

### **1. Who is "*human*" in the concept of modern human rights?**

As Kant said What is human being ? It is obvious that to determine this question can help in order to define his rights in life. Actually, modern concept of HR has developed over three centuries though its history began with the birth of the first mankind. In 17 th century ,the science era, and in its following during Enlightenment period by emerging of Natural Laws and then natural rights derived out of it regarding the School of Natural Law, human rights is considered as rights coming out of natural law due to human nature. As human owns specific nature different from other creature, body, temperament, Fitra and Reason or intellect as the balace maker among all nature elements , therefore in this regard human rights are equal natural rights on the basis of Natural laws for him. These rights for human are not inalienable rights since human have from birth. The declaration of Independence in America in 1776 was subject to any political, legal or religious systems. These rights are for human with no distinction of his color, gender, sex, nationality and etc. According to Philosophy of Natural law human rights are the one bestowed on human through his nature as a human. Fixed perpetual which do not differ in times of war or peace. But it is related to the subjective and individual aspect ; however, human rights has another aspect from collective or as citizen.

The true reflection of natural rights view although was in 1789 French declaration of human rights and citizen. It is the fact that French declaration didnt distinguish between human and citizen. Natural rights of human referring to the individual aspect of this narrative but in collective regards, it is objective rather than subjective, also rights of human as citizen with the support of State in responding and meeting their needs which only in this regards, rights of them is citizen rights privileged by State may be accompanied with some positive affirmative relating to the degree of being faithful of citizens according to the Principle of Loyalty to that State. Mostly, human in modern better to say post modern concept of human rights according to my theory in relativity in citizenship rights is Citizen . Human is viewed as citizen , it can be adopted to the duty of addresse of HR treaties , States are the addresse for meeting human and in their own territory border, civil rights inside of the country .Natural rights concepts reflected in American, French revolution and in Bill of rights. After world war two due to disaster happened to the dignity of human, the issue of HR in aspect of natural law and the natural rights revived due to responding many utilitarian states on that era of history. But as mentioned after post war time, utopian view to reaching the international utopian community emerged though not accomplished up to now , it is thought by respecting and caring citizens' rights within a democratic aspect of state and government. It can be possible to reach some day a united community that HR become governed on that. But todays life HR is within the border vof a country in rgards to Citizenship rights. As

seemed HR standards with the practice of legislation and mentioning them in Constitutional Law, has turned into new perspective , Citizens Rights which Iran passed the Charter of Citizen rights almost recently.

Without human understanding , knowing his rights cannot be possible. Human in regards of religion of Islam is the creature created by God Almighty as his creator. But human as a creature owns intellect or reason with the potentiality of authority and decision making. As Plato stated human is a creature has roots in soil and head in the heaven. This is a two dimensional creature that his soul and body are integrated to each other.

**2. How is carried out of the protection of a right which is not regulated in the Constitution in your legal system? What kind of balancing is done when a right uncouncted in the Constitution is conflicted with a constitutional right?**

Natural rights or in other words human rights relating to human nature in perspective of natural law is vast and infinite , it must be discovered . As England doesnot have Constitution because they believe this philosophy behind that rights are limitless and cannot be exactly mentioned and enumerated one by one within the positive frame work. I think perfection even in legal aspect just like philosophy is a process- based and passage of time is healing. Time is healing to create customary law and then positive legalisation in order to protect. In my view, rights must be discovered and then legislation must be in parallel with natural law. Every law(positive law) must be in parrallel with natural law to be permanet. All laws and positive one should be based on natural rights and law in order to be called Universal. This aligning and in parallel relationship can result in the root and true foundation of all rights, that particularly are not pluralistic and infinite because are viewd as the mother rights or stem rights.

**3. Do International Human Rights Documents applied in your country represent minimum standards that are already provided or the must-reach aims? Are there any regulations in your legal system above international human rights standards? If there are, would you please explain?**

HR standard mentioned are positive law can be changeable if the agreement on that according to contractualism idea changes. The true Human rights or human natural rights are fixed and truly higher than any law even all other law such divine or jurisprudence and cannon and positive law within a society must be in aligning with Natural Law or natural rights . These law and rights in Declaration of HR are positive contractual that are the minimum and must be in harmony with natural law. Islam and divine law in islam are based on human law and nature which we think Islam accepts the theory of Natural

Law. As natural law rooted in human creation by God and then human rights are fact.

In my idea HR in Universal Declaration is based on contract which possibility of its change is certain from society by society and in different time. But God's provision is the fixed as he is the creator of the nature and natural law. So islam as the source of law is higher than any other law. Iran governance is Islamic Republic , so I think it had higher standard which never changed. Although islam has Sabat or fixed law and Moteghayat or changeable.

**4. In your legal system, is the jurisdiction an actor itself to move forward human rights standards? If it is, would you please explain?**

According to Limburg principle and Paris agreement for creating National institutions to protect human rights, as it must be free and independent from the other power branch I mean executive , judiciary and parliamentary, we have a council to protect , called institution of HR but under the provision of judiciary branch although from the legal point it is interpreted as the higher institution than all branches so its nature is far beyond three branches and required the three branches to prepare all HR report respecting in their jurisdiction in order to prepare a transparent report for UPR.

**5. Are there values and issues in your country that are not covered by human rights documents but need to be protected under the concept of human rights? If your answer is yes, would you please explain?**

Of course yes. We believe HR designed by the west and through the western values and its own specific experience in its philosophy. Iran and Asia have a deep and ancient history with greater values must be seen and regarded. So possibility of a value based declaration according to the values of Asian even with vast diverse value has been ignored by the HR treaties designer. Though muslim countries had influence on designing and moderating some Articles . But it is surely values of east that philosophy origins there , must have been regarded.

Of course, international documents of human rights these days have been impacted by the culture of west but don't forget that all documents are the result and fruit of an only unique narrative of fundamental rights and natural rights of human being. However, this much also sounds sufficient and enough. Ignoring human religion backgrounds and historical records of [them](#) [in](#) the east esp Mesopotamia seems the very annoying issue. For instance , see the charter of human rights of Cyrus the great in ancient Iran or the charter of Medina in time of Prophet of islam in order to ponder and grasp human rights has a deep rooted background even older than the western interpretation of it.

**6. Are there such human right regulations in the legal system of your country that are protected by the constitution but contradicts social reality and justice?**

Law comes out of society needs and realities. For sure any positivism law which is implemented within a society comes from the realities from the specific society norms and values. As I said by differentiating the positive human right and real natural human right , there must be found some contradiction for sure . But from natural law philosophy and islamic point of view , adopting positive law in a society based on divine law and natural law can gaurentee human rights respecting in that society.

**7. Are there any social realities contradicting international human rights concept based on individualism?**

Everything opposed to natural rights is the deviation of Natural rights or Human rights. For instance, these day one of the concerning matter in most of societies even religion based one is the matter of freedom marriage of Homosexuals. Homosexuality is against natural law it is a deviation in interpretation of reality of the human rights or natural rights. Every thing out of the natural law or tendency , or instict and nature of human rights rooted in his nature is not the subject of human right or human nature. As HR Declaration reflects natural law as its foundation of Philosophy. Although their rights to health and physical integrity protection are respected. Because their status raised up the sensitivity of their health care .

**8. In your legal system, are there legal mechanisms to protect human rights if fundamental rights are violated by private persons? Are these mechanisms effective?**

As national mechanism is more effective than even regional or universal , since limburg principle offers establishment of national NGO or commission on protecting HR, iran tends to create national institution as it must be engered trough a decree or bill of parliament, so there is a temporary entity now under supervision of judiciary branch . But as limburg and paris agreements mentioned this entity must be independent of any other branch till reach to impartiality and true justice , so new dealing has been done to create an entity with the mixture of executive and judiciary in iran because complainants must be received by the judiciary so they hold themselves competent on the other side, the executive branch aquires such opportunity due to President ' responsibility to supervise the execution and implementation of constitutional principles in society. So, the great effort till now has done hopefully . And charter of citizens rights by mentioning the whole citizens' seem the phenomenon in respecting HR in an.individual and collective levels.

**9. Are there groups in your country who have their own national, ethnical, religious and linguistic identities? Could you please give some information about them (especially if you feel yourself one of them)?**

Iran as an integrated islamic country respected the rights of other majorities such as Judaism, Christians and Zoroastrian, which their rights are respectful by the Constitution in Iran. And recently their participation in city council has been respected, as well which is a great movement about respecting them more. Also tribes and ethnicities like Kurd, Balouch , Turkish and Arabs that in their education teaching by their own language is acceptable in Iran. And also their parents have right to upbringing them according to their own formal religion. To add up ,formal religion respected by Iran Law are Judaism Christianity abd Zoroastrian which their believers have this rights to bring up their children based on their religious values.

**10. What is the definition of the notion “minority” according to your constitutional system? What is your opinion on this concept? Do you think that minority rights should be protected broadly by the constitutional level? Do you think that constitutional regulations that would broaden the rights of minorities will solve the conflicts between majorities and minorities?**

In Islam, in this way; minorities of Muslim in other countries are under respect of the rule of that country. But Muslims as a majority in their own territory have their own rights and sharia however they respect the minorities rights. Minorities in islamic Iran are those have formal religions that islam and Iran recognize them . Such as Judaism, Christians and Zoroastrian. Therefore , these three enumerated in the Constitution of iran ,set in Principle 13 of the Constitution of Iran are recognized but in Principle 20 mentioned the equal rights for all people in the nation both men and women. In principle 26 freedom of syndicate abd political, and etc are determined for minorities. In Iran country, for these group some positive affirmations have been accomplished and presupposed for them according to the Constitution, thus some defenders of justice and equity believe this affirmation toward minorities is the cruelty to the majority of Muslims in their own nation.

**11. What do you think on the notion and the concept of minority rights in international law? Could the international regulations/treatments be a response to the reality and problems of the peoples in your country? In other words, do they cover the reality in your country from the view of the state and the view of peoples?**

There are diferent ideas about the rights of minorities or as it was called before "indigenous right" . It seems mentiong the word minority by itself at first

glance, depicts the discrimination and discriminatory view as HR declaration rejects any sort of discriminatory thoughts and ideas. So that it seems on the other side mentioning their rights can be the guarantee of protecting theirs more. The philosophy of majority and minority is democracy and good governance by the acceptance of the majority of elitism or the most eminent. Also society with different ideas has synthesis. Thesis, anti thesis causing synthesis. Society with one hand can not clap loudly.

**12. What you think is the most current human rights problem in your country?**