

Human Rights in Islam

Hajj Ahmad Thomson

09 Ramadan 1431 – 20 August 2010

London Muslim Centre

So We decreed for the tribe of Israel
that if someone kills another person –
unless it is in retaliation for someone else
or for causing corruption in the earth –
it is as if he had murdered all mankind.
And if anyone gives life to another person,
it is as if he had given life to all mankind.
Our Messengers came to them with Clear Signs
but even after that many of them
committed outrages in the earth.

(*Qur'an* : 5. 32)

Introduction

Human rights in Islam are circumscribed by Divine rights.

Before embarking on a discussion of this subject, it would help to consider some definitions.

The modern doctrine of “human rights” is a secular one. As we shall see, the doctrine has evolved over time, but broadly speaking, human rights are defined and governed by secular law. By “secular” we mean “worldly” – not religious or spiritual – and only **this** worldly, not **next** worldly.

The authority which governs human rights derives ultimately therefore from “the rule of law” – which in turn is determined by those who frame and apply secular laws, in this age in the United Kingdom, being members of parliament and the judiciary.

The modern concept of “human rights” is closely linked to the pursuit of individual “freedom”. I have a right – meaning I am free – to do whatever I want as long as it is not prohibited by the law and provided that it does not interfere with the exercise of other individuals’ rights and freedoms.

How does this framework of laws compare with the way of Islam? “Islam” means “submission to Allah”. Its content has been defined by Allah. If we accept it and follow it we are Muslims. As regards laws, the law of Islam is known as “the *Shari’a*”, which means “a road” and “a watering place”.

The Arabic word for right is “*haqq*” and implicit in the meaning of “*haqq*” is not only “truth”, but also “duty”. My right on someone is mirrored by his or her duty to honour that right.

As Muslims we recognise Allah’s right to be obeyed – and accordingly our duty to obey Him – which means that our “freedom” to act is limited by our accepting the limits to action which Allah in His wisdom has prescribed for mankind. Allah says in the Qur’an:

I only created jinn and man to worship Me. (Qur’an : 51. 56)

Islam governs relations between humans and their Creator and the Shari’a governs relations between people. In applying the Shari’a, a *qadi* bases his decision on the sources of the Shari’a – the Qur’an and the *Sunnah* of the Prophet Muhammad, may Allah bless him and grant him peace – and where necessary on *qiyas* and *ijtihad*.

In other words, the authority which governs Islam and the Shari’a derives ultimately from Allah and His Messenger, *salla’llahu alayhi wa salam* – not from people. This is why Muslims cannot help believing that their sources of law are more reliable than the sources of secular law.

On the face of it, it might appear that given their different sources, these two systems of law, secular law and the Shari’a, may have very little in common – and that therefore the secular concept of human rights and what this includes might not be present in the teachings of Islam and what these include.

However, it is important to remember two points: *firstly*, Allah is the Creator of everything in existence, including the secularists and the laws they make – “Allah is the Creator of you and what you do,” (Qur’an : 37.96) and *secondly*, in attempting to regulate human behaviour and relations between people, humanists sometimes arrive at laws which are either identical or else in harmony with some provisions of the Shari’a – in which case, there is neither disagreement nor conflict between the two systems whenever these similarities exist.

In other words, although there are differences between the two, secular laws and Divine laws can and do share common elements. Let us look at the main differences and the main similarities:

Differences

The main difference between secular law and the Shari’a is that while the Shari’a regulates human behaviour and relations between people in this world – as does secular law – the Shari’a does so from a perspective which recognises that Allah sees and knows everything and will judge each one of us on the Last Day – and will place each one of us either in the Garden or in the Fire in the next world.

Although modern human rights law generously grants us the right and freedom to believe this, it simply does not envisage the actual reality of this dimension of existence, nor does it caution us to be careful to have *taqwa* of Allah.

In contrast, if we consider the Prophet Muhammad’s farewell *khutba*, *salla’llahu alayhi wa salam*, it is concerned very much with rights and duties between people – especially between men and women, but it also contains these words:

Remember that one day you will appear before Allah and answer for your deeds. So beware, do not stray from the path of righteousness after I am gone.

No declaration of human rights, ancient or modern, contains a similar warning – which is a reminder to each individual person – for no-one is answerable for another’s actions and no-one can help another person on the *yawm al-qiyama* – the Last Day – except for the Prophet Muhammad, may Allah bless him and grant him peace, who will intercede for all the members of his *ummah* – and who said that we should be children of the next world and not of this world, because this world is leaving you and the next world is approaching you.

In marked contrast, the modern doctrine of human rights is concerned primarily with what each individual can do in this world as regards his or her enjoyment of life, liberty, property and the pursuit of happiness. Thus the first and second articles of the *Virginia Declaration of Rights* adopted unanimously by the Virginia Convention of Delegates on June 12, 1776 and written by George Mason, is:

That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Similarly, the text of the second section of the *United States Declaration of Independence*, which was primarily drafted by Jefferson and which was adopted by the Second Continental Congress on July 4, 1776, reads:

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

Whereas the American founding fathers believed in God, there were contemporary determined humanists at work who did not. Only 13 years later, for example, the *Declaration of the Rights of Man and of the Citizen*, approved by the National Assembly of France on the 26 August 1789, referred to the “natural and imprescriptible rights of man” as being “liberty, property, security and resistance to oppression,” – which were then liberally interpreted as granting the new power elite the freedom to guillotine the power elite whom they were replacing and to replace old European Christian religious laws with new secular laws.

These early declarations of human rights were silent as regards the practice of slavery and the repression of women, but certainly inspired the eventual abolition of slavery and the emancipation of women in Europe and America during the 19th and 20th centuries, as the European colonial era expanded and then contracted.

As Rousseau observed, “Man is born free – and everywhere he is in chains.”

More recent declarations of human rights – notably the United Nations *Universal Declaration of Human Rights* in 1948 and the *European Convention on Human Rights* in 1953 – were also concerned, in the wake of the systematic slaughter which occurred during two European civil world wars, with protecting people from man's inhumanity to man. Like the Magna Carta, they were prompted by recognition of the need to curb the misuse of power. In other words, they were born from the aspiration that people should be free not to be used and abused.

These declarations have in turn inspired further declarations of human rights, as well as being interpreted to accommodate new rights and freedoms which did not exist when they were originally adopted. For example, the right to respect for private and family life (Article 16, UDHR and Article 8, ECHR) has been interpreted so as to prevent consensual same sex sexual relations being prohibited by law.

This is in marked contrast to the teachings of all of the Prophets, including Moses, Jesus and Muhammad, blessings and peace be on them, which forbid such sexual practices. The Prophet Muhammad said, "Love whom you will – they will surely die. Do what you will – you will be judged accordingly," – by God, that is.

Another example is provided by Protocol 13 to the ECHR, signed in 2002, which provides for the total abolition of the death penalty.

This is in marked contrast to the Shari'a which does permit the taking of another person's life in certain circumstances:

Ibn Mas'ud related that the Messenger of Allah, may Allah bless him and grant him peace, said, "The blood of a Muslim may not be legally spilt other than in one of three situations: the married person who commits adultery; a life for a life; and one who forsakes his *deen* and abandons the community." (Al-Bukhari).

Similarities

As regards similarities between human rights law and the provisions of the Shari'a, there are many. Let us look at the various Articles of the *European Convention on Human Rights* as incorporated into English domestic law by virtue of the *Human Rights Act 1998*:

Article 1 : The duty to secure Convention rights – by the signatory parties.

This is similar to the Shari'a in that Muslims are repeatedly enjoined to follow the Shari'a by obeying Allah and His Messenger:

You who have *iman!* obey Allah and obey the Messenger
and those in command among you.

If you have a dispute about something,
refer it back to Allah and the Messenger,
if you have *iman* in Allah and the Last Day.

That is the best thing to do and gives the best result. (Qur'an : 51. 56)

Article 2 : The right to life – no-one may be deprived of his or her life unless the death penalty is prescribed by law.

This is the same as the Shari'a.

In practice, we find that many people are routinely and violently being denied their right to life whenever one country seeks to impose democracy on another by way of compulsory regime change. For example, well over a million civilians were slaughtered in Iraq in order ostensibly to have one heedless tyrant hanged. The right to life of such victims who are euphemistically categorised as 'collateral damage' may have existed on paper, but it certainly did not help them. Similarly, the right to life of those murdered in the Srebrenica massacre in July 1995 was not protected by the UN forces who only stayed long enough to ensure that the victims were powerless to defend themselves before abandoning them to their fate. Perhaps those who permit, or order, or inflict such slaughter are unaware of this *ayat* of Qur'an:

As for anyone who kills a *mumin* deliberately,
his repayment is Hell,
remaining in it timelessly, for ever.
Allah is angry with him and has cursed him,
and has prepared for him a terrible punishment. (Qur'an : 4. 92)

Article 3 : The prohibition of torture – no-one may be subjected to torture or to inhuman or degrading treatment or punishment.

This is the same as the Shari'a.

In practice this right has been routinely ignored as regards the practice of 'rendition' for torture in other countries outside the UK and the US, as well as being a fact of life in places like Guantanamo Bay, Abu Ghurayb and the Baghram airbase, as well as other secret facilities – the justification being that torture is either permitted as part of the often terrifying 'war on terror' or that the methods of torture being used are not officially defined as torture and are therefore acceptable.

Article 4 : The prohibition of slavery and forced labour – no-one may be held in slavery or servitude.

As regards tyrannical and demeaning slavery, this is the same as the Shari'a.

The Shari'a does permit humane slavery – where slaves must enjoy the same shelter, clothing and food as their masters and must not be overburdened – and especially in times of war, where captives become integrated as part of the extended family:

Abu Musa Al-Ashari related that the Prophet, may Allah bless him and grant him peace, said, "He who has a slave-girl and teaches her good manners and improves her education and then frees and marries her, will receive a double reward; and any slave who observes Allah's right and his master's right will receive a double reward." (Al-Bukhari)

This is a far more humane alternative to the concentration camps, rape camps and gulags utilised in the Boer and European civil world wars and cold wars – and more recently in the Balkans.

Whereas economic slavery by means of usurious debt – *riba* – is strictly forbidden by the Shari'a, it is permitted by human rights law and is an accepted feature of modern life. Everyone is born and dies in debt nowadays, whether they know it or not.

Article 5 : The right to liberty and security – no-one may be detained without due process of law.

This is the same as the Shari'a.

This has been ignored as regards prison camps like Guantanamo Bay and the Bahram airbase, as well as other secret facilities, where detainees are held without charge and without trial and without access to legal representation.

Article 6 : The right to a fair trial – everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial court established by law.

This is the same as the Shari'a.

This has been ignored as regards prison camps like Guantanamo Bay and the Bahram airbase, as well as other secret facilities, where detainees are held without charge and without trial and without access to legal representation. In the wake of the destruction of the twin towers in New York, thousands of Muslims in the US were deprived of their liberty and detained indefinitely without charge. In fact indefinite incarceration without charge is a feature of life in most countries today.

Article 7 : No punishment without lawful authority – again, this is part of what is called due process. No-one can take the law into their own hands.

This is the same as the Shari'a.

In a land where governance is in accordance with the Shari'a, minority faith communities are permitted to be self-governing in their internal affairs in accordance with their personal law, but are obliged to abide by the law of the land. Similarly, in a land where governance is in accordance with another system of law, minority faith communities are obliged to abide by the law of the land. For example, Muslims in the UK are obliged to abide by the law of the land – which is not written in stone. It can be changed by utilising well established means, including lobbying, research, consultation and the parliamentary process – but not by resorting to political violence. There is a distinct branch of Islamic jurisprudence which is concerned specifically with how Muslim communities living as a minority within a larger non-Muslim society should conduct their lives.

Article 8 : The right to respect for private and family life – including privacy of home and correspondence.

This is the same as the Shari'a, but as regards family life only extends to heterosexual relationships within marriage. Sexual intercourse outside marriage or between same sex partners is forbidden by the Shari'a.

Article 9 : Freedom of thought, conscience and religion – including the right to change one’s religion or belief and to manifest one’s religion or belief, alone or with others, in public or private, in worship, teaching, practice and observance.

This is the same as the Shari’a – although while non-Muslims are invited and welcome to accept Islam, it is not permitted for Muslims to abandon Islam for another religion.

Those who choose to remain as members of a different religion under Muslim rule and protection are permitted to do so – and to be self-governing in their internal affairs in accordance with their personal law – provided that all able bodied men pay the annual *jizya* tax of 4 gold dinars. Members of such communities are known as *dhimmis*.

The Prophet Muhammad, may Allah bless him and grant him peace, said, “Whoever harms a *dhimmi* has harmed me.”

Article 10 : Freedom of expression – including holding opinions and publishing them, whether in the form of words or images, subject to certain restraints as prescribed by law.

This is the same as the Shari’a, in many respects, but it is forbidden, for example, to insult any of the Prophets, or their families, or their companions. The Prophet Muhammad, may Allah bless him and grant him peace, said, “Let whoever believes in Allah and the Last Day speak good or remain silent.” He also said:

“Whomever Allah protects from the evil of two things will enter the Garden.” A man said, “Messenger of Allah, do not tell us!” The Messenger of Allah, may Allah bless him and grant him peace, was silent. Then the Messenger of Allah, may Allah bless him and grant him peace, repeated what he had said the first time. The man said, “Do not tell us Messenger of Allah!” The Messenger of Allah, may Allah bless him and grant him peace, was silent. Then the Messenger of Allah, may Allah bless him and grant him peace, said the same thing again. The man said, “Do not tell us Messenger of Allah!” Then the Messenger of Allah, may Allah bless him and grant him peace, said the same thing again. Then the man began to say what he had said previously and a man at his side silenced him. The Messenger of Allah, may Allah bless him and grant him peace, said, “Whomever Allah protects from the evil of two things will enter the Garden. They are what is between his jaws and what is between his legs, what is between his jaws and what is between his legs, what is between his jaws and what is between his legs.” (*Al-Muwatta* 56.5.11)

Whoever thinks that Articles 8 and 10 of the European Convention on Human Rights give him or her the right to do as he or she pleases with what is between the jaws and what is between the legs is advised to reflect deeply on these words. There are consequences, in both worlds:

Malik related to me from Abdullah ibn Dinar that Abu Salih as-Samman informed him that Abu Hurayra said, “Truly a man utters words to which he attaches no importance, and by them he falls into the fire of Jahannam, and truly a man utters words to which he attaches no importance, and by them Allah raises him into the Garden.” (*Al-Muwatta* 56.2.6)

Article 11 : Freedom of assembly and association – in a peaceful manner.

This is the same as the Shari’a.

Article 12 : The right to marry – for men and women of a marriageable age and to have children.

This is the same as the Shari’a.

Marriage between men and women is the foundation of a stable community and of a civilised society. The Prophet Muhammad, may Allah bless him and grant him peace, said, “Whoever does not marry is not one of us.” In his farewell *khutba*, the Prophet Muhammad, may Allah bless him and grant him peace, said,

“O people, it is true that you have certain rights with regard to your women, but they also have rights over you. Remember that you have taken them as your wives only under Allah's trust and with His permission. If they abide by your rights then to them belongs the right to be fed and clothed in kindness. Treat your women well and be kind to them for they are your partners and committed helpers. And it is your right that they do not make friends with any one of whom you do not approve, as well as never to be unchaste.”

Whereas secular human rights law tolerates adultery – it is a ground for divorce, but is not legally prohibited – adultery is strictly prohibited by the Shari’a.

Article 13 : The right to an effective remedy – for anyone whose ECHR rights have been violated. Article 13 is not incorporated into English law by virtue of the Human Rights Act 1998 but remains binding on signatories to the Convention.

This is the same as the Shari’a in that there is a remedy for the violation of every right recognised by the Shari’a.

Article 14 : The prohibition on discrimination – requiring the ECHR rights to be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

This is the same as the Shari’a, except that what is forbidden by Allah may not be permitted and what is permitted by Allah may not be forbidden. In his farewell *khutba*, the Prophet Muhammad, may Allah bless him and grant him peace, said,

“All mankind is from Adam and Eve: an Arab has no superiority over a non-Arab, nor does a non-Arab have any superiority over an Arab; also a white has no superiority over black, nor does black have any superiority over white except by *taqwa* and good action.”

Article 15 : Exceptions in time of war and public emergency – a signatory to the ECHR can derogate from its obligations under the treaty as the situation demands provided that such measures are not inconsistent with its other obligations under international law.

As we have already seen, the terrifying modern ‘war on terror’ has been used as an excuse to deny most human rights at will – not only of combatants and suspected combatants, but also of civilian populations as a whole – using the unconvincing argument that states, “in order to protect you, we must remove the legal protection you used to enjoy.” This is very similar to the imperialist argument that states, “in order to establish peace, we must make war on you.”

In contrast, the Shari’a has very merciful rules of engagement – even to the point that if a Muslim soldier kills an opponent in anger, this will take him or her to the Fire:

Yahya related to me from Malik from Nafi from Ibn Umar that the Messenger of Allah, may Allah bless him and grant him peace, saw the corpse of a woman who had been slain in one of the raids, and he disapproved of it and forbade the killing of women and children.

Yahya related to me from Malik from Yahya ibn Sa’id that Abu Bakr as-Siddiq was sending armies to ash-Sham. He went for a walk with Yazid ibn Abi Sufyan who was the commander of one of the battalions. It is claimed that Yazid said to Abu Bakr, “Will you ride or shall I get down?” Abu Bakr said, “I will not ride and you will not get down. I intend these steps of mine to be in the way of Allah.”

Then Abu Bakr advised Yazid, “You will find a people who claim to have totally given themselves to Allah. Leave them to what they claim to have given themselves. You will find a people who have shaved the middle of their heads; strike what they have shaved with the sword.”

“I advise you ten things: Do not kill women or children or an aged, infirm person. Do not cut down fruit-bearing trees. Do not destroy an inhabited place. Do not slaughter sheep or camels except for food. Do not burn bees and do not scatter them. Do not steal from the booty, and do not be cowardly.”

Yahya related to me from Malik that he had heard that Umar ibn Abd al-Aziz wrote to one of his governors, “It has been passed down to us that when the Messenger of Allah, may Allah bless him and grant him peace, sent out a raiding party, he would say to them, ‘Make your raids in the name of Allah in the way of Allah. Fight whoever denies Allah. Do not steal from the booty, and do not act treacherously. Do not mutilate and do not kill children.’ Say the same to your armies and raiding parties, Allah willing. Peace be upon you.” (*Al-Muwatta* of Imam Malik: 21.3.9-11)

Article 16 : Restrictions on the political activity of aliens – are permitted and cannot be prevented by Articles 10, 11 and 14.

This is similar to the Shari’a, but the Shari’a has a different understanding of what constitutes an “alien” or “foreigner”. All Muslims are members of the *Ummah* of Muhammad, no matter what their geographical or ethnic origins and domicile, while non-Muslims living under the protection of Muslim rule and paying the *jizya* tax have a defined status as *dhimmis*.

The prospect of such a large body of people (it has been estimated that there will soon be two billion Muslims in the world) being unified under one leader is so alarming for secularist nationalist politicians that while they argue that it is reasonable and democratic for the inhabitants of the states of America to be unified under one president – and while they argue that it is reasonable and democratic for the inhabitants of the states of the European Union to be unified under one president, they nevertheless argue with equal conviction that any Muslim who wishes to be unified under one *khalif* is an extremist and probably a terrorist – and that any political organisation or party which supports the peaceful restoration of the Muslim khalifate as one of its aims must be proscribed by law.

This is a clear illustration of how double-think manifests in double standards.

Articles 17 and 18 : Prohibitions as regards misusing the ECHR

This is the same as the Shari’a in that the Shari’a may not be lawfully misused as a means of tyranny.

Protocols

There are various protocols, or additions, to the ECHR, of which the most significant are:

Protocol 1 : Article 1 governs the protection of property – and peaceful enjoyment of possessions.

This is the same as the Shari’a.

In his farewell *khutba*, the Prophet Muhammad, may Allah bless him and grant him peace, said,

“O people, just as you regard this month, this day, this city as sacred, so regard the life and property of every Muslim as a sacred trust. Return the goods entrusted to you to their rightful owners. Hurt no one so that no one may hurt you. Remember that you will indeed meet your Lord and that He will indeed reckon your deeds. Allah has forbidden you to take usury (interest), therefore all interest obligation shall henceforth be waived. Your capital, however, is yours to keep. You will neither inflict nor suffer inequity.”

Protocol 1 : Article 2 governs the right to education – including the rights of parents to ensure such education and teaching are in conformity with their own religious and philosophical convictions.

This is the same as the Shari'a.

Allah says: “And say: ‘My Lord, increase me in knowledge.’” (*Qur'an*: 20.111) The Prophet Muhammad, may Allah bless him and grant him peace, said, “Seek knowledge from the cradle to the grave,” and, “Seek knowledge, even as far as China.”

Protocol 1 : Article 3 governs the right to free elections – unless you are a Muslim voting to choose a Muslim khalif, in which case this right ceases to be recognised.

Protocol 4 : Immigration matters – This has not been ratified by the UK because this would mean that it would have to change its immigration policy.

Protocol 7 : Due legal process provisos – This has not been ratified by the UK.

Protocol 12 : Prohibition of Discrimination – This applies the prohibition of discrimination in Article 14 to the exercise of any legal right and to the actions and obligations of public authorities. Although this protocol has not been ratified by the UK, the UK government nevertheless agrees in principle that the ECHR should contain a provision against discrimination that, in contrast to Article 14, is free-standing and not parasitic on the other Convention rights.

Conflict of Rights

The question which sometimes faces judges is on what intellectual basis are they to come to a just decision where there is a conflict of rights?

This scenario can arise, for example, where there is a conflict between the exercise of Article 9 rights and the exercise of Article 8 rights.

Section 13 of the Human Rights Act 1998 states :

Freedom of thought, conscience and religion

(1) If a court's determination of any question arising under this Act might affect the exercise by a religious organisation (itself or its members collectively) of the Convention right to freedom of thought, conscience and religion, it must have particular regard to the importance of that right.

(2) In this section 'court' includes a tribunal.

This section was specifically introduced at the debate stage of the Human Rights Bill in order to allay the fears of the members of minority religions that the Act would be used to require them to ignore or abandon certain aspects of their respective religions, especially as regards matters of sexual behaviour, when seeking to preserve their particular religious ethos.

Subsequent case law has proved these fears to have been well founded – section 13 has provided little or no protection for any religious organisation seeking to preserve its particular religious ethos.

If anything, whenever there is a conflict between the exercise of secular rights and the exercise of religious rights, special regard has been given by the courts towards ensuring that secular rights are given precedence over and above religious rights.

If for example, I as a Muslim parent do not want my children's faith based school to employ a non-Muslim male teacher who is accustomed to having sexual relations with other men in his free time, the school is powerless to refuse him employment on moral grounds as this would constitute discrimination on the grounds of sexual orientation under current secular human rights law. The *Equality Act 2010* (which comes into force in October 2010) reinforces this position – but should the principle of “equality” be used to deny one human right in favour of another human right in this way? Is there an alternative approach? The answer to this question is ‘yes’.

Both secular human rights law and the Shari'a uphold the principle that as regards due process, everyone is equal in the eyes of the law – and should not be treated differently because of, for example, their being in authority, wealth, or social status:

When *sayyidina* Abu Bakr was appointed as the first *khalif* of the Muslims, may Allah be pleased with him, he said:

“O people, I have been appointed as a ruler over you, though I am no better than any of you. If I do good, then assist me, but if I do wrong, then correct me. Honesty is a trust whereas falsity is deceit. O people, the weak amongst you will be strong according to me until I have restored his right to him, and the strong amongst you will be weak according to me until, insh'Allah, I disclaim from him the usurped right of another.”

However, Allah makes it clear that people are **not** equal as regards their knowledge and fear of Allah:

Say: “Are they the same – those who know
and those who do not know?”

It is only people of intelligence who pay heed. (*Qur'an*: 39.10)

And:

The Companions of the Fire
and the Companions of the Garden
are not the same.

It is the Companions of the Garden who are the victors. (*Qur'an*: 59.20)

Why should the law not permit those who believe in the next world and who act accordingly to distance themselves from those who do not believe in the next world and who act accordingly? Would there not be a better balance in society as a whole – which involves a different perception of what “equality” is – if those who wish to follow divine guidance could gather in one place and those who wish to disregard it could gather together in another place, without being legally obliged to impose each other's lifestyle on each other?

This in fact is how the Shari'a approaches this matter – and this is why, in contrast to secular human rights law, there are no conflicting rights inherent in the Shari'a. Allah says in the Qur'an:

In the Name of Allah the Merciful, the Compassionate
Say: "*Kafirun!*
I do not worship what you worship
and you do not worship what I worship.
Nor will I worship what you worship
nor will you worship what I worship.
You have your *deen* and I have my *deen*." (Qur'an : 109)

When observing the pecking order that emerges in situations where there is a conflict in the exercise of contradictory human rights, we can see from this perspective that in fact human rights law at present – as in its early beginnings – while purporting to protect the followers of divine guidance has in fact been used to displace divine guidance and prevent ordinary citizens from following such guidance in key aspects of their life.

It remains to be seen whether or not the application of secular human rights law will develop in such a way as to grant different social groupings their own respective spaces and environments which do not have to be imposed in the name of equality on each other – in order to protect in a realistic manner the manifestation in practice of a group of individuals' Article 9 rights.

Role Models

The current position was summed up by the Lord Chief Justice, Lord Phillips, who in a talk given on the 07 July 2008, quoted the following words of Sir John Donaldson:

"The starting point of our domestic law is that every citizen has a right to do what he likes, unless restrained by the common law or by statute."

In contrast, the Qur'an describes the Muslims as those who say:

"We hear and we obey," (Qur'an : 2. 285)

– that is, Allah and His Messenger, *salla'llahu alayhi wa salam*.

The Prophet Muhammad was commanded by Allah as follows :

Say, "If you love Allah, then follow me
and Allah will love you and forgive you
for your wrong actions."
Allah is Ever-Forgiving, Most Merciful
Say, "Obey Allah and the Messenger."
Then if they turn away,
Allah does not love the *kafirun*. (Qur'an : 3. 31–32)

As regards their respective influences on human behaviour – which all laws are concerned with regulating, whatever the mindset or heartset – the main difference between secular human rights law and the rights granted by Allah is that whereas secularists have no example or role model provided by human rights law to follow, the Muslims have the most worthy example of a perfect human being to follow, *sayyedina* Muhammad, may Allah bless him and grant him peace.

In following the Prophet Muhammad, *salla'llahu alayhi wa salam*, we forget ourselves and seek to please Allah. In following secular human rights law, we live as best we can with the freedoms we have been given, while remaining obedient to a framework which encourages us to be selfish rather than selfless – and which, far more significantly, does not prepare us for what awaits us, unavoidably, on the other side of death.

The cult of celebrity worship honours those who appear to have been most successful in the pursuit of Life, Liberty and the pursuit of Happiness, even if those who are idolised are completely unaware of the importance of being obedient to Allah and His Messenger – and of the distinction between pleasing oneself and being pleased with Allah and pleasing to Allah.

This contrast in focus explains partly the current disintegration in the human fabric of societies based on secular human rights doctrines. Only worship of the Divine has a unifying effect in human society. Having fear of Allah and of ending up in the Fire provides a far greater deterrent to antisocial behaviour than having a large police force assisted by CCTV! Having hope in Allah and of ending up in the Garden provides a far greater incentive for people to be law abiding than anything else.

Somehow the introduction of secular laws has clouded over the clarity of the original ten commandments which are in the Bible; and which have been inherent in European and English and American Christian laws for centuries; and which are also to be found in the Qur'an:

Say, "Come and I will recite to you
what your Lord has made *haram* for you":
that you do not associate anything with Him;
that you are good to your parents;
that you do not kill your children because of poverty –
We will provide for you and them;
that you do not approach indecency –
outward or inward;
that you do not kill any person Allah has made inviolate –
except with the right to do so.
That is what He instructs you to do
so that hopefully you will use your intellect.
And that you do not go near the property of orphans
before they reach maturity –
except in a good way;
that you give full measure and full weight with justice –

We impose on no self any more than it can bear;
that you are equitable when you speak –
even if a near relative is concerned;
and that you fulfil Allah's contract.
That is what He instructs you to do,
so that hopefully you will pay heed.
This is My Path and it is straight, so follow it.
Do not follow other ways
or you will become cut off from His Way.
That is what He instructs you to do,
so that hopefully you will have *taqwa*. (Qur'an : 6. 152–153)

Obedience to Allah is possible for Muslims not only because we have a Shari'a which does not grant conflicting rights – but also because we have the example of the Prophet Muhammad and his family and companions and early followers – all of whom we love, may Allah be pleased with them – to follow.

The Qur'an tells us that this was the best community to have been raised up from mankind and reminds us that in the Prophet Muhammad we have the best of examples, may the blessings and peace of Allah be on him and on his family and on his companions and on all who follow him in what they are able with sincerity until the Last Day. Amin

Conclusion

In conclusion, those aspects of secular human rights law which are in harmony with the Shari'a fit comfortably into the breast pocket of Islam – and those aspects of secular human rights law which openly contradict the Shari'a are a passport to imbalance in this world and possible torment in the next, may Allah protect us from this.

This is why those who wish to preserve a particular religious ethos wish to be in the company of those who share their beliefs and standards of general behaviour, both in this world and in the next world – and to distance themselves and their children from those who do not share them, both in this world and in the next world.

In short, the people of *taqwa* are not at ease in the company of the people of *ghafila* (heedlessness), simply because the behaviour which is permitted by secular human rights law is not always synonymous with the behaviour which is permitted by the Creator of the universe as being right action:

On the Day He gathers you for the Day of Gathering –
that is the Day of Profit and Loss.
As for those who have *iman* in Allah and act rightly,
We will erase their bad actions from them
and admit them into Gardens
with rivers flowing under them,
remaining in them timelessly, for ever and ever.
That is the Great Victory!

But as for those who are *kafir* and deny Our Signs
they are the Companions of the Fire,
remaining in it timelessly, for ever.
What an evil destination! (Qur'an : 64. 9-10)

GLOSSARY OF ARABIC TERMS

Allah – ta'ala : Allah – the Most High, the Lord of all the worlds. Allah, the supreme and mighty Name, indicates the One, the Existent, the Creator, the Worshipped, the Lord of the Universe. Allah is the First without beginning and the Last without end and the Outwardly Manifest and the Inwardly Hidden. There is no existent except Him and there is only Him in existence:

In the Name of Allah the Merciful, the Compassionate

Say: "He is Allah, Absolute Oneness,
Allah, the Everlasting Sustainer of all.
He has not given birth and was not born.
And no one is comparable to Him." (Qur'an : 112)

akhirah : the Next World, what is on the other side of death.

ayat : a verse of the Qur'an; a sign of Allah.

deen : means life transaction, the way you live and behave towards *Allah*, submission and obedience to a particular system of rules and practices. Literally it means the debt or exchange situation between two parties, in this usage the Creator and the created, or as some say between the conditioned and the unconditioned, the limited and the limitless, or the many and the One. *Allah* says in the *Qur'an* that surely the *deen* with Allah is *Islam*. (Qur'an : 3.19)

dhimmi : a non-Muslim living under the protection of Muslim rule on payment of the *jizya*.

dunya : this world, not as cosmic phenomenon, but as experienced. It derives from a root describing those grapes which appear on the vine but which when you stretch out to pick them prove to be out of reach. *Dunya* takes on its actuality through attachment. When the heart is liberated, *dunya* disappears and *akhirah* – the next invisible world – appears. *Dunya* is vanishing and moving away, the next world is appearing and approaching.

ghafla : heedlessness.

ghazwa : a raid, a military expedition, especially a desert raid.

halal : lawful in the shari'a.

haqq : right.

haram : unlawful in the shari'a.

hadith : reported speech of the Prophet Muhammad, may Allah bless him and grant him peace.

hudud : the plural of *hadd*, Allah's boundary limits for the lawful and unlawful. The hadd punishments are specific fixed penalties laid down by Allah for specified crimes.

ijtihad : to struggle, to exercise personal judgment in legal matters.

iman : see *mumin*.

Jahannam : Hell, Gehenna.

Jahiliya : the time of ignorance before the coming of Islam, before the coming of the Prophet and the revelation of the Qur'an.

jizya : a protection tax payable by non-Muslims as a tribute to a Muslim ruler, traditionally 4 gold dinars or 40 silver dirhams per year.

kafirun : the plural of *kafir*, disbelievers. The *kafir* is the one who denies the Existence of Allah and who rejects His Prophets and Messengers, and who accordingly has no peace or trust in this life, and a place in the Fire in the next life. Shaykh 'Abd'al-Qadir as-Sufi writes, 'Kufr means to cover up reality: kafir is one who does so. The kafir is the opposite of the mumin. The point is that everyone knows 'how it is' – only it suits some people to deny it and pretend it is otherwise, to behave as if we were going to be here for ever. This is called kufr. The condition of the kafir is therefore one of neurosis, because of his inner knowing. He 'bites his hand in rage' but will not give in to his inevitable oncoming death.' (*Qur'anic Tawhid*. Diwan Press. 1981).

khalif : (the Arabic is *khalifa*, plural *khulafa*); Caliph. Someone who stands in for someone else, in this case the leader of the Muslim community, although it is sometimes used for the deputy of someone in a higher position of authority.

khutba : a speech, and in particular a standing speech given by the Imam before the *jumu'a* prayer and after the two 'Id prayers.

kufr : see *kafirun*.

mumin : a *mumin* (the plural is *muminun*) is someone who possesses *iman*; *iman* is belief, faith, acceptance in the heart of Allah and His Messenger. *Iman* consists of believing in Allah, His angels, His Books, His Messengers, the Last Day, the Garden and the Fire, and that everything, both the good and the bad, is by the decree of Allah.

qadi : (the plural is *quda*) a judge, qualified to judge all matters in accordance with the Shari'a and to dispense and enforce legal punishments.

qiyas : logical deduction by analogy, one of the four main fundamental principles which can be utilised in reaching a judgment.

Qur'an : the 'Recitation', the last Revelation from Allah to mankind and the jinn before the end of the world, revealed to the Prophet Muhammad, may Allah bless him and grant him peace, through the angel Jibril, over a period of twenty-three years (beginning in 610 and ending in 632), the first thirteen of which were spent in Makka and the last ten of which were spent in Madina. The Qur'an amends, encompasses, expands, surpasses and abrogates all the earlier revelations revealed to the earlier Messengers, peace be on all of them. The Qur'an is by far the greatest of all the miracles given to the Prophet Muhammad by Allah, for he was illiterate and could neither read nor write. The Qur'an is the uncreated word of Allah. The Qur'an still exists today exactly as it was originally revealed, without any alteration or change or addition or deletion. Whoever recites the Qur'an with courtesy and sincerity receives knowledge and wisdom, for it is the well of wisdom in this age.

riba : usury, which is forbidden, whatever form it takes, since it involves obtaining something for nothing through exploitation.

salla'llahu alayhi wa salam : "may Allah bless him and grant him peace", the formula spoken after mentioning the Prophet Muhammad.

sayyedina : "our master", a term of respect.

shari'a : lit. road, the legal modality of a people based on the Revelation of their Prophet. The final *Shari'a* is that of Islam. Islam can be defined briefly as: 'submission to the will of Allah, the way of life embodied by all of the Prophets, given its final form in the guidance brought by the Prophet Muhammad, may Allah bless him and grant him peace.' Shaykh 'Abd'al-Qadir as-Sufi writes, 'It is the behaviour modality of a people based on the revelation of their Prophet. The last Shari'a in history has proved to be that of Islam. Its social modality abrogates all previous shara'i e.g. Navaho, Judaic, Vedic, Buddhic, etc. These shara'i however, continue until the arrival and confrontation takes place in that culture with the final and thus superior Shari'a – Islam. It is, being the last, therefore the easiest to follow, for it is applicable to the whole human race wherever they are.' (*Qur'anic Tawhid*. Diwan Press. 1981)

Sunnah : the customary practice of a person or group of people. It has come to refer almost exclusively to the practice of the Messenger of

Allah and of the first generation of Muslims. It is a complete behavioural science that has been systematically kept outside the learning framework of this society. The Messenger of Allah, may Allah bless him and grant him peace, said:

I have left two matters with you. As long as you hold to them, you will not go the wrong way. They are the Book of Allah and the Sunnah of His Prophet. (Al-Muwatta of Imam Malik: 46.1.3)

taqwa : awe or fear of Allah, which inspires a person to be on guard against wrong action and eager for actions which please Him.

Ummah : the body of Muslims as one distinct Community.

yawm al-qiyama : “the Day of Rising”, the Day of Standing.

[Definitions of Arabic terminology are from *A Glossary of Islamic Terms* by Aisha Bewley, (Ta-Ha Publishers, London, 1998) and *The Difficult Journey* by Ahmad Thomson, (Ta-Ha Publishers, London, 1994). Quotations from the *Qur'an* are from *THE NOBLE QUR'AN – a New Rendering of its Meaning in English* by Abdalhaqq and Aisha Bewley, (Bookwork, Norwich, 1999). Quotations of *hadith* are from *Al-Muwatta* of Imam Malik translated by Aisha Bewley and Yaqub Johnson (Diwan Press, Norwich, 1982) and the *Sahih* of *Imam Al-Bukhari* translated by Dr. Muhammad Muhsin Khan (Madina University Press, 1971).]