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ПОСЛЕДИПЛОМСКИ СТУДИИ ОД ОБЛАСТА НА МЕЃУНАРОДНИ ОДНОСИ
(РАЗРЕШУВАЊЕ НА КОНФЛИКТИ)



ТЕМА: Меѓународните декларации за човековите права: специфики и разлики помеѓу Универзалната декларација за човекови права и декларацијата од Каиро.

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Master thesis: International Declarations and Human rights: Specifics and Differences between the Universal Declaration of Human Rights and the Cairo Declaration of Human rights in Islam.

- MA Thesis -

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DEDICATION

Every challenging work needs self-efforts as well as guidance of elderly especially those who are very close to our heart. My humble effort I dedicate to my loving family, my parents Vladimir and Snezhana and my three sisters Cecka, Tanja and Blazhenka, whose unconditional affection, love, support and encouragement made me able to get such success and honour. Thank you for always being there for me and making me to be the best version of myself. I will love you always.

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Abstract

Sometime shortly after September 11th 2001, when the World Trade Center was nothing else but a pile of ashes and the world had suddenly turn into a place where it was clear the large gap between the East and the West, the gap between the rich North and the poorer South, I could not help but wonder about the prejudice and incompatibility of cultures. How can Islam, as the second largest religion in the world, have such an impact on civil and political life in the countries that are considered Islamic? How can Islam and the Sharia Law be such contradictory to the International Human rights stated by the United Nations and accepted by the most of the Western countries?

My objective with this paper is to make a comparative analysis between the two most important international organizations, the United Nations and the Organization of Islamic Cooperation and their declarations regarding human rights (UN's Universal Declaration of Human Rights and the OIC's Cairo Declaration of Human Rights in Islam). To try and establish a generalized standpoint on human rights in the light of the Islamic worldview and analyze it's compatibility with our western human rights.

In the research the methodological framework will be composed of general scientific methods to point out the comparative nature of the paper. That is why through description and content analysis, all of the general information for these two international organizations (the establishment, member-states, goals and so on) will be described.

Through the comparative method I will make a comparison between the two declarations (UDHR and CDHRI) in order to establish the specifics and differences between them. And the method of historical analysis will be also used with the purpose of clarifying and painting clearer picture and historical perspective on the mentioned organizations and of course the history and the evolution of the human rights in general. The main purpose and main goal of this research is to point out the specifics and differences between the UN's Universal Declaration of Human Rights and the OIC's Cairo Declaration of Human Rights in Islam and also to try and predict if a conflict will arise with the signing of these two Declarations and if there is a possibility for a conflict how would it affect the international community?

Апстракт

Кратко по 11ти Септември 2001та година, кога Светскиот Трговски Центар беше претворен во пепел, а светот наеднаш се претвори во место каде што беше воочлива разликата помеѓу Истокот и Западот, разликата помеѓу богатиот Север и сиромашниот Југ, не можев а да не се запрашам за предрасудите и несогласеноста помеѓу повеќе култури. Како Исламот, како втора по големина религија може да има такво влијание на социјалниот и политичкиот живот во земјите кои се сметаат за исламски? Како Исламот и Шаријатот како закон можат да бидат толку контрадикторни со меѓународните човекови права утврдени од Обединетите Нации а прифатени од скоро сите западни земји?

Целта на ова истражување е да се направи компаративна анализа помеѓу двете најважни меѓународни организации, Обединетите нации и Организацијата за Исламската Соработка и нивните декларации за човекови права (Универзалната декларација за човекови права на ОН и Каиро декларацијата за човекови права на ОИС). Исто така да се утврди исламскиот поглед на човековите права генерално и да се анализира дали тие исламските погледи на човековите права се компатибилни со човековите права кои се општо прифатени на Западот.

Во истражувањето методолошката рамка е составена од повеќе општи научни методи за да се истакне компаративната природа на овој труд. Затоа преку дескрипција и анализа на содржина ќе се објаснат сите општи информации за двете меѓународни организации кои се предмет на ова истражување (нивното основање, земји- членки, цели итн.) Преку компаративниот метод, ќе се направи компарација на двете декларации (Универзалната Декларација и Каиро Декларацијата) со цел да се утврдат спецификите и разликите помеѓу нив. А методот на историска анализа пак ќе биде употребен за да се наслика појасна слика и историска перспектива на веќе споменатите организации и секако историјата и развојот на човековите права општо.

Сепак, главна задача и цел на овој труд е да се утврдат спецификите и разликите помеѓу двете универзални декларации за човекови права и да се обидам и да

предвидам дали со самото потпишување на двете декларации постои можност за конфликт во иднина, а и ако постои можност за такво нешто, како сето тоа би влијаело на меѓународната заедница?

1. Introduction:

Right after September 11th 2001, when were the attacks on the World Trade Center in New York, the world had turned into a place where it was much clearer how large the gap between East and West had become.

After this event, when Islam suddenly was pointed out as a source of barbarism and terrorism, I could not help but wonder how a religion can have so much influence on civil and political life in the countries that are considered as Islamic?

The Islamic Law- the Sharia is often a topic on many debates around the world, and how this law allows inhuman punishments and discriminatory rules, especially for women, which on the other hand are intolerant in the Western culture and their standards for human rights and freedom.

In the following research it will be established whether a legal system based on Sharia Law would be compatible with the universal rights, as defined by the UN, or not.

But to get any conclusions I need to order the events historically.

When World War II was over in 1945 the outcomes of it were unavoidable. There were mass deaths of civilians, including the Holocaust and of course the first use of the nuclear weapons in combat, so it resulted with an estimated 50 million to 85 million fatalities.

Facing these facts, it was just a matter of time when the world's leading forces would gather and promise that this horror and conflict of such kind would never exist.

Regarding this matter, the United Nations were established on 24 October 1945. The United Nations are actually an extension of the concept of collective security, which was first established by the League of Nations after the First World War. The main goal of both organizations was to fix the anarchic world of the states and to make an effort into the arrangement of the state's relations, which will be guaranteed and protected by an international law. And behind this international law there would be a global and strong international organization.

Since the League of Nations failed to fulfill the main goal for which it was established in the first place, after the horrors of the First World War this concept was again established and renewed with the creation of the new international organization, the United Nations.

At its founding the UN had 51 member states, but nowadays it has 193. UN is all about maintaining international peace and security, promoting international cooperation, promoting human rights, developing social and economic growth, protecting the environment, providing humanitarian aid and in cases when it's needed even armed forces.

So three years after the end of WWII, it was the time when the Universal Declaration of Human Rights (UDHR) was adopted (10th of December, 1948) by the United Nation (UN) General Assembly.

This document was drafted from people with various legal and cultural backgrounds of all regions of the world. UDHR was proclaimed as very important document that regards peace, protects the rights and dignity of people and as such a beginning of a system. The document today stands as an inspiration of many countries and individuals to create a better place for living, a place where human rights and freedom are respected. On the other half of the world, since the 19th century, some Muslims had aspired to ummah and to serve their common political, social and economic interests. Since the collapse of the Ottoman Empire, and Caliphate after WWI and even losing the Six-Day War in 1967 it was time for the Leaders of Muslim nations to meet.

They met in Rabat and they established the second largest organization, after United Nations, called Organization of Islamic Cooperation (OIC) on 25 September 1969.

This organization states that it is "the collective voice of the Muslim world" and it established with the intention to protect the interests of the Muslims in the spirit of promoting international peace and harmony. OIC has 57 member states, 56 of which are already member states of the United Nations.

The reason why I mentioned this organization is because this organization has its own similar, yet different declaration such as the Universal Declaration of the United Nations, the Cairo Declaration on Human Rights in Islam (CDHRI).

The Cairo Declaration on Human Rights in Islam was adopted in Egypt, in 1990 and it provides a perspective on human rights, taking Islamic Shari'ah as its main source. This declaration is usually seen and worldwide known as an Islamic response to the United Nations Universal Declaration of Human Rights.

Knowing the fact that 56 state members out of 57 of the OIC are also members in the United Nations and signed the UDHR, I could not help but wonder, why there was a need to establish another organization? Okay, even if I go with the theory that there was a need for large religious organization that will keep the Muslims together, it does not answer the following question: why was there even a need to sign and establish another Declaration? Does the signing of the Cairo Declaration in Islam create two parallel worlds (one Christian and one Muslim) or this Declaration aims to universal mankind? Does the Cairo Declaration actually offer a solution for these two parallel worlds, or perhaps a source for further discord between these two religions?

I can honestly hope that with the comparative analysis of the UDHR and CDHRI, I will come to a conclusion about what is the phenomenon that keeps the organizations strong even nowadays.

1.1. Formulating the Problem of the Research:

Since my purpose has been to make a comparative analysis between the UDHR and CDHRI, I chose to do so from two different angles, one theoretic and one practical. But of course my emphasis will be on the theoretic one, by analyzing documents on human rights (such as the Declarations) in a Western and Islamic environment.

In order to do this I will try to establish a generalized standpoint on human rights in the light of the Islamic worldview, and analyze its compatibility with our western human rights. And the practical angle I will explain through the conclusion whether these two Declarations are properly applied within all the countries that have signed the Declaration or not.

Independent and dependent variables will be present throughout my paper. Dependent variable is the one that makes the decision (the decider), in my case that would be the policy of the Islamic Organization of Cooperation.

Meanwhile independent variable is the one that influenced the decider, and in my case those would be the questions about the identity related with Muslim religion. This is because they manage to build their own cultural identity, which is very different from the western civilization. Independent variable could also be the public opinion of the Western civilization, especially after the attacks in 2001 and what are their views on the Muslim world.

So the conclusion of all this would lead us to see that that's how they manage to stay together and united. That's why I chose this subject, to prove at the end whether different understandings about the universal rights and freedoms affect directly on the International Relations, or on International security as a whole.

1.2. Subject and Purpose of the Research:

1.2.1 Subject Research

Based on the formulation of the problem of this research, the main key of this research would be regarding to the two international organizations, United Nations and Organization of Islamic Cooperation.

I will also elaborate about the causes for the establishment and the history of these organizations. But the most important part of the research are their Declarations and the differences between these those Declarations.

In terms of research I will explain the following terms:

-International Organizations - organization with an international membership, scope, or presence. There are two types international organizations, international nongovernmental organizations (INGOs) and international non-profit organizations.

Often under the term international organization we refer to the interstate organizations, and in this paper I will take under consideration interstate organizations.

Formal-legal international organization must be established by an agreement which gives validity and scope and area of operation that covers more countries. It may have some restrictions whether one country can be a member or not, in terms of the function and the region of the organization (European Union, Organization of American States, the Organization of Petroleum Exporting Countries) and global (United Nations, World Trade Organization, International Postal Union).¹

- **Identity**- is a person's conception and expression of their individuality or group affiliations (such as national identity and cultural identity). (in psychology and sociology)

-**Minorities**- a group **numerically** inferior to the rest of the population of the State, in a non-dominant position, whose members- being nationals of the state (or of another state)² – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their cultures, traditions, religion or language.

-**Liberalism (Liberal Democracy)** - has had a profound impact on the shape of all modern industrial societies. It has championed limited government and scientific rationality, believing individuals should be free from arbitrary state power, persecution and superstition. It has advocated political freedom, democracy and constitutionally guaranteed rights, and privileged the liberty of the individual and equality before the law.³

-**Human rights** - are moral principles that set out certain standards of human behaviour, and are regularly protected as legal rights in national and International Law.

¹Evans, Graham and Newnham, Richard. (1998). *Penguin Dictionary of International Relations*, USA: Penguin Group, pp.270

² The text in brackets is my own addition. Protection of minorities should be extended to all minorities both within and outside their borders as long as they are being discriminated against and are numerically inferior.

³ Burchill, Scott and the others. (2005). *Theories of International Relations*, Palgrave Macmillan, pp.55

They are "commonly understood as inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being".⁴

-Conflicts- is a process which refers to some form of friction, disagreement, or discord arising within a group(state) when the beliefs or actions of one or more members of the group(state) are either resisted by or unacceptable to one or more members of another group or state.

Conflict can arise between members of the same group or the same state, or it can occur between members of two or more groups (states), and involve violence, interpersonal discord, and psychological tension.

-International security – security is a fundamental value for just about everyone. It is a quality of being and feeling safe from harm. Being safe from harm is important in itself, as is feeling safe. International security consists of the measures taken by nations and international organizations, to ensure mutual survival and safety.

These measures include military action and diplomatic agreements such as treaties and conventions. International and national security are invariably linked. International security is national security or state security in the global arena.⁵

-Religion- can be a belief, identity or way of life.⁶ The formulation here has been adopted by Ontario Human Rights Commission. The Ontario Human Rights Code prohibits discrimination on the grounds of "creed" stating that:

Creed is interpreted to mean "religious creed" or "religion." It is defined as a professed system and confession of faith, including both beliefs and observances or worship. A belief in a God or gods, or a single Supreme Being or deity is not a pre-requisite. Religion is broadly accepted by the Commission to include, for example, non-deistic bodies of faith, such as the

⁴ Contained in Nickel, James. (2013). *Human Rights*, The Stanford Encyclopaedia of Philosophy (Winter 2013 edition) (<http://plato.stanford.edu/entries/rights-human/>)

⁵ Collins, Alan. (2007). *Contemporary Security Studies*, Oxford University Press Inc., New York, pp.2-4

⁶ United Nations High Commission on Refugees Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees paragraph 5.

spiritual faiths/practices of aboriginal cultures, as well as bona fide newer religions (assessed on a case by case basis).⁷

-Discrimination- is the purposeful and illegal denial of equality in any manner. It involves treating a person of the protected group, less favorably than others not of that group. Formal equality is a principle of equal treatment: individuals who are alike should be treated alike, according to their actual characteristics rather than stereotypical assumptions made about them. Any legislation on religious minorities must include this principle of formal equality or consistent treatment, as the starting-point of any antidiscrimination measure. There can be discrimination without any conscious motivation on the part of the discriminator.⁸ The question is essentially one of causation. Applied to religious discrimination this would be: but for the person's religion or belief would that person have been differently treated? Religion or belief would need to be the activating cause and the discriminator would need to have knowledge of another's religion.

-Sharia- There are two views on defining Sharia, the conservative interpretation is that it consists of a large body of specific timeless and enforceable rules. The more liberal interpretation, which will be the interpretation referred to in this thesis, is that Sharia is a body of principles. This principle has been propounded by the Supreme Constitutional Court of Egypt.⁹

1.3. Tasks and Goals of the Research:

The tasks and goals of this research will be connected with the two international organizations like I mentioned it before; the United Nations and Islamic Organization of Cooperation and the main concern would be the analysis of their Declarations and what

⁷ Ontario Human Rights Commission, Policy on Creed and the Accommodation of Religious Observances <<http://www.ohrc.on.ca/english/publications/creed-religion-policy.shtml>>

⁸ Contained in Nagarajan, V. (1999) *London Regional Transport*, House of Lords.

⁹ Contained in Lombardi, CB. (1998). *The Constitutionalization of Sharia in a Modern Arab State*, Columbia Journal of Transnational Law

the differences between these two are. According to this, in the paper I would give answers to the following tasks:

- To establish the history and the purposes for creating two international organizations.
- To establish why there was a need for the Organization of Islamic Cooperation to create their own Declaration.
- To establish the differences, through comparative analysis, where are the differences between the two Declarations?
- To establish if there will be possible conflict arisen from the signing of these two Declarations in the future?
- To establish how they affect on the defining of the International Relations, and by that how they affect also on the international security.

1.4. Hypothesis:

1. United Nation's Universal Declaration of Human Rights and the Cairo Declaration of Human Rights in Islam should share similar principles and there is no excuse for intolerance of the identity, culture, and way of life and aspirations of all the people.

2. United Nation's Universal Declaration of Human Rights protects the universal human rights (regardless of the religion), but the Cairo Declaration of Human Rights in Islam protects only the rights of the Muslims.

3. Although the Cairo Declaration of Human Rights in Islam strives to promote the human rights of the Muslims, it can also be a source for further up-coming conflicts by discriminating the human rights of other religions.

1.5. Methods and Techniques of the Research:

In this research the methodological framework is composed of general scientific methods to determine the descriptive nature of the research.

In the application of research methods will have a special place following scientific research methods:

Descriptive method- will be used for describing all the general information for the international organizations, UN and OIC. This method will be used for concrete description of the creation and the purposes of these two organizations, their history and the member states.

Comparative method- this method will be used during the comparative analysis between the United Nation's Declaration of Human Rights and the Cairo Declaration of Human Rights in Islam. What are the differences in these two declarations will be established with this method.

Method of historical analysis- will be used with the purpose of clarifying and making clear picture as well as historical perspective on the mentioned organizations. It will be used also to make logic chronological analysis of the events from the past (I mean from the establishment of the UN and OIC).

Content analysis- this method will provide analysis of international documents and legal acts, from the United Nation's Declaration of Human Rights, as well as the Cairo Declaration of Human Rights in Islam. Especially the accent will be set on the similarities and differences of the two declarations.

1.6. Socio-scientific Validity

In choosing my sources I have tried to get a balance between western and Islamic scholars. But I constituted a problem to find material from the Islamic view that was translated to English. Most of the material written by Muslims that I have used is by Muslims active at universities in the USA or Europe. In trying to describe a more conservative side of the Islamic human rights discourse, I've consequently had to rely mostly on western literature.

The official legal documents regarding United Nation's Universal Declaration of Human Rights I will use from the official site of the United States. The Islamic human documents I'm using in my analysis are either documents that are produced at governmental level, as for example the Cairo Declaration on Human Rights or the Arab Charter of Human Rights. The other category are documents, such as the human rights document by Maududi,¹⁰ and other published debates that can be found on the internet nowadays such as, the debate about *How Universal are Human Rights* by B.G.Ramcharan.

The briefing for delegates to the 118th Assembly of the Inter-Parliamentary Union in which was discussed about the concerns about the CDHRI and the moves to outlaw the Defamation of Religion, I find it very useful also. A lot about the Muslims and the Islamic Organization of Cooperation and their views on this matter (human rights) I will try to find in the published article by Abdullah al-Ahsan (the Law, Religion and Human Dignity in the Muslim World Today).

1.7 Overview of Chapters

The first chapter is actually the brief introduction into the research, where did the idea come from and the reason why I decided to do the research for this specific subject. It also sets out the content of the research, identifies the problem and applies the methodology.

Chapter two discusses the human rights in general. This chapter sets out the documents that are specifically written and signed for protecting the human rights. Special accent will be put on the two main documents of this research and those are United Nation's Universal Declaration of Human Rights and The Cairo Declaration of Human Rights in Islam.

Chapter three will focus on the comparative analysis of the two Declarations (UDHR and CDHRI). Their articles will be reviewed in details, and with the comparative analysis I will establish the differences and similarities between these two documents.

¹⁰ Contained in Maududi, Abul A'la. (1976). *Human Rights in Islam*, Leicester:

Following, chapter four will determine the future of the human rights. It discusses the reasons and the need for signing two declarations and the possibility for an upcoming conflict between the United Nation and Organization of Islamic Cooperation.

The last chapter (five) will set out the conclusions for the research.

2. Universal Human Rights: The Genesis, Theory and Practice.

2.1 The idea of universal human rights

Although ideas of some kind of rights and liberty have existed in some form (written or not) for much of human history, they do not resemble or look alike the modern conception of human rights. According to Jack Donnelly, in the ancient world, "traditional societies typically have had elaborate systems of duties ... conceptions of justice, political legitimacy, and human flourishing that sought to realize human dignity, flourishing, or well-being entirely independent of human rights. These institutions and practices are alternative to rather than different formulations of human rights",¹¹

Going through the history, since the beginning of the first civilization ever, there weren't written rules about how one man should act in a community. Everything came so spontaneous. The region between the rivers Euphrates and Tiber, a region known as Mesopotamia, where there are the first signs of a living civilization, there were people living in tribes. Living in a tribes, means that there no countries with specific border lines, constitution or even one written law. There were making their own way of existing and living.

The origins of the written laws or human rights came from this period, but of course not as how we know and have today. Back then everything came natural and spontaneous. For example, if someone from the tribe tries anything to harm the wellbeing of the tribe or the people in it, first the headman of the tribe "turns back" on the person who did wrong. And so eventually the other members from the tribe will act and do the same thing. So this person will be forced to move away and find his own way out of the tribe because he is being punished for his actions.

¹¹ Contained in Donnelly, Jack. (2003). *Universal human rights in theory and practice*, Cornell University Press, Ithaca

This going on for years, it became kind of natural law, like an unwritten rule about how people should act. Years later, as the tribes extended and they became towns, and from several towns to establishing countries these rules were now written and adopted in the constitution of the country. Therefore this is part of the history of laws, and written rights that now we have in every constitution and every country.

However, the first signs for existing of some kind of human rights we can witness in 539 B.C., when the armies of Cyrus the Great, the first king of ancient Persia, conquered the city of Babylon. But it was his next actions that marked a major advance for mankind. He freed the slaves, declared that all people had the right to choose their religion, and established racial equality.

These and other decrees were recorded on a baked-clay cylinder in the Akkadian language with cuneiform script. Known today as the Cyrus Cylinder, this ancient record has now been seen as the world's first charter of human rights. It is translated into six official languages.

From Babylon, the idea of human rights spread quickly to India, Greece and eventually Rome. There the concept of "natural law" arose, in observation of the fact that people tended to follow certain unwritten laws in courses of life, and Roman law was based on rational ideas derived from the nature of things.

The earliest conceptualization of human rights is credited to ideas about natural rights emanating from natural law. In particular, the issue of universal rights was introduced by the examination of extending rights to indigenous peoples by Spanish clerics, such as Francisco de Vitoria and Bartolome de Las Casas.

In the Valladolid debate, Juan de Sepulveda, who maintained an Aristotelian view of humanity as divided into classes of different worth, argued with Las Casas, who argued

in favour of equal rights to freedom of slavery for all humans regardless of race or religion.¹²

English, French and American theories for rights developed in 17th and 18th century, which were part of the liberal revolution that was happening in these societies, are still important as one kind of support to the todays, global matters for justice and for the human rights as they were back then. The idea for supporting the principles of the human rights and their establishment as obligatory is in accordance with the positivist perspective.¹³

From this point of view, no matter whether the human rights exist or they don't exist as part of the human nature, it can be said that their existence as civil rights is a positive act. In fact, when the states ratify agreements, taking the above mentioned into an account, human rights become mandatory as a part of the international law. The idea of restriction of the government authority exists in the English Magna Carta (1215), in which the English nobility establish the borders of the Monarchy.¹⁴

17th-century English philosopher John Locke discussed natural rights in his work, identifying them as being "life, liberty, and estate (property)", and argued that such fundamental rights could not be surrendered in the social contract. In Britain in 1689, the English Bill of Rights and Scottish Claim of Rights each made illegal a range of oppressive governmental actions.

Two major revolutions occurred during the 18th century, in the United States (1776) and in France (1789), leading to the adoption of the United States Declaration of Independence and the French Declaration of the Rights of Man and of the Citizen respectively, both of which established certain legal rights. Additionally, the

¹² Hannum, Hurst . (2006). *The concept of human rights". International Human Rights: Problems of Law, Policy, And Practice*, Aspen Publishers. pp. 31–33.

¹³ Содржано во Виоти, Пол и Капули,Марк . (2009). *Меѓународни односи и светска политика*, Академски Печат, Скопје

¹⁴ Содржано во Виоти, Пол и Капули,Марк . (2009). *Меѓународни односи и светска политика*, Академски Печат, Скопје

Virginia Declaration of Rights of 1776 encoded into law a number of fundamental civil rights and civil freedoms.

Moving forward, the beginning of the 20th century was marked by the European nations who went to war in August 1914. This was the time when the American President Woodrow Wilson saw the conflict as a sign that the old international system created by the Europeans had failed. He taught that it was a time for a new leadership; he wanted to create a mechanism for ensuring long peace and security, as well as stability to the people of other nations. Wilson wanted to reorganize the old diplomacy and replace it with an open system, a system that will be based on mutual cooperation and communication.

Simply said, he was trying to keep peace between two warring European alliances. In May 1915, a German U-boat, a submarine sank the British passenger ship Lusitania, killing more than 1200 men, women and kids (including 128 Americans). This fact shocked Americans and they asked of Wilson to declare a war against Germany, but he did not do that. Instead he managed to make a deal, Germany agreed to reduce its submarine operations when Wilson promised to try to persuade Britain to lift its blockade of German ports. In 1916, Wilson was re-elected as a president with the slogan, "he kept us out of war".

Soon after his re-election he brought a revolutionary foreign policy speech to Congress. He said that in Europe, the war should end with a "peace without victory", meaning that "victory" meant a peace forced on the losers who would surely harbour resentments leading to yet another war.

Wilson stated the moral principles he believed necessary for world peace. Governments, he said, must exist by the "consent of the governed" and enjoy the right to self-determination. Nations must reduce their armies and navies. All must enjoy "freedom of the seas" to engage in trade. But most important, Wilson declared that nations large and small should join together in a "concept of power", an international organization.

That's how came the idea of founding the United Nations as an international organization for this purpose on October 24, 1945. The idea of human rights pre-dates the United Nations, but it was only with the setting up of this body that it finally achieved formal, universal recognition.

Not all rights are human rights of course. Human rights that are universal can be classified in a numerous ways. At an international level the most common categorisation of human rights is in two main groups, first one: civil and political rights; and the second one: economic, social and cultural rights.

They are rights inherent to all human beings, whatever the nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. All human beings are equally entitled to their human rights without discrimination. These rights are all interrelated, interdependent and indivisible. Human rights can be described as rights one has simply because one is human¹⁵. They are the rights to especially basic freedom and security, without which a person's existence would be considered less than human¹⁶.

Human rights stated in the Universal Declaration are universal, and they are held equally by all humans because "being human cannot be renounced, lost, or forfeited, human rights are inalienable"¹⁷. This, of course, does not really apply in reality. Not all people enjoy the same human rights in practice, but still the basic idea is that they have the same human rights and they hold them equally and inalienably.

Universal human rights are often expressed and guaranteed by law, in all kinds of forms like treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of all Governments, how to act or to refrain from certain acts, just in order to promote, protect and implement human rights and fundamental freedoms of individuals or groups.

¹⁵ Donally, Jack. (1998) *International Human Rights*, Westview Press, pp.18

¹⁶ Dalacoura , Katerina. (1998). *Islam, liberalism and human rights* , I.B Tauris Publishers, New York, pp.6

¹⁷ Donally, Jack. (1998) *International Human Rights*, Westview Press, pp.18

2.2. The history of the democratization and implementing the human rights in the post-war Islamic countries

If the science of international relations in the last decade has failed in its main goal, to predict events on the international political scene, it was undoubtedly events that hit the Arab states in the name of democratization, symbolically called Arab Spring.

As the Arab awakening was neither planned nor expected by analysts and theorists of international relations again two years after the Arab Spring they do not have a precise answer to the question: what has been achieved by these revolutions? Is the Arab world really needed to democratize? Or the need for the establishment of national sovereignty ended only with the fall of autocratic regimes and with the establishment of newborn hybrid systems?

Parties winning democratic elections continued in the style of their predecessors and inspiration for building a legal democratic state found in Sharia law. One group of scholars believe that the Arab world has good prospects to democratize by the democratic West and peace loving Arab people who are a majority in Arab states. Another group of authors still stick to the thesis of the clash of civilizations and believes that the prospects for democratization in the Arab world are too small compared to the chances of establish theocratic states or systems inspired by holy rules of Islam.

During the third wave of democratization, many expected that the whirlwind of democratization will affect Arab countries. These expectations did not become true. The next hope appeared after the attacks on Iraq and Afghanistan and the penetration of Western values in the Middle East. But at that time the Arab countries remained relatively peaceful and autocratic regimes reinforce its power. It is interesting that for the period in which Arab Spring occur there weren't any predictions or expectations. It just happened. Post festum appeared many theses concerning the reasons that motivated the Arabs to rebel against authoritarian regimes.

The reasons ranged from a desire for democracy, social justice, to implementation of theocratic state and the rule of Sharia. Regardless which were real reasons or dominant

causes for Arab Spring, it is more important to predict the ultimate goal of these societies in transition whether there is a single goal or each of the countries affected by Arab Spring is a different story? The ultimate goal certainly is related to international security. If Arab states have the desire and capacity to democratize and if democratic peace theory is correct, then Fukuyama's predictions about victory of liberal democracy will become reality.

But if we make conclusions based on winner parties' political platforms and their ideologies, problems encountered in post-revolutionary Arab societies and the existence of terrorist organizations is unlikely that someone should expect rapid transition to democracy and building a stable civil societies.

After the Second World War and the period of decolonization a small number of Arab states had attempted to introduce democracy as a political system. Those states that contained some form of elective, parliamentary, or quasi-democratic political system soon found themselves toppled by military coup (Syria, Egypt, Iraq, Sudan) or have found themselves in the throes of civil wars (Lebanon, Sudan). Others independent states turned into authoritarian constitutional monarchies (Jordan, Morocco, Kuwait, Bahrain) and there were those who opted for absolutist monarchies (Saudi Arabia, Oman, Qatar, the United Arab Emirates).

In several cases the successful national liberation movements (Algeria, South Yemen), following the example of the socialist state established a one-party system.

In the periods of political transitions of the 1970s, 1980s and 1990s a small number of autocratic states resulted in a true democracy. In many cases, old authoritarianisms recycled themselves as quasi-democracies in hybrid regimes that combined the trappings of pluralism and electoral process with deep-seated centers of authoritarian power that remained beyond the reach of popular control. Nonetheless, the era did mark an important change in modern politics.

These kinds of quasi-reforms in the Arab world were typical in the late 80s. Like Mubarak and Ben Ali had liberal promises. Jordan organized the first parliamentary

elections, and Algeria announced reforms that were supposed to replace the one-party system. Although this period has attracted a lot of attention but no major changes have occurred.

Ten years later, in the aftermath of the September 11, attention was again focused on the possible democratization of Arab world. Western world expressed interest in promoting democracy in the region. In December 2002, the United States introduced the Middle East Partnership Initiative (a series of programs designed to support the expansion of political opportunities in the Middle East). This initiative should be a part of the strategy for promoting democracy in the Middle East. In June 2004 Group of Eight (G8) adopted a declaration of common interest in the reforms in the Middle East and soon afterwards greater foundations were established for research on this issue.

2.3 Human Rights in practice

The concept of the universal human rights is not something that we are not familiar with in our western sphere of ideas, but it was not until the systematic murders of innocent people in Second World War that human rights became a problem in international politics. Before this, most of the states violated these rights, like the racial discrimination in the United States.

This led to the fact that in the past, human rights were seen as a domestic matter and any kind of intervention from the outside (other countries) was never really an option. In international relations in the past three centuries the principle of sovereignty has been very important and dominating force. The duty correlative to sovereignty is non-intervention; therefore there was no chance for one state to have opinions or take actions on another state's violation of human rights.

In the beginning of the 20th century, there were discussions of humanitarian law where the rights of foreign nationals were limited, but it was not limited what one state could do to its own citizens, people or colonies. However in the past fifty years these decisions are changed.

The Holocaust- the genocidal massacre of millions of innocent people, mainly Jews, but also Gypsies, Communists, homosexuals was like a wake-up call for the international community. During the war there was maybe a little effort made, even among the Allied, to take an action to stop this massacre. This action led to common feeling of guilt after ending the war, which in turn led to an increased international concern for human rights.

The first step to stop these systematic murders was the Nuremberg Crimes Trials (1945- 46), where leading Nazis were prosecuted for their crimes against humanity and human kind. In 1948, on December 9, the Convention on the prevention and Punishment of the Crime of Genocide was open for signing.

Regarding the Genocide and with the strong wish to never happened anything similar to it, the following day, on December 10, the UN General Assembly adopted the Universal Declaration of Human Rights, which even today is the most authoritative statement of international human rights norms.

2.4. Universal documents regarding human rights

The most successful universal documents regarding human rights are the United Nation's Universal Declaration of Human Rights (signed in 1948) and the OIC's Cairo Declaration of Human Rights in Islam (signed in 1990), that are actually main subject in this study.

But there are other documents that promote and protect the human rights, such as European Convention on Human Rights (signed in 1950) and the Charter of Fundamental Rights of the European Union (signed in 2000).

Why I choose to elaborate more about abovementioned documents? Because all of them are connected with the same matter, these documents stand for universalization of the human rights, as well as guaranteeing every citizen their basic right.

Another thing that connects these Declarations is the fact that they are not obligatory, but once it is signed, it must be implemented. The only difference is that the United

Nation's Universal Declaration of Human Rights and the OIC's Cairo Declaration of Human Rights in Islam are universal declarations, which means every country can sign the Declaration.

The other two documents, the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union are documents that are drafted and designed only for the countries members of the European Union.

2.4.1. United Nation and the Universal Declaration of Human Rights (1948)

The United Nations (UN) is an intergovernmental organization established on 24 October 1945 to promote international co-operation. It was actually a replacement for the ineffective League of Nations, the organization that was created following the Second World War to stop the horrors and such conflict in the future. At its founding the United Nations counted 51 member states, nowadays there are 193.

The UN Headquarters is located in Manhattan, New York City and enjoys extraterritoriality. Further main offices are situated in Geneva, Nairobi and Vienna. The organization is financed by assessed and voluntary contributions from its member states. Its objectives include maintaining international peace and security, promoting human rights, fostering social and economic development, protecting the environment, and providing humanitarian aid in cases of famine, natural disaster, and armed conflict.

During the Second World War, US President Franklin D. Roosevelt initiated talks on a successor agency to the League of Nations, and as a result the United Nations Charter was drafted at a conference in April- June 1945; this charter took effect on 24 October 1945, and the United Nations began operation. The UN's mission to preserve and provide world peace was complicated and difficult in its early decades by the Cold War between the US and Soviet Union and their respective allies.

The organization participated in major actions in Korea and the Congo, as well as approving the creation of the state of Israel in 1947. The organization's membership grew significantly following widespread decolonization in the 1960s, and by the 1970s its budget for economic and social development programs far outstripped its spending on peacekeeping.

The Universal Declaration of Human Rights was a resolution, not a treaty; it is therefore not per se legally binding. The drafter's intention was to let the resolution be followed by a treaty, but due to ideological rivalry during the time of drafting of this Declaration, mainly over the status of economic and social rights, the treaty was tabled for more than a decade. The Declaration was commissioned in 1946 and was drafted over two years by the Commission on Human Rights. The Commission consisted of 18 members from various nationalities and political backgrounds. The Universal Declaration of Human Rights Drafting Committee was chaired by Eleanor Roosevelt, who was known for her human rights advocacy.

Canadian John Peters Humphrey was called upon by the United Nations Secretary-General to work on the project and became the Declaration's principal drafter.¹⁸ At the time, Humphrey was newly appointed as director of the Division of Human Rights within the United Nations Secretariat.¹⁹ The Commission on Human Rights, a standing body of the United Nations, was constituted to undertake the work of preparing what was initially conceived as an International Bill of Rights.²⁰

The membership of the Commission was designed to be broadly representative of the global community, served by representatives from the following countries: Australia, Belgium, Byelorussian Soviet Socialist Republic, Chile, Republic of China, Egypt,

¹⁸ Morsink, Johannes. (1999). *The Universal Declaration of Human Rights: origins, drafting, and intent*. University of Pennsylvania Press, pp.5

¹⁹ Morsink, Johannes. (1999). *The Universal Declaration of Human Rights: origins, drafting, and intent*. University of Pennsylvania Press, pp.133

²⁰ Morsink, Johannes (1999). *The Universal Declaration of Human Rights: origins, drafting, and intent*, University of Pennsylvania Press. pp.4

France, India, Iran, Lebanon, Panama, Philippines, United Kingdom, United States, Union of Soviet Socialist Republics, Uruguay, and Yugoslavia.

Well-known members of the Commission included Eleanor Roosevelt of the United States (who was the Chairperson), René Cassin of France, Charles Malik of Lebanon, P. C. Chang of the Republic of China,²¹ and Hansa Mehta of India. Humphrey provided the initial draft which became the working text of the Commission.

So, on 10 December 1948, the Universal Declaration was adopted by the General Assembly by a vote of 48 in favour, none against and eight abstentions (the Soviet Union, Ukrainian SSR, Belorussian SSR, People's Federal Republic of Yugoslavia, People's Republic of Poland, Union of South Africa, Czechoslovakia, and the Kingdom of Saudi Arabia).²² Honduras and Yemen—both members of UN at the time—failed to vote or abstain.

South Africa's position can be seen as an attempt to protect its system of apartheid, which clearly violated any number of articles in the Declaration. The Saudi Arabian delegation's abstention was prompted primarily by two of the Declaration's articles: Article 18, which states that everyone has the right "to change his religion or belief"; and Article 16, on equal marriage rights.

Eleanor Roosevelt attributed the abstention of the Soviet bloc nations to Article 13, which provided the right of citizens to leave their countries.²³

Despite the adaptation of Declaration, the following years it was all about the codification of the Declaration. But finally, in 1966 the codification was completed, it was broken in two covenants: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. These two

²¹ The Declaration was drafted during the Chinese Civil War. P.C. Chang was appointed as a representative by the Republic of China, then the recognised government of China, but which was driven from mainland China and now administers only Taiwan and nearby islands

²² UNAC. "Questions and answers about the Universal Declaration of Human Rights". United Nations Association in Canada (UNAC). p. "Who are the signatories of the Declaration?". Archived from the original on 2012-09-12.

²³ Glendon, Mary Ann. (2002). *A world made new: Eleanor Roosevelt and the Universal Declaration of Human Rights*, Random House, pp.169-70

Covenants together with the Universal Declaration are collectively referred to as the International Bill of Human Rights.

It is important to remember that when the UN was founded in 1945, and when the UDHR first was elaborated, most parts of Asia and Africa was still under Western colonial rule. That's why most Islamic countries have signed the Universal Declaration of Human Rights. However, in 1948, Saudi Arabia abstained from the ratification vote on the Declaration, claiming that it violated Sharia law.²⁴ Pakistan- which had signed the declaration- disagreed and critiqued the Saudi position.²⁵ In 1982, the Iranian representative to the United Nations, Said Rajaie-Khorassani, said that the Declaration was "a secular understanding of the Judeo-Christian tradition" which could not be implemented by Muslims without conflict with Sharia.²⁶

However after the UN had established the standards for international human rights in the International Bill of Human Rights, it was followed by the quest of implementation and monitoring the implementation.

This was accomplished with organizing Conventions, such as the Convention of Elimination of Discrimination against Women, Convention on Rights of the Child etc. The development of human rights has also advanced on a non-governmental level, with the creation of the NGOs, which were in charge for putting pressure on governments and other potential human rights violators.

The NGOs also gave an alternative reports on the human rights situations in different countries around the world. So this means that the existence of the NGOs has been of great importance for the UN, and for promoting human rights all around the world.

²⁴ Nisrine, Abaid. (2008). *Sharia, Muslim states and international human rights treaty obligations: a comparative study*, pp.60-65

²⁵ Contained in Prince, Daniel E. (1999). *Islamic political culture, democracy, and human rights: a comparative study*, Greenwood Publishing Group.

²⁶ Contained in Littman, D. (1999). *Universal Human Rights and Human Rights in Islam*, Midstream.

The human rights that the Western democratized countries promote are actually rights with the spirit of the liberal democracy. Taking into an account the fact that the Universal Declaration of Human Rights is drafted by the most influent countries in the post war period, it is normal to make the Universal Declaration according to their cultural values and to make an effort these same cultural values to grow into global values.

If we take into a consideration that in this period, the post war period (when the Universal Declaration was signed) where the winners write the history but they also arrange the relations after the war, it's a normal fact that there would be no other country that is strong enough to stand against to the winning USA, Great Britain, France and Russia.

2.4.2. The Council of Europe and the EU Convention on Human Rights (1953)

The Council of Europe is an international organization that promotes co-operation between all countries of Europe in the areas of legal standards, human rights, democratic development, the rule of law and cultural co-operation. This organization was established on 5 May 1949 by the Treaty of London. The Treaty of London or the Statute of the Council of Europe was signed in London on 5 May by ten states: Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden and the United Kingdom.

Many states followed, especially after the democratic transitions in central and eastern Europe (in early 1990s), and the Council of Europe now includes all European states except Belarus (human rights concerns), Kazakhstan (human rights concerns) and Vatican City (a theocracy) and the European states that are with limited recognition. The Council of Europe is an entirely separate body from the European Union and unlike the EU, which makes binding laws for all member states; the Council of Europe cannot make binding laws. The two do however share certain symbols such as the flag and the anthem.

The headquarters of the Council of Europe are in Strasbourg, France, with English and French as its two official languages. The Committee of Ministers, the Parliamentary

Assembly and the Congress also use German, Italian and Russian for some of their work.

The most important bodies of the Council are the European Court of Human Rights, which drafted the European Convention on Human Rights and the European Pharmacopoeia Commission that set out the quality standards for pharmaceutical products in Europe. The Council's work is set out standards, charters and conventions to facilitate cooperation between the European countries.

Its statutory institutions are the Committee of Ministers, composed of foreign ministers of each member state, the Parliamentary Assembly composed of MPs from the parliament of each member state, and the Secretary General heading the secretariat of the Council of Europe. The Commissioner for Human Rights is an independent institution within the Council, mandated to promote awareness of and respect human rights in the member states.

The Council of Europe's most famous achievement is the European Convention on Human Rights. The European Convention on Human Rights (officially the Convention for the Protection of Human Rights and Fundamental Freedoms) is basically international treaty for protecting human rights and fundamental freedoms, particularly in Europe. It was drafted in 1950 by the Council of Europe²⁷, and the convention entered into force on 3 September 1953.

"The European Convention has played an important role in the development and awareness about Human Rights in Europe. The development of a regional system of human rights protection operating across Europe can be seen as a direct response to twin concerns. First, in the aftermath of the Second World War, the convention, drawing on the inspiration of the Universal Declaration of Human Rights can be seen as a part of a wider response of the Allied Powers in delivering a human rights agenda through

²⁷ The Council of Europe should not be confused with the Council of the EU or the European Council. The European Union is not a party to the Convention and has no role in the administration of the European Court of Human Rights.

which it was believed that the most serious human rights violations which had occurred during the Second World War could be avoided in the future.

Second, the Convention was a response to the growth of Communism in Central and Eastern Europe and designed to protect the member states of the Council of Europe from communist subversion. This, in part explains the constant references to values and principles that are "necessary in a democratic society" throughout the Convention, despite the fact that such principles are not in any way defined within the convention itself."²⁸

The European Court of Human Rights was established by the Convention, and any person who feels like his or her rights have been violated under the Convention by a state party can take a case to this Court. Judgments finding violations are binding on the States concerned and they are obliged to execute them.

The Committee of Ministers of the Council of Europe is there to do monitoring of the execution of the judgments, particularly to ensure payment of the amounts brought by the Court to the applicants in compensation for the damage they have sustained. The European Convention is still the only international human rights agreement providing such a high degree of individual protection. State parties can also take cases against other state parties to the Court, although this power is rarely used.

2.4.3. The European Parliament and the Charter of Fundamental Rights of the European Union (2000)

The European Parliament is the directly elected parliamentary institution of the European Union (EU). The Parliament, together with the Council of the European Union (the Council) and the European Commission, it handles the legislative function of the European Union. The European Parliament is composed of 751 (previously 766) members, and with this fact it is the second largest democratic electorate in the world

²⁸ Ovey, Clare and White, Robin. *The European Convention on Human Rights*. Oxford University Press. pp. 1-3

(after the Parliament of India) and the largest trans-national democratic electorate in the world (375 million eligible voters in 2009).²⁹

This body is the "first institution" of the EU, and shares equal legislative and budgetary precedence over all authority with the abovementioned Council (except in a few areas where special legislative procedures apply). Also has equal control over the EU budget. Finally, the European Commission, which is considered as the executive body of the EU, is accountable to Parliament.

In fact, Parliament elects the President of the Commission, and approves (or rejects) the appointment of the Commission as a whole. It can subsequently force the Commission as a body to resign by adopting a motion of censure.³⁰

The Parliament is located in three different cities with numerous buildings. A protocol attached to the Treaty of Amsterdam requires that 12 plenary sessions be held in Strasbourg (none in August but two in September), which is the Parliament's official seat, while extra part sessions as well as committee meetings are held in Brussels. Luxembourg hosts the Secretariat of the European Parliament. The European Parliament is the only assembly in the world with more than one meeting place and one of the few that does not have the power to decide its own location.³¹

So in 1999 the European Council gave a preposition that a "body composed of representatives of the Head of State and Government and of the President of the Commission all together with all of the members of the European Parliament and national parliaments" should be formed with the intention to draft a fundamental rights charter.

It was firstly drafted by the European Convention and solemnly proclaimed on 7 December 2000 by the European Parliament, the Council of Ministers and the European Commission. But, its legal status was not clear until the entry into force of the Treaty of Lisbon on 1 December 2009.

²⁹ Contained in Brand, Constant and Wielaard, Robert. (2009). *Conservatives Post Gains In European Elections*, The Washington Post. Associated Press, Retrieved 17 August 2010

³⁰ Contained in European Parliament, *Parliament's powers and procedures*. Retrieved 12 June 2007.

³¹ Contained in Alvaro, Alexander. (2006). *Europe's strangest migrants*, Café Babel. Retrieved 1 December 2011.

Under this Charter, European Union should act and legislate accordingly to the Charter and all the EU's courts must strike down legislation adopted by the EU's institutions that contravenes it.

This Charter applies only to the Institutions of the European Union and all the member states, but only in the case when the latter are implementing EU law.

But the first version of the treaty did not include any references to fundamental or human rights. Few years later, after the failure of the European Defence Community Treaty and the European Political Community Treaty, the EEC treaty was improved and now the treaty includes human and fundamental rights. The new and improved Charter of Fundamental Rights of the European Union treats certain political, social and economic rights for European Union citizens and residents into EU law.

The Charter is not the first attempt to place human rights at the center of the European Union law. All EU member states are, and also candidate states are required to be, signatories to the Council of Europe's Convention on Human Rights. European Union has attempted to raise the profile of the Charter so that the citizens of the EU are more aware of their rights. For example, the E U Fundamental Rights Agency (FRA) invented apps for iOS and Android with the full text of the Charter in all EU languages and all the information that are related to this matter. It is very innovative way of showing someone's rights and let them know how protected they are with this Charter.

2.4.4. Organization of Islamic Cooperation and the Cairo Declaration on Human Rights in Islam (1990)

Since 19th century, some Muslims had aspired to ummah³² to serve their common political, economic, and social interest. Losing the Six Day War in 1967 provided the

³² Ummah - is an Arabic word meaning "nation" or "community". It is distinguished from *Sha'b* which means a nation with common ancestry or geography. Thus, it can be said to be a supra-national community with a common history. In the Quran the ummah typically refers to a single group that shares common religious beliefs, specifically those that are the objects of a divine plan of salvation.

incentive needed and the leaders of Muslim nations met in Rabat to establish the Organization of Islamic Conference on 25 September 1969. In the beginning it consisted of 57 member states.

The organization states that it is "the collective voice of the Muslim world" and that it works to "safeguard and protect the interest of the Muslim World in the spirit of promoting international peace and harmony".³³ The new established organization has a permanent delegation to the United Nations. The official languages are Arabic, English and French.

According to its charter, the Organization of Islamic Conference aims to preserve social and economic values; promote solidarity amongst member states; increase cooperation in social, economic, cultural, scientific, and political areas; uphold international peace and security; and advance education, particularly in the fields of science and technology.³⁴

The emblem of the OIC contains three main elements that reflect its vision and mission. These elements are: the Ka'bah, the Globe and the Crescent.

In 1969, Muslim leaders met in a historic Islamic Summit Conference and decided to establish an organization that unified their efforts towards common objectives. Consequently, in 1970 the foreign ministers met and established a General Secretariat for the Organization of the Islamic Conference as the collective voice of the Muslim world that represents its interests and defends its causes.

While the Al-Aqsa Mosque and Palestine remain the central issues for the Organisation, its activities and role have expanded in the past 40 years to meet the demands and expectations of the Muslim world. Since 1969 the number of Member States has increased, Observer states have been accepted, and various Subsidiary, Specialised, and Affiliated institutions have been created to serve the Muslim world. Furthermore, the

³³ From the official web site of the Organization of Islamic Cooperation (OIC) (<http://www.oic-oci.org/oicv2/home/?lan=en>)

³⁴ From the official web site of the Organization of Islamic Cooperation (OIC) (<http://www.oic-oci.org/oicv2/home/?lan=en>)

role of the Organisation itself in the international arena has become more prominent and active.

On 28 June 2011 during the 38th Council of Foreign Ministers meeting (CFM) in Astana, Kazakhstan this organization changed its name from Organization of Islamic Conference to Organization of Islamic Cooperation.

The Cairo Declaration on Human Rights (CDHRI) is a declaration signed by the member states of the Organization of Islamic Cooperation and this declaration was adopted in Cairo, Egypt in 1990. The Cairo Declaration is basically an overview on the Islamic perception on human rights, and affirms Islamic Shari'ah as its sole source. This declaration is often seen as an Islamic response on the United Nation's Universal Declaration on Human Rights (UDHR) adopted in 1948.

The idea of drafting an Islamic response to the already existing United Nation's Universal Declaration on Human Rights came from some Muslim countries which had argued and criticized the UDHR for its perceived failure to take into account the cultural and religious context of non-Western countries.

The CDHRI was adopted on August 5, 1990 by the members of the Organization of Islamic Cooperation and it has been signed by 45 states so far.³⁵ In 1992 the Islamic declaration on Human Rights was presented to the United Nations Commission on Human Rights, where it was strongly disapproved by the International Commission of Jurists.

Abovementioned declaration has always been controversial and criticized by the international community, because of the focus of the declaration-the religion. Everything that this declaration stands for must be prescribed by the Shariah. Though using a universalist language related to the Universal Declaration of Human Rights, "quite a number of its features express an Islamic particularity."³⁶The preamble is mostly religious rhetoric, and the particulars of the CDHRI contain numerous references to the

³⁵ Anver M. Emon, Mark Ellis, Benjamin Glahn. (2012). *Islamic Law and International Human Rights Law*, Oxford University Press, pp.113.

³⁶ Brems, E. (2001). *Islamic Declarations of Human Rights*, Martinus Nijhoff Publishers, p.241-84.

Quran, Shariah and aspects of the Islamic faith that appear on no other similar international list.³⁷

³⁷ Brems, E. (2001). *Islamic Declarations of Human Rights*, Martinus Nijhoff Publishers, p.241-84.

3. Universal Human Rights and Islam Human Rights through the UN's Universal Declaration and the Cairo Declaration

When universal is not universal?

In the preamble of the United Nation's Universal Declaration of Human Rights (hereafter UDHR), it is clearly pointed out that the Declaration stands "for all peoples and nations". This kind of view which prescribes universality, uses universal language such as "all", "everyone", or "no-one" in all thirty articles led to the former Pope John Paul II to name this declaration "One of the highest expressions of the human conscience of our time" in a speech on 5 October 1995.

The success of the UDHR lies in its reception by the international community. It is not an English, Western or Christian document because it was drafted by a dozen senior representatives from all around the world.

Despite the fact that it is not legally binding, it has been adopted in most of national constitutions and it is an obligatory document to sign for entering in the UN. The United Nations did not put the human rights as an obligatory power of the Declaration. But, it is important to mention that when the Universal Declaration was signed in the General Assembly of the United Nations, the sovereign countries officially accepted the legitimacy of the human rights as universal rights. The Universal Declaration of Human Rights (1948) and the afterwards efforts for codification of the human rights, as an obligations guaranteed with agreement, are a result of historical inheritance of constitutional liberalism, and with this constitutional liberalism the governments were limited and civil rights were declared.³⁸

Because of the global influence of the constitutional governments, in the 19th and 20th century the foundations for a Universal Declaration and for other International

³⁸ Содржано во Вноти, Пол и Капули, Марк . (2009). *Меѓународни односи и светска политика*. Академски Печат, Скопје

Conventions for human rights were made, and these were mainly inspired by Anglo-American and French ideas.³⁹ That's why this declaration became a fundamental element of international law and the human rights which are stated in the UDHR are protected by the rule of law.

The most of the Muslim countries (Egypt, Iran, and Pakistan) signed the UDHR in 1948, but contrary to that, Saudi Arabia, where the King must act in accordance with the Shari'ah and the Qur'an, did not sign the declaration. In his defense he stated that this declaration violates the Islamic law and it failed to take into consideration the cultural and religious context of non-Western countries.

In accordance with this criticism, the then 45-member states of the Organization of the Islamic Conference (OIC, now known as Organization of Islamic Cooperation) met in Cairo, in August 1990 where they signed the Cairo Declaration on Human Rights in Islam. Even though most of these countries had already signed the United Nation's Universal Declaration, they still have the motive to draft and sign another Declaration for human rights, the Cairo Declaration of Human Rights in Islam, but this time this Declaration did not have the universal character.

After the drafting and signing of the CDHRI, in both English and Arabic version, this Declaration was submitted to the UN by the Organization of the Islamic Conference (OIC) prior to the World Conference on Human rights in Vienna in 1993.⁴⁰ The basic idea of the Conference was to establish whether human rights are linked to Western culture and values, or are they universal.

A lot of disagreements were raised regarding the cultural differences – cultural relativism, especially from non-Western countries. At one point Iran, Saudi-Arabia and Iraq joined together in pressing the UN Commission on Human Rights to accept the Cairo Declaration as an alternative declaration for the Muslim countries. According to

³⁹ Види повеќе во Виноти, Пол и Капули, Марк . (2009). *Меѓународни односи и светска политика*. Академски Печат, Скопје

⁴⁰ Contained in Mayer Ann, Elisabeth. (third edition 1999). *Islam and Human Rights - Tradition and politics*, Westview Press, Boulder Colorado.

them, the existing human rights system, is excessively Western and make no room for other cultures and religious values.

Raja'I Khorasani, an Iranian official and representative to the UN in 1982 said that the UDHR was a "secular understanding of the Judeo-Christian tradition", and that it is impossible for Muslims to implement it without contravening Islamic law.⁴¹ This point of view was however not accepted by the UN Secretary General Kofi Annan, who ended up by insisting on the universality of human rights.

Despite the claim the CDHRI has to be seen a general guidance for member states of the OIC and complement the UDHR, it actually violates many of the rights that one universal declaration should guarantee. The CDHRI does not represent the universality like the UDHR does, and it provides its member states and their citizens, a selected set of human rights based on an undefined interpretation of the Islamic law.

So, what are the Islamic human rights and how do they differ from the universal rights prescribed in the Universal Declaration of Human Rights by UN? What is so different in the Islamic world that encouraged the Muslim countries to draft and adopt one different declaration?

The only way to find the answers to these questions is by making a comparative analysis between these two declarations. There are several differences between them, so I decided to emphasize three main domains that I find most radical and interesting for the following comparative analysis. United Nation's Universal Declaration and the OIC's Cairo Declarations are different in mainly four domains. They differ on the grounds of religious beliefs, on grounds of gender equality, but there are also some differences in the field of education as well as the discrimination of non-Muslims.

3.1. Discrimination on the grounds of religious beliefs

⁴¹ Contained in Littman, David. (1999). *Universal Human Rights and "Human Rights in Islam*, Midstream, New York.

Knowing the fact that the UDHR was drafted as a response to the awful experiences in the Second World War, it was based on four freedoms that the Allies adopted as their basic war aims: freedoms of speech, freedom of religion, freedom from fear and the freedom from want.

From the very start of the Declaration, at the preamble of the UN's Universal Declaration on Human Rights, you will notice that there is no mention of a religion, all religions and cultures are assumed to be equal. In fact, all of humanity are asked to work together to promote "universal respect for and observance of human rights and fundamental freedoms".

On the other side, the Cairo Declaration confidently emphasizes the superiority of Islam by referring to the Islamic Ummah as the "best nation". The Ummah has an important role in guiding the humanity which is confused by the competing trends and ideologies and to tend to provide solutions to the chronic problems of this materialistic civilization.

According to Ummah, the rest of the humanity (those who don't serve to Islam) is supposedly confused and they are in need of guidance from the "best nation". They consider themselves as the "best nation" and obviously they divide the world into Muslims and infidels.⁴²

In the preamble of the Cairo Declaration, it begins with recognizing the importance of having an Islamic rights document that will be used as general guidance on human rights matters in the Islamic countries. It also inclines that all rights are of divine source and establishes that:

"..fundamental rights and freedoms according to Islam are an integral part of the Islamic religion and that no one shall have the right as a matter of principle to abolish them either in the whole or in part or to violate or ignore them in as much as they are binding divine, commands, which are contained in the Revealed Books of Allah and which are sent through the last of His Prophets to complete the preceding divine messages.."

⁴² Contained in Littman, David. (1999). *Universal Human Rights and "Human Rights in Islam*, Midstream, New York.

But on closer view of the right to freedom of religion in Islam, it is inevitably to notice a mass of contradictions. On one hand, apostasy is considered by some punishable with death and many Islamic schools for law practice assert that any Muslim can kill an apostate without getting punished for that.⁴³ On the other hand, the Qu'ran sermonizes that there is "no compulsion in religion"⁴⁴ and "to you your religion, to me mine".⁴⁵

So as we can notice there is indeed a lot of contradictions. It made me think that when there is this much debate around one issue, in this case the religion, it is intolerant for a Muslim-majority countries to sign up for a declarations that contradict the beliefs of so many people (Muslims and non-Muslims) and definitively express a human right or challenge based on a controversial aspect of the religion.

Moving on, it is important to pay attention at the end of the Cairo Declaration, particularly to the articles 24 and 25, because these articles will paint a clearer picture about the undeniable differences between these two Declarations. In these articles (24 and 25) you will see that all rights and freedoms are subject to the Islamic Shariah and the Shariah is the only source of reference for the Cairo Declaration. This means, we must read the rest of the Cairo Declaration with this in our mind. But, I must start from the top, hence from the Article 1, in which we can notice that even though the Sha'ria Law is not mentioned, it's still a clear fact that the Cairo Declaration is drafted only for the Muslims, and it protects only their rights.

Article 1a from the Cairo Declaration says:

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

⁴³ John L. Esposito. (1994). *The Oxford Dictionary of Islam*, Oxford University Press, pp.22.

⁴⁴ Qur'an 2:256

⁴⁵ Qur'an 109:1-6

This article raises the question: "What about those people who do not pray to Allah?" Are they not considered as the part of the family? Article 1b states:

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

Article 1a appears to contradict the preamble and Article 1b, because Article 1a forbids discrimination based on religion, amongst other things, but in the preamble and Article 1b, it is quite clear that Muslims are ranked higher than non-Muslims, or as they called it infidels.

So I came to the conclusion, that while Article 1a forbids discrimination on ground of religious believes, Article 1b is doing exactly that. This could explain why Muslims are in conflict with non-Muslims in Palestine, Chechnya, Kashmir, South Thailand, Philippines and Sudan.

On the contrary, Article 1 of the United Nation's Universal Declaration (UDHR) it is said:

"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."

This Article accents that all religions and cultures are by implication equal and the declaration appeals to us to work together in a spirit of brotherhood and there is no talk of one group leading the others.

Article 2d of the Cairo Declaration says:

"Safety from bodily harm is a guaranteed right. It is the duty of the state to safeguard it, and it is prohibited to breach it without a Shari'ah-prescribed reason."

This Article forbids bodily harm or taking someone's life unless for a Shariah prescribed reason, so this means that if you dare to criticize and talk bad about their holy Prophet Mohammed, you can be killed, because of the tough laws against blasphemy in Islam. This makes room for the pre-modern Shari'ah rules on the so called Húdud-crimes, the crimes against which God himself has set limits, and for which the punishment is directly formulated in the Qu'ran.

This means there is a physical punishment for theft and adultery, which is often described in Western media as inhuman and uncivilized acts.

Theft is in verse 5:36 (41) punished by cutting of the hands of the one who committed the crime, but the following verse of the Qu'ran makes an exception for the theft who repents his crime.

These punishments, known as húdud punishments are a controversy also in the Islamic countries, because many reformists consider them a remnant from an Islam that are not adjusted to modern society.

On the other hand, some fundamentalist consider that these as the laws given by God and therefore not a matter of compromise. Whatever one thinks, the existences of these crimes are not in accordance with the United Nations Universal Declaration of Human Rights.

Let's move on to Article 10 which states:

"Islam is the religion of true unspoiled nature. It is prohibited to exercise any form of pressure on man or to exploit his poverty or ignorance in order to force him to change his religion to another religion or to atheism."

Since only Islam is the truth, a Muslim must be crazy to convert to another religion. This means that Muslims are not allowed to convert to other religion because the penalty of apostasy, according to the Shariah is death.

There is of course no guaranteed protection for non-Muslims who are forcibly converted to Islam and no provisions to protect them from their own ignorance or poverty. This Article from the CDHRI is clearly a restriction rather than a right. Article 10 from the Cairo Declaration is in contrast with Article 18 from the UDHR which states:

"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."

Moving on to Article 11a of the Cairo Declaration,

"Human beings are born free, and no one has the right to enslave, humiliate, oppress or exploit them, and there can be no subjugation but to God the Most-high."

This sounds reasonable in theory, but knowing the fact that Allah does not make any personal appearances, so instead people who are the so called guardians of the Islamic state can act in His Most-high name to subjugate you. Article 11 has the power to limit your freedom of religion since someone is telling you how to practice your religion, and this Article gives the guardians of the Islamic faith the authority to subjugate you in the name of God.

Finally Article 19d of the Cairo Declaration states:

"There shall be no crime or punishment except as provided for in the Shariah."

In translation this means that the act of stoning for adultery, even amputation for theft is allowed and even so encouraged. This Article is in complete conflict with Article 5 of the UDHR which says:

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

When it comes to the religious rights of one human being, the Universal Declaration indeed fulfils its goal, which is the fact that no matter whether you are Christian, Muslim, Hindu etc. everyone shall have identical treatment. Nor one religion in the Universal Declaration is set to be superior from another religion.

Contrary to this, the Cairo Declaration begins with the assumption that everyone shall believe in Allah, everyone shall know their rights according to the Sha'ria Law and everyone shall be prepared to be punished according to the Sha'ria Law, regardless if such kind of treatment would be against their religious beliefs.

Hence this leads me to the simple conclusion that the Cairo Declaration has discriminatory character regarding the religious beliefs of the people and discriminatory character regarding the violation of religious rights of every human being.

3.2. Discrimination on grounds of gender equality

Along with the intolerance of the other religions, there is one other aspect on which the UDHR and CDHRI do not agree and that is the gender equality. Equality has always been related to human rights. Today the term "human rights" has two incompatible meanings. In the non-Muslim world, "human rights" refers to the Universal Declaration of Human Rights, which affirms that all people — men and women — are guaranteed individual rights.

But when we speak about human rights in Muslim world we must start first with elaboration of the Cairo Declaration. While most of the Articles are related to the same rights contained in the Universal Declaration many of them are limited and refer to the interpretation of Sharia. Basically Cairo Declaration divides all human beings into two separate legal persons within its defined categories, namely men and women, believers and non-believers.

Gender equality as a topic itself is very problematic, even in countries that have the gender equity embedded in their constitution. Many non-governmental organizations, under the auspices of the UN Security Council and some of the Research Institutes are

really trying to point out the real inequality between the genders, but when it comes to this matter, I still feel like the world is still stuck somewhere in the Middle Ages. This topic is too broad to be explained in this paper, but here I will focus on the clearly favoring of the male population in the Cairo Declaration

If we look closely at the Cairo Declaration, from the start, women and men are not equally protected and what is the most important is the fact that they don't have the same rights. In the Article 1a of the Cairo Declaration, it states:

"...All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the basis of race, color, language, belief, sex, religion, political affiliation, social status or other considerations..."

I noticed that instead of using "all human beings" in this Declaration it is used the term "all men". In Islam, men and women are pictured differently; they seem to have different obligations and responsibilities. The Cairo Declaration gives men and women the "right to marriage" regardless of their race, color or nationality, but not religion.

Women are given "equal dignity", "own rights to enjoy", "duties to perform", "own civil entity", "financial independence", and the "right to retain her name and lineage", but not equal rights in general.

For example, we are all familiar that Muslim men can have even four women, but women must not have four husbands. In contrast, in the UDHR gender-neutral terms such as "everyone" or "all human beings" are always used and that's the best way to emphasize the gender equality.

American feminist Catherine MacKinnon in her book has raised the question "*Are women considered human?*" focusing in part on the use of male-centric terms like *all men* in Article 1a and *himself* and *his family* in Article 23.⁴⁶

Article 19a of the Cairo Declaration declares:

⁴⁶ Contained in MacKinnon, Catherine. (2013). *Are Women Human?*, Martinus Nijhoff Publishers. Retrieved 2013-01-31

"All individuals are equal before the law, without distinction between rulers and ruled."

This particular Article makes a reference to rulers and the ruled and makes no reference between men and women. But according to Shariah, a woman's testimony in court is worth that of a half a man's. So it is clear that the women in Islam are not equal with men.

The already mentioned facts lead me to the conclusion that the most controversial area in the debate on Islamism and human rights is the rights of women. In general, neither the Muslim Brotherhood, al-Nour nor al-Nahda believe in the concept of gender equality as stipulated in international human rights treaties.

Members and leaders of the Muslim Brotherhood have usually been critical of the concept of gender equality arguing that international women's rights corrupt Islamic social values and morals, and on the 57th Commission on the Status of Women when the global agreement for prevent and end violence against women and girls has been reached Egypt and Libya among other Muslim countries vote against the conclusions. Islamists advocate the concept of complementary roles for men and women.

This means that not all the rights enjoyed by men are provided to women. The key areas where women are less equal than men are the rights on marriage, divorce and political rights. For example, the CDHRI, through teaching the conservative interpretations of the Islamic law, the Shari'a, enables violation of other human rights that every woman should be entitled to, such as a fair and public hearing by an independent and impartial tribunal, the right of movement and residence within the borders of each state and equal rights as to marriage, during marriage and at its dissolution.

3.2.1. Women's rights in the Islamic States

From the above mentioned comparative analysis, it's clear to state that there is a huge difference between the Middle Eastern and Western countries when it comes to the women rights and how they are incorporated in the society. In the following text, my

focus will be on the women rights under the sharia law, the way of living and customs in the Islamic countries, and to shortly establish the huge differences between the rights that women in East and the women in West countries have.

Sharia law is an Islamic legal system which provides an Islamic alternative to secular models of governance. Women in societies governed by sharia have not the same rights as the women in the Western countries

Muslim-majority societies have varying degrees of *sharia* integrated into their law codes, but almost all use *sharia* to govern family affairs. *Sharia* courts also exist in Western countries, mainly for adjudicating family law for Muslim citizens that live in these countries. There is no one overarching authority which determines *sharia*, nor is there one conception of how women's rights fit into *sharia* law.

There are different interpretations of the sharia law integrated in the legal system; it depends on which of four schools of Islamic Jurisprudence is being used and which country is in question.

Many Muslim feminists argue that current interpretations of *sharia* that persist in oppressing women have no basis in Islam and are man-made laws of the sacred texts. "I argue that Muslim family laws are the products of sociocultural assumptions and juristic reasoning about the nature of relations between men and women. In other words, they are 'man-made' juristic constructs, shaped by the social, cultural and political conditions within which Islam's sacred texts are understood and turned into law."⁴⁷

-Marital Rights

Although various opinions exist regarding Islamic marriage laws, the following statements remain:

- A man is entitled to up to four wives, but a woman may only have one husband. In Western societies, a man typically only takes one wife.

⁴⁷ Contained in Mir-Hosseini, Ziba. (1999). *Towards Gender Equality: Muslim Family Laws and the Sha'riah*. Princetone University Press

- The husband (or his family) pays a "bride price" or "dower" (*mahr*, which is money or property paid to the bride) which she is entitled to keep. This "mahr" is in exchange for sexual submission (*tamkin*). Sexual submission is traditionally regarded as unconditional consent for the remainder of the marriage.
- A man can divorce his wife by making a declaration (*talaq*) in front of an Islamic judge irrespective of the woman's consent. Even her presence is not required. For a woman to divorce a man (*khula*), his consent is required.
- The husband is responsible for the financial upkeep of home (*nafaqa*).
- "Temporary marriage" (even for less than a half an hour) is allowed by some scholars, others regard it as a form of prostitution. A report by the Gatestone Institute charts its development in Britain.
- Wife beating permitted according to some scholars.
- There is no joint property; the man owns all property, (except for what the woman owned before the marriage).
- There is no specific minimum age for marriage, but most agree a woman must have reached puberty. Marriage as young as 12 or 13 is not uncommon in Muslim-majority countries.

-Public Rights

Most Muslim-majority countries are not democratic oriented, so issues of who can vote do not apply. However, women still have a significantly reduced role in the public scene in these countries compared to men.

Conservative ideas of gender roles are taken very seriously in Islamic societies. Even in the West, where Muslim women have the same legal rights as men, they have been prevented from exercising those rights by their male relatives.

Under *sharia*, women have:

- Lesser inheritance rights compared to men
- Lesser status as witnesses

In Saudi Arabia, women are not even allowed to drive.

-Modesty Laws

Many Muslim women respect the requirement to dress modestly and choose to do so.

Garments women are required to wear range from a *hijab* (a scarf covering the hair and neck), an *abaya* (a cloak-like, loose-fitting overgarment), a *niqab* (a face veil worn in addition to the *hijab* and *abaya*) to a *burqa* (a full-body and head cloak which includes a netted rectangle over the eyes). Exactly what constitutes immodest dress is the subject of a further debate, in which I will not go further in this research.

Violations of modesty laws are frequently met with violence in Muslim countries.

Western women visiting Muslim-majority countries – for example, Saudi Arabia – are advised to dress modestly and not to travel unaccompanied by a man.

-Male Guardianship

Male Guardianship applies to all women whether married or not according to strict interpretations of *sharia*. In the event of the deaths of male relatives, it can result in mothers being legally subservient to their sons. Under *sharia*:

- A woman becomes subservient to her husband and needs his permission to: “leave the house, take up employment, or to engage in fasting or forms of worship other than what is obligatory”.⁴⁸
- An unmarried woman is under the guardianship of her nearest male relative.

-Rights under International Law

International law currently exists in a grey area, as it is unclear to what Islamic states are bound by international treaties regarding various rights, and which of those rights; international authorities have the power to enforce. The UN Declaration of Human Rights includes and promotes equal rights for women and calls have been made for Muslim countries to abide by these statutes and try to implement them.

⁴⁸ Contained in Mir-Hosseini, Ziba. (1999). *Islam and Gender*, Princeton University Press

UN supports equal rights for women and recently adopted a new campaign aimed at ending the violence against the women. The Muslim Brotherhood issued a statement condemning this UN declaration.

The Muslim Brotherhood in a statement on its official website, claims that the articles of the declaration *"are destructive tools meant to undermine the family as an important institution."* The Islamists claim the document would *"subvert the entire society and drag it to pre-Islamic ignorance."*

Among the clauses which the organization finds offensive are an article that would enable women to choose the gender of their partners; use of contraceptives by teenagers; and a clause that allocates equal rights for homosexuals and protection for sex workers.

Some other articles the Egyptian leadership finds challenging include granting *"equal rights to adulterous wives and illegitimate sons resulting from adulterous relationships"* and giving wives *"full rights to file legal complaints against husbands accusing them of rape or sexual harassment."*

"The Muslim Brotherhood urges the leaders of Islamic countries and their UN representatives to reject and condemn this document," the party said in the statement.

The issue of Muslim women marrying non-Muslim men has also been condemned in the outline.

Muslim Brotherhood spokesmen also found unacceptable a call for *"cancelling the need for a husband's consent in matters like travel, work, or use of contraception"* and rejected the idea of abolishing *"polygamy, dowry, men taking charge of family spending."*

-Who Is Affected by Sharia law?

Any Muslim woman who undertakes to be married under Islam is bound to a greater or lesser extent by sharia law, depending on the country they live. Muslim women living in

Western countries are bound by the laws of the countries in which they live as well, whereas women living in countries such as Saudi Arabia are bound by *sharia* alone.

3.3. Differences in the field of education

Among differences on the ground of religious beliefs and the gender equality, I also noticed that United Nation's Universal Declaration and the OIC's Cairo Declaration differ in the field of education. The following article is from the Cairo Declaration;

Article 9:

“(a) The seeking of knowledge is an obligation and provision of education is the duty of the society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee its diversity in the interest of the society so as to enable man to be acquainted with the religion of Islam and uncover the secrets of the Universe for the benefit of mankind.

“(b) Every human being has a right to receive both religious and worldly education from the various institutions of teaching, education and guidance, including the family, the school, the university, the media, etc., and in such an integrated and balanced manner that would develop human personality, strengthen man's faith in Allah and promote man's respect to and defense of both rights and obligations.”

This Article of the CDHRI clearly makes the State responsible for giving Islamic education to the people, but there is no mentioning of the other religions, of course. In Article 9b it also appoints the State with giving worldly education, as long as there is no conflict with the religion Islam. So history lessons reflect the Islamic world-view on the past events.

The children must be taught that the early wars of Arab imperialism were being in accordance of God's wishes. The years before the Arab invasions must be seen as periods of darkness, no matter how great the ancient civilizations were.

The Crusades must be seen as an attack on Islam and not as a desire to recapture lands once belonging to Christians. While, the education system will no doubt emphasize the brutality of the Crusaders, their own Arab invasions of other people's lands, no matter how brutal, must always be framed as bringing the light of Islam to benighted peoples.

This approach makes it difficult for empathy to develop. A child going through such an education system is not encouraged to understand the other side's point of view.

Any sort of historical revisionism will be viewed suspiciously at best or apostasy at worst. Also any teaching of Finance will raise difficulties, if Articles 24 and 25 are vigorously enforced by the signatories. It is part and parcel of the modern business world to deal in interest, which is forbidden. All countries borrow money and most companies also do so to conduct business.

Thus, I pity the Finance professor of a business school who must teach the valuation of bonds in an Islamic fashion. How are you going to calculate the Net Present Value of an asset without an interest rate?

3.4 Discrimination of non-Muslims

Religious minorities in Islamic countries can be divided in two groups: people of the book – ahl al-Kitáb (Jews, Christians and Zoroastrians) and other smaller religious minorities. The first group, the people of the book have always been allowed to keep their religion to themselves, without interference under a certain protection, called dhammi, as long as they pay a poll tax called jizya and "subdues" (9:29).⁴⁹

In pre-modern times there wasn't tolerant policy regarding those who will not accept Islam as their religion. In pre-modern Shari'ah doctrine, the non-Muslims that were not

⁴⁹ Mayer Ann, Elisabeth. (Third edition 1999). *Islam and Human Rights - Tradition and politics*, Westview Press, Boulder Colorado, pp.137

ahl al- Kitáb, were seen as polytheists or non-believers and they had to accept Islam or die. In the last decades, as Islam expanded eastwards, these pre-modern doctrines had to be changed and adjusted and Muslim learned how to coexist with those who are not part of their religion.⁵⁰

According to some interpretation of Islam, non-Muslims may be excluded from high political positions and to be excluded from serving in the military. The exclusion from the military does however have its foundation in the idea that non-Muslims could be expected to fight the religions wars, although they don't have trained about it, which took place in the early days of Islam.

It is obvious that the non-Muslims have hard time nowadays in achieving the same rights as Muslims in an Islamic society, especially if traditional Shari'ah rules are applied.

Religious minorities have lately become deeply concerned about their future rights under Islamist rule. Let's take one Islamic state for example. Over the last two decades, the Muslim Brotherhood on numerous occasions stressed its respect for the principle of citizenship and equality between all Egyptians. But the rights of religious minorities in Muslim Brotherhood thinking remain problematic. The Muslim Brotherhood's Reform Initiative of 2004 stated that 'religious freedom is guaranteed for the recognized monotheistic religions' (that is, Christians and Jews, also often referred to as the 'people of the book'). A similar restriction can be found in the Freedom and Justice Party's platform, which talks about the state's duty to protect only the monotheistic religions. Muslim Brotherhood leaders have stated that non-Muslim citizens who are not people of the book have the right to live in Egypt, but are not allowed to publicly express their religious beliefs or to build their own places of worship.

So this led to a conclusion that the rights of non-Muslims are often mentioned as important problem area in the field of human rights. Islam might be rather tolerant as a religion, compared to Christianity or Judaism when it comes to relating to other

⁵⁰ Mayer Ann, Elisabeth. (Third edition 1999). *Islam and Human Rights - Tradition and politics*, Westview Press, Boulder Colorado, pp.134

religions, but a non-secularized state will never be as open to religious freedom as a secularized one.⁵¹

3.5. Conclusion:

These are the main differences between the Cairo Declaration on Human Rights in Islam and the United Nation's Universal Declaration on Human Rights. The differences are not immediately apparent. Rights that appear to be given in the Cairo Declaration seem to be taken away by Article 24 and 25. Perhaps the people who wrote the Cairo Declaration were not aware of the gap in their perception of human rights.

Many Islamist claimed that Islam is a complete and comprehensive way of life⁵² but moderate or as we known them as liberal Muslims show that the wide diversity of traditional interpretations of the Qu'ran and the Sunna which developed in the period of two hundred years of the Prophet Muhammed is an indication for cautiousness and is evidence against enforcing religious beliefs upon others. Islam is a pluralist religion and has a great tradition of freedom of thought and tolerance of the beliefs of others.

So for the OIC to draft the CDHRI, a document that limits this intellectual tradition, violates some of the main freedoms every person should enjoy and to introduce absolutist judgments of the faith for citizens in countries that do not even implement the Shari'a to its full extent, is a tremendous oversight.

To finish it up, the Cairo Declaration allows stoning as punishment, prohibits Muslims to convert their religion, prohibits usury, there is no gender equality and also splits the world on Muslims and infidels. And I can help but make a statement that the Cairo Declaration of Human Rights in Islam is a harsh document that comes from a harsh faith.

⁵¹An-Na'im, A. (1990). *Human Rights in the Muslim World*, pp.392

⁵² Gilles, Kepel, (1986). *Muslim Extremism in Egypt; the Prophet and Pharoh* , University of California Press, pp.153-4.

4. The future of the human rights and human rights as a reason for any upcoming conflict in the future

It is a well-known fact that one human being when born, it inherits the basic human rights, for example let's say, the right to live, right to choose, right to freedom of religion, right of inheritance and so on. All people should know their rights, and every human being has an equal right no matter on which part of the world lives, therefore there should not exist any kind of violation of the rights, discrimination or different interpretation of any human right.

These rights are guaranteed in almost every Constitution of every single State, throughout Declarations that have universal character. As mentioned above the most worldwide accepted and implemented Declaration for human rights is the Universal Declaration of Human Rights, drafted and adopted by United Nations.

It was signed in 1948 by the United Nations member states, but years later, after the Organization of Islamic Cooperation was established in 1969, another Declaration was signed by the OIC's member states, the Cairo Declaration for Human Rights in Islam that would be of importance mainly for the Muslims.

4.1. Reasons and the need for signing two different Declarations

Through the comparative analysis, the main focus of this research, I have come around to a conclusion that these two Declarations, even though they try to promote the "same" universal rights, they are actually very different. In the abovementioned analysis I noticed several segments in which they differ, and the most important are the following ones:

-The source

The United Nation's Universal Declaration has not any source, from where it gets inspiration. The Declaration is famous for its universal character. It does not separate religion and it does not limit the right to choose one. It was drafted by people who are experts and representatives from all religions and nationalities, which means that according to this Declaration every nation, religion and human being are equal by the law.

On the other hand, the Cairo Declaration has a source from which it gathers inspiration. For its source, the Cairo Declaration uses the Qu'ran. This fact leads me to the conclusion that this Declaration does not recognize the other religion, but their own, the Islam, it does not have universal character and it does not include equality among all the people in the world. If you take closer look at the articles from the Cairo Declaration, almost all of them states that: "every man has the right to do something, for example, IF ITS NOT CONTRARY TO THE PRINCIPLES OF THE SHARI'AH."

-The religion

The second difference came out of the first one, the right to choose religion. It was stated earlier that the United Nation's Universal Declaration does not separates any religion, and it was drafted with one goal, to guarantee every single human being its right to choose the religion in which it wants to believe in.

As totally opposite of this, the other Declaration, the Cairo Declaration choose only one religion, the Islam. The state members of the OIC that have signed this Declaration argue that the Islam is the only righteous religion; its followers are the "best nation". All other religions are traitorous and their followers must wake up and surrender to Islam.

-Gender Equality

The third difference between the two Declarations is the gender equality. In UN's Universal Declaration, there are very well pointed out terms such as, "All human beings" or "everyone shall". These terms are used in order to get the impression that there is no difference between genders, and that's exactly what the United Nations are striving for.

But in the Cairo Declaration that's not the case. In fact in various occasions in the articles the term "all men" can be noticed, which confirms the fact that the men have more rights than the women. This fact does not took me by surprise, taking in account the fact that in the Islamic countries men have more rights and responsibilities than the women.

One more example for this, almost all of the representatives of the Islamic countries vote against the United Nation's project "UN-women" in the Council. With this project, that later became international organization, the UN member states wanted to promote and support the equality between genders, and they stated that the women all around the world should have same treatment and rights as the men. On this matter, the Islamic representatives argue that this concept intervenes the tradition values and customs of the Islam. So they voted it against it.

These particular differences between the UN's Universal Declaration and the OIC's Cairo Declaration would actually lead to the root of the problem, therefore the explanation for the need and the reasons for signing two "parallel" Declarations.

United Nations signed the Universal Declaration of Human Rights in 1948, the Organization of Islamic Cooperation signed the Cairo Declaration in 1990. So there are 42 years gap between the two Declarations, which leads me to the question: What took the Islamic states so long, even 42 years later, to respond to United Nations with their own Declaration? The member states of the United Nations were also later member states of the Organization of Islamic Cooperation. So, why these countries signed the UN's Universal Declaration, when they were against it in the first place from the beginning?

After a long research for the response of these questions, I figured out that in order to give a correct answer to these questions, I would have to analyse several factors that affected the Islamic states in the period of 42 years.

-The economy as a factor

In 1945 when the United Nations were established, as well as three years later when the Universal Declaration was signed, the World just got out of the Second World War and the Middle East was still under the Western influence. The Islamic states were not economically strong to stand alone, so they needed help from the West, and this has ended up as we all know with voting in favour for the UN's Universal Declaration, even though they were against it from the very beginning.

At this time, the Islamic world was not strong enough to stand against the powerful Western Countries. They knew that the Universal Declaration was against their tradition and it does not apply the Islamic values, but still they were pushed to sign it. It took years to recover, to establish their own Organization, the Organization of Islamic Cooperation and later to draft their own Declaration.

-Political Factor

Even though the Middle East did not get along with the policy that the West and the East Europe Countries were promoting, they were not stable also on political scene. They simply were destroyed after Iraq War, and obviously still dependant on the Western countries. In that time (after the end of the Cold War) the world was under democratization, the bipolar system of ruling has ended, instead of that there was multipolar system with one dominant state (USA). The Middle East, weak on economic as well as on political level, did not have the strength to influence on these changes.

- Weapons and technology as a factor

Logically when I established that the Islamic world were not strong economically nor on political scene, then they could not possibly be strong enough in armed forces, weapons and technology. And to have weapons and technology is a sign of a stable and strong country, something the Middle Eastern countries were not. They did not have the money or the power to invest and develop in weapons and technology.

-The international scene as a factor

On the international scene in 1950s it was the end of the Cold War, between the two major countries USA and SSSR. The end of the war, meant the end of the bipolar system of ruling, end of the World that was practically divided or managed by two leading forces. It was the beginning of the multipolar system of ruling with one dominant force (USA). In these years, the SSSR falls apart and the East Europe is under democratization. These were the events that occur on European and Western ground, the Middle East as I mentioned were not economically, politically strong so they also could not intervene or stop this kind of flow of the events.

Even though these are a times that were not so good for the Islamic states, twenty years later they found a way to get on their feet. In 1969 they established an organization, the abovementioned Organization of Islamic Cooperation and that was a first time for all state of the Islamic world to be under a same hat together. The organization was a place where they can have the same interest once for all.

Most of the countries that are member states in OIC are also member states in the UN, but in the UN their vote is not as strong as in OIC. Why is this? Well, in UN, there are five leading forces, and without their vote it can't be made any decision and only these five countries have the right of veto. Of course within those five countries there isn't any Islamic country. So, in UN they can't have that kind of influence on the matters as they can have in OIC, and when some rules, decisions or matter they won't like or they think that it can't be implemented in their countries, the Middle Eastern countries simply use the OIC as an organization to draft parallel decisions or rules in their own Islamic version.

That's why they drafted Cairo Declaration in 1990, which was seen as one kind of response to the United Nations Universal Declaration of Human Rights, but according to me the signing of the Cairo Declaration did not resolve all civilization matters. In my opinion, the Cairo Declaration is very contradicted and one-sided document, putting the Qu'ran and Islam in its focus. What about other religions?

4.2. Reasons for an upcoming conflict in the future

In this moment, where the World is preoccupied with the so called “New Cold War” between the USA and Russia, over Ukraine, some of the Islamic terrorist groups from the Middle East took this moment of weakness as their advantage in order to take actions and make their goals come true.

For example, we are all familiar with the newfound IS (Islamic State). Well ISIS (shortly for Islamic State of Iraq and Syria) is a terrorist group, which took this situation with Ukraine in its advantage and accomplished their goals throughout terrorist acts. This would not been the case, if they tried to do this ten years earlier, but now with the new Cold War it is a convenient moment for them to take action, and so did they.

Their goals can be described shortly in the following:

-They claim religious authority over all Muslims across the globe and try to bring most of the Muslim inhabited regions of the world under its jurisdiction. To have full political control over them beginning with territory in the Levant region, this includes Jordan, Israel, Palestine, Lebanon, Cyprus and parts of southern Turkey.

This is the momentary situation on the international scene. This situation is also affecting the international security, now that the USA and their allies confirmed air strikes over the Islamic State, literally all other countries are afraid of what might happen next, and countries are all terrified of the possible outcome of the situation.

4.3. Conclusion:

From the above mentioned paragraph I established the fact why UN's Universal Declaration was signed by the Islamic member states despite their disapproval of this kind of view on human rights. It was because of their low economic and political strength and the still obvious Western influence that was felt back in those times and they did not vote against it. Unsatisfied with their position in the United Nations, they managed to establish their own organization which will promote and protect their

traditional values and beliefs. Years later they also signed the Cairo Declaration, which worldwide it was seen as an Islamic response to the UN's Universal Declaration of Human Rights. It was signed with the purpose to be implemented in the countries that the majority were Muslims.

To sum up, the Organization of Islamic Cooperation and the Cairo Declaration were established because of the treatment the Islamic countries had in the United Nations, they felt weak and there was not one country among those five leading countries to represent the Islamic world. That is why if United Nations and the member states continue to enforce contrary decisions therefore decisions that are against the will of the Islamic member states, in my opinion the OIC as an international organization will be used for increasing the intolerance between the UN and OIC and there will be an outcome with major consequences. These revolts will only bring instability and intolerance between the West and the Middle East, and overall it will bring instability to the international scene.

5. Conclusion:

The concept of the universal human rights is not something we are not familiar with in our western sphere of ideas, but it was not until the systematic murders of innocent people in Second World War that human rights became a problem in international politics. The Holocaust- the genocidal massacre of millions of people, mainly Jews, but also Gypsies, Communists, homosexuals was like a wake-up call for the eyes of the public and for the new founded international organizations. The atrocities of the World War led to a common feeling of guilt upon the nations that did not want to recognize that there was some kind of threat upon them. In order never to happen these kinds of crimes, the United Nation's member-states were among the first states to make a progress into the international regulation and respect of the human rights, without making discrimination on any ground.

In fact, with the adoption of the Universal Declaration of Human Rights the idea for equality among the people regardless of their religion, race, nationality, ethnos was for the first time in the history of human rights successfully accomplished. This Declaration was adopted by the United Nation's member states at that time but also by all those who have become member states of the UN later.

Based on the grounds of the Universal Declaration, other declarations with regional character were adopted by several international organizations. In the abovementioned research it was pointed out that their content is not drastically different from the content of the Universal Declaration. An exception is only the Declaration for human rights adopted by the Organization of Islamic Cooperation, known as the Cairo Declaration of Human Rights in Islam.

This declaration, although at first sight seems to be like the UN's Universal Declaration of Human Rights, still its most important difference is the favouring only the members of the Islamic religion. The reasons why countries with predominantly Muslim population have decided that they needed different Declaration for Human Rights, which will be

inspired by the Sharia and written in the spirit of the Sharia law, are probably complex and that's a topic for another extended research. Taking into a consideration the abovementioned research one thing can be sure, because of the huge religious differences and also the differences in the tradition and culture between the West and the East, the UN's Universal Declaration of Human Rights did not accomplish and satisfy the needs for the regulation of this matter when it comes to the states and the people of the Islamic world.

According to the OIC's member states the existing UDHR and the human rights system of the UN is excessively Western and make no room for other cultures and religious values. They consider that the UDHR is impossible to be implemented by Muslims without contravening Islamic law. That's why the OIC's member states signed their own Declaration. This declaration is basically an overview on the Islamic perception on human rights, and affirms Islamic Shari'ah as its sole source. The Cairo Declaration is often seen as an Islamic response to the United Nation's UDHR.

The idea of drafting and signing an Islamic response to the already existing United Nations UDHR came from the Muslim countries which argued and criticized the UN's declaration for its perceived failure to take into account the cultural and religious context of non-Western countries.

In the above mentioned comparative analysis between the two main declarations of this research, the main domains in which those two declarations differ from each other were established. They differ in four domains: the religion, the gender equality, educational system and the rights of religious minorities. All these differences came from the fact that the Cairo Declaration uses a religion, the Islamic Shari'ah as its sole source.

The Universal Declaration of Human Rights has a universal character, it can be applied everywhere in the world, it does not separate religion, but still it has a number of articles that are contrary for those 1.6 billion Muslims and their way of life, customs and tradition. On the other hand, the CDHRI does not have a universal character, and it's clearly written only for the Muslims, therefore only to protect their human rights of the

Muslims. But what about the other 5.4 billion of people that are non-Muslim? That is one conflict between these two organizations and their declarations.

Another conflict between United Nations and the Organization of Islamic Cooperation could be the momentary situation with the newfound Islamic State. In the region where the Islamic State is located (Iraq and Syria) the majority, which is Muslims are protected by the Cairo Declaration of Human Rights and the human rights of the minorities that live here are protected by the United Nation's Universal Declaration.

These countries are members in both organizations, the United Nations and the Organization of Islamic Cooperation. So for the minorities that lives on these parts that are under control of the self-declared Islamic State and which human rights are violated, the United Nations takes the full responsibility to protect (through the UN responsibility to protect) them from the horror of terrorism. But, does this mean that every Islamic state that will fall under the jurisdiction of the terrorist group ISIS should enter in war with the United Nations? And there is another possible conflict between the two biggest organizations.

As we can see even though, the Muslim countries have now their own organization; they are still members in the United Nations. They maybe would keep their membership in the United Nations in the future, but when it comes to the decisions that they don't like, they will respond and they will use the Organization of Islamic Cooperation to vote and implement the decisions only in their countries. Like for example the Cairo Declaration.

And for the very end, if United Nations continue to enforce contrary decision, therefore decisions that are against the will of the Middle Eastern states, in my opinion the Organization of Islamic Cooperation as an international organization of the Islamic world will be used for drafting and making their own decisions that would increase the intolerance between the United Nations and Organization of Islamic Cooperation and there will be an outcome with major consequences.

These turbulences will only bring instability and intolerance between Europe and Middle East, and overall it will bring instability on the international scene.

5. Заклучок:

Концептот за универзалните човекови права не е нешто непознато како идеја која Западот ја промовира, но по систематските убиства на невини луѓе во Втората Светска војна човековите права станаа проблем за меѓународната политика. Холокаустот- генетскиот масакар на милиони луѓе, главно Евреи, но исто така и Роми, комунисти, хомосексуалци беше еден вид на повик за будење на јавната свест, а преку неа и на новосоздадените меѓународни организации. Злосторствата од Втората светска војна придонесоа за појава на заедничко чувство за вина меѓу народите кои не препознаа дека постои закана. Со цел да не се повторат овие злосторства, државите членки на ОН први пристапија кон меѓународно регулирање и почитување на човековите права, без притоа да биде направена дискриминација по кој било основ.

Всушност со донесувањето на Универзалната декларација на човековите права за прв пат беше реализирана идеата за еднаквост на луѓето без оглед на која религиа, раса, националност етност припаѓаат. Оваа декларација беше усвоена од сите тогашни држави членки на организацијата но и на сите оние кои дополнително станаа членки.

Врз основа на оваа декларација усвоени се и други декларации за човекови права од страна на меѓународни организации со регионален карактер. Но како што веќе беше презентирano во ова истражување нивната содржина не е многу поразлична. Она што за ова истражување е уште побитно е дека во другите декларации исто така не се прави било какова дискриминација. Исклучок единствено представува Декларацијата за човекови права на Исламската организација за соработка позната како Каиро декларација.

Оваа декларација иако на прв поглед наликува на Универзалната декларација на човекови права на ОН сепак суштинската разлика е на фаворизирањето на припадниците од исламската вероисповест. Причините поради кои државите со доминантно муслиманско население одлучиле дека ним им е потребна суштествено различна декларација за човековите права, која ќе биде во

инспирирана од Шеријатот и напичана во духот на шеријатското право веројатно се комплексни. И тоа е тема за некое друго пошироко истражување. Она што од ова истражување може да се заклучи е дека, поради религиозните разлики кои се веројатно водени и од разликата во традицијата и од културата, универзалната декларација за човекови права не ги задоволрила потребите за регулирање на оваа материја кога станува збор за исламскиот свет.

Според државите членки на Исламската организација за соработка, Универзалната декларација на Обединетите Нации, и системот на човекови права која таа го презентира како универзален, е претерано западно-ориентиран, не земајќи ги во предвид другите култури и религиозни вредности. Исламските земји, сметаат дека Универзалната декларација не би можела да се имплементира од страна на муслиманите, без претходно прекршување на исламските закони. Затоа, тие како организација создаваат и донесуваат своја декларација за човекови права. Споментата декларација е всушност преглед на исламската перцепција за човековите права, земајќи го шеријатот како свој извор. Декларацијата од Каиро многу често е опишувана како "исламски" одговор на Универзалната декларација за човекови права на Обединетите Нации.

Идејата за пишување и потпишување на декларацијата од Каиро поттекнува од муслиманските земји, кои сметале и ја критикувале Универзалната декларација на Обединетите Нации поради нејзиниот неуспех во земањето во обзир на културниот и религиозниот контекст на земјите кои не се од Западот.

Во горенаведената компаративна анализа на овие две декларации, се наброени главните подрачја во кои тие две се разликуваат една од друга. Поточно, двете декларации се разликуваат во следниве домени: религијата, еднаквоста меѓу половите, едукацискиот систем и правата на религиозните малцинства. Сите овие разлики потекнуваат од еден факт, а тоа е дека Декларацијата од Каиро употребува религија, поточно Шеријатското право како извор од кои ги црпи членовите на декларацијата.

Универзалната Декларација на Обединетите Нации има универзален карактер, односно може да биде имплементирана секаде, иако не познава религија и не промовира некоја религија посупериорна од друга, сепак има членови кои се споротивставуваат на оние 1.6 милјарди муслимани и нивниот начин на живот, обичаи, како и култура. Од друга страна пак, декларацијата од Каиро нема универзален карактер, јасен е фактот дека е напишана со цел да ги заштити само човековите права на муслиманите. Но што е со оние 5.4 милјарди луѓе кои не се муслимани и за кои декларацијата од Каиро е спротивна од нивните верувања? Еве пример за еден конфликт кои се случува помеѓу овие две организации и нивните декларации.

Друг можен конфликт помеѓу ОН и ОИС би можела да биде моменталната ситуацијата со новосоздадената Исламска Држава. Во регионот каде што Исламската држава е лоцирана (Ирак и Сирија) мнозинството е муслиманско, и нивните човекови права се заштитени од декларацијата од Каиро, додека за малцинствата кои живеат на овие простори се заштитени од Универзалната декларација на Обединетите Нации.

Исламските земји, скоро повеќето од нив се земји членки во двете организации, така да малцинствата кои живеат во регионите кои се моментално под контрола на Исламската Држава и чии права се повредени, Обединетите Нации имаат целосно право да ги заштитат од ужасите на тероризмот. Но, дали ова значи дека секоја исламска држава која во иднина би паднала под контрола на терористичката група ИСИС би требало да влезе во војна со Обединетите Нации? Ова е уште еден можен конфликт помеѓу овие две организации.

Како што гледаме, земјите од Средниот Исток имаат своја организација, но тие сепак се сеуште земји-членки и на Обединетите Нации. Тие можеби и во иднина би го задржале членството во Обединетите Нации, но кога ќе дојде до донесување на одлуките кои не им одат во прилог на исламските земји, истите ќе

ја искористат Организацијата за Исламска соработка како меѓународна организација за да донесат свои одлуки кои би важеле и би ги имплементирале само во нивните земји. Како што беше примерот со декларацијата од Каиро.

И за самиот крај, ако Обединетите Нации продолжи да спроведува одлуки кои се спротивставуваат со принципите и традицијата на земјите од Средниот Исток, според мене Организацијата за Исламска соработка како втора најголема меѓународна организација ќе биде искористена за пишување и донесување на одлуки кои ќе важат само за муслиманските земји, а ќе бидат спротивни на оние одлуки на Обединетите Нации. Овие постапки само би ги зголемиле тензиите и толеранцијата помеѓу Обединетите Нации и Организацијата за Исламска Соработка, а тоа ќе резултира со огромни последици.

Овие турбуленции само би можеле да донесат нестабилност и нетолеранција помеѓу Европа и Средниот Исток, но севкупно би допринело до нестабилност на меѓународната сцена.

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3. LEGISLATION

1. Cairo Declaration.
2. Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion of Belief (1981).
3. International Covenant on Civil and Political Rights (1966).
4. Universal Declaration of Human Rights (1948).
5. Universal Islamic Declaration of Human Rights.

4. WEBSITES

1. Official website of the United Nations (<http://www.un.org/en/>)
2. Official website of the Organization of Islamic Cooperation (<http://www.oic-oci.org/oicv2/>)

5. APPENDICES

1. Cairo Declaration of Human Rights in Islam (Organization of Islamic Cooperation)
2. Universal Declaration of Human Rights (United Nations)

7. APPENDICIES

6.1. UNITED NATION'S UNIVERSAL DECLARATION ON HUMAN RIGHTS

PREAMBLE

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 the rule of law,

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

Whereas the peoples 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 of men and women and have determined to promote social progress and better standards of life in larger 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 peoples 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, colour, 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 security of person.

Article 4.

- No one shall be held in slavery or servitude; slavery and the 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 rights 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.

- (1) 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 defence.
- (2) 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 honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.

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

Article 17.

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) 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 seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of 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 or 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 the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) 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.

- (1) 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, 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.
- (2) 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.

- (1) 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.
- (2) 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 religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27.

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

- Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

- (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

- Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

6.2. THE CAIRO DECLARATION OF HUMAN RIGHTS IN ISLAM

PREAMBLE:

The Nineteenth Islamic Conference of Foreign Ministers (Session of Peace, Interdependence and Development), held in Cairo, Arab Republic of Egypt, from 9-14 Muharram 1411H (31 July to 5 August 1990), Keenly aware of the place of mankind in Islam as vicegerent of Allah on Earth;

Recognizing the importance of issuing a Document on Human Rights in Islam that will serve as a guide for Member states in all aspects of life;

Having examined the stages through which the preparation of this draft Document has so far, passed and the relevant report of the Secretary General;

Having examined the Report of the Meeting of the Committee of Legal Experts held in Tehran from 26 to 28 December, 1989;

Agrees to issue the Cairo Declaration on Human Rights in Islam that will serve as a general guidance for Member States in the Field of human rights.

Reaffirming the civilizing and historical role of the Islamic Ummah which Allah made as the best community and which gave humanity a universal and well-balanced civilization, in which harmony is established between hereunder and the hereafter, knowledge is combined with faith, and to fulfill the expectations from this community to guide all humanity which is confused because of different and conflicting beliefs and ideologies and to provide solutions for all chronic problems of this materialistic civilization.

In contribution to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'ah.

Convinced that mankind which has reached an advanced stage in materialistic science is still, and shall remain, in dire need of faith to support its civilization as well as a self motivating force to guard its rights;

Believing that fundamental rights and freedoms according to Islam are an integral part of the Islamic religion and that no one shall have the right as a matter of principle to abolish them either in whole or in part or to violate or ignore them in as much as they are binding divine commands, which are contained in the Revealed Books of Allah and which were sent through the last of His Prophets to complete the preceding divine messages and that safeguarding those fundamental rights and freedoms is an act of worship whereas the neglect or violation thereof is an abominable sin, and that the safeguarding of those fundamental rights and freedom is an individual responsibility of every person and a collective responsibility of the entire Ummah;

Do hereby and on the basis of the above-mentioned principles declare as follows:

ARTICLE 1:

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

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

ARTICLE 2:

(a) Life is a God-given gift and the right to life is guaranteed to every human being. It is the duty of individuals, societies and states to safeguard this right against any violation, and it is prohibited to take away life except for a shari'ah prescribed reason.

(b) It is forbidden to resort to any means which could result in the genocidal annihilation of mankind.

(c) The preservation of human life throughout the term of time willed by Allah is a duty prescribed by Shari'ah.

(d) Safety from bodily harm is a guaranteed right. It is the duty of the state to safeguard it, and it is prohibited to breach it without a Shari'ah-prescribed reason.

ARTICLE 3:

(a) In the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as old men, women and children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered and clothed. It is prohibited to mutilate or dismember dead bodies. It is required to exchange prisoners of war and to arrange visits or reunions of families separated by circumstances of war.

(b) It is prohibited to cut down trees, to destroy crops or livestock, to destroy the enemy's civilian buildings and installations by shelling, blasting or any other means.

ARTICLE 4:

Every human being is entitled to human sanctity and the protection of one's good name and honour during one's life and after one's death. The state and the society shall protect one's body and burial place from desecration.

ARTICLE 5:

(a) The family is the foundation of society, and marriage is the basis of making a family. Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from exercising this right.

(b) The society and the State shall remove all obstacles to marriage and facilitate it, and shall protect the family and safeguard its welfare.

ARTICLE 6:

(a) Woman is equal to man in human dignity, and has her own rights to enjoy as well as duties to perform, and has her own civil entity and financial independence, and the right to retain her name and lineage.

(b) The husband is responsible for the maintenance and welfare of the family.

ARTICLE 7:

(a) As of the moment of birth, every child has rights due from the parents, the society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be safeguarded and accorded special care.

(b) Parents and those in such like capacity have the right to choose the type of education they desire for their children, provided they take into consideration the interest and future of the children in accordance with ethical values and the principles of the Shari'ah.

(c) Both parents are entitled to certain rights from their children, and relatives are entitled to rights from their kin, in accordance with the tenets of the shari'ah.

ARTICLE 8:

Every human being has the right to enjoy a legitimate eligibility with all its prerogatives and obligations in case such eligibility is lost or impaired, the person shall have the right to be represented by his/her guardian.

ARTICLE 9:

(a) The seeking of knowledge is an obligation and provision of education is the duty of the society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee its diversity in the interest of the society so as to enable man to be acquainted with the religion of Islam and uncover the secrets of the Universe for the benefit of mankind.

(b) Every human being has a right to receive both religious and worldly education from the various institutions of teaching, education and guidance, including the family, the school, the university, the media, etc., and in such an integrated and balanced manner that would develop human personality, strengthen man's faith in Allah and promote man's respect to and defence of both rights and obligations.

ARTICLE 10:

Islam is the religion of true unspoiled nature. It is prohibited to exercise any form of pressure on man or to exploit his poverty or ignorance in order to force him to change his religion to another religion or to atheism.

ARTICLE 11:

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

(b) Colonialism of all types being one of the most evil forms of enslavement is totally prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all States peoples to support the struggle of colonized peoples for the liquidation of all forms of and occupation, and all States and peoples

have the right to preserve their independent identity and control over their wealth and natural resources.

ARTICLE 12:

Every man shall have the right, within the framework of the Shari'ah, to free movement and to select his place of residence whether within or outside his country and if persecuted, is entitled to seek asylum in another country. The country of refuge shall be obliged to provide protection to the asylum-seeker until his safety has been attained, unless asylum is motivated by committing an act regarded by the Shari'ah as a crime.

ARTICLE 13:

Work is a right guaranteed by the State and the Society for each person with capability to work. Everyone shall be free to choose the work that suits him best and which serves his interests as well as those of the society. The employee shall have the right to enjoy safety and security as well as all other social guarantees. He may not be assigned work beyond his capacity nor shall he be subjected to compulsion or exploited or harmed in any way. He shall be entitled - without any discrimination between males and females - to fair wages for his work without delay, as well as to the holidays allowances and promotions which he deserves. On his part, he shall be required to be dedicated and meticulous in his work. Should workers and employers disagree on any matter, the State shall intervene to settle the dispute and have the grievances redressed, the rights confirmed and justice enforced without bias.

ARTICLE 14:

Everyone shall have the right to earn a legitimate living without monopolization, deceit or causing harm to oneself or to others. Usury (riba) is explicitly prohibited.

ARTICLE 15:

(a) Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership without prejudice to oneself, others or the society in general. Expropriation is not permissible except for requirements of public interest and upon payment of prompt and fair compensation.

(b) Confiscation and seizure of property is prohibited except for a necessity dictated by law.

ARTICLE 16:

Everyone shall have the right to enjoy the fruits of his scientific, literary, artistic or technical labour of which he is the author; and he shall have the right to the protection of his moral and material interests stemming therefrom, provided it is not contrary to the principles of the Shari'ah.

ARTICLE 17:

(a) Everyone shall have the right to live in a clean environment, away from vice and moral corruption, that would favour a healthy ethical development of his person and it is incumbent upon the State and society in general to afford that right.

(b) Everyone shall have the right to medical and social care, and to all public amenities provided by society and the State within the limits of their available resources.

(c) The States shall ensure the right of the individual to a decent living that may enable him to meet his requirements and those of his dependents, including food, clothing, housing, education, medical care and all other basic needs.

ARTICLE 18:

(a) Everyone shall have the right to live in security for himself, his religion, his dependents, his honour and his property.

(b) Everyone shall have the right to privacy in the conduct of his private affairs, in his home, among his family, with regard to his property and his relationships. It is not permitted to spy on him, to place him under surveillance or to besmirch his good name. The State shall protect him from arbitrary interference.

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

ARTICLE 19:

(a) All individuals are equal before the law, without distinction between the ruler and the ruled.

(b) The right to resort to justice is guaranteed to everyone.

(c) Liability is in essence personal.

(d) There shall be no crime or punishment except as provided for in the Shari'ah.

(e) A defendant is innocent until his guilt is proven in a fast trial in which he shall be given all the guarantees of defence.

ARTICLE 20:

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

ARTICLE 21:

Taking hostages under any form or for any purpose is expressly forbidden.

ARTICLE 22:

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

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

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

(d) It is not permitted to excite nationalistic or doctrinal hatred or to do anything that may be an incitement to any form or racial discrimination.

ARTICLE 23:

(a) Authority is a trust; and abuse or malicious exploitation thereof is explicitly prohibited, in order to guarantee fundamental human rights.

(b) Everyone shall have the right to participate, directly or indirectly in the administration of his country's public affairs. He shall also have the right to assume public office in accordance with the provisions of Shari'ah.

ARTICLE 24:

All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah.

ARTICLE 25:

The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration.