

# Islam And Human Rights<sup>1</sup>

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## 1- introduction

The association occasionally made in seminars, conferences, workshops and other academic activities, as well as in the mass media, of Islam and other non-religious conceptions, be it Europe or the West, Enlightenment or Modernity, even to Human Rights as in the title of this presentation, need to be reconsidered. Since most of the papers and the discussion in such activities are more concerned about the present socio-political and intellectual situation in the Muslim world and its relation with the west, having *Islam* instead of the *Muslim world* at the front page would lead to miss-conceptualization and accordingly to misunderstanding of Islam. Such a confusion will do injustice to Islam because there are only two possibilities implicit in equating Islam and the Muslim world; either to misjudge Islam by evaluating its teachings according to different contextual frame of values or to take the defensive stand trying to de-contextualize Islam to make it very modern. There is of course a third non-defensive, but rather aggressive, stand which is the reactionary one labeled *fundamentalism* in Western discourse.

Speaking about Islam, at least three domains of investigation should be distinguished: First, the original texts of Islam, i. e. The Qur'an and the authentic traditions of the Prophet. Second, Islamic thought which could be considered as modes of interpretation of the original texts, and is to be found in the four major disciplines of Islamic discourse: Jurisprudence, Theology, Philosophy and Mysticism. Third, the practical socio-political manifestation of Islam in different Muslim societies in different socio-historical backgrounds. There has been always a gap between any given idealistic system and its implementation in reality. It is the distance between theory and praxis. Islam is no exception from this prospective.

## 2-The Text

As for the original texts, a socio-historical analysis is needed for understanding and a very modern linguistic methodology should be applied for interpretation. So far, only the philological approach is accepted and the socio-historical analysis is absolutely rejected not only in the domain of texts' interpretation but also in the domain of Islamic thought's scholarship. The notion that religious texts though divine and revealed by God are historically determined and culturally constructed is not only rejected but also condemned as "atheism". This is due to the fact that the notion of the Qur'an as the "eternal" exact utterance of God has become the accepted dogma in Sunni Islam since the ninth century. Scholars only know that there has been another school of theology that claimed that the Qur'an is "created", it is therefore impossible to be eternal, but quite very few of those scholars accept the notion of non-eternity. As often in the history of Islam, these theological positions were narrowly associated with socio-political positions. Nevertheless, these positions are taken in modern Islamic discourse, analyzed and evaluated in terms of "Right and Wrong" or "Truth and False".

To present this issue in a greatly simplified way: If the Qur'an is not eternal, it is then created in a certain context and the message it contains has to be understood in that context. This view leaves room for reinterpretation of religious law, because God's word has to be understood according to the spirit not according to the letter. The final consequence is that the public authorities and/or society are entitled to primacy in the interpretation and application of the law. If God's word, on the other hand, is eternal, not-created and immutable, then the idea of reinterpretation within a new situation becomes anathema; there is no difference between letter and spirit of the Divine Law and only theologians are entitled to primacy in its maintenance and guardianship. In other words an Islamic authority like the Christian Church is needed, and this almost what has happened in the socio-political and cultural history of Islam since the ninth century when the notion of the "eternity" of the Qur'an with all its implications was declared by the political authorities as the "true" faith.

The Qur'an is God's speech. About this point of view there is no disagreement among Muslims throughout the centuries. The discussion, however, centered upon the question whether the Qur'an is eternal or temporal and created, have led to fierce dispute and even to persecution of the adherents of one or the other of the two positions. The time of that great persecution, called "*Mihna*" or inquisition, lasted from 218/833 till 243/848.

It is worth noting that the choice in favor of one of the two answers, eternity or creation of the Qur'an, had great implication for the believing thinking about God and the world. The belief that the Qur'an is eternal implies, for instance, that God preordained any event described in it and leads to belief in God's absolute predestination; who wants to deny this predestination must believe the Qur'an to be created. And, to mention yet another example, he who advocates the doctrine of God's absolute unity and unicinity (a central Islamic belief) and wishes to take this in strictest sense, denies the existence of an uncreated Qur'an together with God in all eternity. From the point of our interest in this paper, the notion of eternal Qur'an leads automatically to strict adherence to the literal meaning of the text.<sup>1</sup>

It will always be necessary, however, to analyze and interpret the Qur'an and the authentic Traditions of the Prophet within the contextual background in which they were originated. The specific linguistic encoding dynamics of the Qur'anic text allows always an endless process of decoding. In this process *the contextual socio-cultural meaning* should not be ignored or simplified, because this "*meaning*" is so vital to indicate the *direction of the "new" message of the text*. Having the direction would facilitate moving from the "meaning" to its "*significance*" in the present socio-cultural context. It will also enable the interpreter to correctly and efficiently extract the "*historical*" and "temporal" which carry no significance in the present context. As interpretation is the other inseparable side of the text, the Qur'an, being decoded in the light of its historical, cultural, and linguistic context, has to be re-coded into the code of the cultural and linguistic context of the interpreter. In other words, the deep structure of the Qur'an must be reconstructed from the surface structure. Subsequently, the deep structure must be rewritten in another surface structure, which is that of to-day.

This entails an interpretive diversity, because the endless process of interpretation and re-interpretation cannot but differ in time. This is necessary, because otherwise the Message degenerates and the Qur'an will be always, as it is now, subject to be politically and pragmatically manipulated. Since the message of Islam is believed to be valid to all human kind regardless of time and space, diversity of interpretation is

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<sup>1</sup> □ J. R. M. Peters, **God's Created Speech**, Leiden, 1976, p. 3.

inevitable. But being aware of the difference between the original contextual “*meaning*”, which is almost fixed because of its historicity, and the “*significance*” which is changeable, in addition to the awareness of the necessity that the significance is to be strongly related and rationally connected to the meaning- will produce a more valid interpretation. As long as it is emphasized that every interpretation is historically and culturally constructed, this interpretation concerning Human Rights in Islam is no exception. It is only valid as long as it does not violate the above mentioned rules of methodology in order to jump to some “desired” ideological conclusions.

### **3- Violation of Human Rights**

Whenever the Human Rights issue is addressed to Islam, Islamic thought and culture, or even to Muslim societies, specific topics are explicitly or implicitly raised. Topics such as: Non-Muslim status, Women status, the Islamic panel code, Slavery and the notion of Sacred War or Jihad. For some practical reasons concerning the limitation of time and space, only the issue of non-Muslims and the related issue of Jihad will be the main topic of this presentation. I hope this topic will present an example of what Islam says in its original texts about the more general wide topic of Human Rights. It should be clarified from the outset that violation of Human Rights in the most of Muslim countries is normal practice to the extent that it some times passes unnoticed by the majority of the elite who are more concerned about hot issues like freedom of speech, freedom of press, freedom of academic research, freedom of forming political parties, etc. I am sure no one will accuse me of undermining these very important issues simply because I am personally represent an example of the way these rights are violated. What I want to emphasize here is the fact that more essential and vital Human Rights of ordinary, mainly non-educated, citizens are violated every moment without being brought to public attention simply because those people are not connected to any political body, neither do they have access to the press, probably nor do they have ever heard about Human Rights or learn what it means to be human.

Leaving the Muslim world and the so politely named “developing” world behind, the other “developed” world has to explain what the word “human” means in the Western political context. Are the people of Israel more human than the Lebanese? Or do the citizens of the United States of America deserve better life than the people of Iraq? These are only two examples to indicate that violation of Human Rights seems to be the rule not the exception. The difference between the “North” and the “South” which is another arbitrary division of the human race should not be emphasized as a sign of superiority and inferiority allowing discrimination of any kind. I think it is not only our duty but it should be also our obligation to protest loud and clear against any kind of Human Rights’ violation whether practiced by states, political or religious groups, or/and individuals. Defending Human Rights should not be used as only a political weapon against some countries and groups while playing deaf and silent for others; political manipulation of Human Rights to protect self-interest in the world politics is in itself a sever violation, and rather absolute damage, of its essential human values.

As there is a wide gap between ideals and practice in our modern world, it is almost the same the case of Islam. The idealistic teachings of Islam have been subject to interpretation and reinterpretation in order to be adjusted to, and in some instances

to justify, certain socio-political situation. If we start with the "non-Muslim" status issue and apply the method explained above, we will find that the basic and essential teaching of Islam is equality of all humans regardless of race, color, religion or even gender. It is clearly stated in the Qur'an that God created all man-kind "from a single soul and created its mate from the same soul and spread from both of them too many men and women" (ch. 1V v. 1.) Human kind, thus created of male and female, has been made tribes and nations in order to come to know each other (1L/13.) And in addition to this essential equality, God has honored mankind and preferred them over most of His creation (XV11/70.)

Concerning different types of religious faith, equality also is essentially guaranteed unless a war is initiated against Muslim, then the war conditions as historically practiced are the rules. These war conditions are mostly situated in the chapter of the Qur'an called "Immunity", and these conditions should be understood as only exceptional historical practical teachings. Let me again quote the Qur'anic text itself in its essential guarantee of freedom of faith.

1-Those who believe in Islam, and those who believe in Judaism, and the Christians and the Sabian, any who believe in God and the last day, and do righteousness, shall have their reward from their Lord(11/62 and V/69.)

2-Those who believe in Islam, and those who believe in Judaism, and the Sabians, Christians, Magian, and polytheists, God will judge between them on the day of judgment (XX11/17.)

3- If one amongst the pagans ask you (Mohammed) for asylum, grant it to him, so he may hear the word of God; and then escort him to where he can be secure. (IX/6.)

Even the freedom to turn back to polytheism or atheism after accepting Islam, or to convert to another faith is left to man's essential free choice. It is natural in a religious text like the Qur'\_n to introduce for such an act an after world punishment, but there is no immediate penalty mentioned. Such a penal code was later introduced by jurisprudence and institutionalized as part of the faith. Again quoting the Qur'\_n will clear the situation.

1-Say (Moammed), the truth comes down from God: Let him who will, believe, and let him who will, reject : for the wrong doers We have prepared a fire (XVIII/29.)

2-He who will turn back from his faith, soon will God bring about (other) people whom He will love and they will love him (V/54.)

3- Those who reject faith after they accepted it, and then go in adding to their defiance of faith, never will their repentance be accepted; for they are those who have gone astray (III/90 and IV/137.)

Back to chapter 1X, entitled "Immunity", from which the whole notion of Jihad or sacred war, including the conception of Jizya, was taken as an essential part of faith, we find it mentioned that polytheists should be slain whenever they are found. But if even only one contextual level, namely the internal narrative and linguistic context of the chapter itself, is considered, it will be very clear that it is a "threat". The behaviour of the Prophet when Mecca was conquered ten years after being forced to

leave is a substantial proof against the literal understanding; he simply gave the people of Mecca his forgiveness and prayed for their to be forgiven by God. During the great venture of Islam, no single report of committing any collective killing by Muslim conquerors was recorded, which means that the early generations of Muslims did not consider that specific verse as conveying an obligatory religious duty. The Jizya was the only added obligation put on non-Muslims in the new territories opened by Muslims. This practice was not initiated by Islam, it was rather a common practice in ancient great empires. The Romans and the Persians forced the non-Romans and the non-Persians to pay extra tax as protected peoples.

According to the Qur'an, the obligation to pay Jizya is not limited to "the people of the book" alone as it is commonly understood; it is to be paid by all non-Muslims "who believe not in God nor the last day, nor hold that forbidden which hath been forbidden by God and his Apostle, nor acknowledge the religion of the truth" (IX/9.) The conception of Jizya has been in fact understood and explained by jurisprudence as an extra tax to be paid by those who could not be allowed to military service. If it were a way of entertaining religious discrimination, they would have not excluded of paying the Jizya women, children, aged people and priests. This exclusion means that as long as all the citizens of a multi-religious country, like Egypt for example, are equally involved in the military service, there is no room to claim that the Copts should pay Jizya. Such a claim is not only in contradiction with the essential teaching of Islam, but it is absolutely insane. Islam is not a religion of captivity and harassment, nor a religion of discrimination and patronization. But socio-political cultural stagnation in Muslim societies would generate more than misunderstanding of Islam; it might lead to a total damage of its values. But we must not forget that even within the enlightenment and the modernity of the West Human Rights are not human; they need to be humanized instead of being even not totally westernized.