
Impact of Algeria's Reservation to CEDAW on the Freedom of Muslim Women

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Abstract: It is well established that the international community, and particularly Western society, follows the belief that women, especially Arab Muslims, do not enjoy a measure of freedom, for the reason that they are not considered to have de facto equality with men in rights before duties. This has resulted in suffering regarding all forms of blatant discrimination and this is not in line with the principles preached by the human rights advocated by international organizations and conventions. The latter clearly necessitated the enactment of a convention guaranteeing women's freedom through equality between the rights of women and men and the elimination of all discrimination between them. All this aforementioned discrimination and lack of freedom resulted in the Convention on Elimination. On this basis, the rationale of the present research paper and its objectives aim to shed light on the issue of women's empowerment regarding their rights at both, the level of international conventions as well as legal texts. In addition to this, the Algerian legislator had attempted to reconcile with the provisions of the Convention on the Elimination of all forms such as Discrimination against Women whether through the rules of family law or those rules that are derived from Islamic law.

Keywords: CEDAW, Muslim Women, Freedom, Equality, Reservation, Algeria

1. Introduction

Women's freedom is a subject that provokes a remarkable debate and discussions, especially by the defenders, who claim their absolute right to equality with men despite their biological and natural differences. and among others who refuse her freedom based on a misconception of religion or what certain customs and traditions impose, but Between the two sides, women have found themselves floundering between the absolute freedom they have become overwhelmed, especially when they have committed to men's obligations, the consequences of which they bear. and from clamping down on them until they lost their most basic rights, leading to the emergence of national and international legislation that takes one or the other view or attempts to reconcile them. and endeavors to determine the extent of freedom that women must enjoy following their important position in the family and society and to enable them to enjoy all their rights in accordance with their nature and nature created by God.

Thus, the importance of our study is that we will try to take as much as possible into account the issue of enabling women to get their rights At the level of international treaties and the legal texts that The Algerian legislature has imposed especially the family law that is considered the main domain of Prejudice for women rights, under pressure from the women's rights defenders and in line with Algeria's obligations under the conventions it has ratified in the area of the national realization of women's rights and the enshrinement of their rights, has largely reconciled the requirements of Islamic law as a fundamental source of family law with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women.

The international community, particularly Western society, believes that women, especially Muslim Arabs women, are not free. Because they do not enjoy real equal rights with men before duties. because she suffers from discrimination which is contrary to human rights principles advocated by international organizations and conventions, The enactment of a convention guaranteeing women's freedom through

equality of women's rights and the elimination of all discrimination between women and men leads to make the Convention on the Elimination of All Forms of Discrimination against Women in 1979 [1].

Algeria ratified the CEDAW Convention on 22 January 1996 under Presidential Decree No. 96/51 on Algeria's accession to the Convention on the Elimination of All Forms of Discrimination against Women, which entered into force on 19 June of the same year. Algeria reaffirmed its compliance with the Convention by promulgating the Constitutional Amendment of 2020. In article 40 from it: "The State shall protect women from all forms of violence in all places and all circumstances, in the general space and in the professional and private spheres". The law ensures that victims benefit from reception, sponsorship systems, and judicial assistance. The provision is explicit and clear, requiring the State legislator to protect women from all forms of violence and assisting them to promote such violence.

Algeria's reservation has ratified certain provisions of the Convention on the Elimination of All Forms of Racial Discrimination against Women. This reservation includes some articles of this Convention, which in some of its provisions constitute a flagrant violation of the provisions of the Islamic sharia from which the Family Code derives its rules. That is why the reservation to the Convention on the Elimination of All Forms of Discrimination against Women of 22 May 1996 was expressly replied to.

Which states: "The Government of the People's Democratic Republic of Algeria declares that it is prepared to apply the provisions of this Convention provided that it is not inconsistent with the provisions of the Algerian Family Code" Nevertheless, some voices have emerged, particularly from women's organizations and associations, calling for the abolition of the reservation to the provisions of the Convention and the need to amend the Algerian Family Code in accordance with the new situation of Algerian women. This led Algeria to remove the reservation to articles 2 and 9 of the Convention on 28 December 2008.

Algeria's ratification of the Convention on the Elimination of All Forms of Discrimination against Women in 1979 has had several repercussions on the Algerian legal system. The most important of these is the amendment of certain provisions, such as the Family Code and the Nationality Code, despite its reservation to certain provisions of the Convention. That is why we have studied this research and raised several problems: what are the domain and the scope of the reservation? What are its justifications and effects? To answer these questions, we drew on the comparative approach to compare the provisions of the Convention with those of the Algerian legislature's laws. The study reflected some of the analytical approaches that we addressed through a legal analysis of national legislation, or some of the provisions of the Convention.

2. Scope of Algeria Reservation to the CEDAW Convention

The reservation when defined according to article 2, paragraph 1/d from the Vienna convention on the law of treaties 1969 as: a unilateral statement however phrased or named made by a state, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that state that means the ability of the state who signed the conventions or the treaties to eliminate some rules that don't agree with its political system or its own national laws and like why.

So the reservation procedure allows the states to be parties to the treaty against their right to reserve from certain rules which is incompatibility with the regional, population, political, and other states' specificity.

For that the cedaw convention allows the signed states to formulate all reservations to certain fits provisions that are incompatible with it and that's what Algeria did by reserving from the articles: 2 paragraph, article 9, paragraph 2, article 15, paragraph 4, article 16, article 29.

2.1. The Validity of Algeria's Reservation

The assessment of the validity of the reservation generally depends on many special standards to assess the compatibility of a reservation with the objectives for which the provisions of the cedaw convention were formulated for and between the special norms considering the acceptance or the refuse of the reservation there is the legal basis on which any reserving state is based on, and maybe the basis that Algeria has relied on it for the validity of its reservations to the convention is the religious and cultural privacy of Algerian society in general and the Algerian women especially.

In addition, consideration should be given to the compability of Algeria's reservations in cedaw with its obligations under other international treaties of which Algeria is a part especially [2]. if it was related to the protection of women's freedom and rights and in a simple comparison the validity of its reservations can be judged.

Furthermore, the assessment of reservations is referred to a competent authority to examine the validity of these reservations; according to international human rights conventions like the cedaw convention, the competent authority determines the validity of reservations.

However, the Vienna convention on the law of treaties did not deal with the effect of the nullity of a reservation, but the international custom has separated the invalid reservation from the document of ratification accession and to maintain the state's commitment to the convention in its entirety even the provisions reserved for it.

And the committee on the elimination of all forms of discrimination negotiates [3] with the Algerian state about its reservations and invites it to review and withdraw them each time and to amend the Algerian family code as a conclusion

we found that all the provisions of the CEDAW convention remain in force in the face of the Algerian state, which is a breach of the obligations imposed on it, this may explain the amendment of the Algerian family law each time to bring it into conformity with the CEDAW convention in preparation for the elimination of all reservations.

2.2. Areas of Algeria's Reservation

Article 2 of the CEDAW Convention provides that: " States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g) To repeal all national penal provisions which constitute discrimination against women.

Article 2 of the CEDAW Convention provides that the text of Algeria's reservations and declarations to the convention on the elimination of all forms of discrimination against women in the text of article 2:" The Government of the People's Democratic Republic of Algeria declares that it is prepared to apply the provisions of this article on the condition that they do not conflict with the provisions of the Algerian Family Code. "in this text Algeria confirms of the CEDAW convention unless it doesn't conflict with the execution of the Algerian family law this is proved by establishing the principle of equality in accordance with all its legislative and regulator texts and perhaps the most important is the constitution of 2020 which has outlined it in the article 37:" All citizens shall be equal before the law and shall be guaranteed the right to equal protection.

There shall be no pretext for discrimination based on birth, race, gender, opinion, or any other personal or social condition or situation. "This text confirms Algeria's

integration of the principle of equality between women and men as requested according to the article 2 paragraph A from the CEDAW convention, for that the Algerian legislator used the expression: "All citizens shall be equal before the law and shall be guaranteed the right to equal protection.

There shall be no pretext for discrimination on the basis of Gender ... "however, Algeria's reservation applies to the provisions of the Algerian family code which obtain its provisions from Islamic sharia law, especially like inheritance and the different quota granted to men and women. and some see it as violation to the principle of equality, especially for those who do not profess the Islamic religion, and this unreal because the assessment is defined by god, and it is a religious limit that cannot be modified or overturned, and the Muslims are convinced of it according to their religious beliefs that it achieves justice and equality in line with the rights and duties imposed by Islamic sharia, and the most important is the alimony that man is bound of it, and it is a women's right, which explains the high share of the male over the female. [4]

The Algerian reservation to article 9/2 adds: "The Government of the People's Democratic Republic of Algeria wishes to express its reservations regarding the provisions of article 9, paragraph 2. Contrary to the provisions of the Algerian Nationality Law and the Algerian Family Law, the Algerian Nationality Law allows a child to acquire the mother's nationality only when the father is unknown or stateless. The child was born in Algeria to an Algerian mother and a foreign father born in Algeria. Moreover, under article 26 of the Algerian Nationality Act, A child born in Algeria to an Algerian mother and a foreign father who is not born on Algerian soil may acquire the mother's nationality provided that the Ministry of Justice does not object. Article 41 of the Algerian Family Code provides for the child's affiliation with his father through legal marriage. Article 43 of the Act stipulates: "However, "the child belongs to the father if the child is born within 10 months following the date of the father's separation from the wife or the date of his death".

The CEDAW convention forced the parties to grant women equal rights with men to acquire, change, or retain nationality which the Algerian government had not contested, however the reservations about article 9, paragraph 2 which states that a child's nationality shall be granted by a mother who has special procedures provided for in the Algerian nationality law, as it is explained above.

Algeria's reservation to the text of article 15/4: "The Government of the People's Democratic Republic of Algeria declares that the provisions of article 15, paragraph 4, concerning the right of women to choose their residence and domicile should not be interpreted in such a manner as to contradict the provisions of chapter 4 (art. 37) of the Algerian Family Code" this is contrary to article 15, particularly in its paragraph 4, which include the right to equality between man and women in travel laws and the choice of residence.

The reservation to article 16 was also formulated as follows:" The Government of the People's Democratic

Republic of Algeria declares that the provisions of article 16 concerning equal rights for men and women in all matters relating to marriage, both during marriage and at its dissolution, should not contradict the provisions of the Algerian Family Code. " this is one of the most important reservations because it affects the essence of women's relationship with men, namely marriage or separation from a side, and the other side it has a relation with the family which is the fundamental unit to form the society for the relations it produces like: paternity, maternity creating from guardianship, tutelage, alimony, custody... and other family and marital rights and relations that create women's rights and obligations such as dowry and alimony as well as men obligations and rights are also regulated if a dissolution of the marital bond happened in any form, whether through a divorce, judicial divorce, in conclusion, all these relations are governed by the rules and provisions of the tolerant Islamic sharia, which is the source of the Algerian family law, all the provisions of article 16 of the CEDAW convention are totally incompatible with the provisions of the Algerian family law.

3. Justification and Effects of Algeria's Reservations to the CEDAW Convention

The convention on the elimination of all forms of discrimination against women is one of the international legislations that clarify the international communities' desire for equality between men and women. presidential decree NO 96-51 dated in the second of Ramadan 1416, corresponding to the 22nd January 1996 contains the accession of the people's democratic republic of Algeria, with reservation to the convention on the elimination of all forms of discrimination against women of 1979, and returning to the convention on the elimination of all forms of discrimination against women and not studying the increasing number of states that have ratified it, the total number of reserving states is 40 with 150 reservations that it has made it the most reserved human rights convention.

3.1. Algerian Government's Motives for Reservation to the CEDAW Convention

Algeria, like other Arab and Islamic countries, has ratified the cidaw convention and has reservations about some of its articles that have a relation with women's rights in the Algerian society, whose culture is established on the Islamic religion, in addition to the fact that the Algerian family law derives most of its provisions from the Islamic Sharia. The reason for the reservation could be Algeria's disinclination to collide between the obligations imposed by the Convention and its national legislation, such as the nationality law, for example. In this chapter we will indicate the reasons that Algeria has used it to reserve for the convention, We will also present some of the motives that we see as a reason for reservation [5], which Algeria did not express, but which we extracted from the nature of Algerian society as a whole, and

Algerian women in particular.

3.1.1. Reservation on Legal Grounds

(i). Harmonization of the CIDAW Convention with Algerian National Legislation

It is essential that the national legislation of States relating to human rights and freedoms does not make an infraction of the general provisions and rules stipulated in international instruments and treaties, especially those handling human rights and freedoms, and that States amend their legislation in a manner consistent with these provisions and general rules included for in international conventions and conventions relating to human rights and freedoms. Probably the most important of them is the CEDAW Convention, and international human rights standards must be executed nationally through the amendment of national legislation, thus consecrating a meaningful transition of international standards into action at the national level.

Algeria has expressed reservations about a number of provisions that it considers to be contrary to its national laws. It does not want to abide by the CIDAW Convention except within the limits permitted by its Constitution, especially since article 154 of the Constitution 2020 states that: The treaties ratified by the President of the Republic in the conditions specified by the Constitution shall prevail over Acts of Parliament." Therefore, as long as Algeria has signed and ratified the cidaw convention, it has thus gained superiority over its national laws, as it transcends the family law and nationality law. The question could be here if doing reservations to articles 2 and 16 is illegal and is contrary to article 154 of the above-mentioned Constitution, and therefore the Algerian Government must withdraw all its reservations.

(ii). The CEDAW Convention Is Incompatible with the Algerian Family Code

The provisions of the Islamic Shariah are considered as a legislative source for the Family Law, which regulates the personal status of individuals through their multiple relations within society, which vary between marital relations, parenthood, and the relationship of the wombs all the relations that govern the family in society. The Convention on the Elimination of Discrimination against Women came with regulations and provisions that disagree with the principles of the tolerant Islamic Sharia, which regulates individual and family rights and obligations in a distinct way, especially if the judgment is issued by God, which cannot be disputed or discussed, but all its provisions must be admitted like inheritance provisions. This led the Algerian government to adhere to its reservations on some articles of the Cidaw convention, which violate the principles and provisions of the Islamic Sharia, and it has reserved the principle of equality in inheritance between men and women, some rights and obligations resulted from the marriage contract or separation, and the absolute freedom of women to choose their place of residence. And their freedom to act in their own body... and so on, all these reservations were imposed by the Algerian

Family law, which is based on Islamic sharia.

3.1.2. The Arab and Religious Culture of Algerian Society Is a Reason for the Reservation to the CEDAW Convention

The Arab and Islamic countries protested against the CIDAW convention due to the nature and culture of the Arab peoples, relying on the Islamic sharia as a reason for the reservations and Algeria, as an Arab Islamic country, has also made reservations on certain items that run counter to its values and principles inspired by the Islamic religion adopted by the state, according to article 2 of the Algerian constitution, which states that "Islam is the religion of the state," and therefore cannot be committed internationally to a breach of its religion.

It is worth mentioning that Islam does not contradict the principle of equality between men and women, but rather it does more than equality because it establishes justice between them according to biological and psychological differences, the difference in natural functions necessarily results in a difference in duties and rights, meanwhile in human terms male is equal to female in all values according to the Quran verse number 228 in Al baqara surah: "And they (women) have rights similar to those (of men) over them in kindness, and men are a degree above them. Allah is Mighty, Wise." [6]. so they are equal in that each has duties which are the rights of the other because they complement each other and do not owe each other.

Moreover, most international human rights treaties and conventions do not oppose cultural differences between States [7].

The Universal Declaration of Human Rights of 1948 and the International Covenant on Economic, Social, and Cultural Rights of 1966 also focused on the right to cultural identity. Moreover, international organizations and organizations concerned with protecting and preserving the cultural heritage of countries have been established, which is mentioned in the Quran verse 48 Al maeda surah: "For each, We have appointed a divine law and a traced-out way." and also in the verse 13 of Al-Hujraat surah god says "made you into nations and tribes, that ye may know each other (not that ye may despise (each other)).". In other words, the different peoples come together and form to coexist.

The reservation plays an important role in ensuring the ratification of the largest number of countries whose views approach the articles of the treaties on one side and preserving their privacy through their opposition to some of the provisions on the other side, thus reconciling the differences that distinguish a country such as Algeria and the protection of its sovereignty. The acceptance of all the articles of the CIDAW convention means that it is contrary to some Islamic Sharia provisions such as the achievement of the principle of equality between men and women in inheritance and in all its situations is a flagrant opposition to the limits of God, because the inheritance provisions are defined by God and cannot be violated at all.

We think that the Algerian government should have made

the reason for its reservation on some of the articles of the CIDAW convention that run counter to the Islamic Shariah, a violation of an important international principle which is the freedom of belief and religion, which includes Islam, as it is internationally recognized, and which is guaranteed by international human rights law. Their justification that the provisions of national legislation, especially the Family Law, are based on the Islamic Sharia, is weak and incompatible with the object and purpose of the Convention. In addition to customs and traditions, reservations can be invoked about the provisions of the Convention because they are part and parcel of the cultural and religious diversity that most international organizations and organs in the world advocate for its protection and preservation.

It should be noted that the CIDAW convention contains some contradictions, the most important is: In its form, it aims to end interference in national affairs and enshrines the principle of respect for the national sovereignty of the parties, but in essence, it interferes in the national affairs of the States parties, which is a flagrant violation of the state sovereignty.

It is worth mentioning that the CIDAW convention does not pay attention to religious and cultural values, because it calls for absolute equality between men and women in all life sectors without taking into care of the existence of a complete psychological and biological difference between them. This is a reflection of Western thinking, which makes in a peer between men and women society to women and makes them a peer, although the reality shows that they are in a companion life, and the proof is that the family is created only by men and women together, and the family is the basic unit for building societies through which conventions are concluded [8].

In the end, we can say that the principles of human rights require respect for diversity and differences in cultural and social identity, religion, and others, so any violation of this diversity and difference will affect human rights, so what is the use of discussing this if everyone is similar.

3.2. Manifestations of the Influence of the CIDAW Agreement on Algerian Legislation

In the course of the session (CEDAW/C/DZA/Q/3-4), following the consideration of the third and fourth periodic reports of Algeria, The forty-eighth session of the Committee on the Elimination of Discrimination against Women, held from 17/01 to 4/02/2011, was addressed to the Algerian Government with a view to providing additional information previously to the preparation of the present report. The replies of the Algerian Government to the questions of the pre-session working group (CEDAW/C/DZA/Q/3-4) of the Committee on the Elimination of Discrimination against Women; In its reply to paragraph 3, the following words were explicit: "The Convention, which has become a necessary reference in the drafting of its legal texts, from organic law to ordinary decree", and Algeria has made and continues to make considerable efforts to bring its legislation into line with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women. The entire

category of legislation has seen and is still undergoing a series of measures to adapt it to the conventions ratified by Algeria.

Among the features of the impact of the CIDAW convention on Algerian legislation are the considered amendments, which included several laws of the Algerian Republic, and the most important of it is the Constitution, the Family Code, the nationality Code, and others, which we will see in the following:

3.2.1. Constitutional Amendment

According to Algerian constitutions, the ratified international treaty transcends national law by reference to articles 131 and 132 of the 1996 Constitution and the text of article 132 of the 2016 constitutional amendment, which was the result of the last amended constitution in 2020. This means that the national legal system should be included under the treaties and agreements concluded by Algeria so that the national legislation should be amended according to the provisions of international treaties so that it comes immediately after the constitution in the pyramid of the Algerian legislative system, and it may be necessary to amend the constitution itself to correspond with international conventions, especially the CIDAW convention.

With regard to Algerian constitutions, the provisions of the Constitution of 2020 are fully in line with the CEDAW Convention, since they have been drafted in the same terms, and a simple comparison of the text of article 40 of the Constitution:" the State protects women from all forms of violence in all places and circumstances, in the public space and in the professional and private spheres. The law guarantees the victims' access to reception structures, security systems, and judicial assistance." Article 2.1 of the Convention states:" States parties condemn all forms of discrimination against women and agree to pursue, by all appropriate means and without delay, a policy aimed at eliminating discrimination against women."

In the Constitution 2020, the Algerian legislature has recognized the constitutional protection of women's political representation [9] through article 59, which reads as follows:" the State shall promote women's political rights by expanding their representation in elected councils," which is in line with articles 7 and 8 of the SIDAW Convention.

The Constitution of 2020 also enshrines the principle of gender equality in education in accordance with article 65 of the last paragraph, which is consistent with article 10 of the CEDAW Convention.

And also equated between men and women in work [10] is also provided for in article 68:" the State shall promote equality between men and women in the labor market. The State shall promote the promotion of women in positions of responsibility in public bodies and departments and at the enterprise level", as is the text of article 11 of the CIDAW convention [11].

In accordance with the above, Algeria has withdrawn its reservation regarding article 2 of the CEDAW, which has fully achieved the principle of equality between men and

women by taking all measures and procedures to eliminate all forms of discrimination against women. This is evidenced by its recognition in the reply to paragraph 3 of the list of issues, in which it stressed the following:" Algeria, by ratifying the Convention on the Elimination of All Forms of Discrimination against Women, Have made this international instrument a supranational standard which it undertakes to respect legally and under the supervision of the Constitutional Assembly and the Council of State, and it shall also have assumed all the provisions of this Convention", that is, it expressly recognizes the withdrawal of all its reservations in a staged way.

Also in the reply to paragraph 5 of the list of issues, which reads:" with regard to the reservation dealing with article 15 concerning the right to freedom of movement and the right to choose their residence and place of residence, it has nothing to do with the present family law. this reservation is no longer necessary in reality The reservation to article 15, paragraph 4, thus became ineffective by amending the text of article 37, while article 29 dealt with a procedural rather than substantive provision.

We can confirm that Algeria has withdrawn all its reservations through the mechanisms that have become active in Algeria, the important one is the programs of the National Council for the Family and Women, the National Strategy for the Promotion and integration of Women, the Program for the Promotion of Women's leadership and participation in political and Public Life, the collective Program for the Promotion of Gender Equality and the empowerment of Women, and other programs and strategies [12].

3.2.2. Amending the Family Law and the Nationality Law

(i). With Regard to Nationality Law

Algeria has withdrawn its reservation concerning article 9, paragraph 2, as a result, of the amendment to the nationality law of 2005. It should be noted that the main amendments to the nationality law address two fundamental points:

- 1) Equality between women and men is guaranteed. The pedigree of children to mothers is established so that children can benefit from the nationality of the Algerian mother, in accordance with article 6 of the nationality Act;
- 2) The possibility of acquiring Algerian nationality through marriage to an Algerian woman, in accordance with article 9 of the nationality law.

(ii). With Regard to Family Law

Algeria's reply to paragraph 6 of the list of issues to be addressed states that the new amendment of the Family Code introduced the principle of equality of rights and duties between the spouses, article 9 of which states that" marriage shall be entered into by mutual consent ". the issue of spousal consent has become an essential element in the completion of the marriage contract. The role of the guardian for the woman who makes her marriage is restricted to attendance only, and this does not diminish the woman's ability to

conclude the marriage contract and the marriage of the minor - male or female - remains to be held through his guardian, like the father or one of the relatives.

It should be noted that article 13 of the Family Code of 2005 prohibits the guardian, whether the father or any other person acting in his place, from forcing a minor under his guardianship to marry, or he marries him without his consent. And according to article 7 from the same law, the competence is incomplete for men and women in marriage except when they are 19 years old, and thus the legal age of men and women became equal, whereas before the amendment the marriage competence was identified for men by 21 years old and for women 18 years old.

And the appearance of the impact of the CEDAW Convention on how the marriage contract was concluded and its effects after Islamic law was the primary source of this law as we referred to earlier. The provisions of the CEDAW Convention, especially those contained in article 16, have been incorporated through amendments to this Act, particularly with regard to the review of the terms of the marriage contract, such as consent and guardianship, or the consequences of the marriage's rights and obligations.

In addition, matrimonial rights and duties have become common.

Between men and women in accordance with articles 36 and 37 of the Family Code of 2005, each spouse has his or her own rights and duties following his or her nature and status in the family.

More than that, the term "guardianship" was replaced by a term for each person to perform family affairs. For polygamy, it was not abolished by Algerian legislation, but restricted by strict conditions in article 8: The husband must inform the first wife and the woman he accepts to marry and submit the application for a marriage permit to the President of the Court for the place of the matrimonial residence.

The President of the Court may authorize the new marriage if he ascertains their consent and proves the husband's legitimate justification and ability to provide justice and the necessary conditions of matrimonial life.

However, by analyzing paragraph 17 of the reply to paragraph 6 of the list of issues, which reads: "The abolition of polygamy is not a matter for the time being, knowing that this practice is almost non-existent in Algerian society; We believe that the legislature will abolish the plurality as Tunisia has done. The statistics are incorrect because there is a factual but unspoken plurality of official government. After all, there is no formal contract, which is known as unregistered marriage, and which is known as Fatiha marriage in Algerian society.

It should be noted that the amendment to the Family Code did not cover the provisions of marriage. It also included provisions for the dissolution of marital unions. If divorce is a man's right, the woman has the right to be removed and does not need to be approved in accordance with article 53 bis of the Family Act of 2005: "A wife may, without her husband's consent, remove herself in exchange for money." Thus, the legislature recognized the wife's right to dissolve

the marital bond by taking it off without her husband's consent.

Finally, we can say that there remains no reservation to the provisions of the CEDAW Convention after the amendments covering the various laws of the Algerian State because its laws have become consistent with the provisions of the Convention in high proportions [13].

4. Conclusion

Through a detailed study of the provisions of the CEDAW convention, it is obvious that they are targeted to impose a new order seemed as making equality between men and women, but its reality is to search of a new world order subjected to a universal regulation and laws as a replacement to the religious and cultural identity of the states parties, which causes a disorder and instability due to the obscurity and the complexity of the international treaties that organizes especially the CEDAW convention that contains many complications mainly.

- 1) The CEDAW Convention conflict with the Charter of the United Nations, which stipulates respect for all systems of religious belief in the world and contravenes international instruments that respect religious and cultural diversity. How does the Charter of the United Nations provide for respect for all systems of religious belief in the world? Then The United Nations promulgates a convention contrary to its Charter and wishes to impose the Convention on all States of the world, particularly those in which religion is a constitutional basis, such as Algeria.
- 2) The CEDAW Convention stipulates women's rights but didn't even mention their duties. It is well known and reasonable that rights and duties must be enshrined so that there is an absolute proportionality that women live in an environment that affects and is affected by, and she is an important element of family and community building.
- 3) The statement issued by the United Nations Convention Committee on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights in 1997 stipulates that article 16 on the family may not be reserved for national, traditional, or religious reasons, thereby abolishing all reservations, thereby making them a reproductive instrument of all States parties' national and domestic laws, thereby becoming the reference in itself.
- 4) Why should Islamic States not establish their reservations based on international principles recognized by international treaties, such as freedom of cultural diversity and freedom of religion? Algeria was the first to claim its freedom of religious belief in accordance with the provisions of article 2 of the 2020 Constitution, and its right to protect and preserve its cultural heritage in accordance with article 76 of the same Constitution.

This research raises several contradictions that we

summarize it in the following: Why Algeria has adhered to this Convention with a stark western orientation, whereas the States that have called for the Convention is not yet a member of the convention between them the United States of America, does the latter respect its religious specificities because its legislature is subject to churches and populations. and the Senate member of California, and he is from the Governors Jessie Hilmez called the cedaw convention as: "The Anti-Family Convention" because it does not criminalize prostitution, and the principle of equality requires the cancellation of the International Women's Day [14], as described by former Secretary of State Colin Powell: It is a "vague and complex treaty". If America refuses to sign the CEDAW Convention is the conservative right, despite American women suffering from discrimination in several areas, the most important of which are the economic system, art, and culture. And so on.

In fact, we need to answer the most important questions: Why did the Arab and Islamic countries hasten to ratify the CEDAW Agreement [15] and have reserved some of its provisions In spite of the flagrant contradiction between the reservations and the provisions of the Islamic sharia, the most important of which is the permissibility of adultery and abortion, because of which America refuses to ratify them, has America become more conservative and religious than the Islamic peoples.

The fact that Muslims do not know more than western society is that the Islamic religion guarantees women's freedom more than any law or treaty because it provides gender justice for men and women and is more comprehensive than equality. The principle of equality has resulted in several difficulties that are not accepted by humanity: Like homosexuality, that is, transgender from one sex to another, statistics determine that female trans men are more than reverse as a result of women's greater rights and protection, the world is afraid to wake up one day and have a whole society as women.

The world must know that humanity is based on two different sexes, "women and men", but they are complementary through mutual rights and duties. One cannot be dispensed with. Men and women together side by side and the demise or breakdown of one means the demise and decay of humanity.

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