



## The Fundamental and Ideological Differences Between Islamic Human Rights and Western Human Rights: From Allameh Ja'fari's Viewpoint

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### **Abstract**

Given the development of human thought and intellect over centuries and the complexity of international ties, human rights have become a critical issue. Muslim philosophers and thinkers attempt to improve the widely accepted Western human by analyzing them, eliminating their flaws, and replacing them with supreme rights and provisions of Islamic laws so that human society can enjoy the valuable achievements of these rights and help man reach the highest happiness. Since Allameh Ja'fari had a significant scientific impact on the content of the Declaration of human rights in Islam, adopted in Tehran in December 1989, the present study aimed to examine his viewpoint on the fundamental and ideological principles of Islamic human rights and Western Human rights to show the superiority and comprehensiveness of Islamic human rights. The data were collected through library research and examined descriptively and analytically. Examining the motives for the formulation and ideological bases of both declarations in Islam and the West confirmed the superiority and comprehensiveness of Islamic human rights.

**Keywords:** *Human; Islamic Human Rights; Western Human Rights; Fundamental and Ideological Differences; Allameh Ja'fari*

### **Statement of the Problem**

Human beings inherently search for domination and possession. This nature is the source of the "rights" that every man strives to achieve. If men attempt to realize their rights individually, this may lead to self-centeredness and authoritarianism the consequence of which will be nothing but tyranny, oppression, slavery, feudalism, racial discrimination, etc.

Although having various physical, mental, intellectual differences as well as talents, and growing up in different natural and cultural environments, human beings have sufficient commonalities to be equal, in harmony and unity. Great books from different cultures and nations found in the world's greatest libraries conclusively prove this assumption.

On the other hand, the self-centeredness and authoritarianism of man may destroy his conscience, practical intellect, and, above all, his pure "nature". Accordingly, it is not possible to find two persons who freely and willingly are in harmony and enjoy unity.

In the present study, human values mentioned in the Declaration and the main motives and ideologies for its formulation and adoption are discussed. Allameh Ja'fari states that without knowing the other people, it is unlikely to establish a true understanding between all of them. Regarding Islamic human rights, research shows that the development of humanity requires a Divine supernatural factor. Therefore, all the cultural elements, economic, political, legal, ethical, and artistic ideas, as well as human tendency toward civilization must focus on the realization of the highest ideals of man. Accordingly, the content of the articles of the Universal Declaration on human rights in Islam is not inconsistent with Islam, rather it is compatible with Islam and applicable in all countries. Finally, the discussion will end by discussing a few objections to Islamic human rights and examining the fundamental differences between the two legal systems.

### ***A Brief Review of Allameh Ja'fari's Character***

Mohammad-Taqi Ja'fari known as Allameh Ja'fari (1925-199) was a 15th century AH Shiite scholar, sage, philosopher, theologian, jurist, and fundamentalist (Tehrani, 1982; Gharawi, 1999). One of his outstanding features was his constant effort to connect the seminary and the University and the old and the new sciences. During his half a century scientific and research activities, Allameh Ja'fari wrote over 100 books and treatises (Nasari, 1998).

Allameh Ja'fari's most prominent works are his 27-volume Translation and Interpretation of the Nahj al-Balāghah and 15-volume Interpretation and Criticism of Rumi's Masnavi. In Translation and Interpretation of the Nahj al-Balāghah, Allameh Ja'fari attempts to innovatively and dynamically explain the fundamental human and Islamic issues. A wide range of topics including philosophy, mysticism, politics, ethics, poetry, and literature have been covered in this book. The readers get acquainted with novel new anthropological and ontological facts. The Interpretation and Criticism of Rumi's Masnavi which seems like an encyclopedia in terms of style focuses on the thoughts and opinions of Jalal al-Din Muhammad Balkhi, also known as Rumi, and compares his mystical discussions and pieces of advice with the realities of the present day. In this book, Allameh Ja'fari also discusses a large number of academic issues. He further focuses on the novel Western psychological views and Western social thinking, referring to great scholars such as Victor Hugo, Dostoevsky, Tolstoy, Balzac, Max Planck, Einstein, etc. One of the prominent features of this interpretation is the reconciliation between Islamic knowledge and the humanities as well as the reflection on Islamic philosophical categories common between the East and the West, which he interprets as "the shared human culture" (Nasri, 1997).

Allameh Ja'fari was in contact with many Western thinkers. In addition, He was interviewed by several foreign scholars over 100 times, e.g., on "the ownership, tribute, and the punishment for theft" by Professor Rosenthal from Germany in 1961, "Islamic philosophy and theology" by Dr. Kenneth Allen Luther the United States in 1961, "a comparison of Eastern poetry and Western poetry" by professor Young from the United States in 1961, " a comparison of Islamic psychology and the contemporary psychology" by Dr. Bedford from Germany in 1962, "the difference between Shiite theology and that of Ash'ari" by Ibrahi, Suleiman and Sharif Sahimat from Jordan in 1963, "philosophy and the purpose of life" by Dr. Picket from Britain in 1963, "the necessity of religion in human life" by Dr. Claus from Germany in 1964, "he principles of Islamic beliefs" by Dr. Peter from Britain in 1965, "a comparison of Iranian and French literatures" by professor Montaigne from France in 1966, " the causality from Ash'arites and Hume's viewpoints" by 'Allal al-Fasi from Morocco in 1969, "Rumi, Victor Hugo Machiavelli" by Dr. Van Wijk from the Netherlands in 1971, and "a comparison of Muslim and Hindu Mysticism" by Charls Adams from Canada in 1976 (Rafe'i, 1994).

Allameh Ja'fari, an Islamic philosopher and a master of Western philosophy, is one of the few scholars who have comparatively studied Islamic and Western issues. He has skillfully explained Islamic and Western schools and has written valuable works on these issues. In his book *Universal Human Rights: a comparison of Islamic and Western systems and the scientific materials he presented to the Conference on Universal Declaration of Human rights in Islam* (University of Tehran, 2002), Allameh Ja'fari has compared these two legal systems from various viewpoints and identified the shortcomings of Western legal system and the benefits of Islamic human rights. The present study aimed to examine Allameh Ja'fari's valuable ideas about these legal systems to show the superiority of Islamic human rights over Western human rights.

### ***The Roots of Human Rights***

#### *The Basic principle of the natural rights*

The basic principle of natural rights is "to protect and regulate human life" in two important aspects: pure natural life, and desirable life (reasonable life). The right to life is the first principle of the natural life of the human, which has been recognized by all Divine religions and human laws.

The desirable life (reasonable life) has four basic principles, including "the right to dignity, the right to education, the right to responsible freedom, the right to equity before the law". Islam has considered these principles in the best way to realize the reasonable life of the human and to ensure his well-being.

#### Divine Religions

The basis of the Divine religions is to help man reach spiritual maturity and perfection. The Almighty God has communicated the basic principles of the natural rights to the people through religions and sending Messengers. This universal source that governs humanity expresses the general principle of life and the foundations of human life, regardless of their differences. Unlike pure natural rights, general principles are not determined arbitrarily, rather based on man's specific relationship with the world, a relationship that does not differ from one place to another (Jawadi Amoli, 2004).

#### *The perception of those who are the right-minded*

Right-minded scholars and thinkers called for the enactment of civil laws in the various, oral, legal, cultural, and literal to, along with the natural laws, improve the quality of man's life. Philosophers also insisted on the adoption of civil laws. It is clear that 'material' is the cause of plurality and disagreements, not unity and integrity. Even if the promoter of human rights manages to divide all the material resources of the universe equally among all people, they still cannot realize unity and integrity. The only factor helping people to unite is to abandon nature and materials and come to an understanding and unity in terms of the source of the rights (Jawadi Amoli, 2004).

#### *Human rights in the French constitution*

Universal declaration of human rights, passed in 1789, has one premise and 17 articles (Hashemi, 2005). The formulation of Universal human rights which covers all aspects of human life, regardless of their race, gender, nationality or ethnicity, requires a common source. In other words, the same very governing principles can be the basis of human rights when accepted by all people of the world, regardless of their race, color, custom, and so on. If such a source or the universal principles are not available, it will not be possible to realize the ideals of humanity and meet all needs of man (Jawadi Amoli, 2004).

## ***Human Values and the Motives for Declaration of Western Human Rights***

Allameh Ja'fari considers two issues about the Declaration of human rights. First, the human values of the Declaration, its usage, and its effect on the improvement and reform of humanity. Second, the main motives in the formulation and passing the Declaration. Regarding the values and the usage of the Declaration, Allameh Ja'fari offers three major theories:

**The first:** This Declaration is the most comprehensive and complete document that has ever been drafted in confirming human rights and freedoms of the people and been accepted by the vast majority of the world's states. Criticizing the declaration, Allameh Ja'fari writes:

From Islam point of view, given human rights articles, the Declaration of human rights drafted and passed by Western scholars cannot be the extract and complement of all the other declarations, religious and ethical teachings, and the beliefs and theories of all periods and all cultures and religions. All contents of this Declaration are found in primary and authentic Islamic sources which are based on the explicit verses of the Qur'an. However, there are a number of laws and rulings on Universal human rights in Islamic sources which have not been mentioned in the declaration and can be considered as a privilege of Islamic *fiqh* (jurisprudence) and law. In addition, Islamic human rights lack the contradictions and flaws of the Universal declaration of human rights.

**Second:** this theory is related to the third world's perception of human rights. Since the theoretical bases of human rights are Western, it has been predicted based on nationalism, liberalism, and socialism (Allameh Ja'fari, 2004). While the third world's ideologies, particularly Islamic countries, are based on Islam- a religion that has an eternal plan and basic laws for the whole world. Moreover, Islam does not confirm some contents of the Declaration of human rights from the viewpoint of the United States.

**Third:** the universal Declaration of human rights is inherently a valuable and justifiable system. At least as an indication of an ideal world, it prevents the middle and lower societies from aggressing each other. It is also helpful in the abstract culture of the humans in powerful societies.

Regarding the second issue, i.e., the main motives in the formulation and passing the Declaration, Allah Ja'fari proposes three main theories:

**First:** the first theory is the one proposed by the drafters of the Declaration of Human Rights: Equality of rights and prohibition of oppression and discrimination until the realization of freedom, justice, and peace in the world. Regarding this theory, Allameh Ja'fari states:

These motives can only be considered valuable human motives when accepted and enforced without any discrimination and exceptions between the weak and powerful societies (2007, p. 47).

**Second:** this declaration favors the powerful countries- i.e., the United States, Britain, the Soviet Union, and China- which play the role of guardians, punishing the smaller countries that threaten the world peace. The Declaration was also passed according to the superpowers' ideology and without any legal guarantee. On the other hand, it is a means to deceive people of the world and make them hopeful about something which has no executory value (2007, p. 52).

**Third:** The Declaration seeks to resolve the contradictions and conflicts among people and to promote the principles of the human values and realize freedom, justice and peace in the human society. Allameh Ja'fari considers this a good motive in passing the Declaration. However, he believes if the main reason has been to prevent contradictions and conflicts among the humans, it is embarrassing that in this view, human has been lowered to the animal level and that to prevent this savage animal, they have resorted to force (2009, p. 120). Accordingly, the formulation of the Universal human rights will result from the men's conflicts.

Similarly, Jackson in his book *Islamic law and the state* writes: "Law in America has only superficially touched upon execution of the ethical duties. In fact, while an American can be law-abiding, he can also be a morally vicious and corrupt person" (Khadduri & Herbert, 1989, introduction).

By examining the major theories on "the human values and motives of Declaration of human rights", seven motives can be found for issuing the Declaration of Western human rights, including:

1. Inherent recognition of all members of the human family and their equal and inalienable rights are the basis of freedom and peace in the world.
2. The highest human ambition is the emergence of a world where people freely express their opinions and do not live in fear or poverty.
3. Human rights must be supported by the rule of law so that man is not forced to rise up against oppression and cruelty.
4. It is necessary to encourage the development of friendly international relations.
5. People have declared their beliefs in the fundamental human rights and the status and individual value of the human, and the equal right of men and women are determined to realize social development in a free environment and a better living condition.
6. States parties to the Declaration are committed to ensuring Universal respect and real observance of human rights and fundamental freedoms in cooperation with the United Nations.
7. The General Assembly declares the Declaration of human rights as a common aspiration for all people and nations so that all people and dignitaries of the society consider the Declaration and attempt to facilitate its enforcement through training and taking gradual national and international measures.

The common thread of the motives for the formulation of the Declaration lies in the fact that human rights can develop brotherhood and equality among humans, societies, and nations so that peace governs the world. Accordingly, the world would be without any violence, war, and bloodshed. Allameh Ja'fari (2007) argues that this "is unlikely to be achieved unless humans truly know one another and establish a mutual understanding" (p. 70).

### ***The Ideological Basis of the Motives of the Formulation and Enactment of Universal Western Human Rights***

The issues raised in the human values of the Declaration and its usage and main motives for its formulation require to specify based on which ideology human being is defined and what it is meant by "human" in Western human rights. Does "human" mean the Caliph (viceroy) of God as mentioned in the Qur'anic verse "When your Lord said to the angels, 'Indeed I am going to set a viceroy on the earth ...'" (Al-Baqarah: 30)? Or according to the prophets, a being with inherent honor and dignity, that has been created based on "the mature Wisdom of God and pursues a supreme goal which can be achieved through the spiritual journey toward the goodness and perfection"? (Rajabi, 2000, p. 79) or as defined by Thomas Hobbes and Machiavelli, "Man is a wolf and there is no valuable truth in its existence"? (Closco, 2016, p. 104; Machiavelli, 1995, p. 125)? In other words, they believe man receives no value from God or the existence outside himself. Therefore, he is naturally self-centered, dictator, and Machiavellian. In a general sense, man is a self-centered being who has no logic but "I am the goal, others are the means" (Allameh Ja'fari, 2007, p. 55). Each of these two contradictory ideas considers specific status and value and legal guarantee for human rights. In the Western view, man is devoid of the valuable truth and is considered as non-Divine. Given this belief and ideology, it is unlikely for the man to achieve the spirit and the basis of human rights, which are brotherhood and equality.

According to Ayatollah Jawadi Amoli, the main basis for determining human rights is anthropology. Without knowing the subject, one cannot express his opinion about it and formulate rights for it. Since the issue of human rights is the human and his rights, then without knowing him, one can

neither make him obey rulings nor formulate rights for him. The reason why rulings and rights are formulated is "for man to reach his destination by following them" (Jawadi Amoli, 2004, p. 94).

Some Western thinkers have also focused on understanding human being. They consider this understanding conditional on the supernatural powers. For example, Jean-Jacques Rousseau argues that to understand the truth of man, there is a need for an All-knowing who observes man's desires but is not infected by them, the One who has no contact with the nature but knows it completely, the One whose happiness is not dependent on man, but is ready to help man to reach happiness. Such All-knowing beings can only be the Gods who send the best laws for the people (Jean-Jacques Rousseau, 1968).

A true knowledge and anthropology release man from humiliation and insult. Furthermore, the realization of universal freedom, justice, and peace is based on the inherent honor and dignity of all members of the human society and their equal rights. Obviously, in order for these human goals to be realized, man's inherent honor and dignity must be proven. While the universities of the world not only have not taken any proper scientific and philosophical measures to prove the honor and dignity of man but also have increasingly reinforced the theory of "originality of power" and depreciated the sanctity and spiritual honor of the men by resorting to cultural vulgar and baseless analyses of the fundamental principles of the history.

From viewpoint of Islam and other Divine religions, man enjoys inherent honor and the talent to develop the highest human values, as Qur'an says "Certainly We have honored the Children of Adam,..." (Isra': 70). Accordingly, it is logical to instruct all human societies to respect the honor and dignity of man. Thus, in order to become a Universal culture, Western Universal human rights need to first eliminate this shortcoming and approve the honor and dignity of man, and not to view human beings from the perspective of Machiavellian ideas and the theory of the originality of the power and place him in his main status (Allameh Ja'fari, 2007).

On the other hand, the lack of legal guarantee for the enforcement of Western human rights lies in the fact that the goal of human rights and its enforcement in all countries and among humans is to restrain the men and discourage the tyranny and power of the arrogant and rebellious authoritarians and rebels. Accordingly, rights and laws are means of restriction and deprivation of freedom and restraint on the rebellious human soul. To realize this lofty goal, men should have strong motivations to give up worldly desires and greed in favor of other people's interests and higher privileges.

### ***The Motive to Formulate Islamic Universal Human Rights***

Islam pays serious attention to the Universal figure of man and his rights. Several Qur'anic verses and narratives have focused on this issue (Sheikh Hurr 'Amili, 1994): "That is why We decreed for the Children of Israel that whoever kills a soul, without [its being guilty of] manslaughter or corruption on the earth, is as though he had killed all mankind, and whoever saves a life is as though he had saved all mankind... (Al-Ma'idah: 32). According to this Holy verse and the teachings of *Fiqh* (Islamic jurisprudence), it should be said that the basis of Universal human rights began with Islam the first preacher of which was the religion of Ibrahim (AS).

Islamic religious sources explicitly express that human rights are Universal (Allameh Ja'fari, 2007) but on the condition that man worships God and frees himself from the chains of slavery. If the honor and dignity of man are understandable and accepted, the necessity of freedom, peace, justice, and respecting his individual and social rights will also clearly be proven. Thus, people will redouble their efforts to achieve their rights.

Accordingly, humans are divided into six groups based on their personality: first, those who have not developed (primitive human beings); second, those who have just begun to develop and reached some degrees of knowledge, culture, and practice; third, those who have acquired the knowledge that this world and life are not interpretable and justifiable without relying on a world beyond this world; fourth, those

who follow one of the Divine religions and act based on its beliefs and instructions; fifth, Muslims who believe in the prophecy of all Divine prophets, particularly *khatam an-Nabiyyin* (Seal of the Prophets) and his Book; sixth, those who have raised in Islam, reached the degree of piety and attained the merit of human value. Each group is, receptively, "superior to the previous one such that the last group has reached the highest degree of piety and dignity and is superior to other groups" (Allameh Ja'fari, 2007, p. 80).

These six groups have some rights in common, including the right to life, the right to inherent dignity, the right to work and activity, the right to education, and the right to freedom. Every man who leads the path of growth and development and acts based on the principles and laws can reach a degree of piety and attain value: "Indeed the noblest of you, in Allah's sight, is the one who is most pious of you" (Al-Hujurat: 13). This verse is addressed to all humans who enjoy the above rights since all humans are considered members of God's family, "the most beloved members being those who are the most beneficial to the family" (Kuleini, 2009. V. 2, p. 166).

The superiority of each to others is the only determined based on mental and intellectual development and piety. Every individual or group that has reached a higher level of development and piety should be the role model of those traveling this path. This privilege is not an absolute devotional matter because all humans, since the beginning of the history of their creation, have always appreciated the principle of the superiority of the **eminent** over the others, and any progress made by man has resulted from following this principle. Accordingly, Allameh Ja'fari (2007) believes that "disobedience of this principle in the Universal human rights of the United Nations is the flagrant violation of the principle"(p. 82).

### ***The Common Principle of the Motives for the Formulation of Human Rights***

Comparing the two legal systems, i.e. Western and Islamic human rights, reveals that the five common principles have not been stipulated independently and as fundamental principles in each of the systems. However, it has been outlined in the preamble and some articles of the Declaration. The common ground of the two legal systems is the acceptance of man's definite need for the rights and duties which provide their natural and desirable lives. Both systems agree on the formulation of some articles which are presented in the following five principles: 1. the right to life; 2. the right to human honor and dignity; 3. the right to education; 4. the right to freedom; 5. the right to equity before the rights and laws.

In analyzing and interpreting the fundamental principles of the two legal systems, Allameh Ja'fari first focuses on a major challenge of the late twentieth and early twenty-first centuries. According to Allameh Ja'fari, the Islamic human rights system is a religious legal system. In the present day, it is difficult or impossible for many people, particularly the jurists, some humanitarian thinkers, to accept that a religious legal system can fulfill the human ideals of all nations of the world about the relations and freedoms stipulated in Western human rights. However, it is undoubtedly due to their misinterpretation of religion. If by religion we mean the one which has recently been proposed in the West, it can be said that a religious legal system is not capable of governing the legal relations of people. Even an ethical system or a religious cultural element cannot respond to the vital issues of man's life. Based on the recent Western interpretation, religion is a limited relationship between man and God which is not related to any major aspects of life. However, the religion of Islam is responsive to all four kinds of relationships- i.e., man's relationship with himself, God, the universe, and his fellow human beings both in terms of "what they are" and "what they should be".

In this sense, religion plays roles in "law", "politics", "economy", "art", "ethics", and all the other aspects governing the life of man. All Islamogists have unanimously accepted that Islam has coherently integrated all aspects of the desirable natural life of man and helped them flourish with the same rational unity. Therefore, there is no need to prove it. Regarding the great unity which Islam has theorized and encourages human societies to obey, Robert Hogarth Jackson writes:

There were great obstacles and discouraged people to pay attention to Islamic law... the source of law in Islam is the Will of God, which was revealed to the Holy Prophet (PBUH). This law and the will of God consider all believers as a single society, though they are composed of various tribes and races, living in different places. It is the religion that links people, not their nationality or geographical boundaries. Here, government obeys Qur'an and there is no room for another legislator, not allowing any criticism, schism, and division... Qur'an presents the laws and rules and the way people should behave one another and the society to be prepared to go from this world to the next world. It is not possible to separate political or judicial theories the Holy Prophet's (PBUH) teachings that determine one's treatment toward the religious principles, personal, social, and political life-style (Allameh Ja'fari, 2007, p. 138).

A question is raised about Islamic human rights: since the system of Islamic human rights is religious. It is not possible for people from other societies, who do not believe in Islam, to accept it and act based upon it. Moreover, the number of Muslims is less in other nations. Therefore, forcing all people to accept and follow this system by relying on the principle of the majority is also out of question.

To solve this question, Allameh Ja'fari divides human rights and duties into three main categories: first, the natural and inherent rights which consist of the universal fundamental human rights and are not affected by ethnicity, nationality, religion, and faith. The bases of human rights in Islam are in accordance with the natural and inherent rights of man (Cassirer, 1993), i.e., the right to life, the right to human honor and dignity, the right to education, the right to freedom, and the right to equity before the rights and laws which are also generalized to all ethnicities and nations by Western human rights. Second, the rights and duties which are specific to each nation and society. In this regard, Islam not only does not impose its legal and obligatory rules on any ethnicity and nation but also according Qur'anic verses and other jurisprudential principles, has given them free rein to think and act based on its laws and rulings. Of course, in cases that it is proved that people have done wrong, Islam guides them in the most appropriate way (Al Imran: 64). Third, the regulations which are formulated by the authoritarian and dictators to dominate people. Using their power, they turn those regulations into laws and duties. Certainly, every school which aims to reform man and humanity not only does not confirm these regulations but also attempts to eliminate these regulations, replace them with the supreme laws, and remove the obstacles of the human development in the most appropriate way.

Another problem raised about Islamic human rights is since some of these rights are conditional on *shar'* (Religious law), it is not possible to generalize Islamic human rights to all ethnicities and nations. Therefore, the universality of these rights is affected.

To respond to these objections, Allameh Ja'fari first examines the rights and freedoms of Western universal human rights that are conditional on some matters, then explains the articles and clauses of Islamic human rights that are conditional on Islamic laws. Delving into all thirty-one human rights in Islam, Allameh Ja'fari (2007) comes to the following important conclusion:

The philosophy and meanings of the majority of the articles of these rights, without the need to be interpreted and justified, are acceptable for all ethnicities and nations and are in accordance with the human pure nature. Few rights which seem not to be accepted by all ethnicities and nations- e.g., the prohibition of usury, the unlawfulness of abortion, and some family matters- can be justified by scientific analysis and arguments for those whose pure nature has not been polluted. (p. 157)

### ***The Superiority of Islamic Human Rights over Western Human Rights***

Allameh Ja'fari, finally, refers to the Declaration of Human Rights, adopted at the Tehran Conference in 1989, and the provisions of the Declaration of Universal human rights and compares them, identifying their similarities and differences. He attempts to demonstrate the superiority of Islamic human rights over that of the West. The followings are some instances of this.

- A. One of the provisions of Islamic human rights is the right to life. All states, communities, and individuals must defend the right to life. This is also mentioned in the third article on Western human rights. Both Declarations have some rights in common: the right to life, freedom, security, prohibition of torture, and any cruel and offensive treatment with human beings. Then, he discusses the difference between the two legal systems, some of which include:
1. Islamic human rights are gifts from God, while Western human rights do not pay attention to this. Accordingly, there are some problems in the enforcement of Western human rights.
  2. The West obliges states and societies to enforce these rights. However, they have practically failed to do so, since they have only pursued their own interests.
  3. Islamic human rights prohibit the use of any means to destroy life, whereas Western system does not emphasize this prohibition.
  4. In Islamic human rights, abortion is forbidden, while it has not been focused on Western human rights.
- B. Detention, torture, exile, and harassment of individuals are not permissible without a religious reason. This is mentioned in both systems, but there are some differences:
1. In Islamic laws, these are forbidden unless there is a legal reason; however, this condition is not found in Western human rights.
  2. In Western human rights, freedom is unconditional, whereas in Islam, it is conditional.
- C. Freedom and equality of human beings are mentioned in both legal systems. Islam insists that all human beings are servants of God and no one is another one's slave; however, there is exploitation in Western human rights.
- D. Both systems agree that the properties of the individuals must not be confiscated. In Islam, there are terms and conditions which stipulate that no harm must occur to the entitled person. Western human rights do not refer to this issue.
- E. Both systems believe that tyranny is forbidden and that everyone can involve in the administration of the country. However, there are some differences, including:
1. In Islam, particularly in Shi'ism, the ruling is a divine matter, and the slightest tyranny is forbidden.
  2. The source of the ruling is God since He is the authority.
- F. Both legal systems accept the principle of freedom of thought and expression. However, there are some differences, including:
1. These freedoms are considered absolute in Western human rights, while Islam limits them to the extent determined by God.
  2. Islam does not consider freedom as a goal by itself; otherwise, there should be no criminal law and reproach.
  3. The freedom of religion is conditional on people's reaching perfection in intellectuality; otherwise, they must not be granted the freedom. (Yathrebi, 2013, pp. 107-120)

## Conclusion

Examining Islamic and Western legal systems in the formulation of the Universal human rights, Allameh Ja'fari concludes that "without knowing the other people, it is not possible to establish a true understanding between all of them". Otherwise, defining universal rights for human beings is done either out of ignorance or based on instinctive interactions. According to the authentic Islamic sources, the common principle of humanity is the "human nature" which is protected from any change and transformation (All humans are inherently God-like and God-seeking): "... this (faith) being the nature designed by Allah on which He has created mankind. There is no change in Allah's creation..." (Ar-Rum: 30). Therefore, in identifying and recognizing the sources of rights, one should not rely on any ideology other than this Universal principle. Accordingly, the drafters of human rights must be a being that has deposited this nature into the heart of the humans and is sufficiently knowledgeable about it. The Creator of this nature who has formulated legal laws for humans is manifested in the Holy religion of Islam. Accordingly, human rights which can flourish the Universal images of man are human rights in Islam which are superior to Western human rights. First, they are based on the Divine Will; second, they enjoy the legal guarantee for enforcement based on the perfectionist feature of man; third, the source of the rights and duties is the inherent religion of Ibrahim (AS); fourth, they indicate the superiority of human dignity in Divine, scientific, conscientious, philosophical, and natural terms; fifth, they give priority to spirituality, not subordinating it; sixth, the legal principles of Islam are superior to those of Western legal system.

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