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ISLAM AND CRITICISM OF THE CONCEPT OF THE “HUMAN RIGHTS”: AN
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PLAGIARISATION

I declare that all knowledge in this thesis is presented by myself after acquired in frame of academical rules and ethical manner. Also I declare that I have properly citated and referred to the all kinds of sources and results which are not original, in the way which these rules and ethics required. In the contrary case I will accept all legal liabilities.

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ABSTRACT

ISLAM AND CRITICISM OF THE CONCEPT OF THE “HUMAN RIGHTS”: AN ARGUMENT SPECIFIC TO MAZLUMDER

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The concept of “Human Rights” has been discussed in context of several worldviews since it had come to light, within the question what it corresponded with. Although being emerged in Western World and supposed to be a magical formula which can secure the basic rights and liberties of human being, it is such a concept against which many ideologies, classes, worldviews and religions always have been arguing and all these discussions are still being made.

In this thesis, the concepts of “human being”, “right”, “human rights” were embraced in context of theory and philosophy and within this scope, the historical adventure of human rights was exposed in outline.

In the sequel, the substantial (essential) and relational meanings of the concepts of “human”, “right” and “justice” were analyzed in context of main sources of Islam as a religion by a theoretical and philosophical way. Within this scope and in especially this theoretical context, the concept of “human rights” emerged from Western world is criticized from the point of view of Islam religion.

As to the third section of this thesis, all of these matters have been investigated in context of MAZLUMDER, the first organization of human rights of the Muslim people in Turkey.

Keywords: The concept of “human rights”, Criticism of the Concept of the Human Rights, Islam and human rights, MAZLUMDER

ÖZET

İNSAN HAKLARI KAVRAMININ ELEŞTİRİSİ VE İSLAM: MAZLUMDER ÖZELİNDE
BİR TARTIŞMA
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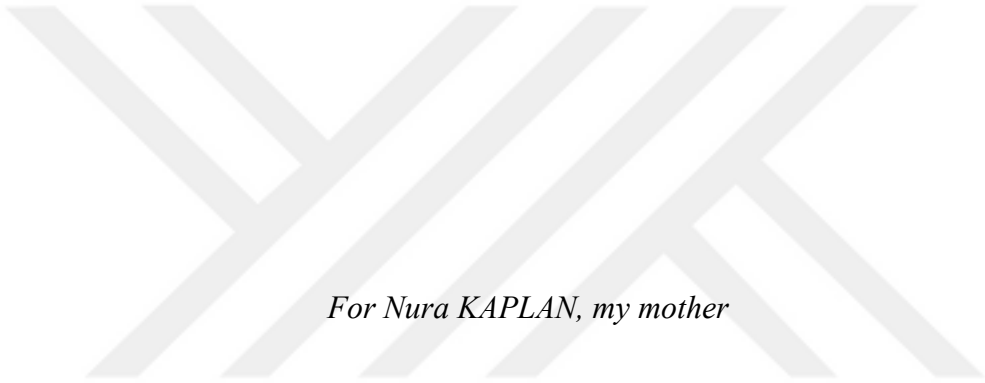
İnsan hakları kavramı, ortaya çıktığı günden beri kavramın neye tekabül ettiği konusunda birbirinden farklı dünya görüşü çerçevesinde tartışılmaktadır. İnsan hakları kavramı Batı'da ortaya çıkmış ve adeta insanın temel hak ve hürriyetlerini teminat altına alan sihirli bir formül olarak ele alınmasına rağmen, birçok ideoloji, sınıf, dünya görüşü ve dinler tarafından itiraz edilen bir kavram olup, bugün kavram üzerinde tartışmalar devam etmektedir.

Tez'de ilkin Batı düşüncesinin insan, hak, insan hakları kavramı teorik ve felsefi bağlamda incelenmiş ve insan haklarının tarihsel serüveni verilmiştir.

Ardından bir din olarak İslam'ın ana kaynakları bağlamında insan, hak, adalet kavramlarının sabit (öz) ve ilişkisel anlamları semantik bir çerçevede teorik ve felsefi bir bağlamda incelenmiş ve özellikle bu teorik perspektif ışığında Batı modernite kaynaklı insan hakları kavramı İslam dini bağlamında eleştiriye tabi tutulmuştur.

Tezin üçüncü bölümünde ise, tüm bu hususlar Türkiye'de Müslümanların ilk insan hakları örgütü olarak ortaya çıkan MAZLUMDER ekseninde tartışılmıştır.

Anahtar Kelimeler : İnsan hakları kavramı, İnsan Hakları Kavramının Eleştirisi, İslam ve İnsan hakları, MAZLUMDER



For Nura KAPLAN, my mother

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ABBREVIATIONS

USA	United States of America
UN	United Nations
HRA	Human Rights Association
MAZLUMDER	Association of Human Rights and Solidarity for Oppressed People



INTRODUCTION

A human being represents a unique species that unlike others is capable of purposeful thinking, decision making, and reasoning. These aspects constitute part of the ontological existence of humans, and with them, they have overtime sought to develop ethical values that now serve as the basis of the concept of “human rights”.

The thought of human rights emerged in the modern era by those seeking of getting rid of political pressures as will be discussed in the case study of Turkey with the Country’s various conceptualizations and justifications of various worldviews within the international political, social and cultural debates.

The primary source of contemporary Western “human rights” concepts include reason, moral nature and dignity of human being. These concepts are in turn presented as universal, failing to take into consideration the perspectives of other religions, races, languages and other affiliations. Additionally, it is accepted and assumed that all persons have these rights from birth and that human rights are essential and inalienable.

Today, there are many criticisms of the conceptualization of modern liberal human rights, notably its indistinctness and Western bias. Consequently, the concept remains elusive and undecided. The main goal of this thesis is to criticize and critically analyze the “human rights” concept built via Western values from the point of the view of the Islamic religion. The thesis proceeds by presenting an alternative perspective of human rights provided by the founders of MAZLUMDER, the first human rights association of Muslim people in Turkey.

Until now, there remains limited research and analysis on how the Islamic world views the modern liberal human rights concept. More specifically, there remains no investigation or

discussion about the human rights discourse of the MAZLUMDER, all of which this thesis intends to address by conducting a number of in-depth interviews with the Organizations founders.

Statement of the Problem

From the beginning of its emergence, the modern liberal concept of “human rights” has been discussed in context of several worldviews surrounding the question of what it corresponds with. It remains a central concept debated today amongst the many ideologies, classes, worldviews.

Objection to the secular human rights concept is righteously done most particularly by the Muslim thinkers. Besides to the some of Muslim thinkers who evaluate this concept within the scope of accordance with Islam religion, the Muslim thinkers who utter that this concept does not come to an agreement with the nature of Islam are predominating.

Objections to the secular human rights concept is particularly apparent amongst Muslim thinkers who have sought to evaluate this concept within the scope and accordance of the Islamic religion. Muslim thinkers have highlighted and argued that the concept does not agree with the nature of Islam. The present conflict has arisen around some demands of LGBT, abortion etc., and will ever go on by several new demands. Therefore, the human rights view of Islam comes into prominence by its many differences with that of modern liberalism. So it is appropriate to investigate the authenticity of allegations about MAZLUMDER nowadays, which proclaims itself as a human rights association of Muslim people, has fallen apart from the human rights of modern saying, secularised or become a Kurdist organisation.

Contrary to a secular/materialist human rights view, Islam argues against the separation of human rights from religion. Unlike modern liberal conceptualizations of human rights, Islam embraces both the moral and material (bodily and spiritual) aspects of human beings and makes the meaning of humans in a metaphysical way. Moreover, contrary to liberalisms “equalitarian” human rights concept, Islam is justice-oriented.

The main objective of this investigation is to identify the shortcomings of liberal human rights conceptualizations by introducing an Islamic perspective of Islamic human rights, not necessarily to replace but rather to enrich contemporary understandings.

Purpose of the Thesis

The purpose of this thesis is to critically analyze modern liberal human rights concepts from the perspective of Islam and to reveal the human rights understanding of MAZLUMDER, a CSO operating in the area of human rights, by talking face to face with former or present personnel and volunteers of the organisation.

This thesis highlights Islamic human rights biggest objection, firstly that the concept of human rights is based primarily on secular grounds. Secondly, the concept is thought to have been created by a specific (Europe-centred) community that ignores the culture and religious beliefs of other societies.

Within this thesis, we have tried to analyze the perspective of human rights of MAZLUMDER a Muslim human rights organizations, by in-depth interviews with its the members. We thought that use of this method would be more beneficial since there limited literature and/or research about MAZLUMDER.

Research Design

In chapter one of this thesis, we investigate modern liberal conceptualizations of human rights in critical literature in order to provide a theoretical and philosophical background of the historical development of this concept.

After providing a brief historical background of the emergence of human rights, the second chapter examines an Islamic perspective of human rights bundled with elements and has been investigated in detail.

Following this overview, the third chapter analyzes how MAZLUMDER understands human rights. This thesis succeeds with this endeavor by employing a qualitative data collection

method to conduct, and analyze in-depth interviews to determine how MAZLUMDER conceptualizes human rights.

Within these interviews, the main questions focused on how organization members view human rights, the identity of MAZLUMDER, its institutional goals, its philosophy, its position, its sources of reference, its view about LGBT which has in more recent years become a hot topic, and claims that MAZLUMDER is a “Kurdish” and “secular” organisation,.

The interviews were recorded by courtesy of all persons; nearly 15 cross-questions were asked and the questions were put down on paper one by one.

The main reason of choosing this method is that responses to questions are usually personal and it is much easier to reach to those persons. Besides these, it is some belief that most reliable information can be obtained from claimants and those who were accused by the claims in question.

Assumptions, Limitations and Scope

As it has widely been observed, human rights is a very comprehensive and complicated issue. Nevertheless, this thesis attempts to contribute to the understanding and analysis of human rights by first giving a brief historical background on the development of human rights starting with Stoicism, and then provides a comparative analysis of modern liberalism, Islam, and MAZLUMDER concerning how they each conceptualize human rights either by primary or secondary resources.

This thesis is founded on the belief that “*opinions are not wrong, but only different.*” For this reason we have started our investigation by examining various approaches and issues instead of starting by any hypothesis. While we were assigning each of 20 members of MAZLUMDER for our interviews, we have taken care of balancing between both the claimant and accused sides.

The scope of this investigation is restricted by only the association of MAZLUMDER. The remainder human rights associations were not studied in this scope.

The particular restrictions of this investigation have been time and limited financial resources. The process of getting appointments with members for example proved challenging, sometimes taking much longer than expected. In addition, a number of key members of MAZLUMDER lived in other cities, so we had to restrict some of our interviews to fit within our financial budget.

The grounding of human rights in this investigation depends on the doctrine of Hüseyin Hatemi as described in his book of “Human Rights Doctrine”. According to Hatemi, the source of human rights is divine reason, i.e. theosophy. This cult, which investigates the spiritual perfection rules, depends on the belief that whole nature was created by Allah. The nature created by Allah is a second book besides Koran, and Allah announces himself here as well. “Theory of human rights is inscribed both in nature book and Koran.” (Hatemi, 1988: 76) Within this scope, the real source of human rights doctrine is the book sent by Allah who created man, and the reason is, in a word, Islam (Hatemi, 1988:299). Hatemi emphasizes that “it is impossible to have a consistent and firm human rights perspective independently of faith of Allah” (Hatemi, 1988:79) and that it is possible for only those who could comprehend that nature was created by Allah, to benefit from this perspective.

Summary

The first section analyzes key founders of modern Western human rights in terms of the idea of natural law, and the concept of human nature (i.e. Plato, Aristotle, St. Thomas, Hobbes, J. Locke, Kant etc.). The concept of human nature has aroused attention of philosophers in all eras and has been interpreted in various perspectives. As also emphasized in this thesis, there is no consensus among thinkers on the definition of human nature.

Human rights perspectives based on ideologies or religions are directly influenced by the way they define and understand human beings. Modern Western conceptualizations of the concept of human have largely been shaped by the Enlightenment thought which was led by Kant.

Another concept which shapes the concept of human rights is the “right”. This thesis provides a detailed analysis on how “rights” are conceptualised according to Western thought.

Another underlying concept of modern human rights analyzed is the dignity of a human. The main goal of this endeavor is to provide a detailed analysis of human dignity within its historical development from Ancient Greece to the modern perspectives. Besides these, the human rights concept perspective of natural law and Enlightenment thought which underpin secular human rights concept of today will be presented.

Following this brief historical analysis of human rights under the classical and modern era, this study then turns to look at the Islamic perspective. It does so by analyzing a series of secondary sources including experiential accumulation, documentations and bills of humanity such as Code of Hammurabi which is the first written agreement before the birth of Christ and Cyrus Cylinder (which is by many thinkers assumed to be the first bill of rights ever).

From this comparative analysis, it is then possible to classify human rights according to: First Generation Human Rights, Second Generation Human Rights and Third Generation Human Rights.

In the second section, the concept of human rights is critically analysed from an Islamic perspective. Within this scope, we examine the concepts of “human”, “right” and “justice” based on the main sources of Islam.

This thesis argues that studies on human rights need to begin first with the creation of humans to determine and understand their distinctiveness from other species and purpose of being in the world. For human rights depends on some philosophy about the “mission” of human being. Therefore, we have to deal with the human being and their ontological nature in order to comprehend human rights properly.

One of the elements that constitute human rights is the concept of “Hakk”. The view of human rights is shaped in the way of that how the “hakk” is described and where its source

is stated. In this scope, we have embraced the concept of “hakk” in this context of the main sources of Islam, particularly the Koran.

Another and one of the most important concepts which constitute the human rights perspective of Islam is “justice”. The justice, in its most general definition, is to state everything to its own and most suitable place and to deliver everybody what he or she deserves.

Since the ground of “hakk” in Islam is justice, we have examined the justice concept detailedly in context of main sources of Islam. In Islam, not only for human rights, but for everything, the main acting principle is justice. Because the religion of Islam is based on justice and prophet Mohammad was a prophet of justice. According to Islam, the faithful people on this world have a mission of securing justice.

In the second section of thesis, we have presented the human rights view of Islam and critically compared it with the Western human rights concept.

The concept of human rights is criticized through the rights of some individuals whose ontological background is empty; by the point of that it is secular in context of Islam religion, it does not depend on a universal source (God), it is disconnected with the nature of human being, and that it claims to be a universal concept.

In this context, because of the similarity of criticisms about the “empty individual” which underlies the concept, we have given place to some communitarians of Western world who stand against the human rights concept of liberal and natural legist parties.

Finally in section three, we attempt to reveal the authenticity of claims that MAZLUMDER, the first human rights association of Turkey Muslims, who have been accused of departing from its main institutional goals and become secularized and/or Kurdish. By interviewing members from this organization, we try to understand where the Islam and human rights conceptualization is stated or what they correspond with, and to announce the human rights discourse of association.

SECTION I

1. CONCEPT OF “HUMAN RIGHTS”

Human rights emerge as some wills of the human being only because he is a human being and wishes to preserve his value. The value of a human is totally different from other living beings. He has value and dignity only because he has different features and responsibilities to other living beings.

The main source of the Western modernist human rights concept of today is reason, moral nature and dignity of the human being. This concept is assumed to be universal. In other words, it is valid always and everywhere irrespective of religion, race, language or the affiliations of people. It is assumed that a human being has these rights from birth and that these are inalienable rights.

On the other hand, there are many criticisms and problems about the conceptualization and grounding of the concept of human rights today, particularly because of its indistinctness. This indistinctness has not yet been removed.

According to Kuçuradi, the very first and most important requirement of human rights is to state each of them one by one. One/human being has to respect and fulfil his own responsibilities at first, in the context of human rights. When thus stated, the problem of human rights seems to be some kind of philosophical, ethical and political problem. It is a philosophical problem, because the indistinctness of the human rights concept has to be removed. It is an ethical problem, because one who respects these rights or who overrides them is oneself. It is a political problem, because it is a responsibility of government to secure these human rights. As it is seen, to secure human rights as a problem of ethics and politics depends on philosophy and education of philosophy. For this reason a main goal of

philosophy education is to teach individuals where human dignity may be endangered (Kuçuradi, 2011: 8-10).

Habermas, as one of the many thinkers who criticize natural law, states that human rights have a double face, one of which looks at morals and the other at law (Habermas, 2010: 470). Likewise, Rainer Forst mentions that the human rights concept has a double structure comprised of political and moral constructivism. In Forst's own words (Forst, 2010: 221):

Human rights have a judicial nature in context of its rigid types and positive-legal meanings. However, their basic contents have a moral structure as well. When a demand of human rights emerges, it is uttered as moral a demand and actually it is grounded by moral reasons. The moral contents of human rights do not prioritise the political justice as the natural rights. On contrary, the rights are always justified and recognized in particular justification discourses and rigidly.

The security of human rights depends on persons and governments. However, when we consider the present conditions, many of the states not only override and ignore the security of human rights, but also override these rights abroad within their relations with other countries, as well as in their homelands. All human rights abuses we encounter as humanity, make it necessary for us to review all concepts of us particularly that of human rights (Kuçuradi, 2011: 9-10).

Consequently, *“Human rights is an arrangement of moral principles and its legislating basics are in the area of moral philosophy.”* As long as the philosophy which leads and shapes the international law of human rights is not understood, it seems to be impossible to understand and comprehend human rights properly (Shestack, 2006: 88).

Although it is very difficult to define the concept of human rights, by mention of Erdoğan: *“We are sure that this concept is a modern and political one. And also we are sure that this concept is a popular one and used by anyone arbitrarily”* (Erdoğan, 2013:24). On the other hand, Andrew Fagan who sees the base principles of human rights as the suffering of the people, states that it is an ethical reality mean for human rights theorists. And if at that time the doctrine creates the conditions for a world where the human rights of the people to suffer less "political opportunism" and argues that they should be at a level not to defeat the possibility of "conceptual verbiage" (Fagan, 2008: 1).

1.1. Concept of Human Nature

When we say “human being”, we first remind a most confused and unaccounted nature of the whole universe and the question what its essence is. This confused nature is expressed in different ways in ideologies and religions; therefore there are thousands of views and theories about the human being. Under this title, we will try to embrace the Western definition of the human being as a requirement of our issue.

When we asked and considered where human rights originate and come from, this pondering leads us to the human being, his value and in a word humanity. Therefore the source of modern human rights is related to the nature of human beings as well. Human nature has aroused the interest of all philosophers and it has been defined in various perspectives.

What is a human being? Undoubtedly, this is one of the most important questions of all times because many things in our everyday life depend on our view about human nature. Questions like what the meaning and goal of life is, where we came from and where we will go, what we must do during this life, our perspective of what the “real” and “true” is (Stevenson, 2005: 11), and what the truth is, all are answered and shaped by our consideration of human nature. Besides these, there are many adverse views about what actually human nature is. However, since a necessity of our issue that the basic of concept of Western modern human rights is rooted in natural law and Enlightenment thought, we will embrace human nature which is supposed to be the source of natural law and the human being which is supposed to be the definition of Enlightenment.

There are two elements which generate the philosophical background of natural law and natural rights: Human nature and reason. In natural law, the reason of being of human rights depends on human nature. Human nature is assumed to be the main cause for legislation of demanding rights.

Within this scope, we can consequently say that human nature has aroused the attraction of thinkers in all ages and has been interpreted in different ways.

Plato (427-347 B.C.), believing that the soul and mind were non-material beings and could be independently of the body, said that the soul of a human being was eternal and existed

before birth and it would ever exist eternally, after death. However, Plato while encountering the world of “forms” and world of sensible beings embraced both together. For he thought that the one which obtained the knowledge of forms implied by ethics was not body but soul (Stevenson, 2005: 37).

He, by giving the “mental” conflict of a man who is so much thirsty but never drinks some poisoned water as an example, says that the mind of a human being has to have a part which says to him not to drink that water, as well as a part which says to him to do so. The latter one is called “will” (as physical medium of hunger, thirst, sex and etc.) or “appetence”. The former one is expressed by Plato as reason.

Plato thinks that a third part of the soul is proved to exist through anger at oneself or such other “mental” conflict in his time. For example, in a tale of his famous book “Republic”, he makes reference to a man who has an irresistible desire to watch a batch of corpses but also is revolted by himself for having such appetite. He says that here the soul part which conflicts with the desire of man is not reason but something else, which he calls by names of furore, anger or “spirit”. He thinks that children exhibit the spirit more before they start to reason. This is sometimes something like asserting one’s own “ego” or protecting one’s own benefits, and the internal conflicts usually side with reason. Reason, spirit and the appetite exists in all human beings. Since only the one of them is dominant in each person, we may encounter three types of human being whose main goals are respectively knowledge, success and winning. He says that the one which controls both spirit and appetite is necessarily reason. But each part of the soul has its genuine role and it is best for human beings to make a harmony among three parts under the domination of reason. Plato expresses this ideal condition in Greek as “dikaiosune”. This word is usually translated into English as justice. However there is no proper translation of it in English (Stevenson, 2005: 37-38). Plato says that this justice make people moral at a time, the nature of the ethical and socio-political idea of doing good. This road is a connection between the special justice of the individuals to society and justice connecting the public. Because according to him, only in a just state can individuals perform fully their true nature. He says that without such a political order chaos will arise (Tannenbaum & Schultz:2015: 64).

Just as Socrates before him and other many Greek philosophers after him, Plato actually mentions *reason* and *knowledge*. He mentions morals as well. Because the question of how a good life will be is a question of knowledge rather than of the conflicting sides. There is a “truth” about how we must live and we can know this truth only by obtaining the knowledge of “non-material”, “stable”, “perfect” forms (Stevenson, 2005: 38-39).

The basic and permanent feature of the theory of Plato about human nature is that we are social beings. A human being as an individual, has many needs which he cannot fulfil by himself; he falls short of this. Besides these, according to Plato, different individuals have different interests. For example, there are husbandmen, craftsmen, guardsmen, headmen and etc. in society. Each individual gets a proper education and experience for his own nature and so he becomes judge of his own mission. Such a division of labour is more efficient than any other non-realistic choices. The naturalness of community-residing for human beings is a typical Greek comprehension and Plato had adopted it as well. He stated in his Republic that “*no other thing could be as humane as the community*” (Stevenson, 2005: 39).

According to Plato, forms are the ones that are really true; all physical objects are only emitted by the form view. Furthermore, people from all substances, even the justice of the city has an ideal form of government. Furthermore, according to Plato, reasoning ability is free because they are the only entity capable of exploring them, forms can be known only to philosophers (Tannenbaum & Schultz:2015: 62)

Plato evaluates the lacks of human nature at one hand with the lacks of community. According to him, an “imperfect” community produces unperfected individuals. Likewise, “faulty” individuals build faulty communities. A community cannot be just without its individuals being just; and vice versa. For justice is the same thing for both cases. It means a harmony among the natural elements, in which each individual does his own mission. In return, injustice is a disharmony. So the question is how to establish harmony between the individual and the republic. Plato expresses the “essence of solution” in his own words as following: “*The problems of states and persons can never be removed unless the philosophers be kings or the kings and governors be real philosophers*” (Stevenson, 2005: 41). Moreover Plato says that the cities are established on human nature, his requirements and limitations are that one must deal with the nature of the work and proper job.

Nevertheless, if two workers change their natural places, that does not make too great an evil, but if a person enters the "worthy" warrior class of workers from nature or a person from the warrior class enters the watchman class such changes would cause the collapse of the city (Popper, 2008: 118).

In the tradition of classical natural law, human nature is primarily shaped by Aristotle's nature and comprehension of human nature. Nature and the universe in Ancient and Mediaeval ages used to be understood as rather a "teleological" and "hierarchical" construction. Accordingly, the whole universe was inclined to an ultimate goal with all its elements and its "essence" which mobilises and directs the material. The essence which was in everything was inclined to actualize the nature of things properly and to develop the goal of that nature. For a thing or material, to actualise its nature or in other words to obtain its "telos" is the same thing that it obtains the "good". Thus, a moral quality was attributed to the nature. Good and evil were assigned according to the appropriate and inappropriate cases for the things. All this natural order was at the same time a "rational" order. The thing which directs this natural order or the universe was "reason". The universe was existing and moving by the rules of reason and had an entirely hierarchical structure. Each part and the wholes built by those parts had a particular place, situation and meaning. Each thing was in a motion and existence as a result of rational rules which ordered the universe towards the "telos" it had within itself with the universe and in the universe of which at same time it was a part. Thus, the universe was of an order which was "hierarchal", "teleological" and "rational". These three feature of the universe and natural order caused a basic perspective which effected and assigned everything. Within this scope, the human being was a result or harmony of every conceptualisation of justice, right, liberty, mission, community and state and all teleological, hierarchical and rational nature comprehensions (Uslu, 2011; 95-96).

According to Aristotle, entities are not only form in the presence; each entity has matter (hyle) and form together. Form (universal) cannot exist on its own but in a particular object (particular). If individual people (entities) were not, the human species or human essence (form) would not be. Substance without form is formless. All beings in the universe form the substance of the merger occurred, move for a particular target, acquire and change shape. Aristotle thinks that there must be a first cause of this change started in the universe. According to him, reason started this motion, the precession, which is stationary, it is God

who gave the first motion of the universe. But it should be kept in mind that he did not consider God as a creator. According to Aristotle, God, matter and the universe have an eternal form of existence. God is the reason why the universe is teleological, has been put in motion and the target is within the competence of each being to reach. Therefore, all beings, must ultimately carry within them the ability to reach the target in God. All activity of God is a spiritual, i.e. "intellectual" one. His idea certainly can not be linked to sensation; God who has its own self-consciousness is a pure mind that knows itself in an infinite act of intuition (Ağaoğulları, 2012: 132-133).

Transmitting from Larry Arnhart, according to Aristotle, "Human is the only political creature/animal." (Arnhart, 2013: 55-56):

It is obvious why the human has a more political live of any bees or other social animals. As we said, there is nothing in vain in nature and human, rational speech (logos), which is the only living skills. Sound is an indication of pleasure and pain and therefore is something that you have in other animals; because of their nature, to be ready and have the feeling of pain and reached the level of reporting them to others. However, it is to show the mental conversation beneficial and harmful and result in unfair and fair. Compared with other animals, good or bad in itself, not just common-sense and other things of this kind; households and is specific to human beings have a total of things that make up the city.

Aristotle's writings about the biology of bees, wasps, ants, and birds such as cranes explained that there are other political animals. According to him, human beings are more lively than their political capacity because their logos are only humans. Moreover, it is natural for peoples' political life. Because this life, allows the realization of the potential of nature's most distinguishing feature of the speech or mental capacity of human nature. This means that thinking and speaking are two sides of the same activity and expression of human nature literally, as rational as well as social. Logos for humans because they have more intimate than other political lives and live together in a powerful way. The deepest unity is born of mutual understanding through conversation. But still Aristotle says, that despite people's natural tendency toward their natural life, their "selfish desires" can be dragged into the conflict stated as follows (Arnhart, 2013: 56-59):

Therefore, by their nature, are intended to urge all people in the community. However, the first person who set up such a community, is the cause of supreme good. When people will be evolved as the best of the animals, also it would be

the worst when separated from law and justice. Injustice to seize the weapons that would be the greatest misfortune and the people in the name of prudence and virtues inherent weapons, which it is possible to use the name completely opposite things. Vicious people, most depraved of all animals, is the worst in terms of food and also the most brutal sexuality.

According to St. Thomas (1225-1274) who combined the Christian doctrine and Aristotle's philosophy by appropriating his perspective, for all living and non-living beings in the universe and the world, all actions and changes are assigned by the "essence" within them. In this scope, everything in the universe has a telos (aim) in essence of itself which it desires to actualise. In the nature of everything, there is an "immanent aim" and an "essence/nature" inclined to this aim. All created beings are in a motion towards to actualise its "natural" inclinations by only which it can be itself. Therefore, everything in the universe and whole of the universe becomes in accordance with the rules which were assigned by God via "Divine reason". The thing which incline them to act like this is their "nature". For each being, to actualise its natural inclinations and potentialities properly is its own aim and this aim is "good". The completed actualisation of being means that it has obtained its aim, i.e. its "good". In classical natural law, "good" for all living beings is to do what is "best" for itself. Therefore the "good" depends on the nature of living being. In other words, always acting according to the natural inclinations of someone is same thing with actualising his "own/nature", i.e. obtaining his telos/aim, "good" (Uslu, 2011: 107).

St. Thomas considers man as a social and political creature. There is no power to meet the essential needs alone. Therefore, to protect it, a society that trains him, the family needs. But the family is not enough for people in the community. Ensuring security for the development of the people, protection against internal and external enemies, the establishment of a justice system that gives everyone the right to and need material and spiritual resources they should be required to have. According to St. Thomas, the existence of a political society is imperative for the family unit as only it will protect the existence of political society. Thus, in response to the need unlimited, limited power and ability will draw people to live in a political community. The political community is a natural state, a result of social trends and needs of the people (Göze, 2007: 87).

According to another philosopher Thomas Hobbes, human nature is not only a special part of his nature and best understood by applying the same method applied to the natural world.

Hobbes' famous work *Leviathan* discusses the nature of the human individual's perspective. Located in the heart of Hobbes's individual interest, the "isolated" is considered as an asset. This thus insulated, has clear roots in three basic psychological motives. First, all individuals, regardless of moral (amoral) are based on selfish desires and pleasure, and are controlled by physical demands. These desires, competing for scarce or restricted goods, such as wealth, are permeated into people's personal interests. Second, people are in power, or seeking to establish superiority over others to protect themselves and their property. Third, people, by reputation, want the best convictions of others to show them a superior state. This ambition is in the mind and encourages voluntary action. But people from their actions, using their minds first weigh the pros and cons. So the mind is people's satisfaction or happiness. Hobbes directory allows enthusiasts as well as things to avoid pain by finding and securing power. If you tell people what they want to mind, passion gives practical advice on how it will be achieved. Therefore, financial requests are the most simple items or movement that takes us away from our desire or aversion. "Guaranteeing the power to live better" in hope, without constant fear, people will move away from conflict and peace, as it leads to the search for an "endless power desire", and thus thrusts people into cycles of conflict with one another. As a result, in each individual, is the basis of physical and psychological movement and a complex sum of motives. Greater presence of all or collectivity are just the sum of their individual parts. Therefore, governments, are also the coming together of the individual elements of politics, the sum of the motives of these individuals. As a result, unlike many of the animals like zebra or bees, the special good of each individual is different from the common good. The common good is the sum of many special incentives and is achieved through the mobilization of these individual motives (Tannenbaum & Schultz, 2015: 202-203).

According to Hobbes, a human is equal in both mental and bodily meanings from birth, and differs from all other creatures by his reason and judging faculties. The equality of faculties in the state of nature leads the human being to the equality of obtaining his goals as well. However, the equal expectations of a human being for obtaining his goals in a state of nature, cause two persons to be the enemy of each other in the case that both of them desired the same thing, which they cannot have at the same time. Thus, the struggle for survival, maintaining security and obtaining goals starts between human beings. For Hobbes, the cause of conflict in human nature is rivalry, lack of confidence and ambition for glory. Thus

he states "*homo homini lupus*" and asserts that the conflict of anyone to another is in the state of nature. In state of nature, it is impossible to mention any proprietary right for the human being. Since there are no laws, we cannot mention the concepts of justice, injustice or rights as well. Hobbes states that the human being can remove this difficulty caused by nature by using his reason and perceptions. Reason reveals to him the suitable conditions for peace which all people can get to agree with. Thus politicisation is actualised via these natural laws (Uslu, 2011: 125-140).

John Locke of the Enlightenment Era, expresses the state of nature as peace, equality and freedom in contrast to Hobbes. But this freedom is not that the human being can do anything he wants. Men are not free to stand against the natural law. The freedom in the state of nature is the freedom of doing things which natural law allows. Locke uses the concept of "natural law" to mean an "act and moral law of human being". In fact, natural law which is nothing but reason, "teaches all human beings that no one must damage the life, health, freedom and prosperity of another since everyone is equal and free (Ağaoğulları, 2012: 485).

It will be useful to analyse the ideas of Locke on equality, freedom and rationalism in the state of nature. Although he says that all human beings are equal in the state of nature, he utters that this does not contain all kinds of equality, and thereby having equality of rights provides each person with his own freedom. Locke expresses the freedom of the state of nature as following: People are free in the state of nature, but this does not mean "anarchy". In a condition of freedom, "Although people have the freedom of an uncontrollable in using their personality and their property, though his only unless a more noble reasons for protection, an entity which itself or have been no remove freedom away." The boundaries of freedom are thus determined with obligations derived from natural law. But Locke considers the state of nature as being whether the obligations inherent in a human indicates political responsibilities. Therefore, "to be free of the state of nature is the lack of natural political liability." According to Locke, rationality, equality and freedom, although they are important, do not themselves require the conclusion of the contract. To come together and to come to a contract agreement of people in the state of nature, their interests must be derived there from. Hence, the interests of people drawn to contract another item owned by us humans is in nature; rationalism (Ağaoğulları, 2012:486).

According to Locke, a human has authority on his “life, liberty and property” as a ruler of himself. The natural rights are actually some authorities which were given to him by his property of himself. Locke states that nobody has a dominant authority over another and human beings are equal in this respect; also each person is the property of only God. According to him, “*all humans are art of craftsmanship and unlimited wisdom creativity of almighty... not of another one; the humans who were created to be existing as long as He likes, are properties of the craftsman who created them*”. Locke expresses God as the natural “legislator” of the natural law. It is impossible for God to have created the human being without putting any “measure” in him. God puts the measurement of good and evil in human beings for his behaviours via natural law. Human beings are responsible to act according to their rational nature and follow the rules (Uslu, 2011: 151-154).

According to many thinkers who accepts natural law, the source of human rights is human nature. But as we know, there is not a consensus among thinkers about the definition of human nature. According to Jones, when we talk about human nature as a source of human rights, we actually talk about the “moral nature of (being) human”. It is necessary for a human being as a moral subject, to have liberty and good. Therefore, he has right to liberty and good (Erdoğan, 2012: 45-46).

One of the supporters of this view is the perspective of libertarian thinker Ayn Rand about human nature. According to Rand, human nature has two key features: “avoiding the obligation” and “rationality”. The first one is that human nature is not convenient to succeed at anything under obligation. Therefore this natural feature of human being requires him to be set free. Secondly, rationality, i.e. having a reason is in human nature as well. This underlies the fact that he has a goal and can choose. Human rights is the sine qua non of this genuine nature of a human being. According to Rand, “*(human) right(s) are some existence conditions of human nature in order to make him live with dignity*”. According to Michel Freedon, it is not true to talk about an “objective” human nature in deed. Human nature is a product of humanist interpretation as well as the biological, chemical and environmental processes. Therefore the thought that the base of rights is human nature will ever remain as a fiction of the human mind (Erdoğan, 2012: 45).

Also, according to the human rights comprehension that emerged just after the French Revolution, the source of human rights is human nature. Human nature is generally defined by “human needs”. And it is said that human rights supply these basic humanistic needs. However there are various views about what basic humanistic needs are. It is necessary for a human as a moral subject to have liberty and good; therefore he deserves the liberty and good. Since each human being is an actual or potential subject, the moral rights to obtain these goods are human rights at the same time (Erdoğan, 2012: 45-46).

The needs of a human are material and spiritual. The spiritual needs of a human being are related to the fact that he is a moral being. Human rights take their source from the moral nature of a human being by supplying his material and spiritual needs. Moreover, if a human being did not have a moral aspect, there would not be any demand for rights. Today, in international human rights declarations, it is widely stated that human rights take their source from the dignity of a human, by attracting notice to this aspect of a human being. To sum up, the source of human rights is his moral nature from which emerges his spiritual needs (Donnelly, 1995: 27-28).

We encounter two types of human comprehension when we look at Universal Declaration of Human Rights of 1948 and ones that follow. The first is of a “rational being”, and the second is of the “human as a living physical being”. While the first type is rooted in Ancient Greek and Enlightenment philosophies, the second one is rather seen among the historicist, hermeneutic, phenomenological, existentialist and postmodernist philosophies (Çüçen, 2013:259).

The new human project started by the Renaissance, i.e. project of liberal, independent and reason/experience referred for knowledge, put forth its fruits in the Enlightenment Age. This age was the one in which the intellectual and philosophical grounds of the project of building a new human and the modern society of Western civilization were shaped. The new human being, first of all, would have to be brave so that he can use his own intellect. This situation is mentioned by Kant, leader of Enlightenment thought, in his 1784 dated article *Answering the Question: What is Enlightenment?* as following:

Enlightenment is man's emergence from his self-imposed nonage. Nonage is the inability to use one's own understanding without another's guidance. This nonage is self-

imposed if its cause lies not in lack of understanding but in indecision and lack of courage to use one's own mind without another's guidance. Dare to know! (*Sapere aude.*) "Have the courage to use your own understanding," is therefore the motto of the enlightenment. (Kant, 1784: Enlightenment 1).

However, according to Kant, the human being has not used his own mind for centuries. By stating that this is against nature and by investigating the cause of it, he says that the real responsibility lies in government which maintains this order. The political government which benefits from various institutions, dogmas and rules particularly religion, firstly “dulls and stupefies” the people and make them forget their first nature, liberty, and this nonage of the human being makes him live as if his second nature. The meaning and result of it, i.e. voluntarily accepting to be nonage, means to be “voluntarily servile” of stationary authorities (Ağaoğulları, 2012: 519).

Kant mentions the situation as following:

(...) When we ask, Are we now living in an enlightened age? the answer is, No, but we live in an age of enlightenment. As matters now stand it is still far from true that men are already capable of using their own reason in religious matters confidently and correctly without external guidance. Still, we have some obvious indications that the field of working toward the goal [of religious truth] is now opened. What is more, the hindrances against general enlightenment or the emergence from self-imposed nonage are gradually diminishing. In this respect this is the age of the enlightenment and the century of Frederick [the Great]. (Kant, 1784: *Enlightenment 2*).

According to him, in order to emerge from this difficulty, it will be sufficient to actualise the environment of liberty. The liberty which Kant mentions here is that which each individual can use his own mind independently, present his thoughts to the community, spread and press them. In Kant's own words, “the public use of one's reason must be free at all times, in service and in front of the mass and public opinion explicitly; and this alone can bring light and enlightenment to mankind.” For by this way, the knowledge of philosophers can freely wander and reach to each individuals; and thus the individuals can emerge from the “dogmas”, “prejudices” and religious superstitions which blunt their mind, by recognizing that they could think independently of the authorities (Ağaoğulları, 2013: 519). This means the actualisation of “progress, which is the fundamental aim of human nature and one of its determinant principles”, in other word, actualisation of the Enlightenment (Kant, 1784: Enlightenment 2).

(...) I have emphasized the main point of the enlightenment –man's emergence from his self-imposed nonage– primarily in religious matters, because our rulers have no interest in playing the guardian to their subjects in the arts and sciences. Above all, nonage in religion is not only the most harmful but the most dishonourable. (...) (*Kant, 1784: Enlightenment 3*).

Dogmas and formulas, these mechanical tools designed for reasonable use –or rather abuse– of his natural gifts, are the fetters of an everlasting nonage. The man who casts them off would make an uncertain leap over the narrowest ditch, because he is not used to such free movement. That is why there are only a few men who walk firmly, and who have emerged from nonage by cultivating their own minds. (*Kant, Enlightenment 1*).

The Enlightened, who relate the being of age by using mind of oneself to the obtaining of happiness, state that the unhappiness which have lasted for centuries takes its source from the mistakes, errors and delusions fed by traditional values and institutions. Within this scope, according to them, the individual happiness is identical to making oneself rational by developing his mind and moreover enhancing the conditions of daily living. However, since the human being is a social creature, it is asserted that happiness has a social aspect and therefore there is a particular relation between individual happiness and the social one (Ağaoğulları, 2012: 522).

In conclusion, generally all of the Enlightened thinkers believe that the comprehension of humanity and society built on a science under the dominance of reason will supply a happy and comfortable life to the human being.

1.2. Concept of “Right”

The meaning of “right” is a concept that changes from government to government, time to time, community to community, age to age or tradition to tradition. Generally, having rights in law “*means to be able to demand something or have authority of doing something. While the right gives his owner the authority of doing something, make others not hinder the use of this authority and show respect to it*” (Çüçen, 2013: 217). In dictionaries, the concept of “right” may correspond to “mission, law, privilege in front of God or humans”. On the other has, it has some meanings like: “Justice, something just or a tradition made necessity or granted to the individual, real and true, convenient to the reality” (Coking, 2006:105-106).

It is essential to define the concept of rights properly. In respect to understanding human rights, it is necessary to comprehend the “right” and “rights” concepts in judicial and moral

ways. Since human rights is a special type of right concept, we cannot express the human rights concept properly without expressing the right concept. The concept of right is in an area of law as well as morality. According to Norman P. Barry, to say that a person has a right, “*is to admit that he has autonomy as a moral subject which can make choices*” above all. Right means a justifiable claim or demand on an institution or something in both morals and law. In the words of Joel Feinberg, “*it is possible to accept only the valid demands or claims as a right*” (as cited in: Erdoğan, 2012: 9). By definition of Erdoğan, “*each demand of right is an abbreviated formula of the fact that one has morally authority of interfering liberty of other one in a particular palpable case*” (Erdoğan, 2012: 7-10).

To define the concept of right has been a most important problem of legal philosophy and civil law during the history of law. There is not a de facto definition of right which is valid for everyone. Even in German Civil Law, which defines many of the legal concepts in use today, does not define the concept of “right”. Therefore, Eugen Huber, the builder of Swiss Civil Law, argues that the right and such legal concepts must be left to the doctrine (Coşkun, 2006: 103-104).

As to Kuçuradi, she puts the “justice” of Plato in the centre of the “right” concept. Plato states that justice is “giving each one what is ought, owed.” Thus a right is something owed to someone, and human rights is something which is owed by each person to all of the people (Çüçen, 2013: 293). The general asserted definition of “right” in law community is like following: “*A will or legal power of individual (person) granted by legal order so that he can supply his own needs*” (Balci, 2014:5).

According to natural law doctrine, the individual has rights and he is free. Liberty is from birth and prior to the ownership of rights. So the rights and liberties of an individual must be legitimized and put in a legal form. Donnelly describes this as follows:

Assignments and volunteerism emphasis and rhetoric of rights that separates it from any other moral discourse, if you have one x right and you cannot get this x, this is not just something wrong, but a wrong made against you. Rights discourse, takes place on the people who deserve our attention. The distinctive value of right is that if use of a right is threatened or prevented, this right gives the right to press claims related to this issue about the person who owns it. This case distinguishes being the owner of a right from simply providing a benefit or

being a benefits provider to be someone else's liability (as cited in: Freeman, 2008: 70).

The justification of the rights discourse legalizes any challenge against itself, when social order is unjust. It is unnecessary to refer to rights when there is justice. This is a response to objections that the concept of "rights" damages social cohesion (Freeman, 2008: 71).

Henry Shue as well; for the concept of right, states that the right generates a "rational" basis of a right order. If a person has a right to something, there are reasons to justify that it is right for him to demand to benefit from that "essence" and guarantee it. It is very important to prove the rightness, if there is a right "is the basis of a right system" it is revealed not that the people may insist on their rights, but that they have to do so (Shue, 2009: 40-41).

Unless the required arrangements are in place for people to benefit from their rights to something, that right cannot be actualised. These arrangements can be secured by legislation, as well as moral actions. Often even moral, social prohibitions are able to do much more work than arranged by laws, as customs and traditions are certainly better than non compelling laws (Shue, 2009: 44).

When we look at the formal structure of legal rights, the perfect classification of this issue was made by Wesley N. Hohfeld, a thinker of 20th century, in his book *Fundamental Legal Conceptions as Applied in Judicial Reasoning* (1919). According to him, the concept of right is used in 4 different meanings in law: *Rights of demanding, rights of liberty, authorities and immunities* (Erdoğan, 2012: 12).

The rights of demanding are those which give missions to another. These give the owner authority of restricting the liberty of another. According to Norman P. Barry, one who has right of demanding "obtains a dominion on another and has a legal demand which he can claim against him". Rights of liberty: Again, according to Barry: "Having a right in respect of liberty means not to be responsible of not to do any particular action and the fact that the existence of this right depends on some others to do counterpart missions." For Barry, it is impossible for a right of one to violate the liberty of another.

Authority: It means the power or dominance of a right owner to change a particular legal situation. According to the definition of Gerald F. Gaus; “*Someone who has a right in respect of authority can make any change in liberty, rights or missions of others.*” To sum up, the right is some authority here (Erdoğan, 2012: 12-14). As to the immunity, it is contrary to the “authority” as Gerald Gaus states. Having some immunity about a particular issue of citizens means that the legislative power does not have the authority of changing some liberties, rights and missions.

Again, in norm of law, there are two approaches to explain the quality of rights: “theory of will” and “theory of interest”.

According to the theory of will, rights protect the choices of persons; they are choices protected legally. Having a legal right is having a “choice” which is obeyed in legal way. The theory of will explains why rights are assumed to be key feature in respect of assigning the character, individuality and self-determination of person. Person utters his individuality and character by making choices. Actually, the supporters of this theory of share a moral view which emphasizes the importance of self-determination and autonomy. Besides these, they assume the faculty of making choices to be an essential value (Erdoğan, 2013: 17-19). Theory of interest: It expresses that rights are actually to protect and increase the interest of their owners. No matter if it is a demanded right, liberty right, authority or immunity right; the thing which makes each of these a right is that the law secures an interest or benefit for those persons whom we defined as the owners of a right (Jones, 1994: 29). On the other hand, many thinkers of the theory of interest accept that there is a mission in return of a right and a right in return of a mission (Erdoğan, 2013: 20).

1.3. Concept of “Human Rights”

Human rights has been discussed for a long time in Turkey and in international political, social and cultural areas, from the point of various perspectives. This continues today but it is not so clear what human rights comprise and there is ambiguity on the concept.

Human rights aim “*to treat a human properly*”. It is the essence of the “human rights” concept to treat human beings without distinction and as equal individuals according to the dignity of a human being. Human rights are those which a human has simply because he is

a human, and they are superior to all other rights. Moreover, human rights are accepted to be the most supreme moral values.

A human is a thinking, judging, acting intentional and moral being who has dignity. These features make him valuable and the thought of protecting and developing this valuable being is the basic ground of the emergence of human rights. The consideration of human rights is an “anthropocentric” approach and arises from the fact that a human being is willed and rational (Erdoğan, 2012: 30-29).

Human rights are a special type of rights and have moral claims or demands in essence of it. *“They are rights which human have not because he is a member of social practice or supporter of a moral or legal relationship but only because he is a human being.”* Thus human rights are the uppermost valid and most special group of the moral rights (Erdoğan, 2012:26).

According to Donnelly, the source of human rights is the “moral nature” of the human being. Human rights are sine qua non for a life with dignity. As it is said in declarations of human rights, they take their source from the *“dignity in the essence of person”*. Thus the doctrines of human rights evaluate to have human rights identical to being a human. One who cannot benefit from human rights is alienated from his own moral nature. *“When a person loses these rights, he cannot live a life with dignity for a human being”* (Donnelly, 1995: 27-29).

Besides these, human rights are universal and they are not for only an affiliation of a particular state, race or religion, but qualified as rights which belong to all humanity. In other words, they are defined to be rights which all human beings have without qualification.

While Nickel, as cited by Erdoğan, expresses human rights as some “political norms” related to the manner of state and institutions while dealing with humans; Orend defines it as: *“The ‘human right’ which each person have as a general moral right by having the quality of being human, is a superior and prior claim which has firm justifications and owed to all human beings, and human being deserves it as a least treatment”* (Erdoğan, 2012: 28).

One of the features of human rights consideration is equality in respect of morals. In other words, it does not matter what differences exist between a person and others, all of them

have equal moral value (Erdoğan, 2012: 29). Jones expresses this issue as follows: “*Human rights do not comply with the cultures and ideologies which accord different moral status to the persons of different races, genders, religions or classes*” (Erdoğan, 2012: 30).

One of the most important sources of human rights is the right of liberty in respect of its quality. Liberty means in the most general sense the case that a human can judge by his own will freely. In other words, according to Kukathas, liberty is “*something which a person does not meet with any obstacle posited by other humans while he is doing an act*” (as cited in: Erdoğan, 1998: 7-8). From a different viewpoint, when liberty is dealt with as a political value, it can be posited against the state or political government; that is to say that it can be thought that the obstacle of liberty is restriction of state or political authorities. In a word, by expression of Erdoğan, “*human rights are some demands of liberty in essence, from the state*” (Erdoğan, 1998: 14).

The consideration of human rights does not use the community as base, but uses the individual. In other words, human rights are the rights of the individuals (Donnelly, 1995: 19-21). For only the individuals have will, can judge and choose; however communities, groups or congregations cannot do so (Erdoğan, 1998-10-11). Thus those rights which are seen as the rights of groups are actually individual rights. According to Donnelly, if human rights are those which belong to a person for only he is a human being, then only a human has rights and we can say only for individuals that they have human rights. Therefore human rights are individual, only the individuals have human rights and people do not have them collectively. Communities do not have human rights and society does not have valid claims against individuals; individuals have some missions in front of society but the rights of the society are not human rights. Unless we define human rights afresh, he says, the right of society cannot be a human right (Donnelly, 1995: 30-31). Many have considered such assertions and criticize individualist human rights in detail, as seen titles such as *The Criticism of “Human Rights” concept from the point of view of Islam*.

In contrast to Donnelly, Galtung expresses that what sustains Western civilization is its gathering of strong competition relations and individual ways. Since individuals are objects of norm, i.e. objects related to norms and thus by which norms are defined, human rights are also individual rights. This excludes the collective rights of people and other group rights.

Women, different aged groups, native groups, former peoples, non-Western cultures which live among the Western societies hence usually form the lowest layer amongst groups in society, which must constantly exert effort to maintain their status in the model. Such groups need protection of human rights not only as particular individuals in society but also in order to preserve and develop their group qualities as well. The individuate aspect of human rights removes the basic political value, i.e. mobilization and struggling quality of their group which is already deprived of various rights. In some cases, the problems of these groups can be removed to an extent by enlarging individual rights. But when the group as a whole demands a different right than the rights given to the each individual, for example the principle of self determination of nations –this is the only collective right of which honour is accepted– and demands to have its national sovereignty, group rights immediately become a problem. These harsh struggles seen in history survive today as well (Galtung, 2013: 33).

According to Donnelly, human rights are “ultimo remedium” in the area of rights. That is to say they are the “ultimum remedium” which a person appeals because he has gone all lengths against an abuse of right but could not get any result (except the cases of threat and violence) (Donnelly, 1995: 24).

Human rights are actually extra legem, and their main goal is objecting against the present norms, institutions, legal institutions and practices; to correct or change them. This does not mean that human rights are juridical per se. On the contrary, the essential aim of the struggle of human rights is to bring legality to those rights. We must also see that when human rights gained legal validity, they cease to be human rights and become legal rights henceforth (Donnelly, 1995: 24-25).

Legal rights form a basis for legal demands in order to protect juridical rights dominant on the political government. As for human rights, they are some moral demands to the political order for developing the present legal authorities and to add new ones to them. This makes human rights neither stronger nor weaker than legal rights. It only shows their differences. Legal rights and human rights have different functions and that is the very cause of needing both of them at the same time. Therefore the difference between legal rights and human rights which are moral, is because their sources are different. Neither of them is more true than the other. Legal rights come from laws and supported by legal power; while moral rights

come from morality and are supported by principle. However, *“no matter if it is moral or legal, a right is always right. The positive rights and moral rights are different types of rights, they are different species of the same genus”* (Donnelly, 1995: 25-27).

Since human rights depend on social demands and struggles to overcome “unjust” and “unfair” cases, this basis lends them a very strong legality ground (Kara, 2013: 3-4). In other words, the movement of human rights is concerned with the human beings who struggle against injustice and become solid in front of any oppression. According to some thinkers, while the demand of human rights is a fair act against any kind of injustice in also sincere and moral aspects; according to the some others it is nothing but a slogan which has to be approached doubtingly and even with hostility (Clapman, 2010: 7-11).

Kuçuradi states that there is in the value of a human being the basis of human rights and therefore the human being has some kinds of right. However, here we encounter the question what the value actually is. Because there are some claims that the value is “subjective”, and if it is so, that is to say if it is relative, then it is impossible for human rights to be universal. Kuçuradi emphasizes that the value is only concerned with the human being and his successes, and what distinguishes him from the other living beings is that he makes evaluations and produces values (Gedik, 2013: 289-292).

Donnelly, as uttered in the Universal Declaration of Human Rights, states that human rights are the criteria of legality in respect of politics (Donnelly, 1995: 25). Also Kuçuradi states that the United Nations which is supposed to be official representative of human rights today can do little to actually prevent human right abuses around the world and this situation shows us the truth of the consideration that the protection of human rights is not a political issue, but rather a moral issue (Kuçuradi, 2009: 13-14).

Again, in another view of human rights, Andre Mercier states that they cannot be separated from human missions and they can be justified only when they are considered in parallel of the human mission. He mentions that missions were given to humans in return of some rights and a person must be given as rights much as the missions he was given before; because the rights and missions are in a relationship by which they complete each other (Mercier, 2009: 25-37).

Consequently, we can round up the features of contemporary modern human rights comprehension as following:

Human rights are universal. In other words, all humans have the human rights all around the world, without considering the time and place.

Human rights are those which a person has from birth. Therefore the existence of human rights is different than those which are legal or acquired afterwards. Human rights are indivisible parts of the existence of a human.

Human rights are absolute. In other words, their existence cannot be related to any condition, cannot be suspended, cannot be invalidated, cannot be made a matter of negotiation and cannot be abominated in any ways.

Human rights are individual rights. As we mentioned above, the subject of human rights are not groups or communities, but only individuals as it is possible only for individuals to choose or make selection. Of course a group, class, congregation may have rights but we cannot qualify these as human rights. The fact that human rights belong to the individual does not make necessary that they are related to a particular community or a collective. These rights come from the moral nature of a person and indirectly depend on himself.

Human rights are directly the rights of liberty. When we look at the literature, we can see that liberties and rights are always uttered in the same breath. For instance, we can mention the “right” definition of Dennis Mueller: “*A right is an unconditional liberty of a person to do or not to do an act, without any interfere or constraining of other individuals or institutions*” (Erdoğan, 2012: 115).

The interlocutor of human rights is generally the state: As mentioned above, human rights are political and their aim is to keep safe persons from the oppression of the state. The UN imposes three obligations on the state in the context of human rights: To respect, to protect and to fulfil them (Erdoğan, 2012: 105-120).

1.4. Concept of “Human Dignity”

Human dignity is important to philosophy and theology and also which underlies the human rights perspective today. The main goal of the struggle to protect human rights is to protect human dignity. In other words, human rights is an issue related to the dignity life of all of us (Clapman, 2010: 7). When defined, we see that dignity is a feature of something which is supposed to be very valuable. Here the valuable thing is human and it is dignity which makes him valuable.

The meaning of human dignity is actually the special situation of human being among other living beings and also his own potentialities and features. There are two main distinctions of a human being to other living beings: His “rational” and “moral” faculties. Human dignity is the ratio of his existence; his aim of being a human depends on his dignity. A human has this dignity only for being a human; this dignity is with him from birth and inalienable. Humanity is thus the expression of his value which has moral autonomy and liberty, along with his dignity and rational faculty (Bulut, 2008: 2).

The consideration of human dignity, as an “ideal”, actually roots in ancient civilizations although it recently emerged in modern law studies. Human dignity in ancient Greek was in theory, although not in the practice. Nevertheless Sophists qualified a human as an “egoist” being which looks out for himself, they had revealed the value attributed to humans and thus to human dignity, by asserting that the human was criterion of everything. In the same era, the Epicurean school which grounded its philosophy on the question of how a human will be happy, evaluated the human being as the uppermost value and aim of everything. Another school of ancient Greece which revealed the value attributed to a human and his dignity was Stoicism. Zenon, founder of that school, had taken the human being/individual as an aim to the forefront instead of state; ceased polis to be holy and by stating that all human beings are equal and brother, so it was possible for everybody to live in peace. These ideas contributed to the development of the human dignity/honour concept. According to the consideration of Stoicists, the main cause of brotherhood of all human beings was reason, the universal faculty of human. The Stoicist thinkers made the first contribution to the doctrine of human rights, by saying that human beings were all equal and free from birth. On the other hand,

the contribution of Stoicists to natural law and natural rights is very important in respect to the value they attributed to human being as well (Bulut, 2008: 3-4).

In Roman law, the value of a person was the same as his situation in public. So the concept of dignity was depending on standing in public. *“In public life, a Roman who reveals himself by his service, was supposed to increase his dignity as well; and it was still not a common idea that human beings were equal in dignity from birth.”* In Rome, there was some kind of collective dignity which belonged to people, state and government at the same time. However this was challenged by the school of Stoa inspired by Cicero, Seneca etc. who were leading thinkers of the Roman era. Cicero states that the source of law is in nature and a human can find and discover that natural law through reason which is given him by God. Again, according to Cicero, all human beings have natural rights from birth; a human is the only living being which has reason and therefore he is “unique” and people are mutual in terms of rights as well as reason (Bulut, 2008: 5).

During the Mediaeval Age, which was under the dominion of theology, human dignity was also inspired by religious consideration and put in the area of theology. Within this scope, it is possible to utter anything about human being by only making God the centre of speech; because human beings are created as a manifestation of God and hence human dignity is equal with to respect to God. Each of the “humans who are created as a manifestation of God”, has equal dignity with the others. Therefore the consideration that dignity was a grace of God was dominant. From the point of this view, we can say that the “native dignity” consideration was obtained in that era (Ulusal, 2014: 203).

In the recent terms of this era which made important contributions to the human rights and dignity, the Feudal order became stronger and the Church domineered the majority of the feudal lands in a short while. Then it appropriated the consideration that it is necessary to actualize the liberty of individuals not in “material” but in “spiritual” areas, it increased strength and oppression. Thus the human dignity concept which increased in the theoretical area could not be transferred to the practical area in the Mediaeval Age (Bulut, 2008: 7-11).

On the other hand, Islam religion which emerged in the Mediaeval age and spread quickly, regarded the human being as the superior of other living beings and attributed value to him.

In 30th verse of Al-Baqarah in Koran, a human being is the caliph of God on the world; and in 70th verse of Isra it is said: “We made the human being superior to a great part of our creations.” These verses suggest that a human being can gain his value only by being a servant to Allah. Therefore any act which leads him to Allah gives him dignity/honour (El-Mafrey, 1995: 21). In this way a human is not free and has responsibilities; that is the very reason why he has dignity/honour (Bulut, 2008:7-11).

At the same time, there are some views which asserts that the dignity/honour concepts were brought to the “Christian West” from “Muslim East” by the Crusades (Ulusal, 2008: 214-219).

In ancient Greece, Rome and the Mediaeval age, human dignity could not get rid of being a notion of the status of people in public. However, by the Renaissance, humanist consideration and Enlightenment broke this wall and human dignity has become a subject which belongs to everyone equally (Bulut, 2008: 8-11). It is assumed that Averroes, Avicenna, Gazali, Al-Farabi and Kindi were very influential in this development process by a consensus which Muslim institutes created and transferred to the Western world (Ulusal, 2014: 203).

Law which existed since ancient times and was dominated by the Church in the Mediaeval age was secularised by the economic, social and political thoughts of the XVI and XVII centuries; and natural law distinguished from the divine one (Bulut, 2008: 8-11).

Undoubtedly the thoughts of the Enlightenment period were strengthened by Kant who stated that human dignity was a moral element of human being which must be seen as never a tool but always an aim. According to Kant, a human “*is an automom subject which is built by his own mind*” and there is in this consideration the basis of modern human rights thought of today in respect of human dignity.

Today, some theoreticians of human rights try to explain the norms of human rights by protection of human dignity. Some particular instances of these secularist theoreticians are McDougal, Lasswell and Chen. These theoreticians state that the demands of human rights actually share values in the basis of these rights and they are also demands that contribute to the value process of society. Again, according to them, these values are comprised of eight

aspects: “1. Respect; 2. Power; 3. Enlightenment; 4. Good (good will); 5. Health; 6. Faculty; 7. Love; 8. Honesty.” These thinkers evaluate human dignity as a fulfilment of these eight values. Accordingly, the main goal is a world society in which values are shared democratically, resources are used sufficiently and human dignity is the most valuable target. Besides defining the thoughts of these men as “politics-centred”, the fact that they evaluated human dignity as the uppermost value make them posited closer to the theory of natural rights (Shestack, 2006: 110-111).

As mentioned in beginning of this topic, there is an idea that there is a necessary relation between human rights and human dignity which is supported by many thinkers and approaches. We can see this necessary relation between human rights and human dignity in many human rights declaration and the constitutions of many states as well (Erdoğan, 2012: 48-50).

According to Jack Donnelly, “*human rights are a social practice which aims at actualising the institution of basic rights of a particular view about the human dignity and potentialities*” (Donnelly, 1995: 50).

Today, although the human dignity concept is supposed to be a “secular” concept and many thinkers and approaches support this idea, human dignity is at the same time a “religion” based notion. Naturally, Western literature binds it to Christianity; but it is obvious that Islam attributes great value to the honour and dignity of human beings as well (Erdoğan, 2012:49). This was exemplified in the two verses of the Kuran quoted above.

As mentioned above, there is no single definition of human dignity accepted by everyone. Akıllıoğlu states that “human dignity is not only a value (honour and dignity) which was attributed by one to himself or by a community to one; but it is also an abstract, ethical value” (Erdoğan, 2012: 49-50).

Kuçuradi states the relationship of a human being to dignity as follows:

While we are saying human value, I understand the special position of human being among other living beings. The thing which gives this special place to human being is his whole features; but the one which distinct him is his potentialities. These potentialities seems as the genuine activities and products of him. These features are

addition to the common features he has with other living beings. All of these features and potentialities constitute the “human value” or “human dignity” (Kuçuradi, 2009: 73).

Jack Donnelly also explains the effect of modernity on human dignity:

Modernity has created new kinds of individuals, families and communities. These newly emerged types need some new life styles without considering the traditional relations and practices in politics, law and economy, in order to maintain security and a little bit dignity. Within this scope, the fact of “natural human rights” has become a mechanism which is chosen to protect the newly emerged type of dignity and individual consideration in new conditions of modernity. The consideration of dignity and concept of human rights have different meanings today than the older ones, and also they have a different approach today than the older one in respect to the things aimed at (as cited in: Ulusal, 2014:200).

In a word, there is no valid definition of the “dignity” concept accepted by everyone and this concept is one which contains relativist values in the context of particular traditions in areas of law, religion and culture. When we seek for human rights considerations nowadays, it seems to be an aim agreed in the context of “protecting human dignity” within the scope of international law. We can see the issue particularly in the International Declaration of Human Rights and related texts as well.

2. HISTORICAL DEVELOPMENT OF HUMAN RIGHTS

The history of human rights is extent to thousands of years and within the inscribed history, it has taken many religious, cultural, philosophical¹ and legal developments. Many ancient document, religions, philosophies and declarations contain many of the concepts which are related to human rights. These rights are accepted to be universal, inalienable and ahistoric in the theoretical area. However we must consider that there is a historical development to the concept as well.

In the B.C. era, some reference points which lead and descend the human rights considerations of today are as following:

The first inscription about human rights were the Hammurabi laws. These protected individuals against arbitral inspections and punishments. It was securing their right to property.

Aristotle uttered personal property and participation. In ancient Greece city states, Plato and Socrates also evaluated human rights as identical to natural rights which arise from natural law.

In the B.C. era, a declaration was published by Great Cyrus, the Persian king, as well. This declaration is known as the “Great Cyrus Cylinder” today. Since this declaration of Cyrus explained mainly the freedom of thought and belief and stated that the Babylonian slaves must have been freed, some thinkers evaluate it as the “first human rights declaration” ever.

¹ The first philosophy which expressed the precisions about human and human rights is the Sophist school.

From the era of A.D. to the modern times, we can mention four significant pieces of reference for human rights consideration:

First is the Pact of Medina in 622, which was prepared as involving Muslims, Jewish people and pagans in the same breath. It emphasizes equal citizenship and fair trial as well. The Pact of Medina was securing all the rights of each community in the city.

The Last Khutbah of prophet Mohammad is also evaluated as a human rights declaration wherein property rights, the rights of women, equality and justice were emphasized.

Another is Magna Carta (Great Pact of Freedom) of 1215. It was not only a manifest of liberty but it also set out to order the social and cultural life of society as well. We will embrace this declaration in detail under the classical human rights discussion.

The modern era brought further developments. The consideration of human rights increased, and was made the topic of declarations and significant movements. The philosophical background of the human rights of this era draws on the liberal enlightenment and rationalism of the XVII century. In other words, the roots of modern human rights is in the discourse of natural, constitutional and political rights that emerged in the Enlightenment era and contributed to the construction of the XVIII and XIX centuries in some way (Clapman, 2010:40). The leaders of this thought are J. Locke (who is assumed to be the father of modern human rights), J.J. Rousseau, T. Hobbes, T. Paine and Immanuel Kant.

In the XVIII century, various declarations were published: in 1689, the Civil Rights Act set out a design for rights and liberties; in 1776 there followed the Declaration of Independence of USA, in 1789 the French Revolution – Human and Civil Rights Declaration; in 1948 the Universal Declaration, etc. As long as humanity survives it seems there will be further declarations that address contemporary conditions.

Consequently, within the historical development of Human Rights, we have seen that they are a common treasure and value of humanity.

2.1. Human Rights in the Classical Era

Human rights rest on the thought of that all humans have some basic rights and liberties from birth, for reason only of being human. Throughout history there have been many struggles undertaken for living in a proper and humanlike way and to acquire human dignity.

The struggle for human rights generally arises from the restriction of governments. By recognising that the human being has some inviolable and inalienable rights against the political government, the consideration of human rights emerged. This thought has a mental accumulation which was noted as far back as Ancient Greece. However, in contrast to today there seemed to be fewer state restrictions and demands for human rights and liberties in ancient Greece; but the humanism which underlies the human rights of today has its roots in Greek civilizations (Coşkun, 2006: 28-29).

When we try to embrace the concept of human rights beginning from Ancient Greece in its historical perspective; we see that one of the biggest ideal movements which contributed to human rights consideration in the ancient age is Sophism (Sophist Philosophy).² This emerged first in Greek culture and in basic terms it was indifferent about the human being, social problems; studied only on the nature. However, in the middle of 5th century B.C., a Sophism emerged in Athena which cared about the human being before nature, uttered as the *“human is the measure of everything”*.

The importance of Sophist philosophy in the context of human and human rights are in two main areas:

1. Sophist philosophy was opposed to traditional ancient Greek thought which blessed the state. Instead the target of Sophist thought is the human being. As the state was instituted by humans, in order to maintain their happiness, if required, it can be restricted for the sake of that happiness. In addressing human rights today, emphasis is given to the restriction of the state and claims regarding human rights can be made against state and political authority.

² Sophism is a Greek word and comes from “Sophia” (wisdom). Sophist means one who know and is wise.

2. The Sophists³ claimed that all humans are equal and free. They paid much attention to the idea of democracy and defended it. In this way the Sophists threatened the established order of the ancient Greeks as it challenged authority by a different and individualist approach (Coşkun, 2006: 36-37).

As to the Stoicists, who firstly mentioned the comprehension of natural law, in the context of human rights and state, they claimed that there was a natural law superior to state laws, humans accepted these universal natural law by their own reason and will and that this law ruled all people to love each other without considering any race, class, nation etc. So all humans were brothers who obeyed this law. In Stoicist thought, a moral, human has to live in accordance with the universe and nature by using his reason and it is possible to constitute a universal world state (Coşkun, 2006: 60).

Socrates, Plato and Aristotle lived in the age of the Sophist philosophers. Socrates felt that the human should protect himself above all, and that everyone should appropriate the principle of “know thyself”; that the human should know what his rights were by learning and recognizing his abilities and values.

In the Mediaeval Age the dominion of the Church regulated the political considerations of the state and all aspects of individual life. In this scope, the first thinker who suggested that the ruling areas of state and Church should be separated so that the state could act in a non arbitrary way was Thomas Aquinas. At the time when Western Europe was under the oppression of Church, the thoughts of Muslim thinkers were free to be inspired by thoughts of ancient Greek philosophers (Kara, 2013: 13-14).

2.2. Human Rights in the Modern Age

As mentioned in the section on the historical development of human rights, the developments of the modern age are more extensive. The consideration of human rights increased, were made topic of declarations and created big movements. The roots of modern human rights is in the discourse over natural, constitutional and political rights that emerged during the

³ Sophists, the ancient Greek thinkers, mentioned that humans should increase their abilities in order to live a happier and more peaceful life. They wandered in Greek lands in order to teach knowledge required to increase those abilities and told people about the issue.

Enlightenment era and contributed to the construction of the XVIII and XIX centuries in some way (Clapman, 2010:40).

In the philosophical basis of modern human rights, we see secular natural law and rationality of Enlightenment thoughts. The founders of today's modern human rights are regarded as John Locke along with Rousseau, Hobbes, Paine and I. Kant.

Firstly we have to comprehend the historical and social progress of that term in order to comprehend the Enlightenment. Therefore, we have to look at the Renaissance era from which it arose.

During the time between the XIV and XVI centuries, the human being regained his value in Europe. The Renaissance age and the inventions of the press and the compass, enabled people to both discover the ultramarine lands and to spread their ideas. With the spread of communication and knowledge, the human being became more valuable. In this age, Europeans recognized that the religious and traditional values of Middle Ages were not sufficient for them to secure a happier and better life; so they started to seek new values instead of them. Thus humanism thought which puts the human being in the centre of everything emerged and thoughts of an anthropocentric universe arose instead of one centred on God/religion. Thus the humanist state replaced that of God/religion; a state/society order in which the human being is assumed to be an individual replaced that in which the human being was assumed to be servant of God. This thought did not remain only as a theory, but it manifested itself in practice as well. Thus, *“As a result of Reformation in religion, the strict and unchangeable religion interpretation of Catholicism gave place to the moderate interpretations of the Protestantism”* (Çüçen, 2013: 300).

Another thought that began to emerge in the Renaissance era as people started to withdraw from the religion based state - was that of the nation state. In the light of this development, people started to evaluate themselves not as “servant” but as “individual/person”. In this way, the individual mentioned that he demanded to be free against the authority by using his rights and liberties (Çüçen, 2013: 333-334).

The human of the Renaissance who wanted to be an individual, firstly started to seek information about his universe and society, driven by the thought that he had to be superior

to nature above all. The thinkers of that era held that the human would live in a happier and more free way by gaining knowledge of nature and then controlling and changing it. The more enlightened thinkers of this era sought to rid society of prejudices, religious beliefs, scholastic syllogisms. In this effort they often appropriated scientific knowledge and empiricist methods. To sum up, the man of Enlightenment Era was seen as the fruit of the Renaissance, an era wherein the “project of building a free, independent man who refers to reason/experience in respect of knowledge” was initiated.

The XVIII century is described as an Enlightenment term in Europe and the human rights considerations of today are a product of that era and particularly of Locke’s thoughts.

The enlightenment, starting with the British Revolution of 1688 in Europe is an idea that reached its peak with the 1789 French Revolution. This term can describe the individual and social life of the peoples of Europe as an effort to create a new understanding of Western civilization, essentially the result of historical development and cultural and intellectual exchange. Social change starts first in England (the dawn of capitalism) and then continued as a movement of freedom in France. Finally, in Germany, affecting the entire world by creating the philosophical foundations of itself, turned into a "modernization/Westernization" movement (Çüçen, 2013: 333).

It was stated with the Enlightenment that the basis of human dignity and human virtues were again in man himself and in a sense, humanism has rediscovered "man is the measure of all things" words of Protagoras. This movement thinks that all humans are created "equal" and "unique" and have equal dignity, so they must be protected from "collectivism". It is stated that the human as goal in himself cannot be made a tool in anyway (Coşkun, 2006: 75).

The age saw the rise of a new human and community consideration but its philosophical foundations were rooted in the ancient history of Western civilization. The common thought of the Enlightenment being that the most important aspect of a human should be “reason”. This German philosopher Kant expresses this as follows:

Enlightenment is man's emergence from his self-imposed nonage. Nonage is the inability to use one's own understanding without another's guidance. This nonage is self-imposed if its cause lies not in lack of understanding but in indecision and lack of courage to use one's own mind without another's guidance. Dare to know! (Sapere

aude.) "Have the courage to use your own understanding," is therefore the motto of the enlightenment. (Kant, 1784: Enlightenment 1).

For a better understanding of the Enlightenment period, we should look at the thoughts of three philosophers lived in the XVIII century in three nation-states involved in the formation of Western thought and the Western type of human: Locke, Rousseau, Kant.

Locke states that humans have access to all knowledge by his reason and that he could accept it as true by passing an experimental filter. As a measure of the accuracy of knowledge; he emphasises reason and experiment. Therefore he says that religion, metaphysics and superstitious beliefs are obstacles to rightly thinking. Overall, Enlightenment thinkers believe that knowledge reached with reason and scientific understanding provide the human and his society with a happy and comfortable life. Starting with the empiricist tradition of Locke; religion and metaphysics are seen as the biggest obstacle to scientific knowledge. Locke suggests a political philosophy for unhappiness, ignorance, fears and the agony of humans: "the liberal law state is that which secures the right to life, freedom and the property of the individual" and the liberal state is for maintaining the interests and benefits of the individual. Therefore he mentions that the religious state should give place to the reason state (Çüçen, 2013: 335-336).

The French philosopher Voltaire in this period, with a Deist god thought, desired to re-interpret humanity, society, state and the universe. According to Deism God exists, created the universe, but He does not interfere with the developments and the condition of the human in the universe afterwards. God has given the human reason and the reason at this point must enter the affair, a human must reach knowledge of nature by his reason and dominate it, he can only be free in this way. Voltaire argued that the enlightened human only needs the leadership of reason and science and believed that civilization was only possible in this way.

Another French Enlightenment thinker, Rousseau, proposed the social contract. He states that as a human being can not live alone, so he can not meet his needs and therefore he needs to live in society. However the human by living in the community loses his earlier "free" and "equal" condition; whereas he needs a social contract to live freely in society as well. At the same time, Rousseau defends a legal order according to the request of a majority and rationality.

Overall we see that enlightenment thinkers thought it possible to establish a society in which individuals are happier and freer, by human reason which can understand the universe and by knowledge he obtained in light of that reason.

It is possible to explain the common main principles of Enlightenment thinkers as:

Rationalism: They say that the only measure of the truth is human reason and there is no need for any other source. Obstacles to reason were named as wrong religious beliefs, superstitions, a state which is not based on social contract and law, ignorance and prejudices.

Scientism: The enlightener thinks the progress of humanity is possible only through science and technology, believing that humans will be happier and stronger as they progress in science.

Enlightened Religion: For these thinkers, reason and science in the light of the church opposed oppressive opinion, arguing that religious enlightenment was necessary. And they put forward a theistic understanding of religion by rejecting superstition.

Denial of Metaphysics: Enlightenment thinkers, on the basis of scientific knowledge tested and refused metaphysical phenomena.

Progressivism: According to them, their ideas sought a good history for mankind; from one of poverty to wealth, from captivity, freedom, etc.

Humanism: The notion that "*everything is for the human being*" nurtured these ideas and the emergence of the philosophy of humanism.

Individualism: A fundamental principle of these thinkers is that individuals use the mind and true enlightenment is only attainable by thinking, questioning, investigating, knowing and free individuals.

Human rights and the principle of freedom: The Enlightenment thinkers argue that the benefits of enlightenment can only be reaped by societies in which individual rights and liberties develop.

Universality: They argue the humanity could be governed by universal principles (Çüçen, 2013: 340-341).

Overall, the Enlightenment sought to explain the place and value of the human in the universe and society by reason. It's thinkers mention that human reason should be filled with true and scientific knowledge and that the only true knowledge is that of experiment and observation. The main purpose of the Enlightenment is to be dominant of the universe and society by means of reason.

Further development of knowledge enabled the invention of steam engines, machine tools, factories and the industrial revolution. These innovations brought many benefits and enabled some individuals to accumulate of considerable economic and political power. Therefore, people began to protect their rights and freedoms against the ruling power, but becoming so important to the rule of law, human rights had an important place in law. Because of only being human, persons are accepted to be having some rights from birth which are inalienable and indispensable. Thus it became a period of expansion of Enlightenment thought. Kant defined the Enlightenment as "man's emergence from his self-imposed nonage". On the basis of the philosophical Enlightenment there are "reason," "individual" and "freedom". Church authority was supreme in the Middle Ages, the Church was the only place that determined the extent truth of everything. Enlightenment thinkers also accepted reason as the absolute truth and struggled against the Church's dogmas by means of the reference to reason and challenged its authority (Coşkun, 2013: 73-74).

During this period, another important thinker of human rights is Rousseau. According to him, the human being was free and equal before the social life, that is to say in a natural state. But people gradually lost their liberty and equality with social life, and established the state to protect the freedom and the social life of the people and equality, actually an unwritten contract between the people and the state. Especially fundamental rights, the right to life was secured under such a contract. Rousseau called this arrangement a "social contract". This form of agreement having influenced the development of human rights in United States and Europe significantly. As seen in the Virginia Declaration of Human Rights in 1776.

Human rights became an indispensable part of natural law with the 1789 French Revolution. The Declaration of Human and Civil Rights held the human being in the framework set by humanism. It was defending that the humans are born free and equal and that a king or administrator was not granted sovereignty by God, that a selected person had sovereignty, that is to say that person was defending democracy. Also it revealed that the human has the right to resist persecution, nobody deserves to be condemned for his religious and social beliefs.

Freedom in the declaration is expressed as "to be free to do whatever one wants, provided he does not violate the rights of others".

Thomas Paine,⁴ in response of the Reflections on the Revolution in France of Edmund Burke, in his Human Rights titled book which was written to defend the French Revolution, expressed the revolution –transmitted from M. De la Fayette– as following: “*Let this monument built in sake of the freedom be a lesson for cruels and a model for the sufferers of oppression.*” (Paine, 2013: 221).

These thinkers saw a correspondence between natural rights and human rights. For this reason, to examine human rights we need to examine the development of natural law by some means. Nevertheless, we can not say that the source of human rights are some sub-theories of natural law which has varieties in itself. The relation which we establish natural law and human rights is various according to time and place (Yayla, 2014: 85-86).

In the XVII and XVIII centuries, human rights took place in philosophy under the name of natural rights and human rights. According to the philosophy of natural rights; “*Individuals presence dating back to the community, absolute, universal, inalienable and have inalienable rights.*” These thoughts have economic power in mind but was being requested by a weight of the bourgeois class in political life. Bourgeois thinkers said that all human beings are equal and some that have natural rights and government had been established to

⁴ The rights theory of Paine depends on the theories of Locke and Rousseau; it concludes the thought that one joins his natural rights to the “common storage of society” so that it become his judge for the practicing of natural law on behalf of himself (Clapman, 2010: 21).

protect these rights and therefore the state was not absolute, unlimited, but rather limited and should be a means to serve the people (Coşkun, 2006: 123-124)

Those who first developed the theory of natural law were Greek and then Roman Stoics. With the collapse of feudalism, in the words of thinkers like Grotius "Modern secular natural law" emerged. Thinkers like Grotius, by breaking natural law from religion, form the foundations of modern natural "secular" and "rational" law. According to Grotius; on the basis of human nature there has been the instinct to live in peace and harmony with others, whatever fits nature of human as a rational and social being is true and fair, however, whatever damages this nature is wrong and far from justice. Grotius is also the father of modern international law, according to him sources of modern law are human will and the principles of natural law (Shestack, 2006: 92-93).

With ancient roots the theological interpretation of natural law have been effective in the Medieval Christian and the Muslim world; understanding of modern natural law was essentially formed in Europe in the XVII and XVIII centuries, and was significantly different than the Mediaeval one. The "natural" in natural law are the laws put by God for the sake of humanity. They are natural, not artificial man-made laws (Ensaroğlu, 2001:5).

“Human rights” is indeed a modern thought, the idea of human rights in the modern era of "natural rights" was expressed for the first time by English philosopher Locke in the XVII century. Stoic philosophy of the Middle Ages and earlier Christian times are thought to have implications on the formation of natural rights for the understanding of natural law.

On the basis of Locke's political philosophy, there are individuals with natural rights and state officials obliged to ensure the protection of these rights. Locke says that all people are equal and that they have the same values and rights. There is a natural law status according to Locke. The natural law which states that people have natural values and natural rights, is also God's law and finally that reason sees this law in nature.

Locke, as cited by Coşkun, states the issue as following:

State is founded by the people, of course, in order to secure human rights and freedoms that existed before the and arose from the natural law, and by social contract; the source of its legitimacy is consent of humans and the aim of securing the human rights and

freedoms. The state which lost the consent of humans or slingshot aim to securing the rights and freedoms loses its legitimacy. Thus the right of resisting the government which lost its legitimacy and terminating it and establishing a new one emerges (Coşkun, 2006: 86).

It is clear that the limit in Locke's definition of state is human rights. Such thoughts are reflected in Western human rights declarations. Locke advances four basic rights: the right to life, right to freedom, right to property, right to seek for happiness.

There are three important points of natural law in the context of human rights: First, on the basis of natural law there is the human/individual and people have natural law and value and dignity just because they are human beings. The human/individual is accepted as the only measure, and this theory builds the source of the modern law and human rights are made active in political events by applying these criteria. Secondly, it is suggested that natural rights have an universal approach. Third, the natural law is supposed to be only way to protect people against authority and political power.

The theory of natural rights created the philosophical basis of the human rights struggles of the XVIII century. We can see the effects of this theory the in French Declaration of Human Rights, the American Declaration of Independence, in the constitutions of many states freed from colonialism and fundamental UN human rights documents (Shestack: 2006: 92-93).

Although the understanding of natural rights have been effective on the English, American and French Enlightenment declarations, this effect have declined since 1815, and this situation lasted until the 1930s. In the IXX century ideas of natural rights weakened and there were two reasons for this: First, human rights in the political sphere started to give place to the "right of nations". Second, since the middle of IXX century, the Marxist, "pragmatic" and "positivist" view started to gain weight in philosophy. After the First World War, the positivists have been sharply critical of the idea of natural rights (Erdoğan, 2012: 130).

The criticisms made against the natural rights theory intensified in the IXX and XX centuries. The fiercest criticism has come from legal positivism, the doctrine of natural law theory. Positivism has dominated the thinking of IXX and XX century jurisprudence. Positivist current law theorists think the law should be left be, and natural law are accused

of making a distinction, and to cause confusion. Shestack expressed the issue as following: “In fact, positivism rejects basic moral philosophy in terms of human rights. A legal system, the law dealing with positivism independent of moral values, human dignity and moral chew on the outside, although it poses the idea that every law must be respected” (Shestack: 2006: 94-95).

The political validity of natural rights –or human rights– which emerged in the XIX century were reduced and some philosophers like Jeremy Bentham ridiculed the principle of “*all people are born free*” as a “*strange and incorrigible nonsense*”. Bentham declaring that it was not same thing to desire something and to be owner of it. In his words, *hunger is not bread*. According to Bentham, the real laws were legal rights and it was the profession of legislators to create rights and determine them, not of them to defend these natural rights. According to the view of Bentham, it was same thing to claim that the government was restricted by natural rights and to look for “trouble”, even to invite anarchy in (Clapman, 2010: 25).

Positive law is the name of law by which state competent authorities issued laws, decrees, regulations, principles such as regulations, the courts accepted and practiced customs and the principles and the scope of the binding jurisprudence and its validity is the name of the law provided by the state in the whole country. This quality of the positive law refers to the present one. As to the natural law, which is not binding state against the positive law, and above the state law and superior to it, can be regarded as the basis of justice utilized in the assessment of state law. By this quality, it is not as present law, but one which must be. By this feature, the natural law is expressed as an "ideal lattice of ideas" (Kara, 2013: 8-10).

Natural law understanding comes from individual's own inner world, that is to say from his creation. All thinkers, no matter which belief system they have, agree that the natural law expectations comes from the human creation. In this light it is questionable whether natural rights are relative. Positive presence is not the subject of debate but the rules that they create above the law. To satisfy the people, especially the regulations of positive law revealed once again the importance and necessity of natural law. “Especially justice eligibility criteria, are organized according to the natural law reveals the necessity of positive law” (Balçı, 2014: 2-5).

The first source of the modern idea of human rights of in the IXX century which still ongoing in effect is the natural law. Indeed, many lawyers express natural law *“is nothing other than the claim that law is a part of morality.”* The principles of natural law are accepted as superior legal value that indicates the way to international law and these superior principles in Medieval thought were assumed to be insured by God. Representative in this theological understanding of natural law at that time was Thomas Aquinas. Natural law was mostly understood as a law of divine origin. But in modern times, natural rights philosophers such as Locke, although he did not deny the divine source, removed natural rights from being religious/divine and claimed them to be some laws put forward against the political will by making them “political”. The source and measure of these created “secular” natural rights has been “reason”. Locke's idea of natural rights is derived directly from natural law thought (Erdoğan, 2012: 38-42).

Another part of the natural law are natural rights. According to the idea of natural rights; human equality and true freedom is the natural life of the period which they established a contractual agreement with the community and the state in their respective fields. The basis of natural law is due to restrictions and abuses of power since ancient times (Çüçen, 2013: 221).

All thinkers in general are agreed that natural rights have following features:

- People are born with natural rights, they are part of our first equipment. We have natural rights inherent, inalienable and inalienable rights. Therefore, to reject the natural rights is to deny being human.
- Natural rights are prior to society and therefore independent of the existence of society. Natural rights of any social structure or development is not the work of political organizing. On the contrary, the political community can be created in order to ensure full recognition and the practice of these natural rights.
- Natural rights are absolute. These rights can not be overridden by any thought, or withheld in practise and their scope can not be reduced and can not be made subject to negotiation.
- Natural rights are universal. In other words, all people, regardless of time and place have natural rights.

Human rights were entered into laws and constitutions in a systematic manner in the XX century when the perspective of human rights started to move from individuality towards a societal approach.

Before the Second World War, human rights was based on an international legal relations. It was limited to relations governed by international law, and did not interfere in the states' internal affairs, or the human rights between the citizens of the state, which it regarded as interfering in the internal affairs of the state. For this reason, it could not do anything against the state in violation of the international law of human rights, but since the Second World War the situation has changed and human rights has become no longer an internal affair, but a matter to be dealt with on a global and international level. After the Second World War, in 1945, the United Nations Charter was signed. So the first important step to take universality was laid.

The Universal Declaration of Human Rights was adopted on 10 December 1948. The declaration consisted of 30 items that sought to protect individual rights and freedoms such as; the right to life, security of person, prohibition of slavery, prohibition of torture, the right to inviolability of private life and property, the right to religion and belief. People living in all countries would benefit from it. Since then the UN has sought to maintain the currency of the Declaration in the face changing situations. Thus we have seen the addition of environmental rights, peace rights, respect for the presence of right to development and humanity's common goods also called solidarity rights (Çüçen, 2013: 38-42).

Another important step in the transition to the practice of human rights in the modern era was adopted by the British parliament as the Bill of Right. Locke's ideas on rights has a significant impact on the human rights instruments.

In XIII century England it was the opinion of the barons to restrict the powers of the king and therefore, the Magna Carta (Great Freedom Edict) was declared. It was the first document issued in England in the field of human rights as a product of the conflict between the king and feudal lords dated 1215. On the other hand, Clapman states that *“there is a problematic approach which assumes that the first political happenings in area of human rights depends on Magna Carta, signed by England King John and unappeased barons of*

the taxes ruled by monarchy in year of 1215". Although this treaty secures the rights of privilege of arrestment, confinement, being enserfed, banned or being disturbed in any way for a free person unless the juridical of his equal stated persons or laws of his nation consider appropriate; this security was applied to only the land owner male citizens, some kind of judgement right by a jury. Therefore the rights given in Magna Carta are not human rights, but only political regulations (Clapman, 2010: 17-18).

The remains of the Virginia Declaration of Rights in 1776 declared indispensable, birthright as the moment when life, liberty, property, took place in search of happiness and safety and their rights to access.

The 1789 French Declaration of the Rights of Man and Citizen was a product of the French Revolution. This embodied a common understanding of natural rights just as in the American declarations, "life, liberty, property and resist pressure" and such rights again. In short, the French Declaration embodied human rights instruments that could not be created prior to that time. It can be said that the fact that French was more widespread than English in the XVIII century effected the declaration to be written in the former (Kara, 2013: 15).

In 1948, the Universal Declaration of Human Rights by the UN resolution was issued. Human Rights is not a binding and obligatory practice from the legal perspective of the Universal Declaration, the statement signatories were not forced to comply with the notice, a kind of hope, and a relationship with the political sphere's "universal moral code" can be defined as a proposal. Therefore, this report's impact on the world's nations was limited to the moral attribute (Erdoğan, 2012: 132).

The committee of U.N. Declaration of Human Rights consisted of eight people. Of these, five were from Western states, two were from the Soviet Union and China and the other was from the Catholic Arabs (Yıldız, 2012: 132).

After the Second World War, by the establishment of the UN, human rights have won a political force in the international arena and is clad in a global character. By many treaties and agreements at the UN, human rights ceased to be only the internal affairs of states and has led to the formation of collective agreements in legal, economic, and political fields (Coşkun, 2006: 97-98).

As the most important human rights documents so far, the Universal Declaration of Human Rights has inevitably attracted scrutiny and criticism. According to Kuçuradi, this declaration was adopted based on ideas that “*All people are free (?) and assumed to be equal in terms of honour (?) and rights (?): They are equal, because the reason (?) and conscience (?) are fitted with them. And since they are equipped with reason and conscience, ‘all they should treat each other as brothers’ (...)*” It appears that the main purpose of the declaration is to identify some moral principles. Human for certain features that distinguish man from other species (of which the most important is the reason and conscience) some “general” and “universal” is to demand rights (Kuçuradi, 2011: 197-199).

As it demanded in this declaration; for people to live according to dignity, the state is required to be responsible for "legal" and also "moral" missions (Çüçen, 2013:302).

3. CLASSIFICATION OF THE HUMAN RIGHTS

Distinction between rights and freedoms of different generations over time, human rights belong to international law and its leader is Professor Karel Vasak (Kaboğlu, 2013: 41). This method followed by Vasak is the classification of rights according to the individuals, society and the state's position, historical and periodical common features of economic events (Doğan, 2015: 57).

Since the XVII century which saw the emergence of human rights theory, many lists have been done classifying and separating human rights. And the generally accepted human rights that have emerged so far are possible to separate as “first generation”, “second generation” and “third generation” rights. This in turn has increased criticism of modern human rights and human nature and led to some new understandings of human rights to the people of ontology, whereby fourth generation rights that are oriental stressed should occur in Western thinkers.

3.1. Rights of First Generation (Classical Rights)

First-generation rights, known since the XVIII century, correspond to current civil and political rights. Civil rights and freedoms of the individual are guaranteed by the liberal state approach, while political rights reflect the understanding of the democratic state. They are presented in the form of rights or liberty rights against the state. First generation rights emerged from the American and French revolutions (Kaboğlu, 2013: 41).

John Locke states the first generation rights as life, liberty and property rights as mentioned. Thomas Jefferson added to them the right to seek happiness. The rights which were declared during the French Revolution, the Declaration of Human and Citizens' Rights; liberty, property, security, and others took the form of resistance against oppression. These were declared in a number of countries in the XVII and XVIII centuries and are now generally

accepted to be First Generation Rights (Çüçen, 2013: 227-232). They can be summarised as follows:

- Right of living and personal immunity
- Personal freedom and personal security
- Freedom of thought and manifesting of the thought
- Belief and praying freedom
- Immunity of domicile
- Property right
- Equality right
- Right of association
- Right to assembly and demonstration
- Freedom of labour
- Right of petition
- Right to vote and stand for election
- Right to do public service
- Right to be judged by an objective judge

We can express the main feature of the first generation rights as the state does not interfere in the private lives of people (Çüçen, 2013: 227-232).

3.2. Rights of Second Generation (Social Rights)

These are considered as the rights of economic, social and cultural areas especially shaped by the Russian and Mexican revolutions in the early XX century. These rights are also called “equal rights” and “take rights” to have the required state for a debt (Kaboğlu, 2013: 41).

The vast majority of second generation rights, the state has a duty to provide the service that loads the rights of nature, require the use of large financial resources for realization. First generation rights play a critical important role in securing the bourgeoisie, and the second generation rights in terms of the driving forces, the industrial revolution has been demonstrated by the working class (Çüçen, 2013: 227-232).

These rights added to the classical rights and the enrichment of human rights to enable people lacking the ability to take advantage of their individual human rights to secure them socially.

Particular second generation rights (social rights) are as following:

- Right of labour
- Right to establish trade unions
- Right of strike and labour agreement
- Right to interfere the management of working place
- Right to rest
- Right of social insurance
- Right to receive free education
- Right to attend the cultural life
- Right of health
- Right of nutrition
- Right of housing
- Rights about the protection of those who need protection like mother, child, disabled, elder

3.3. Rights of Third Generation (Solidarity Rights)

After the Second World War, “third generation” rights emerged also called solidarity rights. The formation process of third generation rights is yet to be completed and in the XXI century they hold an important place in the human rights debate. Solidarity rights arose due to scientific and technological advances that brought environmental pollution, nuclear weapons, and disparities between countries or regions (Çüçen, 2013: 227-232).

These rights were institutionalized by Professor Vasak and appeared in the last quarter of the XX century. The realization of these rights combined the efforts of many social actors: Individual, state, public and private institutions, non governmental organisations and the international community.

Rights of Third Generation (Solidarity Rights) :

- Right of environment
- Right of respect to the common property of humanity
- Right of development
- Right of peace
- Right of food
- Right of receiving humanitarian aid
- Right of Self-Determination
- Right of access to the fresh water

In respect of binding human rights to legal guarantees, the rights of the bourgeois class in the first generation, the second generation rights mentioned have played a role in empowering the working class. The beneficiaries of third generation rights include individuals, groups and states but also improved relations between classes which required solidarity.

Third generation rights, with an emphasis on groupings of individuals, populations and communities rather than individuals, are “collective” rights. However, whether there may be a human right to collective assets is problematic and discussions continue on this issue. As we mentioned earlier; Donnelly who is one of thinkers who are active in the human rights field, states that collective rights exist but they can not enter the human rights category, so they should be kept separate from individual rights as a kind of collective rights of peoples. Others think collective rights must be recognized as human rights as well.

In the adoption of this law, which is called solidarity rights as well, there has been the effect of demands by ethnic, religious and cultural groups.

Against the classification of human rights, there have been some objections on relativity, “hierarchy among the rights (as value order)” and of human rights “indivisibility” in terms of policy (Kaboğlu, 2013: 42-44).

As there are no hierarchical relationship between the generation of human rights, every one of this generation rights has emerged within the requirements, all of which complement each other's rights (Kara, 2013: 17).

These rights (third generation rights) are the rights of peoples to determine their own destiny, linguistic communities, cultural rights such as community rights (Arslan, 1997: 40).

In the Universal Declaration of Human Rights proclaimed in 1948, there is no mention of group rights. In 1966, the general assembly added group rights instead of that of the individual, that is to say a people's right to determine its own future. In Jammu, Kashmir and Palestine, the right of a people to determine their own future has been the focal point of humanity (Sadık, 2009: 177).

No human rights declaration can be unchangeable and none of them can be complete. With human civilization, they will change over time. Even those that meet the current needs of humanity are subject to new understandings of human rights and the issues to be addressed by a fourth generation may be different from what many people and humanity today assess as human rights. The following is an example of how opinion on prospective fourth generation rights is expressed:

We killed the human being while creating individuals with modernity. Therefore, at this time in which we redefine human rights and freedoms are necessary, we must repair and modification; we need to rebuild where it is necessary. First, second and third generation rights reviewing additionally I would say that the fourth generation we can say, and my-building rights as I said, people again nature of, disposition and honour we can have in an appropriate manner and in life hold can a new generation of rights and freedoms, we need to start the process of building (Çalış, 2014: 24).

Again, due to technological developments in the world and transformation of social, scientific perspectives very quickly, hitherto considered unprecedented human rights violations, the need for fourth generation rights begin to be mentioned.

Against the possibility of misuse of technological developments and science, fourth generation rights are likely to contain the underlying features of the human rights related to the use of human dignity. In this regard, communication is now becoming possible with consequences such as copying the human genome, biotechnology and medicine risk humanity by advancement in areas such as genetics, all revealing the need for novel protection in a novel situation. (Doğan, 2015: 58).

SECTION 2

1. CRITICISM OF THE CONCEPT OF “HUMAN RIGHTS” AND ISLAM

In debates on human rights, the “human dignity” concept holds an important place. In the struggle for human rights the protection of human dignity is seen as the main purpose.

Today, human rights is seen as the product of developments over 200 years. However, the rights of people were mentioned by many philosophers under different concepts and different social occasions (Doğan, 2015: 64).

Among the philosophical plane of human rights are many remarkable humane, voices of sensitivity; Sophistic philosophy, the BC 539 dated Cyrus Cylinder, Asoka Edicts of Indian Great Asoka in BC 272 - BC 231 and in 622i a formal treaty between the tribe and the family prepared leading by Mohammed bin Abdullah, Islamic prophet, written between Muslims, Jews and Pagans which took shape in Yathrib (later named Medina), Constitution of Medina and the Farewell Pilgrimage.

Islam emerged in Medieval age, and rapidly spread, with the value of the human as superior to all other living things. In the 30th verse of Al-Baqarah in the Koran, the human being is stated to be the caliph of God on the world; and in the 70th verse of Isra it is said: “We made the human being superior to a great part of our creations.” These verses reveal the value of humanity attributed by Islam which holds that this value is possible only by being a servant of Allah. Therefore, any action that leads to God, man of dignity/dignity saves (Al-Mafrey, 1995: 21). Again according to Islamic belief, a human is not stray, but he is with responsibility and dignity/dignity (Bulut, 2008: 7-11). Still blowing from the spirit of God's human creation as the owner proves that human dignity and honour. In other words, respect for human values means at the same time respect for God.

In Islam, the notion of human dignity is divided into two approaches as "acquired dignity" and "inborn dignity". The degree of acquired dignity varies from individual to individual, and this dignity makes a human closer to God, valuable in His eyes. On the other hand inborn dignity is independent of colour, race, nationality or language, and it does not increase with qualifications or does not lack. This dignity is inalienable, and can not become the subject of faith and righteous deeds (Ulusal, 2014: 218).

In fact, although today the concept of human dignity is defended as a "secular" concept and approached and thought of in this direction; it is also a "faith-based" concept. While Western sources naturally bind this to Christianity; the value, honour and dignity given to humans by Islam is also visible and obvious (Erdoğan, 2012: 49). This is exemplified by the two verses in the Koran mentioned above.

It is generally accepted that the modern human rights of today are based on the ground of Locke's natural law. Some thinkers who show that as a ground, mention that the basis of modern human rights is actually religion. Locke says "*All people are equal, because all men are created by the same God.*" Locke's source of legitimacy is divine and both his philosophy and language are based on religion. His ideas influenced the 1689 Bill of Rights, 1776 American Declaration of Independence and the 1789 Human and Citizen Rights Declaration. Almost all global and regional human rights documents in use today, including UN declarations, are in agreement with Locke's language and philosophy. While adopting the philosophy and approach of Locke, the UN "secularized" his language for some "pragmatic" reasons (Akyeşilmen, 2014: 37).

Religions, ethics (human rights are fundamental moral principles) and understanding of the concept of human dignity overlap. For example, the Torah says that God created the human. In the Quran, in 70th verse of Isra, says: "And verily we, human beings with dignity (and fame owner) we make", saying he regarded as the highest values of human rights uses direct human dignity (Akyeşilmen, 2014: 39). Divine religions, giving a higher value to people in this way, admit people as sacred. Therefore, these rights are enshrined in the holy presence. Michal Perry taking further the opinion of human rights "as a religious imperative" refers to that. According to Perry, it needs no convincing to believe that you need to protect the rights of their sacred honour, unless you think that there is no cause of human rights. But people

can not be violated in terms of a religious understanding of God as the work of individuals who can form a basis for the idea that they should not have natural rights. Similarly, Max Stackhouse on the basis of human rights thinking belief in God, or at least “over moral law” has stated that it is imperative that the idea is sacred (Erdoğan, 2012: 57).

Not in verse only, but also in the hadith of the Prophet's also it is possible to see the dignity of humanity, essence of human rights. For example, hadith of “Your goods, your life and your dignity has been preserved” is consistent with basic human rights that Locke stressed. Locke talks about “vital liberty, property”; hadith refers to "life, property and honour" (Akyeşilmen, 2014: 39).

Today, modern and liberal critics human rights refer to the concept of the secular. Although from time to time, in efforts to find a divine reference to Western human rights theory, separated from the religious reference with the enlightenment of this theory is based on, an entirely secular basis is known. So even though the secularism of society should be mentioned that they do not look so affirmative, being alien to the concept of human rights. In this context, objections to the secular nature of Western human rights theory often comes from Muslims.

According to Yıldız, the West which secularized sacred in the post-Enlightenment era, in turn sanctified the secular one to maintain the existence of itself. So in the West, the modern time and the concept of human rights has a secular background and to take their share of that holiness was considered untouchable. Besides the concept of human rights; democracy, secularism, humanism and rationalism, the concept is considered sacred and inviolable (Yıldız, 2002: 14).

The human rights struggle holds an important place in Western history of social and political advancement, in practice often appearing as a freedom struggle against the rise of the Church. Perhaps the creation of secular modern human rights theory with the Enlightenment was only due to the Church's "repressive attitude". The challenge of "Western/secular human rights" to the whole of Western religion is a product of their own unique circumstances, government and community relations, and has emerged as a result of the conflict that exists between them (Yıldız, 2002: 45).

Divine teachings discuss human rights in the context of the purpose of human existence. An ontological relationship between God and His creation is concerned. Therefore; He who created the human being and gave him some rights is the same One. That is why there is a divine reference to human rights. These rights are inviolable, and cannot be transferred. Therefore, the provision of security accords with the purpose of creation, but it only seems possible with the divine teachings. Yet throughout history the divine teachings of a team attempting to use people as a means to their own interests, may undermine the credibility of religion. Divine teachings as a result of this, lost the characteristics of human rights and non-religious reference sources and references to human rights began to be searched for. This situation coincides with the post-Enlightenment era (Yıldız, 2002: 71-72). But the lack of secular emphasis in the XX century and lack of consideration of the ontological space to refer to religion's human rights began to be discussed again.

Hatemi speaks about the issue as follows:

The fundamental and decisive reason for obscurity and ambiguity of human rights is cutting relations with Divine Wisdom and thus the oblivion of the reason of being, the –goal of divine love and spiritual perfectness– are reason for the existence of this concept. When the upward-driving force fails, the rapid descent down the right and begin the process of destruction. Goal of being “perfect human is lost and 'animalism process' begins in the opposite direction (Hatemi, 1988: 227).

According to Yıldız, in modern times the worldview itself in "womb" of which the idea of human rights was shaped has turned into a device that produces human rights violations. In other words; the human rights designed to be devoid of morality and religion, and freedom, destined to destroy human nature, the human being has been inclined to destroy his nature, has become "a machine that produces human rights". It is expressed that the only way to cease this "calamity" situation is "Again returning to God and starting with his holy name" (Yıldız, 2002: 8-10).

1.1. Human Being in Islam

The creation of the human being distinguishes him from other assets set forth in other words, nature/human nature and happens without a troubled human rights approach to determine the cause of the earth being understood. Basic human rights is based on a philosophy of a

human-oriented mission. Therefore, to better understand the human rights of the people it would be appropriate to explain the ontological structure of human beings.

No entity in the world needs to be reviewed and described as much as the human. There is an important difference of him from other beings in the universe. Therefore, it is more vague than other assets, has a complex structure and required disclosure.

As we know, the concept of human rights does not emphasize rights, but human being. Being separated from other living being, a human is a private entity which is authorized to rights. If we emphasize the notion of human before the concept of rights; it can be useful for us to improve a concept of human rights which is identified with the essence of the humanity concept. Revealing the determinations of final apocalypse about the nature of man is important in terms of setting priorities and limits of the source of human rights. Because the existence of a thing needs to determine its nature. "A supply contrary to its nature does not lead to the expected demand." By this reason, starting from the Koran, we need to uncover the Islamic perspective on the nature of the human being (Birsin, 2012: 162-163).

The Koran states that the human being is formed through various stages, first the land of the mixture with water, after being cooked by fire emerged and God's whistling the physical presence called "beşer" from His "soul" and became different than other living things. Looking at the verse that deals with the creation of man; we can identify the following about the ontological structure of the human:

- Koran calls the entity which is not blown spirit yet and does not have consciousness and vigour as "beşer". However he appreciatedly has been a person after the spirit was blown and became respectful. In this context, a man from the soil material aspects and the "spirit blowing" and won a second dimension and has emerged in the form of consciousness.
- Human is glorified and honoured by spirit. However, the physical presence created through the many stages of filtration earth is a part of "humanitarian honour". Koran by saying on this issue "I have created with both hands" (Sad, 38/75) draws attention to the statement. These statement utters a decorated and most beautiful and well-balanced physical/biological entity which was created (Birsin, 2012: 162-164).

In this world we live, the power of vitality and consciousness expressed by the concept of spirit is active in only the human body. For this reason, the body of humanity is the sine qua non. The physical body, which is the carrier of the human concept deserves to be protected for this reason. For the protection of human physical existence, the Koran says: "*Do not compromise yourself with your hands*" (Al-Baqarah, 2/295) and this verse expresses this principle. Physical/tangible assets to be carriers of the human concept earned him the right to represent the concept of humanity. The human body as a result of this principle has been accepted and respected and a sacred sense of humiliation is made innocent of its acts. Therefore, faith, respect for the human race and gender are central to this approach. Muhammad's Sunnah which confirms this principle: Sahabi Jabir b. Abdullah, "A funeral passed in front of us, H.z Muhammad stood up for him and we did so. Then we said, 'O Messenger of Allah, he is funeral of a Jew.' He commanded in return: 'You get up when you see a funeral'" (Birsin, 2012: 163-165).

According to Islam, the first message given to the human is that he is God's representative on earth. The Koran describes the creation of man in the following way: Allah called the angels; he commanded that he would create a vicegerent on earth.

Angels opposed: "Do you want to create again somebody hatred on earth to pursue revenge, and shed blood?" (According to Shariati, there were people who shed blood, just like people today, murdered and sinned even before Adam) God in response to them: "I know what you do not." and immediately set off to create Adam. While they expected Him to choose a very valuable material for the creation of man, God created his caliph on earth by "dirty" soil. The material with which human was created is set in three different ways in Koran:

"*Salsâlin kel fehhâr* (Rahman,14)"; This means the remaining soil layer bottom of flood formed by drying the slurry. In another verse, He says: "I created the Human hemain mesnun." (Al-Hijr / 26,28,33) It means "rotten" and "foul-smelling slime." Other elsewhere He says: "I created man from clay" (Enam / 2). So Allah created His representative on earth of clay, a dried clay and then blow his own soul; so He completed creation.

In human language, "slime" is a symbol used to say inferiority and rancidity. And of course tin human language the most valuable and most holy thing is God. Therefore God breathed

his spirit to the created most "vile" material on earth. Then it occurred to the human to be a two-dimensional, "dualist" entity as clay and God's spirit. Therefore, his one dimension is prone to vile slime. In his nature and yeast, inclined to inactivity, it tends to stay in a place. That is to say his yeast is inclined to sit in precipitation and comfort. Other dimension is (as stated in the Koran) with the spirit of God, so inclined to glory. In contrast to the first dimension to rise, this one tend to consider to be able to rise to the highest. In other words, to God and God's spirit. The importance of human comes from having two opposite poles. Whether the person is under the slime of his own will to go does God's spirit. Life struggle and war, human continues to choose any of these in their own pole (Shariati, 2013: 16-18).

God says, "I know what you do not know" and wants them to kowtow in the presence of these two dimensioned being. Meanwhile, we see how much glory to human is granted. Because, even "luminous" angels kowtow to Adam, a structure which is created from clay. İslamoğlu states that this kowtow is symbolic (İslamoğlu, 2014: 87).

God is keeping angels to the test due to their objections and asking them about the names, but angels do not know them. But Adam knows all names. In this exam angels fell victim to the glory and superiority of Adam. Superiority of Adam comes from knowing the names. The angels are kowtowing in front of Adam, even though they have a more noble structure. This is an example describing what the place of man is in Islam. Thus, the "*nobility and superiority is not by genus, but by knowledge and wisdom*" (Shariati, 2013: 18-19).

Another thing that we must keep in mind in man's creation is that God addressed to all created living and inanimate: "I would like to offer a trust to earth, sky, the mountains, to all of you." While all of them abstained taking that, only human assumed this trust. Here arises another virtue of the human. All entities flee from it but human assume this trust. Therefore we can easily say that the human is "Allah's trustee representative on the earth" (Shariati, 2013: 19-20).

There are various views about what this deposit is. Shariati by citing from Rumi, says that the intent of the trust is "will of the human," and that he also participated in this opinion. Superiority of human being than any other is his will. No other disposition of its assets can act contrary, people are moving contrary to the instincts and their disposition. He is free to

choose good and evil. In other words, he may both desire God and to be clay. In summary, the Will is the most valuable property of human and "relationship" between God and him comes from this (Shariati, 2013: 19-20).

Since choosing God or slime is up to the owner himself, he is also responsible. That is to say "freedom" and "option" gives rise to this responsibility. Therefore, "*man, according to Islam, is the sole entity responsible for its own fate. In fact, not only of his own fate, he is also responsible of practising the divine message in the world and of being its trustee*" (Shariati, 2013: 19-20).

Human being is learning the names. Shariati's intend of names underlines that the knowledge of truth. Moreover, these names have been taught by God to man in the world means the ability to understand all meaning of "scientific facts". This is the greatest responsibility. Therefore, people in the community are responsible for their own destiny and the destiny of the need to create (Shariati, 2013: 19-20).

In the depths of human "Allah (God's blowing)" and "the devil (clay)" is in struggle. Therefore, the devil does not fight with God in Islam, but with the human being. Already being a two-dimensional human (God's spirit, clay), he is in need of both earth and Allah (Shariati, 2013: 21-22).

As Shariati has noted, the human has "bipolar" ability to show an improvement:

"WE have created man in the best make; Then, when he does evil deeds, WE degrade him as the lowest of the low, Save those who believe and do good works; so for them is an unfailing reward." (Tin, 95/4-5)

İslamoğlu, for the interpretation of both two verses; defines human as created in the best consistency, consistency in the creation of his own efforts and will get sooner he left the starting point is defined as an entity that will fold.

Again, the Koran describes human nature as prone to evil,⁵ unsatisfied and anxious,⁶ cruel and ignorant,⁷ ungrateful,⁸ greedy and stingy,⁹ hasty,¹⁰ poor,¹¹ who do not know his limits,¹² stepped cry when someone touched him,¹³ jealous in case of gaining grace (good),¹⁴ quickly despair,¹⁵ impatient,¹⁶ spoiled and boastful¹⁷ and a very argumentative¹⁸ being above all.

These verses declare the man's innate (original creation) structure, not a subsequently formed feature. This does not have any revile meaning; the purpose here is to describe the creation and property of the human and to say that he is so due to the creation of his case. So human by his creation is inclined to "good" and "evil" (Mutahhari, 2008: 51-54).

Mutahhari explains the situation as follows; such has been given the ambition but also the capital to fight against it is given to man. Because this is the thing which brings him to the perfectness degree is his fight against ambition. When the human faced with his childhood habit in later terms of life, he will use the capital and thus exceeded his perfectness degrees toward overcoming those stages (Mutahhari, 2008: 60-61).

Human, in the first periods of his creation, in the face of good and evil, has "non-logical", "primitive", "superficial" and "Bedouin (wild)" feelings. In other words, human with damage in the first mood, and will tap its benefits against any kind of damage, which is greater than the benefit without considering the possibility that a creature who will rebel and starts to lament. However, for human without such loss and damage it is not possible to obtain greater benefits. Here is the first lesson taught to the people. In other words, unfortunately, he can not grasp that lesson properly, that 'it is not possible to obtain some happinesses without confronting some deprivations.' If he consider obtaining happiness without confronting the deprivations, he would have made a big mistake. This first lesson taught to the human is the

⁵ Koran; (12/53).

⁶ Koran; (70/19-21).

⁷ Koran; (33/72, 14/34).

⁸ Koran; (14/34,17/67,22/66,26/48, 43/15, 80/17, 100/6).

⁹ Koran; (17/100, 70/19).

¹⁰ Koran; (21/37, 17/11).

¹¹ Koran; (4/28).

¹² Koran; (96/6-7).

¹³ Koran; (70/20).

¹⁴ Koran; (70/21).

¹⁵ Koran; (17/83, 30/36,41/74).

¹⁶ Koran; (70/19).

¹⁷ Koran; (11/10).

¹⁸ Koran; (18/54).

same as Adam's lesson. It was said to Adam: "if you want to stay forever in paradise, you should avoid fruit." So actually said was, "O Adam, retain eternal heaven and eternal happiness to stay, is linked to endure a deprivation." If you say no to confront the deprivation, "do not lament when an evil touched you" (Mutahhari, 2008: 74-73).

As we can see, human is equipped with the ability to show positive moral and material development. Physically, all other creatures are dragged along the ground, standing on all fours; human stands on two feet and moves; his eyebrow, eyes, fingers and face were created and placed in the best way. The spiritual care given him a reason and will, found himself with a conscience, an account is created with a system. All of these features human being has been created in a "most beautiful balance/consistency (Ahsen-i takvim)".

Birsin says by citing from Ibnu'l-Arabi:

There is no more beautiful creature than God's human, because God created him live (Hayy), knowledgeable (Knower), powerful (Kadir), will owner (Mürid), speaking (mütekellim), hearing (Semi), seeing (basir), planning (müdebbir), Wise (hakim). These qualities are the attributes of God. Allah created Adam in his own image." This hadith underlines that this is the situation. (Birsin: 2012, 167-168).

The Koran explains the spiritual development in sura of Shams: "In name of One who has given him personality (nafs) and his shape, trend to exceed his boundaries (fücur) and trend to recognize responsibilities (takva) he had that and get that develops purify the people (tezekka) have salvation. Wrapping him (who delivered fücur) has been of the losers" (Shams, 91 / 8-10). Spiritual development requires labour and effort.

Islamic jurists are of the opinion that the fundamental principles of humanity which separates hiö from the other are "mind" and "misappropriation". These two concepts, to establish mankind, deal with safety. In this case the Koran says: "*We did indeed offer the Trust to the Heavens and the Earth and the Mountains; but they refused to undertake it, being afraid thereof: but man undertook it.*"¹⁹

¹⁹ Koran; (33/72).

The fact that human undertook this trust shows that he has ability to have rights and responsibilities. Islamic jurists have acknowledged that he was born as suitable for such a misappropriation.

Birsin, by citing from one of the Hanafi jurists Ed-Debusi, explains the humanity quality and its founder elements as following:

When God created man, in order to move His trust, to make him eligible to favour and against, he donated his reason and embezzlement. As a result, which could assume the rights and responsibilities for human *ismet* (inviolability of the person), he found freedom and rights *sūbut* ownership. In addition, he called Hukukullah rights against the trust (responsibility) won a certainty. Just as Muslims around the world when we make an agreement with embezzlement our deniers, such as occurred with the rights and responsibilities they have (Birsin: 2012, 186).

İslamoğlu, indicates that the referred trust in the verse is attributed to the "will", "reason" and "conscience" which was granted to the human (İslamoğlu, 2014: 81). He says that the spirit God breathed in to human was that of reason, will, and conscience. Angels then kowtowed. At the same time when the spirit was blown in to the human, the ability to put things in the name of that reasoning and judgment has been granted as well (İslamoğlu, 2014: 79-85).

İslamoğlu speaks for the debate on the statement of Koran with the expression "I blew my soul":

"I blew my soul" never means to be a part of God in man. Koran never gives it any passage. This leads to the belief that the basic tenets of the Islamic faith such like God in the form of entry into the human "Incarnation" or shaped by human unite with God "the Union", which is contrary to the *Tevhid*. This is a metaphorical use when the inevitable question of divine action. How does blowing the fire set fire to a part of the existence of late, in part from people blowing God does in people. Because God is *samed*. (İhlas 112: 2). *Samed* means 'not broken, indivisible, never generates.' What is divisible, it is what exposed to time and space. Compound assets are divided and all divided are created. Such a thing is not to clarify the issue in the form of God (İslamoğlu, 2014: 86).

As a result, Hanafi jurists agree that human is created as the carrier entrusted by God, in favour of and against the rights (rights and duties) *ismet* to honour that, and people with mental and embezzlement to be competent, liberty and ownership (the ability to have properties) that fixed the rights they agreed. Hanafi jurists conceptualize, be qualified by the

rights and obligations mind and embezzlement; deposit liabilities; rights in "ismet", "freedom" and "ownership" show that. This approach of *Ademiyet* form the constituent elements of "wisdom", "embezzlement" and "trust" which is understood by that concept. Because *Adem* occurs, the reason makes a combination of embezzlement and safety required. If desired to the definition of a human being because of the distinctive qualities of other fundamental human presence it is inevitable to refer to this concept²⁰ (Birsin, 2012: 188).

Trusteeship is based on two verses from Koran: First verse is *"We did indeed offer the Trust to the Heavens and the Earth and the Mountains; but they refused to undertake it, being afraid thereof: but man undertook it."* Secondly, *"When your Lord took from the children of Adam - from their loins - their descendants and made them testify of themselves, [saying to them], 'Am I not your Lord?' They said, 'Yes, we have testified.'" "is the verse. Here the first verse uses "trust" concept explicitly, but the second verse uses the "witness" and "consent" of human to draw attention to the responsibility occurred.*

The "trust" concept in the first verse is understood by Islamic jurists as "bids of Allah" and "compulsory obedience". Some has given "mind and bid" meaning to "trust" as well. The concept is the source of embezzlement in the second verse. All that we see when we look at two verses in mind and responsibility for the result of the embezzlement occurred. We can say that the mission of human existence combined with this responsibility. This mission, as Fazlurrahman also stated, is "duty of establishing a social order based on morals" (Birsin, 2012: 196-197).

It is said in Koran that everything on earth and sky was appropriated according to the benefit of the human.²¹ Hatemi defines man as a being which has "moral with responsibilities, which

²⁰ If we look at the brief definitions of these concepts form the *Ademiyet*; "Akıl" is an Arabic word, means not interfere in the dictionary and is the opposite of prohibition is folly. When transferred to the abstract, human is the name of the function that allows you to control the stray desires, keeps him off being a prisoner of his emotions. In other words; reason keeps human off wrong. And the constituent elements of the human reason, the first attribute is mainly considered creational (Birsin, 2012: 189-191).

"Embezzlement" concept, refers to the rights and responsibilities related to human. In other words, embezzlement defined an attribute which makes it convenient in favor of and against human beings, and to the creation of rights the organized to his "sübut (vücub)". This reflects a common acceptance of Islamic jurists. However, Islamic jurists, mind, and against the rights of the condition occurs; the embezzlement was accepted as the cause of these rights. Embezzlement is available together with existence, it shows the development of the reason (Birsin, 2012: 192-195)..

²¹ Koran; (45/13).

can perform the spiritual evolution of the journey, can progress towards God by gaining love, and that which has a special place and value within the universe” (Hatemi, 1988:131).

The Materialistic worldview does not accept the special position of human in the universe. It evaluates human as who “*has prevailed in the fight of life, a kind of developed abilities which superior to animals*”. And it sees the divine purpose of creation, placed in man "soul" and spiritual evolution of the driving forces of divine love, human "Khalifa" is the purpose of divine carrier consists of trust, values such as the formation of moral obligation as fabricated and believed to have things by social circumstances (Hatemi, 1988:131).

But in Islam, human is morally responsible because of its ability to choose. Islam defines human as “a being with divine love, who has moral responsibility and the ability to have choice in the essence of his heart”. He is not distinct from animals by only speaking, intelligence and the ability to product for his needs, but also by deserving to be caliph of Allah on the earth and to obtain divine love-induced moral duties and responsibilities (Hatemi, 1988: 251).

Islam sees the human as owner of responsibility and this is because it sees him as an "interactive", "social" and "moral" being. The social and natural environment to be able to fully understand the cause of human existence must be in active relationships. So human has to be social. Because practically all moral elements have social stress (Ulusal, 2014: 216).

Islamic thinker Averroes says in this regard that human is compulsorily a social being. This socialization is due to two essential reasons: First, human is not self-sufficient. He can not have his own virtues without being in solidarity with other people. Second, he has to be a social being for all other life and needs. In summary, to be able to survive, to meet essential needs and be even more happy is dependent on being a social presence. Human is not sufficient by himself (Çaylak, 2015: 92-93).

According to Al-Maverdî, the struggle of human beings to achieve things can be done due to the 'character ethic' which is present in his nature; and ‘will actions' resulting from the elections carried out with it. Despite this struggle, human is in need of other members of his genus much more than other assets. Moreover, his weakness is not incidental just as said "man was created weak" in verse (Nisa, 4/24, but it is permanent. This idea affirms the

philosophies about nature of man as a social being for which Plato says "Man alone is not sufficient for himself, but needs to others" and Aristotle says "human is social by his nature." (Birsin, 2012: 180).

Consequently the concept of human rights from the perspective of Islam, is a means of protection and care of perfection of the human while attempting to achieve it. Therefore, the concept of human rights is not limited only with the physical pleasure and material needs of the people. Islam's understanding of human rights requires us to consider human in both material and spiritual dimensions (Birsin, 2012:168).

Man also has a unique position in accordance with his ontological nature. The Koran gives us this unique nature of human by concept of "disposition". The linguists and theologians embrace "disposition" in a narrow sense, "*that Allah has placed the ability to recognize the existence of himself, namely, suitable for man to have religion (tawhid) and in this way he was born with an appropriate structure and character.*" If human is evaluated on this disposition, he will continue the commitment to religion and will never be directed from religion to something else. Disposition in the wide sense is explained by the concept of creation/getting created. In Koran "disposition" is indicated within compatibility between people in a more specific content of *tawhid* belief in the following verse:

"So direct your face toward the religion, inclining to truth. [Adhere to] the fitrah of Allah upon which He has created [all] people. No change should there be in the creation of Allah . That is the correct religion, but most of the people do not know." (Rum-30/30).

Mawardi and a lot of Islamic scholar thinks the "religion" word passing in the verse to mean not only tawhid, but whole Islam religion with its all "faith" and "ahkam" (Birsin, 2012: 168-171). As a result, the disposition in Koran is a creation which makes human to distinguish right and wrong; acquire Allah is his Lord and Islamic morality is the right one; this is the "mental" and "intuitive" ability of him (Birsin: 2012: 173).

The disposition in the Hadith literature, in parallel with the Koran's expression, is used as a worthy concept considering tend of "believing" in the centre. As Abu Huraira narrated, Prophet Mohammed said:

Every child is born on a certain disposition/creation, then the parents make it Jewish, Christian or Magi. Then he says: Just as animals breeds animals ... do you see a deficiency in animals (offspring)? Other traditions of the Hadith, it is said: "There is no child which is not born in the (Islamic) nation," his language is of this faith until he expresses the beliefs.

<http://hadis.ihya.org/kutubusitte/hadisler.php?t2=ara&ara=her+do%F0an+islam+f%FDtrat%FD+%FCzeredir&yer=hadis>, 12.04.2016)

As a result; the concept of disposition in the Hadith, has sense of the original creation of the human characteristics and suitable religion/Islam for this creation.

Theologian İlhami Güler, who interprets these Hadith and verses in a different way, argues the idea that the "disposition" in these verses and the hadith does not mean religion of Islam. Güler, located in almost all hadith sources and accepted by everyone, "All people are born on the disposition of (Islam); but their family (environment and culture) make them Jewish, Christian or Magi" it is said in both that they are tended in their childhood to Islam and human nature is alleged to be easily susceptible to live in Islamic way. It is said that this review is caused by, as Ibn Hajar mentioned, "disposition" word in the hadith by most commentators was understood as "Islam". In this case, in Rum Surah's 30th verse another factor supporting the "disposition" of expression by most commentators understood as "Islam" from the interpretation (Güler, 2011: 99).

Güler, does not agree this review, showing the expression at the end of the hadith "as a right-breed puppy of the camel; can you see any defect in that?"; states that the "disposition" expressed in Hadith must not be supposed to be "Islam" but the "innocence". Ibn Hajar transfers the interpretation of Ibn'l-Qayyim on this Hadith:

This does not mean that the child comes out its mother's womb aware of the religion. Because Allah says: "Allah takes you out of your mothers as you know nothing." (Nahl16/78) It means that the disposition of child is in such a way that it can know and love the religion of Islam. If the parents do not direct him and leave by himself, he can adopt the tawhid by himself without any aid (Güler, 2011: 99-100).

In fact, we can understand that this interpretation of the disposition concept in verse (Rum 30/30) is more accurate from Kurtubî's these words as well: "*Many theologian understands the disposition in the verse as creation, some innate abilities to accept Islam easily; not to*

be born as blasphemy or Muslim; and that the heart of the child is born far away from curse, faith, ingenuity and denial” (Güler, 2011: 100).

Güler shows Ibn Shihab as another example. Ibn Shihab about it: “in the verse disposition can not be 'Islam'. Because the faith and Islam are something said in language, exercised and performed with heart creeds and organs. There is none of these trends in childhood and rational everybody knows it.” Yet another example is Zemahşerî. According to record of Güler, Zemahşerî also the understands “disposition” in the same verse as 'creation' and being capable to accept the values of Islam from birth (Güler, 2011: 99-100).

The nature of human says evil, this man is the negative nature with Quranic verses and is widely available to support it. As we have stated above; people, unsatisfied, miserly, cruel, ignorant, ungrateful, fond trowel, hasty, poor, has been created as a selfish existence. All this digression inside the mind of the human come from childhood motivational enterprise generating (bio-physiological, bio-psychological) generally normal, dominant, primary, is that human nature is the superficial nature. On contrast of the testing of this verse (offer) another difficult verses position: "*Indeed, we offered the Trust to the heavens and the earth and the mountains, and they declined to bear it and feared it; but man [undertook to] bear it. Indeed, he was unjust and ignorant.*" (Ahzab, 33/72)..

The Koran says that in addition to above negative/primary there is in our deeper nature with our second one which is in a positive way. Güler cites the words of Yunus Emre; “There is another me, inner of me” and says that the meaning is same. He says that in Rum Surah’s 30 verse Allah’s throughout history humanity choose whether to hold it responsible for fulfilling universal religious principles that deep harmony between nature means that highlighted the absence of a contradiction. We use here deep nature for two reasons: First, the verse begins with advice conferred to the prophet. So, to obtain the desired position is not ready-given human nature; the top-superior status to be achieved. Second, the phrase at the end of the verse (but most people are not aware of it) Güler explains as follows: It means that most people are there in the first self-authorities, not in the second authorities. The true nature of man, i.e. human creation is the sum of these two sides. However, the first self is "dominant", while the second self is "recessive". Moreover, according to Güler, it is possible

to give a percentage of the primary ego as 65-70% and of secondary one as 30-35% (Güler, 2011: 100-104).

Consequently, Güler sums up the issue as follows:

According to the Qur'an human is innate (natural disposition) innocent. After reason gets adult, the instinctive and first nature is prone to the evil. Secondary deeper one is (conscience, clairvoyance) capable to see all kinds of faith and goodness. But the people are not so innate 'blessing-Sayyid (such as water) to accept the Islamic values and are not likely to live, but rather that they are so for the sin. To be tested is a little hard work and requires responsibility, diligence, efforts and sweat. In the Qur'an all verses which starts by "Most of the people" have negative predicates, i.e. "immoral". Therefore, if Allah's grace, mercy and forgiveness do not exist, majority of mankind would fail this test and go to hell. But the situation is the exact opposite (Güler, 2011: 104).

Is human innately honour of creatures? In Islamic thought, the human is the honour of all creatures from birth (Islamic humanism). He has innately dignity, nobility, value and has been created in this way. But Güler finds this idea wrong as well, in terms of the Koran. And adds: "... Then it does not mean that the man is superior from birth in the world in terms of his own and as a genus honourable, dignity. These are what he has 'to gain' or 'acquire' as the caliphate on the world. Human is a cube of animals if he does not win them." Similarly, he says that the idea of "honour of creatures" gets together with the "unlimited" compassion/mercy of the God and leads the Muslim community to the "moral indifference" (Güler, 2011: 131-132).

Conditions of being "dignified", "proud" of people in front of Allah are different from those of being so in front of people. The condition of being honoured before Allah is "faith and doing righteous deeds", i.e. to be "pious" (Güler, 2011: 132-134).

Şatibî deals on "some invisible features of human by using the 'disposition' concept of him, in addition to his biological existence (eating and drinking), physical appearance and existence. Citation from Birsin, according to Şâtübî:

Of the verse "Man was created hasty" (Anbiya, 21/37); demon's examining of Adam's creation, of understand that 'Adam's recess/hollow is realized the creation of an asset can not have him, courage and cowardice is instinctive and' hearts, his love to those who do good, evil nature feel hatred for those who are given 'news as an example. After reminding the relationship between the nature of anger, betrayal and lies beyond human power in every believer in ethics can be built 'refers to the news. Şatibi 'according to love, hatred, cowardice, courage, anger, fear, and so on. feelings innate qualities emerged as one of the essential human (Birsin, 2012: 179).

Disposition is a philosophical issue. It is known that three entities rely on the philosophy: God, world and human. In this respect, more people could say disposition was a matter associated with God. Islamic sources, in other words the Qur'an and Sunnah, dealt with human nature so widely. According to our sources, the first time the word disposition, was used in the Quran it is used for the human and his relation to religion; the verse of "It is disposition of Allah, on which he created human" is meant, there is a special form of creation we call human, that man was created in a special way. Today we use our common language is required to be actually meaning the disposition of human among the "human characteristics" (Mutaharri, 2014: 13-18).

There are three words from the same meaning as in the Qur'an: "Fıtrat", "Sıbgat" and "Hanif". So about religion "Fıtratullah" and "Sıbgatullah" and "Hanifa" were called. In Al-Baqarah verse 138, it is said: "Paint is paint of Allah; Who has a more beautiful one than his paint?"

It is said that *"Sıbgatullah is a divine colour given by God. For religion; religion is divine colour, it is the colour by which hand of God painted human in tekvin and creation text"*. Especially Ragip, some exegetes points out that the baptism of the Christians indicates this term in the Qur'an. Christians believe in baptism since ancient times, and even today they do this process. They move *gusül* any newborn and by this, he was made a Christian in the world and was the Christianized through this process, "Christianity colour" is given to him. Quran commands: *"The colour is only is the one given by Allah while creating"* (Mutaharri, 2014: 22-23).

In Surah Ali Imran verse 67, it is said: *"Abraham was neither a Jew nor a Christian, but he was one inclining toward truth, a Muslim"*. The Koran has a human disposition and relieves this disposition, it is only the Islamic religion, Islam is a truth from Adam to Hatem. The actual disposition, paint given to the human soul in Allah's creation. It is mentioned in the Qur'an as "religion", not "religions". In the Qur'an and in the hadith the "religion" word is never used in the plural. Order given to all the prophets is to evoke creational sense and to educate and develop. What they have in their papers, are what the human disposition needs (Mutaharri, 2014: 23-24).

İbn-i Esîr, from the root of "Hanifa", speaks about the "Hunefa" and says that Allah created people "free from sin". When Allah in creation said "Am I not your Lord?"; they said "Yes, our Lord, you are." Thus, Allah got "covenant" from humanity and took them to "Hunefa" and "believers" as he wished to create. Hunefa is the plural of hanif. It also means "the one who turned to Islam and is remaining constant in it. *"For Arabs, Hanif is one who follows Abraham's faith. Hanifa's original meaning is to go towards. As a result, Hanifa means "one who goes to the right, truth, towards Allah and unification"*. There is going towards right and the truth in human nature (Mutahhari, 2014: 25-26).

"Ontology" which is for nearly 200 years on the agenda of West is used as the equivalent of human disposition that we use. It is an approximate sense, ontology does not meet disposition in literal, in all modern disciplines like ontology in the West, human disposition emerged in a "secular" and "positivist" meaning. For us, when we talk about disposition, we inevitably mention the creator and his dominion and interfere over the goods (İslamoğlu, 2011: 3-4).

Disposition is one of the key concepts for understanding the problem of evil. Truth of "There is a disposition of all", make necessary the truth of "everything has a purpose of the creation". Therefore, to use something in the direction of human nature is "good" and to use something other than this direction is "evil". How much one runs away from its goal of creation, its evil grows up so. But the evil does not result from creation of it, results from the use of it in another way than the purpose of creation (İslamoğlu, 2011: 3-4). Therefore, we must express the opinion that; everything reversed to its disposition is doomed to collapse, it is frustrated.

Allah has created human disposition to distinguish between the good and evil. In this sense, İslamoğlu states that the "disposition" and the "conscience" are synonymous. Conscience is "gifted" just like reason, to be ignored when pacified. If we are to talk about the conscience, it has to be "active" and "actual". The aim of religion is to create an active conscience in human being. Thus active conscience, being fed by disposition, recognizes and knows good and evil (İslamoğlu, 2011: 6).

There is no asset without a disposition. Each entity is created by forming a certain disposition to it. Disposition is a concept of species, not one within the genre. Therefore, figures are

based on human nature and disposition of the figures shows the type to which it belongs. The personality of the disposition demonstrates the featured "unique individuals" in specie (İslamoğlu, 2011: 8).

İslamoğlu states the issue as following:

Allah is *fâtır* (creating from nothing). *Fâtır* Allah puts disposition in everything. He who believed in *Fâtır* Allah also believed the “*Fâtır*” name of Him, and he who believed in this name also believed that He put disposition in everything. The recognition of the goods who accept this truth will recognize that he has passed from human disposition given to him. After applying the knowledge and everyone will know who will represent the return of human disposition in its field and will give him the fight.

A life in accordance with the disposition is the one which the Qur'an suggests (İslamoğlu, 2011: 8). Disposition deteriorating human is human spoil away and divine nature and disposition of distorting and away from disposition factors are as follows: 1. Forgetting Allah, 2. polytheism 3. Double-headed science (falsehood of dividing science into positive sciences and religion sciences) 4. Making death meaningless, 5. Being subject to *Heva* (the way human preferred the arbitrariness of his ego and extreme devotion to unfair desire) 6. Scholar's mission, 7. Consumption disease and absence of deprivation, 8. Being under environmental impact (Öztürk, 2011: 56-57).

Today the so-called humanitarian issues and on behalf of "human values" called all things Islamic has a root in terms of education in the creation of man. Man's humanity is bound not to act contrary to his disposition and to accept it. At the root of human, in other words, to deny the denying people's disposition anyway denying these values of "humanism" and human "dignity" is something "futile" (Mutahhari, 2014: 34).

Making a human-specific regulation such as the concept of human rights; it necessitates knowing human nature at the best. Thus, the rhetoric of the concept of human rights must demonstrate compliance with human disposition (Birsin, 2012: 181).

When we say human in Islam, we can not pass without mentioning the human philosophy of İkbâl. Muhammad İkbâl' human philosophy; basically established and based on Islamic sources but also developed in the light of modern philosophy and science; depends on the “Philosophy of self” (Aydin, 1987: 83-84).

According to Iqbal, self is the basic “reality” which intuition tells us. This reality is the centre for all kinds of activities. Every human being is a free "Ego". Also the world is an "Ego". As to Allah, he is absolute “Ego”. Every atom is an “Ego”, no matter how inferior its existence level is. So says Iqbal: If we are to understand “things”, “cases” and “event”, we have to begin from “ego” and the concept of “self” (Aydin, 1987: 83-84).

Iqbal uses the word of “hodi” in his Persian articles and “self” or “ego” in English articles, as response of the word of “I”. In fact, Iqbal's meaning while using “hodi” or “ego” is the Islamic philosophers’ “self”. For example, our thinkers like Al-Farabi or Ibn Sina talk about the essence, happiness and immortality of the “soul”. They do not prefer word of “spirit” so much (Aydin, 1987: 83-84).

A Hadith which narrated as sacred, “who knows his soul, knows his Lord” constitute literally the starting point of human philosophy of Iqbal. Islamic philosophers who defended the Theory of Emergence usually came to human affairs beginning from cosmological affairs; Iqbal, tried to solve the metaphysical problems beginning from the human and his experience (Aydin, 1987: 83-84)

According to Iqbal, self is “an energy which is shaped by experience of oneself and regulated”. Qur'an’s 85th verse in surah Al-Isra: “*Say, ‘The soul is of the affair of my Lord. And mankind have not been given of knowledge except a little.’*”

In this verse, the directive feature of "self" is pointed out. Iqbal, in interpreting this verse:

Refers to the difference of words of “halq” and “order” in Qur'an. Both words also expresses the relationship of Allah to the world. Halq is creation, disclosure. Order is giving direction. Quran says that both the order and the halq is special to Allah (Araf, 54). The essential nature of the soul at the disposal of creative power, is giving direction. To have such a feature requires it to be his one and certain entity” (Aydin, 1987: 86).

Iqbal, as all other thinkers who represent the main Islamic movement; mentions the “spiritual” development of human who gets higher step by step and “gets moralised by morals of Allah”. He says that there are three steps of the spiritual glory:

- Step of obedience: Perfect submission to Allah and His laws.
- Seizure of the soul.

- Niyabet-i ilahiyye: Cognizance of human that he is “Caliph of Allah” on earth.

That is said by İkbâl; Believer is he, who has strengthened the self passing through all these steps. Also, the believer man of İkbâl is he who does not care about world affairs so much. He also harshly criticizes them who says to worship by pushing worldly production aside (Aydin, 1987: 92-93).

Mutahharri also said similar ideas in his book “*Definition of Human in Koran*” by beginning from the Surah of Meâric.²² Allah has many “authorities” and “degrees” for human being in order to get higher. This is also available in many Qur'anic verses (Mutahhari, 2008: 23-24). Two of them are following:

“They are [varying] degrees in the sight of Allah, and Allah is Seeing of whatever they do.” (Al-i Imran, 163).

“Allah will raise those who have believed among you and those who were given knowledge, by degrees.” (Mujâdele, 11).

In the spiritual world there are degrees of closeness to Allah. In fact, people by the work of worship get closer towards Him. Each degree closer, the body is getting more right, if the existence of which direction the trend more shows, more shows that change in direction, and are similar in that direction. Layout, shape, spirituality and everything is changing. Moreover, human exists by his deeds:

To Him ascends Tayyib (good) speech, and righteous work raises it. (Fatir, 10).

“Tayyib” refers to the pure creed and means to go up towards Allah. Also the Pure Creed is lead upwards by righteous deeds. Or the righteous deed is lead upwards by “tayyib word”. Therefore, righteous deeds are going upwards (Mutahhari, 2008: 25-26).

Worships and righteous deeds make human more closer to God. Even to such an extent on the catch that he would have honoured by affection of Allah; but it does not mean that the

²² Meâric comes from the word “ûruc”. Ūruc means “going upwards, getting higher, being exalted and getting closer”. Since “Meâric” is plural place name, it also means the “place and locus to rise.”

other servants stay away from this affection. Here Allah says: “We have some *Rahimiyet* (mercy for the believers) and *Rahmaniyet* (mercy for all people); which covers all people's situation. There are also a part of our *rahimiyet* and *rahmaniyet* which would become for the situation of our particular servants (Mutahhari, 2008: 26-29).

Here the meaning of *rahman* and *rahmaniyet*; is for human to reach a particular stage. In other words; he reaches such a stage that the affection of Allah makes him mystical contemplation, envelops and Allah draws him toward himself. “Hatta Uhibbehu” i.e. “He is my friend henceforward.” “İza ehhebtuhu”, that is, when I make him my friend, nothing left from the self and identity of him; and I should be his everything. There is no end of these ranges, they are infinite (Mutahhari, 2008: 26-29).

Iqbal expresses the elements that strengthen the self as following: Love, poverty, bravery (courage), tolerance, lawful earnings.

For love he says: Without love the "self" does not perform himself nor does occur. The first goal of the believer is that *insan-i-Kamil* Muhammad Mustafa. It is also not the opposite of love in mind the prosperity of philosophy, neither knowledge without love, nor love without knowledge leads people to salvation. Love is not passive in philosophy of self. Love is active and creative force. He expresses the elements which weaken self like this; fear, slavery, begging and boasting of family and genre (Aydin, 1987: 94-97).

Iqbal says that it is necessary to scrupulously fulfil the requirements of Islam in order to strengthen the self. In addition, he says that all precautions which develop, mature and glorify the self are taken by Islam. He says that there is not anything which weakens the ego; fear, slavery, begging and boast of lineage in lives of people who are closely connected to the spirit of the Koran (Aydin, 1987: 96-99)

He also criticises Plato's ideal man: “*Plato's ideal man, is not affected by what is happening around much, which is immersed in the tranquillity of his own happiness island, experiential knowledge, and thus the value of information means that it is a human attribute. This is not the Quran's human*”. According to Iqbal, ideal man is the prophet Muhammed. In the 17th verse of Najm, it is said: “*The sight [of the Prophet] did not swerve, nor did it transgress*

[its limit].” It is the thing that protects the individuality and an unshakeable self in Islam (Aydin, 1987: 96-99).

1.2. Right in Islam

The word “Hak” comes from the root “H.k.k.” and consist of an adjective and noun used in different meanings. As Al-Isfahani also stated in the curriculum; “right” word in the Quran, as one of Allah’s names means “wisdom” that knows everything how to be appropriate; work performed in accordance with wisdom; according to nature to believe that they have something; requirements of a word and action, measures of requirements and suitability to wisdom in terms of time (İsfahanî, 2012: 96- 99).

Isfahani in curriculum; giving the examples of usage of “right” word in Koran verses in the sense explains it: The first meaning of the “Right”; someone who creates something in a way as requirement of wisdom: *“They will be returned to Allah, their master, the Truth”* (Jonah, 30). *“For that is Allah, your Lord, the Truth. And what can be beyond truth except error?”* (Jonah, 32).

Second, “right” name is given to what is created of the wisdom required. In this sense, Allah's every act is called right. As it is said “death is right, resurrection is right.

Koran says; He who made the sun a shining light and the moon a derived light. (Jonah, 5). Allah has not created this except in Truth. (Jonah, 5). (About Doomsday) And they ask information of you, [O Muhammad], "Is it true?" Say, "Yes, by my Lord. Indeed, it is Truth. (Jonah, 53), a party of them conceal the truth (Al-Baqarah, 146); the Truth is from your Lord, (Al-Baqarah, 147). And indeed, it is the Truth from your Lord (Al-Baqarah,149).

Third is to believe anything in accordance with the way it is in truth. *“So the resurrection, reward, punishment is deserved beliefs about heaven and hell, as our word.”* Allah says that; *“And Allah guided those who believed to the truth concerning that over which they had differed”* (Al-Baqarah 213).

Fourth thing called “right” is that which occurs where necessary, as it should, when it should set out actions/movements. As it is said: “You're deed and word are right”. The Koran says:

“Thus that which Lord said became right (actual)” (Jonah, 33); “... *the word from Me will come into right [that] ‘I will surely fill Hell with jinn and people all together.’*” (Sajda, 13).

The actualization of “right” is in two ways:

First is putting the evidences and verses forward: “*We have made for you against them a clear authorization.*” (An-Nisa, 91) as in verse; strong and robust evidence.

Second is to complete Sharia and spread it to everyone:

As in the words/verses of: *But Allah will perfect His light, although the disbelievers dislike it.* (As-Saf, 8), *It is He who sent His Messenger with guidance and the religion of truth to manifest it over all religion.* (As-Saf, 9). As to the verse of: *The Inevitable Reality; What is the Inevitable Reality?* (Al-Hâqqah, 1-2), it indicates the Doomsday (İsfahani, 2012: 296-297).

Following, a long definition of “right” from Birsin:

(...) In this respect, right means patients maturity, in terms of the right words (Sıdk), hit in terms of jurisprudence, fitness for purpose in terms of 'wisdom' and 'justice' faith (creeds) field in the opposite sense the false reality. Hence the concept of rights, on the one hand as a subject-object relationship in reverse on the other hand refers to the object-subject compliance. Subject to compliance with the phenomenon of "rights", and the suitability of the object "truth" is called. (...) (Birsin, 2012: 74-75).

The word of Hak is wide and passes through various means two hundred verses in the Quran. But since we do not have the opportunity here to mention all of the verses, we will discuss the necessary verses we need to reference in terms of our subject.

In the classical period Islamic lawyers used the “right” concept for “interests”, “best interests of the public” and “Easements”. They did not use the legal definition of the concept before the seventh century AH. They expressed this situation also recognizing the need to open up and heard the concept of jurisprudence system "casuistic" in the structure (Birsin, 2012: 76).

We find the definition of the concept of right after the seventh century of Islamic Hijri. In this period, Islamic jurists’ the most important definition of what is known about the concept of rights, is that which transferred from Safi lawyer Qadi Abu Ali Al-Hussain b. Muhammed b. Ahmed al-Mervezî (d.462/1069): “Right is the expertise of doing a purpose that identified

in Sharia.” In this definition of “the expertise of a right” means to a particular person's domination of other people's sovereignty and the means to leave his savings (Birsin, 2012: 80).

The concept of rights in Islamic law is classified in two ways: Allah’s right (*Hukukullah*) and the right of servants (*Hukukulibad*). For the Hanafi, the right of servants is “private interest (incumbent)”, whereas the right of Allah is "public interest”. As to other sects, the right of Allah are His commands and prohibitions; the right of servants are the "businesses" (Birsin, 2012: 80-81).

About rights of Allah, would be committed when certain a crime is in question. With a certain amount of penalty to be applied in the right of Allah, under name of "had". The most important feature of these penalties is not directly related to the predominance of the right to collective and society. Thus, in punishment for these crimes it is essential to protect the rights of society. The public order in the interests of society and the community includes provisions aimed at. These penalties are inexcusable, responsibilities, and the subject can not be peace. There is no need to connect and provision for litigation. Both the right to use the rights of Allah in Islamic law is a question for society's interests and needs (Yayla, 2011: 111-112).

When we consider that the Islamic Fiqh generated by the force of the commandments and prohibitions, rights give rise to "the best interests" "base" must be accepted. Thus, the person familiar with the concept of rights and legal interests of the religious order "powers and privileges" is expressed as the special meeting. As can be seen "provisions" based on the concept of the rights that we define the concept of "best interests of the parties shall recognize and protect" it as defined. If we are going to make out a description of the road from eligible persons; it is defined as "Property or a spiritual affair with the legal authority to create an exclusivity is recognized by the subjects". Thus we see here, best interests of the rights concept (interest) with which to be associated, in the interest non-state "entitlement" is not significant, in this case the transition from the right to the interests of the protection of the tool. This tool will fulfil its function under the protection of the law (Birsin, 2012: 81-83).

The concept of rights issues is discussed when the subject comes to the concept of human rights. The moral value of the human rights comes from the concept of "humanity". What is the value of the concept of humanity in terms of Islamic law and the values of the response received from that is very clear. The Koran was created for a purpose of all assets and refers them to fulfil their mission²³. It builds a worthy structure for humanity by verses of *We have given children of Adam dignity/honour* (El-Isra, 17/70), *I will make upon the earth a caliph.* (Al-Baqarah, 2/30) and “...*man [undertook to] bear Trust*” (El-Ahzâb, 33/72). Therefore, human rights, the existence of an entity that has a special place among the "privileges" means. In other words, human rights refer to "generic values". In this regard, Islamic jurisprudence for the human species "general purpose of religion" as expressed; religion, soul, generation, value of goods and mind means laws that correspond to the values of human beings. Here the main objective being; Protect and improve human and humanity (Birsin, 2012: 83-84).

The focal point of this values-based merit system are the values which are expressed as "religion, soul, generation, cost and mind". These concepts include "religion, the right to belief and conscience; the soul, the right to life; generation, the right to family; the financial, property rights, the mind, the right to information" as it is stated. Şâtibî states that these five concepts are a common goal of all religions and "high valued" superior to all other values in terms of upholding them (Birsin, 2012: 145). Besides it functions as the structure expressing a common concept of human rights and moral values as a basis for the benefit of the claim of a particular person. Islamic law relates this function to "religious purposes" (mekâsîdu's-şeria) (Birsin, 2012: 87).

The main feature of the concept of right is seen as "authority" concept, the concept of private law is the subject of the right to have this authority. The concept of human rights is different from civil law jurisdiction of the subject that is not individual, set off from the value of humanity and dignity. In terms of the moral values of Islamic law, religion legislator (şârî) represent it set by “common interest” (Birsin, 2012: 84-85).

²³ Koran; (Taha,20/50; A'lâ, 87/2-3).

Western rights theory defined the concept of rights through the rule of law-human or human-to-state conflict. Right from the authorities and forced to take over the rights and authority to fight and tried to settle the rights given by the legislator.

According to Islam, the rights are bestowed by Allah on the human rights inherent in the capacity of a human being, they do not belong to a class or the basis of a government. In this case, the rights of the ruling reveals that different from the Western tradition has been obtained as a result of the fighting entered. Islamic law calls a government who violates fundamental human rights as "cruel" and from the principle of "the essence is permission in the goods"²⁴ states that each person's situation is not prohibited in Islamic law as stated in the scope of freedom (Birsin, 2012: 87-88).

The most particular distinction of Islamic law that separates it from other legal systems is that it depends on apocalypse and each Islam lawyer subject they deal with to that which was uttered via "Nass" or "İstikra" as a general purpose of apocalypse. Thus, the very "Right" Allah is the owner of all the rights and giving rights to the people. Therefore the right in Islam is considered to be right of Allah and the right of His worshipers. The right which can be reduced by will of servants are servant rights, and the rights that can not be reduced by that way are recognized as the right of Allah (Birsin, 2012: 90).

Fethi Dirîni in this regard; the right of Islamic jurists, to be set aside as the right has the right and servant of Allah leads us that collected separately rights of the individual and society, because of *Hukukullah* concept of "public affair" and indicates that they are associated (Birsin, 2012: 168).

In Islamic jurisprudence right is also a "judge", supposed to be generated by the address of "provision" and "Şârî"²⁵. Therefore; all rights in Islamic law actually belong to Allah; this goes not to the party with the allocation of rights, but of Allah. This allotment will be available for persons liable to Allah, there is a right to demand against another person. For

²⁴ According to the principle of "the essence is ibaha in the goods" in Islam, if there is not any authentic Nass to prohibit anything or any interest, or if found but not distinctly proved, there cannot be any judgment of sin. If there is not any sign of sin, the goods are become permissible. Allah says in Koran: "He has explained in detail to you what He has forbidden you" (Al-An'am 119). Teymiyye says: "Allah Teâla says that he has told what is forbidden. So that which is not told as forbidden, is not forbidden. That which is told as forbidden, is not *halal*. Anything is either forbidden or not."

²⁵ In Islamic law, Şârî is nobody but Allah.

example, if we give an example the right to life; Allah is now giving life to the person (A), then the person can talk about a living right. However, (A) person is responsible to Allah in terms of protecting his life. Being given the right to life, (A) can demand (B) not to touch his life and not to damage it, so this takes the form of a claim of right. This authorization (B) of the person (A) touch the person's obligations in terms of the right to life, for example. Therefore; rights in liabilities also carrying an "authority" and is embodied in the rule of law in this jurisdiction (Birsin, 2012: 91-93).

Islamic law expresses that it is necessary to combine "two data sources" in order to understand human rights. Original creation of the human being "disposition" and Allah's commandments and prohibitions called "provisions". Islamic law accepts a "provision-based" system contrary to Western law which has a "rights-based" system. This sometimes is taken up by some scholars that there was no merit in the concept of Islamic jurisprudence. Birsin responds to this claim as follows:

(...) This conclusion arise from failure of the bond provisions and rights established through his nature to be discovered. Because human nature is the meeting point of the movement based on the provisions of the rights-based movements. not originated from a right disposition, unable to reach a legally protected interest level on a global scale, it can not be an appeal echoed through the provision disposition (sentence) can not be the organizer of a universal right. At this point, the determination of the relationship between rights and provisions as well as the size of the show inborn human rights and rights of access to universal provision comes into the precondition (Birsin, 2012: 94-95).

Therefore; according to Islamic jurisprudence, it is located on the inside of the concept of rights provisions, a concept has been adopted by almost every provision of a right to be protective. In this combination of the terms and concepts of rights it was made possible by the concept of human nature that we call the original creation of man. About the source without the people's demands; but belongs to the creator who knows them best.²⁶

It has also been expressed by a number of Muslim thinkers derived from assignments that come before the rights of Islam and rights. Islamic jurisprudence is the right concept at this point, "*a concept that powers and obligations of the agreement*" as stated. This Islam is associated with its own legal system, this right-duty relationship in Islam "enhanced rights"

²⁶ Kur'an; (El-mülk, 67/14).

is defined as (Birsin p.110). *"Truth is an Islamic rule of law, or in the definition, the legislator (Allah) requires an assignment of rights or of benefit against us."* (Yayla, 2011: 110).

1.3. Justice in Islam

The concept of justice in the Koran passes in 29 verses. Justice in the context of the Qur'an "k1st", "adl" and "benevolence" concepts pass. These concepts are related to equality, balance, sense of measure. So we can say that it ensures the stability of justice, equality, and measures.

Ragib al-Isfahani in Curriculum; states that Adl is to share equally, and Ihsan is to respond good with more, evil with the less (Isfahanî, 2012: 680-681). In Arabic, "a.d.l" root verb *"equitable, prudent, balanced, including direction, and similar or equal to cost"* means both (Birsin 2012: 362). Allah says: *"Weigh with the right balance"* (Isrâ 35).

Isfahani explains the word of "K1st" as follows: K1st is fair share, which is to say. Just as now in these verses: Allah says: *He begins the [process of] creation and then repeats it that He may reward those who have believed and done righteous deeds, in justice.* (Jonah, 4). *And establish weight in justice and do not make deficient the balance.* (Ar-Rahman, 9). It is explicitly cruelty to get the share of another. However, to deliver the share of another is fairness (justice) (İsfahanî, 2012: 844-845). Allah says: *"But as for the unjust, they will be, for Hell, firewood."*(Al-Jinn, 15). *"(...) then make settlement between them in justice and act justly. Indeed, Allah loves those who act justly."* (Al-Hujurât, 9).

Justice, *"is something that evokes a sense of righteousness in conscience."* *"Everything is as willed and is placed in the most convenient location."* *"Everyone is giving it deserves."*, *"Is to ensure equality."* Justice is defined as " moderate state between extremism (excess) and reverse extremism (extravagance)" (Birsin, 2012: 363). İsfahanî defines justice as *"to response good by good and evil by evil"* (İsfahanî, 2012: 681). The Koran commands justice

and goodness.²⁷ Allah orders to judge among the human beings by justice²⁸ (An-Nisa 4/58, Jonah 10/47).

As cited by Birsin, the Umâra expresses the importance of justice as follows: “Justice is the first aim of Islamic law and every way which secures authentic justice is the way of Sharia Islam even if there is not any apocalypse or nass or any hadith about it.” (Birsin, 2012: 362).

Because of the importance of justice in Islam Muslim thinkers have turned this notion on the head and made very different and broad definitions. For example, Adem Çaylak evaluates Justice close by Unity and defines it as follows:

(...) The practice of authority of Allah, who has judgement and reason, to the social and political area on earth can be seen in justice. In other words, *Tawhid* which means to “detect” Allah in skies and on earth is reflected in social and political area as “unity in multitude” (Çaylak, 2015a: 141).

İslamoğlu explains the relation of justice and tawhid as follows:

There is an unbreakable bond between tawhid and justice. This is just like the bond between faith and do righteous deeds. Tawhid is the equivalent of believing the tenets of posture. Justice, due to the deeds of the believer stance. Tawhidi creed justice, fairness in the treatment of unification, tawhidi faith of the axis, the axis of the justice act, tawhid faith direction, the direction of justice behaviour (İslamoğlu, 2012b: 3).

Aristotle defines justice as "mother" of all virtues. He says that "*there is a combination of all the virtues with the Justice. Justice is not a part of virtue, is the whole of virtue*" (Güler, 2011: 152). There is no other concept as justice such connected with human rights. Recognition of human rights and justice in societies where freedom does not mean anything suggests that there is a close relationship between human rights and the justice distributor. Already one of the most common definition of justice; "*Every person in accordance stake, that is to give something that everyone will have a worthy and deserve*" (Yayla, 2011: 236-237).

As cited by Yayla; according to Aristotle; "*Justice is composed of a kind of equality and the equal division between the people of the world together to demand something that asks to be*

²⁷ Koran; (116/90).

²⁸ Koran; (4/58, 10/47).

provided with legal remedies” (Yayla, 2011: 236-237). The aspect of equality of justice is expressed as "compensating justice" since Aristotle. The equalizer justice means "regardless to age, gender, labour, giving equal of qualifications and equal treatment". Therefore often inequalities are expressed as injustice. And yet, what we need to know is that justice is not just about equality. Equality is an "integral part" of justice. Moreover, we see that given the very concept of equality of justice we look at the modern human rights doctrine (Birsin, 2012: 364).

A second meaning of justice, a second integral part of it is suitability/appropriateness. Proposed as a concept of justice for expedient supervision of human rights has a unique content to fulfil this function. We can arrange this original concept of justice as follows:

Justice is a “dispositional” concept hosting the concept of equality, including being independent, adopting a "mutetil" attitude related to the accuracy and fair, expressing a longing for better (Birsin, 2012: 366-370). Human rights in Islamic communities, is represented by the concept of justice as a search effort for values. Therefore, Islamic human rights concept is not alien to justice (Birsin, 2012: 370).

As to Hatemi; he defines justice as following:

“Justice is a right balance, and the thing holds it and balances is true teaching. The correct balance is not sufficient alone. There is a need also to correct teachings, give meaning of the right balance and make it usefully employed.” (Hatemi, 1989: 49), Justice can make sense only among the "true and unchanging" values. (...) these values are not another source than a single and unique creator. Today justice of the East and West comes from God who is the only Lord of the East and West. (...) There is also the concept of justice in other Abrahamic religions, however, the value of justice from the divine source intact and has not been tampered with its shape, remained only in the Islamic notification" (Hatemi, 1989: 58-59).

From no other source than God "moral values" is possible to be received. The values of justice and fairness array is connected to humanity by a "source of inspiration". Those who think this is not the case; by investigating Plato before Aristotle, Socrates before Plato, Pythagoras, Heraclitus before Socrates, can see that is the case even in Western thought which is supposed to be "secular" (Hatemi, 1989: 63). The human has to subject to Qur'an the last book of Allah and to last prophet Muhammad, has to take the correct teaching, learn it, internalize and practice in order to be fair (Hatemi, 1989: 72).

The true doctrine which all of God's rasuls preached, is to ensure justice among the people and make justice dominant on earth.

“We have already sent Our messengers with clear evidences and sent down with them the Scripture and the balance that the people may maintain [their affairs] in justice. (...)” (Al-Hadid; 57/25).

We said that the justice can be maintained and made sensible by true teachings, but let us say an administrator has enabled it not fully, he tried at least to practice justice even if it is fed from or with another source of intelligence with the correct teachings. Another administrator may suggested that they are members of the so-called doctrine and claim the right but actually practice cruelty. For these situations, the Prophet Muhammad said: *“Property stays with sin, but does not stay with the persecution.”*

Again Muhammad says: *“Allah does not bless a community in which the rights of weak is not got from the strong, He will not be pleased with them.”*

When Hazrat Ali got the command of Islamic state, he said that he would behave with the following philosophy: *“The crushed and despised people are important for me; I get back their right. Strong is weak for me, and I get back the rights from them which they had usurped”* (Hatemi, 1989: 84).

In Islam, justice, solidarity and cooperation are the cornerstones of the concept of keeping society afloat. Islamic philosophy is based on these words of the prophet: *“A society in which the right of the poor is not gotten back from the stronger will not prosper (progress)”*. So the philosophy of Islamic law, since the victim is always right and justice, the weak, who need help, has been a party since from persecution. Because of the weak, protection of the rights of the weak is the duty of society. Those who need help and are not part of Islam since the self-defence forces are not weak and it is a crime to aid and injustice done to others, so the whole community can suffer (Yayla, 2011: 242).

The source of justice is divine and the reason for the existence of the state based on divine teachings, "raison d'être" is the actualization of justice (Hatemi, 1989: 68). Every state must be law, justice state. Hz. Ali says that the existence of the state is essential, *“Thanks to this*

strong political organization that the right of the poor could be taken from stronger, the good can be comfortable and secured from the evil of evil” (Hatemi, 1989: 76).

Rawls says that the first virtue of social institutions and justice issues, not the individual, that social justice because it is the basic social structure of the priority issues of justice, that means that the major institutions of society (Hünler, 1997: 28).

According to Islamic law across the community it is not behind the manager. But the administration of rights and justice must support community management of the rule. When the right to change the management of the community if it starts to government oppression and injustice is born. First, try it with a peaceful and legal means, if then the society can not be achieved successfully through peaceful means "Fundamental rights and then society in order to maintain freedom and maintain human life revolution to make way open." This aspect of Islam, has the “revolutionary” and “innovative” features. Because the unquestioned obedience of Muslim people is for nobody but Allah (Yayla, 2011: 240).

Muslims never remains silent in the face of cruel rulers and never submit to injustice. Again, the hadith of “He who is silent in the face of injustice is a dumb devil.” of the Prophet and the words of Ali (r.a.) “*Do not submit the unfair, because you will lose your honour with your right*” explicitly express this opinion.

Allah has enjoined justice to the people. Because the human being is “cruel” and even does not recognize any border in “persecution” and becomes “zallam”. Allah does not persecute, but human persecutes himself. This is why the essence of Allah enjoined to Himself “mercy” and to human “justice” (İslamoğlu, 2012: 6).

Power and strength can not determine the legitimacy of a government. If power determines the legitimacy of the ruling power, we can not talk about right there, we talk about the government of power. It generates power borrowers with all the power of ruling tyranny. But when we consider the revelation as a whole, a legitimate power, the power of the base of the Right to Truth (tawhid), justice, compassion, competence and *Meşrevet* that we see occur. In summary, İslamoğlu says: “The faith of government is justice. Justice can not be under any policy, persecution can not be overridden in any legitimate excuse” (İslamoğlu, 2012: 7).

Allah enjoins believers to act with justice in any case everything/everyone and moreover the terms and ordered against the extraordinary curiosity, though their loss. In this context, the following two verses in the Quran is proof to us:

“O you who have believed, be persistently standing firm for Allah , witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And fear Allah; indeed, Allah is Acquainted with what you do.”(Al-Ma’idah, 8).

O you who have believed, be persistently standing firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives. Whether one is rich or poor, Allah is more worthy of both. So follow not [personal] inclination, lest you not be just. And if you distort [your testimony] or refuse [to give it], then indeed Allah is ever, with what you do, Acquainted. (An-Nisa, 135).

The struggle of Qur'an is "justice-persecution" centred. Therefore, there are two groups of people in the world; "the just" and "the unjust". The Qur'an gives Muslims the duty to provide justice in the world, and enjoins to receive the rights of a right from unfair as a "Fariza". In fact, the state envisaged by the Qur'an is for this purpose (Eliacıık, 2004).

So to that [religion of Allah] invite, [O Muhammad], and remain on a right course as you are commanded and do not follow their inclinations but say, "I have believed in what Allah has revealed of the Qur'an, and I have been commanded to do justice among you. Allah is our Lord and your Lord. For us are our deeds, and for you your deeds. There is no [need for] argument between us and you. Allah will bring us together, and to Him is the [final] destination." (Ash-Shuraa; 42 /15).

The purpose of the existence of the state in Islam is the actualization of justice. Two conditions are necessary in a fair state: 1. A fair legal system, 2. managers to ensure fair justice. The basic layout of a fair, source, reference; Allah’s word: *"And the word of your Lord has been fulfilled in truth and in justice"* (Al-An’am, 115). Therefore, disabling the word of Allah can not create a fair legal system (Yıldız, 2002: 80).

On the other hand Allah commands justice, the rule in one location, whether the judge with justice is between the people they ruled. Justice is an act of love. Justice is for humanity so

important that Allah warns believers to be fair even against their enemies: “(...) *do not let the hatred of a people prevent you from being just*” (Al-Ma'idah, 8), (Yıldız, 2002: 80-81).

Allah takes not state but the nation as a base in the Koran. Because that "which has the social sustainability" is not the state, but nation. In many verses of the Koran the community (ummah) is accountable for their actions. Indeed, many examples in the Qur'an are the nation's overall social destruction of the transplanted counterparts. Therefore, to ensure justice, the protection of the rights of the oppressed, what the poor need to own, "state mediation" is the nation. But that does not mean that an important state institution is for Muslims only. Government alone can never be a sacred institution, but does not remove it never eliminates the importance and necessity of a just state order. Thus, Muslims are "fair" or a "cruel" state without distinction shall endeavour to build a just state for the establishment of justice rather than be sacred. Because if Allah and His Messenger, and to be obedient is to obey an administration of justice leaving how as necessary, likewise it is very necessary to obey the cruel management (Yıldız, 2002: 85-86).

Güler, stating that Allah's character is mostly justice and mercy, explains the subject in the following way:

When we look at the Qur'an, we see that includes conditional love of Allah's character, and see that the weight is with justice and compassion. This was recommended to the Prophet Muhammad as well. His character is like this. Therefore, in case we are Islam, as in the case of Christianity and Sufism, is not unconditional love like “come no matter what you are, we love created things because of the creator-; but a content of a moral justice and mercy (action) is the case. (...) hence; it is the justice and mercy to be brought into the case. The first is concrete, measurable (scales); the latter is not only feeling but also personally bestow. Sufism is getting closer to Christianity in the case of unconditional love. Rhetoric like "Rose Mohammad" are a real shading of the "justice" which is the real case of Allah and Prophet Muhammad and Islam (Güler, 2011: 79-81).

Social justice is a fundamental principle that has been built in the values enshrined by Islam. Islam, to cover the entire life of the people has placed social justice, human life and property, and it was only in the economic field evaluation. There are both tangible and intangible values for humans and because it is attached to the two together, there is no separation facility (Kutup, 2014: 61). Islam is the nature of people in spirit and body, the material things in life with the spirituality of a "unity" and "unity" is the thought they create. Because as

long as there is entitlement to social justice, human consciousness and thought it can not be got through legislation (Kutup, 2014: 63).

Defining the concept of justice in this regard through social justice, Rawls also considers in line with Islam: theory of justice, "equality" and "freedom" described through combining these two principles of justice, explained as follows:

1. *Each person, in a system of equal basic liberties for everyone are satisfied, however, has an equal right to be in harmony in a system that provided the freedom for everyone.*
2. *Social and economic inequalities must satisfy two conditions; a) The first of these conditions of fair equality of opportunity, should be linked to clear the function and location to everyone; b) the members of the community living in the most unfavourable conditions should provide the most benefit (Rawls, 2006: 145).*

A truly social justice must be based on a precise idea ingrained in the soul. In order to ensure social justice, a person in a way that leads to Allah and obeys Him definitely gives "testimony" and "sublime human values" to reach a "faith" that should be. Social justice can only be achieved in this way, if we not we can not speak of a lack of essential social justice (Kutup, 2014: 64).

Islam, represent the three basic principles for the applicability of true social justice:

- Absolute liberty of conscience
- Perfect equality of humans
- Firm and convenient social association

Freedom of conscience is essential to ensure social justice. Many things can not solve the problem, leaving only to the law. Islam stands exactly at this point. Because Islam collects both spirituality and materiality in uniform and defend the freedom of conscience in the real sense. Islam aims to guarantee something which is essential for the body's needs and life, as stipulated by both conscience and law.

Kutup, encountering the issue with Communism, says:

Communism argues that only economic freedom is enough for freedom of conscience. The economic pressure on people, sometimes it is theoretically correct pruning of the laws of justice and equality to be guaranteed that believes itself deprived of his leave. But not completely! Because even society itself can not guarantee a future for itself economic freedom. This however depends on the provision of freed conscience. Otherwise, printing kind of pressure in the absence of freedom of conscience; Whereas for example, the pressure will lead to such things as the ability and tendency to come up. Therefore, only the laws are not enough to put against them (Kutup, 2014: 65-67).

Islam starts to provide absolute freedom of conscience from this ground: First it gets conscience rid of "obedience and servitude" to others, is a fold of the tawhid and not a single submission to its freedom. There is no need for another mediator between Allah and man, only Allah judges. Everyone else is its servant. Thus, neither their names have no power to do anything on behalf of others. So another part of the Lord's people instead of Allah's acquisition must be because people do not have a rule to each other. One rule depends on the person's righteousness and piety ambitions (Kutup, 2014: 67-68).

Say, "O People of the Scripture, come to a word that is equitable between us and you - that we will not worship except Allah and not associate anything with Him and not take one another as lords instead of Allah." But if they turn away, then say, "Bear witness that we are Muslims [submitting to Him]." (Ali İmran: 64).

Because when conscience is full of worshipping to Allah but not one of his servants it will get rid of and the neck from bending and whichever the grasp of consciousness and is in contact with Allah, is no longer a for her life "fear", "provision concerns" or the "authorities concerned" is not in question. Such feelings and concerns are considerable because people of "personality" lose him and are "humbled", with the honour of getting trampled and pushed to pass through a right (Kutup, 2014: 73).

"Freedom of conscience is not required by Islam's place in soul in real terms. The realization of the largest Islamic social justice as it deems necessary for humankind depends on a person's spiritual perspective makes himself completely free" (Kutup, 2014: 84). Freedom and social justice in Islam are the conditions required in order to build the most important and leading awareness. Furthermore, on the basis of other "substitute" it is the first principle that has been supplanted (Kutup, 2014: 89-90).

Islam does not present only the freedom of conscience, but as one of the conditions of social justice "equality" was also presented by it. Islam firms the principle of equality by both words and Nasser (res judicata). Moreover Islam revealed this view when:

Someone put forward what they descended from their deity, they make sure that it's confirmed, some of the well is not like blood flowing from the ordinary people, the blood in your veins, put forward that it is noble kings of blue blood, a period in which they dictate the truth ... and yet some people due to some nations or some sect it being further thrown, people sheets and their time to classes, while another part that was created at the beginning by Allah, and therefore so by spreading the idea gained sanctity, gained a distinct place for themselves and but if some people because they are created in Allah's feet that they are worthless and can be chewed, whether the woman has soul or not...

Such a period was also revealed the provisions of equality and implementation. In Islam, the people came before the law both in this world and to demonstrate that they are equal before Allah in the other world. It is provided by the rule of righteousness and piety in Islam. Islam, "soy" and "race" as far from fanaticism, "lineage" and "tribe" is far from the taasub. Again, you get men in Allah's sharia, that are treated with equality and justice among female servants (Kutup, 2014: 91-105).

Another condition for social justice is social solidarity. All in all sense of the human condition, and in every way "unlimited free" is considered a life. However, in absolute terms conscience should be free without any registration under no pressure and that a life in absolute terms and conditions connecting to be considered equal, and this already is not true. Because such a thought is enough reason for the collapse of the individual and society. In such a system neither individual nor society remain. Because society need "a fair" conscience which best advances the interests of society (the rights and interests) and ends where the freedom of the individual is in question. Of course, it also has some rights for the individual, but to take advantage of these rights one "must stop and wait at the border of that liberty" (Kutup, 2014: 111). Because the Muslim community is like one body they are of the same sentiment. In case of a calamity or something that touches any of the internal organs of the body, in case of damage to any organ other members of discomfort and restlessness begins. Therefore being balanced with each other in Islamic society is the aim of a harmonious social community. Muhammad says: "In loving each other, hear each other in the case of believing in mercy and compassion, just as a similar body. If he will become ill if an organ of the body,

other organs of the body, joined him in the insomnia and fold draw fiery situation" (Kutup, 2014: 131-145).

Rawls says that a person's identity is largely shaped by community (to family, education, culture, etc.). Therefore when people desire to work to improve the lives of citizens in worse condition than themselves, they are themselves to achieve the objectives of others, in a way a "tool" that should not be feeling the door. Because the purpose of the community needs to see these people as if they were their own purposes (Arnhart, 2013: 316).

According to Kutup, by the three basic principles of social justice; absolute freedom of conscience, "complete and perfect sense of human equality" and "social solidarity reliably sensed" to provide what humanity wants, and would thus expect what took place was performed in a just way (Kutup, 2014: 137-138).

1.4. The Criticism of the “Human Rights” concept from the point of view of Islam

The concept of human rights is one of the concepts that the Enlightenment movement gave the world. This concept has been used to oppose various forms of discrimination by authoritarian regimes. The other main reference of this concept is to natural law.²⁹ Furthermore, it is a concept that is claimed to be universal.

The concept of universality is based on the concept of human rights and has always been a matter of debate. At this point, it is important to refer to Islam as a universal religion and its legal thought. Islam is based on human rights Shariah laws. Rights in Islamic law, are determined by "Nass". Nass also not in favour of power, provides for justice and equality among people as a referee (Birsin, 2012: 9-11).

According to Islamic law, human rights are given by Allah as the source. Therefore, this law is of divine origin, according to the Islamic understanding of human rights, which are

²⁹ Western human rights consideration's most important founder theory is the natural law basis. The baseline of the first natural lawyers are God and sacred texts; in other words, it is based on the divine. Later in the process of Enlightenment, humanism became secularized in reference.

inviolable and can not be changed. Therefore, these rights can not be prevented by any authority and are inviolable (Yayla, 2011:120).

Islam's understanding of human rights and natural law (the law meant here of is course "divine" law) are in a similar understanding to human rights. Because no matter where in the Islamic world it has a philosophy, that one who has suffered injustice and oppression can defend one's side in the context of a "universal" framework of justice and "equality" (Yayla, 2011: 120).

Only those human rights in Islamic law known as "due process rights" have not been addressed in the form of "justice", so as to eliminate social injustice in line with the principle of duty enshrined by law. Hatemi transported from Ali Gafur, this Hadith and supports this view: "A society in which the right of weak is not gotten back from the strong, is not a good (blessed) society" (Hatemi, 2008: 296).

In Islam, human rights are not won by a fight as it is in the West. They are given by Allah and the Prophet (of Islam because the Qur'an and the Sunnah of human rights reference) to people who "volunteer" to observe them. Therefore, God-given rights are not changed due to Islam and human rights are inviolable (Yayla, 2011: 131-132).

Human rights began as a theological debate among Christian theologians. The idea of human rights today called on John Locke whose father was also a Calvinist theologian and had an undeniable impact on its human rights thinking. According to Locke; there is only one science, theology and human rights are created with the idea of science and consists of rules imposed by Locke's natural law and God who is prescriptive. The human mind is only useful in finding these rules (Şentürk, 2007: 118).

In the Western world, people came out and tried to resist the pressure of church and state. Locke was among the leading Christian philosophers on human rights and is thought of as a "liberal" and "religious" thinker. In 1948 the UN Universal Declaration of Human Rights was adopted to further the practice of natural law in a way that would not favour entities "*such as a state or church authorities or the interests of certain segments of society, and the will, the divine will reflect law*". However, the UN Universal Declaration also created a major controversy after the decision to emphasize the divine source of human rights. The

philosophical basis of human rights thus both undermines its ontological structure and seeks a “satisfactory” foothold outside the divine source that is yet to be established (Şentürk, 2007: 124-125). Unless the basic concepts of human rights in the field of philosophy and law filed to God's "divine-natural law" is appropriated, there is no opportunity to get rid of this dilemma (Hatemi, 1988: 191).

Galtung expresses this development in human rights as follows (Galtung, 2013:35):

Another assumption of Western perspective is a supreme and transcendent principle. In ancient times this was God. Nowadays it is successor or successors of him. These are generally kings, states, people and state organizations (United Nations etc.) So the state probably was established as a soft-hearted, ubiquitous, omniscient and omnipotent king image which gets its legitimacy both from the community of states and people.

Today for Western thinkers, "the basic problem of human rights, is not how we justify it, but rather it is concerned with how to protect it. This problem is not philosophical, but rather a political problem" (Alves, 2000: 496). There is no need to protect the legitimate thing. For example, today the acceptance of these concepts and practices in countries like Iran, would have cultural and religious implications as they differ from *Fıtrat*. In other words, such countries would be thought of having a low base of ontological infrastructure. Therefore, while this concept is claimed to be a universal vision it is neither legitimate nor acceptable in all places. In addition, many thinkers and societies now view the declaration as a political concept imposed by the West to further its concept of self-interest and has served to sometimes associate Islam with a lack of infrastructure and philosophical culture as discussed.

As we have stated before, natural law and natural rights as Locke put it, are a fact that has already been expressed in a certain religious basis. Locke, with God's law does not see a conflict between the laws of human nature. According to him, the people of God are "natural", "equal" and "free" when they are created. Therefore, it is assumed that other people's freedom and equality of rights does not conflict with God and divine law, which in itself is a human "voice of God" by which the mind knows God's law and the need to abide by the law must obey (Arslan, 1997: 39).

Khawaz to Ghulam Sadiq also, state that corresponding natural law with the view of Islam, human rights and the fundamental human rights of existence in the Qur'an is a ground for human rights. And our task is to connect to the laws of those rights and to review the statesmen and philosophers that hold that the problem is of laws. No real Islamic state will depend on God and God's faithfulness to God by the fact that the ultimate goal is the commitment to human nature. Thus commandments in the Quran relating to universal human rights are related to both natural law and the law she refers to God (Sadik, 2009: 169).

The Quran is given to both the rights and duties of man. In the Qur'an the springs of a human rights "collective" whether the expression is defined, expresses this view as follows:

(...) The preface which based on fundamental human rights in Islam, is the caliph of God on earth is the nature of being human, and therefore the centre of the universe. This man also located on the man in the Qur'an and its going to be removed from the notion that Allah's earth caliph a human rights approach, certainly secular or not the individual, as in the liberal understanding, it will be a collective and universal. In fact, one approach that can be taken from the Qur'an, takes the view that the idea of human rights, not human rights. each will claim rights of man, how these claims every individual recognition of each state, the moral ideology and political system and the legal task, such as collective and must be universal (Yayla, 2011:137).

Fundamental rights in a modern constitution, is based on the rights holder "benefit", while others are based on the benefits of society as that in Islamic law. The owner of the rights in Islamic law is not its true owner, the creator in him has the right of society (Yayla, 2011: 141-142).

A number of principles were identified as human rights according to Islamic thinkers during the Enlightenment and Islam, these principles have already been submitted to the Islamic world under the name changes again. He does not need to look outside the state for human rights, the Qur'an, the main source of Islam and Muslims, starting from circumcision can enhance the understanding of human rights. However, with the Universal Declaration of Human Rights is there compatibility in Islam for justice, equality, freedom, rights and so on. A conflict does not appear in the subject. Some secular Muslim scholars have responded to the declaration on these grounds (Yayla, 2011: 320-323). These secular Muslim thinkers attest to the basic appeal of human rights of appeal and while this is the basis of the debate on human rights today; the question arises as to the foundation of these human rights. Here

is protested the secularity of secular Muslim thinkers regarding full human rights / naturalism.

Although there are different attitudes to general human rights as Muslim thinkers, we can conclude that they look very negative to the Western human rights among Islamic intellectuals. For example, the Iranian Shiite mullahs Human Rights and Sharia as some think very clearly the Tabandeh say that it is unacceptable for Muslims in many points of the Universal Declaration. The majority of other Muslim thinkers, "*Human rights and free manner, but the limits of Sharia in full and can be applied to the extent permitted by these limits*" refers to the cost. But meanwhile in the case of two perceiving the conflict it is certainly preferable to the sharia law. Again, according to Khomeini, revolution leader of 1979 in Iran, the only ruler in Islam is Allah himself. And in an Islamic state, there is no place for humanity affairs. Just after the revolution in Iran, the assembly discussed how to make the divine laws as the laws of the state and appropriated that humane legislative affairs were not needed where the system depends on Islamic rules (Mayer, 2000: 214-215). However, there are very few in number, though a small group of Muslim intellectuals favourable to human rights do minister. These, the laws and regulations of the Islamic system of human rights means that they have already have been taken in the best way (Arslan, 1997: 41).

The concept of human rights is a Western concept and its definition according to many thinkers is based in European thought. Economic humanitarian aid, including priorities are not humanity, they are foreign policy (Yayla, 2011: 29). It is obvious that the Western world established the system of human rights in its countries and obeyed these rules, however it may not be consistent in condemning rights abuses in non-western nations. On the contrary, the Western world itself is often the cause of right abuses in non-Western nations. The West which interferes in the internal affairs of other states under the colour of removing political right abuses does not acknowledge the struggle and poverty issues related to them.

Although Western / European Muslims may strive to integrate their culture through these concepts, Muslims adhere to whatever is inherent in the Islamic world because they will remain without being integrated with other cultures (Schulz, 20013: 239). In the words of Mayer who is known by his studies on Islam and human rights demonstrates the situation

for us: *“Many states in the Middle East still try to conserve the rigid canon laws which they legitimate in shape of laws sometimes, although they have legitimated many secular sourced and generally French originated laws.”* (Mayer, 2000: 206-207). This is natural because Islamic societies are based on religion rather than secularism. So human rights cannot be thought of independently of the religion.

However, there are other critics available to the Universal Declaration of Human Rights: international law created by this document, due to be Jewish-Christian Western culture originated in adapting to other cultures, especially Islamic culture is said to be possible. The document created 40 years ago can not be kept up to date and is now considering the cultural differences that should be reinterpreted as opinions to this document. The most important criticisms made in this manner, that this document was created at a time of the advancement of "a certain social and political structure of the liberal, democratic values and institutions of industrial society" is that it is formed on the basis of a document (Yayla, 2011: 39-41).

In modern political science literature, John Rawls is a pioneer of criticizing the natural human rights approach and political human rights. According to him, comparing the bases of the human rights of human nature to the interpretation of a particular religious or philosophical perspective is wrong. A particular religion or philosophical doctrine is not based on the human rights of the groups that adopt different religious or philosophical doctrines, e.g. Rawls' society decent hierarchical peoples which he calls as West specific or other societies that can be interpreted as bias (Rawls, 1999: 68).

In advocating a modern and liberal universality of human rights today, Donnelly says that the concept of human rights is "Western". Thus, the fact that Donnelly's Western concept of human rights is argued as a universal concept; the concept to other cultures is a product of Western culture and accepting an idea that has been imposed. Hereby a concept for a particular cultural community will need to be considered applicable to other communities and cultures.

According to Muslim thinkers; Islam sees one of the most important differences between human rights and the Universal Declaration of Human Rights proclaimed by the UN as one of a "binding" feature. Islam is not in the nature of a declaration of human rights, executives

on a "moral" crusade have the power to impose sanctions, above the positive law. But if a domestic Universal Declaration of Human Rights can not say such a thing it is because the implementation of the declaration of ingredients and the approval of the state depends on the enactment of this provision. Thus, positive law comes before human rights in Islam (Yayla, 2011: 140-142).

As all civilizations in the Western and Islamic civilizations have had their own ideas of human rights, these ideas have both different and common aspects. For example, Islamic societies are trying to solve the issue of human rights jurisprudence, Western societies are trying to understand these issues in the context of law and ultimately two different views emerge. (Şentürk, 2007: 15).

Fiqh points to human rights as understandable both with abstract legal rules and within concrete historical practices. Therefore, to understand human rights it is necessary to go beyond Jurisprudence fiqh texts, to understand that both legal and sociological perspectives should be used together (Şentürk, 2007: 23).

By adopting a global approach, Islamic jurists make the *Âdemiyet*, the human feature, foundation of the law (Şentürk, 2007: 21).

Şentürk for this discussion says that the fundamental dialectic discussion on human rights, justice and proponents of universal justice is only between those who want to express themselves. In other words, justice is among those "who instrumentalize" the justice and who see it as a "value". Such a conflict is inherent in any society. Islamic society is not excluded from it. Therefore, country, religion, regardless of race and culture "*universal justice advocates and values using the rationality*" first introduce justice in their respective communities and then in other communities instrumentalized who should be made only cooperation against use for their interests. East-West, there is a benefit to us as of the dialectic as İslam-West. Because there are people in similar thoughts about both positive and negative views on justice and human rights. (Şentürk, 2007: 22).

For us the basic dialectic or conflict is between advocates of fair and justice and advocates cruel persecution. Other Muslims are the oppressors. The Holy Qur'an has been very good this phrase: '..... There is no hostility except against the unjust' (Al-

Baqara, 192) Therefore, we measure the social level and the other is the distinction between justice and cruelty. Others are cruel (Şentürk, 2007: 22).

On the basis of discussions on human rights between Muslim thinkers; there is debate as to what the subject of the law is. Here two views emerged: the communitarian vision and universalist views.

For the majority of jurists including Islamic scholars, Hanafi initially defines the issues of law as universally human. Rights and responsibilities among religious people, apply to everyone regardless of race differences. Advocating this universal approach from other denominations are legal scholars, but for Maliki, Hanbali, and rights and responsibilities according to most of the Shafi'i scholars are not universal, but depends on whether they are Islamic state citizens. In other words, separate for Muslims and non-Muslims are separate rules of law applicable to non-citizens of the Islamic state. (Şentürk, 2007:23-24).

The difference between these two approaches, is described by Şentürk:

According to the first approach we call universalist approach because Islamic law is a universal law. Whether Muslim, is seen as a matter of everyone being. Âdemiyyet, that is to be human, because it represents the basis of rights and responsibilities, religion and gender play a role in determining the rights and responsibilities. The adoption of the law as a subject Âdemiyyet racism, eliminates potential problems from the outset as religious discrimination and sex discrimination. Because men and women, Muslims and non-Muslims all people fall into the category Âdemiyyet.

According to the second approach we call the communitarian approach, "believe" and "assurances" play a role in determining the rights and responsibilities: Ismet faith transmits or assurances. We see religious discrimination in terms of communitarian approach that plays an important role in law. But the main distinction may be expressed using a modern range is between citizens and non-citizens. Because faith and assurances, is seen as the basis of citizenship in terms of communitarian approach. The man who has faith and to citizens and revenues would become the subject of law. Non-nationals or the classic phrase remain outside the scope of the law. Hence, the subject of law is based on communitarian approach could say citizens (Şentürk, 2007: 25).

A basic question that caused the conflict between these two schools was: "Is it legal for Muslims to make all humanity?" For the communitarian school, Muslims performed the law for people who are not within the boundaries of an Islamic state. The universalist school arguing the opposite, that their performance ensures fairness and equity in the world of the aims of Islam. For the universalist school is the concept of "Ademiyyet" while for the communitarian there is the idea of "ibrahimiyyet" (Şentürk, 2007: 25-27).

Another distinction; according to the association of non-Muslim and Muslim legal scholars is to adopt a universalist approach with "peace" based as its foundation. This is necessary because according to the Islamic faith, "*you can not attack them unless they attack you.*" But according to the opinion of the majority of the jurists who adopt communitarian approaches, "war" is based on contractual relations between Muslims and non-Muslims (Şentürk, 2007: 27).

But both schools agreed the fundamental rights as "imperative" that there are five basic rights as stated:

- Immunity of the life (ismetü'n –nefs or ismetü'd-dem)
- Immunity of property (ismetü'l-mal)
- Immunity of religion (ismetü'd –din)
- Immunity of reason (ismetü'l- akl)
- Immunity of generation and dignity (ismetü'n –nesl and ismetü'l-ırz)

Legal scholars evaluate these rights as sine qua non of a human for a "honourable" life. Therefore, they are indispensable and inalienable rights. These "axiomatic rights" refer to the essentials and there is agreement on the need to protect these rights under all political authority. That is why they express this rights as "the purpose of the law" (makasidü'sh-sharia) (Şentürk, 2007:41). To summarize, while the universalist school expresses *ismet* for the whole world of humanity, the communitarian school expresses *ismet*, in other words the immunity for only "faith and assurances" owners. According to a universal approach human rights is innate and is given to man by God, but human rights are given to citizens by the state according to the opinion of the communitarian.

Abu Hanifa and his followers had developed the idea of universalist human rights which were considered by no one else before. This was regardless of the person's rights under any circumstances because it was thought just. Abu Hanifa combined the concept of *ademiyyet* to the concept of *ismet* and said that whether Muslim or not, everyone from Adam's generation had basic human rights, and that this was the purpose of the law. But the majority of Islamic scholars, even the followers of Abu Hanifa ignored the opinion of the universalist

and thus the communitarian vision has prevailed during the 20th century (Şentürk, 2007: 46-48).

Islamic thinkers show the particularly universality of the Koran and Allah's universal appeal and the Prophet to defend the universality of human rights. They show the rest of the universality of Muhammad's invitation. According to Serahsîy, the book of Allah and the Quran's message is sent to all mankind not just Muslims, since Muhammad was sent to all of humanity. God's rights therefore call on everyone to shoulder their responsibility. Allah addresses Muhammad in the Qur'an, saying: "*O Muhammad, say: O people, I was sent to all of you as a mercy from Allah.*" This verse shows that the message of Qur'an is to all humanity. (Şentürk, 2007: 48-49). Prophet Muhammad's Sunnah also includes many aspects related to the universality of Islam. However, some of these in particular by researchers Medina document mankind's first written constitution and the Farewell Sermon is seen as the first human rights declaration (Şentürk, 2007: 122).

One of the important points that we need to look at in this comparison of areas is the comparison of Western and Islamic law. Because the law is fed from each of these two very different sources. Modern Western law is more independent from religion, secular, as is practised by its legislative and judicial institutions. In Western law, which takes place in front of the public, the benefits of God's unchangeable law in this context are said to be adaptable to accord with the changing needs of the community of Western law. Islamic law on the other hand comes from God firstly. Muslim jurists have stated that the Qur'an and Sunnah arrived in the past and will include the resolution of all modern problems. Also one of the most important factor that separates the West from Islamic legal law is the idea that the "*basis of Islamic law is not legal but ethical*" However it is worth saying that the law is "not simply an ethical duty and just Islamic law is the aim of the legal system." However, individual rights in Islamic law come before the rights of the task and together are not neglected. Islamic law is a legal system rooted on ethics, the individual is entitled to rights and duties, the fulfilment of this demand is balanced with individual rights and social demands. Equality of Islamic law is concerned with justice, equity, and of course we can say that morality is based on rights and demands, as mentioned above. (Yayla, 2011: 39-41) In summary; Islamic law, society and individuals care about the community differently from

thinkers on capitalism, communism and socialism. As Islam likes balance, it does not like extremes (Yayla, 2011: 132).

Human rights are relevant to the current conflict and debate between the two approaches in the literature. Arguing that human rights culture is a product of Western civilization, is the "Western centrist Evolutionary Approach", while the other defends the idea of universal human rights as a "Global Approach".

Western centrist evolutionary approaches hold the idea of human rights and argue that the idea of human rights cannot occur in non-Western societies. According to this view, Indian, Chinese, African and Islamic civilizations are living in their "childhood" period, and lack human rights thinking. This society of humanity, civilization's "maturity" are the students living in the era of Western civilization. This idea also forms the basis from which Western Orientalism put forward. The West is himself of "freedom" fame, in the east "despotism of the country" as whether the expression is conceived hides under the colonial civilization. Thinkers like Donnelly, A. E. Mayer, Abdullahi An-Naim and Bassam defend this approach (Şentürk, 2007: 110).

Mayer, who wrote the book of Islam and Human Rights in order to show that there has never been a historical emergence or development process of human rights in Islam, (Ayengin, 2004 :370) claims that the Islamic human rights concept emerged just after the Western and international human rights model was produced (Ayengin, 2004: 356) and ignore the Pact of Medina, Last Khutbah, Hilf-ul Fidul and all other chronicled experiences of Muslim people in the same area. Human rights concepts exist in all societies and cultures under different names and shapes. Moreover the fact that any Islamic conceptualization of Islamic human rights has not been made yet does not mean that there is no human rights in Islam. On the contrary, this is the problem of Muslim thinkers who did not produce a concept of human rights by fuelling with these Islamic values and being enlightened by chronic Islamic human rights.

While the West centrist idea of human rights claims that there is not human rights in Islam, the Universalist approach thinks how to benefit from human rights in the Islamic culture. The debate between these two approaches is ongoing today. Muslim thinkers working today

to defend human rights in general, as the concept of universal human rights, stand on the importance attached to universal human rights since the beginning of Islam. Therefore the human rights case of "West Centralism" rid the body should be created instead of a universal thought, mingled with all world civilizations, or cultures clashed with universal acceptance is difficult to see (Şentürk, 2007: 110). Some Western lawyers began the development of human rights from ancient Greek, Roman, Medieval, Renaissance, French Revolution and at the end you have tried to explain it to the UN. But altogether the idea of subordinating human rights to development centred in the West, this idea is subject to criticism. Critics point out that the development of human rights-based thinking is completely wrong to contrast the previous legal system in the West and represents a contrary idea to that of human rights (Şentürk, 2007: 119-120).

The relationship between humanity and human rights has been discussed for a long time between Islam and the West. It reveals what human rights who have and the result of this relationship. Therefore an already bloody political and legal conflict between humanity today in the whole world is partly due to this relationship having not yet been identified (Şentürk, 2007: 34).

Muslim thinkers, have only for the last two centuries been applied to the western human rights model and the result is pain there has not been a way to experience the "healing" water of the Koran as stated in the terms of human rights theory. Thus, to the extent that there was a world view against the unification of human rights might be and however to Hudûdullah (the limits ordained by Allah) they stated that compliance was maintained (Yıldız, 2002: 11).

Objections general for Western notions of human rights are the following points: It precedes not Jamaat (community), but the individual; not duties, but rights; shows a secular nature and processing insincerely (using the human rights at the international area for its own benefit, to justify colonialism and to interfere in the internal affairs of other countries by using human rights as a tool), universalism claim.

We know that the community is important for non-Western societies in contrary to the West's manner which blesses individuals. In other words, the community's interest comes before individual interests. This is already inherent in religion, because there is also a social

aspect to religious life. Islam calls for a natural balance between the individual and the community at this point. Therefore, the Western "individualistic" approach is not very "sympathetic" for Muslims (Yıldız, 2002: 18-19).

According to Seyla Benhabib who defends the approach to human rights in the framework of communicative ethical theory, the justification of human rights must not depend on the metaphysics of natural rights theory or the ideas of "selfish individuals (possessive individualist selves)", but on a "negotiator" practice (dialogic practice) (Benhabib, 2011: 70).

Islamic law follows a different way than capitalism which throws society aside and gives value only to individuals or to communism and socialism which throw individuals aside and give value to only society. Islam does not prefer extremes, but the middle path. It gives equal value to both political and social space as well as to social rights and individual rights.

While the Islamic worldview has a "Theocentric (God-centred)" opinion, the Western world has an "Anthropocentric (human-centred)" opinion which puts the human in the centre of everything (Yayla, 2011: 132-133). Therefore, it is inevitable that the modern law contradicts Islamic law.

The emphasis on the concept of justice is more than the emphasis on rights and responsibilities in Islamic law. In other legal systems, especially modern law, the emphasis on rights and responsibilities is overshadowed by the concept of justice. Western liberal and individualistic approaches develop a more emphatic expression of the concepts of rights, while Islam seals spirituality and emphasis on morality and using the mind to seek to understand the role of the divine message of facilitating justice (Ulusal, 2014: 216).

Boisard expresses justice in Islam as follows:

Unification of doctrines, individuals and the society as the moral commands (Qur'an stated that Allah's orders) to comply, in favour of a harmonious level of the fine is necessary to understand that it is available in this command. According to the Qur'an the basis of the social virtues of balance and order, creates one of the most important concepts of justice closer to the people of piety. The concrete symbol of the heart, conscience and justice arising from the concept of logic, to consolidate the foundations of society, and must guarantee the human rights (Boisard, 1195: 132).

In Islam no one can be forced to serve another in neither a spiritual nor bodily way. This is Allah's command (Chahine, 1995: 143). Muslim people are servant of only and only Allah. The verse of “[do] not take one another as lords instead of Allah” demonstrates the situation in question.

While in West rights are stressed more, developing countries stress the tasks. Still standing on a Western more liberal approach, while also focused on virtues in order to continue the tradition of the third world countries. Developing countries give priority to the collective benefits, while in the West the priority is given to the benefits and rights of the individual (Yayla, 2011: 35-36).

Another objection to the Western grip is that the form as well as the need to include the assignment of this model. They argued that non-Western societies should prioritize rights before the assignment. This objection is possible to be observed in a large extent in the Muslim world. Muslim scholars hold that rights cannot be prioritized before the mission of Islamic law they need to perform (Yıldız, 2002: 19-20).

In Islam, a person's missions and responsibilities come before his rights. Social and collective values are more important than the rights of individuals. As in West, the priority of individual interests against the interests of society is not tolerated in Islam (Boisard, 1195: 131).

Another important objection against the Western conceptual model is for the Western secular concept. Western notions of human rights separated it from religion by references to Enlightenment and were founded on a secular base. Western grip on secularism appeals to post-Enlightenment modernity and pursues a parallel process. Especially in the last quarter of the 20th century, as in all religious movements in general, this process is seen as becoming definitive of the private lives of people with Islamic religious re-orientation (Yıldız, 2002: 21).

Muslim as anyone who believes in a God, is able to appreciate the universal appeal of the declaration and the requirement for it to be based on a secular basis. Yet Western human rights are said to be guaranteed by democracy and as Kırbaçoğlu cited; İkbâl has criticized this idea of the West at this point, saying: “*Europe/West’s this ideal never became a living*

element in its life and the main function of which consists of the poor are exploited in favour of the rich as a result of the intolerant democracy, there has been nothing more than a seductive egoism" (Kırbaçoğlu, 1997: 68).

At this point the people of religion turn to morality in times when every religious person is argued to be morally atheist even while it is being argued that an atheist can be moral. But Kırbaçoğlu and at this point and Alija Izetbegovic's also hold that the pious being thought *"too religious to be moral imperative as well, entails also the biggest support for morality is no doubt that for the religion"*. Thus religion, as in many areas in the field of human rights seems to be our only chance (Kırbaçoğlu, 1997: 68-69).

The human rights perspectives of various ideologies are defined in accordance with their definition of the human being. In the words of Costas Douzinas, the definition of a human being states the essence and extent of the rights (Douzinas, 2016: 27). Birsin expresses the importance of the human being definition in respect of human rights as following:

The scope and priorities of human rights and establish ideas about the nature and quality of the people who owned and beliefs. Created in a process that culminated with the beginning spirit substance by God, piety and the intriguer is rendered with trends and with a defined mission that people only seen as a financial asset, other rights of people living, which consists of more advanced models will be different from each other. identify the rights of those human understanding, priorities and limits will be different (Birsin: 2012: 158).

Islamists and secular-minded ideas of human rights, in other words secular and human rights priorities, varies depending on how they define the human. Secular thought is material based on a human animal that has evolved solely on the earth. The rights of human beings are above all due to their features. For example, if we start from a sample given by Birsin: a people of God in the United States or even as a mockery of Jesus, there is no legal penalties assessed as of this freedom. But although ridiculed by a man from the community that it has the legal punishment. Here we see that the right of individuals is very clear on the rights of God. But Islam is also vice versa. Islam sees Allah's rights over the rights of the people. Mocked religion is unacceptable, it can not be considered as a right to mock religious freedom (Birsin, 2012: 159).

As a basis for the legitimacy of rights to develop, the concept of human rights in the West is still developing in the West. Western philosophy is completely an "ontological subject," in other words "the notion of individual" justification for this is based on the people to have as the subject. Western human rights extol "natural law" and as a result of this "mind", "human nature", the benefit of people justified by their anthropological features. Such secular-and even a ground-teist- human freedom and human rights in a metaphysical sense of human values and responsibility is removed from the problematic. More precisely established it is presented as the only ground floor. This is ground 'killing God' and then from the ground emerging humanist (Güler, 2011: 174-175). The epistemological and metaphysical addictives of Neo-Kantian philosophers reduce the emotion of solidarity and weaken the faculty of listening to the alienated and sharing the pain of them (Douzinas, 2013: 54).

According to the Abrahamic mono-theistic religious human rights tradition, we see that this justification is different. Humanist philosophy 'for himself' is a philosophy that exists in individuals rather than the ontological "In another tradition," "other" and "over" by the encounter and a moral philosophy in the sense of progress commanded to him. As stated in humanist philosophy human existence is so spontaneous a freedom to indirectivity that it is not condemned to idleness and aimlessness. *"Then did you think that We created you uselessly and that to Us you would not be returned?"* (23/114). *"Does he think people will be left adrift?"* (76/36) are the verses that show us the truth. Again, we understand that people find God the tawhid and faith, that has been created for righteousness and justice in order to fulfil the ambitions of moral responsibility towards fellow man. In the Qur'an this responsibility is "entrusted" with the usual notion expressed (Güler, 2011: 176-178).

Western societies give a certain legitimacy to the validity of human rights in their communities by the "interest" motive. But when they found this society of opportunities "other", "the other community" does not comply to the same rights and usurp their rights and against them "murderers" and because it is caused by the lack of that interrogation belief in metaphysical responsibility here's why they ignore them. Because we are constantly monitoring this metaphysical God and death is not an end, we will give an account of what we do. Here are the Middle Ages this belief on the basis of the protection of the rights of people of every religion and race, although it is not the concept of human rights in the Islamic

society. Non-Muslims in Muslim rule was seen as "Zimmetullah", "Zimmetirasulullah"= in assurance of Allah and His Messenger", "Vediatullah = Allah's trust" (Güler, 2011: 180).

Human rights emerged by the fact that it is accepted that one part of humanity slaughtered another part, a third one called "saviour" and "Messiah" punished the guilty and used law, reason and even force in order to be a remedy for the pain and damage. Douzinas expresses the three "masks" of human rights as following: Suffering victim, misdoing oppressor and moral savoir (Douzinas, 2013: 48-51):

The first one is human being as a victim. He is weak, helpless and innocent; his basic nature and needs were denied. But there is still more: The victims are members of a hopeless, demotivated human mass or herd. They do not have faces or names; slaughtered Tutsi, fugitive refugees, gassed Kurds, raped Bosnians (...) All of these are results of evil, in other words abuse of human rights.

Human rights is a part of manner of post-colonial world which claims that the poverty of Africa is because of its own fails and corruptions, traditional acts and failing to be modern, favouritism and fruitlessness, in a words because of its lower-humanity. We may really have mercy for the victims of human rights abuses; however showing mercy has traces of the slightly humiliation of the victims for their passivity and hesitation; and traces of great disgust of the monstrosity of countryman and torturer. We do not like the others so much, but we like to show mercy to them. They the barbarians/victims make us civilized.

However the "Western lavish" and frequenter of "humanist entertainment" is ever ready and present in order to save the victims. Salvation depends on the superiority complex and principle of "replacement". Our age witnessed much more abuse of human rights than the previous and less "enlightened" age. Our age is the age of mass murder, genocide, ethnic cleansing and "holocaust". The abyss between the north and south, rich and poor in upper world or globally "seduced" has never has been as deep as much as today in the whole history of world (Douzinas, 2016: 53).

To say that in the last two centuries the human rights violations that occurred in the Islamic world was an attempt to reconcile with Islam would be wrong and unfair. Because in the Islamic world "totalitarian modern nation states" depends on many aspects of Western culture being connected to the spirit of Islam. In addition, the "modern Muslim" s degree in the metaphysics of Islamic "faith" that he and internalizes moral values (righteousness and justice) is questionable. But despite all this, the human rights of Muslim nations in international affairs could say they are more connected to Europe and the United States.

Europe and the US does not end with his number of violations of human rights in the international arena. Already capitalist, socialist and fascist system itself is based on human rights violations (Güler, 2011: 181).

Douzinas states in *The End of Human Rights* that we are in such a period that the biggest abuse of human rights are done although our age, yet it is an age of human rights. The main human rights criticism of Douzinas is a response to the presentation of human rights by neo-liberalism as the end of history and ideologies. Douzinas directs his criticisms about human rights to the discourse of human rights rather than itself. According to Douzinas, discourse of human rights is a "hegemonic" discourse and contributes to the spread of the neo-liberal capitalist economy (Akbaş, 2016: 24).

As a result, in places like the US and Europe, the aim of human rights is to protect the individual against the state and social collectivities. But other nations of the world can not protect against the United States and Europe already does not protect nature. Human rights, at a metaphysical level reveal human responsibility and possibly with a consequent moral philosophy of the "Abrahamic monotheistic religious traditions" (Güler, 2011: 181).

According to the Muslim intellectuals, Western states and peoples who advocate human rights lagging / do not assume any responsibility for the freed communities. Western countries had said their interests do human rights "means a political manoeuvre" and human rights violations will not refrain from using this as a pretext to interfere in the internal affairs of the country, while refraining to address those issues of hunger, poverty and misery when it comes to this issue in the internal affairs of that country. Besides modern world hunger, poverty is the direct responsibility of the Western countries in question. Since colonialism, in nearly all Asian, African and Latin American countries, above-ground and underground resources were plundered by Western colonial powers themselves. Today, faced with grave dimensions and each year an average of 15 million children, including causes of hunger and poverty, the death of 50 million people must be sought here (Yıldız, 2002: 20-21). As also Upenda Baxi expressed, "*Movement of the human rights orders itself in an imagination of market which converts the pains and rights of the human being into the commercial goods.*" (Douzinas, 2016: 66).

On the other hand directly at the beginning of many states who are responsible for human rights violations "authoritarian" and "totalitarian" governments are also known to be directly supported by the West. Even those governments that came to power with the right of free choice, when they are against the West's interests, the West "overthrow" or prevent these governments from functioning. Therefore, countries in the West have remained with backward peoples and their rights have been violated in terms of the emergence of "double standards" that exhibits an attitude that seldom appeals to the actual arguments (Yıldız, 2002: 20-21).

The West does not define human rights as only the "rights". It is possible for the holder to give up his right. However, given a greater sense to the concept of right in Islam the religion does not express human rights only as "rights", but it sees them as "divine *fariza*"³⁰ and Shariah duties. Here Islam's "exclusivity" is being revealed (Umara, 1992: 204-205).

While we put forward the Islamic model, it is not the same of Western models, we not offer its identical; exceeding the Western model, we offer a superior alternative to it. If freedom for western people a 'right', this Islamic *Fariza* (God's commandments) If, according to the Western understanding of the right of protection of human life according to Islamic perspective this is a *Fariza*. If you want to deal with politics, the nation and the country will be involved with issues, such as political struggle and political support for the opposition right from the same rights in the West is a pilgrimage in Islam. Because no concern with the affairs of Muslims is not one of them (Umara, 1992: 205).

According to Islamic law given to man by God are human rights, inherent rights. Hence the origin of the divine and human rights are inviolable. Therefore, these rights can not be violated by any authority. That's why you need absolute respect for human rights (Yayla, 2011:120). In fact, in respect for the Universal proclaimed by the United Nations Declaration on the year December 10, 1948 it can not be compared with the rights granted by God. Because the Universal Declaration is an advisory, and non-binding. But human rights is a duty on Muslims in Islamic law. These rights are not only moral, but also have binding rights as this is a sacred right granted by God (Yayla, 2011:129-130). In the Islamic understanding of human rights the "morality of human rights" with the secular understanding of human rights "morality of human rights" are different from each other, and are independent. What is meant by morality in the modern liberal concept of human rights, is a secular morality.

• ³⁰ Command of God.

Universal religious conviction on the other hand is known to be the essential content of the morality of Islam. Morality can not be independent from religion. Moreover, morality can not be created by legislation, people would not have the moral law, or act as being solely moral. Alija Izetbegovic in this case refers to this dilemma as follows; (İzzetbegoviç, 2011:168-179)

Atheism denies morality in the end. On the other hand any real moral resurrection, begins with a religious renewal. Morality, religion transformed into desire and behaviour record; in other words, the fact that proper behaviour is willing or presence of God's people is the attitude towards other people. Because if I do my duty, despite the difficulties and dangers are required (...) such a request, however, this world and this life is only justified if the world and to see a single life. This issue poses a moral and religious point of joint movement.

The West emphasized more "rights" while in developing countries there is often an emphasis on the actual missions. With experience gained from Western history, a "despotic" system in order to protect himself because he was afraid the results will bring about "freedom" advocates the concept. But in many developing countries people struggle in order to maintain the tradition of "virtue". Further West, priority is given to the importance of individual rights and interests, while the collective interests the values in the majority of developing countries (Yayla, 2011: 36).

The collectivist Charles Taylor expresses similar views on Islam's human rights understanding. Transmitting from Zubaida Taylor; (Zubaida, 1994: 37)

The need for self and social morality, and rights can only be meaningful in the context of social relations. Living in the community, the individual is rational, is a necessary condition for being an autonomous moral subject. This issue is directly linked to cultural differences or originality. Because from the point of view of some cultural, communal concerns it is on the individual.

Taylor states his views through the "social human vision" concept. In such cultures, governments and leaders are determined on the basis of the priorities of community rather than the human rights favoured by Western individualism. This view is parallel to Muhammad Umara, a collectivist Islamic thinker, as cited by Dwyer: *"The nation is a priority sector in the interests of Islam; the ruling class of the state and not the interests of individuals (...)"*. Of course, with omissions totalitarian regimes fear the liberal claim that

oppose ideas. When we describe the needs and rights of society as a whole we need to ask the question by whom and how these rights are defined (Zubaida, 1994: 37-39).

Unlike liberal communitarians who think the rights of individuals are based on the priority of "moral integrity" and "the public interest", collectivists seek to create a moral foundation. According to collectivist thinkers "abstract individuals" rather than rational choice; common moral values, virtues and moral traditions and communities are the cornerstone of a philosophical discourse. In contrast with the contemporary liberal philosophers; individuals in such a community do not prefer the benefits of following his own as a member of a certain moral order, and thinks of the public interest. MacIntyre says, "*At a certain time for the person as a human being with Aristotle's virtue theory that assumes an important distinction between what is good which is really good for him*" (Etzioni, 2013: 405-406).

Walzer from the measured communitarians formulates distributive justice based on common moral values. Each community is a "good" are good to have, and this is attributed to certain meanings and values. In Walzer these common values are stresses that occur in "distributive justice,". Continues Walzer; "*If we understand in terms of what is best for who is best (in terms of members of a particular community, for example); how, by whom and for reasons we understand what needs to be divided. According to the social significance of good all allocations are fair or unfair*" (Etzioni: 2013: 406).

Selznick stated that the communitarian means that individual rights are located in a moral approach. The central value of the collectivist philosophy of 'belonging' is that a person is in fact enabled to express the emergence of their social participation through it. Another opinion expressed by the Selznick; in communitarians is primarily the responsibility of their rights. Responsibility is "the membership and roles is that with what is relevant." Therefore, when we accept a membership (e.g. academic community), we first consider our responsibility, not our rights (Etzioni, 2013:408).

Criticism of the collectivist thinkers against liberalism can be summarised under three headings; Anthropological criticism, normative criticism and justice-good discussion.

One of the important collectivist philosophers, Charles Taylor, in terms of the individual's ontological origins of liberalism in the normative criticism "misplaced and displaced," says

that as identification. According to Taylor, if a justice is mentioned it can only be meaningful in the context of the individual's ontological conditions (Menekşe: 2012).

Liberalism's conception of the individual, finds its source in the "transcendent subject" of Kant. Kant takes the individual subject rather than the subject of the ethical decisions that effect all social conditions regardless of the context. However, members of the ontological dimension completely sever the individual thinking as flawed in terms of anthropological according to communitarians. One of the harshest criticisms is made by Michael Sandel in anthropological terms. Sandel defined liberalism of the individual as a "meatless boneless being", " a subject non-engaged and rootless" or completely "existence without a soul" (Menekşe: 2012).

We are experiencing a process in which ethnic, cultural and religious differences are talked about much more. In this century, value is very different from universal values, such as a development value of collective identity and meaning. This development of human rights is a share of the enlightenment and its engendered universality.

Contemporary political Islam rejects Western concepts such as human rights, constitutionalism and democracy and defines them as "pieces of luggage of cultural crusader imperialism" (Zubaida, 1994: 40).

The existing human rights concept and UN-source represents only Western culture in international human rights norms, and sometimes the way it includes Asian, African and Islamic tendencies have stated that local and cultural core values of putting forward their own values on human rights is incompatible with Western human rights standards. Intellectual trends in this idea, "western imperialism of human rights" and to the west of the universality of human rights "imperialist policies" is a product they have expressed. They express that Southern countries are victims of their own interests to the interests of Western states and by international law "hypocritical and double standards" of international human rights policy that established according to Western interests and edited (Özdek, 1994:15-19).

The views about clashes of interest of Alan Clarke, the former Defence Secretary of England, while speaking in an interview about the 50th anniversary of Universal Declaration of Human Rights, demonstrates this issue well: *"My first duty is serving for people of my own nation.*

Diplomacy is profession of associating the clashing national interests by either conciliation or threatening, thus the effort of applying the Universal Declaration of Human Rights comes much later in the list of priorities.” (Clapman, 2010: 85).

Both Conservatives and Socialists, since the birth of the modern concept of human rights have been involved in serious objections to the universality conception of liberal human rights. Conservatives since the 1789 French Human and Civil Rights report breaking the customs and traditions of individualism destroys the concept of criticizing human rights reasons, while socialists have objected to the modern concept of human rights with the collectivist idea (Özdek, 1994: 17).

Therefore, in people offering rights alone this concept that refers to a specific value as a cultural superiority and western policies, with the right to intervene under the pretext of human rights in cultures other than their own, against the West "culturalist tendencies" are strengthening. "Cultural specificity" therefore appeals to the concept of self-expression of thoughts, west of the universality of human rights (Özdek, 1994: 19).

After the Second World War a quickly emerging postmodern movement today represents the spreading idea of cultural relativism.

Özdek and Vincent express cultural relativism philosophy in the following way:

Two centuries against the universality of cultural relativism imposed by Western thought, emerges as a defense of their way of life of different cultures; 'Others' as the defining moral and customs, traditions, opposition to the assumption of a single culture with beliefs, exhibiting a culturally egalitarian essence. In this sense, also an ethical stance on cultural relativism. Early 20th century in the West of its white, Christian society of moral culture develops in response to a belief that takes place on others relativity, colonization process of conquerors, missionaries, teaches a valuable defense against the attack solving indigenous peoples of colonial (Özdek, 1994:20).

The culturalist tendency objects to the Western concept of human rights, primarily the concept of human rights "individualism". They rejected it on the grounds that it does not represent their culture. Stating that the specific individualism of Western culture, they stressed the communitarian and solidarity features of theirs. In expressing their opposition to Western culture, African and Asian cultural and religious traditions regard themselves as in conflict between "individualism / collectivism" (Özdek, 1994: 21).

Islamist intellectuals underline the uncompromising nature of Islam with Western values of human rights (Bulaç, 1992: 17):

We as the Muslim world, look at the world from a different culture of the conceptual model. We can not match the same description with the West (...) our world view and paradigm basing our opinion, unless you change the values imported from the West to our mental, emotional and should not be expected to find money in our social life.

Here cultural difference seems to be the main determinant. Criticism of rights are stated as follows (Özdek, 1994: 24):

We can detect something in the culture of fundamental rights that may be seen as a crime in another culture. For example, a drink right in today's culture, is a criminal offense in Islamic law. Yet other aspects of modern culture in general that have not been widely adopted, such as a person's obsession with their body, is also not accepted in Islam and is considered a crime like adultery or suicide. These examples are evidence of a distinction between the rights and freedoms. Categories of rights exist under Islamic law, but not necessarily as they do in Western law. For instance, in Islam there is God's right (*hukukullah*), a person's self-directed rights (*Hukukunnefs*) and even in death there are rights and so on.

Here the approach to Islamic law (the Sharia) seems to approach an acceptance by Islamists of the universalism of the Universal Declaration of Human Rights. Ali Khamenei's statement is however unequivocal: "*When we want to find the right and wrong, not to the United Nations, we went to the Holy Quran. For us, the universal declaration of human rights, is nothing more than a meaningless collection of devil's disciples*" (Özdek, 1992: 24).

Today, while many US international theorists now glorifying individualism, others report the problems of a "sensual," "hedonistic" society where consumption does not provide a value system for the moral world. This in turn influences the difficulty of the leadership of the US position in the world. For Confucian and Islamic traditions spirituality is a serious alternative to the moral decay of Western society on offer (Özdek, 1994:33).

Today, thinkers like Jack Donnelly who defend the universality of human rights; see them as universal human rights that the Western concept of human rights and human rights of communities outside the West claim to have conceptualized (Donnelly, 1995: 119-135). When considering how universal thinkers advocating cultural relativism could be accepted as a natural concept for Westerners and how to appeal to the whole community, Donnelly rejects the universalism of human rights in view of these contradictions (Berween, 2005: 8).

As a result; completely to the West is this secular product of thinking that is both "formal" and concerned with "scope". Yet it is neither philosophical nor applicable in non-Western cultures, more familiar with reproducing approaches in the religious framework of the human rights concept. For these reasons we need to know how Islam reaches a human rights model as addressed by Yıldız (Yıldız, 2002: 140):

(...) Islam offers us both with theoretical reference (Qur'an and Sunnah) and unique opportunities for an Islamic human rights theory with authentic historical practice. These Doctrinal (tawhid), are the moral and legal facilities. If these facilities *makâsıdu's-Sharia* (general objectives of the Sharia) in the context of conceptualization can be made practiced, Islam today as in the past; humanity, peace, security, freedom, and justice will be the only authentic answer to the longing for a world based on the right. Because humanity, helpless in the face of human rights in a world where there is no other prescription that will cure the incurable except Islam.

SECTION 3

1. A DISCUSSION OF “HUMAN RIGHTS” CONCEPT IN THE CONTEXT OF MAZLUMDER

Where you stand on human rights and where you look/what you see depends on how you define the concept. The way in which you shape the concept defines your actions in the field of human rights and your reflexes. Indeed, this is the exact situation today, which we are discussing over MAZLUMDER.

In this part of the thesis, by taking MAZLUMDER as a human rights defender and by referring to its organizational goals and principles and the opinions of its representatives, its human rights perspective will be revealed with the help of in-depth interviews with relevant persons. In-depth interviews were held with 20 people during the research, data were deciphered, and an analysis was carried out.

Mehmet Pamak, the founder president, and other founders state that they established the organization on a base of understanding of human rights, but today the association has moved away from its establishment line. Even though the human rights understanding of the association has become more "secular" and "Kurdist", the in-depth interviews we conducted with MAZLUMDER members revealed that they did not accept these claims.

1.1. Goal and Date of Institution

The Association of Human Rights and Solidarity for Oppressed People was founded in Ankara on January 28, 1991, referring to the Islamist Hilf al-Fudul, as a human rights organization under the abbreviated name of MAZLUMDER.

MAZLUMDER's headquarters is in Ankara, and it has branch offices in Ağrı, Afyon, Akyazı, Ankara, Batman, Bursa, Diyarbakır, Gaziantep, Hatay, İstanbul, İzmir, Kayseri, Kocaeli, Konya, Kütahya, Malatya, Ankara, Sivas, Şanlıurfa, Trabzon, Uşak and Van.

In a pamphlet published by MAZLUMDER's İstanbul Branch, the goal of the association is expressed as follows:

It was instituted at the end of the 80s by some engineers, journalists, writers, publishers, and with the participation of businessmen and various professionals in İstanbul and Ankara who had witnessed or experienced persecution, in order to be the voice of the oppressed and victims against oppressors, to emphasize the history of problems, philosophical depth and practical consequences with a number of advisory bodies and administrative structures. It was founded by 54 people who considered themselves responsible for the society and events in the country.

While it is claimed that MAZLUMDER is today escaping from the alleged human rights understanding, its founder president Pamak explained MAZLUMDER's purpose to the press in 1991 as follows:

Protected from the ideological and secular deviations of the present understanding and implementation of human rights, to create an exemplary revelation-central, it was based on Islamic principles. To put forward an exemplary human rights struggle against the double standards approach. Instead of conflicting with the present human rights struggle, to bring a dynamic and revolutionary dimension which complements it. To give a new understanding and new horizons to the current understanding which is limited and biased by ideology.

We established the organization to attempt to close the human rights gap for Muslims, to bring the struggle well-deserved dignity, and make it fair and free from double standards, so that all Allah's servants in this transitory world can have justice and freedom (freedom of choice in context of the verse that each one should be able to believe or not). We aimed to define all of the related concepts by revelations. We tried to explain the concepts of human rights, law, justice, cruelty, oppressed, oppressor etc. with their real definitions by using the revelations (Pamak, 2011).

Again, in Article 3 of MAZLUMDER's charter, the association's objectives are stated as follows:

It is to fight in all ways against any economic, social, legal, psychological, cultural and actual obstacles which restricts human rights in an undignified and unjust way; and to protect the nature of all beings, particularly the persecuted people. To struggle against all kinds of torture, abuse and violation no matter by whom and against whom; and to reveal cruelty and oppressors. To supply legal assistance to victims and the oppressed in order to develop solidarity with them.

A point to be noted regarding the establishment of the MAZLUMDER is its influence on the HRA association. In those days, the headscarf ban in public institutions or universities was another human rights violation for women. Islamists, generally of the "left" tendency and "Kurdish" origin, were generally not sensitive to the violations of rights in the social sectors. It can thus be said that MAZLUMDER gave "legitimacy" to the headscarf issue (Kadıoğlu, 2005: 34).

He states that they established MAZLUMDER as HRA was only concentrating on leftist human rights violations, and there was no establishment protecting the oppressed Islamic circles. However, after the establishment they recognized that dealing only with human rights violations against Muslims would be incompatible with the concept of human rights, and they therefore started to represent the rest of the community as well. One example would be the 1992 "Kurdish Forum" which was a bold move in those days (Çaylak, 2012).

MAZLUMDER's founding president was Mehmet Pamak, who used to be one of the publishers of the *Grey Wolves Journal*. In the 80s though, in his own words, he returned to "true Islam" and ceased his activity in the nationalist movement.

Former President Ensaroğlu stated that MAZLUMDER was established for the purpose of disclosure and detection of oppression, but they soon understood that it would not be enough and changed the association's name as "solidarity with human rights and the oppressed". And from the moment they established MAZLUMDER, the work of two main axes converged: First, disclosing human rights and eliminating persecution, and second, developing solidarity with the oppressed; namely, persecuted people or group activities (such as petitions etc.) (Ensaroğlu, 26.02.2016).

Not being a very homogeneous association and including people with very different inclinations (Bilgen, 02/09/2016), MAZLUMDER's human rights concept today is based on liberal human rights (it is claimed that it was based on Islamic human rights when first established). According to MAZLUMDER, the source of human rights is that people were created as human beings. The association fights against double standards by all people, regardless of any discrimination. Their basic motto "*Against the oppressor with the oppressed, the identity of the oppressed will not be asked*" is their reference.

MAZLUMDER's method of defending human rights is based on their understanding of human rights and the source of their morality is justice (Yelken, 2007).

On the other hand, it is possible to say that the association struggles against a wide range of problems, such as the headscarf problem, that of Armenians or other non-Muslims, especially the "discrimination" of the Kurds, honor killings, issues with women's rights and freedoms, harassment and discrimination, missing people, unsolved murders, and a large number of people who struggle for human rights in prisons. With this large scale, it is possible to say that the association has become a watchdog. Even MAZLUMDER claims that it is the only organization defending the rights of a liberal college professor allegedly insulting the Republic and the state's armed forces, arguing against the grounds of the penalty. It has been underlined that the organization has a reputation to defend the rights of people exposed to human rights violations (Kadioğlu, 2005: 34-35).

MAZLUMDER has a member range of nearly 10,000 (by 2016), largely including people who identify themselves as "Muslim" (Ünsal, 07.02.2016). MAZLUMDER itself claims that they are able to accommodate Islamic understanding of different shades. To illustrate, there is a more liberal interpretation of Islam, a more conservative one, a more radical one, or a more traditional Islamic perception (Çaylak, 2008:136).

On the other hand, MAZLUMDER shrank state power as civil society may not be integrated with any political party. For example, in November 2002, AK Party was the closest political party to the association's world view and they thus provided support for them in the general elections. Although it can be thought that MAZLUMDER had similar concerns with especially the 59th Government (AKP government), it was observed that they were also sensitive to human rights violations (Çaylak, 2008: 136). For example, during the peace process in Southeastern Anatolia, they were the "Muslim" power in the region opposed to human rights violations by the state, and were consequently blamed for being "Kurdists".

Conflicts between different Islamic circles in the association has emerged. Considering that there is no clear attitude about "gays"; is no consensus on the identities of "Muslim", "Kurdish", "Turkish" or Islamic tawhidist and panislamist; and no agreement between "monotypists" and "pluralists", it will not be faulty to say that MAZLUMDER has literally

not solved the problem of different ideas and alternative lifestyles in their "consistency" (Çaylak, 2008: 134).

Most association members are university graduates. For this reason, the non-governmental organization MAZLUMDER is different from other Turkish NGOs. The higher level of education makes them an essentially middle-class community. Besides, although MAZLUMDER President Ünsal states that there is no designated ethnic identity for members, he can say "intuitively" that Kurdish members are in the majority (Ünsal, 07.02.2016).

A "hierarchical" or "status quo" structure is not evident in the association (Çaylak, 2012). Branches have different ideas ranging even from person to person. For example, Konya branch has more religious members who are mostly concerned with the violations against religious people, while the Diyarbakır branch has more Kurdish members and are concerned with the problem of human rights violations in the context of the Kurdish problem. Some contend that the members are driven by the socio-cultural differences in their city (Ensaroğlu, 26.1.2016), and may see this as a problem rather than MAZLUMDER's wealth: *"Diversity is good but it is usually not the reflex of a branch but of individuals, and so MAZLUMDER cannot become institutionalized. Today, the formation of different voices within the same organization shows that they can not discuss and negotiate many issues with each other"* (Ercan, 01.29.2016).

MAZLUMDER as a human rights organization which is working independently from state and political parties describes its activities as follows:

- MAZLUMDER collects all kinds of written, audio and video broadcast documents to promote and protect the rights and freedoms of people.
- It organizes seminars, conferences, panel discussions, open forums, symposiums and competitions, exhibitions, film shows, theater plays and similar activities.
- It produces scientific, religious, historical, social, cultural and economic research, surveys, opinion polls, copyrighted works or translations.

- It deals with human rights violations, collect information about them, determines the steps to be undertaken to end these violations, and announces the outcomes to the public through press statements or reports.
- Without any expectation, it helps the victims of human rights violations and their families through financial, morale and legal assistance. For this purpose, it starts legal aid campaigns and delivers the collected revenues to the victims (<http://www.mazlumder.org/tr/main/pages/hakkimizda-biz-kimiz/65>).

MAZLUMDER declares its principles as follows:

- MAZLUMDER is not the voice of any philosophical or political view, and defends the right to the expression of all political views and ideas.
- It supports positive endeavor for the promotion of human rights and freedoms, regardless of the organizer.
- It opposes any violation in the area of human rights or freedom, no matter by whom.
- With a human rights approach to exceed the conjunctures and cyclical conditions, it protects human rights and maintains this manner.
- It holds national and international dialogue in order to end human rights and freedoms violations.
- It opposes the use of human rights as an interstate political card.
- It sees human rights and freedom above states and pacts.
- It does not approve the use of universal human rights in connection with political interests and aims to correct this (<http://www.mazlumder.org/tr/main/pages/hakkimizda-biz-kimiz/65>).

Committees and Commissions:

- Committee of Monitoring Rights Violations
- Committee of Legal Monitoring and Aid
- Committee of Institutional Communication
- Institutional Progress and Sourcing Committee
- Committee of Members, Activists and PR
- Committee of Foreign Affairs

- Committee of Social and Economic Rights
- Committee of Ecological Rights
- Committee of Healthy Living Rights
- Committee of Freedom of Religion, Conscience, Thought and Expression
- Committee of Refugee Rights
- Committee of Discrimination
- Committee of Prisons
- Commission of Soldier Rights
- Committee of Family, Women and Children
- Commission of Watching and Preventing Torture

1.2. Their References

In the brochure of MAZLUMDER Istanbul branch, references are expressed as follows:

MAZLUMDER takes its reference from Hilf al-Fudulu (Virtuous Alliance) which was established by the oppressed in Mecca by oath to take a stand against the cruel. The Ten Commandments, Code of Hammurabi, Hilf al Fudulu, Medina Document, the Magna Carta, the US Declaration of Independence, Virginia Human Rights Declaration, French Civil Rights Charter, the Universal Declaration of Human Rights, the European Convention on Human Rights are the texts on which it is based, which is humanity's common acquisition for the preservation of peace and elimination of injustice.

Contrary to the report, interviews with MAZLUMDER members showed that related to reference and objectives of the association seen human rights violations in the Islamic very Western documents indicate as a reference. They do not see this as a problem. Discussion of this issue is in the third section.

1.2.1. Hilf'ul Fudul (Virtuous Alliance)

Hilf al-Fudul or Hilf al-Fudul is the Virtuous Alliance and Peace Society. In the 590s, they united against injustice to the people of Mecca and joined the Prophet who was yet a young man. It is the name of the solidarity organization which the Prophet joined (Atalar, 2016).

The majority of the Arabian peninsula before *Risalet* immunity rules adopted the forbidden months. During these months, war and extortion, theft, murder, rape were prohibited. This

is known as the forbidden months pilgrimage season, during which commercial activities also took place. The Hajj season opened in Mecca and many people from different parts of the peninsula came to visit it. There was no agreement for the Hajj or trade. Non-negotiated tribal life and property according to the Arab tribal tradition *asabiye* was lawful for the people. Therefore, many pilgrims and traders were victims of no agreement. This situation caused wars and conflicts called "ficar / crimes, sins".

The increasing number of victims disturbed the righteous people of the era. In order to protect the rights of these victims and deter people from oppression, an organization called "Hilful-Fudul" started. They prevented cruelty, inhibited oppression, and compensated the rights of the victims. The organization consisted of volunteers.

Many old and young Meccan people, also including Muhammad (s.a.v), attended a meeting at the home of Abdullah Ibn Cüd'an, a wealthy and respected man. They took the following oath³¹:

Thanks to God that we will be on the side of the oppressed against the oppressor until the person who was unjustly persecuted will be able to get his rights from the oppressor. Our union will be surviving until a single hair strand sinks under the sea and as long as the mounts of Hira and Sebir stand in their own place, and until equity is established between the financial conditions of the oppressed and the oppressor (Hamidullah, 1966: 60).

It is noted that the Hashim sons (Muhammad's parents), their relatives and allies Muttalib son and Zuhra sons (the family of the Prophet's mother) and Teym sons (Abu Bakr Abdullah Ibn Cud'ân's family) were among the others. According to Ibn al Cevzî; the Assad sons were among participants (Waraqa Ibn Nawfal and Khadijah's family) together with Ehâbîş people who constituted allied tribes from Mecca (Hamidullah, 1966: 60).

The Virtuous Alliance is not only a historical institution, but also, even though they have different world views, they prevent the persecution of people who agree on basic moral principles that are considered an expression of social compromise (Mahmood, 1982: 355).

³¹ According to El Egâniy, as an indicator of their oath, they washed Haceri'l-Aswad in Kaaba and drank the holy water.

However, today there are some associations and foundations which do not agree that "people who have different world views can give a common struggle against injustice by agreeing on the basic moral principles." Kurşad Atalar says that the basic moral principle is not as easy as it may seem in the common struggle against injustice, because morality varies with belief or ideology. In other words, "good" and "bad" or "right" and "wrong" varies from person to person, society to society. In the case of Hilf al-Fudul, there were different beliefs among the people towards debt-injustice. In another case, there may be still other convictions regarding what is a "fact" or "virtuous alliance" or "justice state" and this issue underlines that need must be taken into account (Atalar, 2016).

This community took an oath that "it was the right thing to help any oppressed condition until there is no one who have not been compensated and helped," both in Mecca and Ehâbiş country. Muhammad (s.a.v.) even after becoming the messenger of Allah, used to always be proud of attending to the meetings of Hilf al-Fudulu in Abdullah ibn Cud'ân's house and say: *"He said he could never return this honor even with a herd of red haired camels, and he was always ready to be called"*. Indeed the members of this organization had held unstoppable power in Mecca. If we are to give a few examples of this organization's deeds during that period, citing from Hamidullah will suffice (Hamidullah, 1966:61-62).

An Ummanian from the Has'am tribe had come to Mecca with a daughter for pilgrimage. Nubeyn Ibn al-Hajjaj, a mighty person of Mecca, detained this girl. They recommended the father of the girl to go to Hilf al-Fudulu for help. Immediately Nubeyn's home was besieged. The attacker, by understanding that he could not defend himself, begged to be allowed to be with this beautiful girl who stole his heart at least for a night. However, nothing could convince the Fudulu members and Nubeyn handed over the girl to his father without any delay.

To give another example before the divine notification:

Abu Jahl³² bought something from an Arab and was unwilling to pay the specified fee. The desperate seller came to Kaaba and began to complain. Muhammad (s.av) saw the problem

³² Abu Jahl, who was famous with his ill temper, was the biggest enemy of Mohammad (s.a.v.) in Mecca during those times.

with Abu Jahl and said he could solve it. It was a joke and problematic relations between Muhammad (s.a.v) and Abu Jahl were already known by everyone. Unaware of the situation, the Araşian came to the Prophet (s.av) and begged him for help. Muhammad (s.av.) immediately got up and went to Abu Jahl's house with Araşian. After asking the reason for the visit, Abu Jahl paid the debt immediately. Later, it surprised his friends when he said that his horror when the Prophet (s.a.v..) knocked on the door was like an earthquake hitting his home. He claimed that there was a raging giant camel next to Muhammad (s.a.v) which was foaming in the mouth and added: *"If I had delayed in remitting Muhammad, that raging camel would have torn me into pieces."*

The history of humans have been created to defend the rights of aggrieved individuals. Hilf al-Fudul was the first Islamic civil society (Can, 2011: 112). Prophet Muhammad (s.a.v.) after assuming the prophetic mission also continued to own this embodiment, showing that it was not contrary to the Islamic character. Therefore, we can say that Hilf al -Fudûl created the first step of the historical process of Islamic discourse in civil society. The emergence of this civil initiative, Hilf al-Fudul, shows the world community the idea that it is possible to find solutions in this way to political and even economic problems (Can, 2011: 112-113). Therefore, the struggle of MAZLUMDER today references this organization and proves this issue.

The Meccans were proud of this organization which acted as a mediator numerous times over the years. However, the worst part was that no new member was accepted to the organization and in twenty or thirty years, these institutions collapsed with the death of the last member (Hamidullah, 1966: 62).

1.3. View of MAZLUMDER about the Concept of “Human Rights” and Several Approaches to the Justification of the Concept in Question

We have tried to understand the human rights perspective of MAZLUMDER by doing in-depth interviews with approximately 20 members who were volunteers, administrators and founders of MAZLUMDER.

During the interview, we asked them what they thought about issues such as their understanding and perspective of human rights, MAZLUMDER's identity, organizational

goals, philosophy, focus, reference sources, LGBT which is a common topic in recent years, abortion, and the "Kurdism" allegation.

According to the founder president Mehmet Pamak (1996), human rights are the source of the concept of "Right" in Islam, Allah's pristine, unmodified, and unchangeable provisions, verses and orders. Therefore, Muslim human rights struggle inspired by the Quran must be within the framework of these measures and Muslim human rights must be based on justice and absence of cruelty.

Pamak says that the first priority of his Muslim identity is human rights and the struggle to worship Allah the Lord. Prayer is a requirement of being a subject to Allah. A Muslim is equal to other people that Allah has bestowed with fundamental rights and therefore we, the people, require no double standards from the defenders of the fundamental rights and freedoms laid down in the Koran by Allah. Muslims must be assured of their rights and freedoms and that there will be no double standards compared to non-Muslims (Pamak, 1996).

According to current MAZLUMDER members, human rights alone, regardless of gender, sect, race, religion or all social affiliations, should protect us from the state and other mechanisms (Ünsal, 02/07/2016) donated to the people by Allah (Balci, 28/01/2016). This is the most basic right (Ekşi, 09.02.2016).

Once again, according to MAZLUMDER members, who say that the concept of human rights refers to the understanding of the struggles of the prophet: "*Human rights is one of the main challenges of prophets. Their first task is tawhid. And human rights is in this struggle of tawhid...*" (Beyhan, 30.01.2016).

Former president Yilmaz Ensaroğlu said the following about human rights:

... Because without it you can not live as human beings. The subject of human rights is humans, but is it the Constitution or other contracts that lead to human rights? This varies among different religions and cultures, but Muslims connect human rights with the Creator attribute of Allah. He created human rights. In the West, on the other hand, the Constitution protects rights ... (Ensaroğlu, 26.01.2016).

Different from these definitions, Human Rights teacher Abdurrahman Arslan from MAZLUMDER Istanbul branch stated:

... Why? Because the definition of human rights is only a fictional poem. The problem is defining the so-called secular entity as a human being. This, of course ... is a very abstract concept ... because there is a problem with the origin ... because Islam identifies humans with gender. However, the individual is an unidentified entity. Theoretically speaking, this creates a serious problem in terms of Islam. I think so as a Muslim (Arslan, 28.01.2016).

According to the founder and first president Mehmet Pamak, the human rights described by the Western world was formulated by Islam and the Koran 1,400 years ago. He claims that the Western understanding of human rights is claimed to be universal, but actually below the universality of it, there is "colonialism". He says: "*The concept of human rights in Western nations is not humanistic, but full of racial, regional, national and ideological fanaticism*". Pamak opposes the claim of universality of human rights for two reasons: First, human rights in the West did not come from a source with universal validity, they were written in the constitutions and similar documents among the conflicts of fighting powers. They were the products of a power struggle, so they may be removed at any moment with a change in the balance of power or by the state which may violate fundamental rights in the constitution. However, Islam is not a party in the state, it orders universal principles and rights which cannot be restricted in any way. Secondly, the Western concept of human rights is far from a true awareness of the human existence. By viewing human beings as the highest form of existence, it was being denied that the human being was created by God. When human beings forget about serving Allah, they rebel against their own character and nature (their creation). According to Pamak, the true source of the human rights doctrine is the Book and wisdom which came from God who also created man. In other words, it is Islam.

Mehmet Pamak based his human rights approach on the views of the Islamic MAZLUMDER, the teachings of Mohammed Saladin and Hüseyin Hatemi who described in his book the Human Rights Doctrine (Plagemann, 2001: 380).

According to Hatemi, the source of divine wisdom for human rights is theosophy. Busy with the spiritual evolution laws, theosophy is based on nature's creation by Allah. The nature is a second book besides the Qur'an that has been created by Allah. He announces himself in the nature as well. "Human rights theory is written in both Quran and the nature book"

(Hatemi, 1988: 76). According to the human rights doctrine, Allah created man and wisdom, and Islam is the only word (Hatemi, 1988: 299). According to Hatemi, "the existence of a consistent and robust understanding of human rights without faith in Allah is impossible" (Hatemi, 1988: 79). He underlines that only those who can comprehend the nature created by God can have this understanding. An atheist can not understand the values and goals of the laws of nature. However, this does not change the fact that human rights are fully valid for these people as well (Hatemi, 1988: 97).

According to Hatemi, Western human rights doctrine is composed of scraps of theosophy that Jesus preached up to 1776, when capitalist imperialism was distorted by historical materialism and Zionism (Hatemi, 1988: 211). Therefore, human rights not based on Islam are not universal and guarantee human rights only to a certain segment of people. (Hatemi, 1988: 226).

Hatemi sees human rights as universal rights for every human being regardless of their faith. The widespread use of the concept of human rights in the West is ahead of the Islamic sense because the grant will be based on human justice and benevolence of God's will. People have an equal status, including social security (Hatemi, 1988: 156). However, except for the right to citizenship, the rights in the Universal Declaration of Human Rights says that at present theosophy (Hatemi, 1988: 212-217).

According to Hatemi, the realization of human rights is possible only by democracy, and the principle of popular sovereignty and majority should be considered separately in a state of law. The state must not depend on the majority's decision, but should be based on the inspirations of nature, i.e. the divine wisdom law. Human rights can be actualized only in this way (Hatemi, 1988: 161).

However, as Pamak initially announced, even though MAZLUMDER was established for Islamic human rights, it started to give more importance to international human rights over the years. By the effects of universal human rights and explicit references to Western sources, it began to move away from its starting point. MAZLUMDER's original stance gradually faded into the background as it moved away from the first 1992 General Assembly represented by Mehmet Pamak (Plagemann, 1988: 382).

Indeed in an interview with Plagemann, the 1999 president Yilmaz Ensarođlu stated that basing human rights on the Qur'an or redefining the terms of Islamic MAZLUMDER are not the main issues. He added that looking at the West and defining the concept at the international level would bring a fuller view of human rights. As a result, MAZLUMDER was criticized by former President Mehmet Pamak on the grounds that it became an organization which is not "Muslim" (Plagemann, 2001: 382).

Pamak argued that, "Today MAZLUMDER has moved from its founding philosophy and adopted Western human rights. While the organization in the beginning aimed at teaching Islamic human rights to the West, now it is borrowing from Western human rights discourse" (Pamak, 1996).

There have been various views among the founders and members of MAZLUMDER about losing its first direction and philosophy. Besides the members who shared a similar vision with the founding president of MAZLUMDER, there were others who did not accept this. Advocating similar views to the President and founder, former Istanbul Branch President Mustafa Ercan said:

MAZLUMDER in general takes religion as its reference. But it does not debate this issue. MAZLUMDER has lost its basic reference source. Now, a liberal human rights discourse has indispensably started. There is no debate about it and it is continuously changing. Especially from 2000 onwards, the liberal human rights discourse became internalized, but there is a mass contradiction here. Discussion would have perhaps changed this, but not yet (Ercan, 29.01.2016).

When asked about this, other members said that they usually use international human rights instruments as a reference, the association has a language that coincides with the official language of universal human rights, but in doing so, the "Islamic identity" is reconciled. They emphasized that they use documents created in the West by interpreting them as a Muslim (Küçük, 07.02.2016).

However, former chairman Ayhan Bilgen said that they could refer to both "Islamic culture" and positive law because they think that these are not "alternatives" or "opposites" of each other (Bilgen, 09.02.2016).

In contrast to Bilgen, Pamak stated the following:

However, based on the fact that the revelation of Islam has not been tampered with, it is not possible to accept such a superstitious thought. With positive human rights law, the differences between Islamic law and Western secular rights-based approach are extremely basic and doctrinal in size. Both systems are closer to the concept of human rights and are diametrically opposite dimensions. While one is human in its source, the other is a divine source. As a result, there are very large differences concerning the understanding of human rights and rule of law. The most fundamental and irreconcilable differences between the two systems include the rights and source of law, measurement, content, security, borders and all those who will be their determinants (Pamak, 2005b).

Ömer Faruk Gergerlioğlu, one of the former presidents, said that the notion of Islamic human rights should have no difficulty in finding references and the argument might cause "laziness". If there was a concept created by Muslims, they will definitely note that reference (Gergerlioğlu, 02.02.2016).

However, President Ahmet Faruk Ünsal summarized the general reference sources that form the philosophical basis of MAZLUMDER as follows:

Starting from the Prophet's life and what Hilf al-Fudul revealed during the prophetic life, fair, compassionate and embracing our approach to language study poses the main spirit. Then it connects to the law in the face of the problems facing humanity and to produce all our innovations introduced by the fact that we see as our own. The common law of contract manufactured product accumulation of humanity in the process before taking to the saddle but the main spirit of the Prophet is looking at an approach put forward all his life. All the efforts of the richness of our humanity as our own efforts and do not abstain in any way to get it. ... So, of human rights in the struggle for rights of every innovation that made the world a way to develop a clear human rights so here we are trying to bring together our core values, our politics (Ünsal, 07.02.2016).

According to Pamak, Muslims should take the principles of Islam and the Koran as their guide in the struggle for human rights and should never move away from these. Islamic reference suggests that the "what others say complex" should be avoided. "Democratic identity", "mind-deification of rationalism" and "humanistic ideological dimension" repeatedly stress what we do not hear from the West about the complex. Muslims in the Islamic religion should not hesitate to bring forth human rights and freedoms, values and principles of measurement. When an Islamic identity starts a human rights struggle, it will be a struggle for human rights with purely humanitarian values (Pamak, 1996).

MAZLUMDER has no corporate stance on LGBT yet (Ünsal, 02/07/2016) and interviews showed that members do not evaluate LGBT demands (such as same sex marriage) in the categories of rights although they are seen as human rights in Islam and the human is the

most valuable asset (Mercan, 28.01.2016). On the other hand, LGBT fundamental rights (the right to life, torture, etc.) were also not stressed.

Because liberal international agreements and their extensions were adopted, it can be argued that they accepted everything derived from them (Beyhan, 30.01.2016).

Within the liberal rhetoric of human rights, another subject that clashes with Islam is abortion. "My body, my decision" does not fit their understanding of human rights and their body (Beyhan, 30.1.2016). There are rights of the fetus (from the moment the fetus falls into his mother's womb, terminating pregnancy is ending a human life) and also rights of the father. Moreover, they referred to violation of rights of the human family with abortion (Sarıyaşar, 29.01.2016).

Emphasizing that the organization's philosophy is not "logical" for the third generation that came after him, Abdurrahman Arslan stated the following:

The concept of MAZLUMDER was taken from Islam, but did not belong to the content itself because western human rights was far more than human rights of Islam. I then told my friends in the 1st and 2nd generations ... But later generations clashed with us. Some particular issues must be said more clearly. When you think of homosexuality as a human rights issue, that constitutes a conflict for you. Human rights cannot be considered independently from religion (Arslan, 28.01.2016).

According to Pamak, MAZLUMDER today is going through a serious transformation away from Islamic identity, in accordance with universal Western values which count as "secular". Pamak says that MAZLUMDER took the Islamic identity to the background, accelerating the secularization process that started with the next president after him through the idea of "change" and "transformation," due to their ties with liberals and leftist Westernists (Pamak, 2005).

Pamak states that he attended the 1998 MAZLUMDER General Assembly, which maintained that religion must be separated from human rights and emphasized the "secular" nature of human rights:

Halit Çelik, the first president of MAZLUMDER Izmir branch and today's deputy president, would not hesitate to express the following in the 1998 General Assembly: "MAZLUMDER has to be freed from being an instrument of Islamic struggle and

announcement; it has to be abstracted from its Islamic identity." The "Religion and human rights are separate" rhetoric is often expressed during protests in the General Assembly hall. The deputy president also said in his speech: "Emerging values in the human rights struggle of MAZLUMDER include the principle of moderation ..." (Pamak, 2005).

Another example of a case of secularization of MAZLUMDER, during the period when Islam and human rights conflicted each other, is the mindset defending human rights in the Kurdish problem. Former Istanbul branch president, Mustafa Ercan, claimed that MAZLUMDER referred to religion during its establishment phase, but subsequent secular generations claimed the development of a new understanding (Ercan, 29.01.2016).

Members who do not accept the claim that MAZLUMDER has secularized find these claims unfair (Sarıyaşar, 1/29/2016) and express the reasons underlying the claims as follows:

- That the ruler is of "us" and of criticisms against a "Muslim" world (Ekşi, 09.02.2016),
- That the very claimants have in "essence" secularized (Öz, 05.02.2016),
- Moreover, not only MAZLUMDER, but all Islamists in Turkey have secularized, as a result of international agreements, (Küçük, 09.02.2016),
- In general, Islamic principles guide them but there is also a reverse movement due to the international human rights instruments (Ensaroğlu, 26.01.2016).

In contrast to Abdurrahman Arslan who claimed that MAZLUMDER was secular from the start as the target philosophy was "adaptation to the West", former leader Gergerlioğlu stated the following:

... I wish the concept of human rights had emerged in Muslim societies. This is our shortcoming. Because we usually deal with brutal power. ... I wish the human rights terminology was created by Islamic scholars. I bewail it so much ... I think it is a concept which we have to consider and develop. ... I do not accept the accusation that it has become secularized as it takes human rights as its basis... If there was an Islamic concept of human rights, of course we would use it... Why do you put the laziness of our own Islamic scholars in front of me? ... I wish we had written Magna Carta, I wish we had started the French Revolution and formed the uprising tradition against cruel governments... I do not take the use of these documents as secularization (Gergerlioğlu, 02.02.2016).

Founder president Pamak in return expressed that the concepts are crucial to direct the conscience of the people:

While the imperial projects try to make Islamic identity and Muslim peoples Protestant and Secular, we should be more careful and sensitive about using Western secular values and concepts. They are not neutral concepts and ideas that continue in the minds they enter, the philosophical background should not be forgotten once they convert (Pamak, 2011).

Another criticism against MAZLUMDER was that it became a “Kurdist” human rights organization. Our research, reading and interviews showed that this claim is not new and MAZLUMDER has been blamed for being a "Kurdish" human rights organization for many years. However, these claims are being voiced today with a much higher volume. The most important point is that these claims are coming from the founders and members of MAZLUMDER. We questioned these allegations by asking the founders, managers and members of MAZLUMDER. We asked in-depth interview questions to 20 people.

A holder of this claim is the founder chairman Mehmet Pamak. The most significant criticism of Pamak is that MAZLUMDER lost its beginning line and this was because the claims of Kurdish issue as well as the "Western secular concept". He expressed the problem as follows:

MAZLUMDER is moving away from the principles of Islamic identity. The Kurdish problem played an important role next to taking Western secular values as the basis of the concept... Liberal and leftist circles, their ideological concepts and principles of pragmatism to find solutions led to the decay of Islamic principles. Kurds (discourses and attitudes that are likely to lead to overlaps PKK insisted on maintaining) for some reason were taken into consideration for the sake of Islamic identity and values (Pamak, 2011).

Present managers of MAZLUMDER emphasize that they do not accept these allegations (that MAZLUMDER moved away from its establishment identity and became “Kurdist”).

Istanbul branch president Ramazan Beyhan stated the following: When MAZLUMDER was established, there was oppression against Muslims and Kurds. Today the repression of Muslims partially finished, but that of Kurdish still goes on. Today we deal with this problem, but this does not mean that MAZLUMDER has changed (Beyhan, 30.01.2016). "... The philosophy of our organization is “Against the oppressor whoever he is, with the

oppressed whoever he is.” Our original understanding survives. There is no narrowing in those wide horizons. These horizons survive" (Ünsal, 07.02.2016).

Some other founders of MAZLUMDER such as Şadi Çarsancaklı and Süleyman Arslantaş expressed their opinion in support of these claims, especially the Kurdish issue:

... I think especially in the Kurdish issue ... MAZLUMDER is abused ... in the process, it was instrumentalized by some friends. The Kurdish issue has become a mean ... Someone (in our opinion, the person meant here is the former MAZLUMDER chairman and now HDP deputy Chairman Ayhan Bilgen) told a friend at an Urfa convention “my hometown is occupied by the Turkish army.” MAZLUMDER's friends know no such liberation struggle and we were not created for it ... they are polluting the basics of MAZLUMDER ... (Çarsancaklı, 29.01.2016).

In return, Beytullah Emrah Önce, mentioned that the views of individuals must not be evaluated as the institutional discourse of MAZLUMDER:

Personal preferences or political opinion does not reflect all MAZLUMDER members. MAZLUMDER is a non-governmental organization and has a corporate identity, it should not be held responsible for individual statements. Otherwise, MAZLUMDER's diversity and the political comments of its members may become a possibility for accusations ... The business of MAZLUMDER is human rights. All involved parties should understand that we need solutions that do not use violence, that is all (Önce, 27.02.2016)

Another name who claims that the association has shifted from its original aim, Süleyman Arslantaş, expressed this issue as follows:

MAZLUMDER is at a different point from its establishment day, because on that day we said without seeking faith or race that if there is oppression and persecution anywhere in the world, we would intervene, but in later times we began to see that MAZLUMDER was involved in a "double standard" coming forward ... (Arslantaş, 07.02.2016).

Another criticism brought by Arslantaş was that one of the principles of the organization was "never" accepting to receive funding and financial assistance from anyone, but he claimed that some economic relations were developed later (Arslantaş, 07.02.2016).

Moreover, Arslantaş said "I do not regret any of the things I have done in my life except MAZLUMDER". He added that they established MAZLUMDER with "good faith" but

today it is far away from "being an interpreter of the feelings of the humanitarian Islamic". He argued that MAZLUMDER's "Kurdist" tendency is caused by the following "fault":

... For example, some human rights violations occurring in Cizre cause the organization to act sensitively, however something similar occurring in Dikilitaş, Izmir cannot cause the same sensitivity. One of the biggest faults of MAZLUMDER is this. On the one hand there is sensitivity; on the other, insensitivity (Arslantaş, 07.02.2016).

...for example, the victims of the coalmine disaster in Soma were recognized in a much milder manner than a Kurd in Mardin Dargeçit... but it is more painful that today MAZLUMDER is not interested in the Kurdish problem either, going and dealing with whatever is happening in Latin America or South Africa...(Arslantaş, 07.02.2016).

Şadi Çarsancaklı, another founder of the association, claimed that in MAZLUMDER there are "Kurdish nationalists" because it is not a homogeneous institution. In addition, he argued that there are individual members and different opinions from branch to branch (Çarsancaklı, 29.01.2016).

Muharrem Balcı, who took place in the establishment of MAZLUMDER and has closely followed the association since its establishment, evaluated the issue as follows:

If a person suffers from rights violations anywhere in the world, there would be MAZLUMDER at his side. But now, MAZLUMDER is just trying to defend the rights of the people in Southeastern Anatolia. This is the biggest problem that MAZLUMDER has ... There is an image, but it is actually wrong to regard it as fully Kurdist... MAZLUMDER is not a homogeneous community ... In it, there may be PKK supporters. Let them be, but not use MAZLUMDER like a Kurdish association for their struggle and reflect it in this way (Balcı, 28.01.2016).

According to the former Istanbul Branch Chairman Mustafa Ercan, a "political language" has occurred in MAZLUMDER with the Kurdish problem (*but we had to be the referee, we would not need to be part of the political language adding that as well*) and Ayhan Bilgen is "a typical example of" that. MAZLUMDER still has traces of this, it is going towards a "Kurdish tendency". Where Kurds live, oppression had already been the subject of MAZLUMDER but the language of the Kurdish political movement "to encircle" was new (Ercan, 29.01.2016).

Should it be a confederation or an autonomy, who decides about this, human rights organizations? Not. Take the ruler from the hands of friends who think they are drawing borders. Political issues are not something that we will talk about, we need to talk about our people (Ercan, 29.01.2016).

HDP Kars deputy and former MAZLUMDER president Ayhan Bilgen (claimant members say that this process started and increased in his term, and that Bilgen used MAZLUMDER as a tool for his personal career) and answered these claims as follows:

If a problem in a country is the most crucial problem, it is impossible for human rights organizations to remain indifferent to it. If it were established in China, I think MAZLUMDER would have been an Uyghurist organization. If established in Bulgaria, it would be Turkist. Here is a typical reflection of who is in the minority and who remains oppressed, persecuted, if not terrorized. ... So MAZLUMDER tells you deal with this problem. So when you look persecuted under state repression, remaining silent is dangerous and harmful. Silence means that human rights is incompatible with the moral values in the tradition of the MAZLUMDER (Bilgen, 09.02.2016).

Members who do not accept "Kurdism" claims evaluated the causes of these allegations:

Assistant Secretary General of MAZLUMDER Önce stated that these accusations generally appeared in the conflict period when human rights violations were most common. They retained their independent and impartial posture and expressed violations that occurred in this period in a different way. Right now the conflicts model (overthrowing the solution process in 2013; the conflict that is going on since 7th June elections) has caused digging trenches in the streets, the creation of groups in the neighborhood and conversion of civil settlements into a battlefield. If you criticize these, you are held responsible for the violations of human rights, and re accused of being a "statist". When you say it leads to a violation of several fundamental human rights, including the right to life, particularly of operations for public safety, this time you are a "terrorist supporter" (Beytullah Emrah Önce, 27.02.2016).

However ... instead of making itself a direct side in the Kurdistan political solution-no solution issue; MAZLUMDER tried to be an active human rights observer or facilitator in leading to the solution of problem (Beytullah Emrah Önce, 27.02.2016).

MAZLUMDER Kocaeli Branch Office President Medine Küçük, who said that this is the most important problem of the association and who was "labeled" a "Kurdist"; claimed that the issue is a bit of "nationalism" and caused a bit of ideological education taught in schools:

Being Muslim is taught to our subconscious in schools as equal to being Turkish. Therefore, when you get involved in Kurdism or Kurdish, you can not feel yourself Turkish, you can not be a Muslim and this causes a problem One state, one flag. Now when you talk about Kurdish rights, this is taken as dividing the country up ... For example, we do not have any gain or loss when we talk about Palestine; we want

freedom as much as we wish it for the Palestinians. There is not anything missing about us, but if the issue is Kurdistan...(Küçük, 07.02.2016).

In response to these allegations from the bottom, Former President Gergerlioğlu criticized government policies and claimed that education at our schools make us "nationalist-conservative-Turkic" and he rejected the claims as follows:

... Kurds were having a great suffering ... and of course it was different from the idea that we learn in this school ... when you talk about Kurdish rights, you are a PKK supporter So you are starting 1-0 beaten. When you say anything contrary to the state's typology, it goes 2-0 A big problem inside this debate ... you are talking about a critical issue, talking about one thing that jumps society nerve endings that if it touched ... citizens are already enemies .. this is a tough debate, something very difficult to say ... (Gergerlioğlu, 02.02.2016).

Another name who does not accept these claims, MAZLUMDER Board Member Özlem Ekşi: "*... even the most basic demand of the Kurds can sometimes be blamed as Kurdism in this country.. When we reported that we were dealing with this issue or having workshops, our branches in the area were accused of Kurdism. When you say there are Kurds in Turkey and that Kurds claim their right to education in their mother language, you are a Kurdist ...*" (Ekşi, 09.02.2016).

A statement came from former Istanbul Branch President Ahmet Mercan in the way of supporting the words of Ekşi:

... Today we can oppose the Turkish nationalist reflex from Muslims living in the West by telling them that being against the right to mother tongue is hidden nationalism.. The frame of mind generated by this republic and the imposing conditions brought us to this stage. We need to get rid of the mind imposing this dirt. Or we can find no solution (Mercan, 28.01.2016).

Beytullah Önce said that MAZLUMDER's manner in the Kurdish matter by taking its strength from both Islamic and humanist references qualified as "Kurdism", as well as the human rights demands of Kurds:

... Or when a Kurd expresses his identity, collective cultural rights or demands of self-ruling, he is accepted to be a Kurdist ... Just govern themselves, soliciting their right to live freely. Is it not what everyone wants? Then, how right is it to accuse a man who wanted basic rights of Kurdism? We have to question it (Önce, 27.02.2016).

MAZLUMDER Istanbul Branch President Ramazan Beyhan who harshly responded to these allegations, said that they do not accept these claims, they have dealt with the issue of Kurdish human rights violations, and therefore they received bigger reactions from the base as if they are dealing with only this issue; and that they have never “homogenized” with the identity of the oppressed:

.... One of the most important things of MAZLUMDER is that it never become the same with the identity of the oppressed. Whether faith the oppressed have, we defend the right of his beliefs but do not coincide with his identity For example, when Hrant Dink gets killed, we do not need to be Armenian in order to defend his right of living ... We do not accept the claims of Kurdism...

Regarding the regional distinctions experienced in MAZLUMDER branches, Beyhan said that there may be opinion and expression differences, and continued:

For example, descriptions of violations from our colleagues in the East in their reports are sometimes not seen by the state. Of course there may be a number of reasons for it; safety, etc. and it can also be really ignored. But I think that the reason is the former one... (Beyhan, 30.01.2016).

Ihsan Arslan, who was in the founding committee of MAZLUMDER and the second president, said that they have been accused of such allegations since the beginning and these claims are still ongoing because the Kurdish issue continues too (Arslan, 02.02.2016).

He claimed that one of the sides which these allegations come from is their friends in power and this is a "Muslim" power. However, he added, NGOs are essential for the powerful to reach the “truth” (Arslan, 02.02.2016).

Ihsan Arslan said, for example, that heavy campaigns were carried out in Bosnia, but no one was accused of “Bosnianism”. They stood against persecutions against Muslims throughout the world and it was not a problem. But when they mentioned the "Kurdish oppression", it was not the same. He noted that it has gone on for more than 100 years through education and other ways:

..... New meanings were ascribed to words. And the rights and wrongs were shaped by the new ideology. There is one nation in the country according to the official ideology. And it is a holy nation. And in this region, there is no Kurdish entity. It was crime even to say “I live as a Muslim and it is my religion,” or “I am Alevi”. When you look at lexicon, it does not say that the saying “I am Muslim” is a reaction, or Alevism is a

perversion, or Kurdish means terrorist. A social engineering was done.... This conceptual confusion is the greatest misfortune for us. We do not understand the same thing from the concept of the same word (Arslan, 02.02.2016).

Present MAZLUMDER President Ahmet Faruk Ünsal said that a political environment independent of allegations was the language used by the government during the Resolution process. He stated that MAZLUMDER had used such language for 25 years, despite the government challenge of being "separatist", "Kurdish." During the resolution process some close to the government said things like "the wise man Öcalan", "great politician", but when the resolution process was finished, they spoke of "the head of the separatist", "terrorist leader" again. MAZLUMDER has not "drifted" to these ways and they were only defending their right to deal with the issue itself (Ünsal, 07.02.2016).

Ünsal, stating that another reason for such claims is the fact that the AK party sought to change the nature of Islamism, Kemalism and Turkish society's "social-political-psychological" frame and described this situation as follows:

This (claim) of Islamism in Turkey in particular needs to be read through the relationship with the state after the AK Party government. Turkish Islamism in particular has a tendency to see the approach to the issue of the state after the AK Party came to power as an official cultural predisposition approach to Islam. This emphasizes some aspects of Sunnism such as being obedient to authority yet continues the tradition that Kurds are cared for, but they do not bring to mind all the fundamental rights sought by the Kurdish separatist. Turkey's Ottoman Islamism first established a relationship with the Kurdish nation to dominate the nation. This continued into the republican era under the Kemalists with a psychology of social political nationalism (Ünsal, 07.02.2016).

MAZLUMDER GMB member Mehmet Alkış penned an article in his column in the daily "Milat" on 02.17.2016 titled "MAZLUMDER's Civil Preeminence cannot be digested". Although there are "Muslim" identities among the government of present-day Turkey the management of "justice" is said to be actually "secular/nonreligious" , "power is based on sovereignty" and in this way provides facilities to a "group of shareholders" who must accept to receive this dividend "faithfully" and as part of a "binding" solution ". Within this concept of Islamic community, "civil" opposition was also seen as necessary to guard against partisanship in the state or when some shareholders claim to be unfairly treated. In this way the government could choose to be "fair" and open to criticism. However, MAZLUMDER's claim is that their efforts in this sphere have not always been respected (Alkış, 2016).

Without straying from justice, protecting the civilian qualifications despite everything, standing far away from the sultan's table and not injuring its independence, not accepting funds and the like by pushing in order to defend the right not to take orders, adopted the motto to stand with the oppressed against the oppressors without bending to the face of power and similar principles are strived for uncompromisingly by the Muslims who support MAZLUMDER enthusiastically (Alkış, 2016).

However, the former MAZLUMDER GMB member and former Headquarters General Coordinator Nurcan Aktay refuses these claims; and says that until the AK Party was established there had been "nationalists" in power and the MAZLUMDER mass was "opposition" to the power. With the coming to power of the AK Party, "Muslims have changed their position". They observed MAZLUMDER through a "power window," and claimed that they were changed themselves but not MAZLUMDER:

... Ironically; although the location of MAZLUMDER has never changed since its inception, it is accused of changing location and "Kurdism" by some people who have changed their locations. For example, in the period of the Parliamentary Human Rights Commission chairman of the MAZLUMDER Kocaeli Branch of the founders Mr. Ayhan Seferüstün, in an interview accused MAZLUMDER of straying from its line. However he had civilian identity while he was working in MAZLUMDER; now he has a political identity which places himself; but he accuses MAZLUMDER of "change". Examples of this situation are many ... (Aktay, 18.02.2016).

We see that the history of the Turkish Republic is nothing but the struggle for power among different nationalist-Islamic sections. Indeed, while Islamists were accused during the February 28 process, MAZLUMDER sought to remind people of values and not to seek justice in reflexes (Aktay, 18.02.2016).

According to Ensaroğlu, one of the former general managers, some activists who worked with MAZLUMDER in earlier times had become candidates/deputies of the HDP (Ensaroğlu, 26.01.2016). MAZLUMDER had in fact begun to be a "Kurdist Islamist" organization in term of Ayhan Bilgen's management and Bilgen was a Konya deputy of the DTP (Çaylak, 2012).

Board Member Adem Çaylak, in an article of 2012, penned for Milat Newspaper, wrote that another reason for MAZLUMDER's accusation of "Kurdism" was its opposition to the government over the Roboski affair (Çaylak, 2012).

The fact that all presidents since its establishment except Cevat Özkaya were of Kurdish origin caused MAZLUMDER to be emphasized by certain sectors with the Kurdish identity (Çaylak, 2008).

Consequently; The founders and mass of MAZLUMDER who put forward these allegations claimed that although MAZLUMDER was established to be an example of HRA, it has appropriated the language of the latter, although there are many infringements in the country MAZLUMDER is interested only in human rights violations associated with the Kurdish problem and Southeast. For this reason some assume that the MAZLUMDER include Kurdish nationalists who use the association for their own struggle and some individuals (we get the impression that this was Ayhan Bilgen) use it for their own personal career and a "political language" was formed for the association concerned with the Kurdish problem.

MAZLUMDER members rejected the claims of Kurdism as follows:

- They argue that in Turkey the Kurdish issue is a crucial issue, MAZLUMDER was established to challenge human rights violations against Muslims and Kurds, the former mission is seen as partially completed but the problems facing Kurds continued. When MAZLUMDER objects against the human rights violations associated with the problem, the perception that it is interested only in this matter is formed, but they never deviated from their founding philosophy; they argued that they continue to move the motto "*Against the oppressor whoever he is with the oppressed whoever he is*".
- That the other causes of these claims is the defense of human rights violations against a "Muslim" ruling,
- That Islamism in Turkey had a structure supplemented to the state,
- That the ideological education received in schools made a community in socio-cultural-political-psychological structure aside from Kemalism, nationalism and the Turkish-Islamic synthesis and structure of the mind that created the Republic, that stems from vigilantism,
- That the most influential motivator for change is not MAZLUMDER itself, but MAZLUMDER's Islamist supporter mass,

That the opponent Muslims articulated to the government can not accept MAZLUMDER to remain civil and accused MAZLUMDER since it did not seem like them.

CONCLUSION

In this study, it has critically analyzed the Western philosophical and theoretical origin of human rights along with its historical development and then compared this with an Islamic understanding of human rights. Following, this thesis provided a case study of an Islamic association in Turkey – MAZLUMDER, and analysed its discourse on human rights.

The main sources identified in today's modern conceptualization of Western human rights as noted in this study include reason, moral nature and dignity of humans. The concept of human rights is claimed to be universal, which means that it is always and everywhere true regardless of a person's religion, race, language and ethnicity. It is accepted that people are born with these rights because they are human beings. Therefore, human rights are inalienable and non-transferable rights.

The idea of human rights emerged in the modern age by the person seeking protection from political pressure; the concept of human rights has been discussed for a long time in international political, social and cultural debates by various perspectives. As outlined, human beings embody a number of characteristics such as the ability to think independently, make decisions, and act with a moral purpose, all of which demonstrate the value of human life and justify the need to protect it. In turn this serves as the basis and foundation of the concept of human rights. The idea of human rights as presented by the Western Enlightenment, is a "human-centered" approach created as "selfish individuals".

As highlighted in this study, the concept of human rights remains elusive and fraught with problems despite its political popularity and usage. Unless we understand the full meaning of the philosophy which shapes the law of international human rights, it seems impossible for us to understand or conceptualize human rights.

The source of today's modern Western concept of human rights as noted in this study is natural law, is the influence of the 18th century Enlightenment, in particular the ideas of John Locke, who lived in that period. The philosophical foundations of natural law and

natural rights, there are two elements: human nature and intellect. The reason for the existence of human rights in natural law is also based on human nature.

The complex concept of “Human” has been expressed by various ideologies and religions in different ways and represents a range of contrasting opinions and theories on the nature of human beings. In turn, this has influenced how people understand and/or define human rights. This helps explain why today there remains a clash between modern Western and Islamic understandings of human rights. While Islam deals with the issue of humans in a dispositional manner, Western thought assumes humans as rational animals that are socio-political entities constantly seeking to avoid "pain" and "pleasure" with a "self-preservation instinct" that pursues their own self-interest due to their "selfish" nature.

One of the constituting elements of the philosophical foundation of 18th century struggles of human rights is the natural law. The impact of this theory is illustrated in the French Declaration of Human Rights, the American Declaration of Independence, in the constitutions of many states freed from colonialism, and fundamental UN human rights documents.

Originally however, the theory of natural law, as argued by Locke, was that man is the dominion of God and does not have unlimited authority over himself. Moreover, Locke accepted that God is the creator of natural law.

Today however, the natural law of human rights is not based on God but rather dominated by a secular understanding. During the development of the universal declaration of human rights it was debated and finally decided that there should be a secular concept of natural law separated and made distinct from divine law.

The modern Western world has also been shaped by the ideas of Enlightenment thinker Kant, who asserted the individual man should gain the right of being a person. From this philosophical foundation, Kant argued that humans were entitled to demand rights and be free to use their freedoms.

The new human project initiated during the Renaissance carried over into the Enlightenment Age. Knowledge no longer depended on God and/or a religion but rather liberal, independent

and reason based experiences. It was during the Enlightenment that the intellectual and philosophical foundations were laid for building a new human and society of which Western civilization has been shaped. The new philosophy of humanism no longer put God/religion as the center of the universe but rather humans.

It was during the Enlightenment that materialist/realist notions of the human essence replaced former spiritual ones. Historicity size of the ignored people were removed from their presence/existence. Human dignity is a concept that forms the basis for the modern understanding of human rights today. In the debates on human rights, the concept of “human dignity” holds an important place. Undoubtedly the thought of the Enlightenment received strength with Kant, who stated that human dignity was a moral element of human beings which must never be seen as a tool but always an aim. According to Kant a human “is an autonomous subject which is built by his own mind.” His ideas continue to serve as the basis of modern human rights as taught today concerning human dignity.

On the other hand, Islam, which emerged in the Medieval ages and spread quickly thereafter, regarded human beings as superior of other living beings. In 30th verse of Al-Baqarah in the Koran, a human being is the caliph of God on the world; and in 70th verse of Isra it is said: *“We made human being superior to a great part of our creations.”* These verses reveal the value of humans as attributed by Islam. However, human beings, according to Islam, can gain their value by being a servant to Allah. Therefore, any act which leads a person to Allah in return is given dignity and honor. Again, according to Islam, humans are not meant to drift through life but rather heed to their responsibilities. For this reason, a person is given dignity and honor.

Since the modern era, the consideration of human rights has increased, and in many respects made the primary topic of declarations and motivation for social movements. The philosophical background of human rights during this era has depended on the liberal Enlightenment and rationalism of the XVII century. As this thesis has discussed, some of the key founders include J. Locke (who is assumed to be the father of modern human rights), J.J. Rousseau, T. Hobbes, T. Paine and Immanuel Kant.

In the XVIII century, declarations began to be published i.e. in 1689, Civil Rights Act which designed the rights and liberties; in 1776 Declaration of Independence in the USA; in 1789 the French Revolution – Human and Civil Rights Declaration; in 1948 the Universal Declaration etc. As long as the human survives and the history carries on, there will ever be new happenings in the same way, in scope of new conditions.

Although the understanding of natural rights have been effective on English, American and French Enlightenment declarations, this effect has declined since 1815 and continued until the 1930s. The XIXth century weakened idea of natural rights. There are two reasons for this: first, human rights in the political sphere started to give way to the “right of nations”; and second, since the middle of XIXth century, the Marxist, "pragmatic" and "positivist" view started to gain popularity in philosophy. After the First World War, positivists became sharply critical of the idea of natural rights.

The criticisms made against the natural rights theory intensified in the XIXth and XXth centuries. The fiercest criticism came from legal positivism, the doctrine of natural law theory. Positivism has dominated the thinking of the XIXth and XXth century jurisprudence. Positivist current law, they think he should leave the law should be, and natural law are accused of making this distinction, and to cause confusion.

Before the Second World War, human rights were based on international legal relations. It sought to uphold international law but avoided interfering in the internal affairs of states. For this reason, it could not do anything against the state in violation of the international law of human rights, but with the Second World War the situation changed and human rights have become no longer an internal affair, but a matter to be dealt with at a global and international level. After the Second World War, in 1945, the United Nations Charter was signed. So the first important step was to apply it universally.

After the Second World War, the establishment of the UN, human rights have won a political force in the international arena and is clad in a global character. By many treaties and agreements of UN, human rights ceased to be only internal affairs of states and has led to the formation of the collective agreements in legal, economic, and political fields.

So far we have seen in the first part of this study the Western origin of the emergence of human rights, and its development. In the second part we examined the Islamic understanding of human rights.

Starting from creation of humans, creation of the human being distinguishes him from other assets set forth in other words, nature/human nature and happens without a troubled human rights approach to determine the cause of the earth being understood. Because the basic human rights is based on a philosophy of human-oriented mission. Therefore, to better understand the human rights of the people and it would be appropriate to explain the ontological structure of human beings.

According to Islam, the first message given to a human is that they are God's representative on earth. Islam defines human as “a being with divine love, who has moral responsibility and the ability to have choice in the essence of his heart”. He is not distinct from animals by only speaking, intelligence and the ability to produce for his needs, but also by deserving to be caliph of Allah on the earth and to obtain divine love-induced moral duties and responsibilities. Consequently, the concept of human rights from the perspective of Islam, is a means of protection and care of human perfection while walking to it. Therefore, the concept of human rights is not limited only with the physical pleasure and material needs of the people. Islam's understanding of human rights requires to consider human in both material and spiritual dimensions.

Making human-specific regulations such as the concept of human rights necessitates knowing human nature. Thus, the rhetoric of the concept of human rights must demonstrate compliance with the human disposition. On the other hand, one's understanding of human rights depends on his definition of “Hakk”. The concept of rights in Islamic law is classified in two ways: Allah's right (*Hukukullah*) and the right of servants (*Hukukulibad*). For the Hanafi, the right of servants is “private interest (incumbent)”, whereas the right of Allah is “public interest”. As to other sects, the right of Allah are His commands and prohibitions; the right of servants are the “businesses.”

In Islam, a person's mission and responsibilities come before his rights. Social and collective values are more important than the rights of individuals. As in West, the priority of individual interests against the interests of society is not tolerated in Islam

Islamic law expresses that it is necessary to combine the two wisdom sources in order to understand human rights – the original creation of the human being "disposition" and Allah's commandments and prohibitions called "provisions". Islamic law accepts a "provision-based" system which is contrary of Western law which has a "rights-based" system. Therefore, according to Islamic jurisprudence, it is located on the inside of the concept of rights provisions concept has been adopted by almost every provision of a right to be protective. In this combination of the terms and concepts of rights it was made possible by the concept of human nature that we call the original creation of man. About the source without the people's demands; but belongs to the creator who knows them best.

Another and one of the most important concepts which constitute the human rights perspective of Islam is "justice". Because of the importance of justice in Islam Muslim thinkers have entertained this notion and developed broad definitions. Usually it was dealt with by the tawhid. The justice, in its most general definition, is to deliver to everybody what he or she deserves. Justice is defined as "moderate state between the extremism (excess) and reverse extremism (extravagance)."

When we look at the modern human rights doctrine, we see that the concept of equality is given more importance than justice. Therefore, inequality is often expressed as injustice. But we know that justice is not just about equality. Equality is just one element of justice. While the modern human rights in all cases and under all circumstances says equality, whereas Islam is based on the justice. All the prophets proclaimed the true doctrine to ensure fairness between people and to judge justice on earth. There is the source of justice in other Abrahamic religions as well, but justice from the divine source is only found in Islam as untouched and unchanged in shape.

The Qur'an is "justice-persecution" centred. Therefore, there are two groups of people in the world – "the just" and "the unjust". The Qur'an gives Muslims the duty to provide justice in the world, and enjoins to receive the rights of a right from unfair as a "Fariza". In fact, the

state envisaged by the Qur'an is for this purpose. Allah commands justice, the rule in one location, whether the judge with justice between the people they ruled. Allah loves them who acts just. Justice for humanity is important with Allah warning believers to be fair even against their enemies.

The emphasis on the concept of justice is more than the emphasis on rights and responsibilities in Islamic law. In other legal systems, especially modern law the emphasis made to the rights and responsibilities overshadowed the concept of justice. While Western liberal and individualistic approaches have developed more emphatic expressions of the concepts of rights, Islam does so with an emphasis on morality and the use of one's mind to seek to understand the role of the divine's message concerning justice.

As this thesis has highlighted and argued, human rights in Islam have existed for over 1400 years, but it was not conceptualized as such i.e. the Medina Document and Farewell Pilgrimage. Therefore, this thesis argues that there is no need for Muslims to adopt the Western conceptualization of human rights. Or alternatively Muslims can adapt their conceptualization with those of the West to develop a more holistic understanding.

On the other hand, the concept of universality which the concept of human rights is based on, has always been a matter of debate. At this point, it is important to remind readers that Islam is a universal religion as is its legal thought. Muslim thinkers have more recently objected to the universality of the Westernized conceptualization of human rights.

In Islam, human rights are not won by a fight as it is in the West. They are given by Allah and the Prophet (of Islam because the Qur'an and the Sunnah of human rights reference) to people "voluntarily". Therefore, they are God-given rights and cannot be changed in the perspective of Islamic human rights. Thus, none of the authorities can hinder or abuse these rights.

Today, critics of the concept of modern and liberal human rights point to their problem with its secularist underpinnings. Although some efforts have been made to find a divine reference to Western human rights theory, it is well established that the human rights theory is separated from all religious references due to the outcome of the enlightenment which is based on an entirely secular basis. For this reason, societies which are alien to secularism do

not look affirmatively to the concept of human rights. In this context, objections to the secular nature of Western human rights theory often are made by Muslims.

The West which secularized the sacred in the post-Enlightenment era, in turn sanctified the secular one to maintain the existence of itself. In addition to the concept of human rights, the concepts of democracy, secularism, humanism and rationalism are also considered to be sacred and inviolable.

With the growing dissatisfaction and objections to the secularization of Western concepts, there has been a revival, especially in the last quarter of the 20th century, of all religious movements, especially in Islam, to develop alternatives.

This is largely in part due to the impossibility of thinking of human rights independently of religion. Human rights after all began as a theological debate among Christian theologians. In the case of John Locke, whose father was a Calvinist theologian, religion had an undeniable impact on his thinking of human rights. Locke's natural law reflects the rules set up by God.

In Western world, human rights first emerged from Christian thinkers such as Locke, who tried to resist the pressure of church and state. Until the 1948 UN Universal Declaration of Human Rights, human rights were based on religion. But while the UN Universal Declaration was written, after several controversies, it was decided not to emphasize or make reference to the divine source of human rights. While this situation undermined the philosophical basis and ontological structure of human rights, any seeking of a source which is not divine has not reached a "satisfactory" conclusion so far.

Unless the basic concepts of human rights and philosophy of law are appropriated to God's "divine-natural law", there is no opportunity to get rid of this dilemma because Muslims shall respect the human rights for the sake of Allah and anything done on the grounds of Islamic thought as a servant of Allah. It is precisely at this point that obeying to any secular thing is an injustice for Muslims.

While the Islamic worldview has "Theocentric (God-centered)" opinion, Western world has "Anthropocentric (human-centered)" opinion which puts human in center of everything. Therefore, it is inevitable that the modern law contradicts to the Islamic law.

Divine teachings discuss human rights in the context of the purpose of human existence. There is an ontological relationship between God and His creation. Therefore, He who created human beings and gave them some rights illustrate why there should be divine reference to human rights. These rights are inviolable, and cannot be transferred. Therefore, the provision of security in accordance with the purpose of creation seems possible with the divine teachings. But throughout history some particular people who used the divine teachings for attempting to use people as a means to their own interests undermined the credibility of religion. Divine teachings as a result of this, lost the characteristics of human rights and non-religious reference sources and references to human rights began to be searched. This situation coincides with the post-Enlightenment era. But by the XXth century, the lack of secular human rights caused the religion to be taken into consideration as a reference to human rights and it began to be discussed again.

We are experiencing a process in which ethnic, cultural and religious differences are discussed much more. In this century, values are no longer assumed universal but rather considered part of our collective identity and meaning. This engendered enlightenment of the human rights development and its universality is its share.

Critics of the Universal Declaration of Human Rights, from which International law was created, was an outcome of Jewish-Christian Western culture that sought to adapt to other cultures, especially Islamic culture. The document has already been created 40 years ago cannot be kept up to date and is now considering the cultural differences that should be reinterpreted opinions in this document are also available. The most important criticisms made in this manner is that this document was being created on the basis of "*a certain social and political structure of the liberal, democratic values and institutions of industrial society*".

For example, the committee of U.N. Declaration of Human Rights was consisted of eight people. Of these five were from Western states, two were from Soviet Union and China and

the other was from the Catholic Arabs. Without a single Muslim state representative, this document that claims to be universal failed to take into account Muslim perspectives. For this reason, many Muslims find the document alienating and unrepresentative of their culture arguing that individualism is specific to the Western culture. Whereas Muslims stress communitarian and solidarity features of their own culture and therefore stand in opposition with Western notions of individualism.

Today Jack Donnelly, the leading thinker who defends the universality of modern liberal human rights, says that the human rights concept of today is “Western”. By doing so and claiming that it is universal, he accepts that the Western concept of human rights is being imposed to the non-western societies. Here we have to accept that any concept belongs to a particular community or culture cannot be practiced in other cultures or communities.

Donnelly however, is not alone in his thinking such. West centralist, who take an evolutionary approach, first emerged in the west, and argues that the idea of human rights cannot occur in non-Western societies. According to this view, Indian, Chinese, African and Islamic civilizations are living their "childhood" period, lack of human rights thinking. This society of humanity, civilization's "maturity" are the students living in the era of Western civilization. This idea also forms the basis from which Western Orientalism put forward. West expresses itself as "country of freedom", and the east as "that of despotism" and hides the colonialism under the imagination of civilization. Thinkers like A. E. Mayer, Abdullahi An-Naim, Bassam and Donnelly defend this approach.

Whereas in the rest of the world, the idea of human rights has been conceptualized and applied in different ways. Every culture has its own understanding of human rights. Therefore, our understanding of human rights must be freed from "West-centrism" and replaced by a truly representative universal thought.

Today the concept of modern and liberal human rights is not based on any universal resources. This thesis argues that Islam does. Islamic thinkers refer particularly to the universality of the Koran and Allah's universal appeal and the Prophet to defend the universality of human rights. The Medina Document for example is seen as mankind's first

written constitution and the Farewell Sermon as the first human rights declaration by particular researchers.

Secular thought claims that the human is material based, he is animal and has evolved solely to the earth. This ground is that of the humanists which occurred after the murder of God. Human existence is not condemned to freedom, to idleness, aimlessness or indirectivity spontaneously, as stated in the humanist philosophy. However, in the Koran, "*Do you think we really made you vain and you will really never be returned?*" (23/114); "*Does he think people are left adrift?*" (76/36) are some verses which show the truth. Again, we understand that the human was created for finding God that is tawhid and faith that has been created for righteousness and justice in order to fulfill the ambitions of moral responsibility towards himself and other people. This responsibility is expressed in the Qur'an by notion of "entrusted". Therefore, while a believer acts with the awareness of the truth that he will be questioned one day he and all other moves a responsibility morally against human rights, Western societies in their countries practice the human rights and violate the rights of other societies and exploit them by the lack of this metaphysical responsibility; i.e. the belief of being questioned. Because, within this metaphysical thought, we are constantly being observed by God and death is not an end, we will give an account of what we did.

We killed the human being while creating individuals with modernity. Therefore, at this time we have to redefine human rights and freedoms; we must repair it in accordance with the nature, creation and dignity of human being.

In the third section of our thesis, we tried to analyse the human rights discourse of MAZLUMDER as the main goal of our investigation.

The main accusation of MAZLUMDER by secularization via Kurdish problem, i.e. being a "Kurdist" organisation, is concerned to the PKK, a Marxist, Leninist, secular organisation. For example, when a corpse of PKK militant is bind behind a panzer and dragged, MAZLUMDER publishes a declaration which claims that this situation is an abuse of human rights and so it is accused of being a "Kurdist" and likewise this perception is created amongst the public. Of course there can be some social, political, psychological and cultural reasons of these accusation. The PKK represents the biggest enemy of the state. Another

important point is that these events became in conflict process which is so sensitive. It will be understood more clearly when we think that the dragging event became in such a term that the resolution process was finished and conflicts were started and when there were a lot of news about the martyred Turkish soldiers.

This thesis has sought to analyze the accusation that the founders and the grassroots nature of the MAZLUMDER movement has drifted from their original established principles, i.e. Islamic human rights approach and that they have become secularized and represent a Kurdish association by conduction in depth interviews with members of MAZLUMDER in this thesis.

According to the founder and first president Mehmet Pamak, arguing that the human rights described by Western world and Western supporters was formulated by Islam and the Koran 1,400 years ago. He claims that the Western understanding of human rights is claimed to be universal, but actually below the universality of it there is "colonialism" and says: "*The concept of human rights of Western nations is not humanist but full of racial, regional, national and ideological fanaticism*". Pamak opposes the claim of universality of human rights by two reasons: First, human rights in the West did not come from a source with universal validity, they were written to the constitutions and etc. documents among the conflicts of strugglings powers to each other. They were the products of a power struggle, so they may be removed any moment by the result of a change in the balance of power or by the state power which could violate fundamental rights in the constitution/depending on the severity of the monopoly. But Islam was not a party in the state, it ordered qualified universal principles and rights which cannot be restricted in any way. Secondly, the Western concept of human rights was far from a true awareness of the human existence. By dealing human being as the highest form of existence, it was being denied that the human being was created by God. When the human beings forget that state of serving to Allah, they rebel against their own character and nature (the creation). According to Pamak, the true source of human rights doctrine is the book and wisdom which came from God who created man, in a word it is Islam.

Mehmet Pamak claims that they are based on an Islamic understanding of human rights on behalf of MAZLUMDER, that is the Islamic established human rights approach on an

international level, however the association concerned to take the principles of human rights much more over the years and that gave more importance to universal human rights, and made references to its Western source in contrast with the beginning principles which limit the orientation point of the association.

When we asked about this case to the MAZLUMDER members; they usually used international human rights documents as reference, claimed that their language coincides with universal human rights officially, but that in doing so, interpreted it as a Muslim and corresponded with an "Islamic identity", then claimed that they accepted some international human rights conventions and declarations as basis. Moreover, they emphasized that there is not so much thing in contrast with themselves in those international documents and that they do not evaluate the use of these documents as secularism, so they emphasized that they do not accept the claim of secularization of MAZLUMDER.

As a result of our research and readings, MAZLUMDER has a Muslim attitude in practice but we cannot say same thing for its philosophy and theory. For example the status of LGBT which is much discussed in recent years. Here the Islamic discourse of human rights is precisely important. While MAZLUMDER expresses that it does not evaluate the LGBT members' demand of rights in the category of rights from the point of view of religion, basic liberal documents which it does never hesitate to refer are suitable for these demands to evaluate as rights. MAZLUMDER here is conflicting with the liberal human rights. We believe that an Islamic human rights conceptualization is urgent at this point, since the frenzy of modern world may take many other heresies into the categories of rights.

As a result, we rely on the basis of the fact that religion is a universal foundation of human rights and this religion is Islam, which has never been distorted. Because the Qur'an is a universal book of humanity and it orders to act fair not only to the Muslims but to the whole of humanity.

Another criticism of the MAZLUMDER was that it became a "Kurdish" human rights organization. Our research, reading and interviews show that this claim is not new and MAZLUMDER has been accused for being "Kurdish" human rights association since many years. However, these claims are being voiced today with a much higher volume. We think

that this issue is because the present situation of agenda in Turkey. Since the finish of resolution process, the new process has brought a conflict environment. When MAZLUMDER publish a notice about any abuse of right in region by state knowingly or unknowingly, such a perception rises in public opinion.

MAZLUMDER's founders and alignments claim that MAZLUMDER was established as if only to defend the rights of the Kurds because MAZLUMDER does not show the same sensitivity to a similar incident in the West of the country as to that in the East, and that the association has been instrumentalized by some Kurdish nationalists for their own purposes.

In return, they certainly did not accept the allegations; these claims are not independent of present the political situation (there is conflict between the PKK and state now) and when they struggled for the demand of the rights of Kurds at the slightest, they say to be accused of Kurdism; in Turkey of today the most important problem is the Kurdish problem and when they deal with it a public perception is created as if they deal with only this problem. They claim that since the present government "Muslim" / of us and since naturally the struggle for human rights is given against state, any smallest right struggle against government strengthens the formation of such a perception, that the changing one is not of MAZLUMDER, but of the MAZLUMDER's Islamist supporter mass; and that the opponent Muslims articulated to the government can not accept MAZLUMDER to remain civil and accused MAZLUMDER since it did not seem like them.

On the other hand, the mass of MAZLUMDER (generally the Muslim members) claimed that the ideological education practiced in schools, socio-cultural-political-psychological structure built in community by Kemalism, nationalism and the Turkish-Islamic synthesis and structure of the mind that created the Republic caused this sensation.

It is possible for us to say that there are Kurdist nationalists, even the PKK sympatisants in MAZLUMDER (and it is so generally in the branch offices of Eastern regions, and this situation can be explained by the socio-cultural condition of region). However we think that it would be an unfair deed to label whole MAZLUMDER as a Kurdist organization just for this problem, in the sake of Muslim people who work in MAZLUMDER. On the other hand, it is not true that those who accuse MAZLUMDER as Kurdist do not defense the rights of

Muslim Kurdish people; but their reaction is truly against PKK and its consideration of establishing a new state.

In Turkey, one of the most important problems of human rights is that Turkish people ignore the Kurdish and their struggle of human rights is done through the identities. They are used as not a goal but in order to defend the rights of inclinations of mass of oneself. However, according to both present human rights comprehension and Islamic human rights perspective, human rights is independent of race and religion. There cannot be nationalism in the human rights. Again, Islam harshly opposes to the nationalism. The first think in Turkey to comprehend is that the human rights is a value which must be evaluated independent of all identities of the individuals. Here no matter if the mistake is Kurdish nationalism or Turkish nationalism, there is no difference. The mistake is our sacralized identities. Unfortunately we have been worshipping to the identities which were created by modern nation states. But any extreme sacralization makes us far away from the religion.

Consequently, as I mentioned above, we have killed humans while creating individualism by modernity. Thus we have to start a process of human rights in which we can recreate human beings in accordance with his nature, disposition and dignity. We have to make a new concept which is centered on justice, solidarity, dealing with rights and responsibilities on the one hand and by renewing the concept of human rights in accordance with religious arguments (this religion being Islam which has never been distorted); because the human rights concept of the Western world entirely belongs to the West and is a product of secular thought which fails to respond to non-Western religions or cultures. At this point, the most important mission of Muslim thinkers is to transfer an Islam conceptualization of Islamic human rights by Muslim scholars into the mission of MAZLUMDER. Furthermore, MAZLUMDER is the first example of this at the world and must be a model for other human rights associations which refer to the modern human rights concept.

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INTERVIEWS

Abdurahman Arslan-28.01.2016

Ahmet Faruk Ünsal – 07.02.2016- MAZLUMDER Chairman

Ahmet Mercan- 28.01.2016- Former Istanbul Branch Office Chairman

Ayhan Bilgen-09.02.2016- Former Chairman

Beytulah Emrah Önce-27.01.2016-Assistant Secretary General

Cüneyt Sarıyaşar- 29.01.2016- Former Istanbul Branch Office Chairman

İhsan Arslan-02.02.2016- Former Chairman

Medine Küçük-07.02.2016-Kocaeli Branch Office Chairman

Muharrem Balcı-28.01.2016

Mustafa Ercan - 29.01.2016- Former Istanbul Branch Office Chairman

Nurcan Aktay-19.02.2016

Ömer Faruk Gergerliođlu-02.02.2016- Former Chairman

Özlem Ekşi – 09.02.2016- General Member of the Board

Ramazan Beyhan-30.01.2016- Istanbul Branch Office Chairman

Süleyman Arslantaş-07.02.2016- Founder

Şadi Çarsancaklı-29.01.2016- Founder

Tuğbay Öz- 30.01.2016- General Member of the Board

Yılmaz Ensarođlu – 26.01.2016- Former Chairman

WEBSITES

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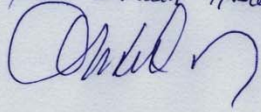
APPENDIX A: Name Usage Certificate of Abdurrahman Arslan

24.06.2016

SAYIN EMİNE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı "İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER özelinde bir tartışma", İngilizce adı "Criticism of the Concept of the "Human Rights" and Islam: An Argument specific to MAZLUMDER" adlı Yüksek Lisans teziniz için MAZLUMDER'e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinize arz ederim.

Abdurrahman Arslan


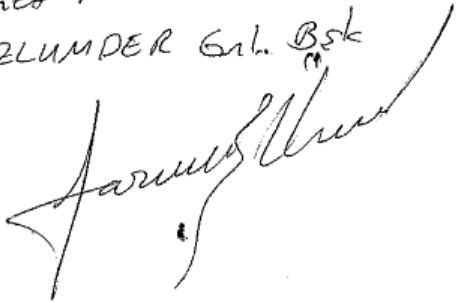
APPENDIX B: Name Usage Certificate of Ahmet Faruk Ünsal

24.06.2016

SAYIN EMİNE KAPLAN,

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Bilgilerinize arz ederim.

Ahmet Faruk ÜNSAL
MAZLUMDER Grl. Bşk


APPENDIX C: Name Usage Certificate of Ahmet Mercan

24.06.2016

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Bilgilerinize arz ederim.

Ahmet Mercan
Emine Kaplan


APPENDIX D: Name Usage Certificate of Ayhan Bilgen

24.06.2016

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Ayhan Bilgen


APPENDIX E: Name Usage Certificate of Beytullah Emrah Önce

24.06.2016

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Bilgilerinize arz ederim.


Beytullah ÖNCE

APPENDIX F: Name Usage Certificate of Cüneyt Sarıyaşar

24.06.2016

SAYIN EMINE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı "İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER özelinde bir tartışma", İngilizce adı "Criticism of the Concept of the "Human Rights" and Islam: An Argument specific to MAZLUMDER" adlı Yüksek Lisans teziniz için MAZLUMDER'e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinize arz ederim.

Mehmet Cüneyt Sarıyaşar

APPENDIX G: Name Usage Certificate of İhsan Arslan

24.06.2016

Sayın,
EMİNE KAPLAN,

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Çalışmalarınızda başarılar dilerim.

M.İHSAN ARSLAN

APPENDIX H: Name Usage Certificate of Medine Küçük

24.06.2016

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Bilgilerinize arz ederim.

Medine Küçük

Medine K.

APPENDIX I: Name Usage Certificate of Muharrem Balcı

24.06.2016

SAYIN EMİNE KAPLAN,

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Bilgilerinize istirham ederim.

Av. Muharrem BALCI



APPENDIX J: Name Usage Certificate of Mustafa Ercan

24.06.2016

SAYIN EMİNE KAPLAN,

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Bilgilerinize beyan ederim.

Mustafa Ercan



APPENDIX K: Name Usage Certificate of Nurcan Aktay

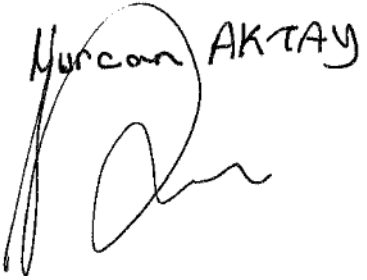
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SAYIN EMİNE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı "İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER özelinde bir tartışma", İngilizce adı " Criticism of the Concept of the "Human Rights" and Islam: An Argument specific to MAZLUMDER" adlı Yüksek Lisans teziniz için MAZLUMDER'e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinize arz ederim.

Nurcan AKTAY



APPENDIX L: Name Usage Certificate of Ömer Faruk Gergerliođlu

24.06.2016

SAYIN EMİNE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı "İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER özelinde bir tartışma", İngilizce adı "Criticism of the Concept of the "Human Rights" and Islam: An Argument specific to MAZLUMDER" adlı Yüksek Lisans teziniz için MAZLUMDER'e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinize arz ederim.

29.6.2016
Ömer Faruk Gergerliođlu


APPENDIX M: Name Usage Certificate of Özlem Ekşi

24.06.2016

SAYIN EMİNE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı "İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER özelinde bir tartışma", İngilizce adı "Criticism of the Concept of the "Human Rights" and Islam: An Argument specific to MAZLUMDER" adlı Yüksek Lisans teziniz için MAZLUMDER'e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinize arz ederim.


Ayşe Özlem EKŞİ

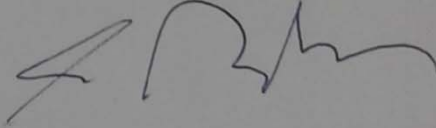
APPENDIX N: Name Usage Certificate of Ramazan Beyhan

24.06.2016

SAYIN EMİNE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı "İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER özelinde bir tartışma", İngilizce adı "Criticism of the Concept of the "Human Rights" and Islam: An Argument specific to MAZLUMDER" adlı Yüksek Lisans teziniz için MAZLUMDER'e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinize arz ederim.

Ramazan Beyhan


APPENDIX O: Name Usage Certificate of Süleyman Arslantaş

24.06.2016

SAYIN EMİNE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı "İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER özelinde bir tartışma", İngilizce adı "Criticism of the Concept of the "Human Rights" and Islam: An Argument specific to MAZLUMDER" adlı Yüksek Lisans teziniz için MAZLUMDER'e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinize arz ederim.

Süleyman Arslantaş

APPENDIX P: Name Usage Certificate of Şadi Çarsancaklı

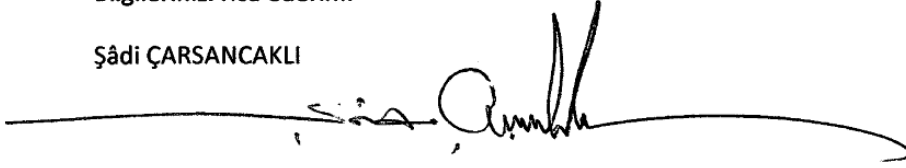
24.06.2016

SAYIN EMİNE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı "İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER özelinde bir tartışma" , İngilizce adı " Criticism of the Concept of the "Human Rights" and Islam: An Argument specific to MAZLUMDER" adlı Yüksek Lisans teziniz için MAZLUMDER'e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinizi rica ederim.

Şadi ÇARSANCAKLI



APPENDIX R: Name Usage Certificate of Tuğbay Öz

SAYIN EMİNE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı “İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER özelinde bir tartışma”, İngilizce adı “Criticism of the Concept of the “Human Rights” and Islam: An Argument specific to MAZLUMDER” adlı Yüksek Lisans teziniz için MAZLUMDER’e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinize arz ederim. 24.06.2016

Tuğbay ÖZ
Mazlumder GYK Üyesi



APPENDIX S: Name Usage Certificate of Yılmaz Ensarođlu

24.06.2016

SAYIN EMİNE KAPLAN,

Yıldırım Beyazıt Üniversitesi Sosyal Bilimler Enstitüsünde Siyaset Bilimi ve Kamu Yönetimi Anabilim Dalında yaptığınız; Türkçe adı "İnsan Hakları Kavramının Eleştirisi ve İslam: MAZLUMDER Özelinde Bir Tartışma", İngilizce adı "Criticism of the Concept of the Human Rights and Islam: An Argument Specific to MAZLUMDER" adlı Yüksek Lisans teziniz için MAZLUMDER'e yönelik benimle yaptığınız derinlemesine mülakatta ismimi kullanmanızda bir sakınca yoktur.

Bilgilerinizi rica ederim.



Yılmaz ENSAROĐLU