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Essential Differences in Human Rights in the two Declarations

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

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

Similarities between the two Declarations

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

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

The two Declarations are in agreement on the question of the equality of men and women in respect to personal dignity, the necessity of ensuring social standing for women as much as for men, as well as ensuring for the women their financial and legal status, including that marriage will be contracted by mutual consent of both parties: that the family forms the basic pillar of the society, having the right of

obtaining the support of the state and the society that faith, finances, honor, personal, family, national, international securities are ensured, and have the right to be independent in their private affairs (residence, family, income. correspondence and communications).

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

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

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

The two Declarations are in harmony about admitting the right to work, to freely choosing it, not to burden the worker with more than his capacity, to enjoying equitable wages, to providing him with a moderate living standard during unintentional unemployment, sickness, disability, widowhood and old age.

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

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

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

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

These were the most important points as briefly summarized above.

Differences in the Declarations

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

- 1. The Islamic Declaration, quite correctly distinguishes between the original dignity (or the dignity which man has clue to his affiliation with humanity), and the dignity acquired by him during his progress on the course of moral development and good deeds in service of people. This is an important point which the universal Declaration failed to perceive and consequently it remained deficient. Every conscientious person would recognize the differences between the life of a great scholar such as Avicenna, and a common person living for himself, who leave no leading behind him.
- 2. The Islamic Declaration, stressing that all creatures were Allah's family, high-lights fully the concept of this equality in terms of dignity, not being satisfied merely with its legal aspects. In addition to linking dignity in general to the Absolute Beneficent Being, all creatures are Allah's family and their relationship to Him is exactly equal. However there exists a competition among them in trying to attain spiritual proximity to Him by means of self-improvement through holding true faith and doing good deeds in accordance with the requisites of creation. But the Universal Declaration totally lacks such an acute level of perception.
- 3. This same concept has been reemphasized in the second Article of the Islamic Declaration which denotes that life is, conceptually, a gift from Allah, thereby according it quite a high legal value. Thus it should be protected and secured, as much as possible, in order to implement the grand purpose behind this divine gift. As to the Universal Declaration, it is devoid of such sublimity, although it does admit that man possesses reason and conscience. Actually, that afforded a good lead, but the text stops at this clear fact without proceeding further logically to furnish the essential pre conditions.
- 4. In the Islamic Declaration, the stress laid on the prohibition of annihilating life's fountain, is a pertinent observation on the said divine gift emphasizing the necessity of the continuation of this divine blessing —a fact which is not referred to in the Universal Declaration, and it wouldn't be irrelevant to say that there existed generalizations in certain Articles, which are vague and have little legal consequence.

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

- 5. To the above can be added the provision of protecting the fetus, as contained in Article 7, which is ignored by the Universal Declaration.
- 6. Then there is the emphasis on the sanctity of the human dead which should be shown due respect and not to be arbitrarily subjected to post mortem examination without proper legal authorization. This

again has been ignored in the Universal Declaration.

- 7. Article 3 refers to the ethics covering conflicts and will, for which Islam suggests the most wonderful regulations unprecedented in human history. Life is protected to the ultimate extent and the sanctity of human dignity is preserved even after death, as mutilation is prohibited even of it rapacious dog. And taking of prisoners of war has its ethical rules framed with full sympathy; it is also stipulated that farm lands and other civil establishments are to be preserved. The like of this Article cannot be found in the Universal Declaration, which is a serious short coming although the world tried to make amends for it later in the Geneva Agreements.
- 8. Article 8 of the Islamic Declaration confirms respect for humanity, which is also confirmed by the Universal Declaration, but here it is extended to after death, including protecting the body and it's burial.
- 9. Despite the fact that both Declarations confirm that the family constitutes a fundamental pillar in the building of human society, and that both the society and the state are responsible for its protection, and that men and women are entitled to marry without any racial, color and nationality barriers yet there are differences between the two Declarations, which could be summarized as follows:
- a. The Islamic Declaration declares that marriage is the basis for universal constitution, while the Universal Declaration makes no reference to it.
- b. The Universal Declaration grants equal rights to men and women, covering even such matters as alimony, marriage portion, divorce and the like, but the Islamic Declaration elaborates these aspects stating that a woman has rights equal to her obligations, has her civil status, independent financial responsibilities, and the right to retain her name and lineage, whereas the responsibility for maintaining the family and their expenses rests on man.
- c. The reference made by the Islamic Declaration to the social obligations of the society and the state to remove all barriers in the way of marriage and to facilitate it, has not been considered in the Universal Declaration.
- d. Another difference worth mention is that religion has not been regarded as an obstacle to be removed from the Islamic Declaration, whereas the Universal Declaration has concentrated upon it. In fact, common faith and belief in it to a certain extent, such as the unity of faith between husband and wife to the extent of believing in the same Allah and His message, is essential for achieving required harmony, otherwise all hopes of forming a family as the social foundation, would be dashed.
- 10. The Islamic Declaration again differs from the Universal Declaration in that the former confers certain rights on the parents and the relatives as well.
- 11. In the field of training and education we find that the Islamic Declaration makes it incumbent upon the society and the state without limits and at all stages, whereas the Universal Declaration confirms that

only primary level education should be compulsory and free, thereafter proposing equal opportunity for all for the latter stages.

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

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

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

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

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

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

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

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

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

- 16. Another outstanding feature of the Islamic Declaration is that it makes no reference to the question of the right of holding a nationality. This is because it has been identified as one of those spurious issues which tear asunder the unity of it single nation causing serious obstacles in the way of its unified existence.
- 17. Despite the fact that both Declarations reaffirm rights of workers, the Islamic Declaration goes further enjoining upon the worker to be sincere and efficient in work, as it also demands from the state to unbiasedly mediate in labor disputes occurring between the workers and the employers to maintain justice without prejudice.
- 18. Article 14 of the Islamic Declaration confirms the right to work provided that it be lawful, which gives us to understand that there exist unlawful occupations such as holding monopoly, cheating, pursuits harmful to oneself and others, as it also strongly prohibits usury, whereas the Universal Declaration does not touch on these matters.
- 19. Article 15 regards private ownership lawful, subject to the condition that such ownership may not be harmful to the owner himself or to others. And, if we proceed further with expanding the concept of "harm" to cover different facets of social harm, we will realize the strictness of the Islamic expression and its disgust with the capitalist's exploitation of this right to cause harm to others by striking at their economy and plundering their wealth.
- 20. Another noteworthy characteristic of the Islamic Declaration is that it regards the ethical question to be an important human rights issue, confirming it in its Article 17.

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

- 21. One of the characteristics of the Islamic Declaration is its rejection of subjecting man to medical and scientific experimentation, except on two conditions: consent and safety.
- 22. Article 20 rejects framing of emergency laws that permit subjecting man to torture, humiliation, cruelty and degradation, or subjecting him to experiments and the like. It is an idea worthy of consideration, but it has not received due emphasis in the Universal Declaration.

- 23. Some people might regard the Universal Declaration as distinguished for granting absolute freedom of expression and speech, but we declare it to be inappropriate because no speech could be allowed to create morally destructive effects, or to distort truth and insult others' sanctities, since insulting sacred things is assuredly much worse than insulting a person. Therefore, restricting it in the Islamic Declaration, with the phrase: "In a way not contradicting the principles of law" is nearer to the spirit of humanity, as declared in Article 22c.
- 24. Another distinction of the Islamic Declaration is granting man the right to "enjoin good and forbid evil", which stresses the responsibility of the individual in preventing violations of ethics on the one hand and raising the moral values of the society, on the other. In the Islamic Foreign Ministers Conference in Cairo, while discussing this Article and the Islamic proposition, we strongly advocated the inclusion of the condition of `Enjoining the Good' but quite inexplicably some of the members insisted upon it's omission due to unknown reasons.
- 25. The Islamic Declaration incorporates a noteworthy fact that authority was a trust not to be misused. Similar ideals are not to be seen in the Universal Declaration, while in our view necessity demanded that general conditions relating to the Islamic law covering use of authority should have been incorporated.
- 26. Among other differences between the two declarations quite naturally is the condition whereby the Islamic Declaration binds all Articles to the precepts of Islam, while the Universal Declaration binds all its provisions to the liberties of others.
- 27. The Islamic Declaration states that the Islamic law is the only recourse for the interpretation or explanation of any Article, whereas the Universal Declaration relies or no such recourse.
- 28. Finally, it trust be observed than there are many other differences which cannot be referred to in detail in this report, such as when freedom is mentioned it is sometimes bound with responsibility, referred to as "responsible freedom": or within the limits of law, so that it may not be converted into repugnant courses.

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