



Theoretical Foundations of the Charter of Human Rights

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Abstract

This research is an attempt to understand the intellectual and philosophical roots of the charter of human rights. In this pursuit, it addresses schools of thought and philosophies such as humanism and the principle of human agency, rationalism and reasoning, individualism and the role of individual will, natural law as inherent and inalienable rights, and also contractarianism as the basis of social order. Each of these currents in the history of thought has played a significant role in shaping the modern concept of human rights and has provided the groundwork for the drafting of documents such as the Universal Declaration of Human Rights (1948) and international covenants. The present examination shows that these foundations, despite their differences, emphasize common principles such as liberty, equality, human dignity, and the right to choose; principles that today form the basis of human rights thought. Consequently, understanding these theoretical underpinnings helps us to comprehend human rights not merely as a set of legal regulations, but as the embodiment of a humanistic and universal idea; an idea that constantly seeks to safeguard the status and dignity of all individuals, irrespective of their race, gender or beliefs.

Keywords: *Human Rights; Humanism; Rationalism; Individualism; Natural Rights; Contractualism*

Introduction

The concept of human rights is deeply rooted in philosophical discourse, with theories and principles that have evolved over centuries, and as a very extensive and fundamental domain within international law, it is accompanied by profound philosophical theoretical foundations which constitute the basis and principles of human rights. The term "foundations" (mabani) is the plural of "base" (mabna) and means a place, a site where a building is constructed and a house is built. Here, by theoretical foundations, we mean the intellectual basis and groundwork, the intellectual foundation of the edifice of human rights. In fact, what is meant by the theoretical foundations of the charter of human rights are the ideas that provide the necessary infrastructure for the formulation of these rights and serve as the foundation for a grand structure. Or, in other words, theoretical foundations are the assumptions and premises upon which the modern approach to humankind and its place in existence is based. Undoubtedly, the methodological and epistemological foundations that emerged after the Renaissance, which led to new understandings of science and reason and transformed humans from being dominated by nature to being masters over it, are among these very foundations. In this writing, the emphasis is on

discussing the importance of humanism, rationalism, individualism, natural rights, and contractarianism as the most significant items among the theoretical foundations of the charter of human rights. Of course, we do not claim that the theoretical foundations of the charter of human rights are exclusive to the mentioned items, but it can be said that they are among the most important ones. In examining the theoretical foundations of the charter of human rights, the emphasis on the close connection between human rights and the concept of humanity, fraternity, and the equality of all humans as one global family indicates an undeniable importance. This connection expands the dimensions of human rights from the national level to the global scope and portrays it as an inspiring source for solving international problems and guaranteeing the rights of all members of the global community. It speaks of a human who is the noblest of creatures, for whom the world with all its bounties and blessings exists, a human who holds such value and stature in the realm of creation and the universe. And since we refer to humans in this capacity, we mean humans in the general sense, meaning every human in any position and situation, regardless of race, sex, skin color, and hereditary and social characteristics. In this regard, the greatest achievement that humanity has attained throughout history in affirming human rights is the issuance of the Universal Declaration of Human Rights, which is undoubtedly the pivotal point of international human rights instruments. It was presented to the world in 1948, placed a balm on the old wounds of society, and particularly comforted the hearts of those who, during World War II and the years before its start, each in their own way, endured great deprivations and frustrations. Of course, it must be said that the Universal Declaration of Human Rights is not the only human rights document; rather, it is the mother of human rights documents of the present era, and there are other covenants and protocols that were drafted after the Declaration and which hold legal precedence over the Declaration. This body is also referred to as the International Bill of Human Rights. (The Bill of Human Rights refers to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, and its additional protocols.) The rights and freedoms recognized in the Declaration were reiterated with slight changes but in greater detail and clarity in two separate binding documents titled the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and they developed the standards of the Declaration. The Universal Declaration of Human Rights comprises values such as the right to life, the right to liberty and security of person, the recognition of every individual as a person before the law, emphasis on the necessity of freedom from slavery and the prohibition of forced labor and torture or cruel, inhuman, or degrading treatment or punishment, emphasis on human equality and the equal protection of the law for all, attention to the necessity of freedom from arbitrary arrest, detention, or exile, guaranteeing judicial security for those accused of crimes and their right to defense in a fair trial, emphasis on the principle of presumption of innocence and regard for the principle of legality of crimes and punishments, the necessity of avoiding the retroactive application of criminal law, emphasis on the right to privacy and the necessity of freedom from arbitrary interference in private and family life, emphasis on the prohibition of interference with correspondence, freedom of movement, residence, and the right to a nationality and to change it, equality of men and women in marriage and its dissolution, freedom of thought, expression, and association, and emphasis on the equality of citizens in public service and their participation in government. Therefore, in this research, the author strives to present, examine, and analyze humanism, rationalism, individualism, natural rights, and the characteristics of each of these schools of thought and ideas, particularly the significant role that these foundations and philosophical ideas have played in the formation of the charter. Furthermore, an attempt will be made to answer questions such as what role these schools and ideas have played in the formation of the charter and what common characteristics can be extracted from them.

Discourse One: Humanism or the Originality of Man

The term humanism is derived from the Latin root *homo*, meaning "human," and was first used in ancient Rome to distinguish between "human" and "divine" beings. This perspective posits that humans should be the axis of the universe and the focal point of human schools of thought and programs (Vakili, 2005: 129-154). In Persian, it has been translated with terms such as *ensan-gerayi* (human-centrism),

ensan-madari (human-orientedness), and asalat-e ensan (the originality of man). In its common meaning, humanism is a philosophy that places humans at the center of reflections and prioritizes their growth and flourishing (Bayat, 2002: 38). This approach is considered one of the pillars of the modern paradigm and a groundwork for the formation of human rights. Initially, humanism was a school among others, but with the expansion of modernity into various spheres of human life, it permeated further and became a general worldview. Humanists emphasize rationality, freedom of thought, and elected civil institutions, and they believe that life without metaphysics is possible and that all beliefs must be subject to rational revision (Abek, 2005: 194). In this vein, the Encyclopedia of Philosophy by Paul Edwards defines humanism as a philosophical-literary movement that took shape during the Renaissance and presented the value and status of humans as the measure of all things (Maghrebi, 2001: 71). According to humanist philosophers, humans are the origin of knowledge, and the importance of humanism lies in its role as the mother of modern philosophy, playing a central role in Western thought after the Middle Ages. Although humanism is not confined to a specific school like existentialism or pragmatism, its epistemological principles are present in many modern philosophical schools (Vakili, *ibid.*).

1. The Characteristics and Principles of Humanist Thought: One of the most important topics in humanism is its fundamental principles and ideas; a framework that, after the Renaissance, caused a transformation in the definition of humans and distinguished them from the medieval and Christian image. In the words of Anthony Arblaster, humans were placed at the center of the world's image in new thought; a conception that was fundamentally different from previous concepts. In the Christian worldview, humans held a special place because Christ had come to earth for their salvation, yet they remained subject to divine will within the hierarchy of creation. In contrast, Renaissance thinkers such as Marsilio Ficino and Pico della Mirandola, in his "Oration on the Dignity of Man," presented a new image that emphasized human independence and the absence of pre-determined purposes; an absence which, according to them, is the source of human greatness and freedom (Arblaster, 1988: 148). These principles, which gradually developed throughout the life of humanism, initially focused more than anything on freedom, because the primary goal was liberation from the domination of the Church. At the same time, these very ideas formed the basis of modern human rights; although humanism as a school declined in the sixteenth century, its essence—namely these very intellectual principles—has remained alive and influential.

1.1. Freedom Freedom: One of the most fundamental principles in humanist thought is the principle of freedom. In the historical context of Europe, the domination of the Church and absolute political powers had created a repressive space that placed the individual at the disposal of religious and governmental institutions like a prisoner. In reaction to these conditions, humanists presented freedom as a natural and inherent right of humans; a freedom that allows the individual to act in social and natural spheres based on their own will and reason. In this perspective, humans are autonomous and self-determining beings with the ability to determine their own destiny, and no supernatural power or historical determinism can deprive them of this agency (Donnelly, 2013: 19; Beitz, 2009: 45). Accordingly, humanism came into direct conflict with deterministic and fatalistic schools and, by emphasizing freedom of choice, independence of will, and human dignity, laid the groundwork for the formation of the modern discourse of human rights. In fact, freedom came to be recognized not merely as a political privilege, but as the foundation of human dignity and the condition for the realization of other human rights (Freeman, 2011: 52; Nickel, 2007: 33).

1.2. The Primacy of Reason: Humanists were a rationalist society and placed particular value on reason, gradually reaching a point where a school called Rationalism emerged, initiated by Descartes. In the Age of Enlightenment, the defining characteristic of the intellectual leaders of the Enlightenment was a rational religion where reason replaced revelation, and gradually they set revelation aside, making reason their sole reliance. As said by "Boyle," who was one of the critics of humanist thinkers, humans are placed completely alongside Prometheus, who is their creator and their intellect, and in reason, they

are placed alongside Prometheus, who is their creator and their intellect, and in reason, they equal Prometheus (Golpayegani, 2006: 59).

1.3. The Primacy of the Individual: Individualism holds a special place in humanism; although it was faint at first, it gradually came to realize its own specific status and position. Individualism reached a point where it formed a school called individualism, in which personal freedom led to the denial of any objective ideal and value, and was the final stage in making any reality unreal. In fact, "individualism" negates any supreme principle superior to the individual, thereby limiting everything to the desires and wishes of the individual. Discussion of the human species ends and is reduced to the human individual, and in reality, the individual must achieve all their desires, and there is no obstacle to this unless it interferes with the desires of other individuals. Individualism in the West today forms the basis of liberalism, which is dominant in that land (Saneepour, 2011: 24-26).

1.4. Naturalism: One of the important beliefs of humanism is naturalism; therefore, anything considered supernatural is rejected, and this is exactly contrary to what exists in Christianity. Thus, they consider humans to be material beings and no longer acknowledge a spiritual dimension for them; consequently, everything ends with this dimension. Knowledge in this idea becomes empirical, and anything beyond empirical has no value; spiritual development becomes meaningless. The value of physical pleasure among humanists and their hatred of medieval asceticism clearly shows the new valuation of humanists regarding the natural aspects of humans. Hedonism becomes a value (Saneepour, *ibid.*:105-106). Naturalism permeates all spheres; in politics, the supernatural is no longer considered, and religion withdraws from the political sphere, and political matters are determined based on human will and desire – in the form of the majority. In the field of ethics, according to humanist thought, moral values and imperatives are based on reason, conscience, and practical ethics – and not on religious teachings (Bayat, 2002: 43).

1.5. Anthropocentrism in Knowledge: Anthropocentrism in Knowledge: In Christianity and in all heavenly religions in general, humans are presented as the "locus of knowledge" to whom knowledge is bestowed, and they are a vessel for accepting this knowledge, although from another aspect, in religions, they are also considered the "origin of knowledge." In the humanist school, humans are the "origin of knowledge," and awareness and knowledge arise from their existence "in a state completely self-sufficient" without seeking help from a supreme being. For example, they contented themselves with the human "I," and Descartes' "cogito" was the starting point of the rupture between human knowledge and the supreme origin (Saneepour, *ibid.*: 9-10).

1.6. Anthropocentrism in Value and Law: In humanism, values are created by humans and do not possess a reality beyond human thought. Law is something that humans establish, and no one else has the right to determine law, and humans themselves determine their own destiny (Mesbah Yazdi, 2002: 78).

1.7. Humans as the Measure: Humans being the measure and standard of all things, adherence to human desires and interests, and the centrality of humans in the universe are among the most important intellectual foundations of humanism (Moshki, 2016: 83).

Discourse Two: Rationalism

The term Rationalism is derived from the Latin root Ratio and is translated into Persian as "Aql-gerayi" (Rationalism), "Asalat-e Aql" (Primacy of Reason), or "Khrad-bavari" (Belief in Reason). This term has different meanings in various domains: in philosophy, it stands against "Empiricism" and means that the fundamental truths of the world can be explained by reason; in theology, it stands against "Fideism" and emphasizes the precedence of reason over faith in proving religious principles (Bayat, 2002: 379-380). Its third and most important application is in the "Age of Enlightenment"; a movement that placed reason at the foundation of new human rights. Philosophers of human rights considered the

power of reasoning as the distinguishing feature of humans from other beings and, based on this, justified the right to choose and enjoy fundamental freedoms. From this perspective, denying the right to choose means negating rationality and, consequently, negating humanity (Seyyed Fatemi, 2019: 22). Enlightenment rationalism, which began in France and then spread to England and Germany, refers in a narrow sense to the ability for logical thinking and inference, and in a broader sense, it encompasses not only the means but also the goals of individual and social life, considering some purposes as "rational" (Arblaster, 1988: 118-119).

1. Characteristics of Rationalism in the Age of Enlightenment: Rationalism in this era possessed the following characteristics, which must be discussed and examined for a deep understanding of this concept.

1.1. Inclusiveness: The eighteenth century was called the Age of Reason because, in that era, it was imagined that the ideal of "rationality," whose activity was limited to empirical and scientific domains, would encompass all spheres of human activity. In this age, reason had risen to battle many traditions and beliefs and sought to conquer all human realms (Bayat, *ibid.*: 386). The rationalism of the Enlightenment age uses reason to critically examine all subjects, whether religious or non-religious. Rationalists primarily regard science for its enlightening nature and consider reason their guide and leader, not revelation. Consequently, what cannot withstand the test of reason is not accepted. Thinkers of the Enlightenment were convinced that reason is more of an acquired process than an innate one (Shapiro, 2012: 7 and 15).

1.2. Naturalism: Naturalism in life matters such as law and economics means that every phenomenon can be divided into "natural" and "unnatural"; what is natural is considered right, and what is unnatural is considered wrong (Golpayegani, 2006: 65). In the Age of Enlightenment, nature was no longer considered teleological, and God was reduced to a "Divine Watchmaker"; natural forces were considered effective in the course of events independent of divine providence (Bayat, *ibid.*: 388). Contrary to the medieval conception, the world was seen not as purposeful but as a set of interacting natural forces. If natural causes govern all beings, scientific explanation must be based on the search for these causes, not by resorting to supernatural aid. Consequently, the "secularization" of scientific knowledge meant setting aside theological and divine concepts from the domain of understanding nature (Barbour, 2015: 72-73).

1.3. Scientism (Scientific Rationalism): Scientism or scientific rationalism means the belief in the ability of human science to understand the world; meaning that only scientific knowledge—and even that must be falsifiable or verifiable—is considered valid, and theories are formed based on empirical findings and experimentation (Chalmers, 1995: 110). This approach has two aspects: on the one hand, positive, meaning emphasizing the possibility and necessity of understanding reality through science and valuing its results in the fields of philosophy, law, art, etc.; and on the other hand, negative, meaning invalidating non-scientific and traditional methods and rejecting non-tangible issues. Such a viewpoint, rooted in the skepticism and rationalism of Descartes, was built upon the ideas of Bacon and Locke and was solidified with the intellectual and political developments of the modern era and the defeat of the Church's domination (Haghighat and Mousavi, 2021: 103).

1.3.1. Characteristics of Scientific Rationalism: Scientific rationalism, as a method and intellectual and rational approach that promotes logical and systematic thinking based on evidence and scientific principles, possesses distinct characteristics and also plays a significant role in shaping individuals' perspectives and decisions. In the following, we will refer to some of these characteristics.

1.3.2. The Empirical and Inductive Method of knowledge: This method is based on collecting facts and relationships between phenomena of existence through observation and sensory tools, precise experimentation, and logical inference of theories and expressing them in mathematical form. Its extreme form is logical positivism, which considers only those theories meaningful that are provable based on

facts obtained from observation. The philosophers of the eighteenth century firmly believed that the correct way of research is to refer to the phenomena themselves and resort to observation in order to discover their laws and causes (ibid.). Not the whole of existence; in the Middle Ages, perception of humans and the world was deeply religious in nature, but in the modern era, the existence of the world was considered as a set of mathematical rules.

1.3.3. The Rejection of Teleology: The rejection of teleology in scientific rationalism refers to the denial and refutation of reasons or beliefs that are based on convictions and opinions outside the scientific domain. In this framework, scientific rationalism, as a logical and scientific approach, emphasizes that any belief or claim must be verifiable with evidence and information to be acceptable to this approach. This perspective is dedicated to the logic of verifiability in the structure and evaluation of beliefs and viewpoints, and any belief or conviction based on non-scientific beliefs is considered outside this domain. In the view of Greek and medieval philosophers, the world was considered to have a purpose, but with the primacy of mathematics and the empirical method, the explanation of existence based on perceptible and quantitative natural variables replaced its explanation based on "purpose" or "final cause" (ibid.: 104-105). Thus, in the interpretation of human rights, material desires and instincts replaced human goals and perfections (ibid.: 104-105).

1.3.4. The Primacy of Utility and Instrumental Rationality: The primacy of utility and instrumental rationality in scientific rationalism refers to the emphasis on the importance of the practical and utility-oriented connection of scientific propositions and theories with reality. This approach essentially denies any criterion or principle for measuring the conformity of propositions with reality and reduces the theoretical value of scientific propositions by subordinating them to this prioritization. By emphasizing the primacy of utility, this approach states that the main importance in evaluating scientific propositions and theories lies in their beneficial and practical usefulness. In other words, the main criterion for evaluating a proposition is not only its conformity with an external standard but also its effectiveness and efficiency in practice and in improving human living conditions. This perspective also gives rise to a form of relativism, meaning that propositions and theories are considered as tools for improving practical and human situations. In the extreme form of this relativism, any fixed and true concept outside the human mind is disregarded, and emphasis is placed on adaptation to practical needs and benefits.

2. Consequences of Scientific Rationalism: In this discussion, we will examine the consequences of scientific rationalism, aspects that have affected various domains of knowledge and understanding of the world and have led to many developments in human perspectives and opinions. These developments include the separation of the field of scientific knowledge from non-scientific fields, extensive changes in theology, the emphasis on anthropocentrism in the interpretation of existence, and the explanation of the mechanistic interpretation of man.

2.1. The Separation of Scientific Knowledge from Non-Scientific Knowledge: The first consequence resulting from the new approach to rationalism was the separation of the domain of science from other human knowledges and the establishment of the concept of "science" as knowledge derived from the empirical method, in contrast to other human understandings or, so to speak, the domain of traditional knowledges. Traditional knowledges refer to understandings that are obtained through non-scientific methods. Accordingly, religious interpretations fell within the domain opposed to science. Thus, science and religion pertained to two different domains with distinct boundaries. Under the new definition of science, a kind of methodological unity was also bestowed upon the sciences. This, alongside individualism which led to the superiority of individual reason over all matters, caused the precedence of scientific knowledge over other knowledges, and matters progressed to such an extent that in the domain of human life, only scientific knowledge was considered applicable, and other knowledges were obliged to conform to it.

2.2. Transformation in Theology: The narrow-minded approach of the Church towards science and the deep connection of Christian theology with ancient natural philosophy caused theology to undergo a fundamental transformation with the collapse of metaphysical foundations. In the Middle Ages, God was often placed in the realm of the "unknown," and every unknown phenomenon was attributed to divine will. However, with the expansion of the scientific method and the discovery of the laws of nature, this position was shaken, and God's role in explaining phenomena became limited. In the words of Auguste Comte, "science dethroned the father of nature and drove him into seclusion" (Donnelly, 2013: 47). With the growth of science, the traditional concepts of the Church appeared ineffective, and religious faith faced erosion. Religion became increasingly limited to the private and otherworldly sphere, and even among believers, the rational interpretation of religious texts came to be seen as natural. Since the laws of nature were considered immutable, miracles and supernatural events required rational interpretation. Consequently, human rights were understood as a supra-religious and secular matter, and the secularization of culture and society became important consequences of modern rationality (Donnelly, 2013: 51).

2.3. Anthropocentrism in the Interpretation of Existence: Anthropocentrism in the interpretation of existence is based on the assumption that no truth beyond human beings can be known with certainty, and therefore, humans are considered the highest beings and the standard of values. This view conflicts with traditional thought, which defined humanity's place as part of a continuum and under the dominion of divine will. Within the framework of contemporary human rights theories, such a perspective is considered the basis for emphasizing the inherent dignity and individual autonomy of humans and is regarded as one of the most important theoretical foundations of human rights (Donnelly, 2013: 21).

2.4. A Mechanical Interpretation of Humanity: John Locke believed that humans should recognize themselves as rational and conscious beings in the world. During the Enlightenment, a common view emerged that saw humans as natural beings among other living creatures, with the distinction being their cultural and rational capacity. This perspective gradually led to the idea of homogeneity between the laws of nature and the laws of thought; just as physics explained the world through mechanical laws and causes of motion, humans also came to be explainable based on instincts and behavioral drives. Within this framework, human rights were redefined as a set of natural human needs and requirements, providing a new philosophical basis for them (Tuck, 1989: 78).

Discourse Three: Individualism

Individualism is one of the main foundations of modernism and one of the most important bases of new human rights. This concept has diverse interpretations; from German and French individualism to English and American, or from exclusivist individualism to expansionist, but in all of them the individual is central. Lukes has enumerated 11 different meanings for individualism, including respect for human value, autonomy, freedom of action, and self-actualization (Jahaniyan, 1996: 29). Although the history of individualism dates back to the Renaissance, the term "individualism" became popular in the nineteenth century by Alexis de Tocqueville (Abusaidi, 1966: 38). Individualism considers the individual more fundamental than society and its institutions and accords him superior legal and moral value (Bayat, 2002: 394). In the culture of political science, it also refers to considering the individual superior to the collective; meaning that if the rights and freedoms of the individual are secured, social interests will also be realized (Bakhshi and Afsharirad, 2004: 311). Philosophers such as Mill, Weber, Schumpeter, Popper, and Hayek believe that social phenomena should be explained based on individual needs and actions. Mill considered individualism a struggle for interests and viewed it as based on the conflict of interests (Jahaniyan, *ibid.*: 41). Liberal individualism has both an ontological and a moral dimension and considers the individual prior to society (Guenon, 1993: 82-91). According to Arblaster, society is nothing but the sum of individual interests, and consequently, the rights of the individual take precedence over the rights of society (Arblaster, 1998: 19, 61). Liberals also emphasize the individual's ability to know and express

his desires and consider this the political basis for opposition to authoritarian governments (ibid.: 43). In this regard, Garando introduces the individual as both the "first argument" due to natural rights and the "last argument" due to his productive role (Garando, 2004: 35). The philosophical origin of individualism is attributed to Rene Descartes, who, with "Cogito, ergo sum," founded the value of the individual on his thought and will (Guenon, 1986: 112). Also, in the thought of Hobbes, Locke, and Rousseau, emphasis on the state of nature and the precedence of individuality over the collective was an important step in denying any transcendence beyond the human individual.

1. Characteristics of Individualism: In examining the characteristics of individualism, a prominent concept is that which defines humans as an individual and unique unit in the world. Individualism, by emphasizing the separation of humans from the world and the separation between individuals, addresses values and characteristics such as individual experience, self-ownership, and the sovereignty of desires, and highlights the unique and personal manifestations of humans. This viewpoint promotes the perspective that each individual, based on their personal experiences, has a unique view and evaluation of the world and their relationship with others. In this context, self-ownership and the sovereignty of desires appear as fundamental elements of individualism, introducing individuals as separate and self-managing units in the path of forming their personal experience. Therefore, in this discussion, the separation of humans from the world and from each other, emphasis on individual experience, self-ownership, and the sovereignty of desires will be the main topics.

1.1. The Separation of Humans from Each Other: One of the main topics in individualism is the separation and solitude of each individual from their fellow human beings. According to "Forster," each of us is ultimately alone, especially in the face of the reality of death; and "Ian Watt" also considers leaving the initial environment and searching for a new destiny as an important part of the individualistic life. Just as the separation of humans from nature is reflected in the distinction between "fact" and "value," the separation of humans from each other is also manifested in a philosophy that considers individual experience as the criterion of truth. "Descartes" was the first philosopher to formulate this approach. With the principle "I think, therefore I am," he considered absolute truth to lie in individual consciousness. After him, "John Locke" emphasized individual experience and independence from the authority of tradition, and "Francis Bacon" introduced nature as consisting of individual bodies. "Hobbes" also believed that universals are merely names and every being is simple and singular. Finally, "Leibniz" provided the strongest philosophical expression of this view with the theory of "monads," portraying the individual as a self-sufficient and independent particle. As Arblaster points out, this notion bears much resemblance to the liberal view that sees the individual as a self-founded and independent being (Arblaster, ibid.: 28-38).

1.2. The Separation of Humans from the World: The separation of humans from the natural world is one of the main themes of modern individualism. If individualism emphasizes the independence and separation of persons from each other, at another level it also points to the distancing of humans from the totality of nature. As Iris Murdoch indicates, values do not belong to the inner world of "functions of reality," that is, the realm of science and fact-based propositions; rather, they are linked to human will and, through this, emerge in the domain of his choice and desire. Thus, values that in religious traditions or metaphysical philosophies were attributed to the transcendent realm are now reduced to human discretion and decision and are situated within the sphere of individual will. In this intellectual framework, "good" is considered an empty and indefinable concept that only human choice can fill (Arblaster, ibid.: 21-25). Accordingly, the distinction between "facts" and "values" is of fundamental importance to liberalism: first, it enables the coexistence of liberal ethics and positivist science, since the individual is obliged to rely first on observation and experience in moral judgment. Second, this distinction guarantees the moral autonomy of the individual; meaning that humans are no longer obliged to follow the moral commands of religious institutions or facts as matters possessing intrinsic value, but must themselves choose their own values and moral commitments. This interpretation, according to John

Gray, is one of the focal points of the liberal tradition that considers individual freedom and autonomy as the basis of the moral order (Gray, 1995: 37–39).

1.3. Self-ownership: Here, the term "self-ownership" is used in its liberal sense of owning oneself, which differs only slightly from the concept of self-sufficiency. From the seventeenth century onward, in line with interpretations of the core idea of individualism, we encounter the concept of "ownership"; a concept that considers human life as his own property, it "belongs" to him. This life is the exclusive property of the individuals themselves, and has no connection with God, society, or the state; the individual can treat it in any way he wishes. The concept of the individual as the owner of himself is clearly evident in Locke's views. Due to his mastery over himself, man has considered ownership of himself and his actions and labor as the great foundations of property within himself. Locke was not the first person to propose this concept; Richard Overton, a Leveller pamphleteer, had expressed the same idea even 30 years before him. Therefore, the ownership of material property is essentially an expression of that person's ownership. Even if someone has no material property, he still owns his body, skills, and labor (ibid.: 38-39).

1.4. The Individual as an End and Others as Means: In individualism, what is important is the individual himself; the individual is the goal, and everything leads to him. Therefore, within liberalism, which is individualistic, there exists a strand that emphatically claims the natural self-worship of the individual, and as a result, as Wolff has rightly pointed out, it tends to regard other individuals not as ends but as means to achieve its own goals. Hence, Kant also states that every human being must be considered as an absolute end in himself and not merely as a means to achieve some external purposes, and the principle of respecting humans as ends in themselves is often considered one of the fundamental principles of liberal individualism. This is why individuals pursue their own interests. And the personal interests of each individual promote the interests of society and lead to its flourishing (ibid.: 47-49).

1.5. The Sovereignty of Desires: Autonomy is one of the fundamental principles of individualism. In liberal individualism, human behavior is considered to stem from his natural desires and wishes that emanate from within and are guided by reason. Therefore, human actions are rooted in individual desires that are often selfish, since the individual seeks pleasure, happiness, and the satisfaction of his own wishes. Bentham also believed that whatever an individual desires is, at least in his view, "good," and Hobbes considered the duty of politics and ethics to be creating conditions where these desires do not lead to insecurity and the collapse of order. In this regard, each individual has as much right to pursue his desires as another, but social rules must prevent their conflict. From a liberal perspective, the real desires of humans are those expressed and reflected in his actions and should be respected; ignoring them signifies an elitist and anti-democratic tendency (Arblaster, ibid.: 44).

Discourse Four: Natural Rights

Natural rights as a philosophical and legal concept have deep roots in history. This concept has continued from ancient times to the present day and has undergone many transformations, the first traces of which date back to the ancient period, and at various points in history, natural law thoughts have combined with philosophical, religious, and social ideas and experienced various interpretations. The influence of natural rights in the formation of legal theories and the establishment of legal systems has been very extensive, and in the contemporary era, natural rights as an international principle and human rights as a tool to guarantee the fundamental rights of individuals in global societies have attracted attention. This concept has advanced through various developments and evolutions in legal and political thought, and its impacts on the formation of the world's legal systems are clearly evident.

1. The Concept of Natural law: The theory of natural law has an ancient and old history that, throughout historical periods, has flowed among thinkers in various forms. It is a concept that refers to rights that are inherent, inalienable, and based on human reason and nature, which originate from human nature itself, and accordingly, humans carry them as part of their being. Philosophers and sages have made it the

foundation and basis for the grand and lofty edifice known as human rights. This theory can be divided into two groups: classical (traditional) and modern.

1.1. Classical and Traditional Concept: In classical thought, Greek philosophers such as Socrates, Plato, and Aristotle considered natural law as arising from human nature and introduced it as complete, beneficial, and superior to positive laws (Hashemi, 2021: 178). In the Roman tradition, Cicero was one of the most prominent theorists of natural law, describing it as the "true law" arising from common sense and in accordance with nature; a universal, eternal, and unchangeable law that no human legislator's will can invalidate (Freeman, 1994: 130-131). According to the traditional interpretation, the characteristics of natural law are as follows: its rational and innate nature, which humans comprehend with their reason; universality and transcendence of place; stability and immutability; superiority over human laws and consequently the invalidity of any provision conflicting with it; and finally, an intrinsic connection with nature and human ethics, which reveals the extra-contractual and meta-positive origin of natural law. Thomas Aquinas, the prominent Christian theologian and philosopher, is considered the most important reviver of natural law thought in the Middle Ages. His main concern was to provide a framework for explaining the place of revelation and reason in the normative system. The result of this effort was acknowledging an important role for human reason in the process of social norm-making. Aquinas divides law into three categories: first, "divine law," which is communicated only through revelation to prophets; second, "natural law," which is eternal, universal, and in accordance with human nature, and all humans have the ability to understand it through reason; and third, "human or positive law," which is the product of human practical reason for ensuring social order. However, these laws are valid only when they are consistent with divine rules and natural law. According to him, even the justice of human laws depends on their conformity with natural law, and any serious conflict with divine laws is unacceptable (Dawson, 1969: 76-78).

1.2. The Modern Concept of Natural Law: From the seventeenth century onward, natural law took a secular and non-religious path. Hugo Grotius is considered one of the most important theorists of this transformation; because he believed that natural law is valid and attainable even in the absence of God. According to him, natural law, like mathematical rules, is independent and immutable, and positive laws must follow it. Grotius considers natural law to be the dictates of reason that determine the compatibility or incompatibility of actions with the rational and social nature of humans. However, he does not accept the right to rebel against sovereignty and prioritizes security over freedom; a view that is more compatible with utilitarianism than with the tradition of natural law (Ghorbannia, 2004: 42; Fatemi, *ibid.*: 93). Thomas Hobbes also introduces the right to self-preservation as the most important principle of natural law. According to him, every individual has the right to use any means to preserve their own life. Hobbes distinguishes between two types of freedom: natural freedom, meaning the absence of external obstacles, and civil freedom, meaning the ability to do things that the sovereign has not prohibited (Arblaster, *ibid.*: 103). He considers peace to be a law of nature that is achieved only through a social contract, and individuals are forced to relinquish some of their rights to attain it (Hobbes, 2008: 196-198). John Locke, also emphasizing the law of nature, obliges humans to preserve themselves and others. From his perspective, the most important natural rights are: the right to life, liberty, property, and resistance against oppression. Locke emphasizes the natural freedom and equality of all humans and recognizes the legitimacy of resistance and even changing the government if it deviates from public goals. In his thought, one can observe traces of the right to political self-determination (Leo Strauss, 1994: 241-242; Fatemi, *ibid.*: 95).

2. The Principles of Natural Law: The principles of natural law are a set of ethical and legal principles that, from the beginning of the thoughts of prominent philosophers to the present day, have served as a basis for discussing and formulating human rights and the legal systems of the world. These principles, including the right to life, liberty, equality, and property as fundamental human rights, are the starting point for dialogue to establish just societies based on respect for individual rights. This discussion is influential not only in the field of human rights but also in the domains of philosophy, ethics, and politics.

2.1. The Right to Life: The first and most fundamental right for humans is the right to live. This absolute right is the foundation of all human rights and carries the consequence that none of the other fundamental human rights or values can take precedence over the value of life (Fatemi, 2017, Vol. 2: 29). Considering the epistemological foundations of Western thinkers discussed in previous sections, the new conception of life includes both material and spiritual aspects. Factors such as race, gender, religion, and belief have no effect on the enjoyment of this right (Haghighat and Mousavi, 2021: 117). Therefore, the right to life is considered an inherent and natural right of humans and the basis of all human rights, because all rights depend on the existence of the human being themselves, and without it, no right has meaning or significance for a person (Motameni, 2003: 40).

2.2. Freedom: A human who can live based on the desire for self-preservation can also, on the same basis, choose how to live and the necessary means for it. Consequently, they possess a kind of absolute freedom (rationalism) regarding their way of thinking and behavior. Freedom, in one sense, means the absence of restrictions and obstacles to achieving human desires; provided that it does not conflict with another's desire for the same thing, and from another perspective, it is the ability to make decisions without the interference of others, which means that everyone is their own master (Haghighat and Mousavi, *ibid.*: 117).

2.3. Equality: The sameness of human individuals in natural desires and instincts, particularly in the desire for self-preservation and the removal of deprivations from oneself, gives rise to the natural right of equality. This principle of equality in natural law declares that all humans should be equal in the face of the laws and regulations of society, and no form of discrimination or privilege among members of society is acceptable (*ibid.*: 118). The main and fundamental basis for individual rights and freedoms must be found in the equality of humans; until complete equality in all respects is established among individuals, it is impossible to achieve social justice, fraternity, and freedoms in society. Social differences, in whatever form, pave the way for oppression, aggression, and tyranny, and make all the principles covered by human rights impossible. Unfortunately, the history of human individuals in this regard has been very dark and bleak (Hashemi, 2021: 219-220).

2.4. Property: One of the fundamental principles in the theory of natural law is the right to property; a right based on which an individual can have control over the fruits of their own labor and effort. This right initially pertained to material assets, but in the contemporary era, it has expanded to the domain of intellectual property as well. The continuity of life and human security depends on the possibility of possession and utilization of essential resources and tools, and this very necessity forms the foundation for the emergence of the right to property. John Locke, in his "Second Treatise of Government," clearly explained this right and considered its protection the most important goal of forming civil society and government; because, in his belief, property in its broad sense includes life, liberty, and estate, and without the protection of government, these fundamental rights will not be guaranteed (Locke, 1988: 65). Based on this very viewpoint, natural law thinkers believe that all laws and social contracts must be founded upon such rights, and none of them should lead to the violation of these principles. In contemporary human rights literature as well, the right to property has been considered as part of fundamental human rights and analyzed among the essential theoretical foundations of human rights (Donnelly, 2013: 42; Beitz, 2009: 56).

Discourse Five: Contractualism

Contractarianism as one of the theoretical foundations of human rights plays a very vital role in promoting and preserving human rights and freedoms. This theory emphasizes the importance of the concepts of contract, agreement, and the will of the parties in formulating and realizing human rights. Contractarianism is a topic that explains the obligations of the parties in contracts, respect for individual rights, and the guarantee of the execution of these obligations, and it strengthens the theory of human rights based on the free will of individuals. This theory means the influence of the mutual will of the

parties in the formation of laws and legal measures based on bilateral agreements. In this context, contractarianism clearly emerges as a fundamental concept in law and legal ethics, because every contract is based on the free will of the parties and their obligations are precisely determined and executed. The norm of human rights can be justified within a contractarian framework. The justifiability of the idea of contractarianism itself is based on the recognition of the right to self-determination and individual autonomy. Individuals have the right, based on a collective contract, to agree upon norms in a specific and definite manner and to determine them as fundamental human rights (Fatemi, 2019: 108).

1. The Nature of Contractarian Theory: In contractarian theory, the social contract is considered the sole origin of rights; meaning that rights gain meaning after the formation of society and do not exist without it (Haghighat and Mirmousavi, *ibid.*: 151). Unlike natural law, which relies on "human nature," contractarians emphasize historical experience and human will. In this view, rights are not discovered but are constructed and fashioned by contract, and this causes human rights to be understood in a "secular" and relative manner (Javid, 2013: 71–74). The history of this thought dates back to ancient Greece, but in the seventeenth century, it took on a modern form with the works of Hobbes, and then Locke and Rousseau. According to these thinkers, the social contract was not a real event but a hypothesis that forms the basis for establishing political society and the legal system (*ibid.*: 72). Based on this perspective, the individual is not inherently a rights-bearer and only in society and through the contract becomes a bearer of mutual rights and duties. According to Fatemi, this hypothetical contract can serve as the basis for providing welfare and universal happiness—even for those who did not participate in the contract—by recognizing fundamental human rights such as the right to self-determination, the right to a minimum standard of living, and the right to a human life (Fatemi, *ibid.*: 108).

2. The Evolution of Contractarian Theory: Contractarian theory has followed a winding path throughout history. Its roots can be found in the thoughts of ancient Greece, particularly among the Sophists and Glaucon's discourse on the origin of justice and injustice. After a long hiatus, this theory was revived from the seventeenth century onwards in the works of philosophers such as Thomas Hobbes, John Locke, and Jean-Jacques Rousseau. Contractarians were skeptical of founding moral and political power on divine will or human perfectionist ideals and emphasized the role of human agreement in political legitimacy. Later, philosophers such as Kant also continued this path, and in the contemporary era, John Rawls is considered the most important theorist of the social contract (Gauthier, 1986: 306-309). The course of this theory shows not only philosophical changes but also its adaptation to the evolving needs of society; such that concepts such as natural rights, popular participation, and the guarantee of freedoms gradually found a place within the framework of the social contract, making it one of the main foundations for understanding rights and sovereignty in the modern world.

2.1. Thomas Hobbes (1588-1679): According to Thomas Hobbes, humans in the "state of nature" are roughly equal in abilities, but this very equality leads to competition, mistrust, and conflict, creating a situation of "every man against every man" which he describes with the famous statement ("man is a wolf to man") (Hobbes, 1996: chs. 13–14). The way out is the "social contract": individuals, by surrendering their power and transferring transferable rights to a common "sovereign," create a supreme power to guarantee security and order; this political power is the "Leviathan," which can take the form of a monarchy or an assembly of individuals (Hobbes, 1996: ch. 17; Tuck, 1989: 42–47).

Hobbes considers the sovereign's powers to be extensive and in many areas "absolute," because only overwhelming authority can prevent a return to natural chaos; however, this absoluteness is not equivalent to unconstrained despotism, as some "non-transferable" rights remain—especially the right to self-preservation—and the individual even has the right to resist a command that directly threatens his life (Hobbes, 1996: ch. 21; Skinner, 2008: 159–162). Therefore, in Hobbes's system, the main distinction between the type of sovereign (individual or collective) is of secondary importance; what is fundamental is the "unity of political will" to guarantee civil peace (Tuck, 1989: 51–55). Abbasi Lahiji also presents the aforementioned interpretation within the framework of the theoretical foundations of human rights

and emphasizes that even the powerful Hobbesian sovereign cannot violate the inherent right to life as an inalienable right (Abbasi Lahiji, 2022: 43–44).

2.2. Locke (1632-1704 AD): According to John Locke, the social contract means the foundation of civil society and the establishment of a legitimate government, not the establishment of fundamental rights and freedoms, because these rights are rooted in "natural rights." Like Hobbes, he uses the social contract to justify government and believes that in the state of nature, all humans enjoy equal rights and freedoms; a right that is inherent to human nature. For this reason, humans can freely benefit from their lives and property (Movahed, 2017: 170). Locke places special importance on property. According to him, the product of human labor is part of his personality, and therefore, an individual's appropriation from nature creates private property. But since assets in the state of nature are exposed to threat and insecurity, reason dictates that humans join the social contract to preserve their rights. The fundamental condition of this contract is the acceptance of the majority rule and the formation of a government that is a trustee of the people and acts to protect and safeguard them. Such a government, as long as it remains committed to its obligations, possesses the necessary legitimacy and authority (Movahed, 2017: 171).

2.3. Jean-Jacques Rousseau (1712-1778): Jean-Jacques Rousseau, following Hobbes and Locke, pursued the discussion of the social contract and explained it based on the inseparable rights of individuals. According to him, individuals surrender their rights to society as a whole, and the result of this surrender is the "general will"; a will that is not merely the sum of the wills of representatives or the majority, but an independent and general will that should govern individual wills. In this framework, the true rulers are the people, and they can resist autocratic monarchies. Rousseau emphasizes that whenever a law is proposed, the main question is not its acceptance or rejection by representatives, but the degree of its conformity with the general will. The general will is legitimate only when it emanates from all and is applied for all, but if it serves private interests, it will deviate from the path of justice (ibid.: 183–184; Rousseau, 1997: 23-27). David Hume, a contemporary of Rousseau, had a more critical view. He challenged the social contract theory, which was based on the rational nature of humans, and argued that reason alone cannot create motivation for action. According to Hume, reason only shows the value of things and the path to achieving goals, while human desires and internal motivations, arising from interests and natural inclinations, are the real drivers of behavior (ibid.: 184).

2.4. Kant (1724-1804): According to Kant, human dignity, in the sense of respect for the inherent worth of human beings and the observance of fundamental human rights and values, is achieved through rationality (Hill, 2000: 228). In fact, Kant's primary effort in moral and legal philosophy is to provide doctrines obtained through a purely rational process. In Kantian ethical discourse, an action based on "free will" and accompanied by "good intention," which is rooted in individual autonomy and performed without considering sensual desires and personal selfishness, will be considered moral (Fatemi, ibid.: 110). Kant bases the moral foundation of human rights on a kind of contract. He speaks of the "universal law." By this term, he means the agreement of human beings based on their rationality and reason on the moral values they accept. According to Kant, humans are not considered instruments; rather, they themselves are an "end" or an "end in themselves." In his view, a human possessing reason, because they have free will or, in other words, based on the human being as an end in itself, has an equal right to choose oughts and ought nots, values and norms, and the right to self-determination in interaction with other humans, and can distinguish good and bad, right and wrong, and establish the ethics and laws of their own society. The reality is that the theoretical and moral foundations of human rights in the contemporary world are indebted to Kant's moral theory. Kant, as one of the greatest moral philosophers in history, finds the foundations of human rights in human rational will. Believing in a special connection between reason and morality, he introduced human rights as rights independent of religious validations. Kant believed that humans, by possessing reason, have a special capacity for intelligent decision-making. He portrays human rational will as the main foundation of human rights. This allows humans to form their own moral values and create laws that are consistent with these values. Therefore, Kant believes that humans have the responsibility to use their will and reason to create moral values and form legal systems.

This view justifies human rights as rights that originate from human rational will. Thus, human rights, as an institution dependent on human rational will and decisions, are capable of guaranteeing the values and moral principles that humans care about (Kant, 1993: 41).

John Rawls (1921-2002): John Rawls can be considered as the reviver and new interpreter of the Kantian contractarian approach. Human rights in the Kantian view should be considered within the framework of John Rawls's theory of distributive justice. Rawls's theory of justice is actually a theory in the field of distributive and social justice that revolves around equality and freedom. Unlike Hobbesian contractarianism, which accepts the importance of humans due to their exploitation or harassment of others, Rawls believes that the moral importance of humans is due to the existence of the human being itself (in itself). For this reason, our behavior should be based on the principle of equality with others. Although we have an initial intuition about equal treatment towards humans, these intuitions are vague and we need an appropriate method to determine the precise meaning of justice and equal treatment of individuals. Based on Rawls's view, the idea of the social contract is one of the appropriate methods for determining the precise meaning of justice. Therefore, Rawls's theory of social justice is actually a continuation of the social contract tradition of theorists such as John Locke, Rousseau, and Kant, with the difference that Rawls, instead of the state of nature, speaks of a hypothetical original position in which the principles of justice are chosen by rational human beings (Fatemi, 2017: 12-13).

Summary

In this writing, the theoretical foundations of human rights were examined, and the components and characteristics of the theoretical foundations of the charter of human rights were, in a way, identified. The initial discussion was humanism, where humans were presented as the origin of knowledge; in other words, humans are at the center of thoughts and reflections and are exempt from connection with divine commands, this connection freeing them from the dominion of the Church. Humanists spoke of freedom, the primacy of reason, individualism, naturalism, and also the importance of the human place in law and values. This perspective on humans and their place created significant transformations and led to the formation of schools such as individualism and rationalism. The overall result of these discussions ultimately emphasizes the validity and values of fundamental rights and human dignity. This principle is observed as the central concept and most fundamental principle in the charter of human rights. Subsequently, the discussion of rationalism and its characteristics, which is itself one of the characteristics of humanism, was addressed. This discussion refers to the emphasis on human reasoning ability as a solid foundation for human rights, which is defined as logical thinking and also refers to human goals and purposes. Rationalism was accompanied by characteristics such as inclusiveness, naturalism, and scientism, where inclusiveness meant the conquest of reason in all human domains, naturalism also presented a new image of nature and replaced the purposeful and spiritual image of medieval nature. Scientism or scientific rationalism dealt significantly with scientific knowledge and belief in empirical results obtained from the scientific method. This approach, relying on science, led to extensive changes in viewpoints and attitudes, bringing about transformations such as the defeat of the Church and the Reformation movement. This view described humans as a superior being possessing the power of reason and accepted the right to choose as a result of these capabilities. Consequently, rationalism is introduced as a strong basis for justifying human rights. The next discussion was dedicated to individualism. In this approach, the individual is seen as the most real and fundamental unit in the legal system, and legal and moral validity is accorded to them more than to communities and institutions. Individualists believe that human rights originate from the fundamental and natural rights of the individual, and each individual is recognized as an independent unit possessing their own specific freedoms and rights. This approach has characteristics such as the separation of humans from each other, the separation of humans from the world, self-ownership, emphasis on the individual as an end and the role of others as means, and the sovereignty of desires.

Subsequently, the discussion of natural rights as one of the most important theoretical foundations of the charter of human rights was addressed. The concept of natural rights has appeared as a theory with ancient roots in the history of culture and human nature. This theory indicates the existence of rights that originate from human reason, nature, and instinct. Greek philosophers such as Socrates, Plato, and Aristotle introduced natural law as complete, correct, and universal laws. Cicero, the Roman philosopher, described the theory of natural rights as true, beneficial, and eternal law and considered it superior to positive laws. The characteristics of natural rights include being rational and innate, transcending time and place, stability and immutability, being a standard, and conforming to human nature. In the view of Aquinas, the Christian philosopher, natural rights were explained in the form of three groups: divine law, natural law, and positive law. He pointed to the prominent place of human reason in norm-setting social relations and emphasized the conformity of human laws with innate and divine rights. From the seventeenth century onward, the concept of natural rights evolved and transformed from a religious root to a non-religious one. Theorists such as Hugo Grotius connected natural rights with custom and the achievements of the Enlightenment period. This new theory considered natural rights independent of divine existence and aligned them with scientific and rational principles. In this context, John Locke joined the concept of natural rights and considered fundamental human rights to include the right to life, liberty, equality, and property. The principles of natural rights, as establishing ethical and legal foundations, are an important topic in the field of human rights and global legal systems.

Finally, the theory of contractarianism was discussed in this writing. Contractarians believe that rights obtain their existence only through social contracts and without society, rights have no meaning. Unlike the theory of natural rights, which speaks of a hard core in human nature, contractarians, instead of attributing validity to human essence and nature, emphasize historical experience and voluntary contracts. This view deals with experience instead of nature, history instead of genesis, will instead of compulsion, and creation instead of discovery. The theory of contractarianism is presented as a hypothetical contract that determines human rights through the agreements and contracts of citizens. In this view, human rights are considered secular and changeable rights and are relative compared to natural rights. This view pays more attention to the establishment of political society and sovereignty based on contract and can lead to an emphasis on security over justice.

Conclusion

Therefore, with the details and results expressed in this research, the author concludes that these schools of thought and ideas have played an important role in shaping the principles present in the charter of human rights. The Universal Declaration has drawn inspiration from philosophical foundations and ideas. The author believes that the extracted characteristics common among these theories are: 1. They are inherent, meaning that humans enjoy them simply by virtue of being human; no condition other than being human is necessary. 2. They are equal and uniform, meaning all human beings enjoy them equally. 3. They are inalienable, meaning they cannot be taken away from humans and are an integral part of being human. 4. They are universal and have a transcendent nature beyond time and place; they are not limited or confined to a specific time period or geographical area and apply to all individuals regardless of cultural, social, or political differences. 5. Human dignity; all these theories emphasize the value and dignity of every individual and form the foundation for the protection of rights. 6. Freedom; emphasis on individual freedoms and the right to choose without undue interference. 7. Justice; support for a just society where individuals are treated fairly and their rights are protected within a legal and ethical framework.

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