



QURANIC EVALUATION OF CEDAW'S REPRODUCTIVE RIGHTS



Nadzrah Ahmad¹⁺

Nurul Syuhada

Ismail²

Luqman

Zakariyah³

Wan Mazwati

Wan Yusuff⁴

¹Asst Prof Dr., Dept. of Quran and Sunnah Studies, Kulliyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia, 50728 Jalan Gombak, Kuala Lumpur, Malaysia.

Email: anadzrah@iium.edu.my Tel: +60192415929

²Graduate Research Assistant, Dept. of Quran and Sunnah Studies, IUM, Gombak, Kuala Lumpur, Malaysia.

Email: brighsyuhada@gmail.com Tel: +60145164090

³Assoc. Prof Dr., Dept. of Fiqh and Usul al-Fiqh, Kulliyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia, 50728 Jalan Gombak, Kuala Lumpur, Malaysia

Email: luqzak@iium.edu.my Tel: +601126993068

⁴Asst. Prof Dr., Dept. of Fundamental Interdisciplinary Studies, Kulliyah of Islamic Revealed Knowledge and Human Sciences, International Islamic University Malaysia, 50728 Jalan Gombak, Kuala Lumpur, Malaysia.

Email: wanmazwati@iium.edu.my Tel: +60146347071



(+ Corresponding author)

ABSTRACT

Article History

Received: 23 November 2018

Revised: 3 January 2019

Accepted: 7 February 2019

Published: 2 April 2019

Keywords

Reproductive Rights
Women
CEDAW
Quran
Abortion.

Over the last few decades, reproductive issues have never been the center of attention. However, recently, there has been a women's movement formed to champion women's rights and counter the issue of women being equated to reproduction and having no say or rights to choose in this matter. Today, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), as an international bill of women's rights, demands for all countries to accord to and recognize women's reproductive rights, which includes the right to abortion. In contrast, the Quran, which is a major source of Muslim rules and practices, interprets that the rights are contrary to CEDAW, as the rights are not disseminated solely for women. This article will focus on the contradiction between the dissemination of reproductive rights and its interpretation. CEDAW's approach will be evaluated through Quranic interpretations. This study will adopt a qualitative methodology which examines Quranic interpretations and CEDAW's reproductive rights. The study also demonstrates that Quranic interpretations and disseminations are comprehensive and that the rights are not solely granted to women as several aspects of life are concerned. In contrast, CEDAW stands for reproductive freedom and self-determination solely given to women.

Contribution/ Originality: This study contributes to the existing literature by offering a comparative analysis from an Islamic perspective by using philosophical measures and considering a Quranic extent of arguments to provide new insights for assessing the issue of reproductive rights. The paper's primary contribution is the finding that while CEDAW acknowledges the rights of women alone with an absolute right when it comes to reproduction, while, Islam recognizes co-creation which grants couples the similar rights to reproduction.

1. INTRODUCTION

Biologically, men and women have roles to play in reproduction with women taking on the gestation, labour and birth of children to maintain the population. However, this exerts an unequal physical burden on women that is not shared by men in the process and women's right in reproduction have been taken for granted for centuries. Indeed, the right has been abused in such a way that women can be forced to undergo abortions or be denied a say in decisions relating to the time to conceive.

Since the awakening of women's rights, organizations have begun to spread awareness of the fact that women possess certain rights. In 1994, the United Nations declared that:

Reproductive rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. They also include the right of all to make decisions concerning reproduction, free of discrimination, coercion and violence (Ferguson, 2009).

Following this, the UN extended the definition at a Beijing conference in 1995:

Reproductive health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition is the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of family planning of their choice for regulation of fertility which are not against the law, and the right to access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant (Dept of Economic and Social Affairs Population Division, 2003).

These definitions explore issues of abortion and birth-control, as reproductive rights were written to control how and when a child is conceived, pre-natal health control, pre-and post-natal health care, and even a satisfying sexual relationship (Ferguson, 2009).

CEDAW has been adopted by the UN and has been acted upon as an international bill of women's rights. CEDAW recognizes that reproduction is considered a right which closely relates to health matters. CEDAW deals with the issue by regarding the following in its articles (Bustelo, 1995).

In Article 10 (h), it is stated, "access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning"¹, and in Article 12 (1), it reads, "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning" and in clause (2), "notwithstanding the provisions of paragraph 1 of this Article, States Parties shall ensure women have appropriate services in connection with pregnancies, confinements and post-natal periods, granting free services where necessary, as well as adequate nutrition during a pregnancy and lactation" (CEDAW Art12).

Article 12 indicates that there is an obligation for a state to provide all necessary means to recognize women's rights in receiving health information, education and services pre, during and post-pregnancy, which, nowadays, is important to guarantee women's well-being and welfare. In addition to this, the fight for reproductive rights along with equality is heavily discussed in Article 16 (e). Indeed, it is stated "the same rights to decide freely and

¹ CEDAW Art 10.

responsibly on the number and spacing of their children and to have access to information, education and means to enable them to exercise these rights” (CEDAW Art 16). Article 16 may be interpreted as complementary to the previous article as it guarantees women’s well-being and that they have the right to decide for themselves with all the information, education and means that they need to achieve a decision.

The definitions of reproductive rights and charted articles touch on the notion of gender equality, and specifically that reproductive rights apply to all women. States need to ensure that women have priority and access to their health and care choices. For instance, the government or spouse has no right to intervene if a woman chooses to perform an abortion (See CEDAW General Recommendation No. 21). Furthermore, CEDAW’s recommendation No. 21 touches on “equality in marriage and family relations” and points out that the responsibilities of raising a child can affect a woman’s pursuit of education, employment, and personal development (Bustelo, 1995). Additionally, it asserts that spacing children would also affect a woman’s physical and mental health, therefore, entitling them to make a decision that best suits them (Bustelo, 1995). The convention further adds that the decision a woman chooses cannot be influenced by any third parties, such as their spouse, parents, partner or a governmental body. It emphasizes that the “decisions to have children or not, while preferably made in consultation with a spouse and partner, must not be limited by a spouse, parent, partner, or government” (Committee of Convention on the Elimination all form of Discrimination against Women, General Recommendation No. 21).

CEDAW’s fight for women’s rights should be recognized since the statistics for violence and oppression against women are still high today including oppression on women’s reproductive rights. Women have been denied in many ways from accessing these rights. The issue arises as CEDAW’s interpretation of its reproductive rights may be interpreted to give women absolute freedom in this matter without limit. This may lead to a negative impact on women and generations physically and mentally.

For Muslims, the wife’s obligation to obey has been abused in using the misinterpretation of Islamic teaching to oppress her reproductive rights. Therefore, a Quranic teaching of the concept of *mu’amalat* (dealing) between spouses and family members could be used to evaluate and straighten Muslims’ understanding of women’s rights in this matter.

This study aims to compare the interpretations of women’s reproductive rights between CEDAW and Islam in order to unravel misconceptions of Islamic reproductive rights and the obligations of wifely obedience in Islam. It is crucial to explore CEDAW’s fights on women reproductive rights, its articles and concept of reproductive rights in order to clarify its advantages and discrepancies. Similarly, the Islamic concept of wifely obedience on these rights is presented as a point of comparison in an attempt to clarify the true teaching of the Quran on these rights. It is crucial for Muslims to realize that many practices were abused in the name of Islam due to ignorance and misinterpretation of Quranic teaching.

2. METHODOLOGY

The study uses mixed methods which consist of philosophical analysis, content analysis and Quranic exegetical analysis. The philosophical analysis deals with CEDAW and Islamic understanding of reproductive rights. This was done by observing concepts, CEDAW articles on reproductive rights, Islamic fundamental concepts of life, and Islamic legislation on women’s reproductive rights. The content analysis analyzes CEDAW’s articles on women reproductive rights and the Islamic deliberation on these rights comparing both views comprehensively. The Quranic exegesis analyzes several verses in the Quran which related to the issue of reproductive rights by referring to several prominent Quranic commentaries.

3. LITERATURE REVIEW

Reproductive rights are one of the controversial issues related to abortion rights. However, reproductive rights are more complex than abortion rights and include access to birth control, health care, and sex education (Bringle, 2010).

The issue has been debated for years in order to prevent fatalities and harm towards women who have been denied their rights. Research results show a high statistic of deaths and violence due to the violation of reproductive rights at the occurrence of unwanted and unintended pregnancy, unsafe and forced abortion, fetal complication, STIs, HIV and other issues (Murthy, 2010).

One of the powerful organizations set up by the UN to advocate and stand for women's rights including reproductive rights is CEDAW. CEDAW's advocacy for women's independence on these rights can be observed in its Articles 10, 12 and 16 (UN Women, 2015). CEDAW focuses on violations of women's sexual and reproductive health and rights, including the denial of access to adequate emergency obstetric care; the denial of access to therapeutic abortion, forced or coerced sterilization; and maternal mortality and morbidity link to unsafe abortion or lack of access to appropriate reproductive health services (Sullivan, 2016).

The issue arises as CEDAW's interpretation of certain reproductive rights contradicts the Quranic interpretation that is held dearly by many Muslims. As per Quranic and Sunnatic teaching, there are limitations to every right in order to preserve humanity and create a harmonious society. The Quran never prohibited women from accessing reproductive health services, family planning, information and rights as a decision maker yet there are guidelines drawn by the Shari'ah which need to be followed. For example, family planning is allowed in Islam but with no harm to women and with no unreasonable reason. Abortion is permissible yet only in the case of a grave situation for the mother (see Al-Qardhawi (2007)). The husband is not the decision maker but with a *musyawarah*, discussion between husband and wife a decision can be made, which is referred to in surah al-Shura verse 38 (Mas'udi, 2002) and surah al-Baqarah verse 233.

However, violence against such rights was indicated by a recent study conducted on Muslim sexual and reproductive rights. It shows that out of 969 Muslim women who run through a survey, 97.9% respondents reported to have been violated and denied their rights of reproductive health with conditions such as forced marriage (54.1%) and forced abortion (16.9%). This then alludes to malpractice and misinterpretation of the Quranic teaching by Muslims (Raja *et al.*, 2017) and this in turn then leads to severe negative impacts such as a negative impression of Islam as an oppressive religion and this too leads to the attempt to abolish Shari'ah law, legalize abortion and the reinterpretation of Quranic verse to favor their interpretation of human rights. Therefore, there is a need to evaluate CEDAW's stance on reproductive rights with Quranic teaching to clarify the propositions and limitations made by both.

4. THE ISLAMIC APPROACH TO REPRODUCTIVE RIGHTS

In Islam, there are no clear and direct verses in the Quran and in the Sunnah of the Prophet Muhammad (SAW), where matters concerning reproductive rights are expounded. Similarly, in the Quranic commentaries there were an insignificant amount of materials and research on this subject matter. Perhaps at that time, 1400 years ago, this issue wasn't of prominence and therefore didn't require attention until very recently. However, it is clear from the practice and customs of the society at the time that women were honored as wives and mothers and significantly contributed to the growth of the Muslim nation at the time. This was evident in the following verse:

...So now, have relations with them and seek that which Allah has decreed for you. And eat and drink until the white thread of dawn becomes distinct to you from the black thread [of night] ...
(Quran 2:187, Abdullah Yusuf Ali Translation).

In his work, al-Tabari commented that the verse "*Seek that which Allah has decreed for you*", was interpreted by Abu Hurairah, Malik bin Anas and several Tabi'in to mean: "seek for offspring from the relation that Allah granted

for husbands and wives” (Al-Tabari, 1999). It can be said that children are *amanah* (trust) from Allah. He is the one that entrusts offspring to humans, as stated in Surah al-Shura:

To Allah belongs the dominion of the heavens and the earth; He creates what he wills. He gives to whom He wills female [children], and He gives to whom He wills males righteous (Quran 42:49, Abdullah Yusuf Ali Translation).

Or He makes them [both] males and females, and He renders whom He wills barren. Indeed, He is Knowing and Competent (Quran 42:50, Abdullah Yusuf Ali Translation).

Furthermore, it has been reported that the Prophet Muhammad (SAW) encouraged Muslims to have more children for he loved to see his *ummah* greater in number compared to other communities:

A man came to the Prophet (PBUH) and said: I have found a woman of rank and beauty, but she does not give birth to children. Should I marry her? He said: No. He came again to him, but he disapproved it. He came to him third time, and he (the Prophet) said: Marry women who are loving and very prolific, for I shall outnumber the peoples by you (Sunan Abi Dawud, vol. 2, Hadith 2050).

By faith, a practicing Muslim should not raise any issues concerning the rights of reproduction, since the rights were revealed from God. Indeed, Islam recognizes a woman’s choice in the matter, and it is opposed to the connotation in Article 16 (e) which will be discussed in the next section.

5. RIGHTS ON SPACING CHILDREN

Spacing children is referred to the gap between having one child and another. The spacing may be based on health, social commitments or financial constraints (see Connor (2011)). Muslim scholars have clearly spoken up on this issue, where spacing the number of offspring is allowed, but only for valid reasons. For instance, spacing children is allowed if parents cannot provide enough attention to take care of educating their children for social reasons. Traditionally, spacing children is the process known as ‘*azl* or “*coitus interruptus*” (ejaculation outside of women womb to prevent pregnancy). This practice is permissible based on Shari’ah evidence reported by Jabir bin ‘Abdullah;

We used to be engaged to perform ‘*azl* [coitus interruptus, a form of contraception] at the time when the Quran was being revealed (Sunan al-Bayhaqi al-Kubra, vol. 7, Hadith 14081)

Shaykh Ibn Baz considered this hadith to indicate the permissibility of the ‘*azl* practice for educational reasons. He said;

If a woman has a lot of children, and it is difficult for her to give them a proper Islamic upbringing because they are so many, nothing is wrong with her taking something to space her pregnancies in order to achieve this important purpose, so that pregnancy will not adversely affect her or her children, as Allah has permitted ‘*azl* for this and similar purposes (Ibn Baz, 2011).

From the above hadith of Jabir, it shows that Islam does not restrict the right of reproduction to women. Instead, the hadith indicates that men can also decide on the matter. However, it should be understood that this permission is the right of a couple before a baby is conceived and not after, which would otherwise suggest that abortion can take place.

The rights of who can decide on this matter, i.e. the husband, wife or both, are contentious. Hence, CEDAW asserts that reproductive rights are solely for women. CEDAW’s suggestion for reproductive rights allows women’s access to all reproductive rights, such as a safe workplace for pregnancies, paid maternity leave, access to pre-natal and post-natal treatment, access to medical information and the right to decide on family planning and safe abortions (Meyers, 2017). CEDAW’s articles on reproductive rights seem to be interpreted to protect women’s reproductive health and functions and affirm reproductive freedom and self-determination (Meyers, 2017). Islam

does not directly mention any particular person who should hold a right. However, it does not mean it has nothing to say about it. Muslim scholars have set forth discussions and interpretations on this issue and have indicated many Shari'ah sources that show Islamic standpoint on the subject matter.

To reiterate, the aforementioned practice of 'azl was based on the opinions and findings from Muslim scholars who studied the issue through holy scriptures and formed the following four major different opinions: 1) the practice is permissible in all situations, 2) prohibited (*haram*) in all conditions, 3) permissible only after the wife's consent (Mansur, 147), and 4) the practice is only permissible with *al-ima'* (slave) (Al-Ayna, 16). Hence, the opinion of al-Shafi'ie stressed that the husband has to obtain consent from his wife before practicing 'azl during consummation. Thus, it would be deemed permissible and acceptable, according to al-Ghazali (Abduh, 1980). The discussion presents that Islam neither prohibits nor encourages the practice of 'azl, yet it indicates Islam allows family planning practices in a certain manner where mutual consent between spouses is required. The Islamic view does by no means suggest the violation of either of spouses' rights for sexual satisfaction, nor for the purposes of cutting a lineage or spacing children without a reasonable reason.

Therefore, the rights of spacing children apply to both the husband and wife and the consent of each party must be sought. On this note, the following verse of the Quran alludes to the issue:

Mothers may breastfeed their children two complete years for whoever wishes to complete the nursing [period]. Upon the father is the mothers' provision and their clothing, according to what is acceptable. No person is charged with more than his capacity. No mother should be harmed through her child, and no father through his child. And upon the [father's] heir is [a duty] like that [of the father]. And if they both desire weaning through mutual consent from both of them and consultation, there is no blame upon either of them. And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable. And fear Allah and know that Allah is seeing of what you do. (Sahih International Translation)

According to the verse above, an indication of the rights on offspring matters can be observed by "whoever wishes to complete the nursing [period]" and "if they both desire weaning through mutual consent from both of them and consultation, there is no blame upon either of them". Al-Qurtubi commented "for whoever wishes to complete the nursing [period]", which is the evidence that breastfeeding is not compulsory after two years. This verse emphasizes the maximum period for breastfeeding in order to cease disputation between spouses with regards to breastfeeding periods (Al-Qurtubi, 2010). In addition to this, he stated if the father desires to a weaning period before two years and the mother disagrees, the father has no right to impose his decision on his wife. Furthermore, al-Qurtubi said "and if they both desire weaning before two years through mutual consent and consultation without any harm incurred on the child, there is no blame upon either of them, rather it is allowed" (Al-Qurtubi, 2010). Al-Qurtubi added, the verse indicates an *ijtihad* (legal decision) on *hukm* (ruling), that the parents have the privilege to do *musyawarah* (discussion) on child related matters (Al-Qurtubi, 2010). Al-Qurtubi's comments can be summarized that the rights of offspring related matters belong to both parents for mutual consent which the Quran emphasized.

The verse above exhibits Islam's preservation of family institutions, the acts to consider as well as the importance of consultation between parties to a marriage, which implies that there exists a form of respect between the husband and wife.

6. ABORTION RIGHTS

Abortion is defined as the "abnormal termination of a pregnancy, spontaneous or induced" (Faúndes and Barzelatto, 2006). In other words, there are two types of abortion: spontaneous and induced. Spontaneous abortion, known as a miscarriage, is the termination of a pregnancy without an external intervention. It can be caused by medical problems such as diseases from a host or a defect on an embryo. Induced abortion is the deliberate attempt

to terminate a pregnancy (Kobayashi, 2012) which will result in the death of an embryo or fetus (Hafez, 1984; Charvenak and McCullough, 2014). The present study will focus on the issue of induced abortion which has religious, cultural, legal, ethical, political and psychological consequences.

The articles of CEDAW on reproductive rights do not use the term abortion in their content. However, Article 12 (1) and 16 1(e) indicated the below notion:

State Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning (CEDAW Art 12 (1))

Article 16 1(e) "The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights" (CEDAW Art 16 1 (e))

The two reproductive rights in the articles indicate that women have the right to freely decide on their reproductive rights, which includes access and the right to undergo safe and legal abortions (most induced abortion cases are considered to be a criminal offence in many other countries), as family planning (see Aasen (2013)). Hence, the study conducted by CEDAW revealed that there was a significant number of women who had improper abortions or no health care. Strikingly, this has led to an estimated 586,000 deaths due to the performance of unsafe abortions which has resulted from gender inequality from a legal and health institutional standpoint, in terms of reproductive health care (CEDAW in Action, 1998). It has even been stated that reproductive gender discrimination which originates from legal, political and religious perspectives, is a barrier to women's access to safe abortion (CEDAW in Action, 1998). Thus, CEDAW has been debated with other countries to legalize abortion as a part of women's rights (See Congressional Record vol. 146, 2199).

There is no direct evidence in the Quran on abortion. Thus, elaborating on the discussion on abortion or rights from a Quranic perspective requires attentive and careful investigation. The Quran highly sanctifies human life, as all souls have been granted the right to live. The Quran says:

Because of that, We decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely. And whoever saves one - it is as if he had saved mankind entirely. And our Messengers had certainly come to them with clear proof. Then indeed, many of them, [even] after that, throughout the land, were transgressors (Quran 5:32, Abdullah Yusuf Ali Translation)

And do not kill the soul which Allah has forbidden, except by right. And whoever is killed unjustly - We have given his heir authority, but let him not exceed limits in [the matter of] taking life. Indeed, he has been supported [by the law] (Quran 17:33, Abdullah Yusuf Ali Translation)

Reflecting on the issue of abortion, the Quranic verses explicitly prohibited child killing which was practiced during the Pagan era. Allah warned the people:

And do not kill your children for fear of poverty. We provide for them and for you. Indeed, their killing is ever a great sin (Quran 17:31, Abdullah Yusuf Ali Translation)

Say, Come, I will recite what your Lord has prohibited to you. [He commands] that you not associate anything with Him, and to parents, good treatment, and do not kill your children out of poverty; We will provide for you and them. And do not approach immoralities - what is apparent of them and what is concealed. And do not kill the soul which Allah has forbidden [to be killed] except by [legal] right. This has He instructed you that you may use reason (Quran 6:151, Abdullah Yusuf Ali Translation)

However, these verses speak on matters of a child born healthy and alive. There are many questions that stem from the determination of whether it is permissible to perform an abortion on an embryo or a fetus. Sayyid Qutb alluded to a Quranic verse which indicated that there was a prohibition of abortion for all women:

O Prophet, when the believing women come to you pledging to you that they will not associate anything with Allah, nor will they steal, nor will they commit unlawful sexual intercourse, nor will they kill their children, nor will they bring forth a slander they have invented between their arms and legs, nor will they disobey you in what is right - then accept their pledge and ask forgiveness for them of Allah. Indeed, Allah is Forgiving and Merciful (Quran 60:12, Abdullah Yusuf Ali Translation)

Sayyid Qutb explained that the verse referred to the prohibition of the *wa'du banat* (burying girls) practice in *jahilliyyah*, which included killing embryos (Sayyid Qutb, vol. 16, 474).

As for abortion, the policy in Islam is based on the state of the fetus, which is classified as either before or after ensoulment (Al-Nujaimi, 2011). The period of ensoulment is four months after conceiving, which has been agreed by the *fuqaha'* (Muslim jurists) (See Ibn Hajar, 1379, vol 11, 481; (Al-Mubarakfrr, 1984; Al-Quahah, 1990)) based on the hadith of Prophet Muhammad (SAW):

The creation of you (humans) is gathered in the form of semen in the womb of your mother for forty days, then it becomes a clinging thing in a similar (period), then it becomes a lump of flesh like that, then Allah sends an angel who breathes life into it; and (the angel) is commanded to record four things about it: its provision, its term of life (in this world), its conduct; and whether it will be happy or miserable. By the One besides Whom there is no true god! Verily, one of you would perform the actions of the dwellers of *Jannah* until there is only one cubit between him and it (*Jannah*), when what is foreordained would come to pass and he would perform the actions of the inmates of Hell until he enters it. And one of you would perform the actions of the inmates of Hell, until there is only one cubit between him and Hell. Then he would perform the acts of the dwellers of *Jannah* until he would enter it (Sahih al-Bukhari, vol. 4, Hadith 3208)

The *Fuqaha'* believed that the human form would be complete after four months into a pregnancy and then the ensoulment process would occur. Therefore, a majority of *fuqaha'* agreed that abortion after ensoulment is forbidden, unless it falls under a necessitated situation. If abortion is considered before ensoulment, there are three different scholarly opinions. Some scholars claim that it is permissible under several conditions, such as when a fetus is in an early stage (before 40 days). However, some argue that abortion before ensoulment is detested and others believe it is forbidden (Al-Nujaimi, 2011).

Islam values life even before birth and in the absence of direct evidence from sacred texts on the issue, there is room for further discussions among Muslim scholars to delineate the *hukm* (ruling) on this matter. The scholars have asserted that it is prohibited to perform abortion and terminate an intended pregnancy after the ensoulment of an embryo (Demirel, 2011). In contrast, spontaneous abortions or abortions for medical reasons are permitted where a pregnancy may endanger a mother's life (Demirel, 2011).

In order to protect women, physical as well as psychological after-effects of abortions should be taken into account by all parties in a policy delineation. Several studies have indicated that women who underwent the abortion process have experienced several negative psychological effects. Nevertheless, it has varied according to different backgrounds and circumstances. For example, in a study at the former Soviet Republic of Belarus, researchers found almost 80% of women experienced PTSD's symptoms after abortions, despite the fact that it was the primary method of birth control in their country. The researchers also found other psychiatric and emotional symptoms such as grief, dissociation, depression, anxiety and psychometric responses (Kendall-Tackett, 2005). The American Psychiatric Association in its Diagnostic and Statistical Manual of Mental Disorder (DSM-III-R), recognized that abortions were a type of disorder stressor known as "psychosocial stressors". This stressor can

trigger any number of psychiatric disorders, which can lead to mild distress or severe trauma generating a continuum of harm along with symptoms accelerating from Post-Abortion Distress (PAD) to Post-Abortion Syndrome (PAS), to Post-Abortion Psychosis (PAP) (Rue, 1994). These serious psychological illnesses occurred not only to women that were forced to undergo abortions, but also to those who chose abortions willingly. An example of the negative impact of induced abortions can be observed in the PAS component:

“there are four components of PAS ; (1) exposure to or participation of an abortion experience, i.e., the intentional destruction of one’s unborn child, which is perceived as sufficiently traumatic and beyond the range of a usual human experience; (2) uncontrolled negative re-experiencing of the abortion death event such as flashbacks, nightmares and grief; (3) unsuccessful attempts to avoid or deny abortion recollections and emotional pain which results in reduced responsiveness with others and one’s environment; and (4) experiencing associated symptoms not present before the abortion including guilt about surviving” (Rue, 1994).

It can be induced from the above arguments that the Quranic teachings on the prevention of terminating pregnancies is to preserve women’s physical and psychological health. The preservation can be observed from post-abortions which bring more harm than good to women. Therefore, the absolute freedom of rights on this matter doesn’t necessarily guarantee the protection of women’s health and emotions.

In conclusion, the Quran upholds the principle of life, but does not touch upon the rights to abortion, unless a situation becomes grave. The Holy Quran approaches this matter to protect the rights of humanity, which is to live and thrive. On the other hand, CEDAW suggested these rights based on the grave situations that face women who have to undergo dangerous and illegal abortion procedures by their own free-will or by force. However, the sole right to decide on abortions cannot guarantee women’s physical and mental health. Instead, it can lead to many serious problems which have individual and societal implications in the long term.

All in all, the discussion in the present study has demonstrated that Islam and CEDAW recognize women’s reproductive rights, yet they contradict each other in principle and approach. CEDAW provides women with an absolute right to reproduction, while Islam recognizes co-creation which grants couples the same rights. Sole rights have the potential to precipitate disharmony and cause relationship rifts. However, in cases where a child has been conceived, CEDAW’s stand on reproductive freedom allows women to abort a fetus whenever she desires. In contrast to CEDAW’s perspective, the Quran brings a comprehensive dimension where the rights are not granted to any couple, especially after the ensoulment where a fetus is alive, unless there is an exceptional condition. The Quran’s perspective grants a fetus with a right to live, since it is an early formed human. Indeed, an abortion could be considered as a violation of the right to live. In any circumstance, women’s physical and mental health should be given optimum consideration in any policy, to ensure their rights are entirely protected, as ultimately, they are at the receiving end of any process.

Funding: This research is supported by the International Islamic University Malaysia and the Ministry of Higher Education under the Fundamental Research Grant Scheme (FRGS) with the title: A New Gender Equality Model Based on Quranic Perspective (FRGS16-031-0530).

Competing Interests: The authors declare that they have no competing interests.

Contributors/Acknowledgement: All authors contributed equally to the conception and design of the study.

REFERENCES

- Aasen, H.S., 2013. Maternal mortality and women rights to health in women’s human rights: CEDAW in international, regional and national law, Eds. Hellum, Anne & Aasen, Henrietta Sinding. UK: Cambridge University Press.
- Abduh, M., 1980. Al-Fatawa al- Islamiyyah min Dar al-Ifta’ Misriyyah. Egypt: Majlis al-A’la li al-Shu’un al-Islamiyyah, 9: 26-28.
- Al-Mubarakfir, A.A.A.H.U.A.B.M.A.A.S., 1984. Miraat al-Mafatih Sharh Mishkat al-Masabih. India: Idarah al-Bu’luth al- ‘Ilmiyyah wa al-Da’wah wa al-Ifta.

- Al-Nujaimi, M., 2011. Al-Ijhad Ahkamuhu wa Hududihi fi al-Shariah al-Islamiyyah wa al-Qanun al-Wad'i: Dirasat al-Muqaranah. Riyadh: Obekan li al-Nashr.
- Al-Qardhawi, Y., 2007. Al-Halal wa al-Haram fi al-Islam. 29th Edn., Qaherah: Maktabah Wahbah.
- Al-Quahah, S., 1990. Mata Tanfakh al-Ruh fi al-Janin. Amman: Dar Furqan li al-Nashr wa al-Tawzi.
- Al-Qur'ubÊ, A.N.M.B.A.A.A., 2010. Al-Jami' li Ahkam al-Quran. Qahirah: Dar al-Hadith, 2.
- Al-Tabari, A., 1999. Al-Musamma Jami' Al-Bayan fÊ Ta'wil Al-Qur'an. Bayrut: Dar Al-Kutub Al-'Ilmiyyah, 4.
- Bringle, J., 2010. Reproductive rights: Making the right choices. New York: The Rosen Publishing Group.
- Bustelo, C., 1995. Reproductive health and CEDAW. American University Law Review, 4(44): 1145-1155.
- CEDAW in Action, 1998. Available from <http://www.unwatch.com/cedaw-81502.shtml> [Accessed February 14, 2017].
- Charvenak, F.A. and L.B. McCullough, 2014. The professional responsibility model of perinatal ethics. Berlin: Walter de Gruyter GmbH.
- Connor, M., 2011. The benefit of child spacing. N.P: Sahha Primarja.
- Demirel, S., 2011. Abortion from an islamic ethical point of view. International Journal of Business and Social Science, 2(1): 230-237.
- Dept of Economic and Social Affairs Population Division, 2003. World population monitoring, 2002: Reproductive rights and reproductive health by United Nations. New York: United Nation Publication.
- Faúndes, A. and J. Barzelatto, 2006. The human drama of abortion: A global search for consensus. Nashville: Vanderbilt University Press.
- Ferguson, J., 2009. Reproductive rights. Eds. Marzili, Alan. M.A. & J.D. New York: Chelsea House Publisher.
- Hafez, E.S.E., 1984. Epilogue in spontaneous abortion, Ed. Hafez, E.S.E. Lancaster: MTP Press Limited.
- Ibn Baz, A.A.B.A., 2011. Fatawa Nur 'Ala al-Darb. Prepared by Al-Syaway'ir, Muhammad Saad. Riyadh: Al-Riasah al-'Amah li al-Buhuth al-'Ilmiyyah wa al-Ifta, 21.
- Kendall-Tackett, K.A., 2005. Trauma associated with prenatal events: Birth Experience, prematurity, and childbearing loss. In Handbook of Women, Stress, and Trauma. Ed. Kendall-Tackett, Kathleen A. New York: Brunner-Routledge.
- Kobayashi, L., 2012. Cpt-4 outpatient coding reference and study guide 2012. Indianapolis: Dog Ear Publishing.
- Mas'udi, M., 2002. Islam and women's reproductive rights. Kuala Lumpur: Sister in Islam.
- Meyers, D.T., 2017. Victims of trafficking, reproductive rights and asylum. In the oxford handbook of reproductive ethics. Ed. Francis, Leslie. New York: Oxford University Press.
- Murthy, P., 2010. Violence against women and girl-child in women's global health and human rights, Eds. by Murthy, Padmini & Smith, Clyde. Massachuset: Jones and Bartlett Publisher.
- Raja, N.A., A. Muzalwana, H. Nurul, O. Azmah, H. Hanira, T. Makmor and K. Rustam, 2017. Muslim women's sexual and reproductive health rights: Evidence from United States, Iran and Malaysia. Journal of Business and Social Development, 5(2): 1-8.
- Rue, V.M., 1994. The psychological realities of induced abortion. In Post Abortion Aftermath, Ed. Mannion, Michael T. Kansas: Sheed & Ward. pp: 5-43.
- Sullivan, D., 2016. The inquiry procedure in the optional protocol to the international covenant on economic, social and cultural rights: A commentary, Eds. by Langford, Malcolm. Porter, Bruce. Brown, Rebecca. and Julietta Rossi. South Africa: PULP.
- UN Women, 2015. Full text of the convention. Available from <http://www.un.org/womenwatch/daw/cedaw/history.htm> [Accessed September 4, 2015].

Views and opinions expressed in this article are the views and opinions of the author(s), International Journal of Asian Social Science shall not be responsible or answerable for any loss, damage or liability etc. caused in relation to/arising out of the use of the content.