



# **To Liberate or not to Liberate?**

## **Universalism, Islam and Human Rights.**

*Arzu Merali*  
*September 2003*

PO Box 598, Wembley, UK, HA9 7XH, Telephone (+44) 20 8904 4222 Fax (+44) 20 8904 5183  
e-mail: [info@ihrc.org](mailto:info@ihrc.org)  
web: <http://www.ihrc.org/>

First published in Great Britain in 2003  
by Islamic Human Rights Commission  
PO Box 598, Wembley, HA9 7XH

© 2003 Islamic Human Rights Commission

Printed in England by Islamic Human Rights Commission

All rights reserved. No part of this book may be reprinted or reproduced or utilized in any form or by any means electronic, mechanical, or other means, now known or hereinafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

ISBN 1-903718-23-9

*I would like to dedicate this paper to the late Sulayman Zain-ul Abdein who was arrested and charged under the Terrorism Act 2000 after 9/11 and who was exonerated in court having spent eight months locked up in a high security prison.*

*He was demonised by some press and politicians as a violent terrorist to the extent that even human rights workers felt intimidated to take on his case, let alone consider for a moment that he was anything other than a stereotypical, bearded fanatic. His case made me realise that everyone has rights regardless of what they have allegedly done. His acquittal made me realise how easily we all jump to conclusions when the prevailing atmosphere is poisoned by demonisation and hatred. Meeting him made me realise that articulate, intelligent and rational people were being portrayed as criminals simply because they professed Islamic beliefs.*

## **To Liberate or not to Liberate? Universalism, Islam and Human Rights.**

Arzu Merali

An oral presentation at the one-day conference 'Islamic and Western Perceptions of Human Rights' held in London, UK, September 12, 2003.<sup>1</sup>

This presentation seeks to tease out some of the issues that pertain to the idea of rights – in a legal and moral sense – and universalism. This enquiry is usually framed around the Universal Declaration of Human Rights (UDHR) and its (lack of) universal applicability. In this context there are two types of critique that have been well-rehearsed elsewhere, which I shall be briefly examining and using in support of my contentions, i.e. communitarian and post-modern. However I shall also be arguing that for Muslims these are inadequate and 'un-Islamic' responses (and I stress 'responses' as it highlights the nature of the power relationships in this discussion) to a disingenuous question. By answering negatively, we i.e. those of us who do not feel that the UDHR is a universally applicable document, lend ourselves to the charge that we do not believe in man's equal worth and potentiality. For Muslims at least, I shall argue that the latter contention is untrue and does not necessarily follow on from the first.

Discourses that utilise the language of, or claim to represent the aspirations of human rights theory and activism, suggest that inherent within them is the idea of liberation. Liberation of the individual vis the group: the right to choose, the right to choose not to; and the liberation of the individual through the group: the right to self-determination etc. I feel that a closer examination of this assumption will reveal that liberation is neither, inherent within UDHR or indeed recent theory regarding it.

### **UDHR, Universality and Oppression**

The following checklist of problems with the concept of universality with specific reference to the UDHR, are also indicative of an anti-liberatory trend that inheres within UDHR – not out of some grand conspiratorial plan - but as the result of the societal constraints on individual and group freedoms that informed the sources of the document. In this regard I refer to the patriarchal world of empire and colonial mastership that gave birth to the *Rights of Man*, the *Declaration of Independence* etc. I have been greatly assisted in

---

<sup>1</sup> A conference organised by Islamic College for Advanced Studies, Goethe-Institut London, Islamic Human Rights Commission, [www.opendemocracy.org](http://www.opendemocracy.org), with the assistance of the German and Iranian embassies in London

compiling this list by reading Michael Ignatieff's essays *Human Rights as Politics and Idolatry*<sup>2</sup>, as he as a liberal or cosmopolitan tries to salvage the idea of the universality of the document from its critics. I will deal with his approach later, but first a Fresher's Guide to what's wrong with the Declaration.

1. It is a practical, almost mundane point but the drafters of the document were not representative of the various cultures and creeds of the world at the time of drafting. As a result it lacks even that form of credibility. Whilst the fifteen drafters, it is often argued came from as far afield as China, India, Iran and France, it should be noted that they were nominated by sending countries as experts in their field not as national or cultural representatives.

2. As a result, and indeed by referencing the texts claimed to be source documents, or writers that are claimed to be influential to its drafters, we see only the dead white European male represented in a very specialised or dare I say it elitist category.

This Eurocentrism is a not too subtle undercurrent of universalist discourse when it comes to human rights. Constitutive theorists of human rights see the culmination of the rights of the individual in his / her citizenship in the liberal democratic state, and by so doing subscribe to a depressingly Fukuyaman teleology of world progress led to its final liberation by the West.

In this world of West ahead of the rest, neo-realists and neo-liberals, even communitarians of the non-PC kind - now I'm talking about theorists like Jack Donnelly, Samuel Huntington indeed almost any Western scholar (if you can call Samuel Huntington a scholar) - who makes reference to human rights, takes for granted this supposed progress to freedom.

Even a politically correct universalism as espoused by Ignatieff falls prey to inadvertent Eurocentrism. When talking about American exceptionalism, Ignatieff refers to the growing rifts between the US and Europe over the International Criminal Court citing that: 'Britain and France,...can claim descent from the same family of rights traditions.'<sup>3</sup>

---

<sup>2</sup> Ignatieff, Michael *Human Rights As Politics and Idolatry* (Princeton) Princeton University Press 2000

<sup>3</sup> Ibid p. 13

Descent, family, tradition. This may just be an unfortunate metaphor but the language imbues the same sense of hierarchical power that inheres in human rights talk about the perennial *them* that need liberation by those of us espousing the universal validity and application of Western generated concepts.

I am not about to start a whole digression on the various histories of various civilisations, including of course the various Muslim civilisations of the last fourteen hundred years. If you're interested in anything like that but not into heavy academic reading I strongly recommend something like *Crusades* by Terry Jones and Alan Ereira. It provides an interesting comparison between Islamic and European worlds for the duration of the crusades, and gives succour to the famous comment by Gandhi when asked about Western civilisation: 'It would be a good idea.'

Indeed the movements for freedom of various peoples in the last half century are attributed by Ignatieff<sup>4</sup> to the articulation of international norms by rights language in the form of UDHR and the subsequent conventions. I find it deeply patronising to think that various colonised peoples needed elements of their colonisers to educate them as to their wretchedly un-free state and galvanize their opposition to it. Anyone familiar with the writings and thought of Steve Biko will join me in fits of laughter at the thought that 'Black Consciousness' is actually inspired by Eurocentric concepts of freedom. For those of you in any doubt, I quote the great inspirer of resistance to apartheid:

"I am against the superior-inferior white-black stratification that makes the white a perpetual teacher and the black a perpetual pupil (and a poor one at that). I am against the intellectual arrogance of white people that makes them believe that white leadership is a *sine qua non* in this country and that whites are the divinely appointed pace-setters in progress."<sup>5</sup>

When talking about Biko you are talking about the polemicist that brought down apartheid. Between him and Gandhi, Ignatieff et al's contentions jar in the expressions of the idealists of two of the greatest liberation struggles of the last century.

3. Whilst visiting the UNIFEM website some three years ago I saw on the front-page the banner: Human Rights are Women's Rights.

---

<sup>4</sup> Ibid p.6

<sup>5</sup> p.24 'Black Souls in White Skins?' August 1970 SASO Newsletter, Steve Biko *I Write What I Like: A Selection of his Writings*, (Oxford 1979) Heinemann

Why would this need to be clarified, except that when universality is considered in the context of UDHR, women were not considered to be part of the equation. Human Rights discourse is basically gendered, with women as usual marginalized somewhere in the outer realms – an afterthought to matters in hand.

Usually when I state this, I am taken to task on the basis that Eleanor Roosevelt, no less, pushed this document at the UN and led the whole drafting process. This, to me is like arguing that the British Conservative Party was a feminist model, because Mrs. Thatcher was Prime Minister. If we take a look at some of the discussions which Eleanor Roosevelt was involved in subsequent to UDHR e.g. UN Convention on the Political Rights of Women (1953), Roosevelt led the charge against USSR criticisms of the US. In particular she berated the USSR for trying to get women to work by providing childcare. With regard to the criticism that the US poll tax prevented black women in particular from registering as voters (sounds familiar), Roosevelt proclaimed that to abolish that form of tax would mean that the US would be guilty of discriminating against men. She rejected the insertion of provisions requiring the implementation of legislation within the convention, rendering it ineffective. With regard to economic discrimination against black women she said, and I quote:

“I have not answered certain charges against the United States as to the economic situation of women – Negro women especially- because...I have not wanted to take the time of this Committee for irrelevant matters.”<sup>6</sup>

There is an argument used by the detractors of human rights generally, as well as many forgotten victims of abuses, that the West is highly inconsistent its application of human rights norms; that it effectively uses human rights discourse as a lens through which to view the non-Western world and neglects any form of self-scrutiny. I would take this further and charge that as regards women parts of the provisions of UDHR have been used selectively and perniciously against women. Before I even start on the subject of the demonisation and dehumanisation of Muslim women through human rights discourse, I would like to draw attention to Suzanne Kappeler's stunning condemnation of human rights through the example of the Anti-Pornography Ordinance issue that took place in 1983 in Minneapolis. The drafters of this ordinance sought to explain inter alia, how pornography denies women equal respect and stature within society, or to put it another way how pornography violates women's

---

<sup>6</sup> <http://www.udhr.org/history/124.htm>

civil rights. The ordinance was eventually voted down with the support of feminists who saw it as a violation of human rights, in particular free expression – the freedom to choose once more. As Kappeler put it: human rights violate women's civil rights.

4. Human rights as envisaged by UDHR give women the right to be pornographers, but not to be protected from pornography. It is the ultimate indictment of individualism. More pertinently the example of pornography highlights an epistemological problem with UDHR's much feted individualism. It is argued by the likes of Ignatieff that communitarians of the non-Western sort, including within this framework the so-called 'Islamic challenge' to universalism, that Islam sees the sovereign and discrete individual as blasphemous. Let's leave aside for one moment, the somewhat ridiculous correlation between blasphemy and human autonomy and look again at the underlying assumption or if you like the spin. Ostensibly the UDHR offers empowerment to the individual, but does so at the expense of other individuals and (the) group(s). It pits individuals against each other and individuals against groups, as if rights can only always be determined by the victory of one party over the other. Whilst we have now second and third generations of human rights supposedly dealing with economic, cultural, heritage and environmental issues (I read a while back that a fourth generation debating women's rights is pressing for recognition), there remains a hierarchy of rights, whether we like it or not that place individual civil and political rights at the top. It is a classic value hierarchy where those that subscribe to the top tier as most important (stereotypically those deemed western), determine their subjectivity by objectifying those lower down in the hierarchy. Therefore collective economic and cultural rights et al, are signifiers of the failure of non-westerners to fully constitute themselves as individuals. It is analogous with the 'male gaze' as described by Laura Mulvey as:

"In a world ordered by sexual imbalance, pleasure in looking has been split between active/male and passive/female. The determining (human) male gaze projects its phantasy onto the (human) female figure which is styled accordingly..."<sup>7</sup>

Where, in this analogy, the passivity of the objectified includes women and the non-western, non-individual. In contrast the advocates of individualism are active, indeed are activists, who traditionalise the objects over and through which they define their subjectivity, so

---

<sup>7</sup> Mulvey, Laura *Visual and Other Pleasures (Theories of Representation and Difference)* Indiana University Press 1989 p.19



women (and taking Mulvey further), other others are: "...displayed,.. so that they can be said to connote "to-be-looked-at-ness."<sup>8</sup>

Again the connection with pornography and gender pertains as Mulvey states: "Pornography, like much of culture, enacts this "to-be-looked-at-ness." By replicating the epistemology of objectification, human rights discourse displays the classic anti-Enlightenment charge of arrogance and racism that combine to enact violence both physical and psychological against non-Enlightened others.

At its most extreme this argument undermines the universality of the document by particularising the individualistic cause of the west over the rest.

To return to the actual case of pornography, gender and human rights, this epistemological problem highlights the requirement that I shall discuss briefly later that Islam requires for systematic or group or societal rights to be enshrined in legal and moral constitutions. The harm of pornography cannot be opted into as a result of supposed free choice, because it perpetuates oppression. That choice cannot be described as one that empowers because it has the effect of disempowering others, including most likely the agent.

5. Marxist and structuralist critiques have picked up on the use of human rights language by governments and even MNCs, and labelled it as the vanguard of globalisation and capitalism. Whilst many universalists have tried to argue that the two are not necessarily linked, it is hard to refute the many instances where the two collide. The EU's favoured trading partner status, its PHARE and TACIS programmes all equate financial reward with adoption of human rights practices. No bad thing I hear you cry, except that we see within this narrow and / or discriminatory conception of what human rights are. As we see a rising intolerance of Muslim women's adoption of the *hijab* in Europe, so we see a Turkey that had consistently persecuted women who don the *hijab* being invited to negotiate for EU membership. Given the stringent human rights criteria laid out for Turkey to become an EU member, we can only conclude that the EU promotes as policy as well as condones in its internal practices, the exclusion of Muslim women who dress Islamically. Likewise the ruling by the ECHR that the banning of the Refah Party in Turkey was legal, indicates that human rights means what a very particular European elite mean it to mean.

---

<sup>8</sup> *ibid.*

6. Whilst I have stressed the individualism of the document there are provisions which superficially appear to concede group rights in particular the right to self-determination. However on closer inspection, this again is a contradiction of the idea that the document has some form of universal validity. Self-determination of a people based on their ethnicity as we saw in the between war period last century, did little to liberate the peoples in whose name it claimed right. Instead we saw what Hannah Arendt aptly described as the transformation of the state as an instrument of law into the instrument of nation. The process requires once more the determination of the self against the objectified other / ethnic minority. Ignatieff calls such democracies 'ethnic majority tyrannies'.<sup>9</sup> I would argue that this is a legacy we are stuck with from the present day Balkans to Rwanda, but more shockingly in the discourse of a British Labour government in its hysterical ravings about asylum seekers, and the UK's 'mediaeval' Muslim minority<sup>10</sup>. Where ethnicity is the driving basis of right then particularism is the result, and that form of particularism is unadulterated racism.

In fact further contained within this concept is its own unravelling. Again the promotion of a negative particularism, in this case ethnic or national particularism undermines the internationalism – the universalism – of the document. Indeed American exceptionalism justifies its opt-out and continued distancing from international human rights provisions (the ICC just one its more notorious pre-9/11 opt-outs) on the idea that its internally driven consensus is the only legitimate basis to derive its rights regime from. One law for us...

7. Ignatieff refers to an enduring critique of human rights that I think Dr. Bahmanpour<sup>11</sup> will be dealing with in greater and better detail, so I shall quickly make reference to it here and that is the idea of human rights as a secular religion<sup>12</sup>. Indeed Ignatieff refers to it as 'humanism worshipping itself'.<sup>13</sup> Whilst relentlessly pursuing supposedly closed minded religiosity, humanism admits of no reproof

---

<sup>9</sup> Ibid

<sup>10</sup> "Mr Blunkett also compared forced Muslim marriages to medieval England and suggested economic progress would inevitably lead to the modification of such religious traditions.

"It was a point that Pim Fortuyn in his more rational moments was making in the lead up to his assassination," he said." *Daily Telegraph*, 02/06/2002 'Asylum seekers push Blunkett £1 bn over budget' Francis Elliott, Deputy Political Editor

<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2002/06/02/nasy02.xml>

<sup>11</sup> Dr. Mohammed Saeed Bahmapour of the Islamic College for Advanced Studies presented a paper entitled, 'The Religion of Human Rights: Is it Compatible with Other Religions?' at the same conference.

<sup>12</sup> e.g. Ignatieff, *ibid* p.53

<sup>13</sup> *ibid*. p. 83

when human rights and in particular the sacred text of UDHR are mentioned. The text, its individualism and anomalies are taken at one and the same time to be the only aspirational model, and the only guarantee of liberty that the human race can have.

8. Post-modern critiques of universality pertain to the discussion of human rights as much as communitarian ones, insofar as their critique of the purported universality of concepts contained therein. There is a certain resonance in the contention that the epistemology of human rights determines the ontology of its subjects i.e. the white, western, male top tier of the foregoing value hierarchy is legitimised as the bearer and forerunner of the new morality. It is imperialistic not universal in nature, whatever its stated pretensions are. When Rorty debunks philosophy since and shaped by Kant as a religion substitute where the intellectual seeks 'the vocabulary and the convictions which [permit] one to explain and justify one's activity as an intellectual, and thus to discover the significance of one's life'<sup>14</sup>, he could have added that human rights activism as the outcome of the Kantian doctrine of individual sovereignty substitutes pious action and moral rigour.

### **Defending Universality and UDHR: Defending the Impossible?**

The items on the preceding checklist have in their various forms chipped away at the mystification of human rights. Ignatieff in many ways concedes ground to all, in particular the charge that human rights have become the secular religion of the current era. His defence of human rights refocuses on the UDHR and rejects (alarming in my opinion) notions of the sanctity of human life as the justifying philosophical or moral imperative behind human rights discourse. Human rights exist not as a result of the inherent dignity of man, (Ignatieff argues that the actions of men belie their innate bellicosity not their beneficence), but as regulatory concepts, contingent in their conception but immutable in their application. Whilst this obviates the clash of cultural relativisms in claiming what the good is (human rights are functional concepts that simply prevent the bad), it does little to justify its contention that UDHR should be applied without discussion, examination or as I will argue radical re-examination, despite this acknowledgement of their conditional nature.

It is not enough to argue that UDHR applies because some people in various parts of the world want them. Ignatieff uses Rawls' ideas that societies which organise themselves on non-democratic or un-Western

---

<sup>14</sup> *Philosophy and the Mirror of Nature*

lines but which in other respects deliver rights to their minorities and its own members agree on non-democratic systems of governments as legitimately being able to opt-out of international human rights regimes. Ostensibly appealing, particularly as the example uses Muslims and Islam, I feel this example once more posits a value hierarchy wherein Muslims, specifically what we might call for want of a better term Islamists, are once more dehumanised and objectified. There seems little difference between this contention and that of Huntington, that human rights and indeed their universal applicability are indeed limited to a realm which is exclusively European, as other cultures simply cannot cultivate the liberalism which inter alia human rights exemplify. Universality by this definition applies to those within this realm. Those within this realm will then be classified as human i.e. the west. The rest, though granted the right of non-interference are left to their own devices because they lack proper constitution as humans. In fact Ignatieff bases the call for intervention on the call of individuals from within cultures rather than on a universal moral imperative

In total these arguments undermine the notion of equality of the free and equal personhood implied in the first article of UDHR. If human life is not sacred because all human beings are innately noble, then universality is dead whichever way you look at it.

### **Islam and human rights**

Having trashed these ideas of universality, I should like many others be espousing a more conversational approach to human rights where human rights are just one of many stories that validate human existence. Indeed the late and great Islamic scholar Murtada Mutahhari quoting verses 6:108<sup>15</sup> states that the Qur'an:

“...affirms that every nation evolves its own particular consciousness, its own particular standards and its own particular way of thinking. The consciousness, understanding, and perception of every nation has a specific and distinguishable character.

“Every nation judges things according to its own standards (at least in matters involving practical values and notions). Every nation has its own special way of perception and comprehension. There are many acts which are ‘good’ in the eyes of one nation and ‘evil’ in the eyes of another. It is the social atmosphere that moulds the tastes and

---

<sup>15</sup> ‘...unto every nation have we made their deeds seem fair...’ quoted in p. 14 of *Society and History* Islamic Propagation Organisation 1985

perceptions of the individuals of a nation according to its value system."<sup>16</sup>

At first glance this seems to back up the idea that value systems are particular to groups and that there is no grand metanarrative, no truth out there to be discovered. However the Rortian model, though sophisticated and seductive, is not one that Muslims can condone, for we too are universalists.

When it comes to human rights, Muslims have had a tendency to approach the discussion as either failing to see a contradiction between Islamic rights talk and UDHR or complete and outright rejection on the basis that human rights talk is un-Islamic. Both approaches miss the mark.

The individualism of UDHR and its Enlightenment baggage and the latter defence of it that acknowledges UDHR's contingency cannot be reconciled with Islamic rights talk simply because Muslims see Islam as Divine revelation, and its values to be perennial and universal. According to Mutahhari:

"The Qur'an puts forward the idea of a common history, a common destiny, a common record of deeds, a common consciousness, understanding, sensibility and a common conduct for societies."<sup>17</sup>

How then is Islam different in its concept of universality? Is this not more of the same of the imperialistic language that I have thus far berated as Western and distorted?

There are significant differences.

1. Firstly the fact that Muslims as believers believe that the rationality of Islam is a journey of discovery of God's purpose for mankind, not a static and didactic declaration of rational individuality as guarantor of liberty, has a major ontological effect. Whilst Islam envisages a Messianic end to world history, we clearly are not in that phase and thus humanity in general and Muslims in particular are still on a journey of discovery to realise the common destiny of mankind. This journey clearly has to be based on an understanding of society as having an objective existence. If mankind is journeying, clearly some within it are on different journeys or are in the view of Muslims misguided or misleading others. This aside individuals and nations

---

<sup>16</sup> *ibid* p. 15

<sup>17</sup> p.14 *Society & History*

and societies within mankind are understood in an Islamic view to be in flux, and therefore still in a state of universal yet varied subjectivity. This stands in stark opposition to the hierarchical didacticism of human rights discourse, which claims that its upper strata compose subjects who have attained to the objective reality of justice issues whilst objectifying those it deems either incapable of, or backward in their progress to such a stage.

As much as there are moral prescriptions in Islam there are the possibilities and necessities of negotiating everyday life for individuals, groups and societies that need to be thought and rethought out, at every age and stage of human development. A Muslim and Muslim society and law are constantly negotiating these with Divine revelation as their guide.

Secondly, whilst Islam has a universal outlook, and its end goal is the unity of world society in the future messianic age, it prohibits compulsion in religion. The Qur'an strictly states that there is no compulsion in religion.<sup>18</sup> It offers free choice to mankind to opt out of belief and practice, whilst retaining a world-view that would allow any individual to opt-in without restriction. By the latter I am critiquing the so-called Enlightenment process where the non-West needs to secularise before it can opt-in or out of modernity. An example of this type of theory can be found in Sandra Harding's defence of universalising feminism where she states:

"It is premature for women to give up what they never had. Should women, no matter what their race, class, or culture- find it reasonable to give up the desire to know and understand the world from the standpoint of their experiences for the first time? As several feminist literary critics have suggested, perhaps only those who have had access to all the benefits of the Enlightenment can "give up" those benefits."<sup>19</sup>

By so doing she posits, inadvertently, an alarming inversion: that feminists come from a single race, class and culture.

By opting in to the faith and its various moral, legal, social and political provisions a believer does not have to pass an 'Enlightenment' or any other 'cricket test.'<sup>20</sup> By joining the community of believers in Islam –

---

<sup>18</sup> Chapter 2, verse 256 'There is no compulsion in religion...'

<sup>19</sup> Quoted in Miller, Nancy 'Changing the Subject: Authorship, Writing & The Reader,' *Feminist Studies / Critical Studies* ed. T. de Lauretis (Indiana University Press, 1986)

<sup>20</sup> Lord Tebbit (formerly the British MP Norman Tebbit) remarked in the early 1990s that young Asian and Black Britons fail the 'cricket test' i.e. they fail to root for Britain.

the *ummah* - a person becomes part of a community which is at one and the same time universalistic and particularist. It is particularist because believers clearly have a special role within the conceptual framework of the faith, but this particularism supports a narrow universalism. Unlike the particularism that Ignatieff concedes are fostered by human rights discourse e.g. of Tamil versus Sinhala or Hutu versus Tutsi etc. the *ummah* is open to all who chose to opt-in. Further there are no bars vis class, race or culture, unlike e.g. standpoint feminism which requires its adherents from the non-West to reach a certain point of entry that is defined by (ironically) male, white, Western epistemological practices.

3. Thirdly, Islam recognises and according to Mutahhari 'emphasizes the reality of the individual as well as that of society.' The implications of this are many, but a few can be brought in here that pertain to rights issues. Clearly there is a balance to be negotiated between individual and society. In the Qur'anic view man as a spiritual being is inspired by an 'awareness ...called Divine or cosmic consciousness,'<sup>21</sup> and this is inherent in all and calls on man towards the unity of belief. By doing so (or not) man is entering into a relationship of duty and right with his creator. Mankind then has equal potentiality to be realised through personal spiritual profession. The Qur'an states that there is no difference in the eyes of God between men and women except in the level of their piety and that is for Him only to judge. This universality is in marked contrast to vicious and innately cruel model of man that required regulation after WW2 by human rights conventions and thought. The adoption of the regulation marks out a form of secular piety to be judged by elites made up of governments, IGOs, NGOs and human rights activists, and is open to the same abuse of inconsistency that the application of human rights standards by western governments is charged with.

In this realm the rights to privacy that my colleague Mr. Daneshyar<sup>22</sup> will be referring to prevail. The judgement of society, either through societal discourses that demonise, or through personal slander and vilification, or indeed interference into one's life is antagonistic to the rights of an individual in an Islamic realm.

After this relationship, Islam encourages man's consciousness of his humanity, and realization of the nobility and honour of man's

---

<sup>21</sup> *ibid* p. 21

<sup>22</sup> Osama Daneshyar, an English barrister, presented a paper entitled, 'FUNDAMENTAL HUMAN RIGHTS IN ISLAMIC SHARIA LAW' at the same conference.

station...'<sup>23</sup> which inhere in man's nature. In this regard human life has sanctity, and gives succour to theologians like Michael Perry who have stated that human rights are or should be 'ineliminably religious', that without the belief in a higher power than man, human rights or rights talk has no foundational basis and hence lacks any sort of universal applicability.

The third level of Islamic teachings advises man of his social rights and responsibilities, and Mutahhari quotes a verse of the Qur'an as an example which we have cited as our reason d'être at the Islamic Human Rights Commission:

"How could you not fight for the cause of Allah and of the oppressed among the men, women and children who say, 'Our Lord, bring us forth from this city whose people are oppressors, and appoint to us a protector from Thee, and appoint to us from Thee a helper'?" (4:75)

The significance of this verse as regards universality and rights are quite profound. God calls on Muslims to fight in support of the oppressed regardless of whether they are Muslim or not. At one and the same time it emphasises the unity of mankind elsewhere discussed as a priori to the historical development of mankind<sup>24</sup>, yet evidences the existence and legitimacy of difference whilst enjoining a particular group to liberate those oppressed who do not belong to or may well have no desire to join the group or accept its doctrines. Islam then mandates intervention when the overriding concern is to liberate.

## **Conclusion**

What future then for rights talk? It seems that Islamic and Western camps sit staring sternly at each other from different sides of the room. As in a classic Western or a cop movie both parties may mutually decide to call it quits and leave each other alone, or they may choose plan B and kill each other. Are there any other options?

In its opposition to Western concepts of universality the Islamic camp cannot join forces with communitarian critiques that advance cultural relativism: we cannot live and let live in the name of stability if justice is at stake. Islam cannot accept apartheid (as the many anti-apartheid activists inspired by Islam<sup>25</sup> evidence) even if it delivers a higher standard of living for its subjugated groups than their 'free'

---

<sup>23</sup> ibid p.137

<sup>24</sup> see e.g. verses 2:213, 6:98 etc.

<sup>25</sup> see Mumisa, Michael 'Imam Hussain's a.s. Political Movement' 2001



neighbours. Islam cannot accept post-modern critiques that advocate anti-foundationalism, as realising ultimate truth is the goal of the faithful.

Is there any way forward? Two issues need to be recognised in this debate. Firstly, and I stated it up front, the debate is structured as such at the moment that the non-West is responding to a human rights agenda that lacks any relevance to it, not because the non-West does not believe in rights or its citizens lack intellectual agency, but because of the aforementioned problems with the UDHR and the philosophy that has been raised to try and justify its universal applicability.

For rights talk to have meaning, all parties must be at the table and the conversation must start afresh.

Secondly normativity must not be sacrificed or mistaken for peace. Peace without justice has no meaning, and claims to be effecting human rights and individual protection have no meaning in the wider context of oppression. Whether you are talking about pornography or military occupation, all parties at the table need to understand a working concept first not of minimal rights that can be broadly agreed but minimal justice that can be the basic requirement for any society to hope to begin effecting the rights that the noble and blessed creations of God can demand.



PO Box 598  
Wembley  
HA9 7XH  
United Kingdom

ISBN 1-903718-23-9