

The Rights of Allah and the Rights of Mankind: Freedom and Responsibility

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It was after the 4th century AH that Muslim *fuqaha'* (jurists) began discussing - or differentiating between - the rights of Allah, the rights of mankind and the rights that are common to both. By “the rights of Allah” they meant the Faith and the acts of worship that He is entitled to demand from the Believers, while “common rights” was understood to mean “*al masalih al daruriyyah al khamsah*”, or “the five essential interests” –that is to say, the right to life, religion, intellect, lineage and property. These common rights are applicable to societies in general and cover their protection and welfare under the Law. The “rights of mankind” are concerned with the way individuals deal with each other and how they handle and resolve disputes in Islamic society through goodwill and co-operation, a just judicial system and the application of political/legal *ijtihad* (interpretative judgement) and conciliation. All matters in this category come under the heading of “mankind’s rights”.



There is a Great Covenant between Allah and His Believers which is actually a kind of spiritual and moral “debt obligation” and “trust” imposed upon mankind by the Creator. This is all clearly referred to – explicitly and implicitly – in the Qur’an, and in response man expresses his desire to discharge that “debt” and “trust” through his religion, his beliefs, his acts of worship, his values and his moral principles and behaviour. This leads to the creation of societies which place their trust in Allah, His religion, His security and His safe-keeping: “Who has fed them, [saving them] from hunger and made them safe, [saving them] from fear” (Qur’an: *Quraish*, verse 4), “This day I have perfected for you your religion and completed My Favour upon you, and approved for you Islam as religion” (Qur’an: *Al Ma’idah*, verse 3); “And remember Allah’s Favour upon you and His Covenant with which He bound you” (Qur’an: *Al Ma’idah*, verse 7).

This Great Covenant generated a number of secondary pacts and covenants covering a range of areas including common and individual rights. Among these are the common rights that the *fuqaha’* – as we mentioned earlier – described as “the essential interests” laid down clearly in Allah’s Shariah, which are considered to be vital for the continued survival of society and its overall security. They are: a person’s right to live in freedom and dignity from birth to death; his right to choose his religion of his own free will, along with its associated ethics, values and acts of worship; his right to possess and exercise the intellect which is entrusted to him (along with the conditions that will allow it to develop, mature and expand the horizons of its humanity while enjoying the freedom to choose its own belief system and contribute to the development of its society and the world; this is a matter of the greatest importance for man’s function as Allah’s vicegerent on earth and his role in helping promote progress and prosperity); his right to a family that enjoys due legal social and moral status under Islam, with progeny equipped and qualified to develop and improve their society; and (also within the same context) his right to own property acquired honestly and legitimately.

Some modern *fuqaha’* – such as al Tahir bin ‘Ashour and Alal al Fassi – maintain that freedom should also be included in the list of

“essential interests” or rights. However, it seems to me that the first two (or three) interests – life, religion (and intellect) – are all contingent upon freedom; at the very least, the intellect and belief must be recognized as “human necessities for man and his freedom”. It is also my opinion that the major Qur’anic values of mercy, dignity, justice, “*ta’aruf*” (“getting to know each other”) and the public good are all intimately associated with freedom and human welfare and development, and that they are also “*darurat*” (“essentials”) shared in common between Allah and His human creation. (He loves them and they love Him.) It is through these qualities and His Shariah that Allah – Glory be to Him – guides mankind and provides them with His boundless care and protection in this world and the next.

The arrival of the modern age has had a significant impact upon mankind’s rights. It is clear that when they are referred to in modern organisations, “rights” mean the same as they do in normal everyday parlance, and that people expect their institutions and governments to guarantee and promote them in the interests of humanity and its cherished values.

In fact these rights occupy the same position in *fiqh* (jurisprudence), the Law and ethics as the “common rights” we mentioned earlier. The early Muslims had two approaches to them: theological and jurisprudential. The theologians saw the issue as entailing a kind of tension between Allah and mankind. In their view issues of freedom and the creation of actions were necessary and inevitable – a position they based on the argument of Divine Justice and the idea that the relationship between Allah and man is not one of justice or injustice and forbearance; rather, it is a relationship of mercy, dignity, vicegerence and freedom. Meanwhile, the *fuqaha’* claimed that these “rights” (or “*darurat*”) were natural and instinctive qualities, since the intellect is an instinct shared by the whole of humanity and part of that “*fitrah*” (natural disposition) with which Allah has endowed all human creatures. In his book *Al Muwafaqat (Reconciliation of the Fundamentals of the Shariah)* al Shatibi (d. 790 AH) stated that those rights are “observed in every community and creed” because the intellect is an element of man’s natural disposition.



Here we are not seeking to revive the old debate over the precedence of mercy over justice (or vice-versa), but rather to reveal the pitfalls resulting from the view that religion (rather than the social, cultural or political powers that be) is an obstacle to people's exercise of their rights, because those rights are incompatible with the Divine Law on one question or another.

Yes. It is true that the provisions of the Shariah may conflict with an issue connected with this or that appetite or desire, but this is because in the present day there are numerous desires that are unjust. However, the Shariah cannot possibly be incompatible with any of the basic, natural principles of human rights and dignity. Nor will we ever find any of these basic rights in conflict with the moral values of the Qur'an or man's "*darurat*" ("essentials"), "*hajiyat*" ("needs") or "*tahsinat*" ("complementary interests which contribute to the improvement of human life").

Two powerful trends can be seen in the world of today, including its Muslim societies. One of them is concerned with individual rights, while the other seeks to promote a return to religion and traditional morality. Some people regard the two (individual rights and religious rights) as being mutually incompatible, and it is true that different social groups have their own different priorities; some see individual rights as being more important, while others attach greater importance to religious rights. However, the two issues are intimately connected because religion too (or perhaps we should say religion primarily) is a "right and a freedom", or "a right to a freedom", so it seems to me that any clash that may occur is an incidental one rather than a permanent - or "fundamental" - state of affairs and while it is "happening" we would do well to remain prudent and reasonable. As we pointed out earlier, the defining characteristics of our societies are mutual trust, understanding, respect and co-operation, and when the younger generation try to enjoy their personal rights, they do not seek conflict with religion but rather a genuine role in charting the future of their communities. Indeed, most of them regard religion as being on their side in their struggle.

In the Middle Ages questions of this kind – i.e. relations with the ruling authorities – used to be dealt with as “Shariah political” issues; that is to say, as issues concerning how individuals and groups should respond to problems of public concern in a way that will ensure that the people’s situation is “*aqrab li’l salah wa ab’ad ‘ani’l fasad*” (“nearer to probity and further from corruption”). Matters of this kind were traditionally settled through a range of *ijtihad* remedies including, where appropriate, mutual consultation and the judicial system.

In modern times other lines of approach have been adopted which would have been unfamiliar to our ancestors. They include the creation of civil society bodies and organisations dedicated to resolving questions of individual and collective rights with the participation of all the parties concerned, though without coming into conflict with the authorities or allowing things to get out of hand. In this situation the religious and civil approaches to individual rights and public participation are inseparable, and this fact should determine the way we see matters related to rights. Indeed, we have a moral obligation to look at them in this way.

In the previous issue of *Al Tafahom* we examined the philosophy of rights in the ancient and modern religions and schools of philosophy. In this issue we intend to focus specifically on economic, social, cultural and political rights.

We ask Allah to grant us success in our endeavours.