The concept of human rights

a qualitative content analysis of the declarations of UN, ASEAN and AU

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Two years that required hard work and dedication have now come to an end. These two years have also been filled with inspiration, ambition, and learning. I want to express my gratitude to my supervisor, Helen Lindberg, who, throughout this research process, guided me and supported me with time and expertise. Your advice and support have been of great value for this thesis.
Abstract

This thesis will examine and evaluate how post-colonial and universal key concepts reflect on The Universal Declaration of Human rights, the African Charter on Human and Peoples’ Rights, and the ASEAN Declaration on Human Rights in order to provide diverse understandings of the concept of rights. The purpose of the study is to examine and evaluate how some of the key concepts of post-colonialism and universalism are reflected in these three declarations. The research questions is “How do post-colonial and universal key concepts reflect on the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, and the ASEAN Declaration on Human Rights?” Through a qualitative content analysis on these three declaration, the study will employ the ideal type method to outline the ideal types of post-colonialism and universalism and then apply the three declarations on these the ideal and key concepts. According to my findings, some key concepts of post-colonialism and universalism are explicitly and implicitly reflected in the declarations, some more heavily than others. While some of the concepts are shared across all three declarations, they differ in others. The African charter and ASEAN declaration tend to be more post-colonial in its approach while the Universal declaration of human rights takes a more universalistic stance. Human rights play a significant geopolitical role. In its name, it has acted as a uniting force, not least with the Universal declaration of human rights. However, ironically, it has also served as justification for war, invasions and other crimes against humanity. As much as this thesis is about human rights, it is also about colonialism, moral doctrine, cultures and the question about who to define these concepts. I hope that this thesis gives the reader a better understanding of human rights in a more pluralistic sense. I do also hope that this can help us increase our tolerance towards each other as humans and bring us closer to a more consensus in how we understand rights.

Key Words: human rights, declarations, colonialism, post-colonialism, universalism, culture, values.
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### Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>AU</td>
<td>African Union</td>
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<tr>
<td>ASEAN</td>
<td>The Association of Southeast Asian Nations</td>
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<tr>
<td>AICHR</td>
<td>ASEAN Intergovernmental Commission on Human Rights</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>WTO</td>
<td>The World Trade Organization</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>NIEO</td>
<td>New International Economic Order</td>
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1. Introduction

1.1 Background

The atrocities of the two world wars in the first half of the twentieth century prompted the establishment of the United Nations and the adoption of the Universal Declaration of Human rights (UDHR) in 1948. The UDHR became a historic document being the first-ever document to articulate human rights with the goal of applying them to all individuals across the world (Universal declaration of human rights. UN.org).

The drafting of the Universal Declaration of Human Rights involved people from various cultural and religious backgrounds, but its universality has been a subject of debate and criticism. Scholars from the western liberal school of thought tend to argue for its universality, pointing to the significant number of states that have ratified the declaration. However, other scholars have analysed the influence of liberal ideology on the document and expressed doubts about its universal applicability (Mutua 2008, p. 47)

The creation of the African charter on Humans and People’s Rights and Duties in 1981, and the ASEAN Human rights Declaration in 2012 were partly a response to the UDHR and its assertions of universality (Frick, 2019: 23). However, these regional human rights declarations were significantly shaped by the cultural and normative frameworks of their regions.

1.2 Research problem

Karl Gustafsson and Linus Hagström (2017) emphasize two important factors that should be considered when conducting research: how the study will add to the current body of knowledge and why this contribution is necessary and significant. These questions will be addressed in this section.

According to Gustafsson and Hagström, the available literature on research methods provides limited guidance for formulating a research problem. Today, a new study or research is justified simply by filling a knowledge gap and addressing the “how” question. While they acknowledge the importance of these components, they argue that a new study can be more valuable and well-justified if the researcher not only explains how it contributes, but also why the contribution is necessary (ibid: 635)
The research problem of this study is the different views and diverse interpretations of the concept of rights and the universality of the present human rights framework. Regarding the how-questions, there is a gap in knowledge in this area of research, specifically in terms of a comprehensive and systematic content analysis of the three declarations in regards to the concept of rights and with the theoretical framework of post-colonialism and universalism. I am aware of other theoretical alternatives that could be applicable in this study such as the feminist theory (Engle, 1992; Parisi, 2010; Martignoni, 2022) but also empirical alternatives such as the Universal Islamic Declaration of Human Rights (Ud din et al, 2022). But due to limitations in the scope and space of this work, they are not included, but could be for future research endeavours.

Despite numerous prior studies on the declarations of the current human rights framework, there has been no examination or a study that analyses the three declarations with the aim of discussing the diverse interpretations of the concept of human rights.

I will contribute through a thorough examination and evaluation of the three declarations and provide a more nuance in understanding the concept of rights. In terms of the why-questions, I do believe that conducting this study is of importance as it provides insights into the concept of rights and offers a deeper understanding of the diverse views and interpretations of it, opening up a more pluralistic mind set in regards to human rights. This can also give a better understanding to the difficulties of implementing the prevalent concept of rights around the globe, namely the Universal Declaration of Human Rights.

1.3 Research question and research aim

The study is an evaluative analysis that examines and evaluates the post-colonial and universal perspective on the declarations. It evaluates different principles and concepts that are the core assumptions of post-colonialism and universalism and how they are reflected in the three declarations.

The aim of the study is to examine and evaluate how some key concepts of post-colonialism and universalism reflect on the three declarations in order to provide an understanding of the concept of rights in its diverse forms. While there may be other relevant concepts related to post-colonialism and universalism regarding human rights, I chose to focus on these concepts since they are, according to my findings, central concepts which are articulated and
manifested in the declarations, albeit in varying degrees. It is also important to narrow down the focus to a few key concepts that can be explored, given the limited scope and time constraints of the research. I will also build upon the existing literatures where these concepts have been discussed in different degrees.

Research question:


### 1.4 Disposition

This thesis will be disposed of as following:

The first chapter is the introductory chapter that presents background, research problem, research question, aim, limitations and previous research. Following this chapter is method and material as the second chapter which in turn is followed by the theoretical framework as the third chapter.

Chapter four presents the analysis and the findings and then follows chapter five with final remarks which gives the reader a concluding discussion of reflection and recommended further research.

### 1.5 Limitations and delimitations

In order for the study to have a common thread and not be too diffuse and broad, delimitation is necessary. The study will only focus on three selected declarations and will only focus on content analysis of the documents. This study is also limited to human rights articulated in these three documents and will focus on the understanding of human rights within specific cultural, historical and political contexts of the regions covered by these declarations.

It is also important to mention the limitation of this study. The sample size of documents being analysed may not be representative of all human rights declaration around the globe. The study will also be limited since it will not have the capacity to capture the lived experiences of people in the regions covered by these declarations and may not reflect the
diverse perspectives and voices of people in those regions.

1.6 Previous research

The three human rights declarations that are discussed in this thesis have been extensively studied, with various studies examining human rights and the issue of universality. Most of these studies have concentrated on analysing the content of the declarations individually. Studies that focus on these three declarations in the same research are non-existent, making my study distinct.

Since the existing literature has all focus on single declarations, I will discuss them in this section. To find relevant peer-reviewed studies, I will utilize the digital library of the university as well as online databases such as Google scholar, ProQuest and JSTOR.

**African charter on human and peoples' rights**

To some extent, the studies I have found on the African charter on human and peoples’ rights, focus on providing an overview of the charter, which includes its history, development, implementation, compliance and legality. Researchers like Umozurike (1983), Mapuva (2016) and Olowu (2013) have examined the charter in this regard. Along with the overview, these studies also highlight the strengths and limitations of the charter, as emphasized by researchers such as Sermet (2007), Umozurike (1983), and Olowu (2013).

Previous research has also delved into the role of civil society in promoting and contributing to the articles of the charter. Olowu (2013) has explored the opportunities that existed for civil society in this regard.

Some case studies on the African Charter have evaluated the application of specific articles in different states. For instance, Mbondenyi (2009) examined the application of Article 13, which pertains to political participation, in Kenya's 2007 presidential election and the resulting political crisis. Other case studies have looked at the charter as a whole and applied it to multiple states or individual states. Neff's (1984) analysis of the African Charter raised concerns about potential conflicts with the laws of states such as Botswana, Lesotho, and Swaziland. Eghosa's (2015) article focused solely on Nigeria and its compliance with the charter.

Studies analyzing specific articles of the African Charter and assessing compliance with it have been conducted by Ayalew (2020) and Mujuzis (2021). Ayalew evaluated compliance
with freedom of expression online in Ethiopia, while Mujuzis analyzed the right to return to one's own country in several countries during the pandemic, such as Djibouti, Gabon, and Tanzania.

Some studies have specifically examined women's rights in the African Charter, especially in the Maputo Protocol. While the Maputo Protocol is considered a significant step towards protecting women's rights, scholars like Olowu (2006) and Ayeni (2016) have pointed out that it contains contradictions in language and provisions that pose challenges for implementation.

Previous studies of the African Charter have often criticized its limited resources for implementation and weak legal framework, as well as the limited political will of some member states, resulting in limited effectiveness (Olowu, 2013; Mbondenyi, 2009).

**ASEAN declaration on human rights**

The previous research regarding ASEAN declaration focuses on critical analysis of the declaration but also provides recommendation on how to strengthen the human rights system of ASEAN. Critics argue that the principles of non-interference and state sovereignty are a significant obstacle when it comes to human rights, but Anthony Langlios believes that this approach should not be dismissed but rather understood as a reflection of the unique cultural and political context of the region (Langlois 2014).

Other researchers criticize this approach, with Burma being one of the biggest cases regarding this obstacle, where non-interference takes priority in member states internal affair over human rights violations and concerns. This has limited the effectiveness in addressing human rights violations and compliance with the ASEAN declaration. The Burma experience could potentially offer a roadmap for the evolution of human rights in ASEAN with much work remaining to be done (Bui 2016).

Aside from weak political will, there is also lack of other enforcement mechanisms to strengthen the protection of human rights. This in turn has led to a weak and ineffective ASEAN human rights system (Bui 2016, Doyle 2013, Naldi & Magliveras 2014).

Some of these studies analyse specific rights such as rights of women and children (Pisano 2015), the right to education (Juwita 2020) and the right to freedom of thought, conscience and religion (Neo 2017) where the organisation faces significant challenges on due to lack of legal framework and political will within the region.
What these previous researches conclude is that there is slow progress, despite the challenges but there is still much work to be done to ensure the protection of human rights throughout ASEAN (Bui 2016, Langlois 2014, Doyle 2013, Juwita 2020).

**Universal declaration of human rights**

Similar to the other two declarations mentioned above, the previous researches regarding the universal declarations of human rights focus on different aspects. Some defend, promote and elevate the rights as universal while others criticize the universal declaration.

Some of the previous research, just as with the ASEAN declaration and African charter, focuses on specific rights. Linde Lindkvist (2017) examines the role of religious freedom in the drafting of the UDHR and the relationship between this right and other human rights while Natasha Saunders (2017) looks at article 28 in regard to protests and Navanethem Pillay (2008) discusses the right to health as a fundamental and universal human right. Linde explores challenges that religious freedom faces in today’s society and in which way the UDHR can continue to serve as a valuable tool to protect and promote this right that Linde perceives as fundamental. Sanders suggests that refugee protests are an important form of activism that can help to ensure the protection of human rights. Pillay argues that article 25 should be interpreted broadly to encompass not only access to healthcare services but also the social determinants of health such as access to housing clean water and food.

Seyla Benhabib (2008) believes that the Universal declaration of human rights introducing a crucial transformation in international law. She does however acknowledge the flaw of the contemporary human rights corpus and states that it is a utopia to name it being steps toward a world constitution, while stating that it is still more than just mere treaties between states, but transformations in law that have consequences for how we understand cosmopolitanism. Instead of focusing on the impossible, universal human rights, she distinguishes three types of cosmopolitanism: moral, cultural and legal cosmopolitanism that she thinks is less controversial and that we should rather should strive for. In short, these are universalistic morality that views every individual as worthy of equal moral and respect, that all cultures learn and borrow from one another and a moral attitude and practice that protects the lives of individuals in the world community.

Samuel Moyn (2018) have also written a critical work on the UDHR. Moyn argues that the individualistic character of the UDHR has shifted focus from economic and social rights to civil and political rights. According to Moyn, the focus on individual rights has come at the
expense of addressing systematic inequality and economic injustice. The focus on individualism and civil and political rights has led to a lack of attention to underlying economic structures that perpetuate inequality. This is not sufficient to bring about real change for marginalized communities.

Moyn also highlights the role of power and politics in the human rights movement, arguing that focus on individual rights has been used to justify military interventions and promote liberal economic policies.

There are many scholars that have written on the compatibility or the lack thereof between the Universal declaration of human rights and religious laws, there is a specifically focus on Islamic legal tradition. Some argue that the Islamic legal tradition needs to be reinterpreted in the light of modern developments such as human rights and democracy (Naim 1990) while others critique the UDHR for being leaning towards the western liberal school of thought. There are many rights within other cultures that are not recognized in the UDHR, for instance the rights of orphans or the mentally challenged Ud din et al claim that the UDHR has been passed with the interest of some states taken into account (Ud din et al 2022).

In summary, the UDHR, African charter, ASEAN declaration have all been subjects of previous study and research. Most of the previous research has focused on single declarations and on implementations, compliance, effectiveness and limitations.
2. Method and material

The qualitative content analysis is the most appropriate method for my study, given my purpose and research question. Similar to other qualitative methods such as surveys and interviews, the objective of content analysis is to produce data and information that can be analysed for a particular purpose. However, unlike surveys and interviews, this method is centered on analysing written data or documents such as official documents, speeches, policies, media reports or other written materials that pertain to the words of individuals, institutions or organizations (Heath & Halperin, 2012: 9).

2.1 Qualitative content analysis

Content analysis involves analysing valuable written materials such as documents, reports and manuscripts. This approach can be used in conjunction with other qualitative methods but also quantitative methods. Accessing existing archives and data enables researchers to expand the scope of their work beyond what they could collect alone. The collected information and data can be repurposed in the future for a different objective than the one for which it was originally collected and can also be compared over time. Such data can come from governmental or non-governmental organisations and agencies, academic institutions or think tanks (ibid: 177).

Qualitative content analysis offers advantages over methods like interviews because researchers cannot manipulate or influence the source material, unlike interviews where the data can be influenced by the questions asked. As a result, the likelihood of bias in the study is reduced (ibid: 9). Individuals who participate in interviews are more prone to the so-called “interview effect”, which means they may provide responses that are socially acceptable or aligned with what they believe the interviewer wants to hear. (ibid: 318)

Compared to interviews, qualitative content analysis is less intrusive, allowing researchers to access materials related to decision-making without requiring interviews with them. Researchers may opt to analyse transcriptions instead of relying on recollections and memories, further enhancing the accuracy of the findings (Heath & Halperin: 318).

Content analysis allows researchers to access materials that may be difficult to obtain through direct personal contacts such as interviews. As a result, researchers can analyse a larger
population and more documents than would be feasible through interviews or direct observations (ibid: 319).

Similar to any other method, the qualitative content analysis has limitations. Because the focus is on sentences and concepts when analysing texts, there is a risk of missing nuances and overlooking context. To address this concern, I am aiming to gain a deeper understanding of the research topic through literature review, background research but also familiarising with relevant history and cultural context.

My research question will be answered by analysing the content of these declarations through the lens of post-colonialism and universalism. To do this, I will examine specific sentences and concepts in the declarations that align with post-colonialism and universalism to gain more knowledge regarding how the concept of rights is mirrored in the declarations.

I will also use a critical analysis approach which is suitable for this research. Critical analysis approach is helpful in examining the underlying power relations and ideological assumptions that shape these texts and examine how they reflect and reproduce dominant discourses and practices (Mats Alvesson & Stanley Deetz, 2000: 159). Both Alvesson & Deetz (2000) and Kristina Boréus & Göran Bergström (2018) argue that text and language are important means of exercising power and can be used to reproduce or challenge dominant ideologies and discourses. By examining the declarations through a critical lens, the aim is to uncover biases and limitations but also to examine the historical and social context in which these declarations were produced and to reflect on the role of language in shaping the understanding of the concept of rights.

Andre March’s (2009) comparative political theory (CPT) will also help me to provide a comparative analysis of the human rights norms and standards found in these documents, regions and cultures. By comparing these documents, I can identify similarities and differences in how human rights are understood and applied in these different contexts.

By conducting an analysis of the human rights norms and standards contained in the Universal declaration of human rights, African charter and ASEAN declaration of human rights, the comparative political theory can provide me a more nuanced and context-sensitive understanding of human rights discourse.

I will also use ideal type as an analytical tool. This tool is used to simplify social phenomena that is complex. It is used to help in understanding social reality by creating a framework for
analysing and interpreting social phenomena. The intention of ideal type is not providing a complete description of a social phenomenon but rather providing a framework for analysing and interpreting it (Bergström & Boréus, 2018: 147-148).

The data collection for my empirical analysis will primarily consist of written text, including the UDHR, the African charter and the ASEAN declaration on human rights which will guide me in my analysis.

Secondary sources in the form of books and articles will be included in my essay, particularly texts regarding human rights but also post-colonial works by prominent authors such as Said and Mutua that will give me a deeper understanding of the theory in relation to human rights. These sources will also aid my understanding of the concepts of human rights in African societies and the subcontinent of Southeast Asia.

For this thesis, I plan to use this method to analyse the following three documents:

- Universal Declaration on Human Rights
- African charter on human and peoples' rights
- ASEAN Declaration on Human Rights

2.2 Validity and reliability

In research and studies, it is crucial to use a method that has good validity and reliability in order to ensure credibility and trustworthiness of the study. Validity can be achieved by measuring what is claimed to be measured and by using relevant materials that are focused on the research question (Bergström & Boréus, 2018: 40-41). The sources I will use in this study primarily consist of declarations created by the UN and other intergovernmental organisations that address the problem area that is under investigation here, making them valid sources.

To ensure high reliability in research, it is important to eliminate all types of errors to make the study replicable by other researchers (Bergström & Boréus, 2018: 42). Careful data collection and processing can help to eliminate random or careless errors but also grounding a research on an existing theoretical framework (Esaisson et al, 2017 64). In my study, potential sources of errors could be unreadable documents or inattention when processing the sources.
However, digitalisation of the declarations has made them easier to read and reduced the risk of low reliability.

It is important to use different sources of data and methods of data collection whenever possible. This supports a researcher in tackling a research problem from different angles while increasing the study's reliability (Heath & Halperin: 177).

In summary, content analysis as a method can be a way to go if you want to reduce the chance of bias and at the same time analyze and investigate broadly and with a larger population. Achieving high validity and reliability, I am required to do careful planning and attention to detail throughout the research process. By selecting relevant and credible sources, minimizing errors and analysing the data carefully to my best ability, I can ensure that my study is both valid and reliable.

3. Theoretical framework

3.1 Post-colonialism

There is no single, satisfactory definition of post-colonialism, unlike the classical theories of international relations (IR). The prefix “post” may be misleading because it suggests an end to colonialism and its practices. Although we have seen the end of colonialism in terms of territorial control, post-colonial scholars have recognized the persistence of colonialism and colonial forms of power in current world politics. For example, western interests continue to exercise a higher degree of economic and military control over much of the world than what was seen during the direct control of territories under the colonial era. According to post-colonial theorists, this is a contemporary form of colonial power (Baylis et al 2019), also called neo-colonialism which I will discuss in depth later on in this chapter.

Much of the early phase of post-colonialism as a theory was devoted to the criticism of International Relations as a political discipline that tended to overlook European imperialism and colonialism and its effects on our contemporary world as well as the European and Western narrative of international relations and global politics. European concepts that have been central to the political discussion in international relations have also been a subject of discussion. In addition to that, the goal of post-colonial theorists has also been to increase representation in terms of contributions of knowledge from the non-Western hemisphere (Wilkens 2017:4). Here, the lack of representation, especially when it comes to the discourse
concerning the third world and their role when talking about universal values and norms, is of particular importance.

Post-colonialism presents a counter-narrative to Eurocentrism, emphasizing the role of imperialism and colonialism in shaping contemporary history and the condition of post-colonial states today (ibid; Kataneksza J et al, 2018: 207). In this thesis Eurocentrism is mentioned from both an ideological and historical perspective, including the American view of human rights as it is rooted in the Western European tradition. Because of this, Eurocentrism and Westerncentrism are used interchangeably.

Post-colonial scholars argue that despite dismantling and deconstructing the political and juridical colonial institutions, the prevailing system of governance in current International Relations is still dominated by the West’s perception of itself as a civilized world and the Rest as barbaric. This worldview was used to justify imperial and colonial rule for hundreds of years (ibid).

Post-colonial theorists and scholars argue that colonialism is a multifaceted phenomenon that cannot be reduced to physical colonization alone. Focusing solely on the territorial aspect of colonialism risks oversimplifying its various levels and nuances. While the form of colonialism that involved direct control over a particular territory, as seen in the 19th and 20th centuries, is not prevalent today, the idea of continued colonial forms of power persists in contemporary world politics. This is a common point of agreement among post-colonial theorists and scholars. The emergence of post-colonial studies was fuelled by debates about the legacy of colonialism in newly independent states (Clive, 2014: 163).

This theory suggests that although the legal and political colonial institutions are dismantled, their governing system continues to exert dominance over world politics. For instance, post-colonial scholars refer to the phenomenon of “American imperialism”, which exerts indirect control through its significant military and economic power around the world. This is in contrast to the former Soviet Empire which had direct power over eastern European states after World War II (Loomba 2005: 11)

Post-colonialism challenges the idea of universalism, which assumes that there are universal values and norms that apply equally to all societies. Post-colonial theorists argue that this approach fails to recognize the diversity and complexity of human experiences. The theorists problematize the idea of human rights through institutional, multicultural and normative
perspectives and finds it bizarre that this idea is a celebrated as an idea with no flaws while at the same time it changes societies and cultures all around the world (Mutua, 2008: 34)

Post-colonialism emphasizes the importance of context in understanding human rights. It argues that human rights cannot be understood in isolation from the historical, cultural, and political contexts in which they are situated. The power dynamics is an important aspect when analysing the current human rights through a post-colonial lens. Post-colonialism highlights the power dynamics that underlie the global discourse on human rights. It critiques the way in which human rights are often used as a tool of Western imperialism and argues for the need to recognize the agency and voices of marginalized groups. Some (Mutua 2001 and 2008, Namli 2014) present the current human rights corpus as an ideology and highlight its connection with the liberal thought of school and equate the universalization of human rights in its current form as an attempt to also universalize liberalism. Many features of the human right discourse is, according to the critics, obviously dominated by the Western/liberal culture and there is a need for more openness in critically analysis of these features.

When it comes to the concept of universal human rights and the Universal Declaration of human rights, there are ongoing debates with different starting points and directions. Some problematize this notion of universality while others defend it. Nancy Fraser is one of the scholars that problematize this notion. She argues that the concept of universal human rights needs to be reconceived in light of globalization and the unequal distribution of resources and power. She contends that the existing framework for human rights is too focused on individual rights and is insufficiently attentive to social and economic inequalities. Fraser suggests that a new conception of universal human rights needs to take into account the "scales of justice," or the various levels at which social and economic justice can be pursued. These include the local, national, and global scales. At each of these levels, different kinds of struggles for justice take place, and different forms of rights are needed to address the specific challenges that arise (Fraser 2009).

For example, at the local level, Fraser argues that the focus should be on "participatory parity," or the right of all individuals to have an equal say in the decisions that affect their lives. At the national level, the focus should be on "redistributive justice," or the right to a fair distribution of resources and wealth within a particular society. Finally, at the global level, the focus should be on "recognitional justice," or the right to be recognized and respected as a member of a particular cultural or social group. Fraser's argument is that a comprehensive conception of universal human rights needs to take into account the different levels of justice
and the different forms of struggle that are required to achieve them. This requires moving beyond a narrow focus on individual rights and toward a more holistic understanding of justice that addresses the structural inequalities that exist at multiple scales (ibid).

Other scholars that have the same stance as Fraser is Mutua (2008 and 2001) and Namli (2014) whose works have been discussed earlier in this paper.

However, this view is not only shared by the non-western world. In 1947, a year before the Universal Declaration of Human Rights was adopted, the American Anthropological Association wrote a letter and warned the Human Rights Commission of the UN that the proposed document should not only highlight the values that were prevalent in the western Europe and the US (Nhina 2016).

While being a relevant theory, post-colonialism does have some limitations. Although one of its strengths is its ability to identify problems and issues, the theory is criticized for its inability to suggest solutions for these problems. Additionally, post-colonialism has been criticized for undermining universal values and principles, not only those related to human rights. By adding universalism as an ideal type to my study, I hope not to limit myself to the limitations of post-colonialism (Donnelly 2016).

### 3.2 Universalism

In regards to human rights, Universalism is a philosophical and ethical concept that advocates and places great emphasize on the idea of principles and values being universal and applicable to all human family regardless of who you are. It refers to the belief that every human is entitled to human rights regardless of ethnicity, nationality religion or other characteristic. This is reflected in the premised formula of “everyone” that is repeatedly found in the UDHR and in the preamble of the declaration which reads “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” (un.org).

A number of scholars, both enlightenment thinkers and theorists but also others, such as Thomas Hobbes, Adam Smith, Immanuel Kant and David Hume have argued for the concept of universalism as in fundamental human essence or nature that consists of foreseeable tendencies and stable insticts and emotions, all of which can be subject to rational inquiry and analysis (Benhabib, 2007: 11-12; Sen, 2010: 7).
Universalism in relation to human rights, the idea that human beings have rights simply by virtue of being human beings, has a long history dating back to the early philosophical traditions and religious doctrines throughout time. One of the earliest expressions of universalism in human rights in modern times can be found in documents associated with the age of Enlightenment and revolutions against an oppressive state in the US and France and, even though these expressions were limited in their application. For instance, the American declaration of independence from 1776 proclaimed that all men were equal and have unalienable rights such as liberty and equality (American declaration of independence, billofrightsinstitute.org). The French declaration of Rights of Man and the Citizen similarly proclaimed that men were born free and equal in rights (French declaration of Rights of Man and Citizen, elysee.fr). Both declarations asserted the inherent dignity and worth of all human beings and asserted that the role of a government was to protect these rights, being an early precursor of the idea of universal human rights.

The declarations were, what we today would call, a statement of universalist ideas and values, except only that in reality, these rights were only granted to certain groups in both US and France. Women and non-white male citizen or resident were excluded from enjoying these rights. At the same time as these declarations were adopted in the late 1700s, France was a colonial power, denying the same rights of the declaration to millions of people around the world while the US had an institutionalized system of racial slavery and discriminatory laws that persisted for centuries. Despite the adoption of the Universal Declaration of Human Rights, The declaration on the Granting of Independence to Colonial Countries and Peoples which was adopted by the United Nations General Assembly ten years later had 89 votes in favour, none against and 9 countries abstaining from voting. With the exception the Dominican Republic, the states who abstained from voting were western states such as the US, UK, Belgium, France and Spain, raising questions about the commitment of these states to the principles outlined in the post-revolution declarations and the UDHR regarding the notion of equal rights for all (The declaration on the Granting of Independence to Colonial Countries and Peoples, digitallibrary.un.org).

Jack Donnelly who is one of the most prominent advocates of the universality of human rights argues that the high ratification rates of the UDHR is proof of its universality, not only the existence of it but also the content of internationally recognized human rights (Donnelly, 2013: 94-95). He also argues that human rights should apply to all human beings regardless of their nationality, gender or religion and argues that this is a fundamental aspect since it is
based on the inherent dignity and worth of every human being and human rights remain the only proven effective means to ensure the dignity of human beings (ibid: 97)

Stefan-Ludwig Hoffman (2010) elevates human rights to a central and universal language and supports the idea of universal human rights that every human being entitled to with inherent dignity and worth. According to Hoffman, universal human rights serves as a basis for promoting and protecting both justice and equality around the globe.

Universalism have been criticized by many scholars for serving the interests of powerful western countries, especially in regards to human rights. Immanuel Wallerstein claims that there is nothing universal in universalism, rather it has always been an idea of spreading European norms and values to justify colonialism, imperialism and cultural hegemony. Wallerstein noted that this European universalism started with the rise of European world system at the time of colonialism. Wallerstein mentioned the Spanish colonialism of the continents of America in the 1500s (2006: 24) and the British colonisation of India during the 1800s (ibid: 30-31) as examples, both being justified with spreading European universalism in the forms of Christianity and civilising-missions with violence and force.

Since spreading Christianity and civilising the world could not be given as an argument to justify maintaining imperialism, Wallerstain argued that the rhetoric rather came to revolve around the concept of universal human rights (ibid: 32)

Wallerstein (2006: 15) argued that the debate surrounding universal human rights is far greater than it is commonly portrayed. There is a struggle between “European universalism” and “universal universalism” which represents the primary ideological battle of our contemporary era.

Yarulin and Pzdnyakov (2021) state that there is no such thing as equality of all points of view. Ideas that are norms in some parts of the world are not recognized as equally valuable but the idea of universal equality of all viewpoints and perspectives is an implicit form of giving up to the forces of European universalism.

Yarulin and Ozdnyakov find the term human rights slippery and obscure. They state that there are three different levels of interpretation of the idea of human rights. The first is clearly speculative, it presupposes an existence of a belief that human rights do exist and this belief translates then into verbal forms, such as the Declaration of Human rights of the UN or of the French Revolution. The second level is the legislative consolidation of individual human
rights at the level of national states. The third level is the legal validity, the implementation of these laws so to say.

As mentioned in the method chapter, ideal types will be used as an analytical tool in this thesis to simplify and clarify and provide a framework for analysing and interpreting post-colonialism and universalism

3.3 Ideal type 1: Post-colonialism in relation to human rights

Just as there is no one specific and satisfactory definition of post-colonialism as mentioned above, post-colonialism in relation to human rights is a complex and multifaceted field of study and there is no single “ideal type” that can fully capture the various perspectives and approaches within this field. There are, however, some general principles that are often emphasized in the discussions of post-colonialism in relation to human rights.

- Rights and duties

In relation to human rights, Post-colonialism views rights and duties through a critical lens that challenges the universalist assumptions and Eurocentric bias of the current human rights framework. Historically, the Eurocentric assumptions have underpinned human rights discourse which is a product of Western Enlightenment thinking and has been used to justify colonialism, imperialism and the domination of non-Western societies. It has also tended to prioritize the values and perspectives of Western societies. Post-colonial perspectives emphasize the importance of acknowledging and respecting non-Western traditions, cultures, and perspectives, and they seek to develop human rights frameworks that are more inclusive and culturally sensitive (Ibhawoh: 10; Mutua, 2008: 47).

Post-colonial approaches to human rights recognize that human rights cannot be understood in a vacuum, but must be situated within specific historical, cultural, and social contexts. This means that the universal claims of human rights must be understood in relation to local traditions, practices, and values, and that human rights must be responsive to the needs and aspirations of particular communities and groups.

- Recognition of diversity

According to post-colonialism, recognizing the diversity of human experiences and perspectives are of great importance in dismantling colonial and neo-colonial structures. Just as different cultures and societies have unique histories they also have unique values that should be counted on in the universal human rights discourse.
One of the key tenets of post-colonialism is the recognition of the diversity of cultures and the importance of local knowledge and practices. In relation to human rights, this means that the ideal type of post-colonialism prioritizes the experience, perspectives and voices of people from formerly colonized countries, rather than imposing Western concepts of human rights that may not be culturally relevant or appropriate (Wilkens 2017:4).

- Decolonization of neo-colonialism

The term neo-colonialism refers to a continuation of colonialism in newer forms. It was coined by Kwame Nkrumah, Ghana’s first president after the country’s decolonization, to describe the continued imperialism and colonialism. Neocolonialism implies that a state is independent and sovereign in theory but its economic and political systems are strongly influenced by external forces (Nkrumah, 1965: ix).

In this thesis, neo-colonialism refers to the cultural, political and economic influence exerted by some powers after the decolonization on the so called global south. Through international organisations, treaties and declarations, powerful states seek to exert influence by setting universalised norms and standards that are culture-specific.

As mentioned earlier, according to post-colonialism, the colonial structures must be dismantled as they perpetuate inequality and injustice globally. One crucial aspect of decolonization regarding human rights is challenging the Western-centric conception of human rights that emerged during colonial times. This involves recognizing that human rights are shaped by cultural, social and historical factors rather than being a fixed set of universal principles adopted during the colonial era. Therefore, marginalized groups, including formerly colonized people and societies, should have broader representation and participation in decision-making processes related to human rights. The goal is to challenge the dominant Eurocentric approach to human rights and create a more inclusive and culturally responsive approach that considers the diversity of human experiences and perspectives (Mutua 2008).

The manifestation of neo-colonialism can take different forms and follow various methods. While military intervention is an extreme example, neo-colonialism is predominantly characterized by economic and monetary control. This can include imposing financial obligations and limitations on the newly independent state. For instance, the state may be compelled to only import certain manufactured products from a particular former colonialist and imperialist state (Nkrumah, 1965: ix, Al-e Ahmad: 30).
The West African region is now quite familiar with the story in which France used aid as leverage to exert control over Guinea, its former colony, even after the country gained formal decolonization and independence (Gerits, 2019: 493).

In his critique of Western construction of the Orient, Edward Said argues that this construction is based on a set of myths, stereotypes, and prejudices that serve to justify imperialist domination and control. This construction has historically been used to dehumanize and marginalize the peoples of the Orient. Said explained that Orientalism is a form of power discourse that functions to establish and maintain Western hegemony over the Orient. The discourse portrays the Orient as exotic, irrational, and inferior, thereby justifying Western intervention and domination. Said argues that this construction of the Orient is not only false but also harmful, as it perpetuates a system of inequality and oppression that denies universal human rights (Said 1993).

Said highlights the need to challenge the dominant discourse of Orientalism and to create a more inclusive and just understanding of human rights. By exposing the biases and prejudices that underpin the construction of the Orient, Said calls for a critical examination of the ways in which Western knowledge and power are implicated in the oppression of non-Western peoples. According to Said, Orientalism has put the European identity and culture in a position superior to other cultures and thus dominance has been legitimized, both in colonial times and in current times of spreading norms and standards (ibid).

Ultimately, Said's critique of Orientalism is a call for the recognition and respect of the universal human rights of all people, regardless of their cultural, ethnic, or national origins (ibid).

3.4 Ideal type 2: Universalism in human rights
- Legality

If universalism should gain ground in human rights, there have to be legal and institutional frameworks for it. Today, international human rights have been universally accepted by almost all states as obligations under international law as seen in the high ratification rates of the UDHR, despite the cultural, political and regional diversity in the world. Nonetheless, international legal universality is of immense practical and theoretical significance as it allows
local activists, international organisations and transnational advocates to appeal to a widely accepted international norms to advocate for human rights (Donnelly, 2013: 94-95).

- Individualism and collectivism

Individualism is fundamental when we are talking about universalism related to human rights. Individuals should be free to exercise their rights and make choices of free will without being interfered by the state or anyone else (ibid: 29-30). Individuals are not only rights bearer in virtue of their citizenship within a state but in virtue of their humanity (Benhabib, 2008: 97).

- Inherent human dignity

Universalism recognizes the inherent worth and dignity of every human being and that all humans are entitled to some certain basic human rights simply by virtue of being human. Nationality, ethnicity or status should not restrict this but the rights are universal.

Some of the advocates of the current human rights system as universal believe that inherent human dignity, which refers to the inherent worth of every individual simply because they are human, is the foundation of human rights. By virtue of their humanity, they are entitled to certain rights and protections regardless of their nationality, gender or religion. He argues that the concept of human dignity is essential to understanding human rights since it provides a moral basis for the protection of human rights (Donnelly: 130-131; Sen 2010: 355; Benhabib: 97).
Table 1: Ideal types for Post-colonialism and Universalism in relation to Human Rights

<table>
<thead>
<tr>
<th>Concept</th>
<th>Post-colonialism</th>
<th>Universalism</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recognition of diversity</td>
<td>Emphasizes the importance of recognizing diversity in the context of human rights and the importance of developing frameworks that are inclusive of local contexts.</td>
<td>Universal human rights apply equally to all individuals regardless of social, cultural, historical or social differences.</td>
</tr>
<tr>
<td>Decolonization of neo-colonialism</td>
<td>Human rights should be decolonized.</td>
<td>No explicit mentioning.</td>
</tr>
<tr>
<td></td>
<td>Human rights is seen as a site of struggle to assert own values and norms against dominant wester-oriented discourse which has continued after colonialism and led to neo-colonialism.</td>
<td></td>
</tr>
<tr>
<td>Rights and duties</td>
<td>Rights are grounded in historical and cultural context and therefore unique to each community and group</td>
<td>Rights are based on a set of universal standards that apply to all people regardless of their background</td>
</tr>
<tr>
<td>Legality</td>
<td>Legal frameworks and institutions are very important but not using them to perpetuate neo-colonialism is equally important.</td>
<td>Legal frameworks and institutions are necessary to ensure human rights protections are universally upheld.</td>
</tr>
<tr>
<td>Individualism and collectivism</td>
<td>Individual rights are important, but there should also be focus on collective rights and needs of marginalized groups.</td>
<td>Individual rights are important and the role of the state is to protect these rights.</td>
</tr>
<tr>
<td>Inherent human dignity</td>
<td>Recognizes the inherent dignity simply by virtue of being human.</td>
<td>Recognizes the inherent dignity simply by virtue of being human.</td>
</tr>
</tbody>
</table>
4. Analysis

To provide context for my analysis, I will begin by describing the historical perspective of human rights. Following this, I will give a brief background and history of the UN Declaration of Human Rights, African charter on human and peoples’ rights and ASEAN declaration of human rights. These declarations serve as the foundation of my content analysis. This will help readers gain a better understanding of the subject and its context. I will then examine these documents using two ideal types, post-colonialism and universalism, in order to get a framework for analysing.

4.1 Human rights – a background

The notion of “rights” in Western society originates from the concept of natural law, which can be traced back to ancient Greece, The Roman Empire and religious texts. Natural law refers to the belief that there are legal principles inherent in human nature. While natural law touched on the idea of rights early in history, it was during the Enlightenment period that philosophers and social contract theorists provided rights with a more robust philosophical foundation by emphasising the pursuit of freedom and equality. Enlightenment thinkers such as Hobbes, Rosseau and Locke built upon the ideas of ancient philosophers such as Aristotle and Thomas Aquinas (Viotti and Kauppi, 2010: 414, Fischer, 2020: 13). The connection could be seen in, for example, John Locke’s “Second treatise on Government” from 1690 where he argued for natural, inalienable and universal rights (Locke, 1980).

Although we often attribute the historical development of human rights to Western philosophers like Aristotle and, more recently, Hobbes, the concept of rights is not exclusive to the Western hemisphere. Other regions of the world have also had their own ideas about the notion of rights. In pre-colonial African and southeast Asian societies, the concept of rights was based on the idea that individuals held both rights and duties or obligations. The individual’s duty was considered the foundation of their right and they were expected to fulfil their duty or obligation to the society they live in. This differs from the European Enlightenment perspective on rights which had a great focus on an individual’s right towards an abusive state in a post-Westphalian system (Mutua, 2008: 73).

Similar to certain areas of Africa, in China, the concept of rights has been centered on the attainment of human dignity through fulfilling one’s duty. In traditional China, this was accomplished by adhering to the Confucian code (Tai, 1985: 88)
In Africa and Southeast Asia, with the exception of the Confucian code, the concepts of rights were typically not formalized in written documents, unlike in Europe’s enlightenment period and the states that emerged after the Peace of Westphalia. However, the Middle East region did have a documented standard that encouraged individuals to seek every possible means to ensure what we today refer to as human rights (Ishaque, 1974: 32).

In the Western world, natural law was believed to encompass rights that are superior to those established by an empire or king. This perspective on rights was the foundation for revolutions during the 18th century, including those in France and United States. Initially, rights were only granted to free men, as seen in ancient Greece, but then during the 18th century and with the Enlightenment, they were granted to members of certain churches or citizens of specific states. Later, with the establishment of the UDHR, human rights were seen on a universal level. Natural law was replaced by the concept of human rights and what were once considered rights for a particular groups began to apply to people all over the world following the horrendous events of World War II, which also led to the creation of the UDHR (Roth, 2007:163).

Following the post-war era’s critique from non-Western nations, the scope of rights assertion broadened to encompass social, economic, political and cultural rights. This assertion is now referred to as various generations of rights that have evolved progressively over time (Roth: 164).

### 4.2 Universal declaration of human rights

The UDHR is the most significant international document in terms of rights advocacy, particularly with the incorporation of different generations of rights. Its noteworthy value and contribution to the history of rights are due to its relatively extensive range of rights claims and efforts towards cross-regional collaboration in the process. In addition to traditional civil and political rights, the declaration encompasses economic, social and cultural rights which are inclusive and widely recognized as human rights. Furthermore, the declaration aims to be universal, evident in the diverse representation of committee members from various cultures. The declaration explicitly states in its preamble that it serves as a shared standard for all nations (ibid: 43).

The United Nations General Assembly adopted the UDHR in 1948, which received the affirmative votes of 48 states, without any negative votes. However, 8 states including those
from the Eastern bloc, Yugoslavia, Saudi Arabia and South Africa abstained from voting (Voting in General Assembly, un.org)

The working committee that contributed to the development of the Universal Declaration of Human Rights comprised various individuals, including Eleanor Roosevelt (USA), Hansa Mehta (India), Carlos Romulo (Philippines), Peng-chun Chang (China), René Cassin (France), Charles Malik (Lebanon), and John Humphrey (Canada), among others. The committee also had a separate subcommittee led by historian E.H. Carr (Great Britain), which developed the philosophical foundation for the concept of human rights (Roth: 46).

The unanimous adoption of the Universal Declaration of Human Rights at the time demonstrated a collective resolve to confront the ideological threat posed by fascism, with particular attention to Nazi Germany. Despite the declaration's favorable aspects, some states chose to abstain from voting, as highlighted by the Soviet representative to the UN. These states believed that certain articles in the declaration contradicted the concept of state sovereignty, potentially rendering weaker states subservient to other nations' policies and eroding their economic and political autonomy. Others refused to vote in favor of the declaration because of its emphasis on individualism (UN meeting protocol, un.org).

Initially, the declaration solely addressed civil and political rights, but later expanded to encompass cultural, social, and economic rights. Political and civil rights outlined in the declaration comprise the protection against discrimination, the right to life, liberty, and personal security, as well as the prohibition of torture and slavery. Economic, cultural, and social rights, on the other hand, include entitlements like the right to work, paid holidays, education, and healthcare, among others. While each state is responsible for ensuring that these rights are recognized and implemented, international cooperation may be necessary in some cases (Fisher: 22).

The first generation of rights emerged from the American and French revolutions and encompassed civil and political rights. These rights revolved around the individual's entitlements and assurances from the state. The declarations of these two states documented these rights. The first generation of rights was centered on individual liberties such as the right to political freedom, freedom of assembly, and the right not to be unlawfully detained. Moreover, the right to own and use property was also considered a part of the first-generation rights. These rights are commonly known as negative rights, implying that they protect individuals from harmful actions by the state or others (ibid: 14).
The second generation of rights emerged when states began evolving into welfare states and encompassed economic, social, and cultural rights. Rights such as the entitlement to receive education and favorable working conditions are a few examples of the second-generation rights (ibid).

Over the past fifty years, a third generation of rights has emerged with the development of new concepts and ideas. This category of rights includes the entitlement to self-determination, the right to natural resources, collective rights, and more. (ibid).

4.2.1 Articles

The thirty articles of the UN Declaration on Human Rights are categorized based on the different groups and generations mentioned earlier. Articles 2-21 cover a range of rights, including the right to life, the right to security, protection against slavery, the right to a fair trial, freedom of expression, freedom of religion, freedom of organization, and more. These rights fall under the category of civil and political rights and are considered first generation rights. What sets this generation of rights apart is that they primarily pertain to the relationship between individuals and the state. In other words, they outline the rights that an individual can demand from a state (ibid: 24-26). These are commonly referred to as negative rights, which means the right to be free from certain actions or treatments (Roth: 74).

Articles 22-27 are based on the right to demand the distribution of public resources in a way that promotes the well-being of individuals. These rights include the right to work, education, healthcare, social security and more. These rights fall under the category of cultural, social and economic rights and are second generation rights. What distinguishes this generation of rights is the expectation of the state and the duty to both act but also to assure the individual a basis to be able to enjoy their rights (Fisher: 14). These rights are so-called positive rights, i.e. the right to certain goods. Unlike negative rights, positive rights presuppose active efforts primarily from the state and not just the restraint that negative rights require. The state thus needs to guarantee the positive rights through actions (Roth: 74-75).

4.3 African charter on human and peoples' rights

The African Union (AU) comprises all African continent states and serves as a continental union. It was established in the early 2000s, replacing the Organization of African Unity (OAU), a continental organization created during the decolonization era in the 1960s. While the OAU's primary objective was to combat colonialism and apartheid, the changing times
called for the African continent to reorganize and shift its focus to enhancing cooperation and integration between African states to promote economic development and growth. (AU overview, au.int).

All African states have acceded to the 1981 adopted African Charter on Human and Peoples’ Rights (Roth: 81).

The African Charter, which was adopted in 1981, aimed to unite the African continent in promoting and protecting fundamental rights and freedoms for all citizens, as well as eliminating any remaining colonialism. Its objectives also included promoting economic development and growth. It is noteworthy that at the time of its adoption, some European states still had colonies on the continent. The Charter's preamble acknowledges the UN's Universal Declaration of Human Rights, while also emphasizing the importance of African civilization's values and traditions in reflecting the concept of human and peoples' rights (African Charter on Human and Peoples' Rights, achpr.org). The African Charter serves as a supplementary document to the UN declaration by incorporating the values that are significant to African societies.

**4.3.1 Articles**

The African Charter comprises 68 articles and covers all categories of rights, including political and civil rights, economic, cultural, and social rights, as well as collective rights aimed at safeguarding entire populations. Due to the arbitrary nature of colonial borders, many distinct groups were forced to coexist, and to address the resulting disadvantage, the charter prioritizes collective rights to protect minorities. These rights include the right to existence, the right to a healthy environment, and the right to self-determination (ibid).

While the African Charter contains many aspects of the three generations of rights found in the UN declaration, the African Union did not choose to differentiate between them as clearly as the UN did, which separated them through different conventions (such as ICCPR and ICESCR). The preamble of the African Declaration states that civil and political rights cannot be separated from economic, social, and cultural rights. The African Union believes that one category of rights is necessary to fulfill the other group of rights. Therefore, the fulfillment of civil and political rights is a guarantor for the enjoyment of socio-economic and cultural rights (African Charter on Human and Peoples' Rights, achpr.org).
The initial articles of the African Charter contain the political and civil rights. Article 2 articulates the right of an individual to enjoy the rights and freedoms acknowledged in the Charter, irrespective of their status (such as gender, religion, ethnicity, etc.). Article 3 and Article 7 express the concept of equality before the law and the right to a fair trial, respectively. The right to life is formulated in Article 4, which highlights that every individual has the right to life with dignity and integrity, which should not be violated. Additionally, Article 9 of the charter guarantees the freedom of expression for all individuals (ibid).

The right to association and freedom of assembly are emphasized in Articles 10 and 11, but subject to compliance with domestic laws that do not endanger national security or morals in society, an issue that will be discussed in the criticism section. Article 13 establishes an individual's right to participate in political processes, both directly and indirectly, by running for office or casting a vote. Additionally, the article enshrines the right to equal access and use of public services in the country (ibid).

The African Charter also encompasses socio-economic and cultural rights, which can be attributed to both individuals and groups. Among these rights, only the right to education (Article 17), the right to good health (Article 16), and the right to work (Article 15) are individually oriented. Conversely, a number of rights within this category are associated with group rights rather than individual rights. Examples of these group rights include the right to self-determination (Article 20), the right to control natural resources (Article 21), and the right to economic, cultural, and social development (Article 22). Notably, all of the articles within the range of 19-24 begin with the phrase "all people," unlike Articles 15-17 which begin with the phrase "every individual."

The African Charter not only provides protection to individuals, but also emphasizes the importance of understanding individuals in their social context. This includes the individual's obligations towards their family and society, such as supporting their parents in old age (articles 27-29). Article 27.2 specifically states that rights and freedoms should be exercised while taking into account obligations towards other individuals, collective security, morality, and the common interest of society.

The responsibility for ensuring compliance with the Charter lies with the African Commission on Human and Peoples' Rights (ACHPR), which is composed of eleven members of African origin, who must have a good reputation and intimate knowledge of human rights. These
members are elected by the Assembly of Heads of State of the African Union (Fischer: 14-15).

4.4 ASEAN declaration of human rights

The absence of a regional charter or declaration in Asia can be attributed to the vast size of the continent and the diverse range of cultures and legal systems, which have differing perspectives on individual rights. This is exemplified by countries such as China, Japan, Saudi Arabia, and India, with their distinct religious, legal, historical, and political backgrounds. However, this does not imply that Asia lacks any declarations, albeit at a sub-regional level. ASEAN, a Southeast Asian organization, and the Arab League have both established their own declarations for member states (Fischer 86). In the following analysis, I will focus on the former.

The Association of Southeast Asian Nations (ASEAN), established in 1967, was created with the aim of protecting Southeast Asian countries from external military threats, among other objectives. This was particularly significant as the formation of the union coincided with the Vietnam War, which was taking place in the region at the same time (ibid: 86-87).

The League was initially established by Thailand, Singapore, the Philippines, Indonesia, and Malaysia. Over time, it has expanded to include new members such as Cambodia, Vietnam, Laos, Burma, and Brunei. The primary objective of the association is not only to maintain peace in the region but also to promote closer ties among Southeast Asian states through cooperation in various areas such as economics, social welfare, culture, and education (The founding of ASEAN, asean.org).

Similar to the UN Declaration on Human Rights and the African Charter, the Southeast Asian Declaration emphasizes the importance of democratic principles and the protection and promotion of human rights. The declaration also acknowledges the UN Declaration on Human Rights in the preamble and aims to serve as a complement to it by incorporating regional values and contributing to a human rights framework in the region (ASEAN Declaration on Human Rights, asean.org).

The ASEAN Charter places great value on the principle of non-interference, consensus, and consultation in decision-making within the organization (Article 2), a concept known as "the ASEAN way". This, together with the Southeast Asian Declaration on Human Rights,
constitutes the two most important documents for the organization, as they have a significant impact on each other.

Charter, which was formulated 45 years prior to the Human Rights Declaration, includes both rights and freedoms, as well as political and economic obligations. Through this Charter, member states have established a common market, the ASEAN Economic Community, which allows for the free movement of citizens, capital, goods, and services. To ensure that the concept of human rights is incorporated into all of this, the ASEAN Intergovernmental Commission on Human Rights was established within the organization in 2009. This body was responsible for formulating the Human Rights Declaration in 2012 and developing strategies to protect and promote human rights. Member states appoint a representative to the body for a three-year term, but they can be replaced at any time during this period (about AICHR, aichr.org).

4.4.1 Articles

The ASEAN Declaration on Human Rights, unlike the AU and similar to the UN, classifies rights based on the generations of rights. The declaration comprises 40 articles, and the first nine of them are classified under the "general principles" category. These principles are considered general by ASEAN and include the belief that every individual is born free and equal in dignity and rights (Article 1), the right to equality before the law (Article 3), and the inviolable and indivisible nature of human rights and fundamental freedoms for vulnerable and marginalized groups such as women, children, the elderly, individuals with disabilities, and migrant workers (Article 4).

Article 6 of this section, however, states that while individuals are entitled to enjoy their human rights, they also have corresponding obligations towards other individuals and society as a whole.

Articles 10-25 of the declaration pertain to civil and political rights. Among these, Article 12 guarantees the right not to be arbitrarily arrested or detained, Article 13 guarantees freedom from slavery, and Article 14 guarantees protection from torture. Article 15 guarantees freedom of movement both within and outside one's own country, while Article 17 guarantees the right to own property and not be deprived of it arbitrarily. Other important rights include the right to nationality (Article 18), freedom of religion and thought (Article 22), freedom of speech and opinion (Article 23), freedom of assembly (Article 24), and the right to participate in national political processes through voting or standing for election (Article 25).
The ASEAN Declaration on Human Rights comprises articles 26-34, which address economic, social, and cultural rights. The first article in this category confirms the existence of such rights and draws inspiration from the UN Declaration of Human Rights (Article 26). Article 27 establishes the right to work under good conditions and sets an age limit for child labor. Article 28 affirms the right to a decent standard of living, which includes access to adequate food, clean water, sanitation, and clothing. Article 29.1 guarantees the right to the highest possible level of physical, mental, and reproductive health, as well as access to basic healthcare services.

Article 29(2) urges ASEAN Member States to foster a positive environment that combats stigma, denial, and discrimination in the prevention, treatment, or care of people with communicable diseases, including HIV/AIDS. Article 30 guarantees every individual the right to social security (30.2) and special protection for mothers and children before and after childbirth (30.2, 30.3). Article 31 asserts the right to education, and Article 34, the final article in the section on economic, social, and cultural rights, asks Member States to evaluate the extent to which economic and social rights can be guaranteed to non-citizens who are within their borders based on both the concept of human rights and the available resources in each Member State. The final six articles fall under sections designated as "the right to development," "the right to peace," and "cooperation in the promotion and protection of human rights" (ASEAN Declaration on Human Rights, asean.org).

The right to development is covered in Articles 35-37 of the declaration, which highlight the importance of individuals' right to contribute to economic, social, cultural, and political development in a fair and sustainable manner that benefits future generations (Article 35). These articles also stress the obligation of member states to adopt a development program that is people-oriented and gender-responsive (Article 36).

Article 38 of the ASEAN Declaration on Human Rights affirms the right to peace, which guarantees both individuals and the people of ASEAN the ability to enjoy peace within a framework of security, stability, neutrality, and freedom. The article emphasizes that ASEAN member states should strive to constantly enhance friendship and cooperation among themselves to achieve this goal, promote peace, and foster harmony and stability in the region. ASEAN member states share a common interest in promoting and protecting human rights and fundamental freedoms, which can be achieved through cooperation at national, regional, and international levels in accordance with the ASEAN Charter (Article 39).
The final article of the ASEAN Declaration on Human Rights emphasizes that nothing in the Declaration should be interpreted as granting any state, group, or individual the right to intentionally undermine ASEAN's principles or to violate the rights and freedoms outlined in the Declaration (Article 40).

4.5 Post-colonialism, Universalism and Human Rights

4.5.1 Legality

Legality as a concept in this context refers to the idea that human rights should be enshrined in both international and national law to protect rights against violations. According to those who adhere to the universalistic view of human rights, established legal and institutional structures at an international level is necessary for universalism to gain ground in the field of human rights (Donnelly: 94-95). Jack Donnelly argues that that the high ratification rates of the UDHR is a proof of its universality, not only the existence of it but also the content of internationally recognized human rights (ibid).

The principle of legality is reflected in the UDHR, African Charter, and ASEAN Declaration, which provide a framework for safeguarding and upholding human rights based on the rule of law. They acknowledge the universality and indivisibility of human rights and create legal mechanisms for their enforcement and protection. The United Nations Human rights Council is responsible for the protection of human rights but also investigating allegations of breaches and violations of human rights (about HRC, ochr.org) and legality is reflected in article 8, which state that every individual is entitled to an effective remedy by national tribunals in cases where their fundamental rights have been violated.

The African Charter emphasizes, in Article 7 and 26, the right that every individual have to an appeal to a national court against acts of violations of fundamental rights. The charter also establishes a procedure for individual complaints to be considered by the African Commission on Human and Peoples' Rights which has the mandate to protect these rights (article 30).

While ASEAN Intergovernmental Commission on Human Rights is the body responsible for the protection of human rights in ASEAN region as written in the preamble of its declaration (about AICHR, aichr.org), article 5 in the ASEAN declaration state that every individual has the right to an effective and enforceable remedy that is established by a court for acts violating the rights of the individual.
To comprehend the post-colonial perspective on the declarations and their relation to legality regarding human rights, it is necessary to examine the viewpoint of intergovernmental organizations that operate on a global scale. Despite being an intergovernmental organization, the African Union, responsible for the African Charter, is still a regional body. In contrast, the United Nations is a global intergovernmental organization that includes all countries worldwide as members.

Post-colonial theorists begin with the issue of global inequality, which is closely tied to colonialism, as it established the power structures present in the world today and led to persistent global inequality. Post-colonialism contends that the West has long viewed itself as the civilized world tasked with the duty of civilizing the Rest, whom it views as barbaric. This belief served to justify colonialism (Baylis et al: 188).

The UN, being an intergovernmental organization with a global reach, can serve as a safeguard for the most vulnerable populations, as seen in its support for decolonization efforts (UN decolonization process, un.org). However, some in the post-colonial spectrum perceive certain intergovernmental organizations, such as the UN and the World Bank, as instruments of the West to expand its power. One notable post-colonial thinker who shares this view is Jalal Al-e Ahmad, who cites the example of the Congo where the UN allegedly prioritized Belgian and British interests over the welfare of the people, ultimately resulting in the death of then UN Secretary General Dag Hammarskjöld (Ahmad, 1984: 90).

Post-colonial scholars argue that despite dismantling the political and juridical colonial institutions, the prevailing system of governance in contemporary International Relations is still dominated by West’s perception of itself as the civilized world where western norms and ideals are the civilized ones whereas the Rest are barbaric (Kataneksza et al: 207).

Post-colonial scholars such as Mutua (2001, 2008) has highlighted the connection between the current human rights system articulated in the UDHR and the liberal thought of school. The UDHR being dominated by the western/liberal culture, the spread of it through the UN and its legal framework is, by post-colonial scholars, seen as a spread of western liberal norms and standard.

Both the African charter and the ASEAN declaration have faced criticism regarding the conditions that are set on rights which can be withdrawn according to the law. In the African charter, a problem has been highlighted with the “claw-back” clause in several of the rights articles. In this context, "claw-back" refers to rights that are conditional and can be withdrawn
if the condition is not met (Mapuva, 2016: 2). The charter contains phrasing that can be interpreted as claw-back clauses, such as:

- "... no one may be deprived of his liberty except for reasons previously established by law" (Article 6)
- "Every individual shall have the right to freedom of association provided that he complies with the law" (Article 10)

According to Mapuva, the presence of "claw-back" clauses significantly undermines the effectiveness of the charter. These clauses prioritize national laws, which have varying legal traditions, religious orientations, and cultural, ethnic, and historical priorities, over the charter. As a result, states can avoid sanctions and punishment, ultimately weakening human rights efforts in the continent (Mapuva: 4).

ASEAN, and particularly its human rights body AICHR, has been criticized for its lack of action regarding human rights violations committed by member states. (Fischer: 88).

The criticism that was directed at the ASEAN declaration is the fact that rights are subject to limitations due to reasons that threaten “national security” or “societal morality” (article 8, "Civil society rejects flawed ASEAN Human Rights declaration," amnesty.com).

### 4.5.2 Recognition of diversity

Recognition of diversity refers to the idea that human rights should be grounded in the cultural, social and historical contexts of the societies in which they are applied. Human rights cannot be understood in a vacuum, but must be situated within the abovementioned contexts. This means that the universal claims of human rights must be understood in relation to different traditions, practices and values and there is no one-size-fits-all approach in issues such as human rights but the unique needs, experiences and aspirations of different group must be taken into account.

One major challenge that the UN faced during the drafting process of the UDHR in the 1940s was a struggle of not agreeing on the concept of universal human rights by negotiators from different cultural and religious backgrounds. China's representative P.C Chang, for instance, had to emphasize the importance of recognizing pluralism in how people across the world view life, lifestyles, and cultural frameworks (Frédéric, 2020: 718-719). Chang expressed his
concern about the overwhelming dominance of Western ideas in the declaration and asserted that there is no ultimate truth (UN History of the Declaration. UN.org).

Chang's contribution was crucial in ensuring that the UN Declaration on Human Rights had a more balanced representation of different religious and philosophical traditions, as well as a focus on social, economic, and cultural rights, in addition to the classic political and civil rights. Without Chang's input, the declaration would have likely had a more Christian and Western-centric tone (Frédéric: 718-719).

Even if non-western members of the commité such as Chang contributed to the UDHR, he and Malik were both educated in the United States (Mutua, 2008: 156-155)

At the time of the adoption of the UN Declaration on Human Rights, much of the world was still under European colonial rule. Nevertheless, it was proclaimed that the rights system they created was universal, despite the global situation at the time. According to Mutua, one of the most prominent post-colonial theorists, this declaration helped propagate a culture-specific standard worldwide. He highlighted the striking resemblance in language between many of the Declaration's articles and the constitutions and legal precedent of the United States and other European nations prior to the founding of the United Nations. (Mutua, 2008: 46).

An example of an article in the UN Declaration on Human Rights is Article 5, which is expressed in the following manner:

- "Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his case impartially examined by, the competent authorities of the State concerned."

The phrasing of the Eighth Amendment in the United States Constitution is as follows:

- "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” (US Constitution, constitutioncenter.org)

Namli and Mutua argued that the UN rights system, which is considered universal, is derived from a historical context based on American and European legal tradition. There are many examples, such as those found in the 18th century constitutions of the USA and France, where articles have similar wording to those in the UN Declaration on Human Rights. While the right to life has always been included in legal texts throughout history, the similarity of multiple sentences raises questions. Thus, the idea of the UN Declaration of Human Rights
being universal is complicated by its historical context (Mutua: 40, Namli: 36).

Members of the working committee stressed the significance of individualism in discussions regarding human rights (Roth: 47), a notion that Chang strongly opposed. However, even states that abstained from voting for the declaration cited individualism as a reason, as previously stated.

The UN Declaration on Human Rights was not universally embraced during its adoption in 1948. South Africa, Yugoslavia, Saudi Arabia, and the Eastern bloc, as well as several non-Western and non-colonized states, did not vote for the declaration. At that time, only 56 countries had the opportunity to vote in the UN, compared to today's more than double the number of member states. These countries expressed criticism about the declaration's emphasis on civil and political rights, which were perceived as being individual-centered. Moreover, newly decolonized states, such as Egypt and India, were concerned about the implementation of the articles, given the different conditions that existed in the world, including economic, social, and cultural rights. These states felt that it would be unfair to apply the same yardstick as that used for the US and other European states. This lack of consensus shows the complexity of the issues surrounding human rights and the difficulties in achieving a truly global consensus. (ibid: 55).

The African charter do recognize the importance of diversity emphasizing the importance of protecting morals and traditional values that are recognized by a community being the duty of the state as stated in article 17(3).

The ASEAN declaration recognizes the diversity of the ASEAN region and acknowledges the need to consider the realization of human rights in the context of different national and regional circumstances with respect to different legal, social, cultural and historical backgrounds (article 7).

The UDHR does not as explicitly as the African charter and ASEAN declaration recognize diversity in its rights. Recognizing diversity and pluralism would end up on a collision course with universalism but also the UDHR because of its inclination toward culture specific norms and universal claim at the same time (ibhawoh: 15)
4.5.3 Rights and duties

In the Western legal tradition, rights have historically been associated with the individual. Plato and Hobbes, for instance, discussed individual rights as a means of protecting individuals from the power of a king or other authority figure. However, in non-Western societies, there has been more emphasis on a balance between rights and obligations. It was assumed that for an individual to have rights, they must also take their obligations towards others seriously. The focus was less on rights and obligations towards a state, king, or leader, and more on how individuals interact with each other and society as a whole (Mutua: 73).

According to certain thinkers and scholars, the idea of human rights, as seen in the UN Declaration, can be traced back to the Western liberal school of thought and natural law, where the focus is on the individual's rights in relation to the state. In non-Western societies, neither had the state existed in the same form as in the Westphalian model, nor had the individual been the central focus. Post-colonialism argues that the UN Declaration of Human Rights reflects a Eurocentric view of rights, with an emphasis on protecting the individual from a state that abuses its power (Ibhawoh: 10; Mutua, 2008: 47).

The concept of Eurocentrism is intriguing, and although its name implies a focus on Europe, this is not entirely accurate. According to me, "Western Eurocentrism" is a more accurate term, as the concept concerns the universalization of the Western worldview not only European. This worldview can vary even within Europe. In Western European states, the freedom of religion may be limited in favour of other human rights, such as freedom of expression. However, in countries like Russia and Poland, freedom of expression may be restricted to protect religious freedom (Namli: 44)

Despite Chang's efforts to promote a more balanced approach to the individual's rights and obligations in the UN Declaration on Human Rights, the declaration still included articles regarding the individual's right to a state, which was adopted at a time when much of the world was colonized. (Frédéric: 178-179).

The UN Declaration on Human Rights includes only one article that mentions "duty", namely Article 29.1, which states that everyone has obligations towards society in order to develop oneself freely and fully. Here we can read that these obligations are still for the benefit of the individual. In contrast to the African Charter and Southeast Asian Declaration, duty is not presumed in the UN Declaration and duties are not interconnected with rights.
The African Charter outlines obligations in two ways. Firstly, it asserts that individuals are entitled to enjoy rights as long as they prioritize the duty not to endanger national security or morals (Articles 10, 11). Secondly, it specifies that each person has obligations towards their family, society, the state, and other legally recognized institutions, both national and international (Article 27.1). Furthermore, the Charter stipulates that all rights and freedoms listed must be consistent with individuals' obligations towards other people, national security, morality in society, and the collective interests of society (Article 27.2). African societies held the belief that rights were not only attributed to the individual, but that the individual also had responsibilities towards society. Therefore, rights and obligations were viewed as two interconnected concepts (Mutua: 73, Sahle 2019: 205).

Similarly, the Southeast Asian Declaration on Human Rights states that the enjoyment of human rights should be balanced with corresponding obligations towards other people and society (Article 6).

### 4.5.4 Individualism and collectivism

The issue of individualism versus collectivism has been a prominent factor in discussions regarding human rights within both the Southeast Asian organization ASEAN and the African Union. The UN Declaration on Human Rights is closely associated with civil and political rights. During the development of the declaration, there were extensive debates within the working committee regarding the role of individualism and collectivism in establishing universal rights articles. Some members of the group had an existential philosophical standpoint which prioritized the individual in the declaration, citing the need to protect individuals after the widespread crimes and violations that occurred during World War II (Roth: 47). Others argued that the focus on individual rights was a response to the Nazi abuse of group rights, including their annexations and interventions in Eastern Europe, which were justified under the guise of "protecting minority rights" (ibid: 54).

Another group in the working committee aimed to achieve a balanced approach between individual and collective rights in the language of the declaration. Their objective was to formulate a universal and impartial declaration that could be presented to the rest of the world. This would only be possible through a pluralistic understanding of humanity that acknowledges the worth of individuals with diverse perspectives on life, lifestyles, and cultural contexts that are relatable to the entire world (Frédéric: 718).
During the late 1940s when the UN Declaration on Human Rights was put to a vote, some states chose to abstain from voting due to the emphasis on individual rights, which they believed undermined the declaration’s claim to universality. The idea of law as centered around the individual is closely linked to the legal traditions of the American and French revolutions, where individuals demanded their rights from oppressive powers. On the other hand, in African and Southeast Asian legal concepts, individuals are considered both holders of rights that can be claimed from others and society, as well as bearers of obligations towards the same entities, with an emphasis on maintaining social harmony (Mutua: 73).

Despite attempts to include new generations of rights and articles in the ICESCR and additional protocols aimed at making the declaration more universal and recognizing collective rights, the majority of articles in the UN declaration still focus on individual-centered rights.

Members of the working committee stressed the significance of individualism in the discussions of human rights (Roth: 47) and P.C Chang strongly opposed this. Also, those states that abstained from voting in 1948 cited individualism as a reason, as noted before in this research.

Nancy Fraser argues that the existing framework for human rights has mostly focused on individual rights and is insufficiently attentive to social and economic inequalities and suggests that a new conception of universal human rights needs to take into account the "scales of justice," or the various levels at which social and economic justice can be pursued. For example, at the local level, Fraser argues that the focus should be on "participatory parity," or the right of all individuals to have an equal say in the decisions that affect their lives. At the national level, the focus should be on "redistributive justice," or the right to a fair distribution of resources and wealth within a particular society. Finally, at the global level, the focus should be on "recognitional justice," or the right to be recognized and respected as a member of a particular cultural or social group. Fraser’s argument is that a comprehensive conception of universal human rights needs to take into account the different levels of justice and the different forms of struggle that are required to achieve them. This requires moving beyond a narrow focus on individual rights and toward a more holistic understanding of justice that addresses the structural inequalities that exist at multiple scales (Fraser, 2009).
The African Charter exhibits a balance between individual and collective rights. Unlike the UN declaration which begins the standard article with "every individual", several articles in the African Charter start with "all people" such as article 19, 20, 21, 22, among others. However, the African Charter also encompasses some articles that address the individual’s rights, especially those related to civil and political rights.

The concept of the individual in Southeast Asia is viewed within a broader social framework. Article 8 of the declaration stipulates that human rights and fundamental freedoms are to be enjoyed while considering one’s obligations towards others, and that these rights may be restricted to promote the overall welfare of society. This underscores how the collective well-being takes precedence over individual rights and freedoms.

Moreover, the Southeast Asian declaration includes several "people-oriented" articles, such as Article 36 which pertains to development programs.

4.5.5 Decolonization of neo-colonialism

Post-colonialism is a field of study that examines the period after colonialism, during which neo-colonialism plays a central role. Neo-colonialism refers to the continued political, economic, and cultural domination and influence exerted by former colonial powers even after formal decolonization and independence. The African and Southeast Asian declarations can be viewed as efforts to combat neo-colonialism by resisting the imposition of norms that seek to exert control over politics, the economy and culture (Viotti and Kauppi: 203).

Both the African Union and ASEAN developed their respective regional human rights declarations during a period when their regions were under threat from external powers, as mentioned earlier in this essay. The African Union was formed during the decolonization process when former colonies attempted to continue exerting power and practicing colonialism in parts of the continent. In the Southeast Asian subcontinent, ASEAN was established in response to the Vietnam War, which involved over half a million American soldiers (Vietnam War, Britannica.com). It is evident that these two declarations aimed to safeguard their own interests and resist neo-colonialism and hegemony.

During the late 1940s, when the UN Declaration on Human Rights was being deliberated, the Western states had a dominant presence in the UN, and as a result, the contents of the declaration reflected this. Most of the articles dealt with civil and political rights, although additional rights were included later. (Baylis et al: 513).
In the post-World War II period, a liberal world order emerged which came to dominate the relationships among capitalist, democratic, and industrialized nations. This order became even more dominant after the collapse of the Soviet Union in the 1990s. Concurrent with the establishment of this order in the 1940s, various types of international organizations and institutions were also created, with the UN leading the way. The liberal world order is defined by the dissemination of liberal principles such as free markets, democracy, and human rights. (Lake et al, 2021: 226)

According to post-colonial scholars, international organizations play a central and crucial role in upholding the principles of the liberal world order. For instance, the World Trade Organization (WTO) is responsible for promoting the free market by creating and implementing free trade agreements (About World Trade Organization, WTO.org). The World Bank and the International Monetary Fund (IMF) also provide loans to financially weaker countries, and in doing so, encourage them to adopt more liberal principles. However, many of these organizations heavily rely on financial support from Europe and, particularly, the United States to avoid jeopardizing their operations (Shaffer 2005: 155).

International organizations, established by several states with a goal to promote world peace and economic development, have faced threats from the United States to withdraw from these organizations if they go against the country's interests. Although these organizations are primarily dependent on American funding, the US has threatened to leave organizations such as the UN Human Rights Council ("US quits 'biased' UN human rights council, BBC.com) and has initiated the process of leaving the World Health Organization during the Trump presidency when they have gone against American political interests ("Trump administration begins formal withdrawal from World Health Organization", CNN.com)

Prior to Donald Trump, other U.S. presidents have also made the decision to leave international organizations for political reasons that were deemed to be against American interests. For instance, during Ronald Reagan's presidency in the 1980s, the USA withdrew from the WHO and protested against the majority of UN organizations due to the increasing involvement of decolonized states in these bodies, leading to the emergence of other narratives and opinions (“U.S is quitting UNESCO”, nytimes.com)

The current state of affairs is, according to post-colonial scholars, neo-colonialism and has to be decolonized. International organizations, established by the West and often promoting their interests, has resulted in the US and Western European states maintaining a unique position in
the world, allowing them to exercise hegemony and dominance over the rest of the world. If this hegemonic status were to disappear, post-colonialism suggests that there would be a shift in the global balance of power, as non-Western states would challenge the liberal principles established by the US and Western Europe that govern these international regimes. These states would require new global regimes or organizations that are based on pluralism in terms of norms and principles (Baylis et al: 299).

In 1966, countries from Asia, Africa, and South America, collectively referred to as the "third world," expressed their dissatisfaction with the emerging liberal world order and its affiliated organizations. This was evident at the Tricontinental Conference in Havana, which focused on anti-colonial and anti-imperialist issues. The conference laid the foundation for a call to establish a New International Economic Order (NIEO) and for post-colonial politics to permeate the international world order. The third world countries' objective was not to gain hegemonic power but to challenge an unjust and unequal system and power structure maintained by powerful states, the banking system, and the corporate world (Viotti and Kauppi: 202).

During the era of colonialism, the colonizing powers consciously exercised hegemony and dominance over weaker societies in the so called global south. Even in post-colonial era, this kind of relationship still exists, albeit in different forms according to post-colonialism. Post-colonial theory argues that former colonizing states and others with imperialist ambitions promote their interests not only through direct state actions, but also through international organizations such as the UN, WTO, and IMF. These organizations are viewed by post-colonial theorists as tools used by these powers to advance their own interests (Al-e Ahmad: 30).

Post-colonial theorists argue that the efforts to universalize the UN's declarations of human rights, with their distinct liberal-democratic nature, are part of a historical continuity of Western cultural domination that has persisted for centuries. At the heart of this historical continuity is the aspiration to disseminate and universalize Eurocentric norms and values while simultaneously stigmatizing the culture of the "other" as long as it varies from one's own norms and values. This worldview legitimized colonialism and portrayed the "inferior" civilizations in the world as requiring civilizing (Ibhawoh: 15).

The African charter reaffirms in the preamble its pledges to decolonize and to eradicate and eliminate all forms of colonialism, neo-colonialism and apartheid-systems included.
ASEAN declaration does not explicitly address decolonization and neo-colonialism, even if principles such as respect for sovereignty and non-interference are at core for the organization, as mentioned earlier.

This can also be said about the UDHR. There is no explicit mention of decolonization or neo-colonialism in the declaration but, as mentioned earlier, UN as an organization had an important role in their support of decolonization efforts around the globe.

4.5.6 Inherent human dignity

Inherent human dignity is a concept that emphasizes that all human beings are entitled to respect and dignity simply by virtue of their humanity. This means that human rights are not granted by a state but is inherent to all individuals and all the three declarations do emphasize this concept of inherent human dignity as a fundamental principle of human rights.

In the African charter, article 5 states that “every individual should have the right to the respect of the dignity inherent in a human being”. In the ASEAN declaration, there is emphasize on every individual being born free and equal in dignity (article 1) and having inherent rights (article 11).

The UDHR is also explicit in the preamble highlighting the inherent dignity of human beings stating that “inherent dignity and of the equal and inalienable rights of all members of the human family is foundation of freedom, justice and peace in the world”.

Jack Donnelly (2013: 97) claimed that human rights should apply to all human beings regardless of their nationality, gender or religion and he argues that this is a fundamental since it is based on the inherent dignity and worth of every human being and human rights remain the only proven effective means to ensure the dignity of human beings.
<table>
<thead>
<tr>
<th>Concept</th>
<th>African charter</th>
<th>ASEAN declaration</th>
<th>UDHR</th>
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</thead>
<tbody>
<tr>
<td>Recognition of diversity</td>
<td>- Emphasises the importance of protecting morals and traditional values recognized by a community in the continent, as stated in article 17(3)</td>
<td>- Acknowledges the need to consider human rights in the context of different national and regional circumstances, as reflected in article 7</td>
<td>- Do not explicitly recognize diversity in rights as the other declarations.</td>
</tr>
</tbody>
</table>
| Decolonization of neo-colonialism | - Reaffirms in the preamble its pledges to decolonize and eradicate all forms of colonialism, neo-colonialism included.  
- Article 19 states that nothing shall justify the domination of a people by another people.  
- Article 20 states the right to self-determination. | - No explicit mentioning of decolonization.                                      | - No explicit mentioning of decolonization                               |
| Rights and duties             | - Individuals have rights but also corresponding duties towards society, as stated in article 27(1). | - Individuals have rights, but also corresponding obligations towards society, as stated in article 6. | - Individual-centred                                                  |
| Legality                      | - Article 7 and 26 gives every individual right to an appeal to a national court. | - Article 5 gives every individual the right to effective and enforceable remedy by a court. | - As reflected in article 8, every individual have a right to an effective remedy by |
The table above provides a comparison of some key concepts in the UDHR, African charter and ASEAN declaration. All the three declarations recognize that every individual is entitled to respect and dignity simply by virtue of their humanity. The three declaration acknowledge also the importance of legal and institutional framework for human rights to fulfil its aim.

However, they do differ in different aspects and in approach. The African charter and ASEAN declaration do put great emphasis on the contextual. Local values and norms are protected and collective rights are elevated, therefore the need of these regional declarations which clashes with UDHRs’ universal claim.

Putting on a post-colonial lens, the African charter and ASEAN declaration focus on protecting traditional values and norms can be seen as an attempt to resist the homogenizing
effects of colonialism but also the continued effects of colonialism and imperialism that have ravaged the region historically. The UDHR, on the other hand, positions itself in a universalistic stance and takes a universalistic approach focusing on individual rights that should be applicable to all people.

From a universalistic view, there are shared values across all of the three declarations. They all recognize the inherent dignity of a human being and also mechanisms for seeking effective remedies for human rights violations.

4.6 Conclusion

This research evaluates the relationship between key concepts of post-colonialism and universalism and the declarations of the UN, AU and ASEAN.

The aim of the study is to examine and evaluate how some key concepts of post-colonialism and universalism reflect on the three declarations, the UDHR, African charter and the ASEAN declaration, in order to provide an understanding of the concept of rights in its diverse forms.

This thesis examines and evaluates how the Universal declaration of human rights, African charter on human and people’s rights and ASEAN declaration on human rights reflect on some key concepts of post-colonialism and universalism and the research question is:

- How do post-colonial and universal key concepts reflect on The Universal declaration of Human Rights, The African charter on human and peoples’ rights and The ASEAN declaration on Human Rights?

The analysis revealed several key themes related to post-colonialism and universalism in the declarations. The UDHR reflects the concepts of universalism, according to the ideal type and it also reflects a colonial legacy with culture specific human rights discourse. This is of course due to the evolvement of concept of rights in the western world which were the dominant force during the drafting of the UDHR declaration due to colonialism.

The African charter features a heavy post-colonial perspective. Even though some of the articles are of individual character (article 15, 16 17), the importance of collective rights and values is emphasized more (article 19-24). Post-colonialism in its essence is about fighting colonialism and neo-colonialism and the African charter do explicitly state the right of the
African people to not be dominated (article 19) and the right to existence and self-determination (article 20).

This charter, however, reflects also a tension between cultural relativism and universalism as some of the rights in the charter are specific to the cultures of the continents. Examples of this could be found in article 17(3) and 29(7) which underline the duty of every individual of preserving and strengthening positive African cultural values.

The ASEAN declaration do also lean towards the post-colonial approach in emphasizing collective rights (article 6 and 8) and its recognition of the importance of cultural diversity and context (article 7) when discussing human rights.

The ASEAN declaration do also reflect a tension between cultural relativism and universalism. The declaration emphasizes the importance of acknowledging the need to consider human rights in the context of different contexts as state in article 7, meaning that human rights should be viewed in the context of different cultures.

This tension is reflected in both the African charter and the ASEAN declaration whom both put more importance on economic, social and cultural rights, compared to UDHR, which in turn are often prioritized in a cultural context of a society. The idea here is that human rights should be customized and tailored to the specific needs and priorities of each society and not be seen as a universal standard.

This research has also highlighted some of the key debates surrounding human rights from a post-colonial and universal perspective, as seen in the analysis and the table above. It has been done through the concepts of legality, recognition of diversity, Decolonization of neo-colonialism, inherent human dignity and the tension between individualism/collectivism and rights/duties.

When it comes to the concept of legality, it is argued by all three declarations that human rights should be protected by international and national laws. The UDHR, the African charter and the ASEAN declaration do all establish legal frameworks for safeguarding and protecting human rights. However, there are criticisms that these legal mechanisms prioritize national laws which in turn weakens its universal status.

Recognition of diversity is emphasized as a crucial aspect of human rights in both the African charter and the ASEAN declaration. The UDHR, which is the declaration that emphasized this the least among these three declarations, faced challenges during its drafting process due to
the differing cultural backgrounds of the working committee. Even though there have been efforts in the UDHR to include diverse perspectives and more social, economic and cultural rights alongside the already dominant political and civil rights, there are still concerns from that the it still have a heavy euro- and westerncentric influence when it comes to the concept of rights.

The concept of inherent human dignity forms the basis for human rights. It asserts that all individual or people possess an inherent worth by virtue of their humanity. Alongside with the concept of legality, inherent human dignity is agreed upon all three declarations.

The tension between rights/duties and individualism/collectivism are also examined in the research. Historically, western legal tradition with the liberal thought of school has focused on individual rights against an abusive state while non-western societies have put emphasis on a balance between rights and duties. The UDHR leans towards the protection of rights while the African charter and ASEAN declaration acknowledge the interconnection of rights and duties.

Regarding individualism and collectivism, the UDHR highlights individual rights, particularly in response to atrocities during World War II. There were debates within the drafting committee regarding the role of individualism and collectivism in establishing universal human rights system. The African charter and the ASEAN declaration address the importance of balancing individual rights with corresponding duties towards other individuals and society as a whole.

To summarize, the universalist perspective is more or less manifested in the UDHR, the idea that human rights should be universally applicable to all people, regardless of the social, cultural and historic context and which is contrasting to the post-colonial view of the concept of rights.

The post-colonial perspective challenges the Western liberal notion of universality regarding human rights, which is the dominant discourse in this field. The post-colonial argument is that the Western- and Eurocentric view of human rights is a one-size-fits-all approach and has failed to taken into account the diverse historical, cultural and social contexts in which human rights are applied.
5. Final remarks

5.1 Reflection

The analysis reveals that the qualitative content analysis and the ideal type method was useful in outlining ideal types for both post-colonialism and universalism and then applying them to the declarations. The ideal types was useful in identifying underlying assumptions and values and in examining how these assumptions and values influence interpretation of the concept of human rights by these declarations. However, this method is limited in its bias and subjectivity in defining the ideal types and the concepts that is included in it.

Although this thesis provides a comprehensive analysis within the chosen theoretical framework and methodological approach, it is essential to acknowledge that alternative theories and methods exist which could have given further insights but also perspectives. But due to limitation of time and space, other theories and methods except the chosen ones could not be included.

Sensitizing concepts (Blumer, 1954) could have been an alternative for ideal types, but it requires being open and flexible to understand phenomena which would not be useful if a study is grounded in existing theoretical framework, which this study is. A study that is grounded in existing theoretical framework do also ensure a high reliability and replicability of the research that also could be compared with other studies.

Another method that could be interesting to explore instead of the qualitative content analysis used in this research is concept analysis. This method could be used to understand underlying meaning and structure of concepts and how it is understood and used in different contexts. Using this method, examining how concepts are used in the declarations would be at the centre of this study since concept analysis focuses on abstract ideas and conceptual frameworks rather than analysing the content of a specific document. While concept analysis could be useful, it would not give as adequate answer to my research question as content analysis.

An alternative to post-colonialism could be feminism, which also is also critical of the dominant human rights discourse. Feminism do provide some new perspectives to the discourse of human rights and have, in some aspects, much in common with post-colonialism. Feminist scholars challenges the systematic discrimination faced by women and argues that the UDHR do not explicitly address gender inequality and calls for a more inclusive human
rights system (Engle, 1992; Parisi, 2010; Martignoni, 2022). Feminism has a narrow focus and is primarily focused on gender issues and cannot alone adequately capture the complexity of my research question. Key dimensions such as geopolitical power dynamics and historical contexts would be lost in feminism.

An interesting point I found in the analysis of these declarations is the role of the state and how the state is for all the three declarations, albeit for different reasons. The individual-centric concept of rights, which the UDHR represents according to this study, has its roots in protecting the individual against the state, while many of the rights in the African charter and ASEAN declaration could be limited by the same state.

The previous research regarding human rights declarations have had a focus on evaluating single declarations and their implementations. However, there is no study or research that conduct a systematically analysis of the three declarations and with an explicit theoretical framework. This is where the contribution of the study manifests.

The findings of this study will contribute to the ongoing scholarly conversation regarding human rights, post-colonialism and universalism, spotting the tensions but also synergies between these concepts. With synergies, I am referring to the ways in which universalism and post-colonialism can complement each other in a more nuanced understanding of human rights. While historical power imbalances and contextual differences shapes our understanding of human rights according to post-colonialism, frameworks for human rights where the inherent dignity of human rights is acknowledged and equality between all humans is recognized can be in combination as seen in the all the three declarations.

At the same time, by recognizing the limitations of the different understandings of the concept rights as seen in the declarations, we can help the human rights discourse to be more reflective and critical.
5.2 Further research

This research has provided a theoretical discussion of the concept of rights based on the post-colonial and universal theoretical frameworks and through analysing the Universal declaration of human rights, the African charter and the ASEAN declaration on human rights.

There have been numerous studies and research that have dealt with human rights and the three declarations named in this paper, but there remains a significant absence of a comprehensive and systematic analysis on these three declarations that delve into a theoretical discussion, an attempt this thesis tried to do.

What this paper has not tried to do is to address the normative aspect of this question. Therefore, the researcher recommends a future research that focuses on and discuss the normative understanding of the concept of rights.

Future researches in this field could also explore the incorporation of the alternative theories and empirical data to broaden the understanding of the concept of rights in different contexts. Applying other theories such as feminist theory and incorporating other declarations such as the Universal Islamic Declaration of Human Rights could give us interesting perspectives (Ud din et al, 2022).
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Translated by R. Campbell


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