

Book Review

Reviewed Work(s): *Contemporary Muslims and Human Rights Discourse: A Critical Assessment* by Umar Ahmad Kasule.

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Contemporary Muslims and Human Rights Discourse: A Critical Assessment

In the contemporary world, the debate on Islam and Human Rights has always been a very heavily contended one. Numerous Muslim scholars have written on how Islam perceives human rights with various attitudes, and this book critically explains some different attitudes.¹ However, the most paramount aspect of this book is the basis from which that was done.

It is easy for most Muslims to assume that “since Islam provides rights for human beings, therefore Islam recognizes human rights”. Islam does indeed provide rights for human beings, but the aforementioned assumption is incorrect. What that assumption misses is that the term ‘human rights’ is not merely a combination of two words. Rather, ‘human rights’ is a concept brought by a

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¹ Umar Ahmad Kasule, *Contemporary Muslims and Human Rights Discourse: A Critical Assessment* (Selangor Darul Ehsan: IIUM Press, 2009).

particular civilization and contains a worldview unique to that civilization.

Great contemporary Muslim thinkers especially Syed Muhammad Naquib Al-Attas has comprehensively written on how the difference of worldview between Islam and Western Secularism is an entire universe of differences. It includes differences on how we perceive life, death, even existence and reality itself.² In other words, there is a huge difference in epistemology between the two which would create tremendous differences in every other derivative issues i.e. every single aspect of life.³ How can one truly perceive human rights through an Islamic lense if they are not aware that ‘human rights’ is born out of a worldview with a completely different concept of ‘humankind’ with Islam?

Having that said, it is very difficult to truly understand how Islam perceives ‘human rights’ without first understanding what the concept truly means deep unto its epistemological roots. Using Al-Attas’s thoughts, Umar Ahmad Kasule goes deep to explain this. Not only to identify not just how ‘human rights’ is a product of the Western civilization, but also to explain to a great depth on the implication of such identification.

Some works are trying to explain exactly this,⁴ but neither seem to have managed to be as extensive and as deep as Kasule’s book. He

² See: Syed Muhammad Naquib Al-Attas, *Prolegomena to the Metaphysics of Islam: An Exposition of the Fundamental Elements of the Worldview of Islam* (Kuala Lumpur: Institute for the Study of Islamic Thought and Civilizations, 1995).

³ See: Adian Husaini and Dinar Dewi Kania, eds., *Filsafat Ilmu: Perspektif Barat Dan Islam* (Jakarta: Gema Insani Press, 2013).

⁴ See *inter alia*: Zara Khan, “Refractions Through the Secular: Islam, Human Rights, and Universality” (The City University of New York, 2016); Sigit Riyanto and Fajri Matahati Muhammadin, “The Urgency to Incorporate the Islamic Concept of Rights into the International Human Rights Law Course in Indonesian Law Schools,” *Al-Ihkam: Jurnal Hukum Dan Pranata Sosial* 14, no. 1 (2019): 176–98. See also: “Fatwa Majelis Ulama Indonesia No. 6/MUNAS VI/MUI/2000 Tentang Hak Asasi Manusia” (Jakarta, 2000),

points out seven key fundamental issues from which to consider how similar or different are human rights and Islam.

The first issue is the source of authority, where human rights originate from the human's moral nature and philosophical anthropology, hence the term 'human' rights.⁵ Any 'external' influence, especially 'naturalistic' or 'religious' influence, is rejected as this train of thought is owed to 'humanism'.⁶ Therefore, Western jurists have noted that it is strange to claim that any religious sources would provide 'human rights' and is fundamentally 'banishing God from His creation'.⁷ This is fundamentally against Islam, which Kasule explained rightly that taking other than Allah as source of authority is falling into *taghut* and *istaghna*.⁸ After all, Islam's foundational meaning and teaching is to submit to Allah rather than to human's own desires.⁹

The second issue is the moral currency of human rights. The word 'right' could mean either moral righteousness or entitlement to a claim, and Kasule notes that Western jurists explain that 'rights in the human rights concept refers to the latter despite of the former'.¹⁰ He then uses Al-Attas's thought to explain that, in Islam, the two above meanings cannot be separated. He further explains how, in Islam, humans are bound to only do good and that freedom is only in doing *ikhtiyar* (effort) which shares root words with and

<https://mui.or.id/wp-content/uploads/2017/02/26.-Hak-hak-Asasi-Manusia-HAM.pdf>.

⁵ Kasule, *Contemporary Muslims and Human Rights Discourse: A Critical Assessment*, 89–92.

⁶ Kasule, 89.

⁷ Kasule, 92.

⁸ Kasule, 92–94.

⁹ Muhammad bin 'Abd Allah Al-Suhaym, *Al-Islam Usuluhi Mabaadi'uhu* (KSA: Wizarah Al-Shu'un Al-Islamiyah wa al-Awqaf wa al-Da'wah wa al-Irshaad, 1421), 105.

¹⁰ Kasule, *Contemporary Muslims and Human Rights Discourse: A Critical Assessment*, 95–97.

therefore is bound by meaning with *khayr* (good).¹¹ Therefore, human rights cannot be Islamic as the former legitimizes many things considered immoral and wrong by the latter, such as homosexuality.¹²

The third issue is the ultimate end of human rights which is to create a new modern human free from external (including religious) influence, as a standard for what is worthy of a ‘modern man’ governed by secularism, liberalism, and democracy.¹³ Kasule noted how some scholars argue that such standard is truly an imposition of Western ideals.¹⁴ Kasule explains that Islam and the West has a very different concept and vision of human nature even from the most fundamental level.¹⁵ He then argues that constructing a secular, man-made and human-centric notion is against the Islamic vision to create *al-insan al-kamil* (the perfect human) based on Prophet Muhammad PBUH and his teachings and instead creates a *dajjal*.¹⁶

The fourth issue is the purpose of human rights, which is to protect individuals against the state or other authorities. According to Kasule, human rights rises from a ‘paranoid’ society untrusting their own laws and authorities as tyrants needing restraining.¹⁷ Religious authorities are included, due to the historical trauma of

¹¹ Kasule, 97–101.

¹² Kasule, 99.

¹³ Kasule, 101–5.

¹⁴ Kasule, 102. See also: Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (New York: Cambridge University Press, 2004); Fajri Matahati Muhammadin, “Universalitas Hak Asasi Manusia Dalam Hukum Internasional: Sebuah Pendekatan Post-Kolonial,” in *Hak Asasi Manusia: Dialektika Universalisme vs Relativisme Di Indonesia*, ed. Al-Khanif, Herlambang P. Wiratraman, and Manunggal Kusuma Wardaya (Yogyakarta: LKiS, 2017), 1–20.

¹⁵ This comparison was made in a chapter dedicated specifically for this matter. Kasule, *Contemporary Muslims and Human Rights Discourse: A Critical Assessment*, chap. 2.

¹⁶ Kasule, 105–6.

¹⁷ Kasule, 117.

the West with the church, and Kasule noted that the Western thought would assume all religions are as oppressive as the church once was.¹⁸ He then explains that, on the contrary, Islam puts ultimate authority in Allah Who is merciful. Kasule explains how rulers in Islam are not absolute sovereigns, rather they are mere custodians of Allah's and limited by the Shari'ah.¹⁹

The fifth issue is who owns human rights, which Kasule explains to be the individual, as human rights promotes individualism.²⁰ Human rights seems to isolate and abstract the individual from the community and even family ties, as a human being practically belongs to her/himself.²¹ This, according to Kasule, contradicts the Islam which teaches that a human belongs to Allah created to be not only responsible²² to himself in answering to Allah but also to the '*ummah* as a community. The Shari'ah has its own rules to balance the interest of the individual and community.²³

The sixth issue is the human rights methodology, which Kasule noted to be heavily rights based has no equivalent duties.²⁴ He then argues that this breaches two principles of Islam: (i) '*ubudiyyah* (servitude), where humans are required to serve and worship Allah, and (ii) teachings related to *mu'amalat* (relations), where there are both rights and duties of humans are derived primarily

¹⁸ Kasule, 115–19.

¹⁹ Not to say that Muslim rulers cannot overstep their authority, but the Shari'ah provides recourse for this problem. See: Kasule, 119–21.

²⁰ Kasule, 121–26.

²¹ Kasule, 121–26.

²² Note how Islam uses 'responsibility' to describe the relation between her/him and her/himself, unlike human rights which uses 'ownership'.

²³ Kasule, *Contemporary Muslims and Human Rights Discourse: A Critical Assessment*, 126–29.

²⁴ Kasule, 129–30. Note that human rights seem to provide one obligation i.e. to respect the rights of others. Not only that this is very abstract, but also is nothing but a display of how rights are truly the highest rule and obligations are just to facilitate them.

from the conception of the nature of relationship between humans and their life's purpose.²⁵

The seventh and last issue is the state of human rights which will keep on changing over time, together with the shifting paradigm of human beings who keep changing depending on their experience and surrounding.²⁶ In Islam, it is true that Islamic scholars are required to perform *ijtihad* to apply the Shari'ah in different times and places. However, contrary to human rights, Kasule noted that the validity of *ijtihad* is bound by conformity with the Qur'an and Sunnah which never changes.²⁷ He adds that the activists' call to revise the Shari'ah are incorrect and influenced by human rights activists.²⁸

After setting up a basis as to how the human rights concept is fundamentally different from Islam, Kasule in his final chapters analysed various Muslim views, both collective and individual scholars, in their view on human rights.²⁹ He especially observes the Muslim scholars who are proponents of the "Islam recognizes human rights" slogan, although they would have different approaches. Some of these scholars try to say that Islam has its own "Islamic human rights" which differs from the West, while others try to prove that human rights is a value shared universally including by Muslims.

²⁵ Kasule, 130–35. Compare with other authors who argue that Islam is duty-based, as alternative explanation of the matter: Shamrahayu binti Abdul Aziz, "Islamic Concept of Human Rights," in *Human Rights Law: International, Malaysian and Islamic Perspectives*, ed. Abdul Ghafur Hamid @ Khin Maung Sein (Selangor: Thomson Reuters Malaysia Sdn Bhd, 2012), 329; Riyanto and Muhammadin, "The Urgency to Incorporate the Islamic Concept of Rights into the International Human Rights Law Course in Indonesian Law Schools."

²⁶ Kasule, *Contemporary Muslims and Human Rights Discourse: A Critical Assessment*, 135–39.

²⁷ Kasule, 139–41.

²⁸ Kasule, 140.

²⁹ Kasule, chaps. 5–6.

Kasule observes that these opinions are not accurate enough to explain the true issue of Islam and its relations to human rights.³⁰ Especially analysing the scholars who are proponents of the “Islamic human rights”, he regrets how all of these positions do not analyse the fundamental philosophical construction of human rights and see how it does not sit well with Islamic teachings down to its worldview.

There are other problems in the works of the scholars that Kasule observed. Some scholars fall under the trap of perceiving the human rights issue from a Western construct, such as the Cairo Declaration of Human Rights in Islam which turns out to be largely (except for some parts) an imitation of the Universal Declaration of Human Rights (UDHR).³¹ Some others ended up being too apologetic and avoided key issues at the centre of the human rights versus Islam debate. An example to this is how Abu ‘Ala Maududi claimed that ‘equality before the law’ (in the human rights concept) is recognized in Islam but avoided the issue of difference of treatment between the sexes or towards non-Muslims in an Islamic state.³²

Other mistakes involve using strange and incorrect interpretations of Islam. An example to this is Muhammad Zafrullah Khan who said that the cutting hand penalty for thieves (which is prescribed in the Qur’an) is not to be taken literally but metaphorically, i.e. “circumscribing their capacity or activity or prohibiting their free movement”.³³ This interpretation is clearly incorrect based on the precedence set by Prophet Muhammad PBUH himself.³⁴

In the end, as would be obvious from the explanation, the position which Kasule takes is that Islam does not recognize human rights

³⁰ However, Kasule emphasizes that these critics are not meant to question or deny the noble intentions of those involved. See: Kasule, 187.

³¹ Kasule, 178.

³² Kasule, 209.

³³ Kasule, 190.

³⁴ Kasule, 190–91.

altogether. One may ask, then, whether Islam instead advocates tyranny, as is the assumption of many anti-Islam critics.

As explained at the beginning, it is correct that Islam does provide rights to persons. However, it does not work in a framework alike that of human rights. Rather, Islam provides two things: first, justice, which means to place rights and obligations (and, really, everything) in their proper places where they are due, and second, to preserve human dignity based on their natural state (i.e. *fitrah*) with *al-Insan al-Kamil* as model and goal. This, however, is a separate discussion probably worthy of another book review.³⁵

In this time and age, it is difficult to write against human rights as such a view is non-mainstream scholarship. As Prabhakar Singh and Benoit Mayer commented, critical scholarship against the mainstream is “... *by nature a ‘dissenting opinion’..... too often misunderstood –if not intentionally caricatured as— ‘confrontational’, ‘radical’, or even ‘leftist’*”.³⁶ That, coupled with ‘Islam’, is practically an invitation to be called a radical uneducated extremist. However, ‘mainstream’ and ‘non-mainstream’ scholarship is not necessarily always determined by merit but occasionally—including especially human rights—determined by politics.³⁷

Having that said, Kasule’s work is scholarship at its finest. It challenges mainstream scholarship from its roots, and makes readers criticize what they thought they have already known and

³⁵ Also by the same author: Umar Ahmad Kasule, *Pursuit of Human Dignity and Justice : Islamic Alternative Values to Human Rights* (Kuala Lumpur: A.S. Noordeen, 2008).

³⁶ Prabhakar Singh and Benoit Mayer, “Introduction: Thinking International Law Critically - One Attitude, Three Perspectives,” in *Critical International Law: Post-Realism, Post Colonialism, and Transnationalism*, ed. Prabhakar Singh and Benoit Mayer (Oxford–New Dheli: Oxford University Press, 2014), 4.

³⁷ See: Anghie, *Imperialism, Sovereignty, and the Making of International Law*; Muhammadin, “Universalitas Hak Asasi Manusia Dalam Hukum Internasional: Sebuah Pendekatan Post-Kolonial.”

understood regarding human rights. His work should be read generally by scholars, activists, policy makers, for those who are working and/or researching in the field of human rights, most especially in the Muslim ‘*Ummah*.