

**Moralists-Realists divides on modern state and human rights:
An Islamic virtue-mystical observation**

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Abstract:

The pessimist view of human nature renders the realists, suspicious of contemporary human rights. Hobbsian state, for example, is a police state whose greatest goal is survival, and to survive it demands the complete subordination of its subjects. In such a state there would be no real rule of law, since law exists to serve the survival of the state; it is thus rule of 'the state', as 'the state' is in fact above the law. Moralists liberal state, however, is a means to protect equality of men as ends in themselves. Kantian kingdom of ends, for instance, should result a liberal republic governed by just principles agreed by rational agents beyond veil of ignorance. For Muslim thinkers inspired by Islamic teachings, a state should be no more than an instrument to implement divine values.

Depending on rulers' vision of Islam, therefore, an Islamic governance has the potential towards both liberal republic and/or totalitarian directions. Heavily influenced by the political realists, specially Karl Schmitt, Hallaq believes that the Islamic state is both impossible and inherently self-contradictory. It is true that the ideal Islamic governance exists not as an end in itself, but rather as a means to develop fully the divinely mandated normative standards. Also it is true that Islamic state by its very definition should always serve the divine law. Yet, the assumption that a modern state by its very nature is always above law seems to undermine the whole liberal republic model of state and its normative framework i.e. contemporary human rights. The Islamic governance is not, therefore, inevitably fundamentally at odds with all models of the modern state. It costs international community two world wars to effectively acknowledge that Hobbsian state is a potential source of war, rather than a provider of peace and security. Absence of human rights discourse in the Covenant of Leagues of Nations gave way to its bold presence in the UN Charter; a move which seems to signify a gradual shift of paradigm from Hobbsian political realism to a rather moral conception of world order. If Western countries- notwithstanding their theologically pessimistic background of human nature- shifted their view on men from originally sinners to valuable ends, Muslim should by priority embrace kingdom of ends and its fruit, a liberal republic. Their justice oriented theological heritage, should enable Adliyyah Muslim to recognize an original role for transcendental reason. Muslim's mystical heritage by which they see men as full manifestation of divinity also provides authentic room for humane state. The Principle of liberty for Muslim is not merely a theological or mystical principle; it is their most fundamental jurisprudential principle too. Yet, to embrace contemporary human rights, a hermeneutical shift of paradigm from a legal religion to virtue Islam seems to be inevitable.