

THE EMERGENCE OF THE FIRST THOUGHTS ON HUMAN RIGHTS IN TRANSOXIANA

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Abstract:

This article deals with human rights and their institutional spheres in Islamic law. It is impossible to imagine the practical protection of human rights without international institutions and basic international documents. The legal status of international institutes on human rights and the content of the main international documents will determine the requirements and mechanisms for the protection of human rights. Human rights occupy an important place in Islamic teachings. We can see that great thinker such as Majduddin Muhammad Usturshani, who lived in Transoxiana (Mowaraunnahr) in the Middle Ages, were the authors of the first fundamental work on "Child's Rights" three centuries before Western scholars. Majduddin Mohammad further increases the scientific value of Usturshani's work, turning it into a unique source in the history of the formation of the scientific direction of juvenile law, that is, children's rights, which is one of the important segments of human rights.

Keywords: Majduddin Muhammad Usturshani, Human rights, President, UN, Hugo Grotius, Thomas Hobbes, Islamic law, international law, normative legal system.

INTRODUCTION

Ensuring and protecting human rights has been one of the most basic and main issues in all stages of the development of human society. In a democratic legal state, the mechanism for the protection of human rights must be perfectly created. Human rights are of great importance in the socio-economic, political and spiritual life of every country, and it is the main criterion that shows the level of democratic development of this society, and the "indicator" that determines the humanity of the state. The fact that a human right is affected by national jurisdiction means that legal relations have been established in relation to it. Most of the relations that have arisen and may arise related to human rights are regulated by the legal network of human rights. We can see that the concept of human rights



has found its place in all legal systems. It can be in Islamic law, Anglo-Saxon (common law), Romano-Germanic (regional law) systems. Human rights are a comprehensive concept that encompasses the aspirations of all mankind. In this sense, systematic measures have been taken today to further strengthen and develop the national mechanism for the observance and protection of human rights in the new Uzbekistan. Today, Uzbekistan has joined the UN Convention against Forced Labor, more than 80 main international documents on human rights to which our country is a party, the provisions of 10 main international treaties of the UN in this field, the new version of the Constitution of the Republic of Uzbekistan and national legislation, which ensure effective protection of human rights and freedoms. found its expression in the norms. Today, at the stage of new reforms of our national development, education and training of a person is considered as the main guarantee of all our reforms. In particular, Uzbekistan actively participates in the UN's global program in the field of the human right to education. As the President of the Republic of Uzbekistan Sh.M. Mirziyoyev rightly stated, "...in order to further increase the effectiveness of human rights protection, we must have a national strategy, within the framework of the national strategy, create a continuous system of human rights training, general education schools, higher education institutions, personnel It's time to introduce special training courses called "Human Rights", "Child Rights", "Women's Rights" in retraining centers" (Mirziyoyev Sh., 2019.).

If we look at history, women's rights have been manifested in different countries, different regions at different times and in different forms, and have developed as an integral part of human rights. That is why "while studying women's rights, it is wrong to separate it from the universal concept of human rights" (Matkarimova G.S., 1998:14). The more the ideas of human rights advance, the more urgent women's rights become. The emergence and development of human rights in general, including the attitude towards women's rights, is the most important sign between a person and the state, from which it is possible to determine the level of development, the moral state of society, and whether the state is legal or not. Analyzing the literature, the concepts of "women's rights" or "women's rights" are explained and described very little. According to scientists, women's rights are human rights in general, and at the same time, women's special position in society and family, as well as a set of specific rights and freedoms related only to women



(Kurakov L. P., 2004:341). In this definition, the authors, while evaluating women's rights as human rights, did not ignore its other characteristics. Based on the above considerations, M. Inagamova stated in her research: Women's rights are an integral part of human rights, formed on the basis of international and national legal norms, taking into account the specific characteristics of women (reproductive, physiological, etc.) is a systematized set of rules guaranteed by the states and recognized by the international community, defines women's rights. This definition is based on the following: first, any legal norm is developed, defined and protected by the state; secondly, women's rights cover all elements of human rights, so some authors considered women's rights as human rights and did not consider it necessary to define them separately (Yusupova N.J., 2022:30). In our opinion, in the approach to women's rights, based on the above principles, women's rights should be protected as an integral part of human rights formed on the basis of international and national legal norms, systematized taking into account the specific characteristics of women, guaranteed by states and recognized by the international community. is appropriate. Human rights, including equal rights, are important issues in Islam. Equality can be between nations, age, nationality, race, social origin, gender, etc. The principle of equality is that all state bodies, public organizations, citizens and officials, regardless of their identity, must obey the law and be equal before the law. This principle, which is a symbol of justice, matures as a result of legal education (Yusupova N.J., 2022:36). It is known that Islamic teaching is based on Sharia norms. Professor A. Sh. According to Jozhoni's researches, the Islamic Shari'a has its own distinct aspects from secular legislation, such as the fact that the main part of Sharia law is divine, it has very few changes, and it includes the rules of custom (Jo'zhoni A. Sh. , 2002:256).

Another institutional area of human rights is "Child's rights". We can see that the separation of this field also required some time. About 35 percent of the population of our country, i.e. 11 mln. Most of them are children under 18 years old. This indicator is very important, and the issue of raising children as a factor determining the future of every nation is of decisive importance for the future of our country. In one of his speeches, President Shavkat Mirziyoyev expressed the following opinion about children:



“The main goal of the reforms we are implementing is to create all the conditions for a happy future for children.”

In fact, in the conditions of today's globalization, raising patriotic children with high spirituality, independent thinking, a broad worldview and deep knowledge, forming immunity against various ideological threats in our country, creating all social, economic and legal conditions for them is a state responsibility. became one of the main issues raised to the level of politics.

If we look at the development stages of human society, children's rights are one of the oldest problems in the history of human society. The rights of children differ from the rights of other categories of people, and their rights, freedoms and obligations are regulated in a special order, on the basis of certain privileges and with their own characteristics. The right of the child means a set of legal norms that regulate the interests, freedoms and obligations of children (Rustambayev M.Kh., 2022:139). As a result of the emergence of Christianity in Ancient Russia in the 9th-17th centuries, a new attitude of “be like children” began to be established by the priest promoting the ideas of compassion towards children. From the time of All Russian Emperor Alexei Romanov (1645-1676) to the end of the 19th century, special attention was paid to the issue of legal regulation of children’s rights. In particular, according to the rules established in the “Regulations” (Ulozheniya) adopted in 1649, the birth of a child and the treatment of a child born out of wedlock are defined, which can be said to be the first legal document in the history of Russia (Rustambayev M.Kh., 2022 :143). In particular, Dutchman Hugo Grotius (1583-1645), who is considered the founder of the science of international law, is considered one of the founders of the theory of human rights in the modern sense. The theory of a just war related to human rights was also published in 1625 by this jurist who lived during the Eighty Years (1568–1648) and Thirty Years (1618–1648) wars in Europe. formed. Because, at the basis of the theory of international law described in the works of G. Grotsius lies the noble idea of the natural rights of man. He stated that "natural rights are the priority and requirement of common sense: accordingly, this or that behavior is a moral disgrace or a moral necessity based on its logic or illogicality" (Hugo Grotius., 2005:150-151). In fact, such a universal document that embodies the natural rights of a person has never appeared. This process includes several stages. In particular, the English philosopher Thomas Hobbes (1588-1679) developed the



ideas of Grotius and formulated the theory of social agreement. According to him, the state of enmity of all against all among people occurs due to the lack of mutual obligations between them. Therefore, in order to ensure their security and peace, people give up some of their individual rights and hand them over to the state. In this case, people seem to have concluded an agreement with the state to ensure their own protection and control the safety of society (Atayev M., 2021:15).

Majduddin Muhammad ibn Mahmud ibn Husayn Usturshani, a talented student of the author of the famous *Hidaya*, Burkhaniddin Marginani, is one of such works. The work “Jome’ ahkom al-sigur” has been recognized as one of the largest jurisprudential works written on the rights of young children based on the Hanafi school. This work is a compilation of Shariah fatwas and rulings related to young children, which are scattered in about a hundred sources of fiqh (Islamic law). Majduddin Usturshani studied the jurisprudential fatwas of all the jurists belonging to the Hanafi school, who lived and created up to his time, collected the issues related to minors and put them into a separate book.

The main idea that we should pay attention to is that the first fundamental and perfect work based on the rights of the child was written not in the Western world, but in our country, in the oasis of Jizzakh in present-day Uzbekistan. After all, this work was written approximately four hundred years before the formation of theoretical concepts on the issue of human rights in the Western world, and six hundred years before the first norms regarding children's rights appeared. In other words, long before the idea of the natural rights of man raised in antiquity was re-applied in the West, the East formed perfect mechanisms for its realization. After all, the institution of fatwa has been performing the task of coordinating the organization of the life of the Muslim community based on Sharia for centuries, and fatwas have been used as legal and normative criteria for the solution of big and small problems of social and individual importance.

It should also be noted that in the Middle Ages and later historical periods, it is not known that a separate work was written on the rights of the poor. This further increases the scientific value of Majduddin Muhammad Usturshani’s work, making it a unique source in the history of the formation of the scientific direction of juvenile law, that is, children’s rights, which is one of the important segments of human rights. There should be children with good manners and exemplary



behavior in the school. Because a young child learns everything by imitating them and becomes friends with them.”

CONCLUSION

In the hadiths collected by Imam Bukhari, Imam Dorimi, Imam Nasafi, Imam Tirmidhi and many other muhaddith scholars, important information is given about issues related to human rights and the need to protect them. It is not for nothing that the issue of human rights is presented in hadiths. Because in the religion of Islam, the honor and dignity of a person is raised to a high level, and any attempt to insult it is condemned. The main feature of the Constitution of the Republic of Uzbekistan is the regulation of relations between "person - society - state". So, first of all, the interests and needs of a person (citizen) are given priority. The third place of the state is the basis for determining its constitutional and legal status. This means that the state serves citizens and society with its activities. Thus, in the Constitution of the Republic of Uzbekistan, the obligation of the state to recognize and protect human rights and freedoms related to human rights, human (civil) rights and freedoms must be in accordance with international legal standards, and in this field international law prevails over national legislation. , such as the fact that human rights naturally belong to humans, that all citizens have the same rights and freedoms, that they are equal and equally applicable to everyone, that the system of human (civil) rights is a criterion for defining and limiting the powers of state bodies, and that they must not harm the rights and freedoms of citizens the main principles of law are expressed.

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