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Paper on:

Legislations Pertaining to Woman and the Ways to Effect.

By:

Awatif Mohammad Ali Al Ja'ali

Member of Legislation and Justice Committee of the National Assembly

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Introduction:

Woman struggle broke out in the world and particularly Arab and African Countries, in quest of justice of rights, duties and equivalent opportunity, to achieve effective participation in centres of decision making for obtaining overall rights.

Law is the most important feature of civilization and performance, regulating relation between individual and community and define all aspects of social, economic, political cultural ... etc of life. Woman who resembles half of her society, according to biological classification, also resembles greater percentage according to prospective of classifying spiritual care and coherence of social texture. She achieved this high percentage by undertaking more constructive and essential social roles. It is now high time, that woman shall endeavour to stabilize those rights, throughout various availed means, like conferences, workshops and researches, and under take effective role in updating legislations and laws related to woman to take her role in the course of development both internally and externally.

That is to make certain that all previous and consequent efforts target consolidation of legal support for those rights implicitly recognized or the non-mentioned ones-away from running non-objective conflict which does not serve this struggle, as such efforts also aim at enhancement of those humanitarian and fair rights, to bring about economic, political and social security, which could not be achieved unless within context of legislation, law and regulations. For illustration of woman struggle and some achieved gains at all levels whether local, regional or international, we draft the **following four pivots:**

- A. Woman in international charters and agreements.
- B. Woman in regional charters and agreements.
- C. Woman in national legislations.
- D. The way to effect legislations related to woman.

Firstly: Woman in International Charters:

Since the beginning of the 20th century, and world society endeavours continued to legalize rights of woman. In 1914, World Labour Organization, issued Agreement of Maternal Protection, revised in 1935, and hence agreement of Woman Night Work No. (45) of 1935. This agreement aimed at protection of the working woman and observation of her job as a mother, which necessitates allocation of particular texts enabling her to harmonize between her natural job and her work outside home. After the end of World War (2), world concern escalated towards causes of woman, where UN charter of 1945 in the first section confirmed consolidations and respect of human rights and principal freedoms for all people without discrimination due to ethnicity. Language or religion as well as gender.

As section (55) of the charter which decides human rights according to world bases and without discrimination between men and women, as binding legal rule for all UN members.

In 1948, World Declaration for human rights was issued, texts of which revealed tendency to preserve rights of both woman and child. It also gives due consideration to family being the basic nucleus of society and she has the right to enjoy international community protection.

In 1952, UN Commission of Woman Centre, prepared the treaty of woman political rights which was adopted by UN General Assembly.

In 1967 a declaration was issued pertaining to put an end to discrimination against woman.

In 1969, UN issued a declaration for progress and development in social field, which includes in section (4), giving the family the right of protection and assistance for enabling to undertake its social charges.

In 1973, an agreement preparation started putting an end to all forms of discrimination against woman, undertaken by UN Woman Commission Centre.

In 1974, a world declaration for protection of women and children in events of emergency and armed conflicts was issued.

In 1976 section (3) of the world pledge of economic, social or cultural rights, to secure equality between male and female, in the right of enjoying of all economic, social and cultural rights stipulated in that pledge. In 1979 agreement of ending overall forms of discrimination against woman was adopted and became valid in 1981. In the same year, World Labour organization issued labour agreement for those of family charges to enable them occupy jobs without discrimination.

In 1994 Cairo International Conference for Population and Development was convened having aims of bringing about removal of all legal, political and social barriers, facing woman and 1995 Beijing Conference informs that woman rights are human rights. In the year 2000, UN issued the document (Beijing+5) and in 2005, conference of (Beijing+10) was convened.

Execution Mechanism of UN items and charters related to woman:

1. Discrimination committee, stipulated in section 17 of Sedao Agreement.
2. Commission or committee of woman status, composed of 87 members, from Africa, West Europe, Asia, Latin America and East Europe, which submits its proposals to the economic and social council.
3. World Institute for training and special researches related to woman upgrading, which was established by the General Assembly at (Dominican).
4. UNDF for woman, which undertakes financing causes of woman and provision of technical aid for specification of programs and strategies to boost woman political rights and economic security.
5. UNF for Population:

It is noticed that these charters as we already observed, include all concerns of woman, as some of them only consider this in some parts thereof, as and these agreements and charters, in spite of the fact of including various objectives attributed to woman working to eradicate harmful habits and

traditions, to reach achievement of political, economic and social rights, yet they include more critical and passive points that contradict with overall forms of civilization and values of religious believes in the world, as stated in Sedao agreement section (2.D).

That is in addition to absolute equality, between man and woman drawing her nearer to be symmetrical to man, based upon rejection of the fact about difference in functions and properties between man and woman, to lead to family breaking. Again Beijing Document of 1995 includes many incorrect points e.g. considering that most persons who suffer and live under poverty line, are from women and girls! and that increase of poverty percentage among women is a resultant of the state non consideration to the issue of gender in the field of economics.

The document stipulates the basic linkage of woman to man is her financial need. And for that, woman economic empowerment enables her to break away from man and that common role as a mother and man role as a father are paternal and traditional roles.

Such faulty concepts, being various in national charters, accordingly we fined many countries refuse to join these international charters, while some joining countries have reservations to these sections, since joining imposes upon such countries adoption of these charters into their internal legislation. And only for example Kingdom of Saudi Arabia has joined only four of the seven human rights agreements and to five of WLO agreements.

As for Sudan, it joined five of the seven human rights agreements and to seven of the eight WLO agreements.

Moreo'ver, Sudan has joined the two optional protocols attached to the agreement of the child rights concerning armed conflicts 2005 and child prostitution by abuse of the year 2004. Sudan also has joined the two protocols attached to the across border crime agreement pertaining to women and

children abduction. As for Djibouti, it has joined four agreements out of the seven human rights agreements.

Secondly: Woman in Regional Charters and Agreements:

Regional charters and agreements that deal with woman, are numerous e.g. protocol of woman rights in Africa, attached to the African charter for human and people's rights, adopted by the general assembly of the states and government heads of the African Union during the 2nd ordinary session, in Mozambique Capital (Maboto).

In July 11 2003, it was joined by 53 states and this protocol is composed of 32 sections, all of them stated rights of woman e.g. section, (3) about dignity and realization of her humanitarian and legal rights and her protection.

In section (4) on the personal rights of life, peace and security, in addition to prohibition of all forms of exploitation, treatment or harsh or non-humanitarian defaming one. In section (5), eradication of oppressive practices while in section (7), separation, divorce and marriage and in section (8), attainment of justice and equal protection. In section (9) participation in politics and decision making.

All such rights and others, stated in this protocol as section (26) thereof stipulates implementations and control and that member states of this protocol at national level and according to section (12) of the African charter, shall secure mentioning in their international reports, prepared as statements about legislative arrangements, adopted with the purpose of full achievement of the rights recognized by the protocol. As they shall abide by adoption of all necessary arrangements, to provide suitable financial revenues and others, to secure full and effective implementation of rights recognized by the protocol.

Arab charter of human rights 1994:

This charter is not yet empowered and it is composed of (43) sections tackling family, maternity and child states in section (38) – A – B.

Section (2) of the second part, stipulators the following: every member states, in this charter shall pledge to provide for every human being, found within its territories and subject to its authority, the right of enjoying all rights and freedoms stated therein, without discrimination due to racism or color or gender or language or political opinion or national origin or social or wealth or birth or any other status without differentiation between man and woman. This charter is based upon the UN charter and world declaration of human rights and provisions of the two international pledges for civil and political rights as well as economic, social and cultural rights. It is a charter that equalizes in all texts pertaining to commitments, rights and duties between woman and man, yet it allocates some sections for woman due to privacy.

Cairo declaration on human rights in Islam:

It has been passed by the council foreign ministers of the world Islamic conference organization in Cairo 5/8/1990, where it stipulates: contribution in human efforts related to human rights aiming to protect against exploitation and oppression as it aims to secure his freedom and rights in decent life, in line with Islamic Shari'a – being confident that humanity has gone far in imperial science but still and will continue to be in need of the belief support, for its civilization and self tendency to guard its rights and believing that basic rights and freedoms in Islam are part and parcel of Islamic religion as no body could be in a position to delay wholly or partly or violation or negligence of heaven rules assigned by almighty God in the holy massages of prophets, particularly the seal of them, to become worship that negligence of which or aggression against is absolutely forbidden by religion. Every individual humanbeing has his own responsibility towards this and likewise, nation is responsible in collaboration and member states in the Islamic Conference organization, has accordingly admitted and declared the following: (all people are one nation sharing worship to God and son ship to Adam, so that all of the people are equal in human dignity and assignment or responsibility, without discrimination due to ethnicity

or color, or language, gender, religion, politics, social status or other considerations, and that right belief is the guarantee for development of this dignity on the course of human integration. It also stipulates that all humanbeing are filiations to God and the most popular thereto is the most benevolent to others and no merit of any one over others unless by God obedience and benevolent action. Section (3) states protection of woman and child during armed conflicts, while section (5) stipulates right of woman in marriage, as section (6) stated that woman is equal to man in human dignity, and she shall enjoy her right as she burdens duties with her civil character and independent financial obligation and the right of reserving her name and affiliation. Section (7) stipulates protection of mother woman. Such are the sections allocated by Cairo Declaration on human rights in Islam for woman. This is besides her equal right to man in enjoying the right of resort to justice, ownership and other civil rights. Finally, section (25) or the last section, stipulates that Islamic Shari'a is the sole reference for interpretation of whatever section in the declaration.

Islamic Declaration for Woman Role in Development of Muslim society:

This declaration was issued by the Complex Council of International Islamic Theology, emanating from organization of Islamic Conference, in its 12th session at Riyadh – KSA, dated September 28/2000, after perusal of experts symposium, and role of woman in developing Islamic society, convened in Tehran – Iran during 17-19 April, 1995, pursuant to resolution No. 7/10 issued by the Islamic Summit Conference. Department in the two sessions 9th and 10th of the complex. Purpose of this declaration to confirmation of values provided by Islam for woman and disseminated by some conferences concerning Arab woman, particularly that of Beijing and Cairo and other texts of this declaration, composed of 11 sections, that all of which confirm and support the role of woman in society and its development. That was only a part of regional charters, some of which tackles woman status while other part referred to the

issue of woman in particular. States had various stands towards these regional charters. Some of them for geographic existence have agreed to all of them – like Egypt, Sudan Djibouti. As for K.S.A, and by virtue of not being African country, she is a member in all charters already mentioned except the African charter. As for Arab charter for human rights, most Arab countries agree thereto, but it is still awaiting enforcement.

There are other regional charters joined by countries pursuant to their geographic existence, like European charter for human rights and basic freedoms – 1959 comprising 40 countries, and American charter for human rights – 1967 which was enforced in 1978, and joined by 35 states, and African charter of 1980 comprising 53 countries and Algiers declaration for human rights – 1976.

Thirdly: Woman in National Legislations:

Talking about woman in Arab and African legislations is elaborate and since legislations tackling woman status are so many, we shall consider in this paper samples of some legislations with some of their sections, headed by constitutions of countries and hence law of nationality, law of personal status, and work laws and social security, political participation, as our approach shall be in samples of these laws in some countries.

1- Constitution:

If we take one principle out of principles called for by most constitutions. – being the principle of equality, we find that all Arab and African constitutions or most of them have stressed on this principle in its preamble and for example only – constitution of Jordan of 1952, section (1) stipulates that Jordanians are equal before law, without discrimination in rights and duties, while section (5) stipulates maternity and child protection. In Bahrain constitution of 2002, it is stipulated that people are equal in human dignity as citizens are equal according to law, in rights and duties without discrimination due to race, origin, language,

religion or creed. As it also stipulates in its second Para, protection of family, maternity and child.

As an example for African countries, we find that Somali constitution of 1960 which stipulates in preamble that all citizens are equal before law as they are equal in rights and duties with no discrimination due to race origin, birth, language, religion, gender ethnicity, economic, social status or political opinion. The same text was mentioned in constitution of Djibouti. As for Egypt, constitutional declaration No. (.....) of 2011, stipulates tat citizens are equal before law as they are equal in rights and duties with no discrimination due to gender, origin, language, or creed. As for status in Sudan constitution of 2005, it is even more comprehensive and particular towards woman, allocating private texts for her in addition to the public principle stipulated in Arab and African constitutions. Preamble of Sudan constitution stipulates that citizens are equal in law and have the right of legal protection without discrimination due to race, color, ethnicity, language, creed or political opinion, while section (32) states rights of woman and child in 5 items.

- a- State shall provide for both men and women the equal right in enjoying all rights whether civil, political, social, cultural or economic area- including the right of equal wage for equal work along with other job merits.
- b- Also state shall consolidate rights of woman through positive discrimination.
- c- State shall Endeavour to combat harmful habits that minimize woman dignity.
- d- State shall provide health care for maternity and child and pregnant women.
- e- State shall protect rights of the child.

2- Nationality:

Some Arab and African countries do not stipulate in laws to give the child nationality of his mother while others stipulate that. For example UAE in its law

of 1972 article (2) stipulates protection of the child generally and giving him nationality whether for his father or mother who are legal citizens or if he is of unknown parents and born in UAE or if he is of known father or not proved to affiliate to father while mother is a legal citizen. As for Bahrain, the child shall not have nationality of mother unless his affiliation to father is not proved or he is of unknown father.

As for Sudan Law, it has allowed child nationality of his mother legal citizen mother, as in Egypt and Morocco/

3- Personal status:

If we consider personal status laws of countries, we find that marriage age variate from country to another. Some countries link this to the age of being adult as we know that countries also variate in specifying the age of being adult, when some make it 18 years, others make it 25 years.

In Jordanian law of 2011, marriage age is defined by 18 years and article (1) thereof stipulates allowance to those who are under 18 years for marriage, provided that age shall not be less than 15 years and to legalize this by the chief justice and the guardian along with notable interest. As for Sudan law of 1991, it allows marriage of mad, insane discriminative persons by approval of the guardian if there is notable interest.

Discriminative girl shall not be allowed unless after approval of the judge while discriminative age is 10 years.

Talking about personal status necessitates tackling many issues and e.g. in marriage of which we only consider one part, being marriage age and there is the issue of engagement, effects of marriage, under age and similar, guardianship affiliation and means of proving, divorce and effects of marriage separation, that is in addition to issues other than marriage.

4- Law of Work:

UAE law of 1980 has expressly stipulated to give woman equal wage if she undertakes the same work as in its article (29) has banned employment of

women in dangerous, servitude or harmful to health or morals or other works of which minister of labour issues a decision after knowing opinion of specialized parties. In Jordanian law of 1996, definition of dangerous and servitude works and times during which women shall not be working and cases of exemption is left to the minister of labour after knowing opinion of specialized parties, as law does not refer to the issue of woman wage. In Libya act of 1980 which stipulates in article (24) non discrimination between men and women in work and employment. In Sudan law 1997 article (19) banned employment of women in dangerous and harmful to health works as the article has been specified very clearly.

For the issue of wages, woman in Sudan is allocated equal wage for equal work since 1960^s. National civil service law of 2007 stipulates in article (28) to observe equal wage for equal work and in the law of 1974 pertaining to the minimal wage, article (3) thereof stipulates application of its provisions to all workers being men or women.

As for undertaking jobs of justice, all laws of countries have specified conditions for undertaking the post of judge; yet it is unfortunate that some countries limited this to the males like UAE law of 1983 which makes the condition of being a male to under take judge job. In Sudan woman has already entered the field of justice and as there is a great number of women in different constitutional, higher and appeal courts in addition to preliminary courts along with woman presence in attorney and advocacy.

5- Political participation:

Jordan law of 2007, equalizes between woman and man in political parties, in candidacy and election. Also in Djibouti law of 1988 and Somalia 1960, she has the same rights of politics. In Sudan, woman had gained right of election since 1960^s and joined parliament since 1969, as her right of election and candidacy in all subsequent laws as law of elections 2008, in addition to its equality between man and woman in most of its texts, it secures merit of giving woman

right of joining representative councils via (quota) allowing her percentage of 25% of councils seats. That is in addition to seats she could gain through competition and direct election, as she has been given right of candidacy, even to the level of presidency as law of parties allows her the right of making political party, participation therein and undertake chairing of such parties.

Fourthly: Way to effect legislations related to woman:

From afore said on woman status in international and regional charters, along with national legislation, we find that woman, if not gained all of her rights, she at least gained most of her rights in laws inspite of different looks to these texts, but we can say that justice is still crippled in various areas. With existence of all these stipulations and others, reality indicates otherwise. In many countries, we note that woman is still backward due to numerous reasons like:

- 1- Weakness of woman support in her legislative work on one hand and poorness of public opinion towards woman and her legislation role on the other hand.
- 2- Poorness of woman participation in parliaments in most countries even those that have allegation to be advanced within international democracies, and regional ones.
- 3- Non-awareness of more women with their rights, particularly election and candidacy and shortness of women's election campaign finance resources.
- 4- Absence of institutions and organizations capable of adoption and support to candidate women.
- 5- Domination of social inheritance , prevailing in most countries, based on faulty habits and traditions that lead alienation of woman from sites of decision making.
- 6- Debates within parliaments remain to be governed by general political atmospheres on one hand and civil life on the other hand to reflect poorness of parliamentary outcome undertaken by woman in external

surrounds. This is a part of reasons depriving woman benefit from legal texts serving her interests. I intend to show these reasons, because woman political status is considered the gateway through which all social, economic, ideological or cultural claims, can be reached, as it is also a gate way for parliaments and parties being sites of decision making, to effect laws for woman interests and for putting such laws into action, there should be the following:-

- a) Benefit from practice of countries leading in achieving gains for woman in line with beliefs, traditions related to each country.
- b) Removal of injustice, resultant from accumulation of history and opening of contribution field and work opportunities in large scales and adoption of effective machinery to disseminate awareness and remove such accumulation.
- c) Encourage and urge parliamentary women to exchange of experience with parliamentary women in other countries and undertaking of effective role in African parliamentary union, Arab ones and world wide.
- d) Encouragement to woman movements for work and struggle to send women representatives to representative or legislative councils.
- e) Endeavour to involve woman in all institutions of ideology, culture and development, at all levels to attain required goals via presence in such institutions.
- f) Urge woman to show her capacity and ability and bright aspects of her works by means of training.
- g) Adoption of media strategies with the purpose of introducing capacities and abilities of women.
- h) Use of (quota) system and its incorporation in laws to allow woman joining of parliaments or sites of legislation and control over executive.

- i) Reform of all laws pertaining to woman and we do not have to suffice with only reform of political laws, since woman who suffers personal status law that makes her running after courts in search of justice for herself and sons. This woman is not more concerned with using political right granted for her by law in election or other political rights. That is in addition to faulty application of laws like law of work and making of hindrance before woman against promotion and training can not help her in exercise of political rights.

Political rights are not a goal and are not enough to merge woman into society, but they are only means for achieving other goals (socially and economically) for woman. Accordingly reform shall be made to laws urging woman to these fields, being the aim of joining politics.

- j) Finally formation of pressure groups of women to cater for issues of woman including legislation revision like government organizations e.g. Higher Council for Family Affairs in Qatar or Administration General for Woman in Sudan or Committee of Woman Issue Support in Syria or NGOs, like Centre of Woman Issues in Egypt and Center of Woman Studies in Sudan or the National Caucus for Sudanese Parliamentarian Women which helps to support woman in representative work.

Conclusion:

We confirm that claiming rights of woman and keeping just with her, should not deviate to management of conflict or be considered as war between the two poles of society, and that community following such a trend by resorting to particular ideological reference or one-sided theory running after certain results to please international parties will certainly deform the issue of woman and weaken confidence n researchers. For example woman independence from man should be always considered positive, while wife need for her husband is considered negative or that he who needs help is considered passive.

As talking about woman role by certain opinion, confirms only one job for her, that is work and earn money to achieve financial independence from husband and marginalization or underestimation of her role as mother, wife and child up bringer. That does not reflect social reality according to all heavenly religions as it does not help for family stability. Moreover it can lead o family separation or division and annihilates more values of love and mercy. As insistence to use specific terms within ideological reference aiming to alienate other cultures, will deviate the issue to critical corners and vain less efforts endeavouring to change stiles of life and religious values, in stead of working to boost such traditions and inherited cultures that all of which agree to family being under marriage life as the core of good society. Duties should not be lost within dilemma of seeking claimed rights or faulty ones. Sustainable and comprehensive development for woman and families could not be achieved unless based on religious beliefs, traditions and cultures well established in society. Accordingly man role must be involved to attain rights of woman being safeguard to rights of family and society, where it is impossible to consider the cause of woman without her social course (as an individual) and member of a family and resultant charges related to her biological job, as denial of effective role for her, by which she can obtain considerable importance in society.

As culture privacy of nations should be considered and observed in their religious and cultural values and highlight of that via agreements and international charters legislating for woman or any person.

Awaif Mohammad AL-Ja'ali
Legislation and Justice Committee.