

The Rights of the Palestinian Woman Between Sharia and its Application in the Palestinian Constitution

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Abstract

The Islamic religion is interested in regulating woman's rights and respecting her dignity, where Islam divided woman's rights into public rights and political rights. Indeed, this is evident in the current study entitled "The rights of the Palestinian woman between Sharia and its application in the amended Palestinian constitution of 2005". There is a variation among the international documents related to woman's rights from one county to another based on the political and social conditions of countries; accordingly, the Palestinian constitution approved the rights and freedoms of the Palestinian woman in accordance with the social and political context. Despite the superiority of constitution over all the regular legislations, we can see that the regular laws varied in terms of protection of woman's rights, as stated in the Jordanian penal law of 1960, which is applied in Palestine and the personal status law of 1976, which will be addressed in this study.

Keywords: *Constitution, Regular Legislation, Woman, Sharia.*

Introduction

Women had a distinctive social status over the various eras, where they played an effective role in the various life domains. Also, the importance of this role varied based on time, from the ancient times until the current era. Since the early historical ages, women have received their own prestige. For example, in the Code of Hammurabi, there had been several texts that regulate family affairs and woman's status, where a woman had the right to divorce, the right to take care of children, the right to practice commercial work, and the right to take alimony. Also, the Code of Hammurabi related to statutory law imposed harsh penalties on anyone who causes harm to her or violates her rights approved by law.

Islam has been widely interested in regulating woman's rights and respecting her dignity, where Islam divided woman's rights into public rights and political rights. As for the international documents that addressed woman's rights, they varied from one county to another based on the political and social conditions experienced by those countries.

Based on the research's title, it is necessary to identify the extent of applying the rights of women in the light of the Palestinian constitution of 2003 and its amendments, where this constitution approved women's rights and freedoms according to the social and political context with reference to the rights of citizenship and the articles of constitution.

As for the Palestinian law, we can see that they vary concerning protection and approval of women's rights. Indeed, some legal texts underestimated the woman's status, such as the Jordanian penal code of 1960, that was applied in Palestine, where there had been a draft of a Palestinian penal code that weren't implemented due to the conditions of occupation experienced by the Palestinian people. The same applies to the personal status law of 1976.

Therefore, this study will address several issues concerning the rights of the Palestinian woman between reality and application in the light of the Palestinian Constitution and regular laws in Palestine. Also, the study will address some of the international and regional legislations, and conclude with a number of recommendations based on the comparison that will be made.

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This study was divided into two topics, and each topic is divided to several requirements.

The first topic: woman's rights in the Islamic Sharia and the international documents.

The first requirement: woman and her rights in the Islamic Sharia.

The first part: woman's public rights.

The second part: woman's political rights.

The second requirement: the rights of the Palestinian woman in the international documents.

The first part: woman's rights in the Universal Declaration of Human Rights and the International Covenants of 1966

The second part: woman's rights in the international documents

The second topic: the rights of the Palestinian woman in the Palestinian constitution and some regular laws

The first requirement: woman's rights in the Palestinian constitution of 2005

The second requirement: woman's rights in some Palestinian regular laws

The first topic

Woman's rights in the Islamic Sharia and the international documents

The Islamic religion has set certain rights for women and protected them according to the humanistic perspective. Also, it dealt with both males and females equally, without any discrimination in accordance with the regulations of the Islamic Sharia, where all individuals are treated fairly by Allah . The Holy Quran stated: "O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you".

In Islam, the role of woman is not limited to her complimentary participation with man, but she has prominent and influential roles in making the Islamic history. In this vein, we can see the peace-making woman (e.g. the role performed by Umm Salama in preventing sedition after the Treaty of al-Hudaybiya). Also, women performed other roles as warriors and advisors, in addition to their role in keeping the Islamic heritage. According to the Islamic religion, males and females have been created from the same origin, as stated in the Holy Quran: "O mankind, fear your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women" . Also, women are said to be similar to men in terms of status and respect, where the prophet Muhammad peace be upon him said: "women are the twin halves of men". The prophet Muhammad (PBUH) has always advised people to be kind to women, as he said "Act kindly towards women" . Hence, the study will address the rights of women in the Islamic Sharia (the first requirement), and later, woman's rights in the international documents will be addressed (second requirement).

The first requirement: the rights of women in the Islamic Sharia

Islam has granted women a set of rights, as discussed in the following two parts. The first part addresses the public rights of Muslim women, and the second part addresses the political rights of Muslim women.

The first part: the public rights of woman

Islam honored the woman in several issues, considering her as a respectful creature who has her own dignity and status, where she is the mother, daughter, sister, and wife, where life can never be possible without her existence. Allah, the Almighty said: "And of His signs is that He created for you from yourselves mates that you may find tranquility in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought".

Accordingly, Islam has saved woman from the adverse effects of humiliation from which she suffered over long periods of time, where Allah, the Almighty said: "And when one of them is informed of the birth of a female, his face becomes dark, and he suppresses grief". Also, she has been qualified to have her own property just like man, where Allah, the Almighty said: "O mankind, fear your Lord, who created you from one soul".

The public rights of woman include the following:

Personal freedom: it refers to woman's freedom concerning the public issues, including traveling from one place to another, practicing commercial work, and other affairs in accordance with the Islamic Sharia.

Housing freedom, where women have more priority than men in enjoying the housing conditions, to protect them against privacy-violation by foreigners.

The freedom of opinion: Islam granted woman the right to express her opinion and discuss her own affairs. Allah the Almighty said: "Certainly has Allah heard the speech of the one who argues with you, [O Muhammad], concerning her husband and directs her complaint to Allah. And Allah hears your dialogue; indeed, Allah is Hearing and Seeing".

The freedom of teaching and learning: science has a great importance in Islam, where many Quranic verses urged Muslims to search for more knowledge. Women have equal rights to men with regard to acquiring science and knowledge, where the prophet Muhammad (PBUH) said: "seeking knowledge is an obligation upon every male and female Muslim".

The second part: woman's political rights

The Islamic vision is established in the light of males and females' responsibility for achieving the intentions of the public. In this vein, there is no division of social work, where women are not only entitled to social roles, and men are not only entitled to political roles- indeed, there is an overlap and integration between the roles and responsibilities of both males and females.

Islam has set equal controls and regulations for men and women, where it distributed the practical tasks and duties in accordance with the nature of males and females- Islam has granted women several political rights, including:

The right to pledge: Islam has specified women with certain type of pledge that is different from men in order to confirm their autonomy, where women advocated the prophet Muhammad (PBUH) in Al-Aqaba and Medina, and also advocated him in Mecca in a pledge known as women's pledge. In this situation, Allah the Almighty said: " O Prophet, when the believing women come to you pledging to you that they will not associate anything with Allah, nor will they steal, nor will they commit unlawful sexual intercourse, nor will they kill their children, nor will they bring forth a slander they have invented between their arms and legs, nor will they disobey you in what is right - then accept their pledge and ask forgiveness for them of Allah . Indeed, Allah is Forgiving and Merciful". In this vein, Islam didn't view their husbands, brothers, or children's pledge as sufficient, as women have their own pledge.

The right to guardianship: the jurists in Islamic Sharia approved the eligibility of women in self guardianship, and additional guardianship to property, in addition to the additional guardianship for others, such as custody, whereas those jurists have variation in some specific issues; however, some jurists have reservations concerning woman's eligibility to practice the political work. In this vein, several perspectives

emerged about woman's eligibility for public governance, where some advocated her non-eligibility, and others supported her eligibility for public governance, whereas others limited her eligibility to the issues of judiciary.

We can say that whether there are models related to women's governance in Islam or not, this does not affect woman's eligibility for public governance. The Qur'anic verses and Hadiths revealed that the woman's lack of participation in a country's administrative affairs during the early Islamic period is attributed to the nature of the social life at that time, where Allah the Almighty said: "The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey Allah and His Messenger".

The right to consultation: Islam granted women several freedoms and rights. For example, Islam approved woman's right to political participation, in terms of expressing their opinion, as stated in the verse "their affair is determined by consultation among themselves". In this context, Umm Salama expressed her opinion in the treaty of al-Hudaybiya and Umm Kalthoum, the daughter of Ali bin Abi'Talib (may Allah honor his face) took part in some domains of the political work. Islam also granted women the right to express their opinion, and gave them the freedom related to beliefs, where Islam permitted the Jewish and Christian woman to maintain her religion, even if she was a Muslim's wife.

The second requirement: the rights of woman in the international documents

Women have received an increased interest by the statutory laws since the last decade, where they obtained several rights in the work domain and political participation, in terms of voting or nomination. However the statutory laws, during their progress, missed balance, where the international documents varied concerning woman's rights according to the political changes around the world.

After the establishment of the United Nations in 1945, there have been main achievements in this domain, where a set of international documents were approved in order to determine and develop the rights and freedom of women, and the necessary international measures were set to supervise the process of implementing them and enhance the public awareness about the international protection of woman's rights. For example, the United Nations' code of 1946 implied the principle of human rights and the world's countries belief in the basic human rights and dignity, as well as the equal rights for men and women. This was followed by the international declaration of human rights in 1948, which confirmed the inherent dignity to all people, and their equal rights as a basis for freedom and justice. Then, there was the declaration of the two international covenants for cultural, social, economic and political rights in 1966, where this declaration converted the rights stated in the international declaration into legal commitments whose resource is the international law- these two covenants imply legal commitments to the member states, and are viewed as an important step towards protecting the human rights at the international level.

Accordingly, this requirement will address two parts:

The first part: The first part: woman's rights in the Universal Declaration of Human Rights and the International Covenants of 1966

The texts included in the document of the universal declaration of Human rights- in its 30 articles- were compatible with the regulations of the Islamic religion that are derived from the Holy Quran. This contradicts with the claims of the western people, where they confirmed that the articles were derived from the principles of the French Revolution in 1789; however, most concepts included in the declaration have existed in the Sharia since the 7th century; i.e. eleven centuries before the era of enlightenment in France.

The universal declaration of Human rights issued in 1948 stated the basic principle in equivalence between males and females. The first article of the declaration stated: "All human beings are born free and equal in dignity and rights". Also, the second article stated "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind". Even though the universal declaration of human rights is not a legally-forcing document, it sets a criterion that States should attempt to achieve. This

declaration could also be as a basis for requiring the government to respect the human rights. In this vein, Iraq included some of the principles stated in the universal declaration of Human rights in its institution. Iraq is considered amongst the states that signed the universal declaration of Human rights in 1948.

The universal declaration of Human rights has also constituted the foundation upon which several international covenants are based. Even though the declaration of Human rights is not considered as a convention, it has become as a source of international customs, where countries have a sense of legal commitment to consider the criteria in this convention, and these criteria are reflected in the public practice of countries. Indeed, the universal declaration of Human rights includes civil and political rights as well as cultural, social and economic rights. It has laid the foundation of more than 20 international conventions of human rights; therefore, many countries established the methods of legal protection for rights based on the principles of honesty, justice and equivalence stated in the universal declaration of human rights.

The two international covenants for cultural, social, economic and political rights issued in 1966 are amongst the main international documents for human rights, where these two covenants have been adopted by the general assembly of the United nations to enhance the universal declaration of human rights. Indeed, these two covenants differ from the universal declaration of human rights, in that the countries that signed them are committed to their content. In order to be members in these conventions, countries should sign and approve these conventions. When a country signs a treaty, it has to perform certain responsibilities towards individuals and groups in communities, where governments should respect and protect the rights stated in the convention. This has the potential of protecting individuals' rights against governments' violation to these rights, and against the violations practiced by individuals or groups in certain circumstances.

The universal covenant for civil and political rights addressed a number of rights, including the individual's right to life, freedom and security, as well as protecting them from being subjected to torture or harsh treatment, and protecting the dignity of prisoners. This universal covenant for political and civil rights was signed by Palestine on April, 2, 2014.

The International covenant for economic, social and cultural rights addressed a number of right, including the individual's right to education, healthcare, housing, food and drink, social services, and the rights related to practicing the individual's own culture. Under these rights, governments are committed to fund these services. This covenant was signed by Palestine on April, 2, 2014.

The second part: woman's rights in the international conventions

After the issuance of the international conventions for protecting human rights, including woman's rights, the differences between individuals were eliminated gradually, where States were subjected seriously to the provisions of the international law, where the existing laws in the international community were amended. In this vein, States have become more committed towards individuals and community with regard to considering the individuals' rights and freedom. The State members in the universal convention for human rights seek to ensure the rights of individuals in front of the national courts of their countries. This context makes these rules more distinctive as compared to the other international rules, in terms of their specific nature, and their applicability in a country's internal legal system.

There are several international conventions related to women's rights, including:

The 1902 convention on the conflict of national laws with regard to marriage, divorce and guardianship of minors.

The 1904 and 1910 conventions against women's prostitution.

The 1933 Montevideo convention on the nationality of married women.

The 1952 convention on the political rights of women, where women's voting and nomination rights are approved in all the elections, and they are entitled to occupy public positions and practice all public jobs without discrimination.

The 1957 convention on the nationality of married women.

The 1958 convention on discrimination in the domain of employment and job.

The 1960 convention on combating discrimination in education.

The 1979 convention on the Elimination of All Forms of Discrimination against Women, followed by an optional protocol of 1999, which granted individuals victims to file a suit against violent actions (25).

The optional protocol following the convention on the elimination of all forms of discrimination against women in 2000 (26).

As for the (CEDAW), it is worth noting that the convention included the definition of discrimination against women in the first part, whereas the second part addressed the effect of culture and traditions on explaining women's rights and the necessity of eliminating the stereotypical roles between genders, excluding the concept of woman's inferiority. Also, the convention urged countries around the world to combat all the forms of trafficking in women, and confirmed their right to enjoy a complete equivalence with men in public and political life, in addition to their right to enjoy the advantage of nationality, where the woman and her children should not be stateless. The third part of the convention stated the importance of education to women either quantitatively or qualitatively, where countries should be committed to eliminating discrimination against women in terms of education, and they should be given equal opportunities in the domain of education, while the fourth part of the convention confirmed the right to equal treatment before law, in terms of marriage, and the family law, where a woman should have the right of dissolving the marriage relationship and should have the right to select her husband in an equal manner with men without any discrimination. The fifth part addressed formulating a committee to eliminate discrimination against women, while the sixth part dealt with the some administrative affairs concerning the convention, such as the impact of this convention on the other conventions as well as the necessity of urging countries to be committed to this convention and implement it in reality.

As for the implementation of this convention in the Arab and Islamic countries, 16 Arab and Islamic countries joined it, these are: Jordan, Algeria, Comoros, Iraq, Kuwait, Morocco, Tunisia, Lebanon, Libya, Egypt, Yemen, Indonesia, Pakistan, Bangladesh, turkey, and Malaysia, while Palestine joined this convention in 2014, and signed it without any reservations.

The Second Topic

The Rights of the Palestinian Woman in the Palestinian Constitution and Some Regular Laws

The Palestinian women suffered from the adverse effects of occupation, starting from the catastrophe of 1948 up to now, where such a suffering was direct and indirect through the social, economic and political effects of the Israeli occupation. The continuous Israeli attacks resulted in more deterioration to the secure, political social and human circumstances in the occupied Palestinian territories and Gaza strip. This situation adversely affected the status of the Palestinian women in terms of safety, security, economic and political participation, as well as obtaining the basic needs, including health and educational needs.

The legal status in Palestine, as compared to other countries around the world, is considered amongst the most complicated and unique circumstances, where this situation is attributed to the various Nations that ruled Palestine across the various historical eras. Indeed, this context resulted in the diversity of the legal systems that prevailed there. The first applied Constitution in Palestine was the ottoman basic law of 1876, followed by the decree of Palestine Constitution of 1922 during the period of the British mandate, and then

the constitutional documents that were applicable after the catastrophe of 1948, until the issuance of the Palestinian basic law of 2002, which was amended later in 2005.

To enshrine the legislations or implement the lowest related to women's rights in the Palestinian community, it is necessary to focus on the constitutional level, since Constitution provides a frame for the basic individuals' rights and their relationship with other individuals and with the State, where the protection of equal rights between males and females should be derived from this context. Also, the existence of possible disputes between woman's rights and the social and traditional stressors should not eliminate these rights or adversely affect their implementation, where the legal system should provide women with the mechanisms and tools to protect their rights, even when the social standards do not do so.

Therefore, in this section, we would address the rights approved by the Palestinian Constitution of 2005 (the first requirement) and the rights in the Palestinian legislations in (the second requirement).

The first requirement: the rights of women in the Palestinian Constitution of 2005

When determining the needs of the Palestinian women, we should consider them as major part within the community instead of marginalizing them, where such marginalization would alleviate the idea of equality and ignore the fact that women's right is a basic part of the human rights.

Furthermore, implementing the principle of justice and equality between both genders in the legal Palestinian system will not only be beneficial for women and children in Palestine, but will also enhance the development of the country. Here, it is worth noting that the economic development takes place more rapidly in countries that have less differences between men and women in the domain of health, education, labor, and intellectual property. Indeed, if the terms of the Palestinian law and the way of implementing it lacked discrimination between males and females, a large category of the community will be subjected to deprivation which, in turn, adversely affects the potential development in Palestine as a whole.

Moreover, the Palestinian women experience more concern about fear due to the increased violence and security disruption. In this vein, the lack of legal controls, particularly after the Zionist occupation and the catastrophe until the present days, in addition to the increased murder and imprisonment processes, resulted in imposing more restrictions on women's freedom to travel and go to work and to educational institutions. Women are faced with laws and practices that are based on discrimination, where these laws deprive them from having equal rights with men, or from protection against violence within family and community.

As for the basic Palestinian law of 2005, it approved the rights and freedoms of women according to the social and political perspective as well as the rights of citizenship. By reviewing the articles of the constitution, we can see that the legislations and decisions related to women are issued in accordance with the provisions of the Constitution, where its legitimacy is derived from constitution. Therefore, approving the principle of equality between women and men is a constitutional rule which necessarily prevents each behavior opposing to this rule.

Article (9) of the constitution provided that "all the Palestinians are equal before the law and judiciary system, where there is no discrimination between them based on race, gender, color, religion, political affiliation or disability". Also, article (10) stated: "1- individuals basic rights and freedom are protected and should be respected, 2- the Palestinian national authority do extended efforts to join the international and regional conventions that protect human rights".

As for the political rights of the Palestinian women stated in the Palestinian law, they included the following:

- Women have the right to vote in all public elections in Palestine, based on conditions that give equal rights with men without discrimination. This applies to all presidential, legislative or municipal elections, and all the commissions whose members are elected publicly.

- Women have equal rights to men, in terms of the nomination rights in all the elections whose members are elected in public.
- Women have the right to participate in all the public elections in the State.
- Women have the right to hold all the public positions in the State without discrimination.
- Adopting the principle of equal representation of men and women in all the elections in the State to ensure representing them effectively in the legislative and executive institutions, and thus enhance their political participation.
- Enhancing women's representation in the syndicalist commissions and professional associations based on quota in order to ensure their representation in syndicates effectively.
- Women have the right to establish political parties and affiliate to them in the light non-discrimination between men and women.
- Political parties ensure enhancing the representation of women in their leading commissions by adopting the quota system to ensure their effective representation in leading commissions of parties.
- Political parties should set their internal systems in accordance with the complete equality between males and females.
- Women have the right to participate in all the political activities and hold public meetings with discrimination based on gender.
- Women have the right to represent their country in official delegations and international conferences without discrimination.
- The various Palestinian authorities ensure raising the representation ratio of the Palestinian women in higher leadership positions in the various country's authorities in order to enhance their role and participation in the process of decision-making, and thus have an effect on the country's policies.
- Women have the right to grant the Palestinian nationality to their children, and the State should adopt legislative controls and standards that achieve equality between men and women in granting nationality to the foreign spouse.
- Women have the right to maintain their original nationality when getting married to a foreigner or after separating from him. This right should also apply in case her husband changed his nationality or acquired the nationality of another country.

As for the civil rights of the Palestinian women stated in the Palestinian law, they included that:

- Women have the right to life, where they shouldn't be deprived from this right arbitrarily through the pretexts of honor. The State should protect this right and ensure respecting women.
- Women have the right to respect and dignity, where they shouldn't be subjected to torture or bad treatment that adversely affects her status.
- Women have the right to equality with men before law.

- Women have the right to resort to the judiciary system and obtain their legal rights without discrimination based on gender.
- Women have the right to possess their own property, and the right to be protected against any exploitation for stealing their own property.
- The Palestinian women have the right to obtain all the official documents without the need to take permission from anyone.

Also, it is necessary to mention some of Palestinian women's economic rights approved by the Palestinian law:

- The Palestinian woman has the right to work and earn her own money from a work that she selects intentionally and accept it freely. The Palestinian State should take all the necessary measures to protect this right to the Palestinian woman.
- The Palestinian woman has the right to enjoy fair work conditions in an environment that ensures her health and safety.
- The Palestinian woman has the right to obtain a work and get the fair salary and career advantages related to that work.
- The Palestinian woman has the right to lactate her little baby and obtain two resting periods each day during work time, where each period should be no less than a paid-working hour.

Also, there are many other health and social rights approved by the amended Palestinian law of 2005.

The second requirement: The woman's rights in some regular Palestinian laws

The Palestinian women suffered from the adverse effects of occupation, starting from the catastrophe of 1948 up to now, where such a suffering was direct and indirect through the social, economic and political effects of the Israeli occupation. The continuous Israeli attacks resulted in more deterioration to the secure, political, social, economic and human circumstances in the occupied Palestinian territories and Gaza strip. This situation adversely affected the status of the Palestinian women in terms of safety, security, economic and political participation, as well as obtaining the basic needs, including health and educational services.

The legal status in Palestine is a complicated one, where Palestine applies a number of previous laws that are viewed as a reflection to the political situation that prevailed in Palestine, starting from the ottoman conquer to the Arab countries, followed by the during the periods of the British mandate, the French occupation, and the Israeli occupation. All these contexts affected the legal and legislative reality.

In the light of that, the Woman's Center proposed the necessity of urging public and private institutions to appeal the legislative council to set the legal texts that ensure providing urgent protection to women who were victims of violence by approving and amending the laws that are directly related to the Palestinian women rights, including penalty law, the law of protecting family against violence, and personal status law.

Indeed, the amendments to these laws have started since the early 1990s, by making advantage from the experience of the Palestinian women working in the domain related to family violence before the Advent of the Palestinian national authority, where the work related to violence cases was performed in cooperation with legal personalities that have political social status in the community. Indeed, laws weren't activated at that time, and efforts were done to create an adjustment between the social and cultural reality prevalent at that time, and the laws and procedures related to the topic of violence against woman. Also, the problems facing the providers of social and legal services while intervening in cases of family violence were considered, in public and private sectors.

Within the domain of legal backgrounds, there should be more focus on the importance of harmony between the legal system and the constitution, alongside with the country's commitment to international conventions, where such conventions impose legal commitments that are reflected on the law itself. The most prominent issues in this context are related to the lack of a Palestinian constitution that determines the way of adapting the local laws to be compatible with the international commitments. However, this reality should be addressed, particularly concerning the violation to the above-mentioned laws, as the implementation of laws should consider the rights and freedoms to which the State of Palestinian has committed, where the local and international backgrounds will be reviewed.

The Penal Law

The legal vision differs between the western bank and Gaza strip according to the directions of the authorized legislator in each area. This context depends on the differences in the penal policy and the general directions in criminalization as well as the way of dealing with criminals, where they vary among the Jordanian law No. 16 of 1960 applied in the western bank, except for the occupied city of Jerusalem in which the Israeli criminal law is applied, and the British penal law of 1936 applied in Gaze strip. Concerning the details and philosophy of these laws, we can see differences in the vision and directions, where women often take the responsibility for the committed crimes and delinquencies.

A number of achievements have been achieved within the Palestinian context concerning the issues of violence practiced against women in the Palestinian community. Therefore, the study addressed a topic that had always been overlooked within a masculine-dominated community. Also, there has been direct work with women in the various sites, where the services of legal and social counseling were provided to female victims of violence, while confirming the necessity of providing the necessary protection as a part of the community responsibilities in order to protect its individuals who are exposed to violence based on gender. In this context, institutions are also responsible for providing effective support and legal protection to protect woman against violence. In order to achieve the best results, there should be continuous efforts to make the necessary changes and amendments to legislation in order to ensure a better life without discrimination between citizens. Also, the mechanisms of non-official protection should be considered in order to enhance the principle of equality. Additionally, more efforts should be done to establish courts that are specialized to deal with the issues of violence, where such a step would have a positive effect on enhancing women's trust with the judicial system and encouraging them to resort to the judicial system in order to solve the problems to which they are exposed. It is worth nothing that the efforts of institutions have started since the 1990s in order to enhance the protection of women against violence. After that, the work of legal and feminine institutions as well as public commissions has been more focused on amending the laws and making drafts that are compatible with the specific directions of those institutions, where a national committee was established to formulate the Palestinian penal law that covers all the Palestinian areas. A draft of the Palestinian penal code was introduced in 2011, where the rights stated in the international conventions concerning the rights of women were taken into consideration. Accordingly, a national team was established under the supervision of the justice ministry to cite the final agreed-upon version which will be lately approved by the president or the legislative council after it is convened.

The Personal Status Law

The Palestinian woman contributed to the efforts aiming to approve a standardized personal status law that takes into consideration the international standards of human rights. In 1998, a number of feminine institutions as well as partisan and national personalities established a mock Parliament just like the legislative council, where the sessions of this Parliament determined the laws that include discrimination against women in order to amend them in a symbolic step towards achieving that in reality. Indeed, the personal status law received more attention on the agenda of the mock Parliament. The most prominent issues were related to the topic of preparing number of justifications based on an initiative by the Women's Center for social and legal counseling, which was about the necessity of amending the law by focusing on six main issues that should be amended. Those issues included (age of marriage, governance, woman's testimony, custody, common property, and multiple wives), where they will be explained as follows:

Age of Marriage

There is a close connection between all the laws issued by the legislative authority; therefore, when approving any laws, there should be an adjustment with the other laws. Also, the systems and regulations should be compatible with the higher-order law. Here are a number of the legislations that contradict with the current age of marriage:

- The civil and commercial laws as well as the penal laws applied in Palestine.
- Marriage age and the Palestinian child law.
- Marriage age and the law of labor.
- Marriage age and the law of public elections.

Guardianship And the Basic Law

The Palestinian basic law, which is the Constitution of the Palestinian national authority, stated the principle of equality, where article (9) stated: "all the Palestinians are equal before the law and judiciary system, where there is no discrimination between them based on race, gender, color, religion, political affiliation or disability". Accordingly, guardianship by men over women when signing the marriage contract is considered as a violation to the basic law that confirmed the principle of equality between all Palestinians before law.

Guardianship and the Law of Public Elections

The law of public elections assigned a status for women with regard to holding public positions in the government, in addition to nomination to presidential and legislative elections. Also, the law granted woman the quota in the Parliament, which means that women will have a role in making the law and approving it. Therefore, the woman who enshrines and approves the laws which are applied to all community members will certainly be able to sign the marriage contract autonomously.

Furthermore, the law of public elections didn't determine the gender of the candidate to the presidential position, which means that women can hold the presidential position, and thus can take the responsibility of a whole country- a woman with such a personality will certainly be able to sign her marriage contract by herself.

Guardianship in Marriage and the Previously-Wedded Woman

The personal status law eliminated the guardianship from the previously-wedded woman, in case she intended to get married again, as she has the right to get married by her own intention- without guardianship-provided that she is more than 18 years old. This could be attributed to the fact that the previously-wedded woman has more experience and knowledge of the life and marriage affairs. Here, we may notice a contradiction; is the woman, who gets married at the age of 18, then becomes a widow or divorced (previously-married), more knowledgeable about life affairs than a female member in the legislative council who enshrines law, or a female minister who has no right to sign her marriage contract by herself?

Guardianship and Women's Rights

In the light of the provisions of the Palestinian Constitution that approves the principle of justice and equality, we can see that is necessary to achieve this vision in the system of legislations and laws that we apply, where all the forms of discrimination should be eliminated. Therefore, there should be more efforts to activate the provisions adopted by the president of the Palestinian national authority concerning the document of women's rights, and the convention related to eliminating all the forms of discrimination against woman. Indeed, these documents should be integrated in all the laws and legislations. In this vein, it can be noticed that guardianship is a violation to women's rights, where it refers to maintaining the inferior

view towards woman, and dealing with her as a minor who cannot select properly, and cannot practice her own rights without the existence of an external influence.

Conclusion

The current study concluded with a number of results as well as a number of suggestions and recommendations that may be beneficial to legislators in order to address the possible negative sides in the legal context.

First, the results:

The Holy Quran have stated the human rights since (1400) years, prior to the issuance of the documents of the United nations; indeed, the Holy Quran included the rights of all people, either as Muslims or non-Muslims. Therefore, the concept of justice is a comprehensive one.

Based on the verses of the Holy Quran, we can see that men and women are equal, where both masculine and feminine terms have been used to describe the creation of all the humanity from the same source. Here, it is worth noting that several habits and laws that are wrongly attributed to Islam are actually based on tribal laws. Hence, the reactions related to amending women's legal rights do not originally emerge due to contradiction with the Islamic philosophy, but rather as attempts to amend the old tribal customs and laws. Therefore, when analyzing the woman's rights in Palestine, we should understand the various explanations about the different issues. Given that most Palestinians are Muslims, Sharia is considered as important in order to understand some cultural, social, and economic manifestations. As for women's rights, Islam provides an obvious attitude related to the equality between men and women for Allah, as stated by the Qur'anic verses.

The years following the establishment of the United nations in 1945 witnessed several main achievements in the domain of human rights and women's rights, including setting a number of international documents that aimed at determining and developing basic freedoms and human rights, in addition to setting the necessary international measures to supervise their implementation, and promoting the awareness concerning the importance of the international protection of human rights and women's rights. These documents included the document of the United Nations of 1946, followed by the universal declaration of human rights in 1948, then the two universal covenants for cultural, social, economic and political rights issued in 1966. Even though the declaration of Human rights is characterized by generality, but not mandatory, the two international covenants were issued later in 1966, where the rights and freedoms stated in the declaration have been converted to legal obligations.

As for the current basic Palestinian law, the chapter related to rights and freedom included several cultural, social, political and economic rights. However, it didn't include any texts that demonstrate the legal value of international conventions as compared to the national legislations, and thus priority wasn't determined in favor of any one of them in case a contradiction occurred in terms of application; accordingly, are the international conventions considered as a source of legislation?

Recommendations

- In this context, more focus is given to the role of women and empowering them based on a knowledgeable vision that simulates the various international contexts and applies them to the Palestinian case in order to achieve more political advance, and make Palestine as an ideal model concerning the effective role of women.
- I suggest including the Palestinian basic law with legal commitments and indicators related to all the international conventions and laws that take the human values into consideration.

- The necessity of establishing the comprehensive information system about women in corporation with the Palestinian Central department of statistics and the relevant national and international organizations, and then analyzing the collected data,, while maintaining the confidentiality of information related to the investigated women and respecting their rights to privacy.
- The necessity of enhancing the participation of woman in the higher positions of authority, and in the positions of decision-making, in addition to their participation in delegations and national reconciliation committees by eliminating all the barriers that impede their participation, and providing equal work opportunities without discrimination based on gender, where the principle of efficiency and qualification should be considered as a the foundation for the purposes of promotion to higher career positions.

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- Article (1) of the United Nations Charter in its statement of the United Nations intentions states: "to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."