

# İNSAN HAKLARI VE GÜCÜN İKİ YÜZLÜ SÖYLEMİ

\*\*\*

Doç. Dr. Amr G.E. Sabet

Helsinki Üniversitesi Siyaset Bilimi, Finlandiya

## Özet

Bu makale Avrupa merkezli değerlerle İslami düşünce arasındaki gergin ilişkiyi ve tehlikenin ne olduğu konusunda her iki tarafın da ortak bir başlangıç noktasında uzlaşmadığını incelemektedir. Makale, tarafların bazı ortak anlayış noktalarında uzlaşmasını *İnsan hak ve ödevleri* çerçevesinde tartışmaktadır. Bu yaklaşım yalın bir bireyselliğin ya da hedefini şaşırılmış bir kolektivizmin ötesinde insan haklarının içeriğini neyin oluşturup neyin oluşturmadığı konusunda daha derin ve tutarlı bir bakış sağlayacaktır. Aksi takdirde, her bir bağımsız tutum eksik, geneli ilgilendirmeyen ve birbiriyle uyuşmaz bir nitelikte olacaktır.

# HUMAN RIGHTS: A DOUBLE DISCOURSE OF POWER

\*\*\*

Assoc. Prof. Amr G.E. Sabet

Department of Political Science, Helsinki University, Helsinki, Finland

## Abstract

Human Rights have become a controversial issue both on the international/global scale as well as at the domestic level of nation states and societies. At the heart of the controversy are its meaning, objectives and agendas. On the one hand, there is one argument which supports a universal, largely Eurocentric view of the concept, as applicable to all humanity and individuals irrespective of their cultures or values. On the other hand, an opposed view perceives human rights as a product of European historical experience, representing their values which they seek to impose on others, particularly, though not exclusively, on Muslim societies. This view does not just uphold the significance of cultural relativity, but is also cynical about the perceived dominative implications of the former agenda.

Those two opposing viewpoints pose a dilemma. While there are universal elements intrinsic to human dignity and rights, in promoting this universalistic discourse hidden external agendas of domination tend to manifest themselves. By the same token, cultural differentials must be respected if homogeneity of human existence is to be avoided. However, in many cases refuge into the cultural relativity or even Islamic principles defense has been frequently a justification for a different set of not so hidden domestic agendas of tyranny, injustices and abuse. The former translated into an external power discourse applied to Muslim states/regimes and societies. The latter in turn, translated into a domestic power discourse applied by regimes on their own societies. This reflected a condition of 'double' power discourse applied to Muslim societies, ironically, both discourses of human rights and tyranny in fact, justifying each other.

Moreover, while the Eurocentric view emphasized individual rights, to a large extent at the expense of obligations to religious as well as communal values, the Islamic counterpart has done the opposite. It emphasized collective and individual obligations to Islam and to fellow mankind at the expense of rights, even those provided by the faith. A perpetual 'centrifugal' system of rights renders individuals increasingly autonomous, unconstrained except by the space occupied by another individual. An unending 'centripetal' order of obligations renders individuals fettered, lacking relative autonomy, incapable of demanding due rights sequestered or expropriated unjustly, and lacking in energy and creativity. Both conceive a pathological human condition, translating into one side being the subject of a 'Rights' power discourse, the other its object. No clear resolution of the above contradictions is yet to be seen on the horizon

This paper will attempt to look at the tense relations between Eurocentric values and Islamic thought, and at whether both could be reconciled to a joint conception of what is at stake. It argues that a framework of '*Human rights and obligations*' may help reconcile both opposing views in some form of common understanding. This would allow for a deeper, and perhaps less discursive look, at the content of what constitutes a human right and what does not, and at the corresponding *responsibility* to every *right*, beyond mere individualism or sheer collectivism. Otherwise, each independent stance will remain partial, wanting, and in conflict, essentially justifying accusations leveled against both.

## HUMAN RIGHTS: A DOUBLE DISCOURSE OF POWER

### Introduction

Like much of the paraphernalia of ideas and concepts emanating from social theory, 'human rights' remains a controversial and contentious term. Its content and use arouses both unmitigated support on the one hand, and suspicion and ambivalence on the other. Much has been said about human rights and its professed concern for human "freedom" and "well-being" (Gewirth 1989: 248). This view is corroborated by observation of the undeniably privileged condition of the individual agent in Europe and North America. Political, economic and social relations in society, but particularly with respect to the State, are guarded by an array of protective legal and institutional structures providing for a good measure of stability as well as for an adequate feeling of security and welfare. Human rights from this perspective are seen diversely as progenitors, reflections or guarantors of such achievements. On the other side of the fence however, particularly though not solely in the Islamic world, the image is much more complex and ambivalent. Inevitably there, is a sense of admiration and yearning among many Muslims, for enjoying the rewards linked, rightly or wrongly, with human rights principles. These feelings are exacerbated by the desolation of political life in much of the Muslim World and the prevailing tyranny undermining personal as well as collective sense of dignity, self-respect and self-esteem. Concomitantly however, there flows a streak of suspicion, some times articulated, otherwise bordering on an instinctive reflex, that a hidden agenda lurks in the sinews and contours of human rights. Colonial legacies and historical experiences continue to feed distrust in the motives and intentions of that which comes the 'Western' way, frequently leading to throwing the 'baby' out with the dirty water. Such emotions hinder constructive interaction of values and possibilities of mutual learning, and more significantly aggravate stable relationships.

The best of intentions nevertheless, fail to obscure problems and difficulties associated with 'abuse' of the term and leads to questions about the real meaning, objectives and agendas connected with and linked to 'human rights.' On the one hand, there is an argument which supports a universal, largely Eurocentric view of human rights, as applicable to all humanity and individuals irrespective of their cultures or values. On the other hand, an opposed view underscores it as a product of European historical experience, representing values which they seek to impose on others, particularly on Muslim societies. This latter view does not just uphold the significance of cultural relativity, but is also cynical about the perceived dominative implications of the human rights agenda (Calder 2002: 17). Moreover, while the Eurocentric view emphasized individual rights, to a large extent at the expense of obligations to religious as well as to communal values, the Islamic counterpart has done the opposite. It emphasized collective and individual obligations to Islam and to fellow mankind at the expense of rights, even those provided by the faith, and most significantly those rights due to the ruler and state. A perpetual 'centrifugal' or non-foundational system of rights defined individuals in increasingly autonomous and unconstrained capacity limited largely by the space occupied by other individuals. A cumulative 'centripetal' or foundational order of obligations rendered individuals, as well as society, fettered, lacking even in relative autonomy, incapable of demanding due rights sequestered or expropriated unjustly, and wanting in energy, initiative, and creativity. Both conceived a pathological human condition, sanctioning one side as the subject of a power discourse, divesting the other as its object.

Yet, each stance remains partial, wanting, and in conflict, essentially sustaining accusations leveled against both, with no clear resolution of their contradictions visible on the horizon. While there may be 'extra-contextual' elements intrinsic to human dignity and rights, promoting a universalistic discourse exposes covert and overt external projects of domination. By the same token, while cultural differentials ought to be respected if homogeneity of human existence is to be avoided, refuge into the cultural relativity or even Islamic values defense has been frequently a justification for a different set of domestic agendas of tyranny, injustices and corruption. Consequently, the universal translated into an external power discourse applied on Muslim states/regimes as well as their societies, and the relative, translated into a domestic power discourse applied by regimes on their own societies. Reflecting a condition of a 'double power

discourse' assaulting and violating Muslim societies, ironically, both discourses, of human rights and tyranny, of the universal and the relative, in fact, justified each other. In there lay the roots of tension between Eurocentric interests and Islamic values.

This paper will attempt to examine inconsistencies of the human rights discourse especially where contradictions between their content and use manifest themselves. It also attempts to underscore an Islamic foundation for 'Rights,' distinct from the ambiguities of the human rights discourse and its double exertions on Muslim societies. A framework of 'rights and duties' understood in terms of this broader system of 'Rights,' can help reconcile the discrepancies of both manifestations of content and use, into some form of a conception of what is at stake. These 'Rights' as Ghandi has once put it in a manner consistent with many religious traditions, "arose from duties well done" (Aziz 1999: 45).

### **Human Rights as a Discourse of Power**

Divergence between the content of human rights and their use reflects an ideology of sorts and a burgeoning discourse of power at the interface of which human rights tend to fall. This is the case because despite vehement denials and claims to universality, much of the talk about human rights does in fact and in practice "hinge on the conception of the human being which 'simply' has those rights" (Calder 2002: 19). This is further fortified by a claim to commensurate social and political institutions and structures which provide viability to the protection of those proclaimed rights (Smith 1989: 99). Liberalism, in its old and new variants, offered the principal ideological cover for those rights as well as for subsequent discursive justifications for repressing and blocking alternative narratives. This despite Liberal claims to knowledge being separate and distinct from notions of power. When the founding fathers of the United States inscribed in 1776, the "self-evident" truths that "all men are created equal, ... endowed by their Creator with certain unalienable Rights, ...among these are Life, Liberty and the pursuit of Happiness" (Hayden 2001: 343), they did not have in mind as human beings the black slaves whom they treated like chattel, nor the native Indians whom they systematically decimated in a mega-holocaust. Over two centuries later in 2000, Theodore M. Heburgh re-cited the US Declaration of Independence as the most eloquent manifestation of all the social and political principles that conform to the requirements of peace, justice, and the human right to "life, liberty, and the pursuit of happiness." Heburgh did not stop there but he further linked the Declaration to the *Pacem in Terris* document of Pope John XXIII, relating the Vatican's teachings to the Declaration of Independence as the new man-made secular religion of humanity (Appleby 2000: ix-x). If the history of the United States, while it currently upholds the banner of human rights, is an indication of what is yet to come when the content of such principles are translated into use, neither the present nor the future store bright prospects. This has been particularly visible in the case of the Palestinians whom, the US together with Zionist Jews, so eagerly participated in the destruction of their nation and society, as well as in the invasion of Iraq by the US in March 2003. The atrocious behavior of high ranking US officials and American forces in the notorious Abu Gharib and similar prisons in Iraq as well as in Afghanistan, and in the Guantanamo Bay prison on the Cuban Island, gives a clear indication of American conception of who constitutes a human being. Such attitude towards the collective 'other' as falling short of the standards entitling them to a consistent respect of content and use is not a recent exception but apparently, a well established Eurocentric historical pattern and a credible projection indicator. This was not simply a matter of elapsed coincidence, judging by the recurrence of such attitude, but an epistemology of domination incorporating both, the prejudice of ideology and the discipline of power, in the service of political preferences and strategic interests.

Political objectives and interests serve to prejudice the merits and significance of human rights in both political and moral discourse. Such prejudice is not simply "a matter of mistaken belief but of systematically distorted thought, a form of delusion or superstition, what today we might call an ideology" (Smith 1989: 58), or to use a Marxist term, a 'false consciousness.' Ideology incorporates a "clearly understood political bias" that helps economize on the costs of knowledge by providing sources of belief systems consistent with political preferences (Goodin & Klingemann 1998: 233-234). It is put in the service of a broader power relationship of

legitimization and/or de-legitimization, integrating the political and the conceptual. The political defines the moral de-contextualizing the latter in order to universalize what essentially is the scope of particular interests and privileges. Content and use diverge and conflict, as the particular justifies the universal. Both are adduced in support of schemes that, in their "motivations or effects, threaten the very aspects of human life which these rights were designed to protect or enhance" in the first place (Calder 2002: 15). This holds true not only for those who raise the banner of human rights, but also for those who censure the concept for their own purposes and calculations. As an ideology, human rights sets the ground for the distortions which allow for demonizing an adversary, say Islam and Muslims, in terms of a good/evil dichotomy, so that any aggression against them could be borne out in its terms. We are talking here about an ironic situation in which ideology determines the stance for or against human rights, and where 'human rights' becomes an ideology in its own capacity covering for 'humanitarian intervention.' Hence the destruction of Iraq for instance, becomes an act of humane liberation, since if one party stands for the rights of humans, the 'opposite' must therefore, stand for something sinister. Ideological distortions and dichotomies serve to set a conflict in a zero-sum game framework, immobilizing any structure of conversation, and reducing the conflict to an issue of power, based on prejudiced 'knowledge' of the opponent.

At this level and stage it becomes much easier to step into the sphere of discourses and discursive power formations and representations. This order of power depends less on the force of command and more on proliferating disciplinary norms empowering new ruling institutions, structures, and domains of knowledge associated with the rise of industrial capitalism and technological innovation. Particular domains of knowledge combine with commensurate domains of power in order to produce other specific domains of knowledge and of power (May 1993: 73) in a continuous dialectic. The truth of this knowledge is totally immaterial. What matters is that knowledge production and content are inseparably intertwined with the carrying out and use of this power. Both are linked in an elaborate web of mutual reinforcement, even when both are heterogeneous (May: 1993: 44 & 51) or conflicting in content and use. Take for instance American self-perception or knowledge/power expressed in a memorandum presented to US president George Bush Jr., from the Chairman of the Joint Chiefs of Staff, advising on humanitarian intervention policy. "American leadership, ...," it stated, "has established a new standard for the benevolent use of power. We are the nation to which other countries look first for assistance, for action, for support. To us often falls the task of mobilizing the power of other nations to leverage our own potential for good" (McChrystal 2000: 59). Compare this with Bush's rather surprised reaction after the September 11, 2001 events, wondering "why do they hate us so much?" and the United States' subsequent global rampaging. American shock and awe due to this attack perhaps had less to do with the extent of casualties, and more to do with the shattering of their own convictions of invulnerability, arising from the essential cracking of the knowledge/power structure which had sustained American feeling of self-content. In order to restore the state of balance, human rights as a mode of knowledge, representing the supposedly 'superior' way the US envisions and 'knows' the human, a knowledge presumably lacking in Islamic tradition, is intertwined with 'humanitarian intervention' as the corresponding domain of power. The main objective is to overcome the limitations imposed by the 'sovereign' state against outside intervention, the concept of the sovereign state itself being an historical outcome of an earlier sphere of knowledge and power. This is accompanied by parallel coercive pressure, violent and non-violent, aiming at changing Islamic educational curricula in order to refashion Muslims' identity in a way consistent with human rights discourse. This current repository of knowledge and power is no longer solely a conventional game of the "inside" against the "outside," but is combined with "a network of small interlocking practices that are diffused across the social space" (May 1993: 53).

The logic of human rights is simple and replicates that of the days of rising European fascism and the eruption of WW II (Sellars 2002: ix). Autocratic regimes at home have created conditions conducive to the external attacks perpetrated in 2001. By taking up the cause of human rights these destabilizing conditions could be altered in a fashion consistent with US interests. This could be done without necessarily having to change or subvert 'friendly' political systems, even if some figureheads at some point of time may be rendered dispensable. Pressure exerted on many regimes in the Arab World in the name of human rights therefore, does not necessarily seek to undermine clients but to prod them in this specific interpretive direction. As

those regimes bow to pressure in order to secure their existence, external knowledge and its corresponding domestic regime of power essentially become one, fortifying the dominative structure of the double discourse afflicting Muslim societies. "For if domination is no longer solely a matter of state totalitarianism or economic exploitation, if it is also a matter of how we know ourselves and the world we inhabit, then it is entirely possible to overturn state power or even economic relations without altering fundamentally the domination those institutions and practices were supposed to represent" (May 1993: 53). In other words, while human rights discourse may help create a safer environment for power, this does not entail in any way challenging power's essential character.

This serves to perpetuate the contradictions of the content and use of human rights and other similar discourses, and to give the impression of double standards. The problem however, may have less to do with duplicity, although this certainly always figures in the broader context, and more perhaps with epistemology and the distinct social and political space in which human rights are harnessed. In the domestic environment of power, human rights have been associated with Eurocentric moral and philosophical traditions, mainly liberalism, in more or less liberal societies, deduced from "a single overriding value or small clusters of [abstract] values" (Stone 2003: 2). To question that, as Tom Campbell does, may obscure this reality but not necessarily negate it. Whatever could be said about the indeterminacy of human rights (Campbell 2003: 18) as to what it means and whether it is universal or relative, there has in fact been an undeniable consistency between content and use, as well as the knowledge and the power that both mutually produced, and sustained. In this respect human rights are premises leading to their logical conclusions manifested in the significant measure of freedom and welfare enjoyed by society.

In the external space of power, or the domestic counterpart of Muslim societies, however, the epistemology of human rights is ordered differently, rather pragmatically and functionally. In this case, human rights are defined in terms of the use to which power wishes to put them, rather in accordance with their moral content (Stone 2003: 2; Campbell 2003: 19). This reverses the above order of human rights into being conclusions, rather than premises, with the same system of knowledge in one context being a source and product of power, in the other being the source and product of weakness. Muslim regimes, committing themselves to human rights, at least verbally and in accordance with the logic of power, not only submit to the command of a country like the US for instance, but also in so doing limit their future preferences as they face greater prospects of exacting compliance. Adding an item or clause against prejudice to Islamic Law or principles tends to be nothing more than window-dressing, since when contradictions do occur between human rights and Islam, the latter is in practice prejudiced. Lacking significant influence on the values of international pledges they put their names to, they become exposed to both outside impositions and inside structural fragility. In the process they further undermine their already lacking capacity to make forthcoming choices (Hurrell & Woods 1999: 456). It is these inherent and structural contradictions that render human rights decisively partial, rather than the largely futile theoretical debate about whether it is a 'Western' concept, a relative prerogative, or a universal endowment. 'Data' wherever its source, are there for all to use, abuse, adopt, adapt, include or exclude. Knowledge, produced by a specific power order is universal if conveyed and received by some corresponding, even if asymmetrical, power capable of setting the parameters of the give and take structure, and of guarding its own autonomy and will. China and Iran come to mind in this respect, while the decay and collapse of the Ottoman and Soviet empires come to mind as exemplary outcomes of the failure to do so. The dialogical problem therefore, is not the matter of 'principle, but of the how.

Put to use, the entire human rights conceptual structure is established as a dominative power discourse over the tyrannical yet pitiful Arab regimes, and the evidently anguished Muslim societies, creating a high level of stress, anxiety, and confusion among both. Stressed regimes, unable to fathom what is really expected of them, in light of this indeterminate discourse, react erratically. Domestically they present themselves as opposing foreign intervention and as protectors of 'authentic' values, employing largely incredulous nationalist and/or, sometimes, Islamic discourses. To power, they present themselves as the servers of stability, and the guarantors of power's interests. To substantiate their case they target their own societies against which they level accusations of being the unscrupulous and irrational bearers of anti-power

values. Human rights consequently would open the doors to chaotic, extremist, unpredictable, and undesirable alternatives, so their argument goes. This helps explain for instance, why the secular Egyptian State sought to weaken secular, so called parties, while allowing for a measured display of strength by the Muslim Brotherhood in political parliamentary showcases. Mystified societies in turn, desperately seeking salvation in the discourse of human rights from the spectacle of regimes ruling over them, fail to notice that they, as well as their governments, are merely the object of this discourse not its subject. The entire situation creates the illusion, at least to some, that an external humanitarian intervention may be the only chance if domestic change is to occur. Giving rise to internal dissenters sensitive to the idea of collaborating with external interventionist actors, dissension tears at the fabric of society, increasing its vulnerability to power discourses, without necessarily making things much better. 'Outside' power presents itself as a human rights savior, the 'inside' as the Islamic and/or national values protectors. Alternatives offered to society, in all appearances, are between human rights at the price of forsaking the 'nations' own values, or opting for the latter at the cost of having no human rights. This disciplinary choice structure has been propped up by the sacking and rape of Baghdad in the aftermath of the American invasion, in March 2003, conjuring up images of the Mongol invasion of 1258, and providing breathing space for many of those regimes. The latter need only cite the Iraqi experience to their people as the alternative to their oppression to prod them to choose between the better of two evils. A double power discourse is thus entrenched, ironically, around human rights, effectively consolidating domestic tyranny as well as external domination. Much of Arab and Muslim societies are thus, rendered in a state bordering on slavery. In this case it is not merely a matter of bondage, as historically had been the case, or solely being vanquished by a conqueror, although many would depict the submissive Arab condition as such. Slavery is also a state of being when entire societies, as a result of material and value needs, have no longer freedom of action or of thinking as their collective conduct is dominated by the desire to satisfy those needs (Mathieu 1986: 39). Wendy Brown put it eloquently when she stated: "If rights are what historically subjugated peoples most need, rights may also be one of the cruelest social objects of desire dangled above those who lack them" (Douzinas 2000: 371).

### **Political Illusions of Human Rights**

"Human rights," as C. R. Beitz, stated, "are meant for certain political purposes, and we cannot think intelligently about their content and reach without taking into account these purposes" (Campbell 2003: 19). Skepticism about human rights therefore, is not simply related to their value being "debased" as a result of their manipulation for narrow political purposes (Winston 1989: v), but more so due to human rights essentially being founded and embedded in politics. Doubts with which the concept is held reflects in reality the cynicism associated with the way many tend to feel and think about politics. As a political term couched in moral and legal language it is the means by which relative political principles are universalized ethically, and hegemonic ideological constructs and discursive formations are camouflaged. Human rights have become the foremost means, in much of political deliberations for "determining the moral legitimacy of law..." (Stone 2003: 1). In so doing they become useful as a polarizing instrument setting distinctions between the legitimate and the illegitimate, and in the most intense political sense determining the friend-enemy dichotomy. The full implications of such dichotomies and legitimizing tools tend to be blurred among Muslims. Demonized and denigrated, many in that part of the world, particularly in official circles, tend to believe that it is mainly a problem of communication and public relations. If Islam, or other Arab or Muslim causes are presented better or perhaps if an Arab lobby is built up in the corridors of US decision-making agencies, adept at competing with the Jewish lobby, a task that many self-deprecating Muslims tend to claim to have failed to do, much antagonism would dissipate. The entire complexities of the problem are reduced to a matter of failing to impart a positive image in the media that is capable of rectifying the damage done by hostile interests. Yet a friend-enemy dichotomy set by, say, the US, goes beyond such limitations. A 'political enemy,' notwithstanding religious overtones about Islam being the foe, need not be morally evil aesthetically revolting or, economically challenging. As a matter of fact it may even be advantageous to engage in commercial dealings with him (Schmitt: 1996: 26-27). It suffices however, that he be the 'other,' foreign, or an

outsider who does not ascribe to human rights values and morality, or is designated as such. The opposite also holds true. The friend, in the political sense, need not be of the finest moral caliber although it may suffice that he be 'one of ours.' The same religio-political currents that had been manipulated by the US, through Muslim clients, against the communist bloc and Arab nationalist regimes during the Cold War, and thus hailed, are more or less the same currents that are now being demonized for purposes of the same power. Human rights as a secular liberal legitimating principle de-legitimizes Islam for discursive purposes related to calculations of knowledge, power and politics. Accusations made by power about Muslims being evil, violent, disrespectful of human rights and dignity, controlling oil lifeline and thus a civilizational threat, are supporting emotional distinctions made in favor of political categorizations. Defining the 'political enemy' in other words, is autonomous of other economic, moral or aesthetic considerations, yet draws on distinctions they make mainly for support (Schmitt 1996: 27). What this means, is that the entire logic about portraying Islam in an appealing way will always founder on the rock of political dichotomies rather than resolve them. The subject matter concerned with the nature of the portrayal of Islam, therefore, does not really have much bearing and is unlikely to influence adversarial political attitudes.

The de-legitimizing instrumentalization of human rights serves to project the image of the 'barbarians' or the collective 'public enemy' –in this case on Muslim states and societies—which must be vanquished. The entire concept serves a double purpose in this case. The enemy defined as the hostile collectivity does not incorporate private hostility as well, but applies solely to confrontations among collectivities (Schmitt 1996: 28). Individually however, human rights adopt cooptation alternatives, separating private interests from that of their own collective environment, such separation itself being a hostile action to the extent that it fragments and undermines the targeted collectivity. At the private level, human rights discourse conveys the promise, at least initially, if not of actual then at least of potential liberation, freedom, empowerment and autonomy. When Islam is depicted as the enemy in the collective sense, the Muslim individual is approached differently as the object to be liberated, to become a full subject, that is, to be legitimized, by this very same discourse. Both individuals and the collectivity, become the target of strategic deception or, the “deliberate misrepresentation of reality constructed to gain competitive advantage” (Daniel & Herbig 1982: 3).

The purpose of strategic deception is to shift focus on and reduce ambiguity of a misleading sub-target "by building up the attractiveness of one wrong alternative." This causes the real target(s) "to concentrate his/[their] operational resources on a single contingency, thereby maximizing the deceiver's chances for prevailing in all others" (Daniel & Herbig 1982: 6). The main goals of such deception are threefold. The first and pressing objective is to condition a target's beliefs and structure his perceptions; or the "process of constructing reality rather than recording it." The second and intermediate purpose is to influence the target's actions in a particular way. The third and ultimate aim is to benefit from the target's actions. And while almost all deceptions sooner or later are exposed as events unfold, "the trick for the deceiver is to insure his lies are accepted long enough to benefit him" (Daniel & Herbig, 1982: 5 & 34). To intensify the impact of the human rights discourse, an uneasy yet virtual alliance between power, internal and external, is formed against Muslim society. It becomes in the very interest of external power to buttress the sway of domestic regimes in order to render individual yearning for breaking out of his shackles a prize to be attained at any cost, even that of giving up on collective identity and therefore autonomy. To choose one's own values in any way or mode by the Muslim individual agent therefore, is to invite a condition of illegitimacy and non-recognition, separating the interest of the latter from his values in favor of human rights interests alternatives. Only gradually and often too late, does it start to sink in, the collective price that has been paid in terms of the shared loss of what individually had been cherished at the outset. Feeling the pressure from strategic power and the prospects of domestic popular unrest, regimes choose to clamp down on the weaker party—society. This takes place at the expense of the professed principles of human rights, with power expressing its displeasure above the table, so to speak, yet simultaneously striking deals underneath. Muslim society becomes at the receiving end of the worst of all worlds, suffering both, collective and individual domination and tyranny, as human rights create a preferential gap between principles abstractly presented and concretely applied.

This reflects new power realities and the dynamics of micropolitics which unlike more conventional power manifestations "do not so much repress ... inherent desires as create them" (May 1989: 112; my emphasis). This is the major incongruity that Islam and Muslims have to wrestle with as they face a discourse which opens new horizons for individual desires opposed to a traditional authoritative system that frequently requires repressing or restraining them. What this means is that Muslims will have to recognize the transformations which have permeated the political landscape and develop the "epistemic" counter-tools that would allow them access to their micropolitical world (May 1989: 112). The required change in approach may be tactical rather than strategic, but failure at the level of tactics can very well lead to a commensurate strategic breakdown. This is what makes the challenge all the more formidable as long as Muslims continue to understand Islamic methodology in traditional terms, or even in the terms with which it had confronted modernity, in a postmodern world. Human rights discourse, described by Costas Douzinas, as the "fate of postmodernity" and "the realized myth of postmodern society" (Douzinas 2000: 1 & 8) imposes its moral, legal and micro-political claims in a disciplinary fashion through its institutional projections, be they publicity channels, education, psychological persuasion, or other forms of communication. Discursive knowledge, in other words, has changed the approach to politics from solely the macro-ideological plane to the level of micropolitics as well.

Knowledge creates awareness, perception, as well as self-understanding and self discernment. It develops and constitutes 'rituals' that establish a chain of "constraints as effective as they are 'natural'— flowing, seemingly from the exigencies of knowledge rather than the manipulations of power." The constraints of knowledge are more effective, if more dispersed and less controllable, than other constrictions imposed by power, because of a liberal ideology which proclaims the integrity of knowledge and its remoteness from affairs of power and hegemony (May 1989: 112). What essentially is taking place here is the micropolitical exercise of soft-power as opposed to hard power. Soft command and knowledge propelled from "small practices of power" create new spaces and new constraints for power's action in the very attempt to carry out its venture (May 1989: 112). Hence the discourse of human rights and its conceptual attachments of tolerance, freedom, liberalism, and their concomitant structures of NGOs, civil society, foreign aid, and other sources of soft as well as hard or coercive agencies. The claim that human rights are based on a liberal-individualist discourse which also ascribes to the notion that "true" knowledge is inherently "non-political" conceals "the highly if obscurely organized political circumstances obtaining when knowledge is produced" (Said 1979: 10). Human rights discourse in fact, is "as much a political weapon as the [disciplinary] walls of confinement or the guns of the police" (May 1989: 112). Only when Muslims are able to conceptualize what is happening to them, in terms of the means by which they are being reconstituted, that they may be able to ask the question of which among these variations they are willing to sanction and which they must discard (May 1989: 112). Otherwise, inability to foresee the implications would allow such changes to operate without Muslim internalized limitations, necessary to curb potential and inherent malevolent underpinnings.

Such changed nature of politics produces a culture of rights that does not recognize duties except to the very limited extent of responsibility toward other individual agent's autonomous space. Otherwise it would suffer the risk of being self-contradictory if it were to attempt to repress that which it has sought to create. Human rights that is, constitute the "legal recognition of individual will" claiming to grant him his humanity and subjectivity (Douzinas 2000: 11) in pursuit of self-chosen goals. By creating desires rather than repressing them, human rights conceals the contradiction that autonomy, or the "self-rule of the individual" (Lindley 1986: 6), is lost by institutionalized determining of desired choices as well as by repressing them, giving the illusion of agent's autonomy. Such illusion creates a feeling of freedom from external constraints of power soft or hard, and presumably from manipulation by others. Yet it is this claim to autonomy which reveals, if in a subtle fashion, the paradoxes of human rights, as only a well developed, rational and purposeful self is entitled to their privileges. If such characteristics are contended to be inapplicable to the worldwide Muslim community which, individually and collectively, may wish to live its own subjectivity, then this brings them under the rubric of 'barbarians.' Internal and/or external despotism, for barbarians, who by definition lack moral agency, "is a legitimate mode of government..." to put it in the words of John Stuart Mill's treatise 'On Liberty,' "provided the end be their improvement, and the means justified by

actually effecting that end" (Chadwick 1975: 28). Since pursuing that end may require anything from decimation in space, eternity in time, to the psychological alteration or subjugation of identity and subjectivity, human rights resolve their contradictions by destruction of the object, postponement into the future of promised salvation, or the dominative manipulation or engineering of the human state. This seeming self-negation is not necessarily just an outcome of sheer lies, inherent deviousness, double standards, or even cultural hegemony, but also has to do with the very structure of the concept beyond pointless contentions about human rights' universalism or relativism.

On one level, the sociological, "[m]en's most opportune claims to humanity" as Clifford Geertz has stated "are cast in the accents of group pride" (Rorty 1993: 242). If this is true, then one implication is that universal human rights as the representative structure of one humanity is inconsistent with human nature, unless of course one can claim to be able to eliminate group solidarity and cohesiveness.<sup>1</sup> This of course can happen, but with very destructive consequences. For in the age of human rights, "never before, in absolute figures, ...have so many men, women, and children been subjugated, starved, or exterminated on earth" (Derrida 2001: 266). Former US ambassador to the UN and Secretary of State Madeleine Albright's retort in 1996, when it was brought to her attention that more than half a million Iraqi children had died because of American led sanctions, that "it is worth it," fits this same 'human rights' track record. By the same token, when Americans exercised sexual sadism against Iraqis in Abu Gharib prison, they did not necessarily see themselves as violating human rights or the autonomy of fellow human beings, but Iraqis and Muslims. They saw no contradiction between raising the banner of rights and committing such crimes. This by no stretch implies that those who perpetrated those acts, whether by ordering or executing them, were "morally ignorant," or exonerates them from guilt or justifies what they have done. Rather, they were "preferentially wicked," guided by their sense of and prejudice grounded in "moral perspectivism." Such perspectivism asserts "there can in principle be no common measure between radically different 'takes' on the moral significance of a given set of actions," meaning the absence of mutually recognizable moral frames of reference (Calder 2002: 24 & 25). To the barbarians that is, moral precepts do not apply. Demonization provides the ripe grounds for applying the full brunt of racism.

From this follows that by denying moral agency to an opponent is to state that even in case his humanity is recognized, it does not entitle him to possess inalienable rights, and therefore, human rights. Jews may usurp Arab-Palestinian lands but if the latter choose to resist they are to be condemned, or even if shown condescending sympathy, are to be told how to resist, for they can not represent themselves but must be represented. According to this logic, Palestinians, Arabs, Muslims and possibly others, cannot be violated unless those within the strictures of the human rights 'culture' determine that they have been (Calder 2002: 27). Promises could be made to the 'other' and broken without posing a challenge to the 'cultured' ethical self-image. The presumably 'civilized' culture stands as foe, judge, jury and executioner. A state of unrivaled power discourse based on the disciplinary modes of morality, legality, media, and coercion, ensues.

Once power is engaged in manipulative relations with Muslims, the embodiment of an alternative and potentially threatening value system competing for the same universe, power exhibits a strong inclination to aggressively assert its values and, defensively, to protect its own autonomy. Seeking to uphold its cherished values, interests and autonomy, power targets Muslims with the same scheming methods that undermine their autonomy, yet which it abhors for itself. A situation that is, of doing unto others what one does not want done to oneself, with the added caveat that all is done altruistically. If power's domestic population is also suffering from different yet parallel aesthetic or bureaucratic modes of manipulative relationships, so as to believe in such misguided altruism, then it becomes possible for a president Bush Jr. to

---

<sup>1</sup> The Quran makes it clear that a universal humanity is practically impossible, given the different levels of consciousness and beliefs: "Mankind was one single nation, and Allah sent Messengers with glad tidings and warnings; and with them He sent the Book in truth, to judge between people in matters wherein they differed" (2:213). See also The Quran 5:48; 10:19; 11:118; 16:93; 42:8; 43:33. The Muslim umma is defined as one, unique, and separate from all others 21:92; 23:52.

wonder to his 'constituency' with credulity why Muslims 'hate us so much?' It becomes also possible to manipulate sentiments of his own people to convince them that all counter lines of reasoning presented by Muslims are "morally irrelevant" (Rorty 1993: 252). The difference in the exercise of power in either case is that while in the Muslim situation it seeks to produce both, objects who are subjected to power, rendering them the focus of a double layered power discourse, in the domestic case it seeks to produce subjects subjected to power. On both levels consistency between content and use, as well as self-image, is restored and preserved at the very moment when human rights are rendered a meaningless universal fiction. Illusion and reality thus, coincide.

Another fallacy which carries the structural problems of human rights further, concerns the concept's grounding. In the secular Eurocentric domain the human rights foundation—non-foundational debate bears its own complexities. There does not seem to be much contention about their morality, necessity, legitimating purposes, and basically inherent good. It is a 'given' which more or less grounds it into 'something,' even when inquiries are raised as to whether it justifies itself, or needs to be justified from further premises. Even when losing its full force in its liberal-individualist form of legitimizing ideology, the concept of human rights tended to reinvent itself by appealing to social and economic needs of poorer societies. The mere capacity of an ideology to incorporate new meanings actually prolongs its legitimacy, although by profusely multiplying meanings this could also lead to undermining mobilizing potential and to a "semantic terminus" (Petrova 2004: 203). At one stage human rights served the purposes of rebellion against the state, only to end up in a different phase becoming an instrument of the state.

While the social and economic rights approach is frequently critical of the liberal variant, the fact that much of the basic needs of Muslim and other societies are couched in the language of human rights actually consolidates and re-enforces the entire edifice including its ethnocentric individualistic components. Bringing the material needs into the picture becomes a means to maintain human rights claims to universality as this becomes a tactic that weakens counter arguments. It is not that those who uphold concerns of equality are necessarily insincere, but that they could be easily manipulated as pawns in a larger chess game. Social and economic rights in fact add power and legitimacy to the beleaguered and increasingly doubted human rights discourse in much the same fashion that communism unwittingly justified liberal-democracy and capitalism. With the passing away of communism, the latter rival ideological construct ran out of control showing its true colors in the form of unreserved neo-liberalism, neo-conservatism and globalism. The concern is that social and economic rights would serve the same justifying purposes until such time when human rights discourse could totally self-justify, non-foundationally and without disguise, in the form of brute force and unrestrained power. This is where discourse takes over from ideology at the level of micropolitics.

A glimpse of this was hinted at in Richard Rorty's pragmatic 'anti-foundationalist' project. "We see our task" he stated, "as a matter of making our own culture—the human rights culture—more self-conscious and more powerful, rather than of demonstrating its superiority to other cultures by an appeal to something transcultural" (Rorty 1993: 246). In case anyone had any doubts where Rorty stands, he makes it quite clear that he does believe that "our" human rights culture is morally superior to those of others. Such superiority he argues does not necessarily count in favor of a "universal human nature" (Rorty 1993: 245). Nothing is particularly problematic in one believing his own culture to be superior, and in many ways it is commendable. What matters however, are the practical implications of whatever Rorty may mean here. Repercussions could very well translate into pragmatic exploitative interest driven political dynamics of inclusion, and exclusion of others, whenever and wherever it fits the purposes of power, based on pure self-justifications bearing moral claims.

An opposite view in other words may unintentionally exacerbate problems it was initially articulated to resolve or address. Contrary foundational claims are thus made to guard against human rights being construed pragmatically as mere contingency or unquestionable inevitability. According to this approach, if the very principle of human rights does indeed matter, as Gideon Calder has put it, then "the possibility of them being grounded" does make a difference, "both theoretically and practically...." (Calder 2002: 30). Yet, foundationalism is unlikely to ground human rights in other than conventional liberal ideology, or some form of

social and economic considerations. The latter continue to face the dilemma of how to be embedded in some form of reinvented social discourse or so far, incoherent anti-global social movements. In either case, human rights seek a competing ideological base, a 'persuading' discourse or controversial moral criteria. Take for instance the point made by Alan Gewirth regarding morality. First-order moral differentials manifest themselves in the works of philosophers such as "Kant, Kierkegaard, Nietzsche, Mill, and Marx, who hold respectively, that the criteria for having rights consist in or are determined by reason, religion, power, utility, and economic class or history" (Gewirth 1989: 182). For Muslims, at least at the primordial level, the attitude to the entire debate is much more straightforward. Rights, duties and obligations, moral or otherwise, are grounded in Islamic revelation and the system of science and knowledge emanating from it represented by the Quran, Prophetic traditions (Sunna), and jurisprudence (fiqh/ijtihad). To Islam and Muslims this debate between foundationalism and its opposite makes little practical difference, beyond tactical maneuverings. If grounded, Muslims face an ideology, if non-foundational they face a discourse, in both cases politics and power are unlikely to be far behind, both being the real grounds of the entire project. Muslims who for one reason or the other get embroiled in this controversial debate of human rights, simply engage in it as its objects, subject to knowledge and power parameters for which they are simply its variables. Even when they call for respect of their own specificities, Muslims in fact have already accepted the governing limitations of the human rights command structure as a given, committing the fallacy of "misplaced absoluteness" (Aziz 1999: 44). For even in cases where religion is presented as the moral criterion, it is Christianity, not Islam that is meant. In all other philosophical cases the criteria is related to knowledge-power of which Muslims are not a part, nor are they perceived as potentially such. It is not only Christianity that does not recognize Islam but also 'reason, power, utility, economy, and history' do not recognize Muslims. The "mock rationality of the [foundational or non-foundational] debate conceals the arbitrariness of the will and power at work in its resolution" (MacIntyre 1989: 179).

### **Human Rights: Nesting Mechanisms of Durable Inequality**

Muslim community or the umma has fallen victim to this illusion and mock outcome. Many so called intellectuals among its members, as well as ruling figures, who constitute domestic variables with respect to power and domestic parameters with respect to their own, aid and abet in the diffusion of this double layered power in both state and society. They become the constituting elements of a "nested paradigm of ... transformation," according to which local actors already rooted or "nested" in a society or situation, team up in a broad array of activities and tasks in the service of such diffusion. Those actors would include 'respected' midlevel educational, business, health, and religious leaders who control primary networks of groups and institutions—i.e. supposedly leaders and representatives of a 'civil society' subsumed in the human rights regime. (Appleby 2000: 18). Through the disciplinary institutions of education, law, politics, economics and culture as well as an external and internal coercive security apparatus, the entire social space is invaded. Nesting ensures cooperation and compliance consistent with shifts in the 'balance of forces,' imposing a new assortment of interpretations which are designated to be the 'truth' (May 1993: 76), claiming that which is new as having always been. Attempts for instance to universalize and legitimize the idea of natural rights as timeless, as Marx has indicated, were nothing more than the expressions of a specific socio-historical context, itself the product of an earlier historical development and therefore far from being an 'eternal truth' (Smith 1989: 100; Douzinas 2001: 9-10). To observe liberalism or human rights in historicist terms is to suggest that one 'knows' them not only as heirs to and possessors of rights and freedoms, but also of structures of power, domination, exploitations, and contempt of 'others' (Strong 1996: xix). Insights of the kind are the focus of blockage in the form of strategic deception grounded in the politics of knowledge and power superimposed on Muslim society and in the fabric of that society's intelligence structures. Short of spirited and constraining resistance, or unqualified submission projecting pliancy molded in power's own image rendering exertion of power redundant, Muslim regimes and societies will continue to endure extremely foreboding and stressful state of affairs.

Deception is practiced in concealing differences between the concept of human rights and that of 'rights'. The distinction is both ontological and epistemological. On the one hand, human

rights are a legal epistemology in which humans have rights. This signifies a state in which a general desire or interest constitutive of 'humanity' serves the creation of a new right. Rights, that is, become reduced to "the disciplinary priorities of power and domination" expressed as "facts and agreements" in legislation, leading to the collapse of the 'is' and the 'ought' (Douzinas 2001: 11). The right that is, becomes the moral demand of what ought to be. Rights and human rights, ontology and epistemology, collapse into being more or less one and the same—human rights and an epistemology. The latter knowledge produced by power becomes ontology and 'rights' that make, produce, as well as repress the 'human' in the Muslim domains. A legal epistemology based on human interest, transforms into a determining ontology diffused and constitutive, of Muslim identity, social and individual. In other words, an ontological right which constructs the 'human' in Muslim societies is essentially grounded in the epistemological desire of power. The implication is that if Muslims wish to be considered as 'human' or complete moral agents they have to adopt values of power as givens. What we get is a subject/object, producer/consumer power hierarchy, set in a monopolistic discursive market where Muslims are nested in a value taking paradigm. Anything they may competitively produce is blocked as a matter of interest and desire. Nesting promotes compliance among both intellectual and the domestic ruling 'variables' who take comfort in their inferior hierarchical status as native informants, to use Edward Said's designation, and as local clients. Conditions on the Muslim side reflect this paradigm on the level of ruling structures as well as on that of influential mirror-image domestic actors. Sensing the potential destabilizing impact of human rights, largely illegitimate regimes in the Arab and much of the Muslim world, malign the principle. Since human rights are not distinguished from 'rights', intentionally or otherwise, rejecting one essentially constitutes denunciation of the other. There are thus neither 'rights' as such, nor a 'human' subject or moral agent, and consequently tyranny and corruption.

The epistemological difference between the Eurocentric and the Muslim understanding of rights and of the 'human' person while evolving first from grounding values is also based secondly, on the different conceptions of human autonomy. In the Eurocentric view the human is autonomous, or in the Kantian formulation an 'end'. What follows from this reflects the continuous epistemological expansion of such autonomy. In the Islamic counterpart 'Man' is relatively autonomous, for only in this case can there be a belief in afterlife reward and punishment based on freedom of choice, on the one hand, and predestination or belief in Divine will and command, on the other.<sup>2</sup> While man is honored and dignified, being created in the image of God and the receiver of His divine revelation, he is by no means an 'end'. For to be an end, is to conceive God in man's own image—man becomes the creator not the created, a proximity to pseudo-idolatry from the Islamic perspective. The emerging edifice of law, rights and humanity of either conception must therefore be fundamentally different reflecting two worldviews, Islamic or secular.

It is not relative autonomy which leads to tyranny and corruption in Muslim societies, or undermines the value of humanity. Rather it is the fact that 'rights' prescribed by Islam are simply not enforced, autocratic rulers opting to rule arbitrarily and capriciously. In other words, it is not a 'culture of human rights' that may be needed, as much as a culture of enforcement<sup>3</sup> and its concomitant mores of institution building. For even when imported secular laws or institutions are adopted by many Muslim states, they frequently fail to produce purported outcomes. This is what may be expected with the absence of functional enforcing institutions, and where the real culture is one of laws, any laws, positive or divine, being stipulated to be broken. Islamic thought after all, does incorporate a broad and well developed system of rights which include preservation of religion, life, reason, progeny, property and honor (Al-Raisouny

---

<sup>2</sup> "I have only created jinns and men that they may [follow my ways]" (Quran, 56:51). Only God is the 'End.'

<sup>3</sup> Prophet Muhammad is reported to have said: "Those (i.e. nations, communities) before you perished because, when their honorable (read the rich and powerful) stole they were let go, and when their poor stole they were punished. By Him in whose hands my soul lies, if Fatima the daughter of Muhammad were to steal, Muhammad would have cut off her hand" (author's translation). The problem with 'law' as the prophetic hadith (tradition) indicates is not in its harshness but in its arbitrary and unjust implementation.

1992: 41 & 44).<sup>4</sup> These prerogatives underscore an entire domain of grounded rights capable of promoting human material and spiritual welfare if taken seriously, and justly and fairly implemented in letter as well as in spirit. This requires not only bona fide belief in these values, but also the twin elements of 'enforcement' and 'institutions' which together, bring about a 'system.' No Islamic order of any sort could be established and is capable of upholding the above six entitlements in the absence of one or both of those elements or structures.

Another source of tension between the Islamic and Eurocentric views of rights of humans at the most basic level, is the transcendental grounding of the former, and the need for epistemic justification by the latter, not always forthcoming at least as far as Muslims are concerned. Put differently, breaking out of the limitations of the "external authority" of traditional morality, has culminated in the "loss of any authoritative content from the would-be-moral utterances of the newly autonomous agent." For "why" as Alasdair MacIntyre has put, "should anyone else now listen to him?" (MacIntyre 1989: 177). The fact that there is no decisively convincing rationale has transposed the problem into the realm of constitutive power and discourse, for only in their context, at least some would deem, could such a fundamental conflict be settled or resolved. Establishing Eurocentric 'authority' as well as a nested paradigm is the first step toward justifying the hierarchy of binary opposites according to which structures of durable inequality are made to ferment and disseminate.

Binary opposition corresponds to "invisible" discursive categorical differences locking groups in permanent structural relationships of contrasts. The most effective form of power and domination after all is in its unseen form. In the Eurocentric liberal view rights exist only if they are human rights. Accepting the Eurocentric premise, although in a perverse sense, Arab regimes adopt the view and practice that, if there are no human rights then there are no rights. Thus, instead of recognizing that in instances where there need not be human rights there may still be a separate ethical or moral system of rights, binary categorizations designate that as a situation of opposites rather than of differences. This "imperialism of categories" (Aziz 1999: 41) tends to totally obscure the 'rights' theoretical sphere permitting a hierarchy of power categorized in terms of a superior/inferior and corresponding human rights/human abuse dichotomy. Rules of some sort of a zero-sum game are set instead of, say, a positive-sum game. This is the order of things if authority, knowledge and power are to be monopolized. Any diversity accepted or consensus attained takes place only within the 'nesting' parameters of the human rights discourse. These categories of inequality even when evidently employing cultural labels, justifying for a particular group its own inferior position, relative or absolute, thus rendering it natural, always depend on far-reaching, socio-political organization, belief and enforcement. In other words, to draw on human rights categorization is to draw on social and political institutions and practices that make the protection of such classifications possible. This develops a situation of dual peril, manifesting itself in a siege mentality in Muslim society with respect to external power and, domestically in a people-regime relationship of mutual contempt. Both conditions create a powder keg of a violence-prone psychological state, as insult is added to injury. This state of mind tends to be less than responsive to issues of rights or human rights. For everybody is guilty.

Durable inequality among categories, in turn develop because power, which regulates access to "value-producing resources," solve defined systemic problems by means of categorical distinctions based on micro-political constructed systems of closure, exclusion and control (Tilly 1999: 7-8). As a micro-political principle in the service of a macro-political regime of power, global and local, human rights establishes mechanisms of constitution and control, which function as sources of a durable hierarchy of inequality. These mechanisms include exploitation, opportunity hoarding, emulation and adaptation. The first two constitute part of the external systemic level of analysis, and are largely responsible for the installation of the categorical boundaries of inequality. The latter two, at the domestic societal and state as well as individual-leadership levels, reinforce, consolidate and generalize the former arrangements (Tilly 1999: 10). Exploitation occurs when knowledge and power, the 'insiders' so to speak,

---

<sup>4</sup> Those rights were classified by Al-Juwaini (d. 478 AH /1085 AD; the Imam of the Two Sanctuaries), and later by his student Al-Ghazali (d.505 AH/1111 AD), and adopted with minor variations by Fakhruddin Al-Razi (d. 606 AH/1209 AD) (Al-Raisouny 1992: 38-46).

command the resources and values from which they draw increased returns. This takes place by coordinating the efforts of nested actors, the 'outsiders,' who are excluded from the full value added by that effort. Opportunity hoarding in turn, provides stakes to the nested category of outsiders. It selectively offers rewards or values of monopolized resources to the segregated domestic structures of Muslim societies in order to undermine internal revisionist or oppositional tendencies, while keeping the "unequal", in both state and society, divided. Emulation generalizes the human rights culture by attempting to transplant its concomitant yet alien social and political relations from one cultural and historical milieu to another, and by copying or imposing it as an established organizational model. It further serves to lower the costs of maintaining the status quo below any of the 'rights' potential or theoretical alternatives. Adaptation articulates and elaborates the human culture regime on the basis of presumably recognized, categorical inequality. The purpose is to render the costs of moving to theoretically available alternatives prohibitively high. Adaptation thus, locks categorical inequality by taking it for granted and as given. Emulation multiplies categorical inequality by producing 'homologies' of form and function. Together, they create the illusion of "ubiquity" and therefore "inevitability" of the human rights culture, rather than its variability (Tilly 1999: 10 & 190-191). Each of the above four mechanisms constitute "a self-reproducing element" and together all lock neatly into "a self-reproducing complex" (Tilly 1999: 191).

Thus whereas micropolitics serve to manifest presumably positive aspects of human rights culture, it hides the real and bigger agenda based on macropolitics—the prize value bigger than the sum of all its aspects. US global campaign, against so called 'terrorism' at the level of micropolitics, and its reducing of complexities to a matter of either you are with "us" or "with the terrorists" mantra, is essentially a discursive "shock and awe" effort to block alternative discourses or narratives. Conversely, domestic regimes resort to exhibit the negative aspects of human rights, concealing the larger agenda of tyrannical rule. In both cases subsequent actions are thus justified. In reality this translates into a worldwide macro-political "crusade" against Islam and its conceptions of the human and of rights. This further reflects the power of the supporting hegemonic institutions of control, both internal and external—law and military force. Both seek to establish a new colonial or imperial order, domestic and global, based on legal institutions with an organization such as the United Nations bestowing a façade of 'legitimacy',<sup>5</sup> the unrestrained use of local security and/or external military power providing for coercion, and human rights cultural discourse or the absence of it, imparting justifications. If human rights are designated to be the norm, then terrorists or 'abusers', to varying degrees, are labels used to identify all those who challenge them. If characterized 'abnormal,' then those demanding their rights are branded as rebels or instruments of external agency. Together they construct a global disciplinary complex foisted to punish those who choose to question the 'norm.' For the very production of "a normalized subject requires the production of its other, the 'abnormal,' whose abnormality has to be repressed and buried to reveal the normal as essence"(Massad 2001: 3-4). All four mechanisms of durable inequality and the two hegemonic institutions of repression and production add up to being a most formidable means of such normalization. In the shadows of the murky boundaries between the internal and the external, the inside and the outside, humanity let alone rights, are lost.

## **Human Rights and Islam: Theory and Praxis of a Discursive Formation**

### ***The Opportunity Hoarders***

Like old wine in a new bottle, human rights represent a consistent pattern of hegemonic and imperial discursive formation. The conceptual edifice constituted a cross-referential unity with previous 'texts' that had served the purposes of historical colonialism. It did not reflect a "sudden access to objective knowledge" about the legitimate rights that humans ought to enjoy. Rather, it

---

<sup>5</sup> In 1995 US Ambassador to the UN Madeleine Albright described the organization as a "tool of American foreign policy" (Bennis 2006: 24).

perpetuated " a set of structures inherited from the past, secularized, redisposed, and re-formed by such disciplines as philology" as well as positive legal techniques, "which in turn were naturalized, modernized, and laicized" as new forms and ideas to be superimposed on the Muslim world (Said 1979: 122). Human rights intellectual advocates who pursue, reflect or come under the rubric of this trend actually project a sense of déjà vu. Most of their works gain significance less because of any profundity associated with what they say, and more with the power structures which support them or within the sphere of which they perform. Power, as the cliché goes, carries its own convictions.

This is by no means an attempt to deny the sincerity with which many scholars and intellectuals deal with the matter, in many cases out of genuine belief and concern. It is about those who tend to manipulate human rights discourse into a power posture with respect to Islam and Muslims. One class tends to fall within the category of native informants or opportunity hoarders, another within that of the exploiters. Both seek to underscore an Islamic adaptive and emulative attitude that would guarantee its location in an unprivileged power hierarchy. The structure of their arguments is such as to set agendas delineating constructed yet unrepresentative parameters and frameworks, advocating selective causes at the expense of the Islamic counterpart, confusing the contingent and the necessary, the procedural and the substantive, while ignoring issues of moral incommensurability. Agenda setting essentially controls the priority of which issues are to be raised or debased, how they are to be addressed, and what outcomes are to be desired, influenced and if possible determined. This power artifact ascertains preconceived inexorable premises, as well as their foregone conclusions. In between arguments tend to be nothing more than steam-letting procedural exercises as far as the exploiters are concerned, and for opportunity hoarders a chance to manifest nested fidelity to knowledge and power. Instead of emphasizing Islam's vocation in search for the godly society and focusing on how to bring it about, social theory dismissed the entire domain as irrelevant or unfeasible, confining itself to "behavioral political science and the doctrinaire jurisprudence of rights." The latter were simply expressions of a moral poverty that perceived transcendence on the grounds of banal perceptions of the extant (Douzinas 2000: 6-7).

Abdullahi Ahmed An-Na'im's approach to Islam and the issue of human rights is a relevant sample of scholarly work that inspires controversy along the above constraints and limitations. Essentially he is concerned with exploring cross-cultural techniques through which it may be possible to universalize the legitimacy of human rights particularly in Muslim societies. He advocates a course of "social engineering" through the manipulation of the processes of cultural dynamics and change from within Muslim culture itself (An-Na'im 1990: 363 & 364). This way cultural relativism could be accommodated in the broader and universal context of human rights. He proceeds on doing so by suggesting reciprocity as the fundamental principle informing the principle. Human rights become "those that a person would claim for herself or himself and must therefore be conceded to all other human beings" (An-Na'im 1990: 345 & 366). Such a formula tends to simplify what is perhaps a much more complex matter. It is not uncommon that many who believe in this normative injunction would happen also to believe at the same time that it does not apply to those 'outside the pale,' so to speak. They may be able to understand why outsiders might wish very much to enjoy the same, but reject the notion that they are entitled to it as a matter of right, unless certain substantive and procedural alterations are undergone. In this case they may be able to empathize even when unable or unwilling to reciprocate. Religious conversion or citizenship acquisition depending on the primary locus of identification, are examples of necessary transformations needed before a human being is entitled to full legal personhood. Yet if human rights are those claims due to all humans without discrimination based on "race, sex (gender), or religion," why does An-Na'im not include citizenship as well (An-Na'im 2003: 3). A non-citizen in a foreign country is treated as a human though not necessarily as a full fledged legal person. Why should citizenship be accepted as a criterion of discrimination, and not religion or gender for instance? Or is this simply a case of one power discourse blocking another? Perhaps in the future if the focus of identity and loyalty were to change away, say, from the nation-state, the concept of the citizen will be looked upon adversely as a feature of an 'unpleasant' bygone era in favor of new discursive structures. But, can religion be treated in the same fashion?

Endowing human rights with a moral claim to "inalienable" rights due to persons by virtue of them being 'human,' does not veil therefore the self-contradictory ways in which they are frequently (ab)used. This begs distinctions which need to be made between a 'human being' and a 'person.' Distinctions, which human rights discourse's claim to universality attempts to blur and to conceal, at least in appearance if not in reality. Human beings on the one hand, designate a biological classification whose membership is based on medical and scientific criteria. Designations of who constitutes a person, on the other hand, are founded on moral criteria, with the consequence that not every human being is by the same token, a person (Husak 1989: 236). One may credibly conceive of a common humanity in the biological sense, entitling all its members, in principle, to same and equal rights. In this case, An-Na'im's argument for reciprocity stands. Personhood however, being a moral principle with legal implications could very well challenge his claim. An-Na'im does not seem to make the analytical distinction between the two genres of humanity and personhood, and as a matter of fact tends to fuse both into one category. Children or the mentally incapacitated tend to be the most striking examples of distinctions made between humans and persons. Other cases however, are much more delicate, and may not be possible to determine by mere rational or procedural criteria due to complex substantive differentiations. One cardinal standard formative of such distinctions is revelation which imparts levels of moral agency, and thus full or partial personhood, or withholds them, along Islamic designated principles. Islam does recognize the oneness of humanity incorporating believers and unbelievers alike however substantive differentiations of faith render it and personhood mutually exclusive

It may be asserted with a good measure of confidence that human nature and its constitution are universal—man being created in the image of God—with all humans enjoying more or less the same attributes of instinct, rationality and spirituality.<sup>6</sup> However, it is how these attributes are configured, be it the outcome of conscious choice or of existential circumstances that make for differentials. Simply put, someone of sound mind and judgment is unlike someone who acts on impulse informed by instinct. Yet again at a higher level, a 'believer' is on a different plane than someone who does not believe. Such abstract and substantive moral criteria bear concrete legal implications related to personhood as a matter of religious injunctions not of cultural preferences, distinctions which An-Na'im tends to override and ignore. In all cases it does not suffice to concede to others what one wants for oneself, as he would argue. Jacob Neusner made a noteworthy point, that An-Na'im might as well have heeded, when he observed that it is not the purpose of religious texts to merely serve the rationales of philology, history, culture or even political contingencies or exigencies. A religious text is a "statement of religion" which if read otherwise can only be misunderstood (Martin 2001: 17). One must thus, learn to appreciate the vital procedural and substantive differences between the two systems of Islamic and human rights. Dealing with the spiritual aspects of human constitution, on the one hand, is to be informed by religious ontology. Organizational, rational attributes, on the other hand, tend to emphasize procedural epistemology. It should come as no surprise therefore that respective 'rights' approaches, frequently do not match or harmonize. Take for instance a case dear to Eurocentric hearts and associated with inheritance in Islamic Law; the fact that a female's

---

<sup>6</sup> In the Quran, it is common to equate those who give up on belief with debasement (Seest thou such a one as tketh his God his own passion (or impulse)?... Thinkst thou that most of them listen or understand? They are only like cattle; — Nay, they are worse astray in path (Quran 25:44); see also Quran 7:179. Rationality is the mid-level attribute qualified to lead an individual to the highest level, that of spirituality, to arrogance and hubris confining him to where he stands. See: By the soul and the proportion and order given to it... Truly he succeeds that purifies it and he fails that corrupts it (Quran 91:9), or to utter and instinctive debasement, that is regression and fall (For the worst of beasts in the sight of God are the deaf and dumb, — those who understand not (Quran 8:22); see also: For the worst of beasts in the sight of God are those who reject Him: They will not believe (Quran 8:55). Islam constitutes the minimum level of moral configuration accepted in the sight of God; minimal because an individual may be a Muslim, thus within the 'pale', yet still in need of much to improve his ethical standing, this as opposed to an ethical person whose work may be in vain (Hast thou not turned thy vision to those who claim sanctity for themselves? Nay— but God doth sanctify whom He pleaseth... Quran 4:49; see also 24:21; See: The Religion before God is Islam (submission to His Will). Nor did the People of the Book dissent therefrom except through envy... (Quran 3/19); If anyone desires a religion other than Islam (submission to God) Never will it be accepted of him (Quran 3/85).

inheritance is half that of a male member of the family.<sup>7</sup> When the Quranic revelation stipulates that this be the order of things, this by definition is equitable and just, reflecting how things ought to be and therefore are to be. It means that a woman's right to a share of the inheritance does not go beyond that. If she receives more, then a just order has been transgressed. This constitutes a statement of religious injunction not a matter of gender parity, for to each is his or her due. To rational or procedural conceptions, this substantive arrangement which impacts on an entire chain reaction of social and political structures, both tangible and intangible, makes little sense. Only an on a par share inheritance can be designated equal and just, with gender equality opening the door for a whole array of social synthetic engineering procedures in order to render the different alike. Take also the example of dietary prohibitions in Islam. Muslims are strictly prohibited from eating pork meat.<sup>8</sup> A procedural set of mind may perceive the cause to be related to the uncleanness of the animal, so that if conditions of raising pigs are such that the element of pollution is neutralized, the reason for prohibition is no more. Yet, even under purely hygienic conditions the prohibition stands as a substantive statement of religion not of hygiene. The very concept of dirt here becomes fundamentally different, even if both at one level are reconciled. On the religious level it is related to the totality of human constitution, the instinctive, the rational and the spiritual, on the procedural level to actual physical dirt.

Islam, as An-Na'im perhaps should well know, must be read and understood as a religious text not, like he strongly insinuates, as a relative appendage to a universal human rights discourse (An-Na'im 2003: 1-2). In fact, the real nature of incompatibility is not one between the relative and the universal but between a false claim to universality and a universal Islam. Human constructs or artifacts are time-bound, historical, and socially influenced. By their very nature they cannot be universal constrained as they are by human finitude. Universality is the sole prerogative of the Divine, and only a divine revelation can make a true and 'knowledgeable' claim to it. Arguments about human time-bound or historical interpretations do not disavow the reality of the ontological truth and universality of Islam. This means that any relative human artifacts, old or new, can only be made with reference to universal revelatory knowledge. This transforms the entire debate about the relative versus the universal from an either or matter, to one about the symbiotic relationship between the two. Seeking universality in human constructs is an illusionary horizon and an exercise in futility even when endowed with pseudo-scientific respectability. Attempts at adapting Islamic universal referentiality to a relative human rights discourse therefore, is an epistemological error, and is as illogical as it is flawed.

Distinctions made between human and person, the relative and the universal are essentially a problematic of moral incommensurability. This conundrum reflects a dichotomous state in which premises are set, choices are made and hierarchies are privileged rendering moral incommensurability itself a "product of a particular historical conjunction." This is especially the case when no rational approach could decisively justify claims or configurations of elements of a hierarchy, giving way to the arbitration of power and utility, rather than of right (MacIntyre 1989: 179). In many cases the former two are confused with the latter as might makes right, and the desire or will that is becomes what ought to be. For example, when Alan Gewirth attempts to avoid an "assertoric" argument regarding the entitlement of humans to rights, in favor of what he calls a "dialectically necessary method" (Gewirth 1989: 247-48). Gewirth starts from the premise that entitlement to necessary goods are the prerequisite for the exercise of rational agency, the latter being the "common subject matter of all morality and practice" Agency demands that every agent or prospective agent have rights "to the necessary conditions of action" —freedom and well-being (Gewirth 1989: 247-48). Yet "the claim that I have a right to do or have something is a quite different type of claim from the claim that I need or want or will be benefited by something" While the former is a matter of right, the latter is the province of utility (MacIntyre 1989: 176). It is their equalization or fusion that provides power discourse with its potency, especially when utility is liberally invoked as the source of rights, even when both may in fact be, morally incommensurable. It is one thing for instance to utilize un-owned

---

<sup>7</sup> God (thus) directs you as regards your children's (Inheritance): to the male, a portion equal to that of two females (Quran 4:11); See also: ... and nowise is the male like the female (Quran 3/36).

<sup>8</sup> He hath only forbidden you dead meat, and blood, and the flesh of swine (Quran 2:173); See also: Quran 16:115.

dead land and from thereon claim ownership rights, it is another to allege Palestine a utilizable empty barren wasteland and make rights claims to it. After all, if human rights do not provide protection against the vagaries of utilitarian considerations, they would not be rights and certainly not universal. Any fictitious matching between utility and rights finds its parallel in the matching of the human and the person, the universal and the relative. Utility does not justify rights, humanity does not guarantee personhood, and a fallacious claim to universality does not mean all that is relative comes there from. An undeniable potential link might very well exist between each pair, yet one is not the inevitable source of the other. Links must be justified from prior premises.

An-Na'im does not seem to take these factors into consideration when he proposes subjecting the Shari'ah (Islamic Law) which he proclaims as "historical," to the judging criteria of "universal" and therefore presumably 'timeless' human rights (An-Na'im 1992: 161). He ignores the moral incommensurability inherent in his choices, which themselves need be justified, explained and rationalized. MacIntyre for instance, indicated that no allusion to anything smacking of human rights qua human rights, were made until near the end of the "middle ages" (MacIntyre 1989:178). Furthermore, if Divine revelation is historical while human knowledge is universal this suggests an interesting dichotomy which An-Na'im does not adequately account for except in utilitarian terms making a claim for rights. Yet a claim to universalism is an entitlement to some form of determinism. And if such universal determinism could be exposed to be nothing but a manifestation of a false consciousness, along lines similar to earlier contentions made by communism, the end of history thesis, secularism, linear progression of history, and other so called 'inevitable', then what we have here is nothing but an ideology concealing its purposes and intents. This is evident when An-Na'im takes recourse in the Islamic principle of abrogation (Naskh).<sup>9</sup> Abrogation as had been practiced by Muslim jurists was based on self-referential criteria that is, the Quran or Prophetic Sunna instating or abrogating itself. An-Na'im in a rather libertarian fashion proposes applying the same principle but 'other-referentially,' in this case in light of universal human rights laws and principles (An-Na'im 1992: 57 & 179-81). He suggests 'abrogating' the Medinese stage, during which much of the Islamic legal precepts were revealed, in favor of the Makkan period. Only by setting aside, "clear and definite texts of the Qur'an and Sunna" of the Medina phase as having served their "transitional purpose," could the Shari'ah be reconciled to the requirements of human rights (An-Na'im 1992: 179-80).

One can take An-Na'im's proposition further and ask why not abrogate the Makkan phase as well? This may bring Muslims even closer to human rights standards. An-Na'im may or may not agree with such a suggestion on the grounds of maintaining cultural specificities, but then is Islam primarily a religion or a culture? Furthermore, what if future developments, which may very well be the case, are such so as to bring human rights into direct conflict with the Makkan stage? Would this be good enough reason to abrogate it as well? An-Na'im's method certainly does lend itself to such an eventuality. Muslims consequently would be expected to give up their right to live their faith in whole or in part, in deference to pragmatic utilitarian exigencies, and above all to the imperatives of the 'universal' human rights power discourse. An-Na'im essentially adopts most if not all the mechanisms of durable inequality, the outcome of which Islam might as well end up abrogating itself.

An-Na'im however, is not the only one to call for indifference and the shedding of what he called "historical Shari'ah" (An-Na'im 1992: 161). Bassam Tibi a kindred spirit, calls upon Muslims to apply the "method of historicism" to their religion otherwise they will continue to feel "superior" to others, and consequently unwilling "to speak the universal language of human rights in their own tongue." Three things in other words, Muslims are required to do: 1- historicize their "Islamic revelation"; 2- give up on their sense of pride in their faith; 3- speak some 'other' language than their own, with some concession made to their inability to speak it in the ways of its revealers (Tibi 1990: 131-32). Like An-Na'im, Tibi wishes to historicize Islam and universalize human rights. Again, nothing justifies this epistemological reversal nor is there any proof of its feasibility. The Shari'ah remains immutable while human rights discourse has a history. "Only things with a history, the human things, can come into conflict or contradiction

---

<sup>9</sup> See An-Na'im (1992: 57-60) where, he explains this principle.

with themselves" (Smith 1989: 105). This can be observed in the incongruities of historicism. "If all historical movement is relentlessly progressive and all thought inescapably historical, in that it can only arise or acquire validity if it becomes generally accepted at a particularly historical period, no ideals or standards exist outside the historical process and no principle can judge history and its terror." Thus the eternal could never be comprehended (Douzinas 2000: 9-10). As a result, as Luc Ferry and Alain Renaut have put it, "far from the historical having to be judged by the criteria of rights and of law, history itself, ..., becomes the 'tribunal of the world', and right itself must be thought of as based on its insertion in historicity." ((Ferry & Renaut 1992: 31; quoted in Douzinas 2000: 11). "The symptom of the disease is ... declared to also be its cure but, like many less respected therapies, it leads to an even greater malady" (Douzinas 2000: 11). It is not by chance that human rights have prevailed at the very moment of greatest "angst" about life meaning and disquiet about the breakdown of moral convictions and political guiding projects (Douzinas 2000: 7 & 374). And "if the value of human thought is relative to its context and all is doomed to pass with historical progress, human rights too are infected with transience and cannot be protected from change" (Douzinas 2000: 10). The implication is clear. Human rights have no legitimate claim to universality or determinism and are liable therefore to be judged by something external to them, something perhaps immutable.

For Muslims to accept historicism is to undermine the revelatory essence of Islam in favor of human constructs. Supposedly benign calls for shedding superiority, presumably for the sake of human equality, are usually the port of entry to engineering dynamics not to parity. It is not clear why for instance, Tibi does not address his call to similar Eurocentric claims instead? As a matter of fact in quite a crude way he advocates the values of the French Revolution and modern European culture as both a "global phenomenon and a universal frame of reference" (Tibi 1990: 113). He is not clear about whether if Muslims were to shed the source of their 'superiority,' this would render them equals or inferiors. After all who says if Muslims heed his call they would be accepted on par by representatives of Eurocentric values? Where did the pathological inferiority with which Arab and Muslim regimes have dealt with the 'West' left them? Moreover, when Tibi calls for Muslims to talk the language of universal human rights in their own tongues, he sounds like someone suggesting everyone should speak, say, the English language, even if in their own accent. But, where does this leave one's own language? In so many words, Tibi, going beyond An-Na'im, seems to be calling for the abrogation not only of the Medinise stage, but also of the Makkan period of Islam as well, and advocating that contemporary Muslims occupy a position of inferiority, more or less, by their own choice. Both 'opportunity hoarders', in a rather vulgar fashion, constitute components of a common discursive formation.

### ***The Exploiters***

Ann Elizabeth Mayer deals with the same issues although as an 'outsider' rather than as the insiders that An-Na'im and Tibi are supposed to be. This persuades her to be more cautious and less crude in her approach, even if expressing the same disposition. As an exploiter she intimates, opportunity hoarders take the hint and put it to the praxis of abrogation, emulation and adaptation. Where An-Na'im and Tibi refer to "universal" human rights, Mayer is more circumspect and uses the "international" instead (Mayer 1990: 134). More than a matter of semantics this harbors serious practical implications as native informants become more royal than royalty. In contrast to the 'bad' Muslims who set Islamic values as the controlling and defining measure Mayer lauds An-Nai'm as an "enlightened" and "progressive" example of the 'good' Muslim willing to reinterpret Islam in a way that would bring it in harmony with international human rights (Mayer 1990: 134 & 139). A rather typical approach, in which parameters are set, and the ranks are divided and categorized, allowing the targeting of those susceptible to being nested in the human rights discourse and willing to set its norms as the overarching standards (Mayer 1990: 138-40). A dichotomy is constructed in which Eurocentric values are set to occupy the privileged position of power.

Mayer adopts a critical legalistic approach in which she advocates the standards of human rights laws as opposed to their substandard Islamic counterparts. Even though she recognizes that the conduct of actual governments carries no normative weight in Islamic law, she nevertheless uses the examples of regimes like those of Saudi Arabia and Pakistan among others to make her point (Mayer 1990: 135 & 154). In tandem, she advocates international human rights laws, and

denies that they bear any of their previous imperialistic characteristics. Today as she states, "modern human rights theories are considered to be applicable to all humankind, and the rights of Muslims are given the same recognition of those of Westerners" (Mayer 1990: 153). Yet it is statements of the kind that are problematic when they universalize that which is neither universal nor necessarily superior. Her claim that Muslims are given same recognition, apart of strong doubts about its veracity, presupposes that Muslims should become like 'us' or in 'our image' in order to enjoy such a privilege. One cannot help but wonder how Mayer would react for instance, to rephrasing her same statement if instead of human rights one were to affirm 'Islam to be applicable to all humankind, and that the rights of non-Muslims are given the same recognition of those of Muslims. 'Islam as a matter of fact does define itself as universal and not as culturally relative knowledge. And Muslims also pride themselves that historically they did recognize rights of religious or protected minorities to live their own faith.

One need only cite the example of Palestine and the blind support given to Israel's usurpation of Arab land and its genocidal policies against the Palestinians, by the same upholders of the principles of human rights. Of course Mayer could argue that the US policy, for instance, does not always live up to the standards it professes yet that this does not justify giving up on such values. But if she bestows upon herself the right to judge aspects of Islam and its application based on the performance of regimes like those of Saudi Arabia and Pakistan, the same could apply to contradictions inherent in how 'Western' countries mal-practice what they preach. How for example they manipulate democracy and human rights to justify crimes against Afghanistan, Iraq and Palestine, to contain Iran's legitimate rights to peaceful nuclear energy, while supporting Israel's nuclear ambitions as the only 'democratic' state in the Middle East. President Bush has also indicated that the fact that the Palestinian government of Hamas has been democratically elected (February 2006) does not mean that the US must support it (Al-Ahram March 31, 2006: 1). Conversely one may infer that, the fact that most Arab client regimes are corrupt and tyrannical does not entail that the US must cease to shore them up. The lasting legacy of September 11, 2001, may not be the destruction of the World Trading Center and its aftermath, but the exposing of the US and the very values it claims to espouse. Values of democracy and human rights have come under increasing suspicions and are on the verge of being discredited in much of the Arab and Islamic World. Mayer's claim that these values and their legal and military manifestations have lost their ulterior motives does not stand the scrutiny of empirical testing, judging by current events, as well as, their historical antecedents. When she correctly observes that historical testimony demonstrates that religious scruples rarely dissuaded Muslim rulers from oppressing their subjects (Mayer 1999: 39), she might as well have added that neither did Western values of freedom, democracy or human rights, in serving colonial purposes, fare much better. Andre Beteille penetratingly observed that "Western societies were acquiring a new and comprehensive commitment to equality at precisely that juncture in their history when they were also developing in their fullest form the theory and practice of imperialism" (Beteille 1983: 4).

Mayer though, in typical liberal fashion, tends to stress individual concerns regarding state intrusiveness, downplaying collective Muslim grievances against imperialism as no longer being what it used to be and therefore irrelevant. Her argument nevertheless, contributes to the development of a situation analogous to one where a nation, in this case Muslims, may at the level of the individual agent gain freedom from "constraints" by becoming a "colony of a wiser benevolent power." In each case, the individual agent can increase its freedom from constraint by relinquishing its power to govern itself (Feinberg 1973: 16). By addressing different kinds of freedoms, liberal advocates attempt in an admirably subtle fashion to resolve the ideology's contradictions. They distinguish, not always in a visible fashion, between freedom from constraints and freedom of self-determination, the bargain being individual agency for collective domination.. This helps explain why US allegations about bringing freedom and human rights usually end up in subjugation and human rights abuse either directly by itself or, indirectly through client regimes it sustains and supports. The problem here thus, is not one of where ideas or laws may come from, for Islam and Muslims should be willing and capable of practicing the give and take necessary for the exchange of knowledge. Rather the problem is one of power, which must be neutralized as a prerequisite to any legitimate subsequent intercourse. The exploiters must, as a matter of principle, be curbed from exploiting.

One example of where they should be curbed is when Mayer argues that authentic traditions impose themselves on their own authority, and that the fact that, states like Iran need to enforce Islamic attitudes in society by coercive or intimidating measures is a counter indication (Mayer 1999: 13). Such flimsy logic ignores the fact that Islam is a religion not merely a tradition. In manipulating designations like 'tradition' Mayer confuses religion with matters of culture and customs which can make no sacred claims to truth and are related more to force of habit. She thus purports that policies of Islamization are nothing more than "traditionalism" or the "ideology of tradition" (Mayer 1999: 14). Human rights by implication are shielded from similar discursive and ideological accusations. It may be true that the more 'authentic' a value system is the less need for coercive measures, nevertheless, a law, any law, even if representative requires a coercive support edifice. Caliph Umar I (634-644 A.D.), at a time of most intense commitment to Islam, could still recognize that "Allah restrains by the Sultan what he does not restrain by the Quran."<sup>10</sup> Obscuring epistemological differences between a theory of human rights and a theory of rights, like Mayer tends to do reflects an example of crafty ideological concealment and discursive knowledge-power domination (Mayer 1999: 26). Rights per se, emanating from revelation as a human understanding can only be re-thought self-referentially, that is, back to the ontological source. Human rights discourse is no such ontology. Ontology in turn requires institutional structures that maintain its integrity including a structure of coercion.

Mayer's critique of Iran's use of 'intimidating' measures such as "threats, beatings, jailing, torture, and executions" (Mayer 1999: 13), does not elaborate, whether there might have been justifying circumstances. Capital punishment for instance, is an Islamic penalty for particular types of offences, yet human rightists seek to abolish it. Other than for discursive preferences, why should the latter take precedence over the former? It is one thing to criticize capital punishment if applied unfairly, liberally and as a means of terrorizing, with no just foundations or procedural consistency. It is another thing to oppose it as a matter of principle. In any case, Mayer should not have overlooked that reintroducing Islam into the public sphere, after a long colonial period and its consequent denial of access to the public life, is an evolutionary process not a simple affirmation, incorporating by necessity trial and error. Nor should she have ignored the fact that Islamic resurgence faces stiff resistance from powerful external actors, as well as, domestic 'post-colonial' alliances, perhaps small in number but certainly vociferous, organized and resourceful.

The main contention as it would appear to be is another example of ideological based freedoms. Mayer most probably recognizes that regulative principles or the setting of limits per se is not a contradiction of freedom. Rather she seeks a freedom which reflects human agents' full right and ability to supply these principles and limits by themselves as opposed to them being set by reason of Islamic authority. Such an understanding of freedom, although in a perverse sense, was reflected in the following statement made by US Defense Secretary Donald Rumsfeld, when the carnage in Iraq was brought to his attention: "freedom's untidy, and free people are free to make mistakes and commit crimes and do bad things.... Stuff happens" (CNN, April 11, 2003). Mayer, in the same frame of reference, cites Tunisia, under a figure such as Zain al-Abidine bin-Aly, hardly a democrat or human rights advocate, as an acceptable reformist case in point, but not Iran, in which, genuine popular participation does occur (Mayer 1990: 156). In the name of secularism, even if in its autocratic and destructive forms, mistakes are justified and legitimized, and excuses when convenient, are made. Islam however, cannot be allowed to enjoy the privilege. Mayer's conception of human rights and freedom does not come a long way from Rumsfeld's. Both come at the expense of dominating and dehumanizing others.

Emphasizing human full agency as opposed to relative agency poses restrictions on Muslim autonomy to live their faith, and renders it meaningless to try to understand the notion of freedom in Islam, from the perspective of Western humanism (Nasr 1980: 95). By the same token, from any semblance of religious basis, Islam is not Christianity or Judaism either.

---

<sup>10</sup> Sultan in Arabic literally means power with the connotation of authority. However, it also refers to the figure of the ruler. The morale of the statement is that morality can not survive without power and authority. Honesty for example can be claimed to be an 'authentic' human value. This does not mean that there should be no laws or coercive measures in place in case the code is broken. The fact that 'dishonest' people may resist such measures is not an argument against 'authentic' values or those measures.

Christianity makes claims to universality yet it has no divine law in its structure, rendering it a set of general moral exhortations. This background allows Mayer, in her secular version, to reduce matters to one of mere choice, religion being simply a private not a public concern. Judaism has a law but is not universal and has incorporated strong ethnic elements which would allow an atheist for instance, to be a concomitant Jew. Islam cuts through both. It is a universal revelation that acquires its own legal structure and its own teleology. To anticipate that Islam will or should share the historical dynamics of both preceding thought and /or belief structures therefore has no bases of justifications. To demand that it does, constitutes a power discourse. To get domestic regimes and opportunity hoarders to oblige and participate in the same discourse intensifies its impact. Muslim society and the umma at large are thus, doubly victimized, always represented but never representing themselves.

### **Some Reflections on Rights in the Islamic Domain**

To underscore the inconsistencies and cynical aspects of human rights discourse is not to say that all is well on the Muslim front. Nor does it mean that the corruption, tyranny and injustices of regimes in that part of the world, as well as their abuse of their own people's rights may be overlooked or allowed with impunity. "The vast majority of sensible criticisms of unjust political systems," as Husak has put it, "can be preserved as intelligible even if it is conceded that no human rights exist" (Husak 1989: 243). Enjoining that which is good and forbidding that which is evil is one explicitly recognized Islamic right to peacefully oppose transgressions, moral, social or political. When all else fails an eye for an eye is another principle of reciprocity and retribution against injustices perpetrated and committed by internal or external power structures. Both exemplary rights however, require going beyond abstract exhortations to being organized and institutionalized if they are to be effective, long lasting, and systematic.

A sound critique of Muslim societies is their failure, with the possible exception of Iran, to reinstate faded Islamic institutions which could protect individuals and their rights with respect to the state on the one hand, and consolidate it against external threats on the other. The dynamic of institutional building and enforcement appears to be distinctly lacking in dealing with the specificities of particular situations as opposed to abstract proclamations about Islam. Practical issues require concrete diagnostic and prognostic talents capable of bringing abstract principles and generalities to bear on context and realities. Otherwise, they may not mean much in any practical sense, with lip-service respect paid but not heeded. This promotes the typical refrain made by Muslims about themselves not applying Islam as it should or that they are not committed enough to their own faith. The real problem however may be both more complex and simpler than that. On the more complex level, on the one hand, faith may not be measured by material indices. Perhaps no community in modern times had its faith so tested as Muslims have, and there are convincing indications they continue to be willing to sacrifice much in its cause. On the other hand, when the Makkan environment was such as not to permit Prophet Muhammad and the small coterie of believers to live their faith, they simply had to migrate to Madina. The best of faith could not do much about it, even during a period of intense revelation and utmost commitment. At the simplest level, it was a matter of cause and effect both then and now.

Playing on other than their own 'turf,' so to speak, can only lead to the current disenchanting situation that many Muslims perceive their lot to be. Until such a time when Muslims are capable of creating their own propitious environment, continuing to dance to the tunes of human rights discourse can only lead to the same disappointing results. The Shari'ah stands above all other laws by reason of its revelatory source.<sup>11</sup> To make allegations about its historicity is essentially to deny its divine origin, for it means that the cosmic, the Universal Divine could not reveal a universal message for all times and places, or perhaps did not know that times and

---

<sup>11</sup> It is He who hath sent His Apostle with Guidance and the Religion of Truth, to proclaim it over all religion, even though the pagans may detest (it) (Quran 9:33; my emphasis); See also Quran 48:28; 61:9). See: This day have those who reject the faith given up all hope of your religion; Yet fear them not but fear Me. This day have I perfected your religion for you, completed My favour upon you, and have chosen for you Islam as your religion (Quran 5: 3).

conditions would change. The fact that Islam explicitly states it is the final revelation, means its law is permanent for otherwise, a new revelation or Law to mankind would be needed or is possible, and structurally the faith itself would lend itself to indifference. Revelation cannot be superseded or abrogated except by another revelation (Shafi'i 1987: 125; Quran 16/103). Islam, being the final revelation signifies it cannot be abrogated by any subsequent revelation and certainly not by any man made or positive law, including human rights. This is a necessary and sufficient condition—an ontology. Whether the Shari'ah conforms to human rights discourse or not, is a matter of irrelevance. To render conformity, adaptability and emulation its purpose would bring it under the spell of human rights politics. The political agenda of this discourse will simply dominate Muslim affairs, their identity formation and political existence.

The essence of political existence, as Carl Schmitt has put it, is when a community can determine its own identity boundaries and hierarchies. Only then could it uphold its existence in the political sphere. "When it no longer possesses the capacity or the will to make this distinction, it ceases to exist politically. If it permits this decision to be made by another, then it is no longer a politically free people and is absorbed into another political system" (Schmitt 1976: 49). When a community, as a collectivity or as individuals, is dispossessed of its own hierarchical structures of identification, goals and ideals, and with no clear conception of where it stands within the community's internal landscape, such a community can only become a theatre of war for all its constituent elements. This could very easily turn into an anomic condition (Feinberg 1973: 14). When this happens, as for instance when some Muslims tend to compromise in order to reconcile Islam with human rights, Mayer sure enough, and rightly so, describes the outcome of such acrobatics as a "very awkward" "melange" (Mayer 1999: 24). Even when doing the bidding of power, it turns out to be a thankless task. Short of a total transformation the Muslim 'other' cannot be accepted.<sup>12</sup>

Muslim claims or arguments that Islam has always incorporated human rights principles, contributes to discrediting Islamic thought, rather than to adding to it. Islam has its own system of rights, duties and obligations, as well as its own dichotomies.<sup>13</sup> It justifies itself on its own authority not on the authority of any human rights discourse. Islam's mandate is undermined when Muslims attempt to prove it consistent with human rights to render it legitimized, or seek to discredit the discourse as the only means to build up the credibility of the Shari'ah or Islamic Law. The so called 'Universal Islamic Declaration of Human Rights' (UIDHR, 1981) can only invite cynicism, not only because of its attempt to model itself along the Universal Declaration of Human Rights, but also because the real problem remains primarily one of enforcement. In the modeling case Islam is both manipulated and misrepresented to conform to external patterns, undermining the Shari'ah's autonomy and setting it in an unprivileged hierarchy. In the case of enforcement, if it is plainly visible that Arab and most Muslim states are not bound or restrained by any concept of law, and are ruled arbitrarily and corruptly, then any UIDHR is not worth its ink.

Contrasting Islamic understanding of rights with human rights is a first step toward claiming the religious domain's autonomy, and determining constraints and parameters. What in jurisprudential language may be called *usul*— the foundations. Search for commonalities constitutes the varying aspects which follow, subject to former constraints. Eurocentric approaches attempt to maximize human rights while minimizing corresponding presumed fettering duties and obligations, providing for maximum autonomous space to the human agent. Islamic approach is based more on a dialectical relationship between rights and duties consistent with mankind's relative autonomy. Rights beget duties and duties beget rights. This applies to

---

<sup>12</sup> This epistemology is clear in the following Quranic verse: "Never will the Jews or the Christians be satisfied with thee unless thou follow their form of religion. Say 'the guidance of God; —that is the (only) guidance" (Quran .2:120; my emphasis). Only doing the bidding of power would restrain its exercise, yet resistance is called for at the end of the verse. Such belief is what renders the Muslim community a community of will despite visible setbacks. To break Muslims' will inevitably calls for undermining their ground belief structure—Islam

<sup>13</sup> Can the blind be held equal to the seeing? (Quran 6:50). These two kinds (of men) may be compared to the blind and deaf, and those who can see and hear well. Are they equal when compared? (Quran 11: 24). See also Quran 16:75; 39:9.

rulers and ruled alike, or at least ought to be. One therefore is inclined to disagree with Seyyed H. Nasr when he arranges rights and duties as consequents and antecedents respectively (Nasr 1980: 97). Both must go hand in hand. Otherwise a highly skewed situation is very likely to ensue as people tend naturally toward acquiring that which they perceive as their rights while shirking that which is dutiful. This is self-evident in the highly distorted relationship of rights and duties between rulers and ruled in the Muslim world, courtesy of a long tradition of al-fiqh al-Sultani, the Islamic power justifying jurisprudence or discourse,

Human rights discourse has been associated with calls, currently in vogue among some Arab rulers as well as the United States, that Islamic 'religious thought' needs to be renewed. 'Renewal' is a euphemism for altering Islamic values as well as identity forming educational curricula away from notions of resistance, will, and jihad, in a fashion consistent with power's desires, wishes, and interest. A historical colonial convention in the Muslim experience has been to invite passive Sufism or some form of sheer spiritualism whenever Islam invited Muslims to resist external domination. Jihad as the exertion of will power in worship and in fighting, in spirituality and in materiality, is redefined in passive terms as solely referring to spiritual development. Something along those lines is implicit in the call for abrogating the Medinise State period while maintaining only the Makkan spiritual experience. When regimes or pseudo-intellectuals claim that renewal is what is needed, they are in fact collaborating with external discourses aiming at blocking Islamic narratives. For by so proclaiming they endeavor to undermine Islam as a protest movement in demand of rights, while external forces seek to emasculate it as a resistance current demanding autonomy from power. Essentially it is not simply the thought that both are after but the commensurate deconstruction and reconstitution of Islamic identity in power's own image, domestic and/or foreign. Islamic accepted wisdom in the abstract is not the priority that needs to be re-considered, but al-fiqh al-sultani in specific, which needs to be deconstructed and then reconstructed self-referentially. For it is from there that Islamic history has gone wrong, and it is only from there that, any reform of a political nature, the enforcing prerequisite for other social and legal changes, could take place. Seeking to do so outside of Islam's own frame of reference is doomed to fail, and human rights discourse will be of no avail.

Another factor in Islamic history which influenced Muslim attitudes toward the Shari'ah or Law, and from thereon constituted their culture of enforcement or lack of it, was the tragic events on the battlefield of Karbala' in Iraq (61 Hijri/680 AD). It was ironic that a presumably Muslim, State army, would set its obligatory prayers supplicating to God to bless and have mercy on the Prophet and his household, only to embark, once having ended their prayers, on massacring the Prophet's grandson Imam Hussain and members of his family. Apart of being a first order tragic crime which struck the roots of Islamic schisms, Sunni and Shiite, it had less tangible yet as troubling consequences. It created an insidious mental and psychological break between work and faith, between the is and the ought, a condition which many Muslims have come to make their peace with. The trickling down effect over the centuries has come to manifest itself as the norm rather than the exception on a social as well as the political scale. Al-fiqh al-Sultani served to exacerbate this pathological state as an increasing number of people came to take their cue from their rulers and their religious functionaries. From Karbala' down to the present days when Arab governments could cast their votes in the Arab League against providing any military assistance to aid the American war against Iraq in 2003, only to make available all their assets to invading American forces (Bennis 2006: 165), saying or believing in one thing doing another has become the Arab lot. As in the case of rights and duties, such attitudes and cultures espoused a dialectical relationship, attitudes shaping culture, culture molding attitudes. Thus, while it has been usual for both Euro-culture and its Muslim counterpart to point fingers of blame at each other, possibly for justifiable reasons, it would help more, if each were to look at hard realities in their own mirrors.

## **Conclusion**

Human rights discourse reflects a particular worldview that aims at reordering the world along global power interests. Its influence is far reaching both in the external and internal environments of Muslims, and is likely to extend to their identity and social fabric. Like earlier

discourses it carries a hidden political agenda undisclosed and concealed in subtle details and cryptic double meanings. It is pursued through an alliance of interests incorporating domestic rulers, regimes and classes contemptuous of their own and equally despised, and foreign representations of power. Like in earlier experiences with colonialism although unabashed and on a much broader scale these domestic forces have turned their backs on their own societies, joining ranks with an unprecedented wave of alien hegemony. Domestic regimes' hostility to human rights as well as foreign support for their dissemination do not necessarily signal opposing forces, but ironically two sides of the same coin, victimizing Muslim society.

Attempting to expose a power discourse however, is not or ought not, be a means to obscure the debilitating condition of Muslim, and particularly Arab, societies. Their state of social and political pathology allows such a discourse of knowledge and power to exercise domination with impunity. Prophet Muhammad is reported to have said: "a believer is not bitten from the same pit twice." Nevertheless, most Arab and Muslim countries' long experience with colonialism has not served to deepen their insights into colonial tactics, strategies and deceptions. They continue to be bitten incessantly in a tragic recurrence of events bordering on the ridiculous, without showing inclination to learn their lessons. In an anarchic merciless, power hungry world where for better or for worse, only the fittest survive, their societies fail to exhibit acute survival instincts, when only in their own values will they find recourse, rather than in doubting them. Exiled from their past, lost in their present and weary of their future, return from exile is their only hope for the future and what it may bring.

The point to be made here is that it is futile to start a conversation or dialogue between different upholders of distinct worldviews, in order to reach an agreement at all costs. This is the case especially when the same vocabulary or language is used, projecting an image of commonality, but which in reality is conducted on totally different planes, one being that of Rights, the other being that of human rights. Agreement at all costs is possible only as agreement at the cost of the meaning of human life; for agreement at all costs, is possible only if man has relinquished asking the question of what is right; and if man relinquishes that question he relinquishes being a man. But if he seriously asks the question of what is right, the quarrel will be ignited... the life-and-death quarrel: the political—the grouping of humanity into friends and enemies—owes its legitimacy to the seriousness of the question of what is right (Schmitt 1976: 103).

## References

- Al-Ahram Newspaper (March 31, 2006). Cairo, Egypt.
- Al-Raisouny, Ahmad (1992). *Nazariyat al-Maqased (The Theory of Purposes)*. Al-Mu'assassa al-Jamii'iyat lil-Dirasat wa al-Nashr wa al-Tawzi'.
- An-Na'im, Abdullahi Ahmed (2003). "Introduction: 'Area Expressions' and the Universality of Human Rights." In David P. Forsythe & Patrice C. McMahon, eds., *Human Rights and Diversity*. Lincoln: University of Nebraska Press. Pp. 1-21.
- An-Na'im, Abdullahi Ahmed (1992). *Toward an Islamic Reformation*. Cairo: The American University in Cairo Press.
- An-Na'im, Abdullahi Ahmed (1990). "Problems of Universal Cultural Legitimacy for Human Rights." In Abdullahi Ahmed An-Na'im & Francis M. Deng, eds., *Human Rights in Africa*. Washington, D.C.: The Brookings Institution. Pp. 331-367.
- Appleby, Scott (2000). *The Ambivalence of the Sacred*. Boulder: Rowman & Littlefield Publishers, Inc.
- Aziz, Nikhil (1999). "Human Rights in an Era of Globalization." In Peter van Ness, ed., *Debating Human Rights*. London: Routledge. Pp. 32-55.
- Bennis, Phyllis (2006). *Challenging Empire*. Massachusetts: Olive Branch Press.
- Beteille, Andre (1983). *The Idea of Natural Inequality*. Delhi: Oxford University Press.
- Calder, Gideon (2002). "Grounding Human Rights: What Differences Does it Make?" In Alexander Moseley and Richard Norman, eds., *Human Rights and Military Intervention*. Aldershot: Ashgate. Pp 15-33.

- Campbell, Tom (2003). "Human Rights: The Shifting Boundaries." In Tom Campbell, Jeffrey Goldsworthy & Adrienne Stone, eds., *Protecting Human Rights*. Oxford: Oxford University Press. Pp. 17-37.
- Carmines, Edward G. & Robert Huckfeldt (1998). "Political Behavior: An Overview." In. Robert E. Goodin, & Hans-Dieter Klingemann, eds. *A New Handbook of Political Science*. Oxford: Oxford University Press. Pp. 223-254.
- Chadwick, Owen (1975). *The Secularization of the European Mind in the Nineteenth Century*. Cambridge: Cambridge University Press.
- CNN, April 11, 2003. <http://www.cnn.com/2003/US/04/11/sprj.irq.pentagon/>
- Daniel, Donald C. and Katherine L. Herbig (1982), eds., *Strategic Military Deception*. New York: Pergamon Press.
- Derrida, Jacques (1994). "Wears and Tears (Tableau of an Ageless World)." In Patrick Hayden (2001), ed., *The Philosophy of Human Rights*. 1<sup>st</sup> edition. St. Paul, MN: Paragon House. Pp 258-267.
- Douzinas, Costas (2000). *The End of Human Rights*. Oxford: Hart Publishing.
- Feinberg, Joel (1973). *Social Philosophy*. New Jersey: Prentice –Hall, Inc.
- Ferry Luc and Alain Renaut (1992). *From the Rights of Man to the Republican Idea*. Translated by F. Philip. Chicago: Chicago University Press.
- Gewirth, Alan (1989). "Why There are Human Rights." In Morton E. Winston. *The Philosophy of Human Rights*. Belmont California: Wadsworth publishing Company, pp. 247-256.
- Hayden, Patrick, ed., (2001). *The Philosophy of Human Rights*. 1<sup>st</sup> edition. St. Paul, MN: Paragon House. Pp. 343-346.
- Husak, Douglas (1989). "Why there are no Human Rights." In Morton E. Winston. *The Philosophy of Human Rights*. Belmont California: Wadsworth publishing Company. Pp 234-246.
- Hurrell, Andrew and Ngaire Woods (1995). "Globalisation and Inequality", *Millennium*, 24/3, (Winter), pp. 447-470.
- Lindley, Richard (1986). *Autonomy*. London: MacMillan.
- MacIntyre, Alasdair (1989). "Some Consequences of the Failure of the Enlightenment Project." In Morton E. Winston. *The Philosophy of Human Rights*. Belmont California: Wadsworth publishing Company. Pp 172-180.
- Martin, Richard C. (2001). "Islam and Religious Studies: An Introductory Essay." In Richard C. Martin, ed. *Approaches to Islam in Religious Studies*. Oxford: Oneworld. Pp. 189-202
- Massad, Joseph (2001). *Colonial Effects*. New York: Columbia University Press.
- Mathieu, Vittorio (1986). "Prolegomena to a Study of Human Rights." In *Philosophical Foundations of Human Rights*. Paris: UNESCO. Pp. 33-46
- May, Todd (1993). *Between Genealogy and Epistemology*. Pennsylvania: The Pennsylvania State University Press.
- Mayer, Ann Elizabeth (1999). *Islam and Human Rights*. 3<sup>rd</sup> edition. Boulder: Westview Press.
- Mayer, Ann Elizabeth (1990). "Current Muslim Thinking on Human Rights." In Abdullahi Ahmed An-Na'im & Francis M. Deng, eds., *Human Rights in Africa*. Washington, D.C.: The Brookings Institution. Pp. 133-156.
- McChrystal, Stanley A. (2000). "Memorandum to the President." In Alton Frye (Project Director), *Humanitarian Intervention: Crafting a Workable Doctrine*. New York: Council of Foreign Relations. Pp. 54-71.
- Nasr, Seyyed Hossein (1980). "The Concept and reality of Freedom in Islam and Islamic Civilization." In Alan S. Rosenbaum, ed., *The Philosophy of Human Rights*. Westport: Greenwood Press. Pp. 95-101.
- Petrova, Dimitrina (2004). "Social and Economic Dimensions of Universal Rights." In Andras Sajo, ed., *Human Rights with Modesty*. Leiden: Martinus Nijhoff Publishers Corp
- Quran, translation and commentary by Yusuf Ali (1983). [www.islamicity.com/QuranSearch/](http://www.islamicity.com/QuranSearch/); and Maryland: Amana Corp.

- Rorty, Richard (1993). "Human Rights, Rationality and Sentimentality." In Patrick Hayden (2001), ed., *The Philosophy of Human Rights*. 1<sup>st</sup> edition. St. Paul, MN: Paragon House. Pp 241-257.
- Said, Edward (1979). *Orientalism*. New York: Vintage Books.
- Sellars, Kirsten (2002). *The Rise and Rise of Human Rights*. Gloucestershire: Sutton Publishing.
- Schmitt, Carl (1996). *The Concept of the Political*. Translated by George Schwab. Chicago: The University of Chicago Press.
- Shafi'I, Muhammad bin Idris al- (1987). *Al-Risala fi Usul al-Fiqh (Treatise on the Foundation of Islamic Jurisprudence)*. Translated and edited by Majid Khadduri. Cambridge: The Islamic Texts Society, 2nd edition.
- Smith, Steven B. (1989). *Hegel's Critique of Liberalism*. Chicago: University of Chicago Press.
- Stone, Adrienne (2003). "Introduction." In Tom Campbell, Jeffrey Goldsworthy & Adrienne Stone, eds., *Protecting Human Rights*. Oxford: Oxford University Press. Pp. 1-14.
- Strong, Tracy B. (1996). "Forward." In Carl Schmitt. *The Concept of the Political*. Translated by George Schwab. Chicago: The University of Chicago Press. Pp. ix-xxvii.
- Tibi, Bassam (1990). "The European Tradition of Human Rights and the Culture of Islam." In Abdullahi Ahmed An-Na'im & Francis M. Deng, eds., *Human Rights in Africa*. Washington, D.C.: The Brookings Institution. Pp. 104-132.
- Tilly, Charles (1999). *Durable Inequality*. Berkley: University of California Press.
- Winston, Morton E. (1989). "Preface." In Morton E. Winston. *The Philosophy of Human Rights*. Belmont California: Wadsworth publishing Company. Pp. v-vi.