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NAVIGATING WAR ZONES: SAFEGUARDING CIVILIAN RIGHTS TO LIFE AND RELIGION THROUGH INTERNATIONAL AND ISLAMIC LAW

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Abstract

This study explores the protection of civilian rights, focusing on the right to life and religious freedom, within Islamic and international legal contexts. It comprises two main aspects: "The entitlement to life and the prohibition of torture and inhuman treatment" and "Right to respect for religious beliefs, customs, and traditions. In a post-9/11 world, where misconceptions about jihad have proliferated, this research distinguishes between Islamic legal theory and the legislation of Muslim nations. It argues that Islamic law has historically played a pivotal role in safeguarding civilian rights during armed conflicts. It predates the Declaration of Human Rights on a global scale by centuries and aligns with modern international conventions. Islamic humanitarian law reveres civilian rights, condemning violations as crimes against humanity. Through rigorous research, including a review of primary sources in Islamic and international law, this study sheds light on the historical evolution and contemporary relevance of these legal frameworks. It highlights the enduring significance of principles rooted in Islamic law, in harmony with modern international human rights standards. In conclusion, this research provides an

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in-depth exploration of the intersection of Islamic and international law in safeguarding civilian rights during conflicts. Understanding these legal frameworks in their historical context is essential for global peace and justice.

Keywords: Civilian Rights, Right to Life, Religious Freedom, Jihad Misconceptions, Humanitarian Law, Historical Evolution, Global Peace

INTRODUCTION

The concept of jihad, rooted in Islamic legal discourse, has endured persistent misinterpretation, both among Muslims and non-Muslims, especially in the aftermath of the tragic events of September 11th, 2001 (Broyede & Michael, 2011). The indiscriminate loss of thousands of innocent lives in New York and Washington D.C., coupled with subsequent U.S.-led coalition actions in Afghanistan and Iraq, resulting in substantial civilian casualties, have cast a shadow of misunderstanding over the term.

In recent years, the misconception of jihad and the misguided portrayal of Islam as a "violent religion" have become commonplace in Western literature and media. An influx of scholarly and journalistic works attempting to delve into the theory of war and human rights in Islamic legal tradition has reached Western audiences (Boisard, 1988). Regrettably, many of these works, authored by individuals with limited knowledge of Islamic law as a whole and the doctrine of jihad in particular, have presented themselves as authoritative sources. These works often rely on misattributions and, at best, a handful of secondary sources translated into Western languages. The consequence has been a distortion of the term "jihad" to the point where it is mistakenly equated with terrorism in the public consciousness. These misleading narratives are constructed upon a foundation of general misunderstandings, unfounded assumptions, and political biases. Earlier authors who explored Islamic legal theory often assessed Islamic law through their own subjective lenses, drawing conclusions based on the actions of self-styled "fundamentalist" Muslim groups or particular practices within select Muslim societies. Furthermore, these authors failed to distinguish between Islamic law and the contemporary legal systems of Muslim nations, which, more often than not, do not adhere to Islamic principles. A closer examination of the tenets of Islamic law of nations, governing the principle of jihad, reveals its legitimacy, accuracy, and authenticity. It delineates conduct during jihad based on universal humanitarian principles that align with the foundations of modern international

conventions. Remarkably, Islamic law significantly contributed to international humanitarian law for over a thousand years prior to the 1949 codification of the four Geneva Conventions and eight centuries before Hugo Grotius's work "De jure belli ac pacis libri tres"(Hugo Grotius, 2018).

The issue of human rights during armed conflicts stands as one of the most critical and contentious aspects of human affairs. This analysis endeavors to address a weighty question: To what extent has Islamic humanitarian law played a role in safeguarding the personal rights of civilians during times of conflict? To this end, we shall examine the misconception surrounding jihad, distorted narratives in Western Literature and Media (often relying on limited sources)

Historical Context and Evolution of Jihad, Jihad in Islamic Legal Tradition, Islamic Contributions to Humanitarian Law, Protection of Human Rights during Armed Conflicts, and several of these rights within the framework of Islamic and Law concerning humanitarian and human rights at the global level, including the right to life, the prohibition of torture and inhuman treatment, and the right to practice one's religious beliefs, customs, and traditions.

METHODS

In "Navigating War Zones: Safeguarding Civilian Rights to Life and Religion through Islamic and International Law," the authors employ a multifaceted research approach to examine the protection of civilian rights within Islamic and international legal contexts. The study draws on various research methods to provide a comprehensive analysis. Here are the research methods used in this study:

1. Literature Review: The study begins with a thorough literature review, which serves as the foundational element of the research. This literature review encompasses existing scholarly works, legal documents, historical records, and religious texts. It explores the concepts of jihad, international humanitarian law, human rights, and Islamic jurisprudence to provide a comprehensive understanding of the subject matter. This method allows the authors to establish the context for their analysis and to identify gaps in existing research.

2. Analysis of Primary Sources: The authors extensively analyze primary sources from Islamic and international legal traditions. These sources include Quranic verses, Hadith

(sayings and actions of Prophet Muhammad), early Islamic legal texts, and international legal documents such as the United Nations Charter, Universal Declaration of Human Rights, and Geneva Conventions. The analysis of primary sources is crucial for grounding the study in authoritative texts and historical context.

3. Comparative Legal Analysis& legal comentary: The research method involves a comparative legal analysis that juxtaposes Islamic legal principles with modern international legal frameworks. This approach allows for the identification of similarities and divergences between the two systems, demonstrating how Islamic law can align with contemporary human rights standards. It also highlights the evolution of legal thought over time. Throughout the study, the authors provide legal commentary and interpretation of Islamic and international legal principles. They analyze the significance of specific Quranic verses, Hadith, and legal texts in relation to contemporary issues, such as the right to life and religious freedom. This legal commentary adds depth to the analysis.

4. Historical Examination & contemporary declaration: The study incorporates a historical examination of events and practices that occurred during early Islamic history. It draws on historical examples to illustrate the treatment of non-Muslims, the protection of religious sites, and the principles of warfare during that period. This historical analysis contextualizes the development of Islamic humanitarian law. The authors refer to contemporary Islamic declarations and documents, such as the Universal Islamic Declaration of Human Rights and the Cairo Declaration on Human Rights in Islam.

5. Qualitative Analysis: The qualitative analysis is evident in the synthesis of historical narratives, legal doctrines, and religious principles. The authors draw conclusions based on the qualitative assessment of the materials examined, highlighting the enduring significance of Islamic legal principles and their alignment with modern international human rights standards.

We conduct a multidisciplinary research approach that combines literature review, analysis of primary sources, historical examination, comparative legal analysis, legal commentary, and reference to contemporary declarations. This comprehensive methodology allows for a nuanced exploration of the intersection between Islamic and international law in safeguarding civilian rights during conflicts.

INTERNATIONAL LAW PERSPECTIVE

Contemporary Public International Law

"International law, encompassing humanitarian and human rights laws, acts as a protective barrier against violations of civilians' human rights, whether these rights are exercised individually or collectively. The right to life is a fundamental cornerstone within international law, resonating throughout all other human rights, as discussed in Irwin Cotler's article titled 'Human Rights as the Modern Tool of Revolution.' The pursuit of human rights and human dignity is inherently a quest for self-realization. Therefore, international human rights law, responsible for promoting and safeguarding these rights, must continually evolve by fostering new disciplines and innovative models.

While the United Nations Charter of 1945 did not explicitly enumerate the individual's right to life, its very foundation rested on the promotion and elevation of human rights and fundamental freedoms, clearly articulated in its inaugural chapter on purposes and principles. The Universal Declaration of Human Rights, adopted in 1948, unequivocally established the right to life in Article 3, affirming the universal entitlement to life, liberty, and security (UDHR, 1948). This seminal declaration categorically condemned any act of torture as an affront to human dignity and a violation of the fundamental rights and liberties enshrined not only in the United Nations Charter but also in the Universal Declaration of Human Rights. Article 5 of the same declaration further asserts that no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment."

Similarly, the treaty known as the International Covenant on Civil and Political Rights (ICCPR) of 1966 upholds the right to life, as articulated in the first paragraph of Article 6, emphasizing the necessity of legal safeguards for this entitlement and forbidding any unjustified loss of life. Additionally, in the sixth paragraph of the same article, it urges states that are parties to the covenant not to postpone or evade the elimination of capital punishment. It's important to emphasize that Article 6 of the International Covenant on Civil and Political Rights primarily addresses the unlawful taking of human life such as through homicide, while not necessarily guaranteeing protection against death resulting from circumstances like famine or inadequate medical care. Consequently, the mere tolerance of famine by a state may not necessarily amount to a violation of the human right to life.

The treaty addressing the prevention and punishment of the crime of Genocide, dating back to 1948, was devised with the dual purpose of preventing and punishing this heinous crime. Its definition of genocide is intricately linked to particular acts rather than broad terms. However, the inclusion of "intent" in its definition can pose challenges in establishing culpability, as denial of intent can be employed as a defense strategy (CPPCG, 1948).

For insights beyond the United Nations framework, we can look to the Charter for the International Military Tribunal established during the Nuremberg Trials as a point of reference. Article 6 of this charter outlines three categories of offenses falling under the tribunal's jurisdiction: crimes against peace, war crimes (which encompass actions like the killing of civilian populations, taking hostages, and city destruction), and crimes against humanity, including murder, extermination, and inhumane acts against civilian populations before or during wartime.

Furthermore, Article 3, which is common to all four Geneva Conventions of 1949, comprehensively outlaws violence to life and person. This includes murder in all its forms, disfigurement, cruel treatment, and torture.

In the context of modern international humanitarian law, Protocol II Additional to the Conventions held in Geneva echoes the prohibitions laid out in Article 3, reinforcing the protection of life and dignity. Additionally, Protocol I Additional to the Geneva Conventions, which pertains to the safeguarding of victims of international armed conflicts, can be seen as a substantial augmentation of the conventions. Its 102 articles build upon the foundation of previous conventions, with a specific focus on the protection of civilians' rights during conflicts.

The International Covenant on Civil and Political Rights (ICCPR), adopted in 1966

The ICCPR also acknowledges and safeguards the right to life. Paragraph 1 of Article 6 in the ICCPR explicitly affirms that every individual possesses an inherent right to life, and this right must be safeguarded by legal means. No one shall be arbitrarily deprived of their life." Furthermore, Paragraph 6 of this article calls upon States Parties to the Covenant to expedite the abolition of capital punishment. It's worth noting that the provisions of Article 6 within the International Covenant on Civil and Political Rights primarily addresses the unlawful deprivation of life, particularly through acts like homicide. This emphasis implies that the Covenant does not inherently guarantee protection against death resulting

from natural disasters, famine, or inadequate medical care. Consequently, the mere tolerance of famine by a state may not be regarded as a breach of the human right to life within the context of this article (ICCPR, 1966).

The Convention on the Prevention and Punishment of Genocide, established in 1948

In contrast, The 1948 Convention on the Prevention and Punishment of the Crime of Genocide has a dual mission: preventing and sanctioning the act of genocide. The convention's definition of genocide is explicit, detailing the specific actions that qualify as genocide rather than relying on general terms. However, the introduction of the element of "intent" can complicate the burden of proof, as the denial of intent may be employed as a defense strategy. This concept of intent was notably debated in the case of the defense minister of the government of Paraguay, who faced charges of genocide concerning the Aché Indians. In his defense, he contended that there was no intention to annihilate this group, highlighting the nuanced legal challenges associated with establishing intent within the context of genocide (CPPCG, 1948).

Charter for the International Military Tribunal (Nuremberg Trials)

For additional insights into the recognition of the individual's right to life outside the United Nations framework, we can refer to the Charter for the International Military Tribunal, responsible for trying major war criminals in Nuremberg. Within Article 6 of this Charter, the tribunal classifies three types of offenses under its jurisdiction. These encompass crimes against peace, signifying the initiation of aggressive wars; war crimes, which encompass actions like the murder of civilian populations, hostage-taking, and city destruction; and crimes against humanity, which include murder, extermination, and inhumane acts committed against civilian populations before or during wartime. These definitions and categories highlight the seriousness of transgressions committed during armed conflicts and emphasize the safeguarding of fundamental human rights, including the right to life, even in times of war.

Article 3 of the Geneva Conventions (1949)

Article 3, which is a common provision across all four Geneva Conventions of 1949, expressly prohibits acts of violence against human life and personal integrity. This prohibition encompasses all forms of murder, disfigurement, cruel treatment, and torture. These conventions serve as a cornerstone of international humanitarian law and provide

essential protections for individuals, particularly during armed conflicts (Geneva Convention III Relative to the Treatment of Prisoners of War, 1949).

Protocol I Additional to the Geneva Conventions

Protocol I, an additional treaty complementing the Geneva Conventions, addresses the protection of victims of international armed conflicts (AP 1 Geneva Convention of 12 August 1949, and Relating to the Protection of Victims of International Law, 1977). Comprising 102 articles, this protocol builds upon the foundations of the four Geneva Conventions and earlier conventions (Ibid). It emphasizes, among other things, the critical importance of safeguarding the rights of civilians during armed conflicts.

Article 4 of Protocol II and Addition to the Geneva Conventions

Similarly, Article 4 of Protocol II, an addition to the Geneva Conventions, reiterates the prohibition against the same actions detailed in Article 3. This protocol extends specific safeguards to individuals affected by non-international armed conflicts, reinforcing the principles of humane treatment and the safeguarding of fundamental human rights (Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War, 1949).

ISLAMIC LAW PERSPECTIVE

Islamic International Law

Islamic international law confers unparalleled significance in relation to the right to life, considering it the most essential and supreme right available to all human beings, irrespective of distinctions based on race, color, sex, language, or religion. This right is deemed sacred and inviolable, with any infringement viewed as a transgression against the entire community. The Quran contains explicit references to the sanctity of the right to life, exemplified by verses such as: "On that account, We ordained for the Children of Israel that if anyone slew a person - unless it be for murder or for spreading mischief in the land - it would be as if they slew the whole people" (Quran 5:32). Similarly, it admonishes against taking life unjustly: "Nor take life, which Allah has made sacred, except for just cause" (Quran 17:33). Additionally, it forbids self-harm: "Nor kill yourselves: for verily Allah hath been to you Most Merciful" (Quran 4:29) (Ibn Taymiyya, 1966).

In contrast, Islamic international law accords paramount significance to the right to life as the most fundamental and supreme entitlement granted to all human beings, without regard to distinctions such as race, color, sex, language, or religion. The right to life is considered sacred and inviolable, and any transgression against it is viewed as a crime against the entire community (Mayer, 1994).

Verses Emphasizing the Right to Life

This esteemed right finds prominence in several verses within Islamic teachings:

1. "For this reason, we decreed for the Children of Israel that whoever takes a life—unless it is for murder or for causing corruption in the land—it is as if they have killed all of humanity. And whoever saves a life, it is as if they have saved the life of all of humanity." This verse emphasizes the sacredness of preserving human life, making exceptions only for cases of murder or actions that disrupt the peace within society (Surah Al-Maida, 5:32).

2. "Do not unjustly take a life that Allah has deemed sacred—except in cases of justified cause." This verse underscores the sanctity of life, allowing for exceptions only in situations where there is a legitimate reason to take a life.

3. "Nor kill yourselves: for verily Allah hath been to you Most Merciful." This verse highlights the prohibition against self-harm and suicide, emphasizing Allah's boundless mercy.

These verses reflect the deep-rooted and unequivocal value placed on the right to life within Islamic international law, promoting the protection and preservation of this sacred right for all individuals.

Islamic Humanitarian Law and Its Principles

Islamic humanitarian law emphasizes the fair treatment of civilians not involved in armed conflicts and prohibits the indiscriminate use of weapons that could harm both combatants and non-combatants. Muslim fighters are trained to prioritize avoiding harm to civilians (Yamani, 1985). In Section 1, Paragraph 47 of "al-Siyar fiArd' al-Harb" (The Islamic Law of Nations), it is stated, "Whenever the Apostle of Allāh (PBUH) sent forth a group, he said to it: 'Do not cheat or commit treachery, nor should you harm, injure, or kill children, women, or old men.'" This principle is reinforced by another tradition that recounts an incident where Prophet Muhammad (PBUH) inquired about people gathered around a deceased woman. Upon learning of her death, the Prophet stated, "This is not one with

whom fighting should have taken place." He further instructed a companion to relay a message to Khālid Ibn al-Walīd, commanding him not to harm women or hired servants.

Another pivotal quote attributed to Umar Ibn al-Khatāb, the second Caliph, is, "Don't beat up people or humiliate them! “When did you start turning people into slaves, when they were born free?" This statement highlights the inherent dignity and freedom of every individual, regardless of their circumstances.

Additionally, it's worth noting the Islamic principle regarding wrongful killing: "If anyone is killed wrongfully, we have given his heir authority, but let him not exceed bounds in killing." This highlights the importance of proportionality even when seeking justice for wrongful deaths.

Prophet Muhammad's Guidance to Muslim Fighters

Prophet Muhammad (PBUH) provided explicit guidance to Muslim fighters, especially those sent against the Byzantine army. He advised them to "show mercy to women, do not harm infants, and refrain from causing harm to the bedridden".

Abstain from demolishing the houses of the meek inhabitants; destroy not the means of their survival, nor their fruit-trees, and touch not the palm, and do not damage bodies and do not kill children." These directives reflect a commitment to safeguarding the most vulnerable members of society during times of conflict (Sahīh-al-Bukhārī, 1981).

Caliphs' Commandments to Fighters

The rightly-guided Caliphs, including Abū Bakr al-Siddīque, adhered to the Prophet's example. When the Muslim army marched to Syria, al-Siddīque insisted that they internalize specific rules: "Do not commit treachery, nor depart from the right path. You must not hurt, neither kill a child or an aged man or woman. Do not destroy a palm tree, nor burn it with fire, and do not cut any fruitful tree. You must not slay any of the flock or the herds or the camels, save for your maintenance." These guidelines recognized the need to preserve not only human life but also the environment and resources of the communities encountered. (Al-Bayhaqī & Ahmad Ibn al-Husayn, 1925).

Umar Ibn al-Khatāb, in his wisdom, advised commanders to exercise restraint in times of power and victory: "Do not hurt when you have the power to do so. Do not commit excess when you triumph. Do not kill an old man or a woman or a minor, but try to avoid

them at the time of the encounter of the two armies, and "During the moments of triumph and in anticipation of potential assaults" (Al-Bukhārī & Ibn Ibrāhīm, 1984).

Similarly, the fourth Caliph, Alī Ibn Abī Tālib, prohibited killing those who had laid down their weapons or fled the battlefield. His commands during the struggle with the Umayyads set forth fundamental rules of conduct in Islamic international humanitarian law (Sahīh-al-Bukhārī, 1981). Alī (r.a) emphasized not killing fleeing individuals, refraining from finishing off wounded combatants, avoiding the disfigurement of the deceased, respecting privacy by not entering houses without permission, refraining from seizing property, and refraining from torturing or harming women, even in the face of insults (Al-Sarakhsī, M. Ibn Ahmad, 1971-1972).

Islamic Humanitarian Law and Current Human Rights Frameworks

Contemporary Islamic human rights law further affirms the right to life, the prohibition of torture, and the treatment of individuals in accordance with the principles mentioned above (Farrag, 1990). The Universal Islamic Declaration of Human Rights, for example, acknowledges the sanctity of human life in Article 1, emphasizing that "human life is sacred and unbreakable, and every effort shall be made to protect it." The Article 7 emphasizes the prohibition of torture and degrading treatment, guaranteeing the protection of individuals from both physical and psychological harm, as well as preventing coerced confessions (Mawdūdī, 1960).

Similarly, the Cairo Declaration on Human Rights in Islam, adopted in 1990, reinforces the right to life and protection from torture and inhuman treatment in Articles 2 and 11 (a). Article 3 reaffirms the protection of civilians during times of war, emphasizing the preservation of life and the humane treatment of all individuals (Cairo Declaration on Human Rights in Islam, 1993).

Abolition of Slavery in Islamic Law

Islamic humanitarian law also addressed the institution of slavery. While pre-dating Islam by millennia, slavery was regulated with protective injunctions that aimed to improve the status of slaves. The Prophet Muhammad emphasized treating slaves as brothers, sharing food and clothing with them. These principles sought to ensure the fair and compassionate treatment of those in servitude. Islamic humanitarian law recognized the eventual abolition of slavery, aligning with modern principles of human rights and dignity (Al-Bayhaqī & Ahmad Ibn al-Husayn, 1925).

Islamic humanitarian law has a rich tradition of upholding the right to life, prohibiting torture and inhuman treatment, and safeguarding the rights of individuals, even in times of conflict. These principles continue to resonate with contemporary human rights frameworks, emphasizing the importance of dignity, compassion, and respect for all individuals, regardless of their circumstances (Allen, 1989).

Fundamental rights regarding Respect for Religious Beliefs, Traditions or Custom

The right to religious liberty is a fundamental human right, encompassing the freedom to practice one's religion and make choices regarding one's beliefs. It also extends to parents' freedom to provide religious and moral education to their children in accordance with their own beliefs. While some argue that religion has diminished in significance over time, it remains a central aspect of many societies, influencing not only beliefs but also actions (Al-Shaybānī & Ibn al-Hasan, 1975).

International Legal Framework

The recognition and protection of religious beliefs in modern times have deep historical roots. The Treaty of Westphalia in 1648 marked a significant milestone by guaranteeing equal rights for both Roman Catholics and Protestants in Central Europe, laying the groundwork for respect for religious diversity (Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981).

Following World War II, a paradigm shift occurred in attitudes toward human rights, including the right to religious freedom. The United Nations Charter of 1945, in Articles 1 and 55, stipulates universal respect for fundamental freedoms without discrimination based on race, sex, language, or religion (Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, 1970).

The Universal Declaration of Human Rights, adopted in 1948, further solidified these principles. Article 18 of the Universal Declaration explicitly states that "everyone has the right to freedom of thought, conscience, and religion," including the freedom to change one's religion or belief and to manifest one's religion in various ways (UDHR, 1948).

Building on this foundation, the International Covenant on Civil and Political Rights of 1966, in Article 18(1), affirms that "everyone shall have the right to freedom of thought, conscience, and religion. “Crucially, this entitlement includes the liberty to embrace or

choose a religion or belief of one's preference. This enhanced wording clarifies the scope of religious freedom (ICCPR, 1966).

In 1981, the United Nations General Assembly adopted the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. This declaration, comprising eight articles, underscores that discrimination based on religion or belief is a violation of human rights and an affront to human dignity (Declaration on the Granting of Independence to Colonial Countries and Peoples, 1960).

Additionally, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities, adopted in 1992, encourages states to promote the religious identity of minority groups through appropriate legislation (Declaration on the Protection of Women and Children in Emergency and Armed Conflict, 1974). The Vienna Declaration and Program of Action on Human Rights, adopted in 1993, urges states and the international community to protect the rights of persons belonging to minority groups, emphasizing the fight against racism, racial discrimination, nationalism, and intolerance (Declaration of the Rights of the Child, 1959).

Religious Freedom in Times of Armed Conflict

International humanitarian law has also recognized the importance of respecting individuals' rights to thought, conscience, and religion during armed conflicts. The Annex to the 1907 Hague Convention IV, the 1949 Geneva Convention IV, and the 1977 Additional Protocol I and Protocol II to the Geneva Conventions all affirm these rights (Hague Convention IV Respecting the Laws and Customs of War on Land, 1907).

For instance, Article 46 of the Annex to the 1907 Hague Convention IV emphasizes that religious convictions and practices, along with family honor and rights, must be respected during times of conflict. Articles 27 of the 1949 Geneva Convention IV state that protected persons are entitled to the respect of their religious convictions, practices, and customs in all circumstances.

Furthermore, Article 53 of the 1977 Geneva Protocol I Additional to the Geneva Conventions and Article 16 of Protocol II Additional to the same conventions prohibit acts of hostility against historic shrines, works of art, or places of worship, recognizing their significance as part of a people's cultural and spiritual heritage.

Challenges and Ongoing Violations

Despite these international ideals and legal provisions, violations of religious freedom continue to be a pressing global issue. In recent history, we have witnessed hatred and violence along ethnic and religious lines, resulting in grave human rights violations. These include the genocide in Rwanda, ethnic conflict in Bosnia, and conflicts fueled by religious extremism in various regions. Such events underscore the urgent need to address and combat intolerance and discrimination based on religion or belief, as well as to protect the rights of minority groups in all parts of the world.

The recognition and protection of religious beliefs, customs, and traditions are fundamental principles in international human rights and humanitarian law. These principles reflect the commitment of the international community to upholding the dignity and freedom of individuals to practice their religion, beliefs, and customs. However, challenges persist, requiring continued efforts to promote tolerance, diversity, and respect for religious rights worldwide.

Islamic Concept of Rights of Non-Muslims

In Islamic international law, religious freedom is regarded as an integral aspect of freedom of thought and expression. It upholds the principle that every individual has the right to choose a religion in accordance with their personal beliefs. This principle finds its basis in the Holy Qur'ān, the Sunnah (traditions of the Prophet), and the directives of early Muslim Caliphs to commanders in times of conflict. Religious liberty is explicitly supported by Qur'ānic verses such as "Let there be no compulsion in religion" and "Wilt thou then compel mankind against their will to believe ".

Islamic law goes beyond respecting religious beliefs; it also extends its regard for non-Muslim customs, traditions, and places of worship. Non-Muslims residing in Muslim towns and cities have the freedom to practice their customs, traditions, celebrate their religious holidays, and observe their communal festivals without interference. Non-Muslim places of worship are considered sacrosanct and are safeguarded during both peacetime and war. If these places are damaged or destroyed, it is incumbent upon the Islamic law to ensure their reconstruction or repair (Almahfali, & Avery, 2023).

Jews and Christians, referred to as "the People of the Book," hold a respected and distinct status within Islamic international law. Muslims are explicitly instructed by the Holy Qur'ān to treat them with gentleness. This principle is encapsulated in the Qur'anic verse: "And

dispute ye not with the People of the Book except with means better." Additionally, the speech of Abū Bakr al-Siddīq emphasizes the importance of respecting those who have dedicated themselves to monastic life, a reflection of the tolerance promoted in Islamic international law.

Historical examples further demonstrate this respect for religious diversity. Umar Ibn al-Khatāb, the second Muslim Caliph, ensured the protection of Christian churches and crosses in Jerusalem and assured that these symbols would neither be used by Muslims nor be damaged. Umar's visit to Jerusalem also revealed an abandoned Jewish temple buried by the Roman army, which he and Muslim soldiers unearthed, cleaned, and offered to the Jewish community for use. A similar commitment was shown by Amr Ibn al-Ās towards Egyptian Christians, guaranteeing the protection of their churches and crosses.

Scholars like Abdullahi An-Na'im highlight the early signs of religious tolerance and accommodation within Muslim Arab rule. Pacts issued by the Prophet Muhammad and his successors, such as the pact with the people of Najrān, guaranteed protection for non-Muslims in various aspects of life, including their faith, property, and places of worship (Al-Shāfi, M. Ibn Idrīs. 1987).

Contemporary Islamic declarations and documents also reinforce these principles. The Universal Islamic Declaration of Human Rights (1981), in Articles 10 and 13, emphasizes the Qur'anic principle "There is no compulsion in religion" and grants non-Muslim minorities the choice to be governed by Islamic law or their own laws concerning civil and personal matters. It upholds every individual's right to freedom of conscience and worship according to their religious beliefs. The Cairo Declaration on Human Rights in Islam (1990), in Article 10, strictly prohibits any form of compulsion aimed at converting individuals to another religion or belief (Cairo Declaration on Human Rights in Islam, 1993).

Recommendations

Following are the recommendations:

Promotion of dialogue

To promote a greater understanding of how Islamic law can be in harmony with current international human rights norms, encourage continued communication and involvement

between Islamic academics, legal professionals, and human rights organisations. This can assist close any gaps and foster respect for one another.

Education and awareness

Mention the necessity for educational activities and programs that spread knowledge of Islamic international law's tenets and how they mesh with contemporary human rights. Both Muslim and non-Muslim communities may be the target of this.

Policy Integration

Recommend that governments, particularly those in Muslim-majority nations, think about incorporating Islamic international law's precepts into their national legal systems, where appropriate, to ensure the preservation of human rights.

Research and scholarship

Encourage more scholarly study of Islamic international law and how it intersects with human rights. Inspire students to research case studies and real-world applications.

Interface initiatives

Encourage interfaith collaboration and dialogue to improve understanding of various religion viewpoints on human rights. This can ease tensions and encourage harmonious coexistence.

Collaboration with international organization

Encourage Muslim-majority nations to work more closely with international organisations and human rights groups to make sure their laws and practices comply with international norms for human rights.

Legal reforms

Recommend that governments in areas where there are inconsistencies between Islamic law and international human rights law take into account legal reforms to harmonise with international standards while maintaining cultural and religious values.

Community engagement

Encourage local communities, religious authorities, and civil society groups to actively promote human rights understanding and actions that are in line with Islamic teachings.

Documentation and reporting

Recommend creating systems for tracking and reporting human rights abuses in nations with a majority of Muslims, as well as for dealing with them in conformity with both international and Islamic legal norms.

Continued dialogue

In order to address new concerns and guarantee that human rights are upheld within Islamic contexts, it is crucial to emphasise the value of continual communication between religious academics and human rights experts.

CONCLUSION

In conclusion, Islamic humanitarian law, within the framework of jihād, unequivocally affirms and safeguards the personal individual rights of all people, regardless of distinctions such as race, sex, language, or religion. This law, founded on the universal principles of justice (al-ʿadl) and kindness (al-ihsān), recognizes equality and justice as inseparable. It underscores that all rights have little value if individuals cannot secure remedies when those rights are violated. Consequently, it is crucial to emphasize that personal individual rights are not only upheld through the Islamic principle of equality but are also supported by a comprehensive system of legal and administrative rules designed to ensure their application. Moreover, any violations of these rights should be adjudicated before a competent judge. In modern times, these principles of respect for religious diversity and personal individual rights remain integral to Islamic international law, contributing to the broader discourse on human rights and religious freedom in the contemporary world.

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