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**Human Rights in Shiite political thought:
(Case study of Allameh Jafari ideas)**

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Abstract

"Human rights" as a fundamental issue in the present century has been a major parts of legal researches as well as one of the main features of democratic governments. Although it was theoretically first raised in the West but provoked various reactions from Islamic countries. In Iran, after the Constitutional Revolution, these issues were addressed. In a division, Shiite political thought can be divided into four sub-categories: political philosophy, political mysticism, political literature, and political jurisprudence. Because in Iran, Shiite jurists have always played a decisive role in various political, social, economic and cultural issues, it is necessary to refer to their opinion in this issue as well. Shiite jurists have also viewed Western human rights from three perspectives: denial, proof, and modification. Among Shiite jurists, the views of Allameh Jafari are interesting due to their special focus on this issue and the coherence of the issues raised by them. The main question pursues in this research is what is Allameh Jafari's view on human rights? This paper hypothesis is that Allameh Jafari, like most modern Shiite jurists, while accepting human rights issues, tries to adjust them according to religious sources and texts.

Keywords:

Human Rights, Political Thought, Islam, West, Allameh Jafari.

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Introduction

This study seeks to analyze the concept and position of human rights in Shiite political thought. In Islamic societies (especially Iran) until the last hundred years, absolute authoritarian governments have ruled, and authoritarian governments, contrary to religious principles, do not basically grant rights to members of society as citizens. Therefore, issues such as human rights in Iran were not raised like other countries, but with the growth of liberation movements in the West and the constitutional revolution in Iran, these issues entered the Iranian political literature and of course some post-constitutional Shiite scholars dealt with this new issue. They thought about examining the status and concepts of human rights in Islamic societies, and fundamental concepts such as freedom, equality, and the right to self-determination were highlighted by scholars. The modernist discourse of Shiite jurisprudence is maximally compatible with modern human rights due to its acceptance of the role of time and place in the process of inferring rulings and using the concept of expediency. Among contemporary thinkers, in this paper we intend to examine Allameh Jafari's views on human rights. Allameh Jafari is one of those jurists who believes in the compatibility of Islam and human rights concepts. However, he believes that these concepts should be weighed by the criteria of Sharia, so he searches for multiple concepts of human rights such as freedom, equality, right to life and human dignity in Islamic sources and concludes that these concepts are in Islam as same as in Western human rights, but there are differences in some details, which is due to their different sources. In this paper, we first take a brief look at the history of human rights issues in different societies from the beginning to the Universal Declaration of Human Rights in 1948, then introduce the beginning of this concept in Shiite political thought and a specific classification of Shiite thinkers' views on human rights. In the final part, which is the main part of the article, we briefly present Allameh Jafari's views on the concepts of human rights, and throughout the research we implicitly seek to answer the question that what are the mainstream views of Shiite political thought towards human rights.

There is a lot of research on human rights in both Persian and non-Persian. But when this issue is limited to human rights in Shiite political thought, there are a lot of researches in Persian and English researches are limited. Basically, at a glance, researches on human rights in Shiite political thought can be divided into three main sections. A category that includes a large part of human rights literature in Iran, have compared Western and Islamic human rights or merely analyzed the principles of human rights in Islam. For example, "Human Rights in Islam and the Universal Declaration

of Human Rights" by Seyyed Hossein Safaei, "A Comparative Study of the Protection of Human Rights in Islam and Contemporary International Law" by Seyyed Ibrahim Hosseini. Naseri, "Theoretical Foundations of Human Rights in Islam" by Seyyed Ali Mir Mousavi, "History of Human Rights in Islam" by Mohammad Mehdi Kariminia, "Theory of Human Equality in Islamic Human Rights" by Seyyed Mohammad Hosseini "Human Rights in the SAHIFE AL-NABI" by Walid Noyehz, "Islam and Human Rights" Zina Al-Abedin Ghorbani, etc.

Some part of literature deals with the Islamic Republic's position on human rights. It can divide into several sections. For example, some of them have reviewed the Iranian constitution regarding to human rights, Such as "Human Rights from the Perspective of the Iranian Constitution" by Bashir Ariamanesh, "Human Rights in the Constitution of the Islamic Republic of Iran" by Mohammad Mehdi Kariminia, etc. Other categories include Iran's interaction with human rights organizations and the behavior it has taken towards them. Are examined. For example, "Human Rights in International Documents and the Position of the Islamic Republic of Iran" by Hossein Mehrpour, "Human Rights Institutions: The Islamic Republic of Iran and the United Nations" by Marzieh Mousavifar, "Human Rights Council and Strategies on the Interaction of the Islamic Republic of Iran" »By Fardin Kharazi.

But the third group, which is closer to our research, has tried to study human rights from an ideological perspective, such as "The concept of human rights in Islamic teachings" by Mohsen Davari, who tries to examine the concept of human rights from the perspective of Islam. . To achieve this, he first examines the concept of right and its relation to right and duty, and then anthropological topics that are very important for receiving human rights, including the Creator of man and his Lord, human nature, human status, Man's Relationship with the Universe, purpose of man, and with the clarification of these two important definitions of human rights from the perspective of Islam, he presents: "Human rights are those fixed, stable and common things in all human beings, which every human being must have it since "Being human" and this right was given to him by the Creator of man at birth. In another article, "Theoretical Principles of Human Rights in Islam", Abdul Hakim Salimi tries to show that Western legal systems, which have a materialist approach, are fundamentally different from Islamic legal systems, which have a monotheistic view, in terms of human rights legislation. The principle of "truth-centeredness", which is the basis of religious rationality, invalidates the relativistic ideas of Western human

rights by emphasizing the existence of objective truths and the possibility of achieving them.

In sum, the most research on human rights in Iran has either applied Islamic human rights to the West, or merely described the human rights actions of the Islamic Republic of Iran, or explained Islamic human rights. This study tries to examine human rights in Shiite political thought. Therefore, we first examine the origin of this concept. Then we show the beginning of this discussion in Shiite thought and finally we examine the thought of Allameh Jafari about human rights.

1. Theoretical Framework: The concept and origin of human rights

Human rights means the rights that belongs to every person due to being human, independent of any other aspect such as race, gender, color, language, religion, etc. The term human rights is a new concept and has entered into everyday conversation since World War II and the founding of the United Nations in 1945. This term has replaced the more ancient terms "natural rights" and "Rights of man ". The problem with the definition of human rights stems from the concept and nature of "rights", which has provoked much controversy among law philosophers.

In general, there are two theories about the nature of law: one that emphasizes will or choice and one that emphasizes benefit or expediency. In the first theory, whose main contemporary advocate is "Hart", he argues that right is the power given by law to individuals to do or leave something. Therefore, the person can waiver of right or exercise it. There are criticisms of this theory, including the fact that some individual rights, such as life, cannot be waived or transferred. Can a person be deprived of the right to live or leave the right to live in the hands of others? Is the duty to respect the right to life of others waived with the consent of the right holder? No one can kill or torture another even with his/her consent. In the second theory that first expressed in Bentham's work and now supported by scholars such as Lyons, McCormick, Raz, Campbell, and others, the purpose of law is not to protect one's power and will, but it is preservation of certain interests belong to him. In other words, rights are the benefits guaranteed to individuals by the rules governing relationships. For example, "a" has the right when he benefits from the performance of an associated duty, or "a" can have the right when the support or promotion of his benefit is recognized and, in return, obligations and duties to others(Freeman, 2011, p18-25).

Apart from the theoretical debates and the fact that human rights is a new term, the idea of human rights is not belongs only to modern era. Roots of this idea trace to the past, and it evolved form is what we know today as human rights. Historically, first of all, Cyrus the Great (560 BC), the

Achaemenid emperor, respected and honored the sanctities of other nations. He issues decrees and charters that include a significant amount of human rights and freedoms (Abu Saeedi, 2005, p. 29). The idea of human rights in the principles of the religion of the people of Asa (Jewish people) is stated as follows: "Show justice to all human beings and do not harm anyone and be free from oppression." (Jafari, 1991, p. 19) Also in Stoic thought, the main aspect of national ethics and politics and the feeling of sharing and cooperation was respected not only with the homeland but with all the people of the world and historically the first people believed in cosmopolitanism (Jafari, 1991, p. 20). According to the historical developments of human rights, from the birth of Christ to the advent of Islam in the sixth century AD, there is no other specific text except the words of Jesus Christ that we see in the Bible and in those cases where human rights are mentioned. With the advent of Islam in the Arab ignorant society, there are many cases of respect for human rights, both in the theoretical and practical life of the Prophet and the Imams. Later, human rights traces in some texts such as the Great Charter of England in 1215 AD, Declaration of Independence in U.S. in 1776 and the French Declaration of Human Rights, which is an integral part of the French constitution of 1789. But the universal text on human rights, adopted by a majority of countries, is the Universal Declaration of Human Rights, drafted in 1948. Following this declaration, the issue of human rights became universal, and many actions, behaviors, and decisions were weighed by human rights standards, and even opponents and protesters tried not to express their views and actions against it. However, although the origins of human rights go back to prehistoric times, according to Allameh Jafari, the root of human rights arise from two things: Natural rights: which are innate among all human beings and Religions, which emphasized all these principles (Jafari, pp. 13-14).

In the twentieth century, two world wars and disregard for each other's rights made human rights the most important and complex issue and forced man to formulate a declaration that guaranteed human rights. However, considering that this declaration was compiled by Westerners and according to different sources and different views, we must first examine the beginning of the human rights discourse in Shiite political jurisprudence and see when the concepts of human rights entered the Shiite political jurisprudence and then let's see if these concepts were accepted or rejected by Shiite jurisprudence.

2. Human rights backgrounds in Shiite thought

The contemporary history of Iran as a dramatic intellectual shift has affected to numerous social and political changes. The developments of this period

have different political, social, economic and legal aspects. The most fundamental change that has taken place in Iran's legal structure is the the formation of a modern state and the rule of law in Iran with the Constitutional Revolution. The second half of the Nasserite era is the period of crisis of the authoritarian system and as a result the beginning of the process of intellectual and social modernization in Iranian society and the emergence of new concepts in theoretical discussions (Tabatabaei, 2007, p. 89).

The Constitutional Revolution was twin phenomenon of the modern state, concept of citizenship and as a result, citizenship rights and human rights, so the backgrounds of human rights issues in Iran can be considered the Constitutional Revolution (Hashemi, 2005, p. 171). During the Constitutional Revolution, Iranians became acquainted with new concepts such as homeland, state, nation, freedom, equality, justice, parliament, law, and so on. These words were fluid concepts. Therefore, Shiite political thinkers, especially jurists, began to localize them by adapting them to what they typically derived from the religious tradition. In fact, during these developments, various groups emerged, each with its own motives and goals. But the most important forces supporting the fundamental changes in contemporary Iran were religious scholars. The essential feature of Shiite teachings and the prominence of the ancient tradition system in managing the affairs of society, has caused Shiite scholars to usually be at the forefront of the theoretical and practical authority of society. Therefore, addressing their positions on the most important issues of contemporary Iran is a big step towards explaining the developments of the time. In a division of Shiite political thought, it can be divided into four categories: "Political Philosophy", "Political Mysticism", "Political Literature" and "Political Jurisprudence". Among these, Shiite political jurists have always played a leading role in drawing the methods of governing society. Because they were closely related to the real political issue (2004, p49, Vaezi).

From the beginning of the new era of social and political life until now, Shiite jurists have been the pioneer of theoretical and practical debates. During the Constitutional Revolution, fatwas, statements and letters, the three jurists of Najaf and their treatises were important theoretical supports of constitutionalism. On human rights issues such as freedom; Equality, human dignity and the right to life, from the very beginning, Shiite jurists such as Ayatollah Akhund Khorasani, Naini, Sheikh Fazlollah Noori had views that all of them were in order to apply these concepts to Islamic sources. (Khosropanah, 2006, p. 276) In addition, other jurists such as Sheikh Mohammad Ismail Mahallati, Mullah Abdul Rasool Kashani, Hajj

Agha Noorullah Najafi Isfahani and during the Islamic Republic of Iran some jurists such as Imam Khomeini, Ayatollah Mohammad Taghi Jafari, Javadi Amoli, Mesbah Yazdi and Montazeri addressed human rights issues. By examining the opinions of these jurists, we find several points. First, the human rights that jurists have studied are human rights in the general sense, not humanitarian rights, because when they deal with the principles and materials of human rights, they mean all times and places, not just certain circumstances, such as war. Secondly, a jurist has to go through three stages in order to achieve divine rule and express it in the form of a fatwa: to determine the jurisprudential sources based on the Islamic worldview - which include the book, tradition, consensus and reason-, to extract the principles and rules of jurisprudence related to a specific subject from these sources, and finally to issue a fatwa based on these principles and rules. (Jafari 2, 1981, p. 3) Given that the evolution of human rights is indeed indebted to the great divine religions that have historically had the greatest emphasis on equal human rights, there is still no doubt that one of the roots of human rights thought is religion. Thus, many human rights principles are consistent with religious teachings. Thirdly, there are differences in some principles and sources of Islamic and Western human rights, so, there are interpretations about human rights that are different. And fourth, by examining the views of Shiite jurists on the concepts of human rights, they can be divided into three categories: denial, modification and proof. This means that some groups completely deny the relation of human rights principles to Islam. Other groups try to modify those principles according to Islamic standards, and others believe in the application of Islam and Western human rights according to their interpretation of the book and tradition. Here is a brief description of these three categories.

- Denial: Some Shiite jurists considered categories such as freedom, equality and people's participation in government to be fundamentally contrary to Sharia. These groups viewed the concepts of human rights with skepticism, and in fact considered the implementation of those principles as removing religion and morality from the body of society, and did not see anything in common among these principles and Islam. One of the pioneers of this idea is Sheikh Fazlullah Noori, the mullah of Mullah Ghorban Ali Zanjani, Haj Mullah Mohammad Khomami, who has views on freedom, equality of political rights and people's participation that are contrary to human rights issues. Of course, this does not mean that they are opposed to human rights, but they were opposed to a particular interpretation of it. We refer the readers to the book "Announcements, letters and newspapers of Sheikh Fazlullah Noori" edited by Mohammad Turkman, Rasa Publications.

- Modification: this group of jurists tries to modify those concepts of human rights as much as possible and adapt them to the laws of religion. This view, which encompasses a wide range of jurists, from Ayatollah Naini to Allameh Jafari, although they have slight differences on human rights issues, agrees on the general rule that Islam is compatible with human rights.

- Proof: This group believes that the concepts of human rights are not contrary to Islam. Rather, it is opposed to some of the famous fatwas or the consensus of the jurists that should be reconsidered. Mohammad Mojtahed Shabestari, a contemporary religious modernist, believes in this view. With a little tolerance we can find many similarities between the first and second views because both emphasize the principles of Islam but their perceptions are different because a wide range of jurists are in the second category. We will examine the views of one of these jurists, Allama Mohammad Taqi Jafari, in more detail.

3. Human Rights in Allameh Jafari's thoughts

Ayatollah Mohammad Taghi Jafari Tabrizi (1925-1998), a Shiite jurist and philosopher, has written an independent book on human rights. In this book, while comparing the articles of the Universal Declaration of Human Rights with the Universal Islamic Declaration on Human Rights, he has expressed his views on human rights in detail "based on the original sources and fully authentic Islamic texts" (p. 41) and with a jurisprudential rather than philosophical approach. His main motivation for addressing human rights in this book is clear. In his view, the culmination of the "universal face of man" is manifested in the light of divine religion, so, in Islam, all universal human rights are explicitly recommended. (P. 73) it seems that his presupposition is the religiousness of human rights. And that the principles of human rights can be derived from Islam. For this reason, he considers the contents of the Declaration of Human Rights to have an Islamic content (Mir Mousavi, 2005, p. 598) and citing verse 64 of Surah Al-Imran, considers the origin and basis of human rights to be Islam. His other document is in the prophetic hadith "Creation is all the family of God and their life is for their benefit" and " the men listen to the Muslims and do not pay attention to the Muslims" and believes that these two narrations are "the universal face of man" and "having common rights". (Ex., Pp. 5-74) His comparative approach to human rights is based on the nature of all human beings. Nevertheless, he examines the incompatibilities of some jurisprudential rulings with the modern human rights system and in this way does not take a significant distance from the usual tradition. But by accepting a certain amount of commonalities and trying to bring the two systems closer, we can consider him as jurists concerned with human rights.

By dividing human beings into six groups based on their "personality status", he enumerates four common rights in these six human groups: the right to life, the right to dignity, the right to liberty and the right to equality, and in addition to another right called the right to education. He also points out Islam considers these five types of rights as the common rights of human beings. Based on this division, he examines the articles of the Universal Declaration of Human Rights and the Islamic Declaration of Cairo, and by mentioning their commonalities and differences, he adjusts the articles of human rights in favor of the Islamic legal system. He sees that by bringing religious arguments, he tries to complete them, But before describing these rights let's answer one of the questions from the point of view of Allameh Jafari that has always been asked about Islamic human rights and the opponents of Islamic human rights always ask it. The question is why Muslims have not raised human rights in society from the Islamic point of view until the contemporary era? And right after the adoption of the Universal Declaration of Human Rights in the West in 1948, Islamic countries began to think about codifying these rights in Islam. This shows that these rights are imitations of the West in Islam. In response to this question, Allameh Jafari says:

The fact that universal human rights have not been systematically presented from the Islamic point of view until the contemporary era is not the reason why Islam did not have these rights. So, meantime western governments and societies have drafted and published the Universal Declaration of Human Rights, Islamic jurists were tasked with drafting and publishing the Declaration of Human Rights from the perspective of Islam. Because all the primary sources of Islam, on the one hand, and justice in the coexistence of Muslims with other tribes and nations with which they were associated, on the other hand, clearly prove that the basic principles of the school of Islam have all human rights and privileges over other universal law. Human beings are documented in the texts, and the reason why these rights were not raised at the moment is that the authoritarian tyrants of Islamic societies, in order to continue and intensify their domination, have refused to implement real Islamic rights in their societies. However, how was it possible for those idiots to allow real human rights to be seriously observed in all societies? (Jafari, 1991, p. 90).

Apart from these reasons, formulation of the "Declaration of Islamic Human Rights" has a reason for its difference; otherwise, if Islamic jurists had accepted the same Western human rights articles, there would have been no reason to compile a new declaration. Therefore, most Islamic jurists have

accepted the principles of human rights and tried to modify them according to Islamic sources and texts.

In the following, we briefly state four principles of human rights in Allameh Jafari's thoughts.

3-1. Right to life

According to Jafari's idea, the right to life in Islam is known as the "most natural" and the first right, and that is the "right to a decent life", not an absolute life with humiliation, suffering and torture. The clearest and most plausible reason for proving the highest values, of which life is one, is that individuals defend their rights in the most serious manner and make every effort to preserve their essence and continue their lives. Allameh Jafari, presents several religious witnesses in proving this right by regarding to the rules and texts of Islam, we mention two of them here:

A) In Islamic jurisprudence, the title of the honorable soul is mentioned and any damage to the life of the honorable soul is forbidden and its perpetrator is a criminal and subject to punishment. According to verse 32 of Surah Ma'idah, the honorable soul includes all human beings except those who have deserved punishment and retribution for committing a crime that destroys life.

"... Whoever kills a soul on earth without the title of retribution or corruption is as if he had killed all human beings, and if he revives a soul, it is as if he revived all human beings." Therefore, in Islam, not only the right to life is a fixed thing and cannot harm anyone's life, but for anyone who has the ability to protect the honorable soul from harm and murder, it is an obligatory duty to protect the honorable soul by any means possible.

B) One of the most important reasons for the greatness and value of life, which proves the right to life from the Islamic point of view, is the strict sanctity of suicide. In verse 29 of Surah An-Nisa', God says: "Don't kill yourselves, God is merciful to you, and whoever does such a thing out of enmity and oppression, we will soon cast it into the fire, and it is easy for God."

According to this verse, human life is a sign of divine mercy and is a manifestation of God's providence, and murder is harming these meaningful mercies, which have no punishment other than the fire of Hell. In fact, from the point of view of Allama Jafari and other jurists, life is a right that God has given to man and it can be taken back whenever He wants, and man cannot deprive himself or others of this right.

In this regard, Allameh Jafari refers to several verses such as verses 66 / Hajj, 23 / Hajar, 42 / Zomar, 11 / Sajdeh and 24 / Hashr. Allama knows the difference between the right to life in Islam and the West in that the right

to life in Islam is a gift from God, While in Western human rights this attention is not paid and this silence means not paying attention to the origin of human existence and this thinking leads to nihilism. Another point that Allameh Jafari derives from this principle is that "it is obligatory to preserve the continuation of human life as much as God wills." Where survival is likely, action must be taken to maintain it. Elsewhere, Allameh divides human life into two types: "pure natural life" and "rational life". Pure natural life is a kind of animal life, and the people who are immersed in it are engaged in a struggle for survival. In this type of life, people only saturate their natural instincts and human life is captivated by the natural desires of people and the positive aspects of human existence are forgotten. But in rational life, which is "the conscious life that puts the forces and activities of natural life at its disposal with the growth of flourishing freedom, in the path of relative evolutionary goals, enters the human character that is gradually built in this passage." It represents the highest purpose of life."(Jafari, 2009, p. 38) With this division, Allameh wants to say that man is only in a rational life that finds a human character and their real rights are secured.

3-2. Human dignity

According to Allameh Jafari, the meaning of dignity is to be clean from impurities and to have special honor and perfection for the being to whom dignity is attributed. Dignity in Islam is a gift from God that has potential value. In Islam, two types of dignity have been determined for human beings. Intrinsic and natural dignity (that all human beings have this honorable attribute as long as they do not deprive themselves of that dignity for committing treason and crime against themselves) and others Value or acquired dignity (that is exercised by using talents and the positive forces in human existence and the pursuit of growth and perfection and charity arise). The later dignity is optional and encompasses the ultimate and supreme human values.

Allameh Jafari has mentioned to several verses and hadiths to explain the inherent dignity, the most valid of which is the verse 70 of Surah Isra, which says: " Certainly We have honoured the Children of Adam" and based on this verse that God He explicitly honors the son of Adam, all human beings have inherent dignity, and also numerous narrations from the Prophet and the infallible Imams Sireh, such as the Prophet's respect for the corpse of the People of the Book and Imam Ali's suggestions to Malik Ashtar on respecting people's rights, shows the inherent dignity of man in Islam. But in addition to the dignity that all human beings have, Allameh Jafari also believes in the value and acquired dignity, which is also documented in verse 13 of Surah Al-Hujurat. Which considers the

superiority of human beings on the basis of piety: "Indeed the noblest of you in the sight of Allah is the most Godwary among you. Indeed Allah is all-knowing, all-aware". Therefore, according to Allameh Jafari, dignity is a flexible concept in which although man has an innate dignity at birth, man can lose it or make it bolder. Therefore, if a human being seeks his own fanaticism and authoritarianism and uses his talent for his own evil purposes, Obviously, such a human being not only has no inherent right to dignity, but also, he is a criminal and deserving of punishment because he violates the dignity of others. According to Allameh Jafari, the shortcoming of Western human rights in the concept of dignity is that it does not differentiate between intrinsic and acquired dignity and only speaks of intrinsic dignity and deprive them of moral and spiritual development.

3-3. The principle of freedom

Freedom, along with the next principle, equality, is one of the most fundamental principles of human rights and one of the main concerns of human beings today, and is one of the main features in Western human rights. Allameh Jafari, while paying attention to these principles and accepting them, expresses the shortcomings that he believes exist in them. In the discussion of Allameh Jafari's freedom, at the beginning, he distinguishes among the three words of liberation, freedom, and voluntary, and considers a special meaning for each of them.

- Liberation is the "removal of the shackles or any factor that closes the flow of the will in one or more matters." For example, consider a person who has been exiled to a place and is compelled to do not go out during his or her sentence. This person is released as soon as the mission is completed.

- Freedom has two levels. First, pure natural freedom, which is the choice of a particular goal or means from among the various goals and means presented to the individual. This degree of freedom superior to the state of liberation, which means the removal of restraints and obstacles to the flow of the will. The second is sublimated freedom, which is "supervision and domination of the personality over the two positive and negative poles of work." According to this definition, the more the observation or domination of the personality over the two positive and negative poles of work, the more human freedom will be. The less domination a person has over work, the less freedom a person will have. These two levels of freedom are very different from the state of liberation, because in freedom, man uses his personality to do a lot of work.

- Voluntary is the supervision and domination of the personality over the two positive and negative poles of work or a worthy departure in order to achieve good and perfection. The difference between freedom and free will is that

proper restraint and the goal of goodness and perfection separate freedom from free will, because in pure freedom it does not matter whether what is done is right or wrong and whether it is to achieve good and perfection or not. Another difference is that in the order of will and decision, voluntary action is a value, while if a person does or refuses to do something with pure freedom, he has gained a natural privilege that never values. (Jafari 4,1994, p. 362)

Allameh also states that if freedom meets the following two conditions in both of its levels, it will cause the human brain and psyche to flourish. The first condition is that libertarianism means pure natural freedom, it should not hinder the movement of man towards free will. That is, the pleasurable feeling of freedom should not stop one from moving towards a reasonable life. The second condition is that the freedom of the individual should not at any stage interfere with the freedom and voluntary of others. One should try to reach one's freedom from the purely natural stage to the sublimated stage by thinking about one's freedom and talents, and this time one should not stop and try to step into the stage. Of course, it is an option that can be called reasonable freedom in the path of reasonable life. The importance of freedom and voluntary in Allameh's view requires that we consider them as human rights, just as Allameh considered the right to life as one of the basic principles of human beings. (Nasri, 1999, p. 412) As can be seen, Allameh considers the degree of voluntary higher than freedom and liberation, and considers these three concepts to be different from each other but related with each other.

According to Allameh Jafari, freedom in the West has gone to extremes and frees man from everything that provides the ground for immersion in the misguidance. But Islam has kept freedom in moderation and while emphasizing the liberation of human beings from the slavery, it glorified them as the servants of God. That is, freedom in Islam, unlike freedom in the West, has a constraint that provides the basis for moderation in freedom. As discussed in the topic of the right to life, Allameh meant the right to life, a decent life. Therefore, in order to achieve this worthy life, freedom in itself is not an absolute desired goal. Rather, freedom is in fact the possession of the creative power of life by which man can attain rational life.

In freedom of speech and writing, Allameh believes that in addition to the responsibility of human beings to make their own evolutionary destiny, from the perspective of Islam, they are also responsible for their proven rights. Therefore, no one should use the freedom of speech and expression without any conditions and cause disruption in the desirable life

of the people of the society. Regarding the freedom of religion, Allama Jafari, quoting verse 256 of Surah Al-Baqarah, which says: "There is no compulsion in religion: rectitude has become distinct from error", states that if freedom about religion is given to an individual or a society, the people of that society in terms of thinking, reasoning, conscience, it would be very logical to be able to distinguish imagination from reality. But societies that have not reached such maturity and perfection will certainly not only be able to enjoy this freedom properly, but that freedom may be a means of intellectual misery and other matters of life. The above verse clearly states that by explaining and separating right from wrong and growing from misguidance, every conscious and wise person accepts the divine religion and there is no need for compulsion. Therefore, according to Allameh Jafari, freedom is not a goal and desirable, but the best means for human life with innate creativity. Islam accepts freedom but imposes restrictions on it so that it does not lead to misguidance and abuse. But in Western freedom it expresses in an absolute and purposeful way that these contradictions may create with other rights such as the right to equality and the right to life.

3-4. The principle of equality

According to Allameh Jafari, equality does not mean equality in all aspects of human beings. Rather, according to the various dimensions of human beings, they have three kinds of equality in relation to each other.

A) Equality in relation to the origin and supreme principles of existence.

B) Equality in nature and coordinates that all human beings have.

C) Contractual equality vs. the natural rights and other laws necessary to regulate the natural and rational life of human beings, and these three types of equality are divided into twelve major types, which are documented in the most authoritative Islamic texts, indicating that the true root Equality in religious texts. These twelve types of equality are:

3-4-1. equality in Creator

All human came into being by one creator, the Creator of all the universe. In verse 40 of Surah Romans, God says: "It is Allah who created you and then He provided for you, then He makes you die, then He will bring you to life.." It is with the understanding of equality that human beings share in the fact that they are all subject to divine grace and love, unless they deprive themselves by committing crimes and betraying themselves or others.

3-4-2. Equality in the goal: perfection and Taqarrub

God has confirmed this in verse 56 of Surah Dhariyat: "I did not create the jinn and the humans except that they may worship Me."

3-4-3. The equality in the divine spirit in all of them

As verse 9 of Surah Sajdah states: "Then He proportioned him and breathed into him of His Spirit,"

3-4-4. Equality in fields of knowledge within all of them

As it is stated in verse 31 of Surah Al-Baqarah: "And He taught Adam the Names, all of them."

3-4-5. Equality in the perfection factor

It is certain that all the divine religions have guided everyone equally. As it is stated in verse 13 of Surah Al-Shura: He has prescribed for you the religion which He had enjoined upon Noah and which We have [also] revealed to you, and which We had enjoined upon Abraham, Moses and Jesus, declaring, 'Maintain the religion, and do not be divided in it.'

3-4-6. Equality inherent virtues

As it is stated in verse 70 of Surah Isra: "Certainly We have honoured the Children of Adam, and carried them over land and sea, and provided them with all the good things, and preferred them with a complete preference over many of those We have created."

3-4-7. Equality in the enjoyment of value dignity

As it is stated in verse 13 of Surah Al-Hujurat: "Indeed the noblest of you in the sight of Allah is the most Godwary among you." Therefore, every human being who practices piety enjoys valuable dignity.

3-4-8. Equality in general goals

The goals that human beings pursue in their lives are either related to their natural life or to their desired life, and the main axis of both types of life is the protection of the essence, which is desirable for all human beings in various forms and factors.

3-4-9. Equality of origin in the creation

The creation of all human beings began with one soul. As it is stated in verse 1 of Surah An-Nisa ' O mankind! Be wary of your Lord who created you from a single soul, and created its mate from it, and from the two of them scattered numerous men and women".

3-4-10. Equality in the main substance of creation

Quranic verses introduce soil as the main substance of the creation of all human beings. As it is stated in verse 26 of Surah Al-Hajr: "Certainly We created man out of a dry clay [drawn] from an aging mud,"

3-4-11. Equality in natural and legal rights and any law

that is necessary to regulate the natural and rational life of human beings.

3-4-12. Equality in reason, conscience and having innate characteristics that lead them to the development of equal rights.

Allameh Jafari puts forward these twelve principles of human rights regarding the originality of equality, which is a sign of his belief in this concept of human rights. He finds some differences between equality in Western human rights and these principles, which is mainly due to the excesses in the expression of human rights principles. For example, in Western human rights, Article 2 states that " Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." This makes this principle practically impossible to implement. In Islamic human rights in Article 28, while accepting all the differences in the category of religion, adds a comment provided that it is not based on baseless fantasies and beliefs, because in Islamic society, religious beliefs are as baseless as Baha'i if they enjoy all public freedoms, they provide the ground for corruption in the Islamic society. This is seen in practice in Western societies, where inequalities are practically applied in the category of religion, especially in the case of Muslims. Also, in Western human rights, there is no criterion or source for interpreting and explaining materials and possibly changing them, and it is not clear which authorities have the right to change them. This makes powerful countries play a decisive role and put pressure on their opponents with human rights tactics. But in Islamic human rights, the sources are clear that it is the Qur'an, Sunnah, consensus, and reason, and the authorities responsible for changing the material are legal experts and Islamic law, and to a greater extent comprehensive jurists, who can in no way go beyond the Shari'a.

According to Allameh Jafari ideas on human rights, it is clear that he as a jurist tries to study human rights from the position of moderation and while accepting the general principles of human rights, he expresses the points of difference and its commonality with Islamic thought and tries to eliminate the shortcomings of Western human rights with religious arguments.

Conclusion

Human rights are the most important and complex human issue of the twentieth century and a major challenge for the twenty-first century. As shown in this study, human rights were not considered before World War II.

However, at some point in human history, some rulers observed it. But two world wars and a disregard for human rights prompted Western rulers to issue a declaration. Following this decision, human rights became a global issue. The Islamic countries, which at this time had just freed themselves from the yoke of tyranny and colonialism, provided a good ground for them to study this issue. In Iran, too, religious scholars who had encountered these issues after the Constitutional Revolution tried to reconcile them with Islamic issues. The jurists, who were one of the most influential groups in Shiite political life, offered views on the concepts of human rights, which can be divided into three categories: denial of human rights issues in Islam (Sheikh Fazlullah Noori), modification of human rights issues (Akhund Khorasani, Naini, Allameh Jafari, etc.) and the proof of human rights issues (Mujtahid Shabestari) divided. Since the second category includes a wide range of jurists and is the mainstream of Shiite political jurisprudence, we focused on Allameh Jafari.

Allameh Jafari, who tries to reconcile Western human rights issues with Islamic ones and modify them in favor of Islamic law addresses four key concepts of human rights and, by adapting them to religious texts, seeks to give them a "true root" in Islam. According to Allameh Jafari, Western human rights sets out the principles of human rights without any restrictions. This leads to extremism in these cases, and this in itself provides grounds for contradiction in Western principles. That is, if freedom is to be exercised in all areas without any restrictions, it may violate the right to life and the right to human dignity. Because from the Islamic point of view, absolute freedom corrupts man and destroys man's inherent dignity, or the two categories of freedom and equality are never fully realized, because absolute freedom undermines equality and absolute equality creates constraints for freedom. Therefore, it makes many of the principles of the Western Declaration of Human Rights on paper and a weapon in the hands of the powerful, in order to advance its illegitimate greed with such words and never be implemented in the field of action. Therefore, as it is clear from this article, most jurists view towards human rights is an adjustment view, that is, while confirming the concepts of human rights, they modify them based on religious sources to make them more practical.

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