

Reproductive Health And Rights

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Over the recent years, reproductive health and rights have been the subject of conferences and assemblies relevant to population, development and rights of women at national and international level. Although women have been taken into consideration due to their physiological structure in reproduction, their needs and desires have been accorded little or no attention.

Women's spiritual and physical health and social welfare play an essential role in reproduction. The neglect of women's reproductive health and rights and lack of suitable healthcare possibilities have resulted in the diseases of women and children and their sudden deaths. The current statistics suggest that at least 500,000 women lose their lives every year due to the diseases resulting from pregnancy and 99 percent of these victims are living in the developing countries.^{[1](#)}

In developing countries, the rate of death of the women who have had a healthy life during childhood increases as they approach the reproductive age. The danger of the death of women is reported to be 80 to 800 times bigger than a similar case in developed countries.^{[2](#)}

In most societies, sterility is looked upon with contempt; even when sterility is on the part of men, the idea of sterility is most cruelly directed towards women. In the world today, the right to life, which is among the most fundamental human rights, should not be violated because of the incurable diseases or sudden deaths. The calamities resulting from sterility can be reduced to minimum with proper knowledge and recognition and suitable healthcare possibilities.

Not only are the reproductive health and rights a new issue but they are also a controversial issue in national and international conferences due to the fact that they are closely associated with the most personal aspects of human life and the status of women in different spheres of family and social activities. This article is an attempt to investigate the concept of reproductive health and rights as a component of women's rights, the perfection of this concept and the different aspects of this concept from an Islamic viewpoint.

The article grows out of the writer's interest in women's rights especially in developing countries. Attempts have been made to come to a desirable conclusion regarding the recognition of the social needs, and necessities.

The Genesis of Reproductive Health and Rights

Article 16 of the Universal Declaration of Human Rights lays stress on the founding of family. The recognition of this right is dependent on the marital bond and the founding of family.³

Twenty years later, the Declaration of Tehran Conference (1968) on Human Rights declared the right of parents in free decision-making and the recognition of their rights in relation to the number of their children.⁴ Although the documents involved do not necessitate legality in international arena, they have gained great international protection.

As to the rights of covenants, the International Bill of Human Rights, the recognition of reproductive health and rights within the framework of family, guarantees some of the legal obligations as to the protection of rights included therein (article 23 of the Covenant on Civil and Political Rights and articles 10 and 12 of the Covenant on Cultural, Economic and Social Rights 1966).⁵

The status of married women constitutes the constant subject of International Bill of Human Rights. Article 12 of the Covenant on Cultural, Social and Economic Rights lays stress on the individuals rights for the better enjoyment of mental and physical healthcare. However, a fundamental agreement on the concept of women's rights was not concluded at international plane at the moment of approving the bill, and the aforesaid covenants lack sufficient sensitivity towards women's healthcare and rights. The idea that women can enjoy certain rights is nipped in the bud in international dialogues. The sad truth is that the Bill of Human Rights has sought to drive women into the margin from the issue of human rights and only over the last fifteen years, human rights have considered the truth of women's life in the society.⁶

At any rate, regarding the neglect of the fundamental women's rights at international level, what has become of particular interest since the sixties has been the issue of family planning. Considering the increasing population growth at international plane and its effects on the provision of food, the acquisition of resources and development, a great number of developing countries took effective measures in modifying reproduction and in increasing access to the services relevant to family planning. Thus, family planning became the focus of demographic and healthcare plans in these countries.

Family planning, now extensively exercised in most countries, has started as controlling population plans since the 1960s and 1970s which itself was a significance of the destructive nature of population growth as a bomb, which might explode any moment and devastate the world. In this demographic model, the rights of individuals and women are paid scant attention to as to deciding on their reproduction and intercourse,⁷ while family planning is paid ample attention at the very early stage.

Since 1970, medical–biological model was developed in relation to family planning. The recent model places stress on health care advantages for women as to the reproductive distance and the limitation of children so that childbirth may be brought back to individual level. The plans of the United Nations were centered on elevating and improving mothers' healthcare conditions and children's survival. The idea is that the main shortcoming of the previously mentioned plans lies in ignoring the women's experiences, rejecting the necessity of self–empowerment and stressing the protection of their free choice.[8](#)

As gradually as the international movements on healthcare introduced the humanitarian outlook in improving population and healthcare policies, there appeared a change in the demographic models. The horizon of the new outlook was not only limited to family planning but included many diverse issues including the reproductive health, educational plans, the empowering of women , and equal rights for women.[9](#)

Surely, the access to healthcare is an issue, which influences the position of women, men and children in all regions of the world. However, due to unequal and vulnerable situations, women encounter many problems.

In 1975, the first women's conference in Mexico was the turning point of women's healthcare issues based on human rights. Article 12 of the Convention Elimination of all Forms of Discrimination against Women (1979) expressing the equal rights of women and men as to access to healthcare points to the issue of family planning. The right to equal access to healthcare requires the removal of any social and legal impediments which might exist in this regard especially as to the women who are deprived of such services due to poverty, illiteracy and false beliefs.

Article 16 of the aforementioned convention addresses the discrimination against women in private life especially in the realm of the family which is based the long–term cultural processes. Paragraph 2 of the recent article in one word or another lays stress on the concept of the reproductive right based on free decisionmaking by understanding the reproductive distance and the number of births and the right to access to information.

It was only after 1985, namely after the outbreak of HIV and AIDS that the policymakers, the workers of the general medical care, the scientists and the advocates of women's rights began to recognize and approve the mutual relation between healthcare and human rights.[10](#) It must be noted that in the Convention on Elimination of all kind of Discrimination noted above, the reproductive right has not been officially recognized.

In 1993, the Universal Conference on Human Rights was held in Vienna. Although the declaration of the aforesaid convention explicitly recognized the women's right to the highest standards of physical and spiritual healthcare, suitable medical care, access to family planning services and education in all stages, it did not elucidate the concept of reproductive health. This essential affair was entrusted to the International Conference of Population and Development in September 1994 in Cairo.

The Cairo Conference was the third intergovernmental conference which dealt with the issue of population. The first conference was held in 1974 in Bucharest and the second conference in 1984 in Mexico. In Bucharest Conference, the differences of north and south prevailed.

The representatives of the countries discussed the ways to fight the effects arising from the rapid growth of population and the ways to ameliorate the economic development, reconstruction and the revision of international economic system. In the second conference, the developing countries expressed more protection for family planning. However, they opposed some of their executive ways such as abortion as a way to birth control. [11](#)

The topics discussed in the preliminary sessions of Cairo Conference (The Third Conference on Population) and also the independent gatherings of non-state organizations centered on moral views, and values relating to human right, poverty, decline in values, women's healthcare, abortion etc. The discussions under the influence of the issues are encountered by the international community during the last decade including the outbreak of AIDS, the irreparable destruction of environment, the increasing population growth etc.

However, the main discussion of the conference was formed as the result of the coalition of States active in human rights and women's healthcare related to the traditional approach to population and family planning.

Some people held that population growth was not the main factor for development. Some others argued that population policies were usually cruel and unfair to women. Still, some others believed that the approaches focused on family planning were very limited and did not reflect the realities of women's life.

Considering the aforementioned differences, the advocates of women's healthcare regarded a new approach as necessary. The viewpoints expressed by the Catholic Church, Muslim and population experts were not accepted. The result of the above-mentioned discussions expresses a balanced compromise between different views. [12](#) Thus, the final document of Cairo Conference approves the authority of states and guarantees the principles relating to human rights. The first paragraph of the preamble to chapter two, which was the result of the attempts of Muslim countries and some Latin American countries states:

It is the right of every State to harmonize the exercise of the recommendations with its developmental rules and priorities, and put them into effect with complete respect for religions, moral values and cultural backgrounds of people based on the international human rights rules accepted by everyone. [13](#)

The final document of Cairo Conference indicates the executive plan relating to population and development in the next twenty years. This document shows the strategy in which emphasis is placed on the affairs between population issue and sustainable development, and on the full realization of women's and men's needs as individuals and not as the goals of demography.

The key to this new outlook is empowering the women, providing more opportunities for them through access to medical, educational and occupational services. The executive plan refers to everyone's access to family planning until 2015 or earlier as part of a comprehensive outlook towards the rights and childbirth rights.

The Conceptual Development of Reproductive Health and Rights

In 1990s, some international conferences expressed a common belief in the social development through providing the basic human needs, the cooperation of the individuals, families and society in development. Undoubtedly, the real development requires independence and freedom of action.¹⁴ The president of the Central Committee of Cairo Conference states, "The reproductive health and rights are the main factors for development. Hence, the services relating to reproductive health should be treated as one of the most appropriate answers to individuals' needs."¹⁵

As expressed earlier, the concept of reproductive rights as the basic human rights, takes root in some international documents. The executive plan of Cairo conference states that it does not seek to create any new human rights but it stresses and verifies the use of the standards of human rights accepted by everyone.¹⁶

The concept of reproductive rights was discussed in chapter seven of the executive plan of Cairo Conference and in the Fourth Conference of Women's Rights (1995). It guarantees some parts of human rights recognized by national rules and international documents relating to human rights and other agreements relating to the United Nations. It includes the right to free decision-making of all spouses and everyone as to the number of their children, the time of their birth without any kind of discrimination, pressure and violence, the right to the enjoyment of proper information and instruments for the exercise of human rights and gaining the highest standards of reproductive rights.

Considering the points noted above, the international concept of these rights seeks to recognize the reproductive rights for everyone. Hence, reproductive rights have assumed greater dimensions since the inception of the Cairo Conference.

Although the recognition of this right outside the family unit contradicts many rules and values of countries including the Muslim countries, the problem has somehow been subdued as a result of the exercise of the authoritarian right of states and reconciliation of the recommendations of the conference with national rules and moral and religious values in the introductory of the plan.

Generally, reproductive rights have three dimensions:

1. The rights of individuals to become parents who are allowed to have any number of children they wish. This right requires the right to the enjoyment of medical and educational possibilities, access to information and low-expense healthcare strategies for birth control.

2. Human rights require that the spouses and individuals can satisfy their reproductive needs without any impediments.

3. Human rights require guaranteeing that family planning, especially those areas relating to motivational activities, should be exercised fairly and softly in relation to individuals, family planning and everyone concerned in order that no inequality might emerge among social groups.[17](#)

After the Cairo Conference, reproductive rights suffered conflicts relating to national and international rights just like most of human rights generally expressed in abstract with a view to achieving a certain definition which implies the vastness, exact distinction and the rules on its violation.

The rules for determining the content, the elements of the rights, the issues and effects of these rights relating to the new technology of reproduction including laboratory reproduction, and choice of sex of the baby are among the fundamental problems in giving a definition for the aforementioned rights. Although it seems farfetched that these issues can be settled at international level between the States, it is advisable that the international community help the other countries by presenting political and moral guidelines.[18](#)

Despite the conceptual deficiency, the document of Cairo Conference became a turning point in recognizing the reproductive health and rights as part of human rights, rights that shall not be achieved without granting equality and empowering women.

The impediments to achieve the goals of reproductive health and rights were described in a report by the then Secretary General of the United Nations: there are many impediments to achieve the goals of reproductive rights due to the importance of the issue and due to its controversial nature and struggles have gone on for ameliorating these rights. The important problem is the conceptual nature of the issue.

In many countries, human rights and reproductive health and rights differently expressed in other international documents are not very familiar. Besides, due to formulation and expression human rights and reproductive health and rights might be abstract rights alien to the outlooks, traditions and local experiences.

There are few experts on the previously mentioned rights and in many cases, they have no knowledge of the case. Under such circumstances, women are more limited than men. Therefore, without access to information and relevant knowledge, the achievement and exercise of such rights do not seem farfetched.[19](#)

Due to these impediments, achieving the reproductive health and rights has limited domain. To overcome the impediments, we can strengthen and apply international pacts and monitoring bodies. Another way would be to increase relevant information and education, attempts to promote awareness of millions of people who have little or limited knowledge about healthcare issues.[20](#)

Perhaps the best ways to give a proper definition for the concept of reproductive health and rights at national and local level are to adopt the legal language with practical needs. “For example, in order that such concepts as reproductive health and rights should be materialized at national level. it is necessary that they be mingled with social, political and religious structures.”²¹

Reproductive health

Reproductive health is not a new concept but the product of a process, which made a change in the stance towards the issue of public healthcare and family planning. The reproductive health is the first and the most important element of the reproductive health and rights and is conditioned by the level of social and economic development, life style, the women’s status in the society and their access to medical services. Article eight of the first chapter of Cairo Conference deals with a new impression of the reproductive health:

The world has undergone changes, which have brought about new important opportunities for development and population. Among the most striking of these opportunities is the fundamental change in the outlook of the people and their leaders concerning the reproductive health, family planning and population growth which includes a new widespread mentality to the reproductive health as defined in these programs.²²

Reproductive health as recognized at international plane is dependent on a definition, which the World Health Organization has given of public healthcare. The reproductive health is the situation in which complete physical and mental health, the social welfare of the individuals in all aspects of system of childbirth, and the functions are safeguarded and does not refer only to lack of sickness, and weakness.

The reproductive health means that human beings may enjoy healthy marital life and can decide on the time of childbirth and the number of children. The awareness and access to the best sure methods of family planning which does not contradict the laws and the access to medical services enabling women to pass their pregnancy time are among the rights of men and women.

The healthcare issues are associated with the situation and conditions of different social groups. However, the important thing is the outlook towards these methods and the steps taken for changing the unpleasant conditions and solving the relevant problems. In the new outlook, the reproductive health finds vaster dimension and gets associated with the healthcare and the environment of the individuals. Hence, in the system of childbirth, health is a comparative concept influenced by varying factors, which operate in mutual relation to one another. Mental peace and the access to the healthcare require the creating of an atmosphere in which the process of childbirth takes place in physical, mental and social conditions.

The new outlook is based on the presupposition that the individuals’ healthcare and health is influenced by their medical backgrounds and health. The reproductive health not only reflects their situation and

instructions in childhood but their healthcare situation influences it in childhood, and adolescence.[23](#)

Family Planning

One of the most important aspects of the reproductive health and rights is the access to methods for family planning as there has been hitherto no method is considered as complete without family planning.

Due to the traditional aspects of the reproductive health, medical aspects of childbirth were discussed in relation to the general outlook of the healthcare of mother and child. However, changes taken place in sociodemographic matters during the recent decades reveal that the outlook is very limited and shall fail to answer the women's healthcare needs. Therefore, family planning is chosen not only as one of the basic features of reproductive health and rights but also as a method for living through fewer pregnancies.[24](#)

Although reproduction is regarded as the main mechanism of man's physical life, its planning is a determining factor for the mental and physical welfare and health of the individuals, the family and the society. Thus, "planning as to the time and number of births is one of the least costly methods of improving life and surely it is a grave mistake ignoring it."[25](#)

Reproduction is conditioned by the complicated economic, social and cultural structure. "The study of history shows that the unequal position of men and women in different historical periods and societies has been instrumental in decisions concerning reproduction although the process of women's socialization has verified the inequalities and women have been the main reason for these inequalities."[26](#)

The fact is that these are the women who become pregnant and nature has not given them power of choice in this regard. Therefore, in order to control their biological situation, they should consciously think of a way. The woman who is not capable of controlling her own pregnancy and directing it in her own favor lacks mental and physical health and cannot enjoy the pleasure of a self-willed pregnancy and avoid the depression resulting from unwanted pregnancy. The potential effect of family planning is that women become able to plan for their pregnancy and give birth in the most suitable time due to their physical or mental situation and economic sources of family.

Meanwhile they should seize suitable opportunities to further their education and to actively participate in all aspects of social endeavors and consequently enjoy a prosperous life in wide dimensions.

Throughout the world, especially in developing countries, the prevention of unwilled pregnancy has an important effect on mothers' health. The differences as to the deaths of mothers in developing countries and developed countries are numerous. In 1988, in less developed countries, the deaths of mothers due to pregnancy effects were 700 out of 100,000 whereas in developed countries, in the same year, the rate was 26 out of 100,000.

According to the report of the World Health Organization, during a woman's lifetime, the probability of death due to pregnancy effects in developing countries is one to twenty whereas in some developed countries, it is less than one to 10,000.[27](#)

The Secretary General thus describes the relation between the rate of pregnancy and development:

The rate of birth and death demands social concepts apart from population. For instance, decrease in reproduction means small families, and allocating less time to reproduction and bringing up children. These changes enable many women to further their education and work outside. The low rate of reproduction and death results in the decline of population, the fact that has important effects on the work force, commitment, services, social well-being and healthcare system.[28](#)

The executive plan of the Cairo Conference demands the long-termed success of family planning to observe the conscious choice with freedom of action. As an attempt to satisfy the frustrated needs, all countries are demanded to remove all the obstacles to the use of family planning service in order that one may be sure that each child is consciously brought into this world.

Abortion

An induced abortion is one of the oldest methods of birth control widely performed throughout the world in the highly industrialized countries or in developing countries. The places in which abortion is legal, the method is a little threat to the health of women whereas in places in which it is illegal, (for it is often performed in unhealthy conditions) it might bring on infertility and cause unwanted abortions. According to the report of World Health Organization, 70,000 women die annually as the result of the effects arising from abortion.[29](#)

From among the 45 million abortions annually reported, about 20 million are reported to be unhealthy which might amount up to 20 million today.[30](#)

The fact is that the prohibition of abortion has never been an effective method for preventing it. Hidden abortions are repeatedly performed and surely the ill effects of such abortions shall be directed to low income classes of the society.

Based on the existing information about 193 countries, a great majority of countries (98 percent) has allowed abortion to preserve the well being of the mother. Abortions for preserving the physical well-being of the mother are legal in 119 countries (62 percent); abortions for preserving the mental ,well-being of the mother are legal in 95 countries (50 percent); abortions for preventing the completion of a pregnancy resulting from rape or incest are allowed in 81 countries (42 percent): abortions for preventing the birth of a child with serious deformity, mental deficiency or genetic abnormality are allowed in 78 countries (40 percent): abortions for social and economic reasons are allowed in 55 countries and are allowed in 41 countries (21 percent).[31](#)

The issue of abortion is so extensive, which can be discussed from different, medical, social, moral and philosophical perspectives. The extent of induced abortions throughout the world has turned it into a universal problem. In the Cairo Conference on Population and Growth, abortion was one of the most debated issues. Finally, the representatives agreed on the following points:

In no case, abortion should be encouraged as a method of family planning. All States and intergovernmental and non-governmental organizations are demanded to accord more attention to their commitment concerning the women's healthcare, regard the unhealthy effects of abortion as an important issue, and decrease abortions through extensive and optimal family planning services. Any change in abortion in the medical system at national or local level must take place according to national laws. In circumstances where abortion is not illegal, such operations must be performed safely.³²

Education–Information–Communications

The right to have access to information and communications is another constituent of the concept of reproductive health and rights. The importance of the aforementioned issues arises from the knowledge that they are important instruments to create changes in conducts and attitudes. Without access to information, decision-making shall not be possible.

Regarding the socio-cultural background, the States should take necessary steps in presenting information and instruction, which is the necessary condition of the reproductive health and rights. The Cairo program of action offers a harmonious approach to education, information and communication and provides that it should mingle with the goals and policies of development and population at national level and the reproductive health.

In general, in some cases, the cultural, political and social conditions limit the access to the reproductive health. In this regard, one can mention ignorance, superstitions and some cultural taboos. The strengthening of the interrelation of family planning and the activities relating to the aforementioned issues cause them to protect each other and enable the national programs to achieve the full realization of the frustrated wishes through transmitting healthcare to reproduction to the highest degree of quality.

Education is one of the social variables, which can exert the deepest effect on the concept of the reproductive health and rights. In the present age, education especially for girls and women is an essential factor for achieving sustainable development and is confirmed in international conferences. The fact is that in many countries, women's status is inferior to men's. Women's participation in home, social activities and employment are often ignored. Their situation has been viewed from the perspective of childbirth and child caring even though they gain little support in these cases.

In most of the developing countries, the long-termed historical negligence of women's education has conducted to increase illiteracy among rustic and old women. The illiteracy of women plays a big part in putting them beyond the margin of work and social life. Despite the endeavors exerted in developing

countries to fill the educational void of men and women, it was reported in 1994 that 75% of the illiterate are to be found among the women.³³ It is universally acknowledged that girls play a small part in production and for them, education is for fun. Hence, in some developing countries, scant attention is accorded to women's education.

Even in societies in which access to women's education is increasing, they are generally encouraged to pursue women's activities, thus strengthening their traditional role in the society. National and non-national studies show that the relation between education and reproduction is more than what was conceived in the past, for this is closely associated with the rate of development, social structure and cultural milieu.³⁴

The attention to the internal relation of women's education and the conduct of pregnancy plays an important role in policy-makings. Education elevates women's understanding of their healthcare needs and views, increases their power of decision making in relation to the issues of the reproductive health and family planning, enables them to make proper decisions in their attitude towards the aforementioned issues proportionate to their family interests.

Educated women get married at a later age, give birth at a later age, and have fewer births. Demands for children decrease among the educated women. This is not only due to the decrease of death of children resulting from unhealthy conditions but due to the fact that it focuses women's attention on new interests, decreases their inclination towards greater number of children, and provides them with more opportunities for the workforce.

During this process, the recognition and knowledge of women increases, their talents are revealed and they acquire an identity beyond childbirth as the result of which true independence and freedom of action are provided for them, guaranteeing true development. Today, the need for the furthering of education as the means to develop and decrease pregnancy in the world is supported.

The executive plan of the Cairo Conference suggests that there is a mutual relation between the population changes and social changes, regarding the amelioration of women's education as a factor for empowering them, for delaying the marriage age, for decreasing number of families.

Reproductive Health and Rights in Islam

In the general evaluation, the attempts on the formation of the concept of reproductive health and rights considering the different cultures of regional and relative tendencies on the general and universal concepts in different societies, it becomes obvious that the reactions of identical conditions are different in different areas. The general outlook on the concepts of human rights disregards the varying value systems of different societies and presents a unified outlook of the impression of different cultures towards human rights.

Considering that the international community does not have a unified structure, the access to a universal agreement is difficult at international level towards certain definitions in different areas of human rights including the reproductive rights without considering the different cultural characteristics especially the Islamic values.

As discussed in the first part, the reproductive rights are closely associated with the status of women in different societies. These rights as described in international documents are dependent on the absolute equality of different sexes although the absolute equality of men and women is an ideal prescribed by international documents.

In the final documents of the conferences recently held on the status of women, development and population and certain strategies are considered for them. The ideal concept has not yet been materialized in any country especially where it is ardently protected. Besides, as the partiality of legal regulations in conditions where sex discriminations reign in social relations, it is per se a factor for strengthening the dominant equality, the equality of rules and regulations do not often correspond with the facts.

Equality is a comparative concept, which can be substantively and formally discussed. Most of the superficial equalities guarantee real inequalities. Hence, the achievement of superficial equality might result in the violations of real equalities.

With this view on the concept of equality, the abstract generality of human rights is modified and new views more associated with women's lives emerge. Under these conditions, the human values of different cultures especially Islam stress the universality of the general principles of human rights. "The Islamic human rights indicate the natural states which man needs in relation to himself and his nature in order to develop his natural perfection."³⁵

The women's status in Islam has been misinterpreted due to different reasons. In this regard, we should not ignore the underdevelopment in some Muslim countries. Undoubtedly, the phenomenon of underdevelopment has placed women in the margin in Islamic and non-Islamic countries.³⁶

In Islam, men and women are equal based on their virtue. The Holy Qur'an states,

"The noblest among you in the sight of God is the most godfearing of you." (Surah al-Hujurat, 49: 13)

In the Qur'anic verses, men and women are addressed under one unified title (believers) and their equality has constantly been stressed.³⁷

Paragraph B of article one of the Cairo Declaration of Human Rights in Islam states, "All creatures are the servants of Allah and the most beloved of them is the one who is most helpful to his fellow human beings and no one is superior to anyone else."

In Islam, the family is the foundation of the society and considered as the only bed for the emergence of the new generation. Hence, the reproductive rights are recognized within the framework of family.[38](#)

Article five of the Cairo Declaration of Human Rights in Islam states, “The family is the pillar of the society and marriage is its basis.” Thus, despite the international documents which refer to the reproductive rights for couples and individuals, the province of these rights is limited to couples in Islam.

Although men and women have equal rights in performing sociocultural activities and religious duties, there are certain regulations as to the family unit which cause the priority of men’s rights over women’s and sometimes the other way around.

If we accept that this inequality is not based on the value differences of men and women but on the basis of the distribution of responsibilities in proportion to their nature, the question may be brought up whether this distribution of responsibilities described in Islam may be revised as to the welfare and the changes in conditions if such a thing does not contradict Islamic view. It is understood that this matter should be determined by the Muslim ’Ulama.[39](#)

The important thing in the founding of family is the consent of both parties. Obviously, when there is no consent on both parties, the reproductive rights are annulled. Regarding the conventional nature of marriage, both parties can include any conditions in their marriage. For example, women can include certain rights in their favor so that those rights may be observed more than others. Surely, the use of such rights is closely associated with women’s status, their recognition of their own rights. It must be noted that the literature on marriage in the last few years indicates the granting of many rights for women.

In Islam, the conventional nature of marriage and some of women’s rights in the family unit including the preservation of name, the enjoyment of financial independence and the recognition of their nationality in administering affairs and the possession of properties and the alimony which consists of medical and healthcare expenses are among the factors, which can be effective in empowering women and the exercise of the reproductive rights.

Undoubtedly, Islam is the school of order and welfare. Many Qur’anic verses indicate the existence of order in the world, which demands man to ponder upon the existing order.[40](#)

The birth control, planning, and family planning are not exceptions to this rule. Besides, concerning the principle of *Isalat al-Ibahah*, meaning that any time we suspect the legality or illegality of something, it is not unlawful,[41](#) or in other words, any time there is no reason for suspecting something, the use of that object is allowed for that person. Some scholars believe that so far there has been no order from the lawgiver for the prohibition of birth control, hence, family planning is necessary.[42](#)

It is also manifest that if reproduction places women in dangerous and intolerable situation or inflicts mortal agonies on them, or if it is medically ascertained beyond question that an abnormal child may be

born, abortion is not only allowed but also compulsory according to *'Usr va Haraj* which is a well-known law in Islamic jurisprudence.

In addition to the previously mentioned points, the lack of birth control causes extensive population growth and the limitations of the resources and energy deficiency in the world which have in turn caused poverty, illiteracy, illness and unemployment. The repetition of this process has caused a vicious cycle, which has destructive effects on life and the environment especially in developing countries, which constitute a large part of the world.

In Islamic Iran, over the years after the victory of the Islamic Revolution (1979) and the period of the imposed war (1980–1988), the issue of family planning was ignored and the population growth has caused the highest rate of childbirth in the country.⁴³ After the imposed war the issue of population and the social-economic straits formed the core of the discussions relating to socio-economic development.

The modification of population within the framework of the general policies of the first socio-economic plan (1989–1993) was taken into consideration and in 1993, family planning law was ratified, annulling the advantages expected for the fourth child. Hence, population growth had an upward trend. In the second five-year plan, family planning was taken into consideration within the framework of population issues. In this program, there is extensive birth control especially in deprived areas and allocating part of the activities of the hospitals, clinics, and medical centers to the provision of birth control and annulling all advantages relating to large families.

From an Islamic perspective, education is equally recommended for men and women. The holy prophet states, “seeking knowledge is incumbent upon every Muslim man and woman.”

Article nine of the Cairo Declaration of Human Rights in Islam states, “Every human being has the right to receive both religious and worldly education from the various institutions of education and guidance including the family, the school, the university, the media, etc, and in such an integrated and balanced manner as to develop his personality, strengthen his faith in God and promote his respect for and defence of both rights and obligations.”

The regulation of the second development plan stresses the education and the increase of women's knowledge in the age levels of pregnancy and the advantages of birth control, acquisition of knowledge and doing studies for using and developing the new methods in pregnancy prevention. It suggests the performing of scientific researches with a view to acquiring knowledge, insight, function and family problems in family planning and the applied studies to increase awareness, outlook, function of family and access to methods and suitable technology. Firiydun Rahmani states:

In investigating the effective factors on women's childbirth in Iran, two factors of literacy and occupation for women have been discussed. The results show that the more the rate of women's literacy and women is especially the females over 15–49, the less the rate of births becomes. Besides, there is a reverse relation between the rate of women's occupation in industry and childbirth and the rate of

women at education at higher level and childbirth. Thus, the effects of these factors on reproduction in Iran are determined and considering the decrease of women's occupation in industry in between 1976–1986 on the one hand and the decrease of the rate of women at higher education, the petty increase of women's literacy and the existence of the great number of illiterate women and the deep gulf of urban and rural spaces, the necessity of increase of literacy and education of women especially in rural areas and their occupation outside the family are determined.”[44](#)

Considering that 34 percent of the fifteen year old Iranian population are illiterate and there are 150 illiterate women compared to 100 illiterate men[45](#) and the decrease of women's presence in the work force, the necessity of steps for ameliorating educational level and women's occupation as the effective factor in controlling birth and the exercise of the reproductive rights becomes all the more apparent.

Abortion in Islam

Abortion is not only a medical and social issue but also a philosophical one where the legality of induced abortion is different. The moral characteristics of such abortions lie in protecting the defenseless life of man or what is potentially accepted as life and the philosophical aspects of it are determining the progressive process of fetus which is the beginning of man's life.

According to a certain decree, the killing of children is forbidden in the Qur'an and the children refer to fetus and the like.

“Those who killed their children out of ignorance are in loss.” (Surah al-An'am, 6: 140)

Today, the science of genetics shows that human life begins at the time when ovum is formed or at least when it is shaped in the womb and is not stopped after those physiological changes continue until death. In other words, the determining of a moment in the development of the fetus as the moment when human life begins is impossible.[46](#)

There is a difference between the medical and the jurisprudential definition of fetus. According to the Holy Qur'an,

“We have created man of an extract of clay, then We made him a small seed in a firm resting-place, then We made the seed a clot, then We made the clot a lump of flesh, then We made the lump of flesh bones, then We clothed the bones with flesh, then We caused it to grow into another creation, so blessed be Allah, the best of the creators.” (Surah al-Mu'minun, 23: 14)

They interpret another creation as the infusing of the spirit of God, regarding a human life for the fetus. With this reasoning, most of the jurists regard the aborting of the fetus as killing.[47](#)

To interpret the above mentioned verse they refer to a Hadith by prophet Muhammad that states, “Each one of you remains in the womb for forty days, and as a clot for the same period of time, and then as

flesh for the same period of time and then God sends an angel to infuse within it of His spirit.”

This hadith states that from the ovum to the infusing of spirit, 120 days pass. In other words after 120 days, the fetus assumes a human form.[48](#)

Although the fetus, within which the spirit of God has not been infused according to Islam, is not a human being, it is valuable and if the fetus is dropped before the spirit is infused within it, the act shall incur punishment. There are different ideas in this regard.

In the Iranian legal system, which is based on jurisprudential and Islamic rules, abortion is a crime. Although access to reliable information for determining the number of induced abortions is difficult, the formal statistics shows almost zero in this regard.[49](#) However, the fact shows the great number of induced abortions.

In the study after the revolution in five governmental hospitals, this result emerged that in the five hospitals, 295 people confessed to induced abortions. Another study in another Tehran hospital during 1990–1991 shows the hospitalization of 7% of the whole people who committed abortion.[50](#)

The Islamic penal system determines the types of blood money for abortion and besides this chapter, the operation of people in this act is predicted in book five through articles 622–624. It is obvious that the illegality of aborting does not include medical abortions.

Conclusion

One may gather these results from the discussion:

1. The concept of the reproductive health and rights has been recognized as the manifestation of universal human rights.
2. This concept is based on the fundamental documents on human rights, the final documents of the conferences of population and development, women’s rights and the internal affairs of states.
3. Due to the incongruity of the different population cultures, there has been no certain definition for these rights.
4. The reproductive rights as described in the international documents of the last decade includes: the rights of spouses and individuals for free decision–making and the responsibility of determining the number of children and their period and the right to enjoy proper instrument, information and instruction for the exercise of the aforementioned rights which include the reproductive rights and birth control.
5. In Islam, the reproductive rights are recognized only within the framework of the family.
6. From the things expressed on the reproductive rights, it seems that women should decide on the time

of their childbirth due to their physical and mental state so that they may give birth to healthy children. In addition, the couples shall have financial commitment to their children and should determine the time of childbirth.

7. In the end, expressing views on the content of the reproductive rights should correspond with Islamic values and can only be determined by the jurists and the experts in this field.

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[1.](#) Report of the International Conference on Population and development A/CONF. 171/13, 18 October 1994, p. 60.

[2.](#) Family Planning Health and Family Well-Being United Nations, (N. Y. 1996), p. 316.

[3.](#) Article 16 of the Universal Declaration of Human Rights states: 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. 2. Marriage shall be entered into only with the free and full consent of the intending spouses. 3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

[4.](#) Article 16 of Tehran Conference states: "The international community constantly considers the protection of family and children. Parents have the right to freely determine the number of their children and the age distance between them."

[5.](#) Article 23 of Civil and Political Rights states: 1. Family is the basic group unit of society and is entitled to protection of the society and the State. 2. The right of men and women of marriageable age to marry and to found a family shall be recognized. 3. No marriage shall be entered into without the free and full consent of the intending spouses. 4. State Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. Article ten of the Covenant on Economic, Social and Cultural Rights states: The State Parties to the Present Covenant recognize that 1. The widest possible protection and assistance should be

accorded to the family, which is the natural and fundamental group unit of society. 2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. Article 12 of the same Covenant states: 1. The States Parties to the present covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps taken by the state parties to the present covenant to achieve the full realization of this right shall include those necessary for: a) the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child b) the improvement of all aspects of environmental and industrial healthcare c) the prevention, treatment and control of epidemic, endemic, occupational and other diseases. d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

[6.](#) Noel Whitty, *The Mind, the Body and Reproductive Health Information*, Book Review, *Human Right Quarterly*, Vol. 18, No. 1, (February 1996), p. 227.

[7.](#) *Ibid.*, p.228

[8.](#) *Ibid.*

[9.](#) *Ibid.*, p.226

[10.](#) Noel Whitty, *op. cit.*, p.20

[11.](#) Barbara B. Crane and Stephen L. Isaacs, *The Cairo Program of Actions: A New Framework for International Co-operation on Population and development Issues*, *International Law Journal*, 1995, Vol. 36, No. 2 (1995) p. 299.

[12.](#) *Ibid.*, p.300

[13.](#) A/EDNF, 171/13, p. 14.

[14.](#) Report of UNF PA, 1996.

[15.](#) Barbara B. Crane and Stephen L. Isaacs, *op.cit.* p. 196.

[16.](#) A/Conf. 171/13, p. 13.

[17.](#) Family Planning, *ibid.*, p. 33.

[18.](#) Barbara Crane and ..., *op.cit.* p. 304.

[19.](#) Report of the Secretary General: E/CN, 9/1996/2, 15 January 1996, p. 24.

[20.](#) *Ibid.*,p.25

[21.](#) *Ibid.*

[22.](#) *Ibid.*

[23.](#) *Ibid.*

[24.](#) Family Planning Health and Family Well-being, *Ibid.*

[25.](#) *Ibid.*,p.210

[26.](#) A/CONF, 171/13, p.60

[27.](#) A/CONF, 171/13, p.60

[28.](#) E/CN. G/1996/2., p.11

[29.](#) *Ibid.*, p. 13

[30.](#) *Ibid.*

[31.](#) *Ibid.*, p. 15

[32.](#) A/CONF, 171/13, p.60

[33.](#) *Ibid.*, p.79

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[37.](#) For further information see Surah at-Tawbah (9:72); Surah al-Ahzab (33:35-36).

[38.](#) For more information see Surah an-Nisa (4:21).

[39.](#) Husayn Mihrpur, *Islam and Human Rights*, *Siyasat Khariji*, no. 1, (1996), p.223

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