

The Challenges to Build the Culture of Human Rights in Islam

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1. Human Rights are compatible with Islam?

In this presentation, we would like to discuss on what are the challenges to build the culture of Human Rights in Islam. Islam as a universal society has special declarations on human rights. But all Muslims have not yet recognized these official documents. So we can begin our discussion with a principle questions: Human Rights are compatible or not Compatible with Islam?

To responds this question, we must trace, how and what the reactions of Muslims about the Human Rights. On the discussion of Human Rights among the Muslims, we can see the reactions in three groups: a). Human Rights are incompatible with Islam; b) Human Rights are compatible with Islam., and c). Neutral or Indifferent Opinion.

The first opinion states that the Human Rights are incompatible with Islam. The Muslims must against to the Human Rights. Islam is the supreme and perfect religion, and the Human Rights do not derive from the revelation and spirit of Islam, but come from the Christian and western civilization. The consequences, we must refuse the Human Rights, which always obstacle the Islamic spirit and civilization. The other opinion is contrary with the first statement, the Human Rights are compatible with Islam. It is because all the human rights base on the natural law, compatible with the Holy Books and have rooted on the Islamic culture and civilizations. The real source of Human Rights is the Qur'an and the Hadists. We must accept totally the Human Rights. And the third opinion is neutral or Indifferent judgement on Human Rights in the relations with Islam. This Neutral or Indifferent Opinion affirms that Human Rights are not important and not disturb for their life. The existence of Human Rights can not change their attitude and the society.

The opinion and also the attitude of many Muslims do not so spontaneously to accept Human Rights as integral part of the Islamic religion. We speak on Human Rights and Islam. If we speak on this subject (:Human Rights and Islam), it seems that Human Rights come from out side of the Islamic system. We must think more advance to speak on Human Rights in Islam.

2. Three Declarations on Human Rights in Islam

Until now there are three important documents on Human Rights in Islam:

1. The *Medina Declaration*, from the early of Islamic religion, created by the Prophet of Mohammed in accordance with the society of Medina. This document contains

the rights of every persons and gives the fundamental rights and freedom for the people to live in harmony and peaceful.

2. The *Universal Islamic Declaration on Human Rights*, proclaimed by the Islamic Council in Europe, and it was declared in a meeting held at UNESCO headquarters in Paris on September 19, 1981. There are twenty three articles on Human Rights in Islam, which have source come from the Holy Book (Qur'an) and immaculate Sunna (Hadits). These rights are the Right to Life, the Right to Freedom, the Right to Equality and Prohibition Against Impermissible Discrimination, the Right to Justice, the Right to Fair Trial, the Right to Protection Against Abuse of Power, the Right to Protection Against Torture, the Right to Protection of Honour and Reputation, the Right to Asylum, the Rights of Minorities, the Right and Obligation to Participate in the Conduct and Management of Public Affairs, the Right to Freedom of Belief, Thought and Speech, the Right to Freedom of Religion, the Right to Free Association, the right to ownership, the rights and duties of worker, the right of individual to self-sufficiency, the Right to Protection of Property, the Status and Dignity of Workers, the Right to Social Security, the Right to Found a Family and Related Matters, the Rights of Married Women, the Right to Education, the Right of Privacy, the Right to Freedom of Movement and Residence¹
3. The *Cairo Declaration on Human Rights*, adopted by the Islamic Conference of Foreign Ministers of the Islamic Countries Conferences (1991)². This documents is very important, and the Muslims must accept it as a guide of their social life.

With these three documents, all Muslims in this world must be grateful; it is because just only Religion of Islam has official documents on Human Rights. The other religions have no Documents of Human Rights. The urgent question is why the Muslims speak on Human Rights and Islam? The best idea must profound the subject on Human Rights in Islam. This is an obligation for all Muslim must take part actively to promote the Human Rights in Islam. Human Rights are integral part of Islamic system, or more exact terminology is that Human Rights in Islam must be a DNA of the total Islamic Teaching.

So we must begin to know exactly: What are the Human Rights in Islam? We must find out the Notion of Human Rights in Islam and the discuss this subject for our life. Based on the official documents (Medina declaration, the Universal Islamic Declaration of human Rights and the Cairo Declaration on Human Rights, I try out to formulate the notion of Human Rights in Islam.

The Human Rights in Islam can be formulated as: The fundamental rights, created by God, inherent in human dignity, have characteristics universal, sacred, absolute,

¹ The complete text of this declaration in Arab, English and France published in *Islamocristiana* 9(1983), see also in *La Documentation Catholique* n. 1949, 3 avril 1983, p. 374-377, Ridwan Al-Sayyid, "Contemporary Muslim Thought and Human Rights", *Islamocristiana* 21 (1995), 27-41.

² Maurice Borrman, "Convergenze e divergenze tra la Dichiarazione universale dei diritti dell'uomo del 1948 e le recenti Dichiarazioni dei diritti dell'uomo nell'Islam", *Rivista Internazionale dei Diritti dell'uomo*, XII (1/1999), 44-60.

inviolable, inalienable, indivisible, interdependent, and must be protected and promoted especially by the Muslims.

This notion and the meaning of Human Rights in Islam is clear and distinct. The consequence if we know well the notion of Human Rights in Islam, so the obligation of the Muslim scholars are to promote it to all over the world, and convince to all Muslims that Human Rights in Islam are integral part of the style of Islamic life.

3. The Human Rights in Islam in the Cairo Declaration

The 6 Considerans of the 10 s for promulgation the Cairo Declaration on Human Rights in Islam:

1. Aware of the place of mankind in Islam as vicegerent of Allah on Earth;
2. The Document on Human Rights in Islam that will serve as a guide for Member states in all aspects of life;
3. The Cairo Declaration on Human Rights in Islam that will serve as a general guidance for Member States in the Field of human rights.
4. The civilizing and historical role of the Islamic Ummah which Allah made as the best community and which gave humanity a universal and well-balanced civilization,
5. The efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'ah
6. a. The fundamental rights and freedoms according to Islam are an integral part of the Islamic religion,
b. Safeguarding those fundamental rights and freedoms is an act of worship whereas the neglect or violation thereof is an abominable sin,
c. safeguarding of those fundamental rights and freedom is an individual responsibility of every person and a collective responsibility of the entire Ummah;

We would like to follow what the Cairo Declaration as below:

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Article 1

- a. All human beings form one family whose members are united by their subordination to Allah and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the basis of race, colour,

language, belief, sex, religion, political affiliation, social status or other considerations. The true religion is the guarantee for enhancing such dignity along the path to human integrity.

- b. All human beings are Allah's subjects, and the most loved by Him are those who are most beneficial to His subjects, and no one has superiority over another except on the basis of piety and good deeds.

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Article 2

- a. Life is a God-given gift and the right to life is guaranteed to every human being. It is the duty of individuals, societies and states to safeguard this right against any violation, and it is prohibited to take away life except for a shari'ah prescribed reason.
- b. It is forbidden to resort to any means, which could result in the genocidal annihilation of mankind.
- c. The preservation of human life throughout the term of time willed by Allah is a duty prescribed by Shari'ah.
- d. Safety from bodily harm is a guaranteed right. It is the duty of the state to safeguard it, and it is prohibited to breach it without a Shari'ah-prescribed reason.

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Article 3

- a. In the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as old men, women and children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered and clothed. It is prohibited to mutilate or dismember dead bodies. It is required to exchange prisoners of war and to arrange visits or reunions of families separated by circumstances of war.
- b. It is prohibited to cut down trees, to destroy crops or livestock, to destroy the enemy's civilian buildings and installations by shelling, blasting or any other means.

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Article 4

Every human being is entitled to human sanctity and the protection of one's good name and honour during one's life and after one's death. The state and the society shall protect one's body and burial place from desecration.

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Article 5

- a. The family is the foundation of society, and marriage is the basis of making a family. Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from exercising this right.
- b. The society and the State shall remove all obstacles to marriage and facilitate it, and shall protect the family and safeguard its welfare.

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Article 6

- a. Woman is equal to man in human dignity, and has her own rights to enjoy as well as duties to perform, and has her own civil entity and financial independence, and the right to retain her name and lineage.
- b. The husband is responsible for the maintenance and welfare of the family.

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Article 7

- a. As of the moment of birth, every child has rights due from the parents, the society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be safeguarded and accorded special care.
- b. Parents and those in such like capacity have the right to choose the type of education they desire for their children, provided they take into consideration the interest and future of the children in accordance with ethical values and the principles of the Shari'ah.
- c. Both parents are entitled to certain rights from their children, and relatives are entitled to rights from their kin, in accordance with the tenets of the shari'ah.

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Article 8

Every human being has the right to enjoy a legitimate eligibility with all its prerogatives and obligations in case such eligibility is lost or impaired, the person shall have the right to be represented by his/her guardian.

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Article 9

- a. The seeking of knowledge is an obligation and provision of education is the duty of the society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee its diversity in the interest of the society so as to enable man to be acquainted with the religion of Islam and uncover the secrets of the Universe for the benefit of mankind.
- b. Every human being has a right to receive both religious and worldly education from the various institutions of teaching, education and guidance, including the family, the school, the university, the media, etc., and in such an integrated and balanced manner that would develop human personality, strengthen man's faith in Allah and promote man's respect to and defence of both rights and obligations.

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Article 10

Islam is the religion of true unspoiled nature. It is prohibited to exercise any form of pressure on man or to exploit his poverty or ignorance in order to force him to change his religion to another religion or to atheism.

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Article 11

- a. Human beings are born free, and no one has the right to enslave, humiliate, oppress or exploit them, and there can be no subjugation but to Allah the Almighty.
- b. Colonialism of all types being one of the most evil forms of enslavement is totally prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all States peoples to support the struggle of colonized peoples for the liquidation

of all forms of and occupation, and all States and peoples have the right to preserve their independent identity and control over their wealth and natural resources.

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Article 12

Every man shall have the right, within the framework of the Shari'ah, to free movement and to select his place of residence whether within or outside his country and if persecuted, is entitled to seek asylum in another country. The country of refuge shall be obliged to provide protection to the asylum-seeker until his safety has been attained, unless asylum is motivated by committing an act regarded by the Shari'ah as a crime.

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Article 13

Work is a right guaranteed by the State and the Society for each person with capability to work. Everyone shall be free to choose the work that suits him best and which serves his interests as well as those of the society. The employee shall have the right to enjoy safety and security as well as all other social guarantees. He may not be assigned work beyond his capacity nor shall he be subjected to compulsion or exploited or harmed in any way. He shall be entitled - without any discrimination between males and females - to fair wages for his work without delay, as well as to the holidays allowances and promotions which he deserves. On his part, he shall be required to be dedicated and meticulous in his work. Should workers and employers disagree on any matter, the State shall intervene to settle the dispute and have the grievances redressed, the rights confirmed and justice enforced without bias.

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Article 14

Everyone shall have the right to earn a legitimate living without monopolization, deceit or causing harm to oneself or to others. Usury (riba. is explicitly prohibited).

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Article 15

- a. Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership without prejudice to oneself, others or the society in general. Expropriation is not permissible except for requirements of public interest and upon payment of prompt and fair compensation.
- b. Confiscation and seizure of property is prohibited except for a necessity dictated by law.

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Article 16

Everyone shall have the right to enjoy the fruits of his scientific, literary, artistic or technical labour of which he is the author; and he shall have the right to the protection of his moral and material interests stemming therefrom, provided it is not contrary to the principles of the Shari’ah.

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Article 17

- a. Everyone shall have the right to live in a clean environment, away from vice and moral corruption, that would favour a healthy ethical development of his person and it is incumbent upon the State and society in general to afford that right.
- b. Everyone shall have the right to medical and social care, and to all public amenities provided by society and the State within the limits of their available resources.
- c. The States shall ensure the right of the individual to a decent living that may enable him to meet his requirements and those of his dependents, including food, clothing, housing, education, medical care and all other basic needs.

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Article 18

- a. Everyone shall have the right to live in security for himself, his religion, his dependents, his honour and his property.

- b. Everyone shall have the right to privacy in the conduct of his private affairs, in his home, among his family, with regard to his property and his relationships. It is not permitted to spy on him, to place him under surveillance or to besmirch his good name. The State shall protect him from arbitrary interference.
- c. A private residence is inviolable in all cases. It will not be entered without permission from its inhabitants or in any unlawful manner, nor shall it be demolished or confiscated and its dwellers evicted.

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Article 19

- a. All individuals are equal before the law, without distinction between the ruler and the ruled.
- b. The right to resort to justice is guaranteed to everyone.
- c. Liability is in essence personal.
- d. There shall be no crime or punishment except as provided for in the Shari’ah.
- e. A defendant is innocent until his guilt is proven in a fast trial in which he shall be given all the guarantees of defence.

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Article 20

It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him. It is not permitted to subject him to physical or psychological torture or to any form of maltreatment, cruelty or indignity. Nor is it permitted to subject an individual to medical or scientific experiments without his consent or at the risk of his health or of his life. Nor is it permitted to promulgate emergency laws that would provide executive authority for such actions.

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Article 21

Taking hostages under any form or for any purpose is expressly forbidden.

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4. The challenges of Islamic Public Acceptance

The challenges of Islamic Public Acceptance for Human Rights should not be in the theory or concept, but in the praxis, when we observe our situation in Asia or specially in our country, Indonesia.

Asian struggle for rights and freedoms has deep historical roots, in the fight against oppression in civil society and the political oppression of colonialism, and also for the establishment or restoration of democracy. The reaffirmation of rights is necessary now more than ever before. Asia is passing through a period of rapid change in many aspects³

The leaders of the Asean governments always promote Asian Value and stress that it is more important than human rights. But what is Asian value, they did not declare. In reality, the Asian value has nothing when there are violations of fundamental freedom and human rights. Also the situation and development of this area makes dehumanity

These changes threaten many valued aspects of life, the result of the dehumanizing effect of technology, the material orientation of the market, and the destruction of the community.

People have decreasing control over their lives and environment, and some communities do not have protection even against their traditional homes and grounds.

We can observe the situation of Asia is very contradictive. The Asia as continent is very rich in natural resource, culture, race, religions, but this people suffers.

In The Asian Charter, we can observe that Asian development is full of contradictions. There is massive and deepening poverty in the midst of growing affluence of some sections of the people. Levels of health, nutrition and education of large numbers of our people are appalling, denying the dignity of human life⁴.

Asia is never in peaceful situations. Also in Indonesia, there are more than 4.600 Religious Buildings are burnt by the people in the name of God or religious mandate. Unfortunately the people in Asia, especially in Indonesia enter in the conflict situations, violate the human rights and fundamental freedom. Problem of majority and minority, prejudice, the characteristic religions, and always provoke the people do not support to live in harmony. The violations of human rights, is very terrible and uncountable again.

The violation of human rights invite us to know more profound the meaning and value of human dignity. Human persons have value in their freedom and dignities as a human person. All human person have the same dignity, with differences in function and activity in their society.

³ Cfr. The Asian Charter, preamble.

⁴ Idem.

The promotion and protection of human rights are considered as an obligation to promote, to protect and to observe the human value, which is the dignity of human person. In this sense, the contribution of Human Rights in Islam must be clear. All Muslims in this world have obligation to promote the Human Rights in Islam.