

The Inception of Human Life in the Light of Statements of the Holy Qur'ān and Sunnah and the Opinions of Muslim Scholars

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Abstract

There is no definitive statement in the "Qur'ān" or "Sunnah" that identifies the beginning of human life. This allows "Ijtihād" in answering this question. The author utilizes a Ḥadīth narrated by ibn Mas'ūd to derive the opinion that human life begins 120 days after conception. At that time, the angel by the will of Allāh puts in to effect the foreordination in the embryo/fetus of that particular being. At the same time or shortly thereafter the spirit is breathed into that fetus making it "human". Various arguments in favor of this opinion are cited and counterarguments are rebutted.

Key words: *Beginning of life, Islamic jurisprudence, foreordination, spirit, vegetable life, human life.*

It is undoubtedly true that there is no definite statement in the "Holy Qur'ān", the book of "Allāh", Most Glorious and Sublime, nor in the "Sunnah" of His Messenger (PBUH), nor in a comprehensive "Fiqh" treatise, which deals with the question of the beginning of human life. This makes it certain that there is room for interpretation and deduction by learned and specialized people.

The bases for scholarly effort in dealing with this subject are of two types, religious and scientific. If

the two can be brought together, then the outcome is likely to be more valid and closer to the truth. The religious basis derives from some statements in the Qur'ān and Sunnah (tradition) along with the opinions of a number of Muslim scholars. The scientific basis is derived from the findings in the field of medicine.

The purpose of this paper is to determine the point at which the life of a human being begins, allowing him to be called human. In my belief, this does not include types of life which precede human life and pave the way for it. Otherwise one can say that life begins even before the existence of the zygote i.e. the sperm, because no one can deny that a sperm is alive, in one sense or another, before fertilizing an ovum. What is required here, however, is the definition of a more specific beginning, the beginning of life which is described as being human.

There is no conclusive answer, neither in medicine nor in Islamic law, to the question of when this life begins. But in Islamic statements, there are certain non-conclusive hints, and in medicine there are different points of view.

What the Islamic hints and the interpretations bas-

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ed on them suggest is that human life begins four full months after the conception of an embryo in the womb of its mother. Earlier life cannot be described as human although it has some of the characteristics of life in its general meaning, including growth, formation, involuntary movement, and other vital processes that have been discovered using the available sophisticated modern medical equipment.

To reach this conclusion, I will take as my starting point an authentic tradition "Ḥadīth" narrated by ibn Mas'ūd, may Allāh bless him. This tradition will be the foundation of my thesis, which I will support with further evidence, each item of which will be a cornerstone in the edifice. The paper will be concluded by an attempt to answer a number of counterarguments.

The two Shaykhs (al-Bukhārī and Muslim) relate on the authority of 'Abdullah ibn Mas'ūd that Allāh's Messenger (PBUH), has said:

"The creation of each one of you is brought in the belly of his mother for forty days, then for a similar period he is a germ cell, then for another forty days he is an embryonic lump, then an angel is sent to him and ordered to write down four words. He is told: "write down his career, his livelihood, his life duration, and whether he is to be miserable or happy, and the angel breathes spirit into him . . ."'²

This Ḥadīth defines the stages of man's creation, though it does not mention the characteristics of each stage. What is helpful to us in our effort to determine the point at which human life begins is the timing given in the "tradition" (Prophet Muḥammad's (PBUH) saying), and that is for two reasons. The first is the writing down of the foreordination of the person being created, which covers his livelihood, his life duration, his career, and his happiness or misery, and the second is the breathing of spirit into that person. The tradition suggests that each of these two things occurs at the end of the first 120 days of fetal life, and this timing implies that the quality of being human is endowed by Allāh to the creature deposited in the belly of its mother only at the end of that period. The tradition also implies that what the breathing-in of spirit signifies is the means by which that creature passes from the stage of having life in its general sense into that of having the type of life which is modified by the quality of being human.

Now I shall discuss the evidence supporting this statement:

1. Allāh's foreordination is synonymous with His knowledge of the future conditions of His creatures, with the perfect system He has made for existence, and with the general laws through which He connects causes and consequences.^{3,4} Allāh says:

"We have created everything in due measure and proportion."

On the other hand, fate means Allāh's creation of things in accordance with His knowledge and His will.

As is obvious, Allāh's foreordination is prior to the creatures involved, and is recorded in the safeguarded tablet "al-lūh al-Mahfūz." Before something foreordained actually takes place, or before it exists in reality, no one knows it other than Allāh, the Most Glorious, Sublime.⁶

Angels are the troops of Allāh who carry out His recorded aforeordination. They know of it only in as much as and when He lets them know. When Allāh, the All-Glorious and Powerful, wants a creature to be, He lets His troops of angels know of His preordination concerning this creature and orders them to put it into effect, which they begin to do at the first moment of the creature's existence as preordained by Allāh. During this stage, an angel would know, because Allāh has given him such knowledge, the preordination for this particular creature before it turns into reality. Once it is put into effect, the preordination becomes common knowledge and is no longer a metaphysical issue. This is true with all creatures, including human beings. For every human being there is a foreordination recorded on the tablet before he actually exists and even before angels are told about him. For every human being, God has placed angels in charge of his existence at every stage of his creation and formation. They put into effect Allāh's foreordination as recorded on the "safeguarded tablet." To do so, they must be given the preordained timetable for every human being before the moment of his existence, so that they would follow that divine timetable.

In accordance with these Islamic facts, a human being cannot exist before the angels in charge of him are told the foreordination concerning his life span, livelihood, work, misery or happiness, and other things.

The tradition we are examining states that the Creator sends the angel in charge of putting into effect the foreordination concerning a certain human being four months after the creature is conceived as an embryo in his mother's womb. This angel is supplied with details of the foreordination⁷ to observe it while taking care of that human being, which starts at the moment he is promoted from having life in its general sense to having life in its more specific, human sense. The angel gives this human being, while still in utero the livelihood preordained for it, even if it is merely a drop of nourishment that it receives from the body of its mother; allows it its life span, even if it is no more than the few hours it lives in its mother's womb after that moment; and inspires it to do the work preordained for it, even if that is on-

ly a slight movement within the mother's womb. It follows therefore, that human life begins with the breathing in of spirit which, as mentioned in the tradition, follows the commission by Allāh of the angel in charge of this life, with details of its foreordination, four months after conception. Perhaps, the breathing-in process takes place within ten days after the first four months, as ibn 'Abbās, may Allāh bless him, and his father, are quoted to have said.⁷

If human life in its more specific sense, began earlier or right at the time of ovum fertilization, Allāh would not delay sending the angel, nor would the latter be slow to ask about the details of his job.

This conclusion does not negate that a zygote, as well as the sperm before it and the germ-cell and the embryonic lump that succeed it, have aforeordination which is put into effect through these stages at the order of Allāh, and the execution of the angel commissioned for this task; but, it is a foreordination independent of that of the human being this zygote produces four months later. It is rather a foreordination of a being that leads to the creation of a human being. If this being is preordained to die before spirit is breathed into it, it does not turn into a human being, nor is it subject to the type of foreordinations that apply to human beings. If it were human from the time an ovum is fertilized, the angel would not wait to ask about its foreordination as a human being, which this angel would want to begin executing from that very moment.

2. In another authentic tradition related by the two Shaykhs, (al-Bukhārī and Muslim), and narrated by Anas ibn Mālīk, the Prophet Muḥammad (PBUH) is quoted as saying:

“Allāh appoints an angel in charge of a uterus. He says; Lord, it is a drop of sperm; Lord, it is a germ-cell; Lord, it is an embryonic lump. If Allāh decides to bring forth a creation, He says so. The angel asks; 'O! Lord, is it a male or female? Miserable or happy? What is its livelihood? What is its life duration? and writes this down while it is in its mother's belly.'”^{8,9}

As it is clear, the angel in charge of the uterus asks his Lord about the foreordination of a human being only after the three stages of drop of sperm, germ-cell and embryonic lump are over, which, according to the first tradition, takes four months. He makes the question when he is certain that, out of these states, Allāh wants to make a human being with his own foreordination that covers his life duration, traits, livelihood, sex, and other things. This is what the phrase “brings forth” means. The Arabic root from which the expression is derived means, among other things, to make or to ordain. The same expression is used by Allāh, the Most Sublime, when He says;

“He brought them forth, seven heavens, in two days.”¹⁰

From the same root, “Qaḍaya”, the Arabic word for destiny, “Qaḍā' ” as in the expression “Qaḍā' wa Qaḍar” (destiny and foreordination), is derived.^{11,13}

3. This interpretation is also supported by many Qur'ānic verses which mention the stages of the creation of a human being in the belly of his mother. Allāh says:

“Men, if you doubt the resurrection, we first created you from dust, then from a drop of sperm, then from a germ-cell, and then from a formed and yet not formed embryonic lump, so that we might make things clear to you. We cause to remain in the womb whichever of you we please for an appointed term, and then we bring you out as infants, that you may grow up and reach your prime. Among you are some who die young, and some who live on to the worst age.”^{11,14}

This divine statement is an irrefutable argument for any one who denies resurrection which, in essence, is getting a live being out of dead matter. Allāh says that He created Adam, the beginning of human life, from dust, which is dead matter, and that he creates Adam's offspring from sperm, then germ-cell, and then an embryonic lump. By analogy it must be deduced that these stages which precede the creation of human life lack the properties of such life, although they are alive in the general sense of living. The argument then is that it stands to reason that Allāh the Creator who produces life from nonliving matter is certainly capable of resurrection. If those stages were part of the human being himself, the verse would not be consistent in meaning either syntactically, for it would imply that Allāh creates man out of man, or by inference, for the eloquence of the verse derives from its highlighting the capability of Allāh, to create human life either from an inanimate object, such as dust, or from a mode of life inferior to human life in that it lacks certain essential properties. On the other hand, if the verse is interpreted as describing the creation of a perfect human being from an imperfect one (i.e., the preceding developmental stages), and if the expression is allowed it still does show the capability of Allāh; however, it is not a proper answer to the atheist's claim of the impossibility of restoring life to dead matter. Thus my interpretation of ibn Mas'ūd's tradition is more in harmony with the context of this verse.

4. The majority of scholars who explain ibn Mas'ūd's tradition interpret the phrase “to breathe spirit”, as used in the tradition, to mean the process chosen by the Creator for the inception of human life in the fetus, and only few of them deny that it has any kind of life before this process. Al-Qurtubī in his

commentary, for example, considers the phrase, "to breathe spirit into it", as used by the Prophet Muḥammad (PBUH), to mean that the breathing is the means of the creation of human life in the fetus, and that it takes place when Allāh wills it to.¹⁵

Ibn Ḥajar in "Faṭḥ al-Bārī," interprets "to breathe spirit" by saying that "to breathe" originally means to get wind out of the chest of the breather and into the thing he is breathing into, but when this is attributed to Allāh, it suggests that He orders it to be and it is i.e., He orders: be a human being and it does turn into one as Allāh orders it to be.¹⁶

Ibn al-Qayyim al-Jawziyyah believes an embryo has two lives; the first is the one before spirit is breathed in, which is similar to plant life and is manifested by growth and involuntary nourishment processes. The second is human life, which is introduced into a fetus when spirit is breathed into it. Among its consequences are sensations and voluntary movements.¹⁷

5. The scholars' view that "the breathing of spirit is the means of introducing human life" is supported by the analogy with the first spirit breathed into the first man, Adam (PBUH). Reports agree that when Allāh wanted to create Adam, he sent Jibrīl to hold a handful of soil which Allāh made into mud, gave it a shape, and breathed spirit into it. Once the spirit was introduced, the handful of mud turned into a human being, who was alive and able to speak.¹⁸ This is what Allāh refers to when He says:

"I am creating man from clay. When I have fashioned him and breathed of my spirit into him, kneel down and prostrate yourselves before him."¹⁹

6. The real means to end human life is the departure of the spirit from the body, although the moment when this takes place is not defined. This fact is expressed in many statements of the Holy Qur'ān and Sunnah. For example, Allāh says:

"Allāh takes away men's souls upon their deaths."²⁰

This means that He takes their spirits away, because "souls" is used here to mean spirits.²¹⁻²⁴ In another example, Allāh says:

"Could you but see wrongdoers when death overwhelms them. With hands outstretched, the angels say: Yield up your souls. Today you shall be punished by suffering shame, for you have said of Allāh what is untrue..."²⁵

The verse clearly implies that yielding the soul, which is the spirit as interpreters say, is associated with death. The angels stretch their hands to get hold of it when the course of a certain human being is run. Life ends at the moment that the spirit departs.²⁶⁻²⁸

The traditions that express the same idea are numerous. They state that the spirit gets out of the human body at the moment of death. Human sight can follow and see it at that moment, and the task of the 'Angel of Death' is to get hold of it when the time comes.

Since it is established that the departure of the spirit is the means ordained by the Creator for ending human life, there is no doubt that its introduction into the human body signals the inception of that life. And since the Prophet Muḥammad (PBUH) has told us the time at which the spirit is breathed into the body, we have no choice other than defining the beginning of human life in accordance with what he, who is inspired with the truth and utters nothing but the truth, tells us.

Comment

In accordance with the interpretation of the Ḥadīth narrated by ibn Mas'ūd cited above, we notice a kind of scientific miracle with which Allāh equipped Prophet Muḥammad (PBUH). The tradition clearly refers to two types of life. The first type is a "physical" life which is devoid of human qualities. Some Muslim scholars compare it to vegetable life, and some medical scientists call it cellular life. Its characteristics include nourishment, growth, and involuntary motion. The second type is "human" life, which is characterized by will and consciousness. The two types go together most of the time, except in the first period of physical life when human life still does not exist.

The division is clear in the tradition, which shows that an embryo, before the breathing in of "spirit" is in a state of development, growth, and formation. It turns from a drop of intermingled sperm and ovum into a germ-cell, and then into an embryonic lump. These are the manifestations of the first type of life. After spirit is breathed into it, it turns into a human being with all the characteristics of such a being.

Modern science has supported that categorization into two types of life. The most striking evidence offered is the physicians' ability to remove many human organs and to keep them alive although they are separated from the body and are no longer under the control of a human brain and a human spirit.

If the life Allāh creates in a human body from the time the first cell is formed to the moment of death, is all of one type, no one would be able to bring to life or to activate a heart or a kidney removed from the human body, either while the body is still alive or after its death.

What now follows are questions about this interpretation of when life begins and attempts to answer them.

1. It may be said that the afore-mentioned Ḥadīth, on the basis of which this concept is offered, is not the only one on the subject, and that various versions

of the Ḥadīth had been narrated by other companions of the Prophet (PBUH). These versions differ in some of the details they give concerning the embryo, such as the time at which its foreordination is set down on record; forty, forty-five days or six weeks after an embryo settles in the womb. There are also differences over the formation of an embryo and the creation of its organs.²⁹⁻³¹

Although I do not wish to start answering this question by casting doubts over the reliability of the other versions which differ from ibn Mas'ūd's narration, some of which are listed in Muslim's "Ṣaḥīḥ" (authentic collection) it should be noted that ibn al-Salāḥ, a traditional scholar affirms that al-Bukhārī's avoidance to include in his Ṣaḥīḥ any version of this tradition that differs from that of ibn Mas'ūd, indicates that the tradition as narrated by ibn Mas'ūd is the most outstanding among the traditions that deal with the stages of man's creation, in validity of both its text and its chain of narrators. Any other tradition that seems to contradict it must be interpreted in keeping with its basic facts.³²

At any rate, all the authentic versions agree on a minimum of time that passes before the "Angel of the womb" writes down man's foreordination including his life duration, livelihood, sex, and misery or happiness, or at least asks about it. This minimum is forty days after the fertilization of an ovum. There is no version or tradition on the subject that indicates, whether explicitly or implicitly, that the angel sets down, or asks about man's ordainment before the end of forty days of gestation. The difference between the different versions concerns the period after, not during these forty days.

All these traditions suggest that the angel does not know beforehand the foreordination of the human being that is to be created later.

On the basis of this minimum, we can affirm that life which is described as being human does not begin before the first forty days after an embryo is conceived in the womb.

To say anything different means to claim that a human life begins before the angel in charge of it is supplied with the information concerning its foreordination, without which this angel is helpless to do anything. The claim is utterly unacceptable; man has a foreordained destiny and angels put it into effect, but they can do that only after they receive details of the foreordination of the creature concerned.

When we accept this, it is definite that human life does not begin before the first forty days of gestation. If we stop at this point, two possibilities are left open. One is that the inception of human life occurs on the forty first day, and the other is that it occurs later. The second point, on which the various authentic versions agree, makes it clear that the first possibility should be excluded. So, what is that later point?

It is that the "breathing of spirit" into a fetus takes place only after the first four months of pregnancy, as in the version of ibn Mas'ūd. Neither the various versions nor Muslim scholars differ on this point even when they disagree about the first, i.e. the writing down of human foreordination.

If we take into consideration the above interpretation concerning the significance of breathing in of the spirit, in which we follow the example of various scholars who consider it the means for the inception of human life, our approach in understanding the tradition narrated by ibn Mas'ūd proves to be valid. 2. Some may argue over the significance of the breathing in of the spirit. They claim that the interpretation concerning the significance of "breathing in of the spirit" contradicts what is suggested by the verse:

"They ask you about the spirit: Say: The spirit is my Lord's concern. Little indeed is the knowledge you are given."³³

This suggests that the "spirit" is a metaphysical concern which we are not allowed to go into, base rulings on, or use to define the beginning of human life.

This question may be answered in two different ways.

The first is that the objection is based on the assumption that this verse refers to human spirit, but this is neither the only, nor the most preponderant interpretation offered by Qur'ānic scholars. It is one of several interpretations.

Ibn 'Abbās said that the "Spirit" in this verse refers to Jibrīl (PBUH), the same as another verse:

"The faithful Spirit alighted with it, from on high, upon your heart . . ."³⁴

Another interpretation, attributed to 'Alī ibn 'Abī Tālib (may Allāh's blessings be upon him), is that the "Spirit" is another great angel (other than Jibrīl), the same angel referred to when Allāh says:

"On the day when the Spirit and the angels stand up in their ranks, they shall say nothing, except him who is permitted by the Merciful to speak and declare what is true . . ."³⁵

A third interpretation says the "Spirit" is Jesus (PBUH).

According to these three interpretations, the spirit in the verse is a creature of Allāh.

Another interpretation, attributed to al-Ḥasan al-Baṣrī, holds that the "Spirit" is the Qur'ān, and the verse,³⁶ in this sense, means that the Holy Qur'ān is a concern of Allāh, which He has inspired to Prophet Muḥammad (PBUH), who has not composed it

himself.³⁶⁻³⁸

These interpretations suggest that the "Spirit" in the verse³³ is not that which brings the body to life. Ibn al-Qayyim al-Jawziyyah believes this view has more weight. He says: "Most earlier scholars, or more precisely all of them, agree that the spirit which is subject to question in the verse is not human spirit, but rather the same spirit which Allāh says will stand up with angels on Doomsday."³⁵

and,

"It is a great angel... Human spirits are not a metaphysical concern; they are discussed by a number of scholars of the different denominations."³⁹

According to these interpretations of what is meant by "Spirit" in the verse,³³ our approach in understanding the tradition narrated by ibn Mas'ūd does not contradict the Qur'ānic text.

The second way of answering the question is that even if "human spirit" is meant in the verse³³ quoted above, the implication is not that it is unlawful to discuss this spirit at all. Several interpretations have been offered. One of these is that the verse was revealed in response to Jews. Allāh did not allow His Prophet (PBUH) to answer them because of their obstinacy. Another interpretation is that the Prophet (PBUH) did answer them by saying that the spirit is "my Lord's concern", which means it is of His making and creation.³⁶⁻³⁸

Due to the considerations offered above, scholars have not felt restricted in discussing and defining the spirit, nor in describing its effects and its types of activity and motion, basing their conclusions on the texts of the Holy Qur'ān and Sunnah. They were not inhibited by the fear of contradicting the verse quoted above.³⁸⁻⁴³

Some scholars hold a very reasonable opinion on this question. They believe that what is kept from us about the spirit is the knowledge of its nature and the way it penetrates the body, which is only for Allāh to know.⁴⁴⁻⁴⁵ This by no means implies that the human mind is restricted from contemplating aspects of the spirit other than its nature, such as the time at which it unites with the body or departs from it, the ways in which it affects this body and is affected by it, among other things.

It is clear then that our way of understanding the text of the Hadīth as narrated by ibn Mas'ūd, does not in any way contradict the Qur'ānic verse, and that it is not right to neglect the reference in this tradition to the inception of human life with the breathing in of spirit under the pretext that this is a metaphysical matter that should not be subject to discussion.

In fact we do not serve the interests of Islam by listing many things as metaphysical, unless there is a definite evidence in each case. When science succeeds in discovering the secret of one of these things, the

discovery is bound to have a negative effect, especially on young Muslims who are raised to respect the sanctity of metaphysical matters, only to see that science breaks the mystery and discovers their secrets. Precaution in religion calls for abstention from describing anything as being metaphysical unless there are irrefutable proofs of it being so.

3. It may be said that the stages through which an embryo develops, from being a zygote until just before the spirit is breathed into it after the first four months of gestation, reveal a great deal of similarity between it and a human being into whom the spirit has already been breathed into, such as the similarity in the genetic code and in the various organs and systems, particularly when one considers the fetus at the time right before the spirit is breathed into it. Because of this similarity, it may be argued, it makes more sense to consider human life as beginning at the earliest moment that such a similarity is noted.

The answer is that every creature is singled out by Allāh to receive a special quality that distinguishes it from other creatures without which it would not exist. Regardless of how similar two creatures are in traits, qualities, and functions, they cannot be considered identical unless they have the same special quality. A human being is distinguished by the human spirit, which is breathed into him at a particular stage in accordance with aforeordainment put into effect at its due time by the angel in charge of the human being. This spirit supplies him with powers and abilities which he did not have earlier, or at least provides him with the potential for them. Before this potential, a "being" cannot be said to be "human", even if it has surface similarity to human beings.

Perhaps it is part of the wisdom of the Lord that man's creation follows certain stages. Adam, the father of the human race (PBUH) was first made as a handful of dust, then for another period of time he was some mud, and then he was given human form, but for a while he was of dry clay that resembled ceramics. When the time willed by Allāh, Glorious be His Power, arrived for turning him into a perfect human being, Allāh breathed of His spirit into him and ordered angels to fall prostrate before him. Undoubtedly, each stage before the breathing of spirit had a certain amount of similarity to the final creature, either in raw material or in exterior form. Still no one claims that Adam existed before the spirit was breathed into him.

The same thing is true about Adam's children. If Allāh wants to create one, He prepares for his existence by the stages he has to go through. First a being called the sperm is created in the father, and another called an ovum in the mother. Then Allāh gives His permission for the next stage to begin through the union of these two beings, forming a zygote. After that, Allāh wills the following stages to take place. At each stage, there is a degree of similari-

ty with the human being to be produced. This degree gets higher, the closer the stage is to the moment at which Allāh will allow that person to exist. In creating the sperm, for example, a step is taken towards creating that human being, represented by half the human genetic code. This divinely ordained half code represents a degree of similarity which increases when the sperm unites with an ovum, which has its own half of the genetic code. This is how creation goes into higher stages and the similarity increases until the end is reached when it is time for a fetus to acquire a new type of life: human life.

4. Since human life begins with the breathing of spirit into the fetal body, and not before, it may be asked why scholars make some of their Fiqh rulings, for example in regards to abortion, inheritance “‘Iddah” (waiting period), etc., effective either from the moment of conception, when an ovum is fertilized, or from the time an embryo begins to take form, although both events occur before the spirit is breathed in.⁴⁶⁻⁴⁹ Some scholars consider abortion as lawful before the time the spirit is breathed in, but all agree it is forbidden after this. Those who believe it is generally unlawful before the breathing-in, allow it for certain justifications. The same thing is true about performing the “prayer on a deceased person” for a miscarried fetus. Some scholars consider it as an obligation, though the majority do not.⁴⁶⁻⁴⁹

The answer is that not all the rulings which Fiqh scholars link to pregnancy before it has completed its first four months are based on the beginning of human life in its strict sense. They are rather based on other principles. These scholars who prohibited abortion from the time of conception, justify this opinion by the sanctity and dignity of the seed out of which a human being is created. This seed acquires its dignity when conception takes place. Some scholars go further; they prohibit the flushing out of semen, even before conception takes place, for taking anything that may reduce the energy which leads to conception.^{48,50}

As for the “‘Iddah” (the waiting period), Fiqh scholars determine its end in the case of pregnant women in accordance with the general meaning of Allah’s saying:

“And for those women who are pregnant, their term shall end when they deliver their burden.”⁵¹

This verse defines the end of a pregnant woman’s waiting period as the delivery of her burden, a term which applies to an embryo even before the breathing in of spirit and the inception of true human life. The rationale is to make sure the womb is free from conception,⁵² and the womb is freed when its conception is aborted, regardless of whether it has begun its human life or not.

Again in regards to the rule of holding of a share

of a legacy for a fetus, which it receives when and if it is born alive, the criterion is not the issue under discussion in this paper, and there is nothing to indicate that this ruling implies a tendency on the part of Fiqh scholars to consider the inception of human life as coinciding with the moment of conception. Scholars rather base their ruling on the greater probability that a living human being will be born out of this fetus. The probability starts at the moment conception is confirmed. The clearest evidence supporting this is the condition set by scholars for the fetus to be entitled to its share, which is to be born and show signs of stable life. Implied in this condition is that the spirit should be breathed into that fetus, because when reaching an advanced stage is set as a condition, it is implicit that an earlier stage should have been reached. Therefore, no Fiqh scholar says the share held for a fetus goes into its credit, whether before or after the spirit is breathed into it, unless it is born alive. If a fetus is aborted and/or it is dead at the moment of birth, whether the spirit has been previously breathed into it or not, the fetus is not entitled to anything.

Although Fiqh scholars do not base many rulings on the fact revealed to us by Prophet Muḥammad (PBUH) concerning the inception of human life by the breathing in of spirit, and the consequent necessity of recognizing the distinction between the two stages of fetal development, the one before and the one after the breathing in, I believe the most significant benefit we get from being aware of that fact is the chance it allows us, from an Islamic viewpoint, to avoid many errors and hazards that concern offspring. Regardless of how much sanctity a fetus has earlier, it should not be regarded as equal to the sanctity it acquires when the spirit is introduced into it and it begins its human stage.

I personally support the prohibition of abortion at any stage of fetal life out of respect to the seed out of which a human being is going to be created. But I also believe abortion is lawful in the first stage before the spirit is breathed into the fetus, if it is performed to meet a reasonable need, or if there is justification acceptable to a committee of experienced and religious specialists.

When the spirit is breathed into a fetus, the generally accepted rules of “‘Fiqh” make it imperative for us to fully respect the fetus, because in dealing with it, we are dealing with a human soul whose blood is sacred and cannot be lawfully shed for any reason whatsoever, since none of the lawful excuses for killing a human soul as stipulated by the Holy Qur’ān and Prophet’s Sunnah applies in the case of a fetus, these lawful excuses being the consequences of actions that can be committed only by reasonable adults, such as apostasy, adultery and murder. As for the necessity of saving a mother’s life, it is not a sufficient justification for killing a human soul which is as sacred and as protected as

that of the mother, or of any other human being whose blood and soul are protected in Islam. The only case where there is room for argument is when physicians are certain that to keep a fetus in its mother's womb will lead to the death of both.

This is similar to the case of two persons on a boat in the sea. They are certain to perish if they both stay on the boat, but if only one is left on the boat, he would be saved. Is it lawful in this case for the stronger to get rid of the other? It is a question that may be answered in different ways, and a cautious scholar would hesitate long before answering.

References

1. Ibn Hajar al-'Asqalani "Fath al-Bārī bi-Sharḥ Saḥīḥ al-Bukhārī" (The Creator's Inspiration in Interpreting the Verified Collection of al-Bukhārī), al-Bahiyah Egyptian Press, Cairo, Egypt 1348H., 1930 A.D., Vol. 11, p. 405.
2. "Saḥīḥ Muslim bi Sharḥ al-Nawawī" (Muslim's Verified Collection with al-Nawawī's Interpretation), First Edition, al-Azhar Egyptian Press, 1348H., 1930 A.D., Vol. 16, p. 190.
3. Hasan Ayyūb, "Tabṣīt al-'Aqā'id al-Islāmiyyah" (Simplifying Islamic Beliefs), al-Thaqāfah al-'Arabiyyah Library, 1391 H., 1971 A.D. p. 77.
4. Sayyid Sābiq, "al-'Aqā'id al-Islāmiyyah" (Islamic Beliefs), Second Edition, al-Nasr Press, 1387H., 1967 A.D. p. 95.
5. Glorious Qur'ān; Chapter 54, Verse 49.
6. Ibn al-Qayyim al-Jawziyyah. "al-Rūḥ" (Spirit), First Edition, Beirut; al-Kutub al-'Ilmiyyah Press, 1402H., 1982 A.D. p. 217.
7. Al-Qurtubī. "al-Jāmi' li-aḥkām al-Qur'ān" (The Comprehensive Book of Qur'ānic Provisions), Beirut: Iḥyā' al-Turāth al-'Arabī Press House, 1966 A.D. 1, Vol. 12, pp. 6-7.
8. Reference 1. Vol. 11, p. 416.
9. Reference 2. Vol. 16, p. 195.
10. Glorious Qur'ān, Chapter 41, Verse 11.
11. Lisān al-'Arab (The Arabic Tongue). Dictionary.
12. Mukhtār al-Siḥāḥ (Selection from the Correct Usages). Dictionary.
13. Al-Khattābī. "Ma'ālim al-Sunan" (The Features of Sunnah), Second Edition, Beirut: al-Maktabah al-'Ilmiyyah, 1401H., 1981 A.D., Vol. 4, p. 323.
14. Glorious Qur'ān, Chapter 22, Verse 5.
15. Reference 7. Vol. 12, p. 8.
16. Reference 1. Vol. 11, p. 411.
17. Ibn al-Qayyim "al-Tibyān fī-aḥkām-ul-Qur'ān" (The explanation of Qur'ānic provisions). Beirut: Dar-ul-Mā'rifah, 1982 A.D., p. 351.
18. Reference 6, p. 233.
19. Glorious Qur'ān, Chapter 38, Verse 71-72.
20. Glorious Qur'ān, Chapter 12, Verse 42.

21. 'Ali ibn Ḥabīb al-Mawardi. "al-Mawārdī's Commentary, al-Nikāt wa-l-'Uyūn" (Anecdotes and Gems), First Edition, Kuwait: Ministry of Endowments Publications, 1402H., 1982 A.D., Vol. 3, p 470.
22. Muḥammad Ali al-Sābūnī, Editor, "Mukhtaṣar Tafsīr ibn Kathīr" (A Brief Edition of ibn Kathīr's Interpretation), Seventh Edition, Beirut; al-Qur'ān al-Karīm Press, Vol. 3, p 222.
23. Maḥmūd Khattāb al-Subkī. "al-Dīn al-Khālīs" (Pure Faith) First Edition, Cairo, al-Istiḳāmah Press, 1368H., Vol. 7, p 186.
24. Reference 6. pp. 199, 242.
25. Glorious Qur'ān, Chapter 6, Verse 93.
26. Reference 21, Vol. 1, p 545.
27. Reference 7. Vol. 7, p 41.
28. Reference 23, p 187.
29. Reference 2, Vol. 16, pp 190-195.
30. Reference 1, Vol. 11, pp 405-411.
31. Zīn ul-Dīn ibn Rajab al-Ḥanbalī al-Baghdādī. "Jāmi' al-'Ulūm w-al-Hikām fī Sharḥ Khamsīn Ḥadīthān min Jawāmi' al-Kalīm" (The Comprehensive Book of Knowledge and Wise Sayings: An Interpretation of Fifty Short and Highly Expressive Traditions); Beirut: Dar ul-Mā'rifah, pp 45-50.
32. Reference 1, Vol. 11, p 410.
33. Glorious Qur'ān, Chapter 17, Verse 85.
34. Glorious Qur'ān, Chapter 26, Verses 193-194.
35. Glorious Qur'ān, Chapter 78, Verse 38.
36. Reference 21, Vol. 2, p 454.
37. Reference 7, Vol. 10, p 324.
38. Reference 22, Vol. 2, p 398.
39. Reference 6, p 203.
40. Al-Sayyid al-Sharīf al-Jūrjānī. "al-Ta'rīfāt" (Definitions). Mustafā al-Babī al-Ḥalabī's Press, 1938 A.D., p 99.
41. Al-Kafawī. "al-Kulliyāt" (Generalities). Damascus, 1982 A.D., Vol. 2, p 373.
42. 'Abū Ḥamid al-Ghazālī. "Iḥyā' 'Ulūm ul-Dīn," Vol. 4, Beirut: Dar ul-Mā'rifah, pp 494-495.
43. "Sharḥ al-'Aqīdah al-Taḥāwiyyah", Damascus, al-Maktab al-Islāmi, Third Edition, p 379.
44. Reference 7, Vol. 10, p 324.
45. Reference 42, Vol. 4, p 495.
46. Ibn Qudāmah. "al-Mughnī" (The Sufficient). Beirut: Dar al-Kitāb al-'Arabī, 1403H., 1983 A.D., Vol. 7 p 197 and Vol. 9, pp 113-114.
47. Reference 7, Vol. 12, p 8.
48. Tawfiq al-Wā'ī. "Reproduction in Islam", pp 270-272.
49. Muḥammad 'Ali al-Shawkānī. "Nayl al-'Awtār" (Fulfilling Desires). Publications of, the Presidency of Department of Research, Iftā', Da'wah, and Guidance, Riyadh, Saudi Arabia, Vol. 7, p 88 and Vol. 6, p 185.
50. Reference 31, p 46.
51. Glorious Qur'ān, Chapter 65, Verse 4.

52. 'Ala'-ul-Dīn al-Kasānī. "Badā'i' al-Sanā'i' (The Most Exotic Products). Second Edition, Beirut:

Dar al-Kitāb al-Arabi, 1982 A.D., Vol. 3, pp 192-193.