

ISLAMIC THINKING AND THE INTERNATIONALIZATION OF HUMAN RIGHTS*

The internationalization of human rights and the observation of the democratization process in some Muslim societies in the post-Cold War era demand a rigorous analytical investigation in the interest of ascertaining the state of evolution of Islamic thought on human rights. Given the vastness of the human rights discourse, I have chosen to structure this analysis thematically around the familiar debate on the "universality" of human rights while juxtaposing Islamic and Western conceptions. In the following pages, I hope to identify the nature of modifications of Islamic thinking required for the dynamic engagement of the Muslim world into the global human rights debate.¹ I will also discuss how a universal cultural consensus can contribute to the effective implementation of international human rights.

What Constitutes Human Rights

Western scholars regularly argue that human rights tend to be uniquely characteristic of modern liberal and social democracies. Human beings *qua* beings have human rights irrespective of the particular socio-economic, cultural, and political conditions under which they live. As such, rights are entitlements which require no justification. They also render legitimate the claims made by the individual against society and the state. Human rights so conceived are universal, autonomous, and inalienable. They are predicated on the social equality and even superiority of human claims against those of the government and/or society. In sum, the conception of rights is deontological. The atomized and "private" individual, abstracted from the social and political context of his or her surroundings, is a product of the rationalizing aspects of modernization and the spread of science and technology.

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¹ For a discussion on the contemporary relevance of Islam and the State, see James C. N. Paul, "Islam and the State: The Problems of Establishing Legitimacy and Human Rights," *Cardozo Law Review*, Vol. 12, Feb/March 1991, pp. 1057-1071.

Some argue that equating the protection of human rights with dignity is a mistake. Drawing on existing differences between ruled-based and rights-based societies, Rhoda E. Howard concludes that, "while all societies have underlying concepts of dignity and justice, few have concepts of rights In most societies, dignity does not imply human rights."² Some Muslim scholars have even argued, albeit from a different viewpoint, that, historically, human rights have never been exclusively possessed by human beings.³

From a Muslim perspective, rights are wholly owned by God, and individuals (as vicegerents of God) can enjoy them in their relationship with God; their conceptual basis is teleological and their ethical foundation theological. They can be realized insofar as obligations owed to God have been fulfilled. Hence, human rights are a function of human obligations, and not their antecedent.⁴ They are, in the words of James P. Piscatori, "neither intrinsic nor universal; they depend on man's acts rather than inhere in his existence; they are applicable to one who submits—literally, the Muslim—while they are less, if at all, applicable to one who does not submit."⁵

What seems to set Islamic thought on human rights apart from that of the Western world is the integral unity that the former secures between rights and duties and also the pervasiveness of the Divine Law (the *Shari'ah*) in its formation.⁶ It is the Islamic jurists (*fuqahā'*) and not the state that play the role of legislator.⁷ For Muslims, the *Shari'ah*—which recognizes four sources of law: the text of the Qur'^{ān}, *hadīth* texts (tradition told and treasured about the Prophet, leading to the Sunna or the corpus of Islamic guidance), *Ijtihād* (jurist independent reasoning based on analogical reasoning referred to as *qiyās*) and finally *ijmā'* (the con-

² See Rhoda E. Howard, "Dignity, Community, and Human Rights" in Abdullahi Ahmed An-Na'im, (ed.) *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, (Philadelphia: University of Pennsylvania Press, 1991): 81-102. See p. 91.

³ Riffat Hassan, "On Human Rights and the Qur'^{ān}ic Perspective," in Arelene Swidler, ed., *Human Rights in Religious Traditions*, (New York: The Pilgrim Press, 1982): 51-65; p. 51.

⁴ Seyyed Hossein Nasr, "The Concept and Reality of Freedom in Islam and Islamic Civilization," in Alan S. Rosenbaum, ed., *The Philosophy of Human Rights: International Perspectives*, (Westport, CT: Greenwood Press, 1980): 95-101. See p. 97. For an excellent piece on this topic see also Aryn B. Sajoo, "Islam and Human Rights: Congruence or Dichotomy," *Temple International and Comparative Law Journal*, Vol. 4, No. 1, Spring 1990, pp. 23-34.

⁵ James P. Piscatori, "Human Rights in Islamic Political Culture," in Kenneth W. Thompson, ed., *The Moral Imperatives of Human Rights: A World Survey*, (Washington, DC: University Press of America, 1980): 134-169. See p. 143.

⁶ For further discussions on this point, see Ahmad Farrag, "Human Rights and Liberties in Islam," in Jan Berting, et. al., ed., *Human Rights in a Pluralist World: Individuals and Collectivities*, (Netherlands, Roosevelt Study Center, 1990): 133-143. See p. 133.

⁷ See Mohammed Allal Sinaceur, "Islamic Tradition and Human Rights," *Philosophical Foundations of Human Rights*, (Mayenne, France: Unesco, 1986): 193-225. See p. 205.

sensus of the *‘ulamā’*)—is both the source of legitimacy for and a guarantor of human rights. The truth is contained in the Divine Revelation and not centered on material interests or values. Seyyed Hussein Nasr is especially adept at showing the link between this interpretation of truth and human rights. Those Muslim philosophers (al-Farābī, Abū al-Ḥussain al-‘Āmirī, Ibn Sīnā, Ibn Bājjah and Ibn Rushd) supported the reality of human freedom “in the context of the nomocratic society of Islam and not from the point of view of a secularist humanism.”⁸ For a Muslim, thus, conformity to the *Shari‘ah* is equivalent to human rights.

What form or substance this conformity should assume has long been a subject of debate and a cause of division among Muslim scholars. Much of this dissension revolves around the questions of whether Islamic law is evolutionary or static and whether the nature of Islamic truth is relative or absolute. More recently, the conflict between traditional and libertarian interpretations has led to a closer investigation of the exegetical literature (*tafsīr*) produced by the Muslim community on the Qur’anic text.⁹

To sum up, whereas Western scholars make “individual” and rational humanism the epicenter of human rights discourse, Muslim scholarly focus has been on the maintenance of oneness and sanctioned order by submitting to God’s will and law. Thus in Islam, collectivism and community have been uncompromisingly placed above individualism. In recent years, however, much of the discourse on human rights in the Muslim world has centered on the presumption that the West does not possess a rationality superior to that of its civilization, or likewise to any other civilizations.¹⁰ Ḥasan Turābī, while elaborating on state, society, and democracy in Islam, concedes that the notion of democracy has a universal appeal and enjoys an increasing international consensus. However, the Muslim world’s approach to democracy, he notes, deserves equal respect and recognition:

It is in the interest of humanity that people should be allowed the freedom to develop different models. What is happening in the [Muslim] world today is a movement from greater particularism towards something which is more common.¹¹

⁸ S. H. Nasr, *op. cit.*, pp. 98-99.

⁹ See David Little, John Kelsay, and Abdulaziz A. Sachedina, *Human Rights and the Conflict of Cultures: Western and Islamic Perspectives on Religious Liberty*, (Columbia, SC: University of South Carolina Press, 1988), p. 50.

¹⁰ For an illuminating discussion on this point, see Kevin Dwyer, *Arab Voices: The Human Rights Debate in the Middle East*, Berkeley, CA: University of California Press, 1991.

¹¹ Louis J. Cantori and Arthur Lowrie, “Islam, Democracy, The State and The West,” *Middle East Policy*, Vol. 1, No. 3, 1992: 49-61.

In the wake of the globalization of human rights—triggered mostly by the collapse of Communism in the former Soviet Union and Eastern Europe, the dismantling of apartheid in South Africa, the mounting pressure on Israel to end its military occupation and to grant self-rule rights to the Palestinians, and the inexorable drawing of the world's attention to the misery of the Kurds in the aftermath of the Persian Gulf War—the Muslim world is faced with burgeoning demands to formulate a fresh posture in relation to a newly emerging and unprecedented international consensus on human rights. These demands have once again resurrected the long-standing debate among Muslim observers as to how such imperative evolutionary dynamics can be introduced into Muslim thinking on the question of universal human rights. It is essential to elaborate on a dialectical discourse reflecting two different approaches (internal and external) to the notion of proper modification and adjustment within the Muslim societies.

A Dialectical Discourse

Confronted by the internationalization of human rights movements, Muslim scholars must now face the task of giving logical and empirical validity to the notion of human rights as traditionally and presently conceived by the Muslim states (with or without the *Shari'ah*). It would seem fitting to break up this dialectic along the line of two approaches which, at least, agree on some measure of adjustment. Other approaches, however valid, would certainly exceed this paper's purview and thus need to be dealt with effectively in a separate treatment. For all theoretical purposes, I shall confine my investigation to internal and external approaches.

Some observers have surmised that in the Muslim world, internal intellectual developments have been few and repeatedly held back.¹² If and when introduced, ideas and forces from outside the Muslim world have inevitably contained evolutionary elements. The process of introduction, either by diffusion or, to use Majid Khadduri's apt characterization, "the Kemalist method" of imposition,¹³ is imperative. Others have suggested that reconciliation and reforms must come about endogenously. Only then can the support for universal human rights be drawn from all religious and normative resources and be predicated on the cultural legitimacy of each community. Broadening the grassroots educational endeavors and the massive enlightening of the populous are necessary prerequisites for

¹² See Abdul Aziz Said, "Precept and Practice of Human Rights in Islam," *Universal Human Rights*, Vol. 1 (January-March 1979): 63-79. See p. 66.

¹³ Majid Khadduri, "Human Rights in Islam," *Annals*, Vol. 243 (January 1946): 77-81. See p. 81.

such an evolutionary path.¹⁴ For the purposes of this essay, I refer hereafter to these orientations as external and internal approaches, respectively.

External Approach

Those Muslim scholars who advocate exerting external pressures on the governments in the Muslim world to reconcile and introduce legislative and political reforms are convinced that the Muslim legal systems based on the Divine legislator are so stationary that any possibility of altering that law must emanate from the outside. The impact of Western liberal influences are seen not only as empirically sound but also normatively cogent if some degree of objective modification is to be adopted by Muslim countries. Furthermore, some have even argued that the post-Colonial leaders of the Muslim nations have, in the name of expediential considerations, disregarded the true Islamic doctrines and thus some form of external drive is necessary to rectify the human rights situation of these countries.¹⁵ The latter's position is that Qur'anic tenets and propositions are clearly acceptable in their current forms and the external pressures must be applied only to help Muslim societies force their rulers to comply with basic human rights. Although this position warrants a great deal of attention, the external approach is associated with the premise that religious practices and traditions can be partially modified by simply adopting modern ideas and institutions. Since modernity is generally understood to be a Western creation, the acceptance of some form of Western ideas and institutions itself becomes coterminous with the needed reforms.

The proponents of this approach (who can be labeled as modernist-adaptationists) deem the actual realization of the Universal Declaration of Human Rights (hereafter referred to as UDHR)¹⁶ as an objective criterion and a point of departure. Much of the controversy surrounding the application of the UDHR has been centered on Articles 2 and 18. It is easy to understand why the Declaration's first twenty-one articles enunciate civil-political and not socioeconomic and cultural rights. Moreover, some have suggested that "contrary to the intentions of its authors, [the

¹⁴ See Abdullahi Ahmed An-Na'im, "Islam, Islamic Law and the Dilemmas of Cultural Legitimacy for Universal Human Rights," in Claude E. Welch, Jr., and Virginia A. Leary, ed., *Asian Perspectives on Human Rights*, (Boulder, CO: Westviews Press, 1990): 31-54. See p. 49.

¹⁵ See for instance, Magbul Ilahi Malik, "The Concept of Human Rights in Islamic Jurisprudence," *Human Rights Quarterly*, Vol. 3, No. 3, (Summer 1981): 56-67. See p. 56. While criticizing the secular leaders of the Islamic societies, Malik asserts that "... the developed nations of the world, which are committed to the cause of human liberties and basic human rights, have to exert their influence" (p. 56).

¹⁶ The Universal Declaration of Human Rights adopted by the United Nation passed 48-0 with eight abstentions (including Saudi Arabia, the USSR, and South Africa) on December 10, 1948. It consists of 30 articles covering traditional civil-political rights and modern socioeconomic and cultural rights.

Declaration's] provisions are now part of the customary law of nations and therefore binding on all states, including the states that did not vote for it in 1948."¹⁷ Binding or not, a quick glance at the aforementioned articles helps to provide a basis for understanding the core discrepancies between Western and Islamic thought and tradition.

Article 2 of the UDHR provides:

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, or trust, or non-self-governing or under any other limitation of sovereignty.¹⁸

In theory, some have contended, distinction on the basis of color, race, creed, etc. has been unequivocally refuted in Islam. No Muslim doctrine contains elements supportive of discrimination based on race, tribe, or nationality. In fact, as Majid Khadduri notes, Prophet Muḥammad even overemphasized equality so as to surmount the tribal *ʿaşabiyah* (the tribal kin feeling and vendetta which were pervasive in Arabia before Islam) and to welcome other races to embrace his religion.¹⁹

In practice, however, many modern Muslim states did not adhere to such an equality. Although according to one *ḥadīth*, Prophet Muḥammad is reported to have said, "There is no superiority of an Arab over a non-Arab except as far as his personal piety is concerned,"²⁰ the reference to character has not been the only element of distinction. Traditionally, the granting of rights and privileges only to persons of full legal capacity is a tolerable practice in Muslim law. Khadduri's elaboration on the protection of minority rights (the so-called *Dhimmis*—Jews, Christians, Sabaens, and others) is telling:

Human rights in Islam, as prescribed by the divine law, are the privilege only of persons of full legal capacity. A person with full legal capacity is a living human being of mature age, free, and of Moslem faith. It follows, accordingly, that non-M[u]slems and slaves who

¹⁷ See John Humphrey, *No Distant Millennium: The International Law of Human Rights*, (France, Unesco, 1989): p. 155.

¹⁸ See *Twenty-Four Human Rights Documents*, Center for the Study of Human Rights, Columbia University, 1992: 6-7.

¹⁹ See Majid Khadduri, *op. cit.*, p. 78.

²⁰ *Ibid.*, p. 79.

lived in the Islamic state were only partially protected by law or had no legal capacity at all.

Non-M[u]slems were enabled by the Aman (pledge of security) to travel unmolested in M[u]slem lands for a period not to exceed a year. If the traveler were a Christian or a Jew and wished to live in M[u]slem lands unmolested, he was allowed to do so in the capacity of a *dhimmi* and had to pay the *jizyah* (poll tax). Various disabilities were imposed, but in general the dhimmis were guaranteed security of life, property rights, and freedom of prayer and other religious practices.

Slaves had more limited legal capacity, even if they were M[u]slems. They were guaranteed their lives, but had no property right, since they were themselves the property of their masters. However, the M[u]slem slave was not condemned to live permanently in servitude, because he had a chance of obtaining liberty in his lifetime either by an act of favor or by ransom.²¹

Similarly, some have suggested that the distinction on the basis of sex has followed less clearly the general practice of the Prophet Muḥammad and the Holy Book. Islam recognizes sexual equality by according women full human status ("women are the sisters of men") and equal human status ("say to the believing men," or "say to the believing women").²² Women also acquire property rights prior to and after marriage, and their right to knowledge is also recognized: "It is a duty for every Muslim male or female to seek knowledge."²³

Nonetheless, the Qurʾān explicitly states (*Sūrah* 2:228): "Women shall with justice have rights similar to those exercised against them, although men have a status above women . . ." And also (*Sūrah* 4:34) "Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what God would have them guard."²⁴ Additionally, the policy of many Muslim states is far from some of the ideals cited above. The status of women's rights in Islam as elsewhere remains directly correlated with practical realities in Muslim societies. While recognizing the socially egalitarian nature of the Qurʾān, Nikki R. Keddie finds that, historically, the Qurʾānic provisions for women's rights have

²¹ *Ibid.*

²² See Ahmad Farrag, *op. cit.*, p. 140.

²³ See Kathleen Taperall, "Islam and Human Rights," *Australian Foreign Affairs*, Vol. 56, (December, 1985): 1177-1184. See p. 1183.

²⁴ Abdullah Yusuf Ali, *The Meaning of the Glorious Qurʾān*, Cairo Egypt: Dar Al-Kitab Al-Masri, 1938, p. 190. Also see N. J. Dawood, *The Koran*, (London: The Penguin Books Ltd., 1990): see pp. 33 and 64.

been selectively followed in numerous instances connected with the issues of patriarchal tribal practices, rules of inheritance, veiling, seclusion, divorce, polygamy, etc. The mere existence of such provisions has in practice meant no assurance of their actual realization.²⁵ In general, it appears that equality, whatever form it has assumed according to the Qur'ān, has been and continues to be manipulated by the vague and discretionary areas within the exclusive power and jurisdiction of the patriarchal state.

A similar attempt to examine the content and applicability of Article 18 of the UDHR would be appropriate here. Article 18 of the UDHR enjoins: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."²⁶ Here again, although Islam fully recognizes the rights of individuals to practice the religion of their choice, apostasy (*ridda*) in traditional Muslim societies is strictly forbidden and carries harsh sanctions and the punishment of death. The right of a Muslim citizen to voluntarily renounce his or her religion is categorically denied. Change of religion as a matter of choice is not allowed and sanction against apostasy appears so well-entrenched in the penal law that any conceivable future changes in this area seem unlikely. In response to the question of how necessary changes can occur in these laws, the advocates of the external approach have relentlessly stressed the significance of external influences.

While the advocacy of external pressure has continued, its conspicuous lack of healthy doses of realism has often undermined its suppositions. The persistence of outside pressures on Muslim societies from the Western world have fueled the enduring accusation of cultural imperialism. One example is Salman Rushdie's *The Satanic Verses*, which caused a predictable backlash in the Muslim world. The proponents of the external approach opt for underplaying the realities of international power politics and other political considerations. The dwindling Western pressures on China in the aftermath of the Tinnanmen Square massacres and on Kuwait in the post-Gulf War period are only two examples, among others, which indicate that the outside forces are much too wedded to the dictum of political expediency.

²⁵ Nikki R. Keddie, "The Rights of Women in Contemporary Islam," in Leroy S. Rouner, ed., *Human Rights and the World's Religions*, (Notre Dame, IN: University of Notre Dame Press, 1988): 76-93. See p. 82. On polygamy see H. A. Jawad, "Women and the Question of Polygamy in Islam" *The Islamic Quarterly*, Vol. XXXV, No. 3, Third Quarter 1991: pp. 181-190.

²⁶ See *Twenty-Four Human Rights Documents*, op. cit., p. 8.

Likewise, the whole notion of a "new world order," resting as it does on the amorphous assumption of value diffusionism, commits the same fallacy of promoting ideas and values unacceptable to the Muslim world by merely negating certain time-honored practices in Muslim societies. In addition, in this age of electronic revolution and unity, the external pressures for reforms can in turn be neutralized or dominated by the spread of orthodoxy and puritanism in the rest of the Muslim world. Electronic media and modern technology reinforce both tradition and modernity by disseminating contradictory ideas simultaneously. The resurgence of political Islam in Algeria, Jordan, Yemen, and more recently in the Sudan has been equally effective and perhaps more forceful than the messages emitted via the electronic media since the demise of the Soviet Union.²⁷ The vulnerability of the Muslim world to the Western worldviews continues to be a curious paradox.

Most likely, the "Achilles' heel" of such a position is the irony of how to deal with those Muslim states whose leaders purport to have ruled and are ruling in the name of the *Shari'ah*. In the absence of internal institutional means and mechanisms for holding in check such claims, the persistent external pressures, no matter how genuine they may be, seem to be the only alternative. Nevertheless, in the face of the kind of tradition much emphasized in Islam that "if the caliph proved to be unjust, his subjects should remain loyal and never renounce his authority,"²⁸ it may be a useless attempt to emphasize the efficacy of the outside influences. This very tradition naturally seduced certain caliphs and, understandably, has spurred certain present-day Muslim leaders to indulge in a repressive reign and to deny justice to their subjects.²⁹ To sum up, the external approach is replete with flaws and appears too simplistic to convince many observers that it is the correct way. This can very well account for the incremental support for the internal approach, which in recent years has gained a good deal of momentum.

Internal Approach

The proponents of this approach assert that, given the mobilizational significance of Islamic identity and norms in expressing the human rights aspirations of Muslim societies, any conceivable evolution is bound to grow from within. Abdullahi Ahmed An-Na'im—perhaps the most influ-

²⁷ For the role of Islam in restoring justice and giving Muslims a sense of identity as well as impetus to combat injustice, see Fatima Mernissi, *Islam and Democracy: Fear of the Modern World* (Massachusetts: Addison-Wesley Publishing Company, 1992); see especially pp. 42-60.

²⁸ Majid Khadduri, *op. cit.*, p. 78.

²⁹ *Ibid.*

ential advocate of this approach in recent years, due largely to the guidance of his mentor, the Sudanese Muslim reformer Maḥmūd Moḥamed Ṭāhā—sees the importance of the Islamic norms more at an informal and psychological level than at the official legal or policy level. “This,” he notes, “is particularly important from a human rights point of view where underlying social and political attitudes and values may defeat or frustrate the declared policy and formal legal principles.”³⁰ It logically follows that Islamic culture, as any other non-Western culture, finds itself endlessly struggling to legitimize its behavioral patterns, social mores and institutions in the name of universalism. The dialectic emanating from the universalism/relativism discourse has for a long time assumed a paradoxical texture. An-Na‘īm argues that this paradox of human rights has been mostly bypassed by a low level of practical compliance with universal standards if and when the indigenous cultural legitimacy has so warranted.

The realization of human rights standards must therefore begin by establishing some form of cultural legitimacy within the particular context of the Islamic milieu. To achieve this, one is likely to confront “undesirable” aspects of the indigenous culture. Such aspects would require attitudinal changes toward the outside world in general, and toward the non-Muslims minorities of Muslim societies in particular, and changes, as well in certain laws and penal codes. An-Na‘īm refers to this as an enlightened interpretation of cultural norms.³¹

In addition to embarking on new attitudinal and legal refinements, a cultural conception of the term “rights” needs to be adopted. The Western liberal traditions must accord, it is argued, more than token concessions and priority to socioeconomic and cultural rights, so understandably stressed in the Muslim world. The Islamic attitudinal and legal alterations ought to be equally reciprocated by the Western world in the interests of more respect for and greater compliance with universal standards of human rights.³²

Elsewhere, An-Na‘īm offers the same logic (internal cultural discourse), but in conjunction with a cross-cultural dialogue. While examining the notions of cruel, inhumane, or degrading treatment and punishment to demonstrate ways to refine the Islamic laws and interpretations, he maintains that it is feasible to broaden the scope of such legitimate notions as *shubha* (doubt) to build an acceptable mechanism against criminal re-

³⁰ Abdullahi Ahmed An-Na‘īm (1990), *op. cit.*, pp. 31-32.

³¹ *Ibid.*

³² *Ibid.*, p. 49.

sponsibility.³³ This effort should bring us closer to a tacit, if not a legally binding, universal consensus that can be seen as the first desirable step: Richard Falk takes a similar position by emphasizing the extent to which adjustments of the indigenous culture could ultimately and necessarily pave the way for a universal cause:

... without mediating international human rights through the web of cultural circumstances, it will be impossible for human rights norms and practices to take deep hold in non-Western societies except to the partial, and often distorting, degree that these societies—or, more likely, their governing elites—have been to some extent Westernized. At the same time, without cultural practices and traditions being tested against the norms of international human rights, there will be a regressive disposition toward the retention of cruel, brutal, and exploitative aspects of religious and cultural tradition. One objective of normative standards is the protection of vulnerable individuals and groups from harsh forms of local prejudice that have hardened over time into custom and tradition and thereby achieved a kind of provincial legitimacy.³⁴

Some Middle East specialists have attributed the democratization and political liberalization of the past several years in the Arab World (Algeria, Egypt, Jordan, and Yemen) to substantial organized labor forces, a significant middle class, and mass exposure not only to basic education but to political currents and the startling inequalities within and between the countries of the region.³⁵ Whether these political accommodations are part of a dialectical dynamic of internal democratic moves or are “a tactical adjustment of legitimacy and power in order to permit political business as usual,”³⁶ is hard to determine at this juncture. Taking these arguments one step further, Esposito and Piscatori have argued in favor of evolving Muslim political traditions and institutions. It can reasonably be argued, so they contend, that for the Muslim world today, democracy is a powerful symbol of legitimacy and is seen as a universal good.³⁷ This

³³ See Abdullahi Ahmed An-Na'im, "Toward a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Treatment or Punishment," in Abdullahi Ahmed An-Na'im, ed., *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* (Philadelphia, PA: University of Pennsylvania Press, 1991): 19-43. See p. 36.

³⁴ Richard Falk, "Cultural Foundations for the International Protection of Human Rights," in Abdullahi Ahmed An-Na'im (1991) ed., pp. 44-64. See p. 45-46.

³⁵ Michael C. Hudson, "Possibilities for Pluralism," *American-Arab Affairs*, No. 3 (Spring, 1991): 3-7. See p. 3.

³⁶ Louis J. Cantori, "Democratization in the Middle East: Overview," *American-Arab Affairs*, No. 3 (Spring, 1991): 1-2. See p. 2.

³⁷ John L. Esposito and James P. Piscatori, "Democratization and Islam," *Middle East Journal*, Vol. 45, No. 3 (Summer, 1991): pp. 427-440. See p. 438.

interpretation buttresses the assumption that democracy and Islam are compatible and such trends, which are nowadays on the rise in these societies, are homegrown.

While the arguments presented by the exponents of the internal approach are framed in a more logical and normative order than those of the external approach insofar as the dialectics of change and evolution are concerned, one finds it imperative to view the former with cautious optimism too. For one thing, it appears that in some Muslim states, the establishment is so conservative and firmly entrenched that not much space is available for reforms, and thus, intellectual developments are regularly suppressed. For another, Islamic orthodoxy has gained more ground in those Muslim countries with high levels of Westernization,³⁸ thereby rendering it quite difficult to fathom the future course of such an evolutionary process.

A Synthetical Discourse

Modern Muslim scholars have begun to ponder the scholarly debates regarding both the ontology and the epistemology of the nature of ethical value concepts in the Qur'anic text.³⁹ One pervasive attempt in this connection has been to carry on the classical debate on exegetical literature (*tafsīr*). As a framework for this study, it will be useful to compare the rationalist objectivism of one interpretation (the Mu'tazilite) with the theistic and traditionalist subjectivism of another (the Ash'arites). George F. Hourani defines rationalism as "what is right can be known by independent reason,"⁴⁰ and traditionalism as what is right can never be known "by independent reason, but only by revelation and derived sources."⁴¹ Hourani cautions that one cannot carry on a theoretical debate on the Qur'ān, because it is not a theoretical book of theology and thus no explicit positions can be discerned from it. One must emphasize, as he notes, a number of underlying assumptions expressed in its ethical teachings. One such exercise has been conducted by the seminal work of Little/Kelsay/Sachedina, *Human Rights and the Conflict of Cultures* (1988), which attempts to analyze the ethical terms or sentences in the Qur'ān. The authors here adopt libertarian interpretations of the Qur'ān by implying that freedom of conscience and religion have been recognized in the Qur'ān to the extent that

³⁸ For an interesting observation see Mamoun Fandy, "Islamic Victory in Algeria is a Harbinger," *The Christian Science Monitor*, (January 9, 1992): p. 19.

³⁹ For an illuminating and relevant piece see the late George F. Hourani's article, "Ethical Presuppositions of the Qur'an," *The Muslim World*, Vol. LXX, No. 1, (January 1980): pp. 1-28.

⁴⁰ *Ibid.*, p. 2.

⁴¹ *Ibid.*, p. 3.

the formation and application of human ethical judgement independent of revelation has been rendered possible. Sachedina, leaning toward the Mu'tazilite position, emphasizes the Qur'anic connection of conscience with the notion of *fitra* (the innate disposition) as a medium of universal guidance. He then introduces a logical tie between divine guidance and conscience, "with the possibility of conscience being designated as sound or sick in accordance with one's voluntary acceptance or rejection of divine guidance."⁴² *Fitra*, which presupposes choice and free volition on the part of the individual, is clearly an indication that humans have the power and ability to embrace universal moral truths and hence, according to the Qur'anic utterance (*Sūrah* 2:256) "No compulsion is there in religion."⁴³ To advance the idea that Western and Muslim traditions share commonalities in their thinking related to freedom of conscience and religious liberty, Sachedina demonstrates that "the Western notions of natural law and conscience are present in the spiritual and ethical utterances and presuppositions of the Qur'ān . . . that in the notion of *fitra* (innate disposition) and *qalb* (the heart) we have the constitutive elements of Western notions of synderesis and conscience . . ."⁴⁴

However, on the supposition of freedom of conscience, critics maintain that the Qur'ān also proscribes apostasy and states explicitly that a Muslim woman cannot marry a non-Muslim man; hence the lingering debate on free will and determinism. Furthermore, juxtaposing Western symbols and values with their Islamic counterparts in an attempt to justify a progressive nature, argues Piscatori, carries antagonistic implications ranging from distorting Islam and indulging in false intellectual complacency to encouraging Western cynicism. Muslim thinkers will do well, he goes on to state, by remaining true to their heritage when responding to the appeal of human rights ideals. Therefore, any apologetic exercise to evade "native realities" is bound to lead to fundamentally flawed opinions.⁴⁵ Piscatori then points to the period of change and upheavals in which the Muslim world finds itself, contending that, at least for now in

⁴² Abdulaziz A. Sachedina, "Freedom of Conscience and Religion in the Qur'an," in David Little, John Kelsay, and Abdulaziz A. Sachedina, *Human Rights and the Conflict of Cultures: Western and Islamic Perspectives on Religious Liberty*, (Columbia, SC: University of South Carolina Press, 1988): 53-90. See p. 57. See also Ahmad Kamal Aboulmagd, "Human Rights in Islam," *Salzburg Seminar Newsletter*, No. 18, 1990: pp. 4-6. Emphasizing the independent reasoning by the individual, Aboulmagd writes: "it is up to people, through the faculty of reason bestowed upon them by the creator, to choose for themselves and to bear responsibility for their choice. This basic right is simple, absolute, unequivocal and unqualified." p. 4.

⁴³ *Ibid.*, p. 67.

⁴⁴ *Ibid.*

⁴⁵ See James P. Piscatori, "Human Rights in Islamic Political Culture" in Kenneth W. Thompson, ed., *The Moral Imperatives of Human Rights: A World Survey*, (Washington, DC: University Press of America, 1980): 139-169. See pp. 157-162.

the Muslim world, parochial traditions, new traditions, and new ideas co-exist uncomfortably.⁴⁶ The cognitive and logical validity of this argument notwithstanding, Piscatori fails to furnish any guidance as to the larger question of how Muslim thinking on the human rights ideals would conceivably evolve over time.

The major contribution regarding evolutionary thinking from within, as stated earlier, comes from An-Na'im whose work, *Toward an Islamic Reformation* (1990), carries forceful and courageous messages. He argues that the provisions regarding slavery and discrimination on the grounds of gender and religion in the *Shari'ah* must be abolished. While such practices traditionally were the norm, these aspects of the public law of the *Shari'ah* are today fundamentally inconsistent with the realities of modern life. An-Na'im welcomes the juxtaposition of the *Shari'ah* and universal human rights as part of this synthetical exercise provided that it leads to a very serious reform of the *Shari'ah*.⁴⁷

Another worthwhile contribution in comparative religious ethics, emphasizing a dialogue between Islam and the West on matters of religious liberty, is that of Little/Kelsay/Sachedina's *Human Rights and the Conflicts of Cultures* (1988). By comparing Western and Muslim views on religious liberty, the authors conclude that the Qur'an includes elements supportive of a religiously pluralistic, even liberal society. While acknowledging the diversity and the "lineage of ideas" present in both traditions, they show that "the logic of each faith pushes toward a recognition of religious liberty as an important corollary to the notion of true belief."⁴⁸ This dialogic approach clearly aims at establishing a cross-cultural comprehension on universal human rights in line with a synthetical *modus operandi* which I espouse in this paper.

Robin Wright's article entitled "Islam, Democracy and the West," in *Foreign Affairs*, (Summer, 1992) can be regarded as another relevant contribution. Wright argues that unlike the extremism that typified the first resurgence of the late 1970s and 80s, "the new Islamic activism is now characterized by attempts to work within the system rather than outside it. . . Islamists have not failed to recognize that pluralism and interdependence are the catchwords of the 1990s."⁴⁹ Having examined the military junta's confiscation of Algeria's free election and the growing Islamist sentiment in the former Soviet republics of Central Asia, Wright concludes

⁴⁶ *Ibid.*, p. 161.

⁴⁷ Abdullabhi Ahmed-An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (Syracuse, NY: Syracuse University Press, 1990). See the discussion in chapter 7: "Sharia and Basic Human Rights Concerns," pp. 161-18.

⁴⁸ See Little/Kelsay/Sachedina, *op. cit.*, pp. 93-94.

⁴⁹ Robin Wright, "Islam, Democracy and the West," *Foreign Affairs*, Vol. 71, No. 3, Summer 1992: pp. 131-145. See especially p. 132.

that the West must find a way to coexist with Islamic resurgence: "One of the next major global challenges will be determining whether democracy is adaptable to Eastern countries, including Islamic and Confucian societies, and vice versa. This is a moment to encourage, rather than obstruct, Islam's expression in pluralist forms."⁵⁰

Still another valuable contribution, although along different lines, is made in Esposito and Piscatori's "Democratization and Islam," (*The Middle East Journal* [Summer 1991]), in which the authors zero in on the Muslim parliamentary experiences in recent years in Egypt, Tunisia, Algeria, Kuwait, Saudi Arabia, and Iran. Having examined the pressures for liberalization and the potential for incipient democratization movements in the Middle East, they raise the question of whether Islam and democracy are compatible. They identify new changes in the public laws of some Islamic countries (e.g., Iran) which convinces them that democracy, as understood in the West, is increasingly becoming "a litmus test by which both the openness of governments and the relevance of Islamic groups are certified."⁵¹ The powerful and symbolic legitimacy of democracy as a universal good seems to be rapidly gaining currency in this part of the world. They find, for instance, in the Constitution of the Islamic Republic of Iran, several references explicitly made to popular sovereignty and, in Tunisia, the Islamic movement has expressed serious commitment to pluralist politics, popular sovereignty, and the state's accountability to the populace. The idea that sovereignty is of the people reflects a "new Islamic thinking" grounded in the reformative reinterpretations of the Islamic sources.⁵²

Judith Miller detects a similar theme in the works of Ḥasan Turābī, a Sudanese legal scholar and philosopher, and Rāshid al-Ghannouchi, one of the leaders of Tunisia's Nahḍa's party presently living in exile. They both seem to have supported an activist, yet apparently tolerant, pluralistic Islam and have emphasized *ijtihād* (independent reasoning) as a duty to interpret Islamic principles as well as popular will *vis-à-vis* the clerics' authority.⁵³

⁵⁰ *Ibid.*, p. 145.

⁵¹ See Esposito/Piscatori, *op. cit.*, p. 438.

⁵² *Ibid.*, p. 437.

⁵³ Judith Miller, "A Muslim Cleric Hones the Fusing of Religion and Politics," *New York Times*, (May 17, 1992): E3. Also, for a different view on the Democratization from an Muslim perspective, see Charles Amjad-Ali, "Democratization in the Middle East from an Islamic Perspective," in Elise Boulding, ed., *Building Peace in the Middle East: Challenges for States and Civil Society*; Boulder, CO: Lynne Rienner Publishers, 1994: 69-77. Amjad-Ali argues that one important factor which impedes the emergence of a proper understanding of the notion of democracy in an Islamic context is "the confusion Western history has made between the proper institutional separation of church and state and its improper ontological extension to the separation of religion and politics. Officially, Islam has never had an institution like the church

This language of reform and pluralism is an indication that a new Islamic thinking is unfolding on the horizon. How long this new orientation will last and whether the political and societal conditions of these societies will be tolerant of such evolutionary movements is too complex a question to be resolved. In a well-researched contribution to the subject of international and Islamic human rights, *Islam and Human Rights: Tradition and Politics*, Ann Elizabeth Mayer reviews the "Islamization programs" in Pakistan under Zia ul-Haq, 1977-88, Iran since 1979 revolution, and the Sudan in Nimeiri's last years, 1983-85. She finds that Islamic human rights schemes and "Islamization programs" restrict rather than promote those freedoms and liberties enunciated in the Universal Declaration of Human Rights and its related International Covenants. Mayer's contribution is especially useful in showing how in these countries Islamization was designed to bring the law and the administration of justice in conformity with the standards of the *Shari'ah*. Many rules taken from the premodern Islamic laws were enacted into law and replaced Western standards.⁵⁴ She then goes on to discredit the negative reaction to universal human rights by the politically motivated authors of Islamic human rights schemes. Their reluctance to seek a synthesis of Islamic and international human rights norms, she notes, has done an immense damage not only to those whose rights have been egregiously violated in the contemporary Muslim countries, but also to the very basic commitment to the Islamic normative and legal order which is rich in promoting equality, freedom and respect for human dignity.⁵⁵

Toward Economic Rights Reconciliation

Nowhere is the resemblance between Islam and Christianity more keen and striking than in relation to economic rights. In fact, the two acts of "egalitarianism" and "voluntarism," so staunchly prescribed by both religions as uncompromisable virtues and thus obligatory, cast our eyes on a unique commonality which, if exploited, can serve as a building block upon which the humanity's search for further cross-cultural exchange and communicative dialogue will be constructed. The return to the embodiment of economic rights in the religious and moral doctrines of the Bible

and a priestly class, so the separation of church and state makes no sense. Neither does the transference of the theocratic state, which was based on the power of the church and the priestly class" (p. 76).

⁵⁴ Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics: Tradition and Politics*, (Boulder, CO: Westview Press, Inc., 1991): 34-42; see especially p. 34.

⁵⁵ *Ibid.* See especially, chapter 9: "An Assessment of Islamic Human Rights Schemes", pp. 189-207.

has in recent years led to an emerging consensus in both Roman Catholic and Protestant thought that individuals are entitled to economic rights.

Modern contributions to the legitimacy of economic rights debate began with Pope Leo XIII (in 1891) and later in *Pacem in terris* (1960) by Pope John XXIII, who explicitly affirmed that economic rights are interlocked with human dignity.⁵⁶ This debate is brilliantly encapsulated in a discussion by Darryl M. Trimiew, who lays out the framework within which Novak's notion of economic rights is compared with that of Hollenback's (a Catholic view in support of the economic dimension of dignity). These debates are further supplemented by Wolterstorff (who provides a Protestant view of basic needs-rights approach) and by the secular scholarly works.⁵⁷ The Catholic perspective, in Trimiew's judgment, prevails, though not without certain weaknesses, in part because it sees political and economic rights as inseparable domains. In addition, current Catholic social teachings have drawn attention to the needs of the modern individual whose fulfillment today is viewed as part of the realization of the individual's dignity.⁵⁸

While it is crucial to stress reinterpretation of the *Shari'ah* so as to bring it into greater compliance with universal civil-political rights, it is also important to reexamine the established Western liberal traditions so as to incorporate economic rights as they are broadly understood by Muslim thinkers and also as they are generally perceived by modern Catholic and Protestant ethical teachings. The degree to which any particular consensus between the two worlds can be achieved appears to be first and foremost a function not only of discerning commonalities between the Islamic and Christian precepts but of demonstrating intellectual commitment and willingness to embrace constitutive elements of the universal legitimacy of human rights.

In my view, it is clear that the Islamic precepts give emphatic priority to the assertion of economic rights. The normative and the philosophical foundations of Muslim views on economic rights (rights to an adequate standard of living, education, employment, health, support for disability, etc.) can be succinctly summarized as follows: the source of wealth and means of production must be utilized in the interest of the *umma* (community). The welfare of the *umma* confines the range of freedom available to the individual. It is the duty of the Islamic state to make certain

⁵⁶ See Darryl M. Trimiew, "The Economic Rights Debate: The End of One Argument, the Beginning of Another," in *The Annual of the Society of Christian Ethics-1991*, (Washington, DC: Georgetown University Press): 85-108. See pp. 88-90.

⁵⁷ For an excellent anthology on the justification of economic rights see Morton E. Winston, ed., *The Philosophy of Human Rights*, (Belmont, CA: Wadsworth, Inc., 1989).

⁵⁸ D.M. Trimiew, *op. cit.*, p. 96.

that each individual's right to basic needs is recognized. Collective obligation for public welfare encompasses the well-to-do segments of the populace as well. Although Islam is regarded as an egalitarian religion, modest degrees of inequality are tolerated. By institutionalizing mechanisms such as *Zakāt* (the obligatory alms-payment) and *Ṣadaqāt* (charity) and *waqf* (endowment of property for religious purposes such as building of mosques, schools, and hospitals or religious trust), protection against absolute poverty is provided. Attentiveness to the requirements of *ʿadl* (justice) today translates into a wide range of rights typically covered under the rubric of economic rights (e.g., rights to a sufficient subsistence, health, education, employment, etc.).

It should be noted, however, that no Islamic concept of justice translates into equal rewards for the people regardless of their contributions to society. In fact, Islam accepts some inequality of income because, according to the Qurʾān (*Sūrah* 6:165),⁵⁹ not all persons are equal in gifts and thus ranks.⁶⁰ Further, Islam recognizes individual freedoms within the limits imposed by the Qurʾān and even incorporates into its economic system basic elements of a contingent free enterprise and the right to holding private property, but all in the pursuit of social justice and the general good.⁶¹ Having fused a general sense of voluntary benevolence and the moral imperative of sharing in the community with those claims of welfare rights on the state, the Islamic free enterprise system, bridled as it may be, comes closer to a system guided chiefly by distributive justice laws.

Some have suggested that distributive justice and human rights are quite different concerns.⁶² Theoretically, that may be so in regards to civil-political rights; but in the case of socioeconomic rights, distributive justice, as an economic concept, is relevant. If economic rights are not practically buttressed by the considerations of distributive justice, what guarantee is there for their actual implementation? How would one, for instance, assess the status of economic rights in Saudi Arabia, the world's largest oil producer with a relatively small population, where 10 percent

⁵⁹ See N.J. Dawood, *op. cit.*, p. 108.

⁶⁰ For an insightful discussion on the Islam and the welfare rights see M. Umar Chapra, "The Islamic Welfare State," in John J. Donohue and John L. Esposito, ed., *Islam in Transition: Muslim Perspectives* (Oxford: Oxford University Press, 1982): 223-229. See p. 223.

⁶¹ *Ibid.*, p. 227.

⁶² See Jack Donnelly, "The Right to Development: How Not to Link Human Rights and Development," in Claude E. Welch, Jr. and Ronald I. Meltzer, ed., *Human Rights and Development in Africa* (Albany, NY: State University of New York Press, 1984): 261-283. See p. 269. Also for an interesting piece on some fundamental challenges to socio-economic rights and related issues to the notion of distributive justice, see Asbjorn Eide, "Realization of Social and Economic Rights and the Minimum Threshold Approach," *Human Rights Law Journal*, Vol. 10, No. 1-2, 1989: pp. 35-51.

of the populace lives in absolute poverty?⁶³ It is not difficult to understand why distributive justice is so central, both intrinsically and instrumentally, to the realization of economic rights. How, in the face of such unacceptable disparities, can Saudi officials claim human rights for those deprived subjects?

The Muslim view on economic rights appears no different from those expressed in general by the Developing Countries in the United Nations forums under the rubric the New International Economic Order (NIEO). A look at subsistence or welfare rights (e.g., the right to adequate nutrition) substantiates this point. I concur with James W. Nickel when he observes that welfare rights, while not the only economic rights, carry as much weight on the state as do the claims to the right against murder. Welfare rights are not unique in incurring larger costs and in demanding greater government activity for their application than the rights to due process in criminal proceedings or to safeguards against racial discrimination.⁶⁴ Admitting the complexity of economic rights and their realization, Nickel sees that a workable framework to properly address this right is already implicit in contemporary human rights documents.⁶⁵

Further conceptual and theoretical consensus on the welfare rights (the so-called second generation rights) in tandem with the International Covenant on Economic, Social, and Cultural Rights can prove to be an important tool at both the national and international levels. Such consensus will pave the way for the much-debated rights such as the right to development—the so-called “third generation rights.” To the extent that the right to development avoids the reductionist assumption of simply equating development with economic growth and also to the extent that it includes nonmaterial elements of human development (e.g., human self-worth and dignity, civil-political rights, etc.), this claim stands to reason. This right, which is not at odds with article 28 of the UDHR, emphasizing as it does a universal effort to fully realize the rights and freedoms set forth in the Declaration, is already on its way to furnishing corroborative evidence for its universal legitimacy. Rights belonging to this category are dynamic instruments for change in the international economic order despite the realization that their legal enforceability will expectably encounter difficulties. The impact of such rights rests in great

⁶³ See George Thomas Kurian, *The New Book of World Ranking*, 3rd. ed., (New York: Facts of File, 1991), p. 74.

⁶⁴ James W. Nickel, *Making Sense of Human Rights: Philosophical Reflections on the Universal Declaration of Human Rights*, (Berkeley: University of California Press, 1987). See chapter 9; “Economic Rights,” pp. 147-170. Also see M.M. Sharif, ed. *History of Muslim Philosophy*, (Wiesbaden: Otto Harrossowitz, 1963): p. 179. For further information on the Islamic economic system see Patrick Bannerman, *Islam in Perspective: A Guide to Islamic Society, Politics and Law*, (New York: Routledge, 1988): 96-108.

⁶⁵ James W. Nickel, *Ibid.*, p. 170.

measures on the response of the international community and the states' own leadership, however.⁶⁶

Clearly, "the right to development" involves duties as well as rights. This encompasses the rights of the victims of structural violence (i.e., of colonialism and neocolonialism) and the duties of the international community to take actions to restore economic justice with a view to eliminating economic and structural vulnerabilities (e.g., inequalities in trade, debt spirals, unemployment and underemployment, arms spread and race, etc.) of the present international order. Thus, an attempt must be made within the U.N. context to redefine the human rights concept to include economic rights (initially linked to basic human needs), thereby making it possible for the developing countries to enter into a serious dialogue on the new international norms of behavior. The internationalization of human rights is invariably intertwined with the political economy of East-West and North-South contexts. There is now a growing consensus in academic circles that the shifts and transformations of these two settings will doubtlessly influence the sphere and function of human rights in the years ahead.⁶⁷

To sum up, the Muslim world has, in defense of the downtrodden and the underprivileged, taken on the challenge of addressing structural causes of injustice by acknowledging that human rights and economics are inter-related. In light of such an interconnectedness, the Muslim view recognizes no split between human rights and economics in any just order. The achievement of economic rights thus is regarded as an important component of safeguarding human rights. The Muslim world has rightfully pointed to the fact that those economic rights proclaimed in Articles 25-1 ("everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care . . .")⁶⁸ and 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")⁶⁹ of the UDHR cannot be fulfilled for the vast majority of inhabitants of the Third World living in abject poverty in view of the existing unjust international economic order.⁷⁰ It must there-

⁶⁶ Glenn Mower, Jr. *International Cooperation for Social Justice: Global and Regional Protection of Economic/Social Rights*, (Westport, CT: Greenwood Press, 1985). PP. 159-160.

⁶⁷ See Stephen P. Marks, "Promoting Human Rights," in Michael T. Klare and Daniel C. Thomas, ed., *World Security: Trends and Challenges at Century's End*, (New York: St. Martin's Press, 1991): 295-323. See p. 299 also Albert Fishlow/Carlos F. Diaz-Alejandro/Richard R. Fagen/Roger D. Hansen, *Rich and Poor Nations in the World Economy*, (New York: McGraw-Hill Book Co., 1978): pp. 229-251.

⁶⁸ *Twenty-Four Human Rights Documents, op. cit.*, p. 8.

⁶⁹ *Ibid.*

⁷⁰ For two illuminating discussions on this point see Raúl Ferrero, *The New International Economic Order and the Promotion of Human Rights*, (New York: United Nations Publication, 1986): p. 20 and also Albert Fishlow, et. al., *op. cit.*, pp. 179-180.

fore be emphasized that any refusal by the Western world to recognize economic rights in the 1990s obstructs the effective implementation of human rights. In the interest of building an international consensus on the legitimacy of universal human rights, Muslim views, like those of others, must be respected. Dialogue and flexibility on the part of both the Muslim and Western worlds is the message all should heed.

Conclusion

The history of Islam, like that of other great religions, is one of adjustments, refinements, and reforms. But transitions have sometimes been understandably tumultuous, especially during modern times. On balance, it can be said that Islam is flexible, universalistic, and it can adapt to change without losing its integrity and application, as it has done so—in point of historical evolution—for fourteen centuries. Muslim perspectives on universal human rights have traditionally revolved more around themes of social justice than of individual freedoms. Some modern Muslim thinkers are now trying to bring the individual's and community's interests into a more balanced blend. Looking back at history, one is reminded of the fact that Jews as a minority were better treated under Islam than Christianity (i.e., in 11th and 12th-century Spain), although recent events have skewed that reality. Today, however, more than ever, Islamic orthodoxy must face up to an evolutionary scrutiny in bringing the status of Jews, Christians, and/or any other non-Muslims and also of Muslim women to the levels where they can match the universal standards.⁷¹

There is no reason to believe, as Samuel Huntington notes, 'orthodox Islam' is unable to concede changes comparable to those Catholicism underwent in the 70s and 80s (in Portugal, Spain, Poland, Hungary, the Philippines, and in certain parts of Latin America) in its move toward democratization, given that cultures historically are dynamic, not passive.⁷² The interpretations of the *Shari'ah* as they now influence the constitutions of a considerable number of Muslim countries present obstacles to the realization of certain civil-political as well as socioeconomic and cultural rights of the non-Muslim minorities and Muslim women in general; hence the need for reforms and new interpretations of the orthodox Muslim laws and traditions from within. In view of the internal coercive political structures, the responsibility of indigenous Muslim intellectuals, ethicists, jurists, and journalists looms large in inducing this change from within.

⁷¹ For a persuasive discussion on this subject see Abdullahi Ahmed An-Na'im, "Religious Minorities Under Islamic Law and the Limits of Cultural Relativism," *Human Rights Quarterly*, Vol. 9, No. 1 (February, 1987): 1-18 and also "*Shari'ah* and Basic Human Rights Concerns," in An-Na'im, (1991), *op. cit.*, pp. 161-181.

⁷² Samuel P. Huntington, "Religion and the Third Wave," *The National Interest*, No. 24, (Summer 1991): 29-42. See p. 42.

To the extent that educational, legal, and attitudinal changes are related to egalitarian socioeconomic conditions, as some scholars have emphasized,⁷³ and to the extent that economic development is considered as the primary force for cultural evolution and the true application of democracy,⁷⁴ I tend to agree with the emphasis that the Muslim world places on the economic rights. The resurgence of 'political Islam' is indeed a reaction, among other things, to the discriminatory, exploitative, and unjust international economic order.⁷⁵ The end of the Cold War has by no means precipitated the evolution of a just international order. The atrocities perpetrated by Yugoslav Serbs against Muslims in Bosnia since the fall of Yugoslavia have caused a moral outrage unprecedented in recent times. The Muslim world thus is not the only turf on which to exclusively place the spotlight. The Muslim world is not without its limitations and anachronistic codes of conduct, some of which were delineated in the present paper; but demonizing a civilization as old and rich as Islam by labeling its jurisprudence as draconian and barbaric is incongruent with reconciling two different yet valid (Muslim and Western) ideals with today's practical reality.

An effective practice of universal human rights must be predicated on a dialogue among the cultures of the world. What is needed is enlarging the realm of interchange and dialogue. "A mutual fecundation of cultures," notes R. Panikkar, "is a human imperative of our times."⁷⁶ The enjoyment of economic rights depends not only on each state's genuine and concrete domestic policies, but also on international solidarity to redress inequitable economic conditions, given that the widening gap between the poor and the rich nations ultimately runs afoul of the efforts to achieve collective prosperity.⁷⁷

In the final analysis, just as the Islamic views and traditions on certain fundamental human rights ought to evolve in keeping with the modern world, so too the Western liberal traditions (those belonging to the Lockean praxis) must be complemented by necessary additions compatible with the global evolution of the economic rights. Without losing sight of the power differential between the two worlds, it can be argued that

⁷³ *Ibid.* For a relevant study see an excellent contribution by Zehra F. Arat, *Democracy and Human Rights in Developing Countries*, (Boulder, CO: Lynne Rienner Publishers, 1991). See especially chapter 4.

⁷⁴ See Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century*, Norman, OK: University of Oklahoma Press, 1991.

⁷⁵ For an informative discussion on the reasons why militant Islam is on the move and its impact on shaking the foundations of culture and state in the Arab states, see Judith Miller, "The Islamic Wave," *The New York Times Magazine*, May 31, 1992, pp. 22-26 and 43, 40, and 42.

⁷⁶ R. Panikkar, "Is the Notion of Human Rights A Western Concept?" *Diogenes*, No. 120, Winter 1982, pp. 75-102. See p. 100.

⁷⁷ Raúl Ferrero, *op. cit.*, p. 17.

mutual adjustments to the adoption of universal human rights demand cross-cultural dialogue and understanding. And it is only as these mutual adjustments develop that the consensual legitimacy arising from the Muslim and Western worlds' perceptions on the subject of the universality of rights can reasonably be anticipated to fall in line with the present-day transformation of global politics.

If the Muslim world⁷⁸ reforms its laws where appropriate and the Western world⁷⁹ becomes a full party to the U.N. Covenant on Economic, Social, and Cultural Rights, a general consensus on universal human rights is likely to emerge. If, on the other hand, both worlds display no commitment to reform or change, many other cultural clashes and problems could result. In the so-called "New World Order," there will be enhanced opportunities for cultural issues to be resolved through cross-cultural dialogue. Striving for balance is an important first step in effectively voicing the concerns for universal human rights. In a nutshell, universality will fail unless it is, as An-Na'im aptly stated, integrated with cultural legitimacy. This may represent a lowest-common-denominator approach to the problem with several usual shortcomings, but it nonetheless furnishes a framework that could potentially provide the basis for dealing with the larger issues over the long run.

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⁷⁸ I have used rather generically the term Islamic state throughout this paper. The diversity among the Islamic state systems is clearly manifest, especially in the contemporary period. For an insightful elaboration on the constitutional structures and adaptations of Islamic principles to the present-day Islamic states' realities, see Mahmud A. Faksh, "The Islamic State System: A Paradigm For Diversity," *The Islamic Quarterly*, Vol. XXVIII, No. 1, (Winter 1984): 5-24. Faksh concludes that generalizations regarding the Islamic polity and its nature are not particularly useful, "Since there is no archetypal Islamic state, it is safe to assume that the Islamic state is not a particular form of a state system but rather the qualities that permeate the political structures and influence its behaviour. Therefore, there are diverse modes of the Islamic state system, and no one state can claim to be the model for other Muslim states to follow." p. 21.

⁷⁹ David P. Forsythe rightly acknowledges that the position of the U.S. is different from some parts of the West which have long dealt with basic socioeconomic rights in their constitutions and also provide in their public policy public health care and linguistic rights. Thus caution must be exercised when using Western world as a monolithic concept. See David P. Forsythe, *The Internationalization of Human Rights*, (Lexington, MA: D.C. Heath and Co., 1991). See p. 12.

AL-JABRIYYAH IN THE POLITICAL DISCOURSE OF JAMĀL ʿABD AL-NĀṢIR AND ṢADDĀM ḤUSAYN: THE RATIONALIZATION OF DEFEAT

The Notion of Jabriyyah¹ in Islamic Thought

The question of free will and predestination in Islam has been a subject of interest for western scholars for quite some time. It has been assumed that Muslims in general and Arabs in particular are unable to take responsibility for their actions because of an inherent fatalism in their culture and religion. It has been argued that Arabs attribute all the events in their lives to a mysterious power, or to God. In the words of Duncan Macdonald, the mentor of the influential H. A. R. Gibb, "it is plain, I think, and admitted that the conception of the Unseen is much more immediate and real to the Oriental than to the western peoples."² In fact, Islam has been associated in the West with fatalism, and the very word *Islam* in Arabic has been misinterpreted in the West to imply that this religion requires submission.³ It is often left unmentioned that submission in the word *Islam* is to the will of God and not to other human beings.

Before addressing the philosophical dimensions of *Jabriyyah*, it is useful to explain the lexicographic origins of the term. The word *Jabriyyah* can be traced to two words: *jabara* and *Jabbār*. The word *jabara* means "to force" or "to compel;" and the word *Jabbār* is one of the names attributed to God with the meaning of "Great," or "Omnipotent."⁴ As for the term *Jabriyyah* itself, it has been used to denote a school of Islamic thought which teaches that every event in the created order is directly caused by a

¹ Some authors referred to Jabriyyah as *Jabariyyah*. In the *Encyclopedia of Islam* it appears as *Djabriyya*. Ibn Mandhur in *Lisān Al-ʿArab* lists several variations of the word including *Jabriyyah* and *Jabariyyah*.

² D. Macdonald, *The Religious Attitude and Life in Islam* (Beirut: Khayats, reprint of the 1909 edition, 1965), p. 2. Also cited in E. Said, *Orientalism*, (New York: Vintage, 1979), p. 276.

³ There is a vast body of Western literature on Arab/Islamic inclination to both fatalism and autocracy. Two of the most popular books in the U.S., both for the public and for college courses, are R. Patai, *The Arab Mind* (New York: Scribner's, 1973) and D. Pryce-Jones, *The Closed Circle: An Interpretation of the Arabs* (New York: Harper and Row, 1986). Of course both Patai, who in recent editions of the book insisted that only PLO apologists were not pleased with his work (See the 1983 revised edition, p. ix), and Pryce-Jones drew upon other scholars' works to support their views. Patai fails to appreciate (or even to note) the debate about free will in Islamic history. Relying upon the authority of Edward William Lane (among others), Patai presents a monolithic, linear view of predetermination in Islam.

⁴ For the lexicographic origins of the terms, see the entry of *Jabr* in Ibn Mandhur's *Lisān Al-ʿArab*.