)*.
— To order lawful things, and forbid unlawful things.

— To help those who are in need of the Muslims.
— Organizing the mass prayers.
— To give *ghusl al-mayyit* (obligatory bath given to, to recite. *salāt al-mayyit* (pray) over them, and to bury them.
— To fight the evil element in one's self and to purify it.

The Wordly Parts

They concern the affairs of the world such as working in trade, industry, selling and buying and also farming, etc. In these parts we concentrate on achieving self-sufficiency in all the economical fields in a way that it guarantees the economical independence for the Islamic nation.

(C) Every right is met by a task

In reference to that already discussed, when the religion decided on the rights it also imposed tasks which guaranteed the fulfilment of these rights. The latter distinguishes the religion in the issue of human rights from the other established systems which use the rights as merely slogans. In order to understand the dimensions of this matter with respect to the religion, it is better to connect the judgements regarding Allah's rights, and the right of the human being, and the judgements regarding the general task, and the religiously demanded task. By connecting these two groups Islam's views will become clear regarding the rights and the duties of the group for the right of Allah is the right of the group, and the general task is the task of the group. In order to cover all the sides of the matter the following four situations of the matter are mentioned below:

1- The right of the individual towards another includes the right of the wife to have her husband spend on her behalf, the right to spend on her relative, the right of the individual towards his neighbour, the right of divorce, etc.

2-The right of the individual towards the group includes

the right of the poor towards the general treasury, the right of possession, the right of thought, the right of life, etc.

3- The right of the group towards the individual includes the right of the general treasury *'baytulmāl'* on those who must pay the poor their due *'Zakāt'*, the task of *'jihad'*, and to order lawful things and to forbid unlawful things, etc.

4- The right of the group towards the group includes the right of the general establishments which carry out the general services for the state.

(D) A right of a person might be a task at the same time, such as the right of work, the right of work, the right of marriage and to order lawful things, and to forbid unlawful things. Work is a right for the individual on the group who must enable him to acquire it. Marriage is also a right for the individual on the gruop who must make it easy for him if he was not able to pay the expenses to order lawful things and to forbid unlawful things is the right of the individual on the group who must help him in doing it, and carrying it out.

(E) The authority of the *walī* (ruler) in changing the judgement between the freedom to do the action, obligatory, and prohibition. Obeying the *walī* is something obligatory, for Allah has said: "O ou who believe! Obey Allah, and obey the Messenger and those of you who are in authority."

1- This obedience should be within the limits of his rule.

2- This obedience should be according to the welfare.

3- This obedience should not be in the form of disobeying the orders of Allah and His messenger (SA) who says: "Obedience is in lawful things only."

The religious leaders discussed his last term and concluded the following:

1- Certain disobedience does not allow for obedience.

2- The *fuqahā*, agreed that the wali should have the obedience of the people in the matters of *'Ejtihād'* (Islamic jurisprudential investigation).

3- The *walī* has the right to change some judgements according to the change of the causes or times or places. This changing should be on behalf of the people.

4- The, *walī's*, changing of judgement should be in the limits of the task, the unlawful, the free things.

5- The *walī* is either a '*mujtahid*' himself or receives judgements from a '*mujtahid*'. His judgement would not be obligatory if it was an expression of an idea, but if the *walī* ordered that his judgement should be followed then obedience would be obligatory because it would be considered as obedience to Allah's orders. But, if the *walī* was not a *mujtahid* and did not take his judgements from another *mujathid*, then he does not have any right to change any judgement because it is considered a disobedience to Allah's judgement.

5. The General Laws for the Rights and Freedoms is Islam

This section deals with general judgements of all the righs.

The general judgements are the following:

(i) The causes for existence, ending, and stopping;

(ii) Paying back and getting back;

(iii) To be used in a legal way;

(iv) The sequence of rights when they are together;

(v) The acceptance of rights to be transferred; and

(vi) Protecting the right.

(i) The causes for existence, ending, and stopping

The sources for the religious judgements are the Qur'ān, the *Sunnah'*, and *ijtihād*. The legislative body linked the judgement (in existence and stopping) to many reasons but we have placed them into two groups: Occurring facts and behaviours. There will be an example for each in the matter of human rights.

The causes for existence

A. Occurring Facts

1- Birth: By which the natural rights are linked such as the right to life, the right of equality and all kinds of freedoms.

2- Death: By which the right of inheritance is linked.

3- Manhood: By which the political rights, the financial rights, and the social rights such as marriage are linked.

4- Wealth: By which the task of paying the poor their due *zakãt* and other financial rights are linked.

5- Poverty: By which the rights of the poor are linked with.

6- Unemployment: By which the right of work is linked.

7- Old age: By which the rights of the elderly are linked.

8- Neighbourhood: By which the rights of the neighbourhood are linked.

B. Behaviours

Behaviours of action have some rights linked to it such as (1) to acquire the free things; and (2) the crime which leads to punishment etc.

Behaviours of utterance have some rights linked to it, such as:

1- All the individual behaviours, such as divorce.

2- All the contracts, such as marriage, selling, and buying.

The causes for ending

The rights end for different reasons which is placed into two groups: Occurring facts and bahaviours.

A. Occurring Facts

(1) Death: The rights for which their causes were birth, and old age.

(2) Wealth: The rights for which their causes were poverty.

(3) Poverty: The rights for which their causes were poverty.

The above three are a kind of ending a right for the ending of their cause.

B. Behaviours

Individually such as:

1. The paying of a debt
2. The refusal if the right accepts refusal.
3. The divorce for the rights for which causes were marriage
4. Marriage: the mother's right to take care of her child
5. To excuse if the right accepts excusing.

The causes for stopping

The mercy of the legislative body (Allah) sometimes demanded to raise the prohibition or the task from some actions or deeds in certain situations in a way that they become temporarily free. This is called 'permission'. The permissions are:

1. Pleasure permission (these are of two kinds)
2. Dropping permissions:

The rights and the freedoms of the individual will be affected because of these temportal permisions. The following are some examples:

A. Occurring Facts:

1. Pregnancy: It causes the delay of the punishment of one who is pregnant.

2. Menstrauation: It causes the delay in the right of the husband.

B. Behaviours:

1. The temporal imprisonment
2. The aggression
3. The forcing to do something
4. The medical treatment etc.

(ii) Paying back and getting back

(A) Anyone who has a debt or a right on him must pay back his debt, and everyone who has a debt or a right for him must get his debt back. This link between the obligation to pay back, and the demand of getting back give the matter of human right a real dimension in the religion which the established laws have not yet discussed. What makes this obligation effective is the existence of the religious element in it.

(B) It is important that the owner of the debt has the right to get back his debt. It is similar to a task.

(C) The method of getting back should be a just one. This means that he must take back the exact amount (without any excuses).

(D) The religion orders the one who is indebted to pay back. He should not delay or cause harm to the owner of the debt.

(E) The religion orders the owner of the debt to be good in getting back his debt. He should not force the indebted but he should wait for him to be able to pay him back. He should not be harsh in demanding his debt. Allah says: "And if the debtor is in straitened circumstances, then let there be postponement to the time of ease, and that you remit the debt as almsgiving would be better for you."

(F) As for the general rights the people cannot get them except in a just way. They are not to be dropped, excused, or given away such as the right of life.

They are not for a certain person. Therefore they are called 'Allah's rights'.

(iii) To be used in a legal way

(A) The Islamic religion is balanced in regard to the rights and the freedom of human beings. Allah has given many rights and freedoms to the human being, but they are not total. On the contrary, the religion has placed regulations which intend to regulate between the different interests of the people. This is what makes life in society differ from one in a jungle.

(B) The human being does not have any right to use the right which the legislative body fixed other than in a legal manner. It must not be in a way which is against the doctrines of religion.

(C) Using the right in such a way that it is against the religion can be viewed in the following:

1- To use the right with the intention of harming others.

2- To use the right to achieve something illegal

3- To use the right to achieve something in which the human being intends to receive a benefit but causes great harm to others.

4- To use the right in an uncommon way.

5- To use the right in a careless way which causes harm to others.

(D) Just as there are rules for using the right among the people, there are rules in regard to the authority. The subjects have natural, social, and political rights. At the same time, they have a duty to obey the *walī* . The state has rights and duties and the *walī* would act within the limits of these rules. In other words he should keep the welfare of the nation in mind. Every violation of these rules by the *walī* is considered an illegal way in using the authority.

(iv) The sequence of rights when they are together

A. The rights of (Allah) if they were together

1. What contradicts in time
2. What is equal (not knowing which is the best)
3. What is not equal, the best proceeds
4. What was the difference in it.

B. The right of the human being if they were together

1. Sometimes they are similar to spending on the wives
2. Sometime one is considered better

C. The right of Allah and the right of the right of the human being if they were together. It is of three kinds.

1. What was decided upon in proceeding with Allah's right such as paying the poor their *due, zakāt.*

2. What was decided upon in proceeding with the human being's right such as the possibility to blaspheme when the human being is forced.

3. What difference is there in it, such as if a person died and he did not pay *zakāt,* and at the same time was in debt.

(V) The acceptance of the right to be transferred

(A) In order to develop a general rule regarding the acceptance of the right to be transferred or not, one needs to refer to the judgements, which are based on the two divisions of rights and the social solidarity of the nation. This practice is everyone's right. The existence of general establishments such as the police, and general security will not make it less important.

(B) The common practice of allowing lawful things, and forbidding unlawful things: In the Islamic society not only individuals make an effort, but the group also does their part. They take the image of political, social or *fiqh* groups who combine their opinions into one organized opinion. In Islam this takes many different forms, As such it was one of the active features of the Islamic *Ummah.*

(C) The protection of order *(wilayatul hisbah)*

It is one of the Islamic bodies which was set out of the duty of ordering lawful things and forbidding unlawful things. It is a guarantee for the people to use their rights and freedoms. It is an authority which monitors the legality of the general affairs. This action assists in establishing the elements of general order.

(D) The common law: The law is the force that protects the individuals' rights. Despite the guarantees which Islam provides, the law is the last shelter for the individual in practising or demanding his rights. The law is a force which assists in achieving Allah's rights, such as punishment in general.

(E) The monitoring of the respect for the supreme legality: It is known that in the Islamic religion, the supreme legislative authority is the Almighty Allah. It represents the supreme legality of Allah's rights, the human beings' rights, the mutual rights, the financial rights, and the non-financial rights, the financial rights are intermixed with the human beings rights, the non-financial rights are intermixed with Allah's rights. It is evident that the right of Allah cannot be dropped, excused or inherited while the mutual rights follow the strong side whether it was Allah's or the human beings' right.

(vi) Protecting the right

The basic foundation to protect the rights and the liberties is the sovereignty of the religion in the Islamic state. In order to achieve this sovereignty, the guarantees and restriction have been enacted to protect it.

Among these guarantees

(A) The religious motive of the person: This religious motive represents the interior guarantee.

(B) The individual practice of allowing lawful things and forbidding unlawful things: Islam teaches the meaning of the collective responsibility, in modern times the state performs this action through the constitution. However, the *faqahā*, and the men of intellect develop '*ijtihād*' out of judgements made from original sources such as the Qur'ān and the *Sunnah*. If the *mujtahid* did not use the sources in his *ijthihād* he would be violating the principle of legality. In looking through the constitutional and religious rules concerning the system of governance and the authorities of the state, it has been discovered that most of them were not written in the Qur'ān or the *Sunnah*. Most of them were decided by the *Sīrah* (tradition) of the first caliphs and by the opinion of the *fuqahā*. Therefore, the supreme judgements in the religion are those which are taken from the Qur'ān and the *Sunnah*, while the supreme legality in modern judgements are for the constitutional judgements.

6. Conclusion

This paper was an attempt to establish a general theory for human rights in Islam. It is not the first attempt, but it has been preceded by many other attempts from which I gained a great deal of information in writing this paper.

The principal question is: do we need a new science under the name of human rights?

The understanding of a new science was crystalized following World War II, the International Declaration of Human Rights in 1948, the European Treaty for Human Rights in 1950, and the two International Treaties in 1966. It is evident that pressure was applied on countries whose internal situations lacked progress in the field of human rights. Pressure was also exerted in an effort to protect the humanity of the human beings. This is the positive side or the known aim of this movement. However, it is evident that the

international movement of human rights tried to use it as a means of political pressure and as a means of humiliating the countries of the Eastern bloc and the countries of the third World. Therefore, the declared principles of this movement remain worthless. We are of the opinion that it is worthless to develop interior laws to a level shown in international conventions without separating this science as an independent science from the rest of the existing branches of the law and politics. There must be some concentration on the importance of the matter of human rights. This is considered enough of a reason for the process of its independence and separation as a science.

In the opinion of Islam in reagrd to this subject there must be a link between the righs and duties. If this link does not exist this movement will not progress. Thus, it must become a 'movement of rights and duties.'

The stance of the Muslims regarding this matter or movement needs some deep thinking. The rights and the freedom declared in these conventions were decided upon by Islam and as such were decided upon in the original sources of the religion which is the Qur'ān and the *Sunnah*. When a comparison is made between the rights and the freedoms of the human being in Islam with those which were written in the conventions, one must not think that the situation of the Muslim in this country or that is better than the situation of the Western individual in his country. It is important not to compare books with books, rather it is better to compare a situation with a situation; in this, one will be in keeping with Islam. "Our Lord make us not a prey for those who disbelieve and forgive us."

Wassalāmu 'alaykum wa rahmatullāhi wa barakātuh.

The Political Rights in Islam: The Mutual Rights between the Ummah and the Imam

Tāhir Sālih Al-Mue'qabi

(1) The equilibrium between the rights of the *Ummah* and it's duties.

(a) The fruitful result of this equilibrium

(b) The negative effects of disturbing this equilibrium.

(2) The rights of the nation *(Ummah)* and its duties, as summarized by Ali (A.S.).

— The four rights

— The four duties

(3) The four branches of the political rights of the nation and their inclusion of all the rights which exist in the modern laid down laws and its duties.

The historic existence of the Muslims' policy does not reflect in anyway the political course which the last Prophet Muhammad (S.A.) brought and which comes from the heart of the religion of Islam. For the politico-historic existence represented in the caliphate is something and the political course in the religion of Islam is something else and there is no connection between the both. If we mix between the two, the picture will change. It is here where the orientalists — who wanted to present the Islamic political principles — made their mistakes because they began to look for them in the political history of the Muslims which, except for the name sake, represents the negative picture of Islam and is not a part

of Islam at all.

Therefore, Mr. D. S. Margoliouth in is book "Muhammadanism" on page 97, denied that the Muslims could have any political rights before the leader of the time. He said: "The Muslim subjects have no rights before the recognized ruler." He adds: "The ruler is not responsible before anyone." He gives an example and says that if the governing caliph killed one of his subjects he would not be responsible for his crime before anyone.[1] Such judgements are drawn from the political history of the caliphs and were not drawn from Islam represented in the Quran, the *Sunnah* and the life-styles of the pious Imams. The caliphs who were considered the leaders for the Muslims appeared in history as tyrants who committed great crimes which Islam forbade. They deprived the Muslims and the others from their legal rights decided for them in the Book and in the *Sunnah* and which were emphasized by the religious leaders such as the pious Imams. The Muslims at the times of those caliphs had nothing of their political rights, which in fact they should have enjoyed.

But if we return to Islam itself, to Quran and to its original sources, we will see the real picture of the political course in the religion of Islam. And we will notice clearly the legal rights of the nation *(Ummah)*. We were deliberately driven away from noticing that positive picture from its original sources, and instead the above-mentioned nagative picture was put before us so as to make us get away from our Islam; but Allah, with His great kindness, guided us to what is right.

It is certain that the political renaissance and the political principles in the modern ages would have not appeared if it was not Islam and the spreading of its doctrines all over the world. Islam had the greatest effect in the appearance of those principles and that renaissance. This fact is accidentally noticed by the researcher and the comparer who compares between the modern political principles and the Islamic principles.

Islam has given the *Ummah* political rights, which it gets besides its duties as subjects. Islam balanced between the rights and the duties in a very clear way so that no one of them could dominate the other, which in a way could lead to the collapse of the system and thus anarchy and corruption could prevail in the country. To that balance Ali ibn Abi Talib (A.S.) refers in his graceful words which are based on the Quran and the essence of Islam.

The greatest right imposed by Allah—amongst the other rights—is the right of the ruler on his subjects, and the right of the subjects on their ruler. Allah imposed this right in order to make it a means of their cooperation and a strength for their religion. For the subjects become good when the rulers give the subjects their right, justice will be strong and will prevail, and the doctrines of the religion will be fulfilled and thus things will be reformed and the state will be strong and will stabilise, and its enemies will fail to harm it. But if the subjects did not perform their duties, or if the ruler deprived his subjects of their rights, differences will appear, suppression will prevail, the doctrines of the religion will be played with, the *Sunnah* will not be applied, the desires will be greater, and the people will be corrupted in a way that they will not care for the unlawful things that will happen, and at that time the pious and good people will be humiliated and the evil — doers will be honoured and the orders of Allah will be ignored by the people.[2]

Therefore, if the balance between the rights of the *Ummah* and its duties was fixed and was worked with, it will result in the appearance of four elements for the power and strength of the Islamic state. They are:

1. The strength of justice and right;
2. Practising the doctrines of the religion;
3. The prevalence of justice; and
4. Working with the traditions *(Sunnah)*.

But if this balance was disturbed, four elements of weakness and withering will appear. They are:

1. The appearance of differences;

2. The appearance of suppression and tyranny;

3. The appearance of differences and arguments about the religion; and

4. Ignoring the traditions *(Sunnah)*.

From these elements of weakness three things and five cases will appear in the Islamic state. The three things are:

1. Working with desires;

2. Not practising the laws of the religion; and

3. The increase in the corruption of the people.

The five cases which will appear are:

1. Disregarding the fear from depriving the people of their rights;

2. Disregarding the fear from practising unlawful matters;

3. The humiliation of the pious and good people;

4. Honouring the evil doers; and

5. Ignoring the orders of Allah by the people.

Let us now come to our main subject and deal with the political rights of the *Ummah* as are dictated by Islam.

Imam Ali ibn Abi Talib (A.S.) says, summarizing the rights of the nation *(Ummah)* and its duties, in one of his speeches:

"O people! you have your rights on me and I have rights on you. As for your rights on me: they are:

'To advise you, and to supply you with what you need, and to teach you so that you may not be ignorant, and to guide you so that you may know and learn'. As for my rights upon you, they are:

'To be loyal to me, and to be honest with me when I am with you or when I am absent, and to respond when I call you, and to obey me when I command you'.[3]

Thus Imam Ali ibn Abi Talib (AS) explained and fixed the balance between the rights of the nation *(Ummah)* and its duties. He began to mention the rights of the nation first and in the second place he mentioned the nation's duties.

The political rights of the nation *(Ummah)*, in the religion of Islam which are highlighted in the book of the Almighty Allah and His Prophet's traditions *(Sunnah)* include four branches and they are the things which Ali (A.S.) mentioned:

(1) To advise the nation *(Ummah)* means giving the nation what Allah has ordered for it of personal and civil rights without depriving any of its rights or suppressing any members of the nation.

'Advice' in Arabic language has two meanings:

The first meaning of advice is purity.[4] The Islamic government must treat the nation with purity and devotion and to be away from the deviated human desires such as bribery, cheating, deceit andsiding. The Islamic government must act in accordance to what Allah has decreed:

"O you who believe! Be maintainers of justice, bearers of witness for Allah, even though it may be against yourselves or (your) parents or (your) near relatives; whether he be rich or a poor, for Allah is nearer to them both in compassion; so do not follow passion lest you deviate (from truth) and if you swerve or turn aside, then surely Allah is ever informed of what you do. (4:135)."

So there is no siding, and no cheating and no deceiting in the policy of Islam. The members of the Islamic *Ummah* are all alike and equal and no one has the right on another except with good conduct and they are all equal as per the religion.

Therefore, the loyalty of the rulers in practising their duties towards the nation is a very important matter in the political course in Islam. The loyalty in the political treatment between the government and the people is unimaginable or impossible in all the laid down political courses, for politics today is just another name for hypocrisy which means hiding something but showing something else. Islam puts in the first right of the nation *(Ummah)* — loyalty in treating the nation in its all legal rights.

The second meaning of advice is truthfulness.[5] The government's dealings with the subjects must be based on truthfulness otherwise it will deserve the curse of Allah as He says: "Lo! the curse of Allah upon those who lie." And thus the untruthful dealings by the government or the individual makes them out of Islam. Therefore, if the government headed by the Muslim ruler has these two characteristics, things will go straight between the *Ummah* and the state. And

there will be no more suppression, cheating, corruption or injustice. Thus the ideal state will be created by the political course of Islam, and this dream of the ideal state will be achieved and the just course in the human policy will exist.

(2) To supply the nation with what it needs and that means to preserve the nation's economy[6], and giving the nation its legal economic rights and treating and dealing with it in accordance to this right. For every part of Islamic society which practises economic action has a special right. The farmers have their own special rights and the merchants and the craftsmen have their own special rights also. At the same time the poor and those who are needy have their rights too.

The government's duty is to collect the income[7] of the nation from one side and to give the individual his economic rights from the other side. The individual has the right to earn his income by practising his legal economic rights which were decided for him in the Book of Allah and the *Sunnah*, and the government or the state must do its best to help the individual to earn his income without any obstacles. As for the national income which means the nation's *(Ummah's)* income, it is the duty of the government to preserve it to be used in its national projects. It must not be wasted or played with in a manner contrary to the legal principles.

(3) The third branch is education. Islam made education a basic duty. For providing every individual with education is one of the Islamic government's duties. The Islamic government must establish education centres, and it must give the nation its complete freedom to get education and to give it the right to think and to express so that the specialists and the scientists in all the fields will be available.

(4) The right of guidance which means the right to guide, direct, educate and adjust[8] the members of the nation *(Ummah)*, because science alone is not enough to create and present the human personality, and science, without guidance, direction or adjusting, will end in a deviated way and will face destruction.

Therefore, it is one of the Islamic government's duties to

guide and direct the nation *(Ummah)*, so as to create a human and moral society, and to end anarchy and immorality in the Islamic society, and to end anarchy and immorality in the Islamic society, so that every individual would be happy with what Allah the Almighty has given him the rights, to be in peace, security and have socio-economic stability.

These are in brief the political rights of the nation *(Ummah)* which were decided by Islam; and it is not impossible to practise these rights in reality if the nation *(Ummah)* got a good Imam or a good ruler, who has the distinguished characteristics which Islam has prescribed in its political course. Such a ruler will have the respect and the obedience of the nation *(Ummah)*, and he will show the nation its duties and thus prosperity and stability will prevail. That is not a great thing for Allah to do.

Peace be on you all.

References

1. **D S Margoliouth, "Muhammadanism", p 97.**
2. **Nahj-ul-Balagha, p 333.**
3. **Nahj-ul-Balagha, p 79.**
4. **Lisan-al-Arab, vol 3, p 646.**
5. **Lisan-al-Arab, vol 3, p 646.**
6. **Lisan-al-Arab, vol 3, p 958.**
7. **Lisan-al-Arab, vol 2, p 1151.**
8. **Lisan-al-Arab, vol 1, p 33.**

The Origin of Rights

Hujjatul-Islām Muhammad
Taqī Misbāh Yezdī

Almighty Allah the Prudent says in His holy Book: "...Nay! he has brought them the truth, and most of them are averse from the truth. And should the truth follow their low desires, surely the heavens and the earth and all those who are therein would have perished... (23:70,71)"... "And Allah the Exalted is true."

NTRODUCTION

The subject of our discussion is 'the origin of rights'. Before entering into discussion of the subject matter it is essential to explain the meaning of 'right' and its usage.

'Right', justice and its synonyms are the most sacrosanct words which enjoy highest sanctity and special elegance of meaning in all the human societies. One can hardly come across a person who would like to introduce himself as the supporter of falsehood and oppression and opposed to justice and the right. The most tyrant persons and governments proclaim to be true and just in order to deceive the people. They want to cover the ugliness of their aggressive tyrant deeds under the berautiful mantle of justice and truth. The affinity of these two meanings becomes more clear when justice is defined as dispensation of right to the rightful.

The search for truth and justice is considered as the mother of all social values. The precept of virtue of right and justice is an evident rational dictum. Inclination and ambition for these are considered as a part of man's lofty temperament. So is the precept of vices of oppression and fallacy an evident rational dictum. Dislike for these is also a part of human nature.

Islamic culture also attaches significant importance to these terms. These have repeatedly been referred to in the Holy Quran and the sayings of the Holy Prophet (S.A.) and the members of his household (A.S.) which indicate the importance of this matter in the system of Islamic values.

Let us however, impress upon the fact that the word 'right' has various usages but all of these do not relate to our subject matter. For instance, the word 'right' means permanent being, or the statement according to facts or a promise about something which would certainly happen, etc.

Therefore, truth in relation to Almighty Allah also does not relate to our subject matter. If the search for justice and right is part of human nature it cannot be related to acquaintance and worship of Allah and the existence of one cannot be derived from the other. Some have tried to do so to arrive to such conclusions but they have only confused between its ethical meanings and philosophical conception.

The other point is that the limitations for usage of 'right' in legal discussions is much narrower than its expanded use in ethical and religious discourses, discussions are held on the rights of Allah over man and even the rights of man over Allah. But as far as the legal concept is concerned it exclusively relates to the relationship between man and man. On the other hand, the word 'rights' is used in at least two different meanings as far as its usage by the lawyers is concerned. The one relates to reservations and privileges granted to individuals or groups of persons which should be honoured by others and should not be violated or encroached upon by any one. The other meaning is the code of laws whose observance is obligatory. These may provide privileges for certain persons or prescribe obligations for others. These can also be laws describing conditions regarding the correctness of agreements and contracts. The word rights in the second sense is very much similar to the term 'social laws".

However, these two meanings are not entirely alienated to each other, because all legal laws are connected in one way or the other with the right of individuals or the society. If it

grants a right to somebody it necessitates an obligation for the opposite side. In case it provides obligations for all it would mean provision of reciprocal duties for all. As a result of this every one will have a reciprocal right on the other. As a matter of fast, such general laws are dissolved into minor laws each of which guarantee a special right or obligation.

To put this in one sentence, it can be said that rights and duties are interrelated and the enactment of one necessitates the provision of the other.

Similarly, the enactment of laws such as those providing details and conditions for entering into agreements and contracts and similar other laws provide both rights and duties accruing from such agreements and contracts.

PRESENTATION OF THE ISSUE

As mentioned earlier the search for one's rights is a lofty sacrosanct human value so much so that it is considered to be the mother of all other social values. But the word 'right' by itself does not represent anything or a deed in particular. It cannot precisely specify its meanings. For instance, the meaning of 'justice' can be specified only when a right is stipulated in advance so that its restoration to its owner is considered as the applicability of justice.

In other words the concepts of rights and justice are not substantial concepts which could be obtained by the realization of its instances and may not need rational considerations and comparisons. A particular move or action cannot always be considered as illustrative of right and justice nor can another type of move or deed be always be considered as unjust and oppressive. In certain given circumstances, even beating, injuring and killing may be considered as a case of right and justice, for example, if it was a case of reprisal or legal punishment. Hence the legality or illegality of such actions depends on the fact whether it was done as a reprisal or punishment or committed as an original act without the other party which is beaten, wounded or killed, having committed a crime. So long as such

considerations and comparisons are not made, the outward act cannot be defined as right and justified or illegal and cruel.

Hence, the most fundamental issues of the philosophy of rights is as to what is the origin of rights? What is the basis determining the rights and obligations of persons in varied conditions?

In other words what is the source of segregating the titles of rightful and the wrong, just and unjust? What considerations and distinctions should be carried out to distinguish between these titles?

Some may say that instances of right and justice can be recognized through wisdom and natural instinct. Every wise person knows that snatching a piece of bread from a hungry orphan child is cruelty and its restitution a justice. On the whole depriving an owner of his property, whatever it may be, or aggression on anyone's life and honour is cruel and unjust, but consumption from one's own property and protection of one's own life and dignity is rightful and just.

But such replies are the outcome of simplicity and lack of indepth-thinking of scientific and* philosophical issues. Anyone who has the least acquaintance with legal matters can quote many instances wherein identification of right and wrong would not be as simple as that. In many a cases, even the most talented judges of the world get confused while they are required to deliver their judgement. There are abundant instances wherein distinguished legislators of the mankind connot express a decisive opinion or expressly identify between the right and the wrong.

Therefore, if there are clear, definite and specific instances of right and justice for the common man undoubtedly there are many ambiguous and doubtful cases wherein it is not everybody's job to identify the right from the wrong. It needs specific rules and complex formulae. It is about these rules and formulae that we have to endeavour and find them out.

A BASIC DIFFERENCE

Having dealt with superficial and simplistic views, we come across a deeprooteddifferencebetween the lawyers. The question is whether right and justice have a real essence of their own which needs to be discovered and identified, or such matters are subject to conditions and agreements, for instance, situations which do not have any real essence and rational basis. On the contrary they are dependent on agreement. In cases where there are supportive and overall agreements, it is considered that human wisdom and conscience would realize them. In case where such overall agreements do not exist, there is a need for enacted laws so that people's rights and duties are determined through them.

Such a tendency existed since long amongst the Sophists who believed that right and justice, as well as all other moral and legal matters were subject to public opinion. Their most well-known axiom is that "man is the standard of everything." From the writings related to Plato it appears that the major portion of Socrates' discourses with Sophists related to moral and legal subjects.

But this tendency declined with the flourishing of the philosophies of Plato and Aristotle. They could not get any renowned supporter for many a centuries. It was only after the renaissance and particularly during the days of Hume, the famous sceptic British philosopher that this way of thinking came to surface with fresh prestige and dignity. Gradually the number of people contributing to this philosophy increased. Presently the historical and positivist schools of law, which have attained significant reputation in international legal circles are more or less, fed through this source.

In reply to those who contribute to this tendency, it may be said that if rights did not have rational and realistic base, the relationship of contradictory and antithetical laws with the welfare and well-being of the people should have been uniform, whether people liked these laws or adopted laws other than these. Innumerable experiences in addition to one's reason and wisdom indicate that many of the enacted

laws have been to the disadvantage of society. Legislators have realized their mistakes after sometime and resorted to set them right. This is the best witness to the fact that irrespective of peoples' inclination and despite law makers' views, real interests and essence do exist which may occasionally be in line with enacted laws and at times opposed to it.

But this summary reply is not sufficient to remove all doubts which arise in this regard. It is necessary that at least the most important of such doubts should be examined and dealt with.

REASON FOR DEVIATION

Probably for us, the Muslims, who have been brought up in the environment of Islamic culture, it may be rather astonishing that a group of eminent law experts deny the reality of essence for right and justice and opine that they are subject to peoples' views and taste. This tendency is in vague in contemporary legal circles of the world and has registered considerable numbers of supporters.

It may however be noted that, like other deviated ideas in different branches of philosophy and learning, this view did not come to surface extemporaneously nor did it spread or expand merely by chance. There are two reasons for this. Firstly, some invisible hands may have propounded and propagated certain psychological, sociological as well as legal and economic theories with a view to achieve their political and colonial motives. Secondly, certain doubts might have been raised for which convincing replies could not be found due to weak philosophical foundations. As these doubts and suspicions piled up, they caused a tendency for theories, doctrines and schools which were of a deviated nature. Let it not be forgotten that most of the deviated thoughts came in vogue only when philosophy and meta-physics became weak and the place of deep thinking rationalism was taken by superficial sentimentalism. However, what popularized this deviated tendency in lego-moral philosophy is the presence of

a number of doubts and suspicions mooted by "amprism" and positivitism etc. and found appropriate social grounds for their acceptance.

A detailed examination of such doubts and suspicions and a description of statements and all pervasive disputes in regard to them cannot be discussed in this short paper. Therefore, I would only deal briefly with the most important doubts and provide replies to them. Thereafter we shall explain the acceptable views in regard to the origin of rights.

INVESTIGATION OF DOUBTS

(1) One of the doubts is as follows: There have been and still exist different system of laws. Each of these has been more or less effective in the realization of the objective which is the main tenance of law and order in the society and relative security of peoples' demand. Every society prefers its own system of laws. If peoples' views and understanding undergo a change, the laws ruling the society are also altered. This has been witnessed in different countries of the world. These changes have also taken place even in legal systems which are divine and based on religion. This change takes place by nullification. If laws had a stable rational base such changes and alterations could not be justified

In reply it must be said that:

Firstly: The legal system should not be considered as a totally independent system. Nor should its objective be considered as the maintenance of order and relative security of peoples' demand. On the contrary, the legal system should be recognized as part of a comprehensive and value-oriented system; its object being the creation of a means for the realization of ultimate aim through a complete value - oriented system.

In other words, social relations are only one of the many aspects of human life. The provision and regularization of these relations are a means to provide utmost possible perfection and eternal bliss to the largest possible number of people belonging to the society. Therefore, privilege laws

should be enacted in such a manner that they are commensurate with the general objective of the value oriented moral system or at least it is not in contradiction with it. This is a fact which has been neglected in man-made legal systems resulting in separation of laws from religion and ethics.

Secondly: The claim that various legal systems are similar as far as the realization of approximate legal objectives is concerned is unrealistic and exaggerated. As mentioned earlier many a times the law makers themselves have realized their mistakes and worked to set them right. It is because the alteration of laws is not only due to change in views and peoples understanding.

Thirdly: Rational and realistic base for laws does not mean that all legal norms have stable and ever-lasting infrastructure. May be the change in certain realities and external conditions may result in alteration in some judicial laws. The nullification of divine laws in certain cases is one such instance. However, the question of the existence of a rational base for laws should not be mixed up with its permanency.

(2) The other doubt is that a legal system comes to realization when the people of a society or at least some active and effective groups and sections of the society recognize the system. Till such recognition is achieved, it remains an idea in peoples, mind or a few lines are jotted down on a paper. Therefore, the basis of laws is public opinion and their acceptance by people; even if these are imposed on them by an individual or group of persons in the beginning. However, the wishes of people and the views of individual and groups cannot be neglected and the laws are based on reality of essence independent of peoples' views and understanding.

In reply it may be said that there is no doubt that the working of a legal system is based on its acceptance in the society. If the people as a whole, or their majority or their active and effective groups are opposed to a legal system and resist it strongly, the system can never be put into effect.

However, the question is whether a legal system can be called just or oppressive without taking into consideration its acceptance or non-acceptance by the people? Can it be said that a people have accepted a just system and another people have submitted to an oppressive one? Can it be said that system recognized by the people shall be "just" and that justice and tyranny are nothing but their acceptance or rejection by the people? Those who view right and justice as independent of peoples' opinion and acceptance believe that a given legal system can be just even if people do not accept it. And naturally another given system, contrary to the first, shall be oppressive irrespective of its acceptance or otherwise by the people. The above statement cannot contradict and nullify such a view.

(3) The other doubt is that legal laws are dictatorial and their essence is command and prohibition even if these are expressed in informative terms. This is evident from description of rights bearing the essence of privileges or from description of enacted laws such as terms and conditions. It is obvious that dictated version can neither be verified nor denied. In such cases one cannot give consideration to facts. We have only to consider the wish of dictator based on negligence and permissiveness. In any case such commands have no other facts behind them except the wishes of the dictator.

In reply it is to be said that we do not deny the dictatorial nature of legal terminology nor do we deny the dictatorial nature of informative compositions and also accept the possibility of presentation of dictatorial compositions in the form of informative text. However, the question is that if such wordy and literary debates are set aside, one can say without any doubt that a particular law is in conformity with peoples' interest and if enforced their real interests will be served. Similarly, conversely it can also be said that a particular law is against peoples' interest. Our purpose in saying that laws are in conformity with or against peoples' rights is nothing but what has been said above. If possibilities

of such a comparison are denied it would only mean to dispute and refute the self evident.

It becomes clear from the above that the existence of laws is not based on commands and prohibitions. Their description by using dictatorial terminology and words of command and injunction relate only to a particular style of description which is selected to add to the stress laid on such commands. It also has the aspect of psychology and does not indicate any sign of dictatorship in its nature.

(4) The other doubt is that every legal method includes credential and contractual substances and legal subjects consist of matters like ownership and companionship etc., which have no reality into consideration for legal methods which include such substances. These are termed as 'correct' if they are in conformity with provisions and called 'incorrect', if not.

In reply it may be said that the above mentioned matters are, although subject to credibility and contract and that there is no specific factuality in regard to them but it cannot be argued that these have been supposed and stated in an exaggerated manner. On the contrary, these are like mathematical and algebraical formulae which relate to the effects, fractions and sub-fractions of different factors and are taken into consideration as signs and symbols for particular behaviours and their effects; and that those behaviours and effects so formed on them bear a mark of identicalness and factuality. For instance, the term companionship is a symbol to indicate the state of the total behaviour of two spouses in their family life which is identified by certain limitations and restrictions.

Therefore, though legal terms are not by themselves indicative of any occular realities yet they are not entirely alien to such factualities. We may, therefore, describe the relationship of these matters with facts stating that the state of the actual relationship of mankind are the base and the infrastructure of such matters. In other words it can be said that legal and value matters are like two-faced coins, one side

of which is indicative of their value and the other indicative of their factuality.

However, the motive leading to the acceptance of such matters or to consider them as borrowed from substantial and philosophical context is to facilitate their understanding like the motive in all other rational credibilities. For once it can also be like a motive which leads to the usage of alphabets and brief signs in mathematical formulae. Therefore, we should not be tempted by the outward credence of legal methods; nor should we neglect the facts hidden behind them. While facts of physics and chemistry are related in the language of mathematics and through algebraical signs, these cannot be considered as devoid of correctness only because of these signs being contractual.

It may be recalled that in case of companionship and other credibilities accruing from contracts and agreements, acceptance of both the sides and their decision to observe particular types of behaviour as well as the expression of this acceptance and decision form parts of a specific social expedience formula. Though all these are factual and non-contractual matters, the use of a particular word or the writing of a specified sentence or the performance of a particular action during the implementation of the contract may be forged and contractual matter, but the credence of this condition, in its own turn, is subject to real expedience and substance.

It is therefore, concluded that the creditibility of legal substances cannot be considered as a reason for the absence of virtues and vices in the substance. Nor can it be said that there is no connection between the legal laws and the virtue and vices of the substance.

(5) The other doubt is that legal methods, while conferring a right on someone emphatically or implicitly, confirm a duty for the opposite side. Therefore, all legal laws should be considered as containing the essence of 'must' or 'obligation' and the synonyms thereof. On the other hand we know that such matters, for instance value essence, are

different from real essence because real essence speaks of external affairs, and have descriptive aspect as against the matters of value essence which have instructive and obligatory aspect.

In view of these two prefaces, it becomes clear that legal laws cannot be considered as bearing realities and they cannot be derived from descriptive affairs. For instance, if the axiom that 'man is born free and has the potential to select and adopt' is taken into consideration, we cannot conclude that 'man must live free and the right of freedom for every man is intact.' This is because one of the conditions for correct reasoning and deduction is that the result should not contain an essence in excess of the essences which form the axioms. Whereas descriptive passages do not contain terms like 'must' but the instructive context for instance legal norms do consist such an essence.

It is, therefore, concluded that legal passages do not contain occular realities, neither these are derived from descriptive happenings nor do they contain realities. Hence, legal laws cannot be considered as authenticated by occular realities.

In order to clarify the reply to this doubt two points should be kept in mind:

Firstly, it is not the external things which are meant to be the essence of realities on which depend legal laws. On the other hand it means the qualities which wisdom differentiates in things and persons and the relationship between them. This includes the relationship of passion and impression between the voluntary deeds of a man and the results accruing from them - whether material, worldly and social or spiritual, moral and other worldly. Such a relationship is reality of essence; though it may not be related to external things. In other words the logical and metaphysical facts described with special philosophical essence are realities of essence. Therefore, the proposition that "it is necessary to observe rules and limitations to maintain order in the society" is of essence because the observance of limitations and rules is the cause for the maintenance of order and the existence of

cause is necessary for the fulfilment of the effect - this necessity is termed as 'analogical necessity' in philosophical terms and considered as a reality of essence. It is because social order cannot be achieved in the occular external world without the preservation and observance of laws. This proposition enjoys as much of reality of essence as mathematical and natural propositions. For instance the necessity of water for the growth of trees or the need to raise to the power of two the side of the square to find out its area.

The other point is that logical propositions contain unpronounced parts in addition to pronounced portions. This indicates the relative condition and is known as 'the essence of proposition' in logical terminology. The unpronounced essence may be called as its aspect. It can even be treated as an essential element of the proposition. For instance it may be said that 'existence of living beings is feasible in celestial bodies'. In fact the essence of 'feasible' described the condition of relativity between the 'living beings' and 'existence in celestial spheres' and now it has taken an independent essence and become the predicate of the proposition.

Taking into consideration these two points, it becomes clear that legal propositions are in fact descriptive of the relationship of the causality between the various types of man's voluntary actions and the realization of the objectives of rights. Their soundness depends on the discovery of the complete formula of causation and the exact identification of its components, conditions and restrictions. But the discovery of such a complete formula is very difficult in consideration of multiplicity of factors and their variations and different types of restrictions, interests, mischiefs and shortcomings in all instances. This also results in creating many different points of views. If, however, one takes into consideration the necessity to contain the legal system within the whole value-oriented system also paying attention to moral objectives, the difficulties inherent therein shall become obvious. Finally, one comes to the conclusion that

human wisdom is so limited and his experiences so imperfect that these cannot present a perfect legal system which can work to achieve eternal bliss and complete perfection. That is why the need for revelation and Divine law becomes obvious.

And now the problem regarding the deduction of the word 'must' from the word 'to be' will be solved in view of the second point. The proposition known as descriptive propositions consisting of the relation of causation shall guarantee analogical necessity which form the essence of the proposition and this is the essence of the guaranteed necessity in introducing analogy and appears in the form of 'must' and 'obligation'. Neglect of these logical subtleties has made some others feel that the deduction of value oriented and legal laws from descriptive propositions is not possible. However, it must be considered that the deduction of the 'need of effect' depends on the realization 'of all the components of the total cause' contrary to the existence of each of the cause factors which are essential for the realization of the effect.

If in the preliminaries of analogy only one part of the total cause is included then the need for effect cannot be deduced from them. The sophistication obtained in the deduction of moral and legal propositions from scientific ones is due to the placement of a part of the cause instead of the total cause. The examination of these matters is not within the domain of this short paper.

WHAT IS THE EXPEDIENCY?

From what has been mentioned above in short, we understand that legal laws can be evaluated on the basis of their being harmonious and in the same direction with actual virtues and vices. In other words it may be said that legal laws should be based on truth and justice and not subjected to capricious desires and tastes of peoples or groups of people. "And should the truth follow their low desires, surely the heavens and the earth and all those who are therein would have perished... (23:71)."

This has hereby become clear that legal and value oriented matters are like symbols to bring out the combination of effect and impression which take place in the sphere of voluntary actions and social relations of human beings and indicates the direction of movement towards the objective of laws and the final target of value system.

It also becomes known that the real duty of the law maker is to give thought to the different complex relationship between actions in relation to the legal objectives as well as to the objectives of morality and religion. He should declare necessary any work of any nature required to be undertaken in order to achieve these objectives and which are within the framework of legal and value oriented subjects. He is also required to prohibit any action of any nature which is contradictory to these objectives.

All said and done, the other question which arises is that what is the objective of real interest and sedition? Do these not finally turn to peoples gain or loss and liking and disliking? Is not the basic purpose of laws a matter of value which is to be fixed in accordance with the desire and the liking of people? It is then that social behaviour, under the shadow of their desirability and the means to achieve the desired objectives, becomes legalized. In case the reply to these questions is positive, one has to accept it necessarily that laws and generally the value system and also subjects like right and justice do not have any existence independent of peoples' wishes and desires.

A detailed reply to these questions is subject to discussions on matters like: essence of values, the relationship of values with reality, the specification of the object of laws and its relationship with the good and bad of the individual and the society and difference between interest and expediency as well as similar other things. Each of these needs a detailed discussion and all these cannot be included in this paper. We are, therefore, compelled to discuss each subject as much as essential and required. The same has also been the trend followed by us in the subjects dealt with so far.

The first point to be taken into consideration is that the value of voluntary works is different from the value of their aims and objectives. That is to say the worthiness of action which is considered in relation to morality and laws means the desirability of the means and tools but the worthiness of objectives means their intrinsic and original desirability. Also the necessity which is related to the performance of good and beneficial deeds is analogical necessity and meant to achieve the result as far as preferentiality and causality are concerned as against the necessity related to the object itself and specially the ultimate object which is the achievement of bliss and real perfection. It is also indicative of the truth that every human being is personally desirous of his well-being and perfection. This personal desirability is the basic motive required for the performance of any voluntary deed. Without it no voluntary action can be performed.

The next point is that though the essence of 'bliss' is segregated from man's achievement of the greatest, most stable and highest joys, the achievement of pleasure does not necessarily lead to perfection. However, divine wisdom has created inclination for pleasures in human nature which are achieved by the fulfilment of his needs. The fulfilment of needs is essential for the continuation of the life of the individual and the mankind and also for the attainment of the means of perfection - basically speaking the achievement of perfection is considered as one of the spiritual needs of the human being. Hence, man's innate and natural instincts are in fact psychological incentives for a move towards the security of life and perfection. In this way, the achievement of ultimate perfection will be combined with perfect pleasure (the real bliss). "They shall have therein what they desire." (25:16). "And therein shall be what their souls yearn after and (wherein) the eyes shall delight." (43:71). According to Holy Quran, bliss belongs to those who shall enter divine grace in the eternal world and awarded with eternal Paradise. "And as to those who are made happy they shall be in the garden, abiding in it." (11:108).

Therefore, the meanings of true bliss and ultimate perfection are the same. Though there may not be any agreement or relationship between them.

The third point is that there is a reason for difference in determining the meaning of bliss and ultimate perfection and in identifying the path to achieve it. One such reason is the negligence of eternal life and differences in the efflorescence of the capabilities and rational growth. Here we cannot discuss this in great detail. However, the difference in peoples' attachment for some specific pleasures or their preference of one joy over another cannot be considered as the reason for the non-existence of perfection or the absence of real inclination for certain desires. On the contrary, perfection is a philosophical essence which gets segregated for instance due to extremity of existence and its achievement brings pleasure and satisfaction. All that may lead man to any of these actions which are part of public relationship shall be considered as aimed at social welfare which is the objective so close to laws. Consequently, just as eternal bliss and perfection are realistic and essence oriented and independent of peoples' or groups' desires and capriciousness, the good and the corrupt which are also derived from the means to achieve this ultimate objective are real, essential and independent of desires and likings.
achieve this ultimate objective are real, essential and independent of desires and likings.

WELFARE OF INDIVIDUALS AND SOCIETY:

Man has a variety of needs and requirements and the total fulfilment of all of them is not possible in this materialistic world which is the house of contradictions and hinderances. Many a times there is the need to sacrifice some of these for the sake of others. This is the stage when the question of selection comes to surface. Wisdom demands that the lower and the lesser requirement is sacrificed for the sake of higher one. However, all the human beings do not follow this principle. It may be due to feeble realization and identification or it may be due to being used to or attached

with some of the enjoyments that the people prefer their lower and lesser requirements. It is in case of such people that it is said that they act against their interests.

Therefore, a prudent action is one which fulfils the more important requirements and achieves higher perfection. In other words, the selection should be based on correct rational reasoning. This is also true in regard to the clash between individual and group interests. That is to say that social life demands that certain individual interests be sacrificed for the sake of the society. Every individual should give away some of his individual benefits and desires in order to fulfil the interest of the society.

Clash between the interest of an individual and the society takes palce in two ways. Firstly the sacrificing of an individual interest for the sake of society takes place in such a manner that it fulfils the requirements of all the individuals of the society including this person who has given up his interest and that this person is granted another interest of the same value or greater than that. In this case his wisdom would call for such a sacrifice. In other words his own interest demands such a generosity.

The other case is that giving up of individual interest may not result in the achievement of equal or greater interest of the individual. That is to say such a generosity may provide him with no benefit or even if any benefit accrues to him it is lesser than the interest he has sacrificed. Can one say in such a situation that it would be wise of him to overlook his interest so as to enable others to achieve their own?

The fact is that a positive reply cannot be given to this question on the basis of materialistic outlook. It is this outlook which explains the logic of profiteering. It is on this basis that every individual tries to exploit the society as much as he can irrespective of the great loss he would incur to others in this process. He would forego his interests only if he feels that if he did not do so he may have to suffer more and may not be able to derive greater benefit from the society.

As a matter of fact those who speak of society's welfare

and declare support for others' interests and rights from a materialistic point of view are hypocrites and imposters. In fact their only purpose is to achieve their selfish motives and nothing else. This is the reasoning which is pervalent in most of the human societies and the claim to support truth, justice and human rights made by the leaders of the arrogance and their followers are nothing more than deception.

However, some of the law experts and jurisprudents are of the view that the basis lies with the society and individual rights are only a part of the society's rights. It is but natural that in case of clashbetween the rights of the individual and the society, individual rights have no palce. However, irrespective of the intrinsic weakness of this view which is based on the denial of the real existence of the individual and despite the fact that various parties calling themselves as supporters of this view have in action treaded the path of others as is seen from the deeds of the socialists in different countries of the world, how can one convince an individual to the effect that he should rationally give up his personal interests without acquiring equal or greater benefit from the society.

We know that individuals can be made to be indulgent and by means of propagation and inciting their sentiments and feelings. One can also lead them to the battlefield by propagating nationalism and racial sentiments. It is not the question of misguiding the people, it is the question of finding out a rational solution of the problem.

It is through divine wisdom that a positive and clear-cut answer can be found out for this issue. It is because, firstly divine expediency demands that largest number of human beings achieve their own perfection and worldly comforts be given to human beings as the means to achieve this move for perfection. These should, therefore, be so exploited that the objective of creation in respect to all the individuals is realised.

Secondly, though indulgence and disposition may cause deprivation from material benefits but provide spiritual and

moral perfection in return and their achievement is the real purpose of the creation of man and the world.

Thirdly, any deprivation suffered in this world in the path of divine pleasure and for the realization of the objective hidden in the creation of humanity shall be compensated for in the other world in a better and more perfect form.

Therefore, the reason for giving up one's own interests, in case their fulfilment conflicts with the interest of the society, is that divine expediency and the realization of the objectives of creation demand this. The way to convince people for indulging in such sacrifice is to make them realize that such an indulgence will on the one hand perfect their spirit and innerself bringing about enjoyment of conscience and spiritual pleasure and on the other hand provide them with eternal and everlasing bliss and closeness to divine benediction and everlasting heavenly blessings. These blessings are not comparable with the materialistic and worldly pleasures either in terms of quantity or quality. In this way the relationship of the divine legal system with ethical system and the divine concept of universe becomes clear.

RELATIONSHIP OF TRUTH WITH EXPEDIENCY

From what has been discussed above, the meaning of expediency and mischief and the need for the conformity of law with individual and social interests becomes clear. It is now the turn to moot the final question: what is the relationship between the truth and expediency?

In the beginning of the paper we pointed out that the word truth has different meanings. This difference must be carefully attended to so that no mistake or confusion takes place.

One of the meanings of truth in connection with our discussions is that deed should possess an appropriate and befitting aim and objective. That is to say it should cause the achievement of greater success. As against this, untruth means a deed which is devoid of such an objective, for

instance meaningless and futile deeds.

According to this definition a deed which is expedient is true and an action devoid of expediency is untrue. Similarly, a law which specifies the first type of deed shall be 'true' and the law which provides for the other type shall be 'untrue'. In this way, truth and expedience shall be in conformity with and testifying each other. In other words, both the meanings shall be abstract essence and secondary philosophical intelligibles which shall be segregated in consideration of the relationship between the action and the result accruing therefrom.

As far as right as a legal term is concerned it means a legal privilege which is confirmed by individual or society and has a two-side relationship with "the rightful" and "against whom the right is given", and necessarily provides an obligation for the opposite side. This is an essence of credibility which has close relationship with property. The basic difference is that in regard to property attention is not paid to two aforesaid relationships and only the relationship of owner with the property is taken into consideration.

If the essence of right is considered in a wider sense and not limited within the circle of social relations, it would also include moral laws and would also hold true in case of relationship between the Creator and creation. However, the subject of truth should be related with voluntary action in some way or the other. If only the creative distinction of a being in exploiting the other being is taken into consideration there will be a place for credence to terms like right, property, etc., unless the privileged person performs voluntary deed in this connection or connected with the voluntary work of any other being. For instance, if the relationship of a tree with sunlight or the rain-water is taken note of and the negative or positive human effect is not given attention to the credence of right for the tree in relation to light and water will be nullified. But if human relationship is also added one can say the tree has the right to make use of sunlight and rain-water; meaning thereby that the man

should not hinder the use of light or water. To be more appropriate, if the two parties to right "the rightful" and "one against whom right is granted" be free actors, this meaning would achieve better credence. For instance, it may be said that all human beings have the right to use sunlight and, therefore, nobody should hinder the usage of this divine blessing because in this case both, the rightful and the one against whom right is granted are human beings and subject of right is sunlight.

Therefore, the word 'right' in legal and moral terms is used in instances where the possibility of exercising the will by someone having a free will is under consideration. It is so because morality and rights are voluntary deeds and their allied matters. Anything that is not connected with voluntary action is entirely alien to subject dealing with morality and law.

But the basic issue is that in cases where there is credence of right and duty what is the source of these credences? What is the basis to ascertain right and duty?

In order to reply this question certain instances are thought of, the most important of them being as follows:

(1) Right and duty are fixed by nature. It is the nature of tree which gives it the right to use sunlight, air and water; it is the nature of an animal which grants it the right to use vegetation. Also it is human nature which gives him the right to exploit vegetation and animals. Finally, it is the nature of a society which fixes the right and duty of individuals.

Irrespective of the fact that nature does not have an occult existence and specially because it cannot be proved that society has a nature, two other problems become evident:

Firstly, as pointed out the credence of right is correct for a thing or a person only in case which necessitates the specification of duty for a person having a free will in that case. For instance, credence to the right of use of water, air and light for a tree is appropriate if it binds a man to observe this right and not to create hindrance in its usage. Any one

who gives the right to a thing or a person in fact provides a duty for the one who has free will to observe that right. Now the question is as to what authority has the tree's nature on a man so as to fix such a duty for him? And reciprocally what binds man to obey the order of the tree's nature?

Secondly, when something causes clash between two beings, each of which want to exploit it, how can their right and duty be fixed? For example, if the life, health or growth of man depends on drinking the water which an animal wants to drink, in that case will the right of man have preference or that of the animal? Who would specify such a right?

In reply to such a problem it can be said that universal nature which is the creator of all minor natures of man, animal and other creatures has bestowed greater right to the mightier and, therefore, man's right has a preference on animal's rights.

Although it is a fact that the existence of the overall nature is not stable for the world the standard of right, at least in case of clash, is nothing but power and strength. Naturally, if the clash is between human beings, the stronger man will have greater rights. This is the basis of the law of jungle and not the basis of human morality and laws.

(2) The other instance is that right and duty is fixed on the basis of their objectives. For instance, a tree moves to attain its particular objective which is the final stage of its growth. It should, therefore, exploit the means to achieve its ultimate goal. So is the ultimate object of man's move for perfection. It is this which decides its rights. As far as the clashes between human being are concerned, rights and duties should be so specified that the largest number of members of a society achieve the highest objectives.

However, this reply is also not convincing in any way because the dependence of a thing to reach its ultimate aim and perfection on the exploitation of other things cannot be a convincing argument for man to ignore his own interests and desires. Similarly, he cannot create responsibility for any human being in relation to another individual because each

of them is active and endeavours to reach his ultimate goal. How can, therefore, this individual submit to a limit for his own exploitations?

(3) The other matter is that the rights of every creature are fixed according to his requirements. In a society its members have the right to exploit it according to their requirements. This case is similar to the previous one and raises similar doubts. In addition to this, the essence of the word 'requirement' is doubtful and flexible and no specific limits can be fixed for that.

(4) The fourth case is that since right and duty go together, the right of a person is fixed in accordance with the obligation and responsibility he accepts for himself. In other words, everyone has the right to benefit from the achievements of a society to the extent he benefits the society. This equation and balancing of rights and duties of individuals in relation to each other is called justice.

This statement is acceptable in regard to rights resulting from contracts and rights accruing from performance of responsibilities which a man takes upon himself voluntarily. But as far as primary rights and duties are concerned, such as the right of a new born on his father and mother and their obligation in regard to their children, as well as the right of the disabled and the born-invalids on the society, the above statement does not solve these issues.

(5) The fifth case relates to the fact that the right and duty of each individual is fixed on the basis of depreciation and deflection of the interests of the individual and the society. This is a more serene matter than those discussed earlier. It clarifies the relationship between right and expediency better than others. However, it shoud be noted that firstly human interests are not entirely concerned with material and worldly interests. While accounting for and evaluating these interests, attention has to be paid to moral and eternal interests as well. Secondly, the evaluation of various interests and the fixation of the extent of their trends is a very difficult and complicated matter and, as a matter of

fact, it is beyond the capability of ordinary humanbeings. It is here that clarifies man's need for guidance through revelation. "And sent down with them the Book and the balance that men may conduct themselves with equity (57:25)".

Finally, one minute point remains uncovered by all that has been said above. It is that on what basis man has the right of expropriation in things beyond himself, whether inanimate objects, vegetables, animals or other human beings? Again the question is that irrespective of contracts and optional commitments is man considered responsible in relation to other beings? What is his responsibility in regard to them? Wherefrom does he get the right to use his limbs and organs?

A clear and logical reply to this question cannot be obtained on grounds of material outlook and without taking into consideration the principles of religious faiths. However, such a reply can be given on the basis of divine outlook.

When human being feels the necessity of giving credence to essences like right and duty in order to direct his voluntary movements and behaviours, he has, in the first instance, to take into consideration the actual relationship amongst the creatures so as to establish credibilities on the basis of realities. However, the most fundamental realistic relationship can be found between the Creator and the created. It is the relationship of actual ownership of the Almighty Allah towards His creatures. Hence, the first right of possession of creatures is established for the Creator. On this basis the right of possession for every existing being has finally to be authenticated by divine design. Therefore, if the Almighty Allah did not permit man to use his limbs and organs he could not have this right. The right to possession of other beings, all of which are the total and absolute property of the Creator could not, therefore, be imagined. Also, the first duty of a man originates from the real overlordship of the Almighty Allah and no duty can take precedence over it. All other rights and duties spring from this right and duty.

No doubt, man due to negligence from the Almighty Allah and His real ownership, turns attention towards his genetic domination on his own organs, limbs and energies and considers that he has the right of possession on them. But no sooner he realized his own bondage towards the Almighty Allah, he would know that his ownership of his own organs and limbs is along the ownership of Allah and towards other servants (of Allah). No doubt man sees his possession of blessings available in his environment as free and unrestricted. It is only in connection with clash with others that he realized the need to give credence to rights and duties. It is on the basis of standards such as precedence in possession or severity of requirements etc., that man gives credence to laws, preferences and privileges and accepts duties and responsibilites. In fact the motive for these credits is the need for a comfortable and peaceful social life which cannot be achieved except by observing these rules. But once this matter gets related to Origin and Resurrection, the question arises that if man's deeds become the source of credence of right on the basis of an external element, why cannot his own creation and that of the entire world become the source of right for the Creator? If the comforts of social life induce him to accept limitations for his own possessions and recognize obligations for himself, why should he not pay attention to the natural inclination towards attainment of spiritual perfection and eternal bliss and accept responsibility towards their achievement.

However, the right and duty which relate to matters beyond social relations go farther than their legal essence. But in consideration of the fact that legal system forms a part of the total value system, they cannot be considered wholly alien to each other. So is the case of value system which cannot be considered unrelated with religious order.

In conclusion, it is said that according to divine thought man's primary right of possession of his organs and limbs and other God given blessings and comforts originate from the Will of Allah towards the perfection of creatures and the

everincreasing realization of their accomplishment. If and when there is a clash in the perfection of different creatures, the lesser perfect beings are sacrificed for the sake of more perfect beings. For instance, vegetation and animals are subjected to the exploitation by man who has achieved greater perfection, both *dejure* and *de facto*. Similarly, if the realization of accomplishment for all the individuals of a society is subjected to the sacrifice of some, this has to be done. No doubt the Almighty Allah will not leave such sacrifices unawarded and their sacrifices will be compensated for in the best possible manner in the eternal world.

Thus all rights and duties, whether moral or legal revert to the prudent Will of Allah. In case where wisdom can minutely discover the requirements of prudence, there will be no need for divine revelation. But in most of the cases need for divine revelation and prophethood is felt because of complicated formula and lack of comprehension by ordinary wisdom of all the changes and pressures of their effects and the exact balancing of preferences and evaluation. It is for reason that Allah, the Prudent, in consideration of His extreme Benevolence and as demanded by His Wisdom has sent prophets and divine laws so that men may recognize the path of their perfection and possess accurate equilibrium for evaluation. "And the heaven, He raised it high, and He made the balance, that you may not be inordinate in respect of the measure (55:7-8)." In this manner, the harmony between genesis and legislation also becomes clear.

The Rights of the Relatives in the Wealth

Prof Hasan 'Abdullah Al-Amīn

Praise be to Allah and peace and blessings be on our master, His messenger Muhammad (SA) and on his infallible descendants upto the Day of Judgement.

In fact, I haven't had the time to prepare a complete paper as I got the invitation very late. But because I wanted to avail the privilege and blessings of participation in this conference, I wrote a few words which I am addressing to you now. They deal with the religious rights which may be a completion of the subject you heard previously from our colleague.

The subject of my paper concerns the rights of the relatives in the wealth, considering that as an advanced step, in the field of Islamic co-operation. My paper will contain limited points. I will speak a little about the wealth and its importance in Islam, the means to earn it, and the ways to spend and deal with it; then I will speak about the main point in my subject, that is, spending the wealth on the relatives and how Islam deals with that.

Wealth is the blood of life as they say and it is the gift of the World Hereafter if it is earned and obtained in Legal ways and if it is spent in good ways and on good and genuine projects. Therefore, Islam took a great care about it and discussed it as it described about the children. The Almighty Allay says:

Wealth and children are an adornment of the life of the world ....(18:46)."

What is more that Islam has considered money as one of the five necessities which should be preserved: (Religion, life, mind, honour and wealth).

Because of this great importance of wealth, Islam has organized the ways and means of earning it. By means of trade, selling and buying, renting and partnership and all the other legal means to earn the wealth.

Islam has organized these means to earn the wealth and also it organized the ways to spend it (in the welfare of man, his family, his relatives and the whole nation) All this indicates the importance of wealth in Islam and the care of Islam about it.

In the wealth there are rights, therefore the places where and the ways in which the wealth should be spent and on whom it should be spent, must be known.

The wealth should be spent in two ways. One way concerns the general people who have rights in the wealth, as pointed out by many verses of the Qur'ān and the *Ahādith* (traditions) of the Prophet (SA). The Almighty Allah says:

> *"...And spend out of what He has made you to be successors of ...(57:7)."*

Many verses in the Qur'ān call for general spending and all the Muslims are obliged to respond to this call so that to achieve equality among the Muslims. The *Sunnah* (traditions) also called for general spending. The Prophet Muhammad (SA) said: "He is not of us who sleeps stomach-full while his neighbour sleeps hungry."

And because of strong and warm call for general spending, the first leadership in Islam (the Prophet (SA), his *Ahl-al-Bayt* (AS), and his companions) began to give and to spend without any limitation for the general welfare. Even the Messenger (SA) of Allah donated and gave up for general welfare what he received from the Jew Brathā, who admired the Prophet (SA).

This general and total willingness for offering donations and spending changed to the call of limited rights

concerning the wealth. The Almighty Allah says:

> *"And in their property was a portion due to him who begs and to him who is denied (good) (51:19);"*

Without clarifying the amount of this share. This was in the first stage but in the second stage, a more specific order was given by Allah:

> *"And those in whose wealth there is fixed portion (70:24)."*

And later on, the other verse came:

> *"Take alms out of their property, you would cleanse them and purify them, thereby...(9:103)."*

Here the extent of the rights concerning the wealth was limited; it was the "*Zakat*" which was collected by the Prophet (SA), and his Ahl Al-Bayt (AS) and his companions after him, and so on.

The matter did not end at these rights which are limited (by *Zakāt*) but it was understood that there are other rights in the wealth besides the right of *Zakāt*. This understanding was reached to by understanding the following Qur'ānic verse:

> *"Goodness is not that you turn your faces towards the East and the West, but goodness is (that of) one who believes in Allah and the Last Day and the angels and the Book and the prophets, and gives wealth away out of love for Him to the near-relatives and the orphans and the needy and (helpless) way-farers and the beggars and for (the emancipation of) the slaves and keeps up Salāt (prayer) and pays the Zakat ... (2:177)."*

In the beginning of the verse, the Almighty Allah says: "and gives 'wealth' away out of love for him", and in the

end of the verse, He says: "and pays the *Zakāt*. This means that the 'wealth' which is given is not the *Zakāt*. This meaning of the verse was mentioned by Abu Obaydah in his book "The Wealths". There is also a tradition *(Hadīth)* in this regard which says: "There is in the wealth a right besides *Zakāt*."

In the beginning of this state concerning the wealth, the general people tookd their rights in the wealth through the general spendings and donations, but later they took their right in the wealth through *Zakāt*. And through the right which exceeds *Zakāt*, and if it was needed and was decided by the "*wali*" (religious leader) it becomes a right almost like *Zakāt* or an obliged right. All this is for the sake of cooperation among the Muslims and for the sake of that there would be no one who is in need while others are rich and wealthy.

But the right for private spending concerns three things or it has three reasons: kinship, marriage and ownership (of slaves). As for what concerns the slaves Allah has said:

> *"...And bestow upon them of the wealth of Allah which he has bestowed upon you ... (24:33)", and the Prophet (SA) has said: "Feed them from what you eat and clothe them of what you wear."*

Marriage obliges rights which are not donated. These rights are indicated clearly in Qur'ān:

> *"Lodge them where you dwell according to your means, and harass them not so as to straiten life for them... (65:6)."*

Lodging is a part of the spending on the wife.

The third reason for private spending is on kinship and this is our main subject which we will discuss.

Spending on relatives is something which is obliged and written in the Holy Qur'ān and in the books of Ahādith (traditions). The Almighty Allah has said:

> *"Your Lord has decreed that you worship none but Him, and that you show kindness to parents... (17:23)." Also He said: "We have enjoined on man kindness to parents...(29:9)."*

How this kindness would be if it is not an obligation to spend on the father, mother, and on the grandfather and the grandmother and those who belong to them. This holy verse emphasizes the obligation of spending on the parents. Therefore, the rights of the parents and grandfather and grandmother are fixed and obligatory one and their able children, whether sons or daughters, should spend on them.

The spending includes the right of spending on relatives of the first degree like (the children). Their parents are obliged to fulfil these rights as it is written in the Holy Qur'ān:

> *"Mothers shall suckle their children for two whole years that is for those who wish to complete the period of suckling; and their sustenance and clothing must be borne by the father properly ... (2:233)."*

And Qur'ān also says:

> *"... Then if they suckle for you, give them their due payment and enjoing one another among you to do good ... (65:6)."*

Spending on the other relatives of the second category like (brothers and sisters, uncles and aunts and the children of these relatives) is an obligatory right especially if anyone

of these relatives is in need. The Qur'ānic verse says:

> *"Mothers shall suckle their children for two whole years that is for those who wish to complete the period of suckling; and their sustenance and clothing must be borne by the father properly; no one is charged beyond one's capacity; no mother is to be harmed through her child, not a father through his child, and a similar duty (devolves) on the (father's heir ... (2:233)."*

Therefore, if these obligations on the father and on the grandfather are so, and they are on the heir too, then this heir has the right in the wealth of his relative from whom he inherits and he has the right to spend.

The needy relative takes his right in the wealth from near -relative by obligation, before taking his share (right) from the wealth of the Baytulmāl (government treasury) from *Sadagah* (voluntary charity) etc.

The father should spend on his son till he reaches maturity and he should spend on his daughter till she gets married, but if she is divorced, she reobtains the right of spending on him because otherwise she might undergo hard conditions leading her to corruption.

This system and order is not known to other nations and states which are non-Muslim. They do not know the rights of the parents, the relatives or the children who are more than eighteen years old. This perfect cooperative order is not known in the world except in Islam.

I came to know through my brother Dr 'Atiyyah that there is a system or an order in Europe which resembles what I spoke about but only between the wife and her husband, . The wife, even if she divorced her husband, can take alimony from her ex-husband and the state makes it obligatory for him to do so. This thing is not known in Islam. I mean the relation after divorce; but it is not possible in Islam from the religious and human point of view. But the 'kinship system' as a whole is strange for the other

societies except the Islamic society.

The aged ones have the right for their expenditure till they depart from this world and this right is not a specified one for the relatives of the first and second categories. But anyone who is old can have such a right. However, there are conditions for this right. One of them is that the needy aged person should be poor. Some *fugaha'* (jurisprudents) say the needy one should be poor and unable to work. But this condition is not necessary when the spending concerns the parents. Poor parents should be financially supported by their able children without the need of their being unable to work, But for the rest of the relatives, to earn this right, it is obligatory that they should be poor and also be unable to earn their living.

This state is obligatory and it is more advanced than previous stage in which we spoke about the general cooperation which Qur'ān called for and also the "*Sunnah*". This call was answered generously by the good ancestors. Later on, it advanced to a higher level and it was "*Zakāt*" which fulfils limited rights because it is a known amount of the wealth and it might not be sufficient for the needs of the people. Therefore, another method was found and that is the "extra right" "*Zakāt*" which is decided by the "*fagih*", *ie*, the religious leader of the time, to arrange for the total Islamic cooperation. But the relatives, before they take their right under this category, must take their right of the wealth from the main spending if they found anyone of their kins who would guarantee this right. Therefore, the spending on relatives is considered a very advanced stage of Islamic social cooperation.

I will stick to this small effort, because as I said I haven't had the time to make my paper more comprehensive. I hope that in future I will do so and send it to my brothers in advance.

Wassalāmu Alaykum wa Rahmatullāh wa Barakātuh!

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Human Rights in Islam

Dr Seyed Jawād Muṣṭafavī

According to Islamic rules and regulations, human beings possess certain rights, even before birth and after death, the like of which cannot be found in any other religion or school. From the time a man is in a form of a sperm, an embryo, and a foetus in his mother's womb, he attains specific privileges in accordance with the situations and conditions of his environment.

It is obvious that the right of man in that case is one of sustenance only. According to the Islamic jurisprudence, if a person ends the continuity of baby's life by inflicting such a damage on its mother that the baby's conception is aborted in either of the three forms (sperm, embryo, and foetus), he has to pay a specific blood money and compensation as per the Islamic regulations. As the baby has died, this blood money will be paid to its parents. If one of its parents causes the miscarriage, the blood money is received by the other.

If the father dies while the sperm is in the mother's womb and if the father has other children who are the sisters and brothers of that baby and these sisters and brothers claim their inheritance of the father's legacy, the verdict of Islam steps forth to defend human rights and proclaims: Either the brothers and sisters should wait till the baby is born and its share is determined on the basis of whether it is male or female and whether it is a single baby or twins; or to be on safer side, protecting the rights of the oppressed, they should assume this sperm of unknown identity as two sons. They should set aside these two ones' shares and divide the balance among themselves. This ensures when these weak and infirm

babies are born, they would not be at a loss and without subsistence for their food and clothing. If the born is less than the aforesaid assumption, the rest of the inheritance will be distributed among the brothers and sisters. This is the extreme security of the human rights at a time when one cannot conceive of a more smaller and weaker person than such a baby. Then when the baby is born, its rights are augmented in accordance with the status of its existence and the conditions of its living. If a person kills the baby at this time, though it is one-day-old, it has the rights of a perfect human being and deserves a complete blood money, even if the baby's parents might be the weakest people of the country and its murderer might be one of the noblest and the most affluent persons of the country. In this case, if wilful murder is committed, the parents have the right of Islamic reprisal measures (Qesas) and the same weak and poor father has the right to punish that noble and most affluent murderer and kill him to avenge his child's murder. The father can also relinquish killing the murderer and can accept the blood money.

Until the child's maturity, the parents, whether wealthy or not, are responsible for its sustenance, for safeguarding him against any harms it faces, and for procuring its interests in the first stage. In the second phase, other Muslims or their treasury should take care of him.

Though other schools of thought permit the children of a dead person to sell his boby as a merchandise for the medical autopsy or dissection office; in Islam, it is prohibited even to place a heavy object on his chest. Instead, in Islam, it is necessary to wash his lifeless body and wrap him in a clean cloth and bury him with respect. (If a jurisprudent allows dissection for a certain expediency, his verdict is exceptional and does not alter the general rule of respecting the dead).

According to Islamic laws, even after death, human beings have rights to their properties to have their wills enforced. No one has the prerogative to change and alter their wills, for the Merciful Creator of mankind has threatened the

one who changes the will: *"He who changes the will of a dead person, after hearing and recording it, bears the sin for doing so ... (2:181)"*.

In his lifetime, man has certain rights on the parents, his environment, and his society. Islamic jurisdiction has thoroughly and subtly explored these rights with precision and minute investigation in relation to the rightful person and who should become responsible for the right and also in relation to the kind and quality of the prerogative and its time and situations. In each case, Islam has observed the exigency of reason and wisdom and has given the right to the entitled party.

When man steps into the world, his first spiritual need, in addition to suitable food and clothing, is to have a good name chosen for him. This name should be such that all through his life, when people call him, he would feel proud and honoured, not mean and ashamed. The precise and subtle Islam has firstly ordained this as the right of the child and has secondly made the father responsible for it becasue no one is more deserving than him. Islam has thirdly emphasized the choice of a good name for the child. I do not know whether such an order exists in other schools or religions and whether nomenclature of the child is fundamentally a part of the father's duty or not?

Another right of the child, be it a girl or a boy, is to be provided with education to an extent that he or she will be able to read the Quran. it is true that had the Muslims complied with this order and every literate father had considered educating his children as his duty and as the right of his children, today there would have been no illiterate Muslim on the earth, for every child has a father and the right of instruction and literacy of orphans, like their surety, food, and clothing will be placed on the shoulders of other people. The sin of Muslims' neglect of religious orders, however, should not be placed on the jurisdictions of the religion.

Another right that is obvious in Islam is the father's duty to provide for his children's marriage when they grow up and

reach puberty. The importance of this order is not hidden to anyone by considering the reality and the time of need and the merit of the person responsible for it.

The right of the child on the mother is to take care of it and nurse it. Because the mother herself has a natural attachment tohim there is not much emphasis on it in the laws of Islam. On the other hand, it is the mother's right to expect complete respect, concideration and good behaviour from her children. Though this order is difficult and uncivilized for unrefined children, Islam has placed great emphasis and insistence on it.

The right of man on his society and the government of his country, in the first place, is that his life, property, reputation, and chastity should be protected. What is expected of Islam is that it should create and prescribe suitable and moderate laws for such protections,. It is expected of the government and the police to strictly enforce these laws. Let us now see whether Islam has performed its duty or not?

Islam has never made physical torment as its lawful penance and punishment except in the case of the infringement of these laws. This means that if a person kills another, no matter how small or oppressed the victim is, his guardians have the right, in the first place, to demand reciprocal Islami measures (QESAS) from the government and to kill the murderer in retaliation for the murdered. Islam has called this QESAS a means of survival of the society. This means that if a murderer is killed for the sin of murder, no one will dare to kill others. If a person occupies the property of others and steals a certain amount, four of his fingers will be cut off in certain circumstances. If he commits larceny on a highway and is considered as a rebel and insurgent, his punishment would become more severe.

If a person copulates with a person unlawfully, the laws of Islam will specify for him certain punishments from whipping to stoning to death. According to Islam, the formulation and finalisation of all these strict and tough laws

are for the maintenance and preservation of human rights and their protection against the harms by the ignorant and human-like criminals.

Islam considers the life, wealth, and prestige of human beings as the most honourable and valuable elements that must be preserved and protected at any cost. The aggressor, whether a wolf, lion, leopard, or a human-being is worse and must be controlled decisively. Any aggressor, from any cross-section or party, must be punished proportionately to his crime so that the aggressor and the root of aggression iseradicated from the society.

I do not know what is wrong about this clear and logical order of Islam that non-Islamic schools have always opposed it and still continue to do so. Islam says: You should redeem the rights of ten aggressors — if they have any rights — in favour of hundreds of thousands of honest, moderate, and oppressed people so taht there is no robbery, crime, and aggression in the society and all people could engage in their works without apprehension and worry and even those who intend to steal and oppress would be afraid and would angage themselves in some other work. Is it not true that the number of criminals and aggressors is always less than the non-aggressors and right type of people? Is it not true that by preventing criminals and aggressors according to the rules of Islam, crime and aggression would be eradicated and anxiety and agitation would be replaced by tranquility and peace? Doesn't the enactment of such a law itself have this effect? Doesn't any wise person who hears the laws of Islam and non-Islamic laws in this regard firstly judge that Islam has supported the honest oppressed people with this law while others have supported the tyrant executioners? Can a person who fights with the society, prevents men's freedom and comes in their way of progress and exaltation be called a human being at all to expect the society to give him rights? Don't the opponents of the laws of Islam place any value on the lives, property, and chastity of people? Or can they offer a better solution than what Islam has offered to prevent the

oppressors? Their proposed solutions have been examined for fourteen centuries but have not been able to eliminate theft and crime and in each age have led to an increase in the quantity and quality of robbery and crime. I believe that anyone who does not want to be an aggressor himself, but desires a peaceful and healthy life and who does not want to be a tyrant or an oppressed, would be thankful to Islam for this law.

Another topic that must be discussed here is the freedom of faith. In this case, too, the precept of Islam is based on reason and nature. This means that as long as people do not misuse the freedom of opinion, Islam considers every human being free to have an opinion. This subject must be further explained:

When freedom is ascribed to faith with respect to laws and intellectual precepts, there are four probabilities:

1. Man is free to find and have a faith;
2. Man is free to have a faith;
3. Man is free to keep and continue the faith; and
4. Man is free to express his faith.

About the first statement (Man is free to find and have a faith), we must say that the content of this is the independent precept of reason and in the Islamic sources, there is no mention contrary to this. Here Islam presents a sound and reasonable guidance which says:

"... Give tidings to those of My worshippers who hear every statement, but who choose the most righteous and observe it... (39:17-18)."

Therefore, in the first stage of finding the faith when man stops deceiving himself and wants to know himself and the affairs and objects related to himself and desires to secure his prosperity and thinks of safeguarding the interests and eliminating the losses of his future, Islam does not force him to act blindly and to refrain from all statements and writings and to follow the Islamic sources and documents only. Rather, Islam frankly allows him to listen to any statements on any subject that he likes. After listening, however, he

should use his reason and intelligence choose and apply the best of what he has heard as his reason and intelligence too judge the same way.

After man passes this stage and acquires faith by his own freedom Islam, without forcing him, expresses its doctrines on right and wrong and correct and incorrect and their rewards and punishments so that if he has made mistake in discretion for choosing the faith, he may revise his opinion and accept Islam if he is willing to do so. In this stage, Islam says:

1. "This (Quran) has been sent to you as a reminder so that anyone who is willing could become closer to his God (73:19)."

2. "This (Quran) is one of the great signs of Allah that has been descended to apprehend (to express the inauspicious fate of evil-doers). Anyone of you who wants to prosper (should practise it) and anyone who wants to fall behind (should be disobedient). (74:35-37)."

3. "Quran is the only reminder for the people of the world, for he who among you wants to follow the right track. (81:27-28)."

Notice that the Creator of mankind considers the observance of Quran as a means of guidance and salvation, but does not force anyone to believe in or to observe it, and rather brings up the determination and will of people and leaves them completely free and empowered.

Other traditions (AHADITH) too that consider salvation possible by following the Prophet (S.A.) and the immaculate Imams, peace be upon them all, do not use any force or duress to make people take that course.

The second probability (Man is free to have a faith) means that when a person adopts a faith and belief no one has the right to reproach him for it and to impose his own different faith on him. Imposing ideas is impossible and reproaching the believer is indecent and disagreeable. In this case we observe that too Islam has judged by precepts of wisdom and nature and has issued orders.

The Prophet of Islam (S.A.) and the immaculate Imams (A.S.) confronted the opponents and enemies of Islam and

held debates and free discussions. They first listened to all their statements and then expressed their own answers. At the end of these sessions, a group would accept their statements and embrace Islam, while another group would remain reticent and would leave the session freely. The number of these sessions is so large that the late Allama Majlesi expresses a part of them in two volumes of Bihar-ul-Anwar in more than 800 pages. These debates started at the time of the Holy Prophet (S.A.) and Imam Ali (A.S.) and assumed greatest importance at the time of Imam Sadeq (A.S.) and Imam Reza (A.S.). Even at the time of Imam Reza (A.S.), an international debate was organised and non-Islamic scholars of the time from all over the world gathered in Khorasan and deliberated on the controversy with the Imam of Muslims. A part of their discussions and questions and answers has been recorded in history.

Another topic that must be considered here is that if a person chooses a religion with freedom and with his own will and places himself within the bounds of the rules of that religion, he must not be called compelled and bounded. Rather his very freedom is the adherence to the rules of that religion. Sometimes a wise person desists superficial freedom with his own free will and goes for limitations and restrictions. A person who could live in a wide desert undisturbed gives it up and imprisons himself in narrow lanes of the city within the walls of a house and prefers this limited prison to the wide and harmless wilderness. An unmarried person gets married and accepts many limitations, but since he has chosen that limitation with his own freedom and will, no wise person has the right to reproach him and to strive to return him to his former freedom. Similarly, a wise person, with his own will and freedom, gives up carelessness and irreligiousness and adopts a religion for himself and becomes bound by all its rules and regulations. He gives up his free will and freedom by his own determination and choice, but as he does so by his own free will and assesses his own advantage in this choice, no one can call him obligated and limited. On the

other hand, if anyone forces him to become irreligious and careless, he harms his freedom and prevents his choice, asper the second probability for acquring faith.

The third probability man is free to keep and continue the faith is something that will not go under imposition and duress. In Islam, there is no sign that the Islamic government should enquire about the faith of people and should debate and argue with those who have different faiths or should force them for debates and discussions. Yes, in view of the person himself and the relation between himself and Allah we know that if a person realizes that some of his beliefs are erroneous and deviated and does not give up his beliefs for the sake of material gains and maintenance of worldly post and rank and also speaks and acts in accordance with those deviated beliefs he is responsible before Allah. This is up to the point that he keeps his deviated beliefs within himself and does not disclose them in meetings and gatherings. He is a reticent apostate pagan. But in case of expressing them to different people, a fourth form will come up which will be discussed now.

The fourth probability (man is free to express his faith) needs further elaboration. According to Islam, it may be said that expressing an opposed view is both permitted and not permitted. By permission, it is meant that in Islamic Sources, there is no evidence that if a person announces a view opposed to the views of Islam, one has to shut his mouth and prevent him from continuing his speech till he suffocates and does not continue his discourse. When it is said that the expression of opposed views is not permitted, it means that Islamic scholars must not remain silent and reticent in the face of the expression of opposed views. Rather, it is binding that they should revolt against the propagation of opposed views, called BIDAT (heresy), as their certain divine duty and obligation. The scholars should, first adduce proof and logical reason to silence the heretic and to fix him in his place so that he takes back his statemenst. If he shows obstinacy and persistence and does not accept the proof and logical

reason, Islamic scholars have to adopt another method to preclude the propagation of deviated beliefs by their utmost ability and capability.

It is obvious that had Islam not issued such order and had given them freedom to state their conflicting views, they would have abused this freedom by sowing the seeds of deviated views in the pure hearts of the youths and children and would have led human society towards paganism and intellectual stalemate. At present, in spite of the fact that Islam has issued such a strict order, whenever tyrannical oppressors find a chance and see the Islamic scholars out of sight, they keep the worshippers of Allah inignorance and drkness and impose their own deviated and superstitious ideas on them. They have even at times challenged the Islamic ULAMA and scholars. They have nourished the false hope of silencing the defendant enemy and have occasionally been successful for a while. Undoubtedly by martyring Imam Husain (A.S.), imprisoning Imam Musa ibn Jaafar (A.S.), banishing Imam Ali Naqi (A.S.) and Imam Hasan Askari (A.S.), and other tortures and persecutions that they inflicted on the leaders and spokesmen of Islam, they were in pursuit of the same satanic purpose. No doubt, Yazid ibn Muawiah commits such a crime in order to start the ominous call: "No tidings have been given and no revelations have been descended" to uproot the foundation of prophetic mission and prophecy which invites for justice and freedom and like Pharaoh he leads the worshippers of Allah to slavery and captivity. In order to prevent that heresy and deviation and to safeguard and maintain justice and freedom of the worshippers of Allah like his ancestor, the Holy Prophet (S.A.) had ordered, Imam Husain (A.S.) rose up and persisted in this course to the extent of sacrificing his property, life, and children and accepting the incarceration of his family members.

For this reason, if we now see people who worship cows and fire and like "hippism", people who have become addicted to narcotics, and people who are under the

domination of oppressors and tyrants and tolerate it and even accept the thesis of "apartheid" and "racial discrimination", these are all due to the fact that at first an ignorant or spiteful person has expressed and propagated that vain opinion. He brainwashes pure hearted people by fallacy and chicanery and forces them to accept his depraved and superstitious beliefs as the truth and reality. As no eloquent Muslim is there to combat him, his opinions gradually become firmly-rooted and replace the realities in the minds of pure-hearted people.

With this in view, it becomes evident that the greatest blessing that Allah the Almighty has bestowed on His worshippers and indeed worshippers should be grateful for this favour is the blessing of sending messengers and revelation of sacred books by means of which the worshippers of Allah will be guided and who will follow the right track and also the tyrants, the bandits of guidance, the insurgents, and the oppressors of the thoughts and opinions of people will be hindered. Here, wise determination decrees that the prevention of and the confrontation with these oppressive thieves be pursued with utmost power and intensity. An apostate, who does not keep silent and expresses his anti-Islamic views in different places and certainly intends to undermine Islam and the rightful beliefs of Muslims, should be hanged as a lesson to others not to turn tyrants for the Muslims. If when Qazi Shorayh said: "Husain ibn Ali has become an apostate (God forbid) and Yazid is a Muslim", had the Muslims stifled him, had they not tolerated torture, imprisonment, and executions of Bani Umayyah for 80 years; and had the holy prophets not faced and challenged the pharoahs and tyrants of the time, today also the offsprings of those pharoahs and tyrants governed mankind, and the freedom and justice would have been disappeared from humanity.

Another subject worth discussing here is safeguarding the rights of the non-Islamic religions (religious minorities) in Muslim countries. As long as the non-Muslim does not wage war against the Muslims, he can live in the Muslim country

freely and equally like a Muslim and he can enjoy all social and political rights. He is free to perform his own religious rituals even though they are against Islam such as taking a holiday other than Fridays, worshipping in synagogues, churches, convents, and monasteries by tintinnabulation, baptism, and any other programmes and practices that they have in their religious rites even wine-drinking, gambling, and eating pork. They are allowed to do these as long as these actions do not weaken the beliefs and freedom of the Muslims. Any thing that is, by the assessment of a Muslim jurisprudent, considered as violating the beliefs and freedom of Muslims will not be permitted to be done openly.

This corrective measure is not against human rights, but is in accordance with the conventions and stipulations that exist in the Islamic country. The non-Muslim has willingly and freely chosen to reside in that country with those conditions. Anyone who doesn't want to accept them can go to another country. In addition, the fact that leaving non-Muslims free for wine-drinking and obscenity is contrary to the freedom of Muslims who consider these actions religiously prohibited, and who abstain from them strictly and do not want their small children to go towards sin and deviation by seeing these indecent actions. Again, the Islamic sources can be referred. They indicate that just as the Islamic government is bound to preserve the rights, properties, and prestige of Muslims, it is bound exactly in a similar way without anything less or more, to protect the rights, properties, and prestige of religious minorities.

Here reference will be made to three examples:

(1) During the caliphate of Imam Ali (A.S.), Moavieh sent an army from Damascus to Anbar, which was headed by Sofyan ibn 'Auf to kill a group of people and plunder their properties to appall and intimidate the people of Iraq. Sofyan and his army went there, killed Hassaan Bakri, and plundered some property. In this regard, Imam Ali (A.S.) said: "I have heard that a soldier of that army has entered the chamber of a Muslim woman and a non-Muslim woman and

has stolen their earrings, bracelets, necklaces, and the gold and silver on their feet. Whatever supplication and cries they made, no one came to their help. If a Muslim dies of grief on hearing of this event, I shall not blame him but shall consider him as a worthy person.[1]

(2) In a letter by Imam Ali (A.S.) to Maleke Ashtar, the Imam says: "I sent you to the people of Egypt who have witnessed just and cruel governors before you and who will watch your actions just as you reflect on the governors and governor-generals before you. In relation to people, don't act like a devouring wolf that avails itself of eating them. You should know that Egyptian people fall into two groups: A group are Muslims and your religious brethren and another group are non-Muslims and are like you as far as creation is concerned. These people commit blunders and face certain circumstances. Intentionally or erroneously, they commit wrong actions. Forgive and spare them just as you want to be forgiven and spared of your sin by Allah."[2]

(3) Imam Ali (A.S.) saw an old blind man begging. The Imam was surprised and asked the people: "What is this?" People said: "Oh, Leader of the Pious! He is a Christian!" The Imam was surprised and said: "When he was young and powerful, you used him. Now that he is old and infirm, you have left him to beg! Go and pay his expenses from the treasury."[3] This narration shows the legitimacy of retiring pension for Muslims and non-Muslims in the jurisdiction of Islam.

Refrences

1- Nahjul Balagha (English), Islamic Seminary for Woold Shia Muslim Org., Khutbeh, 27.
2- Ibid. Letter 53.

Some of the Shortcomings of the Universal UN Declaration of Human Rights

Dr Jahāngīr Thānī

In this paper we will refer to some of the shortcomings of the Universal UN Declaration of Human rights. The author believes that to do justice to this task the basic role of man's aspirations, beliefs, ideologies and worldviews must be judged with regard to all the phenomena pertaining to humanity, including the Universal Declaration of Human Rights.

Though it is difficult, we must also separate ourselves from attachment to and love of aspirations, beliefs and wishes. In an exact and scholarly analysis with the intention of portraying the truth and changing the minds, it is of utmost necessity to overlook and suppress our emotions. In this evaluation, it is also important for us to overlook the delicacies,whims and excitements of our emotions. On the contrary it is necessary to rely on the intellect, reason and wisdom, which are of greater help in this analysis aimed at bringing about fundamental change in our mentalities.

Thus overlooking the aspirations, beliefs and, in general, various modes of thinking, we will try to deal here with the issue of basic shortcomings of the Universal Declaration of Human Rights. By presenting a series of events, facts and truths which cannot be denied by any degree of aspirations or beliefs, we will analyze, evaluate and derive a conclusion on the topic of our discussion.

It is not possible to deal fundamentally with any achievement of mankind except through a deep look at the

series of events, factors and causes which led to it. Similarly, a correct analysis concerning the Universal Declaration of Human Rights can only be made through knowledge and analysis of a series of events, issues and factors, which are listed below:

(1) Circumstances governing the period of formulation and approval of the Declaration;

(2) Nature and characteristics of governments which approved the Declaration and their special features;

(3) Motives and objectives of formulation and ratification of Declaration;

(4) Contents of the Declaration and its fundamental terms;

(5) Measures considered for practical application of the principles of the Declaration and achievement of its obvious goals and guarantee of executive methods specified for preventing restriction or violation of rights, liberties and other distinctions mentioned in the Declaration;

(6) Level of belief of sponsorers of the Declaration towards its genuineness, and the extent of their commitment to its implementation; and

(7) Their judgement that the Declaration at least on paper and apparently provides for their rights and liberties, or level of success of the Declaration in achievement of its apparent goals.

Now within a short time available and my humbleability, before this distinguished gathering of experts, thinkers and scholars, I would embark on a brief explanation of each of the above-mentioned points, which will in the end acquaint us at least with some of the fundamental shortcomings of the Universal Declaration of Human Rights.

(1) Circumstances governing the period of formulation and ratification of the Declaration

In 1948, i e , three years after the end of World War II, which left tens of millions dead and hundreds of thousands of

people homeless and ended with the victory of the Allies, the memories of this devastating War were still fresh in the minds of millions of peoples of the world. In those circumstances, hundreds of millions of people were worried about the start of another war, which would surely be more devastating. People were thinking of ways to eliminate the evil after-effects of the freshly-ended World War, and secondly to prevent repetition or recurrence of an even more horrendous war. The realization of aspirations of these hundreds of millions of humans was not possible except through the will of the big victorious powers of the War, considering the conditions of the time.

Now we will analyze the nature of the big powers, and determine whether basically such an expectation could be had from them. In this analysis, even a short one, we realize that the structure of the governments of these big powers was dominated by Western culture. The government of the United States had emerged as the major world power due to the fact of its geographical situation which had saved it from much of the devastation wrought by the War, and this added to the domination of Western culture. Moreover, the danger of expansion of communism and influence of the Soviet Union on the countries of Europe, which were weakened and made vulnerable in the wake of the War, forced Western powers, particularly the U.S., to bring Europe under their domination and prevent communism from spreading. In this way while preserving its superiority, the U.S. could increase its influence and domination.

Here we must remember that before the end of the War Roosevelt had mooted the thesis of guardianship and had designs for the world in the post-war period. Therefore it could be expected that the U.S. government would use all its resources to implement this theory. The U.S. intended to make the big powers play the role of guardians on world scenes, and would itself play the role of the supreme guardian.

In order to understand the atmosphere governing the

time of ratification of the Declaration, let us look at Roosevelt's views and aspirations for the post-war period. What he wanted in fact became reality, particularly through the U.S. and other powers' right of veto.

"Considering the present chaotic situation it cannot be recommended that the League of Nations be renewed, because its extensiveness would cause much opposition and indecision."

"There is no reason that the principle of guardianship which is applied in private affairs, could not be similarly applied in the international field."

"In every period there are a large number of children among nations of the world who have need for guardians."

"I am not opposed to the creation of a world community which would provide full possibilities for debate, on the condition that it be governed by the big powers."

Even a cursory look at the last statement makes it clear what kind of atmosphere governed the period of ratification of the Human Rights Declaration. Here we briefly look at those conditions:

(A) -The need for compensation of the huge devastations and innumerable casualties caused by the World War II with the objective of preventing eruption of another, worst and more devastating war was felt at the time mainly by some small countries, a group of intellectuals and millions of suffering people all over the world.

(B) -Countries which had been involved in World War II had become extremely weak and felt the need for protection under a big power, which at the same time would be a reliable refuge and would not endanger their interests, the sovereignty of their system and their culture.

(C) -The United States was the most powerful country, and the three other victors of the War, ie, United Kingdom, France and China were its friends. This combination was the best and most effective tool for putting pressure on world decision-making.

(D) -The intellectual atmosphere of the American

society was intensely influenced by the guardianship (protection) theory of Roosevelt, and this idea was particularly popular among US statesmen.

(E) -Western culture dominated the international scene, especially the United Nations.

(2) Nature and Characteristics of Governments which Ratified the Declaration

Among the member-states of the United Nations Organization, 8 countries, majority of whom were communist states, cast abstention votes, while 48 member countries cast positive votes for the Declaration. Among the governments which approved the Declaration, a significant number were generally dominated by the Western order and culture, while the others were more or less under the influence of this culture, or were agents of the big Western powers. Thus we see that the nature of governments which approved the Declaration in essence aided the domination of the Western system and culture over the U.N. — a system and culture which disrupted the genuine and native culture and religion of hundreds of millions of people, developed during the past two hundred years, in various parts of the world. The industrial development and expansion of consumer and capital economies had also helped strengthen the colonialist Western domination. And ultimately nothing emerged from Western culture except a bunch of deceiving, careless and neglectful words and expressions.

(3) Motives and Objective behind Ratification of the Declaration

Hundreds of millions of people all over the world were suffering intensely as a result of the devastations and killings caused by years of the World War. Representatives of some of these peoples applied pressures on the world-dominating powers to fulfil the aspirations and demands of these millions

of people. Therefore, the Declaration was ratified in response to these pressures and for pacifying and solacing the pained and suffering hearts of millions of human beings. Thus in other words, the troubled millions were given narcotic drugs in the form of deceiving words in order to pacify their passions, with the ultimate aim of continuation of domination of Western culture and its expansion. Not the slightest use was made in the Declaration of any words, ideas or expressions which could possibly shake the thoughts of these human beings and make them find a solution to their neglectfulness, laziness and darkness of mind.

(4) Contents of the Declaration and its Basic Terms and Words

The Declaration consists of a condensed preface and thirty articles. The preface stresses that violation and debasing of Human Rights leads to brutal acts which disturb human conscience. It also says that the materialization of freedom and justice and world peace is possible only through recognition of the innate prestige of mankind and its equal and inviolable rights. The thirty articles of the Declaration summarize Human Rights and liberties and equal rights and things which cause violation or restriction of these rights and liberties. But as has been said, in totality the Declaration is nothing more than deceiving words and ideas. Moreover, the preface of the Declaration only considers these befooling words as the joint aspirations of all the peoples and nations, and not as an agreement not even as a covenant.

What is more important is that the part of the preface which calls for protection and proliferation of rights and liberties, does not propose any struggle or specific practical efforts to achieve this. It does not even propose expression of views and protest, but only recommends that this be achieved through general education, training and respect of these rights and liberties. A more fundamental and more sad point is that part of the Declaration's preface which recommends

national and international gradual ways with the motive of identifying and implementing rights and liberties predicted among countries which are under the auspices of the United Nations.

What is even more disappointing is the part of Article 2 of the Declaration which after much glittering words against discrimination on the basis of colour of skin, sex, language, religion and political belief, says "Whether the country or land is independent, or is governed by limited sovereignty." Even a cursory look at what has been said about the innate respect of all members of the human family and the equal and inviolable rights of all in the preface and contents of the Universal Declaration is in fact nothing more than a big lie. Because how can millions of humans be made slaves and imprisoned by one group of countries, and at the same time these speak of their innate respect, equal and inviolable rights.

The millions of enslaved people of the world must be aware and rest assured that the arrogant and cruel powers of the world have not the least respect or belief in the innate respect and equal and inviolable rights of human beings. These oppressed of the world must have no hopes from the glittering documents such as the Universal Declaration and the international organizations, which merely act as safety valves in order to silence the voices of hundreds of thousands of the oppressed and deprived of the world.

Most of the masses of the world have been placed in absolute ignorance through various types of propaganda and efforts of the colonialists and the world arrogant powers. And if these masses still have any hopes from the world arrogance and imperialists, it is sufficient for us to present two good examples of so-called innate respect and equal and inviolable human rights of two contemporary states — Israel and South Africa. We swear on the conscience and honour and dignity of humanity that these two oppressive states are the same founders of this Human Rights Declaration. These oppressive states are the so-called champions and supporters

of Human Rights, and it is they and the United States of America who raise such a hue and cry over this issue of Human Rights, while themselves violating the human rights all over the world.

(5) Preplanned style adopted for practical implementation of the contents of the Declaration and achievement of its obvious goals, and executive guarantees specified for prevention of violation of rights and liberties and other privileges mentioned in the Declaration

The Declaration speaks abundantly about basic rights and fundamental freedoms to which all men and women in the world should be entitled, without discrimination on the basis of race, sex, language, or religion and enumerates the specific rights of life, liberty, security of person, freedom from arbitrary arrest, detention and exile, fair and public trial by an independent and impartial tribunal, freedom of thought, religion and conscience and freedom of peaceful assembly and association, the right for selection of profession, right for education, the right to participate in independent elections, right to participate in the life of an artistic and scientific communtiy. It speaks of the aspirations and desires of an independent world, free from poverty and slavery and exploitation. However, it utters not a word and does not recommend any specific practical way for guaranteeing and providing these rights and liberties for the peoples of the world. Not only that but it does not even consider any punishment or condemnation for those who violate these rights and liberties.

In fact the powerful members of the United Nations used all their resources to prevent the Committee in charge of drafting the Declaration from fulfilling two of its main duties, *i.e.*, preparation of evidence relating to Human Rights, and planning executive methods which could at least pave the way for presentation of practical ways for preservation of these rights and executive guarantees for prevention of their

violation. The reason for this is that it was feared that the ruling order in the world would be endangered. This order was based on domination of powerful and domineering states of the world over hundreds of millions of peoples deprived of their Human Rights and liberties, and lost in an ocean of illiteracy, poverty, diseases, war and its innumerable harmful effects. Obviously such a thing was not desirable for the more powerful states of the world, and on top of them particularly the most powerful United States government.

Here allow me to refer to a document which proves the claim that the Declaration was not based on honesty and faith, but was influenced by Western culture and way of thought and was prepared under the pressure of the conditions of the time.The world had just emerged from a devastating war and the Declaration was meant only as a narcotic and pain-killer to allay the afflictions of human society. The following is an excerpt of a speech by Mrs. Franklin D. Roosevelt, chairman of the Human Rights Commission which prepared the Human Rights Declaration:

"The Declaration is not an international agreement or treaty and does not make it any legal commitment. It is merely the expression of inviolable Human Rights, whose achievement would be desirable for all the peoples of the world."

Therefore, the Declaration acted only as an "opium for the masses", preventing people from any sort of intellectual or practical struggle and millions of peoples in the world continued to be deprived of their basic rights and fundamental freedoms as mentioned in the Declaration. Not only that, many intellectuals and scholars of the world failed to realize the depth of tragedy and discrimination ruling over the world, *ie,*, violation of rights and liberties of hundreds of millions of people, and knowingly or unknowingly they continued to propagate the empty and deceiving words and ideas mentioned in the Declaration, in this way only adding to the weakness, negligence and slumber of millions of deprived peoples of the world.

(6) Extent of belief of ratifiers of the Declaration first on the genuineness of their approval and secondly on the extent of their commitment to its implementation.

In this section, we will briefly review the history of the period of preparation and ratification of the Declaration. While referring to this history, we see that in the San Francisco Conference held for preparing the United Nations Charter, representatives of parties and non-government organizations from various countries of the world had placed great pressures on the Conference to approve and propagate Human Rights and that this be included on the Conference agenda. Under pressures applied by certain small governments, finally one of the small countries proposed that the Human Rights Declaration be included in the text of the Charter.But four big powers of the time vehemently opposed this proposal because they did not want that international organizations be given extensive powers in the field of Human Rights. Finally after much debates in order to please small countries and for appeasing other agents of pressure, it was decided, with the motive to deceive public opinion and divert the attention from the charged atmosphere of the time, to commission the Economic and Social Council of the United Nations to review and present its views on three issues, *ie,*, Human Rights Declarations, commitments relating to Human Rights and planning of provisions for executing them.

Eventually, it is notable that this Council succeeded with great difficulty only in finalising the Human Rights Declaration. The powerful forces of the world prevented the Council from working on the other two issues, *ie,*, commitments related to Human Rights and executive provisions for them, which would guarantee the practical application of at least parts of the contents of the Declaration.

The author believes that a close look at the events at the time of preparation and ratification of the Universal

Declaration of Human Rights reveals very clearly the reality that the ratifier of the Declaration, and above all the victors of World War II, on top of them the U.S. government, had no faith in the Declaration or its high ideals. As a result they had not the least commitment in executing its contents. And though later in this article this lack of commitment will be discussed in detail, I believe the most important and solid reason behind this claim is that certain big powers of the world, including the U.S., have not even to this day, approved the Human Rights Declaration in their parliaments.

(7) Their judgement that the Declaration, at least on paper, provides for rights and liberties, or the extent of success of the Declaration in advancing its apparent goals

While hundreds of millions of people in the world were mired in horrendous conditions of poverty, sickness, diseases and tens of thousands of other tribulations and afflictions, the Human Rights Declaration attempted to allay them with a bunch of advice, recommendations and hopeful words and aspirations.And a relatively deep look at the tens of millions of others in the world shows that though they were not afflicted with the above problems, yet they too were lost in problems of other kinds, such as corruption, effacement of beliefs, an empty philosophy of nothingness and aimlessnes of life and its fruitlessness and a baseless lifestyle and low thinking. And the Universal Declaration of Human Rights, or preferably the culture and order ruling over these tens of millions of people, never gave them the slightest opportunity to realize the roots of all this corruption, nothingness and baseless lifestyles. This in itself is an honest witness to the extent of success of Declaration in providing for their rights and liberties.

But if we still have any doubts concerning this, we can look at the deprived, the hungry and the famine-stricken of Africa. Millions of Blacks who were the real owners of this rich and resourceful continent were deprived of their rights,

and instead made slaves of a bunch of whites who had flooded the land from across the ocean. Hundreds of thousands of Palestinians are made homeless and driven from their own homeland. Thousands of Palestinians became victims of massacres and were crucified. The brutal and extensive invasion by a people neglectful of any ethical principle or laws against a country (Palestine) which itself had been the victim of years of civil war and cruel murder of a people whose only crime was defence of their homeland against armed occupation, and similar crimes against hundreds of thousands of other peoples of the world are very good examples of the so-called innate respect of Human Rights and the so-called equality of inviolable rights.

And if these examples are still not sufficient, we can refer to the pitiable conditions of coloured minorities of certain big and semi-big countries. And the most shameful example in this connection would be the heart-rending condition of the Blacks who are the so-called citizens of the most powerful richest country on earth, *i e*, America, the so-called champion of Human Rights and hub of the so-called free world. Considering the many above examples presented, we can easily realize that the Universal Declaration of Human Rights has failed utterly in practically achieving even some of its aims.

Considering the brief account given above, I think that even the most optimistic person in the world wouldn't believe in the sincerity of the big powers' judgement that the Human Rights Declaration supports its high objectives. Though the Declaration has failed to achieve its apparent objectives, yet we should not forget that those responsible for ratification and preparation of the Declaration did achieve their objective, which is so-called peaceful life and co-existence. Of course this co-existence in essence means nothing other than the continued co-existence of hundreds of millions of sheep side by side with insatiable wolves. At any time that these wolves find it expedient and in their interest, they tear apart the hundreds of millions of defenceless sheep into pieces. In

fact, the innocent masses of the world are like sheep waiting for the day they will be torn apart into pieces by the beastly wolves of this world.

Role of Prophets in Elevation of Status of Man

Hujjatul-Islam Muhammad Taqī Falsafī

Man has two dimensions — human and animal. The realization of animal dimension lies in the revival of common human and animal instincts in him and these two instincts work to fulfil their genetic obligation. The realization of human dimension lies in the restoration of the valuable reserves and precious potentials peculiar to man such as natural and rational knowledge and moral conscience in human character. Each of these should also fully perform the duties and obligations allotted to them.

Man, like other mammals, at the time of his birth has certain instincts in himself which start functioning since then and it is in their shadow that the child's existence proceeds. He sucks his mother's breast, eats food, absorbs and rejects, rests and enjoys all other animal instincts such as love for self, defence, wrath, revenge, lust, sexual desire and all other instincts as and when he grows; each of them taking their turn. However, human reserves and potentials exist in a man at the time of his birth and gradually increase and strengthen with his growth.

No doubt animal instincts are essential and necessary for human life, the absence of any of these makes the individual feel short of it. However, none of these is a standard of humanity and the criterion of self respect or high morality. The criterion for self respect and humanity lies in the vivification of peculiar human reserves.

The point for consideration is that animal instincts do

not require a patron or any training for their development. Each of these blossoms at its own appropriate time and performs its function. But human potentials need cultivation in order to tread on the path of humanity and lead the man to the path of elevation and perfection. Man, for this purpose should work under the supervision of a capable teacher so that he guides him on the right path of bliss and salvation. This would help him use his hidden powers for the benefit of humanity. The performance of this great man making deed is the role of the prophets of Allah in their efforts to achieve a status for man. Hazrat Ali (A.S.) in this regard says as folows: "He appointed His prophets amongst the peoples and sent one after the other so that they make people fulfil their natural commitments, remind them of the forgotten blessings of moral conscience which are divine inspirations and speak to them in a reasonable and logical manner so that their rational power comes into motion and their hidden potentials are exploited".

Prophets had been appointed to lead people to the path of divine khowledge which is the instinct of search for Allah blended with correct education and guided by wisdom so that man recognizes the Creator of the world and repose faith in Allah.

Prophets are sent to liberate the great wealth of wisdom which is a major divine gift and most important sign of humanity from the captivity of wrong habits and blind faith through necessary and appropriate controls. They are required to blossom the potentials through logical discussions and reasoning so that man is freed from superstitions and ridiculous believes and gets acquainted with truth and reality, distinguishes between good and bad and by balancing the instincts creates harmony between his animal and human instincts.

Prophets have come to direct peoples' attention to moral conscience which is a divine gift and distinguishes between the most important moral virtues and vices. They

make people realize the need to obey this—— the true judge which is chosen by Allah. The prophets instruct that following the dictates of the moral conscience of nature means inclination towards humanity and revolt against its directions in violation of human schemes.

In order to clarify the role of he prophets in elevat ion of the status of man, a brief discussion is made in this paper regarding wisdom and conscience and their vivification by the prophets. We would also discuss some of the articles of the 'World Human Rights Declaration.

Wisdom is one of great blessings bestowed by the Almighty Allah to the man. Wisdom is an important base of humanity and on it depends the sublimity and perfection of humanity. It may, however, be noted that natural wisdom cannot show us the path of humanity without reasoning and thinking nor can it bring about guidance and well-being for us.

Man-making wisdom is the wisdom which is not captivated by evil habits nor does it blindly follow others. It works freely and thinks freely. It uses its own powers and capacities for the realization of truth and to distinguish from the falsehood. It realizes the truth and informs us of its findings.

One of the contributions made by the prophets in realizing the status of man was that they worked to awaken the sleeping minds of the people and led them to reasoning and thinking in all spheres of faith, morality and action. These prophets lifted the curtain of ignorance and lack of knowledge and prepared ground for human development and moral perfection. In this path they had to work very hard.

Prophet Ibrahim, the *Khaleelullah* (friend of Allah), was one of the great prophets of Allah who experienced many a hardships working for the vivification of man's wisdom. Allah has repeatedly appreciated and mentioned in the Holy Quran the valuable and man-elevating services rendered by this dignified person and mentioned his struggle against idol-

worship and idolaters. He says in the Quran "When he said to his father and his people: 'What are these images to whose worship you cleave?' They said: 'We found our fathers worshipping them.' He said: 'Certainly you have been (both you and your fathers) in manifest error' (21: 52-54)".

The prophet of Allah spoke to them at length but his preachings did not awaken their slumbering hearts nor could he prevent them from absurdly following the foolish practices of their predecessors. He then resorted to practical steps and when the people went out of the town to perform their customary rites, he availed of the opportunity and went to the temple where the idols were placed. He carried a hatchet in his hand and smashed all the idols except the big one. When the people returned to the town and went to the temple, they saw the idols smashed to pieces. They became mad with rage and said that it was the work of Ibrahim. "They said: 'Then bring him before the eyes of the people, perhaps they may bear witness' (21:61)".

They said that he should be brought before the people so as to be publicly persecuted and penalised. They asked him: "Have you done this to our gods, O Ibrahim! (21:62)?" Ibrahim's reply was an unexpected one and contrary to what people thought he would say. He neither confessed his action of having smashed the idols nor did he refute it. He knew that the people, enraged as they were, would kill him in both the cases and if so, his deed which was done to awaken the people would be rendered fruitless.

Ibrahim's aim was not only to break the idols. By this harsh move and shock treatment he wanted the idol worshippers to come to their senses. He wanted to arouse their feelings and bring them to reasoning and thereby wipe out the very impression of idolatry from their hearts. He, therefore, in reply to their questions said: Ask the smashed gods to narrate the event and let them tell you who has broken them? If they open their mouth and reply to your askance then you will come to know that the big idol has committed this deed and if they are not able to speak and to

reply your questions then it is I who have smashed them. "Then they turned to themselves and said: 'Surely you yourselves are the unjust' (21:64)".

Ibrahim's words provoked them to think. They looked towards each other in astonishment and peeping in each other's eyes they confessed their crime of idol worshipping. They were ashamed of themselves and with heads bent down they told Ibrahim: You know idols do not speak. Ibrahim was eagerly waiting for this reply. He said: "What! do you then serve besides Allah what brings you not any benefit at all, nor does it harm you? Fie on you and on what you worship besides Allah; what! do you not understand (21: 66-67)?".

Prophet Ibrahim (A.S.), by his act of smashing the idols and with his words brought the polytheists to reasoning and created doubts in their minds in regard to their act of idol worshipping. Doubts make man think about his deeds, he resorts to seek assistance from wisdom, he turns to reasoning and finally it is wisdom which leads him to reality and reveals the truth on him.

things about idols and idolatry before his *Hijrah* (migration from Meccah to Medinah) thereby shaking the reason of some of the broad-minded and the intelligentsia to prevent them from worshipping the idols and turning them to monotheism. However, most of the polytheists, particularly those advanced in age, did not change their belief and remained unshaken in their faith and idolatry till the victory of Meccah when the respected Prophet (SA) and his army of the faithful entered the town. They came to the holy mosque and demolished the idols, which had been installed on the walls of 'Kaabah' for purposes of worship, in front of stunned polytheists. He smashed them and cleaned for ever the spot of shame and disgrace from the holy shrine.

Another most effective and important role played by the prophets in elevation of the status of man was to launch a campaign in order to awaken the sleeping wisdom and move people towards reasoning and thinking and guide them

towards the path of humanitarianism.

Hazrat Musa bin Jaafar (A.S.) speaking to Hesham said: "Allah did not send His prophets and apostles among people but to bring them to reason" (Kaafi, volume 1, page 60).

The highest worship in Islam is reasoning and thinking. Hazrat Ali (A.S.) said "There is no worship as worthy and valuable as thinking". (Fehrist-e- Qararal Hakam, page 316).

Anyone endowed with natural wisdom and not using it to distinguish the truth from false and differentiating the right from the wrong as well as reasoning can never tread the stages of perfection befitting a man. Nor can he reach the lofty position of manhood. Such a man is, according to the doctrines of prophets, no less than an animal, he is rather lower than an animal. Here is what the Quran says in this respect: "Or do you think that most of them do hear or understand? They are nothing but like cattle; ney, they are straying farther off from the path (25: 44)".

Allah in another verse of Quran says that those who are born with natural wisdom but do not resort to reasoning are worse than all the animals, even the insects on earth. They are even more harmful than them. This is how He says in the Quran "Surely the vilest of animals, in Allah's sight, are the deaf, the dumb, who do not understand (8: 22)".

Indeed the meanest and the lowest of animals and insects on earth in the eyes of Allah, the Creator, is a man who has closed his ears of wisdom and does not listen to the truth; one who has shut his tongue of speech and does not speak the truth and one who has isolated himself from wisdom, reasoning and thinking. In other words he is the person who has deprived himself of the great symbol of humanity and has not utilized it.

The above two verses of the Quran indicate that according to the teachings of divine prophets real men are those who make use of God-gifted wisdom and utilize this virtuous gift and distinguish between the true and false with the help of the light of His guidance, follow the truth and

reject the false.

But those who repulse wisdom cannot benefit from its guidance and continue to tread the vain path of their ignorant forefathers. They are not men in reality. So long as they do not leave their anti-wisdom methods, the prophets of God look at them with indignation and abstain from mixing with them.

The Holy Quran, referring to this says as follows quoting Prophet *Ibrahim (A.S.):* "I refrain from you and from the idols you worship but for Allah. I call my Preserver".

Detachment from polytheists and their idols was not the duty of Prophet *Ibrahim (A.S.)* only. Allah has also ordered other Muslims in the Holy Quran to follow in his footsteps and make his methods an example for their own deeds. Here is what Allah says in the Quran; *"Indeed, there is for you a good example in Ibrahim and those with him when they said to their people: Surely we are clear of you and of what you serve besides Allah; We declare ourselves to be clear of you and enmity and hatred have appeared between us and you for ever, until you believe in Allah alone (60: 4)".*

Allah emphasized that the deeds of Prophet Ibrahim and his followers are an example for the Muslims. They told their idol worshipping people, "We are fed up of you and your gods and enmity and hatred will prevail between us and you till such time as you come to reason, abandon idol worship and have faith in God alone".

Article (1) of the 'World Human Rights Declaration' says as follows:

"All men are born free. They are equal in status and have equal rights. All of them are endowed with wisdom and conscience and each should behave with the spirit of fraternity with others".

From the statement made by the authors of the Declaration that "all men possess conscience and wisdom" it transpires that from wisdom they mean the same natural wisdom endowed by the Creator to man at the time of his birth. It does not distinguish between those who use their wisdom, resort to reasoning, realize the truth and co-ordinate

their beliefs, morality and deeds according to it and those who do not use it, do not resort to reasoning, do not distinguish the right from the wrong and blindly submit to the vain beliefs of their foregone ancestors.

Presently, there are one billion Muslims on earth following the dictates of the Holy Quran. They, according to the teachings of the divine school of prophets, believe that idol worshippers are accused of worshipping inanimate idols thereby insulting humanity and, therefore, not suitable for association with. They should be abandoned and subjected to wrath and be ignored until and unless they put their wisdom to use and realize the evil in idol worshipping and retreat from the path which they had so far been treading wrongfully.

The authors of World Human Rights Declaration who look at human beings from the point of view of natural born wisdom, less reasoning and thinking, say that all men are equal in respect of status and rights and should be treated with the spirit of fraternity. Is this in concurrence with the role of prophets in determining the status of man? Can the followers of the teachings of prophets consider themselves equal to those who have closed their eyes from following wisdom and have crushed human values under their feet? How can they treat them with the spirit of brotherhood? Will it be possible for the Muslims of the world to do so?

Article 18 of World Human Rights Declaration provides that, "Everyone has the right to enjoy freedom of thought, conscience and religion. This right guarantees freedom to change religion or faith and also guarantees expression of faith and creed, and includes religious teachings and performance of rites. Every one can enjoy these rights individually or collectively, in private or in public."

One of the most sacred religious rites of idol worshippers since the last many centuries has been to sacrifice children at the altar of the idols. If governments do not restrain them even today and leave them at liberty, they will resort to such functions with great pride and exaltation and sacrifice their

own children on the altar of these inanimate idols for their pleasure; thereby showing their utmost submission and humility before the idols.

Even today, in countries where there are idol worshippers and temples, the idolaters long for an appropriate opportunity despite the control and supervision of government officials to perform this shameful act which is against humanity and wisdom and do not hesitate to sacrifice their own children for the pleasure of the idols.

"Jaipur (India): The criminal court at Jaipur today sentenced to death two residents of the town for sacrificing a 12 years old boy at the altar of an Indian goddess. The accused were two contractors who manufactured water tankers for the water department of the city. Last month, before starting their contract they beheaded the boy in front of the idol of an Indian goddess in order to please her and win her favour for the job they had undertaken. Three collaborators of these two men were sentenced to life imprisonment with hard labour."

"Police officials had been searching for the boy for many days after his absence took long. Finally they traced the commitment of crime after seeing clogged blood stains on the head and face of the goddess. Later they also recovered the body of the boy at a distance from the idol. Despite severe police supervision, the town has occasionally been witnessing instances of sacrifices made by Hindus for their gods." (The daily Ettela'at, No. 13418)

Would the authors of the World Human Rights Declaration permit themselves to attest and support such a terrifying anti-human deed under the title of freedom of religious teachings and rites? Would they consider it proper and correct?

In case the writers of the Human Rights Declaration approve of this deed and consider it lawful and correct in the name of freedom of religious rites why did they not prohibit the execution of those two persons and others like them? Why did they not convey objection to the lawmakers in that

country as well as raise their voice against the judges who sentence such people to death? Why do they not tell governments in consideration of Article 18 of the World Human Rights Declaration, not to interfere in the performance of peoples' religious rites and not to deprive them of this freedom; and let them perform their rituals in the way they like?

If the authors of the Declaration do not approve of such deeds and deem them incorrect, why have they constituted Article 18 of the Declaration in such a manner as to include every irrational belief and every inhuman deed in it in the name of freedom of religious teachings and performance of religious rites?

Can the noble and the virtuous behave in accordance with Article 1 of the World Human Rights Declaration towards these persons who have strangulated the wisdom and crushed human values under their feet committing such heinous crimes? Can they treat those people with the spirit of brotherhood?

Are the compilers of the World Human Rights Declaration ready to consider themselves in the same line with such people and would they, in practice treat them as brothers?

The prophets of Allah were deputed to make men civilized human beings and to awaken human characteristics into them. They were required to do their best in this mission. The topmost item in the programme of action of the prophets was to fight against the idolatry andpolytheism against the unity of Allah. They were to struggle for the deliverance of human beings from the slavery and worship of imaginary gods. The worship of idols is the result of blind faith and simultaneously it pre-supposes that reasoning has not been used. It necessitates that wisdom which is the greatest symbol of humanity, should not be used. On the other hand, man's submission and service to inanimate idols is the greatest insult to the status of man and an idol worshipper who believes in his slavery to an idol and surrenders himself to

such a mean and low position does not deserve sublimity and spiritual perfection. He cannot attain the lofty position of manhood, Two Persian couplets, whose translation follows, beautifully support the above submissions:

How can he reach the height who became low?

Where has ever non-existence become the source of existence?

A person of low breed gets the chain of slavery in his neck due to his lowliness.

If the writers of the Human Rights Declaration proclaim that the idol breaking of the prophets and their struggle against idol worshipping was contrary to individuals' freedom and the World Human Rights Declaration was based on man's right to freedom, it can be said in reply that giving freedom to man for worshipping idols would mean giving them freedom of action to crush wisdom and tread on humanity. The prophets of Allah who are assigned the duty of man-making cannot approve of this anti-wisdom act of treason, thereby, leaving people free to do anti-human deeds.

Freedom is considered valuable and precious within the limits so as not to tread upon man's bliss and does not act against the interests of the people. For instance, heroin, leads the society towards misfortune and moral decline and the freedom to use it is detrimental and damaging for the society. Free countries of the world fight it with utmost severity. They openly prohibit it and anybody resorting to the distribution of this destructive poison is subjected to most severe punishment.

It is interesting to note that the writers of Human Rights Declaration consider illiteracy, which causes backwardness to the countries, as contrary to the interests of human society. They have, therefore, declared learning and primary education, which is minimum education, as compulsory, thereby depriving people of their freedom.

Article 26 of World Human Rights Declaration states that "Every one has the right to education. Education to a minimum of primary education is compulsory."

The minimum primary education is so important and valuable that the great Prophet of Islam, 1400 years ago, declared it as one of the rights which all the children have over their parents.

The Prophet (S.A.) has proclaimed that there are three rights which all the children have over their parents. Firstly, the selection of a good name, secondly, learning writing and thirdly, arranging for his marriage when he reaches the age of maturity. **(Makarimul Akhlaq,** page 114).

The writers of the Human Rights Declaration say that primary education is compulsory and the illiterate should be forced to get education, to learn reading and writing and thereby clean the shameful spot of illiteracy from their hearts.

The spot of polytheism and idol worshipping in the hearts of idolaters is far more shameful and disgraceful than the spot of illiteracy. The role of the prophets of Allah in determining the status of man demands that they fight against idols and idol worshipping and do not leave the idolaters free to continue this foolish and unwise act. They are required to bring them to wisdom and make them think about their deeds. They are required to smash the idols wherever they see them and, in practice make the idolaters understand that the idols are ineffective and they should turn their hearts from them and liberate them from the slavery of idols.

From what has been discussed above, it transpires that one of the important and effective roles played by the prophets of Allah in elevation of the status of man was to wake up the sleeping reason of the capable and the potential people through scientific reasoning so as to lead them to thinking and thinking as a result of which they may purify their hearts and minds from polytheism and other superstitions. The prophets made these people realize the truth through their wise discourses and made them understand the value and status of man. It was the result of these blissful efforts of the prophets that the ground for exaltation and perfection of man was prepared and he was

guided to the right path of lofty human status.

BEHAVIOURIAL INSTINCT

The other wealth as valuable as wisdom bestowed by the Almighty Allah on man is his moral conscience. It is the means to achieve the exalted position of manhood. The Holy Quran interprets this natural gift combined with human instinct as a divine inspiration. The Quran says: *"And the soul and Him Who made it perfect, then He inspired it to understand what is right and wrong for it (91:7-8)."*

Imam Husain (A.S.) said: "By perfection of soul, it has been clarified as to what is to be adopted and rejected."

Imam Sadeq (A.S.) in his commentary on this verse of the Holy Quran says: "Allah revealed upon men what is good and they should act upon it and what is bad and they should reject it."

The natural ethical conscience is one of the basic and important foundation for man-making. It is like a judge selected by Allah the Exalted and reposed in man's conscience. This truth-making judge makes distinction between fundamental virtues and vices without the assistance of a patron or teacher and internally forces its master to follow its findings decisively.

Moral conscience with the help of divine inspiration realises that it is good to pay one's debts and perfidy in trust was an evil. It was good to fulfil one's commitments and to break promise was bad. Justice was most desirable and injustice was undesirable. So was truth a virtue and falsehood a vice.

The Almighty Allah with a view to implement the judgements of moral conscience, created the chastising soul as a guarantee along with moral conscience so that if any one was to ever distract, his chastising soul would torture him from inside through severe condemnations thereby punishing him for the distraction.

It may be noted that natural moral conscience, like

wisdom, may fall a prey to false and futile habits and customs thereby deviating from correct decisions. Therefore, with a view to protect the conscience and also its implementing machinery from falling prey to these evils and to keep them alert and active, it is essential that every one should from his early childhood be subjected to necessary safeguards and an able patron should constantly warn him, both by word of mouth and by action, about his obligations. This is also one of the contributions made by Allah's prophets in determining the status of men. The prophets used arguments and reasoning in order to awaken and activate the wisdom of man. In order to revive the moral conscience and to put it to use, they spoke about man's moral duties. In order to attract people's attention they set their words and deeds as an example of natural ethics and human characteristics. They held the fathers and mothers of young ones responsible before Allah in regard to the training and upbringing of their children so that parents may guide them on the right path. The prophets taught parents to abstain from indulging in superstitions and illogical matters. The parents were required not to let their children adopt deviated paths. They were duty bound to be careful in their own behaviour, to practise justice in all cases, fulfil promises given to the children and to develop children's conscience in the best possible manner through their own good moral behaviour.

Here we would discuss in brief the question of equality of human rights between the white men and the black men which is a moral issue. We do so in order to explain the role of the prophets in the upbringing of moral conscience. In this way, the readers will realize the efforts made by the prophets to determine the status of man in comparison to what is being done in our contemporary civilized world. Our submission will bring some facts to light.

The noble leader of Islam from the beginning of his prophethood presented his code to all the people and invited them towards the true religion. People from all nationalities, races, colours and languages responded to Prophet's (S.A.)

call, thereby joining the community of Muslims enjoying equal rights and respect.

Before the advent of Islam, Arabs considered themselves superior to non-Arabs, the whites thought they were better than the blacks. The honourable Prophet (S.A.) fought against such wrong teachings right from the beginning and made his followers realize that all men were human beings and language or colour could not be the standard of superiority. He repeatedly preached this theme as one of the teachings of Islam whether on the pulpit or in the meetings, whether during journey or in camps, both before and after his migration from Meccah and constantly focussed peoples' attention to this viewpoint. If a Muslim at any time neglected this teaching and made any pronouncements which could create differences, he was called for explanation by the Holy Prophet (S.A.).

Abuzar Ghaffari, from amongst the men of Allah and one of the respected companions of the Prophet of Islam (S.A.), once, by mistake, humiliated Bilal Bin Riah in the presence of the Holy Prophet (S.A.) for being born of a black mother and called him 'the son of black woman'. (The leader of Islam (S.A.) was enraged to hear this and cast a sharp look at Abuzar and said: "The children of a white woman are not superior than the children of a black woman." (Tafsir fi-Zelal-al-Quran, part 30, page 407).

After the passage of 14 centuries, since the rising of Holy Prophet (S.A.), the effect of the teachings of Islam for purification of human beings clearly evident during the days of the Hajj pilgrimage. Every year hundreds of thousands of Muslims of different races and colours gather in **Masjid-al-Haram** (Kaa'bah), Arafat and Mina, yet no white speaks of his superiority nor does he look down at the blacks with humility.

The commendable contact between different races and their caution in mutually observing human rights originates from the right upbringing of moral conscience and activating the natural habit of justice. This is the valuable role played by

the prophets of God in determining the status of man.

Article (1) of the World Human Rights Declaration speaks simultaneously of wisdom and conscience and says: "...all possess wisdom and conscience and should behave with each other in the spirit of fraternity." As mentioned above man's congenital wisdom cannot serve as the guiding lamp for human bliss. Instead, natural wisdom should be used and men should direct it to thought and reasoning so that he could distinguish betwen right and wrong and true and false; so that he may follow the truth and keep away from untruth.

There are many people who in matters of faith follow wrong precedents and imitate them blindly. They set aside wisdom which is one of the most fundamental basis of humanity and do not resort to reasoning which could guide them to the right path. By doing so they continue to tread blindly on the path of their predecessors.

The natural moral conscience which is a blessing the man gets at the time of his birth is also like wisdom which cannot be of much use unless it is polished through proper upbringing. The suppressed and unpolished conscience cannot become the moral guide for human being nor can it make its master, the human being, practise justice which is one of the natural human instincts.

The struggle presently ensuing in South Africa between the ruling white minority and the oppressed black majority is a clear instance of this. It shows that moral conscience of the ruling regime is so inactive and ineffective that there is not even the least trace of justice in them. They, in order to passify their carnal desires, everyday kill a number of black people who have risen for the realization of their rightful claims. More regrettable than this is the fact that the rulers of America and Europe, only in their selfish-economic interest, did not agree to put South Africa under economic blockade which would have obliged South Africa to reduce its crimes.

The West, on the one hand, proclaims World Human Rights Declaration providing equality between black and

white appealing to the world to pay attention to the Declaration and on the other hand, it is in the Western world that the provisions of the Human Rights Declaration are not adhered to. They humiliate the black as a race and tread over their human rights.

Dr. Martin Luther King, a black writer, in his book has given instances of usurpation of the rights of black people by the whites. One of these instances is quoted below. He had said in his book "The Voice of Blacks" on page 162 that: "Some years back a car carrying members of a basketball team of a college reserved for the blacks met with an accident on an expressway in South America. Three of the blacks were seriously injured. An ambulance immediately reached the place of accident, but the driver of the ambulance, a white, without any reason and in a sour tone said that he was not in the habit of assisting the blacks and immediately left the site of the accident. A little later, a private car happened to pass by. The kind driver hurriedly took the injured blacks to the nearest hospital. It was now the turn of the doctor on duty who in a bitter tone said that blacks were not admitted in the hospital. The officer incharge of the team was obliged to carry the injured players to a hospital reserved for the blacks, situated 50 miles away. When the injured reached the hospital, one had died on the way and the other two also did not survive for more than 35-50 minutes. This incident is a clear example of thousands of inhuman incidents that regularly take place in the South.

In short, it is now for the last so many centuries that the prophets of Allah have solved the problem of equality of rights between the whites and the blacks in the light of their religious teachings. They have, therbey played their role so well. This becomes evident once in a year when the Muslims from all over the world gather together at Meccah to perform their Hajj obligation. There all the whites and the blacks resort to worship Allah in the divine sanctuary with complete peace and mental satisfaction and behave with each other like brothers.

On the contrary, the Western world despite the Human Rights Declaration and inspite of framing some rules in some parts of the world could still not achieve the sacred goal. It has not been able to uproot racial discrimination thereby putting this anti-human conflict to an end. Article (1) of the U.N. Human Rights Declaration provides that "All possess wisdom and conscience and should behave with each other in the spirit of fraternity."

Justice is a natural human virtue and a characteristic feature of moral conscience. If the driver of the ambulance reared sentiments of moral justice and humanity, he, in a sour tone and against all dictates of justice, despite seeing that three human beings were bleeding profusely, could not say that he was not in the habit of helping the blacks.

Similarly, if the conscience of the doctor on duty in the hospital was awake and active and he enjoyed virtues of humanity and justice he could not, despite seeing the three men bleeding say in a bitter tone that blacks were not admitted in his hospital. Thousands of such anti-human actions violating the dictates of conscience, as indicated by the driver of the ambulance and the doctor on duty in the hospital, take place everyday throughout the world. There are even instances where racists, devoid of ethics and justice, commit cruelties which are far more heinous than the action of the driver of the ambulance, or the doctor on duty in relation to the people of black race.

The prophets of Allah have performed their role in a commendable manner in regard to racism which is an important issue in regard to human relationship. Their teachings in this field were also based on divine dictates.

The great leader of Islam preached to the people that the question of equality of rights between the whites and the blacks was a religious obligation and the followers of Islam were duty bound to observe this decree as a principle of faith in Allah. It is now many a centuries that the Muslims of the world are obediently following the command of Almighty Allah in this regard. The U.N. Human Rights Declaration

and any other laws formulated by world legislatures are devoid of spiritual and moral faith.

In conclusion of this paper, we quote Dr. Martin Luther King, a leader of the American black race and an educated person who himself suffered the pangs of racial discrimination. He has said:

"Man cannot frame moral science in the shape of laws. No doubt man can control the morals and actions of people through laws. Laws cannot change man's heart but it can control the heartless. Law cannot force an employer to love his employees but it can provide not to oppose the employment of black labour."

"Civil rights bring an end to racial discrimination in public places but they cannot put an end to the terror of superstitions and pride which are the basic barriers in a society. These gloomy lunatic habits can be annihilated only when people follow the inner and invisible law and bring faith to the fact that all human beings are equal ("The Voice of Blacks", page 42)."

Human Rights from Islamic Point of View: General Observation

Hujjatul-Islām Seyed Muhammad

Bāqir Hakīm

Preface

The subject of human rights needs very extensive discussion from an Islamic point of view. It extends in many directions, and requires a comprehensive study of all its elements and details; whether they may be religious or philosophical, legislative or legal, decisions and adoptions reached by humanity by way of worldly theories, or historical and practical discussions, or an analysis of man's various relationships to the universe, nature, and/or himself in regard to his Creator. In addition it is presently a subject which is of great importance for humanity in general, and in particular for the Islamic Revolution. Therefore, the Islamic Propagation Organization's decision to focus on this subject during the 5th Islamic Thought Annual Conference is highly appreciated and respected.

1. The Aim of a Discussion on Human Rights

It is necessary to identify the aim of this research and discussion for it may shed some light on its course, and may prevent a confusion of linguistic and legal phrases, and idioms. At first it seems that in order to deal with this subject one must turn to legal and *fiqh* (jurisprudence) research.

However, this research is actually the product of social, and political research. The social and political movement deals with rights in relation to political action, and social relations within a framework of justice, wrongfulness, freedom, and oppression. This subject cannot be separated from thought, cultural and legal actions, and though it is important in the religion, and its doctrines, its real political identity is preserved.

The aim of this discussion includes the following points:

(1) The first point is the general basis for which Islam considers fixed facts in the life of man and his social relations which resemble the basis for Islamic legislation. These principles for legislation are based on natural or social, political or religious ideas connected with the life of man, and his relation with the universe and nature, and life and relation with his fellow man.

When the Almighty Allah is the Legislator, this point has limited effect in Islamic legislation. However, the Islamic legislation was dissatisfied with a mere explanation of these principles alone. The religious doctrines gave rich details, regarding its many directions and specialities that one may feel that there is not any need to explain these principles on a legislative level. This point may be useful legislatively when there is an unanswered area in the legislation left by the Holy Creator. The *walī* (guardian) and the *faqih* (jurisprudent) must detail the reason for the existence and respond to this unanswered area in the light of the general lines of the religion and its doctrines. These principles and their details are important guidelines for the *walī* in making his decisions, which are made with reference to the general welfare.

These principles also did well in gaining a better understanding of the Islamic legislation and its causes. The Muslim obeys a religious decision, for each decision at this level is considered by one of the religions as divine. However, the gracious Qur'ān and Islam used the method of explanation of the "Cause", and "Wisdom" of the religious decision. Islam, and the Qur'ān use this method for the

purpose of creating a situation within the human being which is more harmonious with the religious decision. By connecting this decision with the principles and natural basis the individual is able to realize with his nature, and mind (practical mind):

> *"Men are the maintainers of women because Allah has made some of them excel others and because they spend out of their property; ... (4:34)."*
>
> *"Thus it is due to mercy from Allah that you deal with them gently, and had you been rough and hard-hearted, they would certainly have dispersed from around you; pardon them therefore and ask pardon for them, and take counsel with them in the affair; so when you have decided, then place your trust in Allah; surely Allah loves those who trust (3:158)."*

(2) The second point is to present a clear image of the Islamic legislation and Islamic doctrines. It is also, to present a clear image of the basic issues of human rights and issues of justice and freedom for man in this world. Islam and its doctrines were deformed by atheist political movements, and by those who ruled the Islamic world and who in the name of religion practised injustice and tyranny.

(3) The third point is the development of the means, methods, and activities which should be followed in order to educate the nation in practising them for the sake of practising the basic rights of the human beings in the present-day world. Practising these rights in the communities will achieve one of the basic aims of the religion and Islam in its completing and changing movement. The issue of human rights is not just given lip service or merely a legal decision. The basic issue in the movement of Islam and the religion is to practise these rights socially and with humanity kept in mind. The latter is very important and must be adopted by the movement of human rights in Islam. In fact, this basic issue was the main aim of the movement of political human rights, and the research related to it.

It is astonishing that those who claim to be members of

the movement of human rights in the Western world attempt to separate this movement from the political issues, and at the same time claim that it is a human movement. Therefore, they refuse to support the oppressed under the cover of non-interference in the political affairs. They are satisfied with issuing statements, reports, and recommendations. Under the best conditions they issue calm and quiet protests. However, when dealing with tyrants and arrogant forces the recommendation changes to deadly weapons used for more domination and power.

2. The Religious Research and its Relation to Human Rights

The research on human rights in Islam cannot be separated from the religion and the ideological research in understanding the universe.its existence, and man's role. In discussing human rights in Islam one must point to the Islamic theory in regard to the role of the human being on earth, the reason for his existence, and the basic things in him such as the mind, will,instincts, and the beginning and end of his being, and the source of his rights.

It is natural that the results of understanding these rights and their limits differ on the basis of understanding all these religious matters. In addition, the political, spiritual, and social indications of those rights and their effect on the movement of man's life are basically connected to the religious side, and cultural background of these rights. It is evident that there is a positive exchange between the external practice of man, and the cultural and religious background of that practice in the life of man. The rights become a natural frame for the practice and have a special religious background.

Thus, practising a liberty which has a religious background, and refuses all the gods, and all the external and internal effects, and strives towards complete perfection, and Allah, has its psychological, and spiritual effects on the life of man, himself. This liberty differs from the one which has a background which supposes that man possesses and controls

all the affairs of his life, and existence (total liberty). This practice emphasizes the self-loving in man, and makes him strive in a natural way to exploit all the means to satisfy all his instincts, feelings, efforts, and abilities to ensure and emphasize the self. Thus, this liberty will have another meaning which differs totally from the first one. In terms of the relationship between the religious side, and the rights of the human being I would like to emphasize some points which I believe have a clear effect on the understanding of the rights of the human beings.

(1) The *Tawḥīd* (unity of Allah) faith connects the existence of man and his march in life and its aim. In addition it stresses his role on earth to represent Allah by which he demonstrates his bondage, subjection, and moral life. By this representation of Allah he practises his will, and choice, and faces tests and experiences. Therefore, an understanding of these rights which man believes in differs from the limits which demonstrate the amount of these rights.

(2) The aim behind man's existence in this universe, is to reach divine perfection. Allah has created man to be His representative on earth, a representative who symbolizes His morals and will. Allah preferred man over the angels, who volunteered to bless and worship Him. He has given the human beings characteristics and favours. Will-power, knowledge,natural guidance and natural instincts will enable the human being to reach the highest level of perfection.

(3) The human characteristics: Man is characterized by a group of characteristics, and has some requirements which demand certain needs. The purpose of these human characteristics is to achieve the aim for which the human being was created. Will-power and knowledge are from the characteristics which make man better than many other creatures in the universe. Also man has many natural senses, instincts, feelings, and sympathies which may be connected with the material side of his existence such as the sexual instinct, the need for eating and drinking, clothing and residence,or with the spiritual and moral side of his existence

such as the love of self and the love of authority and power, favour of things such as justice, and charity, and disliking other things such as treason, aggression, and wrongfulness, or the feelings of anger, fear, weakness, and the need for the unseen powers. The religious understanding of these characteristics plays an important role in understanding the rights behind them.

The Islamic understanding of these human characteristics is that the instincts, feelings, sympathies, and needs represent abilities which the Almighty Allah placed in the human being. These abilities guarantee him the power and the energy to move towards the aim for which Allah created this human being. They are fixed elements in the existence of the human being, which cannot be ignored or cancelled in the movement of his life. They impose certain rights in his relations with the universe or with his fellow man or even with himself In terms of our understanding,the nature of these (instincts and feelings) are just moving energies towards the aim, and preserve for man his ability, activity, and continuation in this direction or in the opposite direction. In addition, Allah has created in man the element of evil: *"... most surely (man's) self is wont to command (him to do) evil, except such as my Lord has had mercy on... (12:53)"* and as the Almighty Allah has said: *"The love of desires, of women and sons and hoarded treasures of gold and silver and well bred horses and cattle and tilth, is made to seem fair to men; this is the provision of the life of this world; and Allah is He with Whom is the good goal (of life) (3:13)."*

As for the natural instincts and science, they represent the means to understand and realize the great aims, and the perfection levels and the way to Almighty Allah and without them the human being would not know the aim behind this life.

This knowledge may be achieved by two means:

(A) Nature, mind, and realization, which are connected with the self, guide man to the Almighty Allah and all the basic issues such as inspiration, justice, and revival. It is

from this that one understands the encouragement of the Holy Qur'ān in taking advantage of the mind, and the soul in the life of the human being, as the Almighty Allah says: *"Then set your face upright for religion in the right state – the nature made by Allah in which He has made men; there is no altering of Allah's creation that is the right religion but most people do not know (30:30)"*, or as He says, "... those of His servants only who are possessed of knowledge fear Allah ... (35:28)."

(B) Those things which are external, such as wisdom, the religion, and the book which the Almighty Allah sent by the messengers detail for the human being the way in which he may accomplish these aims. As the Almighty Allah says: *"And we have revealed to you the Book with the truth verifying what is before it of the Book and a guardian over it, therefore, judge between them by what Allah has revealed and do not follow their low desires (to turn away) from the truth that has come to you; for every one of you did We appoint a law and a way, and if Allah had pleased He would have made you (all) a single people, but that He might try you in what He gave you, therefore, strive with one another to hasten to virtuous deeds; to Allah is your return, of all (of you), so He will let you know that in which you differed (5:48)"*.

On this basis one can understand the rights, their limits, and their indications.

Will (choice, freedom) is the instrument and the motive which enable man to achieve perfection, for when Allah created man He placed him before two ways with their elements within himself. One of the ways is a reactionary one which connects man to earth and the other is a perfectionist one.

In terms of the first one the human being emphasizes the feelings, sympathies, and desires, and considers them the means and the aims and attempts to exploit the existence (earth, society and his fellowmen) for their sake. The Almighty Allah says: *"Have you then considered him who takes his low desire for his god, and Allah has made him err having knowledge and has set a seal upon his ear and his heart and put a covering upon his eye . Who can then guide him after*

Allah? Will you not then be mindful (45:23)?" The Almighty Allah also says: *"And recite to them the narrative of him to whom We give Our communications, but he withdraws himself from them, so the Shaytān* (satan) overtakes him, so he is of those who go astray. And if We had pleased We would certainly have exalted him thereby; but he clung to the earth and followed his low desire... (7:175-176)."

In terms of the second one the human being becomes a representative of Allah on earth, and his fate is in the hands of Allah. Allah the Almighty says: *"O man! surely you must strive (to attain) to your Lord a hard striving until you meet Him (84:6)."*

And Allah has created in man the ability to choose by his own will as the Almighty Allah says: *"Surely We have shown him the way: he may be thankful or unthankful (76:3)."* Or as He says: *"And pointed out to him the two conspicuous ways. But he would not attempt the uphill road, and what will make you comprehend what the uphill road is? It is the setting free of a slave (90:10-13)."*

By the way of tests and experiences in meeting these two ways the human being can move towards perfection or can fall to evil and vice and thus to the lowest part of hell. As the Almighty Allah says: *"And if the people of the towns had believed and guarded (against evil) we would certainly have opened up for them blessings from the heaven and the earth, but they rejected, so We overtook them for what they had earned (7:96)."*

(4) Faith in the life Hereafter. the Islamic understanding of eternal human life, the issue of revival and punishment, hell and paradise will perfect our understanding of the human rights. These rights are not only connected with the welfare of the human being in this life, but they are connected with the life in the world Hereafter in which the human being achieves perfection through his life in this world and encounters tests, pains, and disasters. The role of the rights is to achieve a balance in the behaviour and the human activities and their effects. Some types of pains, suffering and deprivations turn to levels of perfection and pleasure in the life in the world

Hereafter. The Almighty Allah says: "*Or do you think that you would enter the garden while yet the state of those who have passed away before you, has not come upon you; distress and affliction befell them and they were shaken violently, so that the apostle and those who believed with him said: 'When will the help of Allah come? Now surely the help of Allah is near (2:214).*"

3. The legal side of human rights in Islam

By this religious theory and the knowledge of the reality of life, the issue of placing the laws and the judgements that aim to preserve the balance between the needs and the demands of nature from one side and the demands and the needs of the movement of perfection on the other side becomes a very necessary one and a right for the human being in this life which Allah imposed onHimself.The Almighty Allah says: "*Surely We have revealed to Nūh (Noah) and the prophets after him, and We revealed to Ibrāhīm and Ismā'īl (Ismael) and Ishāq (Issaq) and Yāqūb (Jacob) and the tribes, and 'Īsā (Jesus) and Ayyūb (Job) and Yūnus (Jonah) and Hārūn (Aaron) and Sulaymān (Solomon) and We gave to Dāwūd (David) the Psalms. And (We sent) apostles We have mentioned to you and to Mūsā (Moses) Allah addressed His Word, speaking (to him): (We sent) apostles as the givers of good news and as warners, so that people should not have a plea against Allah after the (coming of) apostles; and Allah is Mighty, Wise (4: 163-165).*" Allah also says: "(All) people are a single nation; so Allah raised prophets as bearers of good news and as warners, and He revealed with them the Book with truth, that it might judge between people in that in which they differed; and none but the very people who were given it differed about it after clear arguments had come to them, revolting among themselves; so Allah has guided by His will those who believe to the truth about which they differed; and Allah guides whom He pleases to the right path (2:213)."

The laws which organize these rights are not just an attempt to emphasize the "self" side in the human being on one side and to safeguard him from the troubles by others

on the other side. They are to preserve the balance between the demands of nature, and the aim of the existence of the human being on this earth, which is to reach total perfection.

The theory of Islam says that the human being is Allah's creation and in effect is His slave. In addition, the direction of human nature is up to the Creator. These rights in fact are Allah's right (Lord of this human being) in all the details of his life. Therefore, because this natural right is always in harmony with divine wisdom it expresses facts and realistic things in the life of the human being which represent his welfare,and lead him to perfection and progress in this life and the life in the world Hereafter. They do not express the need of the Creator for those activities because Allah is Independent and is the owner of praise. Allah says: *"And His is whosoever is in the heavens and the earth; all are obedient to Him: And He it is Who originates the creation, then reproduces it, and it is easy to Him; and His are the most exalted attributes in the heavens and the earth, and He is the Mighty, the Wise. He sets forth to you a parable relating to yourselves: Have you among those whom your right hands possess partners in what We have given you for sustenance,so that with respect to it you are alike; you fear them as you fear each other. Thus do We make the communications distinct for people who understand. Nay, those who are unjust follow their low desires without any knowledge; so who can guide him whom Allah makes err? And they shall have no helpers. Then set your face upright for religion in the right state – the nature made by Allah in which He has made men; there is no altering of Allah's creation; that is the right religion, but most people do not know – turning to Him, and be careful of (your duty to) Him, and keep up prayers and be not of the polytheists, of those who divided their religion and became sects every sect rejoicing in what they had with them (30: 26-32)."*

The Need of Man for Divine Inspiration and Religion

This natural need expresses another need in the human being for the Almighty Allah. The need for Allah to send messengers, prophets and to send scriptures and laws to

organize these rights and to preserve the balance among them is to guide him to the path of total perfection. These rights, as previously stated—express realistic issues in the life of man such as the need for satisfying his instincts, the need for freedom and will to move in the path of perfection. These rights are not just religious doctrines or legal limits put by Allah on the worldly legislators to organize the mutual rights among the human beings themselves. The reality of these rights is not enough to make the man able to realize his limits which preserve the balance between the natural needs and too many needs as it was pointed to in the previous Qur'ānic verse (2:213). Therefore, man needed the religion and the divine inspiration. In other words is the man able — keeping in mind that these rights are realistic – to know the limits of these rights based on his social experience and his natural realization? And could he then initiate special laws concerning them through religious understandings and natural facts previously pointed to? Or does this man need the divine inspiration and the religious legal limitation? The answer to this question is connected basically with the issue of the necessity of the divine inspiration and sending the messengers and the prophets, and explaining the difference between the social experience and the natural experience of man, through which he can discover the natural facts and put the limits and the laws to preserve the balance among them and to deal with their problems.

This subject was generally discussed by our illustrious teacher Martyr Seyed Bāqir Al-Sadr in his book: "Our Economy", Vol 1, p 320.

I would like to discuss a set of points which will clarify this discussion.

(A) These rights are connected to the complicated issue of perfection. Its limits can only be realized by the Almighty Allah because this issue is linked with those grades and levels which do not have any end and cannot be realized by man through his senses and practice. Human perfection is an issue to which the extracted human soul is linked to by the great levels it could reach. Even the examples that the Almighty

Allah has presented as a guiding path are not enough to achieve this purpose because the human being can only comprehend a little from these examples.

(B) The life of the human being which the movement of perfection is crystallized in is not only this life but the life in the world Hereafter too, and the characteristics, the needs and the demands of it. The human being cannot realize the issues which are linked with the life in the Hereafter except through divine inspiration.

(C) These rights are connected to the individual but they also have a relation to the group. The rights of the group cannot be limited to the stage of the time lived by this individual. They also have a relation to the historical movement of man because the dimensions or the limits of the effect of the activities and the actions of the human being are not just within the stage of time lived by the individual. They even have an effect on the history and its future movement. Therefore, even if this individual is able to realize the stage of time he lives, he cannot realize all the limits and dimensions of the future and what are the right relations which can effect it.

There is a natural experience for which the Almighty Allah has deputised the human being, ie, to acquire scientific knowledge. The results do not interfere in the human perfection, but they guarantee the human being the best material means to preserve his worldly life. Therefore, if the human beings did not realize the natural facts and their limits and problems, this will not effect the progress of his real perfection. This is in contrast to the social issue. The social issue is directly connected with the perfection issue and therefore man's ignorance of its facts, limits, and the way to deal with its problems will naturally effect the progress of his perfection and lead to the deprivation of the coming generations from this perfection.

Therefore, the human perfection was reached by the human being as it happened to many prophets and their followers in the previous ages and that the natural

imperfection in those ages did not harm the life of man.

4. A Division of the Discussion on Human Rights

On the basis of the previous observations the discussion on the human rights can be divided according to the following:

(A) The religious discussion: One cannot discuss the issue of human rights without discussing religion in the existence of the human being and the Universe. These rights are natural rights. Nature could be an effective right in the movement of the human being within this mental and theoretical framework. Even some of the ideological principles are part of man's nature such as the issue of the unification of Allah in worship. Thus it naturally mixes with the issue of human rights.

(B) Knowing the nature of these rights will help us to avoid a great deal of divergence and discussion of many legal and scientific terms which the nature of the word 'right' itself imposes. Therefore, one of the topics of research for law and *fiqh* is to distinguish between right and judgement, and to what extent the word 'right' fits into some of these human rights.

One comes to the understanding that what is meant by rights are those human rights which man by his nature realizes and is directed to him by what Allah has placed in his conscience, senses and feelings which according to philosophers represent the practical mind.

Three Main Dimensions of Human Rights

The rights can be divided into three main dimensions. Some examples of these rights are linked to these three:

(A) The rights linked to the purpose of the existence of the human being on earth

(1) The right to worship Allah.

(2) Freedom from slavery to others and to be loyal to the Almighty Allah. As the Almighty Allah says: *"I created the*

jinn and mankind only that they might worship Me (51:56)."

Also the Almighty Allah says: *"And verily We have raised in every nation a messenger (proclaiming) to serve Allah and shun false gods. Some of them whom Allah guided and some of them upon whom error was due. Do travel in the land and see the nature of the consequence for the deniers (16:36)."*

(3) The right of perfection (paradise, morals, and *jihād)* As the Almighty Allah says: *"You verily O man must strive (to attain) to your Lord, a hard striving until you meet Him (84:6)."*

(4)To know Allah, know the truth and the right to think and meditate,and send messengers. As the Almighty Allah says: *"... Those of His servants only who are possessed of knowledge fear Allah ... (35:28)."*

(5) To know about religion and its doctrines: As the Almighty Allah says: *"He it is who sent among the unlettered ones a messenger of their own, to recite unto them His revelations and to purify them, and to teach them the Book and Wisdom, though heretofore they were indeed in manifest error (62:2)."*

(B) The Rights linked with the existence on Earth

(1) Life: "But the *shaytān* made them both fall from it, and caused them to depart from that state in which they were; and We said: *"Get forth some of you being the enemies of others and there is for you in the earth an abode and a provision for a time (2:36)."* In addition the Almighty Allah says: *"For this reason did We prescribe to the children of Israel that whoever slays a soul unless it be for manslaughter or for mischief in the land, it is as though he slew all men; and whoever keeps it alive, it is as though he kept alive all men; and certainly Our apostles came to them with clear arguments but even after that many of them certainly act extravagantly in the land (5:32)."*

(2) Eating, drinking, and residing: *"He it is Who made the earth smooth for you, therefore go about in the spacious sides thereof and eat of His sustenance and to Him is the return after death (67:15)."*

(3) Marriage (marriage and sexual relations): *"And one of His signs is that He created mates for you from yourselves that you may find rest in them, and He put between you love and compassion; most surely there are signs in this for a people who reflect (30:21)."*

(4) To exploit the earth, to construct it and to enjoy its wealth: *"And certainly We have established you in the earth and made in it means of livelihood for you. Little it is that you give thanks (7:10)."* The Almighty Allah also says: *"Who made the earth for you expanse and made for you therein paths and sent down water from the cloud; then thereby We have brought for the many species of various herbs:Eat and pasture your cattle; most surely there are signs in this for those endowed with understanding (20:53-54)."*

In the beginning come the political rights such as:

(1) Dignity - as Allah says: *"And surely We have honoured the children of Ādam and We carry them in land and the sea, and We have given them of the good things, and We have made them to excel by an appropriate excellence over most of those whom We have created (17:70)."*

(2) Justice - *"O you who believe! Be upright for Allah, bearers of witness with justice, and let not hatred of a people incite you not to act equitably; act equitably that is nearer to piety, and be careful of (your duty to) Allah, surely Allah is aware of what you do (5:8)."*

(3) Equality - *"O you men! surely We have created you of a male and a female, and made you tribes and families that you may know each other; surely the most honourable of you with Allah is the one among you most careful (of his duty); surely Allah is Knowing, Aware (49:13."* Or, as the Almighty Allah says: *"It will not be as per your vain desires nor of the people of the Scripture. Who does wrong will have the recompense thereof; and will not find against Allah any protecting friend or helper. And whosoever does good works, whether of male or female, and he (or she) is a believer, such will enter paradise and they will not be wronged the dint in a datestone (4:123-124)."*

(4) The nature of the relation between the ruler and those who are ruled: The ruler has the right to be loyal to those he rules: *"And whoever takes Allah and His apostle and those who believe for a guardian, then surely the party of Allah are they that shall be triumphant (5:56)."* Also the ruler has the right to have the obedience of those he rules: *"O you who believe! Obey Allah and obey the Apostle and those in authority... (4:59)."* And the ruler must prefer the welfare of the group over the welfare of the individuals: *"The Prophet has a greater claim on the faithful than they have on themselves (33:6)..."* It did not beseem that the people of Madīnah and those round about them of the dwellers of the descrt to remain behind the Apostle of Allah, nor should they desire (any thing) for themselves in *preference* to him.. (9:120)." "Only those are believers who believe in Allah and His Apostle, and when they are with him on a momentous affair they go not away until they have asked his permission; surely they who ask your permission are they who believe in Allah and His Apostle... (24:62)." The ruler must listen and take their advice, and counsel: *"... so (as for) those who believe in him and honour him and help him, and follow the light which has been sent down with him, these it is that are the successful (7:157)." "O you who believe! Betray not Allah and His messenger, nor be unfaithful to your trusts while you know (8:27)."* The ruler must order lawful things, and forbid unlawful things: *"And (as for) the believing men and the believing women, they are guardians of each other; they enjoin good and forbid evil and keep up prayer and pay the poor-rate, and obey Allah and His Apostle; (as for) these, Allah will show mercy to them; surely Allah is Mighty, Wise (9:71)."* The ruler must be an example to those he rules: *"Certainly you have in the apostle of Allah an excellent exemplar for him who hopes in Allah and the latter day and remembers Allah much (33:21)."*

As for the subjects:

(1) They have the right to have mercy, to be lenient to, to be pardoned and to be concerned for: "Certainly an apostle has come to you from among yourselves, grievous to him is

your falling into distress, excessively solicitous, respecting you, to the believers (he is) compassionate, merciful (9:128)."

(2) To have a clear political stance: "... *So when you have decided, then place your trust in Allah; surely Allah loves those who trust (3:158)."*

(3) To be kind: *"Thus it is due to mercy from Allah that you deal with them gently and had you been rough, hard-hearted, they would certainly have dispersed from around you; pardon them therefore and ask pardon for them ...(3:158)."*

(4) They have the right to be consulted: "... *and take councel with them in the affair... (3:158)."*

(5) To have justice among them: *"I believe in what Allah has revealed of the Book, and I am commanded to do justice between you... (42:15)."*

(C) The strategic legal definitions established by Islam for these rights

Islam is the religion of nature, and therefore, it cannot go beyond nature or be cancelled.It is evident that the man's natural feelings are stored in him for the purpose of doing good. These are linked with the original aim that Allah creates the human being for, that is, to be, His representative on earth. These feelings get combined inside the human soul. In the progressive stage of the human beings life (the social stage) man needs law and religion. He also needs education, wisdom and divine inspiration.

In terms of legality and legal definitions the following two points must be discussed:

(i) Considering that these rights represent facts in the life of the human being, they have a relationship with the movement of human perfection.Actually,there are duties and responsibilities more than there are rights,in the true meaning of the word, such as the right of worship, the right to life, eating, and drinking, the right of freedom, justice and human dignity.

(ii) In comparing the human rights in Islam to those of worldly conventions and proclamations (for example: the

Human Rights Proclamation of the UN), the Islamic theory concerning the human rights is more progressive and complete legally and religiously. Also it is more in harmony with the present though these rights were emphasized fourteen centuries ago.

5. The Islamic guarantees to Practise Human Rights

When theoretically comparing between human rights in Islam and human rights in the UN Human Rights Proclamation there may not seem to be great differences, generally. The cause of the vast gap is between the ideas reached by the global legislators and the existing results in the practice of human rights in the present communities. Therefore, it is important to know the contradiction between the theory and practice. As such it is important to know the reason for the difference between the slogans and the miserable existence lived by humanity in its present life. I believe that the reasons can be summarized by the lack of guarantees to practise the theory of human rights. However in the Islamic theory, Islam emphasized the human rights and also emphasized the guarantees of practising them in a way which did not separate between them and the responsibility of the human being towards achieving them and crystallizing them in their practical life. *"And from among you there should be a party who invite to good and enjoin what is right and forbid the wrong, and these it is that shall be successful (3:103)." "And (as for) the believing men and the believing women, they are guardians of each other; they enjoin good and forbid evil and keep up prayer and pay the poor-rate, and obey Allah and His Apostle. As for these Allah will show mercy to them; surely Allah is Mighty, Wise (9:71)."*

Human rights are not just legal concepts or contracts agreed upon by legislators. Human rights are like the current issues for which the human being bears the responsibility to practise in such a way that this responsibility turns into a natural right for the human being which he practises with strength and freedom.

The guarantees that Islam imposes may be summarized

as the following:

(1) The government plays a main part in guaranteeing the practice by way of enforcing justice, and condemning wrongfulness. The Islamic government is formed in such a way that this guarantee is achieved. I have previously dealt with this topic and the characteristics of the Islamic government and its role in achieving this aim in the past year. *"Those who,should We establish them in the land, will keep up prayer and pay the poor-rate and enjoin good and forbid evil; and Allah's is the end of affairs (22:41)."*

(2) The contents of the ideological background and the religious theory of the human being and the results from them in terms of culture and morals is needed. Without this religious theory, the progressive culture and education and their results, the problem of injustice and the extortion of man's right will remain unsolved, regardless of the fact whether one imposes alternate theories or reaches different decisions. This combination will remain in the movement of the human being in his natural realizations and his good intentions which will tie him to the earth and degradation. Therefore, the Islamic culture, which is the result of divine inspiration and adheres to divine guidance, is the only guarantee for the issue of practice. *"We said: Go down, all of you, from here ; but verily there comes unto you from Me a guidance: no fear shall come on them nor shall they grieve (2.38)."* Thus, one of the basic tasks of the prophet was to instruct and teach the divine culture. *"Our Lord! and raise up in them an Apostle from among them who shall recite to them Thy communications and teach them the Book and the wisdom and purify them; Surely Thou art the Mighty, the Wise (2:129)." "Take alms out of their property, you would cleanse them and purify them thereby, and pray for them; surely your prayer is a relief to them; and Allah is Hearing, Knowing (9:103)."*

(3) Adherence to *Jihād* (method of sacrifice and struggle) for the purpose of achieving these goals: Achieving justice in the world can only be accomplished by the latter because the historical experience of man's movement and the issues of

justice, injustice, liberty, slavery, and human perfection which the Gracious Qur'ān places before us prove the necessity of man's struggle against the tyrants who impose slavery, injustice, and corruption on earth. It also proves the necessity of man's struggle against the lusts, desires and interior pressures which man faces in his life. *"And strive hard in (the way of) Allah, such a striving as is due to Him; He has chosen you and has not laid upon you any hardship in religion, the faith of your father Ibrāhīm; He named you Muslims of old times and in this (Book), that the Apostle may be a witness to you and you may be witness to the people; therefore keep up prayer; and pay the poor-rate and hold fast by Allah; He is your Guardian; how excellent the Guardian and how excellent the Helper (22:78)."*

Therefore it is evident that the Islamic theory places before us the matter of the struggle against the tyrants, and the issue of fighting them with arms *(Jihād)* as a basic means to achieve the rights and establish justice. *"Permission (to fight) is given to those upon whom war is made because they are oppressed, and most surely Allah is well able to assist them; those who have been expelled from their homes without a just cause except that they say: 'Our Lord is Allah'. And had there not been Allah's repelling some people by others, certainly there would have been pulled down cloisters and churches and synagogues and mosques in which Allah's name is much remembered; and surely Allah will help him who helps His cause; most surely Allah is Strong, Mighty. Those who, should We establish them in the land, will keep up prayer and pay the poor-rate and enjoin good and forbid evil and Allah's is the end of affairs (22:39-41)."* The Gracious Qur'an also called upon the Muslims to fight to establish justice and to help the oppressed who cannot fight against the tyrants. *"And what reason have you that you should not fight in the way of Allah and of the weak among the men and the women and the children (of) those who say: Our Lord! cause us to go forth from this town, whose people are oppressors, and give us from Thee a guardian and give us from Thee a helper (4:75)."*

In addition, the Gracious Qur'ān finds it unacceptable

for a Muslim to submit to injustice. The Gracious Qur'ān has asked him to act in such a way as to achieve justice and to emigrate for the cause of Allah to His vast land for staying behind will lead to Hell in the Hereafter: *"Surely as for those whom the angels cause to die while they are unjust to their souls, they shall say: 'In what state were you?' They shall say: 'We were weak in the earth'. They shall say: 'Was not Allah's earth spacious, so that you should have migrated therein?' So these it is whose abode is hell, and it is an evil resort (4:97)."* In terms of fighting lusts and desires, it is considered a basic matter to achieve justice. "O Dāwūd! surely We have made you a ruler in the land; so judge between men with justice and do not follow desire, lest it should lead you astray from the path of Allah; (as for) those who go astray from the path of Allah, they shall surely have a severe punishment because they forgot the day of reckoning(38:26)." "And so for him who fears to stand in the presence of his Lord and forbids the soul from low desires, then surely the garden - that is the abode, (79: 40-41)." "Or do they say: There is madness in him? Nay! he has brought the truth, and most of them are averse from the truth. And should the truth follow their low desires, surely the heavens and the earth and all those who are therein would have perished. Nay! We have brought to them their reminder, but from their reminder they turn aside (23:70-71)."

One notices that in the readings of the Gracious Qur'ān that in order to achieve these guarantees, the cultural practice according to the Glorious Qur'ān, in the human community, is linked to the political action and the spiritual education. The latter was combined with the existing movement which resulted in moral perfection. This must be attended to in the matter of human rights, and cultural and combatant activities should be linked to the existing movement towards the direction of achieving human rights: *"By the declining day, Lo! man is in a state of loss, save those who believe and do good works and exhort one another to truth and exhort one another to endurance (103:1-3)."*

The Islamic guarantees and the historical experience of Islam

The Islamic experience of the first period of Islam is the best example in this regard. This experience, in short period of time, achieved a real change in the life of the human being. It made a revolution in the matter of human rights not only theoretically but practically. The latter was not solely limited to Arabic lands, but it also appeared in different parts of the world. These three elements played a main role in this change.

In the following we will discuss two examples with regard to human rights which were the topic of many discussions during the history of mankind including discussion on human rights in Islam. By observing the results of these two examples one learns the extent of the accomplishment achieved by Islam in the matter of human rights both theoretically and practically. Since the theoretical side has a special importance and needs a suitable comprehension and understanding, I will only point to the practical side which is a natural reflection of the theoretical side.

First: The slaves and the masters: Islam was able, through three elements (the ruler, the culture and *Jihād*), to restore to the slaves their dignity and their place in social life and to destroy all the social and psychological obstacles before them. Thus, they were able to reach the highest post in the Islamic state and to have their full human and social dignity. There are many examples regarding this occurrence from the first period of Islam and its later stages. Salmān-e-Farsi, Bilāl, Ṣuhayb the Roman, Zayd bin Hārithah, Abdullāh bin Mas'ud, and 'Ammār bin Yāsir and others played very important roles in regard to social and political tasks. Also they all had famous social relationships in the history of Islam. Islam was able to dispose of slavery in the Arabic region in a short period of time without exposing the society to economic, political or military struggle, and without the need to fight horrid wars to achieve the latter, as it happened in some Western communities such as the United States. The United States engaged in a war but it could not pluck out the psychological, moral and practical roots of racial distinction

despite the passing of time, political and propaganda activities and ingenious slogans used.

Second: Islam was able to raise woman's standard. It enabled her to effectively contribute to the development of the human Islamic community while at the same time making her able to maintain human dignity and family and social relations. This may be one of the reasons behind the great care which the Gracious Qur'ān displays for the woman and the marital relationship and also matters such as suckling, matrimonial relations, and alimony.

The aim of the gracious Qur'ān was not to solely present theories but to make a practical change in the people and in the human being. This accomplishment materialized through the discussion of the details of a matter which holds a great deal of importance in the human community. There are various examples of women in the Islamic society who have the special respect of the Muslims. This occurrence displays the level that women could possibly reach. These women include: Khadijah (AS), the mother of the believers, who played a significant role in the political life of the Muslims. Another example is Fātimah (AS), the head of all the women, who played a significant cultural and political role in the life of the Muslims. Others included in this list are the wise and the great Zaynab (AS), Asmā' bint 'Omays, Asmā' bint Abū Bakr, Umme Salamah and 'Āyeshah, the mothers of the believers, and similarly Sukaynah bint Ḥusayn and many others who played a significant role in the Islamic society.

Previously women were unable to reach this social level when she was a play-thing in the hands of man or when the man felt a shame at the birth of a daughter to such an extent that he used to kill her as soon as she was born. As the Gracious Qur'ān pointed to: *"And when a daughter is announced to one of them, his face becomes black and he is full of wrath (16:58)."* She could not have reached this status without practice, without the Islamic culture and education, and without the social and political responsibilities.

(6) Human Rights at Present

In simple review of the actions and activities of the human rights movement and the organizations concerned with it, one notices the following points:

(1) The efforts made by human beings for the sake of their rights, though there were many, were unsuccessful in achieving the desired results. For example, racial distinction is still in existence and officially practised, and the deprivation of civill and political rights is still practised by many countries in the world.

(2) A great deal of lip service was given for the demand of human rights. However, they were called for with a limited degree of seriousness. The evil forces dominating the oppressed nations, the arrogants and the tyrants, were able to control them and turn them into placards that were without any seriousness or truth. All the organizations concerning human rights were turned into advice groups which was given to those who violate them. These do not have any real effect in changing the miserable existence. A real cultural, political and combatant movement is needed. The slogan: "The human rights movement is a human movement, and not a political one" which is adopted by these organizations led this movement to strange and sometimes ridiculous results. Some countries, which violate human rights, become members of international political organizations, and sometimes become members of important and basic committees which adopt human rights matters and decide the fate and the rights of man in the world. And this movement imposes a series of routine procedures on those who demand human rights. All the cries, sufferings and pains of the oppressed become meaningless if they do not go through these routine procedures. Those who claim to defend human rights do not care to look at the bitter facts and the brutal crimes. For example, some officials of the human rights organizations stated to the delegation of the Supreme Council of the Islamic Revolution in Iraq, who visited Geneva to follow human rights issues, that though they were

certain that there were human rights violations made by the criminal Baghdad regime, they could not interfere without going through a complicated routine procedure about the facts of these violations. In most cases these organizations are satisfied with mere letter-writing and protests.

(3) The present movement of human rights thought of identifying these rights by collecting information about the violations of human rights in all parts of the world, and later placing this information in the hands of the superpowers to be used to achieve their vicious aims. It did not think about the real guarantees that are suitable in our present world. Also that when some political forces think of practising these rights, they only do so by the use of slogans. This action suits the Western civilization which tries to cover up its barbaric spirit by the use of such slogans.

For example, I was reading the proclamation issued by the Islamic Conference Organization regarding human rights. It can be classified as a good document and theoretically nearer to the Islamic understanding. What drew my attention was Code 27 of this proclamation which says: "All the countries, members in the ICO, will take all the procedures to practise the codes of this proclamation. We have the right to wonder about the procedures which these countries have taken towards the human rights matters and towards the injustice faced by the majority of Muslims all over the world? We find that the majority of these countries have violated these codes written in this proclamation. All the Islamic nations know the reality of these violations, though these countries are generally considered to be weak and their people are Muslims who believe in the Islamic religion. All of this makes us emphasize the importance of the practice and its guarantees when discussing the matter of human rights, and that must be the aim behind holding these conferences because it is the case which humanity suffers from in the first place."

Human Rights in Iraq

For the purpose of discussing the previous concept, and for the purpose of revealing one of the horrible tragedies in the Islamic World, we can discuss human rights in Iraq which were violated in such a way that it does not bear any resemblance to any violation in history. The violations are made with the evident knowledge of the international organizations and the Islamic Conference Organization. These organizations do not care about these violations or at least protest and reject them. I will first give some examples of these violations and then I will refer to a situation to which I bore witness.

In Iraq, a law was issued by which anyone who insulted the President, publicly, was sentenced to death. Also there was another law by which anyone who refused to join the aggressive war was sentenced to death, though there were thousands of Iraqis who believed that this war was against their religion and considered it as an act of aggression against peace. There is also another law which imposes the death penalty on anyone who works for or joins any Islamic party or group. An individual can also be sentenced to death if, while working in the armed forces, joins any party other than the Ba'th party.

— The regime arrests, imprisons, and executes its victims without legal trials.

— The regime arrests, imprisons, kills or expels the relatives of its opponents-those who work against the regime. There are presently thousands of detainees who are detained in the prisons of the regime and there are thousands who were expelled from Iraq for this reason.

— The regime destroys the villages and uses mass executions as a means to take revenge on its opponents who live in those villages.

— The regime executed and imprisoned thousands for practising their religious duties, though these duties do not harm anyone.

— The regime closed hundreds of mosques, religious

schools and establishments and turned the mosques and the Islamic graveyards to commercial places or general parks.

The regime tortures the prisoners using more than thirty methods of torture. Also, it gave and still gives slow poison to some of its opponents, who are set free only to face death a few days later.

— The regime imposes the participation or joining the Ba'th party by force and under the threat of imprisonment or expulsion. This activity occurs at a large scale in order to deform the Islamic identity of the Iraqi Muslim people.

The question is: What have we done to save the Iraqi people from all of this injustice? What have the international organizations done about this, for these organizations pretend to adopt and care for human rights issues?

My Personal Experience with Human Rights in Iraq

I was arrested on the 11th February, 1977. I was accused of participating in the religious ceremony of reviving the memory of Imam Ḥusayn (AS) ("the Husayni rites") and walking barefooted to visit the tomb of Imam Ḥusayn (AS). Once arrested I faced physical and psychological torture by which I was beaten on the hands and feet. My body was raised by tying my hands from behind my back. My head was pressed by a special device. They used the electric stick against me and extinguished cigarettes on my body. Also, I was punched in the head, face, and body. They insulted me by the use of bad language, and insulted my beliefs (the religion, Allah, the Messenger (SA), the infallible Imams (AS), the religious leaders, and the sect). I was threatened with execution. All of this was done with the purpose of making me to confess to unreal things. After 36 days (on 19th March, 1977), I was informed that I was sentenced to life imprisonment. I knew that this sentence was published in the newspapers and was announced on the television and radio. Ten people were executed in this case without any regular legal trials. Two members of the special party court, which was formed for this case, were discharged from their posts

and from the Ba'ath party because they refused to issue the previous sentence. These two members were Ezzat Muṣṭafā, Minister of Health, and Flayih Ḥasan Al-Jasim,Minister of Industry. Fifteen others were sentenced in the same manner. The head of a religious centre was threatened with death if he did not send a letter to the head of the regime asking mercy for those who were arrested.

I was forbidden from travelling abroad after I was set free by a general pardon. After the success of the Islamic Revolution, the regime arrested thousands of people. Among this group was my teacher and friend Āyatullāh Bāqir Al-Sadr and his gracious sister Bintul-Hudā. He was later executed along with his sister. His body was given to his family without allowing anyone to know about it or speak about it. In addition, seventeen members of my family were killed and the rest of the male members of my family, who are more than 50, were arrested, and are imprisoned to this day, with all of their properties confiscated. All of this was due to my leaving Iraq without the permission of the criminal authority and due to my political activities against the regime.

There are hundreds of cases of whose details I either saw or heard about in prison. In addition the regime executed more than 7,000 Kurds in 2 months. I personally heard this inside the prison from one of the jailors.

These horrible cases which are witnessed by our present world in Iraq, Afghanistan, Lebanon, Africa, Southeast Asia, Europe and the United States, need a vast political and cultural movement led by the Islamic religious leaders with an adoption of the faith of believing in the Almighty Allah, the human perfection and an adoption of the path of sacrifice and helping the wronged and oppressed with an attempt to establish justice everywhere. Without these things these discussions and research will remain useless and we will be unable to practise the human rights. We have great hope in the Islamic Revolution and in its great leader of the nation who depends for his political and cultural movement on the

bases of Islam. Without Islam, its philosophy, and justice cannot be achieved and injustice and extortion will increase.

In conclusion, I would like to thank the Islamic Propagation Organization for their continuous effort in serving Islam and giving me an opportunity to speak with you. I suggest that this Organization could establish an office to follow up the issues of human rights in the Islamic world and also defend these rights.

Wassalāmu 'alaykum!

Human Rights for Woman in Islam and in other Laws

Hujjatul-Islam Seyed Muhammad Khāmeneī

In order to make a comparative study of woman's human rights in Islam and in the Universal Human Rights Declaration, it is necessary to cast a glance, however brief, on the history of Human Rights and the passage of laws in respect thereof.

We believe that the first founders of human rights in general were the prophets and the divine religions. The efforts and strides of human understanding in introducing and revival of these rights during the past few thousands of years knowingly or unknowingly, are derived from the cultural remnants of the religions.

These human endeavours during the last several thousand years of human culture and civilization were mostly made by the kings and rulers. The motives behind these efforts in a majority of cases were not so lofty or human in nature. As a result of these initiatives which were aimed at acquiring rights for a few selected sections of society, rules were also made for the general public. References to rights for man as a whole have been made occasionally.

Some say that the first human efforts in this sphere were initiated by Hamurabi, the ruler of Babul, some 2000 years B.C. In the opinion of others it was the royal command of

Cyrus the Great, the king of Iran and the conquerer of Babul, nearly 1500 years thereafter, which is considered as the human rights declaration as it liberated the Jews and other nations from the slavery. History also refers to the brief endeavours made by other political personalities and scholars of the world thereafter. This includes the efforts made in Greece ad Rome mostly in the academics during discussions and in writings which made hardly any contribution to the benefit of the humanity as a whole. The last step in this race is the resolution of the U.N. General Assembly of December 10, 1948 which was adopted and declared as the Universal Human Rights Declaration. It is considered as man's lastest achievement to safeguard and protect individual and basic rights of the human beings.

It would be appropriate to refer here to two sensitive points. Firstly, that the basic roots of this Declaration have remained unnoticed, whether knowingly or ignorantly and the essential effect of Islamic culture thereupon has not been given consideration to.

As far as the French and English revolutions and other movements of the West and rest of the world are concerned, one may trace several political, economic and cultural factors, such as the injustice of authorities in the medieval age, the tyranny of the church priests, severe poverty and the cruel classification of the society and tens of other similar reasons. Yet the first sparks of the recognition and realization of human identity which influenced the thoughts of philosophers, lawyers and even the rulers and which became the source of revolutions or resulted in the farming of just laws to the benefit of the majority of people, were kindled from the teachings of original divine faiths particularly from the mainstream of the bright dynamic culture of Islam.

The substantiation of this cultural contact which though essential yet an independent affair, is not so difficult. There is enough material available in the works of the Westerners themselves which supports this contention, both directly and implicitly. Here it would suffice to state what has been said by

Dozi a Dutch orientalist in this book "The History of Spanish Muslims". He says that the slogan of freedom, equality and fraternity raised in the French revolution was taken from the Muslims of Andalusia.

A study of the Western culture from the days of Charleman till present day Europe would amply indicate the influence of Islamic culture on neo-European culture. One also comes across thinkers and scholars, like Thomas Acquini, who acquired the essence of their philosophy and knowledge from oriental Islam. It is, therefore, not surprising if the declaration of the French revolutionaries in the 18th Century and the works of European lawyers and social thinkers such as Rousseau, Voltaire and Monterquieu were influenced by the Islamic declaration of human rights and after a passage of two centuries it culminated in the Universal Declaration of Human Rights of the United Nations. It would be appropriate to know that the Hamurabi's declaration was also made nearly 200 years after the proclamation of Hazrat Ibrahim Khaleelullah (A.S.) as the prophet of Allah and after the expansion of the divine culture of human rights and freedom of human beings as declared by this great prophet. It is unlikely that the Hamurabi's declaration would have not been affected by the prophetic mission of Hazrat Ibrahim.

THE DEFECT OF IDEOLOGY DOMINATING THE U.N. DECLARATION:

The second point is the basic drawbacks of this controversial Declaration and the ideology dominating it. The Universal Declaration of Human Rights issued by the U.N. has a number of drawbacks and inadequacies which originate from the weak insight and defective ideology of its

framers.

The first deficiency of this Universal Declaration lies in its blemish structure, that is to say, it consists of only one resolution containing few advices and words of wisdom. Not only that it does not have any executive guarantee, but it also does not provide for any clear obligations for governments and rulers.

The great dificiency of this declaration is in respect of its essence and nature. This defect is a witness to the inadequacy and insufficiency of universal ideology ruling it. The term 'human being' used in the Declaration did not according to the understanding of its framers include the public as a whole. It is the outcome of a culture which regarded a particular group of men beyond the limitations of humanity and mankind. As we know, the foundations of the Western thought, which is derived from the Greek and Roman cultures is based on the superiority of some races over others; in other words, it was founded on racial discrimination.

In Greek of old days no man was considered perfect except the residents of Athens and occasionally the Greeks. The aliens, particularly the slaves, were called barbarians or savage. That is why they called their civil law as Jus-Jentume or Human Rights. Plato, the initiator of the divine philosophy of Greece, rather the West, thanks God for having born a Greek and not a non-Greek. He expresses gratitude for having born free and not a slave, for being man and not a woman. This is the basic thought which later took the shape of Nazism in Europe and recognized the superiority of the Anglo-saxon or the white over the coloured. This conception has left many a crimes in its trial which can be witnessed in the pages of history and continue even today.

The concept of Division of mankind in different sections has an old history behind it. No culture or faith except divine religions have contradicted it. If a school or a creed outwardly abolished the known classifications of its time, it replaced them with other system of classification based on apartheid. For instance in the days of Hamurabi also people

were divided into three groups — the nobility, the middle class and the lower class. In Egypt, China, the Far East, in India, in ancient Iran and in Greece and Rome, classifications of society did exist in different forms.

The effect of Egyptian and Roman culture is evident in Jewish and Christian religions. The Zionist Jewish Scholars always considered themselves of a superior, distinguished and privileged race than other human beings whom they thought as inhuman born to serve the Jews (Mohammad Khalifah Al Tunis, Al Khatar Al Yahudi, page 56).

The Christian scholars, instead of abolishing discrimination fell under its influence and deprived the non-Christians from many a rights. It is said that Saint Ambrois (340-397 A.D.), the spiritual leader of the Christians and in the opinion of others, the founder of 'international law of the West', believed that people other than the Christians were not a part and parcel of human society. In his view the divine human rights were only for Christians. This belief is also attributed to some others including Saint Augustin (354-430 A.D.) (Safdari, General International Laws, Volume I, page 126-127).

The other drawbacks and major flaws of this declaration concern the limitation of the meaning of freedom and slavery as described therein. The declaration can be summarized in two words: dignity of man — freedom of man. But these two terms are confined wihtin a narrow framework and under a low roof. One does not find the importance and depth provided to human dignity and freedom by Islam in this declaration. This flaw of the convention from human freedom prepared by a group of men is either due to faulty understanding and weak perception of its framers or else due to the same peculiar European culture derived from Greek and Roman racist laws.

Article (4) of the declaration describing bondage and slavery says that: "No one can be held in slavery and bondage ...". The sense of slavery as seen in the above article of the Declaration is limited to the sale and purchase of human

beings. Let us now compare the meaning of slavery as it is envisaged in Islam. The commander of the faithfuls, Hazrat Ali (A.S.) has described it in a brief yet beautiful and dignified sentence. He says: "Don't serve anybody else since Allah has created you free." (Nahjul Balaghah, Letter 31). Let us compare it with the holy verse of Quran which says: *"They have taken their doctors of law and their monks for lords besides Allah ... (9:31).*

For the United Nations, freedom means that nobody is purchased for money. As against this, Islam looks at freedom as not only the contradiction of outward slavery but the liberation of human body and soul as well as his thought and wisdom. Islam provides that none of these should be put under subjugation.

According to George Jordaque, a liberal writer, the freedom used in the language and sayings of Ali (the spokesman of Islam) is something which builds civilizations, brings about human revolutions and establishes humanitarianism and firm relationship between human beings...; freedom in view of Ali (A.S.) and Islam is the basis and foundation of all human rights.

Slavery in Islam is becoming captive of low animal instincts, submission to the mean service of the tyrants and the unmanly and becoming particular about wealth and position. It also means being particular about satisfaction of sexual desires and gluttony, even if the man is apparently a leader of a high-brow person.

Since the meaning of slavery in Western culture is that the man should not be the property of someone else, hence the West and also the United Nations do not consider collective slavery as a bondage (which has been in use in both the capitalist as well as the communist exploitative societies and has come to surface in its various forms whether in factories, farms and/or on the war fronts). For them the occupation of countries and conquest of the lands of other people who are not in a position to defend their interests as well as political and economic expansionism and the

exploitation of the weak through forced labour and plundering their wealth is nothing contrary to human aspirations of freedom and liberty.

It is for this reason that the United Nations on the basis of its limited narrow insight permits some of the powerful states to take over the protectorate of other peoples against their wishes and approves and also sanctions this mandate which is no less than bondage and slavery.

Economic subjugation and the collective bondage of millions of people in manufacturing centres and big agro-industrial firms in compensation for negligbly meagre wages is the real essence of some of the member-nations of the United Nations. It is these nations who have signed for Universal Declaration of Human Rights.

Let us compare this freedom with what Islam presents to the world. Let us see the type of freedom Islam provides for man. Let us observe how Islam contradicts forced labour and ridiculing of human beings:

One of the governors of Ali (A.S.) wrote to him once that it was suggested to him that the residents of the area be deputed to undertake the work of repairing the canal and waterways.The fruit thereof shall accrue to them and their own lands. Imam in reply wrote back that no one can be forced to work unless he agrees to do so and that the wages of every labourer should be paid to him... (Seyed Mohammed Khamenei, Ali and World Peace, pages 46-48).

Ali (A.S.) in reply to the political opponents who wanted to go to his enemy Moawiah, permitted them to go wherever they wanted to. He did not lend his ears to the ridicule of his friends as they prohibited him to do so. Hazrat Ali's permission to political opponents was accorded due to the fact that he feared lest he might restrict their freedom. Hazrat Ali ibn Abi Talib (A.S.) in reply to the query of his opponents whether they had the freedom to take or not to take the oath of his allegiance gladly told them that they were at liberty to do as they wished.

The honour and dignity of man provided for in the two

civilizations is very much different from each other. According to Western civilization and in the eyes of the United Nations, human dignity is an outward phenomenon and relates to man's body and external appearance only. In their view man is nothing more than a tool belonging to animal species. It is a creature which can reproduce and regenerate, which can speak and serve as beast of burden... It is on account of this perception that the massacre of millions of people throughout the world, from Vietnam to Combodia, from Korea to Afghanistan, Iran, Iraq,Palestine, Lebanon, Nicaragua, the Chile and hundreds of other places... is not regarded as disrespect to mankind. It is, again due to this point of view that genocide is perpetrated through explosion of atomic, hydrogen and neutron bombs and use of chemical weapons and the like. That is the reason why the superpowers close their eyes from and encourage war crimes. They feel that the usurpation of people's sovereignty over their ancestral lands and the seizure of their properties and national wealth does not damage their human dignity, honour and aspirations.

The Western civilization is, so to say, a mixture of so-called scientific beliefs and thoughts each of which, in its turn, has brought human dignity to the lowest possible ebb.

Man, in the eyes of the West, is an animal from the ape family. This is the theory presented by Darwin in regard to humanity. According to Freud, man, in short, is only after satisfying carnal desires. In other words, man is a creature who is a captive of tools of production and the unavoidable economic process. It leads its life under historic compulsions and forced violent natural currents without enjoying any dignity. This is what Marxism has to offer (In this way, in the eyes of the statesmen of these countries,man is nothing but a machine,made of organic substance instead of metal which has its own peculiar necessities, and no more...). Or in other words, it is a creature born to serve the interests of the capitalists and the feudal lords, to work for them and to sacrifice himself slowly and gradually at the altar in modern

temples which are the economic and financial centres of the Satans and earthly gods who are not other than the wealthy, the powerful, the rich and the superpowers. This is how the Western economic liberal theories describe man. According to the theory of nihilism, man is a superfluous being and natural waste which has no utility, no objectives and no dignity. The nihilists believe that man should take his numbered breaths and pass away to the land of the deads because his creation, probably the creation of the whole universe, is aimless and with no purpose... or according to Machia-velli man is fox-like animal which should lead a life of deceit, fraud, falsehood and dishonesty to snatch a mouthful of food, a position or a rank.

This is the man which appears in Western civilization whose supporters claim it to be world-wide and deliverer of mankind. This is the man which the claimants of humanitarianism are searching for in order to lend their support for dignity, freedom and human rights. It is for him that occasionally conventions, proclaim for him throughout the world granting human rights to him.

Can one expect a complete, a perfect and realistic Human Rights Declaration in such an anti-human civilization!

MAN AS PER THE ISLAMIC VIEWPOINT

As a result of these shortcomings in the presence and in the very basis of the Universal Declaration of Human Rights and due to the absence of a correct universal viewpoint among the framers of the Declaration and the administrators of the U.N. and agencies supporting human rights in the world, the Declaration and the huge organization supporting it are not only unable to provide these rights to the man but

occasionally themselves become a means for the deprivation of these rights. So often it is noticed that the U.N. Security Council, with the help of the power of veto accorded to the 5 powerful aggressive states, is run on the basis of the law of might and the superiority of the forceful.

This is an established fact that the realization of man's human rights is not possible without arriving at a correct appreciation of man and without having deep faith in his dignity and nobility. His defence and protection comes only thereafter.

Islam which originates from divine revelations and the laws of nature and blended with man's essence and temperament, is the first founder and messenger of true human rights. Fourteen centuries before the U.N. Declaration, Islam had presented the most perfect human rights declaration to the people of the world. It was Islam which, in words and deeds, granted the highest position and spiritual status to man which we shall refer to in brief.

Islam declares man to be the heir and successor of Allah. Obviously, Allah's successor cannot be a mean or a weak entity. This succession is the highest and loftiest evidence of men's glory and stature, from amongst whom are born the prophets who are the most amazing and important spiritual phenomenon of the world. In addition to this practical superiority, the holy Quran in a very expressive and formal manner declares that man has been granted special divine favours by bestowing on him nobility and superiority. It says: *"And surely We have honoured the children of Adam ... (17:70)."*

At another place the Prophet (S.A.) is said to have addressed people as the members of Allah's family. A tradition of Prophet says: "All men are members of Allah's family. Allah loves most he who is most helpful to others." The word **'nas'** or 'people' is the most comprehensive and the widest term inclusive whether Muslims or otherwise and irrespective of race, language, creed or faith. A school of thought which recognises man as the successor of Allah and

member of His family would provide him with the best rights and privileges and the highest status.

One of the manifestations of human dignity and honour in Islam is evident in its stand against oppression. Not only does Islam consider tyranny and oppression as a great contempt to humanity and does not tolerate it, but also considers toleration of tyranny (which is regarded by Christianity and some other schools of moral thought as pious deed and symbol of perfection) as banned and toleration of cruelty as an insult to the status of mankind.

The other manifestation of this regard is the correctness or the principle of trust in an upright person. Islam provides rules for this. Administrative and financial laws stress that the basis of action should be trust in peoples' professions. The revenue officials or those connected with collection of religious taxes should accept the claims or denials made by people. Use of force or violence in collecting government dues is strictly prohibited. They are directed not be beat any one or make him stand nor to sell anybody's property to provide for government dues. It is so because this is considered contrary to human dignity.

The commander of the faithfuls Hazrat Ali (A.S.), in a decree addressed to one of the collectors of taxes, wrote as follows:

"In collection of taxes and revenues do not sell their winter and summer clothings, their slaves or such of their animals as are of service to them; do not resort to whipping; ... (Nahjul Balaghah, Letter No. 51)."

As regards freedom which is the highest manifestation of human dignity, Islam provides for human freedom in its perfect sense which relates to the liberation of man's body and soul and thought and wisdom. This is the form of freedom Islam considers befitting for man. For Islam it is not only freedom but liberal mindedness which suit the dignity of man. That is why according to Islamic viewpoint, whoever he may be, to whichever race he may belong, whatever be his language, country or colour, deserves honour, dignity and

freedom.

Man, in Islam, more than any other culture, enjoys freedom of faith and no one can compel the other to discard his faith and forcibly convert him to Islam. The holy Quran says: *"There is no compulsion in religion; truly the right way has become distinct from error (2:256)."* It is because the right has been distinguished from the wrong path. It would be disrespect to man and deprivation of this freedom if he is not given the liberty of choice to make his own selection.

Man is free to go his own way, to stay where he chooses to. This is evident from the conduct of the commander of the faithfuls Hazrat Ali (A.S.) towards people during his rule. It is observed that he left them free to go wherever they desired - even to the court of Moawiah - and to conspire against himself.

Similar is the case of other liberties which are the right of a human being... so long as they do not clash with and damage the system of Islamic government and the social and individual interests of others. It is because the liberties and rights of others are equally respectable and their observance an obligation for others. Therefore, the rule of "negation of loss" is one of the recognised principles of Islamic jurisprudence and social law so that nobody's freedom endangers anyone else's liberties.

This principle as well as other laws and regulations and human rights in Islam are based on realistic world view and originate from the divine ideology. This realism, world view and laws and regulations are provided by Islam because these have reached man from the Creator of the world. These can descend from the One Who can say *"And certainly We created man, and We know what his mind suggests to him, and We are nearer to him than his life - vein (50:16)."*

It is on this basis and principle (that the Creator of a thing knows His creation and its requirements better than anyone else) that we believe that the most perfect human rights declaration — whether of man or woman, black or white, poor or rich, east or west, north or south... etc... etc... is

provided for by Islam and not the U.N. In practice also, the lack of correct recognition of man in other cultures, societies and civilizations, during the last 4000 years, from the times of Hamurabi till the advent of the United Nations, resulted in the absence of effective steps for the revival and preservation of human rights. So after the lack of understanding and knowledge of these supporters of man and their efforts to defend him have created fresh problems for mankind.

1. Woman from the Viewpoint of Western World

Having examined and observed the shortcomings and weak points of the U.N.'s Universal Declaration of Human Rights, one may conveniently understand its deficiencies in the preservation and revival of woman's rights.

Leaving apart the narrow and unrealistic world viewpoint, which forms the basis and foundation of the Human Rights Declaration and therefore, could not recognize the man in its entirety nor could it revive the lost rights of the human being, has proved to be far more defective and deficient in regard to woman's rights on account of the Western culture and ideology which has dominated the U.N. organization.

Woman, according to Western viewpoint and philosophy, irrespective of religious beliefs or otherwise, is far more oppressed and deprived.

For ages, woman in Western culture was branded as a mean, unclean, maleficent and inauspicious propaganda and show of woman's dignity and recognition of her rights, the remnants of the old ideology continue to affect the contemporary Western culture. In brief, the salient viewpoints expressed by Western philosophies and religions in regard to woman are as follows:

— Woman is a parasitic creature, all divine blessings are created for man.

— Woman is created for man (and not the vice versa nor as a comparison).

— Woman is a mean and unclean creature.

— Man is a noble creature but woman does not enjoy that status.

— Woman is malevolent and the germ of sin and spreads impiety.

— Woman shall not go to Paradise.

(Shaheed Motahhari's book Women's Rights in Islam, Page 115).

Unfortunately, these incorrect and unjust views in regard to woman do not exclusively belong to the West. Such par-fetched and unfair views in regard to woman exist in other religions and philosophies of the world as well. It is only Islam (and in principle, other divine faiths also but for any changes and deviations made therein) which has declared its opposition to such views openly in order to defend the human identity of the woman.

In order to prove this, it will be appropriate to cast a glance briefly at the history of religions, traditions and the rights relating to women in major world civilizations during the past centuries such as the Chinese, Indian, Iranian, Greek and the Roman. We will give short quotations from authors who have taken the trouble of collecting material in this regard.

In China, woman had a low social status. A Chinese woman belonging to the nobility has the following to say in regard to women of her age: "We, the women, belong to the lowest social status in society and the meanest jobs are entrusted to us." Chinese lores state that there is nothing lower and cheaper than woman. In China woman did not have the right to have meals in the presence of her husband. Daughters did not inherit property.

In India, women folk were considered as maids and bonded women. Woman was forced to call her husband as over-lord and master. The woman was prohibited from calling husband by his name. The "Manu" says that women are unclean like falsehood.

In ancient Iran also, woman did not enjoy social and economic freedom. Her status, in different periods of history,

for instance, during the period of Parthian and Sasanid rules was different. Though women in ancient Iran lived a better life than in other contemporary civilizations, but for the favourite wife, other women were no more than ordinary workers or maidservants. On the whole woman's status in the society during those days was no more than that of a bonded labour. She did not enjoy the right of choice, expression of views or her like and dislike.

In ancient Greece, woman lacked any social identity. She did not enjoy any position nor did she play any role in the glorious civilization of those golden ages. She was either kept hidden in the house or made the object of pleasure-seeking and obliged to work as a prostitute. A Greek historian states that a woman's name should be confined to the house like the woman herself. The famous Greek orator, Demoston says: "We want capricious women for pleasure-seeking and ...wives to give us lawful sons."

In Greece, woman was saleable and could even be gifted. The mother of Demoston, the orator was gifted by his father to one of his friends. It is also said that Socrates had loaned his wife to another famous orator, **Alsy Byted.** According to the prevalent customs of those days if a husband was not young, he was obliged to provide a young bed companion for his wife. However, woman was penalised with death sentence if she maintained any relationship without her husband's permission. (Hasan Sadr, The Rights of Women in Islam, Page 90).

In Rome, woman was sold and purchased like a slave. Woman did not have the right to property, association or even the right to live, in the presence of her father and husband. The father or the husband could sell, give on loan or on rent their wife or daughter. They could even kill her.

The above narration makes one realize the right status and position in the civilization whose glitter still dazzles the eyes of the West and the westernized. It is this civilization which is the base and mother of Western jurisprudence and of countries under its subjugation. One can understand the role

which women could play in the society or for the realization of themselves.

Woman in the eyes and beliefs of the Jews and the Christians who had diviated from the commands of their prophets was also similar to the beliefs of other nations. For instance, according to some Jews, the father could sell his minor daughter. Christian priests considered woman as the agent and manifestation of the devil and the root-cause of corruption and blasphemy. For many years they have been undergoing researches in their schools whether a woman could worship Allah like a man and whether she would enter the Paradise. They discussed whether woman was a human being having a soul and could be eternal or that she was a mortal being and does not have a separate soul? (Hasan Sadr, The Rights of Women in Islam, Page 14).

As a result of the prevalent culture of hatred towards woman and her worthlessness in Christianity, celibacy and occasionally the severance of sexual organs were encouraged. In their opinion marriage was a snare spread by the evil to throw the man into the hell.

The condition of woman amongst Arabs of pre-Islam days was similar to that in other nations. How can one expect any thing better from a nation living in the deserts and from the nomads when big civilizations with a background of many a centuries behaved in such a grave manner towards woman? The semi-barbaric Arabs before the advent of Islam looked at woman as a slave. They hated having a daughter who could neither fight nor plunder nor do any hard job. The news of the birth of a daughter made them angry and their face turned black with rage. In some of the tribes, the new born baby girl was immediately buried alive. In some other tribes, tradition provided that the woman belonged to the eldest son after husband's death.

In a tradition quoted from Aisha, the wife of Allah's Prophet (S.A.), it is said that two more types of marriages existed amongst the Arabs of the days of paganism in addition to the known matrimony. According to one system,

man gave away his wife on loan to another man and kept away from her. The other system was that a group of men, less than ten, married a woman. The child born to her belonged to one of them only. This shows that the woman was looked upon as a commodity or a slave.

The holy Quran has referred to some of these at different places and opposes them.

This was the status of woman in various nations before the advent of Islam, as well as after it. Unfortunately, despite the cultural and social evolution and scientific and ideological renaissance in Europe and great economic and social developments throughout the world, the remnants of the old beliefs and culture still persist amongst mankind.

A comparative and periodic study of woman's rights and social beliefs connected with it shows that it has passed through a series of processes and a number of stages. Researchers, in consideration of this process divide it into three stages:

In the first stage, woman is looked upon as a thing; an article of consumption which can be sold and purchased, hired and appropriated. It was a means of work and service to man, for producing children and to protect his property and progeny. She worked like the beast of burden. In many cases she did not have the right to stand by her husband or eat with him. The husband had even the right to kill her or subject her to torture.

The second stage begins with the advent and influence of divine religions on the pagan civilization and their domination on the latter. At this stage social groups were led to civilization to some extent. The woman came out of the situation of being a commodity and was recognized as a human being and the same species as the man. Yet the legal and civil relationship between them remained the same - the relationship of a master and a slave. The woman is sold and purchased by man; she is gifted to friends or given in trust or on loan or on hire. She has to work for man and fulfil his material and sexual needs. She has no right of choice or

freedom of expression. She does not inherit property and is deprived of financial independence. She is not free to acquire property or use it at her will. Her every thing belongs to her husband and after the death of her husband or father the property is transferred to the sons who are the successors of the deceased.

The late Allama Tabatabai has said in one of his books: "the French religious congregation in the year 586 A. D., after long discussions and discourses came to the conclusion that woman was a human being but created for the service of man." Till nearly one hundred years ago,.woman in England was not considered as a part and parcel of human society (Strategy of Woman in Islam, Page 15).

The third stage begins with the advent of Islam. She, like man, is equal to him in her birth, in her individual and social development, in her obligations towards Allah, the society and the family; in her capabilities for learning and training, in her abilities of ownership and usage, in her economic freedom and all other social and political privileges. The minor differences that exist between a man and woman, from Islamic viewpoint and Islamic law relate to their own peculiarities, specialisation and division of work and responsibilities.

This classification is not sufficient to describe the reality as a whole. It does not narrate the developments relating to women's rights and their origin in detail and in their true perspective.

In our opinion the evolution of women's rights in the West has passed through four stages and has now arrived at the fifth stage.

The first stage was the same period of barbarism or semi-civilization of mankind. Here woman, due to weak physique, maltraining and lack of education and knowledge, was treated as commodity. She was not looked upon as a human being.

The second stage is that of ancient civilization where woman is considered as human being but lower than man and

deputed to serve him. She is treated as a serf or maid.

During these two stages she does not only belong to man but her life and death are also under his control. Without believing in and depending upon the imaginary classification of historical materialism, we are of the opinion that the second period mostly coincides with the period of feudalism and big landlordism. It is for the same reason that with the downfall of that system and its replacement with the capitalist system (or the rule of the capital) which is known as bourgeoisie, the third inauspicious stage takes birth. With this the form of woman's rights also undergoes a change.

Third Stage: Woman enters a revolutionary period and achieves relative liberation from the bonds of man and family. The disintegration of the aristocratic, chieftain and feudal culture and the protocol, customs and traditions related to it, gave a sense of liberation and freedom from bondage to the woman folk. She, in certain cases, also appeared on the social and political scene. The breeze of apparent and proclaimed freedom caresses her beautiful veiled face.

This stage was reached after the renaissance and the French revolution and continued till the industrial revolution of the West. This is the period when capitalism and politico-economic liberation flourished. It was a period of delusion when woman having crossed the earlier two stages moved ahead and the glaze of freedom and liberty decorated her face. She threw away the dirty mantle of bondage and covered herself with a better and more glorious veil. The woman was drawn out of house and dragged towards bazar and workshops to work along side with man. She administered her individual life after acquiring relative economic freedom. The daughter leaves the family and bigger and widespread families give way to smaller (nucleus) families. Female attractions, accompanied with woman's status and position enters the wheels of economy and serves the interests of economy and politics at times. Relation between man and woman get liberalised and a gradual move

towards early corruption and barbarism is witnessed. Sexual liberty and, probably, corruption is encouraged and even facilitated by ruling regimes as well as open and hidden powers that may be. Artificial attraction, make up, beautification, dress fashions and leisures of life encircled the woman and took her into their grip. The family base which was considered as sacred in the olden days lost its worth and was shaken from its roots. It was replaced by freedom of sex and the noble feelings of morality and affection gave place to lust and selfish interests.

At this stage the little dignity which woman enjoyed in the aristocratic and feudal system was also lost. A realistic and deep glance at this condition shows that she was turned into an item of luxury which could be sold, purchased, hired or borrowed. The difference was that a hallow of bewitching slogans of human rights and the colourful rainbow of the propaganda for woman's lib and her deliverance from ancient traditional bondage was placed around her neck and she was surrounded by a modern machine life.

A comparative study of the political developments during this period indicates that there existed a secret and hidden move in the downfall and demolition of the fortress of feudalism and the aristocratic restrictions and their replacement with the outward freedom and liberation after the revolution. These were organized and handled by the free masonaries and the Jewish international zionism which appeared in different facets. It started functioning under the titles of freedom, equality, fraternity and similar other slogans which are now introduced under the caption of human rights. It encouraged and developed the culture of no restriction, spread sexual corruption and economic disorder (occasionally with the help of publications, cinema and other media and manifestations of art and with the assistance of art, culture and economies). The most important tool and weapon selected for the fulfilment of these objectives is the woman who also becomes the first sacrificial goat in this affair.

For the sake of this liberalism woman lost more of her dignity and individuality than what she could gain. Though during this process some progressive laws were passed which were in woman's interest and some women with relative preservation of their dignity and honour achieved desired goals such as in the fields of science and technology and obtained distinguished place amongst teachers, inventors, leaders of woman's rights or statesmanship, yet on the whole, she lost her true worth and real contribution in regard to womanhood (i.e., her natural position of being the centre of society). She came out to be a mutilated being which could neither be called a man nor a woman ... a creature who in the West is known as the 'third sex'.

The fourth stage is the state in which the woman presently exists. It is the state of retrospection in the miserable condition of woman and examination of her true human rights which are not more than a handful of words. It is a stage of the failure of centuries old experiments in modernization and liberty. It is the period of return to nature and the laws of nature ... its beginning can be seen amongst the Western intelligentia.

The West and the world which trails behind it shall at the end of their race in search of the real status of woman and, in principle, human rights for the entire mankind, will finally come in contact with Islam and hold it, provided we could quench their thirst by correct presentation and scientific and practical introduction of woman's rights in Islam and human rights as a whole.

The fifth stage is only the life giving belief in Islam and its laws under whose shadow one can hope mankind, specially the woman to reach her real and natural position. It is a stage of expectations in the future, a near future which shall hopefully dawn at an early stage provided no restrictions are placed in its way.

A comparative study on woman's rights in the West and its comparison with Islamic societies shows that the process and its stages in the east have been much more complicated

and full of social intercourse. It is because though changes took place in the European culture and social organizations and systems with the advent of the industrial revolution there, yet the two cultures, old and new, originated from the same society, land and the atmosphere. As against this, in Islamic countries and societies the ancient native and Islamic culture was badly damaged with the exploitative invasion of the European industrial civilization and the succeeding bourgeois culture which had its roots deeply buried in ancient European and Greek civilizations. This phenomenon also deprived the society of its many useful achievements.

In consideration of these distinctions and historical and social background, we may divide the process of woman's rights and the relevant social insights as follows:

Stage One: The approach of the nomadic and less civilized societies wherein woman was considered the property belonging to man like other articles and tools.

Stage Two: The age of big proprietorship and tutelage and the rule of kings and independent nobles and chieftains wherein woman worked like a bonded slave under the authority of man.

Stage Three: The advent of Islam and the epoch of woman's dignity and the total restoration of her human rights.

Stage Four: Pressure of national and traditional cultures and the return of pagan customs and traditions amongst the Muslim peoples under the influence of empires and rule of chieftains and feudal lords — the relative retrogression of woman towards pagan traditions (relating to stage two).

Stage Five: The invasion of Western culture and its damaging effects on native pagan — Islamic culture — beginning of conflict and cultural dualism and contradictions accruing from it in the social psychologies of these societies leading to woman's self-alienation.

Stage Six: We are at the threshold of this stage which is the second dawn of Islam, revolutionary and real Islam free from previous embellishments and the realization of the true

and natural rights of woman.

2. Woman from the Wiewpoint of Islam

The Islamic faith and its viewpoint in regard to woman's human rights are considered as a big and glorious revolution of the world. Islam with the presentation of this ideology immediately discarded all those humiliating beliefs and false views of the pagan period and instead introduced a new model of social relationship of woman to the world.

Whereas the Christian church regarded woman as an extra creature, a parasite depending on man and born of man's left rib, man was deemed altogether a different creature. On the contrary Islam declared that the destiny of man and woman as well as their creation was correlated and they were created of a 'single being'.

The holy Quran by declaring that: "*O people! be careful of (your duty to) your Lord, Who created you from a single being and created its mate of the same (kind) (4:1)*", gives a convincing reply to all the pagan beliefs particularly to the academic views of the Christianity. It cancelled and rejected all baseless beliefs and wrong unfounded mistaken views prevalent amongst the people of the world.

Greater attention to this verse of the Quran brings more facts to our notice. In this verse the use of the word 'people' for both man and woman equally shows that in the eyes of the Almighty Allah man and woman are equal and so are they as far as their human aspect and individual dignity is concerned. Secondly, man and woman are equalled while called upon in this verse of the holy Quran to "piety", submission and worship. All this is an indication of the capability, potential and ability of the woman to achieve moral and spiritual perfection and realization of the highest position of humanity, equal to that of a man. It also proves the growth and wisdom of the woman folk because it is wisdom which is necessary for obligation and obedience.

Thirdly, man and woman are uniformly born of a single being (which is the common source of both the sexes).

Woman is also like a limb of the body of humanity. She is complementary to and a part of man's being. It is not its supplement or its offshoot.

A tradition of the holy Prophet (S.A.) states that: "Women are born together with men." This togetherness and equality amongst men and women lie in human dignity and honour.

Islam's views in regard to woman can, on the whole be examined from four different angles: (i) an overall view of woman (ii) Islam's view in regard to mother (iii) Islam's view on spouse and (iv) Islamic views in regard to a daughter.

(i) Islam's overall View on Women: As stated earlier many a verses of the holy Quran and plenty of traditions from the holy Prophet (S.A.) and the Shiite Imams can be traced in this regard. We are not in a position to bring together all of them in this brief discourse. We shall, therefore, restrain ourselves to quote only a few as example:

(a) Quranic Views on Woman: The following Quranic verse indicates that man and woman are equally Muslims and the faithful. It says:

"Surely the men who submit and the women who submit, and the believing men and the believing women, and the obeying men and the obeying women, and the truthful men and the truthful women, and the patient men and the patient women, and the humble men and the humble women, and the almsgiving men and the almsgiving women, and the fasting men and the fasting women, and the men who guard their private parts and the women who guard their private parts, and the men who remember Allah much and the women who remember Allah much, Allah has prepared for them forgiveness and a mighty reward (33:35)."

This verse of the holy Quran is an indication of the right to chose one's faith and complete freedom. It also points out that men and women are equal and their ideas are developed. It also relates to their real individual identity. Both are equal in regard to their obedience and worship to Allah, which is the highest stage and the loftiest action of a human being.

Both, men and women, stand equally in the manifestation of their truthfulness and patience, which is nothing other than desire and struggle or belief and crusade - the most glittering phase of man's social obligation. Similarly, they are equal in their humility, almsgiving, fasting and piety and remembrance of Allah, which are the major phases of practical obedience or of the spiritual journey in the path of Allah. There is no difference between man and woman in regard to the performance of the above mentioned obligations. Allah, in response to all these manifestations of lofty human souls, irrespective of men or women, shall provide them with a big reward, without any distinction.

If Islam did not make any other mention of equality between man and woman, all that has been quoted above would have been enough to clarify the point of view of Islam in regard to woman and her lofty position granted by Islam. Allah, in another verse of the holy Quran says: *"So their Lord accepted their prayer: That I will not waste the work of a worker among you, whether male or female, the one of you being from the other... (3:194)."* Herein also, as in other cases, He addresses man and woman equally and promises for a good reward to both of them, irrespective of their sex, for their good and virtuous deeds. Allah in another verse of the holy Quran saying: *"He it is Who brought you into being and made for you the ears and the eyes and the hearts... (67:23)"*, considers that men and women possess the same heart (i.e., the place of origin of the hidden perception of man, which according to the interpretation of Allama Tabatabai is the same as wisdom). In other verse *"...surely the hearing and the sight and the heart, all of these, shall be questioned about that (17:36)"*, Allah holds the possessor of this organ of distinction and identification of being a man or woman. Undoubtedly the responsibility is based on one's capacity. The above quoted verse does not make any distinction in the capabilities of man and woman, hence no distinction can be made between their responsibilities in their inner realisations. Further as mentioned in this holy verse: *"And (as for) the*

believing men and believing women, they are guardians of each other; they enjoin good and forbid evil and keep up prayer and pay Zakāt (the poor - rate), and obey Allah and His Apostle; (as for) these, Allah will show mercy to them; surely Allah is Mighty, Wise (9:71)." The believing men and women have equal right of "supervisory guardianship" over each other or in other words have the right of mutual scrutiny. In terms of sociology this is known as "Social Scrutiny". According to this every one supervises the deeds, good or bad, of every one else so that the principle and standards of the Islamic society, in general, are not violated. Similarly man and woman, both, are equally deputed to say prayers (which is the highest form of worship and the best way to join the Worshipped and the Beloved) and obliged to pay **Zakāt** (which is the symbol of economic and financial independence) and commanded to obey Allah and His Prophet (which is an indication of being a formal member of the political and administrative circle in the Islamic society). Both man and woman shall equally deserve the mercy of Allah. In Quran, Allah jointly addresses both Adam and Havva (Eve) prohibiting them from touching the fobidden tree and says: "*... Do not go near this tree...*" *(7:20)*, contrary to the Christian church, who believe that it was **Havva**, the woman, who led Adam astray and deceived him (i.e., the man), the explicit expression "Did I not forbid you both?" clearly shows that both were equally partners in disobeying the Divine Command. **Havva** does not have to bear the burden of Adam's sin. This joint admonition is indicative of their equal dignity and the existence of wisdom and reason in both of them.

Throughout the holy Quran one comes across a number of expression and forms of address saying: "*O those who believe*", which is not peculiar to man and includes woman as well.

Similarly, there are so many instances in the holy Quran which show that the Paradise and blessings of this world and the world Hereafter created for men are also meant for women.

Contrary to the Christian view, not only woman is not the germ of sin and defiled by nature, it can become the specimen and symbol of chastity, piety and service to Allah like the women who have been mentioned in the holy Quran with respect and sanctity such as **Mariam** (Mary) and the mother of **Musa** (Moses) ... or such as Khadija and Fatemah Zehra and few others of the early days of Islam.

The holy Quran praises women to the extent that some of them such as the mothers of **Musa** and **Isa** are honoured by revelation. Ayatollah Shaheed Motahhari in his beautiful book "Womens Rights in Islam", has discussed this matter at great length and says: "No man, except the holy Prophet (S.A.) and Ali (A.S.) can reach the position of Hazrat Zahra (A.S.). She has preference over her sons who were Imams themselves and even on prophets over than the last of the prophets. Islam does not observe any difference between man and woman in their move and travel towards Allah in accomplishment of the saying "from the world towards Allah (Truth)." The distinction that Islam makes is in respect of "move from the Truth (Allah) towards the world". As far as the return from Allah towards man and the acceptance of the responsibilities of prophethood is concerned, man has been considered as most appropriate" (Women's Rights in Islam, page 118).

According to Ayatollah Shaheed Motahhari, one of the views propagated by the church showing their contempt for woman was to abstain from marriage and observe celibacy, a school which preached the love for women as a big moral evil and encouraged separation from woman and abstention from marriage.

Islam strongly opposed these ridiculous views and despite all baseless propaganda, exhorted people to marriage and even ordained them to do so. According to a tradition, Prophet (S.A.) felt proud of larger number of children born from a wedlock.

Islam considers marriage as not only helpful for the preservation of one's faith but also appreciates love for

women and the feminists. For Islam this is the highest of manhood and similarity with the messengers of Allah. The Prophet (S.A.) is reported to have said: "Love for women is the characteristic of the prophets". One of the famous traditions of the Prophet relates: "I like three things from your world and admire them. These are: the perfume, woman and prayers." (Womens Rights in Islam, page 118).

Islam is strongly opposed to celibacy. Some traditions go to say that the bachelorship is condemned by Islam.

The culture and some of the religions of the past provided that the children belonged to man only. Mother was only the means of birth and bringing them to life. But the holy Quran, having said that: "*... (the Lord) spread from these two, many men and women ... (4:1)*", stresses that the children belonged equally to both the father and the mother.

(b) Prophet's Traditions and Woman: Having mentioned the explicit verses of the holy Quran which stress the revival of women's rights and having given a clear picture of Islam's revolutionary move for the restoration of woman's personality, there was no need to mention the stress laid by the holy Prophet (S.A.) and his successors in this regard. However, since there are many a provisions pertaining to the status of woman in Islamic traditions, it will not be possible to mention all those in this paper. For this purpose, one can refer to the numerous books of traditions belonging to both the Shias and Sunnis (such as Almojam-al-mofahras le-Ahadith-al-Nabi and Al-Ahadith-al-Masoomin). Here only a few traditions will be mentioned:

1. Traditions which explicitly introduce woman as responsible creature, such as: "a woman is shepherdess (responsible) in the house of her husband and children". This responsibility is an indication of the woman's social status, her role, capacity and capability to administer and ability to take over jobs of responsible nature.

2. There are a number of traditions with different interpretations which stress the need for good treatment and compromise with woman even in case of her bad behaviour.

This shows the importance attached to her dignity and the delicacy of her soul and her being fragile and sensitive which needs greater attention to her.

Some of the traditions are as follows:

"Fear from Allah in regard to women;" "among you those are the best who are good to women;" "don't stop women from going to mosques;" "none gives respect to women but they are themselves respectful;" "none gives disrespect to women but they render themselves disrespectful;" "fear from Allah for two weak ones firstly orphans and secondly women;" "for the man is the same punishment if he teases woman;" **Jibreel** advocated so much in regard to women that I (Prophet (S.A.)) thought they cannot be divorced."

3. The lifestyle of the Prophet (S.A.) in regard to the women, the respect shown to them and the allocation of important social responsibilities to the women amply show the practical importance given to woman in the Islamic structure. One of the manifestations of this social status and dignity of woman is her deputation for nursing and looking after the war-wounded people in the early days of Islam and during the life time of the holy Prophet (S.A.). There are many a traditions which refer to these responsibilities. Some of them are:

"The women helped and transferred martyrs and wounded to Medinah;" "the women nursed the injured soldiers;" and "the woman nursed the injured during the war." Islam, many a centuries before the loud and controversial claims by the West as being pioneer in nursing, had established the tradition of nursing by women, particularly during the wars.

The other manifestation of a woman's social personality in the eyes of the Prophet (S.A.) related to his consultations with them. The late eminent Egyptian Jurisprudent, **Shaltut,** while referring to this, stated that: "the holy Prophet, (S.A.), as a consequence of the treaty of **Hudaibiah** and according to

its provisions was compelled to give up the performance of Hajj and return to **Medinah,** though he had reached so close to the gates of Meccah. He was faced with the opposition and even the revolt of the Muslims and the faithful. The Prophet (S.A.) was extremely concerned about this matter. Nobody's suggestions could help him out of this difficult problem. It was only his spouse, **Umme Salamah,** who with her advice assisted the Prophet (S.A.). As a result of this the Prophet returned to Medinah, without issuing any orders to his companions, after performing **Qurbani**(sacrifice),**Halq** (shaving of head) and **Taqseer** (cutting out nails). This plan resulted in the Muslims following the Prophet (S.A.) due to their liking for and faith in him. In this manner the followers did not have the time to express their opposition and had no ground for plotting for a revolt which was set aside with the advice of a woman. This incident took place at a time when the people, both in the East and the West, and even the scholars and thinkers all over the world considered that the woman's mental capacities were weak and she was not attached any importance. This attitude of world scholars remains even today though woman's emancipation has been recognized.

4. Traditions which teach man to greet women and even their own spouses.

Instructions for greeting women were issued in conditions of traditional pagan society when the very human existence was refused to the woman. If we take into consideration the conditions prevalent in our contemporary society, where most of the men are not ready to grant so much respect as to greet woman, it proves how revolutionary and surprising this custom was when it was introduced so many centuries ago. However, since it was a natural phenomena, it set in the Islamic culture in a most befitting manner, specially because of the influence of Islam on peoples minds.

A tradition quoting Imam Sadiq (A.S.) says that the holy Prophet (S.A.) and the Commander of the Faithful (A.S.) greeted the women. Another tradition states: asked from Abu

Jafar (A.S.), i.e. Imam Mohammad Baqar (A.S.) in regard to Allah's saying, "If you enter houses, say **Salam** (greetings) to yourself", Abu Jafar (A.S.) said that it means: "you should say salam (greetings) to inhabitants of the house."

According to this **Hadith** salutations have been ordained for all as an explicit command and the wife has been mentioned as "the soul and spirit of man" which is a reference to their inner unity.

(ii) Islam's Views on the Status of Mother: One of the lofty and valuable manifestations of woman has in her motherhood. As a mother, woman has enjoyed relative honour and dignity in all civilized and uncivilized cultures. This specialized role of the woman, on which lies the foundations of the society and which is regarded as a natural and important historical contribution, enjoys the highest regard and respect in Islam.

The holy Quran considers respect and kindness towards parents at the same level as obedience to Allah, faith in Oneness of Allah and His worship. In some of the verses it is mentioned that gratitude towards parents is at the same level as thanks - giving for Divine blessings. He says: *"And We have enjoined man in respect of his parents – his mother bears him with weakness upon weakness and his weannig takes two years – saying: 'Be grateful to Me and to both your parents' ... (31:14)"*.

In this way the important, difficult and serious role of a mother has been considered as justifying the need for gratefulness.

The traditions, having successive authenticity, mention the greatness of dignity of the mother in comparison to the rights of father as many times more and superior. They provide that obedience to and generosity towards her leads to greater heavenly reward. Another tradition states that the paradise lies under mother's feet.

(iii) Viewpoint of Islam on the Status of Wife: One of the stages of woman's social life pertains to her status as a wife which begins with her marriage and reaches its perfection when she becomes a mother and performs various important social

roles within the family and the society as a whole.

Woman through the ages has suffered most of the pressure, cruelty and bondage in this stage of her life. That is why Islam provides for her love and respect and lays great stress on it.

In holy Quran: Some of the most explicit and clear verses of the holy Quran relate to the rights of a family in relation to the spouses. One such verse which mentions that both the spouses need each other mutually and calls for spiritual untiy between both of them says as follows: "*...They are an apparel for you and you are an apparel for them (12:187)*". Other verses of the Quran say: "*.... Then if you hate them, it may be that you dislike a thing while Allah has placed abundant good in it (4:19)*", and "*And if a woman fears ill usage or desertion on the part of her husband, there is no blame on them, if they effect a reconciliation between them it is better ... (4:128)*".

The other verse in this respect states: "*And if you fear a breach between the two, then appoint a judge from his people and a judge from her people; if they both desire agreement, Allah will effect harmony between them ... (4:35)*".

The verse given below relates to a predictable situation when differences arise between the two spouses. It prevents the rights of the woman from getting lost. The verse says:"*Let him who has abundance spend out of his abundance, and whoever has his means of subsistence straitened to him, let him spend out of that which Allah has given him (65:7)*".

But for these, there are verses which relate to a situation when differences lead to separation. These verses recommend the preservation of the dignity of woman and stress the need for courtesy and good behaviour towards the woman. These are as follows:

"*.... Do not drive them out of their houses, nor should they themselves go forth, unless they commit an open adultery; and there are the limits of Allah .... (65:1)*"; and "*So when they have reached their prescribed time, then retain them with kindness or separate them with kindness (65:2)*"; and "*Lodge them where you lodge according to your means, and do not injure them in*

order that you may straiten them (65:6)"; and "*.... There is no blame on you for what they do for themselves in a lawful manner (2:234)*". The holy Quran at places directs menfolk to give preference to the womenfolk as far as enjoyment of the fruits of life is consumed. It directs that women should not be looked upon with contempt, disrespect or as slaves.

In Traditions: The traditions of the holy Prophet (S.A.) also amply provide for the husbands to show consideration to their wives. One of the traditions says that: "Jibreel (Gabrael) has made so much recommendation in regard to wife that I thought it would not be permissible to divorce her." Other traditions say: "Curse is for him who does not care for expenses of his family members"; "Allah loves one most who keeps well his captives (family members)"; "that believer's behaviour is good who loves his relatives and among you those are good who are good to women, and do good to women;" "One who respects women is himself respectful and one who does not respect women is not respectful himself"; "those of you are good who are good to their family members and I am better than you all to my family members"; "woman is a bride and one who gets her should not loose her"; "Is there anyone among you who beats woman and also embraces her"; and "Women are like delicate glass and so behave with them gently."

The commander of the faithful, Hazrat Ali (A.S.) says: "to woman do not give any thing for possession except herself; ...; the woman is a flower and not very powerful; ...."

It is narrated that Imam Sadeq (A.S.) said: "Allah blesses that worshipper whose behaviour with his wife is very good and Allah has given this woman in his hand."

In addition to this one may refer to a number of traditions already quoted regarding the virtue of greeting the wife, responsibility of family affairs reposed in women folk and seeking their views and giving them due consideration in regard to matters concerning them. Islam has gone further ahead supporting the cause of wife and grants her the right to seek compensation for the work she does in her husband's

home or even for breast-feeding to his child.

Traditions relating to the Shiite Imams stress that husband should buy freshly arrived fruit for his wife and carry them to the home. He should please her by offering presents to the wife. It is desired that man should work to increase the income and thereby arrange for better living conditions of the family members.

(iv) Islam's Viewpoint on Daughters: Islamic view in regard to the personality and nature of woman, her sentimental desire for love, greater attention and courtesy, man's patience to tolerate her mistakes and to bear with her weaknesses and shortcomings are wide enough to comprehend not only the matters relating to mother or wife alone but also makes it obligatory on man to grant similar considerations to his daughter. One of the reasons for a woman to look down upon herself is the masterly and occasionally the cruel attitude which a daughter sees in her family right from her childhood specially that of her father and brothers and generally the bahaviour of all those who are older than her. In order to bring up a woman with an appropriate spirit for a life equal to a man and with a view to train her in such a manner that she does not rear feelings of humility, subordination and shortcoming, Islam directs fathers to have a better treatment with their daughters. (This sense of humility is other than an attitude of courtesy, softness and humbleness of a woman towards her husband which is observed for the sake of Allah and her own comforts.) The father is directed to be partial towards female issues in comparison to male issues. As opposed to the practice then prevalent in the Arab society and the civilised nature of Iran, Rome of those days, Islam preached greater reverence to the daughters so as to strike equality. The intention was that daughters may not be brought up under the forceful domination of their brothers from the childhood and do not consider themselves as subordinate or slaves. This would assist them in providing necessary opportunity to develop their capabilities, faculties and their own thoughts.

The holy Prophet (S.A.) who broke away the traditions of the pagan days and laid the foundation of woman's dignity, showed such a regard and love for his daughter Fatemah (A.S.) -- while she was living with him -- that this caused jealousy to some of his wives. There are traditions which go to show that the Prophet (S.A.) and the Imams (A.S.) endeavoured to preach over the daughters, rather they exhibited a behaviour which showed preference of daughter over the son. In this connection it would be appropriate to relate the story of Musa (A.S.) and his spiritual companion who during their journey killed a boy. When Musa astonishingly asked him to explain his deed he said: *"So we desired that their Lord might give them in his place one better than him ... (18:81)."* Allah granted him a daughter in place of the boy and seventy prophets were born from her progeny. This is what was meant by a better reward. Another tradition states that: Yahya bin Zakaria wrote a letter to Imam Hadi (A.S.) that he is going to be blessed with a child, and requested him to pray for a son. Hazrat Hadi, in reply, wrote to him "There are many a girls who are better than boys."

3. Another look at Islamic Ideology in regard to Women

In order to acquaint oneself analytically with the Islamic views in regard to women, the mention of yet another thing appears necessary. Islam looks at men and women with two different angles. The first of these may be named the "humane dimension" and the other one as the "man's worldly dimension". The humane dimension of both, the man and the woman, is uniform and similar, but their earthly dimensions which are their worldly characteristics are distinct for the two. These differences are complementary as well as beneficial for them.

(a) The humane dimension: Both men and women are human beings and are uniform in this respect, that is to say both of them enjoy the status of being the representatives of Allah. There is no difference in them as far as the question of determining their own destinies, the choice of the right and

the wrong and selection of a virtuous or evil life or the attainment of moral perfection is concerned. Both are uniformly the subject of divine obligations and are equally responsible to Him. Wherever there the holy Quran directs or forbids or addresses man saying: *"O mankind!"* the intention is to equally address both men and women. The dignity and status of both men and women is the same in the eyes of Allah, unless one surpasses the other in piety. The verse: "... *Surely the most honourable of you wih Allah is the one among you most careful (of his duty)... (49:13)."* points to the fact that the more pious people are closer to Allah, even if they be women. At another place, addressing the mankind, they are asked to be pious, irrespective of their being man or woman.

As far as the faith in Allah and the acceptance of the prophets' call is concerned, no distinction has been made between men and women, and both equally offer allegiance to the Prophet (S.A.) or his successor (Imam). In other words, both uniformly submit to the leadership and the **Imamat** (Prophet's divine successorship) and are obliged to follow in their footsteps and submit to them. The woman, like the man, has the right to choose her religion and is not subordinate to any one.

As far as freedom is concerned, both men and women are equal since freedom is the essence of humanity and an essential part of ones identity and individuality. Both are born free. No one and nothing can restrict and restrain woman's God-given and lawful freedom and liberty except Allah, the Creator of human beings, and His obligatory laws or through their own contracts and mutual free understanding. Both are independently responsible for the consequences of their own deeds as the Quran says: *"Every soul is held in pledge for what it earns (74:38)."* So is the woman, like man she is given equal freedom to enjoy her lawful right of life and for the preservation of her social dignity as well as the right to enjoy divine blessings. "... *And they have rights similar to those against them in a just manner ... (2:228)."*

And finally both are created to pave the path of evolution leading to Allah. They are required to attain the position of "Similarity with Allah" through "devotion" which is complete submission to Allah and by treading the "Right Path" which is the path of religion, the nearest approach to bliss. This has been referred to in the Hadith which relates to revelation from Allah to the Prophet (S.A.), known as Hadith-e-Qudsi, which says: "My worshipper! follow Me till you become like Me." The reward and punishment, as well as heaven and hell, will be equally allotted to both of them. Quran says: *"Whosoever does good whether male or female and he is a believer, We will most certainly make him live a happy life, and We will most certainly give them their reward for the best of what they did (16:97)."*

As far as this "humane dimension" is concerned, there is both equality and similarity between man and woman, and there is no discrimination between them.

(b) The worldly dimension: Though man and woman are comlementary to each other as far as human perfection is concerned but as far as the division of work, responsibilities and the natural function which is the major objective for creation is concerned there are distinctions between them. Taking into consideration the specialisation and the common functions, there are certain specific differences between men and women. But these dinstinctions, as said by Ayatollah Shaheed Motahhari, though deprive them of similarities in natural and legal spheres, but do not hold against their equality in regard to being human beings and enjoyment of equal human rights.

The man and the woman, according to the text of the holy Quran, are born of the same mettle and the common self/soul and the woman is part and parcel of the same essence from which man is also created. According to the Prophet's tradition women are co-existent with men "Verily woman is part and parcel of man". But this commonality cannot be the proof of oneness of their nature, it is rather the symbol of dissimilarities which relate to their natural

peculiarities and the differences in their inner temperament.

The deep-rooted and natural difference between men and women is because of the peculiarities in their nature, physique, nerves and within their souls. Those characteristics which are in one do not exist in the other. That is why they are complementary to and supplement of each other. Both are in great need of the other for their natural, physical and spiritual perfection.

Unfortunately these natural though auspicious differences (which should have formed the basis of laws relating to women, devoid of their usual harshness and appropriately suited to her tenderness) have not been given any consideration by other schools of social and legal thought nor by any of the contemporary theories, except Islam. The logical and legal Islamic view in regard to woman, is the foremost manifest and the prime declaration of women's realistic freedom. As we shall point out next, all the differences that exist between men and women's rights in Islam have been subjected to severe criticism and magnified by the enemies and made the basis of their attack. However, these differences originate from Islam's realistic attitude which is for the good of both men and women and the society and the individual.

It is on this basis that Islam is opposed to the Human Rights Declaration which provided similar rights for men and women. We shall state that Islam, in addition to the common usual rights for both, grants some special rights and privileges for women, from which man is deprived.

4. Natural differences between Men and Women

Men and women have differences between them both natural as well as in society and in terms of social groups. (The natural differences relate to biological and psychological matters whereas the social ones refer to sociological and socio-psychological aspect.) The dimension of these natural and social differences is far more wider and deeper than an ordinary difference in organic and bodily

changes. According to Alexis Karl every cell of human body is a symbol of his/her sex. As mentioned earlier this deep difference originates from the aims and objectives of nature and creation. The absence of each of these differences results in disturbing the order and the necessary and desirable balance created by Allah. Each sex (whether male or female) on account of these differences is led to profiteering, selfish motives and protection from the position of attraction, cooperation, integration and even self-sacrifice.

These differences should always be taken into consideration by the lawmakers as far as legislature and correct administration of the social affairs are concerned. These should result in difference in the laws without causing any discrimination or damage to the dignity of any of the two. Any lack of attention to this point occasionally results in oppression to woman and in treading on the rights of the female sex. The differences between these two sexes can generally be classified and examined in terms of differences relating to body, spirit and soul.

(a) Physical differences: Scholars have described the differences existing between the male and the female sexes in divergent terminologies. Here it would suffice to quote certain excerpts from Ayatollah Shaheed Motahhari's "Women's Rights in Islam'. He says: "Man, on an average, is of a rough built, taller in height and sturdy. On the contrary, woman is smaller in stature, short in size and more elegant. The man's voice is harsher whereas the woman's voice is softer. Woman's body growth is speedier than the man's but the man's muscular growth and the body strength is more than the woman's. Woman reaches puberty sooner than the man and her resistance to sickness is more than man's but she soon becomes incapable of generating. A girl starts speaking sooner than a boy and opens up her tongue. The man's average brain is bigger than woman, but taking into consideration the relativity of the brain with the body as a whole, women's brain is found to be bigger than the man's. Man's lungs have more capacity and his heart beats are lesser

than the woman's.

It may be added that man's nerves are stronger than woman's and he is less fearful than her. He faces danger more conveniently and can undertake hard and difficult jobs. Woman has natural menstruations which are effective in causing physical weakness and neurotic and psychological fatigue. Similarly woman undergoes pangs of pregnancy and breast-feeding the child(It is these physical characteristic which naturally demand that she should resort to greater rest, stay at home and not indulge in tiring jobs outside the house).

(b) Inner differences: There are some major and basic differences between the male and female from the point of view of heart and soul. These are matters relating to the sciences of psychology and psychiatry. Man, by nature happens to the harsh, quarrelsome, warring, adventurous, ambitious and fond of commanding; but a woman is by nature abhors harshness, war and danger. She is inclined towards compromise and reconciliation. She is fond of motherhood and bearing children. She likes work at home and to look after the affairs of the family, to nurse the sick husband and the children.

The egotism in man is based on being self-centred and for the support and protection of his wife and children. But the same quality in women is in the form of self-sacrifice and love for others particularly for husband, children and the family. As for sex, man is aggressive and hunter (because the safety of his race and its breed needs such a feeling in man such as agriculture which needs more land for greater production). On the other hand woman is evasive, likes seclusion and remains an observer (so as to have the opportunity for the selection of the best). Man's nature is inclined towards polygamy but the woman by nature restrains to one well- selected husband who can provide her with children and support and protect them. Chastity is woman's nature and in order to achieve its goal and objective, the feeling of purity and seclusion guarantee her honour and attraction. Woman reaches the stage of mental, sentimental

and intellectual maturity sooner than a man. This proves that woman soon becomes ready to enter the arena of social and family life.

In this respect Ayatollah Shaheed Motahhari says as follows: Man's inclination to sports and hunting and for other jobs of physical exertion is greater than in woman. The man has a feeling for struggle and war whereas the woman is inclined towards peace and pleasure. The woman, as a sex, restrains from resorting to violence towards others or in respect of her own self. That is why women resort to commit suicide less than men. Men perform suicide in a more violent manner than the women. Woman's feelings have greater warmth than man's. She soon gets excited than the man and also gets sentimental much easier than man.

Woman has a liking for ornaments, jewelry, beautification and embellishment. As against man woman's feelings are temporary and short-lived. Woman is more cautious, religious, timid, talkative and formal than the man. Woman's sentiments are motherly even during her childhood and she is greatly interested in the family atmosphere.

Woman does not compete with man in dialectic sciences and dry logical problems. But in the field of other sciences, matters of aptitude and taste and facts and figures she does not lag behind the man. Man has a greater capacity to keep the secrets than the woman and he cna preserve and hide his worries better than woman. This is also the reason why men suffer more from psychological diseases than women. A female is more tender-hearted and soon starts crying and even faints. A man is more in bonds of sensuous desires than in love. Contrary to this woman is more in love than passion. Man wants to possess woman but woman works to win over man's heart. Man wants to hold the woman whereas she loves to be held. Woman expects man to be brave and courageous whereas man looks for beauty and charm. Woman can control her passion more than the man and the woman at the height of enjoyment is less capable of giving it up.

As for the basic differences between man and woman, an

American writer has the following to say:

"Men and women move just like two stars set in two different orbits. They can realise each other and are complementary to one another, but they can never be one. That is why men and women can be lovers of each other, live together and yet do not get tired of each other." (Ayatollah Shaheed Motahhari's book "Women's Rights in Islam", page 177).

5. Differences between Man and Woman from the Viewpoint of Sociology

Since the psychological and physical changes in human being (psychological and biological etc) cause difference in his social functions thereby separating the roles played by men and women in the society. These differences naturally bring about changes for both men and women in the society from the sociological point of view. The natural purpose is to fulfil the objective of the creation behind the differences between the male and the female. It is in this way that the ideal of the human world based on those objectives moves in the direction of accomplishment.

The absence of any of these differences in the society as well as in man or woman, causes relative imbalance, thereby creating a sort of unrest, disturbance and chaos within the individual and the environment around him.

The functions specified for a woman in the society are as follows:

(a) To create an atmosphere of peace, cordiality, and benevolence within the society and the family — the Quran in this respect says: *"And one of His signs is that He created mates for you from yourselves that you may find rest in them, and He put between you love and compassion ... (30:21)"*;

(b) To beget children — in this respect the holy Quran says: *"... With trouble did his mother bear him and with trouble did she bring him forth... (46:15)"*;

(c) To strengthen the moral of man and to assist in expression of man's affection;

(d) Transfer of culture, language and to impart family training to the children;

(e) To rear child's sentiment, particularly of daughters;

(f) Cooperation in social and economic affairs and to help man in his specified functions.

(g) The internal administration of the family (organized family).

(h) To make the atmosphere of the family and the society cordial and to dilute man's violence and hardness.

In addition to this, a woman is expected to do other jobs wherein men folk may also take part in some form or the other. A study of the duties and functions specified separately for men and women in accordance with sociology leads us to an important phase known as the social role. It is these contributions and their movement in the right direction which are the centre of life, activity and social perfection. Basically history is created by such roles, activities and their continued performance.

Woman's social role becomes apparent in consideration of her bodily and mental peculiarities and her special performances. Her functions are essential in nature, they give a form and shape to life and are reproductive. These are peculiar to woman only. Unfortunately, during the length and breadth of history, either intentionally or ignorantly, the special functions and the peculiar and important role of woman has not been looked upon with prudence and reality, or it has been deemed as less important or taken for granted as routine matter – for instance, the rising and setting of the sun, the rainfall and the snowfall. Since the woman and her services have been rendered in abundance and with generosity so much so that the society has had them within its close reach, the effect of her absence from society has not been realized so far. That is why she has not been able to achieve her real status in any society, not even in the present day civilized world.

Here it would be appropriate to make a mention of her social value and its relationship with her social role. The

social value in sociological terms means the position and status which a person achieves due to his peculiarities, usefulness and its effect on the smooth running of the society (or in fact, its good or bad effect on the society). The spiritual, military or political leaders, the doctors, the teachers, even the inventors and artists etc. have always enjoyed a higher status and value. The main factor for the identification of these value are the people. Their beliefs and the public opinion also play a role in it. In an Islamic society values are the base and are derived from Islam and nature.

The woman as a result of her social composition with man leading to the formation of a family and having taken over the role and social status peculiar to herself gains her social value. Her role is basic and essential and is one of the most fundamental functions of the society.

The value of woman, like her open and irrefutable contribution has always been neglected due to ignorance and non-development of women's intellect and also because of the oppressive and dominating nature of man. One of the reasons for this neglect is the non-implementation of religious laws, particularly the laws of Islam. Her value has been forgotten and abondoned as a result of destructive human instincts. But a justified review and deep scientific analysis and its application on human intellect and ideas, particularly among women themselves can help in taking a step towards the restitution of their values. This is what Islam has done with a bright perspective.

6. Woman's Social Role

Woman's major roles which shape life are the outcome of her specialized functions. These are:

(a) Preservation and protection of race: Woman's role in the continuation of human race and the preservation of humanity from downfall and discontinuation is very clear. Here we call the attention of the reader to the importance of this role played by woman exclusively in the world and for the sake of human society. Vil Durant says: "Woman's specific

work is service for the protection of the race. Man's specific job is to serve women and children to defend them." Even if only this contribution of woman is taken into consideration, we would realize that she plays a role where effect on nature is the most important for the existence of mankind.

(b) The fostering and protection of children's life: The maintenance and protection of a child from birth to its suckling state and thereafter is one of the most important factors leading to the protection of the children and continuation of human race. This sacred role is known as motherhood. This sensitive role has always been the burden on woman's shoulders and is knitted with her warp and woof.

(c) Provision of sooth and comfort to man: As seen in verse 21 of chapter 'Rum' of the Quran which says: "That you may find rest in them," women are made a source of rest and comfort for men. Even in other verses the comforting and soothing skirt of might has been introduced as the source of peace and tranquility for the human being. Woman, by nature, brings peace and tranquility to the surroundings and her environment, provided her own ignorace, and weakness, tempered temperament and maltraining or the bad behaviour of her husband does not extern her from her original nature.

(d) Cordiality of atmosphere: As mentioned in verse 21 of chapter 30, Allah has created woman with affection and kindness, the purpose being to make the family atmosphere cordial and full of affection; and hence the atmosphere of whole society. Woman, according to the interpretations of the holy Quran, is the messenger of affection, tolerance and compromise. If woman did not exist in human society and its various groups, violence and cruelty would have filled the whole atmosphere, life would have become difficult and intolerable. It is the presence of woman which dilutes man's oppressive and dashing instinct with her soft and kind nature to produce a desirable atmosphere for herself as well as for others. It is again she, who, by utilising logic and man's moral strength controls the effect of her sentiments on her reason and wisdom. If a woman, instead of working as the object of

affection and trying to cool down the fire of differences and friction leading to the creation of a sound atmosphere of cordiality, herself causes differences leading to anger and violence, she would be considered as to have broken away from her nature. Such a woman should be treated and cured so that she returns to her original nature.

(e) Strengthening of man's morals: The presence of a woman leads to the awakening of the sense of responsibility in man. His dormant feeling of bravery, generosity, stability etc. which are created in him by nature mostly for the protection and support of ones family, are aroused and put to use. Many a men, after marrying a woman and setting up a family, have changed to such an extent that the alteration in them has been noticeable to others.

(f) Transfer of culture and language: A woman in a family and living beside her children and the youngones is the most perfect means for teaching them the language and transferring them the culture to which she belongs. The cultural peculiarities of every society guarantee its identity, independence and existence. The major part of a society's culture — if not in its entirety is transferred to children through their mother. This is one of the important social roles which would otherwise require organizations with detailed complicated programmes to achieve the objective. But the woman in her home, while bringing up the children with her affection and love, performs this important and difficult role all by herself. If the woman happens to be one who is trained under lifty Islamic culture, she can easily distinguish between the customs and traditions of the pagan days and the correct Islamic traditions. She would prevent the infiltration of any wrong ideas in the mind of the children under her benevolent care.

(g) Bringing up of children and rearing the sentiments: The human spirit is shaped by ones sentiments and help in the formation of his character. All human behaviour originates from this inner source. Morality, which has always been considered of great importance in the eyes of Islam, other

religious and moral philosophies are the perfected form of these sentiments. Everyone's personal evaluation and the judgement of others about him is based on his behaviour which springs from his innerself and the habit acquired by him.

These are a number of human sentiments which need to be nurtured, matured, adored, embellished and developed. Part of this embellishment should take place at the hands of man as a part of his moral perfection during his life time. Other part, which is primary and major part is nurtured in his childhood with the parents, specially through the motherly care. If not destructive and damaging inauspicious effects of this lack of embellishment and training would appear at an advanced stage in life. This may even result in the total destruction and wearing out of these sentiments. Man would then become a sick psychiatric case who may even prove to be damaging the society of the humanity as a whole.

The first schooling of the child takes place in the lap of the mother. Here he not only learns words of speech and picking up of steps but it is here that the foundation stone of his thought and morality is laid and the child's personality begins the primary stages of character building. Again it is the mother's upbringing which mostly dominates the training that the child may receive in the school, the society or even through the teachings of his father or the teacher. The mother can even strengthen or weaken the training that a child gets in his environment.

The child gets his first lessons from his mother through the eyes. The effect of mothers upbringing is more apparent in girls than the boys. This training is imparted either indirectly by means of intentional imitation of their mother by the children or the compulsory inculcation and its effect, in an unknowing manner in the children's behaviour. It is commonly said that daughters always resemble their mothers. If we recall the future role of these daughters who are the mothers of tomorrow, the progressive effect of the reform or the damage that mothers can bring to the society by

their upbringing thereby effecting the society as a whole, will become obvious.

It is but clear that mothers who themselves do not have trained morals, inculcate damaging effects through their trainings in their children, thereby harming the society and the mankind as a whole. The damage from training through such mothers is far greater than due to lack of training.

(h) Helping to institutionalize the family: Institution in our opinion is different from the organization of a family and all that is termed by the sociologists. Some sociological researchers consider every family organization as a social institution. In our view 'family organization', like many other social organizations, comes into being in a natural manner. They are established as a rule of nature and not through any intention or determination of the society. Every institution is subject to an arranged discipline and voluntary functioning wherein all the principles of management and institution should be planned, implemented, supervised, guided and treated in time.

A family can be considered an institution when it has achieved its particular features and is guided according to the special system and the particular example set before it. This can be seen only in those families which adopt Islam or a particular law or school as the example in managing the family affairs. As a result of this difference, though a woman may not play the part of a manager in a natural family (which is to be found in the shape of an organization in every part of the world),she has to play the role of an organizer, manager and administrator in a (Islamic) family based on jurisprudence and Islamic laws. She is required to implement the principles of management on which an institution is based and the pattern thereof indicated by the religion (or the law). This is one of the roles which an ideal woman is required to play in Islam.

This institutionalization is a lofty role in itself which needs not only firm determination and strong management but also a strong-rich support from Islamic culture and

correct social, individual, moral realistic and world insight of Oneness of Allah to successfully perform this difficult job.

(i) Role of a colleague and cooperator with man: In a correct perspective and in consideration of the philosophy of creation, woman is responsible to support man in the battlefield of social life. It is the woman who with her accurate, logical and affectionate attitude accompanied with her delicacy and peculiar womanly charm can mobilize the man to perform or complete his external duties. It is she who makes a man move with full moral, force, pleasure and steel-like determination to perform his duties and shoot out like a bullet fired from a gun directed towards its target. It is by way of study and evaluation of the positive or nagative influence of a man outside his home, in the environment of his work and public gathering and calculation of geometrical progression of the effects accruing from his contacts and impressions as well as the summing up of these various effects (which occasionally bring about a change in the destiny of a society or a country) that one may realize the depth and vitality of this role. In addition to the direct role of a woman in cooperating and coordinating with man in affairs relating to her, her indirect role in affairs of society leading to their improvement or distress can be well understood.

Many great men, leaders, statesmen, scholars, artists, poets, writers, chiefs and kings have reached their high destination through the moral upbringing, spiritual cooperation and moral assistance rendered by woman. The contribution made by Hazrat **Khadijah** and **Fatemah Zehra** (A.S.) in the life of the holy Prophet (S.A.) is very clear. Their contribution was so much that if these two were not there, Islam may not have developed in its persent form and history might have taken a different turn.

On the contrary, the bad behaviour or indifference of woman towards the role and the performance of man outside his home has occasionally made a bad impression on man, thereby making him a mischievous and dangerous person to the society causing destruction, corruption and many other

evils. The lack of an appropriate behaviour of woman also results in making an adverse effect on the efficiency of man and stopping him from performing the role expected of him in the society.

In addition to this, woman has also played a material and economic role in family life rendering assistance to man. Some resort to productive and income yielding activities within the house thereby helping the man, some others effect savings, protect property from being lost or damaged. Some other women help in increasing the income or reducing the expenditure in different ways. The performance of domestic jobs is also one of the important material-cum-moral roles of a woman. Once the woman takes up the responsibilities of a companion of man's loneliness, the mother of her children and the management of the house, she shoulders the burden of the work of a servant, a cook, a washer-woman, a sweeper, a nurse, a protector of house and property and also that of a permanent helper. She calls for no compensation in return for all this work and trouble, nor does she show any inclination to shirk and give up these functions.

The woman's nature to attend to household jobs are deep-rooted in her soul. Though Islam has made man responsible for the woman's welfare, woman's departure from domestic obligations is like a painful chastisement and a spiritual torture which cannot be borne for long. A tradition states that the Prophet (S.A.) told his daughter, Fatemah Zehra (A.S.) and his son-in-law Ali Ibne 'Abi Talib (A.S.): "The affairs of the house and matters relating to it are the concern of the woman upto the door of the house, thereafter they belong to the man."

(j) Tranquilizer of instinct: Allah has made man's instincts as tough and uprising which are commensurate to his performances and the obligations which are devoted upon him by the nature. Woman is the only balancing and tranquilizing agent. The woman's nature may, therefore, be called as constructive. One of the constructive habits of woman is her response to the sexual urge of the man. Allah,

by creating this urge, whose working in man and woman is quite different from each other, has guaranteed the continuance of the race, like in all the creatures.

Any disturbances and shortcomings, natural or intentional or resulting from one's actions in either man or woman result in upsetting the natural system and its minimum essential in both the male or the female. The result is that these disturbances cause damage to both material and moral aspects of human life and results in corruption, deviation, fornication and creation of certain complexes which take the shape of neurological, mental or even physical diseases which are difficult to cure.

Woman is not only a means to satisfy man's sensuous instinct. She with her sexual instinct, feminine tenderness and kind soul as well as through her sweet behaviour and moral character become a pleasant and rewarding life partner, a life which can be enjoyed by both and its refreshing fruits can also be reaped by woman making her bloom both mentally and physically.

The downfall of a woman to the lowest ebb in the performance of her natural and social role is that she considers herself as only a means to extinguish the fire of man's sexual lust and with that end in view she devotes herself to her make-up in order to arouse the sexual instincts of men and make herself the means of satisfying their mammillary passions which is no more than the role played by an animal. However important this part of her role may be, but it does not represent the personality of a woman by itself, nor does it represent the status and position which Allah has destined for her woman's emellishment of her body for a man other than her husband, or the show and display of her figure to arouse other man's passion and lust and to fulfil one's desires through methods other than family formation is a sort of woman's metamorphosis leading to her expulsion form her right position and treating her as a cow. This is undoubtedly not appropriate for a woman and damages her personality, dignity and individuality.

(k) Perfection: Perfection is an established law of Nature and man is a part and parcel thereof. Hence man is also subject to this law of Nature.

Man, naturally, treads the path of evolution leading to perfection, physically and materially. But from man's point of view and to develop one's understanding, disposition and human insight about the world, himself as well as Allah (which is technically known as viewpoint about the world ideology and forms part of the principles of religion) and to arrive at the highest perfection of humanity which is closeness and union with Allah (which is technically known as marching towards Allah and spiritual achievements) need determination and firmness of intention. These also need a constant effort and unbroken will to tread the path of perfection. Nature can only prepare the ground to make this path towards perfection easy and comfortable.

Physical perfection, that is to say the passage of the period of childhood, maturity, youth and natural equilibrium are a sort of botanical and zoological developments. However spiritual development is a man's human development which begins with the termination of animal life and this is regarded as the first stage. To achieve the final and the determining stage of this perfection one has to go through three phases, namely, determination, programming and endeavour (or **Jihad**). The passage of these spiritual phases which lead to man's spiritual perfection can be covered only in a condensed family life with the assistance and cooperation of the spouse. An unsuitable spouse having no understanding and no targets of life shall always be a hindrance in the path of one's development holding him from progress. Such a spouse is like a heavy chain tied to the feet of the man who wants to tread the fruitful path of perfection. It is in consideration of the role played by a woman either to help expedite the man's march towards perfection or becoming a restriction to man's move forward that her role becomes clear. It is for such women that the famous Persian poet **Sa'adi** says:

"A bad woman in the house of a noble person

_ is like a hell for him in this world."

(1) Role in history: We have stated that woman's permanent presence in the mankind has made her a cheap, plentiful and unimportant being. Her role is also considered as small and insignificant. People view that woman's work is restricted to satisfy sexual urge, to reproduce and to bring up children; perform domestic work and serve the husband. Even women have a similar feeling. Some women consider themselves as servants and yet another group regard themselves as peoperty of husband and nothing more. Other roles required to be played by woman including her role in nature and history has remained unknown to all except the leaders of humanity who are no other than the prophets of Allah and their successors.

Leaving aside the role of woman for the continuation of human race, bringing up the children and her influence on husband and on other people in social changes and developments, she plays yet another important role which is the creation of history. Woman is also the mother of history. It is because history is nothing other than the continuous and connecting move of human societies and the summing up of the ascending and descending contours of the positive and negative events taking place in human life. If there were no societies, history would have been meaningless. There would have been no society if individual and/or families which are the foundation stone of the society did not exist. Consequently, all these astonishing pictures would have not appeared on the walls of existence. There could be no bigger role than bringing human being to the world who are the real axis of history and working to embellish train and bring about men (whether children or history making husbands) who are the real prime movers of society rather the history.

All prophets, leaders, scholars, thinkers and social workers are born of their mother. The outline of their life depicts the impressions of their mothers. Men, who have been a spot on the face of humanity and written pages of dark history were also born of their mothers. But they did not get

any inspiration from the woman and her instinct. It is here that one may recognize the role of mothers -- good or bad. There are also some women who are themselves the centre of social movements and history and have also changed its course. Occasionally we come across women who have been more capable than their contemporary men folk. Despite all this, history, like many of the children of this mother, the woman, has not appreciated her obligation, service and determination. Despite the passage of many a centuries, since history is being written, woman has remained the same creature who sits by the side of the cradle of history singing the songs of love for her child.

This was in short the role of woman which is the outcome of her physical, natural and mental differences with man. It is these social roles of women which are the standards of evaluation to estimate her personality, her social status and natural position. These also separate her rights and obligations in the society and before the eyes of the legislators in comparison to the rights and duties fo a man, as deemed necessary. As a result of this, the theory of overall and blind equality in the rights of men and women is considered as one of the most raw and hastily drawn doctrines of emancipation of woman which is turned down by logic.

7. The Relationship of Law and Rights from the Viewpoint about the World

Taking into consideration the realistic and accurate scientific and Islamic viewpoint/ideology about the world and its peculiar understanding of the woman and the various dimensions of human essence which has been divided by us into human and mankind dimensions, accepting the basic and underlying differences in the temperament of men and women and their being different in many other ways and in view of the specialized aspects of the existence woman and man from the psycho-sociological point of view, one can not expect the two to satisfy similar expectations ... A woman cannot be expected to go to war or to the scenes of violence or

bloodshed. One cannot demand her to perform difficult and hard tasks, nor can her tenderness and frailty be forgotten in times of accidents. One cannot avoid the saying of the Prophet (S.A.) that: "Be gentle, and treat women with love and take care of them like you do for beautiful delicate glass;" nor the expression of Ali (A.S.) who said: "A woman is like a flower and not as wrestler;" because giving due regard to the tenderness of the woman is also one of the human rights of women. Non-observance of this regard is cruelty to woman and pushing her towards grief and destruction. This grief would cause damage to the individual and social status of woman thereby harming the society in a direct manner. The instability of a woman and usurpation of her rights causes distress and confusion in the society. This results in psychological pressures, neurotic diseases, violence, separation, divorce and demoralization of the children leading them to corruption, immorality, crime and addiction. Undoubtedly such a destiny is uncalled for, negative and interferes with their human rights.

The most important basis of lawmaking is the accurate identification of the essence, habits and psychology of those for whom the law is being framed. Rights and laws are superstructures of existence, psychology and sociology. In a single word they are based on a realistic, occular ideology about the world. The disregard of this reality makes the law defective and inoperative, and causes instability in practice. It is the absence of this basic factor which has resulted in instability of the society today, defeating the laws made by man. It is for disregard of occular identities, the essence of things and phenomenon that the laws are framed.

Islam has taken into consideration all the peculiarities and natural and innate principles while specifying in detail the rights and obligations of man and woman. If a little difference and distinction in the rights granted by Islam to man and woman is seen it is due to their difference in essence which is beyond the outward physiological differences between the two. The disregard of differences and

distinctions between them despite the natural variations and the declaration of similar and uniform rights for both would not only not help the woman but cause her the greatest damage.

The equality between man and woman in their human dimensions has resulted in granting equal rights to both of them in Islamic laws, without distinction. The differences, if any, relate to their manly dimension and it is on this basis that their obligations are also separately described. It is also necessary to know that despite differences in certain rights and lack of outward similarity between woman and man neither of them has a perference on the other as a whole and as a result of macrocalculation -- divine and genetic justice has given equal share to both.

The laws and rights in Islam (which are called **Shar'a)** are the symbols representing the true role of man and woman, their working and natural characteristics. If the Islamic laws are implemented correctly without discrimination and through a uniform system, it can be claimed that these differences in the rights of woman cannot cause any reason for concern. The difference in the outward form or duties of the members of a society or system cannot be considered as the reason for discrimination between them, nor as cruelty over the weaker. It could be considered as oppression, if every member was not placed in its proper place and is not allotted a duty in accordance with his capacity.

This conformity between law and human essence in Islam, and the provision of laws in accordance with it, specially laws relating to woman (and her relationship with man and the human society as a whole) is in accordance with the laws and tradition of creation. They represent the great Islamic movement for human rights and the rights of women in the world. The close relationship of Islam with nature and reality guarantees the universality and permanence of this divine laws in the world where most of the laws are superficial and made hastily without paying attention to the laws of nature. That is why they look like a candle without light

which cannot stand the strong winds of a storm.

8. Women's Rights in Islam

Having had a look at Islamic ideology regarding man, and specially the views about woman, it would be appropriate to have a glance, item-wise, on the women's rights within the Islamic rights system. Women's rights in Islam may be divided in two parts: firstly, general rights, that is to say the rights she has in common with man and there is no distinction between man and woman in regard to those rights; and secondly, special rights, which are peculiar to women and these can be considered as a woman's privilege on man. However, the woman, in consideration of her special rights, has to undertake some obligations peculiar to her, hence these obligations may be termed as 'man's special rights'.

Part I: General rights: General rights are those rights which are common to both men and women. As said woman has, throughout the period of history, been deprived of a part of her human rights. Islam with its social and cultural revolution brought about an upheaval, threw away the traditions of the pagan days and granted the woman all her due rights for the first time... fourteen centuries before the Universal Human Rights Declaration of the United Nations could bring about such an equality on paper.

Islam, as far as the rights are concerned recognises equality between man and woman. That is to say the rule demands that there should be no discrimination between the two as both are human beings, hence the principle of equality. Any exceptions to this rule shall be in their own interests. This principle is very important from the point of view of granting rights to woman and their recognition.

Islam has revived woman's economic, social, political, legal and other rights which during the ages and in accordance with old traditions, customs and social rights were considered as earmarked for man. Thereby, Islam re-estabilished the equality and equilibrium which had been

disturbed. Here we would only refer to the major rights and thereafter deal with woman's special rights.

(a) Economic rights: Major economic rights of woman which Isalm gave to women as against pre-Islamic pagan traditions ruling the society consist of the right to property and the right to inheritance.

(i) Right to property: Woman, during the larger part of history did not have the right to property. On the contrary she herself was considered as property and commodity belonging to others. In cases where woman were considered as proprietor, she did not have the capability to occupy and enjoy it. Even during the recent few decades, the woman in Europe was prohibited from ownership or at least of the capability to use it. After the marriage she was forbidden for the occupation of some of her property and its administration fell into the hands of the husband. Even today, in some societies, woman cannot fully make use of her property. Islam, contrary to the views held by the people during its advent, recognized the independence of woman for her ownership, occupation and utilization of her property just like a man. In this regard, the holy Quran says as follows: "... *Men shall have the benefit of what they earn and the women shall have the benefit of what they earn ...*" *(4: 32).* This makes it definite that the earning and income of woman is her own property and neither the husband nor anyother person can consider himself as its owner or share-holder therein. Hazrat Khadijeh, the respected wife of the Prophet (S.A.) owned considerable property and used to trade with it or even spent it at her own will in the progress and advancement of Islam.

The West, after many a centuries of oppression of woman and deprivation of her freedom while restoring eonomic independence to her was motivated by the intentions of exploiting her freedom for cheap labour for the capitalists. That is why we see that women, simultaneously with achieving economic freedom, were placed collectively as bonded labour to work in factories and departmental stores. The other holocaust on the women folk was the creation of a

spirit of revolt against the husband, the family and the father, thereby making her freedom a means to destroy the family atmosphere. Islam having declared economic freedom to the woman has not only incited her against the husband and the family, it has on the contrary made it a means to strengthen the household.

(ii) Right to inherit: Inheritance is also a part of woman's right to property. She, in many a civilizations and according to civic laws, particularly those in the days prior to the advent of Islam, was deprived of inheritance. Granting inheritance to woman was not considered as something worth a discussion. This situation continued even many a centuries thereafter. For instance, in some of the European and Scandinavian countries, daughter did not inherit in days prior to the "war of crusades" and before Islam's influence penetrated in Europe (Hasan Sadr, Right of Woman in Islam page 310).

Islam broke this pagan tradition and provided right of inheritance to women also with men. This in most of the cases is one-half of the man's share. This difference and distinction has a philosophy behind it. According to late Allama Tabatabai half of man's share is, as a practice, spent on woman's subsistence, thereby being used for her welfare. The holy Quran, in recognition of woman's right to inheritance, says: *"Men shall have a portion of what the parents and the near relatives leave, and women shall have a portion of what the parents and the near relatives leave, whether there is little or much of it; a stated portion (4:7)."* This verse of the holy Quran clearly recognizes woman alongwith the man and like him entitled to receive inheritance, thereby showing her independence. It may be noted that Islam recognized this right in conditions when the contemporary Arab society and even other nations in those days did not grant inheritance to women nor did they have the right to property.

(b) Political rights: Political rights are man's most important rights because it is through these that he can be effective in determining his political, social and economic destiny and also to decide matter regarding the sovereignty of

the state and the form of the government. He would like to participate in the process of implementation of laws, their enactment of laws and their annulment. He would like to demand the good administration of affairs and restrain there leaders and administrators from deviations and treachery. The major political rights common to men and women which Islam has restored to women placing them in line with men consist of right to elect, right to participate in gatherings, right to war and defence, right to partake in diplomacy and to enter into political agreements.

(i) Allegiance or right to elect: Islam - some fourteen centuries ago, when the woman was not even recognized as a human being and the daughter was considered as a source of disgrace and was treated like a maid or slave - declared political freedom and responsibility for her. Islam permitted them to pave their own path, determine their own destiny and swear allegiance to the Prophet (S.A.) in order to frame the policy of the country and the society. Swearing of allegiance in Islam is a manifestation of right to elect a person. The holy Quran provides: *"O Prophet! when believing women come to you giving you a pledge that they will not associate any with Allah, and will not steal, and will not commit fornication, and will not kill their children, and will not bring a calumny which they have forged of themselves, and will not disobey you in what is good, accept their pledge, and ask forgiveness for them from Allah; surely Allah is Forgiving, Merciful (60:12)".*

(ii) Right of participation in Friday prayers and gatherings: The right to participate in political and religious gatherings is also one of the most manifest evidences of woman's political independence and her possession of basic rights. Islam having permitted the woman to attend meetings (except those which are of a corrupt nature or cause hindrance in the performance of domestic obligations) has made her equal to man so much so that she can even address the meetings, give lessons and even become leader of prayers for the women.

The wide-spread and effective participation of the

faithful, intelligent and brave women of Iran in political gatherings and street demonstration as well as in Friday and other prayers, whether before the revolution to fight the imperial regime or thereafter to refute the accusations made against Muslim women, alleging their bondage or absence of fundamental rights, are an evidence of their political and social freedoms granted by Islam.

(iii) War and defence: War is a kind of defence of one's freedom, independence, personal or social rule and political affairs. Woman has the right to take part in defensive or offensive wars to defend her country, faith and personality to the extent of her nature and strength. At times some of these become obligatory for each of them.

The active participation of the women behind the war front is one of the originalities of Islam. Before this, women were not allowed to act freely to such an extent and in a manner granted by Islam and the Prophet (S.A.) with their free will to participate in the objectives of war. The rare examples which resemble more to myths, of women's struggle or their participation in wars with their spouses or that of the maids for the success and victory of the Commanders and warriors, need not be related with their position or status.

(iv) The right of protection and lease: A type of right to enter into a political agreement is also one of the rights granted to women. In Islam every Muslim has the right to accord the promise for security of life and political assylum to any one who seeks political refuge provided other conditions are fulfilled. The government is bound to recognize such a protection and accord its signature. In the early days of Islam this right which is a very sensitive one and is in fact a sort of representation of the government and the foreign affairs ministry of the government, was also granted to the women folk. At the time of the conquest of Meccah, Umme Hani, sister of Hazrat Ali, the Commander of the faithful, gave asylum to one of the polytheists of Meccah and the respected Prophet (S.A.) enforced the protection granted by her. According to Al-bahi-ul-Khauli, an Arab writer, who says in

his work (entitled "Islam and the Contemporary Women", page 29): "This shows the highest degree of confidence which Islam reposed in woman and her political acumen as well as the high position granted to her by Islam which is unprecedented anywhere else."

(c) Family rights: Islam granted the right of choosing her spouse to the woman, an indication of woman's independent personality and a right which was denied to her throughout the history. The importance of mutual freedom to marry and its contribution towards the continuation and permanence of the family which by itself has an impact on human society. Woman, according the Islamic law and in exercise of this right, can reject and refuse to marry a person whom she does not consider suitable to become her spouse. Nobody has the right to impose his decision or force her to do anything against her free will. The matrimonial that takes place against the woman's free will and without her approval is invalid. It is only in case of virgin girls that the approval of the father is a condition to the extent that it does not harm the interest of the girl. In other words, the father has been given the right of opposition, like a veto, in the interest of the girls by men who take advantage of their simplicity and youth, thereby deceiving them. This right is also given to the father so that the girl is not conveniently deprived of her wealth and property.

In the matrimonial bond, in addition to the woman's approval, the condition of 'acceptance' lies with the woman. In other words, it is the woman who in the marriage contract always acts as a proposer and the real director therein. The man is the 'accepter' or the 'accepting side' and the customer. All this goes to show the extent of woman's freedom and her authority.

In Islam marriage is considered auspicious and the authority lies with her. Divorce which is inauspicious resulting in a family's destruction and demands forbearance and strong logic has been given over to the man since such an action cannot be determined in terms of sentiments. Prior to

Islam, selection of a wife and the marriage of the daughter was at the will of the father and the daughter had no right to protect. Occasionally two men gave each others daughter to the other as wives in exchange. Such a marriage is forbidden and prohibited in Islam. The Holy Prophet (S.A.) was the best specimen of observing his daughter's freedom. The story of Hazrat Ali bin Abi Talib (A.S.) asking for the hand of the Prophet's (S.A.) daughter and the Prophet's seeking permission from Fatemah Zehra (A.S.) is well known.

Some think that father's interference in regard to the case of a virgin girl is contrary to her freedom and criticize Islam for that. This permission does not go to prove any shortcoming, lack of growth or freedom in the girl, otherwise she would not have been granted freedom to administer her affairs and property till she is a virgin. The father's limited and relative intervention in regard to a virgin daughter is to provide support and protection to inexperienced girls in matters of marriage and to save the first marriage from breaking. It is also meant to save girls from falling into the snare of those men who outwardly look decent but are in fact cheats without any capabilities.

(d) Legal rights: One of the most important social rights of woman are her legal rights. The major rights being: right to file a law suit or complain and to refer to courts of law (even if it be against the will of husband or father or even against them), participation in the above mentioned courts of law and/or request for implementation of orders like requite and punishment. In this category some other rights are also included such as financial rights or those pertaining to evidence as well as other matters relating to legal affairs. Islam does not make any distinction in regard to these rights between man or woman. The award of these rights to woman and her being placed by the side and equal to man is considered a great revolution in world history pertaining to woman's rights.

(e) Social rights: In addition to what has been said above, there are a few other social rights such as the right to

command for the right and forbid the wrong, participation in social works and services, work and profession, acquisition of knowledge, arts and crafts, as well as the performance of socio-religious obligations like the Hajj and other politico-religious gatherings etc. Woman before Islam was entirely deprived of these privileges, or else these were reserved for the women belonging to the nobility and royalty.

Islam has placed woman by the side of man in all legal and social affairs. The condition to this is that performance of these rights should not interfere with her special obligations and natural and social commitments in regard to her husband and children and does not deprive her of the art of being a woman.

Part II: Woman's special rights

Islam in consideration of the peculiarities and natural and social characteristics of a woman has granted special rights to her in addition to the rights she has in common with the men folk. (These rights have been termed as general rights by us). Simultaneously Islam has provided for special obligations for a woman in consideration of the special rights granted to her (these will be referred to at a later stage). The holy Quran provides explicity for a woman's obligations alongwith her rights. Woman's special rights, as mentioned before, can be classified as financial rights and moral rights.

(a) Financial Rights:

(i) Dower: One of the special rights of a woman is the dower. The dower is a financial right in Islam which becomes the responsibility of the husband immediately after the marriage even if it is not mentioned in the contract. The holy Quran says: *"And give women their dowries as a free gift ... (4:4)"* The dower, according to Islam, is a sort of gift or present which the man should offer to the woman as a token of love and fidelity.

According to pagan customs and traditions a certain amount was paid to the husband's father as 'milk money' and

it was considered that the husband has purchased the girl in consideration for the amount so paid to the father and becomes her master. This pagan tradition and the ideas prevailing during those days established an incorrect legal relationship betwen the husband and the wife resulting in woman's permanent bondage and disrespect to her. But as far as dower is considered, Islam has provided it for the following few considerations:

(a) In consideration of woman's personality and independence and not as her price to be paid to her relatives.

(b) In consideration of her dignity and honour; the dower is like a gift and present taken to elders or to those who are held in love, esteem, regard, dignity and honour.

(c) On the basis of woman's economic independence since she is considered as worthy of proprietorship and occupation of property.

(d) In view of the fact that the relationship between a husband and wife is more than an ordinary deal wherein love and affection play an important role because by virtue of paying dower money the husband does not become a master, he should rather win her heart. That is why the word "free gift" has been used in the holy Quran with utmost grace in reference to it (detailed information may be obtained from Shaheed Dr. Syed Reza Pak Nezhad's book "Marriage - a Man-making Institution", volume 1, page 194).

(ii) Subsistence allowance: Subsistence is yet another special right for woman being an obligation for the man. Subsistence means payment of a woman's normal and general expenses within the family such as food, dress, housing and other necessities of woman's individual right within acceptable limits. The great Prophet (S.A.) in his last sermon referring to the importance of this right said: "You have to provide for dress and food for women in a nice and suitable manner, these women are like your captives and have nothing on their own, take them as a trust of Allah, they have been made lawful for you by Allah's words."

In addition to the man's obligation to provide for his

wife's ordinary expenses and maintenance of her primary and essential necessities of life, man according to the explicit instructions of Islam, should better work for more income in order to provide greater comforts to the family. It is recommended by Islam that one should not rest satisfied with only as much of necessities as are essential. A tradition related to Imam Reza (A.S.) makes it obligatory that one should work in order to further enhance comforts for the family members (Tohful Uqool, page 320).

(b) Moral Rights:

(i) Good bahaviour: Though, from the point of view of **morality,** it is the duty of both the man and woman to be well behaved and **wisdom** also demands that the observance of good behaviour is essential for the family atmosphere and good performance leading to the spiritual and moral perfection. But the Islamic **law** provides that good behaviour is a duty specially meant for man and thus a special right for woman, provided the woman is also inclined to such an attitude and provides outward possibilities and means for man and help her husband in maintaining it. She should not, knowingly or unknowingly make it difficult in various ways for her husband to maintain his good stance thereby making life bitter for both.

Good behaviour with woman is not meant exclusively for the spouse. This should be exercized even for daughters by their parents. The holy Quran and traditions strictly prohibit any ill behaviour or application of pressure on women. Any deviation from this path is an action which calls for a guarantee to punish the wrong doer. A tradition of the holy Prophet (S.A.) says: "My brother Jibreel has made so much of recommendation to me in respect of woman that I thought one cannot even say fie to her. Another tradition states that there is a place on paradise where three persons shall reach: a just ruler, a man with good behaviour towards woman and the one who has patience in regard to woman's shortcomings.

Some of the traditions of this nature which have been

referred to even previously are as follows:

"No one respects women except the respected person and no one disrespects women except the disrespected person;" "man should behave nicely with woman to enable her live comfortably;" "curse of Allah is for those who neglect their family members;" and "O people! women have rights on you and you have rights over them; so fear from Allah in regard to women and advise women to be good."

Islam makes it obligatory for man to be well-behaved and a well-wisher of the woman even if the possibilities to continue life together get dwindled and compell them for divorce. This special right of woman has been referred to in the holy Quran as "keeping in good fellowship" and this has been explained in a number of verses (including verses 229-231 of Surah "**Baqr**" and verse 49 of Surah "**Ahzab**"). These verses indicate that if a man is not in a position to maintain the wife and has to part with her even then this separation should take place in the spirit of good fellowship and cordiality so as to retain the good memories of the past. He should not make any financial demands from the woman for separation or resort to torture or tease her in different ways.

(ii) Right to comfort and service: One of the obligations attributed to man by Islam is the maintenance of woman's comfort. As a matter of fact woman is not obliged to work in house and serve the husband in her home, though by nature no woman would be inclined to abandon household jobs. She would not even tolerate to abandon it or get prohibited from doing it. There can be no greater mental torture for the woman than her abstention from the work in the house, and to refrain from imposing her views and taste and style in matters relating to the affairs to the house.

Woman through her work in the house personifies her identity and her overridding influence in the house. In this regard she, of her own, serves her husband like a servant. Normally so far no husband has remained deprived of the services and work done by the woman in her house. However, the provision of a law and the declaration of this right that

woman was exempt from being legally responsible for domestic work is also an unprecedented development in regard to woman's right. It is a revolution, un-noticed before and a historical blow meant to do away with the undesirable tradition of slavery and bondage of woman.

Islam by this law has proved that woman has rights of her own and man should observe equality and justice. Not only this, woman is the lady and wife of the house and should stay like the master and her husband gird up his loin in her service so that she can perform her duties peacefully and with sound mind. The husband should look at his spouse as a divine gift bestowed upon him and not a beast of burden or a purchsed slave or a servant who is required to work and toil for the man's welfare and enjoyment. Undoubtedly woman should also, with her good behaviour and morality, prove her capability for this lofty status and dignity.

The Human Rights Declaration in the height of man's efforts and the western thinkers and politicians' endeavours to bring about rights for human beings could only resort to support the woman only at the time of her pregnancy and motherhood (Para 2 of Art. 25). This declaration and the international convention for civic and political rights and the appendix thereto has not recalled woman as an existing being deserving any support. This supports what we have mentioned about the western civilization and woman's status therein. The Declaration while providing human rights to women closes its eyes criminally from the woman's special and political rights and initiates the question of blind equality between men and women whose purpose is to bring about all-round similarity in their rights. In Art.23, Para 3 and Art. 25, Para 1 of the Declaration, the greatest consideration shown to woman (as member of man's family) is that the man has taken the responsibility of her livelihood. In other words this is the same right which domestic animals have over their masters. The provision of livelihood and subsistence of woman proves neither her perfection nor her shortcomings. It is based on other principles. As against this Islam

recognizes woman basically as a being with a pure, tender soul and the man should realise her as such. He should treat her with the same spirit and not in accordance with his own understanding or the way he may like to ... Woman, in the eyes of Islam is like a crystal or a branch of sweet smelling flowers, as described by the great Prophet (S.A.) and the commander of the faithful, Hazrat Ali (A.S.) who said "Women are flowers and don't behave rudely with them." It means that women are fragile like a glass and should be treated with courtesy and not treated as a domestic servant though she, due to her docile nature bears the entire burden singlehanded.

(iii) Conjugal rights: Another right of woman over the man is that man should not forsake cohabitation and bed-fellowship. In case man has more than one wife, he is duty-bound not to leave any of them alone at night and to live with them at home. (Directions regarding both these are given in books of jurisprudence). Cohabitation is one of the objectives of marriage and therefore, if man resorts to a vow with the intention of teasing his wife not to have connections with her, Islam bids the court to compel the man to break his vow and pay expiation money which is a kind of cash fine, or otherwise divorce the woman. If the man is disabled and not in a position to cohabit, the woman has the right to the annulment of the marriage bond. According to the Islamic rules, man does not have the right to curtail this right of the woman even due to his excessive worship and piety. The great Prophet (S.A.) addressing a person who had discontinued connection with his wife for the sake of prayers and ascetism said, "Your wife has a right over you."

The other right which a woman has over her husband in comparison to the other wives of her husband (when the husband has a number of wives) is that equality is maintained between all the wives in regard to her right not be left alone and for the implementation of justice (jurists with little differences unanimously agree on this principle).

Part III: Woman's special duties

Since rights and duties are interconnected, the woman has certain obligations in response to the general and special rights she enjoys over the man (These obligations of the women are regarded as man's special rights). The major obligations of the woman are as follows:

(i) Condescension: Condescension is obedience to the husband or seeking permission to leave the house or any other work which may damage man's special rights. This is contrary to what is occasionally said, that woman is legally not bound to absolutely obey her husband though morally such an obedience is very desirable and basically in her own interest. The right of condescension, in consideration of the nature of man and his sexual needs and the peculiarities of this natural requirements (physical and spiritual) which are different than the woman's in quality and characteristics, is a natural phenomenon. Any deviation from this is termed as infidelity of wife in jurisprudence and needs legal implementations. In such a case man may also reciprocally restrain himself from performing certain financial obligations. Some traditions prohibit woman's abstention from man's reach if it be under the impression of and for imaginary damage to the foetus and any other fanciful purposes. The woman is strictly prohibited from leaving the house without her husband's permission and doing any thing which may cause hindrance in man's rights even if it be a non-obligatory prayer. The lengthening of compulsory prayers by the woman which hinder man's special rights is also strictly prohibited.

(ii) Chastity: It means the preservation of the precious and calamitious essence which is the man's trust with the woman and symbol of her female personality. Principally, woman is man's trustee, protector of his wealth and property and caretaker and nurse of his children and the guard of his prestige and dignity.

Woman's modesty which means her individual and natural self-control in the presence of other men or in the face

of the undefendable sexual relation of the menfolk, who according to the natural demands of their malehood are in search of cohabitation and reproduction, serves as a strong formidable wall. In this way she protects the race and the descent of her husband, i.e., the lineage which she is required to rear. By doing so, she also protects the prestige and the trust reposed in her from the damage that may be caused by the thieves and robbers of human dignity.

A tradition of the Prophet (S.A.) states that woman should be covered. With a view to protect woman's chastity, modesty and purity Islam has made all necessary precautions. It has not only prohibited adultery which means sleeping with other than the husband and declared it illegal but also declared death sentence for it. Not only this, Islam has even prohibited the woman from make-up and embellishment for anyone other than the husband. Islam prohibits abandoning of cover and the court may punish the culprit. Most of all Islam forbids woman even to cast a sinful glance over a man even if he is a blind man. A tradition says: "The curse of Allah is more severe for those women who cast a sinful glance over men other than their husbands, and due to this act, the reward of all their good deeds also gets cancelled."

9. Difference between the Rights of Men and Women:

In addition to what has been said above, the civil and criminal laws of Islam provide for certain differences between men and women. The most significant of these differences and distinctions, which are also occasionally used as a means to propagate against Islam by its enemies and presented as example of negation of women's rights and her true identity are the differences between men and women in inheritance, evidence, blood money, divorce and polygamy.

Although, having described the secrets and mysteries underlying these differences in their various scientific dimensions and having trust in the wisdom of the Islamic law-maker, there was no need to reply to these, yet these may be

dealt with a brief for a further explanation and clarification.

(a) Inheritance: The share of the children and other paternal relatives (in cases where they have the right to inherit) is provided for by Islam on the basis of the right of male and female. The share of the male is twice than the share of a female. The holy Quran provides: *"The male shall have the equal of the portion of two females (4:11)"*.

Some consider this difference as discrimination and a reason to prove indifference towards the fundamental rights of women. But one should realise that: firstly this law was revealed at a time when human societies of these days did not grant any inheritance to the woman folk as a whole. Secondly, it would be wrong to consider inheritance simply as the division of an interest or profit. The external differences existing in regard to the shares in the Islamic law of inheritance, which is a complicated law and based upon many a considerations, cannot be judged in a simple manner. Thirdly, the principle of giving the man, double the share of woman does not apply in all the cases. There are instances (like the father, the mother and maternal relatives, between whom no differnce is made or some collaterals on the side of the mother and the father) where the mothers' relatives are given preference on the father's side. If the woman is a closer relation of the deceased than the man, man gets no share in the inheritance. It proves that the simple rule which we have placed in our minds would not be enough to understand the interests and several mysteries hidden in the various forms of this issue.

Allama Tabatabai in his precious commentary, refers to this difference and says that the result of the distribution of inherited property on these rules between men and women is that at the stage of ownership, man owns double the share of the woman but when it comes to the stage of consumption, woman's share is always twice that of the man. It is because the woman always preserves her share and property but the man has to spend for the wife's upkeep thereby spending half of his share and property for the sake of his wife.

The wisdom and secret behind this difference may be the sentimentalism of woman and the man being a calculating person. That is why the ownership of a greater part of property is provided for man.

The verse in the holy Quran saying: *"Men are the maintainers of women because Allah has made some of them to excel others and because they spend out of their property ... (4:34)"* also points out to what has been mentioned above. The word Qawwam is used for a person who takes over the burden for the maintenance and subsistence of someone else. The word here means providing for the livelihood and not domination in a general sense; man's superiority is in respect of administration of property for the his being calculative and logical in his dealings.

The most comprehensive and to the point reply is the one given by Imam Sadiq (A.S.) who said that: "Man's share is twice the share of a woman because the woman is not required to participate in war, the crusade or for the country's defence. In addition her subsistence is man's responsibility and he has also to pay the dower money. In certain other cases the blood money is paid by man and not the woman".

(b) Evidence: The effect of the evidence given by men and women is not always the same according to the Islamic jurisprudence. In cases like power of attorney, guardianship, divorce, return (of a divorced woman to her husband), descent, appearance of moon etc., the evidence of a woman is not effective and does not prove the contention. In case where the evidence of two just men is enough to prove the correctness of an incident in a court of law, the number of female witnesses is double the number of male witnesses, that is to say four women are required to stand witness. In other words, the witness of a woman has half the effect of a man's witness. In order to prove adultery (four men witnesses are essential) the witness of men and women together can prove the allegation but if the witnesses are only women they are not sufficient to prove the case. This difference has caused criticism and it has been claimed on these excuses that the

credit and rights of women are lesser than the man in the eyes of Islam.

As mentioned above a simple and rapid judgement in this affair is a symbol of lack of attention and consideration towards the hidden mysteries of creation. Such an attitude speaks of peoples' ignorance or motivations. In reply to such accusation we may here state the following in brief:

Firstly, evidence is not a right but an obligation. Any one who agrees to bear the burden cannot refrain from expressing the facts. To withhold evidence is a crime and a sin in Islam (2:282). Hence if a larger number of witnesses is needed to prove a case, the obligation of an individual is, in fact, reduced, therefore, the woman is given an exemption. Secondly, as proved by the philosophy of rights and the principles of criminology and cases of criminal procedure, as well as according to the confirmation by psychologist, the information greatly differs in every case and incident depending on the description of the happenings given by the witnesses. It would differ if given by a man or a woman, a child or an old man depending on sentimentalism and self restraint. Experience shows that the evidence given by sentimental and sympathetic people who have naturally a stronger power of imagination, is less accurate (since their power of imagination unintentionally introduces changes in the fact of the matter and its description causing some changes therein). A woman, by nature is dominated by feelings and sentiments. It is, therefore appropriate that her evidence in matters of great importance should be accompanied with greater support. In evidence the essence of word and the narrator thereof are not considered as the objective. Both these are meant to lead towards the actual incident. Nature has not given the accuracy which a man's evidence carries to the woman. Thirdly, if the evidence of two women being equal to one man is considered as a reason to prove that it shows lack of dignity for woman, then in other cases where the man's evidence is ineffective, woman's evidence would be far more incredible. As against this, there

are instances where the evidence of each of the woman proves one fourth of the matters under contention. One man's witness does not carry any legal importance. For instance, the evidence of man does not prove anything in respect of willed property. As against this, the evidence of a woman would prove the fourth thereof. With the increase of each woman witness, one fourth will be added till the evidence given by four women would go to prove the whole. This method of evidence is also true in respect of a child having born alive. However, the witness of a man would not go to prove anything in respect of the child's inheritance. As against this, the evidence of each woman would prove in favour of one fourth of the inheritance. This rule does not reduce the dignity of man or bring down the value of his evidence. Fourthly, in certain cases, the evidence of a woman is absolutely acceptable, for instance, evidence to prove birth, virginity or a woman's generic defects. In certain other cases evidence given by a single woman proves the whole case. Fifthly, the condition underlying the acceptance of an evidence is the witnesses being fair and impartial, that is to say, he should possess the merits of truth and confidence. If a woman was considered devoid of personality or credit, the very principle of her evidence would not have been accepted and there was no need to fix the number of witnesses in each case according to its merits.

Taking into consideration, the different rules and regulations of evidence in Islam, it appears that the law-maker has given consideration to two things. Firstly, that the witness should have definite certainty in regard to the subject of his witness. Secondly, the evidence is not given with a motive other than the expression of one's knowledge and correct information such as for personal benefit of the witness or prevention of any damage to him or with a sense of enmity towards anyone who can be harmed by the evidence. The relationship between a servant and a master and between a leaser and a leasee also come in the same category. Both these conditions prove the care taken by the law-giver in

regard to evidence and the witnesses so that only the truth is proved with the help of evidence and not things which are false or doubtful. Where there is the danger of somebody's rights being trampled to the least as a result of the witness coming under the effect of feelings and sentiments or if there is the fear that the witness gives incorrect evidence under the influence of some other things, the member of witnesses is increased.

(c) Retribution or Fine: It pertains to money paid in consideration of crimes committed against someone's life or human limb, wrongfully or in a manner which is suspected to be wilful. The money is paid to either the person against whom the crime is committed or to the next of kin of the heir. According to the retribution law, the retribution money for a Muslim woman, if killed, is half the retribution money for a Muslim man. In case of injury, if the amount of retribution is less than one-third of the total retribution money, it would be equal to the man's, but if more than that, it would be half the amount fixed for the man.

Some critics bring this point as an argument to state that the rights and personality of woman is in this way reduced. These criticisms originate by separating Islamic criminal laws from the general philosophy of laws pertaining to the finer points and making a microscopic analysis of one in isolation from the others without giving any consideration to the collective harmony that the whole system possess. Such criticisms are unscientific and devoid of scholastic accuracy. These cannot lead to any truth nor can any reality be proved without discrimination.

In our discussions relating to the Islamic laws as a whole, we find that the personality and dignity of woman has been recognized and that she enjoys complete equality in human rights and personal affairs as compared to the man. The Islamic system also clarifies the separation of men and women in their functions and social characteristics and division of work originating from their different natures. Therefore, if the opponents do not raise objection on the

obligation imposed on man to pay for woman's dower and her subsistence and the need for man to support the woman and in similar other matters, it is not appropriate on their part to show sensitivity and make noise in cases where the right of a woman differs a little from the man's or any rules of this nature.

The laws of retribution do not treat woman as 'mature' (a term used in the sense of persons who are responsible for the payment of retribution money on behalf of the wrongful deeds of their relatives). The law does not compel the woman, like the man, to be responsible for the payment of retribution money in respect of her relatives who commit murder or inflict wrongful injury. This is a big financial privilege granted to woman and probably it is in consideration of this privilege that greater retribution money is paid to the man's family.

The other instance is the retribution money for injury which is not more than one-third of the total retribution. In this case both men and women are equal. However, if the philosophy underlying this law was based on diminution of woman's rights or personality, in that case the retribution money paid to the woman would have been half of the money to be paid to man in all cases.

Some are of the view that the difference in the retribution money paid to man and woman is on account of the fact that man is responsible for meeting the expenses of his house and members of the household; in addition to this he also bears the burden of subsistence and other expenses. If he is killed a number of people are left behind whose subsistence needs to be provided and, therefore, they should get greater amount for compensation. This has nothing to do with the essence of one being man or woman. The consideration is the outer effect of their death on a family. It may be mentioned that the retribution money is not the price of the person killed but, most probably as we have said, it is in consideration for the financial and material loss suffered by the persons left behind by the murdered.

(d) Divorce: One of the most prominent objections raised is as to why it is only the man and not the woman who has been given the right to divorce. The general answer to this criticism is the same as mentioned in regard to the logic underlying certain distinctions in laws pertaining to men and women. However, specific answer to this matter is to be found in the following:

Firstly, divorce is a despicable action in the eyes of Islam. According to the tradition of the holy Prophet (S.A.), "The worst permissible is divorce act". The narrower the circle of persons having the right to divorce, the lesser will be the number of people committing this hateful action.

Islam, with a view to impose restrictions on divorce and to remove the reasons and grounds thereof has taken into consideration all the aspects of the matter and framed affirmative and negative instructions and reiterated then addressing the spouses. Islam's clear instructions in regard to a family and rules of social life are meant to root out the very basis of separation and destruction of a blissfull family life. Divorce is prescribed as only the final and ultimate treatment of the incurable situation.

Secondly, divorce mostly takes place as a result of the individual being carried over by sentiments and individual inclinations as also on account of clash between the sentiments of both the parties. In this respect, the depth of sentiments and lack of logic, further fan the fire of differences and friction. Islam, with a view to prevent the intervention of blind illogical sentimentalism in the affairs of the family and to prevent separation between the spouses, lays great stress on logic and reasoning so that the sudden flaring up of the feelings between the two does not set the family afire and the household does not get demolished and shattered. That is why, a divorce conditioned by oaths or terms is considered void. That is to say, if a man says that: "I swear that in case of commission or ommission of such and such a thing, I shall divorce my wife," or says to his wife, "I shall divorce you if you do such a thing", it is clear that divorce in such cases is

the outcome of ephemeral sentiments and not based on any calculated logic.

The holy Prophet (S.A.) is reported to have said that: "There is no divorce ... in a state of mood". Some of the jurists have interpreted moods as rage, intoxication, frenziness, aversion and the like. It goes to say that divorce should take place in normal conditions and as a result of ordinary reasonbale attitude of the person concerned. Other traditions specifically mention that divorce given in conditions of aversion, force, intoxication and rage are void. A tradition of Imam Sadiq states: "Divorce is that which is given without aversion, it should not be given in conditions of menstruation and parturition; it should take place in the presence of two impartial witnesses; lest a divorce will be void." (Vasayel, chapter 37 relating to divorce, tradition 2 and Jawahar, Volume 32, page 11, and other books of tradition and jurisprudence).

The technical argument, for such a divorce being invalid, is that since divorce carries important and far-reaching effects, it should be given in a state when man's will and intention **(Qasd)** is not under any influence. In some other traditions, the word **"Qasd"** is interchanged for the word **"niyyat"** (intention) and it is said that there is no divorce except by intention. However, there is no difference in the meaning of these two words in the dictionary. However, some may, as a matter of their taste, interpret the word "niyyat" (which is generally peculiar to prayers) as the performancce of divorce in the hope of getting a spiritual reward; that is to say that the divorce is that which is given for the pleasure of Allah and in obedience to Him in the interest of both the parties and not that which is given for the sake of passion and capricious desires.

The stress and dependence on one's intention, determination and resolution and the rejection of divorce given out of anger, sentiments and frenzy as well as the divorce which is declared suddenly and out of senses etc. proves that logic reasons and wisdom must play their part in

the performance of this legitimate action. It is clear that if the authority for divorce was vested in women folk, there would have been greater possibilities of divorces based on sentiments, rivalries, jealousies and disputes. It is because a woman is more prone to sentiments, anger, revenge and hatred. The facts and figures from some western countries show that nearly 80% of divorces take place at the request of the women. Men, in comparison to women are more far-sighted, self-restrained and calculative. They also stage an early comeback from their decisions taken under strains of sentimentalism.

Thirdly, the basis of matrimonial is founded on heartfelt relationships and not on purely legal ties without love and affection. It is based on attraction and inclination and not compulsion, domination, force or aversion. If woman's approval be conditional for divorce and man's decision is not considered sufficient by itself (that is to say it should be bilateral and not unilateral) then the very purpose is defeated, because in that case man is forced to lead a life under compulsion devoid of love, attraction and sentiments even though there is no love lost between them. The nature has provided that a man cannot perform his natural duties without incitement and even without the fitness of physical health and sexual organs. As against this the woman is capable of responding without any incitement or fitness.

The late Ayatollah Shaheed Motahhari, having described the differences between the mentality of men and women while in contact with each other shows that whereas man is in need of woman's body, the woman longs for the man's heats. He explains that the meaning of a family life for a woman even while becoming a mother, bearing a child and then her affection to the child and other manifestations thereof only represent her love and sentiments for the man. Without man's love woman starts hating the house and even the children. The Ayatollah Motahhari further states that for man, in consideration of his aggressive and hunting attitude towards woman, it is no shame if he holds his disillusioned

beloved despite her disaffection at the point of law so as to tame her slowly and gradually. On the contrary, it is intolerable and a matter of insult for a woman to live with a man who does not love her but compels her to be orderly. Thus if a man's heart becomes devoid of love for his wife and other factors such as performance of religious and moral obligations, mercy and faithfulness do not hold him from divorcing the wife, it would be in the interest of woman and her dignity to accept divorce and separation without having the right to exercise a veto.

Fourthly, divorce is a 'right' and a right is transferable. Islam provides that in certain anticipated matters woman can acquire the power of attorney for divorce if it is felt that man due to his weak personality or swayed by sentiments will not agree to divorce with the intention to harrass the woman though there are logical restrains which make it clear that the continuance of a healthy life is no more possible. The woman in such cases can acquire the right of divorce at the time of marriage so that she in circumstances which fulfil the conditions for divorce (such as ill-treatment, bad temper or restraint in payment of subsistence and performance of other obligations) may, using this power of attorney divorce herself from the man.

In addition to this, Islam provides for two other types of divorce. The one at the request of woman **(talaq-e-khul'a)** wherein she can ask the court to divorce her in return for her giving up the dower money. The other is with mutual consent **(talaq-e-mubarat).**

Thus, a little careful thought would go to show that divorce in not always in the hand of man and even the woman may also avail of this through legal and religious means in cases where man has crossed the bonds of piety, reason and morality, thereby seeking separation from man.

Fifthly,divorce generaly entails economic pressure and financial as well as moral burdens for man. He has to pay the dower money which is a debt and if he takes another spouse that would also mean further expenses. He is required to bear

the burden of up-bringing the children single-handed. He is also to pass through the social and moral dimensions created by the situation which is generally charged with rebuke and chastisement. Hence, divorce is entrusted into the hands of the side which faces more of damage in this deal and is hardly in his interest.

(e) **Polygamy:** (Quran uses the word **"Zauj"** for woman but in lexicon it is common to both men and women). According to Islam man can marry more than one woman, but the woman can have only one husband. According to some this is a discrimination between man and woman. Though no one demands the right of multiple spouses for women due to clear scientific and social reasons, but it is the multiple spouses for men that is objected to. They believe that man should not be given this right.

Multiple spouses for women are occasionally provided for in the view expressed by philosophers such as: Poltinos and in schools such as Marxism and also in some old schools of thought and in some areas of Tibet. However, Islam has prohibited it because:

(i) Having multiple husbands is against woman's nature and temperament. Woman by herself is disgusted with this because unlike the man who is fond of sprinkling the seed everywhere and cultivating the land, she is like the land which keeps the seed in trust, maintains it, nurses it and fructifies it. It is in a natural way that she achieves her natural objective by coming in contact with the first man and thus closes her door to other men. On the other hand, man by nature is demanding and aggressive. Like a moth it flies from one flower to the other.

(ii) Woman's contact with more than one man causes natural damages to her (both physical and spiritual) such as venereal diseases, giving birth to sick or deformed children. It also occasionally leads to sterilisation. She also suffers from nervous and psychological and other ailments.

(iii) Woman is the protector of progeny and in case of multiple husbands, progeny which is a matter of

consideration for the natural system and Islam also maintains for it, shall get disturbed. Children shall not know their father and will become spiritually and sentimentally sick. Many other problems will be faced by the society.

It is for these reasons that the concept of multiple husbands for a woman could not persist in the world and some of the communist countries, who for some time carried out the experience of "free woman", changed their principle after experiencing many a problems and leading to its failure. That is why they staged a come-back from their beliefs in this field.

However, as far as the question regarding polygamy and multiple wives for a man is concerned and as to why does Islam permit it, the following points are mentioned in reply to the objections raised in this regard:

(i) Multiple wives is a matter which is in accordance with the law of nature and man's temperament. Islam does not prohibit it if it does not cause any loss and does not create any problems in the human society. For a man to have a single wife is contrary to the law of nature though according to known customs, traditions and ways of living it may be considered as appropriate thing.

(ii) As against the propaganda made by the enemies, Islam is not the first founder of this law. It has, rather delivered this from its uncouth and extremist form and put it under certain limitations. At the time of the advent of Islam, it was prevalent amongst Arabs that they even had more than ten wives in their house. In the **harems** of the rulers of Iran, China, Rome and even in other civilizations hundreds of women were maintained as wives. Islam by restricting these in terms of their number and having introduced some compulsory conditions thereof performed a revolutionary act for the preservation of woman's right and dignity.

(iii) Irrespective of the fact that from the natural point of view womanhood demands that she should have only one husband and manhood demands polygamy, having multiple spouses is also considered as a social need. The law should

provide for such a possibility. Though the number of women is equal to men, sometimes the number of women becomes far greater than men on account of early maturity of girls who are ready for marriage at an age of less than 15 years. It is also because death and fatality in women is less than in men due to their greater power of resistance in the face of diseases, non-participation in war and non-performance of dangerous and risky jobs. Therefore, if men are not given legal permission to have more than one wife then in practice both men as well as a large number of husbandless women are drawn towards corruption and prostitution. This breaks the links of family and causes venereal diseases which penetrate into the families thereby spoiling the purity of the chaste continence of the women of the families. That is why the principle of legal permission for polygamy at times of necessity is not in the interest of man but in the interest of the society and both man and woman.

(iv) Contrary to what is generally believed, all the women are not opposed to polygamy and only those are opposed who consider the second wife of their husband as their rival and enemy. Nearly all the women who are in the process of being called for as new wives and the remarriage of man is in their favour approve of polygamy. In other words, nearly half the women are in favour of this.

The women by nature do not despise the multiplicity of wives of their spouses. It is observed that under given conditions, some women have lived voluntarily in an atmosphere of peaceful co-existence and even with a spirit of cooperation with the other wives of their husbands.

(v) Since the natural obligation of the woman is to conceive and nurse the sperm and generate it, it is observed in most cases that after conception and the formation of the foetus, a woman does not feel much inclined towards the man and even shows sensitivity such as different types of allergies at this stage. She temporarily becomes frigid. As against this, man does not get such a feeling even after a long period. His natural instinct is always alive and he cannot be compelled

naturally to forget this instinct and his necessity.

In addition to this the period of monthly menstruation of women deprives the woman of nearly one-third of her life from the point of view of sex. However, there is no such thing for man. Moreover, a woman reaches a stage of menopause at the age of 50 years. As against this, man may feel the necessity of having a woman and children for another 10 years.

(vi) Having said all the above matters, Islam has limited and systematized the system of polygamy on the basis of natural requirements and on the principle of human sentiments. One of the strict conditions for polygamy is the need to observe fair play, that is to say absolute equality both material and moral. The holy Quran has described the underlying principles in this matter in a number of its verses. Some of them are:

"... Then marry such women as seem good to you, two and three and four, but if you fear that you will not do justice (between them), then (marry) only one (4:3) ..." and *"And you have it not in your power to do justice between wives, even though you may wish (it), but be not disinclined (from one) with total disinclination, so that you leave her as it were in suspense; and if you effect a reconciliation and guard (against evil), then surely Allah is Forgiving, Merciful, (4: 129)".*

These two verses conclude that it is not possible for a man to observe justice and preserve fair play, for him having multiple wives is not permissible. This minute observation, while making the laws and keeping all the natural, social and moral aspects in view shows the lofty wisdom that Quran keeps in consideration. That is why some observe that the basic principle in Islam is that of a single spouse, unless the need calls for.

Islamic traditions prohibit repeated marriage even if it is done after forsaking the first. Islam severely condemns the capricious persons.

10. CONCLUSION

How to revive woman's human rights?

With all the clear rules which Islam has provided regarding women's rights and specifically defined the obligations of both men and women, it is regretted that woman has still not achieved her real and appropriate position in Islamic societies and she is still deprived of many a rights.

This position is also observed in modern civilized societies who have provided rights to their women under the provisions of Human Rights Declration. The situation continues unabated despite a number of seminars, congresses, books and researches carried out in this regard.

The instable social and legal status of woman during the centuries after the Islam and after the civil developments that have taken place in the west, has deep-rooted reasons which must be examined and identified with a view to revive woman's human rights.

(a) The first reason for the woman's problems remaining unsettled is that it has not been given due and sincere attention. Any plans for the revival of woman's rights has remained more in words than in action.

The woman's issue despite slogans, cries and loud noises was never accorded the first and the foremost priority in the world. International organizations and legal institutions have accorded more attention to other issues which are of lesser importance, though of an urgent nature.

(b) The other reasons is the defective cultural factor and the influence and amalgamation of different cultures, specially the western zionist culture. These have rendered much influence in restraining man and woman from acquiring higher degree of knowledge and information. More, and above all, it is the colonial culture based on instinct and nudity which has dropped the woman to the lowest ebb and rendered her the object of men's sensuous lust using her as the temporary tool of his pleasure-seeking activities.

The rule of an inappropriate culture, or the cultural crises, the absence of culture or a baseless civilization

prevalent in societies resulted in the treading on the rights of woman and dropping her down from her lofty status to a low position.

(c) The other factor that has been effective in her backwardness is her own shortcoming in strengthening her scientific and mental potential which could have prepared ground for her mental progress. Unless women do not attach the necessary importance to their education and good framing as well as for their mental and intellectual development, they will not be able to lay hands on their human personality. They need a sound culture and atmosphere to achieve these objectives.

(d) The other reason is the difficult existence and the ignorance of a majority of menfolk from their legal and religious duties. So this may be added their natural and traditional views of looking down upon the woman. This point of view does not correspond with the Islamic view and its realistic world insight.

The existence of a sound conscience dominating man is the strongest guarantee for the revival of woman's rights. If man does not really believe in the rights and status granted by Islam to woman, the difficulty will remain unsolved.

(e) The most important reason or the first cause of all these problems of woman and her deprivation of her own rights is her ignorance of her real identity. So long as she does not realize her real identity and distinguishes herself from man in all aspects (whether social, psychological or otherwise and the difference in her working and her specific role) she will not be able to oblige men of all the societies to perform their own duties.

Hardly would a woman accept that she does not recognize herself or her gene. Therefore, few women resort to efforts and endeavours leading to their real identification. In our opinion, the woman shall never be able to come out of the present whirlpool and liberate from it without a review and rethinking leading to her correct identification as desired and introduced by Islam which needs return to nature and the

traditions of creation.

(f) The absence of a system of government which may introduce an appropriate ground for the growth and development of a process leading to the reformation of woman's rights by use of its authority is essential for the emancipation of woman from her present situation. This government should, with its authority and correct perspective, guarantee the implementation of laws which should avoid the conditions which have deprived women from their Islamic rights.

It is only an Islamic government fulfilling the conditions which can achieve this objective. For this purpose it should be able to fulfil its obligations in all aspects of the matter such as legislation, reformation of culture, guidance of thoughts, education and training, as well as the punishment of the wrongdoers.

The way leading to the restitution of woman's human rights lies in the improvement of the conditions and factors which have caused instability for her. It is said that guidance can be projected when misguidance is prevalent everywhere.

This paper written under difficult circumstances and in a short time with a view to describe and analyse women's rights is meant to respond to the invitation of the respectable organizers of the 5th Islamic Thought Conference. It is here for the connoisseurs and is written in all humility. It represents our insignificant effort to achieve the objective behind it.

Islam the Best Religion for Preservation of Human Rights

Engr Seyed Khādim Husain Naqavī

1. Introduction

Human beings are the supreme creation of the Creator — the Almighty Allah —Who has accorded highest possible and conceivable prestige to man and has appointed him at the highest possible position as His trusted prophets and Imams. In the midst of the explosion of scientific knowledge, technological advancements and the progress of materialistic world, human beings have generally lost their track. In an environment which is largely hostile to divine and spiritual concepts and practices, human beings do not usually realise that in this universe whatever exists, its sovereignty is vested only in Allah. He alone has the right to command or forbid. This worship and obedience is only for Him. We have to realise that our own physical organs and faculties, our calibre, our apparent control over everything that exists in this universe, and even the things themselves — none of them have been created by us. They are all the bountiful blessings of Allah. We, therefore, can neither decide on the aims and objects of our existence nor we can define and quantify our rights.

The Christian religion publicity oriented book of general knowledge — the Encyclopaedia Britannica — defines "Humanism" as "An attitude of mind attaching prime importance to man and human values." Also, the Encyclopaedia Britannica defines "Human Rights" as "The

rights thought to belong to the individual under **natural law** as a consequence of his being human. The charter of the UN affirms a "faith in fundamental human rights, in the dignity and worth of the human person, in the **equal rights of men and women** and the nations **large and small.**"

I feel before knowing about human rights, it is necessary to know a little about the aims and objects for which human beings have been created. Today, more than two-thirds of world population of Muslims, Christians, and Jews believes in revealed religions and in Allah and prophethood. Even by normal majority rule, the whole world should reconcile to the idea of acceptance of **Tawhid (Unity** of God and His Masterhood) and prophethood, which is nothing but the means of guidance for the human beings.

The Holy Quran says:

"And I have not created the Jinn and the human beings except that they should only worship Me (51:56)."

The main aim and object of creation of human beings is that they should excel and refine themselves to achieve highest spiritual and intellectual position with the help of given faculties; and with such a worship and obedience, they should attain Allah's will and pleasure.

The Holy Quran, while explaining about Allah's creation including human beings and their guidance, says:

"He (Prophet Musa) said: 'Our Master is He Who gave everything its creation (existence), then guided it (to its goal)' (20:50)."

In particular, while explaining the creation of human beings, Quran says:

"O people (human beings)! if you are in doubt about the Resurrection (after your death), then undoubtedly We created you from soil, then from a small sperm, then from a clot, then from a lump of flesh, complete in make or incomplete, that We make clear (Our capability) to you (then to give you another life is very easy); and We cause what We please to stay in the wombs till an appointed time, then We bring you forth as babies, then (We take care of you so that) you may attain your maturity; and

among you are some who die (before old age) and among you are some who are brought back to the worst part of life (old age) so that they could realise that they do not know (in spite of attaining old age) anything... (22:5)."

2. Real domain of human rights

From the above Quranic verses it is clear how have the human beings been created and what is the purpose of their creation. It is also clear that the term human being applies from the time sperm is in mother's womb and also covers his/her birth, worldly life, death, **Barzakh** (period between the death and Resurrection), **Maãd** (Resurrection) and the life Hereafter. Thus the human rights, i.e., the rights of men and women encompass such a vast domain.

3. Islam's views & doctrines for the human rights (6th Century A.D.)

Since 6th Century AD, Islam has provided a perfect Code of Ethics for preservation of Human Rights & promotion of human behaviour. To know about human rights in minute details, one could easily refer to doctrines of Islam through Quran and **Sunnah.**

About Quran we know that:

"This is a Book, whose Verses are made decisive (11:1);" "Falsehood will not come to it (Quran),... (41:42);" and *"And most surely it is the true certainty" (69:51).*

Such a Holy Quran says:

"Surely this Quran guides to that which is most upright... (17:9)."

The Quran also says:

"This is a Book which We have revealed to you that you may bring forth men, by their Lord's permission from utter darkness into light – to the way of the Mighty, the Praised One" (14:1).

Thus Quran and **Sunnah** (Hadith) and the life-style of Prophet Muhammad (S.A.) give a detailed account of human rights. These Islamic sources deal in detail with human rights and allied subjects, which mainly include:

(a) Universal fundamental rights: These are the rights of men

and women, children, old people, sick, wounded, oppressed, rich and poor, etc., which have been granted by Allah, as human beings. These rights comprise of the right to life (no one can kill the other); the right to the safety of life; the right of respect for the chastity of women; the right of freedom (no one can be enslaved); the right to justice; the right to a basic standard of life; absolute equality of human beings (Quran says: *"O you mankind! Surely We have created you from a male and a female and made you nations and tribes so that you may be able to recognise each other... (49: 13)"*); etc.

(b) Citizens' rights in an Islamic State: Besides fundamental rights, rights of human beings as citizens in an Islamic State broadly include: the security of life and property, the protection of honour, the security of personal freedom, the sanctity and security of private life, the right of expression, the right of protest against oppression; the right of formation of associations; the right of freedom of conscience and conviction (Quran says: *"There is no compulsion in religion... (2:256)"*); the right of protection of religious sentiments; the right of protection from arbitrary imprisonment; the right of basic necessities of life; the right of equality before the law; the right of avoiding sins (i.e., **no citizen can be compelled to commit sin** — eg, in some of the so-called Islamic countries, the government authorities are compelling women not to observe Islamic **Hijab** (veil); or compelling men not to engage more than one wife even if without this they might be susceptible to have illicit relationship with other women; in both these cases the citizens would be entitled to disobey the orders of the authorities); etc.

(c) Enemies' rights: Elaborate rules have been framed by Islam for following a code of ethics even during wars, and ensuring certain human rights for the enemies irrespective of their behaviour. These are different for combatant and non-combatant enemies. While the non-combatant enemies (like old and infirm and sick people, women and children etc) are not to be harmed, the rights of the combatant enemies to be preserved include: protection of wounded, protection against

torture with fire, protection against slaying of PoWs, sanctity of property of enemy-country's population, the right of sanctity of a dead body, the right of return of dead bodies of the enemy; etc.

(d) Women's rights: Islam has laid particular emphasis on preservation of women's rights. The Almighty Allah has revealed a full detailed chapter **(Surah Al-Nisa)** exclusively for women in Quran. This, in addition to other descriptions in the Quran, deals in an elaborate manner about the preservation of women's rights and their rightful status in the society.

The above facts give the outlines of the human rights which, 1400 years ago in the 6th Century AD, Islam had presented to human beings. In the subsequent description, one could see that in spite of so much progress, knowledge, and scientific & technological achievements, the world has not been able to produce more just, equitable and humanistic laws than those given by Islam 1400 years ago. It is high time that Muslim countries and Islamic States should realise this fact and adopt Human Rights as per the Islamic **Shariah** rather than look towards the East and the West for their guidance.

4. Renaissance humanism — Italian humanist Petrarch's work (14th Century AD)

Against this most comprehensive Divine Islamic framework of human rights revealed to the mankind by Allah, when we look at the other efforts made in this regard, we come across the first major significant effort by an Italian humanist, Petrarch in 14th Century AD, whose scholarship gave great impetus to a "Human Rights Movement" that eventually spread from Italy to all the Western Europe. The interesting point here is that humanism has been regarded as the central theme of Renaissance civilisation.

5. Declaration of the Rights of Man and of the Citizen — a prelude to the French Revolution (18th Century AD)

The second major effort recorded in the history was the "Declaration of the Rights of Man and of the Citizen". This was one of the basic charters of human liberties, containing the principles which inspired the French Revolution. Its 17 clauses were adopted by France's National Assembly in August 1789. This Declaration also served as a Preface to the French Constitution in 1791.

This declaration, which was basically an attack on the pre-French Revolution monarchial regime, laid down that all men are born free and equal in rights—ie, in rights of liberty, private property, and resistance to oppression. All citizens were equal before the law and could participate in legistion directly or indirectly. Freedom of religion and freedom of speech were safeguarded within the bounds of "public order". Although it was believed that this Declaration expressed universal principles, but later it was discovered that it had the limited aims and, as the framers of this Declaration were from the middle class, it reflected the interest of the middle class for which the offices and positions were opened through this Declaration (Article 6).

6. UN's Universal Declaration of Human Rights (20th Century AD)

The third most significant effort in regard to human rights was the formulation of the UN's "Universal Declaration of Human Rights" just after the Second World War in which the mankind suffered huge destruction, exploitation and oppression. It is well known today that this Declaration had been framed with a view to pacify temporarily the human masses who suffered greatly at the hands of the big powers and that it has not served any useful purpose so far for preservation of human rights. The sufferings of human beings in Viet Nam, Bangladesh, Afghanistan, Iran, Iraq, Lebanon, Palestine, Nicaragua, South Africa, and many other countries are continuing and even multiplying by violations of international human rights and helplessness of the UN in spite of this document of

Universal Declaration of Human Rights, which has proved useless, as there is no sincerity of purpose and accountability to Allah

There are many shortcomings in this Declaration. It fully ignores spiritual angle and is purely based on materialistic consideration without any recognition that human beings have both body and soul and that their intellectual and spiritual exaltation is also important. It does not highlight the associating duties of human beings and nations for preservation of fundamental human rights. The Declaration does not mention about preservation of rights of human beings when they are very weak and helpless, i.e., from the time the conception takes place and till the time of birth. Similarly, it does not deal with the rights after death and for the period of **Barzakh.**

Although, the Declaration mentions that: "all human beings are born free and equal in dignity and rights" (Article 1), but the UN even after 40 years, has not been able to resolve human sufferings due to inequalities. In fact, the right of veto power being high-handedly exercised by selected few big powers is the greatest proof of inequality among UN members. Equality of men and women has been mis-interpreted in Article 15 (1) particularly with regard to equal rights as to marriage, during marriage and at its dissolution. Similarly, it is also not just when it mentions in Article 25 (2): "All children, whether born in or out of wedlock, shall enjoy the **same social protection.**"

Thus, there are many shortcomings and lacunae in this Declaration. Although on paper it guaranteed many rights to human beings, almost each member-country has been violating this Declaration in varying degrees and thus it could not at all ensure the expected justice to mankind in preservation of human rights.

7. Islam was and is the solution for preservation of human rights

From the above, it is clear that Islam had presented a comprehensive solution on this crucial subject of human

rights 1400 years ago, which is equally valid today and would remain valid till the Last Day of the humanity. It deals with this subject in a realistic manner and gives a perfect coverage to all the aspects of human rights. Thus the **Islamic Declaration of Universal Human Rights** (IDUHR) , when formulated, could be even adopted by the UN as it would be readily accepted by one-third of its member-countries (Muslim countries). Also, owing to the fact that other member-countries of the UN have Muslim populations and that the Christian and the Jewish populations also believe in Allah and prophethood, as well as owing to the fact that Islamic rules and regulations are best suited for the human beings in general, such an Islamic Declaration would be widely accepted. To begin with, this Declaration should be first adopted by all Muslim countries and the Islamic Conference Organization.

8. Powerful explosion of 1979 which shook the whole world — the Islamic Revolution of Iran

The Islamic Revolution of Iran in 1979 was like a most powerful explosion, arising out of great power of the only religion acceptable to Allah, i.e., Islam. This Revolution has shaken the whole world including the superpowers who have not yet recovered from the shock. It has shaken foundations of all kinds worldover. The Revolution and the continuing **Jihad** (holy religious war) of Iranian people against world oppressors, offenders, aggressors, and exploiters have upset all the calculations, extrapolations and estimates of political and economic pundits of the world who are busy in adjustment and formulation of newer plans (plots) to nullify the effect of this most powerful "Spiritual Bomb", which has frustrated all the materialistic programmes and projects for exploitation and oppression of mankind. The Islamic Revolution has acted as the powerful assertion for restoration of human rights, a means of Islamic resurgence, a moral booster for the oppressed in general and Muslims in particular and a hope for victory of freedom movements. For

this the humanity would remain greatly indebted to the great leader of the Revolution — Imam Khomeini — and his great sacrificing followers.

9. Formulation of the Islamic Declaration of Universal Human Rights

May I suggest to the organisers that having taken so much pains in organisation of the Conference on this vital subject, they could set up a small Experts Committee for the formulation of a comprehensive Islamic Declaration of Universal Human Rights in a modern form which should be based on the Islamic **Shariah** keeping in view the present-day scientific and technological developments. This would be another vital gift to mankind subsequent to the gift of this great Islamic Revolution.

If better human rights than what Islam provides have not been enjoyed by human beings and they have been undergoing great sufferings, why not this Islamic Declaration would be adopted by them and all the countries as a Code of Ethics to be followed by human beings and the governments.

10. Acknowledgments

I would like to express my gratitude to the International Department of the Islamic Propagation Organisation, Ministry of Islamic Guidance, Government of the Islamic Republic of Iran, for inviting me and giving me an opportunity for presentation of my paper on this important subject before this august gathering and galaxy of intellectuals.

Fundamental Discussions on Rights

Hujjatul-Islam Muhammad Yezdī

All praise is due to Allah, the Great, Almighty Truth. Peace and praise be upon him who was sent with guidance and the religion of truth, and upon his family and companions who guide toward the truth.

The Almighty Allah has stated the following:

"... *Say: Allah guides to the truth. Is He then Who guides to the truth more worthy to be followed, or he who himself does not go aright unless he is guided* (10:35)?".

In theoretical philosophy, *haqq* (truth) signifies an objective reality and an entity apart from man's mind and thought. It consists of strong and weak degrees mounting to absolute truth. Absolute truth is the very Essence of the Almighty Allah from whom and under the protection of whom every truth has become what it is.

In this sense,the plural of *haqq* (truth) is *haqā'iq*(truths) and bears no relation to rights and legal discussions.

In common terminolgy, *haqq* (right) refers to a credible relation set up between man and something else.[1] Of course, this credibility is not baseless; moreover, it is not devoid of direction and criterion. Very often it has objective and ontological roots and is related to the very philosophical truths which will be elaborated later on.

As this credibility is mutual, its second party can be man and his own organs and limbs. On the other hand, the second party can consist of factors outside man's personality such as

other human beings, animals, plants, all other objects, and in general whatever surrounds man.

As far as man himself is concerned, this credibility pertains to the right of living, maintaining salubrity and hygiene of physical organs, prohibition of suicide and mutilation of organs, and even prohibition of inflicting wounds.

Towards others, man must observe the rights of his wife, children, parents, relatives, tribe, and the people of the city, country, and the world.

As far as objects and surroundings go, man is duty-bound to observe the rights relevant to deriving benefit from nature and its environment including water, air, earth, plants, animals, etc.

Rights and Precepts

Conventions governing the relations between the ruler and the ruled by which men are bound to carry out the orders of the rulers (especially in rightful govrenments that are under the jurisdiction of absolute truth and the Almighty Allah) have no connection with the discussion on rights. They are commonly precepts and commands that have become binding by the ruler. They are not considered as rights, even though the right of their formulation and issuance as well as their in-depth investigation are in themselves legal issues.

For this very reason, jurisprudential books that set forth precepts and even legal books that elaborate laws and regulations are not legal books. Except for what they discuss on precepts, most of their subjects are not related to the law.

In jurisprudence or law, there is the possibility of the issuance of a precept or the ratification of a law on the basis of a right according to which, for example, it is incumbent upon man to provide his wife and children with alimony; it is necessary for a woman to obey her husband; or it is required

that those who have a certain amount of income should pay a particular amount as an obligation.

In some cases related to precepts and laws, certain rights that did not exist before the issuance of the precepts and laws are abstracted. In other words, rights can serve as the criterion and reason behind the formulation of a precept or the ratification of a law. They can, furthermore, be the results and outcomes of precepts and laws. The relationship that exists between the right and the precept and the distinction of the two are in themselves legal or scientific discussions.

In rights, matters such as granting, pardoning, transferring, and transferring by way of inheritance have a place. In precepts, however, none of these issues exist. Precepts legislated by Allah as well as laws and regulations, known as state laws, that are formulated by those in authority and that must be observed by people are not within the jurisdiction of individuals. In such a case, the relation between servant and guardian or ruler and the ruled is set forth and not the relation between the right and the one entitled to it.

The Principles of Rights

The following are factors that serve as the bases for the establishment of rights, which have been accepted, and must necessarily be observe in human relations in family circles, office, or the society to such an extent that their violation can be remonstrated and considered as an offence in encroaching upon the rights of others:

(1) Ontological matters: This category includes the way man was created, the right of living, the right of using natural resources that are more than the necessities of life, the right of freedom in clothes, food, employment, housing, etc. Such rights are not conventional. They have not been set up by any agreements or ratifications. They are rather the obvious

necessities accompanying man's creation.

(2) Perceptive and rational matters: In a sense, these can serve as a stage of ontology as the right of learning and gaining knowledge and perfection, the right of getting familiar with the environment, and naturally the right of enjoying what is related to these issues.

(3) Sentimental matters: These include the right of marriage and choosing a spouse, the right of listening to a good sound, the right of making such a sound as long as it does not disturb others, the right of eating and drinking more than what is necessary for survival, and the right of enjoying the beauties of life.

(4) Doctrinal and religious matters: These include all rights that have been set forth in religion by way of canonical formulation such as the father's right of guardianship over his child, the right of wife and husband, and the right of benefitting from endowment by those entitled to it.[2]

(5) Reasonable conventions: These include the rights that governments exercise over people and their properties in terms of taking responsibility for the expenses and welfare interests of the society. They also include the rights that should be granted to the people by the government, for example, the precedence of the interests of the public over those of the individual, the government's right of taking possession of public or even personal wealth or lands for the implementation of plans and provision of public interests such as providing roads, water, electricity, telephone, etc. the rights of people for enjoying governmental set-ups and organizations, elementary schools, high schools, universities, hospitals, parks, roads, airports, etc, and the rights arising out from reasonable agreements in transactions, contracts, and unilateral obligations.

Speculative Rights

It is evident that those rights that have originated from ontological principles, perceptions, and common feelings of men are accepted by all human beings, human societies, and lawyers. Differences of religion, government, and social customs and traditions will play no role in them. Examples of such cases are the right of living, the right of acquiring knowledge, and the right of marriage.

Those rights, however, that have sprung from religious sources or social conventions become different from one another on the basis of differences in religions or in beliefs or in social customs and traditions.

As an example, Islam has forbidden eating the meat of some animals, drinking some drinks, or wearing some clothes which are permitted or otherwise in other religions. This is because the rights springing from these diverse precepts are different.

In Islam, alimony should be paid by the husband and father. People are allowed to worship Allah at home, office, and even in the streets. This is not the case in Christianity and Judaism where worship is strictly confined to churches and synagogues.The case is also different in alimony as the right springing from this necessity and license are different such as the right of polygamy and divorce.[3] In a similar manner, there are many instances in social conventions that become entirely different under diverse governmental systems. These include matters such as the working hours, holidays, manner of transportation in streets, employment, and the administration of law courts, all of which become different on the basis of these conventions, ratifications or decisions taken by authorized officials.[4]

The same holds good for rights originating from mental and scientific sources. These will naturally become crystallized in social and rational conventions. These will

become different based on differences of views, thoughts, and opinions. They cannot always remain fixed in a society as they change with alterations in the thoughts and views of experts and with modifications in political, economic, and military conditions and situations of a society. With changes in decisions and conventions conforming to these situations and conditions, the rights springing from them will also undergo change.

For example, to recognize and assess the intellectual foundations of a society concerning the issue of the clash of individual interests with social interests, which mainly leads to social offences and to determine whether the individual or the society is supported by law, one can refer to a society's penal code of justice.[5] By this one can determine whether the rights of the society or those of the individual have been supported in discovering an offence from the first phase of hearing about or seeing the perpetration of a crime up to clash with and pursuit of the criminal up to interrogation, trial, issuing a verdict, court procedure, investigation of the case and the conditions under which the verdict was issued, and up to the announcement and enforcement of the verdict. It also enables one to assess whether there is a balance in supporting the individual and the society in such a way that both the right of the society and that of the individual are completely observed. The recognition of the scale of this balance has a specific role in the discussion.

A review of the penal code of a society can very well reflect society's principles of thought and belief about offences, the factors conducive to them, and the recognition of the offence. It can even show that acts which are offences in one society are permissible in the other. It also reflects how and upon what scales the degrees of offences, punishments, and their proportions are located so that legal discussions on this issue identify their own merit.

Contradiction in the Universal Declaration of Human Rights

The most famous charter in this field formulated by man on the basis of these thoughts, opinions, and beliefs is the UN Declaration of Human Rights which has been given so much publicity and for which there has been so much hue and cry.

The International Human Rights Declaration was proclaimed on December 20, 1948, that is, 39 years ago. It includes a preface, 30 articles, and several resolutions related to justice, minorities, and the implementation of justice. Regardless of this Declaration's degree of success in maintaining man's rights and in providing the goals for which it was formulated (such as the extent to which it has prevented the occurrence of wars, aggressions, violations of human rights by world powers) and regardless of its positive and effective points—all of which have been more clearly and precisely expressed in Islam, and in the Constitution of the Islamic Republic of Iran (which needs a separate pamphlet for elaboration) — there are some contradictions in the Declaration which we will point out as follows:

In the "preface", the following factors have been mentioned as the principal philosophy behind the formulation of this Declaration and its articles: freedom, equity, peace in the world, establishment of a world in which human being can live without having any fear for their beliefs and statements, prevention of barbaric acts perpetrated because of ignorance towards or contempt for human rights and which wound man's conscience, legal support of these rights so that there would be no resort to force, expansion of friendly ties among nations, belief of the members of the United Nations in the basic rights, prestige, and value of people, equality of the rights of men and women, and the unity of members for the provision of these freedoms.[6]

With due regard to the legal principles that we pointed out and especially the logic of holy prophets and Islam, these factors cannot serve as the goals. This is because man is far superior to and more deserving than other worldly creatures. This freedom and equity, in its true sense which is apart from equality, can be esteemed so far as it enables man's humanity to be revived and all his decent capabilities to blossom. It should not be at a level to act as a barrier and to lead man to animal life such as freedom in all edibles and drinkables and freedom in sexual matters which are demanded by man's instinct and which are harmful. Naturally, at this level, these cannot be goals, for man's most genuine source of rights is creation which does not accept this equality and freedom with such generality.[7] In this way, the belief of the UN members in man's political rights, respect, and esteem as well as man's conscience contradicts with freedom at such a level and the equality of men and women to such an extent.

After the statement of the preface and the goals, the 5th Article reads as follows:

> "No one can be condemned to torture, punishment, and savage and barbaric acts contrary to human principle. This right includes freedom of religious conversion or the change of views, as well as the freedom of opinion, religion, and faith by way of teaching or by means of individual or group, public or private enforcement, and the freedom of performing religious rites and rituals."

Apart from disputable points in this article, if the embracing of religion is free, many people have freely chosen Islam as their religion. In Islam, punishment for some crimes, which are mentioned under the discussion of penance and penal laws, include execution[8], hanging, mutilation, stoning to death, whipping, and imprisonment. These are expressed

in the text of the Holy Qur'ān. Article 5 considers all of the above as horrible acts of torture, cruel behaviour, and anti-human acts which contradict one another.

Article 18 stipulates that this freedom includes conversion of religion and belief. In the first place, the article specifies that man is free to choose his own religion. Now by enjoying this right some people have, for example, freely chosen Islam. Islam states that Muslims who convert to other religions are considered as innate apostates deserving to be killed. The beginning and end of this article are contradictory.

Article 16 states the following:

"After reaching puberty, a man or a woman is entitled to marry and set up a family without any limitations of race, citizenship, or religion. Men and women share equal rights with regard to marriage, during the marriage, and at the time of its dissolution."

In Article 18, the embracing of religion has been considered as free. According to this article, choosing the religion of Islam, Christianity, or some other belief and religion which place restrictions on marriage,the dissolution of marriage, or even the time of marriage will be contradictory. For example, in Islam, man has the right of divorce, whereas there is no divorce in Christian Catholicism.[9] In some other laws, marriage with aliens is subject to the permission of the government while in other cases, it is forbidden.[10]

Item 1 of Article 29 specifies that an individual is only responsible to carry out his duty toward that society which fully prepares the means for his personality development. Item 2 stipulates that, in the enforcement of laws and in taking advantage of one's freedom, each person is only

dependent upon the limitations sanctioned by the law solely for the purpose of providing recognition, observing the rights and freedom of others, observing moral circumstances, public order, and people's welfare in a democratic society.

These two items are contradictory. If an individual is only bound and obligated to carry out his duty toward a society which fully provides for his personality development, he should not follow the laws sanctioned to maintain public order and welfare in a democratic society if they do not guarantee his personality development. This is because it contradicts many laws ruling over populated countries as well as Article 16 which states the freedom of marriage in the manner mentioned earlier. This is where laws and provisions must be followed exactly. Likewise laws that confilct with religions are contradictory as Article 18 is in contradiction with item 2 of Article 29.

Freedom of religion mentioned at the beginning of Article 18 and freedom of speech, belief, and religion mentioned at the end of the same article are contradictory in every way possible, for the propagation of fabricated religions and atheistic beliefs of any kind are prohibited by Islam.

Item 2 of Article 24 of this declaration states:

> "All children who are born by way of marriage or through non-marriage will enjoy the same privileges." This is while in Islam and generally in religion and even in many laws, there are differences between legitimate and illegitimate children as far as rights are concerned".

This item is inconsistent with Article 18 and with item 2 of Article 29.

Item 1 of Article 26 states: "Every person has the right of education." Item 3 of the same article specifies that on the

basis of priorities, parents are entitled to choose the kind of education required for their children.

As you notice, these two items are contradictory, that is to say if the selection of education by parents is detrimental to the child's rights, naturally the parents should not have such a right, for example, if parents prevent the child from learning a particular technique which is of interest to the child.

Certainly, there are other weak points in this statement other than contradiction. These weak points should be discussed separately; however, we will only refer to one point. Those who have prepared these articles, while mentioning religion and freedom, seem not to maintain any sense and value for religion. At most, they have had inadequate information regarding the religions which have nothing in regard to political, social, and governmental issues. As we mentioned earlier, there are also many positive points in the Declaration which are certainly observed from the narrow vision of human thought. These points are more precisely and adequately available in the bases and thoughts of divine religions and particularly in the holy religion of Islam.

Should the Right be Given or Taken?

At the end of this discussion, it is also oppropriate to note that the right is to be obtained and that the person who is entitled to obtain the right should look after it. In fact, it seems just like a property whose owner should look after and protect it.The right should be taken from those who abstain from giving it. This matter has reached such a level that it has become one of the attributes of the right and it is said that the right must be obtained. These general and public rights consist of the right of living, freedom, and deriving benefit from natural resources such as water, weather, sea, etc. It is

the individual himself who should strive and endeavour for the cause of his life and who should seek to attain the right provided by social laws as the owner of the rights. some people have even believed that the vindication of rights has been incorporated in the essence of rights and that this is an attribute of the essence.

Reference to the Holy Qur'ān and *Ahādīth* (traditions) of infallible Imāms (AS), however, shows that the matter has been discussed differently. This will be debatable particularly about the famous "Legal Treatise"[11] of Imām Sajjād(AS), it can be said that, in the Islamic culture, the rights have been looked upon from the viewpoint of obtaining them rather than taking them, saying that one is obliged to extend the right to the owner before the owner claims it. This is a point where we see that many jurisprudents state that reciting *salāt*(prayer)as soon as its time commences is not correct for a person who is indebted to someone and also is capable of effecting payment. He must first settle his debt and then recite *ṣalāt*. That is to say, such a person should primarily pay his debt. It is true that the payment of one's debt is prescribed by the law; but jurisprudents have stated that the payment of debt has priority in the ample time of *salāt* in which the debtor has the right to ask for the settlement of his claim.

The Holy Qur'ān states the following:

"And give to the near of kin his due and (to) the needy and the way-farer...(17:26)"

If you have a brief review of the "Legal Treatise" of Ḥaḍrat Sajjād (AS), you will clearly notice that, besides an interesting categorization of these rights,[12], it contains great consideration for the payment and fulfilment of rights, even in cases where they must apparently be taken, such as the right of the litigant who refers the case to the court. Hadrat Sajjād (AS) states: *"In regard to the right for which you have*

claimed to someone, if the right is indeed on your side then you should behave well and don't deny the respect to him; but if you have claimed for your right wrongly then you must fear from Allah and give his right and withdraw your claim."

As you see in all cases, the person who is bound to pay and give the rights is addressed to. He is the one who should pay and give the people their dues.

With regard to all different cases noted in Islam, however, it could be said that there are two sides of the rights. One side is the person who is obligated to pay and give the people's rights. The other side is the person who should take and vindicate his rights. This itself is the right which, when observed by each side, is considered as a special virtue. Firstly, the person who is obligated to give the right must pay and fulfil what is due to others. If, however, he fails to do so, the person who has to get his right should take it. He cannot say that it is the duty of the other side to give my right and that if he fails to do so, I should not take any action to get and vindicate my right.

You notice that it is stipulated in legal issues that if the vindication of rights were contingent upon referring to authorized organizations although referring to them is not permissible, it would be permissible and even necessary for Muslims living in non-Islamic countries to refer to their courts for the vindication of rights.

In international issues, an Islamic country could and should refer to international courts of justice for the vindication of its rights. This subject reveals that in some specific cases, rights should be taken.

Finally, it must be said that there are no such things as give-and-take in the essence of rights; however, rights could be described as those which must be given and those which must be taken.

Clash of Rights

At the end of this discussion in which general issues have been discussed, it is appropriate to bring up the issue of "clash of rights" which is also a legal discussion.

It is obvious that clash of rights is always associated with the process of action. In this process, it pertains to the fulfilment and vindication of rights. Such has been and will be the case. That is to say, it pertains to the process of formulating rights or to other established factors of rights which are formulated or are natural, according to criteria of their own. In practice, however, some conditions may arise in which two rights may clash and may not go together, such as two different rights for an individual, two individuals, two different societies, or an individual and a society. It could generally be said that in the laws pertaining to clash of rights, the principle of important or the most important is the governing factor. The priority of the most important over the important factors should be considered as a matter of principle. The priority of the rights of a society over those of an individual, which is in itself a basis for establishing many laws and provisions, originates from this very principle. Perhaps the priority of Allah's rights over peoples' right on matters of religious punishment and *diyah* (blood-money) is also in line with this case.

It is natural that the priority of the most important over the important is tantamount to its becoming distinct and serves as the criteria of its importance. This case should be separately discussed. This criterion and its fulfilment, however, do not always apply to man.

Some time ago, a twin was born. Both the babies had complete parts of the body and organs, but they were attached together at the back of their heads. They lived by a single brain and command centre of nervous system. Doctors believed that they could save the life of one of the twins and

deliver them from this pain by a surgical operation. At this point, a hot debate and legal and religious discussion was held indicating that the right of living, which by virtue of creation belongs to them both, cannot be taken away from one of them for the sake of better and comfortable living conditions of the other. The criterion of preference or, in principle, the permission for such an act remained a secret among various discussions and beliefs.

In any case, however, the principle of the priority of the most important over the important one in itself remains as a governing factor.

After these general discussions, we should now discuss the following legal matters and their related views on the basis of *mawzū'* or *muta'allaq* or *mabānī*[13]. The first one is the subject of the distribution of rights which is classified on the basis of the individual, family, or social rights or on the basis of personal, material, or contractual rights, or on the basis of creation, nature, feeling, perception, intellectual reason, or religion. After this comes the explanation of its various kinds and cases one by one from the rights that belong to people, superstructures, contracts, or unilateral obligations to the international rights which are beyond the scope of this paper and which, by the grace of Allah, must be taken up in another paper.

I wish great success from the Almighty Allah for all, particularly for the authorities of the Islamic Thought Conference and those who have held it, hoping that they may serve the Islamic Revolution and Islam in this way and take a step forward for the develpment and growth of the culture of Islam sand for the export of the Revolution. *Inshā' Allāh!*

REFERENCE AND FOOTNOTES

1. Right in this sense is considered as the sum total of rights.

2. The renowned Egyptian lawyer and writer Dr, 'Abd al-Razzāq Ahmad al-Sanhūrī has stated the following in vol I, 48 of his book entitled: "*al-Wasīt fī Sharḥ al-Qānūn al-Madanī al-Jadīd*" after a historical background on legislation, its priciples, resources, and the confusions that have existed:

"And from this it is clear that the Islamic *Sharī'ah* is the third official source for the Egyptian Civil Laws. He then continues the discussion and reaches to a point where he says:

'In our views whenever we refer to the Islamic *fiqh* in its authentic books, whether it is in the official sources of *fiqh* from where commandments are derived or in the official sources of *fiqh* from where the authentic evidence is extracted, we have to observe two basic factors:

(1) Non-restriction to one particular religion from amongst the Islamic religions because benefiting from each religion from amongst the Islamic religions is permissible and there is no preference of any of Abū Hanīfah's decrees or his whole religion over the decrees of others. Perhaps it would be better if we say that limitation up to four religions is not necessary because other religions such as Zaydiyyah and Imāmiyyah religions are also available which can be used upto maximum extent.

(2) In general, the religion should be considered as a base and detailed explanations should be obtained in this regard'."

3. There is no divorce in catholicism.

4. For instance, on a holiday, people move along *because* of the crowd; or in Britain people move along the left hand side of the streets. Judicial courts of every country are governed by its local laws.

5. In general, the penal code of justice consists of four stages:

A. Organization, *ie*, the stages of discovery, pursuance, interrogation, completion of the case, trial, verdict, announcement of the *verdict* and its enforcement.

B. Officials, that is to say, executives, interrogators, assistant prosecutors, public prosecutors, judges, and enforcers.

C. The duties and privileges of these officials.

D. Objectives: the issue of supporting the individual or the society is included in the Fourth Section.

6. A summary of the Introduction of the Declaration.

7. The creation and structure of men and women have many differences whose origin would be in the rights.

8. A special committee was appointed by Ronald Reagan, the president of the United *States*, to investigate the issue of intimidation through terrorism. This committee comprised of fourteen government officials who spent the second half of the year 1985 in investigating and evaluating the current policies and plans of the United States. Among the members of this committee, there were the Secretary of States, Secretary of Defense, Secretary of Treasury, the Security Adviser, the president, the Chief Justice of Supreme Court, and the Chiefs of CIA (Central Intelligence Agency) and FBI (Federal Bureau of Investigation). After preparing confidential and non-confidential reports, this committee, in its non-confidential report, asked the President to support the law of punishment by execution for terrorists who have committed murder. The special report of the Investigation Committee on the Islamic Republic News Agency Wednesday, the 24th of Dey of 1345 solar Hijri (14th January, 1966) of Amnesty International which has repeatedly corresponded in this regard. On the 17th of Murdād of 1365 Solar Hijri (8th August 1986 in a memorandum,) of Amnesty International to the Islamic Republic of Iran, they studied the whole Islamic penal laws approved in six parts with an introduction in detail and in a relatively careful manner. They described all these punishments as violation of human rights. Referring to the very Article 5, they considered these punishments as torturous, horrible, merciless, and inhuman.

This is while Article 18 considers religion as free and Islam recognises these punishments as definitive. You noticed that, after investigation of those high-ranking officials, they only suggest that something similar to the order of the Holy Qur'ān regarding *Qisās* (Islamic reprisal punishment) should be executed.

9. Unless in special cases in which sometimes innocent families naturally take advantage of those exceptional legal means when they decide to part with each other.

10. Take the following three articles on Civil Law into consideration, the first of . hich is a religious order:

Article 1059: Marriage of a Muslim woman with a non-Muslim man is not permissible.

Article 1060: Marriage of an Iranian woman with a foreign citizen is contingent upon the special permission of the government even in cases

where there are no legal prohibitions. Article 1061: A government can subject the marriage of some governmentemployees and officials as well as students, like ambassadors, charge d'affaires, etc.with a foreign citizen to special permission.

11. This valuable "treatise" which has analyzed more than fifty cases of rights and which has thoroughly clarified the matter,not even once seems to mention that the right must be taken. we recommend that you study this treatise once, as it purifies human spirit on the whole and teaches relations on the basis of human divine matters.

12. The following is stated in the introduction to this "treatise" as related in *"Man lā Yahduruh al-Faqīh*, vol, 1, p. 203, and *Wasā'il al-Shī'ah*, vol 6, P 131:

> "Know that surely the Almighty Allah has given you rights which have beset you in motion and rest, in every state that you may arrive, in every house that you may enter, in every organ of your body that you may employ, and in every tool that you may use."
>
> Then it states as follows: "The greatest rights of Allah are those which He has made incumbent upon you and Himself. This assignment of right which is the principal right is Allah's."
>
> You notice that Hadrat Sajjād(AS) has taken a very important and essential point into consideration stating that since Allah is the Owner and Creator of man, He is entitled to establish laws for (controlling them and for improving their growth and evolution. This is very basic right. After this, whatever rights pertaining to parts of your body-from head to feet-Allah has made *Wājib* (obligatory) on you. Then Allah has also made *Wājib* the rights pertaining to your works. Then Allah has made *Wājib* the rights concerning those other than you, *ie*, your relatives. The most obligatory rights on you are the rights of your leaders and relatives. These rights are the part of the general rights.

13. *Mawzū'* means individual, family, or social rights. *Muta'allaq* means personal, material, or contractual rights.*Mabānī* means on the basis of creation, nature, feeling, perception, intellectual reason, or religion.

Freedom in the Islamic Framework of Human Rights with Special Reference to Nahj al-Balāghah

Dr Seyed Waheed Akhtar

Freedom

In *Nahaj al-Balaghah* Imam 'Ali (A) has repeatedly emphasized that God created man as a free being with sound senses and reason, and led him with His grace to the right path, but it was man who chained himself with false desires and misguided ambitions. He stressed this point with regard to man's natural makeup and his ability to exercise his freedom in right path. Rousseau's famous dictum "Man is born free, but he is in chains"echoes the utterance of Imam 'Ali (A)repeated time and again during his indefatigable struggle for human freedom at a time when it was threatened by the slaves of worldly desires and encroached upon by those who wanted to reduce a free Muslim society to a tyrannical monarchy. Freedom, a yearning of man's inner being, has been expressed in various forms throughout human history. Adam and Eve, as Iqbal puts it, were compelled by this urge to leave Heaven, where there was no scope of freedom, and to come to the world of action. It is presumed that action is grounded in freedom. Islam does not accept the Christian notion of the original sin, as a punishment of which man was exiled from Heaven. What is called the 'fall of man' in pre-Islamic Semitic tradition may be interpreted from the Islamic viewpoint as man's ascension to a life of freedom. Man's coming to Earth was an act of his free choice, and he has to earn eternal freedom and conquer time through his continuous free acts in this world which test his urge for freedom at every step in his life.

History of mankind is a ceaseless quest for freedom. It is a multipronged quest: freedom from want, from fear, from

forces of nature, from tyranny of fellow beings, from injustice, from superstition, from prejudice, from tribal and racial loyalties, and ultimately from his own egocentric existence. Man passed gradually through various stages of realizing all these freedoms, each of which had a material as well as a spiritual aspect. Sheer material freedom means nothing unless it brings in its wake spiritual freedom also. Rather both of them are complementary to each other and are organically inseparable. The quest for freedom suffered setbacks and reverses whenever any one of the two was neglected. The modern civilization suffers from the malady of overemphasizing the material dimension of freedom, totally or partially neglecting the relevance of spiritual freedom to human existence. Religion has been striving for man's spiritual freedom, while philosophy has been concerned with intellectual freedom. Art and literature have been interested in realizing both of them at a different plane. The quest of science and technology has been always directed towards attaining material freedom. All human activity is a quest for freedom, and all human evolution represents a course of gradual realization of various freedoms. Human evolution is emergent and creative evolution in the sense that at its every stage a higher form of freedom emerged as a result of man's creativity. Human evolution is different and distinguished from biological evolution, for the latter is mechanical and deterministic as compared to the former in which man's aspiration for freedom plays a vital and decisive role. In the course of man's creative evolution Islam emerged as an embodiment of all kinds of freedom at a stage when humanity was in need of a balanced synthesis of material and spiritual freedoms. Islam, at a stage when its material advancement was still embryonic, anticipated rapid future developments in material sphere, which required Divine spiritual guidance in pursuing the right path for future development of human society and polity. It is in this sense also that Islam ensures eternal guidance, for it took in its stride all past freedoms attained by man and laid down a plan of future evolution. At

that stage human mind was incapable of embracing infinite future possibilities of human creativity, because it had not yet developed the intellectual and empirical tools required for the unseen future. The Quran, the last of Divine revelations, contained the guiding principles of scientific induction as well as a moral code that could suffice for man's socio-political and economic advancements, ensuring maximum freedom of human action in all the spheres of man's multiponged quest for freedom. The Quran's declaration that God has completed **Din** (message) and has conferred upon man the best of His rewards points to the fact that through Islam man attained the utmost potential to realize his freedom. In order to have a comprehensive view of freedom granted to man by Islam one has to understand the Islamic conception of freedom along with all its implications and practical consequences bearing upon human society, state and economic activity, at both individual and collective levels.

Freedom can be understood in two ways: theoretically from ontological point of view, and practically from social angle. For the sake of study this division is feasible, but in reality the latter aspect logically follows from the former. As pointed out above with reference to Iqbal, the urge for freedom is inherent to man's nature. It may be called a Divine gift or spark. But I would prefer to refer to one of Ibn al-'Arabī's dictum in this context, who said that nothing was imposed upon man from without, what a man's **'ayn** (essence) demanded from God was given him. Thus freedom was bestowed upon man not as a gift, but he received it through his own capacity. To borrow a contemporary philosophical phrase, freedom is man's essence and his existence is grounded in freedom. This view can be interpreted to be in conformity with the Quran, in which a number of verses refer to human freedom in the matter of both willing and acting. The Quran also admits the existence of various grades of freedom in human beings, that is all men are not equally capable of having or exercising freedom. It means that every man is given freedom in proportion to his ability to receive it.

Mulla Hadi Sabzawari's doctrine of graded being can be interpreted in the following manner: every grade of being has its corresponding ability to freedom. Men differ from one another with regard to their ability to have freedom. The weaker beings have weaker urge for freedom, while stronger ones have greater urge for freedom. It is because of this difference that what is obligatory for a higher individual such as the prophets, the Imams, **awliyā'** and **'urafā'** is not expected from a common man. "God does not saddle a self with obligations beyond his capability (2:286)." This principle is applied to different individuals in different degrees. Obligation (taklīf) implies inherent ability to fulfil it, provided a man is willing to shoulder it.

All Divine Commands and Prohibitions presume that men have ability to follow them, and that some of them shall obey, while others shall disobey. The possibility of obedience and disobedience arises out of human freedom. As every body acts according to his own will without any compulsion from outside, he is liable to reward and punishment according to his deeds. We have to accept that God never imposed a fixed predetermined nature upon any individual, and it is man himself who chooses and moulds his own nature, and accordingly his destiny in full freedom. The Quran is quite explicit in this regard. Without allowing for man's freedom of choice and action, there could never arise the question of reward and punishment, which would have been amounted to arbitrariness, that is injustice, on the part of God. In this context all the controversies in **kalām** seem to be pointless and irrelevant. The Qadarite and the Mu'tazilite doctrines of complete freedom also ignore the relativism of freedom in relation to different individuals. The Jabrites' notion of determinism goes against the Islamic teachings, and can be understood in the light of socio-political expediency of their age. Iqbal has correctly analysed and explained the reasons behind denying human freedom:

"... The practical materialism of the opportunist

Omayyad rulers of Damascus needed a peg on which to hang their misdeeds at Karbalā, and to secure the fruits of Amīr Mu'awiya's revolt against the possibilities of a popular rebellion. Ma'bad is reported to have said to Hasan of Basrah that the Omayyads killed Muslims, and attributed their acts to the decrees of God . These enemies of God, replied Hasan 'are liars'. Thus arose, in spite of open protests by Muslim divines a morally degrading fatalism, and the constitutional theory known as 'the accomplished fact' in order to support vested interests.

The Umayyads' attempt to seek refuge in man's helplessness, described by Iqbal, was an atrocity against Islam and the Qur'ānic teachings. All the forms of government and society which deny freedom to individuals represent a gross violation of Islam. How far a state or society is prepared to allow its members freedom determines its Islamic character.

The following are corollaries of human freedom:

1. Every man is able to perform an act he wills and chooses to do.
2. Man who performs one act is able to perform its opposite also.
3. Every man who is obliged to do a certain act is awarded power to do it.
4. Even those who do not obey Divine command are given the power to do it, and they are also free to do or not to do what they are obliged.[2]

The practical side of freedom is related to man's individual as well as social duties. Every duty requires as its prerequisite condition freedom and power to fulfil it, which is called 'right' in legal terms. As the right to have the freedom and power to perform desired acts is termed a natural right; freedom and power to perform social duties is termed civil rights; freedom to act in relation to the state is called political right; and freedom to defend and contest one's rights in

courts is termed legal right. Right is based on freedom, for it calls on men to fulfil certain duties. Rights are meaningless without freedom and freedom remains an empty concept without rights to act within a particular framework. Freedom assumes a definite meaning in each ideology according to its conception and practice of human rights.

HUMAN RIGHTS: A COMPARISON OF THE WESTERN AND ISLAMIC VIEWS AND PRACTICES

The declaration of human rights, as a result of French Revolution, was completed on 26 August 1789. The two fundamental doctrines which gave the declaration its force as the gospel of revolution were those of the natural rights of man and national sovereignty. The natural rights stated in the preamble were held as inalienable and sacred, because they were considered to be inherent to human nature. These rights were defined in the article II as of liberty, property, security and right to resist oppression; liberty included two aspects, individual liberty and freedom of opinion. Freedom of speech, liberty of press and toleration of the expression of religious opinions were secured in articles X and XI. Though article I proclaimed all men to be equal in rights, it did not assert their political or social equality. As the French Revolution was mainly led by the business class which had grievances against the feudal class, the authors of the declaration were perhaps not ready to grant equal political rights to all classes. However, clauses VII-IX secured the principle of equality before the law, while clauses VI and XIII established the principles of civic and fiscal equality.[3]

In order to understand the loopholes of this declaration we have to discuss at some length as to how various types of rights are distinguished from one another. In general, right is defined as a claim or title to anything that can be enforced, or a claim to act, possess or enjoy anything, or the use thereof, or it may exist in the nature of a privilege or power. Right in legal sense means "that which one has a legal claim to

do; legal authority, immunity granted by authority". The existence of legal right implies the existence of legal remedy, for one does not exist without the other.[4] Civil rights are those which appertain to citizenship and which may be enforced or redressed by a civil action. These are divided into absolute and relative rights. Absolute rights are supposed to be inherent to humanity, under which are placed rights of personal security, mobility, honour, health and enjoyment. Relative civil rights include those which subsist between the people and the government, such as the peoples' right to protection at the hands of the government; the right of allegiance which is due to the government at the hands of the people; the rights of husband and wife, parent and child, guardian and ward, master and servant, reciprocally. Right is co-existent with authority or government, and both are inherent to man. According to Bouveir rights precede government, or the establishment of states. Johnson holds that a civil right is accorded to every member of a distinct community or nation, while a political right is exercisable in the administration of government ,such as rights of voting n elections. Bouvier says that certain apparently natural rights may not be actual; such as rights of privacy.[5]

Another step towards declaration of human rights was taken by the United Nations on 10 December 1948. The General Assembly passed the Universal Declaration of Human Rights, also known as an international Magna Carta. It enumerates the sepcific rights to life, liberty, and security of person; freedom from arbitrary arrest, detention, and exile; fair and public trial by an independent impartial tribunal; freedom of thought, religion, and conscience; freedom of peaceful assembly and association; and the rights to social security, work, education and participation in the life of an artistic and scientific community were added to them later.[6]

The civilized Western world had to go a long way to reach a universal declaration of human rights. Despite a lapse of one and a half centuries after the French declaration of human rights, the U N O declaration falls short of ensuring

racial, colour, ideological and religious freedom for all the nations of the world, particularly those of the Third World, which have no guarantee against their economic, cultural and political exploitation by the so-called advanced nations. Interpretation of terms like freedom, human rights and sovereignty is considered to be a monopoly of technologically advanced powers. Freedom fighters are dubbed as terrorists, while inhuman acts of aggression suppression, subversion, interference against the sovereign nations of the third world by the imperialists are termed as means of safeguarding freedom and human rights of the people of the wronged countries. What is inconvenient to the champions of the open society and human rights is labelled violation of human rights and is condemned in all international forums and mass media. Contrarily, the countries openly practising policies of apartheid and racial discrimination, such as the South Africa's white minority government and the Zoinist Israel, receive all kinds of assistance and support from the civilized West. Military dictatorships and anti-people regimes which serve their Western masters and crush democratic movements of their people, are justified in terms of fighting against obscurantism and religious fanaticism. How human rights and freedoms are interpreted is a matter of convenience for the guardians of Western civlization and supremacy. The movements of Islamic resurgence particularly invite the wrath of the standard-bearers of human rights. Socialist countries criticize capitalist nations for denying ideological and economic freedom to their people, while Western democracies condemn socialist states for totalitarianism and the suppression of fundamental rights. Both are right so far as the other camp is concerned, and both are wrong with regard to their claim of granting all the freedoms and rights to their people. Capitalist democracies and socialist republics represent two faces of one and the same coin, which is in currency in the modern world for transacting the business of human rights. Islam, if studied and judged without any bias, can be justifiably acclaimed to have launched and practised a

universal message of human rights and freedom fourteen centuries ago, in which all the above-mentioned contradictions and inconsistencies were resolved at both the theoretical and practical levels. Islam being a religion consists of a set of beliefs. And beliefs, as defined by C S Pierce, the founder of pragmatism, are distinguished from ideas, for they are necessarily acted upon by their upholders, while ideas often remain unpractised; hence, whatever Islam preached was also practised by true Muslims. As in Islam all dichotomies of theory and practice are resolved, wherever we see disparity between professing and practising, we can say that in such cases the essential condition of Islam is not fulfilled. Islam literally means submission to God. Submission of various selves, struggling to achieve supremacy, to an Absolute Self brings harmony in the world of unceasing struggle. Harmony in the human collective existence can be maintained and ensured through a balanced and just award of equal rights to all individuals along with freedom to shoulder corresponding obligations with a view that the human rights are accorded to all. Isalm brought into existence such a harmonious society for the first time in the annals of human history at a time when the advanced West of today lived in a total darkness devoid of any conception of freedom and human rights. Before the advent of Islam, the great Greek civilization had introduced a rudimentary form of democracy in the city states, and later the Romans also put up a semblance of democracy for a short time. But in Greek democracies only free men, not women, had a right to vote, and slaves were considered unworthy of having any rights. The vast Roman empire was virtually a slave state, in which only the free ruling class enjoyed certain rights. The Byzantine empire that succeeded the Roman empire never practised the teachings of Christ and denied freedom of thought and enquiry to Christians themselves. The Popes were equally intolerant of free enquiry. In the Christian theocracies and monarchies, religious minorities were persecuted and discriminated against. The socio-political

structure of the Persian empire was equally oppressive, in which only the priests and noblemen enjoyed some rights. In this caste-ridden set-up common men could not even think of freedom. The Indian society and state were also caste-bound, where the lower castes constituting the vast majority of people were treated as subhuman beings. In such an epoch Islam emerged with a universal message of human freedom that guaranteed equal rights for all human beings irrespective of their race, colour, nationality, faith and sex. Despite deviating from the path of the Prophet (S) and his true successors, Muslim rulers usually observed the Islamic principle of human equality and granted much more freedoms and rights to their subjects than any other past or contemporary state. Not only Muslims but also non-Muslims enjoyed full freedom in the states ruled by Muslims. Sayyid Amir 'Ali, in "The Spirit of Islam", stating that Islam never interfered with the dogmas of any faith, writes:

> "Whilst orthodox Christianity persecuted with equal ferocity the Jews and Nestorians,... Islam afforded them both shelter and protection. Whilst Christian Europe was burning witches and heretics, and massacring Jews and infidels, the Moslem sovereigns were treating their non-Moslem subjects with consideration and tolerance. They were the trusted subjects of the state, councillors of the empire. Every secular office was open to them along with the Moslems. The Teacher himself had declared it lawful for a moslem to intermarry with a Christian, Hebrew, or Zoroastrian."[7]

The rights accorded by Islam to non-Muslims, women, and slaves were not only unprecedented in those days, they also distinguish Islam from modern ideologies.

A detailed discussion the subject of human rights granted and practised by Islam, is beyond the scope of the present article. I would confine my discourse to certain rights granted to women, slaves and non-Muslims, in order to show

to what extent Islam respected human freedom. This study would enable us to understand how far Islamic conception of freedom had been translated into action and practice. Besides the Quran, our other main source of reference is **Nahj al-Balāghah** of al-Imam 'Alī (A) ,which is in total conformity with the tradition of the Prophet (S).

QURANIC CONCEPTION OF FREEDOM AND RIGHTS

The relation between rights and freedom is twofold. On the one hand no right can be conceived without freedom, on the other,rights ensure certain freedoms for human beings. In the same way rights and duties are also related to each other reciprocally. Every right granted to man saddles him with corresponding duties, and each duty fulfilled by man secures some rights for him. Duty in broader sense means respecting the rights of others, which in its own turn results in securing a safer ground for enjoying and exercising one's own rights. Freedom of man implies that all men have equal right to freedom, which leads to a logical corollary that every individuals's freedom is delimited by others' freedom. But this limitation does not deprive one of his freedom, rather it safeguards freedom of all men. If one is allowed to exercise his individual freedom to an extent which results in grabbing or curtailing other men's freedom, nobody can remain free, and freedom itself will become meaningless. Thus freedom in itself is a right as well as a duty. Sometimes duty precedes right, for instance when a man knows and obeys God — both of these acts are primary duties of man according to Islam --he is entitled to certain rights. In this case, fulfilling one's obligation towards God bestows upon man greater freedom also. Of course, man is free to disobey his Creator, but disobedience lands him in the worst type of slaveries of the world and other men. On the contrary obedience to God emancipates man from all kinds of dependence and obedience, and entitles him to greater

freedom and rights. Usually rights are supposed to precede duties. It is really very difficult to solve the riddle as to which is prior between these two. In actuality freedom, right and duty (or obligation) are three sides of a triangle, in which all three sides are equal. In this triangle I personally prefer to regard freedom as the base. However, all three sides are equally essential to form a triangle. If any one of the three is eliminated the triangle disappears. Islam has given equal importance to all the three, which together form the moral, social and political conduct of a Muslim. I did not mention religious or theological behaviour intentionally and consciously, because religious behaviour is nothing but the sum total of various dimensions of human behaviour. Realization of God and His obedience is the basis of man's moral behaviour as well as his social and political behaviour. In reality these patterns of behaviour that are named differently are intertwined together and are indistinguishable from one another. Islam regards all different modes of human behaviour as the modes of an integrated activity. The world-outlook of **tawhīd** approaches human behaviour also from monistic and unitary view-point. The purpose of all human activity is the establishment of justice at all levels.

Starting from the base, I would reemphasize my belief as a Muslim that man's existence is grounded in freedom, which is inherent to man's nature. He is born free in the world which calls upon him to choose and act freely in order to determine his destiny.

Freedom is ensured in the Quran; both inborn and acquired. There is no distinction between a believer and a non-believer in this respect. What is prohibited is evil and what is lawful is good for all men. It is good and evil that is the criterion of lawful or unlawful, not the **vice versa.** Those who follow the rational commands of God revealed through the Prophet (S) are emancipated:

> "(The Prophet) enjoins them good and forbids them evil, and removes from them their burden and the shackles which were upon them... (al-

'A'rāf:157)"

This general principle based upon the inherent good and evil of things and acts is universally applicable, and it is in this sense that Islam is "the religion of (human) nature"; it is Divine nature in the sense that it is ordained by God. As we havepointedout no fixed nature is imposed upon man, but he was created in the way he deserved to be, we can understand the true meaning of لا إكراه في الدين, i. e. "there is no compulsion in religion" (**al-Baqarah:**256). This principle is further elaborated in another verse:

> "And strive hard in (the way of) Allah, such a striving as is due to Him; He has chosen you and has not laid upon you any hardship in religion... (**al-Hajj:**78)."

Men are free to make use of and enjoy all the things not prohibited by a Divine decree (**al-Mā'idah:** 87-88); prohibited things are overt and covert indecencies, rebellion and injustice (**al-'A'rāf:**28); justice and equity, which are the end of freedom; are enjoined (**al-Mā'idah:**29). In the matter of doing justice, God does not desire hardship for men but ease: يريد الله بكم اليسر ولا يريد بكم العسر (**al-Baqarah:** 185). All the Qur'ānic verses laying down the laws of just actions are addressed to and are applicable to all human beings irrespective of their faith. God is the Lord of all the worlds, and the Prophet (S) of Islam is sent as a blessing for all the worlds (وما أرسلناك إلا رحمة للعالمين). (Neither His Lordship nor are the Prophet's blessings confined to Muslims only. Hence freedom, the greatest of all blessings, is granted to all men.

Freedom, Human Destiny and the World in Nahj al-Balaghah

The theme of freedom is repeatedly emphasized and elaborated in **Nahj al-Balāghah.** We shall quote a few relevant passages to substantiate the points made so far.

> "... (God) has given inborn disposition to human minds to shape themselves towards good or

towards evil...[8] **(Khuṭbah 75)."**

"... They were given complete liberty in this world of thoughts and deeds to think as they like and do as they desire, so that they may train their minds and with the help of such trained minds, free will and the span of life alloted to them, they may find the purpose for which they were created...[9] **(Khuṭbah 86)."**

In the Khutbah 86, Imam 'Ali (A) further says that human beings are given healthy body and limbs with perfect senses to acquire knowledge of the external world, and also light of reason and wisdom, so that they are able to exercise their freedom of thought and action.[10] This point forms a recurring theme of Nahj al-Balaghah, for healthy body, sound senses and reason are necessary conditions for exercising freedom. Those who are deficient in these respects are not held responsible for their acts, such as insane persons and infants. Those endowed with these things are solely responsible for their acts:

"...Lives of men, who were enjoying themseleves to their hearts' content and had perfect freedom of action, have such useful lessons in them to teach... (Khuṭbah:86)"

From the above-quoted passages certain points can be inferred: man is given complete freedom with the ability to exercise it, freedom has a purpose;and the purpose is to realize and obey Allah, and act in a just manner. Justice can be defined as maintaining equilibrium among various obligations and human rights. One has to be just to oneself.There are many verses in the Qur'ān and innumerable passages in **Nahj al-Balāghah** restraining men from indulgence in excess even in desirable deeds, such as generosity--excess of which is **isrāf** and is prohibited--justice to others, which ensures social and political morality, and just behaviour in relation to God–

which again requires abstaining from overindulgence in worship. By maintaining justice in all the three aspects, that is in relation to self, others and God, man is free to determine his destiny. In contemporary Western philosophy existentialism is credited with introducing the notion of man's freedom in shaping and moulding his own destiny, but a glance at **Nahj al-Balāghah** is sufficient to arrive at the conclusion that it was Imam 'Ali (A) who advanced this idea for the first time:

> "If by destiny you mean a compulsion (physical or otherwise) where we are forced (by nature) to do a thing then it was not so. Had it been an obligation of that kind then there would have been no question of reward for doing it and punishment for not doing it (such as breathing, sleeping and eating are physical compulsions incurring no reward or punishment for doing or not doing them), and the promised blessings and punishments in the afterlife will have no meaning . The Merciful Lord has given His creatures complete freedom to do as they like, and they are prohibited from certain actions and warned of the consequences of such actions. These commands carry in them the least trouble and lead us towards the most convenient ways of life... He sees people disobeying Him and tolerates them not because He can be overruled or be compelled to accept human supremacy over Him. He did not send His prophets to amuse Himself or provide amusement for them. He did not reveal His orders without any reason and purpose. Neither has He created the galaxies and the earth without any design, purpose and programme. A universe without plan, purpose and programme is the idea of the infidels and heathens; sorry will be their plight in the fires and the Hell... (Destiny) was an order of God to do it, like the order He has given

in His Holy Book "You are **destined** to worship Him and nobody else", here 'destined' means "ordered", it does not mean physical compulsion.[12]" (Saying 78)

From this brief saying many points relevant to philosophical and moral issues can be derived: determining one's destiny is an act of man's free will, different from physical compulsions; Divine commands are rationally conceived and have a purpose; universe itself has a design and a purpose; in this purposive scheme of creation man is free to act in accordance with the Divine purpose or to disobey; voluntary acts of men deserve reward or punishment according to their nature; and that freedom brings in its wake responsibility. Kant, who could not convince himself to accept the existence of God on the strength of ontological, causal and teleological arguments, had to evolve a moral proof for the existence of God, in which God, freedom of human will, and life after death served as the essential postulates of morality. If we compare Imam 'Ali's approach to the problems of freedom, morality, purposiveness of creation and the existence of God, we may come to a more convincing philosophy. Imam 'Ali does not require any proof for the existence of God, but believes in him on the ground of revelation and his own inner experience. This is the same stand which was taken in the West by Kierkegaard in the 19th Century after realizing the inadequacy of reason in proving or disproving God. Recent theology in the West accepts inner yearning of man to have faith in a supreme Being as the only criterion of belief in God. Starting from the same position 'Ali (A) proves the purposiveness of creation, arguing that it is created by an intelligent, knowing and just God with a design and a purpose, and all His commands are just and reasonable, for He does not command man to do something that is beyond his capacity. Human freedom is an essential constituent of this purposive world, without which man would not have been able to pursue certain goals. It is also necessary for

morality, which comprises voluntary actions. Thus freedom is not a postulate in Imam 'Ali's world-outlook, but an organic part of a just and purposive order. His firm faith in a just God makes him believe in the Hereafter. In this way ,the Islamic world-outlook he evolved is more coherent and consistent than that of Kant or any other Western philosopher. In this system ,human reason does not give rise to antinomies, because it is not required to trespass the region of faith or inner experience. All the three axioms of morality which Kant derived from his moral philosophy follow in 'Ali's Islamic system of thought from faith in God and freedom of human will. In the world conceived by him all individuals are free and they form a "kingdom of ends," that is the beings sovereign in this world and only subordinate to Divine commandments. They are not subservient to other human beings and are masters of their own destiny. In this sense Imam 'Ali (A) considers this world of ours better than any conceivable worlds. There is a saying of his that surprisingly refutes the commonly believed notion that the Imam (A) despised the world and his approach to it was ascetic and pessimistic. He heard someone abusing the world and said to him that it was not the world which deceived man but it was man who, allured and enchanted by it, has debased himself and polluted the world. He said:

> "Verily this world is ahouse of truth for those who look into it carefully, an abode of peace and rest for those who understand its ways and moods, and it is the best working ground for those who want to procure rewards for their life in the Hereafter. It is a place of acquiring knowledge and wisdom for those who want to acquire them, a place of worship for friends of God and for angels. It is the place where prophets receive revelations of the Lord. It is the place for virtuous people and saints to do good deeds and to be assigned with rewards for the same; only in this world they could trade with God's favours and blessings, and only

while living here they could barter their good deeds with His blessings and rewards. Where else could all this be done (**Saying 130**) ?[13] "

This passage may remind one of Leibnitz's saying: "Ours is the best of all possible worlds", which reflects an optimistic view of the physical world. 'Ali (A) regards it so because it is here and here alone that man's freedom is tested as to how far he acts justly. In the light of this passage we can justify Iqbal's view that man chose freely to leave Heaven and come to this world.

RIGHT TO ACQUIRE KNOWLEDGE: NAHJ AL-BALAGHAH'S APPROACH

Knowledge of the creation in general, and of this world in particular, is emphasized by Imam 'Alī (A) in **Nahj al-Balaghah** as a prerequisite for making use of freedom in the right direction and for the purpose willed by God. Knowledge, if used properly, helps man in winning God's favour and bartering his deeds with Divine Will ,as the Quran declares:

> "And among men is he who sells his self for seeking the pleasures of Allah... (**al-Baqarah: 207**)".

Those who attain such a stage are a few, and as many **mufassirun** hold, 'Alī (A) is one of those chosen few who bartered his self with Divine Will, according to the interpretation of this Qur'ānic verse. When human will becomes one with Divine Will, man attains the highest stage of freedom; now there is no compulsion, and whatever a man wills or does is in conformity with what God wills and wants man to do. Rightly guided knowledge helps in attaining this stage. Soon after expressing his view of human freedom, usually Imam 'Alī (A) proceeds to highlight the value and importance of knowledge, as we find after the saying 78 about freedom his views about knowledge and wisdom in the saying 79, or in his saying 130 we come across his views on the significance of acquiring knowledge and contemplating the signs observable in the world after his description of the

world as the best place for making proper use of human freedom. Knowledge is held by 'Ali (A) to be the light of reason (العِلْمُ مصباحُ العقل), a treasure (العِلْمُ كنزٌ), root of all the good (العِلْمُ أصْلُ كلِّ خَيْر), and that which emancipates man (العِلْمُ يُنْجيك); it is a power (Saying:146)[14], and one's supremacy is in proportion to the extent of one's knowledge and wisdom (Saying 175)[15].

From his many sayings about knowledge it may be rightly inferred that knowledge is itself freedom, for it saves man from ignorance which is the cause of man's slavery to false beliefs, unfounded fear of nature and his superiors. It is at the same time a key to attain and safeguard freedom accorded to human beings. The Qur'ān is unique among the scriptures in encouraging the believers to acquire knowledge and to verify the fundamentals of faith rationally. There are 704 Qur'ānic verses in which either the word **'ilm** or its derivations are used. Book, an essential aid of **'ilm** occurs in the Qur'ān 230 times, while the total number of verses in which words related to **kitab** and **kataba** have occurred is 319. The Qur'ān itself is mentioned as **kitāb** on 81 occasions in its text. It is not possible in this brief article to quote even a few of the relevant Qur'ānic verses and the sayings of 'Alī (A). However, it would not be out of place to point out the right to acquire knowledge and freedom of enquiry to form an essential part of the laws and guiding principles governing human rights in Islam. In this matter no distinction is made between Islamic and non-Islamic sources and Muslim and non-Muslim teachers. 'Alī (A) says:

> "Acquire knowledge and truth from whomever you can, because even an apostate can have them, but unless they are passed over to a faithful Muslim and become part of wisdom and truth that he possesses, they have a confused existence in the minds of apostates (Saying 79).[16]"

Another saying of 'Alī (A) is an elaboration of the Prophet's famous tradition, according to which knowledge is the lost heritage of Muslims:

Get them knowledge and wisdom) back, though you may have to get them from apostates (Saying 80).[17]"

The right to acquire knowledge has been always accorded to non-Muslims also in Muslim states. An important point made by 'Alī (A) is as to how an infidel uses knowledge, which remains in a confused state in his mind. Truth of this view is evident in our age, for modern knowledge, as said by modern thinkers, is devoid of human considerations and has dehumanized its retainers and creators. All the uses of scientific discoveries and advancements for inventing and selling the weapons of destruction and death indicate the absence of a right world-view. Islam, on the other hand, humanizes all knowledge in the light of Divine guidance which leads to a humanistic world-outlook. Being fully aware of the dangers of the abuse of knowledge, 'Alī (A) claims that God will always appoint some Imam as the guardian of Divine revelation and he, openly or hidden from the eyes of the world, will guide men till the end of this world (Saying 146 addressed to Kumayl)[18]. Thus right to unceasing Divine guidance along with right to knowledge and freedom of thought and expression forms the foundation stone of Islamic universal declaration of human rights. The Constitution of the Islamic Republic of Iran ensured right to knowledge and freedom of learning through various articles: Article 2, Clause 6 declares that the Islamic Republic is based on faith in Allah, belief in the exalted dignity of man and his freedom coupled with responsibility before God, and that equity, justice, political, economic, social, and cultural independence are secured by recourse to: (a) continuous **ijtihād** of the **fuqahā'** and (b) sciences and arts and the most advanced results of human experience, together with the effort to advance them further Article 3 of first chapter states that the Islamic Republic has the duty of directing all its resources to raising the level of public awareness in spirit of inquiry, investigation, and innovation

in all areas of science.[19] These rights are not confined to Muslims only, but they are accorded to non-Muslim citizens as well in the light of Article 19 (Chepter 3), which states that: "All people of Iran, whatever the ethnic group and tribe they belong to, enjoy equal rights; and colour, race, language, and the like, do not bestow any privilege."[20] These articles are in conformity with the Islamic view of human rights.

OPPRESSED SECTIONS OF THE PEOPLE AND THEIR RIGHTS

Islam paid special attention to weaker sections of society, for stronger sections not only get what is rightfully their due, but also grab what belongs to weaker sections. Christ had pleaded and fought for the oppressed, but when his followers came to power they adopted the same system which was based on according privileges to the ruling class and priests. On the contrary Islam granted special rights to the under-privileged, so that their rights were not denied to them and any violations of them were redressed. Women as a whole had been suppressed by all pre-Islamic societies both in the East and the West. The social status and legal position of slaves had been even worse. With the establishment of Islamic rule a new class of weaker people came into existence, that is non-believers living under Muslim rule. Besides slaves, there had been always in existence a class of have-nots consisting of small peasants, landless labour, underpaid artisans, orphans, widows, mentally and physically handicapped, sick and the old, prisoners and outsiders (**ibn al-sabīl**). The **Qur'ān** made special mention of all these classes, while laying down the principles of justice and framing laws according rights to the people. To help deprived people, the Qur an commanded emphatically and repeatedly to give **zakāt**, and also recommended to disburse **sadaqāt** among the needy.

Zakat and **sadaqāh** are usually translated as alms-giving, but according to the Qurān they are defined in much better terms. **Zakāt** has two meanings: purification ,and the cause of

blessing and abundance. Both the meanings are derived from the following Quranic verses: al-Nur: 21, **al-Kahf**:74, **al-'A'lā**:14 & 15, and **Fatir**: 19. In iterpreting the verses from the surahs al-A'la and al-Fatir some exegetes have interpreted tazakka in the sense of **zakāt. Sadaqah** also has the same meaning according to the verses 103 and 104 of **al-Tawbah**[21]. Both **zakāt** and **sadaqah** are means of purifying one's riches with the difference that **zakat** is obligatory and **sadaqah** is recommendatory. Muslims are distinguished from **mushrikūn,** that is polytheists and idolators, on the ground that the latter do not give **zakāt (Hā' mim:** 6-7). From the sixth and seventh verses of **Hā mim** it is inferred that **mushri kūn** are also obliged to give **zakāt** according to the Muslim law. Paying **of zakāt,** which may be translated as poor-rate or poor-due, is considered by the Qur'an a more valid criterion of a Muslim's faith than offering of prayers:

> righteousness that you turn your faces towards the East and the West, but righteousness is this that one should believe in Allah and the Last Day and the angels and the Book and the prophets and give away wealth out of love for Him to near of kin and the orphans and the needy and the way-farers and the beggars and for (the emancipation of) the captives, and keep up prayer and pay the **zakāt**... **(al-Baqarah:** 177)."

As the special categories of people deserving to receive **zakat** are enumerated,similarly **sadaqat** are also specifically mentioned to be given to the poor and the needy, and the official collectors of **zakāt**, and those whose hearts are made to incline (to truth) **(al-mu'allafat al-qulūb)** and the (ransoming of) captives and those in debt and in the way of Allah and the way-farer **(al-Tawbah:** 60).[22]

Thus **zakāt** is due to seven categories: the needy, the poor, the collectors of **zakāt**, the **mu'allafah**, ransoming of captives and emancipating slaves, the indebted and the way-farers ;an eighth category is added to it, that is public funds for the construction and administration of the mosques,

educational institutions, water works and meeting the expenses of **jihād.**[23] Special mention is made for paying particular attention to those who fight in the way of Allah, who devote their entire time and energy to worship, and self-respecting people who never go to ask for help despite extreme poverty (**al-Baqarah:** 273).[24]

The needy and have-nots of the lineage of the Prophet (S), who are prohibited from accepting **zakāt** and **sadaqāh,** are taken care of by allocating to them one half of **khums** the first half of which is reserved for God and the Prophet (S) and the Imams (A) of his Family.

Abū Hanīfah is of the view that the part reserved for the Prophet (S) is invalidated after the Prophet's demise[25], but the Imāmiyyah Shī'ah reserve it for the **marāji'** in the absence of the Imam (A). The remaining part of **khums** is reserved for the orphans, the needy and the way-farers. Regarding this also the Shi'ah differ from **Ahl al-Sunnah.** While the former say that these three parts are also reserved for the Banū Hāshim, and particularly the Tālibiyyin, the latter hold that this three-fifth of khums money is specified for the needy among Muslims in general. So far as the definition of **dhawū al-qurbā** is concerned, the Shī'i and Sunni fuqahā, again differ. Shī'i fuqahā hold that this term includes all the relations of the Prophet (S) without any specification, but Sunnīs say that only the needy in Prophet's family come under this category. Shī'i fuqaha' reject this interpretation for the absence of any evidence in the Qur'ānic text to support it.[26]

Despite these minor differences among various schools of fiqh, the Qur'ānic injunctions concerning **zakāt** and **khums** are generally followed by all Muslims. It is also accepted that **zakāt** is over and above the obligatory payments to be made towards meeting the essential needs of parents and other dependants, and these payments **(nafaqah)** are not to be covered under the head of **zakāt,** which is rightfully due to the eight categories enumerated above. Thus Islamic law has

taken care of all the weaker sections of society, and has entitled them to claim their rights from the rulers and upper classes. In a way Islam does not recognize any upper classes and is opposed to amassing of property and hoarding riches unproportionate to one's work and labour.

> "O you who believe! Most surely many of the learned persons and the monks eat away the property of men falsely, and turn (them) from Allah's way;and (as for) those who hoard up gold and silver and do not spend it in Allah's way, announce to them a painful chastisement. On the day when it shall be heated in the fire of Hell, then their foreheads and their sides and their backs shall be branded with it; this is what you hoarded up for yourselves, therefore taste what you hoarded." **(al-Tawbah:** 34-35).

Though the fuqaha' of Sunnî and Shî'î schools differ regarding what is meant by gold and silver, it may be justifiably interpreted that the Qur'an clearly warns against all forms of hoarding. The first part of the verse 34 warns men to be aware of so-called **'ulamā'**, who eat away the property of men by unjust means. Here "eating away of men's property" may mean both grabbing of people's rightful due by the so-called **'ulamā'** and by interpreting the Islamic laws in a way that may suit to the greed and lust of the rulers and help them in the name of law to deprive people of their legitimate rights. Islam has delimited the rights of the rulers and judges (**quḍāt**) in the interest of the common man, so that he would not be deprived of their rights.

The conditions for the appointment of judges are very strict and rigorous and the responsibility of rulers is so great that any true Muslim will shudder to accept them due to fear of Allah and the l aw of Islam. Imam 'Alī (A) warned Qādī Shurayh that he occupied a seat which was assigned to a prophet or his vicegerent, or it was occupied by a tyrant. The main objective of the Islamic government is to establish the rule of justice and equity (**al-Nahl:** 19), which demands that

the oppressed and the deprived (including slaves) should be provided with their basic needs (al-Nahl: 71). To do justice to the oppressed seems to be the most difficult of the jobs of a government, as Imam 'Alī (A) said, "One who comes to power often oppresses and tyrannizes", and that "oppression and tyranny are the worse companions in the Hereafter". (Sayings: 198 & 202)[27]. As the weaker sections of people fall easy prey to oppression and tyranny, Islam has taken particular care to guard their rights and redress whatever their legitimate grievances may be. In this way the Islamic law ensures freedom of the oppressed.

The Qur'ān contains a number of verses which lay down the guiding principles of justice, which are as follows:

1. Never refer to a misled and tyrant ruler for seeking justice (**al-Nisā'**: 63; **Hud**: 113).

2. The prophets and their deputies are made the vicegerents of God for establishing rule of justice and equity (**Sād**: 38).

3. Divinely appointed personages and judges have to follow the commands of God (**al-Mā'idah**: 48,49 & 51).

4. Judges are obliged to see every citizen get his due (**al-Nisā'**: 61).

5. One has to abide by the order of a judge and an arbitrator (**al-Nūr**: : 48-9; **al-Nisā'**: 68).

6. Judges should be impartial and meticulous (**al-Nisa'**: 106).

7. Judges are bound to admit writs of non-Muslims and to dispose them at the earliest (**al-Mā'idah**: 46).

8. Accepting bribes is strictly prohibited (**al-Baqarah**: 180).

The Qur'ānic text also lays down the conditions for the appointment of a qādī: he ought to be mature, possess sound reason, be of firm faith, just, expert in fiqh, with ability to do ijtihād, of legitimate birth, free from mental lapses, and a male.[28]

Imam 'Alī (A), in his letter to Mālik al-'Ashtar,which is a

comprehensive code of conduct for the rulers and a document laying down the Islamic principles of governance and justice, elaborates the Qur'ānic code of conduct by adding that a qādī has to be intelligent, patient, of stable temperament, honest, man of integrity, meticulous and humble.[29]

If a judge is prone to vicissitudes of his mood, he can not judge objectively Leo Tolstoy, in "The Resurrection," one of his best novels, criticizes and ridicules judges for being whimsical and moody in delivering judgements in legal matters, and thus committing injustice and spoiling lives of innocent people who are at their mercy. He also seems to confirm the Qur'ānic view of not referring to an unjust judge by condemning the entire legal system based upon the vested interests of tyrants. Imam Ja'far al-Sādiq (A) advised his followers not to appeal to courts of unjust and tyrannical rulers who usurped power illegitimately from the rightful claimants of rulership, and directed them to refer among themselves to him who is an expert of the Qur'ānic injunctions and can judge justly.[30] This advice implies that judgements of an unjust government are not binding on Muslims, and implicitly they are asked to overthrow such a regime. The first and foremost condition of justice in human social, political, economic and legal issues is that the entire socio-political system is to be based on justice. The rulers usurping power illegitimately and undemocratically in our age, cannot establish the rule of justice. It further implies that Islamic rules of justice can be implemented in a truly Islamic society and state only. We may logically infer from this that the states whose rulers are not elected in accordance with the Islamic teachings have no right to implement the Islamic laws of retribution (qisās) only, for these laws form an integral part of the whole Islamic superstructure. The principle of justice demands that it is the first duty of a ruler claiming to follow the Islamic polity to build a truly Islamic society conducive to the implementation of Islamic justice.

Another significant point made by Imam 'Alī (A) in his letter to Mālik al-'Ashtar anticipates a modern principle of

democratic rule, which was realized in the West in the present century only:

> "Pay them (qāḍīs) handsomely so that their needs are fully satisfied and they are not required to beg or borrow or resort to corruption. Give them such a prestige and position in your state that none of your officers or courtiers can overlord them or bring harm to them. Let judiciary be above every kind of executive pressure or influence, above fear or favour, intrigue or corruption."[31]

Most probably the importance of the independence of judiciary was realized for the first time by Imam 'Alī (A) in the annals of human history. He regarded it to be an essential condition of the administration of justice. His great concern for the weaker and oppressed sections of society is evident throughout his sermons, letters, admonitions and directives issued to his officers, military and administrative and judges.

He kept in mind honesty and integrity of the persons as the basic condition in appointments to all offices from the lowest rank up to the highest. If officers, particularly judges, are corrupt or prone to temptations, the stronger sections will be able to deprive the oppressed of their rights. Advising his governors to hold regular public audiences, he commands them not to let army and police officers be present on such occasions, so that those who have grievances against the government may speak to the **amīr** freely, unreservedly and without fear.[32] At the same time he reminds them that in such audience most common men will gather:

> "Therefore if you find them misbehaving or unmannerly or if you feel that their talk is irrelevant tolerate them; do not be rude and insulting to them... "[33]

He adds that he often heard the Prophet (S) saying:

> "That a nation or a government cannot achieve salvation where the right of depressed, destitutes and suppressed are not guarded and where mighty and powerful persons are not forced to accede

these rights."[34]

With a view to prevent any possibility of oppression and exploitation, he prohibits giving of lands on permanent lease with all proprietary and ownership rights **(jāgīrs)** and water supply and other sources of public utility to anybody, because such possessions will enable privileged persons to oppress others and derive undue benefits.[35]

Amir al-Mu'minīn's regard for judiciary and legal procedure made him to appear in the court of Qādī Shurayh as a complainant. When the **qādī** offered him a seat of honour, he reproached him for being discriminate. He accepted the judgement against him, though his claim was right. The opposite party was a Christian, who was so impressed by 'Alī's submission to the court of law, that he confessed he had no claim on the disputed property, and also offered to embrace Islam. Here another aspect of Amīr al-Mu'minīn's adherence to the Islamic teachingscomesto light He repeatedly enquired if he was forced by somebody to give up his old faith. When he was convinced that there was no compulsion by any authority and the Christian wished to embrace Islam willingly and freely, only then he taught him the **kalimah.**[36]

It was under such rulers that Muslims learnt to respect freedom and rights of all human beings including those of non-Muslims.

a). Non-Muslims' rights

As the Qur'ān has taken special care of non-Muslims in the matter of their legal rights, it accords them full freedom in the matters of faith, economic activity, property, social security and the preservation of their culture and traditions.

1. Muslims are commanded to observe the conditions of their pacts and treaties made with non-Muslims and never to violate them (**al-Mā'idah:** 1; **al-Nahl:** 91; **al- 'Ahzab:** 15; **al-Tawbah:** 4&7; **Banū Isrā'īl:** 34; **al-Baqarah;** 177; **al-Ra'd:** 20; **al-Mu'minūn:** 8 & 9 **al-Ma'ārij:** 32). A general principle is laid down that the keeping of promises and fulfilling pacts is a

sign of a Muslim. This rule includes pacts with non-Muslims also. 'Ali(A) included non-Muslims also among common men paying taxes or tribute (jizyah). Regarding pacts with them he advises Mālik al-'Ashtar:

> "If your enemy invites you for a treaty that will be acceptable to the Lord, then never refuse to accept such an offer... Be very careful, never break your promises with your enemy, never forsake the protection or support that you have offered to him, never go back on your words and never violate the terms of treaty. You must risk even your life to fulfil the promises given and the terms settled. Because of all the obligations laid by the Mighty Lord upon man there is none so important as to keep one's promises... Even the heathens take care to keep the promises made among them... Never take up offensive without being previously challenged...Deception and fraud against your enemy is deception against God... Let there be no ambiguity in them (pacts)... do not try to take advantage of any ambiguous word or phrase in it..."
>
> "Beware of the sin of shedding blood without religious justification and sanction, because there is nothing quicker to bring the wrath of the Lord... "[37]

In the same letter he writes:

> "Remember Malik, that among your subjects there are two kinds of people: those who have the same religion as yours...,and those who have other religions than yours and yet they are human beings like you. Men of either category suffer from the same weaknesses and disabilities that human flesh is heir to...."[38]

The rights of non-Muslims living in a Muslim state are covered by the above instructions, whose lives are to be protected and whose bloodshed is prohibited.

The verses of al-'Anfāl: 58 and al-Nisā': 90-94 encourage Muslims to accept any offer of peace-making by non-Muslims with the Divine promise that if they intend to deceive, God will protect Muslims.

2. Muslims have to take care of the dhimmis, those under the protection of Muslims according to a dhimmah pact. A dhimmī is free to abide by the dhimmah pact or to leave the Muslim state.There is no compulsion.Al-'Allāmah al-Hillī holds that this pact is not binding on a non-Muslim for ever.[39] This is a bilateral pact. The Jews, Christians and Zoroastrians are covered by this pact, but the Sunnis include all other non-Muslims also to be covered by the pact of dhimmah. The pact made with the Chrisians of Sinā by the Prophet (S) and written by 'Ali (A) ,declared that all the Christians living in the east and the west ,whether Arab or 'Ajam, are covered by it; anybody who attacks them will be regarded as attacking the Muslims, and if a Muslim violates it, whether he is a king or a commoner, he will be unfaithful to Islam. According to it Muslims were held responsible to ensure security of the Christians and were bound to defend them with their own lives; dhimmīs would not be liable to pay any tax except the tribute they willingly had agreed to pay; their priests and churches would be safe; the priests would be exempted from paying jizyah; rich among them and traders would not be asked to pay any additional tax;none among them would be forced to fight in battle; they would be treated in the best manner; and anything that would displease them would be prevented.[40] Similar treaties with the people of Ilā ('Aqbah) and Najrān were also concluded.[41]

3. The dhimmīs have to pay jizyah only, and are bound to abide by the Islamic laws pertaining to judicial matters and penal issues, which are applicable to all citizens equally.[42] It means that non-Muslims enjoy equality in legal affairs with Muslims. It was because of this right to equality that a Christian could challenge the Caliph in the court of justice, that too on a false claim, as reported above.

Jizyah is a financial commitment on the part of the **dhimmīs** in accordance with the Qur'ānic injunction (**al-Tawbah:** 29). According to Shaykh al-Tūsī, the amount of **jizyah** is not fixed, it may be fixed by Muslim rulers taking into consideration the yield of the lands of the **dhimmīs** or determined with regard to each individual's capacity. Amīr al-Mu'minin (A) levied a tax of 48 dirhams on rich ones, 24 on the poor.

Tribute is a term used for both **jizyah** and **kharāj,** which have been confused with each other. **Jizyah** is per head capitation tax, while **kharaj** is a collective land tax. If the one is levied, the other one is not collected. It was the second Caliph only who levied both the taxes which misled some Muslim fuqahā' and orientalists to believe that both were collected from non-Muslims.[44] In case a dhimmi embraced Islam, he was exempted from **Jizyah.**

Amir al-Mu'minin (A) ,in his letter to Malik al-Ashtar directs him to be considerate of the circumstances of the farmers in collecting land revenue, always keeping in view the welfare of tax-payers. In his view more importance should be attached to the fertility of land than the collection of taxes, then the actual taxable capacity of people rests upon the condition of land. He warns that a ruler who does not pay attention to the prosperity of his subjects and the fertility of land but concentrates only on the extraction of revenue lays waste the land, ruins the state and brings destruction to creatures of God, and his rule cannot last long. In case of natural calamities and vagaries of rain, scarcity of means of irrigation and destruction of crops, tax is to be reduced or, if conditions necessitate, totally exempted for the season. He also recommends to provide all facilities to the farmers, for the best investment for a ruler is to help his subjects at the time of difficulty. It may be noted that it were mainly non-Muslims who were engaged in cultivation of lands in those days, for Muslims were mostly engaged in warfare and the defence of the state. The lenience in levying taxes is a means of winning dhimmis' confidence and love, which in

times of crisis proves to be an asset and a source of strength for the ruler. 'Ali (A) wanted the Muslim rulers to behave differently from the rulers who were described by the Quran as causing devastation to the land and misery to the people (al-Naml: 34). The poverty of people, in his view, is the actual cause of the devastation and ruination of a country. Apart from extraordinary conditions, in normal conditions too, certain categories of no-Muslim subjects ware exempted from jizyah or kharaj, such as minors, poor and penure, old, disabled and insane persons.[45] Women are never responsible to pay jizyah. The married among them are entitled to all the rights of citizenship on the basis of their husbands' payment of the tax, while maidens are exempted due to their parents and guardians' citizenship rights. Every treaty that levies jizyah on women is null and void from the Islamic viewpoint.[46] Besides natural or other calamities, in some other circumstances also non-Muslims are exempted from the payment of jizyah. These are: whenever Muslims feel they are unable to fulfil their obligations towards the dhimmis; whenever Muslims consider the exemption to be instrumental in creating and fostering better relations between the Muslim and non-Muslim populace; whenever Muslims are in need of seeking their active participation in war; and whenever any one of them embraces Islam.[47] In most of the countries under Muslim rule jizyah was not collected at all, for instance, in India the majority of rulers, with a few exceptions, did not levy jizyah on non-Muslims. Awrangzeb Alamgir, the Moghal emproor, levied it in his reign, but it proved to be against the interests of the Muslim empire and counter - productive.

The dhimmis and other non-Muslims loyal to the Muslim state enjoy freedom of faith and worship. Their worship places are protected.[48] They usually received liberal grants from Muslim rulers. Though they have equal legal rights, they are free to refer their disputes to their own religious authorities.[49] They are accorded all the rights granted to Muslim citizens, that is, right to education and dissemination

of knowledge, freedom of thought, right to property, business ,agriculture, industry and honourable living. They are treated equally in social matters and are respected.[50] Al-Sharif al-Radi composed elegies paying tribute to his friend and teacher, al-Sa'ibi, an eminent poet and scholar of the Christian faith. Non-Muslims have been serving the Muslim courts as ministers, administrators, accountants, secretaries and ambassadors. They also excelled during Muslim regimes as scientists, physicians, teachers, men of letters, artists, businessmen, industrialists, bankers, etc. Even the secular democracies of today are unable to ensure all these rights and freedoms to their minorities. The Muslim states could ensure these rights to their non-Muslim subjects, therefore we seldom find in their history incidents of communal clashes and riots. The Constitution of the Islamic Republic of Iran states in the article 23 of chapter III. "The investigation of individual's beliefs is forbidden, and no one may be molested or taken to task for holding a certain belief."[51]

(b) Rights of slaves

All medieval soceities allowed slavery to prevail in the interest of the ruling classes ,but Islam discouraged it. As the historical conditions did not permit toabolish it altogether at that time, Islamgranted slaves human rights which had been denied to them from time immemorial. The Qur'ân encouraged Muslims to emancipate slaves through the verses: al-Baqarah: 177; al-Ma idah: 89; al-Nisa': 93; al-Mujadilah: 3. The Prophet (S) also entreated all Muslims to let slaves free, and himself did it. He appointed slaves to important positions and treated them equally. Though the institutition of slavery continued in the Muslim world,but due to enjoying benefits ofgood education and respectable status many slaves rose to high posts and sometimes ruled over their past masters. The Turk slaves of the Banû 'Abbâs could dictate their terms to the caliphs. The founders of Ghaznawi aand Ghûri empires were slaves. Similarly the Khawarizmi rulers

were descendents of slaves. In India the first Muslim empire was set up by a slave of Shihab al-Din Ghuri , Qutb al-Din Aybak, who in his turn was succeeded by his slave, Iltitmush, and subsequently his slave Balban was made the emperor when Iltitmush's family came to an end. In the South India (Deccan) the first independent dynasty was founded by a slave of Muhammad Tughlaq, 'Ala al-Din Hasan Gangu Bahmani. Slaves were often given in marriage to their master's daughters. No other religion or law treated slaves so respectfully. Practically slavery was almost abolished in the Muslimworldwhen the newly civilized West was making the Africans slaves and deporting them to America, where negroes are fighting for equal rights and human treatment. South Africa is another example of the treatment of the Blacks, who despite being the legitimate masters of the country and forming the majority of the people are being treated and persecuted worse than slaves. All such atrocities against free human beings are committed by the authors of the declaration of universal human rights. Islam bestowed freedom on slaves of the world fourteen centuries ago. Slaves were the greatest beneficiaries of the Islamic declaration of human rights. It is because of Islamic equality that the racially and otherwise discriminated peoples come to the fold of Islam.

(c) Women's rights

If one compares the status of women in the pre-Islamic societies in Greece, Rome, Persia, Syria, India and Arabia,one has to acknowledge that Islam raised their position to a level that they could claim equal rights with men in all spheres of life. Christianity regarded woman as the source and cause of Adam's sin and his consequent fall, and Arab paganism buried the daughters alive considering them to be a cause of shame. Islam not only advocated the equality of sexes, but also the Prophet (S) set an example how to respect women by paying great respect to Khadijah (A) and Fātimah (A) in

particular, and women folk in general.

Polygamy and veil are the the butts of the West's and the so-called enlightened East's criticism to highlight Islam's unequal treatment of women. The former, on the one hand was necessitated by social conditions, and on the other by the physiological make-up of the two sexes. Promiscuity and free love in modern societies point to this natural need. The veil does not imprison woman, but rather emancipates her in many ways. Confining woman to the four walls of the house and keeping her deprived of the fruits of education was never approved by Islam. Jawahar Lal Nehru, in *The Discovery of India,* rightly points out that this type of women's confinement is a result of the impact of Hindu society in India. The same may be said about the backwardness of Muslim women in other countries. During the centuries of general degeneration, of Muslims women were deprived of their freedom under non-Islamic influences. The West, which poses as the champion of women's equal rights granted them rights to property, separation and vote recently. Syed Amīr 'Alī, an eminent Indian jurist, wrote in *The Spirit of Islam* in the first deades of this century:

> "Until very recently, even in England, a married woman possessed no rights independently of her husband... But the Teacher who in an age when no country, no system, no community gave any right to woman, maiden or married, mother or wife, who, in a country where the birth of a daughter was considered a calamity, secured to the female rights, which are only unwillingly and under pressure being conceded to them by the civilized nations of the twentieth century, deserves the gratitude of humanity." [52]

If the Muslim woman sought to attain the social position of her European sister, it was nothing but a misconceived emancipation which anchored her in the muddy waters of the evils of a capitalist system that reduced woman to a commodity and a sex-object placed for exhibition in the

offices. On the contrary, Islam gave her the rights and windows of super-markets and reception rooms of high

In Islam all rights granted to men, with a few exceptions, are also given to women.One exception is with respect to *jihād*, but women are expected to help the warriors behind the front line by taking care of the wounded and doing similar jobs. In the matter of marriage women have the right to express their consent to marry a person and they are free to dissent. In divorce the right is given to man, but under certain provisions woman can initiate the legal proceeding to secure divorce. Women's rights in Islam can be summarized as follows:

Women are treated on equal footing with men in all affairs: religious ,educational, legal, moral and economic.

a) In religious matters obligations and rewards of women are the same as those of men (**al-Nisā'**: 1; **al-'A'rāf**: 189; **al-'Ahzāb**: 35).

b) In ethical matters also equality of the two sexes is maintained (**al-Nisā'**: 124; **al-Nahl**: 97).

c) Regarding education, the Quran implicitly gives the same rights to women that are granted to men.Similarly, the hadith of the Prophet (S) making acquisition of knowledge obligatory mentions both the sexes, and the Prophet even commanded that slave girls be educated too. As women are responsible for taking care of infants, they are supposed to have some knowledge of medicine and also of the art of child rearing. The Prophet (S) asked a lady to instruct his wife Ḥafṣah bint 'Umar. Women also used to attend the Prophet's lectures. Because of this practice,a number of ladies from the Household of the Prophet (S) excelled in ḥadīth and fiqh. In the history of Islam we find the names of a number of women who were equal to the most educated men in religious sciences, arts, and literature.

d) Legal and economic rights of women are also at a par with those of men. Islam ensured economic independence of women by giving them a share in parent's property (al-Nisa':

7&11), and warns against depriving them of their inheritance (al-Nisā': 19). A woman is entitled to hold and manage her property. She enjoys the right to spend what she possesses and her husband cannot deprive her of dower (mahr) (al-Baqarah: 229, al-Nisa': 19-21 & 25), unless waived by the woman as a gift (al-Nisā': 24). If wronged she is entitled to compensation just like a man, and if she commits a civil offence ,the Qur'ān says, her penalty is no less or no more than that of man in similar case (al-Mā'idah: 41; al-Nūr: 2).

e) In marital affairs, except in the case of divorce, she is given the same rights that are granted to her husband. The Qur'ān explicitly commands not to marry a woman without seeking her consent (al-Nisā': 19). Even the right of an infidel woman is respected by the Qur'ān, which commands Muslims not to violate the modesty and honour of the women of *mushrikūn* (al-Mumtahanah: 10-11). In our highly advanced age the troops of most civilized nations of the West deem it to be their legitimate right to violate the honour of the women of enemy, for chastity and dignity of women have no value according to modern standards of culture and morality.

A Muslim lady also enjoys the right to choose her spouse of her free will. She is entitled to dower (mahr) according to the marriage contract. Though polygamy is permissible in Islam, the conditions of being fair and just to all the wives are so strict that practically it is discouraged. The third verse of al-Nisā' says that if you fear that you will not be able to do justice to more than one wife ,be content with one wife only... The conditions of justice to wives are laid down in the verse 133 of al-Nisā'. There are many verses in the Quran which emphasize the sanctity of the home, and emphasize the mutual duties and rights of husband and wife as the basic factors of the family's welfare. Both of them are held responsible for the harmony of the family. In case of differences, husband and wife are advised to settle them with the help of arbitrators, one each for both the parties (al-Nisā': 35). If it is not possible to live together, the provision of separation is open, but according to a tradition of the

Prophet (S), divorce is the worst of permissible things in the eyes of God. A woman is entitled to receive her expenses from her husband during the period of *'iddah*, and a child born in this period belongs to the husband who is responsible for its maintenance. Even the much avowed institution of temporary marriage (*mut'ah*) is now being appreciated by some modern sociologists who consider it the best safeguard against promiscuity.

f) Islam has also given political rights to women, as stated in the twelfth verse of al-Mumtaḥanah in the Quran. The women of the Quraysh were given a right to take the oath of allegiance after satisfying them fully of the conditions of submitting to it.[53] By implication this verse gives women right to vote, a right for which women had to struggle and wait till the twentieth century in the West.

CONCLUSION

As elaborated in the beginning of the article all human rights originate in man's freedom, and are secured by the fulfilment of obligations in society as well as in a political set up. A society which gives more rights to its members is to be considered freer than those which either give rights but do not ensure that they are safeguarded or grant limited rights only. In the modern states the ones which claim to be open and free curtail the constitutional rights one way or the other, and the ones that are based upon the sovereignty of the oppressed class deprive the other class of human rights; furthermore the latter, through indoctrination and regimentation of thought, transform human beings into machines. The technocracy and bureaucracy of modern societies both the capitalist and the socialist, are concerned with the material aspect of man, and consequently dehumanize all social and human relations. Islam, on the other hand, ensures both the material and spiritual aspirations of man to be fulfilled and developed fully by giving all the sections of society equal rights and ensuring their execution and implementation by the state. Thus Islam accepts the inherent freedom of man, grants its full utilization

and development, and bases its socio-political superstructure accordingly. The Islamic conception of human rights and its faithful implementation ensures greater freedom to all sections of humanity than granted in any other system.

If we go back to the views of the spiritual leaders of Islam, we may see how they disapproved all acts of injustice and rejected all theorizations that sought to deprive man of his freedom. When Imam 'Alī (A) was asked to explain difference between **qada'** and **qadar,** he said: The first means obedience to the Commandments of God and avoidance of sin; the latter, the ability to live a holy life and to do that which brings one nearer to God... Say not that man is compelled, for that is attribution of tyranny to God".[54] Imam Ja'far al-Sādiq (A) made the observation: 'The doctrine of **jabr** (determinism) converts God into an unjust Master'.[55] However, these traditions cannot be interpreted as advocating absolute freedom for man. The latest scientific studies of the problem of freedom, both in metaphysical and political or social terms, arrive at the conclusion that freedom is always relative. No society or state can give absolute freedom to man, if it is to secure harmony and mutual respect of all the members. This mutual respect lays certain duties on man, which are for the sake of granting equal freedom to every body. The saying of Imam Ja'far al-Sādiq (A) لا جبر ولا تفويض (there is neither **jabr** nor **qadar** or **tafwīd,** but the matter is a via media between the two) can be interpreted both metaphysically and socially. Metaphysically or rather theologically it states that absolute freedom is for God only, man is given limited freedom.

Socially and politically freedom is delimited by duties, and is not complete or absolute. Imam 'Alī ibn Mūsa al-Ridā' sums up the issue in the following words: 'You are at liberty to take one or the other path, ... but man has not the capacity of turning evil into good, or sin into virtue'.[56] Thus we may conclude that man is free, but his own freedom demands him to fulfil certain obligations, towards himself, towards other fellow beings, and ultimately towards God. Freedom is

meaningless if one does not fulfil these obligations. All the human rights become due to man when he exercises his freedom to shoulder the duties he is expected to perform by his Creator, his fellow beings, and his own nature.

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The Practical Application of Human Rights

Allāmah Shaykh Ahmad Al-Zayn

Praise be to Allah, the Lord of the Worlds, and peace and greetings for Prophet Muhammad (SA) and on his infallible descendants *(Imams)* and his worthy companions.

O gracious and honourable brothers! peace and the mercy and the blessings of Allah be upon you. It is an honour for me to address through you the great Imam of the nation, the great Khomeini, may the Almighty Allah preserve him. I present him my greetings.

Dear brothers! holding this conference on human rights in the Islamic Republic of Iran has a great and a special significance for there are many conferences held in a number of Islamic and foreign countries which come out with proclamations and recommendations which do not go beyond words and have no trace and leave no effect among the people.

But I hope that holding this conference concerning the Human Rights on this blessed land, will by Allah's help and wish leave its good effect among the people. Therefore, I hope that the conclusions of this conference will be much more effective than the recommendations of other conferences, which often contradict the policy of the country that issued them.

What have the recommendations of such conferences done for us? For example, in Lebanon, where we live, all kinds of violations of human rights take place. The first of them is the violation of man's right of living. There is no value

for man's life in Lebanon. A man gets killed while he is on his way to work for his living. No one then asks about the fate of orphans he leaves behind. No body dares to investigate the cause for such a crime. Now in Lebanon, the houses lost their security and sanctity, because any owner of a house does not know from where the bomb will come to destroy his house, **over his head, and the heads of his children. He doesn't know** whether a bomb comes from the Israeli enemies, or from inside, or from the agents who work for Israel and the great satan, the United States of America. In Lebanon, we do not have any of the natural human rights such as the rights concerning living, housing, ownership, and health.

All this happens in Lebanon; but what about Afghanistan? What about what is happening in Iraq, or in South Africa, or in Chad, or in South America or in any place where human rights are violated openly and shamelessly? I ask you gentlemen! where can we find all these violations in the Human Rights Charter or the Human Rights Proclamation of the United Nation?

Respected and dear brothers! we would be doing nothing if our work is limited to issuing recommendations, as in this way we would be adding to the other resolutions and proclamations. The current situation in the Islamic and Arabic lands demands practical actions and cannot wait for scientific arguments, because the Muslims and the oppressed of the world are suffering with hunger, expulsion and pain.

Yes, dear brothers! Frankly, before I came from Lebanon, I was told about a Muslim girl who was crying for help; but no body hears - none of the leaders, none of the parties, and none of the organizations. No one hears our cries, O Khomeini.

Yes gentlemen! for such cases and for such a cause, we are discussing the subject of human rights but we cannot stop at the words. Therefore, we must add our efforts in Islam. The Human Rights for the non-Muslims are just slogans raised in this age of slogans where the words and slogans are

raised but the reverse is done. Where are the slogans of liberty, equality and justice in countries which practises the most horrible forms of oppression, injustice and dictatorship, like Iraq? Where are the slogans of brotherhood and human equality which the United States raises while it practises all kinds of racial discrimination without any shame?

We live in the age of shouting slogans and the opposite of **these is worked with and this goes for the codes of the Human** Rights Proclamation issued by the United Nations, which are nothing but slogans which cannot be practised on earth at all.

If our conference is discussing the Human Rights in Islam, our discussion must differ from its discussion outside Islam. Because when we describe our subject according to Islam, it must be translated to something existing among the people and on the earth. Through Islam we translate our hidden faith in our behaviour, or actions and our religious judgements. A Muslim cannot pretend that he is a believer in his heart and in his behaviour, while his relations with **others** differ with what he pretends. Our faith must be reflected in our actions and behaviour and it must be applied in our individual, social, and international relations.

Therefore, our discussion on the human rights in Islam, in this place, in Tehran, must come out with something new. The Islamic Republic of Iran in these seven years came out with something new, which the Muslims were not accustomed of before. It came out to the world with the demand to practise Allah's doctrines by the people on the Earth. Therefore, we must come out with recommendations concerning human rights to be practised in existence and on Earth as we practise Allah's doctrines in the land of Islam. Our recommendations must not stick to non-scientific and impractical slogans. It must come out with something that deals with human behaviour and the relations among the people.

Dear brothers! Islam solves the problem which the world suffers from. This problem concerns practising and

executing human rights on Earth. Islam solves the problem through practising the doctrines of Islam by the individual and through his inner faith and fear of Allah. It is said that one day one of the caliphs came to a shepherd and asked him to sell one of the sheep to him, but the shepherd said that those sheep were not his. The caliph then told him to give him one and tell the owner that a wolf has eaten it, but the shepherd told the caliph if he did so, what about Allah who sees them? And that faithful girl who refused her mother's order to mix the yogurt that was prepared for selling, by saying: "Mother! the caliph has forbidden the people to do so and if he is not here now and cannot see us, as you say, there is Allah who does so." By such a faith and fear, we can practise man's rights on Earth.

At the level of executing the doctrines of the religion for children we can see that Islam preserves the children's rights of living and imposes spending for the mother, as given in **Qur'ān;** *"... Their sustenance and clothing must be borne by father of the child... (2:233)."*

And also during old age, Islam guarantees the rights of the individuals for their living with honour. An example for this is that during the time of the Islamic state in Syria, it was announced that all the aged people, whether Muslims or non-Muslims, can get their financial aid from the State if they cannot work.

Thus are the rights of the human beings in Islam. They are most practical for the individuals, family, and the whole society; and the state acts to execute them on Earth and among the people. But as for man's right to live, it is enough to mention that Qur'ān considers killing a person as a corruption in the whole Earth or as killing all the people. It is also appropriate to mention our Prophet Muhammad's (SA) words about this matter when he said: "It is more easy for Allah if the skies and Earth are vanished than killing a person. is killed wrongly."

Dear brother! I don't want to talk more about these

examples for you know them too, but before I leave this conference, which is held in the Islamic Republic of Iran, please convey my deepest greetings and loyalty to the *Imām* of the *Ummah* (nation), asking him to consider the recommendations which concern human rights.

We want to express our thanks to him and announce that the state of Islam in Iran practises human rights and we ask all the religious leaders and all the nations and all humanity to stick to Islam's doctrines concerning human rights and then to do their best in observing and caring for human rights.

Wassalamu alaykum wa rahmatullah wa barakatuh.

The Family Rights

Muhammad al-Murtaza Ambakee

Introduction

Praise be to Allah Who created us from a male and a female and blessed our life by giving us sons and grandsons. In that are clear proofs which ask us to worship Allah with loyalty, and ask us to safeguard against evils. The Almighty Allah has said in His gracious Book: "O mankind! Be careful of your duty to your Lord, Who created you from a single being and from it created its mate and from these two spread a multitude of men and women. Be careful of your duty towards Allah from Whom you demand one of another (your rights), and towards the wombs (ties of relationship)...(4:1)."

And peace be upon our Prophet Muhammad (S.A.), the grandfather of Hasan (A.S.) and Husain (A.S.), who encouraged marriage and forbade priesthood, and peace be upon his descendants and upon his companions whom he addressed and those who followed them by saying: "Get married and propagate for I will be proud of you among other Ummahs on the Resurrection Day."

Thus, the family is the key stone in the construction of a society, and its virtuousness and goodness is in the goodness of the families which form basic social units. The good family is the one which is formed from good members, each one of whom, performs his duties before asking for his rights and thus things go right.

Islam, the relgion of rights and justice, gave man his freedom in thinking and behaviour and bearing his individual

and social responsibility of that. But Islam has drawn the limits and put the controls which give him the chance of getting advantage of the right of freedom in accordance to what his mental and physical abilities permit, on condition of not harming himself or harming the others. This makes him a responsible person no matter what post he occupies inside the family or the society.

The wisdom in the severity of the penalties, which the Islamic religion has decided upon for anyone who goes beyond its limits, is Islam's strong wish to protect the life, the property and the honour of the individuals and thus to protect the society. This is not understood by the enemies of Islam and by the ignorant Muslims who describe the Islamic limits as brutal and savage and their misfitting in the civilized life in our modern times. The civilized society must be clean of the inhuman crimes which the laid down laws are unable to wipe out. These include adultery, stealing, assassinations and other ugly crimes.

THE RIGHTS OF THE PARENTS

Allah, in many Quranic verses, orders for kindness to the parents and orders that they should be honoured and respected. Allah, the Almighty says: "And your Lord has ordered, that you shall not worship (any) but Him, and (that you show) kindness to parents. If one of them or both of them attain old age with you, do not say "Ugh" to them nor chide them, but speak them in generous words. (17:23)."

The Hadiths of the Prophet (S.A.) also emphasize about the kindness to the parents, and respecting them by obeying them. Ibn Masoud said: "I asked the Messenger of Allah (S.A.) which work is best loved by Allah?" He answered: "The prayers on their exact time." I said: "and what else?" He said: "kindness to the parents." I asked: "what else?" He answered: "Fighting for the sake of Allah."

Because the Quranic verses say that kindness to the parents is next to Allah's worship, and the Prophet's speech makes kindness to the parents a work which is best loved by

Allah next to the prayer, all these prove and emphasize the importance of the duties. I would now describe the rights of the parents:

1. Satisfying them

Here we present a few of the Prophet's (S.A.) speeches (Hadiths) which demand the sons to satisfy their parents and avoid what causes their anger. The Messenger of Allah (S.A.) said: "Allah's satisfaction lies in the parents' satisfaction, and Allah's wrath is in the anger of the parents." He also said: "The parents are the middle door of the Paradise, so honour your parents." He also said: "The Paradise is under the mothers' feet". Healso said: "If a Muslim respects and gives attention to his parents, Allah will open two doors for him in Paradise. If pleased one of them, Allah will open one door for him. And if anyone of the parents got angry, Allah will not pardon that Muslim till he is pardoned by the one who is angry".

The son could please his parents by good conduct and showing kindness to them; by answering them quickly when they call him; by not walking ahead of them; by not shouting in their presence; by not interrupting them while they are speaking; and by listening carefully to what they say.

The son could also please his parents by consulting them in everything before doing it. He must make them feel that they are important in the family, no matter how old they are. He must not prefer his wife or his son over them.

These good conducts in treating the parents, were pointed out in the Prophet's (S.A.) Hadith, which A'esha said: "The Messenger saw a young man walking with an old man. The Messenger asked him: Who is the man with you? He said: "He is my father.' The Messenger told him:'Don't walk ahead of him, don't sit before he sits; don't call him by his name; and don't abuse him".

2. By being kind to them

The Almighty Allah has said: "And We have enjoined on man kindness to his parents, but if they strive that you should

associate (others) with Me, of which you have no knowledge, then do not obey them...(29:8)."

Showing kindness to the parents is by obeying their orders. But if they ordered their son to disobey Allah, then he must not obey them. Ismail (A.S.) gave a great example in obeying his father. The Quran told us his story with his father Ibrahim (A.S) by saying: "My Lord? grant me of the doers of good deeds. So We gave him the good news of a son, possessing forbearance. And when (his son) was old enough to work with him, (Ibrahim) said: 'O my son? surely I have seen in a dream that I must sacrifice you. So, consider what you see. He said: 'O my father? do what you are commanded; if Allah willing, you will find me of the steadfast ones (37:100-102)."

Spending on them, especially when they are too old and unable, is considered kindness to them. The Almighty says: "They ask you, (O Muhammad (S.A.)!), What they should spend. Say: "Whatever wealth you spend, it is for the parents and the near of kin and the orphans and the needy and the way-farer...(2:215)."

Some of the Prophet's (S.A.) sayings and some of the Quranic verses ordered for a special kindness and obedience to the mother, because she risks her life for the sake of her child during pregnancy and during suckling and afterwards.

The Quran mentioned and pointed to this by saying: "And We have enjoined upon man concerning his parents, his mother bears him in weakness upon weakness, and his weaning takes two years. Be grateful to Me and both your parents; to Me is the eventual coming (31:14)."

Quran also says: "And We have commanded man for kindness towards his parents; with trouble did his mother bear him, and with trouble did she bring him forth; and the bearing of him and the weaning of him is thirty months, till he attains full strength and reaches forty years, he says: My Lord! grant me that I may give thanks for Your favour which You have bestowed on me and on my parents, and that I may do good which pleases You and do good to me in the matter

of my offspring; surely I have turned to You repentant, and surely I am of those who submit to You (46:15)."

In one of the Prophet's (S.A.) sayings (Hadith), it is said that a man came to the Messenger of Allah (S.A.) and asked him: "O Messenger of Allah? tell me who has the right of my good deeds?" The Messenger of Allah (S.A.) answered: "Your mother." The man further asked: "And who else?" He answered him: "Your father." Prophet's (S.A.) mention about the mother before the father, in this Hadith, indicates that the mother has a special position and that she should be given more care and importance for risking her life during pregnancy and during giving birth; because she bears the hardships of suckling and raising up of the child; and because she is a weak creature and needs more help than the father.

Obeying and performing the duties and the tasks due to the parents by their sons is something which the Prophet (S.A.) warned against forgetting in many of his sayings (Hadiths), among them are these:

Al-Bukhari and Muslim related that Abu Bakr said: "The Messenger of Allah (S.A.) has said: 'Do you want me to tell you what the biggest sins are?' We said: 'Yes! we want that.' He said: 'The biggest sins are blasphemy and disrespecting the parents'".

Ibn Omar said: "The Messenger of Allah (S.A.) has said: 'Three persons are forbidden by the Almighty Allah from entering the Paradise: the liquor drinker, the one who disrespects and neglects his parents, and the pimp who causes corruption and vice'".

Al-Isbahani related from Abu Bakr that the Messenger of Allah (S.A.) has said: "All guilts are delayed to the Day of Judgement except neglect for parents, for Allah punishes the one who neglects his parents, before he dies."

Disrespecting the parents, disobeying them and harming them and insulting them are considered great sins. The Messenger of Allah (S.A.) has said: "It is one of the biggest sins if a man insults his parents."

It is a great sin if one did not spend on them, or

mistreated them or became ashamed of bearing their name especially if the one reached a good social status. The Almighty Allah in His gracious Quran says: "...And say: 'O my Lord? Have mercy on them as they did care for me when I was little (17:24)'."

Abu Dawood ibn Majeh related from Malik ibn Rabee'a that he said: "We were with the Messenger of Allah (S.A.) when a man from Bani Salameh came to him and asked: "O Messenger of Allah? tell me: 'What can I do for my parents after their death?' He answered him and said: 'Pray for them, ask forgiveness for them, honour their friends and reach and help your relatives whom they used to help.'" This is how the son must go on doing for his parents after their death.

THE MUTUAL RIGHTS BETWEEN THE HUSBAND AND HIS WIFE

The relations between a husband and his wife are not relations between a weak person and a strong one or between a powerful lord and an invalibslave. But they are human relations based on love, cares's cooperation and benevolence. The wife plays the role of a calmer of the troubles which might occur, while the husband plays therole of the protector who guarantees a peaceful and a prosperous living for his wife and family. The Almighty Allah saysin His Great Book: "And one of His signs is that He created mates for you from yourselves that you may find rest in them, and He ordained between you love andcom passion; most surely there are signs in this for a people who realise (30:21)."

The relations between the man and his wife within the family are balanced with the equality between the duties and the rights of both. The Almighty says:
"...And they (women) have rights similar to those (of men) over them in a just manner...(2:228) "And as the Almighty Allah says: "...They (wives) are raiment for you and you (husbands) are raiment for them... (2:187)."

So, both of them are equal before Allah in bearing

responsibilities. The Almighty Allah says: "...Whoever does good, whether male or female, and he is a believer, these shall enter the Garden, where they will be nourished without any limits (40:40)."

Also, the Almighty Allah says: "O mankind! surely We have created you of a male and a female and have made you tribes and families so that you may know one another; surely the noblest of you, in the sight of Allah, is the one who is best in conduct... (49:13)."

FIRST: THE RIGHTS OF THE HUSBAND

1. One of the husband's rights is: heading of the family

Every social organisation must have a head and workers. The relation between them must be a relation of command and obedience so that things go right and the aims of the organisation would be achieved. This principle governs the relations in the family - between the husband from one side and the wife and the children from the other side. The husband is the head of the family because he spends for it, and because he is characterised with strength, cleverness, and self-control (the factors which enable him bear the hardships and face the difficult conditions) and protects the family and makes it happy. The wife is the family's housekeeper who cares about all the members of the family. All the matters of the family, therefore, should be done with understanding and cooperation and without domination or refusal or rebellion.

2. Obedience

The wife must obey her husband, and she must make all her efforts to please him. The Messenger of Allah (S.A.) in the following words has summarized most of the rights concerning obedience. Ibne Abbas said: "A woman came to the Messenger of Allah (S.A.) and asked: 'I want to get married, I want to know what are the rights of the **children's** husband?' He said: 'Among the rights of the husband is if he wanted to have intercourse with his wife at anytime she must not refuse at all, and she must not give anything of his

property except with his permission, and she must not voluntarily fast except with his permission and she must not go out of her house except with his permission'".

There are a number of Hadiths of the Prophet which indicate the rights of the husband regarding the obedience of wife to him, such as: "Had I ordered anyone to prostrate to someone I would have ordered the wife to prostrate to her husband."

It is said that a wife of one of the Prophet'scompanions - who was ordered by her husband not to leave her house while he was on a journey - heard that her father is sick so she sent a person to the Prophet asking him to give her permission to visit her father, but the Prophet told her: "Obey your husband." Later on, when her father died without seeing her, the Prophet said to her: "Be pleased, Allah has pardoned your father because of your obedience to your husband."

The Prophet (S.A.) always emphasized the right of the husband in having the obedience of his wife in everything no matter whatever be the conditions and the results. Therefore, he said: "If a woman dies and her husband is pleased with her, she will enter Paradise". "But besides obedience to her husband, the wife must fulfil her religious duties which were imposed on her as well as on the man. About this, the Prophet (S.A.) says: "If the woman said her prayers at exact times, and fasted in the month (Ramazan), and kept her chastity and obeyed her husband, she will enter Allah's Paradise.

3. Among the rights of the husband is that his wife must preserve his property and do not betray him while he is away.

The Prophet (S.A.) mentioned the characteristices of the good woman by saying: "If her husband was away from her, she would preserve his property and keep her chastity." He also said: "You have rights on your women and they have rights upon you. As-for your rights on your women: 'They must not betray you and must not permit anyone to enter your houses without your permission'."

So it is the woman's duty to preserve her husband's

property and keep chastity if he was absent or present and not to permit anyone to enter his house without his permission.

4. Right of divorce and return

Among the husband's rights is the right of divorce and the Raj'ah ("return") according to all its terms.
('return')

5. Right of children's suckling

Among the husband's rights on his wife is her duty to suckle their children as the Almighty Allah says: "And the mothers shall suckle their children for two whole years (that is) for him who wishes to make complete the time of suckling... (2:233)"

SECOND: THE RIGHTS OF THE WIFE

The rights of the wife can be summarized in two words: alimony and living with her with kindness.

1. Alimony

The husband is obliged since the first day of his marriage to spend on his wife in accordance with his financial ability as the Almighty Allah says: "Let him who has abundance spend out of his abundance, and whosoever has his subsistence straitened to him, let him spend out of that which Allah has given him; Allah does not lay on any soul a burden except to the extent to which He has granted it... (65:7)"

The husband is obliged to give a lodging to his wife, as Allah says in His great Book: "Lodge them where you dwell, according to your means, and do not injure them in order that you may straiten them... (65:6)."

He is obliged to sustain expenses for maintenance, food and clothing for his wife, as the Almighty Allah says: "And their (nursing mothers) maintenance and clothing must be borne by the father of the child with kindness... (2:233)."

2. Husband's living with her with kindness

The Almighty Allah says: "... And consort with them with kindness... (4:19)."

The Prophet (S.A.) said: "Be kind to your women." He also said: "The best believer is the one who has the best conduct with his family and is most kind to them." All these Hadiths and Quranic verses order the man to be kind to woman, to care for her and to be an adviser for her. He must trust her and he must not spy on her. The Prophet (S.A.) says: "The man must have good faith in his wife and he must trust her."

The man must also help his wife in the houseworks and he must follow Prophet's (S.A.) example. A'esha was asked: What did the Prophet (S.A.) used to do in the house? She answered: "He used to do everything, even he was helping the servant in his work."

The man must also do his best to please his wife and this will make the relations between them full of love and kindness and better mutual understanding in better or worst conditions. The woman has an important role in matters which contribute for strengthening the ties between the members of the family. Asma'e binte Kharija told her newly married daughter: "Now you are leaving the house, you were living in, to a house you do not know, and to a man you must live with. So, be like an earth to him so that he could be a sky for you. Be his slave so that he will be near you. Be always clean and beautiful so that he sees nothing but cleanliness and beauty.".

This is how the relations must be between the husband and wife: duties and rights, specified roles for both of them, peace and security, love and charity, cooperation and understanding for the sake of the family happiness and welfare.

3. The right of possession of wealth

Among the rights which Islam gave to the woman is the right of possession and spending her money freely without the interference of her husband or anyone else. The Almighty Allah says in deciding her share in the heritage: "Men shall have a share of that which parents and near-relatives leave,

and women shall have a share of that which parents and near-relatives leave, whether it be little or much - a legal share (4:7)."

Also, Islam made the *Mehr* (dower money) a special right for the woman. She can do whatever she likes with it and her husband cannot take anything from it except with her permission. The Almighty Allah says in His gracious Quran: "And give woman their dowers (marriage portions) as a free gift, but if they give of their own accord a portion of it, then you are entitled to eat it with enjoyment and with wholesome result (4:4) .

4. Right of living in husband's house during Iddah

One of the rights of the woman is that if her husband divorced her, she has the right to remain in the same house, and he has no right to drive her out, till she finishes *Iddah* (prescribed waiting period for remarriage), after divorce. The Almighty Allah says: "O Prophet (S.A.)! When you (men) divorce women, divorce them for their prescribed period and reckon the period, and keep your duty to Allah, your Lord. Do not drive them out of their houses... (65:1)."

THE RIGHTS OF THE CHILDREN

One of the most important and noble aims of marriage is having the offsprings for the sake of continuing the human race, and to make more the number of the Islamic Ummah. Also, through children, the relations of love and care between the husband and his wife will be more stable. The Almighty Allah explains the position of the children in the family by saying: "And Allah has made wives for you from among yourselves, and has given you sons and grandsons from your wives... (16:72)." The rights of children on their fathers are many. These are:

1. Good naming

It is the right of the child on his father to arrange for a good and meaningful name for him which indicates a

religious or a moral understanding. The Prophet (S.A.) says: "You will be called on the Day of Judgement by your names, so choose fine names." This was the reason why he changed the names of some of his companions, which indicated bad meanings.

2. Good raising up

It is the father's duty to raise their children in the best and honest way spiritually and physically, because they are responsible for their children and for their future. The Almighty Allah says in His Gracious Quran: "O you who believe! saveyourselves and your families from a Fire whose fuel is human beings and stones... (66:6)".

From the religion's viewpoint, the father must teach his children the sciences of the religion and must teach them to practise their religion's doctrines. He must be a good example in preserving Allah's limits. The Prophet (S.A.) said: "Order your children to stick to the orders of the religion and to leave and avoid unlawful acts, as in that is a protection for them from Fire." He also said: "Command your children to their prayers when they reach seven years of age."

This is how the father must teach his son the principles of the religion and good morals, and be good example for him. He must reward his son's obedience and punish him if he disobeyed. The Prophet (S.A.) also said: "Teach your children three good deeds: to love their Prophet, and to love his household and to read Quran." The good raising of a child must be characterised with a human character in which lenience and force must be combined. Al-Aqra'a bin Habis saw the Prophet kissing Imam Hasan. He said to the Prophet: "I have ten sons but I have never kissed anyone of them." The Prophet said: "One who has no mercy on others will not have anyone to have a mercy on him."

Al-Hakim and Al-Nisa'ee said: While the Messenger of Allah (S.A.) was leading the *Salat* (prayers) in the mosque, Imam Husain came and mounted his back while he was

prostrating. His prostration got long. When the prayers finished the people told him: "You prostrated so long that we thought that something has happened; 'he said: "My son had mounted my back and I hated to hasten him to get down."

But the fathers must take severe measures against disobedient children and they must not be moved by their emotions, and they must not fulfil their children's bad desires. The Almighty Allah says: "You will not find a people who believe in Allah and His Messenger (S.A.), even thouth they may be their own fathers or their sons or their brothers or their kinsfolk.. (58:22)."

We have in the messengers and the prophets of Allah good examples. Some of them cut all their relations with their sons despite all the emotions of a father. In doing that they actually submit to the orders of Allah. Prophet Nooh (A.S.) wanted to save his son, so he pleaded earnestly to Allah, but Allah the Almighty answered: "And Nooh (Noah) cried out his Lord and said: 'My Lord? Surely my son is of my household and Thy promise is surely true, and You are the most just of judges. 'He said: 'O Nooh! surely he is not of your household; surely he (the doer of) other than good deeds, so do not ask Me that of which you have no knowledge; surely I admonish you lest you may be amongst the ignorants (11:45-46)."

About Prophet Ibrahim, the Almighty Allah says: "And (remember) when his Lord tried Ibrahim with (His) commands, and he fulfilled them. He said: 'Surely I will make you an Imam for mankind.'Ibrahim said: 'And from my offspring (will there be leaders)?'He said: 'My covenant does not include the unjust (2:124)."

The mother has an important role in raising up the children, therefore the Messenger of Allah (S.A.) said: "Choose good women to have children for you."

The mother is the child's first teacher. She can have a great effect on him positively or negatively. Therefore, she must be prepared to bear the great responsibility of raising up the children humanly, nationally and religiously; and

therefore if man failed to choose a good wife, the result will be very bad. From the worldly viewpoint, the father must teach his son the human sciences existing in his time, which are necessary for the life of the child and the life of his family, his homeland and his nation. In doing that the father must consider the child's natural abilities and his personal desires.

3. The right for subsistence

The father must arrange for subsistence of his children. He must prepare and supply them with food, clothing and lodging and other necessities. The Messenger of Allah (S.A.) says: "The best money spent by a man is the money which is spent on his family, and the money which is spent for the sake of Allah, and the money which is spent on his companions, in the path of Allah."

The Messenger of Allah (S.A.) especially wished people to spend on their daughter because of their weakness and lack of ability and because they were mistreated in the time of ignorance *(Jahiliyah)* where the Arabs used to bury the daughters alive when they were born. Allah the Almighty forbade them against this horrible habit by saying: "When the birth of a daughter is announced to one of them, his face becomes black, and he is full of wrath. He hides himself from the people because of the evil of that which is announced to him. Shall he keep it with disgrace or bury it (alive) beneath the dust? Surely evil is their judgement (16:58-59)." The Almighty Allah also says in His gracious Quran. "And do not kill your children for fear of poverty; We provide sustenance to them and yourselves too... (17:31)."

The Messenger of Allah (S.A.) said: "He who has a daughter that he did not bury or insult or preferred his son on her, Allah will enter him to Paradise." He also said "He who had three daughters, or three sisters whom he was kind to and taught them good manners, he is rewarded with Paradise."

The father must not be a miser for his children in a way that they wish his death so that they could inherit the money he deprived them of. At the same time, the man must not

spend too much on his children uselessly by fulfilling all their wishes even if they were exaggerated, but he must be economical in giving and forbidding as the Almighty Allah says: "And do not make your hand chained to your neck nor stretch it forth for a complete opening (17:29)."

4. Equality between them in giving the awards and in the treatment

It is the children's right on their father that he does not differentiate between them in giving awards and in the treatment, and that he must not prefer one of them on the others because that will create hatred among them and at the same time they will hate their father. Al-Nu man bin Basheer said that his father took him to the Prophet (S.A.) and said: "I gave my money to this son of mine." The Messenger (S.A.) asked him: Have you given to all your sons like him ? He answered: "No". Then the Messenger of Allah (S.A.) said: "Beware of Allah and treat your sons with justice." But justice does not forbid the father to give some of his money to one of his sons if that son is in need of or if he has a bigger family. Also justice does not forbid the father to deprive one of the sons of his money if that son was corrupt or disobedient to him.

Justice and equality between the sons will be more necessary if they were from different wives, because differentiation in this case will lead to family quarrels. We have the sons of Yaqoob (A.S.) as an example when they tried to kill their brother Yusuf (A.S.) because their father preferred him more. The gracious Quran says about this matter: "When they said: 'Certainly Yusuf and his brother are dearer to our father than we are; though we are a (stronger) company; most surely our father is in manifest error (12:8)'".

Peace and the blessings of Allah be upon you all.

Address at the Concluding Session of the 5th Islamic Thought Conference

Ayatullāh Ahmad Jannati

All praise due to Allah, the Lord of the worlds, and peace be upon all the prophets, the apostles, and the last of the prophets, Muhammad(SA). The curses of Allah be upon all His enemies until the Day of Judgement. O Allah! be the guardian, keeper, leader, helper, guide and Pointer of the path of al-Hujjat ibn al-Hasan (Your blessings and peace be upon him and his fathers) at this time and at all times until he attains power and obedience (of people) on Your earth and he lives in it for long comfortably.

I take this opportunity to extend my congratulations on the occasion of the 8th Anniversary of the victory of the Islamic Revolution, and the 8th Anniversary of the return of the magnanimous Imam Khumayni to Iran after fourteen years of exile during which millions of hearts throbbed for him. The Imam's return to this beloved Islamic country and the generation of an unprecedented wave of joy and mirth for all people of this country should be congratulated. I also congratulate you on the victories of our dear brothers in the warfronts and wish for their greater and quicker success in attaining the ultimate objectives.

I express regret at the brutalities of the enemy in attacking the defenceless civilians of various Iranian cities, and in raiding the holy shrines and cities as well as the mosques and theological schools and shrines. And I express

my regrets too, at the reticence of all those who pretend to be the advocates of human rights and at the unanimous deadly silence of all organizations, governments, and states which confront the Islamic Revolution.

Before discussing issues related to the Conference, I thank all of you who have come to take part in these programmes. I also thank the dear brothers and sisters who took pains to prepare papers and lectures; moreover, I am obliged to brothers and sisters for their presence and listening to the lectures, as well as to all people who assisted us in carrying out these programmes. I pray to Allah that He may grant more grace and favour to every one.

Once more I would like to point out that it was expected that our dear brother, Hujjat al-'Islām Hāshimī Rafsanjāni, the honourable Head of the Islamic Consultative Assembly, would take part in tonight's programme. But from the very beginning due to his highly pressing preoccupations, he had indicated a conditional promise. Until today, we were expecting him to join us, but then he announced that he had something very important to do and so would not be able to attend this session. For this reason, the Concluding Session of the Conference would be held be held without his presence.

As for the Conference, we neither expect nor claim that these conferences could ever completely analyse those subjects that have been discussed during the past sessions. This is because their analysis in depth entails many preparatory measures. Experts and scientific and analytical committees must continually work on them all through the year. Professors from the universities and from the theological schools must consistently invest their time and resources on them. They have to start a movement which has been unprecedented in our history in a completely genuine manner. They must perform a job that is new and presentable

to the world of Islam and to humanity. Such a task is beyond the scope and reach of this conference and similar conferences. We intend to start the work that is, we take a lead and pick up some links in the chain of work and announce that we have such and such matters. We have, at our disposal, abandoned researches which have not been completed. We have exigencies for the ever-increasing success of Islam and the Revolution on the earth. Our researchers, scholars, and 'ulamā' should not be satisfied with the fact that, in the theological centres, philosophical, jurisprudential *(fiqhī), usūlī* (of the fundamentals of Islam), and kalām issues are expressed and taught in the same or similar manner as before. Our university professors should not be satisfied with the fact that matters pertaining to physical sciences and, occasionally, Divine sciences (theology) are taught at the university and, so, the students are busy with them and giving up research in other fields. They should realize that we have abandoned subjects that are more urgent and necessary than other matters. They should begin to conduct studies about these issues. They should carry out research on them. They must even make researchers responsible for working on these subjects which are absolutely left intact, such as matters relevant to an Islamic government which were discussed in one of the two conferences. We are sure that the discussions on this issue were incomplete and highly inadequate. A great deal of more effort must be put on this subject. Now we are discussing the matter of human rights in Islam.

What I should express here about human rights is that, if reference is made to the UN Human Rights Charter, it does not mean that we believe it to be of any value or that it could serve as a model. Neither do we claim that the issues that they have raised now were discussed forty years ago and exist in

Islam as well. Certainly, this is not the case at all. In our view, this Charter does not have the least value. It is devoid of scientific, analytical, and social value and it does not guarantee its implementation.

Based on the exigency of the particular situation after World War II, a group from more than fifty countries gathered together and approved thirty articles. Later on, they turned it into a cudgel with which to pound the weak and oppressed nations.

Whenever these nations decided to do something against the interests and benefits of the superpowers, the Human Rights Charter was one of the maces crushed on their heads. They were accused of treading on the Human Rights. If they could, they raised hue and cry and embarked on hooliganism to suppress the moves of nations. If this weapon failed to achieve the desired goals, they would successively use some other ploys that they had arranged to suppress the people, and to crush, with the Human Rights Charter, whoever wanted to gain his right.

The Human Rights Charter does not even have the value equivalent to the "*Hilf al-Fudūl*" (confederacy) made during the "Period of Ignorance" prior to Islam (al-jāhiliyyah). All of you, the honoured listeners, are aware that before Islam, there was chaos and insecurity in the Arabian Peninsula. If a person entered the Peninsula without having a relation or an agreement with a tribe or a power, neither his life, nor his blood, nor his honour was secure. They would seize him as a slave and sell him in the market. They could kill him and plunder his property, steal his merchandise, and injure his reputation. He would have no one to defend and protect him. A group of people who had enlightened or semi-enlightened conscience — that is, some were aware and some were only semi-aware — got together and made an agreement. They

promised that from that day onward whoever entered the Arabian Peninsula and was oppressed by aggressionon his life, property and reputation, would be defended by the signatories, considering this as a matter of the defence of the oppressed. They stood firm by their treaty. People went there and faced aggressions, but those who had concluded this contract, extended their support to them and defended their rights.

From that day the oppressed found a refuge. The Human Rights Charter, issued in this turbulent and tumultuous century, does not even have the value equivalent to the aforesaid treaty concluded in Makkah. There has not even been one instance in which some oppressed people, without reliance on and connection to the superpowers, could benefit from those who signed this charter and the United Nations in order to get their rights and to ward off oppression. The objective and manifest example of this is our present condition. You see what calamities they bring about to our cities. We repeatedly announce, and the world knows it too, that our far and near cities and our innocent and defenceless people are being subjected to the barbaric attacks of the enemy. But no one even releazes a sigh. This is a solid and an exact example of today. All its cases refer to this point. The same also applies to its past.

We, therefore, do not value their charter at all. But this issue is now at the focus of the whole world. The people of the world who think about human rights and who are attracted by this Revolution, naturally ask questions about the pivot of the Charter of the human rights and its manifestations, and about the human rights in the present society. They ask, 'What has Islam said about the human rights? What has it done in this respect?' They have occasionally raised questions about certain points, for example they say: 'In such and such

a case, human rights have been violated in Islam. Here and there Islam has not given full consideration to human rights.' In reply to these questions, doubts, and complaints, we feel that these issues must be necessarily scrutinized, investigated, and worked on, both as an analysis of Islamic matters and as the defence of Islam. Then, we would have ready, rational, and well-founded answers.

For this reason, I reiterate that such a charter and thoughts are detached from Allah, religion, revelation, the Prophet (SA), and from the Hereafter *al-'Akhirah*. They thought or reached the conclusion that there is only this world (without *Akhirah*) and that it is a jungle having no owner or any law. They said that these creatures living in this jungle sometimes quarrel, encoroach upon one another, violate the rights of one another, and seize the rights of one another, and so let us do something to make life in this jungle calmer. In such a cause, we would reap better fruits from all stages of life and we would be able to indulge in pleasure-seeking. Such is the basis and foundation of their beliefs.

What would the results be if you want to investigate this matter from the viewpoint of Islam? The fact is that this world has one Creator (Allah), Who is its Owner and Master, and all men are only *'abîd* (worshippers) of Allah. Men possess what Allah has bestowed upon them and whatever Allah has not given to them they do not have. They possess whatever rights Allah has granted to them through creation, nature, religious-law, and revelation. They do not have whatsoever Allah has prohibited. They have nothing of their own. What they have is entirely granted to them by Allah. We must go and see what Allah has bestowed upon men and what rights He has given them for enjoying the blessings of life. We must identify those rights.

The best way of identifying those rights is through

revelation. The most reliable and non-erroneous way of recognizing realities, including man's rights, is revelation. Therefore, revelation should be followed. Of course, in cases where a right has been granted or forbidden from the viewpoint of revelation, an Islamic thinker is entitled to analyse the matter and get a better understanding of Islam, the philosophy of rights, and the philosophy behind verdicts and decrees, but only with the framework of 'Allah and *'abd* and Master and slave.

When we approach the subject from this angle, we will find that the case is entirely changed and that the issue becomes quite a different one. Those statements of the charter that they uttered while they sat together are not at all propounded. They even assigned a sanction for rights from the viewpoint of Islam. Where is the person who is in charge of carrying out this matter?

Now suppose you got together and made certain statements and suppose that these statements were correct also, first of all, any government that does not want to enter into this organization and sign this charter is free, and does not have to sign it, such as a group of 7 or 8 countries that did not want to sign this charter in the United Nations. Very well, they did not want to sign it, but if, later on, they sign it and see that they have the power to breach what they had approved, who can prevent them? Who are the ones that would dare to: 'Why did you trample this right'? Surely, they will be the big powers and not the weak ones. Who are the big powers to do such a thing? But Islam has, on the one hand, brought with it the revelation:

... And We sent down with them the Book and the balance that men may conduct themselves with equity... (57:25).

and the other hand, Islam has brought the following:

... And We have made the iron... (57:25).

Using the above, Islam has inscribed the law of human rights on the cannon — balls of the combatants of Islam. (The audience raised the slogan *"Allāhu Akbar"* (Allah is most Great). Islam has written this law in salient form and in a clear manner. One should go there (in the fronts) and read it. There one should go to read it.

In order to understand the revelation,

... We sent down with them the Book and the balance... (57:25)", at this point, we will analyse the Book and the balance. Then we will set out for the battlefronts to see its actual manifestation, to put these rights into effect, and to check the enemy. That is the main and basic thing. At present, the youths fighting against the enemy in the battlefronts are calling for and voicing out for human rights. They are defending the human rights. Moreover, in the battlefronts, they are putting down the declaration of human rights with their own blood. This is the most vivid and the sharpest of all our realities. They are writing (the Human Rights Charter) there. Those are the lines that are engraved on the face of the history of the world, and that will completely change the visage of history. That is the place where the combatants should firmly stand, defeat the big powers, and tell them to resign themselves to the human rights and to the rights of the oppressed and deprived and to accept them as the oppressed and as the deprived servants of Allah and not to array their troops against them.

The resistance of the Islamic Ummah (nation) is the fulfilment of the general and special human rights and the guarantor for the implementation of human rights. Those courses of action should be further worked on. We will never be pleased with sitting here, setting forth such matters for discussion, and then thinking that by the grace of Allah, we have performed our duty tonight which marks the last session

of the 5th Conference on Islamic Thought and that we can now go and rest at ease. We do not intend to say such things at all. The basis is there and this conference serves as a preliminary step toward it. "... and We have made the iron... (57:25)" should immediately follow it.

This conference had many inadequacies and discrepancies which we were aware of and which we took into consideration. Also our friends, to whom we express our thanks, informed us of these inadequacies sometimes in written and sometimes in oral forms. All these will be analysed and will be presented to our dear brother Hujjat al-'Islām al-Taskhīrī, to whom we are greatly indebted for his endeavours for this conference and for his favours for organizing many similar works. Having analysed these suggestions, we desire to hold the conference next year in an entirely different manner, so that it would be radically different as compared with the conferences held during the last 4/5 years. We desire to apply many of the viewpoints of our friends in that conference if we can and, Allah willing, we would hold the 6th Conference exactly as desired both by our friends and by ourselves. Some of our friends had expressed interest in delivering lectures at this conference. We were also wishing to derive benefit from their lectures, but the lack and insufficiency of time did not permit us to do so. I offer my apologies to those dear brothers, as well as to some sisters who had suggestions to offer. In the future conferences we will be ready to accept, within our capacity, any kind of proposals and cooperation. In all our endeavours, we would like to be informed of our shortcomings. We would be glad and thankful for it. If our friends do us a favour by cooperating with us and guiding us to adopt the best course of action, we will be fully prepared to accept them.

In the end, I must seriously mention this point that our

researchers, 'ulamā' (theologians), scholars, and all those endowed with knowledge, should put in all their efforts, diligence, and capabilities to render scientific and cultural services to these people.

We are not exempted from *jihād* (holy war or striving hard) in the way of Allah. In the event that we are not blessed with performing *jihād* by using and taking up arms in the battlefields, we must not refrain from performing *jihād* with our pens and tongues and from rendering other kinds of assistance to the combatants. I particularly remind my friends from among men of learning that, in addition to extending intellectual, cultural, and scientific services to this revolutionary and Islamic society and to Islam and the Revoultion, they should keep in mind that our people need an extensive religious instruction in the forthcoming Ten-Day Dawn Celebrations. These instructions are also required in the battlefronts where our brothers, particularly during operations, need them. Now all our cities have become warfronts. No longer the warfront is restricted to particular places. Everywhere in our country is being attacked by the enemy and every place is offering martyrs. Our people need to have more patience, to increase their resistance, and to further their perseverance against the enemy. We must be cautious and careful lest some weak people should be found for whom these attacks, invasions, and calamities would create weakness, laxity, and debility, thus occasionally leading the enemy to believe that it has gained the ultimate objectives it had in raiding the cities. We should somehow make these people understand, and prompt them to act in such a way that would show that the enemy's attacks on our cities and the destruction of the centres which they are now destroying will not even have the least impact on our will power, nor would lead us to surrender, and in gaining victory

over the enemy and in reviving Islam. The people should understand this. (The audience raised the slogan of *"Allāhu Akbar"*).

At present, determining the fate of the war is the issue of the day. In this situation, the enemy will do whatever it can against us. We do not expect anything other than this from the enemy. The enemy recognizes no limit or boundary whatsoever. That which can foil all the conspiracies of the enemy and render its weaponry entirely futile is our patience, piety, perseverance, and reliance upon Allah. This is the only thing which can disappoint the enemy. This subject should be made known to the people. This is the task of our friends who are men of knowledge and the task of all those whom the people believe in and trust. Such persons can influence the people and promote in them the spirit of resistance by delivering a lecture, giving an explanation, writing an article once in a while, and launching a directive and instructive movement.

Our dear brothers, al-Hājj Shaykh Ahmad al-Zayn, who is an honourable faqīh and *'ālim* of Saydā, once again has given us a good suggestion. In our last trip to Lebanon, we had the honour of his presence in Saydā where we took part in a programme. He is one of the persons who has had praiseworthy endeavours all through the period of struggles in Lebanon. At present, too, he is having a critical role in foiling the conspiracies perpetrated by the Israelis. He made a proposal which was very appropriate. It had also occurred to my mind. The proposal is that, if the brothers and sisters agree, we will send a telegram to our beloved combatants in the battlefront on behalf of the Conference of Islamic Thought congratulating them on the occasion of the Ten-Day Dawn Celebrations; expressing our solidarity, adherence, and full-fledged support to these brothers; and

encouraging them for making more efforts and more and more attacks on the enemy. (The audience raised the slogan of *"Allāhu Akbar"*.)

At the end, I would recite a few prayers.

O Allah! for the sake of the honourable prophets, the prophets endowed with resolve, Ibrāhīm (AS), the friend of Allah, 'Isā(AS) and Mūsā(AS), the great Prophet (SA) of Islam, and for the sake of all sanctities of the world and all martyrs of history, extend Your blessings to this Ummah (nation), whioh is so self-sacrificing for Your cause, for attaining the final goals of their Revolution as soon as possible.

O Allah! for the sake of our guardian, Sāhib al-Zamān (the Imam of the time), al-'Imām al-Mahdī (AF), safeguard the honourable Imam (Imām Khumaynī) who initiated this movement; who awakened, enlightened, empowered, and glorified the people; who restored the grandeur of Islam; and who is concerned about the restoration of the absolute greatness of Islam from all harms. O Allah! prolong his blessed life until the reappearance of al-'Imām al-Mahdī(AF).

O Allah! with the blessings of the blood of our martyrs and the perseverance of the families of the martyrs, the wounded, the disabled, and all resistant people of the country, annihilate the enemies of Islam.

O Allah! for the sake of the Ahl al-Bayt (AS) (members of the Household of the Holy Prophet [SA]) grant Your victory to this Ummah (nation) more than ever and grant final victory to our dearest combatants.

O Allah! expedite the reappearance of the Imam of the time, al-'Imām al-Mahdi(AF), and illuminate our eyes with the sight of his blessed face. O Allah! send down Your favours and blessings on this Ummah, bless these people to render their services to Islam and the Muslims, and favour us to

render service to these people, and favour those who serve these people with greater blessings. O Allah! do not leave us on our own even for a moment and favour us with the blessings of *jihād* (the holy war) and *shahādah* (martyrdom). O Allah! do not deprive us from whatever You have granted to Your righteous servants. *Wa al-salāmu 'alaykum wa rahmat Allāh wa barakātuh* (Peace, mercy and blessings of Allah be upon you all).

Universal U N Declaration of Human Rights

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to

achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

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

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the

country or territory to which a person belongs, whether it be independent,trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and the security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged whith a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

2. No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including

his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be involved in the case or prosecutions genuinely arising from non-politicalcrimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of ful age, without any limitation due to race, nationality of religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intenting spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either along or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers,

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone hs the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vo e or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favurable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age

or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entituled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in

which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, politic order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Due date

یہ کتاب آپ کے پاس امانت ہے۔ اسے پڑھیں، اس کی حفاظت کریں اور بروقت (اوپر درج آخری تاریخ تک) واپس کریں۔ تاخیر کی صورت میں جرمانہ ادا کرنا ہوگا۔ **نجفی بک لائبریری** سولجر بازار کراچی فون: 72/1795

ISLAMIC PROPAGATION ORGANIZATION