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## HUMAN RIGHTS AND INTERNATIONAL LAW IN ISLAM

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### ABSTRACT

Based on the data, it can be said that Islam is the second largest religion in the world today. According to estimates, the total number of people who believe in Islam in the world is more than two billion. People who believe in Islam constitute the majority in more than one hundred and twenty countries of the world. It is the demand of the times to keep the educational system and issues of Islamic religion and law in line with the times, to establish scientific research centers, and to try to re-evaluate the Islamic legal heritage.

### KEYWORDS

Assembly, enlightenment, resolution, inheritance, gultaj, shari'a, ijtiḥad, siyar, al-muvodaa, fatwa.

### INTRODUCTION

"Indeed, (We) honored the children of Adam and made them ride on land and sea (on horses and ships) and provided them with pure things and made them better than many creatures that We created" (Surah Isra, 70 - verse).

At the beginning of the 21st century, issues of observing human rights are gaining special scientific, theoretical and practical importance. It is not wrong to say that the democratic criterion of all the countries in

the world today is mainly the attitude towards human rights.

If we think about the Islamic world, we can say based on the data that today Islam is the second largest religion in the world. According to estimates, the total number of people who believe in Islam in the world is more than two billion. People who believe in Islam constitute the majority in more than one hundred and twenty countries of the world.

As one of the legal systems in the world today, Islamic law refers to the customary legal concepts in the Islamic religion. Norms of Islamic law, moral and religious rules form a single religious-legal system - Islamic law. Islamic law lays down general legal guidelines and rules of conduct that also affect the field of international law.

According to most prominent Islamic scholars, human rights are the way of life, thinking, work and wealth balance of Muslims. We have mentioned in full above that in Surah Isra, verse 70 of the Qur'an, it is emphasized that "We have made the children of man dear and honorable", raising the status of man. Of course, it is impossible to imagine a higher status, honor and place for a person.

Prophet Muhammed (SAW)'s words: "White is not superior to black, Arab is not superior to non-Arab, all people are brothers, they are equal in front of the one God" also shows how important human rights issues are.

We all know that in the Republic of Uzbekistan, where the majority of the population is made up of believers of the Islamic religion, Islamic ideas and Sharia standards have been preserved as a custom. According to historical and legal sources, Islam and its legal-religious views, worship standards, state administration and structure, lifestyle, which have been practiced in our country for more than twelve centuries, are considered the basis of development and are currently preserved as traditions.

The modern stage of state and society building in Uzbekistan relies on local and foreign experience in the formation of a democratic, legal secular society on a constitutional basis. The constitution reflects the specific features of the state form depending on the

historical development and national mentality, and regulates humane legal relations between the state and religion.

The adoption of the special resolution "Enlightenment and religious tolerance" at the general session of the UN General Assembly was a vivid expression of Uzbekistan's initiative in the field of religious tolerance. The draft special resolution called "Enlightenment and religious tolerance" developed by Uzbekistan was unanimously supported by all member states of the organization at the plenary session of the General Assembly held on December 12, 2018. The initiative to adopt this resolution was put forward by the President of the Republic of Uzbekistan at the 72nd session of the UN General Assembly in New York in September 2017. Thus, this document, adopted on the initiative of President Shavkat Mirziyoyev, serves to strengthen the culture of educational tolerance among the nations of the world.

It is for this reason that the idea of justice, comprehensive strengthening of human rights, strict observance of the rights and freedoms of citizens of the new Uzbekistan, which is developing a democratic legal state, covers all spheres of social life. A democratic legal state should be a people-oriented organization first. If we define the legal state in terms of human rights, then only the state in which human interests are ensured and rights and freedoms are protected can be called a legal state.

Our historical and legal heritage of more than fourteen centuries has a number of traditions that should be studied comprehensively and world experience should be used. The religion of Islam and its law - sharia has a significant impact on the development of the state and law, human rights and freedoms in a number of countries of the world. Their legal and ideological

scope remains very wide even in the present time. This is due to the fact that the Islamic Shariah is closely related to the Islamic religion, a religious system that is of decisive importance for the outlook of the population in countries where the majority of the population is Muslim.

Man is the culmination of the creatures created by God. God is the owner of absolute sovereignty - unlimited power, and all people must obey him and his demands. These points are one of the main differences between the understanding of human rights in Islam and the human rights enshrined in the Universal Declaration of Human Rights.

Traditional Islamic law stems from the division of the world legal order into two parts: the community of Islamic nations and the rest of the world outside of it. But in practice, including relations between Muslim countries, the main regulatory function is performed by modern international law. Maintenance of the international legal order, protection of human rights and freedoms at the international level, resolution of international disputes and armed conflicts are carried out based on the rules of international law.

This indicates that:

- 1) Sharia rules, as well as specific norms of Islamic law, are not automatically applied in the field of foreign policy and international legal regulation;
- 2) Ijtihad - determining the Shari'a ruling by using the special rules of the case for which the Shari'a ruling has not arrived is becoming more and more important;
- 3) Islamic countries, which are subjects of international law, as members of the UN, are diligently fulfilling their obligations under the Charter of this organization.

As for Islamic international law, international law in Islam is used with the term "siyar". The work "Sharh al-siyar al-kabir" by the scholar Imam Sarakhsi, who founded Islamic international law, became a guide for the rulers of Islamic countries. The main guide of the Baburites, "Fatawa'i Alamgiri", also has a separate chapter on siyar.

A correct understanding of the meaning of Siyar and an approach to its various issues based on the historical approach opens the way to understanding the basic concepts, content, essence and principles of Islamic international law. It is self-evident that in the latest international legal teaching of Islam, the widening of the scope of applicable international law norms and rules is important. Contracts and agreements play an important role in the regulation of international relations in Islamic law. If we comment on the origin of international law in general, it is usually emphasized in most sources that the homeland of international law is Europe. The names of such scholars as Francisco de Vitoria, Alberico Gentili, Pierre Bale, Baltazar Ayyala who lived in the 15th-16th centuries are cited as the founders of international law. This information is available, but it is worth saying that the first fundamental work on international law was created not in Europe, but in our country. Its author is our compatriot Muhammad ibn Ahmad Abi Sahl Abu Bakr Shamsul-Aimma al-Sarakhsi, a great mujtahid legal scholar who studied in Bukhara in the 11th century and spent most of his life in the Ferghana Valley. In his work "Sharh al-Siyar al-Kabir" ("Major commentaries on international law"), for the first time, a classic definition of international law as an independent field of law was given, and he stated that international law should be recognized as a separate branch. Imam al-Sarakhsi is one of the famous and great scholars in the Islamic world. During his lifetime, Sarakhsi was also given such honoring statuses as "sun of the Imams"

("shamsul aimma"), "sun of religion" ("shamsud-din"). Scientists believe that he created about a hundred fundamental works. Sarakhshi thought about the most pressing issues of Hanafi law, touched on the most controversial aspects. Therefore, his works are widely distributed throughout the Islamic world and are included in the libraries of prestigious universities. The main concepts and principles of international law, almost all fields and topics, categories and institutions are reflected in Imam Sarakhshi's works. The first classic definition of the concept of contract in the teaching of Islamic international law was given by Imam Sarakhshi. In Sarakhshi's work "Sharh al-siyar al-kabir" the concept of contract, validity period and date of contracts, coverage of contractual rights and obligations, criteria of invalidity or validity of contracts and other issues are covered in detail.

Sources indicate that early treaties concluded by Islamic states regulated their relations with Christian countries and, in particular, related to the establishment of good neighborly relations and the granting of security status to non-Muslims allowing them to be in the territory of Islamic states.

The category of peace treaties and agreements includes:

- declarations of intentions of a preliminary nature ("al-murowada");
- agreements on cessation of hostilities ("al-muvodaa");
- "al-muvodaa" type - temporary peace agreements ("mughodana");
- alliance agreement ("al-khilf");
- agreements on the transfer and exchange of prisoners of war ("al-mufadad").

It should be mentioned that in some Islamic international legal doctrines, which preserve the traditional approaches of Islamic law over international law, the rule that the international agreement is not considered the main source of legal regulation of international relations has been adopted. In some cases, this requires "fortification" of a particular agreement with an Islamic state with the norms of traditional Islamic law. In such cases, one of the most influential centers of Islamic religious and legal teachings usually assumes the role of arbitrator. For example, in March 1979, after the signing of the Camp David Agreement between Egypt and Israel on the Middle East, the sheikh of "al-Azhar" University in Cairo announced a special "fatwa" (conclusion on the compatibility of this or that legal document with the rules of Sharia). This fatwa states that the treaty with Israel does not contain any provisions contrary to the Qur'an or Sunnah, does not discriminate against any rights or agree to occupy any territory, rather it liberates the territory and restores rights. At the same time, the modern approach to human rights and the concept, sources and types of human rights according to Islamic teachings allow to study and research and to study and distinguish between universal and customary rights and freedoms.

Due to the fact that the Republic of Uzbekistan has achieved state independence, the belonging of our people to Eastern culture, Islamic religion and Islamic jurisprudence requires the research of our historical and legal heritage, especially human rights in Islam, and conveying it to our people.

As we know from historical and legal sources, scholars of Mavorunnahr made a great contribution not only to the development of Islamic law - Sharia, but also to the preservation and further development of the Islamic religion. Over time, Islamic law developed as a separate



legal system. It should be noted separately that the International Comparative Law Congress held in The Hague in 1937 was attended by the famous Islamic scholar Mahmoud Shaltut (1893-1963), the forty-third sheikh of al-Azhar. He participated in Islamic jurisprudence with a lecture devoted to issues of criminal and civil law, as well as the relationship between Sharia and the Romano-Germanic legal system. As a result of this conference, Islamic law was recognized not only as an independent legal system, but also as one of the foundations of the modern legal system.

According to Islamic law, right (haqt) and right(huquq) come in the same meaning, because in translation from Arabic language, right-haq is singular and right-huquq is plural form.

Based on the norms presented in the main sources of Islam, it can be said that a person has the right to live, and in general, all rights are given by God, and there is a responsibility to use these rights correctly and effectively.

The basic rights granted to all human beings, including Muslims, under Islamic law are:

- the right to live; - the right to equality; - the right to freedom;
- the right to free thinking; - the right to political freedom;
- the right to go to foreign countries and seek asylum there;
- the right to work that ensures a decent life;
- the right to justice; - the right to equality before the law;
- the right to protect one's honor; - the right to receive social security;

- the right to marry; - the right to privacy and security;
- the right to be protected from attacks on one's honor and reputation;
- right to education; - the right to protest against oppression;
- the right to freedom of speech; - freedom to hold demonstrations;
- freedom of conscience and belief; - the right to protect religious feelings;
- the right to participate in state affairs; - the right to a decent life.

By the 21st century, with the changes in the world, the interest and thinking of people are increasing, the interest in studying the issues of rights and freedoms and obligations of the individual is growing even more in Islamic countries.

In the eyes of Islamic scholars and mujtahids, it is important for Muslims to understand themselves as citizens, to be generous, tolerant and patient, not to act negatively, and to solve various issues within the framework of the law that protects people's interests. All state agencies and religious associations must follow the issues of freedom of conscience. As a result, this issue becomes an element of a person's spiritual freedom.

Realizing the importance of widening the scope of current economic relations, freedoms, and responsibilities of people who believe in Islam, many Islamic scholars attach great importance to maintaining continuity with Islamic norms. The main virtues of Muslims are sincerity, truthfulness, respect for mutual rights, honesty, hard work, compassion. "Being kind to a friend is a good deed, helping someone to carry a load is a good deed, and pouring

water into a neighbor's bucket is also a good deed," said our Prophet (SAW).

One area of human rights that is fully specified in the sources of Islamic law, namely, the place of residence of Muslim people, is protected, and the main sources contain opinions on this matter:

1. According to Sharia, every person living in a Muslim country has the right to have a satisfactory accommodation, and if a person is not able to provide himself with accommodation, he assigns this task to the state. In this case, funds can be taken from the budget, that is, from the zakat fund and other items of the budget; if these costs burden the budget, the ruler can impose additional taxes on wealthy citizens; it may also oblige landlords with excess accommodation to provide shelter to homeless Muslims at a moderate fee.

2. Islam affirms the right to inviolability of residence; it prohibits trespassing on a particular person's home without his permission, regardless of the person's status in society.

It is said in the Qur'an: "O you who believe, do not enter houses other than your own until you ask permission and greet the owners." This is better for you. Maybe you can get a reminder. Now if you do not find anyone in those (houses), then do not enter them until you are given permission! If you are told to "go back" (ie not allowed to enter), go back! This is the purest (way) for you. Allah knows what you do." (Surah Nur, verses 27-28).

3. According to Sharia, no one can enter someone's house without his permission. According to Islamic jurists, no society can be considered enlightened unless respect for human life, dignity and property is considered sacred and inviolable. The existence of a

fair approach to the rights of humans and other creatures in Islam is also confirmed by the following verse of the Qur'an:

"I swear that We sent Our Messengers with clear signs and miracles, and We sent down with them the Book and a standard for people to establish justice. And We created iron. It has strength and benefits for people. God (created iron) in order to know those who will help Him and His Messengers (by fighting in the cause of God) while standing in the unseen (not visible to His servants). Indeed, Allah is strong and powerful. (Surah Hadid, verse 25).

Islamic law, which is our centuries-old historical and legal heritage, has many traditions that should be studied in depth and used in the experience of world democracy.

By developing ideas about human rights and Islamic international law in Islam, the following conclusions can be reached:

1. The subject of human rights is an integral part of the theory of rights studied in Islam since ancient times. An interest established by the owner of Sharia by being specific to one person and not being transferred to another person is called "right". In essence, a right is a set of personal rights that belong to the person acting in the national legal system of our country, cannot be alienated from him, and cannot be transferred to another person (right to life, rights to honor, dignity, privacy, copyright, etc.) .) can be said to be almost similar. But the content of rights is relatively broad and diverse.

2. The gradual change of the status of the individual in the early stages of the development of Islam, including in the Arab countries, and the rise of the legal status of the individual in the Arab countries after the

achievement of independence reflect the general laws in the development of legal systems, as in all the Muslim countries of the East.

3. The status of a person in Arab countries is also influenced by international documents on human rights. This influence is manifested in the efforts of the Arab countries to unify and bring together the laws of their countries through the development of human rights documents within the framework of international organizations. Some of these documents (for example, the Arab Declaration of Human Rights) have a secular character, while others (the Islamic Declaration of Human Rights, the draft of the Islamic Constitution) have been given an Islamic form.

4. There is an attempt to prove that the view that "Islamic jurisprudence is hardened in its belief that it does not accept human rights as its component" is unfounded. It is not correct to consider the norms of Islamic jurisprudence within its historical conditions (for example, the acceptance of slavery, some restrictions in the field of women's rights) as completely immutable norms. Society develops, develops and expands. If Islamic jurisprudence is accepted as an aqeedah, then we will lose the rich spiritual heritage of scholars such as al-Bukhari, at-Tirmidhi, al-Marginani on fiqh-jurisprudence science. This would be an illogical conclusion.

5. We are witnessing that Islamic law has not lost its importance today and continues to develop, and we can cite many examples in this regard. At the same time, scientists in the field of theology and jurisprudence are presented with new problems of that time. Some of these problems are related to the specifics of prayer and interaction in new conditions, such as prayer on an airplane, on a space station, and the use of certain types of medications during fasting.

6. Based on clear sources, we can say that Imam Sarakhsi is our compatriot and the founder of international law. Uzbekistan is a country based on international law. Sarakhsi's legacy is the beginning of international law doctrine not only in Central Asia, Muslim countries, but also in the countries of the whole world.

7. Another part of the issues in the new issues is related to economic relations, in particular, with the peculiarities of Islamic insurance, leasing and mortgages. In addition to them, theologians also pay attention to the concepts of cloning, euthanasia and many others. There are a number of fatwas concerning quarantine measures related to the COVID-19 virus. To solve these problems, governments, public and scientific organizations of Muslim countries apply new methods of work, take the initiative to hold round tables, conferences, and actively participate in various religious councils. We believe that it is appropriate in our country to pay attention to these problems and bring them to the general public.

8. As part of this process, time demands to bring the education system and issues of Islamic religion and law in line with the times, to create research centers and try to re-evaluate the Islamic legal heritage. Conferences and Weeks of Islamic Law devoted to modern problems of Islamic law are held. In recent years, Uzbek lawyers have been taking an increasingly active part in these processes, increasing their contribution to making religious decisions in accordance with the needs of the time.

We would like to conclude this topic with the following thoughts of Imam Sarakhsi, the founder of Islamic international law: "After faith in Allah, the most powerful duty is to seek knowledge. Because Muhammad (PBUH) commanded: "Seeking

knowledge is a duty for every Muslim man and woman."

## REFERENCES

1. Imam al-Bukhari's "Al-Jami' as-sahih" T. 2019. -B. 346.
2. Resolution adopted by the General Assembly on 12 December 2018. 73/128. Enlightenment and religious tolerance:  
<https://undocs.org/en/A/RES/73/128>.
3. Muhammad Yusuf. History of Islamic jurisprudence. FA Institute of Oriental Studies of the Republic of Uzbekistan. In print. No. 17349. - B. 127–130. (in Arabic)
4. Mejdunarodnoe pravo: Uchebnik. Otv. ed. Yu.M. Kolosov, E.S. Krivchikova. - M.: Mejdunarodnye otnoshenia, 2000. - S. 516.
5. <https://yuz.uz/news/saraxsiy-xalqaro-huquq-asoschisi>  
<https://yuz.uz/news/saraxsiy-xalqaro-huquq-asoschisi>
6. International Law: Textbook. Rep. ed. Yu.M.Kolosov, E.S.Krivchikova. - M. 2000. - S. 516.
7. G.Yuldasheva A. Rakhmanov Islamic Law Textbook TSUL 2022 - P. 467.
8. There
9. Sheikh M. Sadiq Muhammad Yusuf. Translation of "Holy Qur'an" and its meanings in Uzbek. T. 2020. - B. 322.
10. Rakhmanov, H. Yunusov, M. Karatash. Islamic law. Textbook. TDUU. 2021. -B. 122.