

The Evolutionary Process of Codifying Human Rights in the Islamic world with an Emphasis on the Challenges Ahead

document type: Conceptual Paper

Mohammad Hasan Khani*

Received: 2024/03/16

Mohammad Javad Ramezani**

Accepted: 2024/04/20

Abstract

The issue of human rights is currently one of the challenging issues facing the Islamic countries in international forums. Although The human right issue has had a different background in each Muslim country individually, yet the Muslim Countries face more or less some similar challenges as a whole. This article is an attempt to explore the process of human right evolution in these countries and to identify the challenges ahead. The article argues that the challenges are theoretical and practical ones. It also argues that some of them are domestic ones and some are imposed by outside world. The article regards the approval of the Declaration of Human Rights in Islam at the meeting of foreign ministers of the Organization of the Islamic Conference in Cairo in 1990 as a turning point in the evolutionary process partly due to the realization of the Universal Declaration of Human Rights in 1948, and partly to the growing need and demand inside those countries.

Keywords:

Human rights, Islamic world, Cairo Declaration, Organization of the Islamic Conference, Universal Declaration of Human Rights.

* Associate Professor of International Relations, Faculty of Islamic Studies and Political Sciences, Imam Sadiq University, Iran khani@isu.ac.ir

** PhD Student, Faculty of Islamic Studies and Political Sciences, Imam Sadiq University, Iran(Corresponding Author) mj.ramezani@isu.ac.ir

Introduction

State the problem: The issue of human rights has now become a challenging issue for Islamic countries. This challenge has existed since the beginning of the adoption of the Universal Declaration of Human Rights in 1948 and its universality. One of the main reasons for countries' doubts about this declaration is that some of them did not play a role in its formulation at the time of its approval. With the formation of the majority front in the United Nations, the Western governments intended to ratify the Universal Declaration in a form and with a few simple votes without using the discussion and debate of religious and social thinkers on the issue of human rights. Therefore, the process of drafting the declaration was accelerated and it was approved in less than two years since the drafting committee started its work. This haste in drafting and approving the Universal Declaration is one of the important reasons for the crisis of legitimacy in the international human rights system. Some Islamic countries, including Iran, Turkey, Pakistan, etc., following the policies of Western countries and indifference to the Islamic standards of human rights, ratified the international human rights charter and conventions. The Muslim countries that were not allowed to participate in the process of compiling and approving the Islamic Declaration, in the development and evolution of the international human rights system, were able to influence human rights treaties by using capabilities such as the right of condition and non-ratification within the framework of the transformation strategy. leave a negative During the ratification of the Treaty on the Eradication of Religious Intolerance, the process of restoring the intellectual and cultural identity of Islamic activists centered on the Islamic Sharia had reached a stage of growth that the Western governments were not able to approve the said declaration without seeking the opinion of the group of Islamic countries. At the beginning of the 1980s, Muslim governments came to the conclusion that it is not possible for them to play a positive role in the international human rights system along with adhering to the rules of Islamic Sharia. Therefore, they started their 10-year effort to compile a human rights document against the global declaration based on the teachings of Islam. The word association of Islamic activists, which was created around the concept of human rights, called them to compile an independent document on human rights with an Islamic approach to the Universal Declaration. Finally, at the initiative of the members of the Organization of the Islamic Conference, the Declaration of Human Rights in Islam or the Cairo Declaration was approved by the member foreign ministers' meeting in Cairo city in 1990. Islamic countries have faced various practical and theoretical challenges along this path. The research question is, what are the challenges of Islamic countries in

the stages of the formation of Islamic human rights? This article, using a descriptive and analytical method, seeks to prove the hypothesis that the concept of Islamic human rights among elites and political decision makers in Islamic countries has been gradually formed since the adoption of the Universal Declaration until the adoption of the Declaration of Islamic Human Rights. Considering that each of the Islamic countries have been involved in some way and at different levels in the development of the Islamic human rights document, therefore, in this research, we try to review the role of each of the Islamic countries in the process of drafting and approving human rights documents. Humanity such as the global declaration, international covenants, international conventions and the declaration of human rights in Islam and the developments after that, let's enumerate the common challenges of Islamic countries in the mentioned field.

The Importance of the Topic: Human rights, as one of the fundamental concepts of justice, freedom, and equality, have gained a significant position in the legal and political systems of various societies. Given the growing importance of human rights on the international stage, examining how these concepts align and interact with cultural and religious systems, particularly in the Islamic world, is of paramount importance.

The Islamic world, with its rich civilizational, cultural, and religious heritage, possesses significant potential for the formulation and implementation of human rights. However, it faces numerous theoretical and practical challenges in this regard. On the one hand, there is a need to preserve Islamic identity in the face of Western-centric interpretations of human rights, and on the other hand, there is the necessity of adapting to global developments. This duality renders the issue sensitive and strategic.

The Necessity of the Topic: The Islamic world, with its vast cultural and geographical diversity, faces the dual need to redefine human rights concepts within the framework of Islamic principles while engaging constructively with the global community and aligning with international human rights standards. This potential tension between preserving Islamic identity and meeting globalization requirements represents a fundamental issue that must be addressed to achieve effective and sustainable solutions.

Exploring the evolutionary process of human rights formulation in the Islamic world and addressing the challenges ahead can provide a deeper understanding of the strengths, weaknesses, and opportunities in this field. Moreover, a thorough understanding of this process can contribute to reducing cultural and religious conflicts and strengthening international human rights discourse. Given these necessities, addressing this topic from both theoretical

and practical perspectives, especially in today's complex world, is of great significance.

Research Objectives: This study aims to examine the evolutionary process of human rights formulation in the Islamic world and identify the challenges ahead. In this regard, the following general and specific objectives are considered:

-Historical and Conceptual Analysis of Human Rights in the Islamic World

Analyzing the historical background of human rights in Islamic texts and comparing them with modern human rights concepts.

Studying the impact of social, political, and cultural developments on the formulation of human rights in Islamic societies.

-Identifying Theoretical and Practical Challenges

Identifying potential conflicts between Islamic teachings and international human rights principles.

Examining practical challenges in implementing human rights in Islamic countries, including issues related to social justice, minority rights, and gender equality.

Main Research Question: How has the evolutionary process of human rights formulation in the Islamic world developed, and what challenges exist in aligning it with global developments and Islamic values?

Research hypothesis: This research is not a hypothesis test.

Research Methodology: This study is a qualitative and descriptive-analytical research conducted with an interdisciplinary approach. The following methods are utilized:

- Data Collection Method

Data for this research is collected through library and documentary studies. Primary sources include Islamic texts (such as the Quran and Hadith), research works on human rights, international human rights documents, and reports on human rights in Islamic countries.

Scientific articles, books, and reports from reputable international and regional organizations are also used as complementary sources.

- Data Analysis Method

Data analysis is carried out descriptively and analytically. Initially, the historical and conceptual evolution of human rights in the Islamic world is examined, followed by the identification and analysis of related theoretical and practical challenges.

Comparative techniques are employed to explore the similarities and differences between Islamic teachings and international human rights principles.

- Research Approach

This research adopts an analytical-critical approach, aiming to identify the strengths and weaknesses of the human rights system in the Islamic world and provide practical recommendations to enhance the interaction between Islamic human rights and the international human rights discourse.

This methodology enables a comprehensive examination of the subject and provides precise analyses to achieve the research objectives.

1. Conceptual framework

1.1. Human rights

The meaning of human rights is the set of inherent characteristics that every human being has, regardless of race, religion, etc. Although the divine and Abrahamic religions have been creators and promoters of the concepts of human rights throughout history, the concept of contemporary human rights is a phenomenon that has been raised for the past two centuries.

After the Second World War, encouraging respect for human rights and fundamental freedoms as one of the goals of the United Nations was included in the third paragraph of the first article of the United Nations Charter. Article 55 of the Charter also refers to various areas of human rights, such as improving the standard of living, resolving various international issues, international cooperation in various fields, etc.

The definition of human rights begins with the presentation of different definitions of "right" and various views on "man". The concept of right has different definitions in the opinion of thinkers. Some consider the concept of right to be a privilege that is related to the life of a creature, and creatures demand it from others due to their position in the system of existence (Bathaei Golpayegani, 2004: 112). Others considered the right to be a credit meaning and in the explanation, they stated the meaning of the credit meaning of the right as "permission". In other words, when it is said that someone has the right, it means that he is allowed to do something and there is no obstacle to doing that work. The requirement of this issue is that a person has the right to use or not use the right (Ebrahimi, 2003: 117). Another definition considers the right as a type of privilege that is granted to a person through the law and supports him within a certain range. In this case, the right creates a kind of power and dominion for a person (Warai, 2002: 29). It was observed that Muslim thinkers were not able to agree on the definition of the concept of right. They considered the right in different meanings to be spiritual in the sense of validity, privilege, or ruling, or verbal in the sense of kingship or province (Nabavian, 2009: 124). Apart from Islamic thinkers, Western thinkers have also presented different and sometimes contradictory

interpretations and meanings of the concept of right, which include profit or benefit, power, claim, freedom or winning card (Ibid.: 181). Going through the definitions of the concept of right, we will present different definitions of the concept of human.

One of the most important components of a legal system is its way of looking at a human being and the definition it provides of this being. Contemporary human rights consider human knowledge to be possible only through the lens of science and experience and have emphasized the material aspect of man in a way (Ibid.: 131). But the Islamic point of view presents man as a God-created being that lacks inherent independence. Human essence and identity are correctly defined when it is related to its creator and is not dependent on a non-divine element or elements (Javadi Amoli, 1996: 161-164). When a person is connected with the principles of Islamic beliefs, namely monotheism, justice, prophethood, imamate and resurrection, as well as Islamic ethics and religious rules, his knowledge is an Islamic knowledge (Masbah Yazdi, 2009: 40-32).

According to the definitions of the two concepts of right and human, human rights can be introduced as the sum of the powers, privileges and privileges that humans have. According to this definition of human rights, these privileges are exclusive to its owner; A person's rights are related to his power and authority; The right of a human being is protected. The formation of the concept of contemporary human rights was the result of a series of political and historical events that took place in the second half of the 20th century, in which, based on the originality of individual rights, governments were obliged to protect the set of individual rights (Mohved, 2002: 408). The main task of human rights is to limit the power of the government in favor of the rights of individuals. Based on this, governments are also committed to protect the rights of individuals (Qari Seyyed Fatemi, 2009, Vol. 1: 31). By mentioning these interpretations of human rights, we will have a brief overview of similar concepts such as natural rights, citizenship rights and humanitarian rights.

1.2. Natural rights

The definition of natural rights is a set of rights that are given to every human being by the decree of nature and cannot be taken away or given away, such as the right to freedom, the right to life, etc. Also, this category of rights is also called natural rights due to the fact that it is a requirement of human nature and is inseparable from his nature (Mirmousavi and Haqiqat, 2012: 116). Therefore, natural rights have not changed over time or geographical displacement and are somehow among the fixed laws of existence; Because

this type of rights is not recognized by humans (Hashmi, 2011: 49). Therefore, the natural rights of humans are based on the natural laws of creation that existed from the first day of creation and thinkers throughout history sought to discover them (Javid, 2008: 16).

1.3. Citizenship rights

Citizenship rights are the rights guaranteed by government institutions such as security, freedom and individual rights of citizens. The provisions of citizenship rights mean the observance of human rights in the constitutions of countries and the international charter of human rights towards people. Observance of the law and human dignity by the institutions providing security of the society are two basic axes in the formulation of citizenship rights, so that in this way, the dignity of human beings is provided legally (Najafi Abrandabadi, 2009: 16). In citizenship rights, the society in which a person lives and actively engages in social action is addressed. The difference between citizenship rights and human rights is clear here that human rights include their status regardless of whether or not humans are related to societies (Mozami, 2009: 43).

1.4. Humanitarian rights

The rights of human beings during internal and international conflicts or the state of cessation of hostilities, regardless of whether they are military or civilian, captured or wounded, etc., are called humanitarian rights. This type of rights was recognized in the four Geneva Conventions in 1949. These treaties only pay attention to the need to respect the rights of people who surrendered or were captured by the enemy in the war, or did not participate in the war as civilians (Mohaqeq Damad, 2004: 25) and refrained from going into the details of the customs of war. Is. Among these recognized rights are the protection of personal privacy, the protection of civilian property and places, the provision of medical and therapeutic care, the prohibition of the use of any violence, the prohibition of the use of military weapons that increasingly lead to human losses, The right to a fair trial in case of prosecution and other facilities are normal for every human being (ibid: 26 and 27). Therefore, the humanitarian law system emphasizes that military targets are separated from civilian targets during conflicts and that civilians and their facilities should not be attacked by military forces under any circumstances (Momtaz and Ranjbarian: 2005: 154).

1.5. Islamic world

Islamic world is not a clear concept. In this article, the Islamic world is an identity of civilization. This identity consists of several cultural, ethnic and racial identities, nation-states, etc., and it overlaps and shares with each of them. Therefore, when we use the concept of the Islamic world in this research, we do not mean concepts such as "Dar al-Islam" or "Islamic Ummah". The meaning of Islamic countries here is the territories that have two general characteristics: First, the population of the country has a Muslim majority. The second feature is membership in the Organization of Islamic Cooperation. Currently, 57 countries are members of this organization. Of course, the countries that had the first feature before the establishment of the Organization of the Islamic Conference (and then the Organization of Islamic Cooperation since 2011) are also noteworthy. In the different periods of time studied, the number of Islamic countries (which have the above two characteristics) has varied periodically. However, the criterion of membership in the Organization of Islamic Cooperation, simply includes or does not include this definition for each country.

1.6. The Universal Declaration of Human Rights

The Universal Declaration of Human Rights is an international document approved by the United Nations General Assembly that guarantees the rights and freedoms of all human beings. This resolution was prepared by the United Nations Declaration of Human Rights drafting committee chaired by Eleanor Roosevelt and approved by the General Assembly through Resolution 217 at its third meeting on December 10, 1948 at the Palace of Chaillot in Paris, France. Of the 58 member states of the United Nations at that time, 48 members voted in favor and 8 members voted against the declaration, and no country voted against it. It should be noted that two people did not participate in the voting. This declaration, which is a fundamental text in the history of human and civil rights, consists of 30 articles that describe the "fundamental rights and fundamental freedoms" of a person in detail and consider their universal character has taken as inherent, undeniable and applicable to all human beings.

1.7. Cairo Declaration

The Cairo Declaration on Human Rights in Islam is a declaration of the member countries of the Organization of Islamic Cooperation, which was approved for the first time in Cairo, Egypt, on August 5, 1990 (Conference of Foreign Ministers, 9-14 Muharram 1411 AH, corresponding to 14 August 1369 AH). and revised in 2020 and approved on November 28, 2020 by the

Council of Ministers of Foreign Affairs at its 47th session in Niamey, the capital of the Republic of Niger, is an overview of Islam's view of human rights. The version of the declaration approved in 1990 stated that Islamic Sharia is the only source of the declaration. This is while the new version of the 2020 approved declaration does not specifically refer to Sharia. The Cairo Declaration has declared its goal as "providing a general guide for the member countries of the Organization of the Islamic Conference in the field of human rights". This declaration is universally known as the response of Islam and Muslims to the Universal Declaration of Human Rights of the United Nations adopted in 1948. All members of the Organization of the Islamic Conference are obliged to follow the provisions of the Cairo Declaration.

1.8. Organization of the Islamic Conference

The Organization of the Islamic Conference is an intergovernmental organization that was established in 1969 after the action of the Zionist regime in burning the Al-Aqsa Mosque. Following the changes and internal developments of the organization, its known title was changed from Islamic Conference Organization to Islamic Cooperation Organization. Currently, 57 countries are members of this organization. In the organization's constitution, it is mentioned that this organization considers itself "the collective voice of the Islamic world" and strives to "guard and protect the interests of the Islamic world in the form of promoting the spirit of peace and international harmony". The Organization of Islamic Cooperation has permanent representatives in the United Nations and the European Union. The official languages of the organization are Arabic, English and French. The member countries have a population of 1.8 billion people until 2015, and 49 member countries of the organization are Muslim-majority. The first concerted action of Muslims in the issue of human rights, which was the drafting of an independent document equal to the Universal Declaration, came to fruition within the framework of the Organization of the Islamic Conference. In addition to the central role in drafting the declaration of human rights in Islam, events related to the development and evolution of the human rights system in Islam also took place within the framework of this organization.

2. Strategies for the formation of the concept of human rights in the Islamic world

The Human Rights Commission was established on February 15, 1946 under the Economic and Social Council of the United Nations, and the General Assembly, in its 46th preliminary meeting in October of the same year, assigned the first and third committees to draft the "Declaration of Fundamental Rights and Freedoms". The representative of Panama, who was

the main proposer of the declaration of human rights, made a lot of effort in this field; But with the influence of Eleanor Roosevelt, the wife of the president and the United States representative at the United Nations, the formulation of the declaration was referred to the Human Rights Commission, which she chaired. This issue is recognized as one of the challenges of the Universal Declaration of Human Rights. Based on this, it seems that the great powers, despite taking steps to create a legal and political mechanism to ensure global security and peace, always had the fear that political power in the international arena would be out of their control. (Humphrey, 1984: 14)

This action of Eleanor Roosevelt took the initiative in the field of drafting a world declaration forever from the hands of small and developing countries, including Islamic countries. Non-western countries, including Islamic countries, also learned about the content of the declaration when it was presented to the Third Committee of the United Nations General Assembly for discussion and review, and Islamic countries had no choice but to agree or disagree with the declaration. This issue provoked the protest of some representatives of Islamic countries towards the international human rights system. Also, the representatives of some Islamic countries did not have freedom of action in issuing their opinions and opinions. An example of this claim is the opinion of the representative of Egypt, who, after opposing some of the provisions of the global declaration, issued his positive vote for the declaration, subject to the inclusion of his explanations in the summary of the reports. (Year Book of the United Nations, 1948-49, pp. 532) With all the challenges that the representatives of Islamic countries had to work in the field of human rights, over time they adopted different positions towards the international human rights system, which continued to They are mentioned.

2.2. Strategy of indifference and scattered protests

Despite the various reasons for the religious convergence of Islamic countries, but due to the vast geography of the Islamic world, different political and economic interests, the conditions of the international community and the dependence of each Islamic country on one of the world powers, witness the political divergence and heterogeneity between the aforementioned countries after The end of World War II and we are in the process of forming the world human rights system. During the debates of the representatives of different countries on human rights, more than defending the Islamic discourse on human rights and participating with a distinct and independent religious, cultural and political identity, as a member of the United Nations but affiliated to one From the eastern or western camps, they only defended the interests and positions of their respective countries. (Cassese, 1990: 33)

The first negative reaction to the global declaration among Islamic countries was expressed by Saudi Arabia. Jamil Baroudi was a representative of a particular understanding and reading of Islam at the time of drafting and approving the World Declaration. This recitation is known as a jurisprudential and traditional approach in today's literature. In the 125th session of the Third Committee, Saudi Arabia's representative at the United Nations, Jameel Baroodi, protested against the formulation of a global declaration based on Western culture. He believed that the authors of the declaration have taken into account indicators that are only recognized by Western culture and lifestyle. Therefore, many civilizations that achieved their civilizational achievements through the lens of empiricism have been ignored. Finally, Baroudi questioned the competence of the declaration drafting committee and stated that the committee cannot use the same indicators to evaluate human rights in different countries. (Year Book of the United Nations, Third Committee 180th, Meeting, p. 370) The comments of the representatives of Egypt, Yemen and Saudi Arabia are recorded in the official documents of the United Nations, and the absence of the representative of Yemen in the voting and the issuance of abstention by Saudi Arabia also indicate Dissatisfaction of Islamic countries at the time of the adoption of the Universal Declaration.

Mahmoud Azmi, the representative of Egypt in the United Nations, expressed some points regarding articles 17 and 19 of the draft declaration in the 182nd preliminary session of the General Assembly and made his positive vote for the declaration conditional on recording these explanations in the summary of the negotiations. Western countries were worried about the opposition of most Islamic countries to the draft of the declaration, their association with the socialist camp and challenging the legitimacy of the global declaration. In the final voting of the third committee and before presenting the draft to the General Assembly, four Islamic countries abstained from voting on the draft declaration. For this purpose, Eleanor Roosevelt sought assistance from "Sir Zafarullah Khan", Pakistan's representative at the United Nations. Zafarullah Khan was the then foreign minister and the head of Pakistan's delegation in the 1948 General Assembly. After answering Ms. Roosevelt's request, Zafarullah Khan announced that the Saudi representative's interpretation of the Qur'anic verses was incorrect. (An Autobiography of Eleanor Roosevelt, op. cit. p. 322) According to Eleanor Roosevelt, the speech of the representative of Pakistan was so effective that the representative of Yemen, who did not attend the vote, and the representative of Saudi Arabia, who abstained, other Arab and Islamic countries They voted in favor of the draft global declaration. (Roosevelt, UN Today and Tomorrow, 1953, pp. xi-xii) Of course, it seems that the

representatives of Islamic countries, in addition to the influence they received from the words of the representative of Pakistan, on the one hand, in coordination with their respective countries, the interests of their country in it. They decided to vote in favor of the draft Universal Declaration. On the other hand, the diplomats of the Islamic countries were not in a position to defend the religious positions or the philosophical school of Islam. Finally, the representative of Egypt voted in favor of the declaration by including his explanations in the summary of the negotiations, and Yemen also did not appear in the voting of the third committee and the final voting in the General Assembly along with the representative of Honduras. The representative of Saudi Arabia, who was left alone, abstained from the global declaration in the voting of the General Assembly together with the camp of the Eastern countries.

After the adoption of the Universal Declaration of Human Rights, it was decided that the process of developing the Covenant was done in the same way as the Universal Declaration, and the only difference between them is the legal requirement of the Covenant and the declaratory nature of the Declaration. With the resumption of the work of the Human Rights Commission to implement the reforms requested by the General Assembly, the pressure and influence of Western countries, especially the United States of America, began to not include economic, social and cultural rights in the Covenant. The domination of the western countries over the mentioned institutions from the very beginning did not allow the development of the draft of the International Covenant on Human Rights to find the direction of economic, social and cultural rights. With the beginning of the process of developing the covenant, the debates and reviews found a direction that gradually two generations of human rights were formed, including the generation of civil and political rights of Western countries and the generation of economic and social rights of socialist countries, and the approach of integration and integration of generations of human rights in A document did not succeed much. (Mozaffari, 2009: 91) This issue is also known as one of the challenges of drafting the Universal Charter of Human Rights.

The presence of a larger number of representatives of Islamic countries in the Human Rights Commission and Committee has managed to modify the control of Western countries over the mentioned institutions to a small extent. Even Abdul Rahman Pajhwok, the representative of Afghanistan, became the current chairman of the General Assembly, and Halima Mubarak Warzazi, the representative of Morocco, became the chairman of the third committee of the General Assembly. However, these successes have not been in line with the integration of countries centered on Islam and strengthening the position of

Islamic countries in the international human rights system. The process of debates on drafting the Universal Declaration and the two covenants of political and civil and economic, social and cultural rights notes two points:

First, the Islamic cultural identity in the middle of the 20th century was still abandoned and unable to create convergence and adopt the same positions on the issue of human rights. The behavior and political speech of the representatives of Iran, Turkey and Pakistan were just in line with the international human rights policies and did not have a mentality of human rights concepts in Islam. These countries were indifferent to the conflict of the provisions of the Universal Declaration with domestic laws and Islamic Sharia, and they voted in favor of the Universal Declaration under colonial political considerations and affiliations.

Second, the countries of Syria, Afghanistan, and Egypt, which were partly with Saudi Arabia's representation in opposing the provisions of the Universal Declaration, limited their opposition to a part of the declaration and did not see any contradiction between the general framework of the human rights system and Islamic teachings and culture. (Official Records of the General Assembly, Third session (part 1) 1948, Third Committee 128th Meeting, 403-408). they believed Mohammad Habib, India's representative to the United Nations in the third committee, announced that according to the Indian constitution, his country recognizes the right to change religion. Shaishta Ikramullah, who represented Pakistan after Zafarullah Khan, also supported the approval of the World Declaration in the Third Committee, believing in the need of the people of the world for the standards of civilized behavior in international relations and domestic issues of each country. (Morsink, 1999: 25)

2.3. Transformation strategy

After passing the drafting period, the global human rights system considered the development of the system. In this approach, new treaties were developed and approved separately by countries with the aim of developing and expanding the system in the world in the field of various issues included in the human rights charter. The strategy of Islamic countries at this stage is to use the tools of interaction with human rights treaties, including general and partial rights.

For example, in the process of reviewing and approving the declaration of the abolition of all forms of religious discrimination and intolerance, past discussions about the concept and scope of religious freedom were brought up. This time, socialist and Islamic countries wanted to challenge the values of the Universal Declaration. These countries believed

that the rules that were approved in 1948 in the framework of the World Declaration were against their opinion and they were considering to invalidate the said rules. In these days, the number of Islamic countries that found their political independence had increased, and by creating a minimal convergence on the issue of human rights, a group centered on the discourse of Islam and Islamic cultural identity was formed on the issue of human rights.

With the formation of the bloc of Islamic countries, the western countries also realized that they could not approve the declaration of elimination of religious intolerance without gaining the opinion of this group. Therefore, the representative of Iraq, on behalf of the member countries of the Organization of the Islamic Conference, announced that the Islamic countries are considering to approve the Declaration on the Elimination of Religious Intolerance without voting. However, these countries intend to exercise the right of condition on any of the provisions of the declaration that are in conflict with the standards of Islamic law. (Odió Benito, 1996: 50-51)

The group of western countries had no choice but to bring the group of Islamic countries with them in order to ratify the aforementioned agreement. In this context, the group of Islamic countries was not ready to accept the concepts of Article 1 of the draft declaration. The representative of Iraq, as the spokesman of the group of Islamic countries, stated that the Quran did not allow Muslims to change their religion. Therefore, the group of Islamic countries refused to accept Article 1 of the draft, adapted from the most controversial article of the Universal Declaration, Article 18 of the Covenant on Civil and Political Rights. (Walkate, 1983: 148-149)

This stance put the group of Western countries in a difficult situation. Because the phrases that the group of Islamic countries put their hands on, practically marked the validity of Article 18 of the Universal Declaration. Finally, the western group agreed with the demands of the Islamic group; Provided that another article is added to the text of the draft declaration with the content that none of the words of the declaration should be interpreted under the title of the right of reservation and deviation from the universal declaration and international covenants. (Official Records of the General Assembly, 1963, Third Committee: 82-85)

This phrase was included in Article 8 of the Declaration on the Elimination of Religious Intolerance with the agreement of both the Islamic Group and the Western Group, and finally the said declaration was approved without formal voting first in the Third Committee of the Economic and Social Council and then on November 25, 1981 in the United Nations General Assembly. Receipt. (Year Book of the United Nations, 1981: 880) Although Islamic countries were divided and divided in many international spheres

affected by various factors, the Islamic discourse of human rights was a new component that used the common elements of culture, religion and Islamic history had provided the ground for the formation of the Islamic camp. After this, the representatives of the western countries were always trying to get the opinion of the group of Islamic countries about their plans and ideas and request them to interact in the approval of international programs for reconciliation.

Islamic countries have not acted in the same way in applying the right of condition on human rights treaties. However, with the passage of time and the approach of the views of Islamic countries to each other, a fixed procedure was established regarding the right of Islamic countries to condition on human rights treaties. During the Pahlavi era, the government of Iran approved the Covenant of Civil and Political Rights without any condition, and the country of Afghanistan did not impose any condition on it. In contrast to the country of Algeria, Article 23 of the Covenant of Social, Economic and Cultural Rights regarding the rights and responsibilities of the spouses in the marriage contract and after its dissolution has been interpreted in such a way that there is no violation of the principles of its legal system. The country of Bangladesh announced that it will implement articles 2 and 3 of the Covenant on the equality of men and women, especially in economic rights and inheritance laws, and articles 7 and 8 according to its constitution. The country of Egypt, while considering a general conditional right, announced that it will accept it and support its ratification, taking into account the Islamic rules and that the text of the agreement does not conflict with these rules. Western countries such as Germany, England, Denmark and Finland objected to the application of the general conditions of Islamic countries. (Year Book of the United Nations, 1981: 885)

Although the western countries also use the tool of the right of condition to secure their interests within the framework of the conventions, the conditioning of the main provisions of a treaty, which leads to the questioning of its nature, goals and special tasks, is completely rejected by the western countries. Was. On the other hand, Western countries, along with protesting against the practice of applying conditions adopted by Islamic countries, tried to change the position of the conventions in the face of general and broad conditional rights, as well as conditional rights that target the nature and main goals of the treaties. It is set to strengthen. This strategy was done gradually and slowly. For example, reservations to Articles 2 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women, which were contrary to the purpose and nature of the Convention, were declared illegal in several stages.

It should be noted that the countries that widely and generally use the instrument of the right of condition in relation to international human rights documents, are looking for a single and specific goal, which is to reject the validity of the provisions of the conventions and prevent the conversion of these laws into customary rules. The International. In this context, Islamic countries have also tried to use the strategy of conditional right in a favorable way and in line with the aforementioned goal. Therefore, contrary to the superficial approaches adopted by some jurists, the countries that use the legal instrument of declaring the right of reservation pursue two important goals: first, by applying the right of condition, they prevent the acceptance of international human rights obligations to force them. not to harmonize their domestic laws with international regulations. Second, while declaring their opposition to the provisions of human rights treaties through legal means, prevent the conversion of international laws (which conflict with their domestic laws) into international custom. This action also invalidates the reports, statistics and figures of reporters and human rights activists and various UN bodies, which, while publishing at different time intervals, announce the transformation of the rules of human rights treaties into the customary rules of international law. An action that seems to have been able to compensate for the failure of Islamic countries in the process of compiling international human rights documents.

2.4. Replacement strategy

The representatives of Islamic countries in the evolutionary process of human rights came to the conclusion that it was not possible to express Islamic identity and culture within the framework of the international human rights system, and in order to ensure this, a separate mechanism is necessary within the global human rights system, centered on the teachings of Islam should be established in the issue of human rights. The reaction of Muslim minorities in Western countries to the connection between Islamic concepts and the World Declaration also strengthened this issue. Under the pressure of the western powers and in order to ensure security and enjoy the rights of citizens, they tried to establish some kind of understanding between the Islamic standards and the provisions of the World Declaration. In the end, this issue made the Islamic Conference to review and compile Islamic human rights. This issue was raised in the meeting of foreign ministers of the Organization of the Islamic Conference (CFM) and the meeting was mandated to compile the Islamic declaration of human rights. It took 10 years to develop the declaration, from the time the topic was proposed to the preparation of the draft, and during this time, several other documents were issued under

different titles about human rights in Islam by Muslims and Islamic institutions in Asian and European regions. (Khorram, 2012: 59)

Two announcements were issued one year apart by the Islamic Council of Europe located in London. The first declaration titled "World Islamic Declaration" was published by this council in 1980 and in line with the effort to explain the Islamic views on the issue of human rights in 7 paragraphs. After one year passed, the Islamic Council of Europe, affiliated to the Non-Governmental Association of the Islamic World (Rabbat Al-Alam al-Islami), wrote the "Declaration of Human Rights" in 1981, and during a ceremony in Paris, the aforementioned declaration was presented to the United Nations Scientific, Educational and Cultural Organization, which is abbreviated as "UNESCO" was delivered.

The aforementioned declaration can be called an attempt to include Islamic concepts and views such as responsibility in a human rights document. In other words, the Islamic Declaration of Human Rights of the Islamic Council of Europe includes human concepts such as responsibility, which was ignored by the Universal Declaration. But this declaration was never considered valid and has legal value; Because, on the one hand, Islamic countries and related international organizations refused to accept and approve it. On the other hand, the compilers of the declaration did not claim from the beginning that their intention was to draft a declaration separate and independent from the global declaration and in order to counter it.

After the declaration of the Islamic Council of Europe, the joint conference of the International Commission of Jurists, Kuwait University and the Arab Lawyers' Union on human rights in Islam was held on December 9-14, 1980, hosted by Kuwait, and the comments and suggestions of the participants in the form of a document entitled "Results" and the recommendations of the Kuwait Conference" were presented. The Islamic opinions expressed in this document are very similar to the current standards of the global human rights system; With the difference that Islam has been a pioneer in proposing the concepts of human rights compared to the Western approach, in addition to having a significant degree of non-contradiction. The declaration includes the recommendations of the participants to the heads of Islamic countries in respect of human rights and asks the Muslim heads and political leaders to amend the basic and normal laws in their countries in favor of the implementation of human rights and not to contradict the international rules of human rights. Act with Islamic standards.

The victory of the Islamic revolution in Iran marked a new page in the book of official and government efforts in opposition to the international human rights system. It seems that the first official stance against Western

human rights values and rules and the international system based on it is in the official statements of Dr. Rajae Khorasani, the representative of the Islamic Republic of Iran in 1983 at the United Nations:

"Treaties, declarations and resolutions or decisions of international organizations that are against Islam have no validity from the point of view of the Islamic Republic of Iran... The Universal Declaration, which is the crystallization of a secular understanding of Christian and Jewish traditions, is acceptable to Muslims. It will not be performed." (Mayer, 1993-1994: 316)

Undoubtedly, the position of the representative of the Islamic Republic of Iran against the international human rights system should not be evaluated as a temporary event or an individual initiative. If the manner of expression and tone of speech of the representative of the Islamic Republic was not unprecedented, but it can be boldly said that his position was formed and cultivated in a historical context and relying on a political and cultural background. The statement read by the representative of the Islamic Republic is the continuation of the objections of Islamic countries to some provisions of the Universal Declaration, international covenants and human rights conventions, as well as the continuation of adopting the strategy of issuing declarations of conditional rights parallel to the time of ratification of human rights treaties. After many years, he had a chance to emerge. Pursuing this policy ultimately led to the formulation and approval of the Declaration of Islamic Human Rights known as the Cairo Declaration in 1991.

The Arab League, as an assembly of Arab countries, plays a fundamental role in declaring the human rights position of the Arab nation. Although there was no reaction from this union to the issue of human rights until 1945, following the resolution 2443 of the Arab League, on September 3, 1968, the Permanent Arab Human Rights Commission was established. The Arab League Secretariat held the first Arab Human Rights Conference in Beirut from December 2 to 10, 1968. On September 15, 1994, the Arab Charter on Human Rights was approved by Arab League Resolution 5437 and was amended in 2004. Seven countries Jordan, Bahrain, Libya, Algeria, United Arab Emirates, Syria and Palestine joined it. This charter has been implemented since 2008 and the three countries of Yemen, Qatar and Saudi Arabia have also joined it. The Islamic Declaration of Human Rights was also approved by the Organization of the Islamic Conference in the conference of foreign ministers of the member states in 1990 in Cairo. The two events mentioned were the most important developments that confirm the position and influence of religion and ethnicity in the events of West Asia. (Zakerian, 2016: 48-50)

However, on the scale of the Organization of the Islamic Conference, it has issued three declarations on human rights in Islam. The first declaration under the title "Draft Declaration of Basic Human Rights and Duties in Islam" was published in 1979 in the city of Mecca. The second "document plan regarding human rights in Islam" was approved in 1981 in the city of Taif and in the assembly of heads of the organization. Among the above statements, the most important and official one is the Cairo Declaration, which is known as the Islamic Declaration of Human Rights (Cairo Declaration). The core of this declaration was formed in 1979. In that year, the Organization of the Islamic Conference officially requested the formulation and announcement of the Declaration of Islamic Human Rights and ordered the 10th Conference of Foreign Ministers of the member countries to prepare such a statement by forming committees and inviting experts and submit it to the organization for approval.

The final text of the declaration of Islamic human rights at the 19th meeting of foreign ministers of the Organization of the Islamic Conference, held on July 31 to August 5, 1990, corresponding to 9 to 14 Muharram 1411 AH and 10 to 15 August 1369 AH, with the slogan "Peace meeting, mutual solidarity and "Development" was held in Cairo, the capital of Egypt, and was approved by the members through the resolution P-19/49. Before this meeting, the meeting of the committee of legal advisers was held in the last days of 1988 in Tehran, where the draft of the declaration was submitted for review by the legal experts of Islamic countries. After the approval of the Council of Foreign Ministers of the organization, this declaration was referred to the summit of the member countries of the organization, which was held in Dakar, Senegal in December 1991, and it was approved in the aforementioned meeting.

Conclusion

Referring to the hypothesis of the gradual and evolutionary development of the concept of human rights among Islamic countries and the issue of Islamic human rights, the present research first explained that a large number of Islamic countries were not present in the process of drafting the World Declaration. The political action of Islamic countries in this period of time is defined in the framework of the strategy of indifference to Islamic teachings on the issue of human rights, along with scattered protests against the concepts and actions of Western countries on the issue of human rights. The political and diplomatic behavior of these countries during the drafting of the Universal Charter of Human Rights was affected by the lack of political independence and the atmosphere of the Cold War and the competition between the two

Eastern blocs led by the Soviet Union and the Western bloc led by the United States of America. At this stage, Islamic countries face challenges such as being ignored by the world powers, influenced by the power relations in the Cold War competition and depending on one of the two powers, the United States and the Soviet Union, the creation of disunity in generations of human rights, and the failure of the integration strategy. Generations have been faced with indifference to Islamic teachings on the issue of human rights and contentment with securing the national interests of countries.

During the drafting of international human rights treaties, the representatives of Muslim countries were able to use the tool of condition in the framework of the transformation strategy and in line with their political goals with special cleverness, and while the UN bodies and human rights reporters, by presenting statistics, rejected the annexation of the government. Various people informed human rights treaties and the universality of international human rights rules and their transformation into customary provisions in international law, to face the international human rights system with a crisis of legitimacy. At this stage, Islamic countries are faced with challenges such as the objections of Western countries to the rights of the representatives of Islamic countries on human rights treaties and strengthening the position of the conventions in the face of general and extensive rights of conditions as well as rights of conditions that the main nature and objectives Treaties have been targeted.

In the next stage, Islamic countries realized that it is not possible to participate and play an active role in the framework of the global human rights system and adhere to Islamic teachings in this field at the same time. Therefore, in the third stage and within the framework of the replacement strategy, the Organization of the Islamic Conference moved towards the development of a human rights document based on Islamic standards and independent of the Universal Declaration of Human Rights. The challenges that the Islamic countries faced at this stage were the denial and non-recognition of the declaration of human rights in Islam by the Western countries and the international human rights system, and the emergence of differences in the opinions of thinkers and representatives of different Islamic parties regarding human rights.

References

- An Autobiography of Eleanor Roosevelt, op. cit.
- Bathaei Golpayegani, Seyyed Mohammad Hashem, *Islam and Human Rights: A Collection of Articles on Human Rights in Today's World*, Tehran: Publishing Company: First Edition, 2004.
- Cassese, Antonio: *Human Rights in a Changing World*, Polity Press, Cambridge, 1990.
- Eleanor Roosevelt, *UN Today and Tomorrow*, 1953.
- Hashemi, Seyyed Mohammad, *Human Rights and Basic Freedoms*, Tehran: Mizan Publishing House, first edition, 2005.
- Humphrey, John P. *Human Rights and the United Nations: A Great Adventure*, Transnational Publisher Inc. New York, 1984.
- Javadi Amoli, Abdullah, *Philosophy of Human Rights*, Qom: Isra Publishing Center, 1996.
- Javeed, Mohammad Javad, *Theory of relativity in citizenship rights, an analysis based on application in natural rights*, Tehran: Gherayesh, 2008.
- Khorrām, Seyyed Ali, 2011, the Islamic Charter or Declaration of Human Rights in the collection of articles of the Islamic Charter of Human Rights Conference; *Challenges and Solutions*, pp. 49-71, Imam Sadiq University (AS), Tehran 2012
- Mayer, Ann Elizabeth, *Universal Versus Islamic Human Rights: A Clash of Cultures or A Clash with a Construct?* Vol. 15, Michigan journal of international law, 1993-1994, pp. 316.
- Mesbah Yazdi, Mohammad Taqi, *A brief look at human rights from the perspective of Islam*, Qom: Imam Khomeini Educational and Research Institute (RA), 2009.
- Mir Mousavi, Sayyed Ali and Haqiqat, Sayyed Sadegh, *Fundamentals of Human Rights from the Perspective of Islam and Other Schools*, Tehran: Islamic Culture and Thought Research Institute Publishing Organization, 11th edition, 2012.
- Morsink, Johannes, *Universal Declaration of Human Rights, Origins, Drafting and Intent*, University of Pennsylvania Press, Philadelphia, 1999.
- Movahed, Mohammad Ali, *in the air of right and justice, from natural rights to human rights*, Tehran: Karnameh Publishing House, 2008.
- Mozafari, Mohammad Hossein, *Islamic countries and human rights*, Tehran: Neshar Baz, 2009.
- Nabaviyan, Seyyed Mahmoud, *Right and Four Fundamental Questions*, Qom: Imam Khomeini Educational and Research Institute, 2009.
- Odio Benito, Elizabeth *Elimination of all forms of intolerance and discrimination based on religion or belief*; Op. cit.
- Official Records of the General Assembly, Third session (part 1) 1948, Third Committee 128th Meeting.

Qari Seyyed Fatemi, Seyed Mohammad, Human Rights in the Contemporary World, Volume 1, Tehran: Shahr Danesh Institute of Legal Studies and Research, 2009.

Walkate. J. A. The Right of Every One to Change His Religion or Belief, Netherlands International Law Review, 1983.

Warei, Seyedjavad, Rights and duties of citizens and statesmen, Qom: Secretariat of the Assembly of Leadership Experts, 2002.

Year Book of the United Nations, 1948-49.

Zakarian, Mehdi, Human rights policies in the Middle East, Tehran: Khorsandi Publishing, 2014.