

Islamic Tradition and Reproductive Choice

The Qur'an¹ makes it abundantly clear that sex, within the bonds of marriage, is intended to foster emotional intimacy rather than to be just a means of procreation. Sura (Chapter) 30: 21, for example, states:

And among His Signs is this that He created for you mates from among yourselves that you might find tranquility with them and He has put love and mercy between your (hearts); verily in that are Signs for those who reflect.

Like the antecedent Abrahamic scriptures to which the Qur'an often refers, Islam does not deny that marriage and procreation are related, as evidenced by Q7:189:

It is He who created you from a single person and made his mate of like nature in order that he might find tranquility in her. When they are united she bears a light burden and carries it about (unnoticed). When she grows heavy they both pray to God, their Lord (saying): "if you grant us a goodly child we vow we shall (ever) be grateful."

Even in this verse, pregnancy is a result of the sexual union, and not the completion

of a duty. To ensure that sex is not regarded as a chore to which the married couple must resign itself in order to ensure the survival of the species, Q2: 223 further instructs:

Your wives are as a field unto you; so approach your field however and whenever you wish. But do some good act for yourselves beforehand; and be mindful of God and know that you will meet Him (in the Hereafter) and give (these) good tidings to those who believe.

The Qur'an, on several occasions, also implies that sex for pure pleasure will be one of the benefits of those who enter Heaven. There is no verse of the Qur'an nor any Islamic tradition that indicates pregnancy will be a result of heavenly congress; rather, the focus is on happiness that will come from enjoying the beauty of the *hūr*—beauteous virgins who will be the mates of the righteous—as evidenced by the following references:

As to the Righteous (they will be) in a position of Security
Among gardens and springs;
Dressed in fine silk and in rich brocade
they will face each other;

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If the primary function of a woman was to bear children, then obviously to even think of reproductive choice was to deny the reason for which she was created, and to deny the Divine will.

And We shall join them to companions with beautiful big and lustrous eyes...
Q44: 51-54

They will recline (with ease) on Thrones (of dignity) arranged in ranks; and We shall join them to Companions with beautiful big and lustrous eyes.
Q 52: 20

In them (i.e., the gardens of paradise) will be fair (companions) good and beautiful...
Q 55: 70

And (there will be) Companions with beautiful big and lustrous eyes . . .
Q56: 22

It would be misleading however, to give the impression that the Qur'an represents an entirely new view of sex and sexuality when compared to the earlier Abrahamic religions. Islam's main document was addressed to a medieval Arabian milieu, and concerned itself mainly with improving the standards governing the prevailing practices, thus reforming but never completely replacing all of the regional patriarchal tribal values and customs.² In addition to this factor, Muhammad's ministry lasted only 23 years—hardly enough time for the Qur'anic ameliorations to become firmly rooted in society. Within a century of his death, many of the patriarchal values that he had challenged had largely reasserted themselves under the protection of a new source, the Hadith³, which was to become the de facto source of much of the Islamic outlook.

The Hadith may be defined as the non-Qur'anic words, deeds and tacit approvals attributed to Muhammad, as allegedly reported by his companions. There is enough evidence to suggest that there was much controversy among early Muslims regarding the acceptance of this new source of Islam beliefs. But from the ninth century onwards, Hadith came to play such a dominant role in Islamic thought that the Qur'an all but ceased to speak for itself. The Hadith was seen as the exegetical authority for the Qur'an; on matters where the latter was silent, the Hadith literature became the primary source of guidance. To protect the authority of the Hadith, Muslim scholars

have created a complex science of analysis that supposedly examines each tradition for reliability, the main focus being on establishing a line of credible tradents (known as *isnad*, plural *asanid*) going all the way back to Muhammad. While many hadith reports have been rejected by such analyses, quite often proponents of different views have used the *isnad* system to create a veneer of authenticity for their positions and to put words into the mouth of Muhammad, as we shall show.

Many hadiths did portray sex as something to be enjoyed between spouses, but the main thrust of these narratives was that the goal of marriage was abundant procreation. A narration in one of the authoritative collections of hadith, Sunan Abi Daud (named after the compiler, Abu Daud Sulayman al-Sijistani, d. 888 C.E.) states:

A man came to the Prophet 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 prohibited him. He came to him third time, and he (the Prophet) said: Marry women who are loving and very prolific (in child bearing), for I shall outnumber the peoples by you.⁴

One hadith, reported by Ibn Majah (d. 887 C.E.), in another authoritative collection of traditions, is blunter, mentioning nothing of love, but focusing on the child-bearing function: "Marry, for I will outnumber peoples by you..."⁵ (1:599). The perception of the wife was thus changed: from being a companion in whom tranquility, comfort and love were to be sought, she was now seen primarily as a baby producer. And with this development came the restrictions on reproductive choice, with the taboos put into the mouth of Muhammad to garner authority. If the primary function of a woman was to bear children, then obviously to even think of reproductive choice was to deny the reason for which she was created, and to deny the Divine will. The medieval jurists were mainly men, and their opinions on the subject did not take into consideration a woman's perspective. And since Islam has

not yet enjoyed the reform that Judaism and Christianity have experienced, the general view of contemporary traditional scholars ('ulama) simply represents a continuum from the medieval viewpoints.

Contraception

The earliest discussed form of birth control in the Muslim texts is that of *al-'azl*, withdrawal before ejaculation, or *coitus interruptus*. Fortunately for us, the Hadith compilers have recorded the conflicting narratives on the issue, allowing us to see that the early discussants had nothing scripturally concrete upon which to rely. The scrupulousness of the compilers allows us to show the placement of words in the mouth of Muhammad to create bases of authority for the competing viewpoints. According to Sunni Muslims, two Hadith collections in particular are deemed to be most authentic: Sahih al-Bukhari (named after its compiler, Muhammad bin Ismail al-Bukhari, who died in 870 C.E.) and Sahih-Muslim (named after Muslim b. Hajjaj al-Qushayri al-Naisaburi, who died in 875).⁶ In both collections, there are reports that indicate that *coitus interruptus* was practiced during Muhammad's lifetime.⁷ In both collections too, Muhammad supposedly stated that the practice would be to no avail if God had decreed that a pregnancy should result.⁸ Juxtaposed against these traditions is one that is reported in *Sahih Muslim* where Muhammad is made to define *coitus interruptus* as "the secret way of burying alive."⁹ The reference here is to a pre-Islamic Arab practice where people would bury their female children alive (known as *wad'*), a custom that is harshly forbidden by the Qur'an (see Sura 81:8). In a tradition recorded in the collection of al-Tirmidhi (d. 891 C.E.), the likeness of *coitus interruptus* to *wad'* is attributed to the Jews, and Muhammad repudiates their allegation.¹⁰

Since the acceptance of Hadith is based on the idea of a reliable chain of transmitters rather than the examination of the actual contents of the narratives, few Muslims have thought to ask how such contradictory hadiths could be used to formulate Islamic outlook. The result is that

there is a variety of conflicting viewpoints, all supposedly based on "authentic" hadiths. Some scholars have forbidden the practice altogether, others have allowed all forms of birth control as long as there are not permanent surgical changes to the body of either spouse.¹¹ Instead of applying any modern ethical outlook to dealing with the issue of birth control, many Muslims have fallen prey to conspiracy theories that any form of population control is a plot (by western countries) to reduce and weaken the Muslim population.¹² Birth control practices were known to the Arab society long before Muhammad, and the fact that the Qur'an did not address the issue seems not to have impressed some traditional scholars. Fortunately for the majority of Muslims, pragmatism and the increasing role of women as deciders of their own affairs have come to be the decisive factor, and birth control is a common practice.¹³

Abortion

One of the main considerations in the Islamic discourse on abortion has to do with the concept of ensoulment. Strangely, the Qur'an has no concept of the neo-Platonic soul-body dualism that has come to be almost unanimously accepted as the Islamic weltanschauung.¹⁴ The renditions of certain Arabic words as "soul" in English translations of the Qur'an are due not to the actual meanings of the words themselves, but rather to credal ideas.¹⁵ One such word is "nafs"—and it is related to the Hebrew "nephesh"—which basically means person or being.

The Qur'an strongly and repeatedly condemns the killing of children under any circumstances, as in Q6:137, 151, 17:31 and 60:12. Verse 17:31, for example, reads: "Kill not your children for fear of want: We shall provide sustenance for them as well as for you: verily the killing of them is a great sin." The reference here is to the practice of female infanticide, mentioned earlier in this article. As pointed out by Marion Holmes Katz in her excellent research on the subject, the classical exegetes did not generally understand these verses to refer to abortion.¹⁶ The foundations of the prohibitions against abortion therefore

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come from the Hadith and juristic discourses.

Muslims who support the idea of ensoulment refer to certain Qur'anic verses, notably Q23:13-14:

Then We placed him as (a drop of) sperm in a place of rest firmly fixed.

Then We made the sperm into a clot of congealed blood; then of that clot We made a lump; then We made out of that lump bones and clothed the bones with flesh; then We developed out of it another creature: so blessed be God, the best of creators!

The stages of this verse are purportedly explained by a hadith that states:

The Messenger of God said, "(as regards your creation), every one of you is collected in the womb of his mother for the first forty days, and then he becomes a clot for an other forty days, and then a piece of flesh for an other forty days. Then God sends an angel to write four words: He writes his deeds, time of his death, means of his livelihood, and whether he will be wretched or blessed (in religion). Then the soul is breathed into his body. . ."¹⁷

There are various interpretations of this tradition, but the functional consensus is that abortion is forbidden after the ensoulment that occurs at 120 days. More stringent scholars rely on another tradition that states that the after the first 40 days, an angel endows the fetus with hearing, sight, skin, flesh and bones. This clearly indicates the formation of a human being, and to abort after this period is deemed as forbidden.¹⁸

There is consensus that abortion is allowed if the life of the woman is endangered at any period during pregnancy. Some scholars have now taken the position that the fetus is to be treated as a person from the moment of conception, and as such, any abortion is forbidden.¹⁹ This, however, contradicts with the classical Islamic practice in which the fetus was never seen as a legal person before birth. This is best illustrated by the practice of accepting the testimony of a midwife in the case of *istihlāl*. In the

settling of inheritance cases, a fetus could not inherit, since it was not a person. But if it could be proven that the fetus lived even for a nanosecond, then, since it emerged from the womb alive, it could inherit. To determine whether it lived for such a time period, the testimony of a midwife was required, and the legal texts show that this was allowed by one of Islam's earliest judges, Shurayh h. Harith (died ~718 C.E.).²⁰

In another case, two women fought, and one of them, along with her unborn child, died. The prophet ordered her killer to pay diya (blood money for a legal person) for the victim's death and a ghurra (calculated usually as a tenth of the diya) for the miscarried fetus.²¹ This hadith seems strangely similar to an incident reported in the Hebrew Bible in Exodus 21: 22, 23, where a fine was ordered to be paid for a miscarriage due to an altercation, but an "eye for an eye" was exacted for an injury to the person of the woman herself. Classical Islam law knew the concept of importation of legal decisions from Jewish sources and legitimized this as "*Shariat man qablanaa*"—the law of those Abrahamic religions that preceded Islam. (It is under this aegis, for example, that the classical penalty for the adulterer is stoning to death.) But even if Muhammad did rule as the hadith indicates, it is notable that the fetus was not accorded the status of a full person, but valued rather as a fraction of a legal person. Had the fetus been deemed as a person, and were the hadith to be adduced as proof of the personhood of the fetus, then it would have to be shown that either (a) the prophet ordered the payment of a diya (which he did not), or (b) in certain cases, a ghurra is paid on the death of a legal person (this is clearly not the case.). The use of this tradition to show the fetus as a person clearly falls short.²²

The mental impact that an unwanted pregnancy may have on a woman is, for many scholars, a matter of little consideration, as evidenced by the response given by a contemporary scholar regarding a rape victim.²³ Among several inquiries on the status of the rape victim, a question was raised about terminating a possible pregnancy. The answer was:

“If the woman gets pregnant, the pregnancy should not be aborted. Abortion is not permissible in Islam. It is killing a life that God wants to create. If the woman is married, the child belongs to her and her husband. If she is unmarried, the Muslim community should help her bring up the child when it is born. The Muslim community should learn not to attach any stigma to the mother or child.”²⁴

The scholar did not for a moment consider what would be done if the Muslim community did not learn not to attach a stigma to the rape victim. Why should the woman have to live with the child of a rape, thus (possibly) reliving her horrible experience every time she looked at the child? And so, the answers to the several questions basically negated the possibility of abortion and showed total disregard for the rights and feelings of the woman.

Muslim discourse, for the most part, seems not to have considered that there is a great difference between an actual person and a potential person.²⁵ Yet, much within the legal reasoning of Islam leads to understanding and allowing reproductive choice. One of the goals of the Shariah is the preservation of human life in a proper manner. A fetus that is deformed and may be born with a debilitating disease will certainly be a burden to its parents. Should the parents not, while it is within their control, avoid bringing this burden unto themselves? An Islamic law maxim, “Necessity allows that which is normally forbidden,” can be brought to bear in this situation. Does not a pregnancy that is the result of rape or a tragic situation in which a fetus will be a burden on its parents qualify as a necessity that allows abortion?

It might be argued that aborting every fetus that is deemed to have a health defect would amount to eugenics. However, the concept of reproductive choice, within the philosophical outlook of the Qur’an, does not allow abortion on the basis of whims. Muslims are taught, like the others who follow the Abrahamic religions, that Adam and Eve were sent to be custodians on earth. This means that we, as their descendants, have the duty to take every

step to ensure that life is not only sacred but respected, and this means ensuring that as long as we have control, every birth should be one that truly brings joy and satisfaction. Muslims also argue that the Qur’an came to ameliorate the status of women. If this argument is to hold true, it means that women must not be seen simply as vessels to carry sperm to maturity. It means that women must assert control of their bodies, and their concerns and feelings must be given prime consideration. As Q46:15 states: “We have enjoined on man Kindness to his parents: in pain did his mother bear him and in pain did she give him birth.” That God has singled out the woman for mention when speaking of the duties of a person towards his parents shows that her pain must be taken into consideration first and foremost, and the final decision about bringing a child into this world must be hers.

Endnotes

¹ Throughout this article, I have sought to avoid the distracting use of diacritical marks that are used in specialist works by Islamic scholars.

² The structure of the cited verses evidence the Qur’anic recognition of the social reality of Muhammad’s time—that the male was seen as the authority, and as such, was the primary addressee of the Qur’anic exhortations.

³ Hadith is used as an umbrella term for this secondary source of Islamic belief, as well as to refer to single narratives. Throughout this article, the rendering of the term with a lower case “h” (and in plural form where necessary) will be used to refer to the single narrative/s. Use of the upper case “H” will denote reference to the general corpus of traditions.

⁴ *Sunan Abi Daud* by Sulayman bin al Ash’ath al-Sijistani. (Beirut 1996: Dar al-Kutub al-Ilmiyyah), 1: 86.

⁵ *Sunan Ibn Majah*, by Muhammad bin Yazid. (Beirut, no date: Dar al-Kutub al-Ilmiyyah), 1: 599.

⁶ I use the titles of two popular English translations of these classical works rather than the long Arabic titles of the original.

⁷ *Sahih Muslim*, tr. Abdul Hamid Siddiqui (Lahore 1992: Sh. Muhammad Ashraf), 2: 735; *Sahih al-Bukhari*, tr. Muhammad Muhsin Khan (Ankara 1976: Hilal Yayinlari), 7:102. The version in *Sahih Muslim* adds that Muhammad did not forbid the practice.

⁸ *Sahih Muslim*, 2: 734-5; *Sahih al-Bukhari*, 7:103

⁹ *Sahih Muslim*, 2:736

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- ¹⁰ *Jami' al-Tirmidhi* by Muhammad bin 'Isa al-Tirmidhi (Riyadh, no date: Bab al-Afkar al-Dawliyya), 201.
- ¹¹ See, for example *Fatawa Mu'asira* by Wahba al-Zuhayli (Damascus 2003: Dar al-Fikr), 173.
- ¹² See Arab News (Jedda, June 24, 2005, section on Islam) where a questioner seeks counsel from an Islamic authority and mentions this claim. See also "family planning" in *The Oxford Encyclopedia of the Modern Islamic World*, ed. John Esposito, (Oxford, New York 1995: Oxford University Press), 1:461ff.
- ¹³ Mahmud Shaltut, former rector of Al-Azhar University, even encouraged the Egyptian government to play a role in birth control. See "family planning" in *The Oxford Encyclopedia of the Modern Islamic World*, ed. John Esposito, (Oxford, New York 1995: Oxford University Press), 1: 464-5.
- ¹⁴ See *Major Themes of the Quran* by Fazlur Rahman (Minneapolis 1994: Bibliotheca Islamica), 17.
- ¹⁵ Ibid.
- ¹⁶ "The Problem of Abortion in Classical Sunni Fiqh," by Marion Katz in *Islamic Ethics of Life*. Ed. Jonathan Brockopp. (Columbia, 2003: University of South Carolina Press), 25-50.
- ¹⁷ *Sahih al-Bukhari*, 8:387.
- ¹⁸ *Sahih al-Bukhari*, 4:290.
- ¹⁹ *Fatawa Mu'asira* by Wahba al-Zuhayli (Damascus 2003: Dar al-Fikr), 173.
- ²⁰ See: *Creation of an Archetype: Studies in the Shurayh Traditions* by Khaleel Mohammed (Montreal 2001: McGill University, Ph. D thesis), 118.
- ²¹ This hadith is reported in *Sahih al-Bukhari*, 7:437.
- ²² This has clearly not stopped some writers from misrepresenting the ruling of this hadith, claiming for example that the fetus can inherit, or that the fetus was treated as a living person. See, for example, *The Muslim Marriage Guide*, by Ruqayyah Maqsood (Trowbridge, Great Britain 1995: The Quilliam Press), 108, wherein the author states, "[I]f someone hurt a pregnant woman and she miscarried, full diya

(blood compensation) has to be paid, just as for the adult person." It is likely that she misread the hadith in Bukhari, for, while it uses the word "diya" the full text notes that Muhammad ruled that the diya for the fetus should be a ghurra. Clearly the diya of a fetus then is not the same as that of a living person, and is even given a different name—a ghurra, defined as approximately a tenth of a diya.

²³ Arab News, December 3, 2004: Section on Islam.

²⁴ Ibid.

²⁵ Simmons, Paul, "Personhood, the Bible, and the Abortion Debate," Educational Series, Religious Coalition for Reproductive Choice, Washington DC.

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The Religious Coalition for Reproductive Choice, founded in 1973 by people of faith, is the national organization dedicated to preserving reproductive choice on religious grounds. RCRC members are national groups from 15 denominations and faith traditions including the Episcopal Church, Presbyterian Church (USA), United Methodist Church, United Church of Christ, Unitarian Universalism and Reform, Conservative and Reconstructionist Judaism and Catholics for a Free Choice and other independent religious organizations. A non-partisan, non-profit education and advocacy organization, the Coalition includes the Clergy for Choice Network, Spiritual Youth for Reproductive Freedom chapters, The National Black Church Initiative, state affiliates throughout the nation, and individuals committed to reproductive and religious freedom.

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