



A Comparative Study of the Universal and Islamic Declaration of Human Rights in the Field of Women and the Family

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Abstract

Following the ratification of the Universal Declaration of Human Rights, Islamic countries also decided to adopt the Universal Declaration of Human Rights based on Islamic teachings. In this way, a declaration in accordance with Islamic principles is available to Islamic countries and the differences caused by the religion of Islam are considered, respected and acted upon. Different issues have been emphasized in both declarations, including women and the family. Therefore, the present study is a comparison between two declarations in the field of women and family issues. The method of collecting information is in the form of libraries and the method of processing them is descriptive-comparative. We see significant differences and similarities in both declarations on women and the family. Among the differences are the issues of paying alimony, raising children and equality between men and women.

Keywords: *Universal Declaration of Human Rights; Declaration of Islamic Human Rights; Women; Family*

Introduction

The Universal Declaration of Human Rights as a Preservation of Equal Rights and Freedoms (Seyyedi and Nedayi, 2000, p. 78) of Human rights, has been ratified by the United Nations as a global organization independent of any particular religion or denomination. Obviously, the Universal Declaration of Human Rights which has been formed after the Second World War with the focus on the ideas that govern the drafters of the declaration, cannot fully represent the views of human beings who have a particular religion and as a result the laws of their religion. And naturally there should be a conflict between the universal human rights and the governing laws on the religion, including the religion of Islam. This has been the impetus for the drafting of the Declaration of Islamic Human Rights.

Among the issues raised in the two mentioned declarations are issues related to women and the family. Therefore, considering the different origins of the two declarations, the importance of recognizing the differences in the issues of women and the family in both declarations and the undeniable effects that the Universal Declaration of Human Rights and more generally, international instruments in domestic law examine both of these declarations in the field of women and the family. Examining the concept of the Universal Declaration of Human Rights and the Declaration of Islamic Human Rights and issues related to women and the family in both declarations, we will make a comparative study of them, noting the differences and similarities in this field.

Background

Seyyed Baqer Seyyed Banai and Meysam Nedayi in an article entitled "Comparative study of human rights in the Universal Declaration of Human Rights and Imam Sajjad's (AS) Right Treatise" has a comparative study of the Universal Declaration of Human Rights and Imam Sajjad's (AS) Rights Treatise. He concludes that human rights are not something that is granted to the people by the government, but it is a fixed issue, and Imam Sajjad (AS) believes that the determination of human rights is based on knowing the system of existence.

Seyyed Hossein Safaei, in an article entitled "Human Rights in Islam and the Universal Declaration of Human Rights", categorizes and examines the materials of the Universal Declaration of Human Rights and examines human dignity, freedom and equality as the main issues in human rights from the perspective of Islam.

In an article entitled "Declaration of Human Rights", Sultan Hossein Tabandeh Gonabadi considered some provisions of the Universal Declaration of Human Rights, including Articles 1 and 6, to be contrary to the spirit of Islam.

In an article entitled "Islamic Human Rights, Refusal or Necessity", Mustafa Daneshpajoooh considers the Universal Declaration of Human Rights as a kind of religious human rights because it is based on humanism that is the religion of man against other true divine religions.

The present study, in contrast to the above research, has examined the Universal Declaration of Human Rights and the Declaration of Islamic Human Rights, while the above research has examined the human rights from the perspective of Islam or the treatise of Imam Sajjad (AS).

1- Universal Declaration of Human Rights

International Law including Human Rights Law is more prominent on the international stage as the representative of the Western world. There is no single definition of the concept of human rights and there is no agreement in this regard (Daneshpajoooh, 2012, p. 6). But in general, human rights are fundamental rights that are essential to human life namely a set of values, documents and concepts whose subject matter is the protection of human status and dignity. The purpose of human rights is to guarantee the fundamental rights of the people (Seyyedi and Nedayi, 2000, p. 96).

The Universal Declaration of Human Rights after the two world wars is an attempt to protect humanity (Miri, 2021, p. 60) and (Tavassoli Naeini, 2010, p. 1249.) This declaration was approved by the UN General Assembly on December 10, 1948 (Seyyedi and Nedayi, 2000, p. 78), which consists of thirty articles as well as an introduction. In the introduction, issues have been raised that have inspired the compilation of its materials (Safaei, 1991, p. 3). Eleanor Roosevelt, the wife of the late US President, played an important role in drafting the Universal Declaration of Human Rights (Simpson, 2002, p. 725).

The Universal Declaration of Human Rights does not include all the concepts of human rights, but only contains rules and regulations that emphasize the existing and basic human problems (Hashemzadeh Harisi, 2010, p. 241).

2. How Iran Commits to the Universal Declaration of Human Rights

In 1948, which coincided with the year 1327 AH, the number of UN members was 56 countries, the text of the Universal Declaration of Human Rights was approved by a vote of 48 members (Tabandeh, 1965, p. 270). The Iranian government was one of the first countries before the Islamic Revolution. In addition to agreeing to the ratification of the Universal Declaration of Human Rights, it ratified the two covenants in the parliament in 1996 and in a way considered itself practically obliged to comply with the Universal Declaration of Human Rights. It has paved the way for some human rights conventions to be implemented in parallel in the country. Also, since the Universal Declaration of Human Rights is a universal document, it is monitored by the United Nations, which means that how much countries adhere to the Universal Declaration of Human Rights. Human Rights Council resolutions dated March 23, 2018 and January 15, 2019 are among the examples of this monitoring. At the beginning of Resolution A/HRC/REC/37/30 dated March 23, 2018, concerns were expressed about Iran's non-cooperation and the mission of the Special Rapporteur on human rights in Iran was extended for one year. It is then requested that Iran, in addition to cooperating with the Special Rapporteur, provide him with access to the necessary information. Resolution A/RES/73/181 of January 15, 2019 also welcomed the President's promises to improve the human rights situation in Iran to abolish the death penalty for narcotics, and in the next section asked Iran to reassure relevant organizations that Prisoners are not tortured and other such issues are mentioned in these resolutions (Miri, 2021, p. 67).

Of course, how countries are bound by UN declarations can be examined from different aspects. Including the extent to which it is compatible with domestic law. Because this adaptation is in line with the implementation of international documents as much as possible. This situation also applies to the compliance of the Universal Declaration of Human Rights with the laws of the Islamic Republic of Iran and Islamic principles, and requires a separate discussion that is not included in this article.

3. Articles Related to Women and The Family in The Universal Declaration of Human Rights

The articles on women and the family in the Universal Declaration of Human Rights are as follows:

Introduction: 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...

Article 2 - Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 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 divorce. 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 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, and housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. 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.

4- Declaration of Islamic Human Rights

The Declaration of Islamic Human Rights is the response of Islamic countries to the Universal Declaration of Human Rights. Muslims tried to draft an Islamic Declaration of Human Rights inspired by the Universal Declaration of Human Rights. In the second half of the twentieth century, four statements on Islamic human rights were issued:

First, the declaration of human rights and duties in Islam, published in 1979 by the Islamic World in Saudi Arabia.

Second, World Declaration of Islam, published by the European Islamic Council in 1980. (Islami, quoted from Al-Zuhaili, 2003, p. 114)

Third, Universal Declaration of Human Rights, published in 1981. (Ibid)

Fourth, Cairo Declaration on Human Rights in Islam, published in 1991. (Ibid)

The most official of these four declarations is the Cairo Declaration, which is called the Islamic Declaration of Human Rights. (Islami, 2013, p. 83)

This declaration was formed in 1979. In the same year, the Organization of the Islamic Conference officially demanded the drafting of the Declaration of Islamic Human Rights and ordered the Tenth Conference of Foreign Ministers of the member states to form specialized committees and invite experts to prepare the statement and submit it to the Organization of the Islamic Conference. The committee was formed in Damascus with the participation of Adnan al-Khatib, Shukri Faisal, Wahba al-Zuhaili, Rafiq al-Jawhani, and Ismail Majid Hamzawi. In 1980, the Law on Human Rights in Islam was presented to the 10th Conference of the Heads of State of the Organization of the Islamic Conference, but was not approved and was moved to the 11th Conference. Finally, this statement was reviewed in ten conferences of foreign ministers of Islamic countries and three conferences of heads of Islamic countries and countless expert committees, and its final text was approved at the nineteenth conference of foreign ministers of the Islamic Conference in Cairo in 1990. And it was announced as the Islamic Declaration of Human Rights or the Cairo Declaration against the Universal Declaration of Human Rights and it was declared 42 years after this Universal Declaration (Islami, quoted from Al-Zuhaili, 2003, p. 114)

As stated in the Universal Declaration of Human Rights, the Declaration of Islamic Human Rights is a document that has been ratified by the members of the Islamic Conference and the role of governments in it has been to ratify this document (Islami, 2012, p. 83) and not to join it.

5- Materials related to women and family in the Declaration of Islamic Human Rights

The articles related to women and the family in the Declaration of Islamic Human Rights are as follows:

Introduction:

The Declaration of Islamic Human Rights begins with this holy verse:

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

Article One:

A) Human beings in general are a family that are both a servant of God and a child of man, and all people are in principle equal to human dignity, duty and responsibility without any discrimination in terms of race, color or language or gender or religious belief or political affiliation or social status and so on. At the same time, correct belief is the only guarantee for the growth of this honor through human evolution.

B) All creatures are the family of God, and the most beloved of them in the sight of God is the most beneficial to other people. And no one is superior to another except in piety and good deeds.

Article 5:

A) The family is the basis of the society structure and marriage is the basis of its creation, so men and women have the right to marry, and no restriction based on race, color or ethnicity can stop them.

B) The society and the government are obliged to remove the obstacles from the way of marriage and make its ways easy and provide support to the family.

Article 6:

A) In human dignity, a woman is equal to a man and as much as a woman has duties, she also has rights and has an independent civil personality and financial obligation and the right to preserve her name and relationship.

B) The burden of family alimony and the responsibility of maintaining it is one of the duties of a man.

Article 7:

A) Every child has the right from birth to his parents and the society and the government to protect his childhood and to educate and provide him with material, health and literature. In addition, the fetus and mother should be cared for and special care should be taken for them.

B) Fathers and those who are considered fathers according to Sharia law, have the right to choose the type of education they want for their children, taking into account their interests and future in the light of moral values and Sharia rules.

C) According to the rules of Sharia, children have rights over their parents and relatives towards their relatives.

6- Comparing the Universal and Islamic Declaration of Human Rights and their content in the field of women and family in general

According to what has been said so far, the Universal and Islamic Declaration of Human Rights is as follows:

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Islamic Declaration of Human Rights	the Universal Declaration of Human Rights	Title	Row
1990	1948	The year ratified	1
the Organization of the Islamic Conference	the United Nations General Assembly	Approving authority	2
Cairo	Paris	place of ratification	3
including introduction and 25 articles	including introduction and 30 articles	content	4
Part of the introduction Article 1 Article 5 Article 6	Part of the Introduction Article 2 Article 16 Article 25 Article 26	Materials on Women and the Family	5

Also, a comparison of the content of the Universal and Islamic Declaration of Human Rights in the field of the family in general can be drawn as follows:

Islamic Declaration of Human Rights	Universal Declaration of Human Rights	Title	Row
Introduction to the Declaration of Islamic Human Rights: The Declaration of Islamic Human Rights begins with this noble verse: "يا ايها الناس انا خلقناكم من ذكر و انثى و جعلناكم شعوبا و قبائل لتعارفوا ان اكرمكم عند الله اتقاكم" Article 1: Article one: B).... and no one is superior to another except in piety and good deeds.		Emphasis on piety as a criterion of superiority	1
Article one: A) Humans in general are a family that is made up of servitude to God and a child to man, and all people are essentially equal in human dignity, duty, and responsibility, without any discrimination in terms of race, color, language, gender, or Religious belief or political affiliation or social status and so on. At the same time, correct belief is the only guarantee for the growth of this honor through human evolution.	Introduction: Since the recognition of the inherent dignity of man and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world....	Emphasis on the point that human beings are a single family	2

Article a) Human beings in general are a family that is made up of servitude to God and a child to man, and all people are in principle equal to human dignity, duty and responsibility without any discrimination in terms of race, color, language or gender. Or religious belief or political affiliation or social status and so on. At the same time, correct belief is the only guarantee for the growth of this honor through human evolution.	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 benefit regardless of birth or social status, wealth or lineage or any other status.	The role of gender in the enjoyment of the rights	.3
Article 5: a) The family is the basis of the structure of society and marriage is the basis of its creation, so men and women have the right to marry and no restriction based on race or color or ethnicity can prevent this right.	Article 16- When a man and a woman reach the age of marriage, they can marry without any racial, national or religious restrictions, and establish a family. They have equal rights at the time of marriage and during and after divorce. Marriage is not legal except with the free consent of future spouses. The family is a natural and fundamental element of society and must have the support of society.	The right to marriage	.4
Article 5: B) The society and the government are obliged to remove the obstacles from the way of marriage and make its ways easy and provide support to the family.	Article 16- When men and women reach the age of marriage, they can marry without any racial, national or religious restrictions, and establish a family. They have equal rights at the time of marriage and during and after divorce. Marriage is not legal except with the free consent of future spouses. The family is a natural and fundamental element of society and must have the support of society...	The role of the state and society in marriage	.5
Article 7: b) Fathers and those who are considered fathers according to Sharia law, have the right to choose the type of education they want for their children, taking into account their interests and future in the light of moral values and Sharia rules.	Article 26: ... Parents have the right of priority to determine the type of education of their children.	The right to educate children	.6
Article 6: The burden of family alimony and the responsibility of maintaining it is one of the duties of a man.		Family alimony and its responsibility	.7
Article 7: a) Every child has the right from	Article 25- Everyone has the	Special	.8

birth to his parents and society and the government to protect his childhood and to educate and provide material, health and literature. In addition, the fetus and mother should be cared for and special care should be taken for them.	right to a standard of living which includes the health and well-being of himself and his family, including food, clothing, housing and medical care. He also has the right to use essential social services in case of unemployment, illness, helplessness, widowhood and old age, or in other cases where his livelihood is disrupted due to circumstances beyond his control. Being a mother and a child, requires using assistance and special assistance....	protection for mothers and children	
Article 6: A) In human dignity, a woman is equal to a man and as much as a woman has duties, she also has rights and has an independent civil personality and financial obligation and the right to preserve her name and relationship.	Introduction to the Universal Declaration of Human Rights: As the people of the United Nations, in the Charter, show their faith in the most fundamental human rights, in the respect and dignity of the human person, and have become allies in the equal rights of men and women....	Men and women's rights	9
Article 6: A) In human dignity, women are equal to men and as much as women have duties, they also have rights and have an independent civil personality and financial obligation and the right to maintain their name and relationship.		Rights and Duties of Women	0
Every child from birth has a right to his or her parents and society and the government in the protection of childhood and upbringing and material and health and literary provision. In addition, the fetus and mother should be cared for and special care should be taken for them.		The right of the child	1
Article 7: According to the rules of Sharia, children have rights over their parents and relatives towards their relatives.		Responsibility of children and relatives	2
	Article 25-.... Every child, whether the result of a legal or illegal marriage, enjoys equal social protection.	illegitimate children	3

7- A Comparative Study of the Universal and Islamic Declaration of Human Rights in the Field of Women and Family

In examining the similarities in the declaration in the field of women and family, the following points can be mentioned:

A. the Universal Declaration addresses the three issues of human rights, human dignity, legal freedom and personal freedoms (Safaei, 1991, pp. 6-8). In general, these issues can be seen in Islamic human rights with a similar expression and in some cases with a different expression that results from different principles and foundations. The important point stated in the Universal Declaration of Human Rights is not the invention of the United Nations, but the result of human findings over the years that have a religious, moral and human origin. What can be seen in the Declaration of Islamic Human Rights is derived from the principles and foundations of Islam.

B. In both declarations, it is mentioned that human beings are from the same family. This is in fact the concept that is otherwise mentioned in the Universal Declaration of Human Rights as members of the human family. This issue has been emphasized in the preamble to the Universal Declaration of Human Rights as well as in Article 1 of the Declaration of Islamic Human Rights.

C. Both declarations emphasize the important role of society in supporting individuals to get married and start a family, and this is stated in Article 16 of the Universal Declaration of Human Rights and Article 5 of the Declaration of Islamic Human Rights, with the difference that the Declaration of Islamic Human Rights shares the government also in this regard. And perhaps for this reason, this discussion can be expressed in the field of differences between the two declarations.

7-1- Differences Between the Universal and Islamic Declaration of Human Rights in the Field of Women and Family

The study of the Universal Declaration of Human Rights and the Declaration of Islamic Human Rights show significant differences between the two. In the field of women and family, the following differences can be mentioned:

A. The right to raise a child: Article 26 of the Universal Declaration of Human Rights gives priority only to parents in determining the type of education of their children, while Article 7 of the Islamic Declaration of Human Rights gives fathers and those who according to Islamic law are considered as his father having the right to choose the type of education. Because in Islamic jurisprudence, the guardian of the child is the father and the paternal ancestor (Hashemi Shahroudi, 2006, p. 244) that is called Wilayah al-Qirabah (Murawwij, 2001, p. 567)

B. Alimony: The Universal Declaration of Human Rights does not mention who is responsible for the family and living in a family. However, since in the jurisprudential principles of Islam, alimony is considered a man's duty, the Declaration of Islamic Human Rights states in Article 6 that family alimony is a man's duty. The lack of this in the Universal Declaration of Human Rights is probably due to the fact that men and women are equal in this respect.

C. Children's responsibility to their parents: According to Article 7 of Islamic Human Rights, children have a responsibility to their parents. This great concept is not seen in the Universal Declaration of Human Rights.

D. Responsibility towards the relatives: According to Article 7 of Islamic Human Rights, children have a responsibility towards their relatives, which has not been mentioned in the Universal Declaration of Human Rights.

E. Equality between men and women: The issue of equality between men and women in terms of legal or other issues can be discussed from different aspects and requires a very detailed discussion. Here is a summary. Among other things, it is noteworthy that Islamic principles, contrary to international documents and treaties, believe in deserving justice and not equal justice. In the sense that equal rights for men and women are in the shadow of differences, not just quantitative equality. Because special attention should be paid to educational and natural requirements as well as considering Islamic standards as a systematic system. (Hedayatnia, 2014, p. 50)

This is while he considers the Islamic principles of man and woman as equal in creation and of a single soul and is completely opposed to the theory of the subordinate creation of woman and the inferiority of woman (Hedayatnia, 2018, p. 75)

Article 16 of the Universal Declaration of Human Rights states that men and women are legally equal in marriage, while in Islamic law a Muslim woman has no right to marry an infidel man (Hashemzadeh Harisi, 2010, p. 243). According to Muslim jurists, both Shiites and Sunnis, a Muslim woman cannot marry an infidel man (Mohaghegh Damad, 2005, p. 152). Perhaps this is why the Islamic Declaration of Human Rights does not mention the term "Religious" in contrast to the Universal Declaration.

F- Piety as a criterion of superiority: In particular, in the Declaration of Islamic Human Rights, in the introduction, piety and good deeds have been emphasized as a criterion of superiority. This great meaning is not found in the Universal Declaration of Human Rights. Piety as a criterion of superiority is explicitly stated in the Holy Qur'an with the following statement:

ان اكرمكم عندالله اتقكم(آيه 13 سوره حجرات)

G. Illegal children: Article 25 of the Universal Declaration of Human Rights recognizes children who are also the result of illegal marriages and provides them with equal social protection. This is while the Declaration of Islamic Human Rights is silent in this regard. The reason for this silence seems to be the jurisprudential principles of Islam, which issue special rulings regarding the illegitimate child. This rule means that the child belongs to the husband and the adulterer is stoned. (Shubayri Zanjani, nd, vol. 25, p. 7830) and (Makarem, 1424, p. 43) Article 1167 of the Civil Code of the Islamic Republic of Iran stipulates following the famous opinion of Imamiyyah jurists that: "A child born of adultery cannot be attributed to the adultery."

Conclusion

This article examines the text of the Universal Declaration of Human Rights and Islamic Human Rights.

- A study of the Universal Declaration of Human Rights and the Declaration of Islamic Human Rights shows that these two declarations are similar in some cases and different in others.

- One of the similarities between the two declarations in the field of women and the family is that both emphasize human dignity, legal freedom and personal freedoms, including the duties of the family to help form a family.

- According to the Universal Declaration of Human Rights, only parents have priority in determining the type of education of their children, contrary to Islamic human rights, which consider people who are also considered fathers according to Islamic law to be competent in this field.

- In the Declaration of Islamic Human Rights, man is responsible for alimony, while the Universal Declaration of Human Rights is silent on this issue.

- In the Universal Declaration of Human Rights, children have a responsibility to their relatives and parents, unlike the Universal Declaration of Human Rights.

- The Universal Declaration of Human Rights, like many other documents on images of men and women, emphasizes equal justice, not entitlement justice.

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