

DECOLONIZING THE “UNIVERSAL” HUMAN RIGHTS REGIME: QUESTIONING AMERICAN EXCEPTIONALISM AND ORIENTALISM

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Abstract: This article aims to decolonize the discourse of the Universal Declaration of Human Rights through the lens of Critical Muslim Studies, arguing that such systems of “international norms” are Eurocentric in character and hegemonic in practice. I argue that the promotion of a Western system of human rights as universal works through the two pillars of Orientalism and Eurocentrism, focusing particularly on the discourse of American exceptionalism as a distinct American form of Eurocentrism. Such a critique is a necessary first step for creating the grounds for alternative human rights orders, such as the notion of Islamic human rights. To be successful, any alternative Islamic system for alleviating human oppression and suffering should first dismantle the hegemonic grip of Orientalism and Eurocentrism on human rights.

Keywords: Human Rights, American exceptionalism, Orientalism, Eurocentrism, universality, hegemony, critical Muslim studies

Introduction

The Universal Declaration of Human Rights (UDHR) (UN General Assembly 1948), which became the bedrock for subsequent international human rights covenants and treaties, was born in 1948 upon the ashes of European and American war atrocities. While both sides of the struggle had committed war crimes, the declaration was mostly a product of the winners against the losers. It was put together just 3 years after the United States’ atomic bombing of Hiroshima and Nagasaki, which killed more than 140,000 innocent men, women, and children and brought death and injury to many more in the years to come. The bombing came only 4 years after President Roosevelt’s famous “Four Freedoms” speech. Ironically, despite its bleak human rights record at home and abroad, the United States has ever since claimed to be the leader of universalizing human rights and more so following the fallback from the Vietnam War, crafting “human rights into a new language of power designed to promote American foreign policy” (Peck 2011: 5).

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While the notion of “human rights” is often promoted as a universal corpus of values, it has proved highly controversial. These controversies mostly center on the issues of effectiveness and consistency. The United Nations, the United States, and other Western powers are often criticized for applying double standards with regard to human rights enforcement. Western countries in general and the United States in particular have been criticized for failing to comply with human rights standards domestically and globally. These centers of power, however, use the notion of human rights to challenge and pressure adversaries. Critical scholars argue that the root cause of the problem lies in the Eurocentric nature of the universal human rights corpus. Critiquing the universal mission of human rights on the normative scale and highlighting its limitations, they question the very universality of human rights and its comprehensiveness, thus revealing the narrow Western-centric nature of the current human rights regime. Scholars taking this approach level their critique of the current human rights order at the formation stage in addition to the implementation stage.

Mutua (2002), for example, puts forth “a substantive critique of ‘the Eurocentric human rights corpus,’” making a case against “the dominant Western human rights project.” He writes,

What is advocated here is the need for the human rights movement to rethink and reorient its hierarchized, binary view of the world in which the European West leads the way and the rest of the globe follows in a structure that resembles a child–parent relationship. (Mutua 2002: 8–9)

Sayyid’s (2003: 285) definition of Eurocentrism is useful here. Eurocentrism is defined as “a multidimensional attempt to restore Western cultural practices as universal.”

I argue in this article, which focuses on the American approach to universal human rights, that American Orientalism and American exceptionalism provide a firm conceptual basis for such a critique, which is a necessary first step to open the space for alternative human rights orders, especially that of Islamic human rights. The discourse of Islamic human rights is based on Islamic philosophical principles rather than on the Western concepts of humanism, individualism, liberalism, and secularism. At the most fundamental level, Islamic human rights is based on belief in the One God and in His exclusive possession of sovereignty (*tawhid*) from which the doctrine of the dignity of man as God’s vicegerent on earth is derived. Consequently, the bedrock of Islamic human rights is “the rejection of all forms of oppression, both the infliction and the endurance of it, and of dominance, both its imposition and its acceptance,” to use Article 2c of the Islamic Republic of Iran’s constitution. Verse 64 of the third chapter of the Quran may well be called the main declaration of human rights in Islam:

O People of the Scripture! Come to a common word between us and you: that we shall worship none but God, and that we shall ascribe no partner unto Him, and that none of us shall take others for lords beside God.

Thus, Islamic human rights is part and parcel with the concept of *tawhid*, which in turn puts forth the philosophical basis for freedom in Islam and the rejection of racism, colonialism, and imperialism. “Genuine universality is not possible if the core content of the human rights corpus is exclusively decided, leaving non-European cultures with only the possibility of making minor contributions at the margins and only in its form” (Mutua 2002: 7).

In the first section below, the “universal” human rights discourse is placed within a wider critique of Orientalism and a discussion of post-Orientalism. It then gives a brief critical analysis of alternative discourses on human rights. The next section gives a historicized discussion of American policy toward the issue of human rights. It shows how, invoking the belief in American exceptionalism, the United States has historically aimed to insulate its domestic affairs from international scrutiny in the realm of human rights while weaponizing human rights in its relations with adversaries.

From Orientalism to Human Rights: Upholding Eurocentrism and American Exceptionalism

Any critical assessment of the UDHR and subsequent international human rights covenants and treaties is incomplete without an appraisal of the context in which such a regime was born to. The post–World War II world was a world run by colonial powers: the UDHR was heralded as a universal document while only 58 states had the privilege of being UN members, with 48 signing the declaration, eight abstaining, and two failing to vote. Almost two-thirds of world countries were still colonies and as a result without a voice. “The South was excluded, and not by choice” (Mutua 2016: 19). The UDHR drafting commission was led by former US First Lady Eleanor Roosevelt, and the only non-Westerners on the commission – Theo van Boven of Lebanon and P.C. Chang of China – were both graduates from Ivy League schools in the United States, steeped in Western liberal thought. Thus, they were more accurately part of the Westernized global elite and not representative of alternative normative traditions of good society.

Not surprisingly, the UDHR did not disavow colonialism as a violation of human rights. It is stated in the preamble that the rights enumerated in the UDHR are applicable “both among the peoples of Member States themselves and *among the peoples of territories under their jurisdiction.*” Similarly, Article 2 of the document failed to reject colonialism:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, *whether it be independent, trust, non-self-governing or under any other limitation of sovereignty*. (UN General Assembly 1948)

The US refusal, along with Australia, to accede to Japan's proposal at the Paris Peace Conference in 1919 for the addition of a racial equality clause to Article 21 of the Covenant of the League of Nations demanding equal status with Western powers is a testament to the deep-rooted racism that was a feature of international politics at the time. Ironically, Japan was not demanding Western powers to accept racial equality as a general principle, but just as part of great power relations. The US objection to the adoption of the racial equality clause was in fact indicative of the racialized, hierarchical nature of the Western-dominated, colonialist international order of the day (Shimazu 1998).

The UDHR, the normative bedrock of all forthcoming human rights covenants and treaties, was accordingly born to a colonialist world order, with almost two-thirds of world countries still under European colonial rule and thus without a voice. Important to note, the world not only suffered from power imbalances in a physical sense, it also suffered from an ideational imbalance of power. The "universal" human rights document was drafted by those representing the colonialist powers, but more importantly it was drafted in their language and from their philosophical point of view. First, the document failed to reject colonialism as a violation of human rights albeit by including a colonial clause that made the rights applicable to colonial subjects as well. But more importantly, it set the Western philosophical tradition of humanism, with human beings defined as individual egoists, as the foundation for defining humanity and gauging the worth and dignity of human beings and their relationship to society. As a result, UDHR perpetuated the hierarchical colonizers' model of the world, defining the West as natural and the rest as barbarians and savages in need of being saved from their inferior status. Such a mentality had been observed earlier in European colonizers' relationship with their colonies. One such example is the French giving the colonized Muslim Algerians the chance to enjoy French civil rights on the condition that they relinquish adherence to the *shari'ah*, a condition many Algerians chose to forgo at the expense of remaining second class human beings (McDougall 2017).

Western powers' political will to hold on to the colonialist order despite the adoption of the UDHR finds more evidence in their approach to later covenants and treaties in which they sought to include colonial clauses, allowing colonial

powers to withhold rights to non-self-governing territories under their jurisdiction if the colonizer so opted. This was especially important given the fact that, unlike the nonbinding UDHR, later covenants and treaties would have a binding legal status. “When inserted into an international treaty, this restrictive legal mechanism could give a colonial power control over whether it extended or blocked the application of that particular treaty with respect to its colonial territories” (Roberts 2014: 129). But more importantly, the existence of a colonial clause sought to uphold the legality and compatibility of colonialism as a system with the notion of human rights, something colonial subjects fought for decades to overcome.

Orientalism: The Grand Narrative of “Universal” Human Rights

Since its inception, just as the Universal Declaration of Human Rights was celebrated and hailed as a milestone toward peace and prosperity, critical voices were muffled and muted. One such critical voice was that of the executive board of the American Anthropological Association (The Executive Board 1947) which in a statement criticized UDHR as it was being drafted. Recounting the West’s dark history of colonialism and forced proselytization in its encounter with other cultures, the statement read:

In the history of Western Europe and America, however, economic expansion, control of armaments, and an evangelical religious tradition have translated the recognition of cultural differences into a summons to action. This has been emphasized by philosophical systems that have stressed absolutes in the realm of values and ends. Definitions of freedom, concepts of the nature of human rights, and the like, have thus been narrowly drawn. Alternatives have been decried, and suppressed where controls have been established over non-European peoples. The hard core of similarities between cultures has consistently been overlooked. The consequences of this point of view have been disastrous for mankind. Doctrines of the “white man’s burden” have been employed to implement economic exploitation and to deny the right to control their own affairs to millions of peoples over the world, where the expansion of Europe and America have not meant the literal extermination of whole populations. (The Executive Board 1947: 540–1)

Noting the dark history of Western colonialism and exploitation based on notions of cultural superiority, the statement asserts that the drawing up of a universal declaration of human rights in essence results in the rationalization, institutionalization, and universalization of the hierarchical view of the world in terms of a superior West against inferior others (The Executive Board 1947: 541). The statement in essence encapsulates a critique of the Orientalist nature of the

universal human rights discourse. The othering of non-European people as inferior has been the lifeblood of the Western colonial project and the subsequent ascendance of colonial powers in the international scene.

Orientalism, as a particular form of Eurocentrism, is a dominant ideological element in Western relations with the rest of the world especially the Islamic world (Said 1994; Hippler et al. 1995; Lawrence 1998; Karim 2003; Sayyid 2003). Edward Said's (1994) seminal critique of Orientalism has been used in various fields of study including cultural studies, critical race theory, postcolonial theory, and recently in international relations as a platform for the critical examination of US hegemony and identity politics (Nayak and Malone 2009). Orientalism amounts to a discourse and knowledge that assumes a distinct social and cultural reality about the Orient, discovered by the efforts of Orientalists and assumed to be "true." It is a reality that is different from its counterpart, the West (Said 1994).

At its most basic level, Orientalism marks a marriage between knowledge and power marking Western powers' exercise of domination at the ideational level to control the meaning of the Orient, without which the physical struggle for control over the Orient would have been impossible. Thus, Orientalism can be seen as the cultural lifeblood of European colonialism and American imperialism. As an ideational structure, Orientalism divides the world into the West and the East, giving each essential characteristics, in which case the West is always superior, full, and natural while the East is always and by definition inferior and in need of civilizing. Through the objectification, dehumanization, inferiorization, and the othering of the Orient, Orientalism facilitates a relationship of power, domination, and hegemony between the West and its constructed Orients.

By the absolute fixing of the meaning of the Orient, its cultures, and peoples, Orientalism functions as a Foucauldian discourse of power and domination, creating a body of knowledge that translates into unequal power relations. But also, in the process of Western self-presentation, the Orient (and Islam for that matter) is constructed as the West's alter ego. The binary world created is necessary for the perpetuation and fixing of the identity of the West and everything Western as superior. The binary vocabulary of Orientalism includes East versus West, despotism versus democracy, cruelty versus fair treatment, irrational versus rational, and cunning versus trusting. Thus, putting everything together, Orientalism as a discourse does three things: it dichotomizes, essentializes, and creates hierarchies.

More than being "a play of meanings and ideas," Orientalism has real effects on the behavior of both the United States and the Oriental others it helps to construct. As constructivist IR scholars posit, "the more we act toward an entity as if it has a particular representation or meaning, the more that entity can take on that representation" (Doty 1996; Wendt 1992 as cited in Nayak and Malone 2009: 256). In other words, the more the Orient becomes the subject of such

representations through Western ideas and practices, the more it will act in line with those representations. A self-feeding cycle ensues. Therefore, American Orientalism becomes the basis for the construction of the identities of the United States and its Oriental others and, more importantly, serves as the basis of real practice as in the case of human rights.

Nayak and Malone (2009: 256–7) thus summarize the effects of American Orientalism on US international behavior:

The American variant of Orientalism allows for an analysis of the discursive deployments in which (1) the United States assumes and relies upon an ontological distinction between the United States and Others; (2) the United States employs authoritative epistemological claims and representations about Others’ bodies, habits, beliefs, feelings, and political sensibilities, thereby justifying interventions, sanctions, and other actions within, across, and outside its borders; and (3) US foreign policy relies on a rationalist methodology consisting of finding “evidence,” such as reports and fact-finding missions, of foregone conclusions about the Other and the United States need to assert its position.

Said’s (1994) application of Foucault’s discursive formations and Gramsci’s hegemony, while providing a powerful critique against the validity and neutrality of Orientalist claims about Islam, limit the possibility for a meaningful definition of what Islam stands for. While Said is concerned with “the negation of Orientalism,” his critique is not meant to provide an “affirmation of Islam.” As such, his negation of Orientalism turns into a negation of Islam as well (Sayyid 2003: 35). Concurring with Sayyid (2003: 39), I contend that if in attempting to go beyond Orientalism we turn to anti-Orientalism, that is, the production of “a series of ‘little Islams’ reflecting the various economic, ethnic and social factors of the variety of Muslim communities,” we in effect downplay the importance of Islam as a societal force in Muslim societies and fail to see the role it plays beyond a mere label. In contrast, Sayyid (2003: 48) argues that Islam is best described as a master signifier:

Theorizing Islam as a master signifier avoids the essentialism of the Orientalist approach, since Islam is not imposed with an historical essence. At the same time this approach rejects the structuralism of anti-Orientalist accounts which, by treating Islam as a superstructural moment, minimize its significance, and thus have to resort to categories of “opportunism” and “false consciousness” to try and account for the emergence of Islamism. Islamism, then, is a project which attempts to transform Islam from a nodal point in discourses of Muslim communities into a master signifier. In particular, the Islamist project is an attempt to make Islam a master signifier of the political order.

Islam operates as a master signifier on three grounds: “as *din* (faith), as *dunya* (complete way of life) and as *dawla* (a state or political order)” (Sayyid 2003: 47). In this way, while arguing for the appreciation of the real importance of Islam, one does not negate the faults of Orientalism that Said criticized.

The destructive discourse of Orientalism has worked in tandem with the reconstructive discourse of Eurocentric diffusionism, proclaiming the superiority of Europe and its miraculous rise and arguing that all progress in non-European lands is the result of the diffusion of European ideas and innovations (Blaut 1993, 2000). Thus, as the lifeblood of colonialism, Orientalism’s destructive force on Oriental cultures and on Islam was reinforced by the reconstructive force of Western powers’ attempts at cultural transfer, what was later labeled as development and modernization. In the case of the United States, Eurocentric diffusionism finds expression in terms of American exceptionalism, which proclaims the United States’ unique place in history, its fundamental qualitative difference from all other countries especially the non-Western ones, and a God-given mission and destiny to lead and guide the rest of the world according to its values and worldview. It could be argued that American exceptionalism is a “particular and specific form of Orientalism intended to produce ‘America’” (Nayak and Malone 2009: 253). Thus, the idea that modernization, working through the channels of Eurocentric diffusionism and American exceptionalism, is the only means to development and democracy has a colonial legacy that today finds expression in the “universal” human rights discourse and such instruments for its institutionalization, such as the 2030 sustainable development goals.

Consequently, it is argued here that Orientalism and Eurocentrism together play as the grand narrative of human rights creating unequal power relations between the countries of the West, most importantly the United States, and the Oriental other countries. This criticism questions the idea that “the specific cultural and historical experiences of the West [are] the standard for all humanity” (Mutua 2002: 64). As the latest example of Eurocentric diffusionism, the imposition of universality to Western human rights discourse results in the muting of non-Western cultures, including those of the Orient. Rights are spoken most forcefully in the language of liberalism, as in the case of political and civil rights, and less potently in the language of socialism as in the case of the social/cultural/economic rights. The international human rights corpus, including the nonbinding UDHR and the binding covenants and treaties that followed, in essence institutionalize the normative superiority of Western political ideologies. Critics question the very Western notion of human rights based on the rights of an atomistic individual pitted against society and state and instead argue that African and Asian conceptions of humanity “is not that of an isolated and abstract individual, but an integral member of a group animated by a spirit of solidarity” (Okere 1984, as quoted in Mutua 2002: 65).

In the words of Talal Asad (2000), “human rights is part of a great work of conversion” in which case the adherence to human rights norms is found in concurrence with the increasing adoption of Western (or American) norms. It is a process of cultural conversion infused with “games of power” in which certain cultures and cultural practices are displaced at the expense of the ascendant Western/modern culture imbued in the human rights discourse. What is important is that this process of conversion does not happen spontaneously; rather, traditional cultures are coerced to convert to modern ones. In this sense, the tide of human rights politics is the newest mode of the Eurocentric civilizing mission. It is a work of “universal redemption.” The human rights project is in essence the latest attempt at humanizing Oriental populations, redeeming them from their barbaric/savage modes of life.

In this sense, universalizing a Eurocentric vision of human rights is the latest mutation of the white-man’s-burden. From this point of view, since 1945, the United Nations, just like its predecessor the League of Nations, has been the main vehicle for preserving a Western-centered global order. What is purported to be universal is in essence “the universalization of principles and norms that are European in identity” but are propagated as the “common standard of achievement for all peoples and all nations” with the principal focus on “those rights that strengthen, legitimize, and export the liberal democratic state to non-Western societies” (Mutua 2002: 18).

The savages and the victims of this human rights discourse are for the most part non-white and non-Western, while the saviors are white. At times, the discourse serves as a self-redemption strategy to overcome the guilt of historical Western savagery against non-whites. But this too is done within an Orientalist mindset. The final goal is to redeem whites from their historical guilt “by ‘defending’ and ‘civilizing’ ‘lower,’ ‘unfortunate,’ and ‘inferior’ peoples” (Mutua 2002: 14).

To reverse this flawed mindset, “a historical understanding of the struggle for human dignity should locate the impetus of a universal conception of human rights in those societies *subjected* to European tyranny and imperialism” (Mutua 2002: 12). Examples of colonial subjects’ unacknowledged efforts for protecting human dignity include anti-slavery campaigns both in Africa and in the United States, the anticolonial struggles in Africa, Asia, and Latin America, and the struggles for women’s suffrage and equal rights throughout the world.

Secondly, the “othering” process inherent in the Orientalist human rights outlook aims at best to create “inferior clones, in effect dumb copies of the original” upon the ruins of the original “savage” non-European cultures (Mutua 2002: 13). This totalizing fixing of the vision of “the good society” in essence freezes the chance for achieving any real multi-cultural human rights approach and inhibits the achievement of any “cross-cultural legitimacy” for the so-called human rights

corpus of values (Mutua 2002): “The critique of human rights should be based not just on American or European legal traditions but also on other cultural milieus. The indigenous, non-European traditions of Asia, Africa, the Pacific, and the Americas must be central to this critique” (Mutua 2002: 14). It is a call for the world to go beyond the era of human rights marked by “European and American senses of global predestination and the mission to civilize by universalizing Eurocentric norms” (Mutua 2002: 15). This sense of civilizing mission and manifest destiny for the United States is expressed in terms of American exceptionalism.

It is important to note that the responsibility for insuring the diffusion of human rights is placed solely on the sovereign states responsible for each country’s national economy and international relations. Thus, adoption of human rights norms becomes subject to issues of national interest and to power politics, with the more powerful states, most notably the United States, taking all measures to insulate their domestic spheres from international scrutiny. More importantly, while hegemonic powers have weaponized human rights against their perceived adversaries, their infliction of harm on other countries remains outside the purview of human rights law.

Alternative Human Rights Discourses

The Cairo Declaration on Human Rights in Islam (1990) is an example of an alternative human rights discourse. In the Nineteenth Islamic Conference of Foreign Ministers, Muslim countries made an attempt to formulate a human rights document based on Islamic principles. Based on the founding belief that human beings are the vicegerents of God on earth and that Islamic human rights are conceivable only within the framework of *Shari’ah*, the document makes an explicit denunciation of colonialism. Article 11 reads,

Colonialism of all types being one of the most evil forms of enslavement is totally prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all States peoples to support the struggle of colonized peoples for the liquidation of all forms of and occupation, and all States and peoples have the right to preserve their independent identity and control over their wealth and natural resources.

The idea of Islamic human rights could level a real challenge to Eurocentrism and Orientalism disrupting the uneven power relations that have been built upon the two foundations. With the leadership of Imam Khomeini (RA), the Islamic Revolution set the stage for such a prospect. According to Sayyid (2003: 113–14),

“it is only with [Imam] Khomeini that the role of Western discourse as universal interlocutor appears to be shaken.”

Promotion of Eurocentric notions of human rights as universal is an attempt at restoring the idea that the only path to progress passes through the West. Achieving any meaningful Islamic human rights regime requires the courage and political will to deconstruct such notions of progress. Again Sayyid’s (2003: 114) words are very relevant here:

The possibility of Islamic political thinking can only be undertaken by disengagement with the problems and perspectives of Western political thought. As long as Islamic political thinkers are locked in a (one-sided) conversation with Western political thought, they remain locked in a logic in which there is no space for anything other than the West.

To decolonize the self-proclaimed “universal,” Eurocentric human rights discourse, critical Muslim thinkers should move beyond a minimalist approach to development, in general, and to Islamic human rights, in particular. In a minimalist discourse of Islamic human rights, all the elements of the so-called universal human rights regime are affirmed except when in clear contradiction to the *Shari’ah* while retaining a language that otherwise very much mirrors that of the UDHR. In recent years, a maximalist discourse is gaining grounds in Muslim countries which finds the main problem with the hegemonic discourse of Eurocentric human rights in the fixing of “a Eurocentric notion of what a human being is and what humanity is and its place in creation” (Merali 2017b: 23). Merali (2017a: 6) criticizes the minimalist “Islamic human rights” works for attempting “to marry the two discourses [i.e. the UDHR and Islam], oftentimes subsuming and internalizing UDHR norms within Islamic terminology accepting without criticism the normative value, supremacy and universality of said norms.”

A clear attempt at setting free from the epistemic violence of the Eurocentric discourse of UDHR is taking place in the Islamic Republic of Iran, where the very notion of development is being revamped in favor of a fully Islamic notion of progress which is also sensitive to the particularities of the Iranian circumstances. Called the Islamic-Iranian Model of Progress, the goal is to decenter the Western-centered notion of development, which is also the background against which “universal” human rights are defined.

The model was called for in a four-hour conference on the issue hosted by Islamic Revolution Leader Ayatollah Khamenei in 2010 in which he asked university and seminary intellectuals to work toward arriving at a “master, comprehensive plan” that deals with the four realms of intellect, science, lifestyle, and spirituality, making human salvation its central aim and considering historical,

geographical, cultural, economic, and social conditions of Iran (“Islamic-Iranian Model of Progress Called for” 2010). Ayatollah Khamenei said “progress” has been used intentionally instead of the notion of “development” which connotes the aspirations, values, and methods of the West and which constrain the Islamic Revolution’s ideas and beliefs. In this model, culture replaces the economy as the base, thereby transforming the idea of human wellbeing from mere economic growth to a more holistic-Islamic concept. The discursive transformation of what progress entails would in turn transform a Western-oriented discourse on good-governance and welfare, changing the conceptualization and the operationalization of economic, social, and cultural rights.

American Exceptionalism and Human Rights

While the United States was an early supporter of the UDHR, by 1953, it withdrew from the drafting of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Fearing international scrutiny of the racism inherent in American culture and politics, the United States refused to participate in human rights standard setting (Mutua 2016). From the late 1950s through the 1960s, the American government sponsored the social scientific promotion of modernization theory as the means for the postcolonial world’s economic, political, and social transformation (Gilman 2003: 5), which represents “the most explicit and systematic blueprint ever created by Americans for reshaping foreign societies.”

In a time when the Western world had lost its physical grip on the colonized societies, modernization theory served as the blueprint for manipulating how those societies were shaped in the postcolonial world. “For modernization theorists, in contrast to strict economic development theorists, modernity was not just about a way of organizing economic production, but also about society and polity, cultural norms and forms” (Gilman 2003: 6). It was a reconstruction project based on the Western model. These theorists redefined modernity from one that described a specific European historical period to one that encapsulated a universal way to progress.

US foreign policy in the period between the drafting of UDHR until the Vietnam quagmire remained aloof and at times antagonistic with regard to human rights. The discourse of modernization theory marked US relations with the Third World including the Muslim world. In the domestic sphere, the United States attempted to both have its cake and eat it too. The United States both claimed ownership of human rights as a doctrine that was best enshrined in the American constitution and at the same time tried to insulate its domestic sphere from incursion. It continued racist policies that undermined the very humanity of a large segment of the

American population. The United States, like other imperialist powers, aimed to restrict human rights’ erosion of its sovereignty by first attempting to include a “federal-state clause” similar to the colonial clause (Roberts 2014) and later refusing to ratify human rights legal codes.

The United States uses American exceptionalism to bypass the international legal human rights regime in three ways: (1) exemptionalism, wherein “the United States signs on to international human rights and humanitarian law treaties and then exempts itself from their provisions by explicit reservation, nonratification, or non-compliance”; (2) double standards, or judging “enemies” more harshly than oneself or one’s allies; and (3) “legal isolationism,” or denying the international jurisdiction of human rights law within its domestic law (Ignatieff 2005: 3).

The United States ratified the Convention on the Prevention and Punishment of the Crime of Genocide in 1986, almost 40 years after its adoption in 1948 by the United Nations. The United States signed the International Convention on the Elimination of All Forms of Racial Discrimination in 1966 but withheld its ratification until 1994 (29 years after its adoption by the United Nations). Similarly, the United States ratified the International Covenant on Civil and Political Rights in 1992, 26 years after its adoption by the UN and 15 years after becoming a signatory to the covenant (Ignatieff 2005).

What kept the United States from ratifying human rights international legal codes was American elites’ fear of internationalizing US domestic crises such as the civil rights/anti-racism movement as a human rights issue. As an example, in their analysis of the International Convention on the Elimination of All Forms of Racial Discrimination in the 1960s, US senators were concerned that the ratification of the covenant would nullify thousands of discriminatory laws in the United States (Moravcsik 2005).

Eventually, it took the hard fought battle of a few opposing senators to achieve the however late ratification of several human rights legal codes. Senator William Proxmire (11 November 1915 to 15 December 2005), a Democrat from Wisconsin, for example, saw United States’ refusal to ratify the UN anti-genocide convention as a “national shame” and made it a priority of his time in the Senate to fight for the ratification of the treaty. From 1967, he vowed to deliver a speech every day on the Senate floor in this regard and made 3211 speeches in the next 19 years to come. Proxmire’s opponents were alarmed that US ratification of the treaty would complicate the Vietnam War and control over the Civil Rights movement (Backes 2010).

These fears, of course, were not baseless since African American leaders led by the NAACP were working to initiate a human rights movement to bring the plight of the American Black community before the United Nations. The “prize” they sought was to use the international human rights legal codes “to address not only the political and legal inequality, but also the education, health care, housing, and

employment needs that haunted the black community” (Anderson 2003: i). With the onset of the Cold War and the anti-Communist sentiment in the United States, opponents successfully tainted the NAACP’s efforts as un-American and Soviet-backed. Eventually, the Black struggle retreated to a narrow civil rights agenda (Anderson 2003).

Not surprisingly, both Malcolm X and Martin Luther King Jr. were assassinated as they were advocating the idea of internationalizing the issue of American racial discrimination as a human rights struggle (Jackson 2013; Singh 2015). Malcolm X

spent time in Kenya, Tanzania, Nigeria, Ghana, Liberia, Senegal, Guinea, and Ethiopia on this trip, and met with many African leaders and writers, including several heads of state: Kwame Nkrumah, Jomo Kenyatta, Julius Nyerere, and Sekou Toure. After he addressed the Kenyan Parliament, it passed a “resolution of support for our human rights struggle.” (Singh 2015)

To make international human rights laws harmless, the United States first delays ratification for decades. In every human rights treaty that has been ratified, every effort has been taken through the imposition of reservations, understandings, and declarations (RUDs) to make them “non-self-executing” in the United States. This means that federal-level implementing or enabling legislation is needed to make the treaties domestically enforceable. Furthermore, the United States refuses to accept the jurisdiction of international human rights enforcement tribunals (Moravcsik 2005). As a result, the United States remains exceptional in the sense that it does not allow its citizens to raise human rights litigations in domestic and international courts based on what it advocates as the “universal” human rights regime. Table 1 shows the status of the United States with regard to international human rights treaties.

Table 1 The status of United States’ ratification of international human rights treaties

Human Rights Instrument : (Date into force)	Ratification Status	Declaration
International Convention on the Elimination of All Forms of Racial Discrimination: 1969	Signature: 1966, Ratification/Accession: 1994	✓
International Covenant on Civil and Political Rights: 1976	Signature: 1977, Ratification/Accession: 1992	✓
Optional Protocol to the International Covenant on Civil and Political Rights: 1976	Signature: NA, Ratification/ Accession: NA	

Human Rights Instrument : (Date into force)	Ratification Status	Declaration
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty: 1991	Signature: NA, Ratification/Accession: NA	
International Covenant on Economic, Social and Cultural Rights: 1976	Signature: 1977, Ratification/Accession: NA	
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: 2013	Signature: NA, Ratification/Accession: NA	
Convention on the Elimination of All Forms of Discrimination against Women: 1981	Signature: 1980, Ratification/Accession: NA	
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women: 2000	Signature: NA, Ratification/Accession: NA	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 1987	Signature: 1988, Ratification/Accession: 1994	✓
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 2006	Signature: NA, Ratification/Accession: NA	
Convention on the Rights of the Child: 1990	Signature: 1995, Ratification/Accession: NA	
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: 2002	Signature: 2000, Ratification/Accession: 2002	✓
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography: 2002	Signature: 2000, Ratification/Accession: 2002	✓
Optional Protocol to the Convention on the Rights of the Child on a communications procedure: 2014	Signature: NA, Ratification/Accession: NA	
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families: 2003	Signature: NA, Ratification/Accession: NA	
International Convention for the Protection of all Persons from Enforced Disappearance: 2010	Signature: NA, Ratification/Accession: NA	
Convention on the Rights of Persons with Disabilities: 2008	Signature: 2009, Ratification/Accession: NA	
Optional Protocol to the Convention on the Rights of Persons with Disabilities: 2008	Signature: NA, Ratification/Accession: NA	

Source: United Nations Human Rights Office of the High Commissioner available at <http://indicators.ohchr.org/>.

Refusing to make itself accountable in terms of international human rights law, the United States often uses human rights as the means to pressure adversaries. Human rights erupted into the mainstream of public debate only because two quite distinct needs came together. On one side, a profound revulsion over the Vietnam War led to the weakening of the anti-Communist consensus. Appalled by Cold War rationales and tactics (overthrowing regimes, assassinating leaders, training torturers, supporting dictatorships), human rights advocates mobilized against both American “excesses” and Soviet “crimes,” documenting in particular the atrocities of American-backed military regimes throughout Latin America, from Guatemala to Chile (Peck 2011: 6).

On the other, Washington was desperate for an alternative ideological justification for its global strategies. It is at this juncture that the United States begins to use a rights-based discourse in advancing its foreign policies abroad. National security imperatives eventually gave rise to “a new humanitarian ethos legitimizing massive interventions – including war” in the 1990s (Peck 2011). This is the beginning of the era of the so-called humanitarian interventions. Here, as was noted by Mutua (2002), the emphasis is often on civil and political rights, ignoring crimes of economic injustice, aggression, and occupation. US national/global interests guide how human rights are weaponized.

While using the human rights motive as a justification claim for hostile interventions against adversaries, the United States makes every effort to sabotage international actions against human rights violations in client states especially the Israeli regime. In 2017, Richard Falk and Virginia Tilly wrote an investigative report for the UN Economic and Social Commission for Western Asia entitled “Israeli practices toward the Palestinian people and the question of apartheid.” The report had made the conclusion that “the weight of the evidence supports beyond a reasonable doubt the proposition that Israel is guilty of imposing an apartheid regime on the Palestinian people, which amounts to the commission of a crime against humanity” (Falk and Tilly 2017: 6). Under American pressure, UN chief António Guterres rejected the report as anti-Semitic and withdrew UN sponsorship of the report.

Against this instrumental current of official Washington rights-based ideology, runs a grassroots current for human rights in the United States and around the world:

[This second human rights current] has less to do with individual freedom and more to do with basic needs. It is associated with popular mass movements, revolution by populations in desperate straits, and resistance. . . . Central to the second current are challenges to corporate power, state repression, foreign occupation, and global economic inequality, as well as the protection of collective means of struggle, from labor unions to revolution. (Peck 2011: 9)

From this perspective, the struggle for human rights is a struggle for justice rather than a struggle for exporting liberal democracy.

As is evident from Table 1 above, one of the most important human rights laws that remain to be ratified in the United States is the International Covenant on Economic, Social and Cultural Rights (signed in 1977). A myriad of grassroots organizations are working in the United States to push Washington into ratifying the covenant as a first step toward achieving economic justice.

The current American political, economic, and ideological climate is so antagonistic to the ratification of ICESCR, according to Piccard (2010: 248), that

the United States is no closer than it was twenty years ago to accepting that its citizens might, or should, have rights to food, clothing and housing, the right of access to physical and mental health care, and the right to education.

Piccard further argues for ICESCR’s ratification by noting,

If, in forty years of waging a war on poverty, we as a nation have proven ourselves incapable of reducing (let alone eradicating) poverty, it may well be time to acknowledge the need to internalize international standards that will, over time, become a part of our national culture. (Piccard 2010: 251)

Such has become the main struggle of organizations such as the New York-based Center for Economic and Social Rights (<http://www.cesr.org/>). With regard to the United States, CESR notes, “The United States stands virtually alone in the world as an opponent of economic and social rights” (“United States,” CESR). An indication of this claim is the fact that “the U.S. Supreme Court, moreover, has never ruled that poor people constitute a protected group (‘suspect class’), and thus there remains no fundamental right to subsistence in U.S. law” (Libal and Hertel 2011: 2). According to Libal and Hertel (2011: 6), the United States is witnessing a new tide of human rights struggle led by “a dynamic new universe of lawyers and grassroots activists.” A movement may well be under way perhaps as potent as the civil rights movement. The works of these progressive activists and international NGOs such as CESR promise an opening for undoing the Eurocentric grip on the conceptualization of human rights.

Conclusion

This article was an attempt to problematize the current human rights regime based on the notions of Orientalism and Eurocentrism. An unquestioned acceptance of so-called universal human rights, however, would result in the locking of Islamic thinkers in a one-sided conversation with Western political thought. As such, Islam loses all potential for

building a civilization independent of the West. The idea of Islamic human rights should act as a real challenge to Eurocentrism and Orientalism with the aim of disrupting the uneven power relations that have been built upon the two foundations. It is this critique of the West's monopoly on development and success that should be the driving force for Islamic human rights. Islamic human rights should be "post-Orientalist," to use Sayyid's (2014: 13) terminology, "decentering the sign of the West," an endeavor that centers about the "name" of Islam.

As long as the universality, inevitability, and naturalness of Western cultural formations and values are questioned, the West faces problems in imposing its hegemony over the rest of the world, including the Muslim world. Therefore, the power of Islamic human rights resides in its "critique of the assumption that the royal road to a better future is pioneered by the West" (Sayyid 2003: 290). Islamic thinkers will find solidarity with progressive activists around the world in their struggles to keep great powers accountable for the plight of their people and other people around the world. Such a paradigmatic challenge to the Western project of human rights requires a movement away from the apologetic approach of some in the Muslim world. The success of the struggle for Islamic human rights depends on unlocking Muslim minds of the supremacy and inevitability of Western political thought. Only then is the possibility of Muslim subjectivity as a political agent achievable.

References

- Anderson, C. E. (2003) *Eyes Off the Prize: The United Nations and the African American Struggle for Human Rights, 1944–1955*. Cambridge: Cambridge University Press.
- Asad, T. (2000) What do human rights do? An anthropological enquiry. *Theory & Event*. 4 (4).
- Backes, E. (2010) On this day: U.S. fully adopts genocide convention. enough: The project to end genocide and crimes against humanity, November 4. Available at <http://www.enoughproject.org/blogs/day-us-ratifies-genocide-convention> (accessed 12 October 2018).
- Blaut, J. M. (1993) *The Colonizer's Model of the World: Geographical Diffusionism and Eurocentric History*. New York: Guilford Press.
- Blaut, J. M. (2000) *Eight Eurocentric Historians*. Vol. 2. New York: Guilford Press.
- "The Cairo Declaration on Human Rights in Islam." (1990). Organization of Islamic Cooperation, Conference of Foreign Ministers. Cairo, Egypt.
- Doty, R. (1996) *Imperial Encounters: The Politics of Representation in North–South Relations*. Minneapolis: University of Minnesota Press.
- Falk, R. and Tilly, V. (2017) Israeli practices toward the Palestinian people and the question of apartheid. Special Report for The UN Economic and Social Commission for Western Asia. Available at https://electronicintifada.net/sites/default/files/2017-03/un_apartheid_report_15_march_english_final_.pdf (accessed 12 October 2018).
- Gilman, N. (2003) *Mandarins of the Future: Modernization Theory in Cold War America*. Baltimore: Johns Hopkins University Press.
- Hippler, J., Lueg, A. and Friese, L. (1995) *The Next Threat: Western Perceptions of Islam*. London: Pluto Press.

- Ignatieff, M., ed. (2005) *American Exceptionalism and Human Rights*. Princeton: Princeton University Press.
- “Islamic-Iranian Model of Progress Called for.” (2010) Available at <http://www.leader.ir/en/content/7634/Islamic-Iranian-Model-of-Progress-called-for> (accessed 12 October 2018).
- Jackson, T. F. (2013) *From Civil Rights to Human Rights: Martin Luther King, Jr., and the Struggle for Economic Justice*. Philadelphia: University of Pennsylvania Press.
- Karim, K. H. (2003) *The Islamic Peril: Media and Global Violence*. Montreal, CA: Black Rose Books.
- Lawrence, B. B. (1998) *Shattering the Myth: Islam Beyond Violence*. Princeton, NJ: Princeton University Press.
- Libal, K. and Hertel, S. (2011) Paradoxes and possibilities: Domestic human rights policy in context. In *Human Rights in the United States: Beyond Exceptionalism*, 1–14, edited by S. Hertel and K. Libal. Cambridge, UK: Cambridge University Press.
- McDougall, J. (2017) *A History of Algeria*. New York: Cambridge University Press.
- Merali, A. (2017a) Introduction. In *Proceedings of the International Conference on Islamic Human Rights: Foundations, Concepts, Distinctive Features and Priorities*. Tehran: Iran, 6–7.
- Merali, A. (2017b) The problems of the current human rights discourse and requests for clarification. In *Proceedings of the International Conference on Islamic Human Rights: Foundations, Concepts, Distinctive Features and Priorities*. Tehran: Iran, 18–31.
- Moravcsik, A. (2005) The paradox of US human rights policy. In *American Exceptionalism and Human Rights*, 149–50, edited by M. Ignatieff. Princeton, NJ: Princeton University Press.
- Mutua, M. (2002) *Human Rights: A Political & Cultural Critique*. Philadelphia: University of Pennsylvania Press.
- Mutua, M. (2016) *Human Rights Standards: Hegemony, Law, and Politics*. New York: SUNY Press.
- Nayak, M. V. and Malone, C. (2009) American Orientalism and American exceptionalism: A critical rethinking of US hegemony. *International Studies Review*. 11 (2), 253–76.
- Okere, B. O. (1984) The protection of human rights in Africa and the African Charter on Human and Peoples’ Rights: A comparative analysis with the European and American systems. *Human Rights Quarterly*. 6 (2), 141–59.
- Peck, J. (2011) *Ideal Illusions: How the US Government Co-Opted Human Rights*. London: Macmillan.
- Piccard, A. (2010) The United States’ failure to ratify the international covenant on economic, social and cultural rights: Must the poor be always with us? *The Scholar: St. Mary’s Law Review on Minority Issues*. 13 (2), 231–72.
- Roberts, C. N. (2014) *The Contentious History of the International Bill of Human Rights*. New York: Cambridge University Press.
- Said, E. W. (1994) *Orientalism*. Rev. ed. New York: Vintage Books.
- Sayyid, B. S. (2003) *A Fundamental Fear: Eurocentrism and the Emergence of Islamism*. New York: Zed Books.
- Sayyid, B. S. (2014) *Recalling the Caliphate: Decolonization and World Order*. London: Hurst.
- Shimazu, N. (1998) *Japan, Race and Equality: The Racial Equality Proposal of 1919*. London: Routledge.
- Singh, A. (2015) From civil rights to human rights: Malcolm X and the post-colonial world. Available at <http://www.electroalani.com/2015/02/from-civil-rights-to-human-rights.html> (accessed 12 October 2018).
- The Executive Board, American Anthropological Association. (1947) Statement on human rights. *American Anthropologist*, 539–43.
- UN General Assembly. (1948) Universal declaration of human rights. Available at “United States.” CESR. Available at <http://www.cesr.org/countries/united-states>.
- Wendt, A. (1992) Anarchy is what states make of it: The social construction of power politics. *International Organization*. 46 (2), 391–425.