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An Evaluation of Muslim Views on Abortion as Presented By Donna Lee Bowen

Bowden provides a fairly thorough analysis of the variances and agreements within the Muslim community on the subject of abortion. It is important to note that in general within the Muslim community abortion is decided on a case by case basis; those tasked with making these decisions have to weigh the value on maintaining a strong Muslim community with the individual needs of families and mothers who seek abortion (52).

All Muslims hold a deep respect for life. They take God's command to "not kill the soul that God has made sacred, except for just cause," (17:33, 25:68) very seriously. For the great majority of Muslims, any abortion at any point must have just cause out of respect for life, and God's creation (55). Islam takes into consideration the gradual development of the fetus in the womb, and that as time goes on the fetus becomes more alive. Prominent thinker Al-Ghazali reasoned that any destruction to life was a crime, but that it grew substantially more serious as the fetus develops further into a human (57).

The main issue with the gradual nature of fetal development is the notion of ensoulment. While the various schools of Islamic thought vary as to when ensoulment occurs, they all prohibit abortion after ensoulment with the only exception being if it becomes medically necessary to save the mother's life (55). The discrepancy between the schools of thought originates from two differing Hadiths; one marking four periods of 40 days of fetal development before ensoulment and the other marking the four periods as all happening within 40 days (55). Al-Ghazali, a prominent Shafi'i, rejects the notion that abortion can be done without just cause even before ensoulment; he believes that even before it is fully formed, the fetus is of divine

nature (55). The Hanafi school would disagree with Al-Ghazali. They maintain the most liberal view on abortion with some jurists going so far as to permit abortions before 120 days without just cause (56). Other Hanafi jurists disagree on that point but only disapprove of abortions before 120 days (56). On the other end of the spectrum, the majority of Maliki jurists do not approve of abortion at any point in the pregnancy (56). Though, there is disagreement within the school as whether ensoulment occurs at conception, or after 40 days (56). In contrast, the Hanbali school whose view is markedly more ambiguous than the other schools would not prohibit an abortion before 40 days (56).

The one great exception for all cases is the health of the mother. On this point the schools of thought all agree that the unborn must be sacrificed in order to save the mother's life (57). This decision is typically put on the mother's attending physician (57). One legal rule which supports this position is the notion that "necessity knows no law" (57). This takes into consideration the reality of the world we live in where mothers may need to make a decision to save their own lives. Additionally, the legal premise that the lesser evil should be taken to ward off the greater one (57) supports a mother's right to save her own life when it becomes necessary.

Islam, in general, accepts the fetus as a potential life before ensoulment. Schools barring the Maliki, Ibadis, and Imami Shi'i take this a step further with some jurists even saying that abortion before 120 days, or ensoulment, does not actually constitute abortion as it remains an abstract action (56,57). Medical doctor Hassan Hatouth, disagreeing with this notion has spoken on the subject explaining that the Islamic laws were based on the best medical knowledge of the time, and that they should be updated to reflect the current medical knowledge that the fetus is

alive well before 120 days (59). The general concensus, barring time of ensoulment, is that once the fetus is ensouled it's life is no longer potential but actual, and abortion must be justified if it all permitted.