

Sociological Approach to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (Critical – Comparative – Study)

Dr. Makia. G. A. Himat¹

Abstract

Objectives:-This article aims to examine the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW¹) in the context of gender and the Islamic culture theology and social legislation that regulates the status and vital roles of women. **Methods:** The article uses the analytical descriptive approach and two types of data will be utilize secondary & primary sources generated from the documents of the original agreement and their interpretations. Furthermore the article uses Comparative & historical approaches utilized to review critically women status & roles. The article compares CEDAW Convention with Islamic social legislation and highlights basic similarities & differences ,the article document how Islam adopts holistic approach to gender issues emphasizing complementary between men and women in all aspect of life, to the extent that neither of them exist without the other. **The findings of the article:** CEDAW emphasizes individualism and addresses women's issues from a reductive point of view that isolates them and tried to deal with women issues as separate issues from their family and community context. Reading and analysis of the general framework and philosophy adopted by CEDAW proves that it is part of the cultural variables imposed by the dominance of the materialistic liberal culture. The most important legal terms of CEDAW contradict the requirements of the Islamic legislation regarding the situation of women in terms of justice, equality of human origin and dignity, and responsibility without discrimination between men and women. Regarding status of women in Sudan as an example ruled by Islamic legislation , findings show that according to the national legislation and evaluation by judges and legal experts, the national legislation ensures more women's rights and situations than those included in CEDAW. So, if CEDAW is imposed, Sudanese women will lose privileges granted to them under the Constitution and the current national legislation. **Conclusion:** the study recommends the importance of raising awareness about the philosophical dimensions of CEDAW and the underlying risks that contradict the values and wisdom of the Islamic social legislation which regulates and controls the status of women and the family.

Keywords: Discrimination against women – CEDAW Convention -Islamic Social Legislation

Introduction

The last few decades of the twentieth century witnessed in increasing interest in the issue of women's rights, there has been a widespread movement that aims raising interest in empowering women The call for a convention on women emerged from the first world conference on women held in Mexico City ,The DECLARATION OF MEXICO focused ON THE EQUALITY OF WOMEN AND THEIR CONTRIBUTION TO DEVELOPMENT AND PEACE, And pointed out that that the problems of women, who constitute half of the world's population, are the problems of society as a whole, and that changes in the present economic 9 political and social situation of women must become an integral part of efforts to transform the structures and attitudes that hinder the genuine satisfaction of their needs, And in other hand the United Nation (UN) declared 1975 as the year of the women .

¹ UAE - University of Sharjah - Dept. of Sociology, mhimat@sharjah.ac.ae & makiahimat@gmail.com, Fax +97165053266, P.O.Box 27272 Sharjah – United Arab Emirates

Due to the importance of the issue, that one-year declaration became a whole decade for the development and advancement of women. (United Nation report, 1975). The (UN) Continued holding conferences on the issues concern to women , many of them with the goal of developing universal rules that organize and govern people's ethical and legal behavior ,in this sense The convention on the Elimination of all Forms of Discrimination against women (CEDAW)is the core of all the UN'S international conference held on the issue of women and is not a world statement on women's human rights only but calls for full equality of rights women and men in all the political ,economic ,cultural and civic spheres.(international Islamic committee for women &child,2000)

The CEDAW convention considered as one of the key international document and bill on the protection of women's rights and obligates those countries that ratified or acceded to it all appropriate measures to eliminate all forms of discrimination against women in all aspects of life (public, political, social, cultural, marriage, family relationship sphere.) All this efforts and advocate for such issues, to favor women globally is remarkable and appreciable in in the context of taking into account the cultural and religious particularities

CEDAW represents a legal document to address the issues and problems of women in the different cultural religious, social and historical context , Therefore this article addresses the CEDAW provisions in a critical analysis from a sociological perspective, addressing themes and arguments that have evolved with the evolution of contemporary thought and social theories focused largely on women's issues based on the conflict rather than the harmony between men and women and mainly leaded by the feminist activist ,to find out how far this convention It fits all cultural and religious contexts in global communities .

The problem emerge from all of this contexts is. As the international movement to empower women and achieve equality through international, Convention (CEDAW) which is dominates worldwide empowering women from gender aspect of the view without taking in account diverse existent of cultures and values globally therefore These revolve around the following three questions:

- Can the philosophy of absolute equality and symmetry between the sexes upon which CEDAW is based be used as the framework for redressing the injustices suffered by women?
- Will the application of CEDAW's legal provisions, have any negative effect on the family system and the stability of the social system?
- Can CEDAW add any privileges and gains for Muslim women, thus addressing shortcomings or filling gaps in national legislation on women's rights? Or does the problem lie in the ironies that exist between CEDAW's text and reality?

In term of addressing previous explanation above the Purpose of the article seeks to highlights three level

- Level One will review the CEDAW's underlying framework and philosophy in the light of cultural variables.
- Level Two will provide a general review of its legal provisions in the light of Islamic social legislation governing the status of women.
- Level Three will clarify the anticipated risks to institution of the family in terms of its construction, functions, and mission.

CEDAW Convention – Introduction and historical overview

CEDAW consists of 30 articles and provisions related to the elimination of discrimination against women, and aims its goals, philosophy and values at all issues related to family, marriage, and community systems

Many human rights activates claims that (CEDAW) represents a historic and crowning achievement in the struggle of women all over the world to consolidate the gains they have made in liberating themselves from the customs and traditions of injustice throughout human social history. Numerous organizations, regardless of religious beliefs or orientation, have emerged over the years in many parts of the world to combat the effects of discrimination against women. All of them considered CEDAW a legal revolution against the injustices done to women. Work in several phases on preparing a binding agreement that defined the rights of women in the United Nations dates back to the beginning of the second half of the twentieth century. These phases began in 1952 with the Convention on the Political Rights of Women under the supervision of the United Nations Commission on the Status of Women.

The year 1967 witnessed the adoption of the Declaration on the Elimination of Discrimination against Women, and in 1973 a working group was appointed to consider the elaboration of a convention that would enforce the provisions of the Declaration. During this period, the Declaration on the Protection of Women and Children in Emergency and Armed Conflict was adopted in 1974. Fifty member countries of the United Nations, as required by Article 27, ratified the adoption of CEDAW in 1980. This article stipulates that CEDAW would be enforced after being ratified by the twentieth member, which was Tunisia, the first Arab country to sign the Convention (International Islamic Committee for Women and Child, 2000, p7).

When the Modernization and industrialization communities began to take shape and to prosper, its ambitions began to expand and attempted to take advantage of all factors and favorable conditions by exploiting the themes of freedom and equality. Business owners took advantage of women who sought to claim their rights as a result of oppression and humiliation, raising the themes of women's rights, freedom, equality and economic independence in order to drag them out of the house and into the lab to exploit them physically and grant legal status to their demands. In addition, there is another factor that encouraged the capitalists to exploit the women's rights revolution. Industrial development and the increased volume of production require marketing and distribution of products in their various forms through the promotion and creation of markets. Business and production owners pushed their products onto the public by using all possible marketing means and techniques to excite the senses. Obviously, these owners identified an opportunity in women who sought absolute freedom and rejected limitations of any kind. Therefore, women became an **effective tool regardless of their human value and dignity; they were merely the body and temptation** through which could pass unsold goods of no value except for their material price; goods aimed at exploiting women under the guise of fashion, trends, and sexuality. Perhaps this is the achievement of the business owners who succeeded in dragging women to the squares of fierce competition for their bodies. Despite that, there are some philosophers who positively contributed their opinions and writings to raising awareness about the objectification and exploitation of women. Philosopher **John Stuart Mill** states in his book *The Subjection of Women* that there is no need to look at women's issues as if judgment has been issued in advance based on the existing reality and mainstream public opinion, but it must be open for debate as if it were a matter of justice (**Emam, 2009**).

CEDAW general framework, underlying philosophy and goals

CEDAW's underlying philosophy and principles. The features of the Convention are illustrated by the explanatory notes and supplements, the symposia and conferences held by the Committee relative to enforcing CEDAW around the world. However, fears have been expressed about the consequences of applying its provisions which supersede the national legislation of the states ratifying it, as well as the risks posed to the family system and the potential weakening of the family, community and nation.

The following are some of the features and attributes of the general framework of CEDAW that form the basis of opposition to and reservations about it:

SEDAW weaken the traditional family . The treaty states, "A change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women." (Article 5a) about this article pointed Janice&Wendey " CEDAW undermines the traditional family Article 5a requires countries to: "Modify the social and cultural patterns of conduct of men and women ." CEDAW is a global Equal Rights Amendment, a tool for radical feminists to impose their views upon all of society. It forbids recognizing the wonderful differences between men and women, even in the most personal relationships – family, marriage, and religious.(Janice&Wendey ,2010)

Although the Charter of the United Nations calls for respecting all forms of civilization and all religious belief systems in the world, and for all treaties and agreements to be consistent in this regard, CEDAW is dominated by a single vision for humanity, the universe, and life that is based solely on the philosophy of Western liberalism.even reflect the One of the most important philosophical elements in CEDAW is dealing with women as a single and separate entity and referring to them in isolationist terms, indicating that women are an independent, one-dimensional unit, unsocial and uncivilized, who have nothing to do with the family, the community, or the historical and moral reference. Defining women as individuals is a tendency that characterizes Western liberal philosophy.

CEDAW was based on the concept of natural law, which interprets rights on the bases of human nature devoid of thought, method, or creed. According to natural law, there were rational and logical rules prior to the existence of humans and which are generally accepted by people and represent a reference point for all current laws. Thus, the most risky aspect of natural law is that it limits the power of the state to impose duties on the individual; it does not depend on theology for its validity but rather on human social, natural, biological, and sensory nature. (International Islamic Committee for Women and Children, 2000, p.17).

The Convention imposes a single vision of and approach to life for all communities and addresses all issues in the context of the concepts and terminologies that only conform to the culture of the communities that drafted it, based on their own backgrounds and materialistic philosophy, and calls for the absolute equality of rights between women and men in all fields.

The Convention seeks to make wide-ranging social changes in the culture and components that govern the family system in all human societies by using legislative power through the terms of CEDAW. Such changes are aimed mainly at constitutions and national laws so that they become compatible with CEDAW's provisions. Obviously, such changes can be made regardless of whether these constitutions comprise divine-based legislation, as in Muslim communities, or comprise legislation of communities that follow the other two celestial religions. The Convention also aims at eliminating the right of the state to make legislation and transferring this right to a committee of international experts.

Sociological approach to the Convention and its provisions in the light of Islamic social system & legislation

The Islamic social system is structuring the legal relationship between a man and a woman as the foundation and building block of an established family. In addition, the Islamic social system looks at the individual through his position and positive contributions within the group to which he belongs while giving equal consideration to his individual private concerns to achieve the interests of everyone. In fact, God created male and female as a couple and made each and every one of them synonymous with the other in the story of human life. They complement one another, as reflected in the phrase "Some of you from some of you" contained in the Holy Quran (Mahmoud, 2006, p 63).

In spite of the fact that the Convention contains many controversial provisions, there are some that can be addressed critically to achieve a reasonable sociological approach. For example, Article 1 defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." Through this definition it would be easy to understand the underlying philosophy in addition to another important aspect – the intellectual perception and spirit of the Convention which emphasizes the absolute equality and symmetry between women and men. Perhaps this is inconsistent with the anatomical and biological differences between them, where the aim of divine wisdom is to reproduce offspring and ensure the continuation of generation after generation. Symmetry between the sexes in itself is contrary to the natural order of the universe. God Almighty did not create an individual out of two versions, but created a male and a female and made them a couple as part of the universal truth according to what He said in the Holy Quran: "From everything we created two couples" (Zariat, 49). That is because the calls for unity of the human race collide with instinct and the laws of creation. According to its ability and worth, this is the logic of both reason and justice.

Therefore, it would be necessary to conduct a legitimate and logical approach concerning the issue of equality from which CEDAW is initiated to analyze women's status on the social ladder without marginalization and injustice. In its overall vision CEDAW is based completely on the necessity of absolute equality between men and women in their human rights without taking into account their natural physical, hormonal, and biological differences as an innate universal reality, and their different social and psychological demands. The principle of equality is an essential part of the Islamic value system and there is no need to confuse equality with symmetry. In fact, all humans are equal before God but they are not identical and the Quranic text is very clear on this: "Oh, you people we created you from a male and a female and made you into nations and tribes to know each other, so that the sight of God know expert" (Al-Hugrat Sura, 13).

Based on the context of this verse, the only distinction between human males and females, approved by Almighty God, is the distinction on the basis of piety as the only criterion for differentiation and prestige among the people (Al-Mansouri, 2011, p. 54).

In addition, the requirement in Article 1 that women be treated as equal in all issues irrespective of their marital status is inconsistent and collides with many principles and rules. Therefore, it would be necessary to refer to the contradiction of this article with Islam, textually and spiritually, regarding the directions and conditions required by the law to regulate the situation of Muslim women. A Muslim woman who is still an unmarried girl is obligated to remain under the confinement of her parents, and when she marries she falls under the confinement of her husband. Other obligations take precedence in governing her life regardless of interpreting that as a confiscation of her rights or eligibility or dignity, including the divine context of maintaining the rights, dignity and status of women. This article is a clear signal for legitimizing unmarried motherhood and illicit relationships and decriminalizing adultery, considering them human rights issues and defending them by using global legal legitimacy (Al-Mansouri, 2011, p. 54).

Article 2 (f) and (g) of the Convention state that signatory parties agree to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation, and to take all appropriate measures, including legislation, to modify, abolish and repeal existing national laws, regulations, customs, practices and penal provisions that constitute discrimination against women. Accepting this article means giving up national sovereignty which means interference in the sovereignty of states that have ratified the Convention. Anything viewed by the Convention as discrimination, according to its philosophical, intellectual and cultural references, including the status of women especially in the context of the Muslim community, probably refers to the customs, practices and religious references considered and approved by the legislation of any community.

Article 5 has two purposes:

(i) Paragraph (a) requires parties to modify the social and cultural patterns of conduct of men and women in order to eliminate prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women. The real definition of a stereotype of men and women within the family can really be clarified through absorbing and understanding the social gender project and the agenda of the Beijing conferences which are held consecutively every five years by the CEDAW committee in order to follow the progress of the desired goals.

(ii) Paragraph (b) ensures that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children. The main requirement is for parents to understand that the interest of the children is the primary consideration in all cases.

It can be concluded that Article 5 (a) and (b) are a clear indication of the denial of the physiological and psychological differences between men and women. The article also implies that the reproductive function is not linked only to maternity among women but considers it an alternate social function between men and women. While everyone agrees that the upbringing and education of children is a shared responsibility between men and women, we must be careful about treating maternity, as this article does, as a social and not a biological function. This represents the legalization of abnormal and symmetrical marriage and a clear invitation to enable humanity to establish multiple types of families by adopting children or obtaining them through artificial insemination. Such ideas are contrary to Islamic law, which believes that maternity is a dual function (biological and social) and that the notion of a family is limited to marriage between a man and a woman according to common conditions. The "stereotyped roles for men and women" refer to the roles of parents, including maternity and its functional commitments such as pregnancy, childbearing, breastfeeding, care, upbringing, education, and parenting. Therefore, we find that the most prominent and oldest philosophies and social theories, past and present, are consistent with the three great religions, particularly Islam, in the biological, psychological, and social necessities of a family. These religions view marriage as between a man and a woman according to the cultural, social, and legal conditions of each community.

These necessities are the logical starting points for the distribution of roles, functions, and responsibilities within the family system based on the natural differences between genders. This issue has been addressed by the anthropological scientist George Murdock, author of the "Natural Differences" theory. Murdock believes that the community is a pattern of interconnected parts that work easily and smoothly to generate social solidarity in cases of balance and stability.

He also believes that the distribution of work between genders should be based on biological differences; doing so is most useful because such differences exist in all cultures, without exception, and this is not merely a matter of engineering and biological programming, it is common sense to organize society (Anthony, 2004, p. 192). In the same direction, the sociological scientist Talcott Parsons reviewed the role of the family in industrial societies. He believes that the distribution of roles and tasks on a biological basis within the family system represents an integrative distribution and a firm guarantor to provide solidarity and stability for the family. In addition, the majority of scientists and pioneers of structural functionalism have addressed the issue of human society in the structural and functional dimensions and components which interfere in the conduct of social movement by addressing the social structure and its structural components and fundamental laws that govern its processes in the cases of equality and stability or deviation and ailments.

Certainly, women's issues are one of these components. By focusing on the concepts of functional integration and synergy between social construction contexts which characterize the constructivist school within sociology, the trends of this school about the family can be addressed by applying these central concepts in analyzing the role of women and men in the family as a sub-format in the social structure, but with its own centrality in terms of importance and vital function in the human community. Thus, Talcott Parsons refers to the need to analyze the social activities and roles and confirm that the function concept is central and essential to understanding any format, because this article of the Convention represents a real turning point against the family as a traditional social system that dates back since human existence on earth prompted by biological, social, and cultural needs. Malinowsk was one of the first scientists who looked at the family and considered it a necessary and vital global phenomenon, linking it to the biological instinct and regulation of sexual practices and describing it as a quartet of necessities for human life, i.e., goal, function, responsibility, and authority (Assamaloti, 1426).

If we study the family in the context of the most important sociological and anthropological approach we find that structural functionalism is best suited to analyze the vitality of social construction through the function, construction, synergy, and integration approaches. At the forefront of these approaches is the family system that works, through a layout of arrangement and coordination, for the stability and sustainability of communities in cohesion and differentiation.

By using the theory of social roles, it would be easy to understand the function of each part in the family context. Talcott Parsons (1902-1979) confirmed, with regard to the functional aspect of the family layout, that it would be necessary to analyze the social activities and that the function concept is essential to understand the pattern. Thus, he advanced a number of hypotheses and concepts to govern the function in all kinds of social systems:

- The necessity to look at the society as a format that contains a set of integrated parts.
- Social patterns are subject to a state of dynamic equilibrium.
- Deviations and functional limitations can occur within the format of several factors.
- The primary factor is building the social integration and guaranteeing agreement on core values.

The definition by Ralph Linton of social roles in the sociological perspective is considered the most famous. He affirmed that a role is a set of mutual rights and obligations among individuals according to their situation and social position they occupy in a certain social construction. Thus, the role is just a standard idea reflecting the values and obligations related to the tasks that surround it and representing modular systems imposed on present actors to surrender and consent. In this context, Parsons believes that the distribution of the role is mostly related to the social action because, in his opinion, social action is a behaviour directed at achieving certain purposes, goals, and expectations. In the context of the value criteria which direct the interaction process, the role through these value orientations is determined by a combination of activities and tasks assigned to the actor of the role within the social pattern framework. Anyone who applies this interpretation performs specific and planned behavior in an integrative context with the intention of maintaining the overall layout which is the society. Based on this sociological analysis of the concept of the role, we can conclude that the roles of women within the family context, which represents one of the central frameworks for its importance and vitality in the social construction, can be divided into the biological and the physiological:

Many anthropologists have dealt with the distribution of roles and tasks between men and women within the family pattern on the basis of sex and gender depending on biological differences and the natural formative difference between them. Some believe that motherhood and its associated functions are only concerned with women in relation to pregnancy, childbearing, breastfeeding, and baby care.

In this context, Parsons concluded that domestic work and child custody fall under the natural competence of women and that motherhood is constant at all times, undergoing no alteration or change or transformation. The role of housewife, on the other hand, can be changed according to the urbanization of the society. Thus, we find that the structural functionalists believe in linking the distribution of roles between men and women in the family system based primarily on their biological formative differences (Khanona, 2009, p 183). Therefore, as the inevitable result, the variation in women's contributions to and participation in other social tasks and roles within the overall context of the society, such as political and economic life, etc, can be arranged. Therefore, the matter will be limited to the context of identification and arrangement of priorities for the public interest from the point of view of integration and coordination but not from the view of discrimination and class between genders.

Scientists also use the physiological and physical differences in organizing the roles and functions between men and women. Men have the physical strength and ability to handle the tasks and roles assigned to him to do heavy work. Throughout human history, certain activities and functions have been allocated among males, such as mining, mineral extraction, wells, hunting, use of weapons, and conducting wars. Women, on the other hand, have been responsible for the management of the home and the performance of tasks that fit the nature and composition of their innate physical capabilities. George Murdock has shown that the distribution of roles and tasks based on natural differences (physiological and biological) is considered a logical framework for the distribution of work between the sexes in social life to achieve harmony, integration, and functional synergy between communities.

Opinions and perspectives of feminist organizations and groups varied when observing the natural differences and familial roles of women. Some of these perspectives were highlighted by the French writer Simone de Beauvoir in her book *The Second Sex* where she showed that it would be impossible for any biological, psychological, and economic event to determine by itself the form that the human female can take in the heart of the human community. But, according to her, sets of cultural conditions produce the means of production, which is the female (de Beauvoir, 2009, p.61). As for determining the role of women, she also says in another work that determining the role of women is not necessarily related to their biological differences but due to the beliefs and ideas that feed and support them. According to her, the issue of symmetry and the similarity between the sexes can arise as the result of a variety of factors that have a close relationship with the foundations of human societies. Perhaps biological differences may be one of these factors; however, there is no way to deny the lack of symmetry and harmony between men and women biologically.

The process of distributing the roles played by women on the basis of sex led to the spread of the idea of class and distinction, and was the focus of a long discussion among many women's groups. Regarding calls for women to abandon their role as the main leader, the feminist pioneer Schulamith Firestone says that the classification of women's roles on the basis of sex is very deep and cannot be resolved merely by reforms or by incorporating women completely in the labor force. She says that, before reaching a certain level of development in this field and resolving the present complexities, doubts arose about the essential biological conditions which she considered as an act of madness and wondered about the basis for the calls for women to abandon their precious position in the "driving seat". The reference here refers to the roles of motherhood and reproduction as points of discrimination against the status of women as mothers in traditional society. That is because the nature and composition of the female in the eyes of feminist schools is considered as a path to slavery and segregation and one of the reasons for women's inferiority.

The feminist trends of all philosophical and ideological schools have focused on a key issue when analyzing the issue of women, which related to the attempt by these schools to approach the philosophy that interpreted humans hierarchically in a systematic and repeated manner in terms of masculine generality and feminine specificities. Thus, we find that the division of social activities and tasks between men and women in the framework of the family and the community will remain a critical point of conflict and polarization within women's studies or social traditional theories. While most sociologists rely on logic and the safety of tasks and role arrangement according to the formative instinct between the sexes, which ensure the cohesion and stability of the social construction as a whole, we see feminist theories on the division of roles based on social and cultural perceptions of society.

Article 15 of the Convention addresses the issue of women's legal capacity and their equal rights with men to conclude contracts and to administer property. While the provisions of this article address problems faced by women in Western societies regarding their equality with men before the law and their independence from their family and husbands, women in Islamic society face no similar problems. Article 15 (4) deals with equal rights between men and women concerning their freedom of movement and freedom to choose their residence and domicile. The question here focuses on the basis of married life, its stability, serenity, and security. Imagine if neither spouse was restricted in any way but enjoyed personal freedom without any obligation towards the other. How would it be possible to achieve true serenity, compassion, and affection for the establishment of the requirements necessary for the family system?

Article 16 of the Convention deals specifically with matters relating to marriage and family relations, reviews the laws that govern the family institution, and aims at demolishing its structure as a system of mutual values and obligations. The article addresses issues of marriage, divorce, guardianship and wardship, and the rights and duties that ensure absolute equality between men and women. We will address only those provisions that are in conflict with Islamic law in terms of the philosophy and content regarding personal rights and the family. Article 16 (1) (d), for example, calls for the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children. The effect of this provision is to legalize unmarried motherhood rather than to protect the family and the social system as a whole from all sorts of tampering and chaos.

CEDAW has been met with broad rejection and criticism globally, all with different justifications but all in agreement that it endangers the family system. Many views critical of CEDAW have emerged from countries, international institutions, and communities that advocate women's rights, including from the United States. These views are elaborated in the comments of Catherine, Palm professor of law at the University of Brigham Young in Utah, where he attributed the reasons why American women ignored CEDAW to the existence of a national law that provides advanced equality for women in education, employment, and public life stemming from their culture and religion, and to their concerns as Americans towards freedom of religion and expression (she also warns Sudanese women not to ratify CEDAW but to address their problems in the way that is in line with their values, because international conventions such as CEDAW call for fictional equality not experienced by women anywhere (Fareda, 2000).

The most effective campaigns are those led by the American talk radio host, conservative commentator and author, Dr. Laura Schlessinger. She believes that the post-sixties centered on masculinity and downplayed femininity, considering it nothing more than some kind of disorder. In her view the courageous modern world has become very terrifying, the type of world where it has become easy to conceive a new child and to get rid of him via abortion according to one's whims and fancies. It is the type of world that is inhabited by men and women establishing romantic relationships without marriage or a desire to have children; instead of reproduction based on a marital relationship, the intimate relationship between men and women has become just companionship. Instead of mothers breeding children, child care becomes institutionalized rather than part of a natural family. Single mothers bear children without marriage, either by consent or against their will. Also, the institutions and streets have become shelters for homeless children to the extent that love, commitment, safety, self-esteem, values, fulfillment, covenants, and responsibilities have become closer to ethereal vapors, ephemeral and devoid of the promise of a good life.

Criticizing the feminist movement orientation in raising the issue of female equality, Dr. Laura says in her book (*The Proper Care and Feeding of Marriage*) that raising the issue of equality promises a destructive lie called uniform sex, a form of ideas that addresses the concept of equality from the perspective of legislation and law to drag it into a completely different concept, which is congruence. That is because believing in congruence generates a sense of lack of respect for the other sex and denies their need for the other with his/her outstanding aspects. Men and women are different from each other as bananas are different from peaches. Of course, these fruits have common traits between them but they differ in texture, colour, response to heat and cold and nutritional content. This leads to something unique and requires each party to appreciate the other rather than criticizing or ignoring their existence. Acceptance of the difference between masculinity and femininity creates close and friendly ties away from those vulgar issues about equality in household chores. The demand for equality has corrupted men and women and the delight, awe, splendor, excitement, thrill, and satisfaction that they should experience in their relationship. Thus, wives and husbands suffer problems similar to competition between siblings in the same family (Schlessinger, 2005).

These ideas and opinions come in the context of censuring the calls of feminist movements and liberation movements and covenants that are working to recast social and family life on the basis of distortions and inconsistencies to human instinct. In numerous scientific articles published to tackle the risks on American society of ratifying CEDAW, there emerged many campaigns, groups of activists, academics and professionals interested in family issues or

Example of resisting the ratifying CEDAW in United states which is reflecting the concern of many groups under the title SEDAW harms the families Dr .Janice &Wendy stated" is a United Nations treaty that compels countries to change their laws and culture to abolish distinctions between men and women. If the U.S. ratifies CEDAW, it would impact every aspect of life and place Americans under the supervision of a U.N. committee of "gender experts."

Under the guise of "eliminating discrimination against women," CEDAW would limit Americans' freedom to make personal, professional and political decisions — such as family duties, parental rights, religious exercise, education, employment, and political representation. Government agents and an unaccountable U.N. Committee would be free to impose a radical vision of restructuring society according to "gender experts." America's Founding Fathers trusted that the U.S. would not adopt a treaty that violates its Constitution. CEDAW is a direct threat to the hard-fought American right of self-determination. It would radically alter the U.S. by handing over the right of "we the people" to decide American laws and culture — even family decisions — to a U.N. committee of foreign representatives.(Dr .Janice &Wendy,2010)

Features of women's status between national Islamic legislation and CEDAW (Sudan as a model)

Among the countries that have not ratified the Convention, Sudan can be highlighted as a model to emphasize some of the features of its national legislation governing the conditions and situations of Sudanese women. These features bestow on Sudanese women conditions of justice and fairness in excess of anything offered by CEDAW. If Sudan were to ratify the Convention, its women will lose many of the privileges they enjoy now, in addition to the consequent negative results of the Convention, including the disruption of the values and standards that govern and organize Sudan's social and family system in general. Of particular relevance is Article 2 of the Convention which obliges States Parties who ratified the convention to amend or cancel the existing laws, customs and practices which constitute discrimination against women, including all provisions of the national penal laws. These laws and regulations on which one can shed light include Sudanese criminal law and personal freedoms compared to CEDAW, the law of equality in fundamental rights, and the laws of affirmative action for Sudanese women.

▪ 1st – Sudanese criminal law and personal freedoms vs. CEDAW

The Sudanese Criminal Law of 1991 and the Personal Status Law for Muslims derived from Islamic law are clearly inconsistent with the basic provisions of CEDAW. For example, Article 145 of the criminal law considers any relationship between a man and a woman without a legitimate link as adultery and punishable, and Article 151 considers the lesbian relationship between two women as obscene and punishable. The consideration of such behaviour as criminal under Sudanese law is derived from Islamic law, while CEDAW considers such behaviour as a human right. If Sudan ratifies CEDAW, it will be impelled to cancel these laws and to enact legislation that punishes those opposed to rights that are guaranteed by CEDAW.

▪ 2nd – the law of equality in fundamental rights

The Sudanese Constitution guarantees women all the fundamental rights contained in international conventions such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which guarantee rights of the individual such as the right to life and the prohibition of slavery. For example, Article 20 of the Sudanese Constitution guarantees the right to "life and liberty and security of person in accordance with the law. Everyone shall be free and no one shall be held in slavery or servitude or degraded or tortured"; Article 21 guarantees equality in the rights and duties of public life without discrimination; Article 23 guarantees freedom of movement and residence in the country and of travel out of the country; Article 24 guarantees freedom of conscience and religion; Article 25 guarantees freedom of opinion and expression;

Article 26 guarantees freedom of succession and organization for cultural, social, economic, professional, trade union, and political purposes; Article 28 guarantees the right to property, to monetary earnings, and to ownership of such earnings; Article 32 guarantees the right to a speedy and just trial and the right to defend himself; and Article 33 prohibits the death penalty for a pregnant or breastfeeding woman except two years after birth.

▪ **3rd– the laws of affirmative action for women in Sudanese law**

Articles 28 and 29 of the Election Law of 1998 allocate seats for women's participation in Sudan's Parliament (National Council) and state assemblies; Article 48 of the 1997 Labour Code entitles a female worker to leave (Iddah) with pay if her husband dies; Article 43 (1) of the Labour Act 1997 makes overtime work optional for women; Article 19 thereof prohibits women from being employed in dangerous work or exposed to poisonous substances, cold or heat exceeding reasonable limits; and Article 20 (1) thereof prohibits women from working between 10 p.m. and 6 a.m. except if they are engaged in administrative, professional, technical work or social or health services work.

Dowry is a right of women, and husbands are responsible for marital preparation as well as for providing shelter, clothing, food, and medical treatment. Upon dissolution of the marriage, women are entitled to expenses for one year from the date of divorce. In case they are breastfeeding, they are entitled to expenses for two years and three months, in addition to an entertainment allowance of not less than 6 months' salary where they have custody of the child. The law also contains positive discrimination for women, i.e., custody of a male child until he is seven years old, and of a female child until she is nine year old. The judge may award women custody of a male child until adulthood and of a female child until she gets married (Al-Tahir, 2009).

According to experts in the Sudanese legal and judicial field, Sudanese women will lose their privileges, rights and many other benefits if Sudan ratifies CEDAW. It is therefore recommended that the status of women and their gains within the current Sudanese constitution and legislation must not be compromised. Efforts should be focused on working for the promulgation and implementation of laws that protect the status of Sudanese women without bargaining or negligence (Constitution of Sudan and other national laws, 2009)

Social Legislation's purpose and function from the Islamic perspective

Many scholars have reviewed the goals of Islam regarding the liberation of humans and ensuring the removal of injustice. Al-Qaradawi has stated that the goals of legislation in Islam are the liberation of mankind from oppression and conflict, the administration of justice, the achievement of brotherhood between people, and the maintenance of their bloodline, dignity (honesty), wealth, intellect, religion, ethics, and philosophy, where legislation is predominantly dependent on the right balance between these goals. So, according to him, the goals do not favour the interest of one class over another or one sex over another, nor do they put the best interests of this life ahead of the hereafter, or materialism ahead of morality, or spiritual or individual interests ahead of group interests, or the group ahead of the individual. The primary aim is a compromise between all of them (Al-Qaradawi, 1981).

These issues assert that the legislation in Islam combines consistency in tenets of religion and higher goals. In this context, the achievement of justice between men and women is a very authentic purpose of Islamic law and legislation. If the original purposes of the legislative work are taken into account, built on the pure faith in God Almighty and optimized in the best direction, it will become a true legislation according to the Quran and Sunnah.

Human rights and Islamic law

Here it is necessary to clarify some of the differences between the material theories in addressing the system of rights and the divine order. While the material theories sanctify the individual and make him the source of rights, in Islam the source of legitimate rights is Islam itself. Scholars agree that the goal of Islamic jurisprudence (*Fiqh*, meaning "deep understanding") is to bring out the best and to ward off evil, and that the ultimate outcome must be the protection of society from harm. In his book *Informing the Signatories* under the chapter "Sharia, rule which may not be demolished", Ibn Al-Qayim says that purposes and beliefs are considered in behaviours and habits as much as they are in acts of worship (Al-Nabahani, 1988, 21). Based on this overall understanding of women's issues in Islam and rectifying these noble goals, the scientific, objective and methodological needs will necessitate a logical and in-depth examination of the human realities of women and men alike, including studying, analyzing, and explaining their roles which complement each other.

It is also in vain to use the miniature context and individual approach for women as an issue separate from their surrounding community as if they are irrelevant to their environment, and to view them only from the perspective of inevitable conflict with men and society. This context represents a flawed approach from its philosophical, methodological, and applied dimensions. Until we reach a balanced result in the struggle on behalf of women, we must clarify the Sharia coverage and its regulation of the status of women while preserving their fundamental natural rights (social, economic, cultural, intellectual, and civil), in accordance with their complete physical, psychological, and mental eligibility during their nurturing stages and their readiness to assume responsibilities and duties and to enjoy their rights.

All of these can be accomplished through logical attempts, at least in the context of re-originality, for the vital topics first as part of the correct Islamic understanding, and second, on the assertion that the current modern theories about women's issues are contrary, in important aspects, to the fixed origins of the doctrine, making it a violation of religious imperatives in the Quran and Sunnah. This is in addition to the fact that the adaptation to requirements of the objective social laws and (Islamic) Sunan is an indispensable necessity. And we mean here the public laws and the fixed Sunan that govern human consensus before entering into details of the issue of the legislative system governing the conditions and status of women to regulate their special and public affairs.

The issue of liberty or freedom represents one of the public laws and Sunan that govern human consensus. Liberty is an innate instinct and essential need and an expression of the will, and without it all ambitions are infanticide and human rights are restricted. Without liberty, human rights, dignity, and self-determination cannot be achieved. With this understanding, freedom is a divine grant that is not compromised, not bid on by the philosophies of mankind. Liberty also accommodates in its meanings issues related to human life, as for what a person does and does not do in their individual and social practices regarding food, drink, entertainment, instincts, inclinations, and motivations (Al-Mazhari, 1987, 16). The vitality of freedom and its effective role in human life has attracted the attention of researchers and sociologists, in particular, and each has continued to search and investigate from his own point of view and his scientific and philosophical prospective, which has led to the introduction of many definitions and interpretations. Freedom and equality represent two phenomena that link human beings to each other due to considerations of common humanity. Human polarity, that is, a man and a woman, may afford human rights on an equal footing but we should not forget the basic fact that men and women are different organically, psychologically, and emotionally, and that their differences are not related to historical, social or geographical factors but to factors linked to the goals of extending their continuous presence on earth and conserving humankind (Al-Mazhari, 26).

In addition, there is another issue that must be noted here, the issue of personal freedom that derives its interpretations, in the light of material philosophy, from the meanings of emancipation and release from the restrictions imposed on human rights in European societies by the control and domination of the church institutions during the black era throughout which European societies have lived. With the same degree of church radicalization and domination came the reaction towards liberation and rebellion against the teaching and orientations that control individual behaviour and commitment to the values and ethics. This generated a movement where the principle of life enjoyment prevailed and man was free to exercise his will without restrictions or controls, free to take what he wanted and to reject what he did not want, and the community had to respect that. That is why personal freedom and the overriding importance of individual life have become attributes that characterize the systems of liberalism and capitalism, the most dominant philosophies on the life of people for decades past and to this day.

As for Islamic legislation, it is subject to the governance of God Almighty and His Messenger, peace be upon him, as well as the consensus of the nation which is restricted by ethics, principles and value constraints. Islamic legislation regulates human affairs and relations based on obligation. Islamic law accommodates the different schools of Islamic jurisprudence which originated during the scientific renaissance after the era of the Prophet's companions and followers when Islamic scholars held the view that the affairs of life must in all respects be conducted in accordance with the Book (Quran) and Sunnah. Every Fagih (Scholar) diligently studied the issues at hand according to his knowledge of the fundamental texts and arrived in his mind as at an understanding of these texts and measured them accordingly (Al-Mazhari, 27). To prove the validity of the Islam principle for every time and place, we find that the legislature did not stop at the experience of the first generation, but contemporary jurisprudence has appeared that addressed contemporary and renewable problems. And as long as some aspects of the thesis of original science or methodology of jurisprudence and Islamic traditional legislation do not cure the needs of the Renaissance and do not fit the current material, social, and cultural environment, and do not meet any anticipated developments, diligence becomes ever more urgent.

Where there is nothing wrong with the authoritative evidence of the Quran and the Sunnah, there is no way for the methodology of Fiqh at any time to escape the reality of taking advantage of examples in rooting the provisions and the interests in downloading and applying them. Also, the legislative approach never changes and expresses the commitment to Muslim Sunnah as a means to clarify and interpret the meaning of the text of the Quran and to discharge its provisions. It also offers a means to assimilate and validate religious purposes; to extol goodness and eliminate corruption in nature and society; to mobilize public opinion with advice, consultation, and images of expression for the public good; and to enable sultans to govern and lead. Above all, we should not forget the circumstances in which issues and things develop or that the variations of time cannot contain the root of the provisions and collective religious rules because they are based on the constant elements of eternal legislation. Therefore, diligence must be extended to cover the necessary conditions, in accordance with the contemporary issues and developments (Turabi, 1987).

The purpose of continuous diligence is to consider and be guided by the rules and not necessarily to apply them rigidly without taking into account the changing circumstances. Therefore a continuous diligence revolution must be considered to accommodate the nature of the current needs so as not to be confused and misled or to become a reason for accusing Islam of the things that are not part of or from it, mainly the current debate regarding women's issues (Turabi, 1987). This is because women's involvement and participation with men in all areas of labour and employment represents a manifestation of contemporary life after the scientific and intellectual revolutions in the manufacturing sector. Given that many of the issues related to the exclusion of women require legitimate adaptation and the jurisprudence of balancing interests resulting from such exclusion and the consequent damages arising from it, the legislation in Islam has linked the deeds, rights and obligations of man with his Lord and Creator, for which he must account in the hereafter. Thus, it would be easier to reach briefly a true understanding of legislation in its general totalitarian meaning and requirements. The legislative applications governing the social dimensions of life are those associated with family affairs and its totalitarian and interdependence between organic components and subsequent issues of work legislation, organizing public affairs, social welfare and security, social insurance, social defence, and the regulation of charity work in its different forms.

▪ **The social system and its importance in Islam**

The Islamic social system consists of a conceptual framework based on the standard provisions that are contained in the Holy Quran and the Sunnah regarding social relations and behaviour patterns and standards. In other words, the layout of the concepts and provisions represents the theoretical model, but the layout according to which all topics of the social sphere are regulated represents the applied model. From here, we find out that the Quran and Sunnah are the founding texts and the standard reference for the human community and any attempts to use concepts derived from a different cognitive system or generated by a historical development of other communities will lead to cognitive dilemmas and confusion at the theoretical level, resulting in futile and useless efforts at the applied level. In this sense, it is worth mentioning another issue of faith, namely the need to build the Islamic model and disengage from other human civilization references and terminate the existing dichotomy and combination processes that people adapted for decades. This would require the renewal of faith and supplication to God for forgiveness by default as well as high vigor and ongoing work to ensure continuous rebuilding of the major Islamic fundamental provisions that are characterized by renewed human openness to accommodate the changes and transformations of human life, especially the social

1. Marriage is the basis of the universe.
2. Recognition of the diversity and psychological differentiation between men and women.
3. Full recognition of women.
4. Balancing the real interests of the community.

➤ **1st – Marriage is the basis of the universe**

According to the texts of the Holy Quran the human couple (Adam and Eve) heralded the beginning of the life of mankind on earth, as Almighty God stated in Surah An-Nisa (The women): "He (Allah) created you from a single person (Adam), and from him (Adam) He created his wife (Hawwa)". The marital relationship continues to encompass elements of the entire universe including human, animal, and plant.

In addition, marriage is also clearly reflected in other creatures that we are unaware of where Allah Almighty has said in Surrah Annisa, "And from everything we created a couple, you may recall". In more detail God says in Surah Yaseen "Glorified is He who has created all the pairs". Even when the nation of Noah disobeyed the call of their prophet and the word of God was inflicted on them and they were swallowed by the flood, Noah was ordered by God to carry in the ship a couple from each of His creatures, ratifying the command of Allah in Surah Had which says: "Embark therein, of each kind two". Here, the researcher may understand that marriage is a fine and widespread universal fact and took its place within individual species where each type was divided into two, one different from the other. But the mystery of the law of God remains unfulfilled unless these two individual species meet each other and get together (Shalaby, 1981). This wondrous mystery is one of the leading motivations for marriage between human beings and upon which the family system is established as a legitimate, essential and important unit of construction. The contract of this system can be achieved only in the presence of two important things: relational matters and institutional matters.

Relational matters

The meaning of relational matters here refers to everything associated with human relations such as conditions and limitations and the consequent duties and rights within the system framework. The relationship between men and women is one of the primary relationships in the Islamic system because it is linked to the process of human reproduction and the preservation of offspring. Here it worth mentioning one of the purposes of Islamic law: linking this relationship to marriage. The condition for achieving this link is chastity, for where this relationship takes place outside the boundaries of marriage it will be perceived as obscene and an aggression against the Islamic community. Therefore, the marital relationship in the Islamic social system is a contractual relationship based on voluntary and mutual choice. It is designed to protect chastity in the context of moral legitimacy and strong God charter. This confirms the sanctity and importance of the relationship. In the meantime, the parental relationship is a normal relationship based on ethnic descent; one cannot choose it. Parenting is a quasi-contractual relationship – parents must care for and provide education for their children; conversely, children must care for their parents in old age (Hamid, 1999:17).

In addition, the process of childrearing throughout marriage in accordance with the conditions and requirements makes it imperative for one of the spouses, in this case the wife, to assume the duty of providing primary care. Her performance of this duty temporarily moves her away from a productive working life and restricts her role to the upbringing, education, and care of generations in accordance with the contractual relationship within the context of marital life. Conversely, material production is carried out by the husband. The main objectives of allocating women to care for their children and men to work for a living are to maintain the human species and integrate the roles. This is the normal situation consistent with the principles of Islam and is contrary to the contempt for motherhood and the stereotypes of inferior unpaid women with respect to childcare and child rearing as stated in CEDAW.

Institutional matters

The application of the concept of chastity of the vulva and maintaining the uterus, with the satisfaction of one of the natural instincts (i.e., sex), can be achieved through the institution of marriage and the consequent relations including sub- or extensional affiliates such as descent, intermarriage, and family. Marriage is not just a relationship of coexistence between men and women but is an institution shared by faith, community, and history. Other relations arise from the institution of marriage, such as cognation, descent, and intermarriage, which also establishes a broader social framework covering neighbourhoods, the city, and professional and other affiliations that stretch the ties first to Islamic brotherhood and then to human brotherhood. In spite of this broad understanding and extended dimension of the social entities, it would be necessary to specifically limit it in order not to miss the point raised by this study and in order to correct some of the trends and false interpretations of the social system (Hamid, 19). And here we should indicate that the word "social" means the status of the system or the relations arising from the meeting of men and men or women and women that does not need a system but rather to organize their interests due to the fact that they live in one place and community. The ramifications arising from the social interaction between men and women would require careful organization and the development of rules and principles (Al Nabhani, 25). Hence, it seems evident that the consequences of failure to regulate the relations between men and women according to the divine and prophetic guidance in the context of the Islamic community, including disorders, deviations, and chaos, will affect the rest of the social systems and undermine social order in particular.

➤ **2nd – Recognition of the diversity and psychological differentiation between men and women**

This innate natural law entails important social legislation relating to the division of roles within the institution of the family. It also entails upholding the instincts that drive men and women toward each other, which results in the task of protecting the human species from extinction. And herein lies the value of the family in the Islamic system and the importance of legislation to regulate it. It is worthwhile to discuss here some of the philosophical and methodological issues concerning women that are considered controversial intellectually and practically both by women's movements and others that are pro-women. We find, for example, numerous and deliberate distortions of fact and malicious campaigns against Islamic social legislation governing women's affairs and controlling their private and public lives. Perhaps the various intellectual writings by feminist activists, both in the Islamic community and in those that are partisans from other communities or those against Islam, reveal the type of deliberate prejudice against Islamic law in terms of family, women, and children.

➤ **3rd – Full recognition of women**

Through this principle, the full eligibility of women and their right to act independently can be determined with respect to pre-empting their good deeds, which include their generous participation in the public and private framework. By using the conscious assimilation of this principle, it would be easy to understand women's full eligibility to participate in the family and society and become equal to men without differentiation except by piety and competition in good deeds.

➤ **4th – Balancing the real interests of the community**

Balancing the real interests of the community requires rethinking of many things promoted under the pretext of the public interest and achieving an absent interest such as women's rights. The question here revolves around the nature of the interest, which can be achieved by reversing the normal conditions in the framework of dividing the social work and the distribution of roles within the community between the two partners in married life that take into account the innate and natural configuration according to the function of each one of them. The sacrifice of the nurturing function and motherhood function for women does not serve the interests of a community; it is destruction and a great missing of the point. But the issue is not that simple, which makes one wonder: can women work and participate or stay at home in general? The issue here can be relative and capable of many interpretations and selections according to conditions and fate. Women do not have the same talents, abilities, similar circumstances, and homogeneous conditions. Yes, there are disparities in many aspects that must be built on the principle of taking care of the interests, but the general rule that there are priorities and requirements must be taken into account and should not be exaggerated. In short, there are essential roles and other minor roles, but there are adequate optional requirements that must be taken into account.

Legislation governing women's matters in the social system from the Islamic perspective

The Sharia (Islamic Law) regulates women's matters as well as the other family members and the community. It also arranges their needs based on the requirements that reserve their rights and achieve justice according to the divine balance, which is not subject to women's whims, impulses and ambitions, whatever their conditions required in special cases. It also regulates their conditions based on their position as a member of the family, whether as a wife, mother, daughter, sister, or grandmother, or even in general situations including their participation in various community activities. The most important legislation governing women's rights can be summarized into groups of demands, including legislation that maintains women's natural rights and personal freedom, their positions within the family, their civil and political rights, their financial and economic rights, and their social, intellectual and cultural rights.

▪ **Legislation concerning the maintenance of women's natural rights and personal freedom**

The most important legislation is that which gave women the right to life and outlawed infanticide after female babies had been confiscated during the Ignorance period (the dark period before Islam) throughout which human societies have lived. The best example was the Ignorance of Arabs and female infanticide and oppression under the authority of the customs and traditions. But Islam decided to give them equal rights in humanity and to honour them.

This was in addition to legislation passed by the Wise Legislature (God) for the maintenance of children, and regulations for marriage that limited the number of wives to four. This process addressed the questions of open sex and miscegenation and the chaos that existed in communities prior to Islam. It is important here to note that Islam did not dictate polygamy, but surrounded it with extremely difficult conditions in order to achieve justice, which represents the supreme virtue sought by the Islamic social system in the name of God Almighty.

These rights, by virtue of instinct and the requirements of creation and nature, cannot be removed or touched under any circumstances. Even the individual himself cannot divest himself of them and transfer them voluntarily to others. Therefore, common people are equal under these rights, whether they are men and women, governor and governed, white and black, rich and poor (Al-Mazhari, 31). This means that human beings are equal in natural rights and should be free to live. This fundamental principle is derived from the creation and no person is qualified in any aspect of the human philosophies to investigate, assess, or decide on it.

- **Legislation governing the situations of women within the family**

This legislation represents an integrated system of laws that determine from the beginning the foundations and rules of building the family after the process of choosing the parties to the marital relationship. It also decides the rights and imposes duties of governing the affairs of the family and marital relations in all matters during the continuity of life and even decides the rules of separation where the marriage stumbles for different reasons. It is accepted that women are the focal point and hub of the vitality of the family. The legislation views the family in an integrative rather than miniature context, and avoids separating it into distinct parts that feature conflicts, vulnerability, rejection or hostility. Consequently, we find that the legislation governing the conditions and matters of women within the family represents the rules and provisions for a fair, equitable, and efficient way to achieve a balance in the distribution of roles between the parties to the marital relationship and family so that they can devote themselves to integration, solidarity, and synergy and not to wrestling, controlling, or dominating, particularly in a patriarchal way. The reality in many cases reflects something different as a result of the improper application of legislative requirements in order to differentiate between the integrity and justice of philosophy and God's visions and provisions on the one hand, and the improper human cultures and practices on the other. Women have suffered under these situations, leading to grievances, contempt, marginalization, and isolation caused by the philosophical absurdities, beliefs, societal norms and distortions of clergy during ancient times. There is abundant literature that provides details of women being subjugated under domination during those dark periods in human history, and there is no need to repeat them here.

- **Legislation governing political and civil rights**

Women's political rights have been the most controversial issue in recent times, in particular the right to vote, to stand for election and senate representation, and to be given equal access to high-level positions in state decision making. Aside from the difference in Muslim scholars' interpretations about the manifestations of women's political participation, Islam has permitted women to be active in political life (Najafi, 2008, p 280). Women strongly participated in politics and social affairs in the first generations after the Prophet's era. Here we must distinguish between the traditional cultural customs and control of communities towards their vision for women's real participation in public life and the texts and rules of Islamic law. In this case, Islamic law has elevated itself above the controversy and debate and established practical leadership applications. Women's participation could culminate in their candidacy, nomination and election to political positions, monitoring the performance of the state and executive bodies. In the practice of glorious worship and good deeds there is no difference in men and women. The civil rights movements represent protection and privileges of citizens' personal power under the law.

These privileges are awarded by the state to all citizens within its territorial boundaries and protected by written laws, including the right to a fair trial, the right to privacy, the preservation of personal freedoms, the right to freedom of movement, the right to participate in public life for the public benefit, the right to assembly, and other activities exercised by an individual without interference. Islam has ensured these things for women to the same extent as for other members of the community in accordance with their complete eligibility to enjoy their civil rights without discrimination except under prescribed legislative requirements concerning the maintenance of the community. In this case, men and women are fairly equal in maintaining the bonds of community and protecting them from collapse and decomposition.

- **Legislation governing economic and financial rights**

Islam looks at women's matters in a holistic context and grants them full legal capacity to own and manage their properties without any exception or encumbrance. Specific verses in the Quran preserve women's financial rights, for example in the rules of inheritance. When it became known according to social practices in all societies that males always practice oppression and injustice against females in the family and the community, the Quranic discourse became more stringent towards the unlawful infringement of rights.

- **Legislation governing the intellectual, social, and cultural rights**

The social rights include the following: the right to marry; the right to have a family; the right to enjoy health, security, stability, reassurance, and safety; the right to education, employment, training and career development, and family allowances; and the right to a fair wage equal to the effort.

Women are entitled to leave, including maternity leave and benefits as well as social security rights and fair social privileges that ensure a decent life. Islamic law recognizes women's enjoyment of everything that ensures a good life. The era of Prophecy and the caliphate witnessed the best legislation and implementation of security for the welfare of all members of society, especially women and children, and the biographies of caliphate Omar ibn al-Khattab and the rest of his companions are full of great stories about legislation regarding the care of the family and society.

Findings

Based on the questions highlighted earlier in this, article we come to the following finding

The first issue this study addressed was the concept of absolute equality and symmetry between the sexes, which would achieve justice and address women's issues. By reviewing professional opinions based on scientific, subjective, and logical analysis, an interesting issue can be clarified regarding this concept. CEDAW does not recognize the differences in composition, nature, characteristics and functions between men and women. This makes it completely incapable of protecting women's interests or the social system. The continuation of humanity is primarily based on the difference between the sexes. Throughout history humans have recognized that the family, despite some differences in individual habits, is the unit that can achieve the goals of human reproduction and continuity through common features. The dominant feature is that a man and a woman live together in a common abode, they establish a sexual relationship sanctioned by religion and society, and they may extend this relationship by having and caring for children. In the sociological perspective, we found that the functional structure paradigm looks at the difference between women and men as an important variable that contributes to the stability of society through the creation of social solidarity and integration. The division of tasks on the basis of biological differences can be considered a logical consequence of the regulation of society much more than its connection with biological programming. Through this conclusion, this first question is closely linked to the second.

The second question is closely linked to CEDAW's negative effect on family and social system. In this context it is necessary to demonstrate that there are laws and legislation in various dimensions that protect the family and base marriage on consistency, stability, and continuity. Thus, we observe even in civilized countries the endeavours to enact regulations and build programmes and projects that preserve the cohesion and stability of the family as a key component within vital community systems, considering it the producer of generations and responsible for their care and for the continuous survival and prosperity of society. There is an apparent contradiction that these social policies adopted in countries around the family are inconsistent in many dimensions with the spirit and provisions of CEDAW.

It is necessary to acknowledge the differences in the intellectual and philosophical perspectives between Eastern and Western communities, or between Muslim communities and other secular communities, and to build perceptions about fundamental and social life issues, of which women's issues represent an important component. It is necessary to recognize that natural and innate rights stem from God. They are therefore divine and sacred and must eliminate the human element in the enactment of legislation and setting of rules and guidance. Natural rights imply freedom of thought and the right to self-determination. This represents a key principle in Islamic understanding which builds the universal existence of all objects on the basis of marital integration as one of the divine and social laws.

In this sense, the concept of rights in the Islamic family system is based on four pillars: rights, responsibility, role and relationship. CEDAW, by contrast, is driven by individualism, the polar opposite of absolute equality.

The philosophy that underpins CEDAW is largely in conflict with the philosophy that underpins Islamic society in particular and conservative societies in general. CEDAW is an attempt to formulate laws and provisions relating to personal status on the principles of absolute equality and symmetry between the sexes, and promotes the idea that the differences between them are only products of socialization and cultural rights. CEDAW considers these differences as troublesome flaws in the family and society and it aims at changing the roles of men and women in the family and community and altering the context of inherited social systems that have long been legally, customarily, logically, and rationally accepted. From the perspective of Islam and the Quran, we find that men and women, in principle, are not equal in physical composition or capabilities, thus they cannot be equal in rights and duties. The difference between the sexes is not an antagonistic preference but rather a difference of integration and support in the roles of men and women in performing tasks and functions both in the family and society. The values that govern these roles are responsibility, cooperation, and justice. So the concept of equality from the Islamic perspective expresses supreme human values, social rights, responsibilities, penalties, and rewards – and all based on the unity of human origins, the unity of destiny and fate, and accountability to the hereafter.

Conclusions

Raise awareness of the culture of family rights and duties in the teachings of Islam and its legislation in order to preserve the status of women and their real positive role. Urge research institutions and organizations working in the field of family in Islamic societies to participate in international forums and work to raise and address women's issues in the total social context in line with the Islamic perspective, and to coordinate with "pro-family" groups working towards the same goals based on religious grounds.

Conduct evaluative studies about the effect of CEDAW's application on family life and society and highlight scientific objectivity and neutrality. There are some sporadic examples of media, such as pamphlets, articles, newspapers, and Internet pages that publicize the implications of ratifying and implementing the provisions of CEDAW. The best example is the criminalization of a man marrying for the second time, (having more than one wife) an act considered by CEDAW as a violation of women's rights and for which he may be penalized by law if his wife files a report thereon.

Change attitudes towards reforming the status of women from the perspective of organic interrelationship between women's issues on one hand, and society and the nation on the other, to emphasize the centrality and importance of role of women in society. This, along with changing attitudes to overcome the inherited harmful customs and traditions and norms and to redraw the framework and parameters of those changes in the light of culture and civilization.

Disseminate knowledge and awareness of the nature of Western feminism and its philosophical and intellectual concepts, including the letters, experiences and demands of affected women, that contradict the authentic reference for a large segment of the world's women, particularly women in the Arab and Islamic world.

References

Quran, Hadith

Aazar, A. M. (1980), "Law as a tool for social change", *Journal of the National Center for Social and Criminological Research*, Issue 32, Volume 1.

Al-Dairi, M. M. (2006), "Instinct functions for women and the issue of violence between Islam and feminist thought", scientific paper submitted at the World Conference on women's issues between the originality of Islamic legislation and glamour of expatriated cultures, Cairo

Al-Mazhari, Morteza (1986), *Women's rights in the Islamic system*, Library of Faqih Publications, Kuwait, Ed. 1.

Al-Nabahani (1988) *Social System in Islam*, 1988

Anthony, Geeddens (2004), *Sociology*, translated by Faaz Al Sabaq, published by Arab Organization for Translation, Beirut, 2005.

Al-Qaradawi, Y. (1981), *Islamic Sharia immortality and validity in every time and place*, Maktab Alhadeth, Beirut, third edition.

Assamaloti, Nabil (1426), *Structure of the Islamic Community and Systems*, Dar Alshroug Jada.

- Hamid, Tijani, A. (1991), *The Quranic concept and civil organization, the study of the origins of the social system, the intellectual works.*
- Himat, Makia F. (2006), "The impact of creation differences in the arrangement of rights and the imposition of duties", scientific paper submitted to the International Conference on Muslim women's issues between authenticity of Islamic legislation and the Glamour of expatriated cultures, the Federation of Islamic Universities, Cairo, *Journal of Family Studies*, Volume 1, issue 1.
- Hussein, Farida, I. (2005), "CEDAW and the Constitution and Sudanese laws, comparative analytical study", Paper presented at the International Conference on the Muslim family and the contemporary challenges, Omdurman University, Institute of Family Studies.
- International Islamic Committee for Women and Children: *A Critical View of the Convention on the Elimination of All Forms of Discrimination against Women.* Cairo 2000.
- Khononah, Masuda. (2009), "A sociological approach for women role determinants", *Journal of Human Sciences*, Algeria, 31 (1).
- Mahmoud, Sayeda Mohammed (2006), "Equality between international documents and Islamic law", scientific paper submitted to the International Conference on Muslim women's issues between authenticity of Islamic legislation and the Glamour of expatriated cultures, the Federation of Islamic Universities, Cairo, *Journal of Family Studies*, the first volume, the first issue
- Mansouri, Mohammed, S. (2011), *Political Rights for Women in the Islamic Law and International Law*, Arabic spreading Foundation & Industry Thought for Studies and Training, First Edition.
- Nabhan, Mahmoud, F. (1997), *Tying of the right in Islamic Figih by social interest*, *Journal of the Academy*, sixth issue.
- Najafi , Hussein, B. (2012), *Islam and gender: gender discrimination in social institutions*, center of civilization publications, first edition, Beirut.
- Rafeeq, Abu Bakr, R. (2007), "The risks of globalization on the cultural identity of the Muslim world", *Journal of International Islamic University studies*, Volume IV.
- Shalaby, Ahmed (1981), *The social life in Islamic thinking*, Egyptian Renaissance Dar, Cairo, Ed. 3.
- Taher, Ahmed, I. (1997), *The movement of the legislation and its origins in Sudan*, National Center for Media Production, Third Edition.
- Tayeb, Khadija, K. (2005), "The family in the West: reasons to change the concept and functions", analytical study. A series of studies, Family Studies Institute, Khartoum.
- Turabi, Hassan, A. (1987), *Methodology of Islamic legislation*, *Journal of Contemporary Muslim Scientific Research* Dar for publication, number 48.
- Schlessinger, Laura (2005). *The Proper Care and Feeding of Marriage* ,translated by
- Colmar, Wendy & Bartkovisky, Francis (2010), *Feminist Theory*, translated by Ammar Ibrahim, National Library, first Arabic edition .
- De Beauvoir, Simone (2008), *The Second Sex*, translated by Nada Haddad, Alahleaha publication .fires Arabic edition
- Janice Shaw Crouse and Wendy Wright (2013) "CEDAW Harms Families", Concerned Women for America Legislative Action Committee, at <http://www.cwfa.org/content.asp>
- .Emam . Abdel Fattah. (2009) *women in philosophy*, women, John Stuart ml, Dar Eltnweer .Printing and Publishing,