



HAL
open science

Birth Control

Zaynab El Bernoussi, Baudouin Dupret

► **To cite this version:**

Zaynab El Bernoussi, Baudouin Dupret. Birth Control. Oxford Islamic Studies Online, 2018. hal-02625277

HAL Id: hal-02625277

<https://hal.science/hal-02625277>

Submitted on 26 May 2020

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Birth Control

Zaynab El Bernoussi

Baudouin Dupret

Definition and Methods

Birth control refers to techniques to prevent or stop pregnancy and childbirth. These techniques range from abstinence to abortion, which could be considered a corrective measure to a failed prevention. Birth control is also referred to as contraception or fertility control for individuals who are able to conceive. Yet, the term “contraception” is usually perceived as part of a more general understanding of birth control that aims at awareness, family planning, and welfare. In the Islamic tradition, there are different interpretations as to contraception, the spouse’s consent regarding birth control, and the conditions that allow for an abortion.

There are numerous techniques of contraception that can involve either the female or the male reproductive system, or both. There are also natural and artificial contraceptive methods. These methods of birth control can be permanent or used in between births. Preventive contraceptive methods usually work by blocking contact between the female egg cell or ovum and the male sperm. Other natural techniques of birth control include avoiding sexual intercourse during the ovulation period by either tracking the menstrual rhythm, or through the symptothermal method, which involves identifying an elevation in the woman’s body temperature during ovulation, along with symptoms such as breast sensitivity, cervical mucus and firmness, and mid-cycle cramps. By comparing with patterns in previous cycles, the cycle can be tracked to determine the approximate timing of the infertile period before ovulation—approximately five days after the first day of female periods or a week before the earliest recorded day of temperature rise (Trussell, 2011). In this method birth control is attempted by limiting sexual intercourse to the infertile period of a female menstrual cycle.

Other common methods of birth control involve intrauterine devices, spermicidal gels and jellies, contraceptive implants, hormonal pills (birth pills or morning-after pills), hormonal patches, and condoms (for female and male). Some of these tools can be easily available for purchase, while others require medical consultation. There are other birth control methods, sterilization in particular, that require surgical intervention such as a vasectomy, in which the vessels in the male reproductive system that carry sperm before ejaculation are sealed or severed.

This method is usually presented as a permanent male contraceptive method, though it can be reversed through a costly surgical intervention (Fuchs et al., 2016). Regarding female birth control, tubal ligation or tubectomy is similar to vasectomy. With this technique the woman's fallopian tubes are clamped and blocked or severed and sealed through surgery. This prevents egg cells from reaching the uterus for implantation. This method is also considered a permanent contraceptive method, but microsurgery can be used to reverse the procedure.

Pregnancy termination and abortion of the fetus are usually considered methods of last resort in birth control. These methods are controversial, as some argue that they constitute infanticide. In the Muslim world pregnancy termination is generally prohibited unless the mother or the child is deemed at risk of serious injury or death. Although it is sometimes undertaken, abortion for exclusively economic reasons is emphatically condemned in the Islamic tradition.

This article will review some of the approaches in history to birth control in the Islamic tradition. After that, it will move on to a discussion of birth control in bioethics to understand the ethical implications of anti-fertilization methods. The article finally discusses modern issues regarding birth control in Muslim societies.

Birth Control and the Pre-Modern Islamic Normative Tradition

Within the Abrahamic traditions, there are several references to types of birth control. As early as the Book of Genesis, techniques are used to avoid unwanted pregnancies. The repercussion of such act is often seen as going against the laws of God. Coitus interruptus or withdrawal, known before Islam, is referred to as 'azl.

Muslim jurists of all the historical Sunnī and Shī'ī doctrinal schools (madhhab), from the early records of Islam, show no opposition to the method of coitus interruptus for birth control—with the only exception of Ibn Ḥazm (d. 1064) and the Zāhirī school of Islamic jurisprudence (fiqh) (Musallam, 1974). A notable ḥadīth justifying the tolerance of withdrawal is one according to Abū Sa'īd:

We rode out with the Prophet to raid Banu al-Mustaliq and captured some female prisoners...we desired women and abstinence became hard. [But] we wanted to practice coitus interruptus; and asked the Prophet about it. He said, 'You do not have to hesitate, for God has predestined what is to be created until the judgement day' (Jütte, 2008, p. 27).

The ḥadīth stresses the importance of qadar or predestination in Islam, in which humans are subjected to the will of God in whatever action they undertake. The ḥadīth is also specific about female prisoners but had been used to support withdrawal in other cases.

Generally, jurists agreed that consent was needed in the case of a free woman but not in the case of a slave woman. The Twelver Shī'īs and the Zaydīs sanctioned withdrawal with a slave woman regardless of her consent. The Mālikīs required the consent of both the slave woman and her master. The Ismā'īlīs required the consent of the master only. And the Ibādīs accepted either the consent of the slave woman or her master (Musallam, 1983, p. 36).

Some Mālikī jurists added a layer of complexity by granting the woman the right to demand monetary compensation in case of withdrawal (Musallam, 1983, p. 32).

Overall, the pre-modern jurists had different views on contraception in the form of withdrawal but were generally tolerant of it. At the time Jewish and Christian jurists saw this tolerance of contraception in Islam as a “horror” because they conceived of contraception as defying God (Musallam, 1983, p. 21).

On the other hand, despite the numerous ḥadīths on coitus interruptus, there is no explicit reference to contraception in the Qur'ān. This lack of Qur'ānic evidence supported Ibn Ḥazm's opposition to any form of birth control (Musallam, 1981, p. 182).

Moreover, forms of birth control are usually discouraged in Muslim communities based on the following Qur'ānic verse:

Do not kill your children for fear of want. We will provide for them and for you. Surely killing them is a great sin (17:31).

This passage is usually used to support a pro-natalist (practice of encouraging the bearing of children) argument, even in conditions of dire need, and to prohibit forms of birth control, particularly abortion. In this some jurists find support for prohibiting all forms of birth control as a “great sin.”

There are a number of ḥadīths that indicate that the Prophet knew of birth control using the method of 'azl and required the approval of women in such cases (Musallam, 1981). Usually, a few jurists, notably Ibn Qudāmah al-Maqdīsī (1147–1223), who influenced the Ḥanbalī school, opposed a systematic need for women's approval in the practice of withdrawal (Musallam, 1983, p. 32).

The Shāfi'ī jurist al-Ghazālī (1058–1111), provided one of the most comprehensive statements on birth control in which he argued that there was no basis for prohibiting the method

of withdrawal and that it ought to be considered a permissible act (*mubāh*) (Ghazālī, 1993). The logic of al-Ghazālī is that a man can abstain from seminal emission in the same way he can abstain from marriage and from sexual intercourse; however, al-Ghazālī considered abortion a crime because a child has begun to form (Musallam, 1981).

However, many jurists oppose abortion only after the fetus is endowed with a soul or *rūḥ*. Observing the voluntary movement of the fetus or completing a minimum gestational period can assess this development of the *rūḥ* (Shaikh, 2003).

Ibn al-Qayyim (1292–1350), from the Ḥanbalī school, used the science of the early Greek physician Galen to describe that in the fourth forty-day period of life development or after 120 days, humans get a soul as opposed to plants and animals (Musallam, 1983, pp. 54–57). In this regard, many Muslim jurists accept abortion before ensoulment based on the Qur’ān’s description of human life in stages:

And verily we did create man from a quintessence (of clay). 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 (fetus) lump. Then we made out of that lump bones and clothed the bones with flesh. Then we developed out of it another creature (by breathing life into it). So blessed be God, the most marvelous creator (23:12–13–14).

This ensoulment and predestination are also more explicitly described in the following ḥadīth: Narrated Abdullah: God’s Prophet, the true and truly inspired 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 another forty days, and then a piece of flesh for another 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...” (Sahih Bukhari, vol. 4, book 55, no. 549).

Though the early views on birth control in the Islamic tradition were varied, they generally exhibited more tolerance toward the practice compared to the Jewish and Christian traditions at the time (Musallam, 1983).

Birth Control in Bioethics and the Islamic Tradition

Using a method of birth control within marriage raises the question of consent between the two partners.

Historian Albert Hourani's (1915–1993) exploration of early Arab Muslim societies demonstrates that in Muslim societies one of the primary aims of marital unions was reproduction. The use of contraceptive methods by the husband during the union was permitted, but only with the consent of the wife (Hourani, 1991, p. 121). Most scholars of the different schools of legal rites in the Islamic tradition agree that a free woman had the right to children and complete sexual fulfillment from her husband, which would be interrupted by the contraceptive method of withdrawal (Musallam, 1983).

It is important here to remember that before the development of contraceptive methods, the early Islamic tradition focused on withdrawal, or coitus interruptus. So for Muslim jurists the debate on birth control is first a debate on withdrawal. The idea is that modern methods of contraception today are an outgrowth of the more ancient practice of withdrawal. This makes for an easy justification of other preventive methods of birth control such as condoms and birth control pills. Other Muslim jurists do not support extrapolating approval of withdrawal to other birth control methods (Musallam, 1983).

The decision to have an abortion can be triggered by either the woman or the man. In some cases even other third parties such as family members can influence such decision, particularly if the conception is out of wedlock. In these cases a black market of illegal and unregulated abortion clinics can provide an alternative for terminating unwanted pregnancies. In Morocco women, particularly poor ones, would resort to such black markets using poisonous concoctions that are often life-threatening (Mernissi, 1975; Chraïbi, 2008). The motives include fearing the strong religious and cultural condemnation of sex out of wedlock and the stigma of illegitimacy, which hurts the mother, the children, the family, and the extended community (Bargach, 2002).

The different birth control methods for both women and men can have side effects that can impact fertility permanently. These methods can be costly, and several states have introduced programs in which family planning methods can be subsidized or given for free, as in the case of Tunisia starting in the 1960s and Iran after the Islamic Revolution (Obermeyer, 1994). More recently, new methods have emerged for post-coital contraception such as the emergency contraceptive pills (ECPs) that are typically stigmatized in Muslim societies because they are seen as a cover-up to immoral sexuality (Wynn, Hafez, and Ragab, 2014).

Some birth control methods have been used to prevent sexually transmissible infections (STIs) and notably the human immunodeficiency virus infection and acquired immune deficiency syndrome (HIV/AIDS). Sexual education is important to ensure a correct understanding of birth control methods, to apply them properly so as to avoid contamination and pregnancy. Yet, sexual education can be controversial, as it can be perceived as promoting sexual liberalization in societies where abstinence and chastity are encouraged and even expected.

Birth control is also criticized in pro-natalist discourses as it is considered an act of infanticide. Social changes resulting from industrialization and the expansion of modern states have also been correlated with increasing birth control, mainly because more women were leaving their primary caregiving tasks to go to work (Gordon, 2016). In this sense, modernization and economic development in societies have been associated with decreasing fertility rates because employed women have less time to care for large families.

Birth control in modern societies has also impacted demographics, leading to aging populations and even altering the ratio between females and males. This is often due to preferring male offspring because of matters of patrilineality. There is also the question of eugenics that can arise when dealing with the ethics of birth control. Indeed, the technologies of medical development allow for “choosing” the biological characteristics of the fetus. In Islamic tradition there is little interest in eugenics except in matters of incest and consanguinity (Sachedina, 1995). Population growth south of the Mediterranean showed how Muslim societies in Egypt and Morocco, for instance, had their fertility rates drop with increasing migration, women’s work, and state taxation (Fargues, 1991; Courbage, 1994; 1997). Youssef Courbage and Emmanuel Todd in their political study of the demography of the Muslim world argue that women’s increased education and access to birth control not only drops fertility but also challenges political authority (2011). This demographic shift favors, consequently, a context of political change.

In cases of infertility or personal preference for birth control, adoption is a possibility for family planning without reproduction. Despite orthodox Sunnī prohibitions against the practice, adoption is present in Islamic society and even conceived as a customary practice and a way to serve the community (Bargach, 2002).

Birth Control and Modern Islamic Discourses

Methods of contraception that are preventive in nature are often accepted and even encouraged in modern Muslim societies. To anchor this acceptance, historian Basim Musallam cites al-Ghazālī's comparison of the process of conception, involving female and male "emissions," with the legal contract in Islamic law, involving "offer" (ijab) and "acceptance" (qabul); in cases of "withdrawal," no violation would have been caused because no "contract" would have occurred (1981). Also, the common acceptance of withdrawal in Islam justifies the support of more modern contraceptive methods today.

In many Muslim-majority countries today, abortion is considered ḥarām only after the fetus develops a soul or "rūḥ." Most schools of fiqh consider that abortion is prohibited after 120 days and in some cases after forty days, as with the Ḥanbalī school (Shaikh, 2003).

Birth control with the aim of permanent sterilization is typically not accepted in Islam (Musallam, 1981; Keefe, 2006). However, in modern Muslim-majority countries, governments have begun to promote sterilization for family welfare and economic development. Under Reza Shah in Iran, tubal ligation was legalized, and then reintroduced after the Islamic Revolution (Obermeyer, 1994). Tunisia was the first Muslim-majority country to promote birth control and legalize abortion in 1965 (Nazer, 1979). In Tunisia, under former President Habib Bourguiba, polygyny was also abolished in 1956 as part of his plan for development through population control and women's empowerment (Obermeyer, 1994). Regarding abortion, the Islamic Jurisprudence Council of Mecca passed a fatwā in its twelfth session held in February 1990, which became one of the most quoted fatwās regarding birth control for cases of illness or malformation:

[Grossly] malformed with untreatable severe condition proved by medical investigations and decided upon by a committee formed by competent trustworthy physicians, and provided that abortion is requested by the parents and the fetus is less than 120 days computed from the moment of conception.

Also in Iran, Grand Ayatollah Yousef Saanei issued a controversial fatwā in 2000 that permits abortion in the first three months for various reasons, including economic incapacity. Saanei accepted that abortion was generally forbidden in Islam, but went on to say:

But Islam is also a religion of compassion, and if there are serious problems, God sometimes doesn't require his creatures to practice his law. So under some conditions—such as parents' poverty or overpopulation—then abortion is allowed (Grand Ayatollah Yousef Saanei, 29 Dec. 2000).

As seen in the examples above, there are different attitudes vis-à-vis birth control that range from rejection to acceptance, via conditional permissions. Assisted reproductive technology (ART) is also a form of intervening in birth but not in the sense of limiting reproduction as commonly defined for birth control. Rather, ART is used to achieve pregnancy through fertility medication, in vitro fertilization, gametes donation/sale, and surrogacy. In the Muslim world overcoming infertility with ART is welcomed but the methods are limited to those that comply with the husband-wife dyad (Chamsi-Pasha and Albar, 2015). These methods are increasingly developing and expanding the possibilities of procreation in the Muslim world, including increasing the use of eugenics (Inhorn and Tremayne, 2016).

Conclusion

The practice of birth control encompasses several techniques that can be either preventive or corrective. In the pre-modern Islamic tradition, the 'azl or withdrawal was the most common method of birth control that often required the woman's approval.

Given the lack of precise condemnation of contraception in the Qur'ān, recent fatwās have allowed contraception and abortion in cases of malformation of the fetus or (according to some scholars) in extremely exceptional situations, economic incapacity of the parents to raise the child. In the modern states of the Muslim world, the ambitions for economic development have oftentimes been associated with population control. In modern Muslim societies birth rates are influenced not only by modern attitudes and new interpretations of contraception, but also by global dynamics such as an integrated world economy, migration, and statism. The different stances of pre-modern and modern jurists in Islam regarding questions of birth control also reveal pluralism in these societies.

Bibliography

- Bargach, Jamila. *Orphans of Islam: Family, Abandonment, and Secret Adoption in Morocco*. Lanham, Md.: Rowman & Littlefield Publishers, 2002.
- Chamsi-Pasha, Hassan, and Mohammed Ali Albar. "Assisted Reproductive Technology: Islamic Sunni Perspective." *Human Fertility* 18, no. 2 (2015): 107–112.
- Chraïbi, Chafik. "Avortment: Le Secret de Polichinelle." *Espérance Médicale* 15, no. 146 (2008): 116.
- Courbage, Youssef. "Demographic Transition Among the Maghreb People of North Africa and in the Emigrant Community Abroad." In *Europe and the Mediterranean*, edited by Peter Ludlow. New York: Brassey's, 1994.
- Courbage, Youssef. "La Démographie en Rive Sud de la Méditerranée au XXI^e Siècle: Changement de Perspectives." *Espace, Populations, Sociétés* 15, no. 1 (1997): 11–26.
- Courbage, Youssef, and Emmanuel Todd. *A Convergence of Civilizations—The Transformation of Muslim Societies Around the World*. Translated by George Holoch. New York: Columbia University Press, 2011.
- Dershowitz, Alan M. *The Genesis of Justice: Ten Stories of Biblical Injustice that Led to the Ten Commandments and Modern Morality and Law*. New York: Grand Central Publishing, 2001.
- Fargues, Philippe. "La Démographie au Sud de la Méditerranée: Contraintes Réelles et Défis Fantasmagiques." In *L'Avenir de l'Espace Méditerranéen*, edited by Christian Reynaud and Abdelkader Sid Ahmed. Paris: Publisud, 1991.
- Fuchs, Mobley E., et al. "Pre-operative risk factors associated with need for vasoepididymostomy at the time of vasectomy reversal." *Andrology* 4, no.1 (2016): 160–162.
- Ghazālī, Muḥammad al-. *Ihya' 'ulum al-din (Revival of Religious Sciences)*, vol. 1. Translated by Fazl-ul-Karim. Karachi: Darul-Ishaat, 1993.
- Gordon, Linda. "History and Politics of Birth Control." In *The Wiley Blackwell Encyclopedia of Gender and Sexuality Studies*, edited by Nancy A. Naples. Malden, Mass.: Wiley-Blackwell, 2016.
- Hourani, Albert. *History of the Arab Peoples*. Cambridge, Mass.: The Belknap Press of Harvard University Press, 1991.

- Inhorn, Marcia, and Soraya Tremayne. "Islam, Assisted Reproduction, and the Bioethical Aftermath." *Journal of Religion and Health* 55, no. 2 (2016): 422–430.
- Jütte, Robert. *Contraception: A History*. Translated by Vicky Russell. Cambridge, U.K.; Malden, Mass.: Polity Press, 2008.
- Keefe, Susi Krehbiel. "'Women Do What They Want': Islam and Permanent Contraception in Northern Tanzania." *Social Science & Medicine* 63, no. 2 (2006): 418–429.
- Mernissi, Fatima. "Obstacles to Family Planning Practice in Urban Morocco." *Studies in Family Planning* 6, no. 12 (1975): 418–425.
- Musallam, Basim. *Sex and Society in Islam: Birth Control before the Nineteenth Century*. Cambridge, U.K.: Cambridge University Press, 1983.
- Musallam, Basim. "The Islamic Sanction of Contraception." In *Population and Its Problems: A Plain Man's Guide*, edited by Herbert Bulter Parry. Oxford: Clarendon Press, 1974.
- Musallam, Basim. "Why Islam Permitted Birth Control." *Arab Studies Quarterly* 3, no. 2 (1981): 181–197.
- Muslim World League Islamic Fiqh Council. *Resolutions of Islamic Fiqh Council Makkah Mukarramah (1977–2006)*. 2006.
- Nazer, Isam. "The Tunisian Experience in Legal Abortion." *International Journal of Gynecology and Obstetrics* 17, no. 5 (1979): 488–492.
- Obermeyer, Carla Makhlof. "Reproductive choice in Islam: gender and state in Iran and Tunisia." *Studies in Family Planning* 25, no. 1 (1994): 41–51.
- Sachedina, Abdulaziz. "Eugenics and Religious Law: Islam." In *Encyclopedia of Bioethics*, edited by Warren T. Reich. New York: Simon & Schuster Macmillan, 1995.
- Shaikh, Sa'diyya. "Family planning, Contraception and Abortion in Islam: Undertaking Khilafah: Moral Agency, Justice and Compassion." In *Sacred Choices: The Case for Contraception and Abortion in World Religions*, edited by Daniel C. Maguire. New York: Oxford University Press, 2003.
- Trussell, James. "Contraceptive Failure in the United States." *Contraception* 83, no. 5 (2011): 397–404.
- Wynn, Lisa L., Hosam Moustafa Abdel Hafez, and Ahmed Ragab. "Social Class and Sexual Stigma: Local Interpretations of Emergency Contraception in Egypt." In *Critical Issues*

in Reproductive Health, edited by Andrzej Kulczycki. Dordrecht, Netherlands: Springer, 2014.

Zaynab El Bernoussi and Baudouin Dupret