FINAL DISSERTATION

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Human Rights in a Globalized and Gendered World:

Beyond Eurocentric and Western Cultures

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Abstract

The existing inequalities at the global level, between the West and the developing world, and at the local one with specific regards to gender relations, shape a reality which continues to compromise the status of human rights today in political, economic and social terms, calling for serious debate and action. At an era of rapid globalization and economic development, the world remains gendered, and despite the production of literature, conferences, conventions, technological innovations and capacity for social networking, the disparities persist.

For the purposes of this study, the implications of this gap will be analyzed in order to denote the road for human rights and democracy with regards to different perspectives in the theoretical and practical sphere. The presence of culture in both secular and non-secular societies will be assessed firstly as an influence, in its diversity, and in its importance for identity formation and secondly, on a practical level, through the case-study of an organization and two activists in the Arab context, to portray the power of culture if and when positively mobilized towards the protection of human rights, including women's rights; as the essential core to global equality and progress on the road to democracy.

Only through dialogue, recognition of culture similarities and the embracement of culture difference, can efforts towards a broader commitment to human rights come into action. As demonstrated through this paper, there is an urgent call for the respect of universal human dignity and rights, including gender equality, which cannot be violated under the pretext of culture, economic interest or tradition, and is essential in effectively combating all forms and levels of oppression within communities in any given society.

Keywords: Human Rights, Democracy, Women's Rights and Gender Equality, Culture, Globalization

Resumo

As desigualdades existentes a nível global, entre o Ocidente e os países em desenvolvimento, e a nível local, nomeadamente aquelas referentes às relações de género, configuram uma realidade que persiste em comprometer atualmente o estatuto dos direitos humanos em termos políticos, económicos e sociais, suscitando a necessidade de uma ação e debate sérios. Numa época de rápida globalização e desenvolvimento económico, o mundo permanece desigual em termos de género e, apesar da produção de textos, conferências, convenções, inovações tecnológicas para redes sociais, as disparidades persistem.

No que se refere aos própositos do presente estudo, as implicações da referida desigualdade serão analisadas de maneira a se evidenciar o caminho em direção aos direitos humanos e à democracia de acordo com diferentes perspetivas nos domínios teórico e prático. A presença da cultura nas sociedades quer seculares quer não seculares será encarada, em primeiro lugar, como uma influência, na sua diversidade e na sua importância para a formação da identidade e, em segundo lugar, num nível prático, através do estudo de caso de uma organização e de duas ativistas oriundas de contexto árabe, de modo a se analisar o poder da cultura, se e quando mobilizada com propósitos de defesa dos direitos humanos, incluindo os direitos das mulheres, em particular, ou seja, trata-se de pesquisar a esfera central para a igualdade global e o progresso rumo à democracia.

Só através do diálogo, do reconhecimento de similaridades culturais bem como da diferença cultural, podem entrar em ação esforços para um mais amplo compromisso com os direitos humanos. Tal como será demonstrado nesta dissertação, encontramo-nos perante uma urgente convocação para respeitar os direitos e a dignidade humanas universais, incluindo a igualdade de género, que não pode ser violada sob o pretexto da cultura, do interesse económico ou da tradição e que se apresenta como essencial no combate efetivo a todas as formas e níveis de opressão nas comunidades de qualquer sociedade.

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Introduction

The call for human rights can be called universal, and is a global movement evident throughout history until the latest events today. Though from a social standpoint it can unite people and empower them to stand up for their own rights; from an economical and political perspective it is largely institutionalized, controlled, and 'given' from a top-bottom approach. This legitimation of human rights, and therefore - on an opposite, complementary, paradigm - the recognition and awareness of a violation of human rights; creates a discourse. The discourse of human rights does not signify human rights themselves but rather what is narrated, implied and reinforced through cultural repertoires and resources which may either promote or extinguish the respect and promotion of such rights. In a gendered world, the rights and status of women, their empowerment and justice is necessary in the discussion of human rights and democracy. Gender equality is one of the most important if not the most – due to its vast global and societal relevance, the representation of women in governmental laws entailing more or less half of the global population, and women as a powerful agent of development, education and democracy.

Due to already existing levels of global inequality and cultural diversity, the grand subject of human rights poses a controversial debate in its academic and practical history. The ´lowest common denominator´ that connects us is the mere fact that we are human. Despite this universal truth, cultural diversity and difference is present which creates different perspectives, narratives and practices when dealing with human rights. The differences in perspectives on human rights exist in a space calling for discussion and analysis as to the origin, reality, and hope for a successful protection of human rights on a global scale. It is this that is significant due to the fact that this space can be seen to further promote both global and social, economic and political inequality; between and within nations, and/ or act as a barrier to human dignity and justice, development and democratic state governance.

In its early introduction, the concept of human rights was marginal after the Second World War and it was internal within states with no external accountability. The Universal Declaration adopted in 1948 (www.un.org) finally by a formal drafting committee, "consisting of members of the Commission from eight States" and said to have been "selected with due regard for geographical distribution" (www. Un.org) which will be assessed for its accuracy in the paper. The Declaration not only excluded a large proportion of the world or "international community" and on an internal level – but in addition to this the fact was that many of the governments had the primary goal of economic and national

power rather than human rights. The Declaration changed the discourse of international relations by setting an objective, shared set of standards, and engaged civil society until today which continues to see the growth of grassroots human rights activism. Human rights were called for due to the need to enforce and define the values that protect the well-being of the individual and community, and the existence of various forms of discrimination, inequality and exploitation. The Declaration of Rights set out to define a clear articulation of human rights to protect people from the atrocities they were facing.

These atrocities continue to exist, despite this. There is an evident gap between the theory and practice of human rights, and despite developments in the international standard and discourse of human rights, it is also evident that there continues to be massive "gross violations of human rights" (Na'im, 1990). Historically, the Declaration itself was established during colonial power of Europe holding most of peoples of "Asia and Africa under their dominion by means of oppressive rule" (Falk:2000: 38), including military dictatorships in Latin America. The Declaration was viewed as a 'paper tiger' which is why oppressive governments agreed to it. The United States, who practiced racial discrimination in spite of its domestic constitutional commitment to human rights, portrays the one-sided approach that it considers "human rights important for countries of the South, but superfluous for North, and unnecessary to the internal political life of the US" (*Ibid.*). Women's rights are largely compromised globally with particular emphasis on the developing world. Human Rights here, thus conveys itself as merely an instrument of foreign policy, overlooking its intended reality. Many countries in the developing world are always under scrutiny from abroad, while the US statements, until today, are not issued.

There exists rhetoric of strong commitment to the international standards of human rights, including pressure from non-governmental organizations and groups to define, question and penalize such violations; however, the implementation of such standards is neither fully understood, recognized, nor enforced. In addition to this, we do not live in a society where the common good is put first; there are always conflicts of interest and high manipulations of power and control. Falk states that the "norms set forth were formulated as if self-regarding states in a world of gross material disparities did not exist" (Falk, 2000: 38). It can be said that the definition of human rights is an ongoing debate that "will likely remain as long as there exists contending approaches to public order and scarcities among resources" (Claude and Weston, 1989: 44).

Human rights, like democracy, seems to be an imported phenomena, where there is a gap not only between theory and practice but also between culture, media, knowledge, education, and 'norms'. It has been easily 'confused' with democracy in 'the discourse of practical politics'. Democracy is a largely debated concept, much like universal rights where a right must be "minimal enough to be universally intelligible, acceptable and measurable" (Chun, 2001: 19). For this to happen fairly and equally, we must assume equal standards, norms and universal culture. It is thus fairly true that human rights must be more distinguished from democracy as the two are generally independent of each other. Democracy may 'serve' human rights in setting other favourable social and institutional conditions. It is for "intellectual clarity as well as moral political validity" (*Ibid.*) that a distinction between the two must be made with particular focus on developing and transitional societies. Otherwise, counter-productive divisions are created and legitimated by government structural functions; which further confuse the difference between human rights and democracy, as if the two must come hand in hand. This means that even though democracy may be a more distant, unknown concept and far-fetched in many countries in the developing world, human rights while being so closely connected and perceived as democratic governance, will also be more difficult to attain.

For the purposes of this dissertation, with particular focus on the discourse of universality of human rights and the significance of cultural diversity, human rights, in their essence and practice, will be explored firstly on a broader scope and the discourse of human rights in a globalized world. This will lead on to challenging the universal in what is cultural diversity and difference not to accentuate differences and reinforce alienation/ and hatred of the other – but rather to develop a balanced exchange of information and culture which, through dialogue and education, would effectively portray the need for respect of universality of human rights. Through a particular emphasis on the developing countries and MENA region - which suffer from lower levels of women's and human rights and non-secular state laws; the role of religion and culture will be analyzed and finally the means by which cultural resources and Islamic and Arab repertoires may be mobilized in a globalized and gendered world, towards positive human rights discourse and action.

Chapter One
<u>Human Rights in a Globalized and Gendered World</u>

1.1 The Global Market of Economic Interest

When politics is mixed with religion, religion with politics, culture with globalization, in an unequal world, human rights is left in a very delicate position. Due to rapid and extremist effects and measures taken towards economic growth and capitalism, the enhanced market competition for "production niches in the current global restructuring of capital accumulation is likely to fragment the conceptions of national self-interest even further, and augment the political aggressiveness that defends them against competitive states" (Santos, 1995: 267). There exists therefore a clash of conflicts of interests between the "imperatives of the globalization of the economy which increases the vulnerability" (*Ibid.*) of the issues concerning human rights. Massive human rights violations, therefore which are caused indirectly by the prioritization of economic national sovereignty and the consideration for national interest and security, are unlikely to get the "corrective or punitive intervention of the state" (*Ibid.*).

Another extent of human rights is the way they have been "universalized as a globalized Western localism" (Santos, 1995: 271, where the Universal Declaration was drafted without the participation of majority of the peoples in the world. There is a counter-hegemonic human rights discourse, which requires for the conceptualization and practice of human rights to be transformed from a globalized localism into a cosmopolitan project where neither universalism nor relativism must be argued for in order to encourage fair cross-cultural dialogue (*Ibid.*). Through the discovery and development of cross-cultural criteria, the differences between progressive and repressive politics may be distinguished in addition to empowerment from disempowerment and emancipation from regulation (*Ibid.*).

Appadurai explores the trends in social, political and economic life that can be observed since 1989 – the period marked by globalization, open markets, intense economization of society, and more active awareness of human rights. In this age, the "expansion of human rights" saw with it a dual effect: increasing and intense violence which is largely culturally motivated. Appadurai states that "the old joke about outbreaks of peace is now a sobering social fact" (Appadurai, 2006:15), in that the norm has become conflict and inequality. The question of universality exemplifies that while a common humanity in human rights is important, so is diversity of origins and embracement of culture rather

than a patriarchal, paternal, structural inequality. The Liberal position on rights is said to privilege a particular account of human dignity and not only is it difficult to impose conformity but even more significantly, according to Appadurai, the very notion of universality of human rights is "under threat". While the struggle to specify human rights proves problematic, it is argued by several scholars that we can talk of human wrongs, such as genocide which was condemned by the Genocide Convention of 1948, and the reality of Female Genital Mutilation – where any code that would not condemn such human suffering would be "unworthy of respect" (Appadurai, 1996).

Globalization and Orientalism bring a 'culture' – if we can call it as such – which creates a battle between the old, traditional and the new. Jameson (1998: 400) defines globalization in relation with culture as: "the export and import of culture". Said describes it as a "general world-wide pattern of imperial culture" (Said, 1993). Through the import of culture into the developing world, a discourse is imposed which imposes a life-style affecting social, political and economic trends.

The existence and spread of a global market imposes a culture with it which also affects a country through the presence of multi-national corporations, and of culture of media, music and trends. Due to different stages in modernization and globalization, Jameson highlights the transformation of modernization from that of information to that of new technologies. Culture appears to be a product with a price which can thus be bought.

1.2 The Homogenization of Culture and Other Influences

Culture is hegemonic in that it has become a ruling and dominant phenomena in a political, social, and global context. Jameson (1998) describes the nature of culture and what it has become in considering, for example, all the people around the world who watch exported North-American television programs to realize that this cultural intervention is deeper than anything known in earlier forms of colonization or imperialism, or simple tourism. Not only is this visible and tangible in the form of language and social norms, but also strongly present on an economic and political scale; where certain currencies, goods, and modes of governments are idealized. This is problematic in terms of inequality, as there is a "fundamental dissymmetry in the relationship between the United States and every other country in the world, not only third-world countries, but even Japan and those of Western Europe", as

Jameson (1998:313) proposes. This exists to such an extent that Jameson argues that the difference between culture and universality is confused, and in addition to this, even in the United States itself the people are "recipients of the new world culture", which implies that culture does not stem out from the people but rather from society; thus defining people, even those within America, to be objects of it.

With further regard to Orientalism and the superior West, globalization plays a significant role. There is to some extent a 'civilizing' process derived from Orientalism and false interpretations of the East – nowadays present through globalization and global powers. Not only economically and politically, the social and cultural aspects are directly affected by such forces, too. The notion of culture is derived from both outside and inside; a product is not only globalized, but also localized to accommodate the needs of a specific consumer base. For example, McDonald's introduced McArabia in the Middle Eastern countries, with specific alterations to the recipe in order to appeal to consumers in different countries (no pork, cooked in the same traditional way). Less standardization means more familiarity, from a trusted name, which enforces the risk of local economies losing out on customers, income and wealth.

The tendency of globalization to standardize processes, products and behavior has been extensively discussed by Ritzer (1995: 287) in his earlier work such as the "McDonaldization of Society". This being a dialectic relationship,

> "Glocalization can be defined as the interpenetration of the global and the local, resulting in unique outcomes in different geographic areas. This view emphasizes global heterogeneity (…) [and] economic, political, institutional, and – most importantly – cultural homogeneity. […] globalization focuses on the imperialistic ambitions of nations, corporations, organizations, and other entities and their desire – indeed, their need – to impose themselves on various geographic areas".

The decay of local and national cultures promotes the theoretical possibility to imagine and exemplify American way of life and thus consumerism. It is evident that consumerism is dictated as the ultimate freedom. It is problematic, however, that not everybody may have access to this way of life, and may want this way of life without global influences and pressure – and the conflicting conditionality of consumerism to democracy. The standardization of culture, norms, and commodity goods, to be seen as universal, is defined as this from the West, from the 'American', capitalistic spirit. Jameson (1998: 64) argues that what are seen as "universal human rights, feminist values and even parliamentary

democracy", are in fact mere exports of local American cultural characteristics.

In *If God were a Human Rights Activist*, Boaventura de Sousa Santos explores the connection between religion and human rights (if not the absence of human rights) for its significance historically, politically and socially and in promoting the discourse of human rights. Santos argues that "our time" has produced a paradigm, with a global reach due to colonialism and imperialism, and what is "usually called globalization". Despite this time of rapid change and growth, there exist differences in the questions and answers from culture to culture. It is a time of "paradigmatic transition". The word "globalization" is merely a new word to describe these interactions and world developments, and is simply "the most recent version of global capitalism and western modernity" (Santos, 2009). Santos strongly calls for a "need to go beyond the dominant paradigm" due to the existing limitations on historical, political and cultural levels, that the dominant current paradigm imposes.

Coming hand in hand with culture and the so called 'global culture', economy plays a major role in the primary interests and motives. Santos describes the "struggles against global capitalism and in favour of counter-hegemonic globalization" and the undeniable impact that "the different forms of power and oppression feeding the reproduction of inequality and discrimination – class, gender, race, caste, sexual orientation, religious choice" have on people and human rights. In the case of Islam, for example, it is the "struggle against sexual discrimination" that Santos (2009) states to be the most difficult to overcome.

Due to the existence of political theologies, the standards imposed on people without the primary interest of human rights, "the strength of the new conceptions seldom resided in the conceptions themselves, rather in the power of those wanting to impose them" (Santos, 2009). The catalyst for action is usually related primarily to economic, political or national strategic interest, and it is the Islamic peoples out of all non-westerners that were subjected to the colonial and imperial "project" that have "more than any others clearly defined their submission to such a project as a historical defeat" (Santos, 2009).

It is further argued that it is the historical record and memory of defeat that constitutes to the fact that "Islamic peoples feel their historical options in a more radical and dilemmatic way", where:

"they could either imitate western modernity, its principles and monocultures, thereby losing their identity, denying their glorious past, and becoming strangers to themselves (imitation, alienation, strangeness); or, on the contrary, radically reject modernity and take the costs of continuing to live in a time patterned centuries ago by adversary principles and monocultures, which not only dominate but humiliate them as well (rejection and alternative social project). The first option seems to have prevailed in the period of Arab nationalism, mentioned above (and which in fact spread far beyond the Arab world), when the slogan was "modernizing Islam."

Santos, in this way, illustrates the dilemma which is faced in shaping and producing perceptions, ideologies and notions of cultural and even political identity. Santos continues: "The second option, in turn, seems to prevail today in political Islam, the slogan being 'Islamizing modernity', or, in the case of revelationist theologies, altogether to reject modernity" (Santos, 2009). This causes an extremist opposing ideology, which further increases the gap on inequality. Such manipulation is created from the perceptions that the Western discourse and production of knowledge presents, which is said to have "reserved the future for itself and allowed various pasts to co-exist with it, as long as they all converged into the same future: its own" in that it subjected "dominated peoples and cultures neutralized pasts, without the capacity to produce alternative futures vis-à-vis western modernity" (Santos, 2009). Not only does this alienate the people from a relatable culture, history and known heritage, but it also forces a "one way", standard path which is in reality non-applicable on the mass global level.

1.3 Cosmopolitanism and Human Rights

Santos explores the concept of human rights through its origin and practice, thus offering a strong perspective on its reality. Santos argues that human rights are necessary due to the evident inequalities in the world on a global and local level. He also sees a strong relation to the oppression of certain social groups with the "process of economic, social and political transnationalization" (Santos, 1995). The lack of widespread legal documentation and appropriate living standards leads to the presence of vulnerable people such as undocumented immigrants, refugees and asylum seekers. This vulnerability which the people are subjected to is due to living in a world system structured "by 'territorial sovereign states" (Santos, 1995), leading to many forms of social oppression despite economic 'growth' and rapid industrialization.

Santos (1995) further studies the transnationalization of the oppression of indigenous people which started with the European expansion or, as he calls it, "genocide and colonial domination". While territorial sovereignty is the most important factor for the nation state, it acts as a strong barrier to the "development of a cosmopolitan legal field that might provide for the effective protection of these transnational Third Worlds of people" (Santos: 1995: 257). The majority of the world including "subordinate classes and groups" are not represented or defended under the discourse of human rights, thus becoming victims of discrimination and "privileged targets of massive violations of human rights" (*Ibid.*) in a large social field. The inequalities between people are said to be caused by social processes of the most "diverse kind, some transnational, others local, some predominantly economic, others predominantly cultural, some centuries old and others more recent" (*Ibid.*).

It is evident that while the world has grown more globalized and interdependent it has also become more unjust and economically driven where there is a struggle between the interest of national sovereignty and the international human rights advocacy. As Donnelly calls it the 'global human rights regime' is centered on United Nations organs and UN Commission on Human Rights. National violations become an international concern, but it is a weak global regime despite being a promotional one (Santos, 1995: 260). While it holds norms which are widely accepted and clear, it has a limited decision making powers.

Different geographical and cultural regions display different perspectives of human rights and yet one model is used for supposed integration. Santos (1995: 260) lists the following in decreasing order of strength: "European, Inter-American, the African, Asian and Middle Eastern (lack of) regime". It is said that people in the Community will be subjected to new controls, new technology, new transnational actors, new forms of work, and continuing racial and sexual discrimination without new rights and remedies, some individuals and groups could find the negative effects of integrations outweighing the positive opportunities which it claims to offer"(*Ibid.: 261*). Economic, social and cultural rights are needed which are not in the Inter-American regime, and while politically and economically people are subjected to new developments – that may or may not directly benefit them, socially there persist vast forms of inequality and oppression due to a vacuum of human rights.

While the main organs are the Commission of Human Rights and Inter-American Court of Human Rights, the commission has no "real enforcement powers and its (in)activity" is constant. In addition to this, the regime also suffers the ironic fact that the hegemonic power, the United States, dominates the regime without being a party to the convention that has created it (American Convention on Human Rights of 1969). Despite refusal to apply human rights treaties for itself, the US holds other countries accountable to international human rights standards that it refuses to allow to be applied for itself (Santos, 1995). The State department prepares an annual report on the Human Rights practices of most countries, yet the US refuses to submit on its own practices to international monitoring bodies.

In relation to the role of the United States in Human Rights, the African Regime, while not hypocritical, is also weak. The African Charter on Human and People's Rights was adopted by the Organization of African Unity in Nairobi in June of 1981, and in terms of normativity, it adds collective rights to the individual Human Rights and the rights to development. It further introduces the duty of the individual vis-à-vis the family, the community and the state. It is vague and weak and there exists no regional Human Rights court. The ideological confrontations of the regime are explored and contrasted to the Universal Declaration of the Rights of Peoples (Algiers Declaration in July of 1976). While established people's rights, others have condemned it for its authoritarianism and opportunism. Issa G. Shivji states that the Charter bears the birthmarks of essentially a neo-colonialist statist disposition while the Algiers declaration is truly revolutionary, people-centered, anti-imperialistic and inspired by a realistic global reflection on people's living conditions.

Santos claims that the regimes outside Europe are weak with regards to international human rights and that in Asia and the Middle East, no regime exists at all. In both regions the human rights debate is widening and deepening – while cultural barriers against the successful establishment of a human rights regime continue to exist. In the developing world where cultural and religious attachment is higher, the notion of human rights is largely viewed as an "exotic, foreign, Western conception whose worldwide circulation is nothing but a manifestation of the overall cultural imperialism of the West" (Santos, 1995: 263). This dominant discourse of human rights seems to impose a normative consensus questioned internally for its validity as such.

In its first establishment, critics of the Magna Carta (in 1215 which first established the notion that no

one, whether king or lawmaker is above the law), assumed it had "limited general applicability" which accentuates the problematic difference between Natural Law which generated universal rights and duties and the Charter which refers to local and particular liberties (Baylis and Smith, 1997: 693). The Liberal Position on Rights ensured: "human beings possess rights to life, liberty, the secure position of property, freedom of speech (...) and the Primary function of government is to protect these rights - and political life is based on a kind of implicit or explicit contract between people and government" (*Ibid.*: 693-4). In reality there is a conflict between individual and national sovereignty, which illustrates an agenda of the politics of Human Rights. It is argued that the Universal Declaration was prominent step that made history due to the attempt of the international community to set an understood and recognized code for the international government of its members which was ironically largely dominated by the West.

Santos (2009) establishes that the "conventional understanding of human rights" encompasses the following characteristics:

"they are universally valid irrespective of the social, political and cultural context in which they operate and of the different human rights regimes existing in different regions of the world; they are premised upon a conception of human nature as individual, self-sustaining and qualitatively different from the non-human nature; what counts as violation of human rights is defined by universal declarations, multilateral institutions (courts and commissions) and established, global (mostly North-based) non-governmental organizations; the recurrent phenomenon of double standards in evaluating compliance with human rights in no way compromises the universal validity of human rights; the respect for human rights is much more problematic in the global South than in the global North".

Santos (2009) further argues that the differences between the global North and global South - and limitations of the discourse - reduce the understanding of the world to "the western understanding of the world, thus ignoring or trivializing decisive cultural and political experiences and initiatives in the countries of the global South", and further emphasizes the distance between the two worlds. The respect for human rights is perhaps compromised in the developing South due to feelings of unrelatedness and alienation to the values of human rights as they are considered Western and thus, distant.

Santos (2009) argues that through the disregard of half the world in forming and respecting the

diversity of cultures each with equal importance, "the same abstract recipe across the board, hoping that thereby the nature of alternative ideologies or symbolic universes will be reduced to local specificities with no impact on the universal canon of human rights".

Appadurai explores the cultural flows and what they encompass in a global perspective. Global Cultural Flows include trends and even hairstyles which are said to smoothly flow globally (Appadurai, 2013). The power of global corporations to outsource various aspects of their activity ranging from production and distribution to advertising and marketing portrays a shift in the interests and attitudes to profit. The visible effects of globalization include higher levels of traffic, globalized styles and information as a result of the flow of politics, evidently shaping the discourse of human rights and the nature of civil society activism (Appadurai, 1996).

The global discursive flow of human rights portrays the fact almost every known society has socialized individuals and groups to having a consciousness of their political status (Appadurai, 1996). Moreover, minorities of every kind can exercise pressure on the state to respect their human rights – which introduces cultural difference as a social fact in the realm of politics and connects diversity to universality of rights (Appadurai, 1996).

The mainstream and dominant discourse of human rights and the production of knowledge shape to a large extent the ways by which human rights are respected and promoted. It is further argued that human rights is to modernity what culture is to tradition leaving human rights as the "language of social transformation" and connecting culture to difference, and human rights about leveling and sameness. Due to the fact that the "chief" actor is the state which legitimizes the discourse of human rights, international law is thus the "official language of human rights (Goodale and Merry, 2007: 275).

It is evident worldwide that the "modern state is the primary guarantor of human rights, while it is simultaneously the target of the international human rights law prescribing the standard of treatment of individuals by their governments" (Mutua, 2002:127). It is regarded as the "raison d'être" for the development of the human rights law - while it is also perceived as the opposite of human rights, in a battle for power over society. Nai'im argues that part of the process of influencing the course of cultural transformation for the protection of human rights "as a matter of free expression by the

people of their right to self-determination is to insist that a genuine commitment to the protection of human rights is inherent to the raison d'être of any state" (Na'im, 2002:17).

It is argued that a rights discourse in which culture is "invoked as an argument against universalism now largely belongs to rules, not to those who may need rights protected, who talk in terms of wrongs and needs, not rights and culture" (Mamdani, 2000:17). The irony and failure is that human rights norms are set by the state "although they are meant to contain and control state power". There is tension between the two which is said to have the potential to be "mitigated" and yet it cannot be eliminated (Mutua, 2002:127). What is presented from the reconstruction of the South African state and the "evolution of the rights framework that has dominated the foundation and creation of the new state" is that the rights predominated the "construction of the new constitutional order". For more regard towards human rights and cultural diversity, state power and the language of rights must be used together rather than against each other (*Ibid.*:129).

1.4 Non-Governmental Organizations and Civil Society

The role of states and their representation in the United Nations and the international community is very important in assessing the respect for human rights in a certain country. The role of other organizations, however and non-state actors of civil society is highly noteworthy due to the fact that such an actor can operate in a globalized manner in terms of protecting human rights. The transnational subjectivity of human rights must be reassessed while strengthening transnational advocacy. Santos states that the nation state is a major focus of human rights and of the struggle towards human rights as it has the capacity to act as either a promoter or violator or both. The concept of cosmopolitanism is significant in challenging the state and the monopoly of international legal subjectivity through transnational advocacy by human rights non-governmental organizations.

It is further argued that global scale problems are larger than the state authority which is "too small to constitute a protective enterprise against localized globalism" (Santos, 1995:283). With the growth of transnational advocacy and the power of non-governmental associations, there is an "emergence of a cosmopolitan consciousness on human rights" (*Ibid.*). Despite the efficacy capacity of NGOs to

network grievances is difficult to be completely successful, which is made even more troublesome if the NGOs, despite being heterogeneous, most partially and socially operate with a role in "peripheral authoritarian countries". Some NGOs originate from grassroots and others through external missions provided by committed experts or intellectuals, and some are crisis oriented focusing immediately on violations, while others focus more on the underlying causes of this repression which are structural, and seek "wide ranged institutional transformation" (*Ibid.*: 284).

The fact that NGOs are heterogeneous politically and socially acts as an obstacle, as despite their wide ranging diversity, some are limited in an "individualist paradigm", in a post imperialist conception of human rights. The "cross-cultural reconstruction" of human rights is called for, and a "link between local embeddedness and grassroots relevance and organization, on the one hand and translocal intelligibility and transnational vibration on the other" (Santos, 1995:288).

In New Rights Advocacy, the notion of "development" is explored in its foundation as a field at the same time as the founding of new international human rights non-governmental organizations (NGOs) where the interaction between development and human rights progressed. What attracts NGOs to the "new rights advocacy is the potential of human rights standards and methodologies to transform international policy advocacy" (Nelson and Dorsey, 2008:40). Therefore, it is very important to attract a wide range of involvement of "practitioners, intermediaries and activists in international human rights and other fields in local and global episodes" (*ibid.*: 30). A factor which significantly catalyzed this development is globalization which has "brought with it rapid advance in communication strategist sharing of strategies between geographically dispersed social movements and NGOs" and a more engaged civil society (*ibid.*: 50).

Human rights provide a "proactive and positive vision of important social movements and NGO agendas" (Nelson and Dorsey, 2008: 87). Through the rights-based approach, theoretically there is a strong "commitment to egalitarian strategies, to addressing causes of poverty and exclusion and to meaningful participation in decision making" (*Ibid*.93). The rights based approach thus changes the framework of development from being "international goal setting and charity driven by enlightened self-interest - to enlightenment to a quality of life for all individuals, based in an internationally recognized set of standards that governments and international institutions have specific obligations to

meet" (*Ibid.*: 95).

There is, on a practical level, however an evident crisis of development illustrated through what is so far merely the promise of human rights. The issues captured in the dimensions of this crisis are the "continuing growth of inequality and social exclusion in most low income countries; the desire by many NGOs to challenge prevailing neoliberal economic norms in the field; the deeply compromised independence of NGOs as participants in civil society and the weakening of accountability by development programs and donors to those they purport to serve" (Nelson and Dorsey, 2008: 101). These problematic aspects along with the dominant factors that shape aid strategies for global development are present in the rapid growth of "transnational corporate activity and influence" and the "hyperspeed of global currency and financial markets" (*Ibid.*).

There is an argument for the so called export of human rights movement and discourse based on the fact that in the Third World there are "more undemocratic states than in the developed West". This in turn justifies the need and "spotlight" of International NGOs in the region, where their role becomes "appropriate, necessary and welcome, particularly where local advocacy groups and the press have been muzzled or suffocated by the state" (Mutua, 2002: 20), and mechanisms protecting people against massive human rights violations are weak. Although development assistance exists as a goal, connected to development as "growth, as basic human needs, as liberalization and as NGOs and good governance" (Nelson and Dorsey: 2008:96), there is a continued need for human rights based approaches to "define and articulate credible roles and identities that reassert NGO independence" (*Ibid.*:102) and the need for accountability and legitimacy for them as political actors. The presence of Non-governmental organizations is genuinely needed, while their agenda, and effect, are largely overlooked.

The accounts of NGO activity are said to have found new movements, ways to organize and strategies for politics-based human rights which is significant for scholars in that they "suggest new ways to frame and theorize political activity in the international arena" (Nelson and Dorsey, 2008:166). The existence and work of NGOs is extremely important in the lives of the "large numbers of people who live under inhuman social, economic and political conditions" and both human rights and development NGOs have great potential to "affirm, assert, uphold, and promote human dignity and human well-

being" (*Ibid.*).

The cosmopolitan legal culture that emerged due to a "transnational understanding of human suffering and transnational constellation of progressive (legal, political, humanitarian) social actions devised to minimize it" (Santos, 1995:257) evolved gradually into an international human rights regime supported by non-governmental organizations. Despite a social awareness and attempt to combat such suffering, the force of globalization of capitalist production and lifestyle along with the enhanced competition of core countries and trading blocs for economic supremacy and inequalities between the North and South is much more powerful. While these issues have all added to new "transnational dimensions of human suffering and social oppression", they have also, more positively, "created potential for the transnationalization of resistance" (*Ibid.*).

It is further argued that massive violations may take place as part of a temporary 'trade off' – where the basic needs of people are compromised due to the development goals towards economic growth and world competitiveness set by political elites. The existence and role of the United Nations and the growing strength of transnational advocacy of local and national NGOs devoted to the promotion of human rights erodes the monopoly of the states as international political subjects (Santos, 1995).

1.5 Human Rights and Gender Issues

Very evident in the gender hierarchy is the building of gender identities through the biological differences and socialization of gender roles as not only the distinctive difference between man and woman, but also the general assumptions that affect evaluations of each (Cohen and Kennedy, 2000: 10). Through "sexual divisions of labor", patriarchy is said to be "forms of oppression that elevate men to positions of power and authority" (*Ibid.*:102) and role differentiation has "become culturally and even psychoanalytically inscribed" (Ibid.); an unequal treatment of women is reinforced which compromises both their human rights and democracy.

A very sensitive and controversial topic is significant in portraying the concrete ways by which dilemmas of cultural diversity and difference pose delicate questions. The problematic of female genital

mutilation concerns not only human rights and culture, but also ethical questions that highlight the validity of culture or religion in such an invasive act to the human body. Hellum (2007: 335) argues that, due to unequal power relations, women and adolescent girls are often unable to refuse sex or insist on safe and responsible sexual practices despite the presence of numerous conventions which allegedly protect them. Due to differences in levels of education and high levels of poverty and illiteracy in the developing world, there are controversial issues concerning religion and gender equality. It is said that "in spite of seemingly gender-neutral laws and policies, women and girls are often denied equal enjoyment of their human rights by virtue of lesser status ascribed to them by religion or custom" (*Ibid.*).

Due to globalization women are organizing "transnationally" (Baylis and Smith, 1997:496) - the universalizing of gender issues reduces framing women as "victims" and alienating women rather than empowering and uniting them. Through dialogue, women would become aware of each other's situations, differences and recognize their commonalities. The global agenda must represent all views in order to produce a multi-cultural yet universal authority. With particular regard to the largely debated and controversial issue of female genital mutilation (FGM), would be a change in the approach by which the topic is addressed, viewed and judged. Mutua (2002:155) claims it is firstly important to excavate the social meaning and purposes of the practice in that society rather than subjecting them in a "demonizing" manner. He further concludes on this topic that it is a racist view, and cultural arrogance of the European West to name the practice using the word "mutilation". The word is said to imply "the willful, savage, and sadistic infliction of pain" (Mutua, 2002:155). The reason, thus, for the importance of the approach is that the language itself feeds the stigma of "barbaric cultures that condone the practice and dehumanizes the women who are subjected to it" (*Ibid.*:156), promoting the stereotype of "barbaric" people and further alienating them rather than engaging in positive dialogue.

The "politicization of culture" (Goodale and Merry, 2007: 2) describes the influence that human rights activism has on national discourses of women's health and development through a "shift in the way issues of fertility control are articulated and understood" (*Ibid.*). The way women are victimized and the significance of the conditions of vulnerability create categories "central to human rights activism and intervention" and define the "People who are identified as suffering a human rights violation" (*Ibid.*:160).

While it is true that there are a certain classifications of people that are more oppressed in society, it is the understanding that they are incapable of expressing or empowering themselves and thus need someone, which reinforces the stigma and their oppression. The depiction of refugees, homeless, starving and all images of masses of human suffering are said to mainly appeal to universal experiences of suffering in that they deny the kinds of particularities of culture, and experiences that make these people in fact people rather than "merely human".

The notion of feminism to portray that "women had the same capacity for rationality and moral action as did men and to claim for women the same rights as were ascribed to men" (Mullaly, 2006: xxix) can point to a liberal political theory that ascribed rights to human beings on the basis of their capacity to reason and the common humanity between men and women. However there is a contradiction and change from the feminist perspective, which defines itself in "opposition to universalism and the terms of Enlightenment philosophy, an indispensable tool in the pursuit of justice and equality", and accuses the discourse of being an "active enemy of women´s progress" (*Ibid.*). The critique further emphasizes the importance of difference, both between men and women and between women themselves – entrenched in sex, gender, class, and religion. Differences in modes of moral reasoning and life patterns require higher ethics of specificity than generalization, which seems to portray the abstractions of the human rights discourse.

Such discrimination caused by homogenization of women rather than acknowledging and embracing their differences, while challenging the "unitary category woman´", has evolved from the "theoretical advance of post-structuralism and from Black, Minority Ethnic and Third World women who have been ignored or rendered invisible by the false universalism that has underpinned much of liberal feminism" (Mullally, 2006: xxx). While Black feminists and critical race feminists have started "unmasking the particular woman", the process of unmasking has "required White women to recognize their own role and agency as oppressors, however unwitting" – while homogenizing the third-world woman. This woman is portrayed with no particular differentiation from any other simply due to the vast geographical location, with little or no regard to the influences she may be exposed to. The homogenization of women in the third world illustrates them, as one woman who is denied all agency and portrayed only as a victim, thus further reinforcing the social stigma and gap universalizing the human rights of women globally.

While this excludes the women from universalism, it is the same discourse which claims to "universal

validity and inclusion" that has "masked the unequal treatment of those who were 'silently excluded'" (Mullally: 2006: xxxii). It is further argued that the discourse of rights is "accused of pitching the individual against the community, the universal against the particular, the public against the private". While there is striving for unity, it is in this struggle that tensions and dichotomies arise which are said to be gendered and hierarchal. Women are thus largely constrained by patriarchal social relations which reduce their capacity for autonomy and "render them vulnerable and dependent" (Cohen and Kennedy, 2000: 306).

Progressions in the status of women and towards gender equality have and continue to spread quickly – evident through a number of conferences and events including attempts to protect women from the UN General Assembly (1979), Bangalore conference (1984), The Vienna (1993) UN Second International Conference on Human Rights, Bangkok (1994), Cairo (1994) UN Conference on Population and Development to the recent uprisings and women's presence in the protests of the Arab Spring. It is evident that from "1975 onwards women's groups challenged the male-owned and male-oriented world media industries" which emphasized the importance of the representation rather than misrepresentation of women in order to "counter patriarchy" (Cohen and Kennedy, 2000: 313).

In order to further understand the delicate relation between what is considered to be *universal* in terms of culture, norms and values and what is regarded as internal affairs, culture specificity or religious beliefs that may lead to the rejection of the universal aspect of these norms, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) will be analyzed for its call for equality, human rights and democracy and the debate it raised among the large number of countries who ratified this Convention, with certain reservations.

Due to the scope of the study, it is somewhat limited to the general reservations related to Shari'a and the reasons some Islamic countries felt obliged to restrict their acceptance and implementation of certain provisions of the Convention to the condition that they are compatible with the provisions of Islamic Law, something that many Western countries found difficult to accept. On the other hand, religious fundamentalists and patriarchal societies also fear any "real increase in women's freedom of choice and action" which would "undermine the foundations of tradition, religion, morality and (…) male control" (Cohen and Kennedy: 2000: 315). Since there is a misunderstanding on both parts, which polarizes the gap between the West and the Middle East and reinforces the vulnerability and alienation of women in the Middle East by misrepresenting them as different, voiceless and the

generalization of them being influenced by religious fanaticism, it is up to "local women's movements" which can "confront their own ways and on their own terms" (*Ibid.*).

The Charter of the United Nations, in its preamble, reaffirms "faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women". Article 1 of the Charter proclaims that one of the purposes of the UN is to achieve international cooperation in promoting and encouraging respect of human rights and the fundamental freedoms for all without distinction as to, inter alia, sex. The status of human rights, including the goal of equality between men and women is therefore a matter of ethics and became a contractual obligation of all governments and of the UN. Gender equality however still remains a debatable issue in the Islamic political and legal world.

In addition to the Charter, the International Bill of Human Rights extended the emphasis on human rights of women, as well as the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political rights, both attempted to translate the principles of the Universal Declaration of Human Rights into legally binding form.

These efforts were pursued by the Commission on the Status of Women (CSW) which was originally established in 1946 as a sub-commission of the Commission on Human Rights, and as a result of pressure exerted by women's rights activists. Between 1949 and 1959, the Commission elaborated the Convention on the Political Rights of Women (1952), the Convention on the Nationality of Married Women (1957), the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962), and the Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1965).

Despite these being major developments, they remained fragmented and failed to deal with discrimination against women in a comprehensive way. It is for this reason that the General Assembly of the UN requested the Economic and Social Council in 1963 to invite the CSW to prepare a draft declaration that would combine international standards in a single instrument, articulating the equal rights of men and women. Drafting of the Declaration began in 1965 and was adopted by the GA in 1967. In spite of the fact that this Declaration was only a statement of moral and political intent and had no contractual force as a binding treaty, the process of its negotiation was difficult and particularly

sensitive and controversial when the question of whether the declaration should call for the abolition of the customs and laws perpetuating discrimination was discussed.

In 1972, five years after the adoption of the Declaration and four years after the introduction of a voluntary reporting system, the CSW considered the possibility of preparing a binding treaty that would give normative force to the provisions of the declaration, and decided in 1974 to prepare a single, comprehensive and internationally binding instrument to eliminate discrimination against women. The Convention was adopted in 1979 and entered into force in 1981.

Today 187 out of 194 countries have ratified the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). Only 7 have not ratified including the USA, Iran, Somalia, Sudan and South Sudan. But differences remain among countries that ratified the Convention. This is clearly reflected in the interpretation of provisions, in the formulation of reservations and in the accession to the Optional Protocol, adopted in 2000, adding the option of allowing women to submit claims of violations to the Committee and creating an inquiry procedure. These differences reflect once more cultural perceptions and specificities, in addition to high importance to the voice of the women themselves.

The preamble and main provisions of the Convention: the Convention places itself within the UN instruments dealing with Human rights in general and discrimination against women in particular, starting with the Charter, the Universal declaration of Human Rights, other conventions, resolutions and recommendations adopted by the UN and the specialized agencies. It expresses concern that discrimination against women still exists and that countries are determined to adopt the measures required for the elimination of such discrimination.

Article 1 provides a comprehensive definition of discrimination against women in all fields.

In Article 2, the States Parties to the Convention agree to undertake measures for the elimination of discrimination in laws, policies and practices. In Article 3, they confirm that they "shall" take these measures in all fields in particular in the political, social, economic and cultural fields.

The following 14 Articles (4 to 17) enumerate the fields of action in a more specific way:

Article 4: Temporary special measures.

Article 5: Prejudices.

Article 6: Trafficking.

Article 7: Political and public life.

Article 8: International work.

Article 9: Nationality.

Article 10: Education.

Article 11: Employment.

Article 12: Health.

Article 13: Economic and social life.

Article 14: Rural women

Article 15: Equality before the law.

Article 16: Marriage and family.

Article 17 up to article 24, all deal with the Committee created for the purpose of considering the progress made in the implementation of the Convention, the selection of its members, their number, their moral standing and competence. In this context, it stresses the need to the representation of the different forms of civilizations and principle legal systems (Article 17).

Article 18 requests countries to submit reports on a regular basis on the measures they adopted to give effect to the provisions of the Convention. These reports may indicate factors and difficulties affecting the degree of fulfillment of obligations, and is a means of monitoring developments and violations.

While Article 19 refers to the Committee's rules of procedures, Article 20 covers its meeting schedule and Articles 21 and 22 the reporting mechanism.

The final Articles address the issue of the administration of the Convention: the signature, ratification entry into force, requests for revisions, reservations and dispute settlement. While allowing countries to present written reservations, it indicates that a reservation incompatible with the object and purpose of the present Convention shall not be permitted.

Article 29, in its first paragraph, offers firstly dispute settlement by arbitration or referral to the International Court of Justice in case a dispute is not settled by negotiation. Recognizing that this commitment may lead many countries not to ratify the Convention, paragraph 2 of the same article offers countries to declare that they do not consider themselves bound by the first paragraph. In this case, States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

It is thus apparent through the analysis of the Convention that the negotiations to draft this Convention were not easy. There was a broad agreement on the general principles and objectives. Beyond that, there was a need to adopt a gradual or incremental approach to have as wide participation as possible. Countries were invited to engage, to nominate experts to become members of the Committee, to present reports that they draft themselves. Content of these reports is not subject to investigations. Countries can make reservations as long as they are not in contradiction with the object and purpose of the Convention and they can join, or decide not to join the dispute settlement through arbitration and the ICJ.

Reviewing some of the reservations presented by countries and positions by other States Parties to these reservations will clarify the real challenges still facing international efforts to eliminate all forms of discrimination against women. In the South, due to poverty and undeniable oppression against women; women are subjected to lower levels of healthcare and education than men. It is argued that yearly, "around 500,000 women worldwide die from problems associated with pregnancy or childbirth" (Cohen and Kennedy, 2000: 317) and the average risk of deaths among women in the developing world is about "200 times greater than for women in North America or Europe" (Ibid.). This is due to misinformation and the socio-economic inequality gap – but it can be argued that the women's movement has largely spread through its global, universal call which has allowed communications, dialogue and encouraged grass-root local activism.

Chapter Two:

Human Rights and Cultural Diversity: Beyond Eurocentric and Western Perspectives

2.1 The Challenge of Universality

In order to assess the universality of human rights and the significance of cultural discourse, it is useful to understand various cultural perspectives. The usual narrative discourse on human rights is apparent to be imported from the West. The problematic universalism of human rights has come to be "challenged by critics who stress the Western, masculine, intolerant nature of this universalism" (Brown, 1997: 471). There are different kinds of rights, which include Claim rights (duties and responsibilities), Liberty rights (freedom, not being obligated), Power rights (empowering, right to vote), and Immunity rights. Unequal treatment is visible in natural law, where some "natural law theorists believed that Christians were under slightly different obligations from non-Christians" (*ibid*: 472), which is the basis of rights and the rhetoric of universal human rights. In reality we were looking at the "rougher world of medieval political practice" (*ibid*: 472), where a right was a "concession one extracted from a nominal superior, probably by main force" (*ibid*: 472).

The adoption in 1948 by the United Nations of the Universal Declaration of human rights (which saw the foundation of the human rights movement), was aiming to offer universal legitimacy to a "doctrine that is fundamentally Eurocentric in its construction" and origin (Mutua, 2002: 154). This is regarded to be its main weakness as it displays cultural arrogance and proclaims "the common standard of achievement for all peoples and nations". Human rights have certainly become one of the most significant and a "central norm of global civilization", but this does not "vindicate their universality". It can be seen as a "telling testament to the conceptual, cultural, economic, military, and philosophical domination of the European West over non European people and traditions" (*Ibid*.: 153).

The production of the document and the domination of the United Nations by the West meant that non-Western philosophies and traditions particularly those concerned with the "nature of man and the purposes for political society" were marginalized and underrepresented during the early formulation of human rights (Mutua: 2002: 154).

Charles Malik and Peng-chun Chang had an interesting role in drafting of the Universal Declaration - as non-Westerners who were "educated in the United States and were firmly rooted in the European intellectual tradition" (Mutua: 2002: 155). International human rights law falls within the "historical continuum of the European colonial project in which whites pose as the saviors of a benighted and savage non-European world" (*ibid.*: 155). Merely aiming to transform or export simply "revitalizes the international hierarchy of race and colour in which whites, who are privileged globally as a race, are the models and saviors of non-whites who are victims and savages" (*ibid.*).

Na'im states that the "tension inherent to the notion of the universality of human rights should be acknowledged and mediated rather than overlooked or suppressed" (Na'im, 2002: 35). From the African standpoint, the "colonial government wanted to minimize the "cultural" effects of economic changes because of an overriding fear of instability, and a similar stance - the view of change as disintegration (Mamdani, 2000: 21).

It is further stated that culture may have been a "defense for, justification of, and position for advantage in a field of conflict over resources, as well as being invoked as a metaphor for handling and resisting huge changes in ways of living" (Mamdani, 2000: 21). On a global level it is used as a tool for uniting the divided in "opposition to outsiders". The effect of the control of the state and class convey "differences in the rhetoric of human rights" which can be "located in economic base and power". Culture may be a scapegoat in the sense that the "rulers of many of the states of Africa and Asia have tried to push rights issues out of the realm of both state and society and into that of culture" (*ibid.*: 35).

In Geoffrey Robertson's 'Crimes Against Humanity', it is said that the treaties, conventions and conferences along with the charters of the League of Nations and the United Nations have made "all the provision for world peace that language can describe, but the failure to establish authoritative bodies to interpret and to enforce that language have turned the laws against war into a graveyard of good words" (Struett, 2008: 1).

There is evidence that there is "shortage of rules", which are too many and said to be "devised by delegates in the expensive comfort of Geneva hotels, later to be signed and ratified by states secure in the knowledge that should any question arise about their moaning or application, they will be judges in

their own cause" (Struett: 2008: 2).

From the differences between human rights theory and practice, and cultural diversity and global inequality, it is evident that the notions such as those of human rights and democracy need to be redefined. The challenge is said to be the "transformation of the present political communities into post-identity states, the de-territorialization of political power and the true universalization of the exercise of so-called human rights" which cannot remain "subject to exclusive identity filters that history has legitimized in the different nation-States" (Javier and Dunbar, 2007: 15).

The second generation rights encompass the right for everyone to an adequate standard of living for himself or herself and his/her family, including adequate food, clothing and housing, and to the continuous improvement of living conditions – which are illustrated in the Convention on Economic, Social and Cultural Rights (Brown, 1997). Furthermore, while everyone is entitled the right to be free from hunger, it should hence become a "positive duty to ensure an equitable distribution of world food supplies in relation to need" (*ibid*: 478). In this respect it is evident that the rights are "assuming goodwill" (*ibid*: 478) – misusing language in the creation of a right in vain - that cannot be achieved. It is clear that Economic and Social rights are not very compatible with the norms of existing international order.

Western democracy imposes an "alien test of legitimacy" on the given society, where Appadurai in *Modernity at Large: Cultural Dimensions of Globalization,* argues that validation can always reflect the values of the privileged (Appadurai, 1996). The international community is itself a Western, Universalist notion which assumes not only economic, political and social superiority, but also a moral superiority is assumed in the discussion, production of discourse and practice of human rights. Appadurai further notes that there is no "neutral language with which to discuss human rights" (*ibid.*).

The global discursive flow highlights the significance of cultural rights or group rights, as an enabling environment for cultural diversity, which are said to be a radicalization of liberal social theory which moves significantly beyond ideas of tolerance and recognition. The Right to Culture in the Universal Declaration of Human Rights requires legal, judicial and spatial autonomy. Appadurai further argues that the nature of cultural debate about what constitutes acceptable practice and what must change

depends on the economic degree and financial enfranchisement of ordinary people in many cultural communities

2.2 Orientalism and the Discourse of Culture

Edward Said explores the phenomenon of the cultural discourse and how it may shape and mobilize people's and country's adherence to human rights. Through the notion of Orientalism, Edward Said seeks to dismantle the stereotypes and the characteristics of one side of the world of the other, in this case the West of the East and the developing world. Edward Said's post-colonial theory of Orientalism allow us to analyze to what extent the discourse of the Occident and the Orient inaccurately frames the Middle East and embodies a colonialist and imperialist attitude which further widens the gap of inequality between what are known as the two worlds. Said describes Orientalism as meaning several things all of which are related and interdependent. It comes into play with discourse and the several contrasting polarities we have in our world today; the developed and developing worlds, the civilized and the barbaric and the rich and poor.

Orientalism is difficult to define under one category and "when all is said and done, Said's voice is perpetually in an act of beginning" (Varisco, 2007: 36). The play on words between Said's name and the verb 'to say' directs a discourse which "can be misconstrued as schizophrenic" (*Ibid.*). In saying it is an act of 'beginning', it suggests that the discourse is yet to be further developed and compared against other discourses and perspectives.

Edward Said's[1] background - biographical and political sides of it – denote his direction and discourse; in being directly affected, being a Palestinian, a Christian, derived his name from Western influence, and he was educated in top Ivy League schools. There is an apparent search for identity and culture relations in Said's life, portrayed through his fundamental views. He is described by Varisco as highly cultured, and at "home in Cairo, Paris, London, and New York alike, he incarnates the very ideal of the cosmopolitan intellectual that remains so central to the humanities self-image today" (Varisco, 2007:

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[1] Although the critique of Orientalism is his especially important cultural contribution, it was the critical interpretations of the works of Joseph Conrad, Jane Austen, Rudyard Kipling, William Butler Yeats, and other writers, that were the influential scholarship that established his intellectual reputation.

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Varisco further argues that if the Orient was "almost a European invention, it was at the same time a politicized representation that served the vested interests of imperial ambition and served up the colonized as the *they* who cannot represent themselves". It is a distinction between the 'decadent' East and the 'enlightened' West, and "underwrites ideological and military domination of the East by the West" (Varisco, 2007:40).

Said's discourse of the Occident and the Orient is evident in *Orientalism* (1978), an analysis of the cultural representations that are the bases of Orientalism, a term he redefined to mean, in general, the framework of how The West perceives and represents The East. Said's research and theories are based upon his knowledge of colonial literature, literary theory, and post-structuralist theory resulting in the main focus of his work being the question of how academics and practitioners frame the Middle East in a particular discourse.

In *Reading Orientalism: Said and Unsaid*, Varisco (2007) points to the fact that the concept of the Orient was, to a great extent, a 'European invention'. The framing of knowledge creates a truth; for example the "European or American representation of Islam and the geographic space that claims it is often called a kind of Orientalism" (*ibid.:* 31). The history between Christian Europe and Islamist East has created a textual discourse. Not only was the East an object of focus for the West on several levels; "material, political, aesthetic, and spiritual" (Holy land), but there was also an exchange and a relationship formed through "pilgrims, merchants, soldiers and tourists [who] came, saw, and occasionally conquered, more often in print than in reality". Historically, too, the Bible lands, of Jerusalem and Egypt were very influential in that "New Jerusalems, even new Cairos as far afield as Illinois, plotted and dotted the growth of Western frontiers" (*ibid.*:31).

The study of impact of western civilization on Muslim culture in the Near East may be problematic in the way it is presented and by whom. Firstly due to the notion of the West and Islam, a geographic situation and a religion – implying an inequality, and undermining other religions in the 'East', and secondly, due to the difference of wording, linking civilization to the West, and merely Muslim Culture in the East, which is only subject to one-sided analysis of the "impact" of one on the other.

Middle Eastern historians were "calling for an open-ended academic approach to the Orient that no longer focused on one large part of the globe as unique and homogeneous" (Varisco, 2007: 32. The perceptions in the West are misled if the history of the Arabs has mainly been written by historians who knew no Arabic and by Arabists who knew no history, emphasizing the significance of language in academia in discourse. In addition to this, Said also highlights strongly the notion of the circumstantial setting of discourse and each speaker's cultural background even when able to communicate in the same language (*Ibid.*).

The notion that texts of whole "cultures could be encycled pedantically from exotic texts alone" (Varisco, 2007: 33) was already a known criticism and Varisco highlights the fact that Said did not bring a ground-breaking approach to the table. Edward Lane's '*An Account of the Manners and Customs of the Modern Egyptians*' defines the Oriental Muslim as the "other" for a "literate Western audience". The existence of "absolute dualisms" for Said, is a phenomenon he places considerable weight upon. The polarity should be challenged by contrast or juxtaposition of different social and cultural constructs. In limiting cultural, social and political differences, it is said that Orientalism is now fully exposed "as a Western style for dominating, restructuring, and having authority over the Orient" (Said, 1983).

2.3 Cultural Difference, Violence and Inequalities

Despite vast global diversity which is evident in the world today on all levels, there exists a common universality between all humans which is represented in basic or natural rights. It is stated that it is the duty of all to ensure these rights and protect others against "ethnic persecution, genital mutilation, or toxic waste dumping" (Dean and Levi: 2003: 45). There is a need for a common understanding of human dignity and definitions of human suffering, but even from the origin of the idea of rights and its very distribution, is the perception that it was "written about in some parts of the world before it was in others" (*Ibid.*). It is, however, misleading to "infer that it was *thought* about in some parts of the world before others or that some people or peoples have a superior claim to it" (*Ibid)*.

The question of cultural authenticity comes to place at a time when the authority of national elites is being affected by market-based changes; it privileges an elite understanding of culture internally.

Mamdani further argues that the dignity of all cultures requires their constitutional protection - except when particular practices can be shown to cause harm to particular members of the community (Mamdani, 2000: 4).

The way by which the human rights normative framework deals with violence further conveys the difference between human rights practice and human rights principles. In order for a violation of human rights to become known, attention must be paid to people who "construct human rights cases" as they "translate documents into social situations and situations into human rights violations" (Goodale and Merry, 2007: 41). Through the construction of these cases their appeal is transformed in different ways to mobilize pressure - meaning that to a large extent, violence is defined by these "intermediaries in what it constitutes", and only some kinds of violence are perceived as human rights offenses (*ibid.*: 41).

When considering forms of violence such as "economic violence, environmental degradation or the violence of development", which are excluded from human rights offenses, it is apparent that whether or not a violation of human rights is dealt with as a violation depends to a large extent on how it is perceived and classified by law and society. If even the very act of physical injury or death is debatable depending on the "cultural assumption and account and perspectives as to how and why it occurred, whether it was justified (…)" the notion of a violation is relative (Goodale and Merry, 2007: 41). While the human rights discourse does not directly "homogenize legal - or, more broadly, normative practice", it does, however, transform the "terms of reference through which the legal mediates social, political and economic relations" (*ibid.*: 158). This is said to create new conditions in which social resistance may be organized in order to resist against "very old forms of inequality and oppression" (*ibid.*: 160).

Mutua calls for a "need to openly discuss the political agenda of the human rights movement" and argues that its "apoliticization" obscures its "true character and the cultural identity of the norms it seeks to universalize" (Mutua, 2002: 1). The intentions and origins of the movement are problematic and the author seeks to question the "official formulation of the corpus (of human rights) and the purposes they serve". He argues that human dignity may be protected by the "relationship between the state and the language of rights" if there is an "urgent revision" to redefine the evident "inelasticity

and cultural parochialism of the human rights corpus". In this way, the true meaning of the "ideals of difference and diversity" would be possible to be realized (*ibid*.: 2).

By exchanging differences – the same values expressed in different ways uncover commonalities between cultures. Mamdani's example of three women slapped in the face in Khartoum in Sudan, KwaZulu-Natal in South Africa and in Paris, France – portrays the differences in the "language of protest". The woman in Paris protests that her rights have been violated, the woman in Khartoum that her dignity has been violated, and the woman in KwaZulu-Natal that custom has been violated (Mamdani, 2000: 1). Even though each woman had a different reason for protesting, the key is that all three of the women protested. Cultural resources should be revisited from a more pluralistic and multi-cultural approach and mobilize positive action to reveal a common humanity.

Even in incidents when there is a common agreement of a violation of human rights, it is labeled and thus perceived differently. In addition to this, the role of the news and risk calculation of the general public; a "well publicized event - a terrorist attack, case of mad cow disease, an apparent concentration of leukemia in an area with unusually high levels of cellphone use - can lead people to believe that the risk is much greater than it really is" (Sunstein, 2005: 6), causing different levels of perceptions and reactions.

The norms of human rights continue to be perceived largely as "frozen and fixed principles whose content and cultural relevance is unquestionable" (Mutua, 2002:4) which does not cause positive results in the human rights movement. The norms must therefore constantly be revised and discussed. A common argument for the silencing of cultures is that some governments would "hide behind the veil of culture to perpetuate practices that are harmful to their populations" while Mutua argues that such "cynicism", should "not be confused with genuine attempts to bequeath cross-cultural legitimacy to a universal human rights corpus" (*ibid*.: 4).

Mutua argues that refusing dialogue and the "failure of most universalists (…) to engage positively in this debate, unnecessarily antagonizes Third World Cultural pluralists and lends itself to legitimate charges of cultural imperialism" (*ibid*.: 5). It is the main goal of international law that it "affirms the norm that no perpetrators of war crimes, crimes against humanity, or genocide should escape justice"

(Struett, 2008:178).

The ideal initiative for positive developments in human rights would be to "respect cultural pluralism as a basis for finding common universality on some issues" (Mutua, 2002: 8). Fredman accounts that "differences among groups does not imply that there are not overlapping experiences and they are always similar in some respects; and always potentially share some attributes, experiences and goals" (Fredman, 2001: 14).

Fredman (2001) further argues that if equality were to be reconstructed to combat racism, then it "must move beyond the individualism, symmetry and dichotomized nature of formal equality". There is a strong call for a "deep-seated social and institutional change" as the "ultimate key to a truly egalitarian future" which would thus allow equality to realize its position as an important ideal for "driving change" (*ibid.*: 44).

Furthermore, in "Identity and Violence: the Illusion of Destiny", Amartya Sen argues that discrimination is present even in countries with high levels of education and democracy such as Sweden, which provides evidence for claims for multiculturalism. In its very existence, it may "be a symptom of and a reaction to experiences of discrimination and degrading treatment" (Javier and Dunbar, 2007: 37). He argues that the two main critiques of multiculturalism are firstly the "fact that we treat other cultures differently" and secondly, that "multiculturalism and minority rights contradicts ideas of autonomy and common humanity which underpin human rights" (*ibid.*: 38). The idea of common humanity is that "all human beings are entitled to human rights" and there must at least be a "potential or hypothetical equal status between individuals" which allows a middle ground to be found (*ibid.*: 38,).

Also due to the inequities and biased representation of universality in the norms of human rights, there is a need for "genuine cross-contamination of cultures to create a new multicultural human rights corpus" (Mutua, 2002: 8). In this way it can "rethink and reorient its hierarchical, binary view of the world in which the European West leads the way and the rest of the globe follows in a structure that resembles a child-parent relationship" (*ibid.*: 9).

A perhaps more positive alternative approach to the discourse of human rights and the notions of

identity and diversity is to establish the procedures necessary to define what human rights are rather than to define "a priori what a human right is" (Javier and Dunbar, 2007: 48). Despite the fact that "commonality in human nature is limited to the ability to give accounts", we come to "realize what Amartya Sen has recently described as the 'illusion of unique identity' and the way by which it is "more divisive than the universe of plural and diverse classification that characterize the world in which we actually live" (*ibid.*: 48).

It is argued that "cultural pluralists are generally outsiders who see the universality or convergence of some human rights norms with certain non-Western norms" (Mutua, 2002: 42). The human rights corpus is seen by academics and policy makers as an "opportunity for the creation of a multicultural creation" of it. In its formulation in reality, however, even the non-Western thinkers present were educated in "Western-oriented school systems in the Third World". There seems to be a Eurocentric formulation of the human rights discourse and the "specific cultural and historical experiences of the West as the standard for all humanity" (*ibid.*: 64). It is argued that, in order to protect minorities, for example, it is "not culture but cultural discourse" (Javier and Dunbar,2007: 38) in international law which must be revisited. Pluralists are defined as "those who advocate a multicultural approach in the reconstruction of the entire edifice of human rights" (Mutua, 2002: 64), and both the community and the individual are important in society.

Santos argues that "comparisons among regions of the world system are not very enlightening, and may even be misleading as we lack accepted transregional criteria to assess differences and construct rankings" (Santos, 1995:263). Since there is a clear gap, cultural relativism is required in order to incorporate each country and culture, thus giving it importance and power to be valid and not merely a hopeless gap. When a culture understands a value as it stems and originates from their own mental rationale and schemas, they are more likely to respect it and self assess their progress or rank accordingly to their criteria.

It must be considered that there exist different perceptions of the world due to different histories, origins of truth and meaning, and ethical reasons. The perceptions are preconditioned by our preexisting conceptual categorization which means they cannot be made uniform. Cultural Relativism is said to have been invented to deal with "euro-centric and racist notions of progress" (Na'im, 1990:339), by embracing cultural difference rather than the process of homogenizing it. The moral

principles established are not self-evidently true – and they have no ground for having judgment on people. In this respect, Cultural relativism ensures the equal validity of diverse patterns of life and tolerance.

The critics of cultural relativism argue that it undermines the ability to condemn repressive practices in other countries that are sanctioned by the particular culture such as slavery, genocide, or female genital mutilation. While this is a valid point, it is said that there is a limit to tolerance as it is not complete. Each society has its own standards and role in the international community which has a say and may put pressure; "the more widely positions are challenged by others, the more likely (people) are to reconsider these positions" (Na'im, 1990).

It cannot be ignored that the human right of self-determination is paramount and must be respected by avoiding the imposition of external standards. Rather, if cultural legitimacy is not an end but a tool for the human rights process, then "cross-cultural support for human rights helps to gain legitimacy and efficacy for national as well as international efforts to protect and promote human rights" (Na'im, 1990: 345).

The reciprocity principle ensures equality for women, and the right to decide what law would apply to them, including ethnic, religious and even linguistic minorities. The notion of cultural legitimacy must thus be used in the formulation of current standards; the nature and content of traditional international law as the formal framework for international action. In addition to this, the formulation of current standards requires a clear understanding of the reality of national and international relations, the different levels of development which affect the capacity of participants to articulate an effective cultural perspective in the process of drafting and adopting human rights standards.

It is said that "few African and Asian states participated in the drafting of the Universal Declaration of Human Rights" (Na'im, 1990), with low participation of the few states that did participate (Liberia, Ethiopia and Egypt only African founding members of the UN before 1955). It can also be argued that the "small clique" representing African and Asian countries is "highly westernized" and far away from their national culture, with Chang Peng-Chung of China and Charles Habib Malik of Lebanon being the

only representatives of non-Western countries in the drafting committee. Na'im argues that prioritizing individual rights over collective rights is more indicative of the Western rather than the Chinese and Middle Eastern perspectives. It can be argued, however, that the fact that such rights are so immediately linked to a Western mentality, and a country as large and Communist as China, and of the whole of the Middle East – that it is impossible to represent the country with one individual. If even within Islam, there are many differences, vast generalizations must not be overlooked.

If there was an integrated cross cultural approach applied and more universal, cultural support for the declaration through cultural organizations and initiatives, it may have been more successful in framing cultural legitimacy as a significant factor. However, in terms of Human Rights in Islamic tradition for example, cultural 'traditions' also become somewhat problematic. There is selective citation of sources, misleading women in a patriarchal society. It may be best resolved by "developing literature sensitive to the need for cultural legitimacy" (Na'im, 1990), where both cultural values and values of the International Bill of Human Rights (equality and non-discrimination) are compared. The virtue of being human must always be a priority where religion is central and definite to many African societies.

The question of universalism of human rights in terms of cultural legitimacy is defined by Santos as *cosmopolitanism* being the ideal approach. The "mobilizing energy that can be generated to make the concept of human rights concrete and effective depends, in part, upon the cultural identification with the presuppositions that ground human rights as a moral claim" (Santos, 1995:269) and part of the global culture. Cultural relativity, according to Santos, means that "all cultures tend to define as universal the values that they consider ultimate". To further challenge the notion of universality, he argues that the question itself of the universality of human rights is in itself a "Western cultural question" (*Ibid.*). The success of the cultural relativism or cosmopolitanism is possible through cross-cultural dialogues to "share, reject, appropriate or modify" the standpoint by political and social power relations among the different countries involved" to create a "multicultural correspondent of single-culture universality" (*Ibid*).

Michael F. Brown in 'Who Owns Native Culture?' argues that cultural privacy is said to "flirt with contradiction" and that the "salient features of culture are, by definition, shared and therefore public" (Brown, 2003: 28). Despite the collectivity of culture, it does not directly imply that "its elements are

uniformly distributed" and information is directed differently. This creates the many paradoxical visions of culture "as shared yet differentiated, as segmented, yet intrinsically free-flowing, as something that exists in itself which is also defined by opposition" (*ibid.*: 29).

It is culture that can shape or constrain people´s actions and commitments and provide reason for action and inaction. Santos states that culture is where structure and agency meet. With regards to the world capitalist economy, it is described as "structurally unjust" and he articulates that "people are not poor, they are impoverished they do not starve, they are starved; they are not marginal, they are marginalized; they are not victims, they are victimized" (Santos, 1995:291). The impoverished, the starved, the marginalized and the victimized people are not by nature in this state, but this is inflicted upon them due to the world system.

2.4 Human Rights as a Civilizing Mission

Evident today, the global discourse is realistically practiced in different, specific and local cultural contexts - its origins and production are described to be "exported from its sites of production in the chambers and committee rooms of Manhattan and Geneva to a non-governmental office in shanty town in Mumbai" (Goodale and Merry, 2007: 357). This represents the differences and paradoxes of human rights talk including the evident tension present between "the universalizing of rights within a Western individualist framework [...] and the need to make rights meaningful to local actors who may have very little experience of either liberal democracy or the rule of law" (*ibid.*: 358).

As the grand narrative of human rights is argued to be hypocritical in that it is located within the historical continuum of Eurocentrism as a "civilizing mission and therefore as an attack on non-European cultures, it is critical to note that it were European and not non-European atrocities that gave rise to it" (Mutua: 2002:15). With regard to atrocities, aside from colonialism, Mutua specifically mentions Adolf Hitler and describes him to be a "white European (who) was the personification of evil" (*ibid.*:15) and the Nazi regime was "a white European government, was the embodiment of barbarians" (*Ibid.*).

Since it be said that from its very origins, human rights were "born as an Euro-American concept, which was then to be exported to the less civilized, backward peoples of the Western world, as they became civilized and were admitted to the community of nation states" (Goodale and Merry, 2007: 276).This conveys the position of international law until World War Two despite the effect and influences are still present in the discourse.

The prosecution of such atrocities, and thus the representation of the human rights movement by the Nuremberg Charter (also argued to be hypocritical) and the London Agreement, it is nevertheless significant. The human rights movement which is said to have grown out of the "horrors of the West" and with the purpose to "curb European savageries such as the Holocaust, the abuses of Soviet bloc communism and the denials of speech and other expressive rights in a number of Western countries" (Mutua, 2002: 18). He further describes this as "a deep-seated sense of European Western global predestination" also evident in their dominant role in preserving global order in the United nations since 1945 (*ibid.*: 18).

With regards to the United Nations there is a need for examining the importance of its agenda and the reality of the "universalization of principles and norms that are European in identity". It is evident that one of the main foci of human rights law has been on "those rights that strengthen, legitimize, and export the liberal democratic state to non-Western societies" (Mutua, 2002: 19). It is evident, therefore, that despite the fact that the human rights movement is said to have risen in Europe with the supposed purpose of "containing European savagery", as Mutua argues, there is today a "civilizing crusade aimed primarily at the Third World" (*Ibid.*).

2.5 Identity Formation and Disorientation

In *Making Nations, Creating Strangers,* concerning civil order and dilemmas of democracy, it is argued that there are three critical identities in Africa which "frame much of political agency": nationality, ethnicity and citizenship (Dorman, Daniel and Paul: 2007: 241).The notion of nationality can be argued to largely relate to religion. It is evident in the Arab, and African world that national holidays favor Christian festivals such as Christmas and Muslim festivals such as Eid El Fitr - which are both labeled as

imported festivals. This leaves the "indigenous religions at best ethnic rather than national occasions". It is argued by Young that some of the African countries can "invoke a historical narrative extending beyond the colonial partition" (*Ibid*.).

Despite this, it is undeniable that the colonization process has clearly "deployed racist dogma, religious penetration, military force, and commerce to subject Africa to Europe" (Mutua, 2002: 114). Monotheistic religions are traditionally at the top of the hierarchy, "while polytheism and animism, the terms used to describe African religions, dwell at the bottom of the evolutionary process" (*ibid.*: 115). The gradual consolidation of African nationalism however illustrates an important development in the post-independence period and after an era of so called "weakened stateness" (Dorman, Daniel and Paul, 2007: 261).

In non-secular, traditional societies in the majority of the developing world, "such as those in Africa, where religion is woven into virtually every aspect of life, its delegitimization can eventually lead to the collapse of social norms and cultural identities" (Mutua, 2002: 81). Due to the centrality of religion in the construction of social reality, the attack on religious freedom of Africans is said to be "on the one hand, a repudiation of the humanity of African culture and, on the other, a denial of the essence of humanity of the African people themselves" (*ibid.*: 113). The perception of extremist views is a lead cause for demonization of the other, alienation, and violence. Mutua argues that the "primary source of violence in Sudan or Nigeria has been interreligious: between Muslims and Christians" regarding the Arabization and Islamisation that spread by force.

Naming it religious evolution further allows the missionary to "believe superiority of his faith - the difference between Christianity or Islam and African religions is that they are communal and non-universalist (...) they do not seek to convert or remake the "other" in their image" (Mutua, 2002: 115). In the novel Things Fall Apart, Nigerian writer Chinua Achebe tells the story of this civilizational clash and the simultaneous deconstruction and reconstruction of African identity in a way that conveys the power of education to "transform social reality". This is said to have distorted and dislocated the African worldview in its entirety (*ibid.*: 117).

The identity must have been shaken if not somewhat effaced when African religious beliefs were

delegitimized and had the legitimation process of the new system at the political and social levels leaving a permanent effect on the reconstruction of the African identity. On the other hand, despite their limitations and history, Young (Dorman, Daniel and Paul, 2007:262) argues that "African nationalisms have evolved well beyond their roots in anti-colonial revolt". It can be further argued that the creative self-assertion of the "African subject" and role of ethnicity deepened with the effects of colonialism.

2.6 The Reality of Religion and Human Rights

Strong religious influence can be a means for the successful awareness and promotion of human rights. In doing so, religion becomes not merely a state apparatus, which discriminates against women and minorities and commits human rights violations in the name of religion.

Santos questions the secularization of human rights, whether it is "inherently a good thing?" which is usually known to be a development or an achievement, and whether religion may have a specific contribution to social emancipation and the right to religious freedom, which, as he argues, is "only possible in a world free of religion". The modern, Western reflection of religion is, as he describes it, "a globalized localism", where abandoning religion seems to be the solution globally, due to the strong economic, political and cultural power of its "promoter" (Santos, 2009).

In terms of Islam, extremist views that define the identity are usually directed towards producing feelings of rejection and dislike of the 'other'. Santos describes the dichotomy of being Western and anti-Western, Islamic and Anti-Islam, and questions "what does it mean to be anti-western? Does it mean the rejection of western modernity as a cultural project or the rejection of colonialism and capitalism?" (Santos, 2009). He refers to the example of the Muslim Brotherhood in Egypt, which "is viewed and views itself as anti-western", which is contradicting in the sense of its economic relations with financial affairs and capitalism. An example is such an Islamic organization in Egypt, Algeria, Lebanon and Palestine participating in and sometimes winning electoral processes framed in western-based conceptions of liberal democracy; which is contradicting (Santos, 2009).

Islam and Muslim people have been highly associated with terror since the terrorist attacks of 9/11

and the "war on terror" along with all that followed it regarding the news and media framing. Islam has largely been associated with terrorism, and this does not focus on a specific group or individuals as it should but instead encompasses with it the whole of the Arab world, or the Middle East and its entire people. Santos states that the 'power of revelationist Islam (…) is highly amplified by its visibility in the western media and their obsession with the "war on terror"' (Santos, 2009).

In addition to this, Santos argues that the gap and difference "among rival principles reveals both socio-economic injustice and cognitive injustice", where numerable inequalities are due to promises that are never met and at the same time due to "many inequalities and discriminations that are not considered violations of the human rights or are silenced by the dominant discourses and practices of human rights" (Santos, 2009). In finding a common ground of intercultural understanding and dialogue in the establishment of the understanding and respect of human dignity, Islamic law and Shari'a would not pose a question of Islam or human rights, but rather to better understand Shari'a and thus reveal common values which do not contradict it. The choice is said by Na'im (2006: 791) to be "not only an offensive violation of freedom of religion or belief, but will also certainly result in the rejection of the human rights paradigm itself by most Muslims".

In discussing the Arab world and the Muslim world, there is another problematic factor regarding discrimination and unjust human suffering: the presence of religious and political minorities, concerning "Christian Arabs and Palestinians" which are largely overlooked. While there are usually laws protecting the rights of such minorities, it is especially problematic when the problem arises from the lack of laws or regard to these peoples. This alienates them from their own countries and regions, and at the same time somewhat eliminates their importance in the international community where they are to a large extent covered by the dominating rule and media coverage.

The framing of human rights violations and suffering illustrates the manipulation, and the *neutralization,* which results from the "normalized discourse (Foucault) of the organizations for the defense of human rights, its strong statistical component reducing to the anonymity of figures of the horror of human degradation and unjust suffering" (Santos, 2009). The trivialisation of even one human life, or of a human rights violation, largely occurs due to the discourse that has continuously allowed such belittling of the human, and his/her suffering.

Santos notes that he makes this observations under the assumption that "all religions have, in principle, the same potential to develop progressive, liberationist versions of theologies, capable of inserting themselves in counter-hegemonic struggles against neoliberal globalization" and strongly supports his point through the World Social Forum where he witnessed the presence of activists in social struggles for "socio-economic, historical, sexual, racial, cultural and post-colonial justice basing their activism and their claims on Christian, Islamic, Judaic, Hindu, Buddhist, Indigenous religious beliefs and spiritualities" (Santos, 2009). The presence of a clear connection provides hope for positive change without necessarily a secular uniform and hegemonic global government - despite the connection being difficult to establish.

More solid evidence of a distinct connection which conveys the possibility for positive social action is that "the reasons why economic, social, political, and cultural conditions prevailing in the world are today particularly effective in preventing the emergence of liberation theologies and in promoting the emergence of conservative or reactionary ones" (Santos, 2009) which can be utilized and embraced, rather than used in an alienating manner which supports mass human suffering and violations of rights.

As Jameson argued, in the case of developing third world countries, it seems that also old traditions have died out and are no longer prevalent and only "a religious fundamentalism seems to have the strength and the will to resist Americanization" (Jameson, 1998: 67). We cannot only look at Europe when looking at Globalization and democracy. In Muslim states, globalization cannot be blocked out as it is the source of economic revenue and opportunities. It is also to a large extent the window or the key to the rest of the world, the developed world in particular. We are faced with an application of both Western phenomena, norms, to the rest of the world.

2.7 The Dehumanization of the Other in Culture, Identity and Human Rights

National culture is similar to cultural cosmopolitanism, in the sense that it is a "cultural project", whereas cultural cosmopolitanism is "better adapted and suited, so some globalists argue, to our regional and global age" (Held and McGrew, 2007: 41). It is also an opposition to fundamentalism which is a growing source of "global insecurity and violence, from the resurgence of geopolitics to

transnational terrorism" (*ibid.*: 42).

Culture, Orientalism, globalization and inequality seem to have a dual, and yet conflicting relationship which is unclear – where "the economic (is) rendered cultural and the cultural rendered economic" (Jameson: 1998: 70). Jameson further argues that the distinction between the economic and cultural is ambiguous; "the economic itself gradually becomes cultural, all the while the cultural gradually becomes economic" (*Ibid*.). It seems that even what is cultural has become materialized, commodified, and the consumerist, capitalist mentality materializes what is culture and transforms it, frames it, and redefines it. Khaled argues that

> "with the start of European colonization the Europeans came in contact with the lesser developed countries of the east. They found their civilization and culture very exotic, and established the science of Orientalism, which was the study of the orientals or the people from these exotic civilizations" (Khaled, 1994).

What is different from the standardised norms, is then labeled as exotic from that perspective.

Said states that "no one today is purely one thing" and that labels, identity and imperialism are consolidated in the mixture of cultures and identities on a global scale (Said, 1993). Said concludes that there exist continuities of "long traditions, sustained habitations, national languages, and cultural geographies, but there seems no reason except fear and prejudice to keep insisting on their separation and distinctiveness, as if that was all human life was about" (Said, 1993). Mutua further states that both religions, Islam and Christianity, were imposed on Africa and entered "not as guests but as masters" (Mutua, 2002: 108). The force was driven by the conviction of "their own innate superiority", in contrast to what they labeled "barbaric" (*ibid.*: 108). The practice of "colonial Christian advocacy constructed a violation of the fundamental freedoms of Africans" (*ibid.*: 109). It is also true that the indigenous depend on collective privacy for the successful completion of important cultural activities.

The moral equivalency of cultures promotes the need for no culture to be considered superior even if some "may be more technologically advanced" (Mutua, 2002: 109). Instead of the history of colonialism and invasions to ´civilize`, there must begin to be a human rights movement which

encourages the "cross-breeding of cultures and tolerance for diversity". Positive efforts and goals which directed towards diversity and are against homogenization and the imposition of uniformity would support forms of advocacy that protect human rights and help eliminate legitimated abusive order.

It is stated that "the free exchange of values and a voluntary commingling" was impossible due to the violent arrival of Christianity in Africa and towards Africa's indigenous traditions (Mutua, 2002: 110). If local cultures were defined as "demonic", any form of so-called progress, culture and even humanity was identified entirely in Islamic or Christian terms and never with reference to indigenous traditions. In this sense, they were unable to identify with their own beliefs and were in fact "robbed of their humanity" (*ibid.*: 110,). The effects of religious proselytization during the era of colonialism are most likely to be irreversible, when the West "actively demonize, systematically discredit, and forcibly destroy" the other (*ibid.*: 110).

It can be useful to find one common cross-cultural principle shared by all the major cultural traditions which if "construed in an enlightened manner, may be capable of sustaining universal standards of Human rights" (Santos, 1995). The concept of reciprocity is important as An-Na'im states in terms of encompassing all human beings regardless of gender, religion, race or language which involves the informed construction for understanding other cultural and religious traditions. The earlier message of Mecca as the eternal and fundamental message of Islam is said to emphasize the inherent dignity of all human beings, regardless of gender, religious belief or race, which suggests that, in a religious framework, it is easier to generate human rights than in a foreign secular perspective.

This history of colonial population's acts as a barrier today for equal, cross-cultural dialogue in what Santos refers as being the "new universality of cosmopolitanism", rather than the monument of human rights of the Western civilization which is conveyed through its discourse.

Chapter Three
<u>Women's Rights in the Arab Context</u>

3.1 Islamic Culture and Politics

The heavy weight of the impact on and the relationship of religion and human rights in the developing world is largely debated, and controversial and surely worthy of such recognition. Not only does the fact that world inequality may be distinguished by characteristics of countries that are considered developed and developing - with regards to human rights and democracy, but also a clear pattern is drawn when considering the differences in the attachment of religion to identity, culture, society and the state. It is important to note a distinction between the global and the universal where the "first refers to the structural mapping of the world whereas the latter is restricted to norms and values" (Tibi: 2005: 8). Moreover, the significance of the distinction between the global and the universal processes is further emphasized in that the "progress in globalization is not matched by a simultaneous universalization" (*ibid.*: 19). There is a fundamental gap which creates "simultaneity of structural globalization and cultural fragmentation" (*ibid.*: 20), where the two do not evenly balance each other or evolve together. This, according to Tibi, is one of the most fundamental arguments.

Michael Foucault, in Religion and Culture, with regards to religious deviations, talks about the notion of "gestures of separation" which are said to be a coherent series of gestures whose function is to define limits and at the same time, "open out a space whose transgression is always possible" (Foucault, 1999: 50). It is this space which classifies, measures, groups and if considered as a "coherent whole, is the condition of possibility and historical appearance" (*ibid.*: 50). He further states that the "modern consciousness tends to order (…) the irregular, the deviant, the unreasonable, the illicit and also the criminal", which, through a rational and ideological understanding of the world, becomes legitimated by law, human rights and last but not least, religion.

While religion is until today most present in the societies of the developing world; Islam stands out most in the region being not only a world religion but also the "basis of a world civilization which was once very powerful" – and continues to be prominent until modern day (Tibi, 2001: 1). Geographically, it is diversely spread and consists of a diversity of "local cultures" – despite a strong unity on a

"civilizational level". For the purpose of clarification, it is important to clearly distinguish the difference between Islam and political Islam which should not be confused. Islam is the religion in its essence, whereas the politicization of Islam results in the "ideology of Islamism" (Tibi: 2001: 1). Religion is based under the assumption of a belief in a divine authority, which is translated differently in the concepts of Islam in reality and political and cultural society. According to the "orthodox Islamic conception, the revelation of the Koran to the Prophet Mohammed [...] is the ultimate truth, immutable, universally valid for the whole of humanity regardless of time and space" (*ibid.*: 29). If validity is considered to be continuous and truth to be absolute, there is an inherent problem in the perception of Islamic values and the human rights (or lack thereof) legitimated by Islamic Shari'a law.

The politicization of Islam consists of the Umma of Islamic tribes, the Shari'a Islamic legal system, all present in a dawla Islamiyya (Islamic state) which connects Islam and culture and politics and is based on the believe that the "nizam Islami (Islamic system) lies at the heart of Islam" (Tibi: 2001: 2). This thus portrays the significance of culture and cultural discourse as the substance of political Islam rather than it being the "religion of Islam itself". Tibi further argues that the use of cultural discourse "for political ends is among the salient features of Islamism" and that Islamism has proven to display "defensive cultural attitudes in pursuit of self-assertion" (*ibid.*: 2).

Tibi illustrates the connection that Islam has between culture and politics as a "pendulum" balancing the relationship which is said to be a "key issue for understanding contemporary Islam" (Tibi: 2001: 7). Identity is strengthened this way which conveys that the politicization of Islam, and Islamism, is itself an expression of a "defensive culture" and not "merely an expression of a political phenomenon" (*ibid.*: 2). The culture is based on the politicization of Islamic values and ideology which enforces misconceptions of Islam and is further reinforced by the persistent "spread of that cliché that political Islam is nothing other than a variety of terrorism" (*ibid.*: 7). This negatively affects the situation of human rights in the developing Arab and Asian world.

Great philosophers with influence on the topic such as Farabi and Ibn Khaldun both addressed the question of an "Islamic polity" which affirms that the trends and crisis of modernity is not a new phenomenon (Goodman, 1999: 5). The spread of Islam was at a time where it was to assert itself by defying what was already in existence before it. While Muslim "thinkers and scientists [...] [were] most often writing in Arabic [they] brought to the West a new knowledge of philosophy, mathematics,

astronomy, and medicine" (*ibid.*: 4). Through an educated infiltration in society, Islamism was able to establish itself on a wide scale level and continues to grow until today. Goodman argues, however, that there is "contention […] over just what it is that modernity legitimately demands – and also over the authentic content of Islam" (*ibid.*: 4).

The notion of Allah, meaning one God, is said to have the "same force that English speakers assign by capitalizing when the God of monotheism is meant and not some mere object of veneration" (Goodman, 1999: 6). Despite differences of belief, language and culture, a common "monotheistic sense of life and the world" added interest in the rapid development of translation of Arabic texts on the "ancient philosophical, scientific, mathematical, geographical, medical, and even historical" (*ibid.*: 6). Conquest cannot be ignored for playing a significant role in the power of that spirit, but Goodman argues that it was not only conquest, but conversion too, and most surprisingly, "conversation". There was a dialogue due to the mixed dichotomy that the "conquerors were in some respect the conquered", and converts did not forget what they had known overnight so the "converts were in some ways the converters" (*ibid.*: 6).

An assumed level of pride is said to be evident until today amongst "Muslims in general and Arabs in particular" when looking back at their history. Foreign domination is a common destination of blame for the "fading of the past" which helped to justify their conquests in relation or comparison to that of the other. As if to say, "*our* conquests were great, even godly achievements, *theirs* were brutal, godless acts of aggression" (Goodman, 1999: 7). In Islamic Humanism, Goodman argues that there are "destructive dynamics found in every culture" where fear and identity formation, by rivaling the "other", project "racial persecution and religious violence" (*ibid.*: 3). The use of conquest in the name of God it is more legitimate to them and distinguishes one culture from another. It is fairly argued that "history reveals more than enough brutality and corruption of motives, more than enough sublimation of world aims into sacral crimes, more than enough cruelty, ignorance, and exploitation, to be shared" (*ibid.*: 7). Pride is legitimated in the sense of a successful battle won, and being in a higher position due to deity and God, and establishing themselves in relation to the other was the basis for identity formation.

Religion plays a significant role in the projection of bigotry, which is said to be more likely to have more than one "single source". Hatred of the alien other causes widespread ideology and

characterizations where we have "assigned the rime and ugliness to those others who are now, ironically, expected to admire us" (Goodman, 1999: 3). Tibi views the foundation of political Islam as a "response to cultural modernity as much as it is a response to the realities of Western hegemony" (Tibi: 2001: 3) where it is reversing the challenge in "rhetorically claiming Islamic superiority" (*Ibid*).

This is further supported by Foucault's notion of differentiation, in that what "consciousness finds foreign; it gives the status of exclusion, when it is necessary to judge, and inclusion when it is a question of explaining" (Foucault: 1999: 50). This forms an "ensemble of fundamental dichotomies, which, in our culture, lies out on both sides of the limit the conforming and the deviant" and is justified by what appears to be a sound basis (*ibid.*: 50).

Since the work of Foucault is translated into various different languages including Japanese, he was asked whether its meaning remains the same or if it has changed. Foucault affirms that "from the moment when he writes he is no longer the owner of what he says, except in a legal sense" (Foucault,1999: 111). How a work or ideology is interpreted is constantly changing, as a continuous discourse. Thus, the original scriptures on which modern religion bases itself must be understood to be open to various interpretations and understandings. Realistically, they are usually taken to be set in stone, particularly in the developing world where religion is most significant in people's lives and means of perceiving the world.

Considering the phenomenon of religion and its grand historical narrative, with regards to the West and the East, it is evident that

> "every Western historian knows that between classical antiquity and the modern age, the Arabs – Muslim thinkers and scientists, in fact of many backgrounds but most often writing in Arabic – brought to the West a new knowledge of philosophy, mathematics, astronomy and medicine" (Goodman, 1999: 4).

There is an underlying problem with the fact that the religion is considered to be a "universal declaration of human liberation on earth from bondage to other men or to human desires" (Goodman, 1999: 15) – and "yet the faithful are qualified to exercise God's sovereignty over their fellow humans" (*ibid.*: 15). Displaying many "epochs of aggressive militancy" Islam does not "universally see itself as engaged in a struggle for world domination" (*ibid.*: 15).

Cantwell Smith argues that the "fundamental malaise of Islam is a sense that something has gone wrong with Islamic history" (Goodman, 1999: 20). The presence of American troops in Arabia is argued to have exposed the "Saudi monarchy as unfit defenders of the holy places and unworthy beneficiaries of oil wealth" and also to have "exposed the United States as an invader, thus a rightful target of jihad" (*ibid.*: 21).

Oral tradition is apt to change with "history and cultural location" (Tibi, 2001: 33). It is argued that the power of religious symbols is so strong that "by means of appropriate human actions", can "shape reality" (*ibid.*: 36,). Religious belief is not of the belief itself, visible in tangible every-day situations but rather in an acceptance of higher authority which is translated through cultural and religious symbols and their perceived meanings.

It is important to recognize that even within the religion of Islam there exists great cultural diversity. Klausen (2005: 57) argues that this is forgotten in the case of Islamophobia of immigrants in European societies, where Islam and Muslims are generally feared based on a bias which fosters "discrimination in employment and schooling, hate crimes, mischaracterization in the media and in everyday life…" creating problems for Muslims and alienation from fellow citizens and members of society. The presence of xenophobic political parties and media framing of the news creates a strong prejudice of a "general population on the basis of the actions of extremists" (*Ibid.*).

In his analysis, Tibi depicts Islam and Islamic practice in society as a cultural system - in that it is a "system of cultural systems with which Muslims perceive reality and on which they base their worldview" (Tibi, 2001: 20). He also states that a cultural system, in this particular case, the cultural system of Islam, is "created in conjunction with a process of social production of meaning" (*ibid.*: 21).

In order to cope with change, culture must be adjusted, revisited and modified if it is constantly changing. Positive action for the protection of human rights are more difficultly achieved if the cultural repertoires that Islam produces are not mobilizing action but rather stopping it. Tibi illustrates that with the politicized Islamic revivalism it is perhaps not reaching a cultural innovation due to dependence on re-traditionalization, and a "self-glorification and idealization of the past as nostalgia" which is said to be an "integral part of revivalist political Islam" (Tibi, 2001: 81).

Local Islamic cultures are at risk in a dichotomy where the Muslim people are divided between two extremes, one the Muslims that are said to be "over-Westernized elite" and the other which

"predominates […] is that of politicized Islamic revitalism", and in the latter case, any problem that would arise is believed to be due to a "deviation from the norms of the traditional culture" (*Ibid.*).

Tibi states that the politicization of Islam with regards to both "religion and culture" functions as a system of meaning and is evident on "three levels: first, globalization, second, a defensive-cultural response to an external exposure, and third, fundamentalism as a response to cultural and secular modernity" (Tibi, 2001: 86). In its defensive culture it is a phenomenon which is based upon a polarized opposition as the fundamental basis of identity. Tibi (*ibid.*: 99) illustrates the politicization of Islam as the result of the already "existing global disparities that give rise to Muslim resentments" (*Ibid.*).

Development is largely linked to Westernization, and secularism just like Islam is largely misunderstood due to a lack of exchange, knowledge, and initiative to learn. Tibi argues that with regards to "European social history, it is possible to point out that the secularization of Christianity resulting from the development of cultural modernity did not contribute to the abolition of religion" (Tibi: 2001:112-113). Rather than depicting the other as an evil force or part of a conspiracy, the notion of learning and possible identification for Muslims with the West and vice versa would have been more productive. It is a reality that "most Muslim societies are, to varying degrees, underdeveloped" and that in this very context, the "correspondence between the sacred and the political seems to be resilient" which results in framing the concepts of development, and in particular of secularization, as Westernization (*ibid.*: 113).

Tibi claims that "reason-based civilizations do not clash" – and that the reason behind Muslims and Christians fighting jihad and crusades wars was due to resorting to "politicized religion". The importance of "rationality and secular tolerance" are said to be the "foremost bridges between civilizations" to overcome to "frontiers" (Tibi, 2001:115) which are inevitably created by politicized religions and hatred of the other.

The misinformed hatred of the other is driven by fear of Islam due to confusion with Islamism and vast generalizations from the West without an attempt to completely understand local cultures in the Arab and Asian world better and see their vast diversity. It is also, on the other hand, caused by the politicization of Islam in that it promotes anti-Western "neo-absolutism in the guise of religious fundamentalism" (Tibi, 2001: 143).

3.2 El-Karama and the MENA region

It is evident that some women are able to organize themselves to mobilize Islam in a way which protects and promotes positive awareness and action towards women's rights and thus human rights and democracy. Among the active organizations defending women against oppression is an association called "El-Karama", the Arabic word translating: "dignity" which was founded by Hibaaq Osman and is located With their main slogan being: "Democracy without women is hypocrisy", it is clearly a call for advancing the rights of women as well as their political participation and general security in the Arab world.

It is said that "In addressing violence against women and its causes and consequences", the tools and campaigns of El-Karama aim for reforms at the national, regional, and international levels. Among other main objectives, El-Karama also seeks to "activate gender equality and human rights mechanisms to implement global standards and conventions on equal human rights for all" (El-Karama.org). Functioning through five main methods, it successfully targets a wide range of people in society in order to create a calculated and effective impact.

Through 1) advocacy; "information, solutions, and stories that are compelling, engaging, and informative in mobilizing community leaders, media, lawyers, teachers, and other key stakeholders to advance women's rights, fight for their security and protection, and combat negative gender and violence stereotypes[...]". Following is 2) Lobbying, and 3) education where the organization "works with partners to build their capacity to implement programs and campaigns effectively, including trainings and seminars on strategic communications, writing of the constitution, research, writing and submission of shadow reports (e.g. CEDAW), " in addition to targeting specific groups and creating a dialogue which questions stereotypes and preconceptions. The final two methods are 4) raising awareness and 5) research and analysis.

El-Karama is said to function

"in the belief that to bring an end to violence against women, it is necessary to identify the ways it affects and is affected by economics, law, health, media, education, and art/culture—the things that matter most in people's daily lives—and to design strategies to combat it through each of these areas".

As explored through the analysis of existing cultural repertoires which flow into societies through media, education and traditional/ religious influences that may threaten human rights, democratic governance and development, it can be agreed that the very same mechanisms may be reversed or mobilized in order to firstly for people to recognize their human rights, secondly to organize to protect them, and finally to realize them as the norm within society. Non-governmental organizations and the strengthening of a civil society are a strong method to reach the people from a bottom-up approach, which not only implies the full understanding and will of society – which is the essence of democracy – but also the ability to counteract existing misconceptions and misguided interests.

With regards to the reservations to the convention (CEDAW), it is firstly evident that several countries decided to make use of the option offered in paragraph 2 of Article 29 not to be bound by paragraph 1 of the same Article regarding dispute settlement. Secondly, some of these countries, in addition to others, expressed reservations on additional provisions of the Convention. Reservations on two particular articles, 2 and 16, are still subject of heated debate in the Committee and among activists at the national and regional levels.

Several Arab and Muslim countries made explicit reservations as to these two articles insofar as it they are incompatible with the provisions of Islamic Sharia. Among these countries: Bahrain, Egypt, Libya, Iraq, Morocco and United Arab Emirates. Israel, in a reservation on Article 16, referred to the laws of personal status binding on the several religious communities in Israel which do not confirm with the provisions of that article.

The number and extent of reservations, in addition to a number of interpretative declarations to the Convention, have raised concern among Committee members and State Parties. Some countries, such as Austria, Denmark, France and Germany have put on record their objections to the general aspect of reservations based on Islamic Sharia by Saudi Arabia and other countries and considered them inadmissible.

The Committee itself adopted a Statement on reservations to the Convention (A/53/38/Rev1) in which it stressed that Articles 2 and 16 are considered to be core provisions of the Convention. It added that "Neither traditional, religious, cultural practice nor incompatible domestic laws and policies can justify violations of the Convention". Noting that many countries expressing reservations "hold a

patriarchal belief in the structure of a family which places a father, husband or son in a favourable position", noting also the "fundamentalist" and "other extremist views" that led to the deterioration of women's place in the family, it called for the re-examination of State's self-imposed limitations to full compliance with all the principles of the Convention. In this way, taking into account that modern society depends for its economic advance and for the good of the community on involving all adults equally regardless of gender which requires discouraging extremist ideas.

This debate on what should come first: eliminating all forms of discrimination against women or interpretations of Islamic Shari'a is echoed in several Arab and Islamic societies where NGOs and Human right activists are becoming more confident and receiving broader support in their strive to defend their rights, including the right of a women to drive a car in Saudi Arabia, the right of a women to laugh in public in Turkey (as a response to a negative remark by an official in July 2014) and the right to be appointed Judge and to grant citizenship to all born , as the new Constitution in Egypt stipulates, to an Egyptian father or mother. This is through understanding the essence of Islam and being able to clearly distinguish it from the politicization of it, which evidently works against gender equality.

NGOs in Egypt, under the umbrella of the National Council for Women, were extremely active in the last three years in order to make sure that what has been described as "Arab Spring" will also be considered "Women Spring". This period witnessed full mobilization of Women activists in order to confront fundamentalist groups trying to monopolize the benefits of Arab Uprising in Tunisia and Egypt. Associations in both countries intensified their networking, with some support from European Organizations, to defend rights they acquired so far and to make sure that women will have a say in any Constitutional Assembly in charge of drafting new constitutions.

This mobilization is based on the deep conviction that Human Rights, including Women's Rights, are closely connected to Democracy. A fair representation of women in parliaments is a necessary step to seriously address issues such as girls' education, equal rights and opportunities, physical and emotional violence against women, special care for the most vulnerable, designing special programs to support women empowerment such as "productive Families" and credit financing for women projects at home.

Due to the efforts of the civil society and the media campaign led by the NCW they were able to identify more than 20 articles in the new Constitution that positively affect women, among which:

- The constitution reaffirms Egypt commitment to International conventions on human rights that were ratified.
- The State shall guarantee equality between men and women in civil rights.
- A quarter of seats in local councils will be reserved for women.
- A mechanism to monitor discrimination shall be established and discrimination will be considered a crime punishable by law.

The term MENA region, which covers the Middle East and North Africa, has no standardized definition. El-Karama has partners in "Jordan, Morocco, Lebanon, Iraq, Libya, and Egypt" (elkarama.org) out of the following other MENA countries according to the UN: Bahrain, Djibouti Iran, Israel, Kuwait, Malta, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, West Bank and Gaza and Yemen Different organizations define the MENA region as consisting of different countries generally including Arab countries in addition to Iran and Israel. This term, in addition to the term broader Middle East, has been received with suspicion from the majority of the countries of the region for several reasons:
- It was considered an attempt by the West to weaken the Arab dimension in favor of a new context that includes Israel.
- North African countries, traditionally closer to Europe and Mediterranean cooperation, did not feel closely related to the Middle East region dominated by conflicts and more traditional culture.
- Fears were expressed that US policies will be influenced by its experience in Pakistan and Afghanistan, which, although Muslim countries, belong to a different region.
- Finally, a broadened region meant a more difficult competition among countries for a share from any assistance provided by the G7 and other donor countries.

As the term was used by political, economic and social organizations, questions were raised after what was described in 2011 as "Arab Spring", to what extent the "spring" will cover all MENA countries and whether this new "wave" of democracy will shake the whole region? By the end of 2014, a different question imposes itself as to impact of ethnic and religious conflicts and radical movements on the chance countries of the region will embark on the road to democracy, respect of human rights including women rights.

The civil society in these countries, supported by the international community, is well aware that it is facing a major challenge to open up to democracy and not allow military dictatorships to be replaced

by radical religious tyrannies, and how to promote and consolidate human rights protection.

A report of the International Federation of Human Rights (FIDH, 2012) warned that women face a growing risk that they will be the losers from the revolutions in which they took part. It confirmed that women "are now confronting attempts to exclude them from public life, as well as acts of discrimination and violence perpetrated with impunity by extremist groups and security forces".

A map produced by UN Women and the International Parliamentary Union for (IPU) thee UN Commission on the Status of Women meetings in 2012 shows that, despite all the promises and hopes, the percentage of women in Arab parliaments were the lowest at 10.7 per cent. In Tunisia, women lost two seats after the elections of October 2011. In Egypt, women lost one of the most prominent gains that they have been demanding for years as the quota of 64 seats was cancelled. Women's representation in Parliament declined from 12 to 2 per cent when religious parties dominated the Parliament under the Muslim brotherhood.

A report issued by El-Karama in 2013 on Arab Woman's rights in the balance of justice refers to the anxiety about the impact on women's status of the arrival in power of fundamentalists in the countries where there have been uprisings and the heated debate between those who affirm the elevated status of women in Islam and others who dismiss the idea of mixing religion and politics, particularly in relation to women. It recommended that women's rights must be included in the new and amended constitutions so that no holders of particular ideology can interpret these rights according to their own understanding. This debate is a reminder of the debate around CEDAW and the reservations presented by several Arab and Muslim countries, including on Article 2 regarding the prohibition of discrimination in constitutions and national legislation (Algeria, Bahrain, Egypt, Iraq, Libya, Morocco and Syria) on the justification that this may constitute a violation of Islamic Law.

There are several programs of support to the civil society in the MENA region financed by Western countries and organizations with the objective to promote democracy and human rights including woman rights, but it seems that coordination is stronger among Arab countries compared to other involving Arab and African or North African and South European or Arab and non Arab countries from the MENA region. This is due to historical, cultural and social background. Civil Society in these countries uses the comparison between the status of women and the spirit of competition that exist

among them, (Egypt and Tunisia for example or Qatar and the Emirates), to encourage leaders and parliaments to enhance protection of human rights and democratic practices in these countries.

In its effort for the promotion of women's rights, CEDAW is always a source of inspiration and a point of reference. Based on proposals from different Arab countries, decisions of a meeting of the Arab Women held at the Arab League of States headquarters in 2010 and the Regional Meeting of Civil Society Organization to present and discuss CEDAW reports in December 2009, El-Karama proposed that Arab Women adopt an integrated agenda that involves programs at various levels. Among the measures proposed in this Agenda and Action Plan:

- Revision of laws that discriminate against women and work to bridge the gap between legislation and practice.

- Encouraging lawyers to use CEDAW in the protection of women and defending them in courts.

- Establishing committees that include enlightened men of Islamic law and lawyers to revise personal status laws.

- Reviewing laws that contain semi-discrimination against women.

- Documentation of successful Arab experiences related to efforts to lift reservations to CEDAW.

- Attraction of the media as an essential partner to support women's right campaigns.

- Usage of quantitative and qualitative indicators of CEDAW in the preparation of national reports.

- Encouraging coordination among Arab countries on withdrawing reservations not conflicting with Islamic law.

These measures reflect not only the importance of CEDAW as a reference, but the importance that CEDAW becomes a local and regional integral component of all the efforts to promote women's rights. To respond to accusations that CEDAW represent values that the "West" is trying to "impose" on Muslim countries, El-Karama and other organizations including the National Council for Women are trying to work from within the Arab societies. Joining hands with moderate Islamists, to demonstrate that no contradiction exists between Women's rights and Islamic laws, the civil society is well aware that the moderate voice of enlightened traditional Arab women is much more convincing and effective than that of a "foreigner" coming to promote "western" culture and values.

In addition to this, such measures to protect women's rights, human rights and democracy are a result of the oppression of women in this case in the MENA region, which have become the norm –

validated legally by certain religious and cultural norms. Only when the law recognizes the full rights of women and humans can the battle of human rights, the most significant rights of all, be won. Only then can "honour" crimes which legitimate the torture, segregation of women – a vast and essential part of the population – be counter acted. Patriarchy and such acts have led to a global reaction to "killing women whose behavior the family [or community] opposes; female genital mutilation maims and kill[ing]" of female children and women (Brown, 1997: 494). When violence against women is not only a barrier to democracy but a crime against humanity, cultural repertoires must be mobilized for positive human rights action and women must empower themselves through education, knowledge, dialogue and action.

It is such reasons that give rise to women's global campaigns and struggles for democracy – which shape action and helped, for example, with the "adoption of the UN General Assembly Declaration against Violence against Women in 1993" (Brown, 1997: 495), which questions the "structural conditions" which result in the subordination of women and "calls for states to punish perpetrators of violence (…) in private or public places" (*Ibid.*). Social and psychological repertoires caused by religion or culture must be challenged in that they are no longer a means to abuse and discriminate against women. For violence against women to be politicized and identity politics to be reconstructed in favour of gender equality and women's rights, the role of women played and continues to play a major role in the "political mobilization" of such identities for positive action (*ibid.*: 492). Regardless of culture or religion, women unite for a "global reach" (Cohen and Kennedy, 2000: 319) which allows them to voice their concerns, engage in dialogue and mobilize towards their women's rights in a globalized world which allows for faster and transnational dialogue and networking.

3.3 The struggle of two activists for women's rights at work in the Arab/ Islamic context

Women activists, from different ethnic, religious and social backgrounds in the Arab patriarchal and gendered world, endeavour to network, learn and speak out to let their voices be heard and to challenge existing "truths" which disempowered them. A remarkable one of these many women is Amna Nosseir. She has been appearing on Egyptian television talk shows in order to discuss the status of women and the essence of Islam with regards to women – which may be used as a positive repertoire in their defense.

Particularly since the 25 January revolution in 2011, and the so called Arab Spring, women had an active presence in Egypt's Tahrir Square and were fighting in the name of democracy and freedom from oppressive rule, for women's rights and human rights. Women were always active in the Arab world, the transitional period until now allows women to fight for their rights, particularly concerning the drafting of the first Constitution (2012) after the revolution, and the struggle against conservative regimes which did not regard women as full citizens to be in power.

Unlike the latest 2014 Constitution, the 2012 Constitution was a "severe blow" to women as the only mention of them was in her "capacity as mother" (Ayad, 2013: Web). Among other factors disregarding women, the provisions did "not allow for the banning of marriage of teenage girls, human trafficking or child labor". Even more so, women, seculars and liberals worried as the clause in the previous constitution which claimed "'no discrimination among Egyptians based on gender, ethnicity, language, religion, or creed' has been removed from the current one" – thus legitimizing discrimination and oppression. The latest Constitution of 2014 however is formed by a more modern and liberal perspective which protects the status of women.

Amna Nosseir, professor of philosophy and Islamic theology at al-Azhar University and member of the National Council for Women's Rights which although has a bad mouthed reputation, founded my Susanne Mubarak former first Lady, it has helped around "five million women obtain national ID cards, thus empowering them to gain their civil rights" (Ayad, 2013: Web). Despite the Council being somewhat connected to the old regime it is not part of it, and many women in Egypt, like many countries in the MENA region are largely misrepresented and even worse, unregistered. Due to high levels of illiteracy among women in the lower classes (about sixty per cent), women are mostly unaware of their own rights – as Nosseir states; this is a "national disgrace for Egypt and its women" when there are countless education experts and teachers (Ayad, 2013: Web).

Being a veiled, Muslim lady herself, she strongly disagrees with the fundamentalist radical Islamist portrayal of women – legitimated through politicized Islam. Women are depicted from a narrow perspective that "does not accommodate modern-day variables, [but rather], insists on seeing [them] within the culture of past eras" (Ayad, 2013: Web). This is a vicious cycle which reinforces the view of women as "inadequate and thus not entitled to look beyond the parameters determined for them by men" (*Ibid.*). When asked about the constitution, with regards to women Nosseir refers to it as "patronizing", based upon "literal doctrines of Islamic Shari'a" and very old traditions. She defends the rights of women through Islam itself, which she claims offers the freedom for Muslims, both men and women, to "endeavour interpretations of their own, to take into account the changing times" (*Ibid.*).

With this claim, positive awareness and action are mobilized by women and citizens to defend their human rights. For women to be more active in the political stage and have their rights and concerns voiced and acknowledged, various interpretations of Islam must be made – if the constitution "restricts women to their role as child-bearers", there is an indeed a desperate concern for women's health, education, security and respect as full citizens equal to men (*Ibid.*). Nosseir argues that there is a gap between the original scriptures of Islam and how it is being politicized today – limiting women to domestic, and secondary rather than the image in the "early days of Islam" where women "participated with men in making history, and made their imprint" (Ayad, 2013: Web) on the religion and culture.

Another distinguished Egyptian and Muslim activist who stands in the same field is Nawal El-Saadawi, a renowned author, who has been protesting for decades in defense of family laws and women's rights and status. She herself was subjected to the brutality of female genital mutilation – due to tradition. She therefore sees a strong correlation between the power of religious groups and the oppression of women: having written forty-seven books about problems faced by women in Egypt, including Women and Sex in 1972, which resulted in losing her position as director of public health for the Egyptian Ministry of Health.

As a response to the protests in the Arab world and the development of gender equality, Saadawi claims it is a "process". For women to be empowered, they need economic independence and full awareness of their rights and religion – including divorce laws, describing the process as a "virus, infecting other women" to organize and achieve collective power. Claiming that "organizing [is] power" (Sussman: 2011, Web), networking and having voices heard is the ultimate step to combating such oppression. Her support of gender equality is exemplified by her support against male genital mutilation, too – and advocates for women's rights while teaching in universities worldwide excluding Egypt. She calls for global and local solidarity – "glocal" (*Ibid.*) which would counter stigmatizations of shame for the women which cause silence: the barrier to any step towards change. Dialogue is essential in that she does not believe in "charity or helping" from the West – but rather an "equal exchange of ideas and networking" (*Ibid.*), empowering women through their unity. The view of FGM as "barbaric" reinforces inequality in that the developing world needs to be "colonized to be civilized", but rather that we are all in the "same boat" regarding the affects of patriarchy . Since the oppression of women is universal, so too should their action and struggle for human rights be.

FGM was only legally banned by the Egyptian government in 2008, "following the death of a 12-year-

old Badour Shaker in 2007, during an operation" (Roberts: 2011, Web.), Saadawi urged the parents in an open letter to speak out against this horror, with regret that it took this girl to die for the law to be passed she stated: "Did you have to pay with your dear life a price ... for doctors and clerics to learn that the right religion doesn't cut children's organs?" (*Ibid.*). She further argues that the FGM still persists in Egypt and the Arab world because: "You cannot eradicate such historical, rooted habits by law only," and calls for the education of parents in a more socially oriented approach.

Conclusion

As synthesis or conclusion one should ask the question, why, in spite of all the knowledge, experience and analysis of the way to bring change to a society, there are still major obstacles in making tangible advances in the protection, let alone the recognition of women rights in the Arab world. The social, economic and political inequality gap in the globalized world persists, along with the oppression of women on a global scale. Due to a gap in information, a misunderstanding due to a lack of dialogue, there exist extremist polar identities that do not lead to a positive development for the protection of human rights or an understanding of a common humanity and universality which exists regardless of which side of the world one is born, what race, gender or ethnicity one acquires without choice rather than being dictated into oppression and informed to alienate rather than liberate.

This challenge is not limited to women's rights, human rights encompasses other issues such as the capacity to integrate different minorities in a modern society whether in MENA countries or in Western countries, the debate and importance of differentiation between secularism, fundamentalism, Westernisation, religion, belief, politicization of religion, tolerance and intolerance. Communication, dialogue, learning to acquire varied information, to seek one's rights and unite in protecting them is the only way to ensure that human rights are indeed universal, and that universality has a primary moral code that reaches beyond economic, political, and religious barriers to human dignity.

As discussed in this dissertation, there is a strong call for unity, trust and for using globalization in a positive way, and relearning of Islam from a perspective that protects rather than oppresses women. For this to be realized, people must be aware of this possibility. Through a multidimensional approach by a group of researchers representing diverse cultural background and academic experiences, an objective assessment of the challenges and offer recommendations on how to address them may be conducted and elaborated.

With reference to global civilization or the world as a village because of the development achieved in social networks and technological connection, mostly economic – a priority must come above economics which is that of human rights, and women's rights to be universally known and protected

rather than alienating genders and nationalities to disempower them and reinforce their vulnerability in a never-ending cycle. If globalization is so prevalent in terms of culture and media, it is time that certain values like human rights, respecting human dignity and individual freedoms took stage as primary steps for emancipation from oppressive rule, development and eventually, for democracy.

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