

Fundamental Rights in The Holy Qur'an

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All the fundamental rights have been neatly summarized in the famous khutbah of the Prophet, peace and blessings be upon him, at the last pilgrimage when he said: "Allah says: O mankind we have created you from a male and a female: and We have made you into families and tribes that you may recognize one another. Verily, the most honourable in the sight of Allah is he who is most righteous amongst you...

A coloured man has no preference over a white man, nor a white man over a coloured man, nor an Arab over a non-Arab, nor a non-Arab over an Arab, except for righteousness. O People, your lives, your honour and your properties are to be respected by one another till the Day of Reckoning comes, They are to be respected as you respect this day (Yawmu-l'Arafah) and this month (Dhu-l-Hijjah) and this city." Introduction: The modern concept of fundamental rights is of course not identical with the guidance provided by Islam in the field.

Modern constitutional theory of the free western world proceeds on the assumption that the State has the right to make or unmake any laws, and the fundamental rights are so many limitations on its law-making power.

In case of disputes as to whether fundamental rights have been transgressed or not, the Superior Courts act as the final arbiters.

An individual has a right to demand the enforcement of his rights, irrespective of the role he plays in the society.

In short the rights of an individual have priority over his duties.

The Qur'anic teachings on the subject, however, proceed from the opposite end.

The primacy of duties and obligations over rights is constantly emphasised in the Qur'an. The way to salvation, for an individual as well as for a community, is according to the Qur'an, by constant vigilance over the performance of one's duties.

The Prophets, whom Allah sent to provide examples to be emulated, were constantly busy in the performance of their duties, without demanding any recompense from the society, and without worrying about public recognition, pomp, or worldly glory. The path of spiritual development is illuminated by sacrifice.

Those alone achieve the highest spiritual prizes who genuinely sacrifice their lives and their wealth in the path of Allah and can say, as the Prophet is commanded to say: ..my prayer and my ritual sacrifice and my living and my dying are for Allah, the Lord of the Worlds" (Suratu-l

An'am, 6:163). The key to the Qur'anic principles on this subject lies in the verse: "Allah has bought from the believers their selves and their possessions; for that, theirs is Paradise" (Surat- Tawbah, 9:110). The life of a true believer after entering this covenant by which he sells his life and wealth to Allah becomes that of a trustee in regard to his trust.

Selling his life and wealth to Allah means that he agrees to expend thereafter whatever he has received in trust from Allah according to the priorities fixed by Allah.

Some of these obligations pertain to the social relations of the believers. Looked at from this angle, the major duties of the believers in regard to their fellow beings may be considered as the latter's rights. The duty to earn a lawful livelihood and to contribute to the common pool for social security by way of Zakah, being that of the individual, the Public Authorities, acting as the agents of the community are under no further obligation than this, to look after the need of the helpless ones -of those who suffer permanent disabilities always and all the time, and of those who suffer from temporary disabilities, -till the disability is removed; and to intervene whenever any one takes undue advantage of another.

These principles from a constitutional angle operate as limits on the powers of public authorities.

They do not permit public authorities the power or the right to lay down or change the ground rules of the society or its priorities. The Shari'ah being the source of authority (and also the criterion for adjudging the validity of its exercise) the public authorities are mere instrumentality's for its operation and enforcement. Right to Protection of Life: According to the Qur'an, human life is sacrosanct. Of the several verses which affirm the inviolability of human life except for just cause, the following may be noted: "And do not kill the soul Allah has forbidden, except for right".

(Surah Bani Isra'il, 17:33)"...

whoso killed a soul not for retaliation for a soul slain, nor for corruption done in the land, shall be as if he had slain mankind altogether; and whoso gave life to it, shall be as if he had given life to mankind altogether." (Suratu-I Ma'idah, 5:32). The Right to Justice: The first and foremost duty of the Prophet, peace and blessings be upon him, was to establish Justice, and this continues to be the duty of the community's Ruling Agencies.

Not only are the public authorities bound to provide justice to all, but everyone has a right to protest against, injustice. In this regard the following verses, amongst others, may be noted: "And the recompense of an injury is the like of it; but whoso forgives and brings about reformation, his reward is with Allah.

Surely, He loves not the wrongdoers"."But there is no blame on those who defend themselves

after they have been wronged."The blame is only on those who wrong people and transgress in the earth without justification. Such will have a grievous punishment." (42:40-42)."Allah likes not the publication of evil (by others) except on part of one who is wronged." (Suratu-n Nisaa', 4:148)."To this, then do thou invite mankind. And be thou steadfast as thou art commanded, and follow not their evil inclinations, but say, 'I believe in whatever Scripture Allah has sent down, and I am commanded to judge justly between you. Allah is our Lord and your Lord. For us is the reward of our works and for you the reward of your works. There is no quarrel between us and you. Allah will gather us together and to Him is the return." (42:15)."O, ye who believed, be steadfast in the cause of Allah, bearing witness in equity; and let not a people's enmity incite you to act otherwise than with justice. Be always just, that is nearer to righteousness. And fear Allah. Surely, Allah is aware of what you do." (Suratu-l Mai'dah, 5:8)."Surely, We sent down, the Torah wherein was guidance and light. By it did the Prophets, who were obedient (to Us), judge for the Jews, as did the godly people and those learned (in the Law) for they were required to preserve the Book of Allah, and (because) they were guardians over it. Therefore fear not men but fear Me; and barter not My signs for a paltry price. And whoso judges not by that which Allah has sent down, these it is who are the disbelievers," (ibid. :44)."And therein We prescribed for them; A life for a life, and an eye for an eye, and a nose for a nose, and an ear for an ear, and a tooth for a tooth, and for other injuries equitable, retaliation. And whoso waives the right thereto, it shall be an expiation for his sins; and whoso judges not by what Allah has sent down, these it is who are wrongdoers." (ibid. :45)."And let the People of the Gospel judge according to what Allah has revealed therein, and whoso judges not by what Allah has revealed, these it is who are the rebellious." (ibid :47). The Right to Equality: Between man and man, the Qur'an recognises only one criterion for superiority and that is due to more righteous conduct. All distinctions based on parentage, tribal relationships, colour and land are irrelevant. The following verse is the great charter of this. "O mankind,We have created you from a male and a female; and We have made you into tribes and sub-tribes that you may recognise one another. Verily, the most honourable among you, in the sight of Allah, is he who is the most righteous

among you.

Surely, Allah is All-Knowing, All-Aware." (49:13). "And for all are ranks according to their deeds so that Allah may repay them for their works (and in this) they shall not be dealt with unjustly." (46:19).".

I will allow not the work of any worker from among you, whether male or female, to be lost. You are from one another. (Surah Aal 'Imraan, 3:195). Duty to the Obedience of what is Lawful and Disobedience of what is Unlawful: The clear implication of the idea of the Rule of Shari'ah is that a person is liable to obey only what is lawful and to dissociate from, disobey, and even to correct if he can, what is unlawful.

Most of the relevant verses in this context have already been noticed above. The most comprehensive statement is contained in the following verse: "And help one another in righteousness and piety and abet not one another in sin and transgression." (Suratu-l Maa'idah, 5:2). Right to Participate in Public Life: According to the Qur'an, establishment of authority in this world is a grace of Allah in favour of the whole community whose members are constantly alive to their duties and obligations. The character of such a community is that their affairs are settled by mutual consultation.

The most direct verses on the point are: "Allah has promised to those amongst you who believe and do good works that He will make them succeed (the present rulers) in the earth as He caused those who were before them to succeed (others): and that He will surely establish for them their religion which He has chosen for them and He will surely give them peace in exchange of fear." (24:55). "And whose affairs are (decided) by mutual consultation." (42:38). "And consult them in the matters (of administration)" (Surah Aal 'Imraan, 3:159). Right to Freedom: Modern constitutions divide freedom into various sub-divisions like freedom of expression, freedom of movement, etc.

The Qur'an on the other hand, amongst other directions, makes one comprehensive declaration that no person in authority, even a Prophet, has the right to enslave another in any manner. Allah says: 'It is not for a man that Allah should give him the book, and authority and prophethood and then he should say to the people become slaves unto me, apart from Allah; but (he would say): Be solely devoted to the Lord because you teach the book and you study (it).' (ibid. :79) It should however be clearly understood that the word slave in the above context is used not in the technical sense of 'slavery' but in the general sense of being wholly dependent on another.

The Qur'an makes it clear at several places in the Book that the Qur'an itself is the ultimate criterion, Allah makes the Prophet declare: "Shall I seek for judge other than Allah when it is He

who has sent down to you the clearly explained Book." (Suratu-l An'aam, 6:114). Right to Freedom of Conviction: According to the Qur'an, Man becomes truly entitled to spiritual honours when he willingly chooses the right path.

No one can be forced into becoming rightly guided.

The following verses may be noted in this behalf: ", there should be no compulsion in religion. Surely, right has become distinct from wrong; so whosoever refuses to be led by those who transgress, and believes in Allah, has surely grasped a strong handle which does not break. And Allah is All-Hearing, All-Knowing." (Suratu-i Baqarah, 2:256). "Admonish, therefore, for thou art but an admonisher." (Suratu-l Ghaashiyyah, 88..21-2). "Thou hast no authority to compel them." "We know best what they say; and thou has not been appointed to compel them in any way. So admonish, by means of the Qur'an, him who fears My warning." (50:45). "Say, O ye men, now has the truth come to you from your Lord. So whosoever follows the guidance, follows it only for the good of his own soul, and whosoever errs, errs only against it. And I am not a keeper over you." (Surah Yunus, 10:108). Right to Freedom of Expression: The believers are under an obligation to "speak out the truth without fear and without desire to show favour". Amongst other verses, the following is a comprehensive mandate to this: "O ye who believe, be strict in observing justice, and be witnesses for Allah, even though it be against yourselves or against parents and kindred.

Whether be he rich or poor, Allah is more regardful of them both. Therefore follow not low desires so that you may be able to act equitably. And if you conceal the truth or evade it, then remember that Allah is well aware of what you do." (Suratu-n Nisaa', 4:135). Right of Protection against Persecution for Difference of Religion: The right to be protected against persecution for differences in faith or opinion is a clear corollary of the right of freedom of conviction.

It has been expressly mentioned, because many sins have been committed by over enthusiastic well-meaning fanatics: "And revile not those whom they call upon beside Allah, lest they, out of spite, revile Allah in their ignorance.

Thus unto every people have We caused their doing to seem fair. Then unto their Lord is their return; and He will inform them of what they used to do." (Suratu-l An'aam, 6:108). "For each of you we (have) prescribed a Law and manifest way.

And if Allah had willed He would have made you (all) one people, but (He) tries you by that which He has given you. Vie, then, with one another in good deeds.

To Allah shall you all return then will he inform you of that wherein you differed." (Suratu-l Maa'idah, 5:48). Right to Protection of Honour and Good name: According to the Qur'an

protection of the good name and honour of the members of the community is a very high priority in social values to be guarded by everyone and particularly the Ruling Agencies. Allah seriously warns the community against loose talk, making of reckless allegations and spreading of rumours.

Allah says: "if the hypocrites, and those in whose heart is a disease, and those who cause agitation in the city, desist not, We shall surely give thee authority over them; then they will not dwell therein as thy neighbours, save for a little while. (Then they will be) accursed. Wherever they are found, they will be seized and cut into pieces." (Suratu-l Ahzaab, 33:60-6). "O ye who believe! let not one people deride another people, who may be better than they, nor let women deride other women, who may be better than they. And defame not your own people, nor call one another by nick-names.

Bad indeed is evil reputation after the profession of faith; and those who repent not are the wrongdoers." (Suratu-l Hujuraat, 49:11). "O ye who believe! avoid most of suspicions, for suspicion in some cases is a sin. And spy not nor back-bite one another.

Would any of you like to eat flesh of his brother who is dead ? Certainly you would loathe it. And fear Allah, surely Allah is Oft-Returning (with compassion) and (is) Merciful." (ibid :12). "Verily, those who brought forth the lie are a party from among you.

Think it not to be an evil for you; nay, it is good for you. Every one of them shall have his share of what he has earned of the sin and he among them who took the chief part therein shall have a grievous punishment. Why did not the believing men and believing women, when you heard of it, think well of their own people and say, "This is a manifest lie?".

Why did they not bring four witnesses to prove it? Since they have not brought the required witnesses, they are indeed liars in the sight of Allah. Were it not for the grace of Allah and His mercy upon you, in this world and the Hereafter, a great punishment would have befallen you for the slander into which you plunged.

When you received it and then talked about it with your tongues, and you uttered with your mouths that of which you had no knowledge, and you thought it to be a light matter, while in the sight of Allah it was a grievous thing.

And wherefore did you not say, when you heard of it, 'It is not proper for us to talk about it. Holy art Thou, O God, this is a grievous calumny!' (Suratu-n Nour, 24:11 to 16). "Verily, those who accuse chaste, unwary, believing women are cursed in this world and the Hereafter.

And for them is a grievous chastisement." (ibid, :23). Right to Privacy: Privacy, according to the Qur'an is the right of everyone. It is essential for a full flowering of a personality.

The following verses may be noticed: "O ye who believe! enter not the houses of the Prophet

unless leave is granted to you for a meal, without waiting for its appointed time.
But enter when you are invited, and when you have finished eating, disperse, without seeking to
engage in talk.

That causes inconvenience to the Prophet and he feels shy of asking you to leave.

But Allah is not shy of saying what is right." (Suratu-l Alhzaab, 33:53).

"O ye who believe! enter not houses other than your own until you have asked leave and saluted
the inmates thereof.

That is better for you, that you may be heedful.

And if you find no one therein, do not enter them until you are given permission.

And if it be said to you, 'Go back', then go back; that is purer for you.

And Allah knows well what you do." (Suratu-n Nour, 24:27-78).

"O ye who believe! avoid most of suspicions; for suspicion in some cases is a sin.

And spy not, nor back-bite one another.

Would any of you like to eat the flesh of his brother who is dead ? Certainly you would loathe it.
And fear Allah, surely Allah is Oft-Returning with compassion and (is) Merciful" (Suratu-l
Hujuraat, 49:12). The Economic Rights: It is the duty of the community of believers to look
after those who have suffered permanent or temporary disability, and for that reason cannot
contribute to the social security provided by the system of Zakaah.

Allied to this obligation is the natural corollary that believers must have an opportunity to
labour and to acquire the good things of life and to get full and fair compensation for their
labour: "And in their wealth there is share for one who asked for help and for one who is
deprived." (Suratu-dh Dhaariyaal, 51 :19).

"And they feed, for love of Him, the poor, the orphan, and the prisoner." (Surat-ud Dahr, 76:8).

"And do not devour your wealth among yourselves through falsehood, and offer it not as bribe
to the authorities that you may knowingly devour a part of the wealth of other people with
injustice." (Suratu-l Baqarah, 2:188). "And for all are degrees of rank according to what they
did and that Allah may fully repay them for their deeds; and they shall not be wronged."
(Suratu-l Ahqaaf, 46:19).

"And every soul will be fully rewarded for what it did. And He knows full what they do." (Suratu-
z Zumar, 39:70).

"Say, 'who has forbidden the adornment of Allah which He has produced for His servants, and
the good things of His providing?' Say, 'They are for the believers in the present life and
exclusively for them on the Day of Resurrection.' Thus do We explain the Signs for a people
who have knowledge." (Suratu-A'raaf, 7:32).

"There is naught for man but what he laboured for." (Suratu-n Najm, 53:39). The Right to Property: There are many verses in the Qur'an which prescribe rules of conduct in which the spending from and application of one's wealth is the operative part: for example, payment of Zakaah, sadaqah and making of certain expiations.

people are encouraged to earn by lawful means and to spend their wealth in accordance with the guidance provided by Allah. He says: "And when the prayer is finished, then disperse in the land and seek of Allah's grace, and remember Allah much, that you may prosper." (Suratu-l Jumu'ah, 62:10).

"Children of Adam, take your adornment to every place of worship; and eat and drink, but be not prodigal. He does not love those who exceed the limits. Say, who has forbidden the adornment of Allah that He has brought forth for His servants and the good things of His providing ? Say, they are for the believers in the present life (and) exclusively on the Day of Resurrection.

Thus do We explain the Signs for a people who have knowledge." (Suratu-l A'raaf, 7:31-32).

"And in their (believers) wealth there is share for those who ask (for help) and those deprived." (Suratu-dh Dhaariyaat, 51 :18). Allah also makes it clear that, in this behalf, the obligations of the believers are also the duties of the Governing Agencies.

He says: "The believers are such that if We give them authority in the land, they establish prayer and give zakaah, and enjoin good and forbid evil." (Suratu-l Hajj, 22:41). But where the believers and their Governing Agencies are called upon to apply the lawfully earned wealth according to the priorities fixed by Allah, the hoarders of wealth have been promised a severe chastisement.

He says: "Woe to every back-biter, slanderer, who amasses wealth and counts it time after time. He thinks that his wealth makes him immortal.

Nay he shall be cast into crushing punishment." (Suratu-l Humazah, 104:2-5). The Qur'an describes 'Korah'(Qaroun) as the very embodiment of the evil rich: "Verily, Korah was of the people of Moses, but he behaved arrogantly towards them.

And We had given him of treasures so much that his hoardings would have weighed down a party of strong men.

When his people said to him, Exult not, surely Allah loves not those who exult."And seek, in that which Allah has given thee, the Home of the Hereafter; and neglect not thy lot in this world and do good to others as Allah has done good to thee; and seek not to make mischief in the earth verify Allah loves not those who make mischief."He said, This has been given to me because of the knowledge I possess. Did he not know that Allah had destroyed before him generations

that were mightier than he and greater in riches? And the guilty shall not be asked to offer an explanation of their sins." So he went forth before his people in his pomp. Those who were desirous of the life of this world said, Oh! would that we had the life of what Korah has been given! Truly, he is the master of great fortune." But those who had been given knowledge said, Woe to you Allah's reward is best for those, who believe and do good works; and it shall be granted to none except those who are steadfast. Then We caused the earth to swallow him up and his dwelling; and he had no party to help him against Allah, nor was he of those who can defend themselves. And those who had coveted his position the day before began to say, Ah! it is indeed Allah Who enlarges the provision for such of His servants as He pleases. Had not Allah been gracious to us, He would have caused it to swallow us up also. Ah! the ungrateful never prosper.

This is the Home of the Hereafter! We give it to those who desire not self-exaltation in the earth, nor corruption. And the end is for the righteous." (Suratu-l Qasas, 28:76-83). The sins of Korah were: Arrogance and vainglorious display of wealth, Refusal to apply his wealth in accordance with the Divine rules, Claim that he has absolute right to hoard what he had earned; i.e. to use it or not to use it as he pleases.

In short, the Qur'an's approach to the question of private property may be summarised thus: It is possible to own property, It is incumbent upon the believers to work hard and to create wealth and acquire the fruits of their labour.

But the duty to earn carries a further obligation to earn by lawful and moral means. Spending in the path of Allah of some of the wealth acquired by unlawful and evil means would not wash away the sins of all misdeeds.

It is also equally important that they should not hoard what they lawfully earn, but spend it freely in the categories that God has established. It will be open to the Governing Agency of the Believers to regulate the system of spending in the path of Allah (infaq fii sabiili-Llaah) of which the first example is the establishment of the Baytu-l Maal itself.

In normal conditions a State may place less direct burden on the individual leaving him free to perform his obligation voluntarily. However, in times of some national emergency, Jihad and the like, every individual may have to carry a burden far greater than in ordinary times. Right to Adequate Remuneration and Compensation: The dignity that Allah has conferred on the children of Adam, and the Law of Just.

Requittal that he has prescribed for all mankind, requires that both in this world and in the hereafter each man must get fair requittal for what he does; and even in the matter of exposure

to hazards he should be dealt with fairly.

Allah says: "And for all are degrees according to what they did; and that Allah may fully repay them for their deeds; and they shall not be wronged." (Suratu-l Ahqaaf, 46:19). "And every soul will be fully compensated for what it did. And He knows full well what they do." (Suratu-z Zumar, 39:70). The Governing Agencies, therefore, have no right to take without compensation from whom they please and to give without regard to needs and conduct to whom they please

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on exercise of political power" by Brother Khalid M**