

AL-QURAN AND HUMAN RIGHTS*

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Majelis Umum Perserikatan Bangsa-Bangsa tanggal 10 Desember 1948 telah melakukan Deklarasi Umum Hak Asasi Manusia. Sebetulnya masalah ini dalam konteks pemikiran Islam, telah terkandung dalam Al-Qur'an 14 abad yang lalu. Hak Asasi Manusia dalam Al-Qur'an tersebut pada tanggal 5 Agustus 1990 dituangkan ke dalam Deklarasi Kairo. Karangan berikut ini mencoba membandingkan Hak Asasi Manusia dalam kedua Deklarasi tersebut. Di samping banyak persamaan antara kedua deklarasi tersebut, terdapat juga beberapa perbedaan.

My presentation of the subject on "Al-Quran and Human Rights" will be based on and within the framework of "The Cairo Declaration on Human Rights in Islam" adopted by the Organization of the Islamic Conference on 5 August 1990 comparing to "Universal Declaration of Human Rights" adopted and proclaimed by General Assembly of the United Nations on 10 December 1948.

The Cairo Declaration on Human Rights in Islam begins with statement: "The Member States of the Organization of the Islamic Conference,

Reaffirming the civilizing and historical role of the Islamic Ummah which God made the best nation that has given mankind a

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knowledge is combined with faith; and the role that this Ummah should play to guide a humanity confused by competing trends and ideologies and to provide solutions to the chronic problems of this materialistic civilization.

كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ
وَتُؤْمِنُونَ بِاللَّهِ وَلَوْ آمَنَ أَهْلُ الْكِتَابِ لَكَانَ خَيْرًا لَهُمْ مِنْهُمُ الْمُؤْمِنُونَ
وَأَكْثَرُهُمُ الْفَاسِقُونَ . (آل عمران ١١٠)

"Ye are the best of Peoples, evolved for mankind, enjoining what is right, forbidding what is wrong, and believing in God. If only the People of the Book had faith, it were best for them. Among them are some who have faith, but most of them are perverted transgressors". (Ali Emran 110).

Wishing

to contribute 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.

وَابْتَغِ فِيمَا آتَاكَ اللَّهُ الدَّارَ الْآخِرَةَ وَلَا تَنْسَ نَصِيبَكَ مِنَ الدُّنْيَا . (القصص ٧٧)

"But seek, with the (wealth) which God has bestowed on thee, the Home of the Hereafter, not forget thy portion in this world". (Al-Qasas 77).

Convinced

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

Believing

that fundamental rights and universal freedom in Islam are an integral part of the Islamic and that no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments, which are contained in the Revealed Books of God and were sent through the last of His Prophets to complete the preceding divine messages

thereby making their observance an act of worship and their neglect or violation an abominable sin, and accordingly every person is individually responsible-and the Ummah collectively responsible-for their safeguard.

Proceeding from the above-mentioned principles, declare the following:

Article 1,

Regarding "equal in dignity and rights", Article 1 of the Cairo Declaration stipulates:

- (a) All human beings form one family whose members are united by submission to God and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious belief, political affiliation, social status or other considerations. True faith is the guarantee for enhancing such dignity along the path to human perfection.
- (b) All human beings are God's subjects, and the most loved by Him are those who are most useful to the rest of His subjects, and no one has superiority over another except on the basis of piety and good deeds.

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا
 إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ. (الحجرات ١٣)

"O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other (not ye may despise each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well acquainted (with all things)". (Al-Hujurat 13).

This Article 1 of the Cairo Declaration can be compared to Article 1 and Article 2 of the Universal Declaration of Human Rights adopted by the United Nations Organization which stipulate:

"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 spirit of brotherhood."

"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 2,

Regarding "the right to life and the genocidal annihilation", Article 2 of the Cairo Declaration stipulates:

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

وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَمَنْ قَتَلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيَّهِ سُلْطَانًا فَلَا يَسْرِفُ فِي الْقَتْلِ إِنَّهُ كَانَ مَنْصُورًا . (الإسراء ٣٣)

"Nor take life-which God has made sacred-except for just cause. And if anyone is slain wrongfully, We have given his heir authority (to demand Qisas or to forgive), but let him not exceed bounds in the matter of taking life, for he is helped (by the Law)." (Al-Isra' 33).

- (b) It is forbidden to resort to such means as may result in the genocidal annihilation of mankind.
- (c) The preservation of human life throughout the term of time willed by God 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 Sharia-prescribed reason.

وَكُتِبْنَا عَلَيْهِمْ فِيهَا أَنْ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ بِالْأَنْفِ وَالْأَذْنَ بِالْأَذْنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ فِصَاصًا فَمَنْ تَصَدَّقَ بِهِ فَهُوَ كَفَّارَةٌ لَهُ وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الظَّالِمُونَ . (المائدة ٤٥)

"We ordained there in for them: "Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal". But if any one remits the retaliation by way of charity, it is an act of atonement for himself. And if any fail to judge by (the light of) what God hath revealed, they are (no better than) wrong-doers." (Al-Maidah 45)

The said Article 2 of the Cairo Declaration is comparable to Article 3 of Universal Declaration of Human Rights which states:

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

Article 3,

Regarding "humanitarian law", Article 3 of the Cairo Declaration stipulates:

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

وَيُطْعَمُونَ الطَّعَامَ عَلَىٰ حُبِّهِ مِسْكِينًا وَيَتِيمًا وَأَسِيرًا. (الدَّهْر ٨)

"And they feed, for the love of God, the indigent, the orphan, and the captive". (Al-Dahr 8)

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

The above-detailed Article 3 of the Cairo Declaration is only stipulated in general by Article 5 of Universal of Human Rights which in general says:

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

Article 4,

Concerning "the protection of honour", the Cairo Declaration of Human

"Every human being is entitled to inviolability and the protection of his good name and honour during his life and after his death. The state and society shall protect his remains and burial place".

This Article 4 of the Cairo Declaration could be found in Article 3 of Universal Declaration of Human Rights which stipulates:

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

And in Article 12 of Universal Declaration which states:

"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 5,

Regarding "the right to marry and to found a family", Article 5 of the Cairo Declaration stipulates:

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

وَمِنْ آيَاتِهِ أَنْ خَلَقَ لَكُمْ مِنْ أَنْفُسِكُمْ أَزْوَاجًا لِتَسْكُنُوا إِلَيْهَا وَجَعَلَ بَيْنَكُمْ مَوَدَّةً
وَرَحْمَةً إِنَّ فِي ذَلِكَ لَآيَاتٍ لِقَوْمٍ يَتَفَكَّرُونَ . (الروم ٢١)

"And among His Signs is this, that He created for you mates from among yourselves, that ye may dwell in tranquillity with them, and He has put love and mercy between your (heart) verily in that are Signs for those who reflect". (Al-Room 21)

- (b) Society and the State shall remove all obstacles to marriage and shall facilitate marital procedure. They shall ensure family protection and welfare.

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا
وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً . (النساء ١)

"O mankind! reverence your Guardian-Lord. Who created you from a single person, created of like nature, his mate, and from them twain scattered (like seeds) countless men and women". (Al-Nisa 1)

The said Article 5 of the Cairo Declaration is equal but not similar to Article 6 of Universal Declaration which stipulates:

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.

Both Declaration on one hand are equal, because both guarantee the right to marry and to found a family. On the other hand both are not similar, because the Universal Declaration does not prevent interreligion marriage, while the Cairo Declaration mentions:

"Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from enjoying this right", without mentioning religion.

As the preamble of the Cairo Declaration obviously stipulates:

"to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'ah".

it is clear that interreligion marriage is forbidden, Article 24 of the Cairo Declaration also stipulates:

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

وَلَا تَنْكِحُوا الْمُشْرِكِينَ حَتَّى يُؤْمِنُوا وَلَا أُمَّةَ مُؤْمِنَةٍ خَيْرٌ مِّنْ مُّشْرِكَةٍ وَلَا
 أَعْجَبَتْكُمْ وَلَا تَنْكِحُوا الْمُشْرِكِينَ حَتَّى يُؤْمِنُوا وَلَعَبْدٌ مُّؤْمِنٌ خَيْرٌ مِّنْ مُّشْرِكٍ
 وَلَوْ أَعْجَبَكُمْ أُولَئِكَ يَدْعُونَ إِلَى النَّارِ وَاللَّهُ يَدْعُو إِلَى الْجَنَّةِ وَالْمَغْفِرَةِ بِإِذْنِهِ
 وَيُبَيِّنُ آيَاتِهِ لِلنَّاسِ لَعَلَّهُمْ يَتَذَكَّرُونَ . (البقرة ٢٢١)

"Do not marry unbelieving women (idolaters), until they believe. A slave

she allure you. Nor marry (your girls) to unbelievers until they believe. A man slave who believes is better than an unbelievers, even though he allure you. Unbelievers do (but) beckon you to the fire. But God beckons by His Grace to the Garden (of Bliss) and forgiveness, and makes His Signs clear to mankind that they may celebrate His praise". (Al-Baqarah 221)

Article 6,

Concerning "woman is equal to man", Article 6 of the Cairo Declaration stipulates:

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

لِّلرِّجَالِ نَصِيبٌ مِّمَّا كَسَبُوا وَلِلنِّسَاءِ نَصِيبٌ مِّمَّا كَسَبْنَ . (النساء ٣٢)

"To men is allotted what they earn, and to women what they earn". (Al-Nisa 32)

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

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَى بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ . (النساء ٣٤)

"Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means". (Al-Nisa 34)

The Article 6 of the Cairo Declaration guarantees equality between man and woman as we have seen when we discussed Article 2 of Universal Declaration and as we have mentioned that no distinction only because of sex.

Article 7,

Regarding, "child rights due from the parents" Article 7 of the Cairo Declaration stipulates:

- (a) As of the moment of birth, every child has rights due from the parents,

society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be protected and accorded special care.

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ
 وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا
 تُضَارَّ وَالِدَةٌ بَوْلِدِهَا وَلَا مَوْلُودٌ لَهُ بِوَالِدِهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ.
 (البقرة ٢٣٣)

"The mothers shall give suck to their offspring for two whole years, if the father desires to complete the term. But he shall bear the cost of their food and clothing on equitable terms. No soul shall have a burden laid on it greater than it can bear. No mother shall be treated unfairly on account of her child. Nor father on account of his child, an heir shall be chargeable in the same way". (Al-Baqarah 233)

- (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.

وَاعْبُدُوا اللَّهَ وَلَا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَاتًا وَبِذِي الْقُرْبَى
 وَالْيَتَامَى وَالْمَسَاكِينِ وَالْجَارِ ذِي الْقُرْبَى وَالْجَارِ الْجُنُبِ وَالصَّاحِبِ بِالْجَنبِ
 وَابْنِ السَّبِيلِ وَمَا مَلَكَتْ أَيْمَانُهُمْ إِنْ اللَّهُ لَا يُحِبُّ مَنْ كَانَ مُخْتَالًا فَخُورًا.
 (النساء ٣٦)

"Serve God, and joint not any parents with Him, and do good to parents, kinsfolk, orphans, those in need, neighbours who are near, neighbours who are strangers, the companion by your side, the wayfarer (ye meet), and what your right hands possess. For God loveth not the arrogant, the vainglorious". (Al-Nisa 36)

Article 7 of the Cairo Declaration is in concordance with Articles 25 and 26 of Universal Declaration.

Article 25 Universal Declaration stipulates:

1. Everyone has the right to 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 Verse 3 of Universal Declaration stipulates:

"Parents have a prior right to choose the kind of education that shall be given to their children".

Article 8,

Regarding "the right to recognition as a person before the law", Article 8 of the Cairo Declaration stipulates:

"Every human being has the right to enjoy his legal capacity in terms of both obligation and commitment, should this capacity be lost or impaired, he shall be represented by his guardian".

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبَيْرِ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا. (الإسراء ٧٠)

"We have honoured the sons of Adam, provided them with transport on land and sea, given them for sustenance things good and pure, and conferred on them special favours, above a great part of Our creation".
(Al-Isra 70)

The Article 8 of the Cairo Declaration is mentioned with different words in Article 6 of Universal Declaration which stipulates:

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

Article 9,

Concerning "the right to education and to share in scientific advancement",

stipulated in Article 9 of the Cairo Declaration:

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

وَمَا كَانَ الْمُؤْمِنُونَ لِيَنْفِرُوا كَافَّةً فَلَوْ لَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ.
(التوبة ١٢٢)

"Nor should the believers all go forth together. If a contingent from every expedition remained behind, they could devote themselves to studies in religion, and admonish the people when they return to them, that thus they (may learn) to guard themselves (against evil)". (Al-Taubah 122)

- (b) Every human being has the right to receive both religious and worldly education from the various institutions of education and guidance, including the family, the school, the university, the media, etc, and in such an integrated and balanced manner as to develop his personality, strengthen his faith in God and promote his respect for and defence of both rights and obligations.

The Article 9 of the Cairo Declaration is in concordance with Articles 26 and 27 of Universal Declaration.

Article 26 of Universal Declaration stipulates:

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 of Universal Declaration stipulates:

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 interest resulting from any scientific, literary or artistic production of which he is the author.

Article 10,

Regarding "freedom to change religion", Article 10 of the Cairo Declaration stipulates following conditions:

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

لَا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ فَمَنْ يَكْفُرْ بِالطَّاغُوتِ وَيُؤْمِنْ
بِاللَّهِ فَقَدْ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَى لَا انْفِصَامَ لَهَا وَاللَّهُ سَمِيعٌ عَلِيمٌ.
(البقرة ٢٥٦)

"Let there be no compulsion in religion. Truth stands out clear from error, whoever rejects evils and believes in God hath grasped the most trustworthy hand-hold, that never breaks. And God hearth and knoweth all things". (Al-Baqara 256)

The Article 10 of the Cairo Declaration is also worded in Article 18 of Universal Declaration:

"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 11,

Regarding "all human beings are born free" "the right to liberty" and "no

one shall be held in slavery", Article 11 of the Cairo Declaration stipulates:
 (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 God the Most-High.

وَمَا أُمِرُوا إِلَّا لِيَعْبُدُوا اللَّهَ مُخْلِصِينَ لَهُ الدِّينَ . (البينة ٥)

"And they have been commanded no more than this: to worship God offering Him sincere devotion". (Al-Bayyinah 5)

(b) Colonialism of all types being one of the most evil forms of enslavement is totally prohibited. People suffering from colonialism have the full right to freedom and self-determination. It is the duty of all states and peoples to support the struggle of colonized peoples for the liquidation of all forms of colonialism and occupation, and all states and peoples have the right to preserve their independent identity and exercise control over their wealth and natural resources.

The Article 11 of the Cairo Declaration could be compared to Article 1, 3 and 4 of Universal Declaration.

As we have quoted when we discussed Article 1 of the Cairo Declaration, Article 1 of Universal Declaration stipulates:

"All human beings are born free and equal in dignity and rights".

Article 3 of Universal Declaration defines:

"Everyone has the right to, liberty".

Article 4 of Universal Declaration stipulates:

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

Article 12,

Regarding "the right to freedom of movement" and on "the right to seek asylum", Article 12 of the Cairo Declaration stipulates:

"Every man shall have the right, within the framework of Shari'ah, to free movement and to select his place of residence whether inside or outside his country, and to change his residence at any time".

another country. The country of refuge shall ensure his protection until he reaches safety, unless asylum is motivated by an act which Shari'ah regards as a crime".

إِنَّ الَّذِينَ تَوَفَّاهُمُ الْمَلَائِكَةُ ظَالِمِي أَنفُسِهِمْ قَالُوا فِيمَ كُنْتُمْ قَالُوا كُنَّا
 مُسْتَضْعَفِينَ فِي الْأَرْضِ قَالُوا أَلَمْ تَكُنْ أَرْضَ اللَّهِ وَاسِعَةً فَهَاجِرُوا فِيهَا.
 (النساء ٩٧)

"When angels take the souls of those who die in sin against their souls, they say: In what (plight) were ye? They reply: "weak and oppressed were we in the earth". They say: "Was not the earth of God spacious enough for you to move yourselves away (from evil)?". (Al-Nisa 97)

The Article 12 of the Cairo Declaration is in concordance with Articles 13 and 14 of Universal Declaration.

Article 13 of Universal Declaration stipulates:

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.

While Article 14 of Universal Declaration declares as follow:

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 13,

Regarding "the right to work", Article 13 of the Cairo Declaration stipulates: "Work is a right guaranteed by the State and Society for each person able to work. Everyone shall be free to choose the work that suits him best and which serves his interest and those of society. The employee shall have the right to safety and security as well as to all other social

guarantees. He may neither be assigned work beyond his capacity nor 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. For 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 right confirmed and justice enforced without bias".

وَقُلْ اَعْمَلُوا فَسَيَرَى اللّٰهُ عَمَلَكُمْ وَرَسُولُهُ وَالْمُؤْمِنُونَ وَسَتُرَدُّونَ اِلَىٰ عَالِمِ
الْغَيْبِ وَالشَّهَادَةِ فَيُنَبِّئُكُمْ بِمَا كُنْتُمْ تَعْمَلُونَ. (التوبة ١٠٥)

"And say: "Work (righteousness) soon will God observe your work, and His Apostle, and the Believers. Soon will ye be brought back to the knower of what is hidden and what is open, then will He show you the truth of all that ye did". (Al-Taubah 105)

لَا يَكْفِيكَ اللّٰهُ نَفْسًا اِلَّا وَسِعَهَا لَهَا مَا كَسَبَتْ وَعَلَيْهَا مَا اكْتَسَبَتْ. (البقرة
٢٨٦)

"On no soul doth God place a burden greater than it can bear". (Al-Baqarah 286)

هُوَ الَّذِي جَعَلَ لَكُمْ الْاَرْضَ ذَلُولًا فَامْشُوا فِي مَنَاكِبِهَا وَكُلُوا مِنْ رِزْقِهِ وَاِلَيْهِ
النُّشُورُ. (المالك ١٥)

"It is He Who has made the earth manageable for you, so traverse ye through its tracts and enjoy of the sustenance which He furnishes, but unto Him is the resurrection". (Al-Mulk 15)

The above mentioned Article 13 of the Cairo Declaration could be concorded to Article 23 of Universal Declaration which in different way stipulates:

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and 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

protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 14,

On "legitimate gain, monopoly and usury", the Cairo Declaration stipulates: "Everyone shall have the right to legitimate gains without monopolization, deceit or harm to oneself or to others. Usury (riba) is absolutely prohibited".

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا. (البقرة ٢٧٥)

"God hath permitted trade and forbidden usury". (Al-Baqarah 275)

We cannot find the afore-mentioned Article 14 of the Cairo Declaration in Universal Declaration which contains capitalism principles.

Article 15,

On "the right of ownership", the article 15 of the Cairo Declaration stipulates:

- (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 to society in general. Expropriation is not permissible except for the requirements of public interest and upon payment of immediate and fair compensation.

هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا. (البقرة ٢٩)

"It is He Who hath created for you all things that are on earth". (Al-Baqarah 29)

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

The above mentioned Article 15 of the Cairo Declaration could be found in Article 17 of Universal Declaration which stipulates:

1. Everyone has the right to own property alone as well as in association with others.

2. None one shall be arbitrarily deprived of his property.

Article 16,

On "the right to enjoy the fruits of his scientific production", the article 16 of the Cairo Declaration guarantees it with stipulation:

"Everyone shall have the right to enjoy the fruits of his scientific, literary, artistic or technical production and the right to protect the moral and material interests stemming there from, provided that such production is not contrary to the principles of Shari'ah".

وَلِكُلِّ دَرَجَاتٍ مِّمَّا عَمِلُوا وَيُؤْتِيهِمْ أَعْمَالَهُمْ وَهُمْ لَا يَظْلَمُونَ . (الأحقاف ١٩)

"And to all are (assigned) degrees according to the deeds which they (have done), and in order that (God) may recompense their deeds, and no injustice be done to them". (Al-Ahqaf 19)

The afore-mentioned article 16 of the Cairo Declaration is in concordance with Article 27 of Universal Declaration which has been previously quoted.

Article 17,

On "the right to live in a clean environment", the article 17 of the Cairo Declaration stipulates:

- (a) Everyone shall have the right to live in clean environment, away from vice and moral corruption, an environment that would foster his self-development 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 State shall ensure the right of the individual to a decent living which will enable him to meet all his requirements and those of his dependents, including food, clothing, housing, education, medical care and all other basic needs.

كُلُوا وَاشْرَبُوا مِنْ رِزْقِ اللَّهِ وَلَا تَعْتُوا فِي الْأَرْضِ مُفْسِدِينَ. (البقرة ٦٠)

"Eat and drink of the sustenance provided by God, and do no evil nor mischief on the face (face of the) earth". (Al-Baqarah 60)

The article 17 of the Cairo Declaration could be compared to Articles 25, 22 and 12 of Universal Declaration. Article 25 of Universal Declaration as we have quoted, guarantees medical care and necessary social services. Also Article 22 of Universal Declaration stipulates:

"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".

While Article 12 of Universal Declaration as we have quoted when we spoke about Article 4 of the Cairo Declaration, guarantees one's privacy, his family and his home.

Article 18,

On "the right to live in security", Article 18 of the Cairo Declaration stipulates:

- (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 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.

يَا أَيُّهَا الَّذِينَ آمَنُوا اجْتَنِبُوا كَثِيرًا مِّنَ الظَّنِّ إِنَّ بَعْضَ الظَّنِّ إِثْمٌ وَلَا تَجَسَّسُوا وَلَا يَغْتَبَ بَعْضُكُم بَعْضًا. (الحجرات ١٢)

"O ye who believe! Avoid suspicion as much (as possible), for suspicion in some cases is a sin, and spy not on each other, nor speak ill of each other behind their backs". (Al-Hujurat 12)

- (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.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَدْخُلُوا بُيُوتًا غَيْرَ بُيُوتِكُمْ حَتَّى تَسْتَأْذِنُوا وَتَسَلِّمُوا
عَلَىٰ أَهْلِهَا ذَٰلِكُمْ خَيْرٌ لَّكُمْ لَعَلَّكُمْ تَذَكَّرُونَ . (النور ٢٧)

"O ye who believe! Enter not houses other than your own, until ye have asked permission and saluted those in them, that is best for you, in order that ye may heed (what is seemly)". (Al-Nur 27)

The article 18 of the Cairo Declaration is in concordance with Articles 3, 9 and 12 of Universal Declaration. As we have been well aware when we spoke about article 2 of the Cairo Declaration that article 3 of Universal Declaration guarantees "security of person". Furthermore, article 9 of Universal Declaration stipulates:

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

And article 12 of Universal Declaration as we have mentioned several times, stipulates that

"no one shall be subjected to arbitrary interference with his privacy, family, home and correspondence, nor to attacks upon his honour and reputation".

Article 19,

On "equality before the law and presumption of innocent", article 19 of the Cairo Declaration stipulates:

- All individuals are equal before the law, without distinction between the ruler and ruled.
- The right to resort to justice is guaranteed to everyone.

وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ . (النساء ٥٨)

"And when ye judge between man and man, that ye judge with justice". (Al-Nisa 58)

- Liability is in essence personal.

كُلُّ امْرِئٍ بِمَا كَسَبَ رَهِيْنٌ . (الطور ٢١)

"(Yet) is each individual in pledge for his deeds". (Al-Thour 21)

- (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 fair trial in which he shall be given all the guarantees of defence.

The article 19 of the Cairo Declaration is found in articles 7, 10 and 11 of Universal Declaration.

Article 7 stipulates:

"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 10 of Universal Declaration stipulates:

"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 of Universal Declaration stipulates:

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 20,

Regarding "arrest, restrict and exile", the Cairo Declaration Article 20 stipulates:

"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

humiliation, cruelty or indignity. Nor is it permitted to subject an individual to medical or scientific experimentation 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".

The article 20 of the Cairo Declaration, as we have seen when we discussed article 18 of the Cairo Declaration, is found in article 9 of Universal Declaration which stipulates:

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

Article 21,

Regarding "hostages", the article 21 of the Cairo Declaration stipulates:

"Taking hostage under any form or for any purpose is expressly forbidden".

This article 21 of the Cairo Declaration is included in the meaning of arbitrary arrest stipulated in article 9 of Universal Declaration.

Article 22,

Regarding "the right to express opinion", article 22 of the Cairo Declaration stipulates:

(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.

وَأَمْرُهُمْ شُورَى بَيْنَهُمْ (الشورى ٣٨)

"who (conduct) their affairs by mutual consultation". (Al-Syura 38).

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

وَلْتَكُنْ مِنْكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَأُولَئِكَ هُمُ الْمُفْلِحُونَ. (آل عمران ١٠٤)

"Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong. They are the ones to attain felicity". (Ali Emran 104).

- (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 permitted to arouse nationalistic or doctrinal hatred or to do anything that may be an incitement to any form or racial discrimination.

The article 22 of the Cairo Declaration is also regulated in article 19 of Universal Declaration which stipulates:

"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 23,

Regarding "the right to participate in the administration of his country", article 23 of the Cairo Declaration stipulates:

- (a) Authority is a trust; and abuse or malicious exploitation thereof is absolutely prohibited, so that fundamental human rights may be guaranteed.

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا. (النساء ٥٨)

"God doth command you to render back your trusts to those to whom they are due". (Al-Nisa 58).

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

The article 23 of the Cairo Declaration is also worded in article 21 of Universal Declaration by the following stipulation:

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 to equal access to public service in his country.

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 24,

Regarding "the rights and freedoms subject to the Islamic Shari'ah", article 24 of the Cairo Declaration stipulates:

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

The term of the article 24 of the Cairo Declaration is stipulated in the article 29 of Declaration of Universal Declaration with the following wording:

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 is no case be exercised contrary to the purposes and principles of the United Nations.

Article 25,

For the last stipulation, article 25 of the Cairo Declaration firmly concludes with wording:

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

While Universal Declaration concludes with the formulation:

"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".

Conclusion

1. After having the above comparative study, we come to the conclusion that if we compare the articles on human rights mentioned in the Cairo Declaration and those are mentioned in Universal Declaration of Human Rights adopted by the United Nations, there is one article which is not at all regulated in the Cairo Declaration that is concerning the right to freedom of peaceful assembly and association (Article 20). While prohibition of usury (riba) stipulated in the Cairo Declaration is not regulated in articles of Universal Declaration.
2. We also find articles mentioned in Universal Declaration, which are stipulated in different way in the Cairo Declaration. The right to an effective remedy by the competent national tribunals (Article 8), stipulated in article 19 of the Cairo Declaration which reads that the right to resort to justice is guaranteed to everyone. The right to a nationality (article 15) is stipulated in article 1 of the Cairo Declaration that all human beings are God's subject. The right to rest and leisure (article 24), stipulated in article 13 of the Cairo Declaration which reads that the employee shall have the right to social guarantees as well as to the holidays allowances. The right to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized (article 28), article 23 of the Cairo Declaration stipulates so that fundamental human rights may be guaranteed.

Annex

Concordance of Articles of the Cairo Declaration on Human Rights on Islam and those of Universal Declaration of Human Rights Adopted by the United Nations

The Cairo Declaration

Article 1
Article 2
Article 3
Article 4

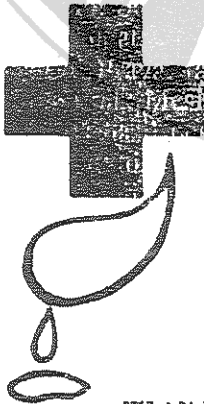
Universal Declaration

Article 1, 2
Article 3
Article 5
Article 3, 17

Article 5
 Article 6
 Article 7
 Article 8
 Article 9
 Article 10
 Article 11
 Article 12
 Article 13
 Article 14
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Article 17
 Article 27
 Article 12, 22, 25
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 Article 9
 Article 9
 Article 19
 Article 21
 Article 29
 Article 30



**Sumbangan
 darah anda
 menolong jiwa
 sesama manusia**