

حقوق الطفل قبل الولادة: المفهوم والأحكام حسب الشريعة الإسلامية

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ملخص الدراسة :

تسعى هذه الورقة للكشف عن موضوع حقوق الطفل قبل الولادة، وقد بينت مفهوم حقوق الطفل، ومن ثم أبرزت هذه الورقة أهمية الطفل في الإسلام؛ ثم بينت الدراسة أحكام وحقوق الطفل في الإسلام، وأخيراً كشفت الدراسة عن بعض الأمثلة العملية لحقوق الطفل قبل ولادته، علاوة على ذلك، فإن الهدف الرئيسي لهذه الورقة هو تسليط الضوء على موقف الإسلام من حقوق الطفل قبل الولادة. وتوضيح مدى اهتمام الشريعة الإسلامية بتحديد حقوق الطفل وتطبيقها وقد اعتمدت الباحثة في إعداد هذا البحث على المنهجين التاليين: المنهج التأصيلي والمنهج التطبيقي، وخلصت الدراسة إلى أن القرآن الكريم والسنة النبوية اشتملت على العديد من الآيات والأحاديث التي تشير وتعزز بوضوح حقوق الطفل قبل ولادته. والتي شملت: اختيار الأم الصالحة، والنفقة على الجنين، وتحريم الإجهاض، واختيار الأب الصالح، وحق الطفل في الصحة الجيدة.

الكلمات المفتاحية: حقوق الطفل، الجنين، النفقة، الصحة الجيدة، تحريم الإجهاض.

Children's Rights Before Birth: Concept and Provisions as Per Islamic Sharia

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Abstract:

This paper seeks to reveal the subject of Children's rights before birth, and it reviews the definition of Children's rights, and this paper focused on The Significance of children in Islamic sharia; then the study showed the provisions and rights of the child in Islam, Finally, the study showed variety of applied examples of the rights of the child before his birth. Furthermore, the main thrust of this paper is to highlight the attitude of Islam towards children's rights before birth. And clarifying what extent has the sharia of Islam attached importance to the identifying and applying of children's rights. In preparing this paper, the researcher relied on the following two approaches: the fundamental and applied approach, the study concluded The Qur'an and the prophet Muhammad Sunnah including some verses and Hadiths that clearly support the Rights of the child before his birth, which include: Choosing a good mother, Alimony for the fetus, prohibiting abortion, choosing a good father, and the child's right to have a good health.

Keywords.: Children's rights, fetus, Alimony, the good health, prohibiting abortion.

Introduction

It is well known that the Islamic Sharia is a complete and comprehensive Sharia, As a matter of fact the Islamic sharia gives extensive details about each every aspect of life. Islam is complete way of life. Allah Almighty says in Quran: {this day I have perfected for you your religion and completed my favor upon you and have approved for you Islam as religion} (Holy Qur'an 5:3). And the perfection of the Sharia is clear and apparent through its consideration of the Segments of society, one of these categories is children.

In addition, Islam is the religion of reform, including reform in dealing with childhood. The child in the pre-Islamic society (aljahilii) was exposed to several violations, the most prominent of which is killing the child if the gender of the newborn was a female, and this is proven by the Holy Qur'an when it denounced the killing and infanticide of females (Bury the girl alive), Allah says:{ when the buried female infant is asked, for what crime she was slain} (Holy Qur'an 81:8-9). Al-Tabari said: "She was buried alive, and the Arabs used to do that with their daughters". (Al-Tabari, vol.24, p248).

In general, God says: {do not kill your children because you fear poverty. We will provide for you and them. Killing them is a great sin. } (Holy Qur'an 17:31). Al-Tabari said: "which mean fear of poverty, the (aljahilii) used to kill their children for fear of poverty, so God warned them, and told them that their provision, and the provision of their children depended on God Almighty"(Al-Tabari, vol. 17, p436).

Moreover, Abu Hurairah (May Allah be pleased with him) reported: The Prophet (PBUH). Kissed his grandson Al-Hasan bin 'Ali (May Allah be pleased with them) in the presence of Al-Aqra' bin Habis. Thereupon he remarked: "I have ten children and I have never kissed any one of them" Messenger of Allah (PBUH). Looked at him and said, "He who does not show mercy to others will not be shown mercy." (Muslim, (Hadith No.2317), vol.4, p1808).

As well Aisha (may Allah be pleased with her) narrated: A Bedouin came to the Prophet (PBUH). And said : "You (people) kiss the boys! We don't kiss them. " The Prophet said, "I cannot put mercy in your heart after Allah has taken it away from it "(Al-Bukhari ,(Hadith No.5651), vol.10, p444).

Additionally, it has been agreed by the Jurists in Islam that there is five purposes for humanity which the Islamic Sharia is aiming to accomplish. These are: the safeguarding of faith, the safeguarding of life, the safeguarding of progeny, the safeguarding of sanity, and the safeguarding of property, in the mentioned order. The scholars of Islam consider these purposes to be the five essentials. They mean by the word 'essentials' the important things, without which life may not be possible, When any of them is absent ,the quality of human life will break down and may be in danger. (Al-Shaatibiu, vol.1, p8-11).

Based on what I mentioned above, Islam came to establish a comprehensive system for keeping the rights of children, controlling transactions between people and establishing them on strong basis. And for this reason; I chose this paper to explain the concept of right in Islam, and the provisions of dealing with children. Especially that we know these children are gifts from God, They are in our custody and keeping them safe is our responsibility, So taking a good care of our children and keeping them protected by following the provisions of Islamic sharia, And follow the instruction of both the Holy Quran and the prophetic hadiths.

Methodology :

As for the methodology, the descriptive approach is adopted to introduce the concept of child rights. Additionally, the methodology of the research was based on the applied and fundamental method.

Reasons for Choosing the Topic & its Importance:

There is no doubt that I have chosen the rights of the child before birth as my topic For current research because they are fundamentally important, most people do not realize the importance of these rights. So I

think there is Great need to familiarize yourself with the provisions of these rights, moreover, we are already required to explore and actually apply these rights before considering having children.

Research Questions: I shall attempt to find proper answers to the questions listed below:

1. What is the Concept of children's rights?
2. What is the importance of children in Islam??
3. What are the provisions & the rights of the child in Islam?
4. What is the position of children in Islam?
5. What are the rights of the child before birth in Islam?

Aims of the Research:

1. Explaining the concept of children's rights and its definition.
2. Reviewing the provisions & the children rights in Islam.
3. Explain the position of children in Islam.
4. Highlight the attitude of Islam towards children's rights before birth.

Research plan: The research was organized based on its aims, significance and problems to be as follows:

Introduction: the significance and substantial value of the research, its problems, research methodology, and the plan of the research.

The Researcher divided the article into three main section, first of them dealt with the conceptual Introduction: Linguistic and technical meaning of child rights, the second one studied the Significance of children in Islam, the third one studied the provisions and rights of the child in Islam.

Conclusion of the research: reviewing the most important results and the most prominent recommendations.

1. Conceptual Introduction

In this section the researcher tries to provide definitions of the Terms and concepts used in this study before reviewing the child rights in Islam.

1.1 The linguistic and technical meaning of child rights

1.1.1 Linguistic definition of the child

Ibn Fairs said the child: "it is the little one born" (Ibn Faris, vol.3, p620), On the other hand, Ibn Manzoor defined the child as : "The little one when it comes out of its mother's womb until it becomes an adult (Ibn Manzoor, vol.11, p401). Al-Zubaidi gave the same definition as Ibn Manzoor: "A child when it emerges from its mother's womb until it becomes an adult" (Al-Zubaidi, vol.29, p370). Hence, childhood A description attached to a person from birth until he becomes an adult (Kuwaiti Encyclopedia of Jurisprudence, vol.27, p20). Finally, Al-Qurtubi said child is: "Who has not reached the age of majority" (Al-Qurtubi, vol.12, p236).

The fetus is also considered as a child: "A fetus is considered as a baby that is not born yet and still in the womb of his mother and the reason why a fetus is called a (fetus) because this concept is used for referring to a hidden thing similarly the fetus is also hidden in the womb of the mother, because they are hidden from the eyes" (Ibn Manzoor, vol.3, p41). It is made clear that, usually the term fetus is used to describe a developing human in the womb of his mother starting from the conceiving point until the birth (Mariam& Irfan, p85).

Furthermore, the term childhood was mentioned in the Holy Quran. Allah says: {O people, if you should be in doubt about the Resurrection, then [consider that] indeed, We created you from dust, then from a sperm-drop, then from a clinging clot, then from a lump of flesh, formed and unformed that We may show you. And we settle in the wombs whom we will for a specified term, then we bring you out as a child, and then [We develop you] that you may reach your [time of] maturity} (Holy Qur'an 22:5). We note that the Holy Qur'an has specified the beginning of childhood, and the end of childhood with the arrival of puberty (Al-Qurtubi, vol.12, p12).

Moreover, the term childhood was also mentioned in the Sunnah of the Prophet, (PBUH) said: “Go in God’s name, trusting in God, and adhering to the religion of God’s Messenger. Do not kill a decrepit old man, or a young infant, or a woman; do not be dishonest about booty, but collect your spoils, do right and act well, for God loves those who do well”(Abu Dawud, (Hadith No.2614), vol.3, p38).

1.1.2 Technical meaning of the child

Back to the scholars and Jurisprudents of Islamic foundational studies, despite having many definitions for the word ‘child’, at the end all of them return to the same linguistic meaning. Child was defined as “Who has not reached the age of majority” (Al-Razi, vol.1, p226).

For the International Arab Encyclopedia, it expressed the concept of the child as :“A person between the ages of (18) months to the age of (13) years, and He who has not reached the age of majority” (International Arab Encyclopedia, vol.15, p606). It is also known as: It is the period of time in which the child cannot completely dispense with his parents, and he needs both of them. (Suid, p28).

However, many scholars have expressed that: "childhood begin while the human being is still fetus (before being born) and continues until the person is fully independent. (Abd Albari, p27). In my opinion, I think the concept of children applies to persons between the ages of newborns and eighteen years, in addition to that the stage of childhood can be defined, through the definition of the International Convention on the Rights of the Child, which defines the child: “every human being below the age of eighteen years”.

1.1.3 Linguistic definition of rights

Right: is to claim something (Ibn Faris, vol.2, p244), the opposite of falsehood (Ibn Manzoor, vol.10, p49).Allah says :{ and do not mix the truth with falsehood} (Holy Qur’an 2:42). It can be said that right: Entitlement; imperative and necessary (Al-Fayoumi, p144).

1.1.4 Technical meaning of rights

Previous Muslim jurists did not care about defining the word (rights). However, they frequently use this term in their references. Right has been defines as “the truth: which exists in every aspect, of whose existence there is no doubt” (Al-Bukhari, 2001). In general Al-Shawkani said: Rights are those conditions of social life without which no man can seek in general, to be himself at his best. (Al-Shawkani, vol.6, p48). In addition, Ibn Najim said: A right is said to be an entitlement or justified claim. (Ibn Najim, vol.6, p148). Among the definitions is: a specialization decided by Islamic Shari’a either as an authority or a duty (Al-Zarqa, vol.2, p14).

As well, it can be said that the rights is a gift from God Almighty (Al-Duraini, p131). Furthermore, Right has been defines as are ‘whatever is beneficial, and whoever owns it deserves it according to Islamic Shari’a (Al-Khafif, p. 10). As such, Rights are common and recognized claims of the people which are essential for their development as human beings (Abdullah, 2003, p23). In my opinion, I think in simple words, rights are the common claims of people which every civilized society recognizes as essential claims for their development, and which are therefore enforced by the state. Hence rights are benefits, and its deservingness is restricted to the approval of Sharia.

1. Significance of children in Islam:

As it is well known, the stage of childhood is very important in a person's life. At this stage, the basics of the child's personality are established, In light of this, the study of childhood is important and necessary for the progress and development of the children thus the society (Al-Ajmi, p9). Because of the importance of childhood, God Almighty swore by them in the Holy Qur’an, Allah says :{I swear by this city (Makkah); and you, [O Muhammad], are free of restriction in this city -And [by] the father and that which was born [of him]} (Holy Qur’an 90:1-3).

Which also indicates the importance of children that the Prophet (PBUH) took care of them. We notice that the Prophet used to teach them at times and play with them at other times, these bright examples shows the mercy of the Prophet (PBUH) with children. Anas reported: The Messenger of Allah (PBUH) would listen to the crying of a lad in the company of his mother, in prayer, and he would recite a short surah or a small surah. (Ibn Hanbal, (Hadith No.1836), vol.2, p420).

Another example which shows how the prophet (PBUH) take care of children is that he used to joke with them Anas said, "The Prophet, may Allah bless him and grant him peace, came in and saw a son of Abu Talha's called Abu 'Umayr. He had a sparrow which he used to play with." He said, "Abu 'Umayr, what happened to (or where is) the little sparrow?" (Muslim, (Hadith No.2150), vol.4, p1012).

The wonderful examples in the dealings of the Prophet, (PBUH) with children are endless. This is the biggest evidence of the importance of this stage, The Prophet, despite his many burdens related to the nation and the responsibilities entrusted to it, did not ignore or forget the right of the child, but rather gave him full attention and guidance.

Furthermore, we see that Muslim philosophers gave their opinion about childhood in their writings, For example, Ibn Qayyim al-Jawziyyah wrote a complete workbook explaining the provisions of the newborn, among the books is also the book (Siyasat al-Subian wa Tadbirim) by Ibn al-Jazzar, in which he spoke about the correct education of children. In addition, Ibn Sina wrote a book called "Al-Siyasah" in which he talked about managing a child from birth until he reaches his majority.(Al-Alawi, p90.)

Additionally, The Significance of children is evident in a number of way, Children are A continues source of reward for their parents. If the parents die before their children, they will continuously be rewarded after death on account of the virtuous deeds of their children Abu Hurairah (May Allah be pleased with him) reported: The Messenger of Allah (PBUH) said, "When a man dies, his deeds come to an end except for three things: Sadaqah Jariyah (ceaseless charity); a knowledge which is beneficial, or a virtuous descendant who prays for him (for the deceased)." (Muslim, (Hadith No.1631), vol.4, p340).

Likewise, Parents take the reward and raise their value with the righteousness of the children Allah says :{ and those who heed warning and whose progeny follow them in faith: We will join them with their progeny; and we will not defraud them anything of their deeds; every man is responsible for what he earned} (Holy Qur'an 52:21). And The Messenger of Allah (PBUH) has said: "A man will be raised in status in Paradise and will say: 'Where did this come from?' And it will be said: "From your son's praying for forgiveness for you" (Ibn Majah, (Hadith No.1631), vol.4, p340).

The Prophet (PBUH) also commanded honoring and protecting girls, and he commanded preserving their rights and being kind to them in many hadiths, And the Prophet promised whoever does that a reward and a high rank, The Prophet (PBUH) said: "If anyone has a female child, and does not bury her alive, or slight her, or prefer his children (i.e. the male ones) to her, Allah will bring him into Paradise. Uthman did not mention "male children" (Abu Dawad, (Hadith No.5146), vol.4, p337).

Moreover, Aisha, may God be pleased with her, she said: The Messenger of Allah said: "Whoever is tried with something from daughters, and he is patient with them, they will be a barrier from the Fire for him " (Muslim, (Hadith No.6862), vol. 8, p38). Al-Nawawi said: It is called misfortune. Because people mostly hate girls (Al-Nawawi, vol.8, p470). Allah says: {And when one of them receives tidings of a female, his face darkens and he suppresses grief} (Holy Qur'an 16:58).

And the Prophet not only forbade the burial of girls, but rather he ordered to correct the wrong deeds of people and return it to the path of humanity. And there are a number of hadiths that commanded kindness to girls: Anas (May Allah be pleased with him) reported: The Prophet (PBUH) said, "Whoever supports two girls till they attain maturity, he and I will come on the Day of Resurrection like this". Messenger of Allah (PBUH) joined his fingers illustrating this. (Muslim, (Hadith No.6864), vol. 8, p38). Al-Nawawi

said: It means that the Day of Judgment will be near the Prophet (Al-Nawawi, vol.8, p472). Ibn Baz said: " This indicates the virtue of being kind to girls, as they are a reason for entering Paradise "(Ibn Baz, vol.21, p227).

2. The provisions and the children rights in Islam

As a matter of fact, the discussion on children's rights is wide and its topics are varied. Therefore, I will confine myself to the most important of these rights and their provisions, through the stages of a child's life, it can be classified into: Rights of the child before it is born, and the rights of the child after it is born .However, I will devote this research to the rights of the child only before he is born.

Furthermore, it's obvious and well known that one of Islam main goals is to protect the societies and individuals from any harm and work for their sake and well-being. And to achieve this the Islamic sharia rules clarified the human rights at every stage of his life, whether as a fetus in the mother womb, small child, young person or an adult person, male or female.

The presence of rights hint the presence of a duty; the duty of protecting these rights from harm caused by others, and this duty is on the shoulders of individuals, societies and states (Tantawi, 2005, p51).

Additionally, there is a general rule In Islam, known as harm prevention rule, as mentioned in prophet Mohammad (PBUH) Hadith, who said: "there is no injury nor return of injury" (Ibn Majah, (Hadith No.2340), vol.2, p784). This rule should be applied on all the actions or behaviors that may cause harm (Abdullah, 2003, p21). In order to clarify these rights, the following sections had to be clarified:

2.1 Rights of the child before it is born

Islam encouraged the formation of the family through marriage. Allah says: {**Allah has given you wives from among yourselves, and has given you and your wives, sons and grandsons and He has provided you with good things. What, do they believe in vanity; do they disbelieve in the favor of Allah?**} (Holy Qur'an 16:72) in addition, Prophet (PBUH) Said to us, "O young men, those of you who can support a wife should marry, for it (marriage) controls the gaze and preserves one from immorality. And whoever cannot (marry) should fast, for it is a means of reducing the sexual desire." (Al-Bukhari ,(Hadith No.5065), vol.9, p8).

Islam does not only encourage people to get married, it also sets a few features for the married couples to be able to start a family, and this is considered one of the children's rights before being born. So choosing the right person to be the future parent to your child is one of the most important things to make a healthy family and a healthy generation. (Uqla, vol.1, p163).

One of the ways in which Islam protect a child before being born is that a pregnant lady has a multiple exemptions aiming to protect her fetus, an example for these exemptions are: delaying the execution of (Hudud) and (Qasas) on a pregnant lady until delivery of her child. Similarly to this, there are many cases that need exceptions to the provisions of Sharia for pregnant lady, such as fasting. (Amin,2022. P5731).

Additionally, it's mainly the family duty to take care of their children and protect them. The Prophet, (PBUH) said: "All of you are guardians and are responsible for your subjects. The ruler is a guardian of his subjects, the man is a guardian of his family, the woman is a guardian and is responsible for her husband's house and his offspring; and so all of you are guardians and are responsible for your subjects." (Al-Bukhari ,(Hadith No.2554), vol.13, p111).

The Holy Qur'an and the Sunnah of the Prophet contain number of verses and hadiths that clearly support the rights of the child before birth, including: choosing a good mother, Alimony for the fetus, prohibiting abortion, choosing a good father, and the right of having a good health, and the following is an explanation for that:

3.1.1 Choosing a good mother

We should not be surprised that Islam guides and directs the wife and husband to the correct criterion when getting married, and this criterion is related to: (religion and morals). The Prophet, (PBUH) said: "When someone with whose religion and character you are satisfied asks your daughter in marriage, accede to his request. If you do not do so there will be temptation in the earth and extensive corruption." (Al-Tirmidhi, (Hadith No.1084), vol. 3, p395). And (PBUH) said: "A woman may be married for four reasons, for her property, her rank, her beauty and her religion; so get the one who is religious and prosper." (Al-Bukhari, (Hadith No.4802), vol.5, p1958). In addition, Messenger of Allah said: "Choose the best for your sperm, and marry compatible women and propose marriage to them" (Al-Bukhari, (Hadith No.2734), vol. 2, p510).

Moreover, it should be noted that no one is more suitable for a good, believing woman than a good, believing man, and no one is more appropriate and well suited to a disobedient, immoral woman than a disobedient, immoral man, as Allah says: {Evil women for evil men, and evil men for evil women; good women for good men, and good men for good women these are clear of what has been said; for them is forgiveness, and a generous provision } (Holy Qur'an 24:26). As noted from the hadiths mentioned above, the assurance on choosing a good wife, Islam advice choosing a wife based on moral characteristics. It is also reported to have encouraged Muslims to marry virtuous women in order to have virtuous children and faulted those who look only for wealth and beauty when choosing a wife (Ibn Hajar, vol.9, p116).

As a result of, Islam set rules for choosing a wife, because it is the most important step in forming a family. The mother is the maker of generations, and the children take education from her. Therefore, the guidance of the Prophet (PBUH) came to young people who are about to get married, to be careful in choosing a wife As per Islamic Sharia rules. Besides, a male Muslim must be wise enough to be good to his children right before their birth by selecting a good wife who would consequently be a good mother to his children. (Uqla, vol.1, p164-165).

As a matter of fact, Islam has reached a peak in honoring and protecting the rights of the child before he comes to life (before birth), one of the most important of these rights is the good choice of the mother. So if he comes to life (to be born) he will be from a close-knit family and a good mother. (Subhi, p233).

3.1.2 Alimony for the fetus

Under the rights of the fetus, Islam dealt with the fetus as a defined entity, stating its dues and rights, as well Islam has established punishments for those who encroach on these rights. As well as a born child has the right to have their life safe and protected, to inherit their heir, and to own property, the fetus also have all these rights (Amin, 2022. P5732).

Previous Muslim jurists did not care about defining Alimony for the fetus, the reason for this is that the alimony for the fetus is intertwined with the alimony for the wife. From my point of view, I think that the concept of alimony on the fetus means: Giving a pregnant woman the necessary food, clothing, and treatment; to save the life of the fetus in her womb. Islam has secured the life of a born baby likewise it secured the safety of a fetus life who is still inside the mother's womb (Al-Shirazi, vol. 2, p210).

And the meaning of giving the woman what she needs, because the fetus is fed by its mother's food, and the child is harmed if the mother is harmed (Al-Qurtubi, vol.18, p168). And it needs the survival of the fetus and the preservation of its life, pregnant women should take some medications, the fetus also needs to be examined by a doctor to ensure its proper growth, All of this falls under the concept of fetus rights, And scholars of jurisprudence also agree on the obligation of alimony on the pregnant woman. (Al-Mosuli, vol.4, p8. Al-khisaf, p63. Al-Shirazi, vol. 2, p210. Al-Mardawi, vol.9, p360). The jurists have returned to

the words of God Almighty :{ If they are with child, spend upon them until they deliver their burden} (Holy Qur'an 65: 6). Indicate that; the reason for giving alimony is the existence of pregnancy and alimony for the fetus (Al-nawawiu, vol.10, p96).

Islam has considered a number of measures to guarantee the safety of fetus, and one of these measures is the right to alimony. As fetus cannot eat directly and takes nutrients from its mother. Islam give the alimony to the pregnant woman on behalf of her fetus, because the health of the fetus is related to the health of its mother, it is the husbands responsibility to offer the alimony to his pregnant wife and if he divorced her then it is due on him to pay the expenditure related to diet and health of divorced expectant woman till the birth of her child. And if husband stopped paying the alimony after divorce and then pregnancy confirms later, in such case he must have to pay the amount which was missed earlier (Romesa & rida, p92). In Quran Allah says :{ If they are with child, spend upon them until they deliver their burden} (Holy Qur'an 65: 6).

According to Ibn Abidin: The father is obligated to provide for the child, In case the child is still a fetus, or in case the child depends on breastfeeding and after that. (Ibn Abidin, vol.3, p562). In addition, Included in the concept of alimony: Childbirth costs, housing, food and drink, clothing, and all that he needs whether its medicine or any other things.

Medically, its well known that the child health should be considered and taken care of since the conception of the child inside the womb.at this stage the fetus needs a special high valued supplements. these nutrients can't be supplied by anyway but the mother.as a result of this Islam make it the husband responsibility to make sure that his pregnant wife is well nourished by providing her a good, healthy and high valued food. And this is also one of the most important rights of children before they are born. (Tantawi, 2005, p16).

3.1.3 prohibiting abortion

back to Islamic sharia, after (120)days of pregnancy, aborting the fetus is forbidden, and aborting the fetus is considered as murdering a person, and the murderer here is the person who caused the abortion and he is responsible for that crime, even if this person is one of the parent.(Ibn al-Jazii, p183). In Qur'an Allah said: {And do not kill the soul which God has forbidden except by right} (Holy Qur'an 17: 33). As a matter of fact, Islam makes punishment for the person responsible for the abortion, and ordered him to give a Compensation (ghura) in case of harming a fetus or a completely formed baby was stillborn as a result of harm to the mother during her pregnancy (Amin, 2022. P5733). Furthermore, Narrated Abu Huraira": Allah's Messenger (PBUH)gave a verdict regarding an aborted fetus of a woman from Bani Lihyan that the killer (of the fetus) should give a male or female slave (as a Diya) "(Al-Bukhari ,(Hadith No.6905), vol. 9, p83).

In this regard, a woman of Ghamid came to the Prophet (PBUH) and said: "I have committed fornication. He said: Go back. She returned, and on the next day she came to him again, and said: Perhaps you want to send me back as you did to Ma'iz b. Malik. I swear by Allah, I am pregnant. He said to her: Go back. She then returned and came to him the next day. He said to her: Go back until you give birth to a child. She then returned. When she gave birth to a child, she brought the child to him, and said: Here it is! I have given birth to it. He said: Go back, and suckle him until you wean him". (Abi Dawood, (Hadith No.4442), vol. 4, p92).

It is obvious from the above hadith that (Hudud) and (Qasas) will not be applied on a pregnant woman until her deliver the fetus. And the baby will be able to survive without breastfeeding .in the same manner, if a woman got pregnant as a result to adultery, the stoning will be postponed until her child grows up after being born and can live without his mother breast milk.(Kuwaiti Encyclopedia of Jurisprudence, vol. 2, P71). Thus, we notice that Islam has reached the peak in protecting the rights of the child .According to the rights of the fetus, Islamic law is forbidding to cause injury to a child or to hurt a pregnant mother. Allah

Almighty says: {and do not kill your children out of poverty; we will provide for you and them} (Holy Qur'an 6: 151).

Moreover, we all have to know that Children are glad tidings from God, allurements of this world, a source of satisfaction and a great bounty that deserves thankfulness. .the Almighty says: {Wealth and children are [but] adornment of the worldly life} (Holy Qur'an 18: 46) .the Almighty Allah also says: {and those who say, "Our Lord, grant us from among our wives and offspring comfort to our eyes and make us a leader for the righteous} (Holy Qur'an 25: 74).

As well, the parents should regard children as gifts and bounties from Almighty Allah, additionally According to the Qur'anic text, progeny is a gift from the Almighty Allah to His servants; The Almighty says: {To Allah belongs the dominion of the heavens and the earth; He creates what He wills. He gives to whom He wills female [children], and He gives to whom He wills males} (Holy Qur'an 42: 49).

3.1.4 choosing a good father

Every person thinks about settling down with a good partner, and each couple desires to have children, in order to create a pleasant and happy home environment. Which without home looks desolate and gloomy, but before thinking about marriage and having children, it must be pointed out that Islam directed parents and guardians to the foundations and essentials that should be taken into consideration in marrying off their daughters. One of the most important of these criteria is that the man who wants to propose must be religious and have a good morals (Abdullah, P60).

The Prophet, (PBUH) said: "When someone with whose religion and character you are satisfied asks your daughter in marriage, accede to his request. If you do not do so there will be temptation in the earth and extensive corruption." (Al-Tirmidhi, (Hadith No.1084), vol. 3, p395).

According to Al-Mubarakpuri in his explanation of the hadith: "This is because religion and morals prevent the husband from wronging or humiliating his wife, and he remains merciful and friendly in his home and with his children"." (Al-Mubarakpuri, vol. 4, p204). Therefore, a man is not seen according to his wealth and beauty. Because this alone does not build a family on the basis of compassion and understanding, (Al-Ghazali, vol. 2, p39). And the Messenger (PBUH), was a model for us in his relationship with his family. Peace be upon him said: ""The best of you is he who is best to his family, and I am the best among you to my family"(Al-Tirmidhi, (Hadith No.3895), vol. 5, p667).

As a matter of fact, in the story of the great companion (Julaibib), may God be pleased with him, there is a lesson for us. Since he was not of a position nor a regard, rather he was poor and worn out, and a girl from (Ansar) accepted him for his religion and morals. (Ibn Hanbal, vol. 19, p385). It is made clear that Islam has taken great care of the child even before his birth, and it was clear by encouraging both spouses to choose each other very carefully, As such, the child will be brought up in a home where affection, compassion and respect prevail.

Additionally, Islam invites us to know the real goal of marriage, and to choose a good wife and a good husband who are possibly to be excellent parents and childcare providers, a rationale Muslim woman will not choose a husband only depending on his appearance, but depending on his religiousness and morals. (Tantawi, 2005, p13).

in conclusion we should follow Prophet Mohammad's (PBUH) teachings and use the Quran and Sunnah as the best references when dealing with our spouses, taking into consideration Prophet Mohammad (PBUH) warning from marrying a man who is not religiously committed with a good morals, and from marrying a woman who is not religiously committed with a good morals, which is understandable. As well, the Almighty Allah says in the Qur'an: {And marry the unmarried among you and the righteous among your

male slaves and female slaves. If they should be poor, Allah will enrich them from His bounty, and Allah is all-Encompassing and Knowing} (Holy Qur'an 24: 32).

3.1.5 The child's right to have a good health.

Islam seeks to preserve the lives of children and maintaining their proper development, Health is one of the greatest bounties. The Prophet (PBUH), said: "Whosoever begins the day feeling family security and good health; and possessing provision for his day is as though he possessed the whole world"(Al-Tirmidhi, (Hadith No.2346), vol. 4, p574). Also Messenger of Allah (PBUH), said, "A strong believer is better and dearer to Allah than a weak one, and both are good (Al-Muslim, (Hadith No.2164), vol. 2, p2052).According to Al-Mubarakpuri in his explanation of the hadith: That is, his body should be healthy from ailments and diseases (Al-Mubarakpuri, vol. 7, p11).

Under the rights of the fetus, all efforts should be taken to spare children from having a hereditary diseases. Those who are planning to have children should avoid anything that may affect the health of their child, therefore it is the parent's duty to take on all the possible ways to make sure that children are not affected with hereditary disease or ailments that have a possibility to be transmitted to the next generation (Badran, 1996, P83). Moreover, Medical test before marriage is considered a valuable way to avoid having a child with poor health and that will lead to spare the community from the burden of having unhealthy people (Al- Shaarawy, 1988). Allah says in the Qur'an: {And do not cast into destruction with your own hands} (Holy Qur'an 2:195). This is what we as Muslims are commanded to do (Al- Shaarawy, 1988, vol. 4, P.2094).

Besides, each of the spouses should do as much as they could to be in marriage with a person who is known to be clear from hereditary diseases, And keep away from marrying a close relative (Al-Bar, 1991, p. 88), Omar bin Al Khattab (May Allah be pleased with him) said: "Do not marry a close relative lest the child is born scrawny" (Ibn-Almulaqan, vol. 7, p499). He also said, "Marry the distant lest you produce scrawny progeny."(Ibn- Hajar, vol. 3, p304). It is clear from these above-mentioned narrations that, it is not preferable to marry a female relative. Because there is a probability that the child will be born unhealthy (Al-Haythami, 2000, vol. 7, P.188).

Recently medicine has approved this; many hereditary diseases spread in cases where close relatives marry. Any way, it is very important to have a medical consultation before getting marriage. Based on the studies, and by taking the familial history of both parties, doctors are in a position to predict and provide the couples with the proper advice as to whether hereditary problems exist, and as to the likelihood of this problem to be transmitted to their children. A pre-marriage medical test may discover that one or both parents suffer from an infective disease; it would do them both good to identify the problem and treat the disease before posing a threat to their children in the future .(Badran, 1996, P83).

A pregnant mother must make sure she does not expose herself to radiation or chemicals that may damage some of the cells or the tissues of the fetus, or that may lead to the occurrence of physical deformities. She must not use any medications during pregnancy without expert medical guidance. The use of some medications, particularly in the early days of pregnancy, may induce deformities in the fetus or cause malformation of some of its organs. It is also the mother's duty to have a doctor constantly supervise her pregnancy. Diseases or physical deformities that go undiscovered or undiagnosed may develop and cause wider damage to the organs of the fetus. An early diagnosis of any such phenomena would provide an opportunity for the implementation of the proper treatment, or to do an intervention surgically inside the mother's womb during pregnancy before giving birth so the child may be born healthy with no problems. (Tantawi, 2005, p16).

Overall every effort should be done to control hereditary disease from continuing of being transmitted from generation to another especially those effect the quality of life .And this is also one of the most important rights of children before they are born.

3. Conclusion (Findings & Recommendations):

I presented and explained the rights of the child before birth and explained the most important provisions that called for the rights of the child before being born by referring to the provisions of the Holy Qur'an and the Sunnah of the Prophet Muhammad, now I will highlight the most significant results of the research, moreover I will summarize the most significant recommendation.

4.1 The Findings:

1. A fetus is considered as a baby that is not born yet and still in the womb of his mother and the reason why a fetus is called a (fetus) because this concept is used for referring to a hidden thing similarly the fetus is also hidden in the womb of the mother.
2. Back to the scholars and Jurisprudents of Islamic foundational studies, despite having many definitions for the word 'child', at the end all of them return to the same linguistic meaning. Child was defined as "Who has not reached the age of majority"
3. The Muslim philosophers gave their opinion about childhood in their writings, For example, Ibn Qayyim al-Jawziyyah wrote a complete workbook explaining the provisions of the newborn.
4. The Significance of children is evident in a number of way, Children are A continues source of reward for their parents. If the parents die before their children, they will continuously be rewarded after death on account of the virtuous deeds of their children.
5. The Holy Qur'an and the Sunnah of the Prophet contain number of verses and hadiths that clearly support the rights of the child before birth, including: choosing a good mother, Alimony for the fetus, prohibiting abortion, choosing a good father, and the right of having a good health.

1.2 Recommendations:

1. The study recommended the researcher in the Islamic education field to pay attention to this issue.
2. The study recommends fathers and mothers to return to the Holy Qur'an and the Prophet's Sunnah, and learn about the most important rights of the child before he is born.
3. The study recommended that those responsible for school curricula to include the rights of the child before he is born when building educational curricula

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