

## The Individual's Personal Freedom from The Perspective of Legal Documents and Islamic Law

Khushal Jawad <sup>1,2\*</sup>, Abdul Wali Atif <sup>3</sup>

<sup>1</sup> Chancellor, Al-Taqwa Institute of Higher Education, Jalalabad, Afghanistan.

<sup>2</sup> Lecturer, Department of Law, Faculty of Law and Political Sciences, Al-Taqwa Institute of Higher Education, Jalalabad, Afghanistan.

<sup>3</sup> Lecturer, Department of Political Sciences and International Relations, Faculty of Law and Political Sciences, Al-Taqwa Institute of Higher Education, Jalalabad, Afghanistan.

\*Corresponding author: [chancellor@altaqwa.edu.af](mailto:chancellor@altaqwa.edu.af)

DOI: <https://doi.org/10.63476/atjss.v1i1.46>

Citation: Jawad, K., & Atif, A.W. (2024). The Individual's Personal Freedom from The Perspective of Legal Documents and Islamic Law. *Al-Taqwa Journal of Social Sciences*, 1(1). <https://doi.org/10.63476/atjss.v1i1.46>

### ABSTRACT

#### Article Info:

Received: 15/09/2024

Revised: 10/10/2024

Accepted: 12/11/2024

Published: 09/12/2024

#### Keywords:

Islamic Sharia,  
Documents,  
Personal Freedom,  
Personal Security,  
Individual Safety

After the right to life, the most important natural right of a human being is the right to freedom. Freedom and life are interdependent. Because life is connected to the performance of various matters and activities, and carrying out these matters is incomplete and impossible without freedom. Thus, freedom is considered a condition and an important principle for the realization of life matters, and it is regarded as a significant factor in the completeness of human dignity and personality. Because those who do not have freedom are legally considered to lack capacity. Personal (civil) freedom is one of the important types of freedom because it encompasses many vital aspects of human life and directly connects to human dignity and personality. Qualitative methods have been utilized to research this topic, and materials and information have been sourced from reputable books. The study aims to clarify individuals' right to personal freedom from the perspective of Islamic law and legal documents in a comparative manner. Personal (civil) freedom, personal security, freedom of belief, freedom of expression, opinion, and thought, the freedom to change residence, and the freedom to travel are all included in Islam, Sharia, and law restrict freedom; Islam is not compatible with a freedom that harms the freedoms, public interests, human dignity, status, and honor of others. On this basis, the absolute forms of freedom stated in Articles 1, 2, 3, 5, 16, 18, 19, 23, and 30 of the Universal Declaration of Human Rights, as well as in other international documents of a similar nature, clearly conflict with human dignity, status, honor, and the teachings of the blessed religion of Islam.

### INTRODUCTION

أَنَّ لِلَّذِينَ يُفَاتِلُونَ بَانْتَهُمْ ظُلْمُوا وَإِنَّ اللَّهَ عَلَىٰ نَصْرِهِمْ لَقَدِيرٌ. (سورة الحج، آيت: ٣٩)

[22.39] PERMISSION [to fight] is given to those against whom war is being wrongfully waged and, verily, God has indeed the power to succor them (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH). God Almighty, exalted by His glory, has created humans in a very superior form among all His creations

and has acknowledged their high value, granting them a very elevated status. On this basis, humans are referred to as the noblest of creatures. God Almighty, exalted by His glory, has sent down many suitable and wise commandments within the framework of the blessed religion of Islam to protect and safeguard the high status and personality of human beings, the implementation of



which secures all fundamental rights and freedoms of humanity. The blessed religion of Islam has granted humans the freedom to manage their life's affairs; freedom comes in various forms. For example, the freedom of belief and worship, the freedom of expression, opinion, and thought, the freedom to travel, political freedom, economic freedom, cultural freedom, the freedom to form parties and associations, and so on. However, the blessed religion of Islam has a framework and limitations for freedom, and from the perspective of Islam, what is meant by freedom is not what is referred to as Western democracy. Until you consider yourself free from the constraints of clothing and argue that humans are naturally born naked and that this constraint of apparel should be abolished, this academic research article specifically discusses personal (civil) freedoms from the perspective of Islamic Sharia and legal documents. It has been comparatively examined how all aspects related to individual freedom have been addressed to clarify how Islam, the blessed religion, has provided personal freedom excellently and comprehensively.

### Problem of Research

Personal (civil) freedom encompasses the human dignity, personality, and the protection of an individual's self, property, documents, correspondence, conversations, communications, and residence, as well as the freedoms of belief, thought, opinion, and travel. Why has every society defined personal freedom while considering its beliefs, values, principles, regulations, and ethical norms, and set boundaries for it? What rulings have been revealed in the blessed religion of Islam regarding personal freedom, and how beneficial are they for human dignity, honor, and personal security? (He has established certain principles for the personal freedom of legal documents at the same time, and what kind of preference the blessed teachings of Islam have in this regard), has been clarified as a result of this research.

### Research objectives

We can explain the objectives of this research in the following points.

1. With the completion of this research, the nature and limits of personal freedom from the perspective of the blessed religion of Islam have been clarified, and reasonable and appropriate solutions have been proposed to address the issues present in legal documents.
2. From the findings of this research, legal scholars, attorneys, defense lawyers, judges, and professors of legal sciences can derive essential benefits in understanding, analyzing, teaching, and conducting further research on relevant legal issues.
3. With the completion of this research, the discussion on human rights has become even richer, as personal (civil) freedom is an important topic of debate within this legal framework.

### RESEARCH METHODOLOGY

For conducting this research, library procedures have been utilized, and the following principles and standards were adhered to in the collection, analysis, evaluation, arrangement, and organization of materials and information.

1. First, a general discussion has been held on each topic, followed by the mention of the rulings of Islamic Sharia, and then the principles and regulations of legal documents have been outlined.
2. As a researcher, I have tried to consider both the positive and negative aspects of the topic, and in this way, I have ensured the principle of fairness in this study.

### Freedom

Freedom is generally divided into two parts:

- Political freedom
- Civil (personal) freedom

Our discussion here is about civil liberties. In the culture of human rights, the term civil liberty is synonymous



### Vole: - (1) - Issue (1)

with civil rights (Malik Satez , Translators: Hashimi, Rais Khail, and Ogroal., 1385). According to legal experts, civil liberties constitute the essence of human rights. Civil liberties refer to the individual freedom of members of society, ensuring the exercise of fundamental rights.

#### 1: Personal (Civil) Freedom

Personal freedom is a safeguard for an individual's specific or individual liberties; personal freedom encompasses the freedoms of belief, expression, and those liberties. That which we cannot separate from the essence of humanity, personal freedom is what organizes a person's identity within society, protecting them from arbitrary detention, imprisonment without trial, torture, maltreatment, and inhumane behavior. In international law, personal freedom is recognized under the name and title of personal security, and states are obligated to protect the freedoms of their citizens (Rasooli., 1383). Legal scholars have defined personal freedom as follows: (An individual is fully free to move within the country, to leave the country, and to return, and also has the right to protect themselves from any violation or encroachment, and no one can imprison or torture them; however, legal threats and certainties are excluded in all these stages) (Dr. Abdul Karim Zidan, Translated by Barakatullah Mustaan., 1386). In Islamic law, personal freedom is highly praised, as legal scholars have stated; Islam considers all forms of oppression forbidden and protects the life, existence, and dignity of every individual from any kind of violation or encroachment. Anyone who breaks this protection and infringes upon the lives, dignity, and existence of others is subject to punishment under Islamic law (Niazi, 2014). In Islam, no one is punished based on suspicion or doubt, because the presumption of innocence is the default state in Islam, and only those who have sinned themselves are punished, to apply the command of Allah (Kareemi, 1388).

The Exalted, which states:

وَلَا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَىٰ. (سورة الانعام، آيت: ١٦٤) (Quran., 1431)

[6.164] no bearer of burdens shall be made to bear another's burden (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH).

The Constitution of Afghanistan, enacted in 1382 AH (2003), states in Article 24:

#### Article 24 [Liberty, Human Dignity]

(1) Liberty is the natural right of human beings. This right has no limits unless affecting the rights of others or public interests, which are regulated by law.

(2) The liberty and dignity of human beings are inviolable.

(3) The state has to respect and protect the liberty and dignity of human beings (The Constitution of Afghanistan, 2004).

In the 2 and 4 articles of the Universal Declaration of Human Rights of 1948, it is stated:

#### Article 2:

Everyone is entitled to all the rights and freedoms outlined in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. Furthermore, no distinction shall be made based on the political, jurisdictional, or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing, or under any other limitation of sovereignty.

#### Article 4:

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms (Universal Declaration of Human Rights (December 10, 1948)., 2011).

The 11th article of the Islamic Declaration of Human Rights from the year 1990 states:

#### Article 11:

(a) Human beings are born free, and no one has the right to enslave, humiliate, oppress, or exploit them, and there can be no subjugation but to Allah the Almighty.

(b) Colonialism of all types being one of the vilest



forms of enslavement is prohibited. People suffering from colonialism have the full right to freedom and self-determination. All states' peoples have to support the struggle of colonized peoples for the liquidation of all forms of occupation, and all States and peoples have the right to preserve their independent identity and control over their wealth and natural resources (Islamic Declaration of Human Rights (August 15, 1990), 2011). The International Covenant on Civil and Political Rights of 1966 states in Article 9:

### Article 9:

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and under such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, so that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Considering the above explanations, personal freedom, personal security, freedom of belief, freedom of expression, freedom of opinion and thought, freedom of

residence change, and freedom of movement are included; each of which we will discuss separately (International Covenant on Civil and Political Rights (1966), 2011).

### 1.1: Personal security

Personal immunity means that a person's body, property, documents, correspondence, conversations, communications, residence, dignity, status, and human dignity are protected from any form of physical and moral violation, medical examinations, searches, investigations, surveillance, control, detention, and imprisonment. However, this is contingent upon the demand of Islamic law and jurisprudence, or if necessary, a competent court issues a ruling in this regard (Sarwari, 2015). In the blessed religion of Islam, many examples support personal security, which indicates the respect and value placed on personal safety.

Allah, the Exalted, says:

يَا أَيُّهَا الَّذِينَ آمَنُوا اجْتَنِبُوا كَثِيرًا مِّنَ الظَّنِّ إِنَّ بَعْضَ الظَّنِّ إِثْمٌ وَلَا تَجَسَّسُوا وَلَا يَغْتَبِ بَعْضُكُم بَعْضًا أَيُحِبُّ أَحَدُكُمْ أَن يَأْكُلَ لَحْمَ أَخِيهِ مَيْتًا فَكَرِهْنَاهُ وَأَتَقُوا اللَّهَ إِنَّ اللَّهَ تَوَّابٌ رَّحِيمٌ. (سورة الحجرات، آيت: ١٢) (Quran., 1431)

[49.12] O you who have attained to faith! Avoid most guesswork [about one another] for, behold, some of [such] guesswork is [in itself] a sin; and do not spy upon one another, and neither allow your shy; selves to speak ill of one another behind your backs. Would any of you like to eat the flesh of his dead brother? Nay, you would loathe it! And be conscious of God. Verily, God is an accepted shy; tor of repentance, a dispenser of grace! (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH)

It is mentioned in the noble Hadith:

(قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِنِّي لَمْ أَوْمَرْ أَنْ أَنْتَبِ عَنْ قُلُوبِ النَّاسِ وَلَا أَشَقُّ بُطُونَهُمْ.) (صحيح البخاري: ج ١٣م ٢٤٨)

Translation: O you who have brought Islam through your tongues and whose faith has not yet settled in your hearts, you are in search of the faults of others. Anyone who pursues the faults of others will be disgraced, even if they are in their own home.



In Islamic traditions and interpretations, it is stated that exposing someone's private and personal matters and actions is not permissible even with the consent of that person.

The owner of the jewel of the just man employs a particular expression in his characteristics; a just man is someone who conceals his flaws and mistakes in such a way that other Muslims cannot become aware of them. If any mistake is made, it is necessary to conceal it from others, as spreading bad rumors is prohibited; it is obligatory to protect one's dignity and modesty (Sarwari, 2015). According to Islamic teachings, no one can enter a neighbor's house or return a window to their property without the neighbor's permission. In such cases, the neighbor has the right to prevent such actions and can also restrict the person's view. In the blessed religion of Islam, the sanctity of the home, communication, relationships, and personal secrets are supported by noble hadiths and credible narrations, which prohibit their investigation and disclosure. The secrets that individuals support and do not wish to disclose until there is no violation of others' rights (Dr. Abdul Karim Zidan, Translated by Barakatullah Mustaan., 1386). Personal privacy, the principle of respect for human dignity, the security of residence, the protection of documents, correspondence, conversations, communications, and other personal secrets, as well as individual security, are all included, each of which we will discuss separately.

### 1.1.1: Human dignity

From verses 30 to 33 of Surah Al-Baqarah in the Holy Quran, it is evident from the guidance of Allah, that Allah has appointed man as His vicegerent on earth. The face of the earth and the universe mocked him, and they also granted him the power of reason, which is the means to independently comprehend the truths of existence. He also made it knowledgeable about the earth and the heavens, to the extent that it became worthy of the angels' prostration.

It is evident from this that in Islam, a person is worthy of honor and respect, to the extent that even before birth, during the embryonic stage, their status as a human being is recognized. In verse (70) of Surah Al-Isra in the Holy Quran, the word (dignity) is explicitly mentioned for humans (Imam Muhammad Abu Zahra, Translated by Syed Ahmad Ashrafi, 1382AH). It is evident from the verses of the Holy Quran and the blessed Hadiths that the honor and respect for human beings are not limited to any particular group, gender, race, or ethnicity; rather, all human beings, who are equal in the essence of humanity, share in this dignity. The Prophet of Islam, Prophet Muhammad (peace be upon him), has said about this:

كلكم لأدم و آدم من تراب، لا فضل لعربي على أعجمي إلا بالتقوى  
(Niazi, 2014)

Translation: You all are created from Adam, and Adam is made from clay; no Arab is superior to a non-Arab, except under piety.

In the logic of the Holy Quran, there is no distinction among people based on color, and the basis of virtue is solely piety. It is narrated that among the companions of Prophet Muhammad (peace be upon him), someone referred to another as the son of a black woman as an insult because his mother was black. The Prophet (peace be upon him) became angry at this statement and said three times, "It has gone beyond the limits; a white person has no superiority over a black person (Fazl, 1393 AH)."

Similarly, Islam does not recognize any distinction based on belief regarding a person—whether they are dead or alive. It is narrated that one day a Jewish funeral was being carried, and the Prophet Muhammad (peace be upon him) stood up out of respect. When he was told that it was a Jewish funeral, he (peace be upon him) said: "Is he not a human?"

In Islam, the respect and honor given to human beings encourage us to maintain good relationships and care for others, as long as they do not harm our religion, ourselves, our property, our honor, or our land (al-





Zuhaili, 2005).

The Constitution of Afghanistan, enacted in 1382 AH (2003 AD), states in Article 6:

### **Article 6 [Purposes]:**

The state is obliged to create a prosperous and progressive society based on social justice, protection of human dignity, protection of human rights, the realization of democracy, and to ensure national unity and equality among all ethnic groups and tribes and to provide for balanced development in all areas of the country (The Constitution of Afghanistan, 2004).

The first article of the Universal Declaration of Human Rights of 1948 states:

### **Article1:**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood (Universal Declaration of Human Rights (December 10, 1948)., 2011).

In the first and second articles, fourth paragraph, and the fourth article of the Islamic Declaration of Human Rights of 1990, it is stated:

### **Article1:**

(a) All human beings form one family whose members are united by their subordination to Allah and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination based on race, color, language, belief, sex, religion, political affiliation, social status, or other considerations. True religion is the guarantee for enhancing such dignity along the path to human integrity.

(b) All human beings are Allah's subjects, and the most loved by Him are those who are most beneficial to His subjects, and no one has superiority over another except based on piety and good deeds.

### **Article2:**

(d) Safety from bodily harm is a guaranteed right. The state must safeguard it, and it is prohibited to breach it

without a Sharia-prescribed reason.

### **Article4:**

Every human being is entitled to human sanctity and the protection of one's good name and honor during one's life and after one's death. The state and the society shall protect one's body and burial place from desecration (Islamic Declaration of Human Rights (August 15, 1990), 2011).

The International Covenant on Civil and Political Rights of 1966 states in Article 10:

### **Article10:**

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused persons shall save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;  
(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise the treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status (International Covenant on Civil and Political Rights (1966)., 2011).

### **1.1.2: The security of housing**

Housing is one of the primary needs of humans, and in its absence, human life becomes impossible. The continuation of the species and the upbringing of children face challenges, and it becomes difficult to exercise other fundamental rights and freedoms. Therefore, every individual must be entitled to this right as part of the human community (Dr. Abdul Karim Zidan, Translated by Barakatullah Mustaan., 1386).

From the perspective of the blessed religion of Islam, the private residence of every individual is protected from



### Vole: - (1) - Issue (1)

any form of intrusion and violation, and no one has the right to enter someone else's home without permission, as the home is a place for family living and secrets. An attack on someone's private residence is treated the same as an attack on a person (Sarwari, 2015).

Allah (ج) says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَدْخُلُوا بُيُوتًا غَيْرَ بُيُوتِكُمْ حَتَّى تَسْتَأْذِنُوا وَتُسَلِّمُوا عَلَى أَهْلِهَا ذَلِكَ خَيْرٌ لَكُمْ لَعَلَّكُمْ تَذَكَّرُونَ [24.28] فَإِنْ لَمْ تَجِدُوا فِيهَا أَحَدًا فَلَا تَدْخُلُوهَا حَتَّى يُؤْذَنَ لَكُمْ وَإِنْ قِيلَ لَكُمْ ارْجِعُوا فَارْجِعُوا هُوَ أَزْكَى لَكُمْ وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ. (سورة النور، آيت: ٢٧-٢٨) (Quran., 1431)

[24.27] O YOU who have attained to faith! Do not enter houses other than your own unless you have obtained permission and greeted their inmates. This is [enjoined upon you] for your good, so that you might bear [your mutual rights] in mind [24.28] Hence, [even] if you find no one within [the house], do not enter it until you are given leave; and if you are told, "Turn back," then turn back. This will be most conducive to your purity; and God has full knowledge of all that you do (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH).

The conclusion from the above discussion is that a person's residence is protected from intrusion. This is a legal principle that one should not enter someone else's house without the permission of the homeowner.

It is also mentioned in a hadith that someone raised their head into the house of Prophet Muhammad (peace be upon him) without his permission, and the Prophet (peace be upon him)

According to the law, government officials do not have the right to search a person's home without the owner's permission; they must obtain prior authorization from a competent court. Even governors and district chiefs do not have the legal authority to grant permission to anyone to search someone else's home (Rasooli., 1383).

Of course, there are some exceptions in this regard, which are important as follows:

١. By order of the judicial authorities, the designated

officer is tasked with searching residences to pursue criminals or gather evidentiary materials and documents.

٢. Reviewing the residential location for the tax system.

٣. In emergencies such as fire, flood, and similar circumstances, security forces can only enter and search a home without the owner's permission if they have a legal warrant and it is during the day (Ghazi, 2001).

The Constitution of Afghanistan, enacted in 1382 AH (2003 AD), states in Article 38:

#### Article 38 [Residence, Home, and Search]:

(1) A person's residence is immune from invasion.

(2) Other than the situations and methods indicated in the law, no one, including the state, is allowed to enter or inspect a private residence without prior permission of the resident or holding a court order.

(3) In case of an evident crime, an official in charge can enter or conduct a house search before the court's permission.

(4) The official involved in the situation is required to obtain a subsequent court order for the house search within the period indicated by law (The Constitution of Afghanistan, 2004).

Article 12 of the Universal Declaration of Human Rights of 1948 states:

#### Article 12:

No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks (Universal Declaration of Human Rights (December 10, 1948)., 2011).

In the third paragraph of Article 18 of the Islamic Declaration of Human Rights of 1990, it states:

#### Article 18:

(c) A private residence is inviolable in all cases. It will not be entered without permission from its inhabitants or in any unlawful manner, nor shall it be demolished or confiscated and its dwellers evicted (Islamic Declaration



of Human Rights (August 15, 1990), 2011).

The International Covenant on Civil and Political Rights of 1966 states in Article 17:

### Article 17:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, or correspondence, nor illegal attacks on his honor and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks (International Covenant on Civil and Political Rights (1966)., 2011).

### 1.1.3 The Protection of Documents, Correspondence, Conversations, Communications, and Other Personal Secrets:

The protection of documents, correspondence, conversations, communications, and other personal secrets is a fundamental right of every individual in society. Every individual has the right to communicate with their relatives and friends inside and outside the country through telephone and the internet for various personal matters. He sends them letters and shares important issues of his life in these letters and conversations, solving his problems in this way, while also ensuring that all their secrets remain confidential. No one, including the government, has the right to disclose the secrets of people's private lives, except in exceptional cases provided by law, or to exploit them for malicious purposes, thereby harming people's dignity and reputation. A fundamental and serious guarantee for the protection and security of individuals' private lives is the confidentiality of letters, telephone conversations, and communications, which must be regulated and ensured by law (Johnson, 1999). The officials of the postal service, telephone, and telecommunications must take this confidentiality seriously and should not hand over people's letters to anyone else without the consent of the letter owners, and they should also refrain from viewing them themselves.

How is the privacy of this freedom being violated?

1. Opening, reading personal letters, and the extraction of money or other documents from these letters by postal workers.
2. Listening in on people's phone conversations and communications by government employees or private individuals and then broadcasting them.
3. Due to the negligence and carelessness of the responsible employees, the personal letters of the people are not being delivered to their rightful owners.
4. Illegally and unilaterally inspecting people's correspondence by security agencies to obtain various information.
5. Destruction and elimination of telecommunications and postal facilities (Sarwari, 2015).

The Constitution of Afghanistan, enacted in 1382, guarantees this important human right in its 37 articles:

### Article 37 [Confidentiality of Communication]

(1) Confidentiality and freedom of correspondence and communication whether in the form of letters or through telephone, telegraph, and other means, are immune from invasion.

(2) The state does not have the right to inspect personal correspondence and communication unless authorized by the provisions of law (The Constitution of Afghanistan, 2004).

### The Universal Declaration of Human Rights of 1948 enshrined this right in Article 12.

#### Article 12:

No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks (Universal Declaration of Human Rights (December 10, 1948)., 2011).

The second paragraph of Article 18 of the Islamic Declaration of Human Rights of 1990 states:

#### Article 18:

(b) Everyone shall have the right to privacy in the





conduct of his private affairs, in his home, among his family, concerning his property and his relationships. It is not permitted to spy on him, to place him under surveillance, or to besmirch his good name. The State shall protect him from arbitrary interference (Islamic Declaration of Human Rights (August 15, 1990), 2011).

#### 1.1.4: Personal Security

Individual security means that a person is protected from any form of moral and material violation, such as murder, assault, injury, medical examinations, detention, imprisonment, exile, torture, and other similar unlawful actions that conflict with human dignity and status. Individual security is a great blessing from Allah, the Almighty, which generally conveys the meaning of the absence of fear and anxiety (Sarwari, 2015).

**The Constitution of Afghanistan, enacted in 1382 AH (2003), includes Articles 25, 26, 27, 29, 30, 31, and 32:**

#### **Article 25 [Presumption of Innocence]**

- (1) Innocence is the original state.
- (2) An accused is considered innocent until convicted by a final decision of an authorized court.

#### **Article 26 [Criminal Responsibility]**

- (1) Crime is a personal action.
- (2) The prosecution, arrest, and detention of an accused and the execution of the penalty cannot affect another person.

#### **Article 27 [Punishment]**

- (1) No act is considered a crime unless determined by a law adopted before the date the offense is committed.
- (2) No person can be pursued, arrested, or detained but by provisions of law.
- (3) No person can be punished but by the decision of an authorized court and in conformity with the law adopted before the date of offense.

#### **Article 29 [Torture]**

- (1) Torture of human beings is prohibited.
- (2) No person, even to discover the truth, can resort to torture or order the torture of another person who may be under prosecution, arrest, imprisoned, or convicted of

punishment.

- (3) Punishment contrary to human integrity is prohibited.

#### **Article 30 [Compulsion, Confession]**

- (1) Any statement, testimony, or confession obtained from an accused or of another person through compulsion, is invalid.
- (2) Confession to a crime is a voluntary confession before an authorized court by an accused in a sound state of mind.

#### **Article 31 [Defense]**

- (1) Every person upon arrest can seek an advocate to defend his rights or to defend the case for which he is accused under the law.
- (2) The accused upon arrest has the right to be informed of the attributed accusation and to be summoned to the court within the limits determined by law.
- (3) In criminal cases, the state shall appoint an advocate for a destitute.
- (4) The confidentiality of oral, written, or telephonic communications between an advocate and his accused client is immune from invasion.
- (5) The duties and authorities of advocates shall be regulated by law.

#### **Article 32 [Debt Relief]**

- (1) Being in debt does not limit a person's freedom or deprive him of his liberties.
- (2) The mode and means of recovering a debt shall be regulated by law (The Constitution of Afghanistan, 2004).

**The 3rd, 4th, 9th, and 11th articles of the Universal Declaration of Human Rights of 1948 state:**

#### **Article3 :**

Everyone has the right to life, liberty, and security of person.

#### **Article5:**

No one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment.

#### **Article9:**

No one shall be subjected to arbitrary arrest, detention,



or exile.

### Article11:

1. Everyone charged with a penal offense has the right to be presumed innocent until proven guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.
2. No one shall be held guilty of any penal offense on account of any act or omission that did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed (Universal Declaration of Human Rights (December 10, 1948), 2011).

**In the third, fourth, and fifth paragraphs of Article 19, and Articles 20 and 21 of the Islamic Declaration of Human Rights of 1990, it is stated:**

### Article19:

- (c) Liability is in essence personal.
- (d) There shall be no crime or punishment except as provided for in the Sharia's.
- (e) A defendant is innocent until his guilt is proven in a fast trial in which he shall be given all the guarantees of defense.

### Article20:

It is not permitted without legitimate reason to arrest an individual, restrict his freedom, exile, or punish him. It is not permitted to subject him to physical or psychological torture or any form of maltreatment, cruelty, or indignity. Nor is it permitted to subject an individual to medical or scientific experiments without his consent or at the risk of his health or his life. Nor is it permitted to promulgate emergency laws that would provide executive authority for such actions.

### Article21:

Taking hostages under any form or for any purpose is expressly forbidden (Islamic Declaration of Human Rights (August 15, 1990), 2011).

**In the International Covenant on Civil and Political**

**Rights of 1966, Articles 7, 8, and the first, second, and third paragraphs state:**

### Article 7:

No one shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

### Article 8:

1. No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labor;  
(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labor may be imposed as a punishment for a crime, the performance of hard labor in pursuance of a sentence to such punishment by a competent court (International Covenant on Civil and Political Rights (1966), 2011).

### 2: Freedom of belief.

Islam, the blessed religion, fully respects the freedom of belief. The freedom and independence of belief is a natural desire of human beings, and throughout history, Islam has never compelled anyone regarding religion, faith, or matters of belief. Everyone can freely practice their religious rituals in society; the holy religion of Islam acknowledges this right and grants everyone the right to align their beliefs and opinions with their sacred values and principles in a way that they are intellectually and rationally convinced of them (Niazi, 2014).

Allah(ج), says:

أَوَلَمْ يَنْظُرُوا فِي مَلَكُوتِ السَّمَاوَاتِ وَالْأَرْضِ وَمَا خَلَقَ اللَّهُ مِنْ شَيْءٍ وَأَنْ عَسَى أَنْ يَكُونَ قَدْ أَفْتَرَبَ أَجْلُهُمْ فَبِأَيِّ حَدِيثٍ بَعْدَهُ يُؤْمِنُونَ. (سورة الاعراف، آيت: ١٨٦) (Quran., 1431)

[7.185] Have they, then, never considered [God's] mighty dominion over the heavens and the earth and all the things that God has created, and [asked themselves] whether, perchance, the end of their term might already have drawn nigh? In what other tiding, then, will they,



### Vole: - (1) - Issue (1)

after this, believe? (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH)

Although Muslims are obligated to invite all people to embrace Islam, coercion and invitation to Islam have different meanings; coercion is unlawful, while invitation is not only permissible but also obligatory.

Allah (ج), says:

ادْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحُكْمَةِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَادِلْهُمْ بِالَّتِي هِيَ أَحْسَنُ إِنَّ رَبَّكَ هُوَ أَعْلَمُ بِمَنْ ضَلَّ عَنْ سَبِيلِهِ وَهُوَ أَعْلَمُ بِالْمُهْتَدِينَ. (سورة النحل، ایت: ۱۲۵) (Quran., 1431)

[16.125] CALL THOU (all mankind] unto thy Sustainer's path with wisdom and goodly exhortation, and argue with them in the kindest manner- for, behold, thy Sustainer knows best as to who strays from His path, and best knows He as to who are the right-guided (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH).

Similarly, Allah Almighty has said about force and coercion.

لَا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ فَمَنْ يَكْفُرْ بِالطَّاغُوتِ وَيُؤْمِنْ بِاللَّهِ فَقَدِ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَىٰ لَا انْفِصَامَ لَهَا وَاللَّهُ سَمِيعٌ عَلِيمٌ. (سورة البقرة، ایت: ۲۵۶) (Quran., 1431)

[ 2.256] THERE SHALL BE no coercion in matters of faith. and believes in God has indeed taken hold of a support most unfailing, which shall never give way: for God is all-hearing, all-knowing (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH).

Another excellent example of the freedom of belief is when the second caliph, Hazrat Umar Farooq (may Allah be pleased with him), invited an elderly woman to the court for a certain matter. He offered her the invitation to Islam, but she did not accept it. Omar, may Allah be pleased with him, was concerned that he might have been overwhelmed by it, so he turned to the Lord and prayed: O Allah, the Exalted and Majestic! Be a witness that I did not force her. In the Islamic state, the (beya) and (kenayess) of (the places of worship of Jews and Christians) were always present, and at no time did they suffer any harm. In light of the above texts and evidence,

it can be clearly stated that it is not permissible for anyone to mock or ridicule the beliefs of others, nor to incite members of society against the beliefs of the people. This is because respecting the beliefs of others is a moral obligation for Muslims (Dr. Abdul Karim Zidan, Translated by Barakatullah Mustaan., 1386).

Allah Almighty says:

وَلَا تَسُبُّوا الَّذِينَ يَدْعُونَ مِنْ دُونِ اللَّهِ فَيَسُبُّوا اللَّهَ عَدْوًا بِغَيْرِ عِلْمٍ كَذَلِكَ زَيَّنَّا لِكُلِّ أُمَّةٍ عَمَلَهُمْ ثُمَّ إِلَىٰ رَبِّهِمْ مَرْجِعُهُمْ فَيُنَبِّئُهُمْ بِمَا كَانُوا يَعْمَلُونَ. (سورة الانعام، ایت: ۱۰۸) (Quran., 1431)

[6.108] But do not revile those [beings] whom they invoke instead of God, in time, [however,] unto their Sustainer they must return: and then He will make them [truly] understand all that they were doing (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH). Why does a Muslim not have the right to abandon the blessed religion of Islam and accept another faith? Because this act is considered a crime in Islam, and the one who commits it is deemed sinful, known as an apostate. The fact that the blessed religion of Islam punishes apostasy has no connection to the freedom of belief; rather, apostasy itself carries a specific meaning, and the freedom to hold and practice a particular belief has its significance (Niazi, 2014).

The Constitution of Afghanistan, enacted in 1382 AH (2004), states in the 2nd article, second paragraph:

**Article 2 [Religions]** :Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of the law (The Constitution of Afghanistan, 2004).

**The Universal Declaration of Human Rights of 1948 states in Article 18:**

**Article 18:** Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance (Universal Declaration of Human Rights (December 10, 1948).,



2011).

### **The Islamic Declaration of Human Rights from 1990 states in Article 10:**

**Article 10:** Islam is the religion of true unspoiled nature. It is prohibited to exercise any form of pressure on man or to exploit his poverty or ignorance to force him to change his religion to another religion or atheism (Islamic Declaration of Human Rights (August 15, 1990), 2011).

### **The International Covenant on Civil and Political Rights of 1966 states in Article 18:**

#### **Article 18:**

1. Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their convictions (International Covenant on Civil and Political Rights (1966), 2011).

### **3: Freedom of expression, opinion, and thought.**

In Islamic law, every individual has the freedom of expression, opinion, and thought. Intellectual freedom is essential for preserving human dignity and fulfilling Islamic obligations. For instance, enjoining good and forbidding evil are significant duties in Islam, and this

can only be achieved if everyone is granted the freedom to think (Fazl, 1393 AH).

#### **Allah almighty says:**

وَالْعَصْرِ ﴿١﴾ إِنَّ الْإِنْسَانَ لَفِي خُسْرٍ ﴿٢﴾ إِلَّا الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ وَتَوَّصُوا بِالْحَقِّ وَتَوَّصُوا بِالصَّبْرِ ﴿٣﴾. (سورة العصر، آيت: ١- ٣)  
(Quran., 1431 )

[103.1] CONSIDER the flight of time! [103.2] Verily, man is bound to lose himself [103.3] unless he is of those who attain to faith, and do good works, and enjoin upon one another the keeping to truth, and enjoin upon one another patience in adversity (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH).

#### **Similarly, Allah Almighty, has stated in another verse of the Holy Quran:**

وَالْمُؤْمِنُونَ وَالْمُؤْمِنَاتُ بَعْضُهُمْ أَوْلِيَاءُ بَعْضٍ يَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَيُقِيمُونَ الصَّلَاةَ وَيُؤْتُونَ الزَّكَاةَ وَيُطِيعُونَ اللَّهَ وَرَسُولَهُ أُولَئِكَ سَيَرْحَمُهُمُ اللَّهُ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ. (سورة التوبة، آيت: ٧١)  
(Quran., 1431 )

[9.71] AND [as for] the believers, both men and women they are close unto one another: they [all] enjoin the doing of what is right and forbid the doing of what is wrong, and are constant in prayer, and render the purifying dues, and pay heed unto God and His Apostle. They are upon whom God will bestow His grace: verily, God is almighty, wise! (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH)

Prophet Muhammad (peace be upon him) says in a Hadith:

Translation: If you see anyone committing an evil act, you should prevent it with your hand. If you cannot do so, control it with your tongue. And if you are also unable to do that, then harbor hatred and disdain in your heart, for this is the weakest level of faith. From the above rulings of Islamic Sharia, it is evident that Muslims can criticize the affairs of the rulers and advise them, but this is only possible if individuals have the freedom of expression, opinion, and thought. A man came to Hazrat Umar (may Allah be pleased with him) and said to him, "O Umar, fear Allah, the Glorious and



### Vole: - (1) - Issue (1)

Exalted!" Umar Farooq (may Allah be pleased with him) said to him: You always say this (word), meaning you command good deeds and forbid bad deeds, and if you do not do this, then there is no goodness in your existence, and if we do not listen to your words, then there is no goodness in our existence. Prophet Muhammad (peace be upon him) said: Translation: When courage arises in people, it is because they have a strong belief in Allah, the Almighty, and fully understand the meaning of this sacred belief (Rasooli., 1383). They firmly believe that true benefit and harm are solely in the hands of Allah, the Almighty, and that without Allah, the Almighty, all other beings are weak creations of Allah, the Almighty. The head of state and his officials are all creations and servants of Allah, and they will be questioned about their actions in the presence of Allah (Motameni, 2016). Therefore, such a devout Muslim is never afraid to speak the truth among the rulers and the powerful and to criticize their actions. Because this Muslim believes that death and sustenance are entirely in the power of Allah, and no one else has control over this power (Al-Zuhaili, 2005).

**Note:** The limits of freedom of expression, opinion, and thought in Islamic Sharia. In Islam, freedom of thought is not unrestricted and absolute; this freedom also has certain limitations and boundaries, which we will explain here.

1. Freedom of thought is indeed a person's right, provided that it is accompanied by the desire and intention to seek the pleasure of Allah Almighty and to benefit one's community.
2. Freedom of thought should not be a cause for pride and vanity, nor should it harm or damage the freedom of others, and it should not be a means for acquiring wealth and position for oneself.
3. In this intellectual freedom, Islamic beliefs and rulings will be upheld, so no one has the right to criticize Islamic rulings and beliefs under the pretext of intellectual freedom, because this act

leads to the apostasy of a Muslim and ultimately results in punishment, and intellectual freedom cannot provide any help in this matter.

4. Adherence to Islamic ethics is also essential in intellectual freedom, but no one is ever allowed to insult people's dignity, curse them, or accuse them of immorality under the guise of intellectual freedom; thus, intellectual freedom is valid as long as it does not lead to harm and corruption (Dr. Abdul Karim Zidan, Translated by Barakatullah Mustaan., 1386).

The Constitution of Afghanistan of the year 1382 in the Solar Hijri calendar states in Article 34: Article 34 [Expression, Press, Media]:

- (1) Freedom of expression is inviolable.
- (2) Every Afghan has the right to express his thoughts through speech, writing, or illustration or other means, by observing the provisions stated in this Constitution.
- (3) Every Afghan has the right to print or publish topics without prior submission to the state authorities following the law.
- (4) Directives related to printing houses, radio, television, press, and other mass media, will be regulated by the law (The Constitution of Afghanistan, 2004).

The Universal Declaration of Human Rights of 1948 states in Article 19:

#### Article 19:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers (Universal Declaration of Human Rights (December 10, 1948)., 2011).

The Islamic Declaration of Human Rights of 1990 states in Article 22:

#### Article 22:





(a) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Sharia's.

1.. Everyone shall have the right to advocate what is right, propagate what is good, and warn against what is wrong and evil according to the norms of Islamic Sharia.

(c) Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate the sanctities and the dignity of Prophets, undermine moral and ethical Values disintegrate, corrupt or harm society, or weaken its faith.

(d) It is not permitted to excite nationalistic or doctrinal hatred or to do anything that may be an incitement to any form of racial discrimination (Islamic Declaration of Human Rights (August 15, 1990), 2011).

The International Covenant on Civil and Political Rights of 1966 states in Article 19:

#### **Article 19:**

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals (International Covenant on Civil and Political Rights (1966)., 2011).

#### **4: Freedom to change residence**

Every individual has the right to choose their residence in any part or area of the country they desire for the

betterment of their life and work. They can also change their residence whenever they wish. Additionally, according to Islamic and legal regulations, they can benefit from their residence (Dost, 2014).

The 13th article of the Universal Declaration of Human Rights of 1948 states:

#### **Article13:**

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country (Universal Declaration of Human Rights (December 10, 1948)., 2011).

The Islamic Declaration of Human Rights of 1990 states in Article 12:

#### **Article12:**

Every man shall have the right, within the framework of the Sharia, to free movement and to select his place of residence whether within or outside his country, and if persecuted, is entitled to seek asylum in another country. The country of refuge shall be obliged to protect the asylum-seeker until his safety has been attained unless asylum is motivated by committing an act regarded by the Sharia as a crime (Islamic Declaration of Human Rights (August 15, 1990), 2011).

#### **5: The freedom to travel within and outside the country**

A person can have the freedom to move from one place to another and also move freely within and outside the country from one place to another. The freedom to move from one place to another is considered a fundamental necessity of every person's life. Each person has various affairs and goals in their life, such as tourism and climate changes, medical treatments, visiting relatives and friends, business and transactions, education, work... Travel within and outside the country. The freedom to travel within and outside the country is not absolute but is subject to a set of rules and regulations to prevent harm to public interests and social resources. For



### Vole: - (1) - Issue (1)

example, when traveling from one country to another, every individual must have a passport and visa to ensure that their travel is legal (Abdulrahman Shahah, translation and research: Heybatollah Nezhandi Manesh, 1386AH). Although all Muslims are considered subjects of the Islamic Ummah according to Islamic law, they must also adhere to the aforementioned principle when traveling from one country to another. Non-Muslim individuals must choose to travel, reside, and settle in Islamic territory under specific conditions, which include special covenants such as the Dhimmi and Aman covenants and the payment of Jizya; on the other hand, Islam invites its followers to travel throughout the world and learn from the civilization and culture of its people (Karimi, 1388AH).

Allah, the Exalted, says:

وَمَا أَرْسَلْنَا مِنْ قَبْلِكَ إِلَّا رَجَالًا نُوحِي إِلَيْهِمْ مِنْ أَهْلِ الْقُرَىٰ أَلَمْ يَسِيرُوا فِي الْأَرْضِ فَيَنْظُرُوا كَيْفَ كَانَ عَاقِبَةُ الَّذِينَ مِنْ قَبْلِهِمْ وَلَدَارُ الْآخِرَةِ خَيْرٌ لِلَّذِينَ اتَّقَوْا أَفَلَا تَعْقِلُونَ. (سورة يوسف، آيت: ١٠٩) (Quran., 1431)

[12.109] And [even] before thy time, we never sent [as Our apostles] any but [mortal] men, whom We inspired, [and whom We always chose] from among the people of the [very] communities [to whom the message was to be brought]. Have, then, they [who reject this divine writ] never journeyed about the earth and beheld what happened in the end to those [deniers of the truth] who lived before them? -and [do they not know that] to those who are conscious of God the life in the hereafter is indeed better [than this world]? Will they not, then, use their reason? (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435 AH)

Similarly, Allah the Almighty says elsewhere:

هُوَ الَّذِي جَعَلَ لَكُمُ الْأَرْضَ ذَلُولًا فَامْشُوا فِي مَنَاكِبِهَا وَكُلُوا مِنْ رِزْقِهِ وَإِلَيْهِ النُّشُورُ. (سورة الملك، آيت: ١٥) (Quran., 1431)

[67.15] He it is who has made the earth easy to live upon: go about, then, in all its regions, and partake the sustenance which He provides: but [always bear in mind that] unto Him you shall be resurrected (Teaching the Quran in Pashto, The Prophetic Interpretation, 1435

AH).

The Constitution of Afghanistan of the year 1382 AH states in Article 39:

### Article 39 [Movement, Settlement, Travel]

- (1) Every Afghan has the right to travel or settle in any part of the country except in the regions forbidden by law.
- (2) Every Afghan has the right to travel abroad and return home by the provisions of law.
- (3) The state shall protect the rights of the citizens of Afghanistan abroad (The Constitution of Afghanistan, 2004).

Article 13 of the Universal Declaration of Human Rights states:

### Article 13 :

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country (Universal Declaration of Human Rights (December 10, 1948)., 2011).

The International Covenant on Civil and Political Rights of 1966 states in Article 12:

### Article 12:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country (International Covenant on Civil and Political Rights (1966)., 2011).

### Result:



### Vole: - (1) - Issue (1)

This scientific research article, which has been conducted on the personal (civil) freedom of individuals (from the perspective of Islamic Sharia and legal documents), has reached the following conclusions upon completion:

1. Presumption of innocence: the legality of crimes and punishments, personal nature of crimes and punishments, criminal responsibility, respect for the principle of human dignity, prohibition of torture, prohibition, and inadmissibility of statements, confessions, and testimonies obtained by force, prohibition of unlawful detention, prohibition of unlawful detention and medical experiments, prohibition of deprivation or restriction of individuals' freedom due to debt, prohibition of access to individuals' secrets through coercion, espionage, and other means, and prohibition of arbitrary search of individuals are the main principles that ensure personal security for individuals.

2. Leaving the blessed religion of Islam (apostasy), committing a crime, lacking or losing personality, changing citizenship or residing in another country without citizenship, wartime, and emergencies, disrespecting the beliefs and values of others, disclosing state secrets and confidential information, infringing on the rights and freedoms of others, violating Islamic Sharia and laws, and the rulings of competent courts are factors that limit and ultimately eliminate a person's personal (civil) freedoms.

### Discussion

From the perspective of Islam, although freedom is a fundamental right of humans, it is within a specific Sharia and legal framework. In Islam, freedom is restricted by Sharia's and law. Islam does not align with the spirit of freedom that harms the freedom of others, public interests, human dignity, honor, and respect. Based on this, the absolute forms of freedom that are stipulated in Articles 1, 2, 3, 5, 16, 18, 19, 23, and 30 of the Universal Declaration of Human Rights and other international documents of the same nature, It conflicts

with the principles of human dignity, honor, and the teachings of the blessed religion of Islam, because the drafting of the Universal Declaration of Human Rights and several other international documents that followed it is based on the (individualism school) and the (collectivism school), while the teachings of the blessed religion of Islam were not taken into consideration at all in the drafting of this declaration and several other international documents. For example, in Articles 1, 2, and 3 of the Universal Declaration of Human Rights, absolute freedom is granted to individuals, to the extent that it gives them the right to do whatever their heart and mind desire; this is why today in the West, people walk around naked and men marry men and women marry women. Similarly, Article 5 of the Universal Declaration of Human Rights states: (No one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment). Although the above article does not explicitly conflict with the noble religion of Islam, in some cases, Westerners (Europe and America) consider punishments like Hudud and Qisas to be cruel and against human dignity, citing the fifth article of the Universal Declaration of Human Rights. However, if we pay attention to the logic of the permissibility and application of Hudud and Qisas in Islam, we find that they are fundamentally aligned with the basic rights and freedoms of humans (the right to life, freedom of belief, property, honor, self, and intellect...). They are means of guarantee and security, and the application of limits and retribution does not violate human rights and freedoms. Similarly, Article 16 of the Universal Declaration of Human Rights grants men and women the right to marry and divorce without any restrictions (such as race, nationality, or religion); however, from the Islamic perspective, men and women are bound by certain conditions when it comes to marriage. For instance, a Muslim woman does not have the right to marry a non-Muslim man, and likewise, a Muslim man can marry a woman from the People of the Book, but he cannot



marry a polytheist or a non-People of the Book woman. The reasons and wisdom behind these restrictions in Islam are clear, as Islam aims to establish a family foundation where mutual respect exists between husband and wife, and where any form of chaos and disorder is prevented.

Similarly, from the perspective of Islam, the right to divorce is solely with men, and the reasons for this are clear in Islam (men incur more expenses at the time of marriage; men are generally more patient and less emotional than women). Therefore, men exercise great patience, tolerance, and caution when granting a divorce and strive to avoid it as much as possible because the goal of Islam is for the marital bond between husband and wife to remain intact. In addition, the second paragraph of Article 18 of the Universal Declaration of Human Rights states: (Everyone has the right to change their religion or belief). However, from the perspective of the blessed religion of Islam, a Muslim does not have the right to abandon Islam and turn to another religion because when a person accepts the blessed religion of Islam, it means that the person adheres to all the commands and principles of Islam. But when a person turns away from Islam and becomes an apostate, since the blessed religion of Islam is based on reason and logic and is established on evidence and proof, if someone turns away from the religion, that person has gone beyond reason and logic and has denied evidence. This means that this person is opposing Islam with a sound mind and nature. It is worth noting that the International Covenant on Civil and Political Rights also contains a specific provision regarding the change of belief. Similarly, Article 19 of the Universal Declaration of Human Rights mentions freedom of expression, but according to this article, freedom of expression is accepted in an absolute form. In contrast, in the blessed religion of Islam, freedom of expression has certain restrictions. In Islam, the sole purpose of freedom of expression is to seek the pleasure of Allah Almighty and

to bring goodness to one's community. Additionally, the purpose of an individual's freedom of expression should not be to gain wealth and status, nor should it harm the freedom of others. Furthermore, in freedom of expression, an individual should adhere to Islamic beliefs and laws, and also observe Islamic ethics. This means that under the guise of freedom of expression, a person does not have the right to insult or curse others.

### CONCLUSION

The rights and freedoms granted to humans by the blessed religion of Islam have not been given by any other religion or law in the world. However, in the blessed religion of Islam, all human rights and freedoms are restricted by Islamic Sharia and law. On the other hand, the freedoms accepted by humans in the laws of Western and some other countries and some international human rights documents have absolute aspects that undermine human dignity and personality and disrupt the general order of society.

### RECOMMENDATIONS

At the end of this academic research article, I make the following recommendations and hope that the professors, students, legislators, and legal experts of the Faculty of Law and Political Science will benefit from them in their professional and work fields.

1. Our suggestion to the government is to respect the personal freedoms of individuals and protect them from the encroachments of others.
2. Individuals should also respect the limits of personal freedom set by Islamic Sharia and law and strive not to harm the rights, freedoms, and general order of society in the name of personal freedom.
3. Since personal freedom is an important topic in human rights, further writings and research by professors, scholars, and authors in legal sciences should be conducted to better clarify this subject.



### Acknowledgment

I would like to express my sincere gratitude to all those who have contributed to the development of this study on the individual's right to personal (civil) freedom, particularly from the perspective of legal documents and Islamic law. First and foremost, I am deeply thankful to my academic advisor and mentor, whose guidance, encouragement, and expertise have been invaluable throughout this research process.

### Conflict of Interest

I hereby declare that there are no conflicts of interest in this research on the impact of Afghanistan's politico-geographical location on its relations with South Asian and Central Asian countries. This study has been conducted independently, with no personal, financial, or professional interests influencing the findings or analysis.

### REFERENCES

- Abdulrahman Shahah, translation and research Heybatollah Nezhandi Manesh. (1386AH). *Human Rights in Islam*. Sheikh Al-Islam Ahmad Jam Publications.
- Al-Zuhaili, M. (2005). *Human Rights in Islam*. Damascus: Dar Ibn Kathir for Printing and Publishing.
- Dost, M. S. (2014). *Selected Topics on Human Rights*. Kabul: Saeed Publications.
- Dr. Abdul Karim Zidan, Translated by Barakatullah Mustaan. (1386). *Individual and State in Islamic Law*. Peshawar: Qissa Khwani Bazaar, Suba Library.
- Fazl, I. (1393 AH). *Human Rights in Islam*. Jalalabad: Roghanwal Publishing Society.
- Ghazi, S. A.-F. (2001). *Essentials of Constitutional Law*. Tehran: Ganj-e Danesh.
- Imam Muhammad Abu Zahra, translated by Syed Ahmad Ashrafi. (1382AH). *International Relations in Islam*. Kabul: Mewand Publishing and Printing House.
- International Covenant on Civil and Political Rights* (1966). (2011). Kabul: Independent Human Rights Commission of Afghanistan.
- Islamic Declaration of Human Rights (August 15, 1990)*. (2011). Kabul: Independent Human Rights Commission of Afghanistan.
- Johnson, G. (1999). *Human Rights and Their History*. Tehran: Ganj Danesh.
- Kareemi, M. N. (1388). *Human Rights from the Perspective of Islam*. Saeed Publication: Kabul.
- Karimi, M. N. (1388AH). *Human Rights from the Perspective of Islam*. Kabul: Saeed Publications.
- Malik Satez, Translators: Hashimi, Rais Khail, and Ogroal. (1385). *Analysis and Interpretation of the Terminology of the Universal Declaration of Human Rights*. Kabul: Civil Society and Human Rights Network.
- Motameni, D. M. (2016). *Constitutional Law*. Tehran: Mizan Publishing.
- Niazi, D. M. (2014). *The Universal Declaration of Human Rights in the Light of Islam*. Jalalabad: Hikmat Publishing Society.
- Quran*. (1431 ). Iran: Iran, Qom: Dar Al-Aswah for Printing and Publishing.
- Rasooli., M. A. ( 1383). *Islam and Human Rights and Background in Afghanistan over the Last Two Decades*. Peshawar: Saba Library.
- Sarwari, A. (2015). *History of Human Rights*. Kabul: Independent Human Rights Commission.
- Teaching the Quran in Pashto, The Prophetic Interpretation. (1435 AH). In D. M. Deen. Lahore: Taj Company Limited.
- The Constitution of Afghanistan. (2004). Kabul: Ministry of Justice.
- Universal Declaration of Human Rights (December 10, 1948)*. (2011). Kabul: Independent Human Rights Commission of Afghanistan.