

## **Critical Analysis of The Ontological Foundations of The Convention On The Elimination of All Forms of Discrimination against Women from the Perspective of the Quran**

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### **Abstract**

The laws of Islam, which are originated from holy revelation, have given a high status and dignity to women with a comprehensive view of their rights and characteristics. Undoubtedly, in terms of development, there are wise differences between men and women; But at the same time, there is a kind of balance between the rights and duties of men and women, which is in accordance with the nature of each of them. In recent decades, the issue of women's rights has been considered as a global issue in the "Convention on the Elimination of All Forms of Discrimination against Women", whose main message is to establish complete equality between men and women and to eliminate any discrimination based on gender, and in this case, requirements It imposes on governments.

The purpose of this article is to criticize the fundamentals of the convention and express its inherent incompatibility with religious foundations and to emphasize that it is not possible to commit to its results and provisions simply by applying the right of condition and minor changes in the convention. For this purpose, it used the library method in collecting information and the comparative descriptive and analytical method in processing.

The findings of this research have shown that the foundations of convention in most cases have material differences with religious foundations; Because the principles of the convention consider the principle of extreme equality and complete equality between the rights of men and women, and religious principles are based on justice and the principle of proportionality (equality and difference); Therefore, Islamic countries cannot join this convention.

**Keywords:** Religious Foundations, Ontological Foundations of Convention, Principle of Proportionality, Principle of equality.

## **Introduction**

The Convention on the Elimination of All Forms of Discrimination against Women is a set of articles related to Women's Rights, which was approved on 18 December 1979, by the United Nations General Assembly Resolution No. 180/34, and has been opened for signing and accession by countries. This convention consists of a detailed introduction and 30 articles, which are arranged in 6 sections, and its implementation is entrusted to the Committee on the Elimination of Discrimination against Women, which has 23 experts working in it.

The Ontological Foundations of the convention are (The Principle of Natural Rights, The Principle of Equality and the Principle of Humanism); Natural rights are superior to the will of the legislator and the government and governs relative to the statutory laws, and it is the same fixed and unchangeable right in which women and men have equal rights, which is interpreted as "Fundamental Human Rights" in the convention, the root of the rules Natural rights are summarized in one principle and that principle is the negation of "Human Deprivations". The principle of humanism is the theory that humans are the center and creator of values and the standard for measuring good and evil, and that the life of an "Individual" and "Affiliation" to him, not to God or society and the government. In this principle, religion has been pushed to the corner of isolation of individual life. What emphasize the principle of humanism are "Wisdom and Experience" as the way to perfection and to reach the truth. The importance of this issue stems from the fact that many countries of the world have joined this convention, in countries (Iran and Afghanistan) there is also the view that our countries will also join it by applying the right of condition; But is it possible to distinguish between the basis' humanist convention and religious foundations? This article aims to answer what are the ontological foundations of the convention and its compatibility with religious foundations.

## **1- Research background**

Seyyed Ali Mir Mousavi and Seyed Sadegh Haqirat have written a book called (Basics of Human Rights from the perspective of Islam and other schools) and it covers topics such as the principles and theoretical foundations of Human Rights in the West and Islam, the assessment of humanistic Human Rights and its comparison with sources. Islamic have paid. In the same way, Mrs. Fariba Alasvand wrote a book called "Critique of the Convention on the Elimination of All Forms of Discrimination Against Women" and examined the general challenges facing the convention and the convention in the field of jurisprudential criticism. And Mansoureh Karamati, in the thesis under the title (Providing Legal Solutions to Facilitate Accession to the Convention on the Elimination of All Forms of Discrimination against Women in Family Law) discussed matters such as marriage and divorce, citizenship and residence of women after marriage, reasons and supervision regarding Iran's accession to the Convention; But the distinction and innovation of the current research is that it has criticized the ontological foundations of the Convention on the Elimination of All Forms of Discrimination against Women, which the aforementioned researches have not paid special attention to, and in addition, it has a comparative aspect with religious foundations.

## **2- Criticism of the Principle of Human's Natural Rights**

The first basis of the ontology of the Convention on the Elimination of Discrimination is Natural Human Rights. Natural rights are always with human and a permanent requirement of his identity, and its purpose is to protect individual rights and human personality. The natural law and the rights based on it are independent and self-standing matters, which humans discover with the guidance of reason, unlike the statutory law and the rights documented to them, which do not have their own independence and are created by an authority called the legislator. And it follows the changing interests and interests of different human communities (Mohvahd/2005, 78). In the dictionary of political science under the title "Natural Law" in its definition is as follows: Natural rights belong to every human being according to the law of nature and cannot be deprived of them; Such as (the right to life, the right to freedom, the right to equality and the right to property) (Dictionary of Political Sciences, 221/1995, No. 1612). According to its proponents, the origin of natural rights is human instincts and natural tendencies, and according to (Hobbes and Locke), the most basic instincts are the desire to protect the essence, which gives rise to the absolute and fundamental right to life; Therefore, what is stated in the definition, the root of the rules of natural rights can be summed up in one principle, and that is the negation of "human deprivations" (Mousavi and Haqirat, 2010/116).

This theory believes in providing maximum freedom for humans, which cannot be taken away or transferred by anyone, not even him; Because the essence of man is his natural rights. The Convention on the Elimination of All Forms of Discrimination against Women was formulated on the basis of this belief. According to this convention, women have the same rights as men, which go beyond the laws. These rights are the common rights among humans, which are interpreted as "Fundamental Human Rights" in the convention (Javadi Amoli, 5/1996).

In fact, after explaining the concept of natural rights, it will be criticized from the perspective of the Qur'an, the comprehensiveness and perfection of religion in relation to Human Rights can be proved by rational and narrative reasons:

## **1-2- Rational Arguments**

The claimants of Human Rights, based on the principle of natural rights, believe that human wisdom has the ability to know itself through the scientific wisdom of "reason", based on this basis, a person is able to know his abilities, feelings and needs (Mousavi and Haqiq, 2018/133). On the other side, Muslim scholars believe in the comprehensiveness and perfection of religion in relation to Human Rights, that the purpose of religious legislation is to express content that has two characteristics: first; The guidance and happiness of man depend on those contents, so that the disturbance in them causes the violation of the purpose of the Prophets' mission. Second; This need cannot be obtained through normal knowledge (Tabatabai, 1995, vol.2/130). Human Rights are among the issues that have these two characteristics; therefore, it is within the scope of religious interference, and its explanation should be expected from religious foundations (Mousavi and Haqirat, 133/2018).

Four reasons can be mentioned in this claim. In the first three reasons, "Human's Inability" to know himself and his dependence and need in this regard are proven on religious foundations and revelation. In the fourth reason, God Almighty's ability to introduce and determine Human Rights is proven;

**The first reason:** as stated, scientific rationality is one of the theoretical bases of Human Rights in the West and the Convention, based on this basis, a person is able to know his needs; But according to religious thinkers, such a method cannot guide us to a comprehensive and complete understanding of human beings. The scientific method of cognition, due to its limitations in the form of induction and falsifiability, has only scientific value and can be useful in practice; But it is incapable of presenting the truth of the system of existence (Mousavi and Haqirat, 134/2019).

**The second reason:** the existence of some prerequisites, including knowledge of the existence system and recognition of false needs from real needs, is necessary to determine Human Rights. Considering the limitation of human knowledge, it is not possible even for the wise without the help of revelation; Therefore, the determination of Human Rights by the person himself cannot be complete and complete (Javadi Amoli, 1996/94).

**The third reason:** the determination of universal rights for mankind is based on the existence of principles that go beyond the views of humans; Because people cannot reach a consensus due to differences in interests, tastes, and customs. Therefore, the existence of a common authority that can be referred to in determining cases, if possible, is beyond the conventions and opinions of humans (Mossavi and Haqirat, 134/2019). The fourth reason: Since in the monotheistic view, God is pure and absolute existence and the whole universe originates from him and is dependent on him in its existence, God's knowledge is also complete and complete in the system of existence and all aspects of human life, the ability his needs and talents are fixed; Therefore, it is only God who knows the path of happiness and the path of perfection of a person and is able to guide him. Therefore, religion has come as an instruction from God for the guidance and perfection of human and it also includes teachings about Human Rights (Javadi Amoli, 1996/90).

Finally, from all the above evidences, we come to the conclusion that human sciences, based on the principle of natural rights and scientific rationality, are unable to fully and comprehensively understand human beings, and in this context, human beings need a source that originates from their creator, and this is the same revelation. It is divine that has been provided to mankind in the form of religious texts. Therefore, Human Rights will be interpreted in the realm of expectations from religion, and people have their natural rights under the shadow of religious laws.

## 2-2- Narrative evidence

In addition to the intellectual arguments that clarified the need of man to know himself and his rights to religion, this issue has also been emphasized in the texts of the Qur'an, some of which are mentioned in the section on the guidance and happiness of mankind: (Al-Anaam/38)

{مَا فَرَطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ} "We have not omitted anything in the book." It means the "book" of the Qur'an; That is, we did not abandon anything of guidance and happiness that humans need to express, except that we made the Qur'an inclusive of it (Abul-Fada, 27/27; Mukhlis Heravi, 2014, vol.1/715). {وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تَبْيَانًا لِكُلِّ شَيْءٍ} (Nahl/89) "We have not omitted anything in the book." It means the "book" of the Qur'an; That is, we did not abandon anything of guidance and happiness that humans need to express, except that we made the Qur'an inclusive of it (Abul-Fada, 27/27; Mukhlis Heravi, 2014, vol.1/715). {وَنَزَّلْنَا عَلَيْكَ الْكِتَابَ تَبْيَانًا لِكُلِّ شَيْءٍ} (Nahl/89)

"We sent down to you the Book, an explanation for everything." Ibn Jarir narrated from Ibn Masoud (RA) who said: "God has revealed all knowledge and things in this Qur'an" (Tabari, 279/1420; Jassas, 1405/10; Mukhlis Heravi, 1335/2/2015). Therefore, in Islam, there are no individual or social issues related to human duties and guidance.

Allameh Tabatabai about the following verse {مَا فَرَطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ} He writes: "It refers to an object of various shortcomings that has been negated, and in short, it means that there is nothing that is obligatory to observe its status and to stand up for its right and express it, unless we have observed it in this book and in its matter, we have not made any mistakes, so our book is complete and complete (Tabatabaei, 1995, vol.13/136). And mankind must abide by these comprehensive and divine laws.

A very important point that should be noted is that accepting the natural rights of man does not make us need revelation, especially that man and the world have complex dimensions that only the wise God has a scientific understanding of that. {وَأَنَّ اللَّهَ قَدْ أَحَاطَ بِكُلِّ شَيْءٍ عِلْمًا} (Talaq/12)

"Undoubtedly, God has scientific knowledge over everything", so no particle in the earth and sky and no creature is outside the domain of God's knowledge (Maraghi, 1986 AH, vol. 28/152; MokhlisHeravi, 2015, vol. 2927/3). Therefore, laws should be established with a detailed knowledge and complete knowledge of man and the world, the relationship of man with his creator, and the real needs (material and spiritual) of man. Finally, natural rights are acceptable in the sense that God, due to His wisdom and mercy, has placed laws in the institution of every human being, but natural rights mean to be satisfied with the natural laws common among humans and to be satisfied with human reason and without the need of Revelation teachings are not acceptable in social life; Because from the point of view of Islam, the greatest natural right of every human being is to achieve perfection, happiness and eternal life in (Paradise), and God, the Wise, has provided all the means for that to man, and everyone has the right to use them, provided that for Don't prevent others from using their natural rights (Javadi Amoli, 4/1996).

In Islam, rules and laws are subject to interests and corruptions, as stated in the discussion of rational arguments, human beings do not have the ability to accurately understand all the interests and corruptions of laws, and this is the secret of his need for revelation, prophets, and holy books; Because it is not possible to measure merits and demerits only with material criteria, superficial "rational" understanding, but their criterion is revelation; That is, the differences in God's laws are proportional to the differences in the development of men and women, and this is the belief in God, the monopoly of the right to legislate and the necessity of establishing laws through the revelation that was given to mankind by divine prophets (Javadi Amoli, 1996) /5).

Knowing all the truths of existence, especially human beings, is not in the competence of the government and great men as Hegel believes (Katouzian, 1998, vol. 1/123). And not in the competence of the majority of people as Western democracy claims, but only God who has full knowledge of the complex dimensions of human existence and the entire system of creation, and therefore he is the only one who can be the source of law. As God the Wise says about the creation of man, the equality and proportionality of all his body parts {يَا أَيُّهَا الْإِنْسَانُ مَا جَعَلْنَاكَ مِنْ شَيْءٍ مَجْهُولٍ} (AlAnftar/8) Translation: "Oh human! What has made you proud in front of the Lord of your dignity, the same God who created you and arranged and regulated you."

The commentators have said that the reason for people's pride and ingratitude in front of the One Creator is his "ignorance" (Mokhles Heravi, 2014, Vol. 1/3127; Alousi, 2024 AH, Vol. 15/269). So, how can this person, ignorant of the truth of things and even not having a proper understanding of his own creation, establish a comprehensive and eternal law for all human beings in all times and circumstances? For this reason (Rousseau) says: "In order to discover the laws that will benefit the nations, it is necessary to have a common sense that sees all human intuitions but does not feel anything, does not have a relationship with nature but knows it completely, his happiness. not related to us, but willing to help us; Therefore, only God can make laws for people" (Rousseau, B. Ta/p. 41).

In the rights related to women, the convention has ignored the spiritual, physical, social, economic and cultural realities and instead of the principle of justice and proportionality (difference and equality) of the rights of men and women, it has considered the principle of extreme equality and complete similarity of rights. is that the result is the unification of different realities. According to the above explanations, justice and fairness in the rights of men and women require that the differences between these two sexes, which are countless,

should not be neglected. Taking these differences is considered oppression of women; Therefore, the developmental differences between men and women, based on religious foundations, have caused legislative differences in their rights and duties.

### **3-Criticism of the principle of extreme equality between men and women**

The second basis of the Convention on the Elimination of All Forms of Discrimination against Women is the legal equality of men and women. Equality is one of the fundamental values of modern Human Rights, from the point of view of the Convention, equality means the equality of all people before the law and equal protection of the law for all. Article 7 of the Declaration of Human Rights declares: "Everyone is equal before the law and has the right to be protected by the law without discrimination." Everyone has the right to benefit equally from the protection of the law against any discrimination that violates the present declaration and against any incitement for such discrimination" (Mousavi and Haqirat, 254/2019). According to Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, member states will take necessary and appropriate measures to eliminate any discrimination against women in all matters (Convention on the Elimination of Discrimination, Article 16).

Now, after explaining the principle of equality in the convention, we will criticize it from the perspective of the Qur'an, and the concept of equality from the perspective of Islam is analyzed based on the principle of justice and proportionality, and the reasons for the difference and equality of the responsibilities of men and women require the explanation of three issues:

#### **3-1- The Reason for the Duty**

The reason for obligation in Sharia rules is that a person is "mature and wise", a hadith from the Prophet (PBUH) also indicates this, saying: "The obligation is removed from three people: a person who sleeps until he wakes up, A boy until he becomes an adult and a madman until he comes to his senses" (Qazvini, 1430 AH, Vol. 198/3). It is also mentioned in a novel: "A madman until he becomes sane" (Taftazani, 2005, vol.2/156). Therefore, when a person reaches the age of puberty, his speech and behavior among people can express his sanity, he is judged to be responsible; because it has the condition of obligation (Ansari, Bita, Vol. 1/143).

#### **3-2- Comprehensiveness of Sharia**

One of the characteristics of Islamic Sharia is its generality; It means it is sent to men and women {قُلْ يَا أَيُّهَا النَّاسُ إِنِّي رَسُولُ اللَّهِ إِلَيْكُمْ جَمِيعًا} (Al Araaf/158) Say: People! I am God's messenger to all of you." {وَمَا أَرْسَلْنَاكَ إِلَّا كَافَّةً لِّلنَّاسِ بَشِيرًا وَنَذِيرًا} (Saba/28) "And We did not send you except to all people to give glad tidings (of divine rewards) and to warn them (of his punishment)." he said. The word "Alanas" also includes women without disagreement among scholars (Shokani, 111/1977). Because reason and maturity are the conditions for the assignment of Sharia rules, and this condition is the same for women as it is for men (Zidaan, 2016/61). After fulfilling the conditions for the oblige, the rulings from the perspective of the Qur'an are based on the principle of justice, which is addressed.

#### **3-3- Justice and proportionality**

"Adl" in Arabic literally means fairness; That is, give to each person what he is entitled to and take from him whatever he should get (Mustafa Ebrahim/2021, vol.2, 594). Considering

the various uses and meanings of the word justice, its most comprehensive meaning can be found in Imam Ali's statement "justice is putting everything in its place" (Nahj al-Balagha, Hikmat 437, p. 553). Justice in terms of the rights of men and women means that each of them should enjoy the duties appropriate to their developmental characteristics and nothing should be imposed on them (Motahari, 155-153/1992). Therefore, the principle of justice is the universal charter of Islam, on which all laws and duties are based, and the human and Islamic society cannot continue its healthy life without justice. Therefore, any deviation and violation of the rights of others is against the principle of justice: {إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ} (Nahl/90).

"God commands justice." Justice is the avoidance of excesses, which is mentioned both in the opinions and in the rulings and commands of this verse, both for the individual and for the rulers. And justice in the legislative system has been at the top of the call to all prophets (Qaraati/2004, Vol. 4, 572). And the same about judging between people:

{وَ إِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ} (Nesa/58) "And when you judge between people, judge with justice." This part of the verse commands the rulers and judicial bodies to rule among the society on the basis of justice. And also, about reconciliation between two groups of believers:

{فَأَصْلِحُوا بَيْنَهُمَا بِالْعَدْلِ} (Hujarat/9) "Establish peace between those two groups with justice."

From all these verses and similar ones, it is proved that God's system in beliefs and rulings, individual and social system, especially in expressing the legal duties between men and women, is based on justice and the principle of proportionality; Therefore, it should be said that the principle of equality between men and women in religious duties; Like (prayer, zakat, fasting, etc.), it does not mean that there is no difference between them; Because Shariah rulings are based on specific reasons, all or some of which are the conditions of these rulings, so if the obliges, women and men, are equal in the conditions of the rulings, they will definitely be equal in the rulings, and if the conditions are different, they will definitely be in the rulings and rights will also be different (Zidaan, 2007/73). Islamic Shari'ah is always consistent in expressing its rulings based on justice and the principle of proportionality (equality and difference), and as a result, two things that have a common and equal condition are also equal in rulings. And two things that have different conditions, their rulings are also different, and this stable and firm method creates true justice between the debtors and is required by justice and the divine tradition in legislating the rulings, just as God's tradition is also in the reward and punishment.

Now, on the basis of the law of equality and difference, we see that the Islamic law has established equality in faith and acts of worship such as prayer, fasting, hajj and zakat due to their participation in the condition of duty and obligation, i.e. (intellect and maturity). Islamic Shari'ah believes in the equality of men and women in rights when they are equal in the conditions of its realization and as a result, the right of ownership for women is proven the same as for men; Because the condition of this right is to have property and legal capacity, and both of these conditions exist in a woman just like a man. And at the same time, there is a difference between men and women in some rights, due to the distinction of their bases, for example, the right to multiple wives is fixed for a man and a sin for a woman; Because a woman cannot have multiple wives at the same time like a man. There is an obstacle in a woman that a man does not have, and that is the fact that a woman becomes pregnant and as a result of multiple wives for a woman at the same time, it leads to the mixing of sperm and lineage, and this issue is not considered in polygamy for a man, Islamic Sharia In the rights of men and women, when they are equal in the basics, it is considered equal, and when they are different, it is considered different (Zidan, 2007/74).

Imam Ibn Qayyim pointed to the law of equality and difference and said: "Many examples of the clearest reasons for the greatness of this Sharia and its compatibility with common sense and healthy nature are differentiating between rulings; Because these tasks have different

characteristics that require differences in rulings, and if the same rulings were issued about them, it would cause acceptance, and it would be difficult to separate these two forms, and someone could say that the Shari'ah considered the two different forms to be the same and something with A dissimilar thing has made itself similar in terms of ruling, in this case or any of those forms, it was not distinguished from another form due to ruling, but it was distinguished based on a different meaning that made it obligatory to assign that form to that ruling, on this basis, two They found two forms of a common ruling only in the case that they have a common meaning that requires that ruling. Therefore, the separation of those two forms does not result in any harm in terms of the meaning that is required by the ruling, just as sharing in a different form does not result in benefit in the meaning that is required by the ruling; Because what is valid in this sharing and separation (rule) is simply the meaning due to which the rules in question have been legislated both in terms of existence and non-existence (Zidan, 2007/74).

One of the examples of the difference in the rights of men and women, which equality between them leads to corruption and is in line with the rule of "the first thing I want to do is prevent corruption" is that a man has the right to travel far and near without a companion, while that a woman can go on a long journey under the two conditions of being accompanied by her husband or a mahram relative, which causes her to shorten her prayers, this issue has also been taken into account in the woman's trip to Hajj, and the condition of being able to perform Hajj is only limited to having luggage, a vehicle, and road safety. It is not possible, but it depends on the presence of a spouse or confidant who accompanies him on this trip (Zidaan, 2016/74).

Sometimes, the reason for the difference in the enjoyment of a certain right can be investigated in the requirements and the realization of its purpose, for example, regarding the right of custody, a woman is more worthy and capable than a man, and a woman has the right to take care of her child, and her right comes before the right. is the father; Because the mother is more capable and qualified to fulfill the requirements of this right due to her nature and innate nature, which is a virtue for women (Zidaan, 2007/75).

Sometimes, the difference between men and women in a certain obligation comes back to the distribution of obligations according to the natural occasions of each of them, and justice and expediency are realized for both, for example, a woman's alimony is obligatory on a man and attention to household chores is obligatory on a woman. The two obligations of justice and proportionality are observed and considered; Because a man usually has more power to earn sustenance and alimony than a woman who is busy with housework and raising children, etc., and of course, a woman is more capable than a man in performing such actions (Zidaan, 2007/75). Therefore, according to the principles of Islamic law, each man and woman have specific duties for themselves that they can share in forming a family and preventing it from disintegrating, which is the basis of society; But in the western culture, which is the basis of the teachings of the convention, women have been made men, but they have not been able to make men look like women. Every day, the statistics of the disintegration of the family system in the western world is increasing, and one of the results of the disintegration of the family is that life appears to be in vain. And alienation of humans from each other (Sadat Saleki, 11/2015).

Finally, these two creatures have differences from a natural and physical point of view, and the existence of some differences and paying attention to them in terms of rights and duties is the same as justice, not oppression of women. The requirement of justice is not that the rights of men and women are exactly the same, but injustice to men and women is to ignore their abilities, differences and developmental characteristics.

#### **4- Criticism of the principle of humanism or the originality of man**



The most important element of Western culture, and in a sense its backbone, is humanism, which means returning to man instead of God, returning to the earth instead of the sky, and returning to the life of this world instead of the afterlife (Musbah Yazdi, 1999, vol.1/170). This principle is one of the most fundamental foundations on which the Convention on the Elimination of Discrimination is based. In this theory, humans are the center and creators of values, and it is human thought that determines everything, even the fate of creatures, and is the standard for measuring good and bad, religion is ultimately pushed to the corner of individual life isolation and plays a role in social life. does not. What humanism or the originality of man emphasizes as the path to perfection and attaining the truth is (intellect and experience), its motto is the maximum consumption and productivity of the world and its pleasures and freedom from any restrictions. In this theory, religion is placed at the service of human pleasure, and its most emphasis is on Human Rights, not on his duties, man is considered the owner of rights before God, not responsible and duty bound (Zibainejad and Sobhani, 2000, vol.1/38). Because modern Human Rights and the provisions of the convention are based on individualism and a higher moral value is given to the individual; Therefore, it is necessary to mention the data of ontological individualism here. First; Separation of man from the world: individualism relies on the separation of man from the natural world and, on this basis, has emphasized the separation between knowledge and value, in other words, facts and values. What is important for individualists is emphasizing the moral neutrality of the world of scientific facts and relying on the person as an independent observer of these facts (Mousavi and Haqit, 2019/182).

Second; Separation of humans from each other: until the end of the Middle Ages, humans were usually considered part of the society and system of the natural world as well as the supernatural world. are incomplete Therefore, individual autonomy was unrealizable, completeness and perfection belonged to the society or the city and were not considered among human traits. Against this point of view, according to individualists, what has real and original existence is only the individual, the individual's need for others is not a natural need. Man is not a social or political animal, but his joining with others and forming a society is at his own discretion and out of calculation (Mothari, 5/1996). And for this reason, the existence of society is a creditable and non-authentic matter.

Third; Emphasis on individual experience: the philosophical expression of human separation from each other, a philosophy in which individual experience is considered the touchstone and truth. Relying on individual experience as the original criterion of knowledge begins with (Descartes), according to him, like the sensuous philosophers, individual experience is the beginning of a theory about knowledge or truth. He starts from here that "I think, therefore I am" empiricism also strengthens individualism; Because the primary source of human knowledge about the world is the senses of the person. The result of this basis is trust in the experience and reasoning power of the individual and his refusal to accept the authority of the tradition (Motahari, 36-31/1996).

Fourth; Maliki's Self: From the 17th century onwards, we are faced with Maliki's self-relying individualism, the concept whereby the life of an "individual" "belongs" to him; Not to God or society and government. So one can deal with life as he wishes. The concept of "self" as the owner of oneself has been proposed in Locke's comments as follows: "Man, due to mastery over himself, mastery over himself and his work, had great foundations of possession in himself. Therefore, possessing and possessing material is a clear expression of the ownership that we already have over ourselves, our actions and our profession" (Mousavi and Haqirat, 2019/184).

Fifth; Sovereignty of desires: In the framework of the stated principles of individualism, the source of a person's autonomy and independence is two things: one is natural energy, desires and innate desires that actively boil from within a person. And the other is the decisive power

of wisdom that guides a person to satisfy these desires. According to the anthropocentric thinking of the modern era, human desire has a fundamental place. And desires are unchangeable and established facts in human nature, which ethics must adapt to them (Mousavi and Haqirat, 2019/184).

In fact, humanism leads to four results that all require each other: (genuineness of pleasure, relativism, liberalism, secularism) and all these results are the foundations and assumptions of the Convention on the Elimination of Any Discrimination against Women. The originality of man and, accordingly, the originality of pleasure require that: first, man is not relativistic and does not believe in fixed moral principles and avoids moral limitations; Second: the whole goal and ideal of freedom is as much as possible in all fields to satisfy and satisfy instincts; Third: He should interpret religion in such a way that it not only does not become an obstacle for his animal and material pleasures and desires, but also serves to make him more productive in the world and gives him peace of mind. In this way of thinking, man enjoys complete individual freedom; As long as it does not lead to chaos (Zibainejad and Sobhani, 2000, vol.1/38).

Now, after explaining the principle of humanism, it is criticized from the perspective of the Qur'an, based on the first data of human originality and individualism (separation of man from the world), the negation of the relationship between "reality" and "value" requires the originality and self-centeredness of man in choosing the system. It is valuable; But from the point of view of Islam and its foundations, the separation of "reality" and "value" in an absolute way that requires human autonomy in choosing values, is a matter that is both intellectually incorrect and incompatible with the viewpoint of Muslim thinkers (Mousavi and Haqit), 200/2019). Therefore, it is not acceptable in the light of Islamic principles; Because in the Holy Quran, among many verses, man is recognized as responsible and obliged to observe the principles of perfection: (Ahzab/72)

{إِنَّا عَرَضْنَا الْأَمَانَةَ عَلَى السَّمَاوَاتِ وَالْأَرْضِ وَالْجِبَالِ فَأَبَيْنَ أَنْ يَحْمِلْنَهَا وَأَشْفَقْنَ مِنْهَا وَحَمَلَهَا الْإِنْسَانُ}

Abdullah Ibn Abbas (RA) says: "God said to Adam: I offered the trust to the heavens, the earth, and the mountains, but they did not bear it. Do you accept what is in it?" Adam said: Lord! What is in that trust? He said: If you do a good deed, you will be rewarded and if you do a bad deed, you will be punished. So, Adam took it and took it" (Ibn Kathir, 1420, vol. 6/488; Mokhles Heravi, 2015, vol. 3/2198). Taking the trust that is mentioned in this verse shows the responsibility of man, not his autonomy.

One of the data of human originality and individualism was the term "Maliki's self", according to the individualist view, the life of "person" "belongs" to him, not to God or society and the government. So, he can deal with life as he likes. Such an attitude towards human life and body is in direct conflict with the foundations and religious texts, in the view of Islam, the true ownership belongs to God:

{لَهُ مُلْكُ السَّمَاوَاتِ وَالْأَرْضِ وَمَا بَيْنَهُمَا} (Zukhruf/85) "His is the government of the heavens and the earth and what is between them." And from verse 156 of Surah Baqarah:

{إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاغِبُونَ} It is also known that man is not free and self-directed in his actions and management of his life, but he is required to comply with God's commands and decrees; Because we are from God and we return to Him. Therefore, man needs God in religious vision. Of course, according to the same relationship of servitude of people with God, in the relationship of servants with each other, the principle of non-dominance and non-subordination is the principle, for this reason, humans have limited ownership over their own body and mind during divine ownership. Mousavi and the truth, 209/2018).

In the same way, another data of humanism and individualism is "dominance of desires"; By discarding the belief of "resurrection" in the analysis of human beings and existence, the thought of the modern era replaced the worship of God with the worship of desire, which states that man has various desires and instincts that his livelihood depends on; However,

from the point of view of the religious foundations of Islam, it is forbidden to unconditionally follow animal desires and instincts, which God has forbidden in the Holy Quran under the headings (rebellion, arrogance, following whims and fancies, corruption, debauchery, debauchery, etc.) According to Islam, carnal desires, just as they can be the foundation of a sublime life, can also be the cause of the downfall and decline of humanity. Therefore, society and social structures should be built in such a way that both these desires are legitimately satisfied and their outbursts are prevented (Mousavi and Haqirat, 110/2019). This can only be realized in divine laws.

In the humanist perspective and the originality of man, human nature is the absolute and fundamental legal origin for man, regardless of its connection with a being beyond God. Undoubtedly, such a view of man and separating him from his superior creator is in serious conflict with Islamic banish and religious foundations; Therefore, the explanation of this article is based on the following.

### **A) Human is God's substitute**

Although humanism considers human as the center of everything, it ultimately leads to humiliation and degradation (Zibanejad and Sobhani, 2000, vol.1/38). Because firstly, he interprets the world in terms of these material things and worldly pleasures, secondly, he looks at man as a captive of nature and sensual desires, ignoring his inherent dignity and human responsibility. On the other hand, Islam gives inherent dignity to man and considers man to be God's successor on earth:

{ وَ إِذْ قَالَ رَبُّكَ لِلْمَلٰٓئِكَةِ اِنِّيْ جَاعِلٌ فِى الْاَرْضِ خَلِيْفَةً } “Remember!, when your Lord said to the angels: I will place a successor on earth.” A large group of commentators said that the term "Khalifah" in this verse does not mean only Adam (PBUH), but the absolute human being is the substitute of God for the implementation of justice and development of the earth (Ibn Kathir, Bitā, Vol. 1/216; Razi, 1420 AH, Vol. 2). /389; Zamakhshari, 1407 AH/124).

### **B) Human and God's Holy Spirit:**

In addition to the physicality and the material aspect that is the concern of humanist theory, man also has a gem called the soul, which constitutes the essence of man; Because God attributed the soul to Himself because of its honor: { فَاِذَا سَوَّيْتُهُ وَ نَفَخْتُ فِيْهِ مِنْ رُّوْحِيْ } (Hajar/29)

“ So when I created it and breathed into it from my soul.” Qurtubi says: "The soul is a soft body that God has used to create life in the body with this soft body. Of course, God attributed the soul to Himself in terms of attributing the created to the Creator; That is: I breathed into it a spirit that is a strange creation among my creations" (Qurtubi, 1407 AH, vol. 10/24). Therefore, Islam considers men and women to have a divine soul that constitutes the truth of man. This undeniable fact should not be ignored that men and women are created differently physically, mentally and behaviorally, but from the point of view of Islam, they complement each other and are created to live together. The only living of each of them is a deviation from the law of creation (Motahari, 1996, Vol. 175/19). Therefore, mental peace, physical comfort and chastity are the basic aims of married life:

{ وَ مِنْ اٰيٰتِهٖاَنْ خَلَقَ لَكُمْ مِنْ اَنْفُسِكُمْ اَزْوَاجًا لِيَسْكُنُوْا اِلَيْهَا وَ جَعَلَ بَيْنَكُمْ مَوَدَّةً وَ رَحْمَةً } (Rum/21)

“One of His signs is that He created for you wives of your own kind so that you can find peace with them and He placed kindness and mercy among you.” After these verses, it was clearly proven that human beings have a spiritual dimension in addition to the material dimension, which plays an essential role in human existence (Makaram Shirazi, 2008, Vol. 16/391).

### **C) Human and Eternal Life**

Human is a being who has eternal life ahead of him, and this temporary worldly life in the world is not his goal and desire, but only a field and a passage to reach the perfection of eternal happiness. In this lofty perspective, man looks at everything from the point of view of a tool for growth and perfection, which is created wisely, so his relationship with other creatures of God is based on love, growth and perfection, and in this way, he submits to the revelation and teachings of the prophets; To reach the position of worship and closeness to God. Man is not a fruit that falls from the tree of nature and rots and perishes, but is like a bird that is freed from its cage by death and attains eternal life. (Nisa/ 57).

#### **D) Man and Purposeful Creation**

Contrary to the idea of humanist thinkers of the West, denying the end (resurrection) for the system of creation. The Islamic banish of the existence and its creatures did not emerge by chance and is not lost in the course of its evolution and movement; Rather, the creation system is a result of the knowledge of God's care for the best system and it flows towards Him who is the absolute existence (Mousavi and Haqirat, 2019/155). The world has a perfect system and a wise goal and goal, and all the differences and variations in it are part of this perfect and wise system. All relevant laws must also be in full compliance with this excellent system and the goal and inherent dignity of human beings; Therefore, the law should be established and interpreted in such a way that it provides the worldly and hereafter interests of man and expresses the direction and purpose of his life, and this is the life worthy of a human being that the prophets wished to realize. This type of attitude towards man and the world is very different from the purely material life with all kinds of pleasure-seeking, and only the law derived from the teachings of the prophets can fulfill the purposeful goals and decent human life (Motahari, 1996, vol. 176/19).

Finally, the most important teaching of this convention with the aforementioned principles is that women should not lag behind men in seeking pleasure, but should have a similar position and move forward in the field of pleasure-seeking competition even with conflict, equal to men, from the point of view of humanism and individualists. The criterion of superiority is social points, not piety, while God Almighty considers piety to be the criterion of superiority: {إِنَّا كَرَّمَكُمْنَ عِنْدَ اللَّهِ بِأَفْضَلِ مَا كُنْتُمْ} (Hujarat/13) “The most honorable of you in the eyes of God is the most pious of you.” For this reason, some commentators of the following verse:

{بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ} (Nesa/34)

It emphasizes that the meaning is not spiritual virtue; Because spiritual virtue is only based on piety (Sadeghi Tehrani, 2009, Vol. 1/377). The Convention on the Elimination of All Forms of Discrimination against Women, although it has positive points, but according to the foundations on which it is based, its goals are equalization and establishment of complete similarity between the rights and duties of men and women, and this means ignoring all natural differences. It exists between a man and a woman. Justice means that each man and woman should enjoy the rights and duties appropriate to their developmental characteristics and nothing should be imposed on them (Motahari, 153-153/1992).

#### **Conclusion**

Although in some cases there are commonalities in the application of the principles of the convention with religious principles, the following serious differences can be found with more precision:

- 1- Scientific rationality is one of the foundations of Human Rights in the West and the Convention, on this basis a person is able to recognize his capabilities and needs; But according to Islam, knowing the truth of the system of existence is not possible even

for the wise without the help of revelation. In addition to that, in monotheistic vision, God is not needed and all the world is dependent on him in its existence, God's knowledge is also complete in the system of existence and humans enjoy their natural rights within the limits of God's laws.

- 2- The principle of humanism requires the self-centeredness of man, and from their point of view, the life of an "individual" "belongs" to him. Not to God or society and government; But such an attitude towards man is in direct conflict with religious principles. And also one of the principles of humanism and individualism is "the sovereignty of desires"; Because by discarding the belief of "resurrection" in the analysis of man and existence, he has substituted desire worship for God worship; However, from the point of view of religious foundations, unconditionally following human desires and instincts is prohibited, and in addition to that, according to the principle of human originality, human nature is the absolute and fundamental legal origin for humans regardless of its connection with a being beyond (God). And such a view of human and separating him from his creator is in serious conflict with Islamic punishment.
- 3- Religious foundations are based on justice and the wise will of God and the principle of proportionality (equality and difference) or consider the developmental differences between men and women to be the cause of legislative differences. While the principles of the convention consider the principle of extreme equality and complete similarity between the rights of men and women. And from the point of view of Islam, ignoring the differences in rights and duties is considered oppression of women; Therefore, the ontological foundations of the convention are completely incompatible with the religious foundations, and Islamic countries cannot join the Convention on the Elimination of All Forms of Discrimination against Women only with the right of condition

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