

## **Abortion from an Islamic Ethical Point of View**

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### **Abstract**

*Different nations interact differently with problems based on their different traditional background, interest, as well as their different approaches. But there are issues which need common perspective and the same sense of responsibility in doing good things that concern all such as induced abortion. In this article the researcher analyzed induced abortion from an Islamic ethical point of view with a particular focus on when life right begins.*

**Key words:** Abortion, ethics, Islam, life right, foetus, ensoulment, science, hadith.

### **Introduction**

Abortion literally means the deliberate termination of human pregnancy, the natural expulsion of a foetus from the womb before birth. An abortion may occur spontaneously, in which case it is also called a miscarriage, or it may be brought on purposefully, in which case it is often called an induced abortion. In this paper I discussed induced abortion from an Islamic ethical point of view. This issue is quite important to humanity. The number of induced abortions performed worldwide is very high. A 2007 study published in *The Lancet*, one of the world's best-known and most respected general medical journals, found that the global rate of abortion was 45.6 million in 1995 and 41.6 million in 2003.<sup>1</sup> There is another truth related to human life due to unsafe abortion procedures. Women seeking to terminate their pregnancies sometimes resort to unsafe methods, particularly where and when access to legal abortion is barred. The World Health Organization (WHO) estimates that 19 million unsafe abortions occur around the world annually and that 68,000 of these result in the woman's death.<sup>2</sup> This shows how abortion is a serious challenge to all human communities.

Different nations interact differently with problems based on their different traditional backgrounds, interests, as well as their different approaches. But there are issues which need common perspective and the same sense of responsibility in doing good things that concern all such as human life. Islam recognizes the value of a human life, and believes should be protected fully. That is because Islam upholds the sanctity of life. As we know the moral and legal aspects of abortion are subject to intense social debates in many parts of the world. Some argue that abortion is morally wrong on the basis that a foetus is an innocent human being. Others reject this position by drawing a distinction between human being and human person, arguing that while the foetus is innocent and biologically human, it is not a person with a right to life. In Islam, life right begins once the spirit is blown in the foetus. But there are disputes among the scholars over when the quickening takes place. These are the issues I have highlighted in the coming pages.

### ***The Relationship between Abortion and Ethics***

Being a common practice, abortion is one of the most controversial issues of the modern times. It is, of course, not a new phenomenon. It has been practiced throughout history. Nevertheless, it has never been subject to as much controversy as it has been contemporarily. There are two main reasons for this: First, the human population has increased to the highest proportion in history. Parallel to the increase in the population, the practice of abortion has also increased. Bearing in mind the fact that the human population will continue increasing, it can be assumed that this problem will also exacerbate.

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<sup>1</sup> [http://en.wikipedia.org/wiki/Abortion#cite\\_note-Worldwide-0](http://en.wikipedia.org/wiki/Abortion#cite_note-Worldwide-0). Retrieved 09-11-2009.

<sup>2</sup> Unsafe Abortion: Global and regional estimates of the incidence of unsafe abortion and associated mortality in 2000. <http://whqlibdoc.who.int/publications/2004/9241591803.pdf>. Retrieved 09-11-2009.

Secondly, the pre-modern system of social values allowed abortion unless it was an exceptional case. Hence, the practice of abortion was considerably less. The system of values has transformed radically with the arrival of the modern times. Since the paradigm has shifted from being religion-oriented to secular-oriented, abortion has become an acceptable phenomenon in the perception of the modern man. Despite the paradigm shift, the right of the foetus to live sets the agenda around the world as a problem concerning both law and ethics. The problem revolves around the ‘unborn life’ embedded in the womb albeit being invisible. No system of law or ethics can overlook this problem. Despite the fact that law and ethics are different disciplines, there is no doubt that they overlap and complete each other. Ethics justify the “lawful” or “unlawful” verdicts of law. In other words, ethics explain the logic and wisdom behind laws. Moreover, where laws prove to be inadequate to regulate human behavior, social and individual perceptions of ethics come into play. Both law and ethics are action-guiding.

Law provides a series of public statements – a legal code, or a system of dos and don’ts – to guide humans in their behavior and to prevent them from harming others and violating their rights. On the other hand, ethics provides reasons behind any significant laws governing human beings and their institutions. Hence, ethics usually precedes law, whereas law comes to sanction morality or parts thereof and put it into a code or system that can then be enforced by punishment. In general, the law is taken to be concerned with acts; by contrast, ethics is concerned with both acts as well as attitudes and intentions. For this reason, we can claim that ethics is wider than law.

### **What is ethics?**

The term “ethics” is derived from the Greek word *ēthiko* (moral) and *ēthos* (character).<sup>3</sup> It is often used synonymously with the term “morality.” Actually the term “ethics” refers not to “morality” itself but to the field of study, the subject matter of which is essentially morality. That means “ethics” is the other name for moral philosophy. In other words “ethics” is a systematic study of what we ought to do. Ethics aims to give consistent answers to the main questions concerning man and life. Its success, however, remains questionable. Besides, the relativity of the concept being ‘consistent’ comprises a different problematic area. The question “how ethical issues can be a problematic area” refers to the question of ‘what is ethics’ and its origin of paradigms and world views.

The perception of the meaning of existence is reflected on the problems emerging through the journey of being and guides it. There is a strong relationship between prevalent problems and meaning of being. The frame which will be drawn for the relationship between the big cosmological being (cosmos) and the small cosmological being (man) serves as a road map for where and how man should stand in the cosmos, what kind of being he is, what his limits are, what happiness is and how to attain happiness and what kinds of beings have rights. Religion approaches these issues from a God-centric point of view, whereas secular philosophy embraces a man-centered stand. Religion adopts a holistic approach while the latter focuses on particularities and relativity. In that sense, religion limits the freedom of man with regard to his relationship with God, position in cosmos and judicial relationship with other human beings. Secularism, on the other hand, frees man from God and touts him as the master of the nature. It also prioritizes the freedom of the individual against values restricting man.

If we go back to the issue of abortion, which means to kill a foetus using surgical ways, we realize that there are two main approaches. The two ethics groups emerging from two different perceptions of being can be categorized as “religious” and “secular”. While the religious ones vehemently oppose abortion, secular schools of ethics regard this option as “free choice of the individual”. These groups are named “pro-choice groups”. There are other secular groups which oppose abortion and they are known as “pro-life groups”. Although they have different reasons, religious and the secular groups that oppose abortion are in agreement since both defend the right of the foetus to live and are “pro-life”. Religion emphasizes that God created man and all men possess equal right to live. Even the foetus possesses the same right. Hence, except for cases involving saving the mother’s life or critical medical conditions, the abortion of the foetus is regarded as a crime and one of the major sins according to religious principles. Therefore, the foetus right to live precedes the parents’ individual right to choose. The secular pro-choice philosophy relates abortion to the individual’s freedom to choose and advocates that parents’ right to choose is not unethical and they should be able to decide relying on free will.

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<sup>3</sup> Encyclopedia Americana, International Ed., Grolier, Danbury, 2000, v. 10, p.610.

Adherents of this argument present it as a judicial gain of modern times. For this reason, abortion is one of the disputed topics during American elections; parties and candidates mark how their target audiences regard the issue. Again for the same reason, in Europe, abortion creates tension between the Vatican and governments' approving of abortion. Similarly, in the Muslim world, it creates a considerable judicial and ethical problem. The Hindu and Buddhist worlds can also be included in the same category. At this point, we would like to highlight that when we say that secular ethical principles adopt a human-centered approach, we do not mean that religions do not acknowledge the significance of man. Religions determine the role of man in physical and metaphysical realities and his rights in this framework. Religions render the relationship of man with his fellow beings, with society and nature meaningful from a metaphysical point and delineate standards for it. In this regard, both religious and secular systems of ethics and law try to tackle the problem of abortion.

Here, we encounter serious problems: How would law or ethics resolve this issue? What would be their priorities in considering the problem, man's right to choose or the foetus' right to live? Perhaps, the questions can be rephrased as: Does the foetus have a right to live? What gives man such a right? When does man gain the right to live? If the foetus has a right to live, and when the right to choose, namely parents' right to abort pregnancy, are in conflict, who should receive preference? Answering these questions instantly should not be easy. It is inevitable that we refer to a religious or secular system to answer these questions because we are discussing an issue of life, the subject matter is another living being, not a practice man carries only on himself. This emphasizes the sensitivity of the issue at hand. The perspective of Islam on the issue in which religions and secular value systems are contradictory is important because Muslims constitute 1.2 billion of the human population. Muslims do not live in seclusion but reside in all countries. Their approach to this issue concerns not only Muslim countries but also other countries, particularly, European countries and the U.S. It is a main teaching of the modern world that all countries should respect the rights of their citizens to believe and heed their respective system of beliefs while regulating their relationship with the citizens. To establish this, it should be acknowledged that Islam is a unifying force for Muslims and it determines their perceptions. The approach of Islam to abortion is also crucial for the non-Muslim world as an intellectual contribution and an alternative method to conserving life.

### ***Abortion in Islam***

To clarify the issue of abortion in Islam, a few subjects should be discussed. These issues involve the significance of life in Islam and when man gains the right to live. Religious scripts would be referred to while discussing these questions.

### ***Sanctity of the Human Life***

Islam recognizes the preciousness of human life, and believes it should be protected fully because Islam upholds the sanctity of life. There is a number of Qur'anic verses which testify this, such as:

*“And indeed We have honoured the children of Adam, carried them on land and sea, gave them lawful, pure provisions, and greatly preferred them above many of those We have created.”<sup>4</sup>*

Killing children is specifically condemned as they are the helpless victims in every society. In this regard, the Qur'an says:

*“You shall not kill your children due to fear of poverty. We provide for them, as well as for you. Killing them is a gross offense.”<sup>5</sup>*

Allah even considers, making unlawful the killing of a single individual human being by regarding it equal to the mass murder of the whole of mankind:

*“Because of that, We ordained for the children of Israel that if anyone killed a person not in retaliation for murder or for spreading mischief on earth, it would be as if he killed all mankind. And who saved a life, it would be as if he saved all mankind.”<sup>6</sup>*

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<sup>4</sup> Al-Isra, 17:70.

<sup>5</sup> Al-Isra, 17:31.

<sup>6</sup> Al-Maidah, 5:32.

Islam upholds the sanctity of life even during the times of war which in itself is an exceptional case. It is reported from Abu Bakr, the first Khalifah of Islam, that the Prophet frequently asked his commanders not to kill old men, women, children; people took refuge in worshiping places and not to cut trees down and destroy building.<sup>7</sup>

It is very clear that Qur'an and *ahadith* clearly denote the sanctity of human lives as a whole. However, does life in Islam include that in the womb?

### ***Abortion According to Sacred Texts***

There are no explicit verses or *ahadith* stating the status of abortion. Nevertheless, there are some *ahadith* which can serve as a source for this subject. Although many Qur'anic verses and *ahadith* allude to the sanctity of life, whether this right can be extended to the unborn is open to interpretations of scholars since this issue is not explicitly stated in the sacred texts. Scholars dealing with the subject say that if the mother's life is in danger, abortion can be allowed during all stages of the foetus development. If choosing between the mother's life and an unborn baby's life is inevitable, the mother's life has priority according to Islam. However, in cases of adultery, incest, or illnesses which will render the baby's life very difficult after birth or when some organs are missing, even if those cases do not endanger the mother's life, scholars allow abortion before the soul is breathed into the foetus. However, at this point we encounter a problem. If abortion is allowed before the soul is breathed, when actually is the soul breathed in? The question cannot be answered following modern scientific data because breathing of the soul is not within the boundaries of scientific field. In order to solve the conflict among the various views stated by scholars, we shall employ the advantages hadith methodology offers, which is discussed in the following paragraphs. First of all we shall try to understand the *ahadith* and prefer a view among the aforementioned ones in the light of Qur'anic verses and science. According to the hadith methodology, if any hadith is in contradiction with scientific facts, the latter is rejected. Modern medical science will help us in this pursuit since this field informs us of the stages of formation of the foetus daily which are also depicted in the Quran and *ahadith*. Despite not being concerned with the spirit, medical science strictly scrutinizes the physical formation of foetus. First we shall deal with the *ahadith* concerning this subject.

### ***Hadith Related to the Ensoulment***<sup>8</sup>

A hadith is reported by Al-Bukhārī on the authority of Abdullah Ibn Mas'ud about human development in which Prophet Muhammad said:

*"In any one of you, all components of his creation are collected together in his mother's womb by 40 days, and in that it is an alaqah (a clinging object) like that, then in that it is a mudghah (a lump looking it has been chewed) like that. Then God sends an angel and order him with four instructions. He is told to record his livelihood (his sustenance), his age, his deeds, whether he will be miserable or happy, and then the spirit is breathed into him (the soul is acquired)..."*<sup>9</sup>

The same hadith is also reported by Muslim with a change in the order of some of the words and the phrase "in that" (*Fī dhalika*) was not mentioned in the narration of Al-Bukhārī. Muslim's narration on the authority of the same companion Abdullah Ibn Mas'ud is as follows:

*"In any one of you, all components of his creation are collected together in his mother's womb by 40 days, then it is a clinging object ('Alaqah) for a similar (period). Thereafter, it is a lump looking like it has been chewed (Mudghah) for a similar (period). The angel is then sent to him and breathes into him the spirit. Allah sends His angel to it with instructions concerning four things, so the angel writes down his livelihood, his death, his deeds, his fortune and misfortune."*<sup>10</sup>

<sup>7</sup> See, Mālik Bin Anas, Abū Abdallah. *Muwatta Mālik*. Ed. Muhammad Fu'ad Abd al-Bāqī. Egypt: Dār Ihyā al-Turath al-ʿArabī. 2/447, hadith no: 965, Al-Bayhaqī, Ahmad Bin Ḥossain. *Sunani Al-Bayhaqī Al-Kubrā*. Ed. Muḥammad Abd Al-Qādir Atā. (Makkah: Dār Al-Bāz, 1994), v. 9 p. 89, hadith no. 17927.

<sup>8</sup> Ensoulment refers to the creation of a soul within, or the placing of a soul into, a human being.

<sup>9</sup> Al-Bukhārī, Muḥammad Bin Ismāil. *al-Bukhārī*, ed. by Mustafā Dīb al-Bughā, 3<sup>rd</sup> edition, (Bayrūt: Dār Ibn Kathir al-Yamāmah, 1987). v.3, p.1174, hadith no. 3036. See Al-Bukhārī also, v.6, p.2713, hadith no. 7016, Abū Dāwūd, Sulayman Bin Al-Ash'as. *Sunan Abī Dāwūd*. (Bayrūt: Dār al-Kitāb al-ʿArabī), v.4, p.364, hadith no. 4710.

<sup>10</sup> Al-Qushayrī, Muslim Bin al-ʿajjāj. *Muslim*, ed. by Muhammad Fu'ad Abd al-Bāqī. Bairut: Dār Ihyā al-Turath al-ʿArabī. V.4, p.2036, hadith no. 2643.

This narration was recorded in many other hadith collections<sup>11</sup> other than Al-Bukhārī and Muslim, sometimes in different versions where some words conflict with each other, and some words complete one another. There are issues related to the above *ahadith*.

**First**, the *ahadith* mentioned above explicitly states that the determination of the destiny co-occurs with the ensoulment. The first hadith reads as: “Then God sends an angel and order him with four instructions. He is told to record his livelihood (his sustenance), his age, his deeds, whether he will be miserable or happy, and then *the spirit is breathed into him*” Here, what is pointed out is that the breathing of the soul and the determination of the destiny happen simultaneously. There exists not a single hadith explicating that these two events happen at separate times.

**Second**, in these reports it is mentioned that the components of human creation (foetus) are collected together (*Jam'al-Khalq*) in three stages. But the name of the first stage "*nutfah*" does not belong to the text of the *ahadith* although it is mentioned in the Qur'an. The Qur'an mentions how Allah creates human beings, in the wombs of mothers, in stages, one after another, in three veils of darkness.<sup>12</sup> For example, in two verses, this is described as follows:

*“We created you out of dust, then out of Sperm/a drop of fluid (Nutfah), then out of a clinging object (□Alaqa), then out of a lump looking like it has been chewed (Mudghah), partly unformed, in order that We may manifest (our power) to you; and We cause whom We will to rest in the wombs for an appointed term, Then do we bring you out as babies, then (foster you) that ye may reach your age of full strength.”*<sup>13</sup>

*Then We placed him as (a drop of) sperm (Nutfah) in a place of rest, firmly fixed; Then We made the sperm into a clinging object (□Alaqa); then of that clot We made a (foetus) lump looking like it has been chewed (Mudghah); 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 Allah, the Best to create!”*<sup>14</sup>

Through reconciliation between the Qur'an and *ahadith* we can say that the first stage which has not been named by the *ahadith* is the stage of "*nutfah*". That is the reason al-Nawawi added "*nutfah*" in the narration of Al-Bukhārī and Muslim in his chosen *ahadith* to provide a better understanding.<sup>15</sup> The *nutfah* has been interpreted as the sperm or spermatozoon, but Dr. Keith L. Moore, (the famous Canadian embryologist), who believes that a more meaningful interpretation would be the zygote, which divides to form a blastocyst which is implanted in the uterus ("a place of rest"). This interpretation is supported by the Qur'an which states that "a human being is created from a mixed drop." The zygote forms by the union of a mixture of the sperm and the ovum constitutes the "mixed drop".<sup>16</sup>

**Third**, according to the texts, the components of human creation (foetus) are collected together (*Jam'al-Khalq*) in three stages such as "*Nutfah*", "*□Alaqa*" and "*Mudghah*". This clarify two phases in the development of the foetus, the first phase is without a soul and the second with a soul. Due to the manifestation of the meaning of the *ahadith*, scholars have come to the agreement that the breathing of the soul occurs immediately after these three stages. Then, the question of when or within how many days do these stages take place becomes crucial. This is because from the Islamic point of view this distinction has great importance in determining the juridical value of the different abortive acts. Scholars have different opinions on how many days the three stages of the foetus take place. An opinion based on the *ahadith* claims that the Prophet detailed the time involved in each of three phases, The majority of Muslim scholars have supported this opinion throughout history.

<sup>11</sup> See, Al-Tirmizī, Mu□ammad Bin □Isā. *Sunan al-Tirmizī*, ed. by A□mad Mu□ammad Shākir. (Bairut: Dār I□yā al-Turath al-Arabī), v.4, p.446, hadith no. 2137, Ibn □anbal, Abū □Abdullah A□mad al-Shaybānī. *Musnad Aīmad*, (Egypt: Muassasat Qurtubah), v.1, p.382, hadith no. 3624, Al-Bayhaqī, A□mad Bin □ossain. *Sunani Al-Bayhaqī Al-Kubrā*, ed. by Mu□ammad Abd Al-Qādir Atā. (Makkah: Dār Al-Bāz, 1994), v.10, p.266, hadith no. 21069.

<sup>12</sup> See, Al-Zumer: 39/6.

<sup>13</sup> Al-Hajj: 22/5.

<sup>14</sup> Al-Muminun: 23/13-14.

<sup>15</sup> Al-Nawawī, Yahyā Bin Sharaf bir Mary, *Al-Arba□in Al-Nawawīyyah*, p. 16, hadith no. 4.

<sup>16</sup> <http://www.quranandscience.com/human/135-dr-keith-moore-confirms-embryology-in-quran.html>, Retrieved: 12-11-2009.

The scholars agreeing on this opinion consider the hadith of Ibn Mas'ud as: the utterance of the Prophet "The angel is then sent to him" is not attributed to the preceding phrase "Then in that it is a *mudghah*", but rather to the phrase 'the creation of one of you is gathered in his mother's womb in forty days', "Then it is a '*alaqah* then as such *mudgha*". However, Professor Zaghoul El-Naggar disagrees with this interpretation and says that the hadith of the Prophet indicates that the first three stages from the "*Nutfah*" to the "*Mudghah*" take about 40 days, which is proven by modern scientific facts.<sup>17</sup>

El Naggar's view point is, indeed, supported by scientific facts<sup>18</sup> as well as by other *ahadith* which are reported in hadith collections. For example, Prophet Muhammad said:

*"When forty two nights have passed over the Nutfah, Allah sends an Angel to it, who shapes it and makes its ears, eyes, skin, flesh, and bones."*<sup>19</sup>

Another hadith is narrated by Abu Tufail, when he said: I visited Abu Sariha Hudhaifa b. Usaid al-Ghifari who said: I listened with these two ears of mine Allah's Messenger as saying:

<sup>17</sup> El-Naggar, Zaghoul, *Treasures in the Sunnah, A Scientific Approach, Part Two*, (Cairo: Al-Falah Foundation, 2005), p. 33

Here I would like to share scientific explanation of the hadith by Prof. El-Naggar:

This hadith indicates that the foetus goes through three stages: Nutfah (a drop or a small amount of water, but here it is interpreted as the zygote), 'Alaqah (a leech-like structure or bloodsucker) and Mudghah (chewed substance or chewed lump). These stages take 40 days after the fertilization of the ovum.

The *Mudghah* does not take the shape of a human in any sense. It starts to gradually change into the human shape and the fifth days following its creation, i.e. the period between the 40th to 45th days after fertilization. On the 45th day, the major body organs and skeleton are distinctly formed and cell division continues afterwards.

The term Nutfah in general means little amount of water, equivalent to almost a drop. In embryology, this drop refers to the sperm or the ovum. However, in the hadith, the Nutfah refers to the zygote or the fertilized ovum, which is called in the Qur'an "Nutfah Amshaj" (mixed drop) formed by the union of the sperm and the ovum.

The "Nutfah Amshaj" continues to grow through cell division, until the morula (a globular solid mass) is formed four days after conception. On the 5th day, the morula is divided in two halves, forming what is called the blastocyst. On the 6th day, the Nutfah reaches the final stage of its growth, when it is completely embedded in the uterine wall. Its length reaches up to 0.5 to 0.68 mm. Then the 'Alaqah (clot of blood) begins to be gradually formed. By the end of the second week, the embryo inside the blastocyst clings to the endometrium of the uterus, in the same way that a water leech clings to the skin of the host. Just as the leech derives blood from the host, the human embryo (inside the blastocyst) derives blood from the pregnant endometrium.

This stage takes about a week for the blastocyst to anchor itself completely to the wall of the chorionic cavity by a connecting stalk, which later forms the umbilical cord. The embryo at this stage is almost two weeks old, and the length of the 'Alaqah is between 1.5-3 mm. The umbilical cord takes about 10 days to grow (from day 6 to 16 after conception). The embryo acquires the full shape of a leech after three weeks from conception. The leech has a deep neural groove, with the appearance of some small nubbins on the sides of the body and the forehead also starts to be prominent.

By the 24th or the 25th day, the stage of 'Alaqah ends. After two days, the 'Alaqah starts to change into the Mudghah. One somite appears first, then the number increases between 40-45 somites. They give the shape of the Mudghah, which resembles a chewed piece of flesh. This stage ends by the 6th week of gestation. The foetus, at this stage, is almost 1 cm long.

Starting from the 7th week, bones begin to be formed. At this stage, the foetus length varies between 14 mm to 20 mm. Its body straightens up and the nidus of his fingers appears.

In the 8th week, the stage of muscle formation starts. The foetus is about 2 to 3 cm long.

From the 9th week to the 38th week of gestation, the last stage of creation starts. This stage gives the foetus a human appearance. The bones are covered with muscles, the muscles covered with skin and each part of the body starts to have a distinct shape. The rate of growth is slow at the beginning. After the 12th week, the rate of the foetus formation speeds up clearly until the moment of birth.

The hadith of the Prophet (PBUH) indicates that the first three stages from the Nutfah to the Mudghah take about 40 days, which is proved by modern scientific facts...

Studies in embryology proved that these stages of the formation of bones, skin, ears etc. start only by the end of the 6th week of gestation, i.e. 42 nights, which proves the truthfulness of the Prophet's hadith.

El-Naggar, Zaghoul, pp. 31-33.

<sup>18</sup> Well-known hadith scholar Ibn Qajar Al-Askalānī (d. 1448), depends on the knowledge of Al-Fā'il Alī bin Al-Muhadhib Al-ḥamawī, the medical scientist of the 15<sup>th</sup> century, and interpret all stages of foetus "*Nutfah*", "*Alaqa*" and "*Mudghah*" accordingly.

(See, Al-Askalānī, Ahmad Bin Alī Bin Qajar. *Fath al-Bārī Sharḥi al-Bukhārī*, ed. by Muhammad Fu'ād Abd al-Bāqī and Muḥib al-Dīn al-Khatīb. (Bayrūt: Dār al-Ma'rifa, 1379 H.) v. 11, p.481)

Today's medical science is so advanced in a sense incomparable to the medical science of the 15<sup>th</sup> century. Therefore, we should interpret related ahadith accordingly.

<sup>19</sup> Muslim, v.4, p.2037, hadith no.2645.

“The ‘Nutfah’ stays in the womb for forty nights, then the angel, gives it a shape. Zubair said: I think that he said: One who fashions that and decides whether he would be male or female. Then he (the angel) says: Would his limbs be full or imperfect? And then the Lord makes them full and perfect or otherwise as He desires. Then he says: My Lord, what about his livelihood, and his death and what about his disposition? And then the Lord decides about his misfortune and fortune.”<sup>20</sup>

Another example of this is the narration of Jabir, in which the Prophet was reported to have said:

“When the Nutfah became stabilized in the womb in forty days, or forty nights, Allah sends an Angel...”<sup>21</sup>

The misunderstanding that concerned the three stages of the foetus said to consist of forty days each, equaling to a total of 120 days for the stages to complete came from the expression “*Fī dhalika*” “similar (period)”. For them it means each stage takes 40 days to complete. However, looking at the other narrations given earlier, we understand that “a similar period” refers to the gathering of the components of creation, which includes the three stages mentioned in the hadith. This means the collection of components (*Jam’al-Khalq*) or the components of human creation are collected together in the first 40 days.<sup>22</sup> The expression “*Fī dhalika*” mentioned in the hadith and translated as ‘in it’ can also be read as “*Fī dhalika al-waqt*” (in that time). The word ‘time’ refers to the first forty days and nothing else.

**Fourth**, regarding the time of ensoulment, the question is on which day the soul is breathed into foetus. The answer is influential within the Islamic legal system in the context of the laws relating to abortion. However, religious authorities have taken various positions in when ensoulment actually takes place. On the other hand, the Qur’an does not specify when ensoulment takes place, such information is provided by various *ahadith* reported by hadith collections. The majority of the scholars relying on the literary interpretation of the first hadith, have come to the agreement that ensoulment occurs immediately after the third forty-day period or within the following ten days, in both cases at the beginning of the fifth month. So widespread and celebrated this view has become that many scholars regard it as an acknowledged fact.<sup>23</sup> We discussed that the hadith does not denote ‘four months’ or ‘the nutfah stage’ as forty days each. On the contrary, the statement “the creation of one of you is gathered in his mother’s womb in forty days” implies that from “*Nutfah*” to “*Alaqa*” and from “*Alaqa*” to “*Mudghah*”, the creation is completed within forty days. This is proven scientifically. It is also important to mention that in neither *sahih* nor *hasan ahadith* (accepted hadith) does the word “*Nutfah*” come after this expression. According to Dr. Sharaf Mahmud Al-Kuzāt, the soul is breathed into the foetus not after the egg is fertilized but forty-two nights after the *Nutfah* has settled down in the womb.

This is because the *Nutfah* settles in the womb when it holds onto the wall of the womb, approximately on the seventh day after conception. Thus, the breathing of the soul occurs after the forty-ninth night, approximately at the beginning of the eighth week.<sup>24</sup> It is clear that the ensoulment of foetus appears to be after forty days. However, the period which goes beyond forty days has not been determined absolutely. Therefore, we cannot ascertain a specific day for the breathing of the soul. Nonetheless, it is most probably that the soul is breathed in between the first forty and fifty days. According to Muslim scholars, there is no doubt that ensoulment does not take place before it. According to *ahadith*, the ensoulment of the foetus takes place when the *Nutfah* settles in the womb between forty or forty-two, or forty-five days. For this we can say that the breathing in of the soul depends on the foetus, because the event is related to the stages of creation. The pace of growth in foetuses varies as those of children and adults.

<sup>20</sup> Muslim, v.4, p.2038, hadith no.2645.

<sup>21</sup> *Musnad Ahmad*:v.3, p.397, hadith no. 15304.

<sup>22</sup> Dr. Sulayman Al Ashgar, *Nazrat Fī hadīth of Ibn Mas’ud*.

[http://sh.rewayat2.com/fkh\\_3am/Web/2971/006.htm](http://sh.rewayat2.com/fkh_3am/Web/2971/006.htm), Retrieved: 14-11-2009.

Dr. Abd Al-Jawād Al-Āwī, *Al-wār al-Janīn wa Nafkhu al-Rū*. [http://www.nooran.org/O/8/8\(1\).pdf](http://www.nooran.org/O/8/8(1).pdf), Retrieved: 15-11-2009, El-Naggar, Zaghoul, p. 33

<sup>23</sup> Maulana Khalid Saifullah Rahmanī, *Response to the Queries about Birth Control, Contemporary Medical Issues*, ed. by Qazi Mujahidul Islam Qasmi, 1<sup>th</sup> edition, (Kuala Lumpur: Noordeen, 2007), p. 96.

<sup>24</sup> Al-Kuzāt, Sharaf Mahmud, *Cenine Ruh Ne zaman Verilir?*, Diyanet İlmi Dergi, v.38, April-June, 2002.

Hence, the opinion stating that the breathing of the soul varies from one foetus to another should not be regarded as odd. This is also my outcome based on a comparative study of the different texts of *ahadith* on the same issue in order to have a more comprehensive interpretation and better understanding of the issue.

**Fifth**, the views of Muslim jurist regarding permissibility of induced abortion should be considered. There is consensus among the Muslim jurists and scholars that induced abortion is forbidden, i.e. *Haram*, after the spirit is blown into the foetus.<sup>25</sup> Sheikh Yusuf Al-Qaradawi, states in this regard in his well-known book, *The Lawful and the Prohibited in Islam*:

“While Islam permits preventing pregnancy for valid reasons, it does not allow doing violence to the pregnancy once it occurs.

Muslim jurists agree unanimously that after the foetus is completely formed and has been given a soul, aborting it is *haram*. It is also a crime, the commission of which is prohibited to the Muslim because it constitutes an offense against a complete, live human being.”<sup>26</sup>

Before the breathing of the soul, it might be allowed under social necessities which are complex and different between cultures and times, such as pregnancies resulting from extra-marital affairs, rapes and incest, pregnancies at a young age, virus infection upon the baby, fear of baby deformity and other factors.<sup>27</sup> Before ensoulment, induced abortion remains a prohibited act but less serious than that performed after ensoulment, which is lawful only to save the mother’s life.

### **Conclusion**

Many philosophers, theologians and scientists have argued about the definition of personhood, the time for the beginning of a human individual's life, and the right to life from different perspectives. However, an acceptable explanation to all these issues has not been provided yet. In this article a solution to the dilemma on abortion and the right to life of the foetus has been illustrated from an Islamic point of view.

The question of defining a human person is a matter of moral decisions not of scientific fact, simply because soul is not subject to science. It is clear that neither the classical schools of law nor contemporary Muslim religious scholars agree as to when the ensoulment of the foetus takes place. But they all agree that after the ensoulment, the foetus’ right to life starts. The only difference between a foetus whose soul has been breathed in and an infant is that one is in the world of the womb and other is in the physical world. For this reason, it is a fundamental fact that induced abortion is considered a termination of life.

That is why Islam disagrees with the idea that draws a distinction between a human being and human person, arguing that while the foetus is innocent and biologically human, it is not a person with a right to life. When it is related to another life, then it is not the woman’s right to self-determination to abort the foetus. It is not moral to say that the woman who has the prior moral claim because she is the already-existing free moral agent, and it is her life, her body, and her physical resources that are being claimed, not the other way round.

Through my research I came to the conclusion that the three stages of the foetus mentioned in Islamic religious texts take place in the first forty days. This view correlates with an *ahadith* related to the ensoulment and scientific facts. This means that the soul is breathed into the foetus after forty days, and not 120 days. Consequently the Fatwa on abortion should be given accordingly. My view is that abortion is forbidden after the forty days except for a pressing personal necessity, that is almost always if the mother’s life is at stake.

<sup>25</sup> Maulana Khalid Saifullah Rahmani, p.96.

<sup>26</sup> [http://www.witness-pioneer.org/vil/Books/Q\\_LP/ch3s4pre.htm#Abortion](http://www.witness-pioneer.org/vil/Books/Q_LP/ch3s4pre.htm#Abortion), Retrieved: 16-11-2009.

<sup>27</sup> See, Yacoub, Ahmed Abdel Aziz, pp. 211-215.