

Human Rights are God's rights

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I got tempted by the words of Khaled Abou El-Fadl, a professor of Islamic Law at UCLA, and used them as the above title. El-Fadl refers to the classical fiqh literature of an earlier cleric, who stated that *haqqul insan muqaddam ala haqqil llah* (human rights must be prioritized over God's rights). Allah is capable of defending His rights in the hereafter, while humans have to defend their own rights. Referring to such an understanding, he continues, He will defend whoever is oppressed, whether Muslim, Christian, Ahmadiyah, Baha'i, etc. Since every kind of oppression is a form of tyranny, no Muslim should be silent when tyranny is seen.

This understanding refutes the idea that human rights are incompatible with Islam. Fifteen centuries ago, far before the Universal Declaration of Human Rights was promulgated, Islam had laid the foundation for ennobling human dignity and rights. The Koran is quite expressive of the nobility of human being in numerous places and contexts.

One of the basic postulates for human creation is God's love for humankind and, therefore, He proclaims humans as His vice regent on earth. The Koran states that the created universe and its resources are subjugated to human's benefit and service. It also has designed protective and punitive measures to human dignity including social decorum, just and upright character, safety from physical abuse and protection against poverty and degradation.

Ibn Araby, a cleric from the Hanafi school, through his book *Ahkamul Qur'an*, inspired an amazing idea on human rights. He asserts that violations of human rights would not be forgiven except by the concerned people, while violation of the rights of God will be taken care of by God himself. The concept of *tauhid*, the oneness of God, implies that Allah is omnipotent to protect His own rights.

Meanwhile, sharia can be understood in its broader and narrower meanings. The broad meaning is "the way to God". It encompasses teachings on good lives in line with God's injunctions. A comprehensive and holistic guidance, sharia covers both faith and practice, which includes all behavior -- spiritual, mental and physical. Assent to or belief in God is part of sharia, and so are the religious duties of prayer, fasting, etc. Further, all legal and social transactions as well as personal behavior are subsumed under sharia as the total way of life.

The question, then, is "How is sharia to be known?" The answer will bring us to the narrow meaning of sharia, its methodology, known as *fiqh*. It is a human intellectual product to interpret sharia into praxis that regulates all aspects of human life. Being a human product, the narrow sharia (*fiqh*), is understandably not free from the jurists' socio-cultural and political backgrounds. Therefore we can observe differences amongst the schools of thoughts.

Many *fiqh* practiced in Muslim societies are incompatible with the universal human rights, and even with the goal of sharia itself, i.e., public benefits. The easiest example to cite is one on gender. The prevailing *fiqh* has patriarchal nuances and sanctions a hierarchical gender relation.

Despite their capacity and credibility, men are positioned as leaders and women as their followers. In marriage, a wife may be punished because of *nushuz* (ill-conduct), which allows her husband to ultimately beat her. On the contrary, the notion of *nushuz* is not existent for men even if they fail to fulfill their obligations.

The biggest challenge for the reform is the misconception as if *fiqh* were sacred and unchangeable. *Fiqh*, laden with quotes from the Koran and Hadith, equates with the holy verses themselves. Equating human products with God's Divine Will is not only improper but also produces rigid and immutable *fiqh*, which lacks justice and the spirit of liberating women.

The reformed *fiqh* will refute the ideas that Islam is incompatible with human rights. Islam's teachings on human dignity, however noble it is, if not supported by appropriate laws at the praxis level, will not carry significant meaning. It is timely that we ponder the need to view *fiqh* as an open corpus which is responsive to the dynamics of life.

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