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Islam and the Abortion Debate

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Is Islam pro-life, pro-choice, or both, depending on the circumstances? And what implications does the answer to this question have for current political discourse? This essay seeks to offer a comprehensive look at how classical and contemporary Muslim jurists have dealt with the subject in accordance with evolving methods, circumstances, and debates surrounding the topics of contraception and abortion.

The Sanctity of Life in Islam

Similar to all of the divinely revealed books, the Qur'an unequivocally sanctifies human life. Killing any innocent person –irrespective of age or religious orientation– is condemned in the firmest language: “And do not kill the soul which Allah has forbidden to be killed except in the course of justice.” [al-An‘âm (6): 151]

In one famous tradition, the Prophet (ﷺ) said, “The very first matter to be decided between people on the Day of Judgment will be the cases of bloodshed.”¹

Having children and praying for their righteousness is viewed as an act of worship in Islam. This is expressed in numerous Qur'anic supplications:

“[Abraham said:] My Lord, grant me offspring from among the righteous.” [as-Sâffât (37): 100]

“[Zachariah] said: ‘My Lord, indeed my bones have weakened, and my head has filled with white, and never have I been in my supplication to You, my Lord, deprived. And indeed, I fear the successors after me, and my wife has been barren, so give me from Yourself an heir – who will inherit me [in prophethood] and inherit from the family of Jacob. And make him, my Lord, pleasing [to You].’” [Maryam (19): 4-6]

Moreover, the Prophet Muhammad (ﷺ) abolished the practice of female infanticide that was rampant at his time, reciting upon his people the likes of: “And

¹ Collected by al-Bukhâri (6471) from ‘Abdullâh b. ‘Umar (rA)

when the girl [who was] buried alive is asked – for what sin she was killed.” [at-Takweer (81): 8-9]

The Qur’an also told those who killed their children out of fear of poverty:

“Say: ‘Come, I will rehearse what Allah has (really) prohibited you from’: Join not anything as equal with Him; be good to your parents; kill not your children on a plea of want - We provide sustenance for you and for them- come not near to shameful deeds, whether open or secret; take not life, which Allah hath made sacred, except by way of justice and law: thus does He command you, that you may learn wisdom.” [Al-An’âm (6):151]

Contraception

Although it established the sanctity of life, abolished infanticide, and encouraged people to embrace the mission of producing righteous offspring, Islam recognizes that obliging everyone to bear children while disregarding their respective circumstances is impractical. In other words, Islam teaches Muslims that childbearing for those who are capable of it is a blessing, but also recognizes that circumstances may not always allow for it. In classical books of Islamic jurisprudence, circumstances such as the capability of a woman’s health to sustain a pregnancy, or a man living away from his wife for an undetermined period of time, are discussed thoroughly in the framing of this discussion.

The vast majority of *fuqahâ’* (jurists) –past and present– hold that temporarily putting off childbearing is permissible on an individual basis, but not as a societal ideal which overrides the default encouragement to have children discussed above. This permissibility stems from the fact that the Prophet (ﷺ) approved of ‘*azl* (coitus interruptus), or withdrawing before ejaculation, on numerous occasions that are traceable to over ten of his Companions.² In the most famous tradition regarding this practice, Jâbir b. ‘Abdillâh (may Allah be pleased with him) says,

² See: *Zâd al-Ma’âd* (5/142-145), 7th edition, printed by ar-Risâla (Beirut, Lebanon), 1985

“We used to perform ‘*azl* during the lifetime of Allah’s Messenger (ﷺ), and if it were something denunciabile, the Quran would have prohibited us from it.”³

However, the permissibility of ‘*azl* is contingent upon certain conditions. Some of these conditions are controversial,⁴ but the most stressed is the agreement of the spouses, since reproduction is a given expectation of marriage, and a right that the husband and wife are equally entitled to. Traditional scholars also argued that mutual agreement is necessary because sexual gratification is another shared entitlement in marriage, and the wife may not experience the pleasures of intercourse when the husband withdraws prior to ejaculating.

In our modern times, most jurists view that safe contraceptives, particularly those which prevent fertilization altogether, are analogous to ‘*azl*; permissible when its conditions are met, and especially when warranted by pressing logistical circumstances. Some jurists prefer particular contraceptive methods, such as condoms and IUDs (intrauterine devices), as superior alternatives to other birth control methods, such as some oral contraceptive pills that may have more negative side effects on the woman’s health or those that intervene after fertilization.⁵ Whenever intervention happens after fertilization, even if it were immediate and before the zygote’s implantation in the uterine wall, the matter becomes more contentious and, in some cases, an unlawfully aborted pregnancy⁶ according to some Muslim scholars.

³ Collected by al-Bukhâri (5208) and Muslim (3497)

⁴ Due to the Prophet referring to ‘*azl* as a “hidden infanticide” in one hadith, some jurists held that it should not be performed due to fear of poverty, as that was a primary reason behind infanticide in Arabia. Others reconciled it with the traditions condoning ‘*azl* by saying: it entails discouraging ‘*azl* (not prohibiting it) because it undermines the blessing of children, just in a less overt (and less objectionable) way.

⁵ Many physicians believe that with newer IUDs, the incidence of fertilization is much less likely than it was in the past, and hence the obstructing implantation debate becomes increasingly irrelevant concerning this method.

⁶ In the 1960s, the American College of Obstetricians and Gynecologists redefined the onset of pregnancy as the completion of implantation in the womb, contrary to the prior majority belief that pregnancy began at fertilization. There is approximately two weeks’ time between fertilization and implantation, and redefining the terminology is entrenched in the legal debate surrounding this subject today. For those adhering to the newer definition, preventing implantation is tantamount to preventing pregnancy, while the opposition considers preventing implantation to involve killing a living being.

Abortion

Generally speaking, Muslim jurists have always viewed the fetus as the precious origin of human life. The womb is perceived as a fragile vessel that carries a unique human soul, and hence deserves safeguarding and careful treatment. The Qur'an states:

“And it is not lawful for them to conceal what Allah has created in their wombs if they believe in Allah and the Last Day.” [al-Baqara (2): 228]

The “womb” is sacred, as are the bonds formed through it. In a Qudsi hadith, God says: “I am Allah, and I am ar-Rahman (the Most Merciful) who created the rahim (womb), so whoever stays connected with it (i.e., womb relations), I will connect him [to My mercy], and whoever severs ties with it, I will disconnect him [from My mercy].”⁷

However, similar to the current semantic debate in the United States regarding the onset of pregnancy, jurists have also long debated when exactly certain red lines should be drawn. The debate over abortion as a whole begins with the discussion of when life begins.

In the following paragraphs, we will work backwards towards conception, expounding on the positions of the four major madhabs, or interpretive schools of Islamic law.

At 120 days from conception,⁸ the scholars of all schools unanimously agree that ensoulment has taken place. This is based on a tradition in which the Prophet (ﷺ) mentions that the angel breathes the soul into the fetus at 120 days. However, Muslim scholars do not necessarily equate ensoulment with the completion of embryogenesis (i.e., *takhalluq*). Some scholars, such as the thirteenth century Ibn az-Zamlakâni (d. 727H, may Allah bestow mercy on him), maintained that embryogenesis is almost completed, according to the prophetic traditions, by the

⁷ Collected by Abu Dawud (1694), at-Tirmidhi (1/348), Ahmad (1/194), Ibn Hibban (2033), al-Bukhari in *al-Adab al-Mufrad* (53), and al-Albani in *as-Silsila as-Sahihah* (2/36: 520)

⁸ Physicians calculate the age of pregnancy from the last period, which is roughly two weeks prior to conception. Therefore, 134 days into the pregnancy – according to physicians – is the 120 day mark in terms of Islamic rulings.

fortieth or forty-second day of conception⁹ (54-56 days of gestational age). The soul would then descend in a body ready to receive it, just as it departs from it when it is not suitable to harbor it. Allah says in the Quran, “Then We made the sperm-drop into a clinging clot, and We made the clot into a lump [of flesh], and We made [from] the lump, bones, and We covered the bones with flesh; then We developed him into another creation. So blessed is Allah, the best of creators.” [al-Mu’minoan (23): 12-14]

The Arabic article *thumma* (then), which refers to succession with delay, is used in the above verses to separate between the stages of embryogenesis and the “development into another creation.” This is what has been reported by ‘Ali (may Allah be pleased with him) and believed widely to be a reference to the ensoulment phase.¹⁰ In addition, in the verse above, the formation of bones and their enclosure with flesh is mentioned between the first stages of development and the reference to ensoulment.

Aborting the pregnancy becomes categorically forbidden at this point, as the embryo is now a fully sanctified human life. Islamically speaking, this would be murder – unless a physician determines that continuing the pregnancy would truly endanger the mother’s life. Only in this case can the pregnancy be terminated after 120 days. The logic behind this is an agreed upon legal maxim in Islamic law: certainty should not be overridden by doubt. In other words, a potential life (that of the infant) should not threaten a stable life (that of the mother). Although both are technically alive, the survival of the mother takes precedence because her life is evidently established, while survival of the fetus within her is relatively more doubtful. Hence, doubt is trumped by certainty, and the lesser harm is endured to avoid the greater loss. Jurists also support this from another angle; the mother is the origin of the infant, so even if they have equal possibility of surviving, as long as the fetus is part of her and dependent on her, you don’t cut the root to save the branch. When forced to choose, the branch should be sacrificed to save the root.

⁹ See: *al-Burhân al-Kâshif* (p. 275) by Ibn az-Zamlakâni

¹⁰ See: *Tafseer Ibn Katheer; Surat al-Mu’minoan (23); Ayah 14*

Between 40 and 120 days from conception, the four madhabs disagreed, even within their own ranks, and so we will state the dominant position of each school. The Mâlikis traditionally were the strictest in this regard; they opposed any medical technique as a means of birth control (such as drinking medicine), with some even opposed to seeking to expel the semen after intercourse. The dominant Ḥanafī position was far more lenient in permitting abortion up until 120 days from conception, with some even allowing it without the husband’s permission.¹¹ Nowadays, many contemporary juristic assemblies prescribe the position held by the Ḥanbalis; permitting abortion up until 40 days, and only up until 120 days when a pressing need is present (such as rape, or an extreme fetal deformity incompatible with life).

During the first 40 days after conception, the majority permitted abortion when the two spouses mutually agreed, and especially for clearly legitimate reasons (such as rape, and the physical or mental inability to raise children). And just as with ‘*azl*’ (coitus interruptus), many of these scholars held that fear of poverty did not qualify as a justification. The Mâlikis opposed this position altogether. Ibn Juzzay (d. 741H), a Mâliki jurist, says, “Once the womb contracts the semen, it becomes impermissible to interfere with it. Worse than that is when it (the fetus) has developed [external] features, and worse than that is when the soul has been blown into it. In that [last] case, this would be killing a soul – by agreement.”¹²

Many contemporary scholars offer spiritual counsel to those considering a pre-40-day abortion. That counsel largely falls in the capacity of encouraging one to continue with the pregnancy unless there is a danger to the mother or fetus, while still leaving the door open to those who choose otherwise. According to Dr. Hatem Al Haj, “Abortion in the first forty days of pregnancy upon the mutual agreement of both parents is permissible for a legitimate cause, such as the woman’s fear of not having the capacity to raise a newborn. Having said that, it is always preferable to avoid that, and if one relies on Allah’s help and puts his/her

¹¹ The scholars unanimously agree that a wife is entitled to children, and hence she cannot be forced to terminate her pregnancy. The majority of scholars agree that the husband also has the same entitlement, and hence she cannot insist on abortion without a valid reason. See: *Badâ’i’ as-Sanâ’i’* (2/334) by al-Kâsânî, *al-Muntaqâ Sharh al-Muwatta’* (4/134) by al-Bâjî, *Fath al-Bâri* (9/308) by Ibn Hajar, and *al-Ifsâh* (2/141) by Ibn Hubayra.

¹² *al-Qawâneen al-Fiqhiyya* (141) by Ibn Juzzay

trust in Him, He will not let them down. That fetus may become their favorite child one day.”¹³

Comparisons to Other Religious Groups

Like the multifaceted shadings of Islamic law on this issue, other faith traditions have various opinions on the crucial elements surrounding these debates. The Catholic position is generally the most firm, with Pope Francis famously saying, “It is horrific even to think that there are children, victims of abortion, who will never see the light of day.”¹⁴ Before Francis, Pope John Paul II wrote the *Evangelium Vitae* (i.e., the Gospel of Life) which affirmed that life is sanctified from conception.¹⁵ Yet, centuries ago even the Catholics had some room for debate on this topic. Before 1869, the Church held a similar position to Islamic jurists that tolerated abortions for various needs before the fortieth day of pregnancy.¹⁶ It is also noteworthy that, in complete contrast to the Islamic position of prioritizing the life of the mother in all cases, the church preferred the life of the fetus to that of the mother on the basis that the mother has already been baptized and is guaranteed salvation while the child has not yet been provided with such an opportunity.¹⁷ The United Methodist Church affirms that it is, “equally bound to respect the sacredness of the life and well-being of the mother and the unborn child.”¹⁸ The Lutherans and the Evangelicals generally view abortion as immoral at any point unless it is to prevent the death of the mother, and in some cases of rape and incest.¹⁹ This is also the general position of the Church of England which “combines strong opposition to abortion with a recognition that there can be -strictly limited- conditions under which it may be morally preferable to any available alternative.”²⁰

¹³ Abortion Due to Family Issues (taken from www.drhatemalhaj.com)

¹⁴ Pope Francis denounces 'horror' of abortion. (2014, January 14). Retrieved February 10, 2017, from <http://www.bbc.co.uk/news/world-europe-25723422>

¹⁵ John Paul II. Vatican. *Evangelium Vitae*. 25 March 1995. 19 March 2013.

<http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae_en.html>.

¹⁶ Johnstone, Brian V. (March 2005). "Early Abortion: Venial or Mortal Sin?". *Irish Theological Quarterly*. 70

¹⁷ Ibid.

¹⁸ Communications, U. M. (n.d.). *Social Principles: The Nurturing Community*. Retrieved February 10, 2017, from <http://www.umc.org/what-we-believe/the-nurturing-community>

¹⁹ Life Library - Abortion. (n.d.). Retrieved February 10, 2017, from <http://www.lcms.org/page.aspx?pid=849>

²⁰ A Christian presence in every community. (n.d.). Retrieved February 12, 2017, from

The timestamps provided by Islamic jurists are generally not found in Protestant opposition to abortion with emphasis only on the extreme circumstances which may provide room for exceptions. Many churches in their opposition to abortion and contraception focus on the immorality of abortion as a “primary means of birth control”²¹ or for “personal or social convenience.”²² Islamic scholars generally share the same concerns while not frowning upon contraceptives.

On the question of legislation, American Baptist Churches condemn abortion yet don't take a hard stance against it, opting to encourage their membership to “seek spiritual counsel as they prayerfully and conscientiously consider their decision.”²³ The Presbyterians generally disapprove of abortions yet affirm them to be personal decisions that should be left to the parents and not “restricted by the law.”²⁴

Traditional Jewish literature contains many classical debates that one also finds amongst Muslim jurists. While the reform and conservative Jewish movements openly advocate for the right to abortions, Orthodox Jews remain divided upon the issue with most leaning in opposition to abortion except in extreme situations.²⁵ Like Muslim jurists, Orthodox Jews emphatically rejected abortions for reasons such as fear of poverty or fear that the child may have non-life-threatening medical issues, yet the main debate concerns whether or not a threat to the life of the mother is the only exception to the rule. Jews, like Muslims, also always prioritize the life of the mother over that of the fetus at any stage of the pregnancy. Lastly, Orthodox rabbis also commonly bring up the point of gestation as to when exceptions can be applied with the 40 day from insemination mark frequently

<https://www.churchofengland.org/our-views/medical-ethics-health-social-care-policy/abortion.asp>

²¹ American Baptist Resolution Concerning Abortion And Ministry In The Local Church, 12/87. Online: <http://www.abc-usa.org/wp-content/uploads/2012/06/Abortion-and-Ministry-in-the-Local-Church.pdf>

²²The Church of Jesus Christ of Latter-day Saints. (n.d.). Retrieved February 9, 2017, from http://www.lds.org/ldsorg/v/index.jsp?locale=0&sourceId=43de991a83d20110VgnVCM100000176f620a___&vgnextoid=e1fa5f74db46c010VgnVCM1000004d82620aRCRD

²³ American Baptist Resolution Concerning Abortion And Ministry In The Local Church, 12/87. Online: <http://www.abc-usa.org/wp-content/uploads/2012/06/Abortion-and-Ministry-in-the-Local-Church.pdf>

²⁴ 23, 2. F. (2016, April 05). Abortion Issues. Retrieved February 4, 2017, from <http://www.presbyterianmission.org/blog/abortion-issues-2/>

²⁵What Do Orthodox Jews Think About Abortion and Why? (2000, August 25). Retrieved January 17, 2017, from http://www.slate.com/articles/news_and_politics/culturebox/2000/08/what_do_orthodox_jews_think_about_abortion_and_why.html

found in classical debates.²⁶ The degree of prohibition that exists after 4 months of pregnancy is quite unique to Islamic scholars who base it on the famous Prophetic tradition that mentions that the angels breathe in the soul of the fetus at that point.

Practical Realities and Moral Directives

Advocates of Planned Parenthood point out that their services primarily provide low-income and uninsured people access to contraceptives and sexual health care.²⁷ In 2009, Planned Parenthood's abortion care represented only 3 percent of its medical services (332,000 terminations out of a total of 11.4 million services).²⁸ Beyond statistics, it is quite obvious that access to contraceptives naturally reduces the need for unwanted pregnancies, which may result in abortions. Islamic legal theorists always point to the priority of preventing unwanted circumstances instead of simply remedying problematic outcomes. That includes reforming the moral ethics of society as well as the inequities that disproportionately force the marginalized into painful decisions.

The American Baptists, who unlike the Evangelicals and Catholics do not take an official position on the legislative debates surrounding abortion, still speak of the importance of denouncing “irresponsible sexual behavior and acts of violence that contribute to the large number of abortions each year.”²⁹ Yet they are just as clear in their condemnations of attacks on Planned Parenthood centers and abortion clinics and recognize the grief of those placed in difficult conditions. While abstinence and sexual ethics do not inform a significant portion of the debate, there clearly is room for them in the discussion.

²⁶ Ibid.

²⁷ Coleman, C. (2011, April 15). Five myths about Planned Parenthood. Retrieved December 17, 2016, from https://www.washingtonpost.com/opinions/five-myths-about-planned-parenthood/2011/04/14/AFogj1iD_story.html?utm_term=.2a68350e3ad8

²⁸ Ibid

²⁹ American Baptist Resolution Concerning Abortion And Ministry In The Local Church, 12/87. Online: <http://www.abc-usa.org/wp-content/uploads/2012/06/Abortion-and-Ministry-in-the-Local-Church.pdf>

Conclusion

In the Islamic ethical system, life is sacred, and hence must be honored and promoted. Having children is a shared right between spouses, and hence neither spouse should obstruct that right – before or after conception – without good reason. Contraception is permissible with safer methods being preferred. Once the woman’s egg is fertilized, it is impermissible to terminate the pregnancy without the mutual agreement of both parents. Once the fetus reaches 40 days from conception, abortion becomes impermissible according to most scholars, unless a pressing need exists which justifies it in the eyes of Islamic law. Once the fetus reaches 120 days, all scholars agree that terminating the gestation of a living fetus would only be allowed to save the mother’s life. Otherwise, it is unlawful feticide: the killing of a soul-bearing unborn human being. The scholars also deem abortion in the case of fetal demise permissible at any point, as the soul is no longer believed to be present.

Finally, many of the concepts above such as “good reason,” and “pressing need,” have all been traditionally qualified by expert scholars of the highest caliber. These terms are quite nuanced, and should not be seen as arbitrary words that can entail anything for anyone. For that reason, an expert that is versed in the Islamic sciences should always be consulted on a case by case basis to determine when an abortion is justifiable. The task of the scholar, by virtue of his/her qualifications, is to provide an expert opinion based on Islamic law that is tailored to the considerations of each person’s unique situation. That is the distinction between a *hukm* (ruling in principle) and a *fatwa* (specific edict).

As for the political discourse surrounding this subject, we do not subscribe to the position that contraception and abortion are categorically prohibited, nor to the position that abortion is the unrestricted right of the mother. All persons and things that God has created have rights assigned to them by Him. When possible, all of those rights should be preserved. In cases when rights conflict, priorities are assigned accordingly in light of divine revelation and prophetic guidance. Muslims

should advocate for a comprehensive understanding of the issues that takes into consideration the peculiarities mentioned above.