



A Critical Analysis of 'Al-Miḥwar': *Maqāṣid al-Al-Syarī 'ah* as the Islamic Alternative to Human Rights

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Abstract

Research Objective: The discourse of Islam and human rights, focusing on the role of *Maqāṣid al-Syarī 'ah* as an alternative framework for understanding Islam's perspective on the intrinsic inviolability of human beings, through a critical evaluation of *Al-Miḥwar*'s treatment of *ḥuqūq al-insān*. **Research Method:** A qualitative, library-based critical-textual analysis was conducted on the primary text *Ḥuqūq al-insān Al-Miḥwar Maqāṣid al-Syarī 'ah*, an anthology comprising three independently authored chapters by Shaykh Aḥmad Raysuni, Shaykh Muḥammad Al-Zuḥaylī, and Shaykh Muḥammad 'Uthmān Shabīr, triangulated against classical *Maqāṣid al-Syarī 'ah* scholarship and contemporary human-rights-theory literature. **Results:** *Al-Miḥwar* highlights a clear distinction between *ḥuqūq al-insān* and 'human rights' as separate concepts, and contends that *Maqāṣid al-Al-Syarī'ah* provides a solid foundation for identifying and safeguarding the intrinsic inviolable aspects of human beings, surpassing current human rights discourse. **Findings and Implications:** *Al-Miḥwar*'s central claim that *ḥuqūq al-insān* and human rights diverge because they proceed from irreconcilable sources of authority is found defensible and consistent with classical *maqāṣid* scholarship, while three areas requiring further development are identified: the consequences of this divergence, *Al-Miḥwar*'s relationship with international human rights law, and the precise linguistic construction of *ḥaqq* relative to 'rights.' **Conclusion:** *Al-Miḥwar* constitutes a substantial scholarly contribution, positioned to serve as a pivotal center (*Al-Miḥwar*) for advancing discourse and formulating an authentic Islamic alternative to human rights. **Contribution:** Beyond summarizing *Al-Miḥwar*, this paper offers the first sustained critical engagement with the book in English-language scholarship, demonstrates the analytical value of classical Arabic lexicography for explaining rights-duty relations in Islamic thought, and identifies concrete directions for future research. **Limitations and Suggestions:** As a qualitative, text-based critical analysis of a single primary source, this study does not empirically test the reconstructed *ḥuqūq al-insān* framework in applied legal or policy settings; future comparative and socio-legal research is suggested to pursue this.

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Introduction

The Islam and human rights debate has been a long-standing and controversial discourse, with many scholars concluding there are large similarities and some reconcilable differences, such as Mashood.¹ Other works seem to explain that Islam has its own notion of 'human rights in Islam' different from that of its Western counterparts, such as the 1990 Cairo Declaration of Human Rights in Islam; also, scholars like Maudoodi.² Some, to various degrees of extremity, explain that Islam should abandon some of its norms in the face of modernity, like Afsah.³ Such an approach is heavily criticized for embracing colonial legacies and applying Western-secular methodologies to 'reinterpret' Islam.⁴

A different approach suggests that the notion of human rights (originally a product of Western liberalism) is fundamentally incompatible with Islam, as held by some scholars such as Khan.⁵ and Kasule.⁶ Rather, Islam has its own original alternative whose foundation and structure are not dictated by Western human rights, albeit potentially incorporating some elements of them.⁷ More recent scholarship has continued to develop this debate. Abdullahi Ahmed An-Na'im has argued that a genuinely Islamic normative order is better secured through a secular constitutional state than through the state's coercive enforcement of *Shari'ah*, a position standing in direct tension with the traditionalist premise from which *Al-Miḥwar* proceeds.⁸ From a different angle, Mohammad Hashim Kamali has continued to develop a *maqāṣid*-based account of Islamic rights that, unlike *Al-Miḥwar*, explicitly engages with the vocabulary and instruments of international human rights law rather than rejecting it wholesale.⁹

Heiner Bielefeldt's work on freedom of religion or belief has, meanwhile, documented in granular detail the points of friction between state-level implementations of *Shari'ah* and international human rights obligations, providing an empirical

¹ Mashood A Baderin, *International Human Rights and Islamic Law* (Oxford: Oxford University Press, 2003).

² Syed Abul 'Ala Maudoodi, *Human Rights in Islam* (Islamic Publications Limited, 1976).

³ Ebrahim Afsah, "Contested Universalities of International Law. Islam's Struggle with Modernity," *Journal of the History of International Law* 10 (2008): 259–307.

⁴ Khaled Ramadan Bashir, *Islamic International Law: Historical Foundations and Al-Shaybani's Siyar* (Cheltenham: Edward Elgar Publishing Ltd, 2018), 8–13; Fahmi Salim, *Kritik Terhadap Studi Al-Qur'an Kaum Liberal* (Jakarta: Perspektif, 2010).

⁵ Zara Khan, "Refractions Through the Secular: Islam, Human Rights, and Universality" (Ph.D Dissertation, The City University of New York, 2016).

⁶ Umar Ahmad Kasule, *Contemporary Muslims and Human Rights Discourse: A Critical Assessment* (Selangor Darul Ehsan: IIUM Press, 2009).

⁷ Kasule, *Contemporary*.

⁸ Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a* (Cambridge, MA: Harvard University Press, 2008).

⁹ Mohammad Hashim Kamali, *The Right to Life, Security, Privacy and Ownership in Islam* (Cambridge: Islamic Texts Society, 2008).

counterpoint to the more doctrinal treatment found in *Al-Miḥwar*.¹⁰ Rume Ahmed has further argued that apparent doctrinal continuity in contemporary Islamic legal discourse often masks substantial methodological innovation, a caution directly relevant to assessing how far *Al-Miḥwar*'s authors are, as they claim, working within an unbroken classical tradition.¹¹ Despite this expanding literature, *Al-Miḥwar* itself, one of the more comprehensive traditionalist treatments of *ḥuqūq al-insān* published in the past decade, has not yet received sustained critical engagement in the English-language scholarship, a gap this paper begins to address.

In this study, we focus on the book titled *Ḥuqūq al-insān Al-Miḥwar Maqāṣid al-syarī'ah* (hereinafter, *Al-Miḥwar*), edited by the Qatari Shaykh 'Umar 'Abīd Ḥasanah.¹² This book is an anthology of three chapters authored by three eminent 'ulama: the Moroccan Shaykh Aḥmad Raysuni, the Syrian Shaykh Muḥammad Al-Zuḥaylī, and the Palestinian Shaykh Muḥammad 'Uthmān Shabīr, each contributing one chapter. These three chapters of *Al-Miḥwar* explain the foundations of *ḥuqūq al-insān* as an authentic Islamic term, rooted in the Islamic worldview, despite its common use as the Arabic translation of "human rights" (which is loaded with a Western-secular worldview). As the title suggests, *Al-Miḥwar* sets out to explain how *ḥuqūq al-insān* works as the *Al-Miḥwar* (center) of *maqāṣid al-syarī'ah*.

The *maqāṣid al-syarī'ah* is necessarily foundational to the *sharī'ah*. An essential part of our research is how it approaches the inviolable in human beings (hereinafter, we refer to this as 'inviolable things') and how they are constructed under the *sharī'ah*, because human rights also concern 'inviolable things'. As Recep Şentürk explains, these 'inviolable things' (in his term, 'ismah) are the Islamic equivalent of the 'modern' human rights in the sense that they are 'basic rights' and 'irreducible'.¹³ This research explores how *Al-Miḥwar* provides an alternative approach to said question.

In this study, we avoid translating *ḥuqūq* and *ḥaqq* as 'rights' and 'right' in English because of their distinct linguistic features in human rights discourse, which might lead to confusion. This reasoning is elaborated on in later sections. Nonetheless, we occasionally use 'rights' or 'right' as translations for *ḥuqūq* and *ḥaqq* when they intend to express the same idea. In this section, we examine traditional Islamic scholarship on *maqāṣid al-syarī'ah* and the concept of 'inviolable things'. Sometimes, we refer to works that do not directly address these topics but help clarify them indirectly, such as tafsīr or sharḥ texts discussing related issues. The term 'classical' is significant because it indicates these ideas were inherited by modern scholars before the Western concept of human rights emerged. It's crucial to start with classical Islamic sources to critically assess how *Al-Miḥwar*, as a scholarly work, continues the Islamic intellectual tradition in a context where human rights are now globally recognized as a kind of 'religion'.

¹⁰ Heiner Bielefeldt, Nazila Ghanea, and Michael Wiener, *Freedom of Religion or Belief: An International Law Commentary* (Oxford: Oxford University Press, 2016).

¹¹ Rume Ahmed, *Sharia Compliant: A User's Guide to Hacking Islamic Law* (Stanford: Stanford University Press, 2018).

¹² 'Umar 'Abīd Ḥasanah, ed., *Ḥuqūq al-insān Miḥwar Maqāṣid Al-Sharī'Ah* (Qatar: Wizarah al-Awqaf wa al-Shu'un al-Islāmiyyah, 1423).

¹³ Recep Şentürk, "Adamiyyah and 'Ismah: The Contested Relationship between Humanity and Human Rights in Classical Islamic Law," *Islam Araştırmaları Dergisi* 8 (2002): 45.

We then critically examine each of the three chapters in *Al-Miḥwar* to assess the extent to which they have benefited from classical scholarship and developed it in today's context, and to consider how they could be further developed. Our research concludes that *Al-Miḥwar* is, indeed, an important work that can serve as the *Al-Miḥwar* (center) from which to build further research to develop an Islamic alternative to human rights.

Methods

This study adopts a qualitative, library-based research design, using critical-textual analysis as its primary method. The principal data source is the text under review, *Ḥuqūq al-insān Al-Miḥwar Maqāṣid al-syarī'ah* (*Al-Miḥwar*), edited by Shaykh 'Umar 'Abīd Ḥasanah and comprising three independently authored chapters. Secondary sources include classical works of uṣūl al-fiqh and *maqāṣid al-syarī'ah*, such as Al-Syāṭibī's *Al-Muwāfaqāt* and Al-Āmidī's *Al-Iḥkām*, along with related classical and contemporary commentaries and the contemporary human-rights-theory literature engaged with throughout this paper, e.g., Donnelly, Stamos, Kasule, and Şentürk.

Data collection involved a close reading of *Al-Miḥwar*'s three chapters, extracting recurring arguments and themes categorized around three main topics: (i) the source and authority of *ḥuqūq al-insān*; (ii) its connection to international human rights law; and (iii) the linguistic and conceptual framing of *ḥaqq/ḥuqūq* compared to the English 'rights.' Each theme was cross-checked with classical *maqāṣid al-syarī'ah* scholarship to see how *Al-Miḥwar*'s arguments relate to tradition, and with contemporary human rights theory to evaluate the soundness of the critique and areas needing more support.

Analytical rigor was pursued through source triangulation, cross-referencing *Al-Miḥwar*'s claims against both the primary Arabic classical sources it draws upon and independent secondary literature in English and Arabic, and through explicit disclosure of the authors' interpretive standpoint throughout the Discussion, enabling readers to distinguish between the positions advanced by *Al-Miḥwar*'s authors and the critical commentary offered by the present study. A limitation of this design, revisited in the Conclusion, is that, as a qualitative, text-based critical analysis, it does not empirically test how *ḥuqūq al-insān*, as reconstructed here, would operate in applied legal or policy settings; this remains a direction for future socio-legal research.

Results And Discussion

This section presents the findings of the critical-textual analysis described above, organized into three parts. First, we set out the classical Islamic scholarship on *maqāṣid al-syarī'ah* and the 'inviolable things' that form the interpretive baseline for reading *Al-Miḥwar*. Second, we summarize and analyze the substantive content of *Al-Miḥwar*'s three constituent chapters. Third, we discuss the broader lessons and directions for further research that emerge from reading *Al-Miḥwar* in light of both the classical tradition and contemporary human rights theory.

The term *ḥuqūq al-insān* is hard to find in Muslim classical scholarship. This term is a contemporary invention, used as a translation for 'human rights' in the Arabic versions of international human rights instruments, such as the Universal Declaration of Human

Rights (1948). The closest in classical scholarship, in terms of wording, would perhaps be *ḥuqūq al-'ibād*, which means the *ḥuqūq* of the worshiper (i.e., humankind).¹⁴

The term *ḥuqūq al-'ibād* is usually discussed alongside *ḥuqūq* Allah in two contexts. The first concerns how public and private interests are balanced in various legal rulings, where *ḥuqūq al-'ibād* refers to private interests and *ḥuqūq* Allah represents the public interest. Anver Emon¹⁵ has made a survey of classical literature on this subject. This context in classical scholarship is not altogether irrelevant to the discourse of Islam and human rights, but it is not particularly useful to explaining the nature and construction of 'inviolable things' and the development of an Islamic alternative to human rights.¹⁶

The second use concerns Allah's *ḥaqq* as the only One deserving worship, linked to the Islamic view that humankind's purpose is 'ibādah (Qur'an, 51:56), encompassing all actions loved by Him, visible or hidden. Ibn Al-Qayyim stated worship alone doesn't fully fulfill Allah's *ḥaqq*; His mercy (rahmah) completes it, gained through good deeds aimed at heaven. This indicates that the 'end goal' of *ḥuqūq al-'ibād* is granted by rahmah to the deserving, not due to humans, as discussed in *Maqāṣid al-syarī'ah*. While Sharia relates to Allah's rules, its main purpose is to seek rahmah (mercy). Classical scholars established principles for fulfilling purpose and reaching heaven. Al-Juwayni (d.478 H) introduced 'ḍarūriyāt' (fundamentals), whose neglect hampers life's purpose and public order. Al-Syāṭibī (d.790 H) refined this into a hierarchy separating ḍarūriyāt, ḥājiyāt (needs), and tahsiniyāt (embellishments), shown in Figure 1. He divided ḍarūriyāt into worldly and hereafter categories, with failures harming both. Fulfilling the hereafter category is necessary for worldly necessities. Ibn al-Qayyim (d.751 H) said the world is a means to a successful hereafter, making these ḍarūriyāt necessities that are inviolable and most fulfilling in Islam.¹⁷

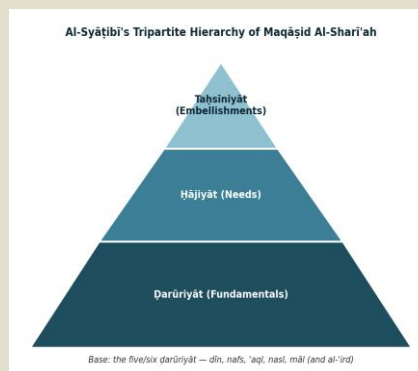


Figure 1. Al-Syāṭibī's Tripartite Hierarchy of Maqāṣid Al-Sharī'ah

¹⁴ Duman Saifullin, Samet Okan, and Askar Akimkhanov, "Women Rights from Islamic Perspectives: Navigating Rights, Challenges and Contemporary Perspectives," *Frontiers in Sociology* 10 (January 14, 2026), <https://doi.org/10.3389/fsoc.2025.1727894>; Masoumeh Rad Goudarzi, "Resolving the Conflict between Traditional Islam and Human Rights: A Comparative Study of Mahmoud Mohammed Taha's and Mohsen Kadivar's Views," *Critical Research on Religion* 9, no. 3 (December 12, 2021): 284–99, <https://doi.org/10.1177/20503032211015293>.

¹⁵ Anver M. Emon, *Islamic Natural Law Theories* (Oxford University Press, 2010), <https://doi.org/10.1093/acprof:oso/9780199579006.001.0001>.

¹⁶ Goudarzi, "Resolving the Conflict between Traditional Islam and Human Rights: A Comparative Study of Mahmoud Mohammed Taha's and Mohsen Kadivar's Views."

¹⁷ Ibn Al-Qayyim Al-Jawziyah, *'Uddatush Shabirin* (Jakarta: Qisthi Press, 2010).

Muslim scholars, however, have different opinions regarding the meaning of human 'inviolable things', as summarized in Table 1.

Table 1. Classical Scholars' Lists of *Ḍarūriyāt* (Inviolable Things)

Scholar(s)	<i>Ḍarūriyāt</i> (Inviolable Things) Identified
Al-Ghazālī (d.505 H); Al-Āmidī (d.631 H)	Dīn (religion), <i>naḥs</i> (life), 'aql (intellect), <i>nasl</i> (lineage), <i>māl</i> (wealth) are the five foundational categories. ¹⁸
Al-Qarāfī (d.684 H)	The same five, plus <i>al-'ird</i> (honor and dignity). ¹⁹
Ibn Taymiyyah (d.728 H)	Expands the list further to include Allah's love (<i>maḥabbatullāh</i>) and morality. ²⁰

Nonetheless, all legal rulings are meant to preserve those human 'inviolable things', like how *qisas* (retaliation) was meant to preserve life,²¹ a connection the Qur'an makes explicitly in Surah al-Baqarah (2) verse 179.

Muslim classical scholars enumerated the preservation of those human 'inviolable things' in the form of *ḥukm taklīfī*²² (rules to be observed by legally capable Muslims), categorizing deeds into five categories: obligation (*wajīb*, *farḍ*), desirable (*mandūb*), permissible (*mubāh*), reprehensible (*makruh*), and prohibited (*haram*).²³ The preservation of human 'inviolable things' seems to operate through non-*mubāh* categories: for example, the pursuit of knowledge is judged an obligation, which Al-Ghazali further divides into *farḍ al-'ayn* (knowledge every person must acquire, including the foundational knowledge of the *dīn* and *farḍ al-kifāyah* (knowledge some must acquire to fulfill a collective societal need, such as medicine, which preserves life).²⁴

These examples show that human 'inviolable things' are not based on personal whims or desires. They are not human-centered, as humankind does not own or have autonomy over them like human rights, which depend on individual permission and are limited if they interfere with others' rights. Instead, they are Allah-centered: whether an act should be done, and its *ḥukm taklīfī* category, depends on Allah's pleasure. Many prohibitions and commands are not related to potential harm to others; individuals are

¹⁸ Abū Ḥāmid Muḥammad Al-Ghazālī, *Al-Muṣṭasfa Min 'Ilm Al-Uṣūl*, vol. 1 (al-Qāhirah: Al-Amiriya Press, 1324), 287; Sayf al-Dīn Al-Āmidī, *Al-Iḥkām Fī Uṣūl Al-Aḥkām*, vol. 3 (Beirut: Dar al-Kutub 'Ilmiya, 1980), 389–90.

¹⁹ Shihāb al-Dīn al-Qarāfī, *Sharḥ Tanqīh al-Fuṣūl fī Ikhtisār al-Maḥṣūl fī al-Uṣūl* (Misr: Matba'ah al-Khayriyyah, 1307).

²⁰ Aḥmad ibn 'Abd al-Ḥalīm Ibn Taymiyyah, *Majma' Mālik Fahd Li Ṭibā'ah Al-Muṣḥaf Al-Sharīf*, vol. 32 (Madinah: Majma' Mālik Fahd Li Ṭibā'ah Al-Muṣḥaf Al-Sharīf, 1995), 234.

²¹ Al-Juwayni, *Al-Burhān*, 2:923.

²² Asep Saepudin Jahar, Amany B. Lubis, and Muhamad Fahri, "The Use of Maqasid Al-Sharia in Maritime and National Resilience Context," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 21, no. 1 (June 30, 2021): 97–110, <https://doi.org/10.30631/al-risalah.v21i1.657>; Tawffeeq A. S. Mohammed, "A Scientometric Study of Maqasid Al-Shariah Research: Trending Issues, Hotspot Research, and Co-Citation Analysis," *Frontiers in Research Metrics and Analytics* 9 (November 27, 2024), <https://doi.org/10.3389/frma.2024.1439407>.

²³ Taqī al-Dīn al-Subkī and Taj al-Dīn Ibn al-Subkī, *Al-Ibhaj Fī Sharḥ al-Manhaj*, vol. 2 (Dar al-Buḥūth li al-Dirasah al-Islamiyah wa Ihya al-Turath, 2004), 140–41; 'Abd Allāh b. Aḥmad ibn Qudāmah Al-Maqdīsī, *Rawḍah Al-Nāẓir Wa Jannat Al-Munāẓir*, vol. 1 (Mu'assasah Rayyan Li al-Tiba'ah wa Tawzi', 2002), 43.

²⁴ Abū Ḥāmid Muḥammad Al-Ghazālī, *Iḥyā' 'Ulūm Al-Dīn*, vol. 1 (Beirut: Dar al-Kutub 'Ilmiya, 1971), 14.

also prohibited from harming their own 'inviolable things'. Al-Syāṭibī states that controlling desires that divert from worship of Allah is a goal of *Syarī'ah*.

Muslim scholars say these 'inviolable things' target individuals and society; some can be compromised to benefit others. Wealth's integrity is inviolable, but paying zakat reduces wealth. Muslims in invaded areas must join jihad, risking injury or death. Qisās (retaliation, like capital punishment) is used to protect lives, as noted by Al-Juwayni and Surah al-Baqarah (2) verse 179.

As editor of *Al-Miḥwar*, Shaykh 'Umar 'Abīd Ḥasanah opened with a muqaddimah explaining that *ḥuqūq al-insān* is the highest purpose of the *Sharī'ah*. He framed the fiqh maxim *dar'u al-mafāsīd muqaddamun 'alā jalb al-maṣāliḥ* (preventing harm precedes securing benefit) as a key principle, whose violation is a *jarīmah kabīrah* central to a Muslim's imān, and likened modern human-rights claims to childish demands. The book's three chapters, summarized in Table 2, develop this further.

Table 2. Summary of *Al-Miḥwar* 's Three Constituent Chapters

Author	Chapter	Core Argument	Key Concepts
Shaykh Aḥmad Raysuni	<i>Insāniyah Al-Insān, Qabla Ḥuqūq al-insān</i> (Humanizing Humankind before [discussing] <i>Ḥuqūq al-insān</i>)	Humanity's true (<i>dīnī</i>) status <i>khalīfah fī al-arḍ</i> , created in <i>aḥsan taqwīm</i> , taught <i>asmā'</i> kullīha must be recognized before <i>ḥuqūq</i> can be meaningfully discussed; criticizes the UDHR for a materialist (<i>tīnī</i>), rights-only framing. ²⁵ Allah determines <i>ḥuqūq al-insān</i> and details them through the <i>Sharī'ah</i> as duties, with reward/punishment attached; the five <i>kullīyyāt</i> (<i>dīn, naḥs, 'aql, nasl, māl</i>) are each elaborated into concrete rights and duties. ²⁶ (Chapter classifications differ slightly from his own earlier book on the same topic. ²⁷)	<i>khalīfah fī al-arḍ; tazkiyah al-naḥs; akhlāq</i>
Shaykh Muḥammad Al-Zuḥaylī	<i>Maqāṣid Al-Syarī'ah: Asās Ḥuqūq al-insān</i> (<i>Maqāṣid Al-Syarī'ah as Foundation of Ḥuqūq al-insān</i>)	The <i>Ḥisbah</i> institution, both <i>al-rasmiyyah</i> (government-administered) and <i>al-taṭawwu'</i> (a duty on every mukallaf), operationalizes <i>amr bi al-ma'ruf wa al-nahi 'ani al-munkar</i> as the social mechanism realizing <i>ḥuqūq al-insān</i> . ²⁸	<i>ḥifz al-dīn/naḥs/'aql/nasl/māl; shūrā; zakāt</i>
Shaykh Muḥammad 'Uthmān Shabīr	<i>Iḥyā'u wa Taṭwīr Mu'assasah Al-Ḥisbah li Ḥimāyah Ḥuqūq al-insān</i> (Establishing and Developing the <i>Ḥisbah</i> Institution for the Protection of <i>Ḥuqūq al-insān</i>)		<i>al-rasmiyyah; al-taṭawwu'; amr bi al-ma'ruf wa al-nahi 'ani al-munkar</i>

²⁵ Aḥmad Raysuni, "Insāniyah Al-Insān, Qabla Ḥuqūq Al-Insān," in *Ḥuqūq al-insān Miḥwar Maqāṣid Al-Sharī'ah*, ed. 'Umar 'Abīd Ḥasanah (Qatar: Wizarah al-Awqaf wa al-Shu'un al-Islāmiyyah, 1423), 41–66.

²⁶ Muḥammad Al-Zuḥaylī, "Maqāṣid Al-Sharī'ah: Asās Ḥuqūq Al-Insān," in *Ḥuqūq al-insān Miḥwar Maqāṣid Al-Sharī'ah*, ed. 'Umar 'Abīd Ḥasanah (Qatar: Wizarah al-Awqaf wa al-Shu'un al-Islāmiyyah, 1423), 69–123.

²⁷ Al-Zuḥaylī, *Ḥuqūq*.

²⁸ Muḥammad 'Uthmān Shabīr, "Iḥyā'u Wa Taṭwīr Mu'assasah Al-Ḥisbah Li Ḥimāyah Ḥuqūq Al-Insān," in *Ḥuqūq al-insān Miḥwar Maqāṣid Al-Sharī'ah*, ed. 'Umar 'Abīd Ḥasanah (Qatar: Wizarah al-Awqaf wa al-Shu'un al-Islāmiyyah, 1423), 131–167.

Shaykh Aḥmad critiques the 1948 UDHR, arguing its materialist approach permits protections for practices he considers impermissible in Islam, like same-sex marriage, abortion, gender transition, and extramarital sex. He also criticizes its vague definitions, citing Article 12's privacy and reputation protections as an example.

Shaykh Muḥammad, for his part, criticizes human rights as flawed because their primary source is human intellect and pity rather than divine revelation, adding that human rights, being grounded in shifting emotion and morality, promote secularism through media propaganda and, at times, coercive means.²⁹

The critiques, particularly Shaykh Aḥmad's interpretation of the UDHR and Shaykh Muḥammad's view of human rights as coercive, reflect *Al-Miḥwar*'s authors rather than definitive conclusions. Mainstream scholarship states that the UDHR's broad language was intentional to respect cultural differences, with the "margin of appreciation" doctrine accommodating pluralism. The engagement between Islamic and international human rights, discussed by An-Na'im and Kamali, shows the relationship is not static, even if *Al-Miḥwar*'s authors, rooted in traditional theology, decline to reject it. This paper aims to assess how well *Al-Miḥwar* develops its own maqāṣid-based framework, not to judge which is correct.

Lessons and Prospects of *Al-Miḥwar* as an *Al-Miḥwar*

Al-Miḥwar is written by three among the top-tier traditionalist 'ulama who are at the forefront of *maqāṣid al-syarī'ah* scholarship. This means that they methodologically³⁰ stand as inheritors of knowledge passed down by Allah to Prophet Muhammad ﷺ to his companions and throughout generations of 'ulama in a never-ending line of succession. In addition, the 'ulama use this knowledge to answer challenges of their time, and such knowledge builds up until what we have today. There are endless gems to find in *Al-Miḥwar*. However, in responding to the global challenge of human rights, there are some important takeaways from *Al-Miḥwar*, which becomes a central torchbearer from which to develop.

The Source of *Huqūq al-insān* and Source of Authority

Huqūq al-Insān (Al-Miḥwar)	Human Rights (UDHR-based discourse)
Source Allah (divine revelation)	Source Human reason / conscience
Nature Fixed; grounded in taḥrīd al-rubūbiyyah	Nature Evolving; secular epistemology
Core Unit Haqq: right and duty intertwined	Core Unit Right, with duty derivative
Aim Preserve din, nafs, 'aql, nasl, māl	Aim Protect individual entitlement/autonomy
Scope Limit Bounded by Sharī'ah / akhlāq	Scope Limit Bounded by harm to others

Figure 2. Contrasting *Huqūq al-insān* (as Constructed in *Al-Miḥwar*) and Human Rights

²⁹ Shabīr, "Iḥyā'u," 146–49.

³⁰ Yusri Mohamad, *Contemporary Ijtihad: An Analysis of Individual and Collective Approaches* (Kuala Lumpur: Islamic and Strategic Studies Institute, 2016), 54–55.

It is axiomatic within the Islamic epistemological framework that the source of *ḥuqūq al-insān* is Allah. The contributors of *Al-Miḥwar* have explained this through various angles. Shaykh Aḥmad explains how Allah created humankind with their own unique nature, and this is the basis for discussing *ḥuqūq al-insān*. Shaykh Al-Zuhaylī asserts that the *ḥuqūq al-insān* are decreed by Allah, like Shaykh Muḥammad, in different words. This does not depart from what the classical 'ulama have explained regarding the creation of humankind, the *Shari'ah*, and its *maqāṣid*. But what does this mean to the human rights discourse?

Because Allah is the source of *ḥuqūq al-insān*, this has significant implications for how it compares with the source of human rights. The authors of *Al-Miḥwar* appear to identify such sources only to show how they miss out on divine revelation and, therefore, on important things, such as the *dīnī* aspect of the human soul, as per Shaykh Aḥmad's argument.

There is much truth in this, but it is essential to carry the point further into what, really, is the source of human rights and what it means for the Islamic and human rights discourse.

Surah Al-Nisa' (4) verses 132-133 reads as follows:

وَلِلّٰهِ مَا فِي السَّمٰوٰتِ وَمَا فِي الْاَرْضِ يَكْفٰى بِاللّٰهِ وَكَيْلًا اِنْ يَّشَآءْ يُدْهِبْكُمْ اَيُّهَا النَّاسُ وَيَاْتِ بِاٰخَرِيْنَ ۗ وَكَانَ اللّٰهُ عَلٰى ذٰلِكَ قَدِيْرًا

“And to Allāh belongs whatever is in the heavens and whatever is on the earth. And sufficient is Allāh as Disposer of affairs. If He wills, He can do away with you, O people, and bring others [in your place]. And ever is Allāh competent to do that.”

The above verse indicates *inter alia* that humankind does not inherently have anything (including rights) to themselves except what Allah decrees for them.³¹ In contrast, it is prudent to understand the source and nature of human rights. Human rights theoreticians claim that human rights are not ‘granted’ but ‘given’ and ‘inherent’ and ‘indivisible’. In Jack Donnelly's words, “The term human rights indicates both their nature and their source: they are the *rights* that one has simply because one is *human*”.³² Therefore, human rights philosopher David Stamos was correct to point out that the Surah Al-Nisa' (4) verses 132-133 illustrate among the most fundamental differences between Islamic teachings and contemporary human rights.³³ From an Islamic perspective, Umar Kasule has also pointed this out.³⁴

From an Islamic theological view, explicitly denying any divine role in rights conflicts with *tawḥīd al-rubūbiyyah*, which emphasizes Allah's sovereignty over creation and legislation. Such a denial, if deliberate, is seen as *kufṛ*. Therefore, the most obvious and major contradiction between human rights and Islam lies at a very foundational level. However, it is a claim internal to Islamic theology, directed at the epistemological premise of secular rights-talk rather than at individual adherents of human rights discourse. It

³¹ 'Abd al-Raḥmān Al-Sa'di, *Tafseer As-Sa'di*, vol. 2 (Riyadh: International Islamic Publishing House, 2018), 304; Haji Abdulmalik Abdulkarim Amrullah, *Tafsir Al-Azhar*, vol. 2 (Singapore: Pustaka Nasional PTE Ltd, n.d.), 1464.

³² Jack Donnelly, *International Human Rights* (New York: Routledge, 2018), 18.

³³ David N. Stamos, *The Myth of Universal Human Rights: Its Origin, History, and Explanation, Along With A More Humane Way* (New York: Routledge, 2013), 113–14.

³⁴ Kasule, *Contemporary*, 89–94.

would therefore be *prima facie* incorrect to say that Islam ‘has something similar to human rights’ (or even worse, ‘also recognizes human rights’). The more accurate observation would be that Islam ‘has an alternative to human rights.’ The difference lies in the latter’s emphasis on rejecting the term ‘human rights.’

Kasule, while agreeing with the foundational incompatibility between Islam and human rights, does not categorically reject the possibility of ‘Islamization’ of human rights.³⁵ To ‘Islamize’ knowledge originating from non-Islamic sources, in Al-Attas’s terms,³⁶ one must first isolate and eliminate the elements of said knowledge that are inconsistent with (and replace with elements consistent with) the Islamic worldview. That said, it would be very difficult to ‘Islamize’ the term ‘human rights’ as the word itself is already loaded with its specific meaning based on a particular worldview; it may, as argued in a later sub-section, be preferable to coin a new term and definition altogether.

The Source of *Ḥuqūq al-insān* and International Law

Al-Miḥwar’s authors are largely silent on how their reconstructed *ḥuqūq al-insān* should relate to the existing body of international human rights law, an omission this sub-section addresses, since any Islamic alternative to human rights must eventually take a position on the treaties, instruments, and institutions that presently occupy that space, rather than developing in isolation from them. Still related to the sources of *ḥuqūq al-insān* and human rights, it is also important to dig further into the exact source of human rights. As mentioned in the previous sub-section, human rights theorists claim that human rights are ‘inherent’; however, it is prudent to examine what that truly means. To illustrate: anyone who has studied the development of a fetus or witnessed childbirth would know that a baby is not born with guidebooks indicating what its nature is and what its inherent rights are.

In short, the nature of humans and their inherent properties are determined by one’s worldview on the definition and nature of man. Muslim scholars have defined humans according to the sources and teachings of Islam.³⁷ And Shaykh Aḥmad has explained the same in *Al-Miḥwar*, specifically in the context of *ḥuqūq al-insān*. Umar Kasule has also dedicated an entire chapter in his book to contrast the Islamic and human rights concept of ‘human’, so this is an area of past (and established) research.

However, an important aspect that needs much exploration is how human rights are manifested in the international world. The contributors of *Al-Miḥwar* have negatively alluded to international human rights instruments, mostly the UDHR. For example, Shaykh Aḥmad believes that the UDHR has unclear scope of certain rights. However, such observations often concern only the UDHR. Meanwhile, it is impossible to understand the UDHR without also considering various and numerous other instruments such as the later

³⁵ Kasule, *Contemporary*.

³⁶ Wan Mohd Nor Wan Daud, *The Educational Philosophy and Practice of Syed Muhammad Naquib Al-Attas: An Exposition of the Original Concept of Islamization* (Kuala Lumpur: The International Institute of Islamic Thought and Civilization (ISTAC), 1998).

³⁷ Syed Muhammad Naquib Al-Attas, *On Justice and the Nature of Man: A Commentary on Surah Al-Nisa’ (4):58 and Surah Al-Mu’minūn (23):12-14* (Kuala Lumpur: IBFIM, 2015).

human rights treaties,³⁸ and soft law issued by treaty bodies and other international organizations.³⁹ Perhaps Shaykh Aḥmad's concerns of unclarity are addressed in the detailed instruments which he appears not to have consulted.

However, there is a much more important point to make: should all international human rights instruments be categorically dismissed? These instruments are established via international law through many means, whether it be inter-state negotiation forming treaties aspiring to be 'universally agreed', works of special committees of experts, political resolutions issued by international organizations, judicial decisions of international courts, and so many others, often referred to as "international law-making".⁴⁰ The caution, disdain, and (what appears to be) *prima facie* rejection of international law in *Al-Miḥwar* is an important starting point, given its contradictory foundations. For similar reasons, the early Islamic scholars had no problem (selectively) taking knowledge from the Romans and Greeks, except in jurisprudence, given that Islamic law may be derived only from divine revelation.⁴¹

Susan Waltz notes Muslim nations helped draft 1966 treaties, but their Islamic influence was limited. Most delegates lacked Islamic legal backgrounds; some, like Abdul Rahman Pazhwak, were poets or journalists, and others, like Jamil Baroodi, a Lebanese-American diplomat, supported Islamic norms. Few Islamic proposals made it into final texts. Muslim-majority states' involvement varied from active to reservations, not just marginalization. These treaties influence how international bodies treat sexual orientation and gender identity as discrimination, as seen in UN resolutions. Rejecting international law entirely is unwise; Islamic law (*al-siyar*) was developed by classical scholars, based on divine guidance, since the Quran and Sunnah are the primary sources.

1. Obey treaties, shown in *inter alia* Surah Al-Mā'idah (5) verse 1 and the *aḥadīs* ⁴², and
2. follow customary laws.⁴³

Both of the above are primary sources of (general) international law.⁴⁴ From an Islamic standpoint, agreements and customary laws are not primary sources; thus, they will be invalid if found to contradict the Sharī'ah. This shows that international law should not be categorically dismissed. In short, international law must be followed insofar as it does not violate the Sharī'ah and yields *maṣlaḥat*.⁴⁵

³⁸ Such as the 1966 covenants and various other more specific human rights treaties like the Convention on the Rights of the Child 1989.

³⁹ Alan E Boyle, "Some Reflections on the Relationship of Treaties and Soft Law," *International & Comparative Law Quarterly* 48, no. 4 (1999): 901-13.

⁴⁰ Alan Boyle and Christine Chinkin, *The Making of International Law* (New York: Oxford University Press, 2007).

⁴¹ Bashir, *Al-Shaybani's Siyar*, 57.

⁴² Abū Dāwūd Sulaymān ibn al-Ash'ath al-Sijistānī, *Sunan Abū Dāwūd*, vol. 3 (Riyadh: Darussalam, 2008), ḥadīth no. 2759; Muḥammad ibn 'Isā al-Sulamī Al-Tirmidhī, *Jami Al-Tirmidzī*, vol. 3 (Riyadh: Darussalam, 2007), ḥadīth no 1580.

⁴³ Md Anowar Zahid and Rohimi B Shapiee, "Considering Custom in the Making of Siyar (Islamic International Law)," *JE Asia & Int'l L.* 3 (2010): 123.

⁴⁴ Malcolm N Shaw, *International Law*, 8th ed. (Cambridge: Cambridge University Press, 2017), 51-95.

⁴⁵ Ezieddin Elmahjub, "Islamic Jurisprudence as an Ethical Discourse: An Enquiry into the Nature of Moral Reasoning in Islamic Legal Theory," *Oxford Journal of Law and Religion* 10, no. 1 (November 13, 2021):

However, contemporary challenges need to be taken into account. Classical Muslim scholars would have witnessed only contractual treaties governing relations between nations, such as those concerning trade and *jizyah*, which were characteristic of treaties until the mid-19th century. However, after that, and especially during the 20th century, a new international law-making trend developed in which some treaties and customary law (later also soft law) contributed to the development of what was intended to be globally applicable law.⁴⁶

Al-Miḥwar guides Muslims on engaging with international human rights instruments. While initially rejecting these, Muslims can selectively accept aspects aligned with *Sharī'ah* and *maqāṣid al-syarī'ah*. For example, Article 11 of the ICESCR affirms the right to food, which Islam already mandates as *halal* (lawful) and *ṭayyib* (good). Though not needing the ICESCR to recognize this, Muslims benefit from guidelines like the Codex Alimentarius, developed by FAO and WHO, which specify food safety standards. Following these guidelines supports *halal* food practices and ensures quality, especially for processed foods.⁴⁷

Member states must weigh the political consequences of withdrawal versus promoting internal counter-interpretations. Indonesia's attempt to exclude religious blasphemy from free expression, via Constitutional Court Decision No. 006/PUU-III/2005, exemplifies such a strategy. This highlights the need for further Islamic and human rights research, especially on responses to international human rights instruments. Overall, *Al-Miḥwar*'s implicit rejection of international law should be seen not as a clear stance but as an underdeveloped area that a *maqāṣid al-syarī'ah*-based approach must address to meaningfully engage the international legal order.⁴⁸

This section highlights a key distinction: in human rights discourse, humans are typically granted rights but not duties, except in specific cases like Article 3(2) of the 1989 Convention on the Rights of the Child. Duties usually connect to rights, such as the duty not to murder linked to the right to life. This creates a separation in which rights are primary and duties serve to uphold them. Muslim scholars often overlook this 'rights-

16–42, <https://doi.org/10.1093/ojlr/rwaa023>; Haged A. Alotaibi, "The Challenges of Execution of Islamic Criminal Law in Developing Muslim Countries: An Analysis Based on Islamic Principles and Existing Legal System," ed. Francis D. Boateng, *Cogent Social Sciences* 7, no. 1 (January 1, 2021), <https://doi.org/10.1080/23311886.2021.1925413>.

⁴⁶ Boyle and Chinkin, *The Making of International Law*; Gregory C Shaffer and Mark A Pollack, "Hard vs. Soft Law: Alternatives, Complements and Antagonists in International Governance," *Minnesota Law Review* 94 (2010): 706–99.

⁴⁷ Shadia Hussein de Araújo, Sônia Cristina Hamid, and André Gondim do Rego, "Urban Food Environments and Cultural Adequacy: The (Dis)Assemblage of Urban Halal Food Environments in Muslim Minority Contexts," *Food, Culture & Society* 25, no. 5 (October 20, 2022): 899–916, <https://doi.org/10.1080/15528014.2021.1933773>; Randah M. Alqurashi et al., "Cultured Meat and Its Acceptability in Muslim Societies: A Narrative Perspective on Halal Perspectives and Regulatory Challenges," *Foods* 15, no. 8 (April 9, 2026): 1288, <https://doi.org/10.3390/foods15081288>.

⁴⁸ Wiebke Greeff, "Religious Law in the Service of Human Rights?," *Interdisciplinary Journal for Religion and Transformation in Contemporary Society* 7, no. 1 (July 8, 2021): 155–87, <https://doi.org/10.30965/23642807-bja10010>; Goudarzi, "Resolving the Conflict between Traditional Islam and Human Rights: A Comparative Study of Mahmoud Mohammed Taha's and Mohsen Kadivar's Views."

centered' aspect. In Al-Miḥwar, no authors emphasized this focus on rights, though some acknowledge it as a difference between human rights and Islam.⁴⁹

The authors often intertwine rights and duties when discussing *ḥuqūq al-insān*. For instance, Shaykh Muḥammad states that ḥisbah not only secures the community by catching criminals but also mandates men to perform congregational ṣalāt, rooted in amr bi al-ma'ruf wa al-nahi 'ani al-munkar, a duty for all Muslims. Similarly, Shaykh Al-Zuhaylī links inheritance rights and zakat duties, a pattern detailed in his book *Ḥuqūq al-insān Fi Al-Islām*. His different approach toward duties in *ḥuqūq al-insān* is perhaps related to how Arabic, and the 'ulama who master it, treat the word. While *ḥuqūq al-insān* is often used as the Arabic equivalent of 'human rights' in official international instruments,⁵⁰ a deeper lexicographic analysis, summarized in Table 3, reveals some discrepancies.

Table 3. The Meaning of *Ḥaqq* in Classical and Contemporary Arabic Lexicography

Source	Meanings of <i>Ḥaqq</i> Recorded
Al-Farāhīdī (d.170 H), earliest lexicographer	Records both 'duty' and 'rights' as meanings. ⁵¹
Ibn Manẓūr (d.711 H); Al-Zamakhsharī (d.538 H)	Records 'duty' only; 'rights' is not mentioned. ⁵²
Al-Zabīdī, Tāj Al-'Arūs	Records <i>al-milk</i> (ownership/rights) and <i>wajaba</i> (duty) as parallel derivative meanings. ⁵³
Contemporary dictionaries (Mukhtār; Al-Mu'jam Al-Wasīṭ)	Retain both meanings; Mukhtār additionally glosses <i>ḥaqq</i> as <i>sāgh</i> ('something permitted'), the sense closest to 'rights'. ⁵⁴

The Qur'an itself uses derivatives of *ḥaqq* in both senses, such as *ḥaqqīqun* in Surah Al-A'raf (7) verse 105 ("[Who is] obligated not to say about Allāh except the truth"). This shows that both rights and duties are linguistically intrinsic to the word *ḥaqq* and *ḥuqūq*, consistent with how the classical scholars, in elaborating the *Maqāṣid al-syarī'ah* legal rulings surveyed above, likewise treated rights of inheritance and duties of ṣalāt within a single framework.⁵⁵

⁴⁹ Shamrahayu binti Abdul Aziz, "Islamic Concept of Human Rights," in *Human Rights Law: International, Malaysian and Islamic Perspectives*, ed. Abdul Ghafur Hamid @ Khin Maung Sein (Selangor: Thomson Reuters Malaysia Sdn Bhd, 2012), 329; Kasule, *Contemporary*, 130–35.

⁵⁰ Admin, "العهد الدولي الخاص بالحقوق المدنية والسياسية," Human Rights Library, University of Minnesota, accessed July 29, 2022, <http://hrlibrary.umn.edu/arab/b0003.html>.

⁵¹ Al-Khalīl ibn Aḥmad Al-Farāhīdī, *Kitab Al-'Ayn*, vol. 3 (Dar al-Maktabah Al-Hilal, n.d.), 6.

⁵² Maḥmūd ibn 'Amr Al-Zamakhshari, *Asās Al-Balāghah*, vol. 1 (Beirut: Dar al-Kutub 'Ilmiyah, 1998), 203; Muḥammad ibn Mukarram ibn 'Alī ibn Aḥmad Ibn Manẓūr, *Lisān Al-'Arab*, vol. 10 (Beirut: Dār al-Ṣādir, 1414), 50.

⁵³ al-Murtaḍā al-Husaynī al-Zabīdī, *Tāj al-'Arūs min Jawāhir al-Qamūs*, vol. 30 (Kuwait: Dar al-Hidayah, 1385), 166.

⁵⁴ Aḥmad Mukhtār, *Mu'jam Al-Lughah Al-'Arabiyyah Mu'Aṣīrah*, vol. 1 (al-Qāhirah: 'Alam al-Kutub, 2008), 530; Ibrāhīm Muṣṭafā et al., *Al-Mu'jam Al-Wasīṭ* (Dar al-Da'wah, n.d.), 187.

⁵⁵ Raziyeḥ sadat Seyyed Khorasani, Ali Fathi, and Nayyer Zaki Dizachi, "The Relational Analysis of the Term 'Ḥaqq' in the Holy Quran," *International Journal of Multicultural and Multireligious Understanding* 6, no. 5 (October 7, 2019): 1, <https://doi.org/10.18415/ijmmu.v6i5.973>; Qusai Basheer Ibrahim, "Translating the Multiple Meanings of the Lexical Item 'Al-Haq' in the Glorious Qur'an into English," *JOURNAL OF LANGUAGE STUDIES* 6, no. 2 (January 31, 2023): 151–62, <https://doi.org/10.25130/jls.6.2.12>; Wael Hallaq, "God Cannot Be Harmed," in *Routledge Handbook of Islamic Law* (New York, NY: Routledge, 2019; Routledge, 2019), 67–81, <https://doi.org/10.4324/9781315753881-4>.

Such a difference in the scope of meaning between the English 'rights' and *ḥuqūq* can readily confuse.⁵⁶ For example, some non-Muslim academics such as Ann Elizabeth Mayer have claimed that Saudi Arabia violates Islamic law by imposing the *hijab* on women, apparently assuming (on a human-rights mindset) that wearing the *hijab* is a right a person is entitled to perform or abandon, with the state's role merely to guarantee that entitlement.⁵⁷ Wearing the *hijab* is, however, a duty for grown women.⁵⁸ The Cairo Declaration of Human Rights in Islam 1990 illustrates a related problem: being largely rights-oriented in its drafting despite its Islamic framing is one of its central weaknesses.⁵⁹

To some extent, it is understandable why *Al-Miḥwar*'s authors were inclined to refute human rights while simultaneously translating it as *ḥuqūq al-insān*: this appears the easiest translation, and some contemporary dictionaries adopt it as such,⁶⁰ while the Arabic *ḥuqūq* does not reject a rights-oriented sense the way the English 'rights' rejects a duty-bound one.⁶¹ Analyzing the derivatives of '*ḥaqq*' further reveals that all the dictionaries above also include the meaning 'truth' (the opposite of falsehood) among their senses, and, as Kasule has pointed out, right and wrong are integral to the entirety of Islamic teaching.⁶² This is akin to one meaning of the English 'right', but human rights theoreticians have specifically negated that meaning, ascribing only 'entitlement' (unrelated to morality) to human rights in what Donnelly terms a distinction between 'rights to' and 'right that'.⁶³ Consequently, on the internal logic of *Al-Miḥwar*'s authors, this becomes another reason why practices they regard as impermissible, such as same-sex relations, can be accommodated within human rights but not within *ḥuqūq al-insān* as they construct it.

⁵⁶ Alfian Alfian and Teuku Muzaffarsyah, "HUMAN RIGHTS CONCEPTUALITY IN ISLAMIC AND WESTERN REALITY TERMINOLOGY," *Jurnal Ilmu Sosial Dan Ilmu Politik Malikussaleh (JSPM)* 4, no. 1 (May 19, 2023): 207–16, <https://doi.org/10.29103/jspm.v4i1.10238>; Jeroen Vlug, "The Islamic Pursuit of Human Dignity: Revisiting Fundamental Rights Theories in Islamic Law and Legal Philosophy," *Cross-Cultural Human Rights Review* 2, no. 1 (September 30, 2020): 23, <https://doi.org/10.52854/cchrr.38>; Adil Hussain Bhat and Irfan ul Haq, "Islam and the Issue of Human Rights: Compatibility or Contradiction," *East Asian Journal of Multidisciplinary Research* 2, no. 2 (February 28, 2023): 599–612, <https://doi.org/10.55927/eajmr.v2i2.2093>.

⁵⁷ Ann Elizabeth Mayer, "Universal versus Islamic Human Rights: A Clash of Cultures or Clash with a Construct," *Mich. J. Int'l L.* 15 (1993): 393–397.

⁵⁸ Riyanto and Muhammadin, "The Urgency," 193.

⁵⁹ Kasule, *Contemporary*, 178.

⁶⁰ Mukhtār, *Mu'jam Al-Lughah*, 1:532.

⁶¹ Nurul Amin Hudin, "Dilema Penggunaan 'Syariah' Dalam Deklarasi-Deklarasi HAM Islam," *Living Islam: Journal of Islamic Discourses* 2, no. 1 (June 30, 2019): 107, <https://doi.org/10.14421/lijd.v2i1.1879>; Leonard Wood, "Al-Sanhuri's Theory of Rights in Islamic Jurisprudence: The Final Act of Franco-Egyptian Comparative Law," *The Maghreb Review* 45, no. 4 (2020): 856–94, <https://doi.org/10.1353/tmr.2020.0003>; Mohammed Hichem Bencherif and Messaouda Boudjerida, "Theoretical and Practical Dimensions of Equivalence in the Arabic Translation of the Universal Declaration of Human Rights," *Arabic Journal for Translation Studies* 5, no. 14 (January 26, 2026): 60–84, <https://doi.org/10.63939/ajts.yjq9km85>.

⁶² Kasule, *Contemporary*, 95–101.

⁶³ Jack Donnelly, "Natural Law and Right in Aquinas' Political Thought," *Western Political Quarterly* 33, no. 4 (1980): 520–35.

This morphological analysis could be expanded, for example, to include how Al-Ḥaq is among the Names of Allah. However, all of it points toward the core reality of truth (*ḥaqīqah*). Linguistically (*lugatan*), *ḥuqūq al-insān* and human rights share minor similarities but differ significantly; terminologically (*iṣṭilāḥan*), 'human rights' has a well-established meaning in both academic and common discourse, whereas *ḥuqūq al-insān* does not. Some view it as synonymous with human rights, while others, like Al-Miḥwar, interpret it as a distinct Islamic concept. Therefore, it would be wise to create a specific definition of *ḥuqūq al-insān* that encompasses the aspects Al-Miḥwar affirms (إثبات) and highlights those it negates (نفي) relative to human rights. While the goal is ultimately to develop an Islamic counterpart to human rights, it's evident that *ḥuqūq al-insān* was likely developed in direct response to human rights.

With such a definition developed from what Al-Miḥwar lays out, further research should be directed at both [نفي] and [إثبات]. One may also consider a direct English rendering into Arabic letters [هيومن رايتس] (*human rights*), as the Arabic page of Human Rights Watch does in some parts of its website.⁶⁴

Conclusion

This paper assesses Al-Miḥwar, an anthology featuring chapters by Shaykh Aḥmad Raysunī, Shaykh Muḥammad Al-Zuḥaylī, and Shaykh Muḥammad 'Uthmān Shabīr on *ḥuqūq al-insān*, as a contribution to articulating an Islamic alternative to human rights grounded in *maqāṣid al-syarī'ah*. Read alongside classical scholarship on *ḍarūriyāt*, *ḥājjiyāt*, and *tahsīniyāt*, Al-Miḥwar faithfully advances the classical *maqāṣid* tradition in response to the human rights framework, which classical scholars never addressed. Its central claim that *ḥuqūq al-insān* and 'human rights' are conceptually distinct—stemming from divine revelation and human reason, respectively—is, based on this analysis, both defensible and consistent with the broader classical *maqāṣid* literature.

This analysis highlights three areas where Al-Miḥwar's treatment remains underdeveloped rather than just correct. First, it recognizes the divergence between *ḥuqūq al-insān* and human rights at source and authority but does not explore its implications for their legal and ethical construction. Second, Al-Miḥwar dismisses international human rights law broadly without examining its diversity; treaties, soft law, and customary law pose different compatibility questions with Sharī'ah, requiring a nuanced approach rather than wholesale acceptance or rejection. Third, it translates *ḥuqūq al-insān* as 'human rights' but insists on their conceptual separation; a clearer, purpose-designed definition that incorporates both affirmation and negation would better resolve this tension than current terminology.

This paper makes three contributions to the literature on Islam and human rights. First, it offers the first critical engagement with Al-Miḥwar in English scholarship. Second, it shows through textual analysis that the classical Arabic meaning of *ḥaqq*, covering entitlement and obligation, can help explain differences in rights-duty relations between Islamic and human rights discourse. Third, it suggests future research directions: (i) mapping which types of international human rights instruments (treaty law, customary law, soft law) align with Sharī'ah, based on the *ḥuqūq Allāh*/*ḥuqūq al-'ibād* distinction; (ii)

⁶⁴ "Hyūman Raits Wūtush," Human Rights Watch, accessed August 2, 2022, <https://www.hrw.org/legacy/arabic/info/about-hrw.htm>.

studying how Muslim-majority states respond to treaty obligations conflicting with Shari'ah via counter-interpretation or reservation; and (iii) developing a working definition of ḥuqūq al-insān for comparative legal scholarship, informed by both *ithbāt* and *nafy*.

This study's limitations, noted in the Method section, should also be acknowledged. As a qualitative, library-based analysis of a single primary text, its conclusions show how Al-Miḥwar constructs ḥuqūq al-insān conceptually; they do not test its applicability in legal or policy contexts, nor do they extend to traditionalist human rights scholarship beyond Al-Miḥwar. Future research is needed to verify if these ideas can translate into workable doctrine or policy. Despite these limitations, Al-Miḥwar makes a significant contribution to maqāṣid al-syarī'ah scholarship, and because of the gaps noted above, it is well positioned to serve as a pivotal center for further work to develop an Islamic alternative to human rights.

Credit Authorship Contribution Statement

Fajri Matahati Muhammadin: Conceptualization, Methodology, Writing - original Draft.

Benaouda Bensaid: Supervision, Methodology, Writing - review & editing

Declaration of Competing Interests

The author(s) declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data Availability

This is a qualitative, library-based critical-textual study; no new empirical dataset was generated or analyzed. All primary and secondary sources discussed are published and are cited in full in the References below.

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