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THE AIMS OF THE MUSLIM FAMILY AND THE CHALLENGES OF THE CEDAW AGREEMENT

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Abstract. The family is a fundamental social unit upon which the structure of society, in general, and the Islamic community, in particular, is based. Therefore, Islamic law has surrounded it with various noble teachings to elevate its status and highlight its objectives. Islamic law has established its general principles and covered all its details with specific rulings, protecting its sanctity and safeguarding its boundaries. Nevertheless, the family has never been immune to ongoing developments and conflicts between different civilisations attempting to spread their cultures and impose their vision of the contemporary family. This situation has prompted the international community to hold conferences and conclude agreements characterised predominantly by the dominance of powerful countries attempting to shape a global family governed by the same laws and principles. These agreements seek to alienate Islamic societies by making them subject to these laws under the guise of protecting human rights- even if these laws contradict the provisions of their religion and the objectives of its tolerant Sharia. One such agreement that has sparked strong debate, particularly among Muslims, is the CEDAW Agreement, convened on 3 September 1981 and signed by over 189 countries, including more than 50 with reservations and objections, while 38 rejected Article 28. Thus, this research paper aims to highlight the most important objectives of the family in Islamic law, the implications of the CEDAW Agreement for the family, and ways to confront its challenges.

Keywords: Family, marriage, objectives, agreement, CEDAW

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ЦЕЛИ МУСУЛЬМАНСКОЙ СЕМЬИ И ВЫЗОВЫ КОНВЕНЦИИ О ЛИКВИДАЦИИ ВСЕХ ФОРМ ДИСКРИМИНАЦИИ В ОТНОШЕНИИ ЖЕНЩИН (CEDAW)

Нури Хаддади*

Абстракт. Семья- это фундаментальная социальная единица, на которой строится структура общества в целом и исламской общины в частности. Поэтому исламское право окружило семью различными высокими учениями, чтобы возвысить её статус и подчеркнуть её цели. Исламское право установило общие принципы и охватило все детали специальными постановлениями, защищая святость семьи и охраняя её границы. Тем не менее, семья никогда не была защищена от постоянных изменений и конфликтов между разными цивилизациями, пытающимися распространить свои культуры и навязать своё видение современной семьи. Эта ситуация побудила международное сообщество проводить конференции и заключать соглашения, в которых доминируют сильные государства, стремящиеся сформировать глобальную семью, управляемую одними и теми же законами и принципами. Эти соглашения пытаются отчуждать исламские общества, подчиняя их этим законам под видом защиты прав человека- даже если эти законы противоречат положениям их религии и целям её терпимого шариата. Одним из таких соглашений, вызвавших острые дискуссии, особенно среди мусульман, является Конвенция CEDAW, принятая 3 сентября 1981 года и подписанная более чем 189 странами, из которых более 50 сделали оговорки и возражения, а 38 отвергли статью 28. Цель данной работы- выделить основные цели семьи в исламском праве, последствия Конвенции CEDAW для семьи и пути противостояния её вызовам.

Ключевые слова: семья, брак, цели, соглашение, CEDAW

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MÜSƏLMAN AİLƏSİNİN MƏQSƏDLƏRİ VƏ CEDAW SAZİŞİNİN ÇAĞIRIŞLARI

Nuri Haddadi*

Abstrakt. Ailə cəmiyyətin əsas sosial vahididir və ümumilikdə cəmiyyətin, xüsusən də İslam icmasının strukturu onun üzərində qurulur. Buna görə İslam hüququ ailənin statusunu yüksəltmək və məqsədlərini vurğulamaq üçün müxtəlif ali təlimlərlə onu əhatə etmişdir. İslam hüququ ümumi prinsiplərini müəyyən edib və bütün detalları xüsusi hökmlərlə tənzimləyərək ailənin müqəddəsliyini qorumuş, onun sərhədlərini müdafiə etmişdir. Lakin ailə heç vaxt davamlı dəyişikliklərdən və müxtəlif sivilizasiyalar arasında mədəniyyətlərini yaymaq və müasir ailə modelini tətbiq etmək istəyən mübarizələrdən sığortalanmayıb. Bu vəziyyət beynəlxalq ictimaiyyəti konfranslar keçirməyə və əsasən güclü ölkələrin üstünlük təşkil etdiyi, qlobal ailəni eyni qanunlar və prinsiplərlə idarə etməyə çalışan sazişlər bağlamağa sövq etmişdir. Bu sazişlər insan hüquqlarını qoruma maskası altında İslam cəmiyyətlərini bu qanunlara tabe etmək istəyir, baxmayaraq ki, bu qanunlar onların dininin müddəaları və tolerant Şəriətin məqsədləri ilə ziddiyyət təşkil edir. Xüsusilə müsəlmanlar arasında güclü müzakirələrə səbəb olan sazişlərdən biri 3 sentyabr 1981-ci ildə qəbul edilmiş və 189-dan çox ölkə tərəfindən imzalanmış, onların 50-dən çoxu ehtiyatlar və etirazlarla, 38-i isə 28-ci maddəni rədd etmiş CEDAW Sazişidir. Bu tədqiqat işi İslam hüququnda ailənin ən vacib məqsədlərini, CEDAW Sazişinin ailəyə təsirlərini və onun çağırışları ilə mübarizə yollarını işıqlandırmağı hədəfləyir.

Açar sözlər: Ailə, evlilik, məqsədlər, saziş, CEDAW

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1.Introduction

In the late twentieth century, there was growing interest in women's rights issues, leading to the establishment of numerous organisations advocating for this cause. International conferences were subsequently held to protect human rights, placing women's rights at the forefront of these discussions.

In 1973, the UN Commission on the Status of Women began drafting a treaty to eliminate all forms of discrimination against women, completing it in 1979. This treaty became known as the CEDAW Agreement.

On 18 December 1979, the United Nations General Assembly adopted the agreement as an international human rights treaty, affirming in its preamble that women's rights are human rights. The agreement calls for absolute equality between men and women in all fields, and it is binding on states that ratify it.

In light of this global agreement, the traditional Muslim family structure is facing serious challenges that could disrupt its fabric. The provisions of CEDAW conflict significantly with the rulings and objectives of the family as defined by Islamic law. CEDAW was formulated based on a Western model that advocates absolute equality between men and women, asserting that women have complete freedom over their bodies, independent of religion, customs and societal values.

This presentation aims to highlight the challenges and implications of the CEDAW Agreement on the rulings of the Muslim family and its legal objectives. It will outline ways to confront these challenges under the title: 'The Objectives of the Muslim Family and the Challenges of the CEDAW Agreement'.

2.Problematic

Human rights treaties, including the Women's Rights Agreement, are based on a Western perspective that disregards religion, values and customs. They seek to globalise human life and eliminate all forms of discrimination, including those relating to Islamic law. Thus, the main issue addressed in this presentation is:

How does the CEDAW Agreement affect the Muslim family system in light of its legal objectives?

To address this issue, we will attempt to answer several questions, including:

What are the primary and secondary objectives of family rulings?

How did the CEDAW Agreement originate, and which of its provisions impact family rulings?

What are the most significant implications of the CEDAW Agreement for family rulings, and how can these challenges be addressed?

The importance of the research

This research highlights the importance of the family in Islam as the foundational building block of society and explores its role in preserving human values. It also examines the impact of the CEDAW Agreement on the concept of family, its rulings and its objectives.

Objectives of the research:

- To clarify the objectives of the family in Islamic law.
- To discuss the challenges posed by the CEDAW Agreement and its impact on the Muslim family.
- Outlining legitimate means to confront agreements affecting the rulings and legal objectives of the Muslim family.

Methodology:

In presenting the details of this paper, I relied on the following methodologies:

- Inductive method: this involves tracking and compiling violations noted by scholars regarding the CEDAW agreement.
- Analytical method: This method was used to clarify the provisions of the CEDAW Agreement and their impact on the rulings of the Muslim family.

Research Plan:

To address the research problem and its questions, the following scientific plan is proposed:

First requirement: objectives of the family in Islamic law

First branch: Definition of the family and its status in Islam.

Second Branch: The objectives of the family in Islamic legislation.

Second requirement: the CEDAW agreement and its implications for the objectives of the family, and ways to confront it.

First Branch: Definition and origins of the CEDAW Agreement.

Second Branch: The primary objectives of the CEDAW Agreement and its most important provisions related to the family.

Third Branch: The implications of the CEDAW Agreement on family rulings and how to address them.

First requirement: Objectives of the Family in Islamic Law

First Branch: Definition of the family and its status in Islam

1. Definition of the family

The term 'family' is not commonly used as it does not appear in the Qur'an. However, it is mentioned in the Sunnah of the Prophet Muhammad (peace be upon him), referring to a group of individuals related to a man [Sunan Abu Dawood (275 AH), ed. Shu'ayb Al-Arna'ut, Dar Al-Risalah Al-'Alamiyyah, 1st ed., 2009, 6/499. The hadith is authentic due to other sources as noted in Shu'ayb Al-Arna'ut's verification of this book]. To clarify its meaning, it is essential to define it from both linguistic and terminological perspectives.

1. Definition of the family

Linguistically:

The term ‘family’ is derived from ‘asr’, meaning a fortified shield, [(Refinement of Language), Al-Azhari, Abu Mansur (370 AH), ed. Muhammad Awad Mur'ab, Dar Ihya Al-Turath Al-Arabi, Beirut, 1st ed., 2001, 12/43] signifying strength and connection. This reflects the unity of the family and the bonds among its members. Ibn Manzoor defines it as ‘the tribe of a man and his household’, [(The Language of the Arabs), Ibn Manzur, Abu Al-Fadl (711 AH), Dar Sader, Beirut, 3rd ed., 1414 AH, 4/20] and it is said that ‘the family of a man includes his close relatives and tribe, as he draws strength from them’ [Crown of the Bride), Al-Zabidi, Abu Al-Fayd (1205 AH), undated, 10/51].

2. Terminological definition of the family

Wahba al-Zuhaili defines the family as ‘the recognised group that forms the nucleus of society, established through a marital bond between a man and a woman, from which children are born’. The family maintains close connections with the origins of both spouses, including grandparents, siblings, and close relatives such as grandchildren, nephews, uncles, aunts, and maternal relatives. [The Muslim Family in the Contemporary World, Wahba Al-Zuhayli, Dar Al-Fikr, Damascus, 1st ed., 2000, p.20]

This definition is useful as it indicates that the family is the primary unit from which any society is formed, and clarifies how it is established and what its essential pillars are.

Second: The Status and Importance of the Family in Islamic Legislation

The family is regarded as the fundamental building block of society in Islamic law, which has provided it with a set of legal rulings that organize and protect it. This begins with the legislation of marriage, which is the foundation of its structure, and extends to the rulings regarding offspring, emphasizing their proper upbringing, education, and financial support. The concern of Islamic law for the family extends to the extended family, enhancing the importance of kindness towards them and mandating connections among its members, including inheritance rights. All of this contributes to the cohesion and strength of the family unit in the face of challenges.

Al-Tahir ibn Ashur (may Allah have mercy on him) stated: ‘The organisation of families within the nation forms the basis of its civilisation and the regulation of its community. Therefore, safeguarding the structure of the family is a primary objective of all human laws’. [(Objectives of Islamic Law), Muhammad Al-Tahir Ben Ashour (1393 AH), ed. Muhammad Al-Habib Ben Khawja, Ministry of Awqaf and Islamic Affairs, Qatar, undated, 2004] He also said: ‘Laws have always been concerned with regulating the fundamental structure of family formation, which is the union of a man and a woman, known as marriage or nikah. This is the origin of lineage and the branching of kinship.

Consequently, it establishes the system of in-laws, which profoundly impacts the formation of clans, tribes, and nations. From marriage arise motherhood, fatherhood and sibling relationships. The intertwining of the marital bond with kinship creates the bond of in-laws. Islamic law has come to dominate the laws of truth, establishing the fairest, most reliable and dignified rulings for families." [The same reference]

Indeed, the family is of great importance in Islam, as reflected in several aspects, including:

1. Preservation of religion and moral values: The family is the first environment in which a person grows up and learns about Islam and good morals. Thus, it is fundamental in transmitting these values and providing a proper Islamic upbringing.

2. Achievement of social stability: Islam has made the family a source of peace, affection and mercy, as stated in the Qur'an: 'And of His signs is that He created for you mates from among yourselves, that you may dwell in tranquillity with them...' (Surah Ar-Rum: 21).

3. Protection of Lineage and Formation of Generations: The family is a legitimate means of preserving humanity through lawful marriage, ensuring the protection of lineage and the proper upbringing of children. The Prophet Muhammad (peace be upon him) said: 'Marry those who are single among you, for I will boast of your great numbers on the Day of Resurrection.' [Sunan Abu Dawood, Book: Marriage, Chapter: Marrying Virgins, No. (2050), ed. Shu'ayb Al-Arna'ut, Dar Al-Risalah Al-'Alamiyyah, 1st ed., 2009, 3/395; Musnad Ahmad ibn Hanbal, Anas ibn Malik, No. (126103), ed. Shu'ayb Al-Arna'ut, Al-Risalah Foundation, 1st ed., 2001, 20/63. The hadith was authenticated by Shu'ayb Al-Arna'ut in his verification of Sunan Abu Dawood, 3/395]

4. Achievement of Social Solidarity: The family instils values of cooperation and mutual support among its members by sharing responsibilities and duties, which has a positive impact on society as a whole.

5. Fortifying society against corruption: Islam encourages marriage as a means of maintaining chastity and preventing immorality. The Prophet (peace be upon him) said: 'O young people, whoever among you can marry should do so, for it is more effective in lowering the gaze and guarding one's modesty. And whoever cannot should fast, for it will be a shield for him.' [(Authentic Hadith of Bukhari), Book: Marriage, Chapter: Whoever Cannot Afford Marriage Should Fast, No. (5066), ed. Muhammad Zuhair bin Nasser Al-Nasser, Dar Tawq Al-Najat, 1st ed., 1422 AH, 7/3]

6. Regulating relationships among individuals: Islam has established detailed rulings to organise relationships within the family, such as the rights of spouses

and children, and honouring parents, thereby ensuring stability and justice among its members.

Such rulings demonstrate the great importance that Islam places on the family, a status that has not been matched by any other religious community, nor by any previous laws or subsequent agreements.

Second Branch: The Objectives of the Family in Islamic Legislation

Before outlining the objectives of the family through the rulings of Islamic law, it is essential to first understand the meaning of “objectives” and their classifications. This understanding will help in comprehending both the general and specific objectives of the family, as well as the challenges it faces through the CEDAW Agreement.

First: Definition of Objectives Linguistically and Terminologically

1. Definition of Objectives Linguistically

The term “objectives” is derived from the singular “maqṣid,” which is a verbal noun from “qaṣada.” To “intend” means to approach something. For example, “I intended it,” “I aimed for it,” or “I directed myself toward it” convey similar meanings. [(The Authentic), Al-Jawhari, Abu Nasr (393 AH), ed. Ahmad Abdul Ghafour Attar, Dar Al-‘Ilm Lil-Malayin, Beirut, 4th ed., 1987, 2/542] Another meaning is the straightness of the path; one might say, “He aimed correctly.” [Lisan Al-Arab, Ibn Manzur, 3/353]

2. Definition of Objectives Terminologically

Researchers generally agree that while ancient scholars expressed the concept of objectives in various phrases throughout their writings, all of which revolve around the meanings of legislative secrets and goals, they did not provide a specific definition that precisely delineates its meaning. This lack of a precise definition may stem from its clarity to them, as evidenced by their discussions on its types, classifications, and methods of elucidation.

In contrast, later scholars have converged in their expressions when defining the objectives of Islamic law, with little disagreement among them. However, it can be observed that some reference the general objectives while excluding the specific ones, while others include both types in their definitions. Based on this, I will mention the following definitions and choose what seems to be the most appropriate:

-Definition by Muhammad al-Tahir ibn Ashur

Muhammad al-Tahir ibn Ashur defined objectives as: “The meanings and wisdoms that the legislator considers in all or most of the foundations of legislation, such that their consideration is not confined to a specific type of ruling in the law. This includes the characteristics of the law and its general objectives, as well as meanings that legislation does not overlook, even if they are not noted in all types of rulings.” [Maqasid Al-Shari'ah, Muhammad Al-Tahir Ben Ashour, 2/121]

Clearly, Ibn Ashur has limited his definition to the general objectives of Islamic law, which is a shortcoming.

Definition by Allal al-Fassi:

Allal al-Fassi defined objectives as follows: 'The purpose behind them and the secrets that the legislator has established for each of its rulings.' The first part of this definition refers to general objectives, while the second part defines specific or partial objectives. As it encompasses both types, this definition is considered the most appropriate and preferred among those I have encountered.

Secondly, classifications of objectives:

Scholars have presented various classifications of objectives for different reasons. Due to their relevance to the second requirement, I will summarise these here.

1. Classifications of objectives based on their origin:

Al-Shatibi divided objectives based on their origin and source into two categories: the objectives of the legislator and the objectives of the obligated individual.

-Objectives of the Legislator: These are the objectives intended by the legislator in establishing the law, generally represented in promoting benefits and preventing harms in both this world and the Hereafter [Science of Legal Objectives, Nour Al-Din Al-Khadimi, Al-Obeikan Library, 1st ed., 2001, p.71].

-Objectives of the Obligated Individual: These are the objectives that the individual seeks in all their actions, beliefs, words, and deeds, which distinguish between valid and invalid actions, between acts of worship and transactions, between religious obligations and legal judgments, and between what aligns with the objectives and what contradicts them [Science of Legal Objectives, Nour Al-Din Al-Khadimi, p.71].

2. Classifications of Objectives Based on Their Ranks and Effects on Individuals and Society:

Al-Shatibi categorized objectives based on their ranks and effects on the well-being of the community, considering both individuals and groups, into three ranks:

-Essential Objectives: These are necessary for the fulfillment of both religious and worldly interests. If they are lacking, worldly interests will not be maintained but will lead to corruption, conflict, and loss of life. In the Hereafter, they will result in the loss of salvation and bliss, leading to clear ruin. The total number of essential objectives is five: the preservation of religion, life, lineage, wealth, and intellect. [The Concurrences), Al-Shatibi, 2/17, 18]

Necessary objectives: These are required for expansion and to alleviate hardship, which generally leads to difficulty and suffering due to the loss of necessities. If these objectives are not considered, the individuals responsible will face hardship and distress, but it will not reach the level of corruption usually expected in the public sector [The same reference].

It is applicable in acts of worship, customs, transactions, and criminal offenses.

C.Improvement Objectives:”These are the adoption of appropriate good customs and avoidance of the undesirable actions that rational minds reject. This includes the category of moral excellence, which applies similarly to the previous types” [The same reference].

3.Classifications of Objectives Based on Their Rank in Intention:Scholars divide objectives into two categories based on this consideration: [Al-Muwafaqat, Al-Shatibi, 2/176].

A.Original Objectives: These are those that hold no share for the obligated individual. They are the five essential needs considered in every community, through which the general interests are upheld. These are of two types: individual and collective.

The first type, the individual, is obligatory for everyone regarding themselves: the preservation of the five essential needs. Al-Shatibi pointed out that these original objectives do not include the individual, since they govern themselves; if they did, it would be secondary to the original objective.

The second type, the collective, is obligatory for certain individuals, who are responsible for ensuring that the general conditions that cannot be maintained without it are met. An example of this is Muslim leadership.

B.Subsidiary objectives take into account the individual’s share, thus enabling them to pursue their desires and enjoy permitted activities. In this regard, they are subordinate to the primary objectives and serve them. An example of this is marriage: its primary objective is procreation and populating the Earth, while enjoyment and companionship with a spouse are subsidiary objectives.

4.Classifications of objectives based on generality and specificity: scholars classify objectives into three categories based on this: [See: The Theory of Objectives According to Imam Al-Shatibi, Ahmed Al-Raisouni, Dar Al-Alamiya for Islamic Books, 2nd ed., 1992, p.8; Science of Legal Objectives, Nur Al-Din Al-Khadimi, p.72]

A. General Objectives: These are observed in all or most areas of Islamic law and are not specific to a particular type of ruling. This includes descriptions of the law and its overarching goals.

B. Specific objectives: These relate to specific areas or chapters, such as family law, commercial law, criminal law, and so on.

C. Partial objectives: These are the intentions of the legislator behind every legal ruling, whether obligatory, prohibited, recommended, disliked, permissible, conditional or causal.

Third: the original and subsidiary objectives of the family

Family rulings have a number of objectives, some of which are primary and others of which are secondary. This is what I will address in this matter.

1. Original Objectives of the Family: There are legal objectives that Allah, Exalted and Majestic, intended through His various family-related legislation, such as the objectives of marriage and subsequent rulings concerning its details and branches. Among these objectives are the following:

A.Preservation of the human species (preservation of lineage): One of the most important original objectives in establishing a family is preserving and increasing lineage. For this reason, Allah has legislated for and encouraged marriage. As He says: "And it is He who created man from water, and made him [a relative by] lineage and marriage" [Surah Al-Furqan: 54].

He also says, "*Marry those among you who are single...*" [Surah An-Nisa: 3].

The Prophet (peace be upon him) said: 'Marry those who are loving and fertile, for I will boast of your numbers on the Day of Resurrection.' [Previously cited]

Ibn Ashour said: 'The Sharia's concern with marriage is one of its highest objectives, as marriage is the root of the family system.' [Maqasid Al-Shari'ah, Muhammad Al-Tahir Ben Ashour, 3/425]

Ibn Qayyim (may Allah have mercy on him) said: 'As for sexual intercourse, the Prophet's guidance in this regard is the most complete, preserving health and achieving pleasure and joy while fulfilling its intended purpose. Intercourse was originally established for three purposes, which are its primary objectives: one of these is the preservation of lineage and the continuation of the species until the specified period of pregnancy is complete.' [(The Provisions of the Best of Servants), Ibn Al-Qayyim (751 AH), Al-Risalah Foundation, Beirut, 27th ed., 1994, 4/228]

In his interpretation of the verse, Al-Alusi stated: 'He created human beings from water and established lineage and marriage.' (Surah Al-Baqarah: 187), that 'the verse indicates that those who marry should aim to preserve lineage, rather than merely satisfying desires, because Allah created the desire for intercourse to ensure the continuation of our species, just as He created the desire for food to ensure the survival of individuals. Satisfying desires alone should be reserved for animals.' [(The Spirit of Meanings), Al-Alusi, Abu Al-Fadl, Dar Ihya Al-Turath, Beirut, undated, 2/65]

Al-Ghazali, when discussing the benefits of marriage, said: 'The first benefit is children, which is the essence of marriage and is aimed at preserving the lineage and ensuring that the world does not lack human beings.' [(Reviving

the Religious Sciences), Al-Ghazali, Abu Hamid (505 AH), Dar Al-Ma'rifah, Beirut, undated, 2/24]

B.Preservation of Lineage and Honour

This refers to protecting lineages from mixing and safeguarding honour from being violated or tarnished by immoral acts and adultery. Islamic rulings elevate the family to be the primary building block for a righteous, pure and clean society, fulfilling the meaning of stewardship on earth as desired by Allah, and moving away from deviations, prohibitions and anything that weakens the fabric of the community and undermines its foundations. Therefore, Allah established marriage as the only legitimate means of satisfying natural desires and having children, set out a waiting period for divorced and widowed women to ensure the purity of lineage, and prohibited adultery and its precursors, alongside other rulings that protect lineage from both existence and non-existence.

The lineage mentioned as a legal objective of marriage is regulated and accurate, connecting descendants to their true ancestors while upholding dignity, chastity and modesty. It also prevents anything that would undermine a person's right to a correct lineage and honourable, clean and chaste dignity. [Science of Legal Objectives, Nour Al-Din Al-Khadimi, p.179]

2.Subsidiary objectives of the family

Scholars have identified several subsidiary objectives within family rulings, most of which relate to marriage rulings. This is because marriage is the fundamental basis of the family; without it, there can be no family. Among these objectives are the following:

A.Chastity and purity: Islam has legislated for and encouraged marriage, while forbidding celibacy and asceticism in this regard. This legislation is a great mercy from Allah to His servants, as it provides them with a lawful means to purify their souls, control their desires and refine their instincts. Thus, the dignity with which Allah has endowed humanity over all His creations is manifested. As Allah says: 'Marry those among you who are single...' [Surah An-Nisa: 3].

The Prophet (peace be upon him) said: 'Young people, whoever among you can marry should do so, for it is more effective in lowering the gaze and guarding modesty. Whoever cannot should fast, for fasting is a shield.' [Previously cited]

Anas ibn Malik (may Allah be pleased with him) narrated that three men came to the houses of the Prophet's wives to ask about his worship. When they were told, they thought it was insufficient and said: 'Where do we stand compared to the Prophet, whose past and future sins have been forgiven?' One of them said: 'As for me, I will pray all night.' Another said: 'I will fast every day without breaking my fast.' A third said: 'I will abstain from women and

never marry.' The Prophet (peace be upon him) arrived and said: 'Are you the ones who said such-and-such? By Allah, I am the most God-fearing and pious of you all, yet I fast and break my fast, pray and sleep, and marry women. Whoever turns away from my Sunnah is not one of my followers.'" [Sahih Al-Bukhari, Book: Marriage, Chapter: Encouragement to Marry, No. (2039), 3/348]

He also prohibited castration. Abdullah ibn Umar said, 'We used to go on expeditions with the Prophet (peace be upon him) without women. We asked, 'Should we not be castrated?' He forbade us from doing so, but later allowed us to marry a woman who wore a garment.' [Sahih Al-Bukhari, Book: Tafsir (Quranic Interpretation), Chapter: His Saying: "O you who have believed, do not prohibit..." No. (4615), 6/53]

Al-Shatibi mentioned several objectives of marriage, including chastity and purity. He stated: 'The third aspect is that the legislator has original and subsidiary objectives in establishing ordinary and worship-related laws. An example is marriage, which is legislated primarily for procreation, followed by companionship and collaboration in worldly and otherworldly interests through enjoyment of the lawful and appreciation of the beauty Allah has created in women. Marriage also involves the adornment of a wife, fulfilment of her needs and those of her children or siblings, safeguarding against prohibited sexual desires and increasing gratitude for Allah's blessings upon the servant.'" [Al-Muwafaqat, Al-Shatibi, 2/395, 396]

Al-Juwayni said: 'Marriage was legislated to protect spouses from immoral acts such as adultery, and to serve other purposes. The free person needs to be safeguarded by engaging in lawful enjoyment, just like the man.' [(The Proof in the Foundations of Jurisprudence), Al-Juwayni, Abu Al-Ma'ali (478 AH), ed. Salah bin Muhammad bin Owaidah, Dar Al-Kutub Al-'Ilmiyyah, Beirut, 1st ed., 1997, 2/75]

Ibn al-Qayyim stated: 'The guidance of the Prophet (peace be upon him) regarding intercourse is the most complete, preserving health, providing pleasure and joy, and fulfilling its intended objectives.' Intercourse was originally established for three primary purposes:

1. The preservation of lineage and the continuation of the species until the period decreed by Allah for its emergence in this world is complete.
2. Releasing fluid that can be harmful if retained and accumulated in the body.
3. Satisfying desires and enjoying the pleasure of it. In Paradise, where there is no procreation or retention requiring release, this is the only benefit.

He further stated that its benefits include lowering the gaze, restraining oneself and maintaining chastity from the unlawful, which benefits both

individuals and women, enhancing their lives in this world and the next. [Zad Al-Ma'ad fi Hadi Khayr Al-Ibad, Ibn Al-Qayyim, 4/228]

These great objectives highlight the superiority of Islam over the immorality, indecency and detestable aberrations advocated by some Western organisations and agreements, including the call for same-sex marriage and even marriage to animals.

B.Family Stability and Tranquility Between Spouses

To prevent the relationship between spouses from becoming purely physical, Islamic law emphasises that one of the goals of establishing a family is for each spouse to find comfort in the other. This fosters love, mercy, harmony, and cooperation in righteousness and piety. This tranquility and stability positively impact children, and consequently society and the nation as a whole, contributing to the preservation of the overall system and public security. If the family structure collapses and its members disintegrate, the foundation of society crumbles, leading to social ills and dysfunction that hinder progress and alignment with the advancement of nations. Such tranquility and stability can only be achieved through lawful marriage, grounded in the Book of Allah and the Sunnah of the Messenger of Allah (peace be upon him).

As Allah says: “And of His signs is that He created for you from yourselves mates that you may find tranquility in them...” (Surah Ar-Rum: 21).

Al-Qarafi stated: ‘The underlying principle of marriage is mutual support, affection and kindness from both parties.’ [The Treasure, Al-Qarafi, Abu Abbas (684 AH), ed. Muhammad Haji, et al., Dar Al-Gharb Al-Islami, Beirut, 1st ed., 1994, 4/341]

‘The effects of homosexuality, drug use, violence, murder and terror, among other issues that are often the inevitable results of family disintegration and the marginalisation of its educational, emotional and civilisational roles in general, are no longer hidden from the international community, which suffers from varying opinions on these matters according to religious and ethical considerations.’ [Science of Legal Objectives, Nour Al-Din Al-Khadimi, p.179]

C.Ensuring the Continuity of the Marriage Contract

One of the most important objectives of Islamic law regarding marriage and family building is to sustain and strengthen this bond, protecting it from frivolity and carelessness. For example, it is not permitted to limit the duration of marriage merely to satisfy desires. Marriage is a binding contract and a strong covenant that Islamic law emphasises in all its rulings and magnifies its conditions to achieve this objective and prevent its breach. This is why the dowry, witnesses, and public declaration are mandated, and why divorce is considered the most disliked permissible act. Many types of pre-Islamic marriages are prohibited.

Ibn al-Qayyim stated the following when discussing unlawful marriages that contradict the objectives of the legislator: 'Temporary marriage resembles renting an animal for riding, renting a house to live in, or hiring a servant to work, all of which serve a legitimate purpose. However, once it is timed, it deviates from the intended purpose of marriage, which was legislated for permanence and continuity.' [Relief of the Despairing from the Traps of Satan), Ibn Al-Qayyim Al-Jawziyyah (751 AH), ed. Muhammad Hamid Al-Faqi, Maktabat Al-Ma'arif, Riyadh, undated, 1/278, 279]

Al-Kasani stated: 'Marriage was not legislated for itself, but for objectives that can only be achieved through its continuity and establishment.' [(The Uniqueness of Innovations in Organizing the Laws), Al-Kasani, Abu Bakr (587 AH), Dar Al-Kutub Al-'Ilmiyyah, Beirut, 2nd ed., 1986, 2/275]

These objectives are fundamental to family life under Islamic law. A careful examination of the texts reveals many other objectives, as Sharia law clearly demonstrates a concern for this system in both its principles and details, guiding humanity towards a detailed system of connection between men and women. Therefore, many of the agreements and laws that Western countries seek to impose on Islamic peoples aim to undermine these objectives and dismantle this cohesive system in both its general and specific rulings.

Second requirement: The CEDAW Agreement and Its Implications for Family Objectives and Ways to Confront Them

First Branch: Definition and origin of the CEDAW agreement

1. Definition of the CEDAW Agreement

The CEDAW Agreement, also known as the Convention on the Elimination of All Forms of Discrimination Against Women, is an international human rights treaty adopted by the United Nations General Assembly. It was presented for signature, ratification and accession by resolution 34/180 on 18 December 1979, and came into force on 3 September 1981. Described as an international bill of rights for women, it is binding on all countries that have acceded to it. [CEDAW in Light of Islamic Law, Hamza Salama Nahar Al-Ghurair (Master's Thesis, Faculty of Sharia, Mu'tah University, 2011), p.8]

The agreement consists of thirty articles divided into six sections that address all matters related to women. To date, it has been ratified by 170 countries, including most Arab and African states. However, the United States and Switzerland have not signed the agreement, claiming that there is no discrimination against women in their countries.

2. The origin of the CEDAW Agreement:

Efforts to establish a United Nations convention defining women's rights date back to the early twentieth century and have proceeded through several phases.

-In 1952, the United Nations Commission on the Status of Women prepared a treaty on women's political rights, adopted by the United Nations General Assembly.

-In 1967, the United Nations approved a special declaration to eliminate discrimination against women. This declaration expanded the role of non-governmental organisations (NGOs), stating that women's NGOs were capable of bringing about this change by challenging prevailing religious and cultural norms and values.

-In 1973, the United Nations Commission on the Status of Women began drafting a treaty to eliminate all forms of discrimination against women, completing it in 1979.

On 18 December 1979, the United Nations General Assembly adopted the convention as an international human rights treaty. Its preamble affirms that women's rights are human rights. The convention comprehensively calls for absolute equality of rights between women and men in all fields. Once ratified, the convention is considered binding and the states parties are required to implement its provisions. [Convention on the Elimination of All Forms of Discrimination Against Women: A Critical Perspective from a Legal Point of View, Islamic International Committee for Women and Children, 5th ed., 2013, pp.10, 11]

Second Branch: The core objectives of the CEDAW agreement and its key provisions related to the family.

First: The core objectives of the CEDAW agreement: The CEDAW Agreement aims to achieve several objectives related to women's rights, some of which are explicit and some implicit. Here is a breakdown:

1.Explicit objectives of the CEDAW agreement [Document: Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, pp.6, 23]

A. Eliminating discrimination against women in political rights: This includes granting women the right to vote, stand for election and hold public office.

B. Eliminating discrimination against women in economic rights: Working women face various forms of inequality compared to men; therefore, the agreement seeks to reduce this phenomenon by granting women the right to work on equal terms with men.

C. Eliminating discrimination against women in social and cultural rights: This aims to ensure the right to education for everyone, regardless of gender. The agreement also seeks to implement measures to combat the trafficking and exploitation of women in prostitution, and to eliminate racial customs based on religious concepts that discriminate on the basis of gender.

D. Eliminating Discrimination Against Women in Legal Rights: This includes equality in contract formation, meaning that women have the same rights as men in marriage contracts and the right to choose their spouses. It also covers rights relating to children, including reproduction, guardianship, maintenance, custody and inheritance.

E. Absolute equality between men and women in all fields: The aim is to eliminate all forms of gender-based discrimination.

2.Implicit objectives of the CEDAW agreement

There are many implicit objectives within the CEDAW Agreement which are of significant concern. These objectives may represent the darker side of the agreement, which outwardly promotes women's rights while undermining values and virtues, spreading immorality and vice, and distancing itself from anything related to religion. The following are some of these objectives: [CEDAW in Light of Islamic Law, Hamza Salama Nahar Al-Ghurair, p.19]

A. Promoting the concept of globalisation: this includes obliging ratifying countries to implement its provisions.

B. Advocating for sexual freedom: This involves creating a suitable environment and providing adequate protection for such relationships.

C. Ensuring women's rights to birth control and abortion: This includes granting these rights regardless of legal justification.

D. Abolishing all Sharia provisions related to family: this is justified by claiming that they discriminate against women. They are replaced with the provisions of this agreement.

E. Destroying the structure of the Muslim family and fragmenting society: This is achieved by granting women freedoms that are not bound by either Sharia law or customary law.

Second: The Key Provisions of the CEDAW Agreement Related to the Family:

Generally, there is not a single article in the CEDAW Agreement that does not relate to family rulings in one way or another, as the fundamental principle underlying this agreement is absolute equality between men and women in all matters. While it can be positive in some provisions that do not contradict Sharia rulings and their objectives, it can also be quite negative in others due to their opposition to the latter. Among the articles that have a direct relationship with family rulings and are considered among the most dangerous in contradicting Sharia is Article 16, which states: [Document: Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, p.17]

The States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family

relations. In particular, they shall ensure, on the basis of equality between men and women, that:

1. The same right to enter into marriage.
2. The right to freely choose a spouse and enter into marriage only with their full and free consent.
3. The same rights and responsibilities during and after marriage.
4. The same rights and responsibilities as parents in matters relating to their children, regardless of marital status. In all cases, the best interests of the children shall be a primary consideration.
5. The right to freely and responsibly decide the number and spacing of their children, with access to the necessary information, education and means to enable them to exercise this right.
6. The same rights and responsibilities with regard to the guardianship, wardship and adoption of children or similar institutions where these concepts exist in national legislation. In all cases, the best interests of the children shall be a primary consideration.
7. Both spouses have the same personal rights, including the right to choose a family name, a profession, and an occupation.
8. The same rights for both spouses in relation to the ownership, acquisition, management, enjoyment and disposal of property, whether free of charge or for consideration.

2. Child marriage or engagement shall have no legal effect, and all necessary measures, including legislative ones, shall be taken to establish a minimum marriage age and make marriage registration in an official registry mandatory.

Third Branch: The Implications of the CEDAW Agreement on Family Rulings and Ways to Confront Them

First: Implications of the CEDAW Agreement on Family Rulings

There is no doubt that any international agreement that is ratified becomes binding on the ratifying states, which means it must be implemented and its provisions established. If a state fails to do so, it may face penalties and pressures proportional to its violations of the agreement's terms. Here lies the specific danger of the CEDAW Agreement due to its numerous implications for Muslim family rulings and its conflict with their values in many details, particularly Article 16. In this context, I highlight the most significant implications and their impact on the family structure, as the agreement represents a Western lifestyle and completely disregards the beliefs and values of Muslim countries.

1. Abolition of Guardianship in Marriage

Article 16 of the CEDAW Agreement stipulates absolute equality between men and women in all fields. The first clause asserts that women have the right to marry whomever they choose, implying the abolition of the requirement for

a guardian, as there is no such requirement for men. This creates a clear legal contradiction, undermining the dignity of women and their right to protection and a suitable marriage. The Prophet Muhammad (peace be upon him) said: 'There is no marriage except with a guardian.' [Sunan Abu Dawood, Book: Marriage, Chapter: On the Guardian, No. (2080), 3/427. The hadith was authenticated by Shu'ayb Al-Arna'ut in his verification of this book, 3/427]

2.Permission for Women to Marry Non-Muslims: Advocating absolute equality between males and females, and women's right to enter into marriage, has led to the allowance of women marrying non-Muslims, including atheists, whether they are People of the Book or not. This is analogous to men, who are permitted to marry a woman from the People of the Book due to their guardianship over her and the hope of her conversion to Islam. However, Sharia prohibits women from marrying non-Muslims, not as a restriction on women, but because marriage carries obligations that cannot be fulfilled with a non-Muslim spouse. This undermines the objectives of Sharia regarding marriage and disrupts the family structure. As Allah says: 'Do not marry polytheistic women until they believe...' (Surah Al-Baqarah: 221).

3.Prohibition of Polygamy:In Western culture, polygamy is viewed as one of the most prominent forms of discrimination against women. Therefore, this agreement seeks to prohibit and combat it by all means, under the pretext of absolute equality between men and women. Just as a woman is prohibited from having multiple husbands, equality demands that a man be prohibited from having multiple wives to avoid any discrimination. This nullifies Sharia and disrupts its objectives, as Allah has permitted polygamy for various reasons, including increasing offspring and safeguarding society from corruption and deviation, especially given the increasing number of women compared to men. Furthermore, the nature of women differs from that of men, making polygamy suitable for husbands but not for wives. A husband can have multiple wives and potentially have children from all without mixing lineages, whereas if a wife has multiple husbands, lineage becomes mixed, and paternity becomes unclear.

4.Abolition of the waiting period (iddah): Among the provisions of Article 16 of the CEDAW agreement is the abolition of the waiting period for women, whether due to divorce or the death of their husband. The agreement emphasises a woman's complete right to marry and her equal rights and responsibilities. This implies that a woman has the right to marry immediately after divorce or the death of her husband, without having to wait the legally prescribed waiting period to ensure the purity of her womb and maintain lineage. A husband also has the right to reconcile with his wife if the divorce is not final. The justification for this is equality between men and women in terms of rights and responsibilities: just as a husband has the right to remarry

immediately after divorce or the death of his wife, so should the wife have the same right in order to prevent discrimination. However, this is contrary to legal texts and undermines the objectives and principles of the agreement. As Allah says in the Qur'an: "Divorced women should wait for three menstrual periods..." (Surah Al-Baqarah: 228), and "Those who die and leave wives behind should wait four months and ten days" (Surah Al-Baqarah: 234).

5.Abolition of Guardianship: The absolute equality of rights and responsibilities between men and women, as stipulated by the CEDAW Agreement, includes the abolition of the husband's guardianship over his wife. This grants women complete freedom to act as they wish, free from the authority of men over them as prescribed by Sharia law. However, Allah has favoured men with certain responsibilities, as He says: 'Men are protectors and maintainers of women...' (Surah An-Nisa: 34). Sharia grants guardianship to the husband, not to deprive the wife of her rights, but to honour and elevate her status. She is a queen living under her husband's protection, who provides for her and attends to her needs. This is in contrast to some Western women who see themselves as equals to their husbands, which leads to the destruction of their homes and the degradation of their dignity, reducing them to mere commodities.

6.Equality in inheritance: Western agreements and conferences continue to call for equality between males and females in inheritance. They claim that the principle 'a male receives the equivalent of two females' discriminates based on gender. However, this is a superficial view as this principle is not absolute: there are cases where a woman inherits more than a man, and cases where they inherit equally. Islam obliges men to financially support their wives, daughters or mothers, but does not require women to support themselves or their families, even if they are wealthy. Therefore, a woman receives half of her brother's share of their parents' inheritance. This clearly shows that the CEDAW Agreement's advocacy of equality between males and females is not justice, but rather a form of injustice. True justice does not require equality, but rather ensuring that each person receives their due rights. [Women Between Jurisprudence and Law, Mustafa Al-Sibai, Dar Al-Waraq for Publishing and Distribution, Beirut, 7th ed., 1999, p.175]

7.The possibility of a wife taking her husband's name and granting the child the mother's lineage:

Among the violations of Sharia included in Article 16 of the CEDAW agreement is the granting of the right to a wife to take her original family name or her husband's name. The article states: 'The same personal rights for both spouses, including the right to choose a family name.' It also includes allowing the child to take the mother's lineage and permitting adoption. Under Sharia law, a child is attributed to the father in valid circumstances and to the mother

in cases of illegitimacy. If the child is born in a legitimate marriage, they are attributed to the father. This is all to preserve lineage, prevent confusion and protect rights. As Allah says in Surah Al-Ahzab: 5, "Call them by [the names of] their fathers; it is more just in the sight of Allah..." The Prophet Muhammad (peace be upon him) said: 'Whoever claims lineage to someone other than his father, or assumes guardianship of someone other than his rightful guardian, is cursed by Allah, the angels, and all of mankind.' [Sunan Ibn Majah, Chapter: Whoever Claims to be Related to Someone Other than His Father, No. (2610), ed. Shu'ayb Al-Arna'ut, Dar Al-Risalah Al-'Alamiyyah, 1st ed., 2009, 3/632. The hadith was authenticated by Shu'ayb Al-Arna'ut in his verification of this book, 3/632]

A. Legalising abortion and legalising adultery: The CEDAW Agreement does not consider consensual sexual intercourse outside of marriage to be a form of violence against women. It only prohibits the trafficking of women into forced prostitution, based on the principle that women have the right to control their own bodies. By doing so, the agreement implicitly acknowledges children born out of wedlock and encourages such relationships. The agreement also grants women the right to an abortion or to full care for the mother and foetus, even if the foetus is the result of an illicit relationship. However, this contradicts the objectives of Sharia law, which are to preserve lineage and promote purity and chastity. According to Allah, "The woman and the man guilty of unlawful sexual intercourse, lash each one of them with a hundred lashes..." (Surah An-Nur: 2).

Furthermore, this agreement prohibits marriage under the age of 18 and does not recognise any rights for women in this regard. It also calls for the non-registration of births for those born at this age, which contradicts Sharia's encouragement of early marriage and protection from prohibited actions. The final clause of Article 16 states: '*There shall be no legal effect for child engagement or marriage, and all necessary measures, including legislative ones, shall be taken to establish a minimum age for marriage and to make the registration of marriage in an official registry mandatory.*' [Document: Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, p.17]

B. Ways to Address the Implications of CEDAW on Muslim Family Law

To address the implications of the CEDAW Agreement on family rulings, alternatives based on Islamic law and social principles that uphold Islamic values can be pursued. Some of these include:

1. Enhancing awareness of family objectives: This can be achieved through various channels, such as mosques, universities and the media. Organising international and national scientific conferences can also help to raise

awareness of family objectives and the challenges they face from the CEDAW Agreement and other sources.

2. Adopting alternative agreements based on Islamic law. International or local agreements based on Islamic law can be formulated, such as the ‘Charter of Women’s Rights in Islam’, which ensures women’s rights in accordance with Sharia, while taking into account social justice and equality as regulated by religious guidelines.

3. Enacting laws that protect families: Laws should be enacted to protect families and maintain the integrity of society according to Islamic principles.

4. Strengthening the Role of Religious Institutions:

Scholarly bodies and fatwa institutions should be supported in providing globally acceptable legal alternatives and establishing centres for Islamic studies that compare the CEDAW Agreement with Sharia rulings, highlighting areas of agreement and disagreement.

5. Community awareness:

Spreading awareness through mosques, the media and social networks by presenting legal alternatives to protect women’s rights and showcasing successful Islamic role models for women in various fields, such as education, work and family life.

6. Enhancing Islamic diplomatic efforts: Forming alliances among Islamic countries to reject CEDAW provisions that contradict Sharia law, propose amendments and encourage international organisations to recognise religious and cultural peculiarities in international agreements.

7. Supporting economic projects for women:

Encouraging women to work within Islamic guidelines, such as home-based projects or jobs that respect their religious and social privacy. Funding pools for women are established based on Islamic financing principles, free from the conditions imposed by Western organisations.

8. Utilising international legal tools: This includes leveraging provisions that allow reservations on international agreements, as some Islamic countries have done with CEDAW, and working to amend certain clauses through legal and diplomatic channels.

9. Supporting Islamic media:

This involves producing strong media content that clarifies Islam’s stance on women’s rights, exposes the negative aspects of the CEDAW Agreement and provides critical scientific studies that highlight discrepancies between the agreement and social and legal realities.

These are some of the alternatives that can be adopted to challenge the CEDAW Agreement legally without infringing upon women’s rights as guaranteed by Islam.

Conclusion

Through exploring the original and subsidiary objectives of family rulings in Islamic law and the key provisions of the CEDAW Agreement relating to family matters, I have come to the following conclusions:

1. Women in Islam hold a high status and noble rank that cannot be matched by any statutory rules or international agreements.
2. Family rulings in Islamic law have significant objectives that preserve the family system from disintegration, lineage confusion and loss of rights.
3. Islam treats men and women equally in terms of dignity and responsibilities, except for specific distinctions that consider individual privacy.
4. Women's rights are guaranteed in Islam and there are no rulings that oppress or discriminate against them. This is essential for the acceptance of such agreements.
5. The CEDAW Agreement is based on the principle of absolute equality between men and women in all aspects of life, negating the idea of natural and inherent differences between the sexes.
6. The call for absolute equality in the CEDAW Agreement undermines Islamic law regarding family matters.
7. The CEDAW Agreement promotes a Western lifestyle that conflicts with Islamic law, societal customs, and values.
8. The agreement has serious implications for Muslim families, including lineage confusion, the abolition of guardianship, family disintegration and the spread of immorality.
9. In order to avoid falling victim to Western cultural patterns, there must be Islamic alliances that strive to impose their religious rulings and values.

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