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Overpopulation and Sacred Law: The Wisdom of Islam and the Demographic Politics of Islamic Republic of Iran¹

Abstract

Overpopulation is one of the most serious issues impacting both the present day and the future. It is closely connected to ecological perspectives on human life on Earth. However, the “reproductive mission” of humankind has constituted a biological and moral imperative in all cultures and especially in the Abrahamic monotheisms and their laws. Combining these two divergent ‘lines of force’ inevitably also produces different ways of interpreting and living human rights. This paper outlines the interplay among Islamic law, human rights, social and religious habits and the challenges of overpopulation, considering the population transition laws in Iran, from 1967 up to today.

Keywords: Overpopulation, Islamic Law, Theocratic Republic of Iran, Demography, Human Rights.

1. Landmarks of Human Rights and Reproductive Health: the International Conference on Population and Development of Cairo, 5–13 September 1994 and Former Declarations

Reproductive rights are today widely recognized as Human Rights. In their conventional definition, they embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. Also included is the right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents. In the exercise of this right, the needs of living and future children and their responsibilities towards the community should be taken into account. The promotion of the responsible exercise of these rights for all people should be the fundamental basis for government-and community-supported policies and programmes in the area of reproductive health, including family planning.² The current

¹ An earlier version of this article was presented at the European Academy of Religion Conference, Bologna-Italy 2019, 7 of March 2019, at the Panel ‘Overpopulation, Religious Laws, and Human Rights. Exploring the Future’ organized by the Oxford Journal of Law and Religion.

² This definition is taken from the Programme of Action of the International Conference on Population Development 20th Anniversary Edition, 2014 United Nations Population Fund, 60.

broad and discursive definition is the result of a long-lasting process of recognition in which the principal landmarks were, among others, the following international declarations:

- Teheran International Conference on Human Rights 1968: The Final Act of the Teheran International Conference on Human Rights included a provision stating: 'Parents have a basic human right to decide freely and responsibly on the number and spacing of their children and a right to adequate education and information in this respect.'
- Bucharest World Population Plan of Action 1974: The World Population Plan of Action adopted in Bucharest also reaffirmed the right to reproductive decision making: 'All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so; the responsibility of couples and individuals in the exercise of this right takes into account the needs of their living and future children, and their responsibilities towards the community.'
- Mexico City World Conference on Women 1975: The World Conference on Women has two articles dedicated to this issue: Article 11 says 'It should be one of the principal aims of social education to teach respect for physical integrity and its rightful place in human life. The human body, whether that of woman or man, is inviolable and respect for it is a fundamental element of human dignity and freedom;' and Article 12 affirms 'Every couple and every individual has the right to decide freely and responsibly whether or not to have children as well as to determine their number and spacing, and to have information, education and means to do so.'
- Convention on the Elimination of Discrimination against the Women (CEDAW) 1979: Article 16 explicitly codifies the specific right of reproductive choice: 'States parties shall take all appropriate measures to ... ensure on a basis of equality of men and women ... , the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.'
- Finally, the International conference on population and development of Cairo of 1994 affirmed sexual and reproductive health as a fundamental human right and emphasized that empowering women and girls is key to ensuring the well-being of individuals, families, nations and our world. The Principles of the Cairo declaration clearly outline the idea that reproductive choices can be considered as Human Rights, but also that they are instruments for global development. More exactly, principle 4 affirmed:
 Advancing gender equality and equity and the empowerment of women, and the elimination of all kinds of violence against women, and ensuring women's ability to control their own fertility, are cornerstones of population and development-related programmes. The human rights of women and the girl child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in civil, cultural, economic, political and social life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex, are priority objectives of the international community.

And so forth, the principle 5:

Population-related goals and policies are integral parts of cultural, economic and social development, the principal aim of which is to improve the quality of life of all people.

Despite broad and lasting recognition in international declarations, the notion of reproductive health is complex, because it can be considered effective only in presence of certain general conditions. In fact, the full constellation of the conditions (legal, social, economic, cultural, religious) that surround reproductive choices (legal capacity, economic autonomy, education, to be free from discrimination, public services) must be considered in order to render reproductive choices—fundamental to the common good of public health—'meaningful' under the aegis of Human Rights' theories. A historic

overview of Iranian population trends and policies offers clear demonstrations to illuminate this point.

2. Islamic Teachings on Reproduction and Their Contemporary Interpretation

Islam surely gives strong and unequivocal emphasis to reproduction and fertility³. The primary sources of Sharia, that is the sacred Law, often affirm the importance of marriage, family formation and procreation. In the cultural and legal dimension of the Islamic religion, offspring and children are considered as important values and natural desires. For instance, the Holy Book (Qur'an, surah 18: 46, al-khaf) says:

Wealth and children are [but] adornment of the worldly life. But the enduring good deeds are better to your Lord for reward and better for [one's] hope.

This means that families seek to have a secure financial future and children. Another prayer of believers described in Qur'an, surah 25:74, al-furqan is the following:

And those who say, 'Our Lord, grant us from among our wives and offspring comfort to our eyes and make us an example for the righteous.'

A famous episode, depicted in the Noble Qur'an (and in the Holy Bible), offers a proper insight into the problem of infertility. The marriage of Ibrahim and his wife Sara is described in the Qur'an, surah 51: 28-30, ad-dhariyat:

... and he (Ibrahim) felt from them apprehension. They [the angels] said, 'Fear not,' and gave him good tidings of a learned boy. And his wife approached with a cry [of alarm] and struck her face and said, 'I am a barren old woman!' They said, 'Thus has said your Lord; indeed, He is the Wise, the Knowing'.

The story illustrates the example of the aged Sara, who had willingly resigned to her destiny of being pregnant and she offered Hajar to Ibrahim in marriage, so as to enable him to have children. Sara continued to be firm in her faith and true to her husband. She remained a faithful woman in many ways, and for this reason was ultimately blessed with a child, Itzaq.

As with Ibrahim, another episode from the Qur'an explains to what extent the reproductive choices are important in the Islamic culture. In Qur'an, surah 21: 89-90, al-anbya', it is Allah who is speaking:

And [remember] Zakaria, when he called to his Lord, 'My Lord, do not leave me alone [with no heir], while you are the best of inheritors.' So We responded to him, and We gave to him Yahya, and amended for him his wife. Indeed, they used to hasten to good deeds and supplicate Us in hope and fear, and they were to Us humbly submissive.

³ Al-Bar and Chamsi-Pasha (2015: 173-174).

Like Sara, Zakaria remained faithful and supportive of his infertile wife. It may be worth noting that in both cases, being infertile does not make one any lesser a man or woman nor less faithful. Like Zakaria, one should pray Allah for the blessings of offspring, but such an achievement is not an absolute end in the Sharia.

Accordingly, contemporary scholars argue that support for family planning in Islam can be resorted to under the doctrine of ease, necessity, capacity and permissibility, as explained in the Qur'an 2: 185 al-baqarah:

Allah intends for you ease and does not intend for you hardship [...]

so that Islam is sympathetic to family planning if spacing children and adjusting their number will make the mother more physically fit and the father more financially at ease.⁴

Treatment of infertility in married couples is today encouraged, as it involves preservation of procreation, and the 'social' status of Muslim women, their dignity and self-esteem are closely related to their procreation potential. However, childbirth and offspring are regarded as family commitments of both partners and not just biological and social functions. According to the Islamic law, marriage is a contract in which the bodies' disposition is an object of personal commitment and legal obligation. So the will of both parties is necessary.

As assisted reproduction was not mentioned in the primary sources of Sharia, patients and Muslim doctors alike initially felt that seeking assisted reproduction by trying to render barren women fertile and handling human gametes and embryos was a challenge to God's will. Assisted reproduction was only widely accepted after prestigious scientific and religious bodies and organizations issued guidelines, which were adopted by Medical Councils and accepted by concerned authorities in different Muslim countries; these principles have controlled the practices in assisted reproduction centers⁵.

Moreover, another central feature of Muslim identity and family structure is authenticity of lineage. For this reason, sperm donation fractures links of family genetic lineage. It is considered analogous to adultery and is therefore condemned. For the same reason, the Qur'an explicitly prohibits legal adoption, yet it encourages the charitable upbringing of orphans (Qura'n, surah 33:4–5, al-ahzab).

Allah has not made for a man two hearts in his interior. And He has not made your wives whom you declare unlawful your mothers. And he has not made your adopted sons your [true] sons. That is [merely] your saying by your mouths, but Allah says the truth, and He guides to the [right] way. Call them by [the names of] their fathers; it is more just in the sight of Allah. But if you do not know their fathers—then they are [still] your brothers in religion and those entrusted to you. And there is no blame upon you for that in which you have erred but [only for] what your hearts intended. And ever is Allah Forgiving and Merciful.

⁴ Jones and Karim (2005: 47).

⁵ Serour (2008).

3. Population and Islamic Conception of the State

Reproduction and population are also relevant to political theory and the conception of the modern State. This section analyzes a sort of contrast between the global dimension of Islamic teachings and the local dimension of public policies. Along these lines, Islamic Law can almost be considered to be a ‘transnational’ tool of regulation because of the nature of the Islamic community itself—the *ummah*—that does not depend on citizenship but on religious affiliation. In practice, national policies of Muslim states on reproduction and family planning defined at the “local” level, are based on the current situation of a State and may divert from the canonical teachings on reproduction and offspring.

To begin, it is common to quote the *Sunnah* of the Prophet Mohammad:

Abu Dawood narrated that Ma’qil ibn Yasaar said: A man came to the Prophet (peace and blessings of Allah be upon him) and said, “I have found a woman who is of good lineage and is beautiful, but she does not bear children. Should I marry her?” He said, ‘No.’ Then he came again with the same question and he told him not to marry her. Then he came a third time with the same question and he said: ‘Marry those who are loving and fertile, for I will be proud of your great numbers before the other nations.’⁶

The hadiths ‘marry the fertile’ and ‘marry and multiply’ are often recalled by the supporters of political Islam, and under certain circumstances the question of multitude represents not only a theological but also a political issue. For example, for reasons of underdevelopment and post-colonial resentment, some religious leaders considered multitude as an asset, useful to equate the power of foreign countries. A striking example comes from Maulana Maududi who was one of the most influential opponents of family planning. In his book ‘The Birth Control,’ first published in 1937, he affirmed that the birth control movement was a plot against Islam, and that to import such a policy into developing countries would have been tantamount to ushering in a widespread moral malaise, ranging from the breakdown of the family to the abandonment of the traditional roles of women. His argument was that birth control was akin to changing God’s creation and for this reason forbidden.⁷ Yet Maulana Maududi also conceded that in the Qur'an there was no clear prohibition of contraception and family planning.

⁶ Classified as *sahih* by al-Albaani in *Irwa' al-Ghaleel* (1784).

⁷ Jones and Karim (2005: 50-51).

4. General Historical Overview: The Pre-Revolutionary Period (1967-1978)

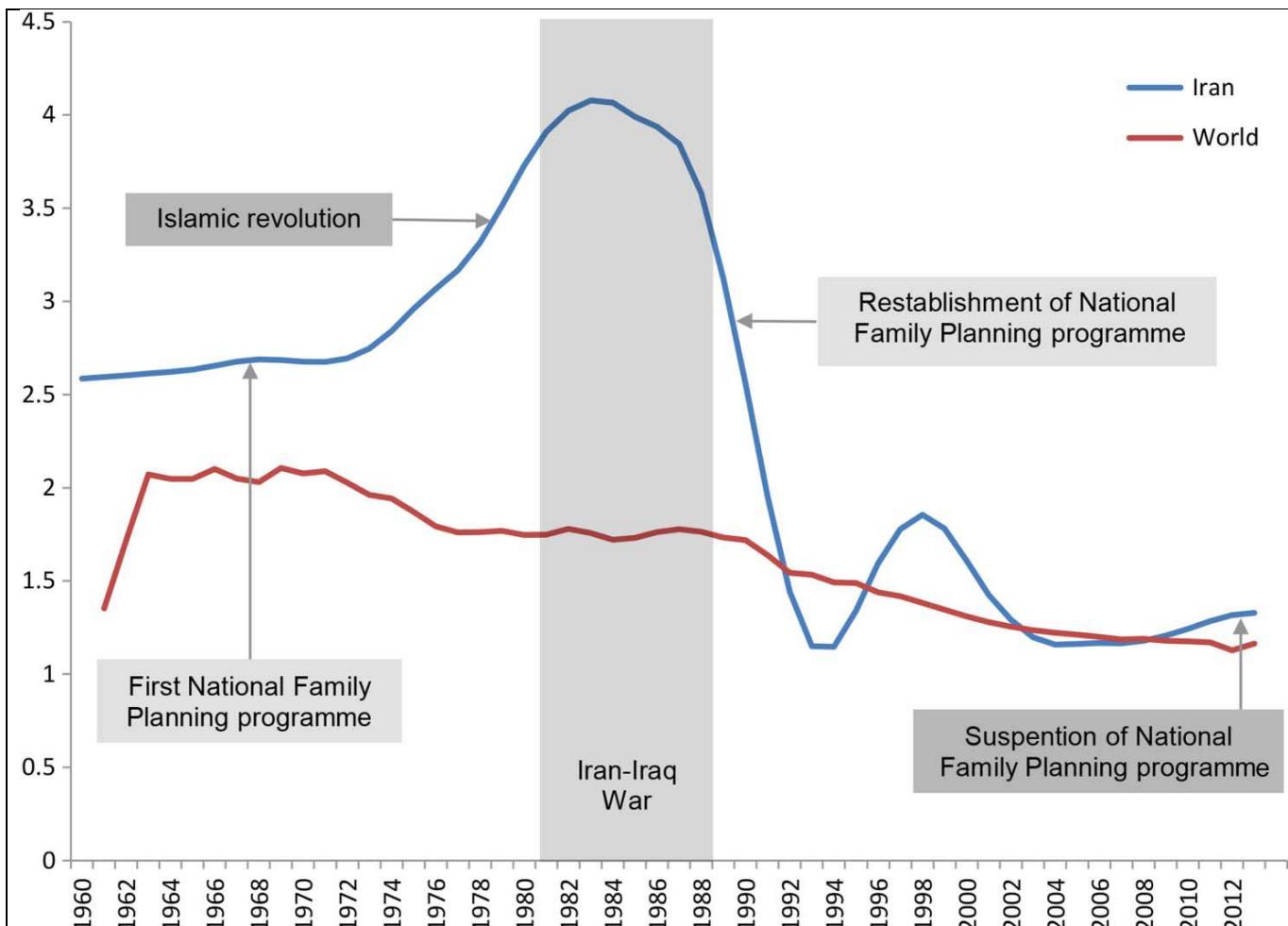


Fig 1. Source: Aloosh M, Saghai Y., Birth control policies in Iran: a public health and ethics perspective, in J Epidemiol Community Health 2016; 70:530.

The analysis of population transitions in Iran dates back to the 60's, when in 1967 the Imperial Government of Iran adopted the first national Family Planning Program (FPP).⁸ As an indication of the insensitivity of the program to the traditional values of Iranian society, it should be noted that during its twelve-year history (1967-79), no official effort was made to obtain a formal ruling (*fatwa*) in support of contraception and family planning from any of the top level religious leaders, then reigning in the Iranian theological centers of Qum and Mashhad. The only *fatwa* on the permissibility of contraceptive use issued by a relatively senior religious leader (*ayatullah*) inside Iran before the Islamic Revolution was the one made by the late Ayatullah Baha-ud-Din Mahallati of Shiraz and dates back to 1963. This *fatwa* had been issued in response to a written question by a

⁸ Aghajanian (1994: 66-69).

religiously oriented, US trained, gynecologist (Dr Mahmood Sarram), then working at Shiraz University. This fatwa clearly demonstrates that, contrary to the stereotypical picture often presented by the Western media, the politically minded Shiite ulama, who emerged as the leaders of the Islamic revolution, were by no means against family planning. This is also supported by the radically positive attitudes towards contraception in general, as well as the support for the use of such controversial methods as sterilization and even abortion expressed by the two eminent Shiite participants (Shaikh Mohammad Mahdi Shamsuddin and Shaikh Mohammad Hossain Bahishti) in the Rabat Conference on Islam and Family Planning in 1971.⁹

5. The early Islamic Revolution: Suspension of the Family Planning Program (1979-1980).

A close review of the early period of the Islamic Revolution demonstrates that neither the leader, Ruhollah Khomeini, nor other *ayatollahs*, were in any way against birth control through contraceptive use as a matter of individual choice. This is clearly reflected in the *fatwas* issued by Imam Khomeini, and other grand *ayatollahs*, when requested.

To be more specific, it is possible to quote the accounts on the matter contained in the detailed paper entitled '*Repression And Revival Of The Family Planning Program And Its Impact On The Fertility Levels And Demographic Transition In The Islamic Republic Of Iran*'.¹⁰ This paper reports that less than four months after the triumph of the revolution, around June 1979, Dr. Kazem Sami, a founding member of the Socialist Party in Iran, had an audience with Imam Khomeini, during which he raised the issue of birth control and the need for family planning. At the end of this meeting, Dr Sami informed reporters that the Imam had agreed with his suggestion to keep the FPP program alive. A few months later, in September 1979, the Ministry of Health submitted a written report to the Imam on the health situation and the need for continuation of FPP services. This report described the implications of the high rate of population growth, which was believed would add a potential one million to a population needing food, shelter, health services, and education. In addition, the importance of providing modern contraceptive services had been underlined, and the Imam's explicit guidance on the matter had been requested. The Imam had written the following note on the margin of the report:

'If the use of these methods does not expose women to any health problem (or harm) and it is also approved by her husband, [their use] to solve the problems [mentioned in the report] is religiously permissible.'¹¹

This statement was taken as an official *fatwa* by the Ministry of Health and distributed among the relevant departments of the ministry. There were, however, some lingering doubts in the minds of program personnel and the public. So, several other efforts were made to obtain written statements from Imam Khomeini. One of these is a letter written by Dr Muhammad Reza Motamadi, deputy

⁹ There is a mention in Jones and Karim (2005: 52, 133).

¹⁰ Mehryar, Roudi, Aghajanian, and Tajdini (2000: 6 ff.).

¹¹ Verbatim translation from the text given by Ashofteh-Tehrani (1985: 321).

minister in charge of the FPP, which was apparently submitted to the Imam while he was hospitalized in the Tehran Heart Hospital in the summer of 1980. In this letter, the Imam's views on the permissibility of using the IUD (Intra Uterine Device) and female and male sterilization are specifically requested. The letter starts with a brief description of each method and goes on to add that the methods were used in Iran before the revolution, but since the revolution their provision by the public health department has been officially suspended. It adds,

'Certain people are however still eager to use them and the Ministry of Health does not know how to respond to their demands.'

In a brief response, the Imam wrote back:

'Prevention of pregnancy is not forbidden. As long as it is done with the consent of the couple, does not expose them to any harm, or require action inconsistent with religion, it is permissible.'¹²

These *fatwas* were quickly distributed to Regional Health Departments all over the country. The copy sent to the health department of Isfahan province is dated [13]59/06/23 (14 September 1980) and signed by the director general for family health of the Ministry of Health. Almost a month later in a circular signed by Dr. Motamadi deputy minister of health for public health, population, and family planning, and dated [13]59/7/22 23 (14 October 1980) the recipients are informed that:

'As some Regional Health Organizations and other executive centers continue to raise questions regarding the permissible methods of family planning, the subject has been shared with the Maraje'e Taghlid (Top Religious Leaders) and the results are as follows:

1. None of the methods, devices and drugs currently supplied by family planning clinics including pill, condom, IUD, and other available devices are prohibited and they should be made freely available to couples who consent to use them;
2. Sterilization is not currently among the free-of-charge methods offered by the Ministry of Health. It is thus necessary that all executive agents of the program as well as service receivers be properly instructed on this matter and all resources should be mobilized to [re]activate the program.'¹³

As an indication that the circulars sent by the central authorities were not sufficient to convince the rank and file of the program, and to relieve their concerns once and for all, there is evidence that some provincial officials also went out of their way to directly share their concern with Imam Khomeini and other *maraje'e* (leading religious leaders). One such letter is written by Dr. Esmail Akbari, director general for health of Isfahan province, and dated 1359/11/7 (31 January 1981) in which Imam Khomeini's views on IUD (Intra Uterine Device), tubal-ligation, and vasectomy are specifically asked for. In response to this letter, the Imam had written:

'Prevention of pregnancy with the consent of husband and wife is not prohibited. But if it entails physical damage or sterility it is not permissible.'¹⁴

¹² Verbatim translation from the text given by Ashofteh-Tehrani, (1985: 323).

¹³ Verbatim translation from the text given by Ashofteh-Tehrani, (1985: 324-25).

In a letter sent by the deputy minister for public health, population and family planning to the health department of Isfahan province (dated [13]59/12/27 (17 March 1981), reference is made to a then recently held seminar on the ‘Problems of Implementing the Health Program,’ which apparently also dealt with family planning. The recipient of the letter is advised to ask for additional budget for maternal, child health, family planning and nutrition services envisioned for the financial year 1360 (1981-1982). It goes on to add that:

‘According to the final resolution of the said seminar, Imam Khomeini’s views will be the basis for the operational and educational activities related to family planning so that no doubts and hesitation will occur among applicants, users and demanders of services or service providers regarding their permissibility.’¹⁵

6. The War, the Census and Policy Reversal (1980-1986)

Shortly after the revolution, Iraq attacked the young Islamic Republic of Iran, and the country suffered an eight-year modern war, as well as an international economic embargo imposed by the United States. Under the circumstances, population size was bound to emerge as a measure of ‘comparative advantage’ and as a major propaganda issue, if not a real asset. The Iranian leadership presented the relatively large size of Iran’s population (estimated as 40 million) as a major source of military strength and national security.¹⁶ Thus, the honorific title of ‘the 20 Million Man Army’ was coined to refer to the huge number of young, middle-aged and older men (and women), who had voluntarily taken arms to defend their country against Iraqi aggression. The universal rationing program, introduced as part of the national war effort, also provided some tangible economic incentives for having more children. Under this program, all household members, regardless of age and sex, were entitled to relatively generous vouchers, which covered almost all their basic needs, as well as such modern consumer goods as radios, televisions, carpets, refrigerators and washing machines. Having a new baby meant an additional share of the rationed goods. Thus, couples had good reasons to prefer high fertility and large families. In this context, the results of the **1986 Census** represented a kind of success. According to this census, the population of Iran had increased at the staggering rate of 3.9 percent per year since 1976, and stood above 49 million. The incumbent prime minister (Architect Mir-Hossein Moosavi) openly hailed the enormous growth of the population as a ‘God sent gift.’ The speaker of the Islamic assembly (parliament)—and later president—Hashemi-Rafsanjani, also hailed the unexpectedly high population growth rate, revealed by the 1986 census, and claimed that Iran could and should aim at a population size of 200,000,000. But as the detailed results of the census became available, and the leadership of the Islamic Republic of Iran realized their immediate and long-term implications for the war-shattered economy of Iran, the situation changed from one of public euphoria to private concern. The Plan and Budget Organization (PBO,

¹⁴ Verbatim translation from the text given by Ashofteh-Tehrani (1985: 327).

¹⁵ Verbatim translation from the text given by Ashofteh-Tehrani (1985: 327-28); Mehryar, Roudi, Aghajanian, and Tajdini (2000).

¹⁶ Abbas, Mehryar, Jones, and McDonald (2002: 25 ff.).

the Governmental Economic Agency) and the Ministry of Health and Medical Education saw the necessity of launching a carefully designed publicity campaign to convince other levels of the policy elite, as well the general public, of the need for a national population policy and birth control program. To this end, a much publicized three-day 'Population and Development Seminar' was held in Mashad in September 1988. Academic demographers as well as experts from ministries such as agriculture, education, economy and health used the opportunity to stress the need for planning and population control. The seminar, in effect, publicly declared that the rate of population growth in Iran was too high and that, if left unchecked, it would have serious negative effects on the national economy and the welfare of the people. At the end of the Mashad Seminar, the Minister of Health and Medical Education reiterated at a press conference, the late Imam Khomeini's *fatwa* regarding family planning, and announced that a family planning program would be established. Almost simultaneously, the prime minister declared that 'birth control' was a 'destiny factor' for Iran, and invited women to prevent unwanted pregnancies by seeking help from publicly run health clinics and health houses around the country. The resolution approved at the end of the seminar made a number of specific recommendations regarding the need for, and means of, population control and family planning. As a result of this seminar and its wide coverage by the government controlled national media, the need for a national population policy and an active family planning program became a legitimate topic for public discussion.

Despite these preparations, some hardline, but influential clergy, both within and outside the regime, were not convinced by either the urgency of the population problem, or the consistency of public investment in family planning with the basic tenets of Islam. To overcome these objections, the government had to take the issue to the then newly established 'Expediency Council to Safeguard the Interests of the [Islamic Government] System.' With the approval of the Expediency Council, family planning and population control became legitimate areas of active involvement by the government.

7. Legalization of Family Planning (1988)

In December 1988, the High Judicial Council had issued an official declaration reaffirming that 'there is no Islamic objection (or legal barrier) to family planning.' This official pronouncement removed all potential judicial impediments and paved the way for the initiation of the Family Planning Program by the Ministry of Health and Medical Education. Several outstanding religious leaders spoke out in favor of population control and Friday prayer leaders were instructed to discuss the issue as part of their weekly sermons. The basic idea was, in principle, approved. However, in view of the existence of certain objections within the Islamic consultative assembly (parliament), the government decided to withdraw the family planning bill that had been submitted to the parliament.

8. The Isfahan Seminar on Islam and Family Planning for the Top Clergy, 1989

The Mashad Seminar on Population and Development was a predominantly professional and technocratic gathering and had thus far failed to get the influential clergy (*ulama*) outside the central government involved in its deliberations. To make up for the under-representation of the traditional

clergy at this seminar, and to ensure that the proposed population/family planning policy would enjoy their support, family planning was singled out for special consideration and discussion by a group of eminent clergy and physicians attending a seminar on 'Islamic Perspectives in Medicine' organized by the Mashad University of Medical Sciences in February 1989. This was followed by another seminar explicitly dealing with 'Islam and Population Policy,' which was held in Isfahan in April 1989 and brought together a large number of eminent clergy.

Thus, the main elements of a national family planning policy were formally adopted and ratified in 1989 when the First Socioeconomic Development Plan was approved by the Islamic consultative assembly. As a result, the family planning program, officially inaugurated in December 1989, had three major goals:

- to encourage families to delay the first pregnancy and to space out subsequent births;
- to discourage pregnancy for women younger than 18 and older than 35;
- and to limit family size to three children.

The Ministry of Health and Medical Education was given almost unlimited resources to provide free family planning services to all married couples, promote small families as the norm, and help couples prevent unplanned pregnancies. All modern contraceptive methods were available to married couples, free of charge, at public clinics.

In 1990, to remove continuing doubts about the acceptability of sterilization as a method of family planning, the High Judicial Council declared that sterilization of men and women was not against Islamic principles or existing laws. In 1993, as a conclusion of this reversal, the legislature passed a family planning bill that removed most of the economic incentives for large families.

9. The last shift and the Khamenei Statement on Iran's Population Policy (2012-2014)

The latest shift in population policies occurred in 2012, when population growth rate and total fertility rate fell to 1.31% and 1.9, respectively, among the population of 76 million in the country. Eventually, in July 2012, the former minister of health—Marzieh Vahideh Dastjerdi—officially stated that the FPP budget was cut to a great extent, and the Ministry of Health and Medical Education was no longer able to provide all the routine public FPP services, through the public health sector. While the new motto is 'at least two children is ideal,' the Ministry of Health and Medical Education is currently trying to encourage women to have three children by the age of 30. At present, public access to free contraceptives is not banned; however, it is restricted to a great extent. Moreover, Iran's parliament has recently outlawed vasectomies and tubectomies, except to save a person's life. Based on this legislation, any medical practitioners found engaging in any surgery that reduces fertility, could face up to five years of imprisonment.¹⁷ Moreover, the Iranian conservative parliament has recently discussed a pro-natalist bill that outlines various incentives for childbearing, including early retirement for mothers, and tax relief and child benefits for large families. The bill goes further, giving permission for the punishment of birth control service providers.¹⁸

¹⁷ Karamouzian, Sharifi, Haghdoost (2014).

¹⁸ Aloosh, and Saghai (2016: 529–533).

It was the former president—Mahmoud Ahmadinejad—who first highlighted the need to increase the country’s population, stating that Iran could support a population of up to 150 million people. He further declared that the ‘*Two children are enough*’ motto, stemmed from a wrongly imported western perspective. Shortly after, the supreme leader of Iran—Ayatollah Seyed Ali Khamenei—also communicated his opinion about the population control strategies. This population policy guideline recognizes population as a multifaceted issue and the need for evidence-based, long term, and comprehensive policies.¹⁹ The guideline is comprised of several objectives such as

- achieving a fertility rate at or above replacement level,
- facilitating and promoting family formation and childbearing,
- providing proper means to help mothers especially during pregnancy and breastfeeding,
- consolidating the basis and stability of the family,
- promoting and establishing the Islamic-Iranian lifestyle,
- promoting life expectancy,
- and providing family health and nutrition.

The objectives also include promotion of the culture of respecting and looking after the elderly and providing the necessary conditions for taking care of them at home, empowering the working age population through cultural reforms, reinforcing and adapting disciplinary systems and public training as well as spatial and geographical distribution of population corresponding to ecological capacity. The policy guidelines also refer to managing migration, motivating Iranians living abroad to return and/or to invest inside Iran, constantly observing the qualitative and quantitative aspects of population policies by providing the proper mechanisms and local factors of human development.²⁰

10. Islamic wisdom, Human Rights, and Population Policies: Lights and Shadows

After the review of the Iranian transition on population, it is necessary to come back to the fundamental assumption concerning reproductive health as a human right. Only the presence of all the conditions (legal, social, economic, cultural, religious) that surround reproductive choices (legal capacity, economic autonomy, education, freedom from discrimination, access to public services) makes the choices of couples and individuals ‘meaningful’ under the aegis of Human Rights’ theories. For instance, one of the central elements that defines reproductive choice is autonomy, which means that a woman can make decisions in matters of reproduction and that she has access to the information and services that make her choice possible. This autonomy, in turn, requires a set of other rights for her as an adult individual and as a citizen. Reproductive health is thus embedded in a woman’s life situation and is shaped not just by medical conditions, but also by social forces and power relationships that range from the level of the family to that of international institutions²¹. Taking into account this basic assumption, the history of Iranian family planning clearly shows what we might call some ‘lights and shadows.’

¹⁹ Hosseini-Chavoshi (2016:1-10).

²⁰ Khamenei (2014: 573-575).

²¹ Makhlof Obermeyer (1994: 42).

Religion and policy intertwine; reproduction is an issue where ‘nature’ and ‘will’ intertwine and depend on each other. Moreover, a global view on reproductive rights demonstrates that such an issue often puts the law governing reproduction beyond the reach of secular authorities. In virtually every Muslim country, for example, family relations and sexual intercourse are governed by a body of personal status law derived from religion and customary practices. Often these laws are enforced by religious authorities and adjudicated in religious courts. With the rise of Muslim fundamentalism, there has been great pressure to adopt Sharia, or Islamic law, as state law, thereby putting the force of government behind the authority of religion. The growing trend in Muslim countries to rely on Islamic law to govern family matters is a cause of great concern for reproductive rights advocates.²² Moreover, the relevance of the religious laws in family matters has a direct effect on gender relations that, in the Muslim world, is not generally favorable to gender equity.²³

Yet, reformists and feminists have also contested this scriptural and establishment version of Sharia. Using the many instances in the Qur'an and Hadith (where no difference is made among believers) and the historical evidence concerning the status of women in the early decades of Islam, they argue that there is a basically egalitarian ethos in Islam that has been distorted by patriarchal forces.

As a result, from the point of view of Islamic doctrine, two different positions on reproductive choice may be taken:

- the more traditional one gives women little freedom to make decisions that bear on reproduction;
- the second, claimed by Muslim reformists and feminists, argues that the constraints on reproductive choice are not inherently Islamic, and that the egalitarian elements in the sacred texts should be the guide to a reinterpretation of the doctrine that would be fully compatible with ideas of human rights.²⁴

Nuptial Age increase and the Status of Women after the Revolution: Fertility transition in developing countries is often associated with an increase in the age of marriage for women. From this perspective, the policies in Iran have been inconsistent. Since 1979, the government of the Islamic Republic of Iran has encouraged early marriage: the legal minimum age for marriage for girls was reduced from sixteen to nine years. During the following decade, young couples received many incentives for early marriage. However, despite this spirited campaign for early marriage, the average female age at marriage hardly changed during this period. On the contrary, women's mean age at marriage started to rise from the mid-80s onwards. The female Singulate Mean Age at Marriage (SMAM) increased slightly from 19.7 in 1976 to 19.8 years in 1986, followed by a significant increase from 19.7 to 22.3 years between 1986 and 1996, and then to 23.4 years in 2011. It seems, therefore, that the traditional practice of relatively early marriage followed relatively quickly by first birth continues in Iran in response to family and social expectations. Moreover, there is a large gap between the mean ages at first marriage for women with a higher education level (finishing high school or tertiary education) as compared with lower levels of education. With the advancement of

²² Freedman and Isaacs (1993: 27).

²³ McDonald (2000: 428) underscores that gender equity derives from both ‘gender stratification’ (that is ‘institutionalized inequality between male and female members of society’) and ‘gender roles’ (That is, the division of labor between man and women).

²⁴ Makhlof Obermeyer (1994: 42).

women's education, the age at marriage for Iran as a whole may increase again. This would have at least a short-term, negative impact on fertility as both marriage and childbearing are postponed.²⁵ The Islamic Revolution also changed the status of women in Iran. The important role of women in the Revolution was widely acknowledged, and no doubt increased their status in the community. Subsequently, their educational opportunities continued to widen, their marriages were delayed and arranged marriage declined on average, but, somewhat surprisingly, their participation in the labour force did not increase. Still more important were developments in women's positions within the family, in their decision-making functions, which were no doubt enhanced by their increasing levels of education, and in their relation to their husbands, as well as to the extended family. Peter McDonald has argued that increased gender equity within the family is likely to be a feature of fertility transition²⁶. On the other side, studies from around the world show that women's welfare and social status are usually dependent upon having children, and that infertile women often live in dire fear of divorce, loss of family support, and community stigmatization. Also, in Iran, children are viewed as important sources of social, psychological, and economic support for their parents; having children leads to perceived emotional succor, higher social status and prestige, marital security, socioeconomic support, care in old age, and fulfillment of the religious duty to be fruitful and multiply. Even though educated, middle-class women appear to be somewhat buffered from these effects as compared to lesser-educated, lower-income women, the motherhood role is still perceived as the very foundation of their social status and identity.²⁷

The Sunni and Shia views on Artificial Reproductive Technologies (ART)²⁸ are important to review. There is a deep difference between the Sunni and the Shia views concerning the use of technologies to increase or to limit the fertility rate of population, and – considering the perspective of families – to help or limit the possibility of offspring of the couples²⁹. As for the Sunni view, the Grand Sheikh of Egypt's famed religious university, Al-Azhar, issued the first fatwa on medically assisted reproduction on March 23, 1980. Typically, the Sunni Islamic position on assisted reproduction clearly permits in vitro fertilization, using eggs from the wife with the sperm of her husband and the transfer of the fertilized embryos back to the uterus of the same wife. However, since marriage is a contract between the wife and husband during the span of their marriage, no third party should intrude into the marital functions of sex and procreation. This means that a third-party donor is not acceptable, whether he or she is providing sperm, eggs, embryos, or a uterus (as in surrogacy). Ebrahim Moosa says: 'In terms of ethics, Muslim authorities consider the transmission of reproductive material between persons who are not legally married to be a major violation of Islamic law. This sensitivity stems from the fact that Islamic law has a strict taboo on sexual relations outside wedlock (*zina*). The taboo is designed to protect paternity (i.e., family), which is designated as one of the five goals of Islamic law, the others being the protection of religion, life, property, and reason.' In all of the Sunni-dominant Muslim countries, sperm donation for 'in vitro fertilization' (IVF) and all other forms of gamete donation are strictly prohibited.

²⁵ Hosseini-Chavoshi (2016: 4-5).

²⁶ Abbasi, Mehryar, Jones, and McDonald (2002: 32, 42).

²⁷ Hasanpoor-Azghdy, Simbar, and Vedadhir (2015: 409-420).

²⁸ Abbasi-Shavazi, Inhorn, Razeghi-Nasrabad, and Toloo (2008: 12 ff.).

²⁹ Inhorn (2008: 34 ff.).

Until recently, most Shia religious authorities have supported the majority Sunni view: namely, they agree that third-party donation should be strictly prohibited. However, in the late 1990s, the Supreme Leader of the Islamic Republic of Iran, Ayatollah Ali Hussein Khamenei, the successor to Iran's Ayatollah Khomeini, issued a fatwa effectively permitting donor technologies to be used under certain conditions. With regard to both egg and sperm donation, Ayatollah Khamenei stated that both the donor and the infertile parents must abide by the religious codes regarding parenting. However, the donor child can only inherit from the sperm or egg donor, as the infertile parents are considered to be like 'adoptive' parents. So, Iran is the only Muslim country in which ARTs using donor gametes and embryos have been legitimized by religious authorities and passed into law. This has placed Iran, a Shia-dominant country, in a unique position versus the Sunni Islamic world, where all forms of gamete donation are strictly prohibited. Most Shia scholars have also issued fatwas that allow surrogate motherhood as a treatment for infertility, albeit only for legal couples. In the Iranian clinics following Khamenei's lead, all manner of egg, sperm, and embryo donation, as well as surrogacy, continue to take place, with his fatwa clearly displayed as moral justification. For over a decade, donor gametes are not only being donated and shared, but even purchased by infertile couples in 'in vitro fertilization' (IVF) clinics in Iran and certain parts of Lebanon (where Shia's communities are present).

It should be noted, nevertheless, that many Shia religious authorities, outside of Iran, continue to support the majority Sunni view: namely, they agree that third-party donation should be strictly prohibited. For example, Iraq's Ayatollah al-Sistani has opposed any form of third-party donation, and Shaikh Muhammad Husayn Fadlallah, Lebanon's most prominent Shia religious authority, disagrees with Khamenei's permission of sperm donation. In addition, other Shia sects such as Non-Iranian Jafari, Zaidi of Yemen and Ismaili disagree.

However, the arrival of donor technologies in both Lebanon and Iran—the only two Middle Eastern countries to offer these services—has led to new reproductive options never before imagined. These technologies have engendered significant medical transnationalism and reproductive tourism, the mixing of gametes across national, ethnic, racial, and religious lines, and the birth of thousands of IVF and donor babies to devout infertile Muslim couples. For their part, at least some infertile Muslim couples, both Shia and Sunni, have begun to reconsider traditional notions of biological kinship, even if 'social parenthood' of a donor child is still not widely embraced in the Middle Eastern region. Nonetheless, because donor technologies are now widely available in both Iran and Lebanon, the power of the Sunni Muslim ban on third party donation is being weakened across the region, with some infertile Sunni Muslim couples reconsidering their own anti-donation moral stances. As a result of these social processes, Shia gametes are finding their ways into Sunni bodies, despite the regional antagonisms between these two warring religious sects.³⁰

³⁰ Inhorn (2008: 42).

11. Religious Democracy, Public Health, and the Social Justice Approach: Sacred Law or Humans' good?

According to Prof. Mansour Mirahmadi, contemporary Iran should be defined as a 'religious democracy.' This term refers to a specific conception of democracy that explains the justification of collective power or authority and public participation with the help of religious statements, analyzes the ontological, anthropological, sociological, and teleological foundations of democracy based on religious sources, and finally determines the conceptual boundaries of collective power and public participation on the grounds of religious teachings. According to this definition, religious democracy stands in opposition to other types of democracy such as 'liberal' or 'social' democracy. While these two justify, analyze and explain the essential aspects of democracy with the acceptance of the authority of liberalism and socialism, 'religious' democracy accepts the authority of Islam in justifying, analyzing and explaining the essential aspects of democracy.³¹ Needless to say, Iranian religious democracy is based on the political thinking of Ruhollah Khomeini.³² According to Imam Khomeini's outlook, government is the pivot of Islamic thinking, and jurisprudence is regarded as the provider of its rules and regulations. In other words, in an Islamic government, the main objective is the execution of Islamic decrees, and jurists stand in a central position to compose and guarantee these decrees. Of course, the *faqih* needs more qualifications such as ability and experience in managing the society so that he can implement Islamic ideas. Therefore, juristic political Islam and the idea of *wilayat al-faqih* are regarded as the nodal point of religious democracy in Iran.³³ In this ideological framework, the problems of overpopulation and fertility must also be reviewed according to the roles and values of the people in Shia Islam. In other words, the health of the people becomes the object of evaluation for the *faqih*'s jurisprudence and must be regarded as a part of the religious legal order. In practice, this means that public health focuses more on the general population than on individual patients, and it relies upon a range of primary prevention strategies and public policies rather than targeted therapeutic interventions. Moreover, public health is not and has never been narrowly concerned with health in isolation from other dimensions of well-being. Instead, its ends have been defined with the inclusion of such things as the need to secure for all members of the population a rich measure of social respect, conditions conducive to leading self-determining lives, and a host of other goods such as personal security and cognitive development, both of which are important for improved health and must also be valued independently of their causal roles in health promotion. The history of public health as it is revealed in practice alongside its most articulate theoretical expressions of professional aims demonstrates both an inherent concern for the distributive implications of public policy and a commitment to paying practical attention to a plurality of morally salient concerns beyond health when crafting public health policies and interventions. Justice requires ensuring for everyone a sufficient amount of each of the essential dimensions of well-being, of which health is one. Thus, bringing about health becomes a specific objective of social justice.³⁴

³¹ Mirahmadi (2009); see also Mirahmadi (2019: 6-21).

³² On the education and political thought of Ruhollah Khomeini, cf. Goudarzi, Jawan, Ahmad (2009: 65 ff.).

³³ Mirahmadi (2010).

³⁴ Faden and Powers (2008: 151 ff.).

To conclude, the issue of birth control and family planning in Islamic law and in the jurisprudence of the Iranian ayatollahs is a matter in which a theocracy, notably a ‘state supporting a specific view of society’ seems to prevail over the private will of individuals. Yet, the same experience explains quite paradoxically that even under these circumstances, the interpretation of God’s will is not the only driving factor; a wider set of political, institutional and religious interactions effectively change larger societal health and population trends.

Appendix: the Sayyid Ali Khamenei Statement, 30th Ordibehesht, 1393/20 of May 2014 (full text)³⁵

In the Name of Allah the Beneficent, the Merciful

Considering the significance of the issue of population in achieving national power and considering the dynamism, development and youthful nature of the population of the country as an opportunity and advantage and with the purpose of making up for population decreases in recent years, I hereby announce the general policies on population. In view of the affirmative role of population in the progress of the country, it is necessary to formulate comprehensive plans for achieving the economic, social and cultural growth of the country in line with population policies. It is also necessary to adopt essential measures in a careful, rapid and powerful way. This should be done through cooperation and collaborative work by the organizations which are in charge of such affairs. It is necessary to report the results of the pursuit and implementation of these policies.

In the Name of Allah, the Beneficent, the Merciful

General policies on population:

1. Improving the dynamism, development and youthful nature of the population by increasing the fertility rate to a higher rate than the rate of sub-replacement fertility.
2. Removing the obstacles of marriage, facilitating marriage, promoting the formation of family and giving birth to more children, encouraging youth to marry at a younger age, supporting young couples and enabling them to afford the cost of living and to raise righteous and competent children.
3. Providing mothers with special resources—particularly during pregnancy and breast-feeding—and with childbirth insurance, treating men's and women's infertility and supporting the organizations in charge of such affairs.
4. Strengthening the foundation of the family by improving and completing the public educational plans about the essential nature of family and child-rearing, encouraging people to learn the skills which are necessary for life, providing consultative services on the basis of Islamic-Iranian culture and values, developing and supporting the Social Security Organization, improving health and treatment services and paying attention to medical care with the purpose of ensuring fertility.
5. Promoting and establishing an Islamic-Iranian lifestyle and confronting the negative aspects of the western lifestyle.
6. Increasing hope about life, ensuring the health and proper nutrition of the people and preventing social detriments particularly addiction, accidents, pollution and diseases.
7. Creating a culture for respecting the aged, preparing the ground for ensuring their health and for preserving them in families and developing necessary guidelines for benefiting from the experiences and capabilities of old people in appropriate arenas.

³⁵ Khamenei (2014: 573-575).

8. Empowering the working population by creating an appropriate culture, by improving and strengthening educational organizations and public, entrepreneurial and technical instructions and lessons and by coordinating these instructions with the needs of society, and with talented individuals and their interests with the purpose of creating efficient and productive employment.
9. Environmental and geographical re-distribution of the population—in line with environmental capacities—by stressing the necessity of water with the purpose of fair distribution and reducing population pressures.
10. Preserving the population of villages and border and sparsely populated areas and creating new population centers in the Persian Gulf and Sea of Oman coastal areas and islands by developing infrastructural networks, encouraging investment and creating an appropriate environment for business with appropriate levels of income and profit.
11. Managing immigration from and to the country in line with the general policies on population and by developing and implementing necessary guidelines.
12. Encouraging the Iranians who live abroad to be present and to invest in Iran and utilizing their capacities and capabilities.
13. Strengthening the factors (Iranian, Islamic and revolutionary) which bring about national identity, promoting consensus and social convergence nationally, particularly among the residents of border areas and the Iranians who live abroad.
14. Constant follow-up—quantitative and qualitative—of population policies by developing appropriate guidelines, defining domestic standards for human development and carrying out research on population and human development.

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