

Issues on **Harmonization** **of** **Human Rights** **in Islam**

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Foreword by

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Preface

The present work is a collection of papers emerging from the researches done by the members of the Contemporary Fiqh Research Unit of the Kulliyah of Islamic Revealed Knowledge and Human Sciences together with selected papers presented in the National Conference on Human Rights in Islam: Issues and Challenges, 2013.

The central theme throughout all the papers is the issue of reconcilability of Islam with a set of human rights standards as embedded in Universal Declaration of Human Rights (UDHR) and its enabling and supplementary international instruments to which Muslim states, including Malaysia have committed themselves with or without making reservations. Embarking on such an academic adventure is not free from criticism and controversies, not so much on account of Western leaning of the discourse, but due to the difficulty in locating the agreed Islamic framework within which the issue of rights can be deliberated upon. The papers, contained in this monograph endeavours to discuss some selected topics of rights within the frame of references which are Islamic in genre and origin.

Addressing the epistemological dimension of the discourse, Haneef, argues that the question of reconcilability of human rights with Islam has been a divisive mooted point among Muslim thinkers from its very inception. Infatuated with its formal languages of the UN Declaration of Human Rights, some see it in complete conformity with Islam; by looking at its underlying assumptions and Western hypocrisy in terms of its implementation, others have become rejectionists; and yet another body of opinions, though representing different strands of thought in terms of methodology, advocate the path of its cautious harmonization with the notion of human rights namely *ḥuqūq al-`ibād* (rights of the servants of God in Islam). It is argued that to embrace the idea in its entirety, although alluring, cannot be sustained in view of some irreconcilable elements in the declaration, such as freedom to change one's religion. Neither the rejectionists' project works in the context of prevailing conditions and interdependence of Muslims with others in addition to the absence of

case Muslims are capable of opting out of UDHR and its supplementary documents on human rights. To him, the answer is in the negative as Cairo Declaration neither has the capability to rival the Western inspired scheme of rights nor provides for any effective mechanism to stop transgression against human rights by its people which it represents. The alternative, therefore, is harmonizing the negotiable parts of Islamic law with that of UDHR.

Last but not least, we take the liberty to record our deepest appreciation to the Ministry of Education for providing FRGS and IIUM Research Centre for administering the fund and approving this work for publication. We also express our heartfelt thanks to Emeritus Prof. Dato' Dr. Mahmood Zuhdi Haji Abd Majid for writing the foreword. We also thank Dr. Saidatolakma Bt Mohd Yunus for painstakingly doing the transliteration and taking care of all other technical matters.

SAYED SIKANDAR SHAH HANEEF

Issues on Harmonization of Human Rights in Islam

The question of harmonization between Islam and human rights is one of the most debatable issues in contemporary discourse among Muslim academics. At the root of the controversy lies the question about the legitimacy of such an academic engagement. This is primarily because the common perception is that the notion of human rights as embodied in Universal Declaration of Human Rights and its supplementary documents is bound by its underlying humanistic assumptions about humans which are anathema to the Islamic concept of human beings as bond-servants and vicegerents of God on earth. Accordingly, its reconcilability with Islam in general and with Shari'ah in particular is a divisive issue among Muslim thinkers. Approaches range from vehement rejection to liberal treatment even to the extent of compromising fixed parts of Islamic law. A middle of the road approach within the framework of Islamic legal methodology of harmonization is still in the making. It is with this agenda in perspective that the authors of this book have engaged on various topical issues on the subject. The central theme emerging from the papers is that the discourse on harmonization between Islam and human rights should be pursued through a critical engagement with both international human rights theories and Muslim intellectual legacy within the parameters and non-negotiable principles of the Qur'an and Sunnah about humans and their rights.

Prof. Dr. Sayed Sikandar Shah Haneef hails from Kabul, Afghanistan. He holds LLB (honors), Master of Comparative Law, Ph.D in law and Diploma in Human Sciences. To date, he has published 6 books and 62 Journal Articles, on various topical issues in Islamic law. He also has presented numerous papers in National and International conferences. Currently, he is a Professor of Islamic Jurisprudence in the Department of Islamic Jurisprudence, Faculty of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia. In the year 2012, he was awarded Isma'il Faruqi's Quality Publication Award as the main author for the book entitled: *Issues in Contemporary Zakah: A Juristic Analytical Evaluation*, by the University.

Prof. Dr. Najibah Mohd Zin obtained LL.B in 1988 and started her career as a lecturer in Ahmad Ibrahim Kuliyah of Laws soon after her graduation. She obtained her Master of Comparative law in 1990 and pursued her doctorate in Glasgow Caledonian University, UK in 1995. As a lecturer, she taught various subjects of civil and syariah laws including law of contract, law of torts, land law, Islamic legal system, family laws and Shariah Procedures. At present, Prof. Najibah is specializing in family related laws, and women's rights and teaches these courses at postgraduate level. She supervises research students in these related fields. Prof. Najibah has gained international recognition as examiners of theses and invited as a guest speaker on family law as well as various issues relating to gender and women's rights in Malaysia. Prof. Najibah was a visiting fellow in National University of Singapore and Oxford Centre for Islamic Studies, University of Oxford in 2005 and 2010-2011 respectively.

Mek Wok Mahmud is currently an Assoc. Professor at the Department of *Fiqh and Usul al-Fiqh*. She was the Deputy Dean of Postgraduate and Research at the Faculty of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia (IIUM) from 2013 until 2015. She has been serving as a senior academic staff and conducting research at IIUM since 1989. From 2006 to 2010, she was holding the post of Head of the Department and was also the Principal of Maryam Residential College at IIUM. She is the author and editor of several books in the areas of gender studies from Islamic perspective, Islamic Banking and Finance, Women and Politics, Women Family Issues and Issues in Contemporary Zakat. She also has published numerous articles and book chapters. She was awarded the Best Lecturer's Award for teaching Parenting Course under Co-Curricular Activities and Ismail Faruqi's Award as the co-author of the book entitled: *Issues in Contemporary Zakah: A Juristic Analytical Evaluation* at University level. She also has delivered numerous public lectures and presented many papers in national and international conferences.

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