



# Is the Sharia Anti Human Rights?

## Divine Guidance.

Ayman Ahwal

ARE there human rights in the *Shari'a*? No. Divine rights, yes. Human rights are a product of Christian society, in which men have sometimes sought — and sometimes not — to create a utopic society, with whatever intellectual and spiritual tools are at their disposal. The inspiration may be — and has sometimes been — present, but the perfect example is absent. To be more precise, the example — that of Jesus (and not St Paul, who was, after all, a jurist) — although existent is not a complete enough one, by known records, to have encompassed all domains of human activity and on which an exemplary legal system based on precedent can be based. Men of Christian tradition have been obliged over the centuries to fall back on their own (human) initiatives to evolve legal systems with which to govern themselves in the best possible and most ethical way. Thus legal systems in the western world have been evolved from Roman Law, Canon Law, Common Law, influenced en route by philosophy, reason and logic, ethics and politics, i.e. the so-called human sciences. Indeed, it is this constant flow of creative energy deployed by the Christian world in reinventing and redefining itself, together with progressive erosions of limitations which constitute its strength and vitality... and which will doubtless cause its ruin.

On the other hand the well recorded tradition of the prophetic example with its direct extension of the body of Islamic jurisprudence, provide the parameters of permissibility together with recommended injunctions to be applied in given circumstances. It is a question of certainty derived from revelation as compared with reason based on human ingenuity.

But what are 'human rights'? For indeed we may do anything we please. Human duties, however, are clear: To thank God for our condition, whatever it may be, and to obey God, his Prophet, and the *Shari'a*. Do Muslims have, for instance, equal rights to non-Muslims, blacks equal rights to

whites, the poor with the rich? Yes, but they are not human rights. All of these categories of people are prescribed as having equal rights in the eyes of God and thereby legally in *Shari'a*. Divine rights indeed, but not human rights, and must be respected that much more. It becomes our duty, from ruler to slave not to discriminate between any of these categories in the face of the law. Only if we are prevented in our duty towards Allāh may we protest, be patient and work towards change or we may flee. Yet we have no right to gain access to another land. But such are the laws of hospitality in Islam that the positive initiative is enjoined on the giver.

It is especially when the Islamic is confronted with the non-Islamic that problems arise. In this secular western looking twentieth century world, concepts are increasingly being expressed in secular western terms, as if the vocabulary created the concept. To monopolise the language and vocabulary of definition, is the first step in controlling the concept itself and its development. In its struggle to re-establish its identity today, the Islamic world finds itself constantly using western terminology to define its concepts. We will see many Muslim modernists pleading that because in Islam we are enjoined for instance, not to discriminate between Arab and non-Arab, that this is an example of human rights in Islam. But this is not true. What are defined are divine rights. It is not merely a matter of vocabulary but of approach.

But what exactly is this thing called human rights? The very concept retreats from our grasp the more one searches, like the end of a rainbow. How can we define what it means? Is it the right of a human on his fellow human beings or on life itself and his condition in it? Do we as humans have a right to a good life? Western constitutions and the United Nations Charter define categories of human rights as, the right not to be imprisoned without reason, the right of free

speech and opinion, the right to move freely and without hindrance, the right not to be assaulted nor slandered. All of these concepts are amply accommodated in *Shari'a*.

Prohibition in Islam is considered a mercy: the boundary is defined beyond which no frustrating conjectural debating can trespass, whatever the intentions. The recommended punishment and individual action remains as the expected deterrent, antidote or protest, unchanged by vicissitudes of time, lifestyle and political consideration. Men are bound by duty rather than endowed with rights. Thus a social-ethical structure is evolved which is self-regulating according to the amount of licence an individual or a ruler cares or dares to take; in other words to the extent he chooses to disobey, never losing sight of the well defined and well known moral boundaries. It is the variable nature of these boundaries in western social systems which has permitted such moral social anomalies as apartheid and Nazism on the one hand and open permissiveness on the other. One has to ask the question "at what point did utopic ideals become outrageous and immoral tyrannies?" It becomes clear that had the boundaries been more clearly defined at source, a process of self-adjusting reaction would have been enacted before it was too late. In order to prevent such abuses of power the concept of human rights has evolved, whereby a secure region of individual inviolability is defined, a human panacea for and sanctuary from inevitable human weaknesses gone awry. This region is constantly under attack by zealous governments motivated by secular expediency and unbridled by spiritual laws (*Shari'a*).

Oh, Mr Jones, take up your human rights, and walk proudly to ruin. You will be surprised that you got there. Oh, Muslim, tread the straight path surely and respect the divine rights of way. The hedges are well kept and you may even skip a little as you go. ■