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“GOD ENTRUSTS THE HUMAN BEING TO WOMAN” (MD, 30)

**PROPOSALS FOR A NEW CIVILIZATION OF LOVE: LEGAL
PROTECTION OF LIFE AND FAMILY**

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1. Universal Declaration of Human Rights (UDHR)

Mankind’s greatest document (Malik) – a milestone in human progress (Schuman and others) – potent critic of existing practice – moral beacon – educational tool – appeal to conscience – a common standard of achievement (Glendon).

Charles Malik (Lebanese delegate, Rapporteur of the Commission on Human rights and active member of the four-person working group on the draft): human rights are a definition of what man is – what belongs to his essence, the UDHR sought to define what belongs to man as man, what constitutes his proper dignity and worth.

The United Nations since 1948 affirmed:

- freedom, justice and peace are founded on the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family i.e. universality (Preamble),
- all human beings are born free and equal in dignity and rights (Article 1),
- everyone has the right to life, liberty and security of person (Article 3),
- freedom from slavery or servitude (Article 4),
- freedom from torture or cruel, inhuman or degrading treatment (Article 5)
- the family’s entitlement to protection by society and the State (Article 16 (3)).
- Motherhood and childhood are entitled to special care and assistance (Article 25(2)).
- Entitlement by all to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized (Article 28).

2. Contemporary global threats to life and family (two examples):

Ref. Human Rights Council – 23rd session June 2013: Agenda items (these either recall the UDHR or reaffirm the purposes and principles of the Charter of the United Nations, later elaborated in the UDHR)

- a. **Violence against women** (Elimination of all forms of violence against women: preventing and responding to rape and other forms of sexual violence):

Prevalent practice, disproportionately affects women and girls, occurs in all spheres of society, in public and private life, in peace time, during periods of civil unrest or political transition, and in conflict and in post-conflict situations.

Legal measures and their enforcement

International law:

Unlawful in all circumstances and in all places e.g. gender-related crimes and crimes of sexual violence are included in the Rome Statute of the International Criminal Court – rape can constitute a war crime, a crime against humanity or a constitutive act with respect to genocide or torture. Enforcement at national level depends on States' compliance with relevant obligations.

Specific recommendations for States:

- Increase measures to protect women and girls from all forms of violence... by addressing their security and safety including through crime prevention laws, street lighting and improved urban planning, etc.
- ensure that all forms of violence are criminalized in national law and take appropriate legislative and policy steps to ensure the prompt and adequate investigation, prosecution and accountability of perpetrators, including by strengthening the capacity of the criminal justice system;
- ensure national laws and policies are in compliance with their international human rights obligations and are non-discriminatory... and ensure women's access to justice, including by creating an enabling environment (protecting confidentiality and privacy, human rights training for law enforcement officials...),
- address long-term consequences faced by victims of rape and other forms of violence including legal discrimination and social stigmatization, as well as the effects on children...

Obstacles to effective legal enforcement / reporting of cases and seeking justice for these crimes:

- Shame, stigma, fear of reprisals, negative economic consequences
- Inadequate investigations and prosecutions or a lack of accountability that reinforces social normalization of and tolerance for these crimes;
- Acts are often perpetrated or condoned by the State – military, police and related civilian personnel, including those involved in UN operations;

- Link with deeper social problems such as ethnicity, as a form of ethnic cleansing, or to humiliate, dominate, instil fear, force relocation, or to intimidate, harass, or deter opposing forces...
- b. **Trafficking in persons, especially women and children:** Trafficking in persons, especially women and children: efforts to combat human trafficking in supply chains of businesses.

Widespread phenomenon within and between regions and States and in supply chains of businesses. High number of victims, especially women and children: often subject to multiple forms of discrimination and violence; linked with sexual exploitation or sex tourism, exploitative labour, illegal removal of organs, child pornography and paedophilia, forced labour and services...

Legal aspects:

Propagated by activities of transnational and national organized crime groups; in itself a crime – a violation of domestic laws and international law and contrary to international standards. Co-exists or further fostered by high level of impunity enjoyed by traffickers and their accomplices, and denial of rights and justice to victims.

Instruments:

- United Nations Legal instruments signed and ratified by some State parties e.g. United Nations Convention against Transnational Organized Crime and Protocols thereto, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
- Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization.

Responsibilities of States:

- to sign and ratify, if not already done so and then fulfil ensuing obligation, under international law, to prevent and combat trafficking,
- establish comprehensive programmes to prevent trafficking,
- enact and enforce legislation criminalizing trafficking,
- investigate instances of trafficking and impose proportionate punishments on perpetrators, and ensure full respect for and protection of the human rights of victims of trafficking;
- recognize trafficked persons as victims with specific protection needs, ensure the promotion, protection and fulfilment of their human rights, including the right to an effective remedy for breaches of these rights.

Legal protection / enforcement - a long journey:

“Quasi-legal” measures:

- Intensify capacity-building and training, including human rights and training for all relevant stakeholders (the police, immigration authorities, border patrol officials, labour inspectors, judges, prosecutors, lawyers and tax authorities, health and child welfare professionals...)
- More and better awareness-raising initiatives and adequate grievance mechanisms.
- *address the harmful attitudes, customs, practices, stereotypes...that underlie and perpetuate rape and other forms of sexual violence; and,*
- engage, educate and support men and boys to take responsibility for their behaviour and to become active partners in the prevention and elimination of all forms of discrimination and violence against women and girls, and to end the stigmatization of victims by encouraging a *change in attitudes, norms and behaviour...*
- visible and sustained leadership to support effective prevention
- engaging all segments of society, including community and religious leaders, civil society organizations, the private sector and the media. Goal: prevention efforts targeting the general public to increase their understanding of the harmful effects of violence.

3. A Just Society and a New Civilization of Love: the Woman's Role

Human Rights Council: reference to long-term intervention by addressing and changing harmful attitudes, customs, etc.

Corroborated by the UDHR rationale:

Malik: the morally disturbing or judging is far more important than the legally binding. Culture is prior to law and criminal prosecutions have little effect on the basic causes of the conduct they aim to punish and deter. Rights enforcement requires both the rule of law, as well as a healthy civil society. Men, cultures and nations must first mature inwardly.

Chang (Chinese delegate and vice-chairman of the Commission on Human Rights and the drafting committee): laws alone are not sufficient to bring about results by themselves... the main goal of the Declaration was to build up better human beings, and not merely punish those who violate human rights.

Glendon: formal legal decisions are only the results of the way people progress inwardly.

Ecology of Freedom: where do Legal Protection of Life and Family / Universal Human Rights begin?

The UDHR explicitly protects and pays unique attention to the small settings/places – families, schools, workplaces, religious and other associations. Little seedbeds of character and competence (together with rule of law, political freedoms, international cooperation...). Human rights education is possible from the early years because all

human beings are endowed with reason and conscience and are called to act towards one another in a spirit of brotherhood (Article 1). The UDHR drafters understood that nature and reason are the true sources of law and of a human rights mentality.

In these small places we find the woman, usually within a family set-up and complemented by the man, as she nurtures, as she educates, as she sustains; thankfully she is actively present in different spheres of society. In the family in particular she is gifted with the capacity to recognize and accept each member of the family – both male and female – for who he or she is. This talent also unfolds in her role as teacher particularly in the early school years.

Nature has endowed her with the capacity needed to give this love – ref. MD, 30: moral and spiritual strength drawn from the intuitive awareness of the entrusting of the human being to her, *even in situations of social discrimination*. Even as she suffers hardship, the woman is still called and capable of being a support and source of spiritual strength for other people owing to the great energies of her spirit, she is able to maintain the sensitivity for man and for what is essentially human in every circumstance. John Paul says that the history of every human being passes through the threshold of a woman's motherhood (MD, 19) and so she is irreplaceable in this regard, as society rises and falls according to the strength, vigour and love with which this task is accomplished.

Her capacity for love makes her a natural teacher, able to help those in her care to discern between good and evil, to understand what is right and to have the will to do it, to respect human nature and dignity. Thus she lays the foundation for the present and future legal protection of life and the family as she exercises her feminine talents, what Blessed John Paul II referred to as the “genius of women” i.e. the God-given feminine traits of self-gift, empathy and entrustment of the “other”, meant to be used at the service of the Church and society, and especially within the family. Women recognizing and living from their true vocation may have a formidable impact on all interpersonal relationships, be it as mother, wife, sister, daughter, friend or colleague, which will in turn be the basis for cultural transformation. Physical and spiritual motherhood lived authentically may be the catalyst for a lasting societal and cultural shift. Indeed, one's dignity is experienced not as a result of the affirmation of rights, but as the natural consequences of the concrete material, emotional, and spiritual care received in the heart of one's family (cf. *Evangelium Vitae*, 58).