CHAPTER SIX

SOME ARGUMENTS ON THE UNIVERSALITY OF HUMAN RIGHTS IN ISLAM

Audrey Guichon*

I. INTRODUCTION

Modern human rights are facing increasing challenges, of various forms. Current international politics and recent events have brought the attention of the international community, academics and human rights practitioners alike, to the perceived incompatibility between human rights and Islam. Since 2001, the West has demonstrated some growing, genuine interest in understanding Islam better, though this has gone hand in hand with an attempt by some to reject, demonise and vulgarise a system of religious belief that they deem irrelevant, unnecessary, and dangerous. At the same time, or perhaps, as a consequence, strong religious-based arguments are increasingly becoming part of the discourse; rejecting what is currently the most universally accepted human rights system, as endorsed and promoted by the United Nations.

Nevertheless, these challenges are not new, and a classic recurrent argument maintains that human rights are the fruit of Western cultural imperialism. This chapter is an attempt to identify and address some of the religious-based arguments that can be considered as valid justifications for the rejection of the human rights system and theory. It takes a universalist stand, arguing that human rights is a worthwhile system of protection for individuals and that Islam, as a system of belief, does not have to ‘compromise’ itself to endorse it. In order to address this, the chapter presents some of the arguments invoked by Islamic thinkers to reject human rights so as to assess whether the ‘universal project’1 can be achieved and legitimised; conversely, it also examines the protective merits of an Islam-based system of human rights protection.

* The Junction, Londonderry/Derry, Northern Ireland, United Kingdom.

1 See below part III.
In part two, the chapter looks into the theoretical, religion-based arguments put forward to justify the non-application of human rights in Islam. In part three, it discusses the value of, and potential need for, some degree of cultural relativism and the danger in allowing too much. In part four, it offers a critical view of the legal Islamic human rights instruments by comparing them to the Universal Declaration of Human Rights. The chapter concludes that these instruments alone provide insufficient protection, and sheds light on the potential dangers of some provisions based on shari'a. Objections to human rights principles and reservations regarding human rights treaties and conventions’ articles are varied in nature; however, when they are religion-based, the debate becomes more complicated because it is culturally sensitive. This renders the need for an objective examination of Islamic-based objections to universal human rights even more urgent. This chapter is a legal analysis of some of the theoretical and practical hurdles against a true universal application of human rights in Islam; it does not engage with Islam as a system of belief outside of this framework. The scope of arguments discussed range from those invoking that modern human rights only are a weak copy of Islamic principles to those saying that compatibility is not possible, due to the existence of antagonist values. Since the questions raised do not have clear-cut answers, this chapter will suggest ideas for consideration and reflection, but does not intend to offer absolute conclusions. While it is clear that contemporary Islam is diverse and varied in its interpretation of faith and religious text, ‘Islam’ will be used indistinctively to refer to the main principles and values of the Islamic faith.

II. WHERE INCOMPATIBILITY MIGHT LIE

The starting point of this analysis refers to the argument that human rights are a foreign creation of the West and/or that they exist in parallel to Islamic human rights. This section examines apparent substantial obstacles to making the implementation of human rights in Islam possible and justified, by citing evidence from the literature. The arguments examined refer to the theoretical sources of human rights, to their origin and nature, and finally, to their individualistic versus collective vision.