

## **Islam, and Thin / Thick Human Rights**

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This article deals with the relationship between religion in general meaning (and Islam in the narrower one) and thin and thick human rights. Being enriched enough, the literature of “thin and thick” was developed by most communitarians. A thin morality is one constituted by general and universal principles, though, a thick morality is that which is constituted by deliberation conditioned by history, tradition, and culture. As Michael Walzer suggests, this dualism is an internal feature of every morality.<sup>۲</sup> He agrees to an extent with universalism, though in the sympathy with the opposite principle, he does not prescribe democracy for all spaces and times.<sup>۳</sup> Sissela Bok makes a similar point: “Certain basic values necessary to collective survival have had to be formulated in every society. A minimalist [that is, thin] set of such values can be recognized across societal and other boundaries.”<sup>۴</sup> These basic values pertain to rights, duties, and norms in three areas: (۱) Positive duties of mutual care and support, (۲) negative duties (e.g. no harm to others), and (۳) norms of rudimentary fairness and procedural justice. Bok maintains that they are necessary for the kind of trust that underlies all social relations and thus are essential for societal order on all levels. Societies have produced a diversity of maximalist (thick) values that are not common but can be consistent with the three kinds of universal minimalist values.

For MacIntyre, sentiments inspire thick religious interpretations of morality contends that any attempt to establish a universal ethic grounded in human nature per se fails to appreciate that there is no universal morality, but that in fact we live in a fragmented world of many moralities.<sup>۵</sup>

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<sup>۲</sup>. Michael Walzer, *Thick and Thin: Moral Argument at Home and Abroad*, Notre-Dame: University of Notre Dame Press, ۱۹۹۴, different pages.

<sup>۳</sup>. *Ibid*, p x.

<sup>۴</sup>. Sissela Bok, *Common Values*, Columbia, University of Missouri Press, ۱۹۹۰, p ۱۳.

<sup>۵</sup>. William O’Neill, “Thick or Thin? Ethical Criticism”, *CDSP* ۱۱۶, Fall ۲۰۰۶.

To understand what Benjamin Gregg means by thin normativity, it would help to understand what he means by the idea that thick normativity characterizes the level of commitment to a creed, an idea, or way of life, which is so strong as to exclude other creeds, ideas, and ways of life. By contrast, thin normativity adheres more or less only to the principle that people should be free to choose. As Gregg notes, thin normativity is inclusive. However, precisely because of its exclusivity, thick normativity simply cannot serve as the basis of a modern society. He respects thick normativities in sub-communities.<sup>1</sup>

Both thick human rights here and in communitarianism criticize thin liberal human rights. Nevertheless, thick human rights in this article depart from the communitarian ones in their source. Whereas communitarians stress tradition and religion as the cultural, I use them here as the religious too. Religion for modernists, including communitarians, is not considered as transcendental, however, religion here has two levels: the very holy texts (religion ١), and the interpretations of them (religion ٢). Arguing about the relationship between religion and human rights means religion ١ & ٢, not the cultural implications of religion.

Given that there may be some kind of contradiction between religion and human rights based on humanism, there is no necessity to demonstrate the compatibility and coordination of religion (Islam) and Human Rights Declaration. In fact, human rights, here, is the general meaning of them, and not necessarily what is mentioned in the Declaration and the two Conventions. For example, Islam and Judaism do not consider equal rights for believers/unbelievers or for men/women. Hence, human rights, here, overlap with the Declaration and the Conventions. While communitarians try to enrich liberal human rights by culture and tradition, it is attempted in this article to picture the possibility of enriching human rights (in general meaning) by religion. Although religion is considered as a pre-modern concept, and hence can not categorically compared with modern human rights, it has the capacity to be assessed with regard to the criteria of modern concepts like human rights. In *The Distribution of Power in Shiite Political Thought*, I have assessed the capacity of “Shiite political thought” with regard to the

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<sup>1</sup> . Benjamin Gregg, *Thick Moralities, Thin Politics: Social Integration across Communities of Belief*, Durham, Duke University Press, ٢٠٠٣.

criteria of “distribution of power” as a modern concept.<sup>۱</sup> As a matter of fact, although Muslims in the Prophet’s era did not think about concepts like human rights, these modern concepts were considered as unthought, not unthinkable.

Anyway, what is meant by “thin human rights” is the minimal and liberal ones, and by “thick human rights” the maximal and religious ones. Whereas thin human rights are general and universal, the thick ones here, are based on religious bases. Since thin human rights are based on thin moralities, they need tradition and revelation to be enriched. Human rights are the rights of human beings as they are human beings, though, they can be discovered by human reason (to be thin human rights), or by Divine wisdom (to be thick human rights). Assuming “religious human rights” as possible and non-paradoxical, this article aims to coordinate between two levels of human rights: thin human rights as the regulator of the relations amongst different groups of people in and between countries as a *realistic* policy, and thick human rights for the believers as an *idealistic* guideline. The point is that Islamic governments and their people need both of these levels to act with secularists and unbelievers practically, and to think and propagate their system idealistically. To demonstrate this hypothesis, one needs first to prove the possibility of enriching human rights, second to show that “religious human rights” are not paradoxical, third to have a look at the readings of religion (Islam), and finally to compare thin and thick human rights reasoning.

### **Possibility of Enriching Human Rights**

With respect to the possibility of enriching thin human rights it seems sufficient to look at the communitarian criticism on liberal human rights. In his book *After Virtue*<sup>۲</sup>, MacIntyre illustrates that the Aristotelian tradition can be restated in a way that restores rationality and intelligibility to the moral and social attitudes and commitments. In *Whose Justice? Which Rationality?*<sup>۳</sup>, he attempts to show both what makes it rational to act in one way rather than another and what makes it rational to advance and defend one conception of practical rationality rather than another. In this, he compares Aristotle’s conception of

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<sup>۱</sup> . Seyed Sadegh Haghigat, Tozi Qodrat (*The Distribution of Power in Shiite Political Thought*) (in Persian), Tehran, Hastinema, ۲۰۰۱.

<sup>۲</sup> . Alasdair MacIntyre, *After Virtue*, Univ. of Notre- Dame Press, ۱۹۸۳.

<sup>۳</sup> . Alasdair MacIntyre, *Whose Justice, Which Rationality?*, Univ. of Notre- Dame Press, ۱۹۸۸.

justice (based on city-state and phronesis) with that of Aquinas (concerning the compatibility of religious and secular elements) and also with Hume (on the relationship of reasoning to action with the priority of human rationality over religion). His central preoccupation is the nature of the connection between justice and (religious) laws. According to Augustine, justice is what was ordered in The Ten Commandments.<sup>۱</sup> Observing that liberalism itself has transformed into a tradition, he sees those conceptions of universality and impersonality to be too thin and meager to supply what is needed. Although his analysis is considered as contextualistic, he tries to get rid of relativism and historicism.<sup>۲</sup>

The main communitarian comments on liberalism are: the politics of community, the conception of “self”, priority of public good over individual right, considering communities based on here and now, particularism versus universalism, criticism of liberal neutrality and its claim to be value-free.<sup>۳</sup> As Oliver Leaman puts it: “Religion fits in with communitarian accounts of morality, in the sense that it identifies morality with a particular set of beliefs and practices which are part of community. What makes morality morality is its accordance with faith, since only God is able to say what morality is. According to Liberalism, the concepts of public, others, external, communal, general, universal, religion, emotional, nature, Shari’a, prayer, virtue and religion are in order constructed out of those of private, self, internal, individual, particular, personal, philosophy, rational, culture, nomos, awe, wisdom and rationality.”<sup>۴</sup>

Whatever the soundness of liberal principles, the fact remains that many communitarians seem worried by a perception that traditional liberal institutions and practices have contributed to, or at least do not seem up to the task of dealing with, such modern phenomena as alienation from the political process, unbridled greed, loneliness, urban crime, and high divorce rates.

Communitarian thinkers in the ۱۹۸۰s such as Michael Sandel and Charles Taylor argued that Rawlsian liberalism rests on an overly individualistic conception of the self. Whereas

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<sup>۱</sup> . Ibid, pp ۱, ۱۵۰, ۲۲۸-۲۲۹.

<sup>۲</sup> . Ibid, pp ۳۳۴-۳۳۵, ۳۸۹-۳۹۰.

<sup>۳</sup> . H. Tavassoli, *Communitarians and the Critique of Liberalism*, Qom, Academy of Islamic Sciences and Culture, ۲۰۰۷, pp ۱۳-۲۳.

<sup>۴</sup> . Oliver Leaman, “Rights and Religion: a False Dichotomy”, *Theoretical Foundations of Human Rights*, Qom, Mofid University, ۲۰۰۵, pp ۲۸۱-۲۸۷.

Rawls argues that we have a supreme interest in shaping, pursuing, and revising our own life-plans, he neglects the fact that our selves tend to be defined or constituted by various communal attachments (e.g., ties to the family or to a religious tradition) so close to us that they can only be set aside at great cost, if at all. In an influential essay titled 'Atomism', Charles Taylor objected to the liberal view that 'men are self-sufficient outside of society'. Instead, Taylor defends the Aristotelian view that 'Man is a social animal, indeed a political animal, because he is not self-sufficient alone, and in an important sense is not self-sufficient outside a polis'<sup>1</sup>. Will Kymlicka, for example, explicitly recognizes that things have worth for us in so far as they are granted significance by our culture, in so far as they fit into a pattern of activities which is recognized by those sharing a certain form of life as a way of leading a good life.<sup>2</sup>

Whereas Rawls seemed to present his theory of justice as universally true (at least for Euro-American societies), communitarians argued that the standards of justice must be found in forms of life and traditions of particular societies and hence can vary from context to context. Alasdair MacIntyre and Charles Taylor argued that moral and political judgments will depend on the language of reasons and the interpretive framework within which agents view their world. Hence it makes no sense to begin the political enterprise by abstracting oneself from the interpretive dimensions of human beliefs, practices, and institutions. In line with the arguments of '1980s communitarians' such as Michael Walzer, it is argued that justifications for particular practices valued by Western-style liberal democrats should not be made by relying on the abstract and unhistorical universalism that often disables Western liberal democrats. Rather, they should be made from the inside, from specific examples and argumentative strategies that one uses in everyday moral and political debate.<sup>3</sup>

In short, communitarians would enrich thin liberal human rights by invoking communities of place, or communities based on geographical location, communities of memory, or groups of strangers who share a morally-significant history, and psychological communities, or communities of face-to-face personal interaction governed

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<sup>1</sup>. Charles Taylor, *Philosophy and the Human Sciences: Philosophical Papers 2*, Cambridge: Cambridge University Press, 1985, p 190.

<sup>2</sup>. W. Kymlicka, *Liberalism, Community and Culture*, Oxford: Clarendon Press, 1989, p 166.

<sup>3</sup>. Ken De Luca, "Perspectives on Political Science", *????Summer 2003*, Vol. 32 Issue 3, p 184.

by sentiments of trust, co-operation, and altruism. In next part of this article, I want to illustrate that another item would be possible: communities of religion.

### **“Religious” Human Rights**

Whether religion (Islam) has an essence in itself or is based on anti-essentialism, we can talk about the possibility of enriching thin human rights. In philosophy, essentialism is the view, that, for any specific kind of entity it is at least theoretically possible for there to be a set of characteristics all of which any entity of the specific kind cannot fail to have. This view is contrasted with non-essentialism which states that for any given kind of entity there are no specific traits which entities of that kind must have. An *essence* characterizes a substance or a form, in the sense of the Forms or Ideas in Platonic idealism. It is permanent, unalterable, and eternal; and present in every possible world. Classical humanism has an essentialist conception of the human being, which means that it believes in an eternal and unchangeable human nature. This viewpoint has been criticized by Marx, Nietzsche, and Sartre and many modern and existential thinkers. Plato is considered as an essentialist because he believed in ideal forms of which every object is just a poor copy. Since ideas are eternal in his view, they are superior to material objects. When we see objects in the material world, we understand them through their relationships between them. This belief is clearly manifested in his famous parable of the cave. Karl Popper splits the ambiguous term realism into essentialism and realism. He uses essentialism whenever he means the opposite of nominalism, and realism only as opposed to idealism. Essentialism in ethics is claiming that some things are wrong in an absolute sense, for example murder breaks a universal, objective and natural moral law and not merely an adventitious, socially or ethically constructed one. Essentialist positions on gender, race, or other group characteristics, consider these to be fixed traits, while not allowing for variations among individuals or over time. Contemporary proponents of identity politics including feminism, and anti-racist activists generally take constructionist viewpoints, agreeing with Simone de Beauvoir that "one is not born, but becomes a woman", for example. Essentialism is used by some historians in listing essential cultural characteristics of a particular nation or culture. A people can be

understood in this way. Opposed to this model of interpretation are historical studies which turn from essences to focus on the particular circumstances of time and place.<sup>1</sup>

All traditional readings of religion believe in essentialism, however, historical, phenomenological and hermeneutical readings are based on anti-essentialism. Considering religion as a historical or a phenomenological case implies rejecting any kind of essence for it; since it would be dedicated to special space and time. Whereas there is no essence for modern concepts like democracy and liberty, traditionalists regard religion with its essence. According to them, anti-essentialism leads to reducing religions to their context, and implies rejecting the teachings of a religion. Nevertheless, as we will see here, when religion in the view of essentialists can come together with human rights (to have “religious human rights”) the case would be easier if we do not consider any essence for religion; since it will, therefore, have no essence to be regarded as a barrier to being mixed with human rights. Reason and revelation are two main sources of human rights as the rights of human beings because they are humans. Since there can be at least to a certain extent ambiguity in human reason, it may seem that there is a *primitive* contradiction between human *reason* and the holy texts. In fact, it is the necessity of enriching human rights by revelation.

Participants in a cross-cultural dialogue, as Ken De Luca puts, can agree on the right not to be subject to cruel and unusual punishment while radically disagreeing upon what this means in practice — a committed Muslim can argue that theft can justifiably be punished by amputation of the right hand, whereas a Western liberal will want to label this an example of cruel and unusual punishment.<sup>2</sup>

As human rights can be enriched by culture and tradition according to communitarians, they can be reinforced by religion. To simplify, religious human rights, here, mean human rights according to the teachings of religion. Considering God as the wisest being, there can not be any kind of contradiction between *wisdom* and the sacred texts (religion

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<sup>1</sup> . Robert Audi, *The Cambridge Dictionary of Philosophy*, Cambridge, Cambridge University Press, 1990, p 281-283.

<sup>2</sup> . Ken De Luca, *Ibid*; see also: A. An-Naim, A., ‘Toward a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Treatment or Punishment’, in *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, A. An-Naim, (ed.), Philadelphia: University of Pennsylvania Press, 1992.

١). Having “religious human rights” is possible, because there is no decisive reason to prevent us from referring to the sacred texts themselves. Consider when the Prophet (p.b.u.h.) or Imam (a.s.) is alive. Referring human rights to him, whether he agrees or disagrees with them, means attributing human rights to religion. Although we are not in touch with the prophet, the holy texts (religion ١) can be interpreted as the readings of the sacred texts (religion ٢). Hence, there is no difference between religion ١ and religion ٢ here, since both of them are hojyat (reliable based on Sharia).

From a theoretical point of view, having a system of Islamic human rights would be possible in the sense that a system of human rights can be established which at least resorts to Islamic presumptions. While applying the intra-religious propositions on human rights, this system must not contradict the mandatory requirements of religion. There is no general argument preventing us from referring to intra-religious evidence. Meanwhile, the necessity of reference to religion itself would not mean that whatever question raised by the human sciences and human rights can be answered by religion. Religion aims to guide human beings, while it may incidentally address other issues as well. The scope of such an address can be identified through reference to the inside of religion.<sup>٣</sup>

### **Different Readings of Islam, “Confluence Theory”**

Speaking about “religion” and “Islam”, it is necessary to specify and delimit their meanings, since some readings might not confirm the enriching of human rights. As mentioned before, by religion (and Islam) here, it is meant the interpretation of the holy texts (religion ٢), not the sacred texts themselves (religion ١) or the behavior of believers (religion ٣). According to Bassam Tibi, cultural Islam – as a kind of Islam ٣ - vs. political Islam is just a way of life.<sup>٤</sup>

In Islam, there are at least two major readings: minimalist and maximalist. The first reading views religion as the relationship between man and God. Accordingly, fiqh (jurisprudence) dedicates attention to private sphere; since social and political holy texts

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<sup>٣</sup> . Seyed Sadegh Haghghat, "Theoretical Foundations of Human Rights: A Comparison between Textual and Meta-textual Reasoning", *Theoretical Foundations of Human Rights*, Qom, Mofid University, ٢٠٠٥, pp ٣٤١-٣٤٦.

<sup>٤</sup> . Bassam Tibi, *Islam between Culture and Politics*, London, Palgrave, ٢٠٠١, pp ١١٦-١٣١.

(the Quran and traditions) are confined in specific time and space. Whereas minimalists stress meta-textual reasoning, i.e. philosophical and theological ones, maximalists concentrate on textual reasoning, i.e. the sacred texts. On the contrary, maximalists hold that every case has a religious, fiqhi, injunction.

As Michael Perry has noted, non-religious and secular interpretations of human rights lack clarity, though this does not mean that all religious readings of human rights are crystal clear.<sup>°</sup> In his opinion, a secular reading of human rights is impossible. According to his viewpoint, the concept of human dignity is basically approved by all religions and philosophies, but it is only religion which can answer the question why we should love others and respect their rights. It is the holy Bible that defines our relations with our brothers, sisters, and neighbors in detail. Someone like Camus may claim that he loves other people without any religious sense. But the question is: on what basis? Are human morality and emotions, precise and unchangeable through time?<sup>¹</sup>

“Confluence theory” chooses a middle way between maximalism and minimalism. This theory, instead of stressing textual or meta-textual reasoning, believes in the confluence of the two types of reasoning. Accordingly, fiqh play an important role in social and political affairs, though, it does not have a commandment for every case. I have applied this theory to the distribution of power<sup>²</sup> and human rights.<sup>³</sup> In any case, human rights can be enriched by religion based on maximalism or confluence theory, however, minimalism (because of the minimal role of fiqh) might not accept the enrichment of human rights. In brief, the guidelines of confluence theory include: belief in human experience and reason more vast than that in Shiite fiqh, considering modern methodologies like hermeneutics and discourse analysis, the authenticity of political fiqh (despite minimalists), and the non-necessity of Islamizing every social issue.<sup>⁴</sup>

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<sup>°</sup> . Michael J. Perry, *The Idea of Human Rights : Four Inquiries*, Oxford University Press, ۱۹۹۸, p ۵-۷.

<sup>¹</sup> . Ibid, pp ۱۱, ۲۹, ۱۶-۱۹, ۳۶.

<sup>²</sup> . Haghghat, Tozi Qodrat, Ibid.

<sup>³</sup> . Haghghat, "Theoretical Foundations of Human Rights", ibid.

<sup>⁴</sup> . for application of “confluence theory” in Shiite political thought, see my following article and books (at: s-haghghat.ir): "Theoretical Foundations of Human Rights: A Comparison between Textual and Meta-textual Reasoning", *Theoretical Foundations of Human Rights*, Qom, Mofid University, ۲۰۰۵, *Foundations, Goals and Principles of the Foreign Policy of the Islamic State*, Qom, Boostan-e-Ketab, (forthcoming, in Persian), *Distribution of Power in Shiite Political Thought*, Tehran, Hastinema, ۲۰۰۶ (in Persian), and *Trans – national Responsibilities in the Foreign Policy of the Islamic State*, Tehran, Center for Strategic Researches, ۱۹۹۷, (in Persian).

### Thin and Thick Human Rights Bases

If one subjects the expression “human rights” to semantic analysis, Soroush holds that the result would be the discovery of rights which a human being enjoys by the mere virtue of his/her humanity and not because he has adheres to a specific religion or because he obeys the orders of God. Undoubtedly, here the conventional sense of right is meant and not its real sense (or the objective and external reality or even a conception truly corresponding to reality). Right in the conventional sense, means a permission, a transitive right (which may be invoked against others), and entitlement.<sup>10</sup> By introducing religion into the discussion on human rights, *rights* transform into *duties*, and thus the main objective of the discussion becomes irrelevant.

The language of religion is the language of duties. The term ‘right’ as it was used in the decree issued by Imam Ali to Malik Ashtar did not bear the same sense as it has today, because in that decree the main issue was the mutual obligations of the ruler and the subject towards each other.<sup>11</sup>

A kind of duality, from my point of view, is behind the above interpretation between God and human being, as well as between rights and duties. If one considers reason as the inside evidence and religion and divine revelation as the outside evidence, and if the principle of correlativity between reason and religion is accepted, the above distinction would become questionable. Whatever reason understands serves as the path to the discovery of religious obligations and the rulings of the divine legislator, because he is the supreme rational being. In accordance with the theory of rational good and evil, right and duty correspond. Motahhari as well, had discovered this correlation between rights and obligations from Imam Ali's saying<sup>12</sup> which states that there is no right for man unless there is a duty on him/her.<sup>13</sup>

Covenant, as the main base of thin human rights, has been developed by philosophers like Hobbes, Locke, Rousseau and neo-contractarianist like Rawls during time. According to most

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<sup>10</sup>. Abdulkarim Soroush, “Human Rights and Religious Duties” in: Mohammad Bastenegar (Ed.), *Hoqoq-e-Bashar As Manzar Andishmandan*, Tehran, Sherkat Sahami Enteshar, ۲۰۰۱, p ۳۳۱-۳۳۲.

<sup>11</sup>. Mohammad Mojtabeh Shabestari, *Naqdy bar qerat Resmias din*, Tehran, Tarhenow, ۲۰۰۰, p ۲۰۴.

<sup>12</sup>. Imam Ali, *Nahj Al- Balaghat*, Sermon ۲۱.

<sup>13</sup>. Mortaza Motahhari, *Bist qoftar*, Qom, Sadra, ۱۹۷۹, p ۶۲-۶۳.

of them, right is established by contract, therefore nothing else, even religion, can be the source of human rights. But according to holders of natural rights, among them are some contractionists, we are to discover human rights rooted in the nature. Motahhari puts that natural right and natural potentialities are two sides of the same coin.<sup>14</sup> So religion can be one of the discoverers of human rights.

The other alternative for thin human rights might be the Golden Rule, i.e. “fairness principle”. Human rights per se should be universal, though the Declaration of Human Rights, like religions, is monistic. Accordingly, the unique foundation for human rights, not free from space and time, is fairness.<sup>15</sup> But we should consider that there is one exception: a fundamentalist, for example, does with others what he/she expects to be done with him/her, even when it is regarded anti human/humanitarian rights. Moreover, human rights based on the Golden Rule might be too thin, since there is no way forward except though adopting what the partners have in common.

The thick human rights foundation, here, is the necessity of reference to the holy texts; since it is not impossible on one hand that this is the basis of rights, and it is a necessity for believers on the other. However, it is assumed that since religious human rights are idealistic, there is no way except to found thin human rights in the relations of Islamic countries with the secular ones.

Shabestari holds that “religious human rights” lead to war amongst followers of religions and sects, and hence human rights should be secular: “the drafters of the Universal Declaration of Human Rights sought a way to prevent violence and oppression with sanctioned application to every human being. Today, many philosophers as well as many people of the world cannot think metaphysically, be it right or wrong”.<sup>16</sup> I think this perspective is a mixing of the case itself and its pathology. If we have enough reason to refer to the holy texts, then one needs to find solutions which avoid war between religions. Given all Abrahamic religions are in one line, each of them have grades of absolute light. In my article on jihad, I have argued that no Christian, or even *secular*

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<sup>14</sup> . Mortaza Mottahari, *Nezam Hoqq Zan dar Islam*, Qom, Sadra, ۱۹۷۹, p ۱۴۸-۱۴۹.

<sup>15</sup> . M.M.Mojahedi, “Human Rights as Fairness: A Common Ground for integration of Religious Obligations and Human Rights”, to be delivered in the ۴<sup>th</sup> Conference on Human Rights, Mofid University, ۲۰۰۷.

<sup>16</sup> . Mojtabeh Shabestari, *Ibid*, p ۲۳۸-۲۴۲.

nation-state could be the target of an “offensive jihad”, the pre-emptive attack, since jihad is concerned solely to anti-religious regimes and pagans. No kind of jihad, including the offensive, contradicts the freedom of religion. The nature of offensive jihad is ‘defense’. Unconditional Quranic verses should be interpreted in the light of conditional ones. Methodologically speaking, it is not justified to judge jihad as a pre-modern phenomenon by a modern one. The Prophet’s jihad could not be labeled as “terrorist” action or as against “human rights”. No text can be interpreted without its specific context. Jihad, in all kinds, must be read in the context of its tribe-state conditions. The offensive kind of jihad – which was permitted just in the time of the holy Prophet and his successors (according to the majority of Shiite jurists) – is aimed at the anti-Muslim countries, not the secular ones.<sup>1</sup>

### **Conclusion**

In the interaction between reason/revelation, textual/meta-textual reasoning, political philosophy/political fiqh (jurisprudence), “confluence theory” tries to seek a third way between minimalism and maximalism. This theory in the issue of human rights, like communitarianism, considers different contexts; and hence criticizes liberalism’s universal human rights. Liberals believe in universal human rights, however, communitarians consider divergent human rights in different contexts. According to this criterion, confluence theory inclines to the second one. It is worth emphasizing, according to “confluence theory”, there are some general and universal human rights. Despite postmodern relativism, human beings, ignoring their different beliefs and ways of life, have some universal rights in common. In short, confluence theory and liberalism are similar in stressing universal human rights, while the similarity of this theory with communitarianism is that it considers different human contexts, and hence different human rights based on dissimilar ideological and social contexts.

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<sup>1</sup> . Seyed Sadegh Haghghat, "Jihad from Shiite Perspectives: Between Text and Context", paper presented for the conference on "Scriptural Hermeneutics", The Netherlands, ۲۰۰۶.