Unity in Multiplexity:
Islam as an Open Civilization

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Abstract

History testifies that Muslims are successful in diversity management. Islamic polity has never aimed to build a community exclusively for Muslims; instead, Muslims built an Open Civilization from Andalusia to India where people from different cultures lived together. Islamic law has taken *adamiyyah* (humanity regardless of religion) as the subject of Islamic law to which rights and duties are accorded. This tradition, originating from Abu Hanifa, has formed the foundation of a universalistic interpretation of Islam in the Ottoman Empire and modern Turkey. The present movement in the Muslim world from dictatorships towards democracy is a long-delayed outcome of Islamic political ideals and values, which give utmost priority to unity, freedom and justice. There is a strong universalistic Islamic political tradition, the last major example of which is the Ottoman Khilafah whose pluralistic legacy has yet to be claimed. Islamic unity in diversity or Open Civilization is rooted in the multiplex Islamic thought.

Keywords: Open civilization, Islamic political thought, diversity management, Ottoman, Turkey

Introduction

Will there be a single or multiple civilizations in the future? In other words, is the whole world going to be westernized in the future as the Western civilization gradually assimilates all other civilizations and dominates the whole world? If so, then we do not need to a normative framework to manage the relations among civilizations because they will disappear anyway. However, history tells us the opposite: There was no period in the history of human kind during which only one civilization dominated the whole globe and eliminated all other civilizations. In contrast, history demonstrates that there have always been attempts to make one civilization assimilate others but all these attempts failed. Consequently, humanity had always had multiple civilizations.

For the last three centuries Western civilization also aimed the same but concerned scholars like the late Huntington told us at the turn of the last century that other civilizations are still surviving and are not bound to fade in the future. The "mission to civilize the world," plainly put to westernize it, has been successful only to a limited extent despite the extensive religious and secular missionary work to export western religious and secular culture. Religious missionaries tried to spread Western religion while secular missionaries tried to spread secular Western science and ideologies.

If we come to accept that the world presently has and will always have multiple civilizations and diverse social groups, it becomes a duty for Muslims to comtemplate about how to establish unity among Muslims while at the same time accomidating non-Muslims among themselves and interacting with them. Acknowledging the existence of the others is not sufficient; those who do so should go beyond and search for a way of peaceful coexistence, interaction and colleboration.

In response to these questions, Muslims developed a multiplex structure of thought on which they built what I call Open Civilization. Below I will try to briefly introduce this concept I coined and discuss it with reference Turkish exprience with it. Briefly put, the mutliplex worldview accepts that the existence, knowledge, values and truth has multiple levels and cannot be reduced to a single layer. It thus avoids reductionism.

I will conclude that unity of Muslims and humanity can be achieved best by adopting a multiplex worldview, which allows pluralism without falling into the trap of relativism. This is how the dangers of search for unity through authoriterianism, which tries to make everyone the same, and relativism, which tries to see everyone as completely different, can be forstollen. We should develop a tool to manage diversity where the ultimate and relative truths coexist. This is possible if we accept that at one level of existence there is ultimate truth while at another level the truth is relative. This is what I call unity in multiplexity. I argue that this is how Muslims managed diversity among themselves and between Muslims and non-Muslims. Therefore it is advisable for them adopt a similar strategy today while searching for Muslim unity.

1. Civilizational Pluralism and Muslim Unity

I divide civilizations into two groups: open civilizations and closed civilizations.[1] By open civilizations, I mean those that recognize other civilizations and their right to coexist. In contrast, I mean by closed civilizations those that do not recognize other civilizations and their rights to coexist. A closed civilization sees itself as the only civilization on the world and aims to assimilate others through civilizational assimilation. In this paper, I will examine Ottoman society as an historical example of an open civilization and explore whether this experience can help us today.

I will argue that Ottoman civilizational pluralism, which is commonly known as Millet

System, is made possible by Islamic law.[2] Islamic law provided the pluralist legal normative framework for the practice of divergent legal systems emanating from different civilizations under a single state system. Therefore there is a strong link between normative openness at the social level and open civilization.

Is an open civilization possible today? Yes, if we have an "open law." No, if our law remains as a "closed law." Open law is a prerequisite for open society while closed law leads to closed society. What I mean by closed law is a legal discourse which is kept closed to different normative voices. Our current law is open only to the secular ideas while it is kept strictly closed to religious opinions. This is what I call closed law. Our law must be opened to the views originating from any perspective, be it religious or secular.

I thus proclaim: let us open our law to the other voices from our society and the voices of the others from other societies which we have thus far silenced because they actually disagreed with us or because we have worried that they would disagree with us. I also state that once we open law to different voices we will realize that our law is not exceptional and that we have more in common than we have thought with other legal traditions.

This can be achieved only through a comparative legal research focusing on all legal traditions in existence today on the globe, particularly on the universal legal traditions. Such a scholarly enterprise is almost absent in the US and other parts of the world today. Open Law reflects the need at the age of globalization to allow peaceful cohabitation of different discourse communities in the field of law thereby enriching it by the newly incorporated views.

Globalization will either lead to a clash between different discourses and discourse communities in law or we will open up to each other by denying our exceptionalism. Open law calls for such a democratic and pluralistic discourse community in law. A global power needs Open Law perspective to produce consilience, that is unity of knowledge, in the field of law. Otherwise, globalization will inevitably bring clash among legal traditions and result in silencing or completely eliminating different voices, opposing perspectives and the discourse communities who represent them, instead of allowing each legal discourse community to contribute to the common good of global society. Today, common good can no longer be defined in local terms; it must be defined at the global level. Either it is a good for the entire humanity and global society or for none. This is the stage to which the fast developing technology has brought humanity. Today, the distance, whether geographical or social, is dead and the globe has become a small village. Yet we, as scholars, policy makers and businessmen, have yet to fully internalize this radical change, adapt our thinking to it and act accordingly.

Islamic legal tradition has set a precedent in theory and practice for an Open Law from which we can benefit today. Global powers must also derive lessons from this legacy. So must the universalist scholars of law. Such was the case with the Ottoman Empire which ruled a vast geography with a colorful mosaic of cultures and religions. Each Muslim denomination, *madhhab*, practiced its own law. So did each non-Muslim denomination in the fields of civil

and personal law. The well-known four Schools of Law (Hanafi, Maliki, Shafii and Hanbali) practiced their tradition side by side in the same social milieu. The Jewish community practiced Jewish law. The Orthodox community practiced Orthodox law. Similarly, the Armanians, Copts and others practiced their laws. This is one of the secrets behind how the Ottomans could rule over the regions which presently suffer from unending conflicts and wars. Ottomans inherited this tradition from previous Muslim empires. In India, the Mughal Empire allowed the Hindus to practice their law, while in Iran the Sasanites allowed Zoroastrians and Manicheans maintain their legal traditions. Going back in time, Abbasids, Umayyads, the Four Rightly Guided Caliphs (Abu Bakr, Umar, Uthman and Ali) and ultimately Prophet Muhammad contributed to the development of such a pluralist legal system. The so-called Medina Constitution reflects how Prophet Muhammad adopted an inclusive approach towards Jews and Christians in Medina. There is a rich legal philosophy behind this legal pluralism, originating in Islamic theology and law, which I can explore here only briefly because of the time constraint.

In his book, *Medieval Foundations of the Western Intellectual Tradition 400-1400*, Marcia L. Colish calls Judaism, Islam and Christianity "sister civilizations." Other historians of science will also support him. Historians of religion would also agree with Colish as they classify these three religions as the Abrahamic religions or the Western religions. Yet unfortunately, what the historians of science and religion have commonly recognized long ago has yet to be discovered by the historians and scholars of law. Experts in the legal field, be they secularists, Jews, Christians or Muslims, tend to incline toward exceptionalism of their own tradition.

If Islamic and Western civilizations are sister civilizations, Islam is a Western religion and Islamic philosophy is a Western philosophy then should not Islamic law be considered a Western law? Plainly put, Islamic law, in my view, is not a completely exceptional legal system but part of the Western legal tradition because it emanates from Islam which is unanimously accepted to be a Western or Abrahamic religion by all historians of religion. Yet because of the exceptionalist view to Islamic and Western law by Muslim and non-Muslim experts we are unable to see the religious, historical, philosophical and normative commonalities. This does not mean that they are identical and there are no struck differences between these legal systems. All what I want to say is that we should not exaggerate the differences between legal systems to such an extent that we are led to conclude that they are all unique and exceptional.

I object legal exceptionalism from all sides. Instead, I argue that not only the legal traditions originating from Western religions such as Judaism, Christianity and Islam but also all universal legal systems, religious or secular, reflect a significant number of common features and structures. For me, all civilizations are sister civilizations. Yes, in the relatively near past, we originate from Abraham, but on the remote past we originate from Adam. The children of Abraham are just a branch of our family as the children of Adam. I argue, along with Muslim doctors of law from ancient times, that the universal common ground on which all legal systems unite lies here: *Adamiyyah* that is humanity. Abu Hanifa and his followers stipulated: *al-'Ismah*

bi al-Adamiyyah, inviolability is due for all human beings for being a human, regardless of their inherent and inherited differences such as gender, race, religion, class, nationality and ethnicity. In other words, being a person, a human being is the foundation of human rights and duties. This is how the Universalist School in Islamic law approaches the Other at the individual level.

Legal exceptionalism caused divide among legal traditions and blinded the experts from recognizing the commonalities. Each tradition claimed that human rights originated from it and therefore other legal traditions should be prevented from having a voice in the legal matters. Such attempts to monopolize human rights have not produced any result other than backlash by those who felt discontent, excluded and silenced. Moreover, it contradicts with the very claim to universalism.

For the first time in human history, in our age, there emerged a divide between religious and secular legal traditions. Secular legal traditions are so proud of themselves and have such an excessive self-confidence that they try to completely monopolize the discourse of human rights, giving no place in the table to the representatives of religions. So do religions by refusing each other and the secular legal traditions. The disastrous consequences of these divisions are becoming increasingly more obvious to all of us.

If we look at the Islamic legal traditions, Muslim jurists unanimously agreed in the classical era that all legal traditions in the world share the same core principles: right to the inviolability of life, property, mind, religion, honor and family. They argued that these five principles constitute the "axioms of law" (*al-Darurat al-Shar'iyyah*), which all legal systems commonly share around the world. These rights have also been called the Five Basic Principles of Law (*al-Usul al-Khamsa*). These scholars asserted that all Muslims and non-Muslims agree on these principles. They also asserted that so long as legal systems conform to these principles they may disagree on other minor issues (*Furu' al-Fiqh*). From this perspective there are two levels of law: universal and relative.

What manifests here is that Muslim jurists did not think that Islamic law was an exceptional legal system and that it derived its power from its exceptionality. Instead, they emphasized that Islamic law was not an exception to the rule and the power of Islamic law came from its conformity with the universal core principles shared by all legal systems.

These jurists also agreed that implementing these principles on the ground was the "Objectives of Law" (*Maqasid al-Shari'ah*) and the reason for the existence of a legitimate state. From this perspective, political legitimacy derives from protecting human rights. It is assumed that all legal systems, whether by Muslims or non-Muslims, have these goals to realize on the ground for which the state is an instrument.

Institutionally, under Islamic rule, all legal systems participated in the ecumenical politics as they were granted the status of "millah," that is religious community which entitled them for legal autonomy and a voice in politics. This does not preclude the existence of some practices which look discriminatory from the modern human rights perspective. Millets System may be

seen as an institutional form of international ecumenical politics in the middle ages. While these communities felt content for being allowed to practice their law, the Islamic Empire gained stability. Istanbul housed for almost five centuries the head of Muslims, Orthodox Christians, Armanians, and the Jews. Ottoman Caliph gathered around him Shaikh al-Islam, Orthodox Patriarch, Armanian Patriarch and the Chief Rabbi who ministered law in their respective communities. In brief, Islamic law has always supported a particular kind of an international ecumenical politics in the areas where it ruled and even gave it an institutional form. However, the Millets System was replaced at the turn of the 20th century by the positivist approach to law, which standardized the law and gave it to the exclusive control of secular reasoning. Since then, religious law and morality are excluded from official international political and legal organizations.

2. Universalist Islam in Turkey: Building a Common Future for Humanity

The best way to understand Islam in Turkey today is to look at it through the prism of the dialectic between universalism and communalism. Universalism is, as I define, a conviction that all human beings are inviolable for the sake of being humans; they share a common destiny; and that universalists from other cultures and societies also defend human inviolability as much as we do. In brief, universalism is to take the entire humanity as the Self at the ultimate level. In contrast, the communalism in its various forms divides humanity as the Self and the Other; it advocates the rights of the Self alone because of self-exclusivism; and aims a good future for it. For communalism, religion, ethnicity, citizenship, language or geography draws the line between the Self and the Other.

This conflict between universalism and communalism has existed in all societies but globalization heightened and intensified it. This development forced all societies to come to terms with other societies and cultures in clear terms. The divide between universalists and communalists is the new cleavage in the world. It can easily be observed in America, Europe and Turkey as well as other parts of the world. Communalists everywhere focus on the interests of the Self at the expense of the Other based on the conviction that they are mutually exclusive.

When we look at Turkey today from this perspective we see that the majority of Turks adopt a universalist approach, advocating Turkey's membership in the EU and alliance with the US and improving relations with Eastern countries such Muslim world, China and Japan. There is yet a minority communalist group calling for Turkish nationalism and refusing friendly relations with the outside world for example by portraying relations with the US and EU as plots against Turkey.

Sociologically speaking it is expected to have universalist versus communalist divide in Turkish society similar to other societies. Yet there is an irony to it. Until 1980s universalism was advocated by the secular elite while communalism was associated with the religious

intellectuals and politicians.

Ironically, since 1980s, the positions shifted. The religious segment of society, intellectuals and politicians has increasingly become universalists by dropping their objections against the EU and alliance with the US. In contrast, the secular elite which traditionally championed westernization and friendly ties with the outside world in particular the West, turned communalist by advocating Turkish nationalism, working against the membership in the EU, accusing religious intellectuals and politicians for serving foreign interests and betraying the nation. They also oppose free market economy and global capital while the religious politicians try to bring global capital to Turkey and integrate it in the global market.

President Ozal can be seen as the one who changed the rules of the game and redrew the line of cleavage in Turkish politics. Under his leadership, Turkey opened itself to the outside world after a long self-isolation and established close international relations with Western countries. Also under his leadership, his right wing party appropriated universalism and progressivism, which had traditionally been the property of the left wing.

The changing positions in the political and intellectual landscape make the following two questions inevitable: First, Is Islamic universalism a pragmatic deviation from Islam? This is what religious and secularist communalists argue. Second, what made the majority of Turkish Muslims adopt a universalist approach? When I say Muslims I do not mean the Islamists but anyone who confesses Islamic faith regardless of the political opinion. I will answer these questions by unearthing the roots of universalism in Turkey through looking at the history of Islamic thought and practice. Such an exercise may help us expose the latent cultural and social factors which led Turkish Muslims, knowing or unknowingly, to adopt a universalist position.

3. The Historical Roots of Universalist Islamic Thought in Turkey

These roots can be traced back to Abu Hanifa who stipulated that "Human rights are due for humanity" (*al-'ismah bi al-âdamiyyah*). I will call this approach the universalistic perspective. From this perspective human rights are born with the person, they are innate, unearned and inalienable. The children of Adam are entitled to these rights everywhere in the world, regardless of their race, gender, language or religion.

The following citation from prominent Hanafi jurist Sarakhsi (d. 1090 CE) succinctly elucidates this perspective:

Upon creating human beings, God graciously bestowed upon them intelligence and the capability to carry responsibilities and rights (dhimmah, personhood). This was to make them ready for duties and rights determined by God. Then He granted them the right to inviolability, freedom and property to let them continue their lives so that they can perform the duties they have shouldered. Then these rights to carry responsibility and

enjoy rights, freedom and property exist with a human being when he is born. The insane/child and the sane/adult are the same concerning these rights. This is how the proper personhood is given to him when he is born for God to charge him with the rights and duties when he is born. In this regard, the insane/child and sane/adult are equal.[3]

According to the Universalistic School all human beings have dhimmah by virtue of their humanity. The term ahl al-dhimmah is therefore literally true for all human beings around the globe because all people are born with dhimmah. Therefore, dhimmah may be called a born or natural right. The fact that non-Muslim minorities are conventionally called so does not mean anything other than reiterating and affirming with a written contract that they are equal with Muslims in enjoying this right. It indicates that they also have the right to legal personhood and they acknowledge their accountability. It may be seen as declaration of the equality in that aspect between Muslims and non-Muslims. Other non-Muslims, without a treaty with Muslim rule, have yet to officially acknowledge and register that they accept their accountability and liability before law for their actions. From this perspective, the compact of dhimmah is merely an act of acknowledgment by both sides about their rights and duties. This is because non-Muslims are already granted all the rights they may possibly have by virtue of their humanity and signing a treaty with Muslims is not going to bring them new rights. The act of dimmah, however, serves as a confirmation by both parties for these rights and duties. It also follows from that dhimmah cannot be repelled under any condition by any authority, be it religious or political.

Abdulaziz al-Bukhari (d. 1330 CE) defines a human being with reference to the purpose for which an âdamî (person, human being) is created, as follows: "The purpose (meaning) of a human being (âdamî) is that for which he is created, which is worship of God and his vicegerency on earth to establish His laws (rights) and to carry the burden of divine trust."[4]

The jizya is not the fee of protection of life. This is because the life of a person is originally inviolable. The permissibility [of war] is due to assault. When the assault disappears with the treaty of citizenship, the original inviolability returns. Also, permissibility of killing a non-Muslim [in a war] is a punishment he deserves as a Communal Right. Therefore, it is impossible to repeal inviolability for money/tax.[5]

Abu Hanifa's influence continued until the beginning of the 20th century. For instance, Al-Miydani (d. 1881 AD), a Syrian scholar from Damascus, wrote at the end of the 19th century that the person has sanctity by virtue of his existence (*al-Hurr ma'sum bi nafsihi*).[6]

Another Ottoman jurist from the nineteenth century, Ibn Abidin (d.1836 AD), said: "*Al-adamiyy mukarramun wa law kafiran*." It means "a human being has dignity/honor even if he is an infidel."[7] "Karamah" which can be translated as dignity and honor is one of the key words in Islamic law. Karamah is above the level of "inviolability" because it emphasizes the dignity and honor of a human being but not just his or her inviolability.

In contrast to the universalistic interpration of Islamic law, some jurists from the Shafii and other schools of law claimed, "Human rights are due for faith or treaty" (*al-'ismah bi al-iman aw bi al-aman*). I call this approach the communalistic perspective because it focuses only on the rights of the citizens of the Muslim state. Citizenship, according to these jurists, can be gained by faith in Islam or by the treaty of *dimmah*, which is comparable to gaining citizenship of a country by accepting its conditions such as paying taxes. Their purpose was to achieve unity within the territory of the Islamic state but not worldwide unity of humanity under Islamic law.

4. Diversity Management via Multiplicity or Multiplexity

The above account demonstrated that Islamic law provided the legal ground needed for diversity management to achieve unity in societies under Islamic rule; it provided legal framework for unity in diversity. Yet this is not the complete picture, which becomes evident if we adopt a broader perspective to Islamic thought.

At this point I would like to draw attention to two different ways of managing diversity: multiplexity and multiplicity. Islamic law and philosophy adopt the first one while the current Western culture, commonly called postmodernism, adopts the second one. These are, one can say, two different strategies to accomidate social and cultural differences to achieve unity in diversity.

It is possible to explain the multiplex structure of Islamic thought by using the example of Islamic law. The forgoing account of Islamic law and universal human rights in the previous section reflects only one level of approach to the others in society be they Muslims or non-Muslims. There is yet another level of thought and discourse in Islamic thought in Turkey and the Muslim world: Tasawwuf commonly known as Sufism. If law aims justice (*'adl*), Sufism or Tasawwuf aims going beyond law to love. Law calls for reciprocity (*'adl* and *qisas*) but Tasawwuf calls for forgiving (*'afw*) and giving (*ihsan*). This could be interpreted as going beyond the law to ascend to a higher level of understanding social relations with other people in particular those who violate one's rights. Forgiving and giving requires a level of understanding which is higher than reciprocity. However, these two levels do not reject each other as illigitmate as they are combined in a multiplex system of knowledge.

While the law is the domain of objective knowledge and science (*'ilm*), Tasawwuf is the domain of a deeply felt and experienced knowledge called *'irfan* or *ma'rifah*. This is what the well-known Ottoman scholar Tashkopruluzade[8] tries to demonstrate in his book, *Mawzuat al-'ulum*, as he divided the disciplines in his time into two categories: first, those which requires theoreticial thinking, and, second, those which require spritual cleansing.[9]

It is possible to say that the structure of Ottoman thought and discourse is characterized by multiplexity in the following domains:

1. *Maratib al-wujud*: multiplexity of existence (ontology)
2. *Maratib al-ulum*: multiplexity of knowledge (epistemology)
3. *Maratib al-usul*: mutliplexity of methodology
4. *Maratib al-ma'ani*: multiplexity of meaning
5. *Maratib al-haqaiq*: multiplexity of truth

From a sociological perspective, this multiplex structure of thought and discouse prevents intellectual and theological disagreements from turning into social and political conflicts. It allows different views to coexist in the culture without reletavizing them. It does this by adopting multiplexity. In contrast, the multiplicity of postmodernism leads to relativism of all ideas and values.

Conclusion

Above, I tried to answer two questions: Is universalism true to Islam or is it a pragmatic deviation from it? What are the factors, which made the majority Turkish Muslims adopt a universalist approach? In response, I tried to draw your attention to Hanafi legal thought and the practice of open civilization from India to Andalus and to Ottoman Empire.

I did not try to prove that all Turkish Muslims are universalist. Instead my argument was that the new dialectic in the world and in Turkey is the conflict between universalists who care for humanity and communalists who care only for their nation.

This new dialectic in the global era has the potential of determining international relations around the world. Therefore universalists from all cultures should cooperate for building common future for humanity. Otherwise, the communalists will put their societies on a collision course. The future of international relations will be determined by the inner conflict in each society between universalists and communalists.

This is true for Turkey as much as it is true for all countries. Yet at the moment the majority in Turkey adopts a universalistic approach and wants to participate in the efforts to build a common future for humanity. As a result, Turkey is the only Muslim majority country which sees a common destiny with the non-Muslim Europe.

In summary, Islam, as understood by universalist jurists, aims unity of *Adamiyyah* that is unity of humanity around universal values shared by all religions, cultures and civilizations. Today, there is a pressing need for this type of unity and modern Turkey may play a significant role promoting those values among Muslims and non-Muslims.

I want to conclude by stating that, for an international ecumenical politics to be possible today, we have to take the following measures: First, our present normative system must be opened to other voices from our own culture and tradition and the voices of the others from other legal cultures and traditions, be they secular or religious. Second, the "truth" in legal and

moral matters should be seen as multiple and multiplex. In other words, normative truth has many levels, each level with many dimensions. Third, in our judgments, we should employ multi-valued and fussy logic, along with the presently used binary logic, which is based on the simple duality of legal versus illegal, right versus wrong, without recognizing the gray areas in between. Forth, a relational approach to the question of moral good and bad must be adopted, instead of an essentialist one. This may produce a "relative-relativism" as opposed to the "absolute-relativism" of Post-modernity which eventually leads to nihilism. Fifth, an anti-exceptionalist approach must be adopted with an emphasis on commonalities in different legal traditions to counter exceptionalism and replace it with a universalist perspective. In my view, these are the measures we need to take on the way to Open Law and Open Civilization which may serve as the foundation for an ecumenical politics at the individual, communal and international levels. This is what the world may learn from the pluralist Ottoman experience which housed several civilizations in peace for centuries including Islamic, Jewish, Orthodox Christian, Armanian and others.

Notes

1) See my book on the concept of Open Civilization, Recep Şentürk, *Açık Medeniyet: Çok Medeniyetli Dünya ve Topluma Doğru* [Open Civilization: Towards a World and Society with Multiple Civilizations], İstanbul: Timaş Yayınları, 2010.

2) See my articles on the universalistic interpretation of Islamic law, Recep Şentürk, "Sociology of Rights: Inviolability of the Other in Islam between Communalism and Universalistism," in *Contemporary Islam*, (eds. Abdul Aziz Said, Mohammed Abu-Nimer, and Meena Sharify-Funk), New York: Routledge, 2006, pp. 24-49; "Sociology of Rights: *I am Therefore I have Rights*": Human Rights in Islam between Universalistic and Communalistic Perspectives," in *Islam and Human Rights: Advocacy for Social Change in Local Contexts*, (eds. Mashood A. Baderin, Lynn Welchman, Mahmood Monshipouri, Shadi Mokhtari), New Delhi: Global Media Publications, 2006; "Minority Rights in Islam: From *Dhimmi* to *Citizen*," in *Islam and Human Rights* (eds. Shireen T. Hunter and Huma Malik) Washington, DC: Center for Strategic & International Studies, 2005, pp. 67-99; "Sociology of Rights: Human Rights in Islam between Communal and Universal Perspectives," *Muslim World Journal of Human Rights*, Vol. 2 [2005], No. 1, Article 11, pp. 1-30; Recep Şentürk, "*Adamiyyah and 'Ismah*: The Contested Relationship between Humanity and Human Rights in the Classical Islamic Law," *Turkish Journal of Islamic Studies*, 2002 (8), pp. 39-70. See also my book in Turkish, *İslam ve İnsan Hakları: Fıkhi ve Sosyolojik Yaklaşımlar*, İstanbul: Etkilesim yayıncılık, 2007.

3) Abi Bakr Muhammad b. Ahmad b. Abi Sahl al-Sarakhsi (d. 490 AH), *Usul al-Sarakhsi*, (ed. Abu al-Wafa al-Afghani), Istanbul: Kahraman yay, 1984, pp. 333-334. The original Arabic of the above translation is as follows: "Li anna Allah ta'ala lemma khalaqa al-

insan li haml amanatih akramahu bi al-'aql wa al-dhimmah li yakuna biha ahlan li wujub huquqillah ta'alah alayhi. Thumma athbata lahu al-'ismah wa al-hurriyyah wa al-malikiyyah li yabqa fa yatamakkana min ada'i ma hummila min al-amanati. Thumma hazihi al-amanah wa al-hurriyyah wa al-malikiyyah thabitah li al-mar'i min hinin yuladu, al-mumayyiz wa ghayr al-mumayyiz fihi sawaun. Fakazalika al-dhimmah al-saliha li wujub al-huquq fiha thabit lahu min hinin yulad yastawi fihi al-mumayyiz wa ghayr al-mumayyiz."

4) Ala al-Din Abdulaziz ibn Ahmad al-Bukhari, *Kashf al-Asrar 'an Usul-I Fakhr al-Islam al-Bazdawi*, (ed. Muhammad al-Mu'tasım billah al-Baghdadi), Beirut: Dar al-Kitab al-Arabi 1417/1997, IV, pp. 393-394.

5) See Recep Şentürk, "Minority Rights in Islam: From *Dhimmi* to Citizen," in *Islam and Human Rights,* (eds. Shireen T. Hunter and Huma Malik), Washington, DC: Center for Strategic & International Studies, 2005, pp. 67-99.

6) l-Miydani, *al-Lubab fi al-Sharh al-Kitab*, (ed. Muhammad Muhyiddin Abdulhamid), Cairo, 1383/1963, vol. IV, p.128.

7) Ibn Abidin, *Radd al-Mukhtar 'ala al-Durr al-Mukhtar Sharh Tanwir al-Absar*, Beirut: Dar al-Kitab al-'Ilmiyyah, 1415/1994, IV, pp. 159-165.

8) Abu al-Khayr 'Isam al-Din Ahmad Tashkopruzade (968/1561), *Mevzuatü'l-'ulum*, (tr. Kemaleddin Mehmed Efendi), Dersaâdet: İkdam Matbaası, 1313.

9) *Ibid.*