

# Human Rights

A Study of the Universal and The Islamic Declarations of Human Rights

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This text authored by Ayatullah Tashkiri focuses on human rights and their conceptual development, and compares the texts of the universal and Islamic declaration of human rights.

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# Publishers Note

Ever since the advent of despotic rulers on Earth, humanity has suffered a diversity of indignities, gyration disintegrations free will and confiscation of human freedoms. Humanity suffered greatly the tyrannies of the tyrants and oppression of inhuman rulers, sufferings both tragic and bloody, resulting in massacres of thousands, even millions of people, uprooting of many more, transgressing upon their honor demolishing their home and hearth usurping their lands. Killings, fire and pillaging was the tyrant's order of the day.

Humanity experienced no relief from its endless sufferings and forced subjugation except while under the protection of heavenly religions delivered by such great Prophets of Divinity as Abraham, Moses, Jesus (peace be upon them) and the Last and the most perfect of them, the holy Prophet of Islam, Muhammad (s.a.w).

The Final Prophet was ordained at a particularly difficult juncture of social development when human communities had turned their backs upon all the divine religions and even against Allah. A deeper study of that period, about six centuries after Jesus Christ (a.s), is essential to be able to comprehend the prevailing environment.

Describing the period in which the Prophet(s.a.w) was ordained, the Leader of the Faithful, Ali ibn Abi Talib(a.s.) said: "Allah sent him when there hadn't been a messenger for a long time, when the nations were in deep slumber, vilest evils raising their heads, men's affairs disrupted, bloody wars raging everywhere, world devoid of light dominated by arrogance, the tree of life dried up with its leaves turned yellow holding out no hope of any fruit, with its waters deep and inaccessible, the guiding signposts all ruined, the banners of annihilation raised aloft staring sternly at its subjects, frowning upon the seeker, its fruit being sedition and its food a rotting carcass, its dress fear and its head cover a hanging sword."

He further added: "Allah sent Muhammad (s.a.w) as it waiter to all the worlds and as it trustee of the Qur'an, while you, O' Arabs, were followers of the worst of creeds dwelling in the worst of abodes, kneeling down among rough stones and venomous serpents, drinking muddy water, eating disgusting food, shedding your own blood, severing your nearest relations; when idols were set up among you and sins stuck with you.

He further said: "He, the Exalted, deputed Muhammad (s. a. w.) when the people of live Earth were divided into groups, their desires were diverse, and theft ways disunited...", and similar other discourses portraying the bitter conditions and painful sufferings with which human beings were afflicted. The Prophet of Islam with total devotion, unparalled zeal and highest sacrifices spread Islam to the hounds of Arabian Peninsula in his blessed lifetime.

Later, the struggle was continued by Muslims under the leadership of the Imams (a.s) from his progeny

against the tyrants of successive reigns, both within the Islamic community and outside of it. Many states perished, and the glorious procession of Islam marched on joined by millions of the oppressed of the Earth, the *mustaz'afin*, who sought deliverance from subjugation and darkness towards true freedom in Allah's servitude and eternal light.

Yet, a great many of them were prevented from the true path by barriers of darkness set up by the tyrants. Again and again forces of despotism overcame human progress throwing the world into dark abyss. In this century the powers of darkness rose again so that humanity witnessed two of the bitterest tragedies in human history: worst tragedies ever seen during the so-called civilized age such that it has been called – the age of knowledge, of civilization and technology – that is, the two world wars whose harvest was the lives of uncounted people.

As a result of those World Wars there rose a great cry for peace and the right of humanity to live in freedom, dignity and peace, which was expressed in a call for establishing a charter for peace and human rights. This outcry was a true expression of the humanity's long and bitter suffering experienced through innumerable centuries of torment, especially during the preceding two centuries. Thus, there was born the 'Universal Declaration of Human Rights', on 10th of December 1948, following the end of the Second World War. It was signed by 48 member states, while communist countries (USSR, Belorussia, Ukraine, Czechoslovakia, Yugoslavia and Poland), South Africa, and Saudi Arabia abstained.

On the other hand Islam centuries earlier was the first to give man his civilized values and pioneer human rights. The stress on man's rights and duties is quite clearly embodied in the enduring constitution of Islam, the Glorious Qur'an and the noble Sunnah (traditions) of the Prophet of Islam (s.a.w.).

The Fourth Imam of Able Bait (the Sacred Household), All ibn Hussain, Sajjad (a.s.), composed a thesis on human rights, which is still the focus of attention and analysis of serious researchers of social sciences.

But western historians of human rights and their development stepped wide over the Islamic period in a long stride to reach the eighteenth century, when the French Universal Declaration of Human Rights was proclaimed on 28th of August 1789 and later incorporated in the French constitution on the 3rd of September 1791, neglecting, knowingly or unwittingly the fact that Islam had much earlier presented to the world the most elaborate bill on human rights.

Despite the fact that the Universal Declaration of Human Rights laid emphasis on the fundamental need for establishing and guaranteeing the essential and natural human rights, nevertheless it remained an experiment denoting an earthly attempt lacking full understanding and a true comprehension of the Purports of the rights and related considerations and objects which were to guide the precepts of the proposed bill of rights.

Consequently, the authors failed to see much of what should have been included as the fundamental rights of man. They confined their attention to peripheral matters, more concerned with their material requirements, regarding wrong as right, and right as wrong, unaware that Allah the Almighty,

***"Knows what is before them and what is behind them, and they do not comprehend anything out of His knowledge except what He wills".*** <sup>1</sup>

He did not legislate religion except on the basis of confirming the right and condemning the wrong by whosoever it may be committed, at all times and at all places.

Here is a pioneer Islamic presentation whose fundamental articles were presented by the learned scholar, `Allama Shaikh Muhammad Ali Taskhiri, before the Organization of the Islamic conference (OIC).

An official recommendation to record this Declaration was made in 1979, when the 10th Conference of the Foreign Ministers decided to form a consulting committee of Islamic experts to prepare a bill regarding human rights in Islam. It was referred to the 11th Conference which, in turn referred it to a legal subcommittee. The amended recommendations were presented at the 3rd Islamic Summit Conference, which referred it to another committee. The 4th Conference of the Foreign Ministers in Dacca agreed upon the bill's introduction and Article 1, referring the other articles to a third committee; then followed a succession of conferences which emphasized it.

At last, at the Tehran meeting convened in December 1989 the final format was drafted, and finally approved by the 19th Conference of the Foreign Ministers at Cairo. Thus, the bill was circulated in ten conferences of the Foreign Ministers (held in Fez, Islamabad, Baghdad, Miami, Dacca, Sanaa, Amman, Riyadh, Tehran and Cairo) as well as summit conferences in Ta'if, Casablanca and Kuwait, as well as a number of experts committees the last of which was one convened at Tehran.

Human Rights is something that must be practiced rather than preached as many laws have been drafted and too many bills presented, but they remained merely "ink on paper", covered with dust, in the tellers of history and disused archives, like the code of Hammurabi engraved on a solid, silent obelisk of ancient times.

It needs sincere purpose and, a determined will to translate the word from its theoretical concept to its practical application in human existence so that man might regain his right and attain complete freedom in life as prescribed by Allah, and time which lie was created.

This present publication is an analytical study of human rights in Islam as a prescription of divine wisdom in a comparison with the Universal Declaration of Human Rights framed according to the unenlightened opinions of human beings. This survey of the two Declarations goes a long way in confirming the foresight of Islam in treating all aspects of human life at all times and places. The prolific and persuasive pen of the well-known Islamic jurist and scholar, Shaikh Muhammad Ali Taskhiri, has fulfilled a

compelling need of the moment in elucidating many of the complexities of this fundamentally important international issue.

January 1997

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1. The Holy Qur'an, Surah 2 Al Baqara, Verse 255

# Human Rights and Their Conceptual Development

In order to avoid ambiguity, definitions of all terms employed in the text must be clearly explained. This basic requirement acquires deeper meaning when the discussion deals with legal terminology, and certainly gains added significance when its application is considered at a universal level encompassing international legalities.

## Inter-Relation between Philosophic and Social Questions

It is paradoxical that when one considers issues related to the Universal Declaration of Human Rights, one notices so many terms used without any clear explanation of their intended meanings, For instance:

What does "Right" mean?

Who is the "Human" being talked about?

What is man's intrinsic dignity?

What is meant by the human family, brother hood, equity, friendly relations, humanistic spirit and the like?

The ambiguity becomes more acute when we realize that this Universal Declaration was intended to remain apart from the question of ideology, say from "The philosophic question" i.e. the question of defining attitudes towards the Universe, life and man.

This is a consequence and influence of capitalist views which impose its social ideas, removed from the philosophic question declaring that there was no relation between them, whereas we positively believe that a logical connection exists between them.

Whatever an ideology, it stems from reality, otherwise, man would not know what ought to be unless he knows what is and what is the demand of reality.

This concept is reaffirmed when man, for example, holds faith in the divinity of Allah, the Exalted and Most High, and that He the Most High, had sent His messenger with guidance and hearing true faith, Islam, to direct and organize all aspects of life. Holding such beliefs, a faithful person has a choice between two options, no more. He is either to follow an Islamic Ideology, and organize his conduct logically or to reject his previously held perceptions renouncing all old beliefs.

Positively if a person held a materialistic conception of the world, he would have before him substitute ideologies and multiple gods, each drawing him to his way:

*"Allah sets forth an example: a man owned by several partners quarreling and a man owned by a single man. Are the both equal in similitude?"<sup>1</sup> He will have no right to turn to one particular ideology"<sup>2</sup>*

In the words of Martyr Mutahhari (may his spirit be sanctified):

*"Basically ideology is founded on one's overall view...Ideology is a kind of practical wisdom, whereas conception is a kind of theoretic wisdom."<sup>3</sup>*

Learned teacher, Martyr Sadr (may Allah sanctify his Spirit) says:

*"The question of social existence is related to the reality of life, and it would not take its correct shape unless it is based on a central set of beliefs explaining existence, its reality and limits. But the capitalist system lacks such a foundation, and it involves deceit and misleading, or haste and impatience, when the real question of existence is put in a freeze separating it from the social issue which is separately studied."<sup>4</sup>*

Referring to the text of the Universal Declaration of Human Rights, we find that it entirely ignores this vital question, despite the fact that it is related to same issues.

We shall, Cod willing, return to this subject again. For the present, it is important for us to perceive correctly what is meant by "Right" and "Humanity", so that we could logically proceed to comprehend the stages of the development of human rights.

## **The Right**

Going back to the root of this term, we find that it implies fixed, permanent and unchangeable, at least this is how it is applied.

In these terms, Allah, the Most High, is Right. No alteration is conceivable concerning Almighty Allah. A piece of news is right if it conforms to reality at the time of reporting, and there can be no basis for imagining and alteration in facts, in spite of the unfounded claims of the "relativists". This is the real

implication neither imagined nor derived. Yet, in this manner a nominal concept and view has been formulated and called by this word, and brought to use in respect of social relations and individual conduct, such as: The Right to Freedom.

Consequently, social rights must cover two elements:

Firstly, Growing from a real condition (genetic composition, real interest...), and

Secondly, conforming to legal or conventional standards in order to organize Social life.

It may be argued: The first criterion alone would suffice to prove the right, but the social reaction naturally requires constant need, which convention has turned into its legal condition.

## **The Human Being**

As to man, we cannot regard him as merely a material being formed by nature and shaped on the whole by social environment. Whatever is implied by the meaning of humanity is anything but the social reflections that Durkheim says, or the contractual form, as Freud insists or the social – economical principle as portrayed by Marx, or the mental product of Berkeley, and other materialistic concepts.

Such a being cannot claim any rights. Could one possibly talk about the rights of iron, wood, or water?

Consequently, we have to imagine. Before everything, that man is a being quite distinct from all others, endowed with special values and particular intrinsic drives which demand, in themselves, a particular course and conditions, and require evolutionary stages based on a prearranged plan. Then, it would be possible to conceive certain fixed conditions (rights) for such a being.

In a nutshell, primarily we have to believe in the theory of the "fitrat" (human nature), only then could we proceed to discuss human rights, justice, freedom, dignity, equity, human soul and the like.

Otherwise, what is the use of talking about these conceptual values if we do not believe in the innateness and the supreme Islamic meaning governing these perceptions, practical moral direction and evolutionary motives?

"So, there must be a natural direction and a frame-work for man. If he trespasses he would no longer be of mankind, unless there is education and until the well-known expression: 'Man's alienation from his essence' comes true."

Therefore, the man who in our view should have any rights is the being who possesses natural qualities which are innately with him and remain with him. They warrant a particular course any deviation from which would be deviating from the human characteristics.

***"And be not like those who forsook Allah, so He made them forsake their own selves, they are the***

***very evil-doers.***"<sup>6</sup>

***"... They are like cattle, nay, they are even worse."***<sup>7</sup>

If man were to be treated contrary to his essential nature it would be inhuman.

Thus, when Pharaoh suppressed his people and deprived them of their rights, he was condemned by entire humanity.

***"He incited them to impetuosity and they obeyed him, they were an evil-doing people."***<sup>8</sup>

Thus, he must have his natural status, and his natural rights; any disrespect to them would be an inhuman practice.

This is the man we know, and no hill and no logical Declaration may claim to speak of his rights unless they accept this definition of him.

## **Rights Unknown to Materialistic Concepts**

In the light of what has been said, it is clear that human rights provide the natural conditions necessary for natural human existence so that man stay proceeds along the natural course of his perfection.

On this basis we believe that human rights predominate all that has been said and written in relation to other related matters, such as "the right of worship and belief, the right of moral cart, or even the right of holding the true faith", and so on.

This right forms the basis of the important religious discussion concerning the need for Prophet, and that religion is a blessing for man, and that Allah, the Exalted is the source of grace and beneficence – a fact which admits the necessity of sending prophets of mercy. We shall not go into details, leaving those to the relevant subjects.

Nevertheless, it is worth referring to certain natural conditions needed by man's nature to proceed along his evolutionary course. We may summarize them as the material, intellectual, ethical and civil legislative needs.

### **The Material Needs**

These cover the natural human needs such as the need for food, security, clothing, health, lodgings and all that keep man active and lively within the society. It also covers satisfaction of man's sexual needs, mother and child care, and similar needs which let the human generation survive and struggle.

### **The Intellectual Needs**

These cover the need for intellectual freedom, mental development, and freedom of contemplation of the

universe, cultivating man's philosophic concepts and strengthening the logical method of comprehending things – all of which are undeniable human needs.

## **The Ethical Needs**

These are natural needs and tendencies in man which need to be suitably satisfied, such as the need for proper education, preparing the suitable atmosphere for the development of aesthetic and moral senses, rejecting all that is not in conformity with natural purity, providing for an environment of compassion and sympathy, that is, providing for whatever is considered to be a natural and original need, among which, undoubtedly, the inclination towards worshipping his only Creator holds a Fundamental place.

## **The Civil Legislative needs**

These refer to man's need to establish the society, and what such a society needs offer to get a temporary and permanent civil legislation, and thus man's need attain the most Formalized codes of implementing his innate drive to achieve happiness. This requires that his legislative needs should be satisfied in the best way.

## **The Criteria for Recognizing Human Rights**

In this respect, certain criteria have been, or are in the process of being presented, such as custom, wise people, law and religion, interest and evil, pleasure and pain, sentiment and intellect, the requirements of justice and the like.

These can either be the sources of right or means of discovering it, or of its requisites and so on. At any rate, before assigning the criterion for telling whether such a thing constitutes a human right or not, we must observe the following two points:

First: That which we referred to as the meaning of right, the meaning of man, and his original motives and needs.

Second: To turn to a criterion which possesses without regard to its being clouded with the social forms and temperaments, otherwise, which are characteristics of nature of the right being merely humanistic.

What is, then, this criterion which uncovers the fixed natural need of the human being perfected in the course of natural progress?

There is nothing before us but the conscience which everybody possesses within himself, with its general meaning donating intellectual conscience, and ethical conscience.

Yet, if we only satisfy ourselves with only the ethical conscience commonly possessed by all we can discern the general principle of human rights, no matter if there be differences in evidence and

applications. We shall see that conscience itself leads us to a means of making sure of the correctness of those evidences, giving us an elaborate picture of these rights. If we forsake conscience we will find no criterion for recognizing the rights, let alone any human knowledge.

So, we take man to be imprisoned within himself in the way wanted by Berkeley. Man without conscience (in the general sense) loses every human color, and will be nothing but a piece of wood, and there are no right for wood!

But what is conscience, anyhow? Probably we cannot define it, not because of its ambiguity, but because of its obviousness. It is the truth which we are dealing with, and we cannot prove it except by itself. The one who denies conscience and its governing role can never be persuaded at all.

It is through conscience that we reach decisive intellectual judgments which form the basis of all our knowledge, and through it we get to what we believe in of the beautiful and the ugly, upon which all the moral and social institutions are founded.

Probably those who trusted the Universal Declaration had unknowingly started from the natural conscience basis, despite the fact that they separated the question of the rights from the question of believing in conscience and its requirements it is conscience that confirms the goodness of justice and evils of injustice. It is conscience that confirms life, freedom and human dignity. It is that which confirm racial equality on a humane basis, similarly the right to maternity, to nationality and the rest.

As regards how to reach the positive proofs of these rights, there are only two possible ways:

First: Complete induction of human behavior studying all incidents and discovering common ideas despite difference in circumstances, which make incomplete syllogism and probably cannot be carried out as a research study, nor many conclusions be obtained even if it could be applied.

Second: Religion, which guides conscience to mark its imaginary foundations through the intellectual power which leads man to discover the secret of this wonderful cosmic order and the Absolute Perfect Existence who created this cosmos – the Existence who is self-sufficient, all-knowing, all-living, all-affectionate. He, owing to His grace, sends His messengers with His religion to explain to human beings the complete framework of their individual and social rights, and to show the best plan for proceeding along the road to perfection.

So, either one believes in religion, or is satisfied with that incomplete general picture, which, in its turn, is the product of belief in the theory of basic human nature. Should anyone deny this, logically he cannot speak of human rights and the creation of man, as has formerly been stated.

## **Humanistic Jurist Marks in History**

We can rightly confirm in that human conscience, in the first place, and the extensive dimensions of the

religious factor in the historical perspective in the second place, have their influence upon the course of human rights, even on the level of legends.

Allama Ja'fari, in his note-worthy book on this subject, says:

"It is natural that the objective of the amendment of human relations...constitute a continual practical respect to the Universal Declaration of Human Rights in the minds of modern intellectuals... As a result we notice some different expressions and articles, taken to be natural dispositions, rights or educations elements among diverse peoples and nations."<sup>9</sup>

George Sabine says: *"Generally speaking, the Greeks, in the fifth century BC, said that the natural rights were everlasting and unchangeable. So, if we could discover this constant and unchangeable law, and if we could harmonize it with human life, human life would become logical and rational, to some extent. It would decrease evil and mischief. Thus, the human course to perfection is to follow the fixed natural law. The aim of this philosophy can be summarized in the following expression: Looking for the constant among the variables, and for the unity among the various."*<sup>10</sup>

Following up the opinions of the philosophers, historians and poets along history, we would meet many expressions referring to this general conscious effect.

Here, the philosopher Cicero (106–43 BC), confirms that the rights are not based on imagining and guessing, but the natural, used and necessary justice is based on the human conscience.<sup>11</sup>

Here we are reminded that the historians concerned with rights and their developments passed over the Islamic era in long strides to reach the eighteenth century, when the French Universal Declaration of Human Rights was issued on the 28th of August, 1789, and was later incorporated in the French Constitution, on the 3rd of December 1791, ignoring, knowingly, or unknowingly, that Islam had presented the most comprehensive bill on human rights, through the guidance of the Glorious Qur'an and the noble prophetic traditions, which provided the legal hoists for all forms of Islamic humanistic practices in the course of history.

As to the recently issued Islamic Declaration, it is a worthy attempt to publish these rights announced in their conventional format current in these days. Otherwise, the following Qur'anic verses, for example, form the historical legal declaration of fixed human rights:

***"And surely we have honored the children of Adam."***<sup>12</sup>

***"O' Mankind! We have created you from a male and a female and have made you nations and tribes that you may know one another. Surely, the noblest of you with Allah is the one who fears Allah this most."***<sup>13</sup>

***"...whoever kills a human being not for a human being or not for causing corruption in the earth is as if he has killed all mankind, and whoever enlivens it, is as if he has enlivened all***

*mankind.*"<sup>14</sup>

And many other illustrating texts quoted from the Holy Prophet (s.a.w) and his noble progeny (a.s) altogether caused a wondrous effect on Islamic beliefs.<sup>15</sup>

But if we wanted to study the course recent thinking concerned with rights, the French Declaration— despite the fact that it made use of the British Declaration of Rights issued in the same year, and the Independence Declaration of thirteen American colonies issued 13 years earlier – could present a comprehensive bill on this subject.

In its Article 1, it describes the rights of freedom and equality. In the second article it offers the right of freedom of possession, security, and defense against injustice. The third article explains people's rights in government. The fourth stresses personal freedom which does not transgress other's freedom. The fifth article specifies law providing the right to prevent harm. The sixth article confirms the right of all persons to participate in framing the law. The seventh assures equality before the law and access to posts. The eighth decides that there should be no punishment outside the law.

The ninth confirms the idea of "The accused is innocent until he is proven guilty." The tenth refers to freedom of belief. The eleventh announces freedom of expression. The twelfth guarantees the right to formation of armed forces. The thirteenth allows levying taxes to provide for armed forces. The fourteenth gives the people the right to supervise taxation. The fifteenth affords the society the right to supervise employment. The sixteenth regards the societies which do not accept the human rights to the unconstitutional societies. The last Article No. 17 prohibits the seizure of property except in public interest.

In this way, this important Declaration became a law gradually recognized by other states. Changes in text continued until the United Nations ratified the Universal Declaration of Human Rights on the 10th of December, 1948, following the end of the Second World War. It was signed by 48 members, with the abstention of communist countries (Russia, Belorussia, Ukraine, Czechoslovakia, Yugoslavia and Poland), South Africa and Saudi Arabia, of course with entirely different motives.

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1. The Holy Qur'an, Surah 39 Az-Zumar, Verse 29.
  2. Towards the Islamic Constitution, by the same author, pg. 15.
  3. Revelation and Prohethood, by Martyr Mutahhari.
  4. Our Philosophy, Martyr Sadr, pg. 18 and 19.
  5. In Allah's path, by the same author, pg. 19
  6. The Holy Qur'an, Surah 59 Al Hashr, Verse 119
  7. The Holy Qur'an, Surah 7 Al A'raf , Verse 179
  8. The Holy Qur'an, Surah 43 Az-Zukhruf , Verse 5
  9. "The Universal Human Rights" pg. 16
  10. "The History of Political Philosophy" pg. 177
  11. "On the History of Philosophy of Rights" pg. 67

12. The Holy Qur'an, Surah 17 Al Isra, Verse 70
13. The Holy Qur'an, Surah 49 Al Hujurat, Verse 13
14. The Holy Qur'an, Surah 5 Al Ma'idah , Verse 32
15. Risalatal Huquq by Imam Ali ibn Hussain(a.s) which covers all the mutual rights

## **Text of the 'Universal Declaration of Human Rights'**

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the people of the United Nations have in the charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights at men and women and have determined to promote social progress and better standards of life in greater freedom,

Whereas Member states have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for, and observance of, human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge.

Now, therefore,

The General Assembly.

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the people of Member states themselves and among

the peoples of territories under their jurisdiction.

## **Article 1**

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.

## **Article 2**

Everyone is entitled to all the rights and freedoms set forth 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 on the basis of 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 3**

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

## **Article 4**

No one shall be held in slavery or servitude: slavery and slave trade shall be prohibited in all their forms.

## **Article 5**

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

## **Article 6**

Everyone has the right to recognition everywhere as a person before the law.

## **Article 7**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## **Article 8**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental right granted him by the constitution or by law.

## **Article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

## **Article 10**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

## **Article 11**

a. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.

b. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, 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 offence was committed.

## **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.

## **Article 13**

a. Everybody has the right to freedom of movement and residence within the borders of each state.

b. Every person has the right to leave any country, including his own, and to return to his country.

## **Article 14**

a. Everyone has the right to seek and enjoy in other countries asylum from persecution.

b. This right may not be invoked in case of prosecutions genuinely arising from non-political crimes at

from acts contrary to the purposes and principles of the United Nations.

## **Article 15**

- a. Everyone has the right to it nationality.
- b. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

## **Article 16**

- a. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found it family. They are entitled to equality as to marriage, during marriage and at its dissolution.
- b. Marriage shall be entered into only with the free and full consent of the intending spouses.
- c. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

## **Article 17**

- a. Everyone has the right to own property alone as well as in association with others.
- b. No one shall be arbitrarily deprived of his property.

## **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.

## **Article 19**

Everyone has the right to freedom of opinion and expression: this right includes freedom to hold opinions without interference and to see, receive and impart information and ideas through any media and regardless of frontiers.

## **Article 20**

- a. Everyone has the right to freedom of peaceful assembly and association.
- b. No one may be compelled to belting to an association.

## **Article 21**

- a. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- b. Everyone has the right of equal access to public service in his country.
- c. The will of the people shall be the basis of the authority of the government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote on by equivalent free voting procedures.

## **Article 22**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each state, of economic, social and cultural rights indispensable for his dignity and the free development of his personality.

## **Article 23**

- a. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- b. Everyone, without any discrimination, has the right to equal pay for equal work.
- c. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- d. Everyone has the right to form and to join trade unions for the protection of his interests.

## **Article 24**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

## **Article 25**

- a. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- b. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

## Article 26

- a. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- b. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or was presented.

## Text of the Islamic Declaration Of Human Rights

The idea of formally committing this Declaration down to writing took shape in 1979, when the Tenth Conference of the Islamic Foreign Ministers decided to form a consulting committee composed of Muslim experts to prepare a hill regarding human rights in Islam.

The first draft was referred to the Eleventh Conference, which in its turn, referred it to a legal committee, subsequently the amended test was presented to the Third Islamic Summit Conference, hoverer, it referred it to yet another committee. The Fourteenth Conference of the Foreign Ministers in Dacca gave approval to the Introduction part and the First Article, then referred tile remaining articles to a third committee.

Then there followed a succession of conferences which approved until the meeting field in Tehran in December, 1989, in which the final draft was presented. It was ultimately approved in the 19th Conference of Islamic Foreign Ministers (in FEZ, Islamabad, Baghdad, Niarni, Dacca, Sana'a, Oman, Riyadh, Tehran, and Cairo), three Summit Conferences (at Ta'if, Casablanca, and Kuwait) and a number of experts' committee meetings the last of which was the Tehran Conference of 1989.

***In the Name of Allah, The Beneficent, The Merciful***

***“O’ Mankind! We have created you from a male and a female, and have made you into nations and tribes that you may know one another. Surely, the noblest of you with Allah is the one who fears Allah most.” (The Glorious Quran, 49: 13)***

Believing in Allah, the lord of the worlds, the creator of everything and the giver of all favors, the one who created man in the highest form, bestowed honors upon him, appointed him his successor on earth, entrusted him with cultivating and reclaiming it, charged him with divine duties, and made subservient to

man all that is in the heavens and the earth.

Believing in the message of Muhammad (s.a.w), as the Messenger of Allah who brought divine guidance and true faith as a mercy for mankind, liberator of the enslaved and destroyer of tyranny and oppression, declared equality for all human beings, admitting no superiority for anyone except through piety, abolishing all differences and hatred among all people whom Allah had created from the same spirit.

Starting from faith in pure Tawhid (Monotheism) on which is founded the structure of Islam, and which invites the entire mankind to worship no one but Allah, and to associate no one with Him and to take no other gods besides Allah, and which lays the true foundation for the real freedom of men and their eternal dignity, protecting the faith, the soul, the intellect, the honor, the wealth and the generation, distinguished for its comprehensiveness and moderation in all its attitudes and judgments, thus producing a linkage between Matter and Spirit, gathering reason and heart together.

Confirming the historical and civilizing role of the Islamic *Umma*, which Allah designed to be the best, bequeathing to humanity a balanced universal order that links this world with the Hereafter, inter-linking science and faith: what is expected today from this *Umma* is to guide humanity, contused in the middle of diverse competing currents and beliefs, to undo the chronic difficulties besetting the materialistic civilization,

Participating in the ongoing efforts concerning formulation of human rights which aim at protecting man from exploitation and suppression, and for confirming his freedom and his rights ensuring an honorable life in accordance with the Laws of Islam,

Being confident that humanity having progressed in various fields of the physical sciences to a high degree has been, and will remain, in dire need of economic resources for maintaining its civilization, and also in need of an effective deterrent to maintain close watch over these rights,

And believing that the basic rights and public liberties in Islam are it part of the Muslim's faith and nobody has the right to, wholly or partially, abolish, violate or neglect the divine precepts and duties enjoined by Allah in His Books, and with which He sent His last Messenger, and by which He completed what had earlier been conveyed through divine communications, and whose observance became devotion, and whose neglect or rejection became sin; since everybody is personally responsible for them, and the *Umma* is, jointly and severally, responsible for them, the member – states of the Organization of the Islamic Conference, consequently declare the following:

## **Article 1**

a. The human beings are all a single family, joined together in servitude to Allah and filiation to Adam. All people are equal in their original human dignity, obligation and responsibility, without any distinction of race, color, tongue, sex, faith, political beliefs, social status or any other consideration. In fact, following

the correct faith is the best guarantee for the development of this dignity and the road to human perfection.

b. All creatures are Allah's subjects and the most favored by Him is the one most beneficent to His dependents, and no one is preferred over another, except on the basis of Taqwa (Piety) and good deeds.

## **Article 2**

a. Life is a gift from Allah. It is guaranteed to all. Individuals, communities and states are responsible to protect this right against any transgression. No life may be destroyed without due legal process.

b. It is prohibited to resort to means which annihilate mankind.

c. Preserving the continuity of human life, as long as Allah wills, is a religious obligation.

d. The human dead body must be shown due respect; it must not be violated. It may not be subjected to autopsy without proper legal authority, and the states are responsible to ensure that.

## **Article 3**

a. In case of war and armed conflicts, it is not permitted to kill those who do not take part in the fighting, such as the old, women and children. The wounded and the sick have the right to be treated, and the captives to get food, lodging and clothing. It is prohibited to mutilate the corpses. Exchange of prisoners should be allowed as well as the rejoining at families separated by the conditions of war.

b. Cutting trees, damaging seed and breed, destroying the enemy's non-military buildings and installations through bombing, shelling and similar means is prohibited.

## **Article 4**

Every individual has his personal respect and has the right to protect his reputation during his life and after his death. The state and the society are obliged to protect his body and grave.

## **Article 5**

a. The family is the basis for building the society, and marriage is the basis of forming the family. Men and women have the right to marry, which cannot be prevented by such obstructions as race, color or nationality.

b. The society and the state are obliged to remove the barriers from the way of marriage, to facilitate it and to protect the family and care for it.

## **Article 6**

- a. Woman is equal to man in human dignity, and she has rights much as she has obligations. She has her civil status and independent financial resources, and the right to keep her name and lineage.
- b. The man has to carry the burdens of financially supporting his family and be responsible for it and take care of it.

## **Article 7**

- a. Every child, ever since its birth, has the right over its parents, the society and the state for nursing, education and financial, mental and moral care.  
Similarly, the fetus and its mother have the right to protection and specialized care.
- b. The parents or their substitutes have the right to choose the kind of education they wish for their children, taking into consideration their interests and future in the light of moral values and religious precepts.
- c. The parents have rights over their sons, and the relatives have rights over their relatives according to the precepts of the Islamic law.

## **Article 8**

Everyone has the right to exploit his lawful capacity concerning assigning and undertaking obligations. On losing or diminished legal capacity in law, his guardian acts in his place.

## **Article 9**

- a. Seeking knowledge is obligatory and providing facilities for learning is an obligation of the society and the state. They have to make provision for it. Facilitate its ways and means, and ensure its diversities to implement the interest of the society and help man to know the religion of Islam, the facts of the universe and how to exploit them for the good of humanity.
- b. Everyone has the right upon the different establishments of education and learning, such as the family, the school, the university, the mass media and the like, to have them educate man in religion and worldly knowledge affording a thorough and balanced education, strengthening his belief in Allah, respecting rights and obligations, and safe guarding them.

## **Article 10**

As man is to follow Islam, the religion of the innate nature, it is not permissible to subject him to any kind of compulsion, nor is it permissible to exploit his poverty, weakness or ignorance to force him to convert his faith to another faith or to atheism.

## **Article 11**

- a. Man is born free, no one may enslave, humiliate, oppress or exploit him; nor force him to servitude to any other than Allah, the Exalted.
- b. Imperialism in all its manifestations being the worst kind of enslavement, is totally prohibited, and the peoples suffering from it have the right to free themselves from it and gain self-determination. All states and peoples are duty bound to support them in their liberation struggle aimed at liquidating all kinds of imperialism or foreign domination. All peoples have the right to safeguard their independent identity and to control their wealth and natural resources.

## **Article 12**

Everyone has the right, within the framework of Islamic law, to freely move and choose the place of his residence inside or outside his country. In case of being subject to persecution, he has the right to seek asylum in another country. The country granting him asylum is bound to protect him until he reaches a safe haven, provided that the reason for seeking refuge was not a crime forbidden in religion.

## **Article 13**

Work is a right guaranteed by the state and the society for whoever is able to work. Everyone has the right to choose the work most suitable for him, with the aim of attaining his and the society's interests. The worker has his rights to security, safety and all forms of social insurance. He is not to be ordered to do what is beyond his capacity, nor is he to be forced, exploited or harmed. The worker, male or female, has the right to get a fair wage for his work without delay. He is to enjoy his holdings, allowances and the promotions he deserves. He has the duty to be sincere and strict. In case of a dispute between the worker and their employer, the state is obliged in interface to settle the dispute, remove injustice, establish justice and keep equity with impartially.

## **Article 14**

Man has the right to lawful work without monopoly, cheating or causing harm to oneself and to others. Usury is decisively prohibited.

## **Article 15**

- a. Everyone has the right to own by lawful means and to enjoy the right to ownership without harming oneself or other individuals or the society. Arbitrary expropriation is not allowed except for the public interests, but for immediately paid fair compensation.
- b. It is prohibited to confiscate or seize property except by order of the law.

## **Article 16**

Everyone has the right to be benefited by the fruits of his practical, literary, artistic and technical labor, and he has the right to protect his relevant literary and financial interests, provided that the said products are not contrary to religious commandments.

## **Article 17**

- a. Everyone has the right to live in an environment free from evil and from moral corruption, so as to be able to morally develop himself. The society and the state are obliged to facilitate for them the implementation of this right.
- b. Everyone has the right upon his society and state to receive medical and social care through the provision of public facilities needed by him within the available resources.
- c. The state is to ensure for everyone his right to an honorable life, sufficiently providing for him and his dependents. This covers food, clothing, lodging, education, medical treatment and other basic needs.

## **Article 18**

- a. Everyone has the right to live in security for himself, his faith, family, honor and belongings.
- b. Everyone has the right to be independent regarding his private affairs in his house, family, wealth and communications. It is not allowed to spy upon him, have an eye on him or offend his reputation. He is to be protected against all arbitrary meddlings.
- c. Privacy of residences is to be respected in all cases, and they should not be trespassed unlawfully and without the owner's permission. They should not be pulled down, requisitioned, nor should their dwellers be driven out.

## **Article 19**

- a. All people, whether rulers or the ruled are equal before the law.
- b. The right to resort to the law is guaranteed to all.
- c. Responsibility is basically personal.
- d. No Offence and no penalty except according to the adjudication by the law
- e. The accused is regarded innocent until he is proven guilty in a fair trial ensuring provision of all that is necessary to defend him.

## **Article 20**

No one may be arrested, detained, exiled or punished without due process of law. He may not be subjected to physical or psychic duress, nor to any kind of humiliating, cruel and degrading treatment

contrary to human dignity. No one is to be subjected to medical or scientific experiments without his consent, and provided that his health and life may not be endangered, nor is it allowed to frame exceptional laws allowing the executive authorities to practice it

## **Article 21**

Taking a person as hostage is prohibited in any form and for any purpose.

## **Article 22**

- a. Everyone has the right to freely express his opinion in a way not contradicting the principles of the law.
- b. Everyone has the right to enjoin good and forbid evil according to the Islamic regulations.
- c. Publicity is a vital necessity for society, but it is forbidden to be exploited and misused, or to abuse sacred religious sanctuaries or show disrespect to the prophets and whatever may disgrace higher values and cause society to be disorganized, disrupted, harmed, or to forsake faith.
- d. It is not allowed to instigate national and religious hatred, and whatever may stir racial discrimination in different forms

## **Article 23**

- a. Authority is a trust; it is emphatically prohibited to, be despotically practiced; or to be misused, since it is guarantee for basic human rights.
- b. Everyone has the right to take part in the management of the country's general affairs, directly or indirectly. He also has the right to hold public posts according to rules and regulations.

## **Article 24**

All the rights and liberties stated in this Declaration are in accordance with the precepts of the Islamic Law.

## **Article 25**

The Islamic law is the only source for the interpretation or explanation of any Article of this Declaration.

# Comparison between the Rights in the Islamic and the Universal Declarations

No.	Title of the Rights	Islamic	Universal
1	Equality in the principle of human dignity	Article 1a	Article 1
2	The Right of merit and dignity acquired through evolutionary and ideological needs.	Article 1a and Article 1b	Nil, Implied in the Articles
3	The Right of enjoining the rights before the Islamic law, renouncing all kinds of discrimination	Implied in the Articles	
4	The Right to life, Prohibiting abortion, Depriving the human beings from bringing forth off springs	Article 2 Article 2b	Articles 3,7,8 Article 10
5	The Right of human funeral and the dead to respect	Article 2d	Nil
6	The right of innocent persons, such as women, old persons and children to protect during the conflicts. Providing medical aid to the wounded, caring for the captives and prohibiting the mutilation for the dead.	Article 3	Nil included in the covenants since this declaration , such as the Geneva Convention
7	The Right of persons that their farms and civil constructions will not be destroyed during the conflicts.	Article 3b	Nil
8	The Right to protect one's reputation and dignity before and after death	Article 2d	Article 22
9	The Right to form family without hindrance or discrimination	Article 5a	Article 16
10	The Rights of women and their equality to men in dignity and heir independent civil positions and financial assets	Article 6 and other Articles	Different Articles Article 16
11	The Right of the family to be supported by the man	Article 6	Nil in this context
12	The Right of the child to material and spiritual care	Article 7a	Article 25b
13	The Rights of the fetus and the mother	Article 7	Article 25, neglecting the fetus
14	The Rights of the parents and guardians to choose the form of education for their children	Article 7b	Article 26d
15	The Right of the parents upon their sons and the rights of the relatives	Article 7d	Nil
16	The Right to nationality	Nil	Article 15
17	The Right of enjoying legal competence in responsibility and liability	Article 8	Numerous Articles
18	The Right of the individual to education for the sake of development	Article 9a	Article 29
19	The Right of the individual to religious and modern education	Article 9b	Article 29, without emphasis
20	The Right to follow the faith of one's natural disposition	Article 10	Nil
21	The Right to freedom	Article 11a	Not Specified
22	The Right to be freed from the fetters of imperialism and to be independent	Article 11a	Not Specified
23	The Right of the individual to freedom of movement and to seek refuge	Article 12	Articles 13 and 14
24	The Right to work and to its free choice and safety	Article 13	Articles 23, 24 and 25
25	The Right to lawful profit and prohibiting usury	Article 14	Not Specified

26	The Right to ownership; prohibiting expropriation and confiscation	Article 15	Article 17
27	The Right to be benefited by one's scientific and literary achievements	Article 16	Article 22
28	The Right of the individual to be provided with a clean moral environment	Article 17a	Article 29, not emphasized
29	The Right to health and social care	Article 17b	Article 25
30	The Right of the individual to enjoy life	Article 17c	Article 25
31	The Right to security of persons, religion, family, honor and finances	Article 18a	Articles 3, 12, and 22
32	The Right to independence in residence, family, wealth, and communications	Article 18b	Article 12
33	The Right of privacy of one's house	Article 18c	Article 12
34	The Right to resort to legal recourse	Article 19e	Article 11
35	The Right to enjoy the principal of being innocent from penalty of law unless proven guilty	Article 19e	Article 11
36	The Right to be free in conduct and general behavior, and prohibiting undue limits;	Article 20	Articles 5,9,11 and 14
	prohibiting torture and actions degrading human prestige and taking of hostages	Article 21	
37	The Right to freedom of speech	Article 22	Article 19
38	The Right to enjoin good and forbid evil	Article 22b	Nil
39	The Right of the individual to defend his respect against insult and to prohibit violating human values and instigating hatred	Article 22	Nil
40	The Right of the individual to participate in the administrative and political decision making	Article 23	Articles 21 a, b and c
41	The Right to security and freedom from anxiety because of one's beliefs	Article 10 in detail	Article 18 and 28
42	The Right to freedom of expression without being concerned about one's beliefs	Article 10 in detail	Article 19
43	The Right to forming peaceful assemblies and associations	Article 23	Article 20
44	The Right to join trade unions and associations	General Article 23	Article 23d
45	The Right to rest and enjoy holidays	Article 13	Article 24

## Foundations of Human Rights in Islam and the Universal Declaration

In the light of what has thus far been said, we must emphasize that the Universal Declaration, regrettably, failed to correlate the realities of human existence and social issues, whereas the Islamic Declaration confirmed this linkage quite explicitly; hence, it was logical in itself as well as in relation to the proposed human rights. The Universal Declaration declared the following basis in its preamble:

1. The necessity of acknowledging man's essential standing while providing freedom, justice, and peace

2. The occurrence of brutality as a consequence of denying human rights.
3. The coming into being of a new world order where freedom of expression and of beliefs prevailed, without fear of poverty, as the supreme hope for humanity.
4. The necessity of protecting the rights lest the people are compelled to revolt against injustice.
5. The necessity of promoting friendly relations.
6. The nations` resolve to promote social progress.
7. The necessity of effecting mutual cooperation.

However, the basic question is what is man's intrinsic dignity? Is it his natural disposition? If it be so, how should this Declaration be introduced to a world submerged in material wants denying the concept of natural disposition? What are the differences between a brutal act and humane one? Can we attain real general criteria if we do not believe in the theory of human perfection? Has there been a study about human aspirations such that it proves that aspirations are confined only to freedom of expression and belief, and eliminating fear and poverty?

Would it be correct to say that aspirations imply man bring free to say whatever he wanted to say, and to believe in whatever he liked, without let even if he, for instance, wanted to ridicule what was held sacred by others?

Isn't here an intermixing of the foundations and the upper edifice? Except if it is said that the general human aspirations are to be accepted as necessary needs.

If that were so, then we would observe: "Is it not a valid human aspiration to attain awareness of the Absolute Creator, to depend on the Ultimate Power, to worship the Real Master" Aren't these common human aspirations clearly manifested even through a brief glimpse of human history?

Furthermore, is the basic human aspiration other than achieving comprehensive moral order'? Where is any mention of it? Isn't it true that giving way to individual freedom in all respects: behavior, belief, economy and politics, without being governed by any moral limits leads to the destruction of a great deal of the moral values?

The same is true of the other bases as stated in the preamble to the Declaration.

Anyhow, a researcher would not recognize therein any logical relationship between the foundation and the upper edifice whereas probably he would have recognized other political objectives as expressed in certain phrases such as: "It is essential, if man is not to be compelled to take recourse, as a last resort, to rebellion or revolution, that human rights should be protected..." or "...to promote the development of friendly relations between nations..." and the like, through which one could perceive that the critics would

cast doubts on the motives of the Universal Declaration due to the circumstances prevailing at the time of its inception.

It was proposed after the end of World War II, when the Big Powers had taken control of the entire world, especially U.S.A which had come out of the war with the least losses in men and material, whereas the European allies came out of it exhausted and weakened on the one hand, while on the other communism extended its sphere of influence by presenting a historic philosophy on which a revolutionary theory was founded, making the mouths of deprived masses water, and so attracting their attention.

At the same time, there grew a worldwide longing for a new international system in which disputes would be few and through which mankind's dream of a noble world order would finally be attained.

All these circumstances required a universal union philosophy and its slogan whereby the U.S.A would appear as the champion of human civilization heading towards a glorious human future. This would enable it to come out of its isolation and as a world leader expand its capitalist philosophy based on individual freedom and then proceed to compete with the communist system armed with an opposing social system which too would make the mouths of the deprived water.

But they thought it necessary that the deprived nations be given a make-believe right to be heard— so the General Assembly of the United Nations was shaped as a model of equality in voting, say of the U.S.A with Burma, whereas in exercise of power and supremacy it remains the domain of the Big powers who dominate everything through the Security Council and their right to veto.

Such is the picture portrayed by those who look dubiously at the real motives behind that Declaration.

Nevertheless, it undoubtedly represents a great stride towards international recognition of human rights — a fact which is undeniable, despite all its weak points, as will, God willing, be explained later on.

## **The Islamic Declaration**

While studying the preamble, which explains the bases on which the Islamic Declaration has been founded it will be seen that the proposed rights are much more advanced and more logical in respect of linking the said two questions, such that it enables one to clearly recognize all the rights as stated in the Declaration.

### **The Primary Basis**

The leading basis rests on the belief in Allah and in His Attributes of Perfection, and that creation of everything (granting all the favors, creating man in the best form. generosity. assigning man as successor, entrusting him with building, placing obligations upon his shoulders, granting: him the use of universe) all of which are concepts constituting a basis for believing in man's right to life, dignity, building

the earth, carrying out obligations, utilizing the universe, rather, one could identify the rights from within this passage.

### **The Second Basis**

Is to believe in Islam as the true guidance, the true faith, the religion of mercy for all the worlds, the religion of liberating the enslaved, destroying the tyrants; the religion of equality based only on Taqwa (piety); the religion of abolishing discrimination and hatred among all people whom Allah created of a single soul.

The researcher may also deduce from these buses the most important individual and collective rights such as the right to seek cooperation and assistance, the right to liberty, the right to fight tyranny, the right to equality and the like.

### **The Third Basis**

Is the unconditional belief in Tawhid (Unity of Allah), that is worshipping Allah alone, and freeing oneself from all other than Him thereby gaining freedom, responsibility and dignity.

### **The Fourth Basis**

Is the Islamic legislations that preserve faith, life, intellect, honor, property, and offsprings while observing the general characteristics of comprehensiveness, moderation and practicability. It provides, in itself, a basis for other rights in general.

### **The Fifth Basis**

Is the civilizing role of the Islamic *Umma* (community) as the best *Umma* which gave humanity a balanced civilization which links this world to the Hereafter and combines science with faith.

### **The Sixth Basis**

Is the belief in the people's participation in protecting human rights.

### **The Seventh Basis**

Is the belief in humanity's persistent need for a fundamental faith.

### **The Eighth Basis**

Is the belief that the basic rights are it part of faith hence observing them is worship, and neglecting them is sin, and everyone is individually responsible for them, while the whole *Umma* collectively share responsibility for them. This in principle is the basis for the individual and collective responsibility for the

application of the Articles of Declaration.

The above-mentioned bases provide firm foundations for the proposed rights as incorporated faithfully in the Declaration. It is on the belief that they make natural foundation for these upper constructions which will complete the edifice. Nevertheless, it is our opinion that the matter needs further deliberation.

Accordingly, a number of shortcomings which need to be amended are listed below:

1. In the First Basis, a reference to Allah's essential attributes must be included namely, Knowledge, Power and Life, which have an important place in respect to the validity of these rights, especially in that Islam requires the Muslims to be godly and equip themselves suitably with the divine attributes.
2. How much more appropriate would it be if the 'Third Basis' could be transferred to the stage succeeding the First Basis, since that is its natural place following the stage of the attributes, i.e. the stage of Tawhid
3. Next it would be in natural sequence to link the 'Fourth Basis' to the Third, as certain other attributes of the *Shariat* (Islamic Laws) could be added, since they have positive effect on the question of human rights – attributes such as: actuality, comprehensiveness, eternity, flexibility, correlation among the parts of the *Shariat*, their concept of solidarity and progress among the members of humanity and the Islamic *Umma*, and the like.
4. A reference to the system of Islamic Law in the Preface, as well as to the ethical order and its objective is deemed necessary.
5. It would be appropriate to present in the preface the concept of the universality of the Message, so as to ward off an intruding suspicion that these rights would not be appropriate at the universal level. But Islam, based on the concept of *fitrat* (nature) and the characteristic of reality, and principle of actuality confirms the question of conformity with innate human needs – a fact which would give it a universal character, because the innate disposition does not differ between persons or classes.

## **Essential Differences in Human Rights in the two Declarations**

First of all, a quick look at the outline of the rights stated in the two Declarations is necessary to be able to make a comparison between them. However, before studying this outline it would be noted that the arrangement of the articles differs in the two Declarations and also it right may have been covered under more than one Article. It will be noted that the sequence in the Islamic Declaration is more logical than

that in the Universal Declaration which illustrates the superiority of the Islamic Declaration in thoroughness.

Furthermore, it may be possible to combine these rights together due to their general and particular commonality. However, presenting such rights in separate articles relates to their particular importance and the necessity of stressing them.

## **Similarities between the two Declarations**

For a summary of the most important similarities between the two Declarations, we may refer to the following: Both Declarations agree upon suitable rights of life liberty, security, abolition of oppression, injustice and rejecting the behavior contrary to self-respect, i.e. abusing.

Both the Declarations agree on the rights of providing a proper hygienic environment, public services and an honorable life, prohibiting arbitrary detention without valid legal authorization, limiting personal liberty, prohibiting illegal punishments or exceeding the limits prescribed for each crime, guaranteeing personal dignity, preventing abuse of social status and respect, and the right of enjoying it proper living standard.

The two Declarations are in agreement on the question of the equality of men and women in respect to personal dignity, the necessity of ensuring social standing for women as much as for men, as well as ensuring for the women their financial and legal status, including that marriage will be contracted by mutual consent of both parties: that the family forms the basic pillar of the society, having the right of obtaining the support of the state and the society that faith, finances, honor, personal, family, national, international securities are ensured, and have the right to be independent in their private affairs (residence, family, income. correspondence and communications).

They further agree on the principle of education and learning, with the object of attaining human perfection (notwithstanding their different concepts of perfection), acknowledging preference for the parents opinion on this subject.

Both Declarations affirm that everyone is born free and may not be enslaved, and that all persons are equal in their rights, and that they possess intellect and conscience (though these have legal implications), and that it is necessary to co-operate with a fraternal spirit.

They both confirm freedom of thought, belief and expression (to a reasonable limit), and that man has the right to enjoy his scientific, literary and artistic achievements, and he has the right to adopt any religion, to be free in his expression to the extent of not harming himself or others, the right to his legal privileges, the right to move from one place to another, and the right to seek asylum provided that no non-political offences were involved.

The two Declarations are in harmony about admitting the right to work, to freely choosing it, not to

burden the worker with more than his capacity, to enjoying equitable wages, to providing him with a moderate living standard during unintentional unemployment, sickness, disability, widowhood and old age.

They also agree that everyone is presumed to be innocent until proven guilty; that crime is personal responsibility, that everyone has the right to have a fair trial and that the punishment would be as prescribed for a crime as at the time of its commission.

Similarly they agree on the right to personal possessions rejecting deprivation of ownership—if it was not harmful to the society.

They agree on preventing despotism and support everyone's right to participate in formulating political decision making, holding public posts ensuring equality before the law, having the right to have access to a suitable tribunal, and forming charitable or social associations.

Finally, they both confirm that all are obliged to support these liberties and benefit from them. Man is required to endeavor to attain perfection and not to transgress upon the freedom of others. This law is not to be misused to carry out particular individual or governmental purposes.

These were the most important points as briefly summarized above.

## **Differences in the Declarations**

As to the instances of differences in the texts, these are enumerated below:

1. The Islamic Declaration, quite correctly distinguishes between the original dignity (or the dignity which man has due to his affiliation with humanity), and the dignity acquired by him during his progress on the course of moral development and good deeds in service of people. This is an important point which the universal Declaration failed to perceive and consequently it remained deficient. Every conscientious person would recognize the differences between the life of a great scholar such as Avicenna, and a common person living for himself, who leaves no leading behind him.

2. The Islamic Declaration, stressing that all creatures were Allah's family, highlights fully the concept of this equality in terms of dignity, not being satisfied merely with its legal aspects. In addition to linking dignity in general to the Absolute Beneficent Being, all creatures are Allah's family and their relationship to Him is exactly equal. However there exists a competition among them in trying to attain spiritual proximity to Him by means of self-improvement through holding true faith and doing good deeds in accordance with the requisites of creation. But the Universal Declaration totally lacks such an acute level of perception.

3. This same concept has been reemphasized in the second Article of the Islamic Declaration which denotes that life is, conceptually, a gift from Allah, thereby according it quite a high legal value. Thus it

should be protected and secured, as much as possible, in order to implement the grand purpose behind this divine gift. As to the Universal Declaration, it is devoid of such sublimity, although it does admit that man possesses reason and conscience. Actually, that afforded a good lead, but the text stops at this clear fact without proceeding further logically to furnish the essential pre conditions.

4. In the Islamic Declaration, the stress laid on the prohibition of annihilating life's fountain, is a pertinent observation on the said divine gift emphasizing the necessity of the continuation of this divine blessing –a fact which is not referred to in the Universal Declaration, and it wouldn't be irrelevant to say that there existed generalizations in certain Articles, which are vague and have little legal consequence.

With reference to the phrase concerning the necessity of the continuation of life as long as Allah wills, it alludes to the duty of everyone to protect life, even one's own life, which one has to protect against any kind of danger whatever it might be. In fact, the great care shown by Islamic texts for human life is not equaled by any other religion or any ideological or social theories presented to the world society.

5. To the above can be added the provision of protecting the fetus, as contained in Article 7, which is ignored by the Universal Declaration.

6. Then there is the emphasis on the sanctity of the human dead which should be shown due respect and not to be arbitrarily subjected to post mortem examination without proper legal authorization. This again has been ignored in the Universal Declaration.

7. Article 3 refers to the ethics covering conflicts and will, for which Islam suggests the most wonderful regulations unprecedented in human history. Life is protected to the ultimate extent and the sanctity of human dignity is preserved even after death, as mutilation is prohibited even of it rapacious dog. And taking of prisoners of war has its ethical rules framed with full sympathy; it is also stipulated that farm lands and other civil establishments are to be preserved. The like of this Article cannot be found in the Universal Declaration, which is a serious short coming – although the world tried to make amends for it later in the Geneva Agreements.

8. Article 8 of the Islamic Declaration confirms respect for humanity, which is also confirmed by the Universal Declaration, but here it is extended to after death, including protecting the body and it's burial.

9. Despite the fact that both Declarations confirm that the family constitutes a fundamental pillar in the building of human society, and that both the society and the state are responsible for its protection, and that men and women are entitled to marry without any racial, color and nationality barriers yet there are differences between the two Declarations, which could be summarized as follows:

a. The Islamic Declaration declares that marriage is the basis for universal constitution, while the Universal Declaration makes no reference to it.

b. The Universal Declaration grants equal rights to men and women, covering even such matters as

alimony, marriage portion, divorce and the like, but the Islamic Declaration elaborates these aspects stating that a woman has rights equal to her obligations, has her civil status, independent financial responsibilities, and the right to retain her name and lineage, whereas the responsibility for maintaining the family and their expenses rests on man.

c. The reference made by the Islamic Declaration to the social obligations of the society and the state to remove all barriers in the way of marriage and to facilitate it, has not been considered in the Universal Declaration.

d. Another difference worth mention is that religion has not been regarded as an obstacle to be removed from the Islamic Declaration, whereas the Universal Declaration has concentrated upon it. In fact, common faith and belief in it to a certain extent, such as the unity of faith between husband and wife to the extent of believing in the same Allah and His message, is essential for achieving required harmony, otherwise all hopes of forming a family as the social foundation, would be dashed.

10. The Islamic Declaration again differs from the Universal Declaration in that the former confers certain rights on the parents and the relatives as well.

11. In the field of training and education we find that the Islamic Declaration makes it incumbent upon the society and the state without limits and at all stages, whereas the Universal Declaration confirms that only primary level education should be compulsory and free, thereafter proposing equal opportunity for all for the latter stages.

12. According to Islamic Declaration, the objectives of education have been summarized as: attaining perfection and balance in personality growth, strengthening belief in Allah and respecting rights and obligations, and protecting them.

In this context Universal Declaration stresses the perfect development of personality, supporting respect for human rights and liberties, facilitating the principle of open mindedness, sacrifice and respect for opposing ideologies, spreading love and striving for peace. The difference between the two Declarations is only too obvious.

13. Article 10 of the Islamic Declaration is quite in harmony with the principles of human ideologies. It confirms that Islam accords fully with the first and last characteristics of man, the *Fitrat* (Nature), it being the religion of humanity.

Consequently, it would be natural to prohibit all forms of compulsion and exploitation that leads man away from the line of his natural tendencies as it would mean estrangement from one's inner self.

Thus, it would be noted that the Islamic Declaration is compatible with Article 10 which prohibits compulsion and exploitation, and keeps silent about freedom to make change because Islam has expressed its complete and explicit opinion of the said article. It is the religion of innate nature while other religions had deviated and, as it result, had lost their religious credibility.

As regards heresy it is, as seen by Islam, a deviation from the bounds of humanity to the world of animality or straying even further.

On the other hand, it will be observed that the Universal Declaration asserts the freedom of changing one's faith and beliefs totally, which signifies an essential difference in their approach. It is not our intention to prove that only the Islamic approach was correct, what we intend to emphasize is that the Universal Declaration separates the legal and the philosophic questions, as already discussed – an attitude which we firmly rejected.

14. Article 11 of Islamic Declaration is matched by Article 4 of the Universal Declaration, but with deep seated difference, as the Islamic position declares that man is naturally born free, and rejects his being enslaved, exploited and humiliated, and regards his freedom as a consequence of his servitude to Allah, the Exalted. Servitude to Allah does not mean – contrary to what the uninformed might think – reinforcing Divine Being since Almighty Allah is the Absolute Sovereign without doubt. What it does imply is being free of attachment to any other than Him and acting according to His guidance as the way to success, whereas the Universal Declaration, although it rejects enslavement and serfdom however, fails to offer any basis or to suggest the nature of human relationship with Allah.

15. Another distinguishing feature of the Islamic Declaration is its rejection of imperialism in all its guises, condemning it altogether, and giving the peoples the right to strive for liberty and self-determination, as also requiring all other peoples to support such struggle and thereon confirming the sovereign identity of all nations. However the Universal Declaration does not mention this point, a fact which exposes weakness in its objectives or perhaps the purpose was to warn some nations lest they might revolt against their masters as is evident from Article 3 in its preamble.

16. Another outstanding feature of the Islamic Declaration is that it makes no reference to the question of the right of holding a nationality. This is because it has been identified as one of those spurious issues which tear asunder the unity of a single nation causing serious obstacles in the way of its unified existence.

17. Despite the fact that both Declarations reaffirm rights of workers, the Islamic Declaration goes further enjoining upon the worker to be sincere and efficient in work, as it also demands from the state to unbiasedly mediate in labor disputes occurring between the workers and the employers to maintain justice without prejudice.

18. Article 14 of the Islamic Declaration confirms the right to work provided that it be lawful, which gives us to understand that there exist unlawful occupations such as holding monopoly, cheating, pursuits harmful to oneself and others, as it also strongly prohibits usury, whereas the Universal Declaration does not touch on these matters.

19. Article 15 regards private ownership lawful, subject to the condition that such ownership may not be harmful to the owner himself or to others. And, if we proceed further with expanding the concept of

"harm" to cover different facets of social harm, we will realize the strictness of the Islamic expression and its disgust with the capitalist's exploitation of this right to cause harm to others by striking at their economy and plundering their wealth.

20. Another noteworthy characteristic of the Islamic Declaration is that it regards the ethical question to be an important human rights issue, confirming it in its Article 17.

The Universal Declaration offers no corresponding Article, although its Article 29 does state that observing the requirements of morality may define the limits permissible for the individuals' enjoyment of liberties. The expression: "...in a democratic society", in the Article, leads one to think that by morality is meant the freedoms of others, not the high ethical concepts. At any rate, it certainly does not require human rights to have a clean moral quality leading man to moral self-development.

21. One of the characteristics of the Islamic Declaration is its rejection of subjecting man to medical and scientific experimentation, except on two conditions: consent and safety.

22. Article 20 rejects framing of emergency laws that permit subjecting man to torture, humiliation, cruelty and degradation, or subjecting him to experiments and the like. It is an idea worthy of consideration, but it has not received due emphasis in the Universal Declaration.

23. Some people might regard the Universal Declaration as distinguished for granting absolute freedom of expression and speech, but we declare it to be inappropriate because no speech could be allowed to create morally destructive effects, or to distort truth and insult others' sanctities, since insulting sacred things is assuredly much worse than insulting a person. Therefore, restricting it in the Islamic Declaration, with the phrase: "In a way not contradicting the principles of law" is nearer to the spirit of humanity, as declared in Article 22c.

24. Another distinction of the Islamic Declaration is granting man the right to "enjoin good and forbid evil", which stresses the responsibility of the individual in preventing violations of ethics on the one hand and raising the moral values of the society, on the other. In the Islamic Foreign Ministers Conference in Cairo, while discussing this Article and the Islamic proposition, we strongly advocated the inclusion of the condition of 'Enjoining the Good' but quite inexplicably some of the members insisted upon its omission due to unknown reasons.

25. The Islamic Declaration incorporates a noteworthy fact that authority was a trust not to be misused. Similar ideals are not to be seen in the Universal Declaration, while in our view necessity demanded that general conditions relating to the Islamic law covering use of authority should have been incorporated.

26. Among other differences between the two declarations quite naturally is the condition whereby the Islamic Declaration binds all Articles to the precepts of Islam, while the Universal Declaration binds all its provisions to the liberties of others.

27. The Islamic Declaration states that the Islamic law is the only recourse for the interpretation or explanation of any Article, whereas the Universal Declaration relies on no such recourse.

28. Finally, it must be observed that there are many other differences which cannot be referred to in detail in this report, such as when freedom is mentioned it is sometimes bound with responsibility, referred to as "responsible freedom": or within the limits of law, so that it may not be converted into repugnant courses.

## Shortfalls in the Universal Declaration

In the light of the preceding discussion it may be summarized that the shortcomings in the Universal Declaration can be noted as in the following:

First: Separating the socio – legal question from the philosophical one.

Second: Lacking a logical sequence between the preamble and the legal Articles.

Third: Failing to differentiate between the original human dignity and the dignity acquired through piety and good deeds.

Fourth: Failing to cover all related aspects of vital human rights such as man's life, sanctity of the dead, and the question of the annihilation of the foundation of human race.

Fifth: Ignoring the question of morality in settling disputes.

Sixth: Certain issues have been categorized as absolute whereas those should be qualified and restricted, such as the rights of the married couples which are always taken to be equal in all respects of marriage: as also the question of changing one's faith.

Seventh: Not including the rights of the parents and relatives.

Eighth: Not referring to the question of condemning imperialism in all forms.

Ninth: Not mentioning the individual's right to be provided with a moral environment.

Tenth: Granting absolute freedom of expression, which could be destructive.

# Human Rights in Theory and Practice in the Past and Present

This chapter is in continuation of the discussion related to the translating of law into practice, nevertheless it delves into the shortcomings of the law itself covering regrettably both the Universal as well as the Islamic Declarations. Neither of the Declarations took the precaution of incorporating provisions which would have ensured its implementation, nor did the signatory states undertake measures to its enactment.

The Universal Declaration has been endorsed as a statement of supreme common objectives of the human community rather than a binding law.

In this respect Mrs. Roosevelt, chairperson of the Human Rights Committee has this to say:

“The Declaration is neither a covenant nor an international agreement, nor does it ensue any legal obligation. It is a statement of a group of rights strongly connected to man, and their implementation is wanted in the world.”<sup>1</sup>

Thus, at the most this Declaration, with all that entails remained a mere legal document.

The Islamic Declaration, much to our regret, followed the same example. At the beginning of its proposals, it commences with a recommendation giving assurance of its implementation. Article 28 of the covenant which was endorsed in Tehran<sup>2</sup>, says: "The member states of the organization of the Islamic Conference promise to take all the necessary measures to enact the regulations of this Declaration".

But the 19th Conference of the Foreign Ministers held in Cairo, which ultimately agreed upon the Declaration, by a majority vote decided to omit this Article, following heated debate and objections from certain secular Islamic countries, who even threatened to reject the Declaration, unless its terms coincided with their national laws. This attitude indicated a serious contraction: Islam would be rejected unless it was adapted to suit certain countries national laws!

The Conference, however, undertook to issue a binding decision, apart from the Declaration, but it never issued it in that session nor in latter sessions and so did the Declaration remain mere ink on paper.

Moreover, I could observe no immediate effects (if this Declaration on the general situation prevailing in the Islamic world – a fact which is greatly regrettable.

But did the Universal Declaration itself produce any effects?

Undoubtedly it generated strong echoes when applied in numerous fields. However, the real fault lay in the motives of those who proposed it, (if those who tried to implement it, or those whose power, on the one hand, and their load slogans, on the other. Drove them to present themselves as the defenders of the Declaration and its terms – I mean the western superpowers. They slay people by diverse means, violate their dignity, plunder and pillage, and yet boast of championing human rights, freedom and the like.

Through this logic, the Zionist entity, having totally usurped all human rights of the Palestinians is yet proclaimed as a progressive, democratic state while countries which do not slavishly follow the west, are described as being opponents of Human Rights.

To talk about this is too painful, particularly if we remember the right of veto possessed exclusively by the super powers, the right which itself is a gross violation of the very spirit behind Human Rights. However, this may lead us to certain other topics which are not intended to be discussed at this juncture.

We beseech Allah to grant us success in following His commands and in discharging whatever obligations have been placed upon us.

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1. Allama Ja'fari, "Universal Human Rights", pg. 50 quoting Dr. Muqtadir's "The development of the U.N", pg200.

2. When the experts committee convened in Tehran from 28 –30 Jamadi ul Aula, 1410 A.H, 26– 28 December, I had a look at the covenant as I has the honor of being the chairman of that committee.

## Summing Up

While comparing the terms of Human Rights as embodied in the Islamic and the Universal Declarations, we did lay stress on the relative position taken by the two statements in relation to the philosophical question (attitude towards life and existence) and the social question (attitude towards the social system).

We specified the important relevant terms and the criteria for recognizing Human Rights, which generally we called "Innate conscience", and, particularly, "The true Faith". Thereafter, we briefly reviewed the development of the legal perspective through the course of history.

In the succeeding part of the study we related the texts of the two Declarations, the Islamic and the Universal, and presented a comparative list of the rights contained therein.

Then we discussed the principle on which the rights had been based in either Declaration. In the third

part of the discussion we analyzed the common points as well as the opposing views.

This was followed by briefly pointing out the shortcomings of the Universal Declaration as well as some observations of the Islamic Declarations.

Finally, we concluded the discussion by high lighting the most serious deficiency in either Declaration that is lacking provisions to make their decisions binding – a fact which renders them of little value, particularly in regard to the positions held by many governments in the present day world.

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