

When does Ensoulment occur in the Human Foetus ?

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Abstract

The debate related to legal permissibility of abortion in Islam tends to revolve around three fundamental concerns. The first, related to the staging and what is observed of human form of the foetus, the second, the relationship between this human form and ensoulment, and the third, how we interpret the verses of the Qur'ān which informs us about topics which we identify with 'science'. This article will present important arguments and their responses, sourced mainly from the Islamic legal tradition, and will conclude that it is incorrect to assign ensoulment to just after 40 days (6 weeks) of gestation from conception, rather the 120 days account is to be maintained.

Introduction

Majority Muslim scholars of the earlier formative period associated high moral status to the manifestation of *human form (takhliq)* in the foetus. They identified that the Ādamic human form was what distinguished man from others and was the point at which high moral status was ascribed. They claimed that human form occurs after *mudghah* stage, i.e. after 120 days from fertilization, having deduced this from the Prophetic tradition based on when human features like head, limbs etc are visible, and hence moral importance is given- as this is the time of ensoulment. [1][2][3][4]

Ensoulment occurs after *mudghah* stage according to what is interpreted from the Qur'ān. This is explained as being after the bone and flesh stage, after which, this foetus is now another creation- in other words ensoulment.

“And verily we did create man from a quintessence (of clay). Then we made it into a *nutfah* in a place of rest, firmly fixed. Then we made the *nutfah* into an *'alaqah*. Then of that *'alaqah* we made a *mudghah*. Then of that

mudghah bone and then, clothed the bones with flesh. Then we developed out of it another creation, *khalqan ākhar* (by breathing life into it). So blessed be Allāh, the Most Marvellous Creator.” [Q. 23:12-14]

Muslim Scholars agree that *khalqan ākhar* (another creature) refers to a human person due to ensoulment. The foetus develops physical human features only after these stages. So, when physical human features become visible i.e. after clothing of bone with flesh, then we know that the foetus has reached this stage and is ensouled.

More recently, because of advanced ultra-sonographic imaging, it is known that the human form is visible at 6-8 weeks, this approach is now questioned. Does that suggest that ensoulment is therefore after 6 weeks? The response to this question holds a lot of importance because many questions of *fiqh*, substantive Islamic law, that relate to the permissibility of abortion, inheritance, the waiting period for a widower, the funeral and burial rights of an aborted foetus, depend on the time of ensoulment and the witnessing of the foetal human form (*takhliq*).

This essay, which is a summary of a much more detailed article written by the author [5], will discuss three main topics. The first, is regarding human form, and how this relates to ensoulment. The second, how classical Muslim jurists related the concept of *takhlīq* (human form) to moral status of the embryo, and how they differed. Third, how we should approach the hermeneutics of the Qur'ān related to embryology, when reconciling with today's science, in order to deduce important ethico-legal questions like abortion. Readers will benefit from the depth of this discussion. In particular, the focus will be on *takhlīq* and ensoulment, and how they tie in with the science of embryology.

Human Form (*Takhlīq*) and its Relationship to Ensoulment

Ensoulment is claimed to occur after 120 days and this is the expressed and agreed upon opinion of all classical Muslim scholars. [6][7][8][9][10][11] More recently, there are those who argue, on the basis of the embryo manifesting physical human features and form just after 40 days, that ensoulment occurs just after 6 weeks gestation. [12]

There are a few early Muslim scholars who argued forty days from conception for completion of *mudghah* stage, such as the likes of Ibn Zamlakānī, the Syrian Shāfi'ī scholar (d. 727 AH) and some of the later period scholars and commentators who were advocates of the ḥadīth of the companion of the Prophet (ﷺ), Ḥudhayfah bin Asīd that the fashioning (*al-taṣwīr*) and creation of human form (*takhlīq*) are likely to occur at the end of forty days, forty two days or forty five days. Yet, none of them expressed disagreement with ensoulment occurring at the agreed period after 120 days. [8]

The ḥadīth of Ḥudhayfah bin Asīd:

'Abd Allah Ibn Mas'ūd reported: Evil one is he who is evil in the womb of his mother and the good one is he who takes lesson from the (fate of) others. The narrator came to a person from amongst the Companion of Allah's Messenger (ﷺ) who was called Hudhayfa b. Usayd al-Ghifārī and said: How can a person be an evil one without (committing an evil) deed? Thereupon the person said to him: You are surprised at this, whereas I have heard God's Messenger (ﷺ) as saying: When forty two nights pass the *nutfah*, God sends it the angel and then (*fa*) gives it form and creates his sense of hearing, sense

of sight, his skin, his flesh, his bones, and then says: My Lord, would it be male or female? And your Lord decides as He wills and the angel then puts down that also and then says: My Lord, what about his age? And your Lord decides as He wills and the angel puts it down. Then he says: My Lord, what about his livelihood? And then the Lord decides as He wills and the angel writes it down, and then the angel gets out his scroll of destiny in his hand and nothing is added to it and nothing is subtracted from it. (*Ṣaḥīḥ Muslim*)

Muslim jurists saw *takhlīq* to be a somatic observable sign of the time when ensoulment occurs. *Takhlīq* was thought to occur after 120 days and this was because of their understanding and literal interpretation of the ḥadīth of companion of the Prophet (ﷺ), 'Abd Allah Ibn Mas'ūd, which was taken to relate the *mudghah* stage completion at 120 days, and then ensoulment. The actual purpose of utilizing *takhlīq* as a somatic sign was to provide some source of physical observable means to indicate that ensoulment has occurred, because the human form is complete after *mudghah* stage and there was no other way of determining this.

The ḥadīth of 'Abd Allah Ibn Mas'ūd:

'Abd Allah [Ibn Mas'ūd] said The Messenger of Allah (ﷺ), and he is the truthful, the believed, narrated to us, "Verily the creation of each one of you is brought together in his mother's womb for forty days in the form of a *nutfah*, then (*thumma*) he becomes an *'alaqa* likewise (for another forty days), then a *mudgha* likewise (for another forty days), then (*thumma*) there is sent to him the angel who is commanded with four matters: It is said to him, to write down his actions, *rizq* (sustenance), his life span, and whether he will be happy or unhappy (i.e., whether or not he will enter Paradise). Then (*thumma*) [the angel] blows his soul into him. Verily one of you performs the actions [of the people of Paradise] until there is but an arm's length between him and Paradise, and that which has been written overtakes him, and so he acts with the actions of the people of the Hellfire and thus enters it; and verily one of you performs the actions of the people of the Hellfire, until there is but an arm's length between him and Hellfire, and that which has been written overtakes him and so he acts with the actions of the people of Paradise." (*Ṣaḥīḥ al-Bukhārī* and *Muslim*)

It was also acknowledged by classical Muslim scholars that manifest physical human characteristics (*takhlīq*) were witnessed before 120 days and hence some Muslim jurists gradually began differentiating the two; *takhlīq* and ensoulment, on the basis that ensoulment was after 120 days even though *takhlīq* was visible some time before. However, *takhlīq* remained the only practical approach to determine that this period had been reached and hence the two were used interchangeably or sometimes confused as being the same.[13][14][15]

Re-interpretation of ad th

There is no need to rush to do *ta'wīl* (re-interpretation) of Ibn Mas'ūd's ḥadīth, to satisfy the position of ensoulment just after 40 days, on the basis that this is when we observe human form of the embryo. This apparent conflict between Ibn Mas'ūd's ḥadīth and Ḥudayfah's ḥadīth of 120 and 40 days respectively, has already been discussed and settled by Muslim scholars, even after recognising and observing that *takhlīq* can occur before 120 days. We should follow the expert approach of our classical Muslim scholars before we rush to re-interpret the literal meaning of an unanimously agreed understanding of a very reliable and authentic ḥadīth.[16][17] Even though some Muslim scholars acknowledged that the embryo has subtle human features by 40 days after conception, they still maintained the stages of 40 days for *nutfah*, *'alaqah* and *mudghah*, totalling 120 days, because this was clear from the consensus, *ijma'* of Muslim scholars on the basis of 'Abd Allah ibn Mas'ūd's ḥadīth, relating both the apparent (*ẓāhir*) meaning and the transmitted understanding (*mafhūm*) of the ḥadīth, because this is how it was intended to be understood from the Prophet (ﷺ) and passed from generation to generation. Furthermore, there are many reasons why it is problematic to re-interpret Ibn Mas'ūd's ḥadīth as ensoulment at 40-45 days. [5]

1. We would be giving preference to the meaning of a ḥadīth which has no reference to ensoulment (Ḥudayfah's ḥadīth) over that which has explicit reference to ensoulment (Ibn Mas'ūd's ḥadīth)
2. We would be giving preference to the meaning of a ḥadīth (Ḥudayfah's ḥadīth) that is uncertain about exactly when there is fashioning of the embryo (40, 42 or 45 days, nights), a sign assumed by some to indicate ensoulment
3. Multiple levels of *ta'wīl*, interpretation, will be required of different sources, if ensoulment just after 40 days is accepted.
4. There are no supporting reliable narrations which are explicit about all stages of embryological

development mentioned in the Qur'ān occurring in the 40-45 days

5. We are accepting a re-interpretation of a ḥadīth (Ibn Mas'ūd's ḥadīth) which goes against the consensus (*ijmā'*) of classical Muslim scholars, that the time of ensoulment is after 120 days

En soulment is a metaphysical issue which is beyond our comprehension. The time the embryo undergoes ensoulment can only be transmitted through revelation with its associated transmitted meaning and not for scholarly debate. To confuse or conflate this with *takhlīq* is incorrect.

Reconciliation as Proposed by Classical Muslim Scholars

The medieval Islamic jurisconsult, theologian, and spiritual writer, belonging to the Hanbali school of orthodox Sunni jurisprudence, Ibn Qayyim al-Jawziyyah (d. 751 AH), reconciles without agreeing to a reconsideration of distortion of words of the two ḥadīth from the literal. He does this by proposing the following stages of embryological development: [11]

- First stage: the fashioning (*al-taṣwīr*) and creation (*al-takhlīq*), which is predetermined (*al-ilmī*) and does not extend to an external physical manifestation
- Second stage: the beginning of covert fashioning (*taṣwīrkhaftī*), when it cannot be recognised by sensory perception, in other words, not clearly visible to the unaided eye and can be confused with blood or missing parts of the anatomy during miscarriage
- Third stage: The fashioning can be perceived by senses, meaning the unaided eye, but is not complete
- Fourth stage: Complete fashioning (*tamām al-taṣwīr*), after which it is ready for ensoulment

The second stage occurs as early as 40 days and can be visualised on imaging and is consistent with today's understanding.

The Qur'ān can be shown to refer to embryological development in view of this.

1. Primarily, it describes the '*substance*' of the embryo, with gradual and 'concurrent' "transformation of the property of the substance of the embryo". It is transformed from one form or property i.e. *nutfah*, to another i.e. *'alaqah*, as it matures from its primitive state (*ghayr mukhallaqah*) to be created in to a matured state (*mukhallaqah*),

2. Then we have the external macroscopic appearance described as 'stages', where each stage of the embryo is 'successive'. These stages are referred to as the 'consequential' "developmental stages" which are the stages of growth of the embryo from *nutfah* stage to *mudghah* stage, flesh and bone. These stages

are of 40 days duration each and total 120 days, which is what is conventionally understood. They represent the time when the *nutfah*, '*alaqah* and *mudghah* are complete (*mukhallaqah*) in their form, in readiness for ensoulment which is a staging process and occurs consequentially.

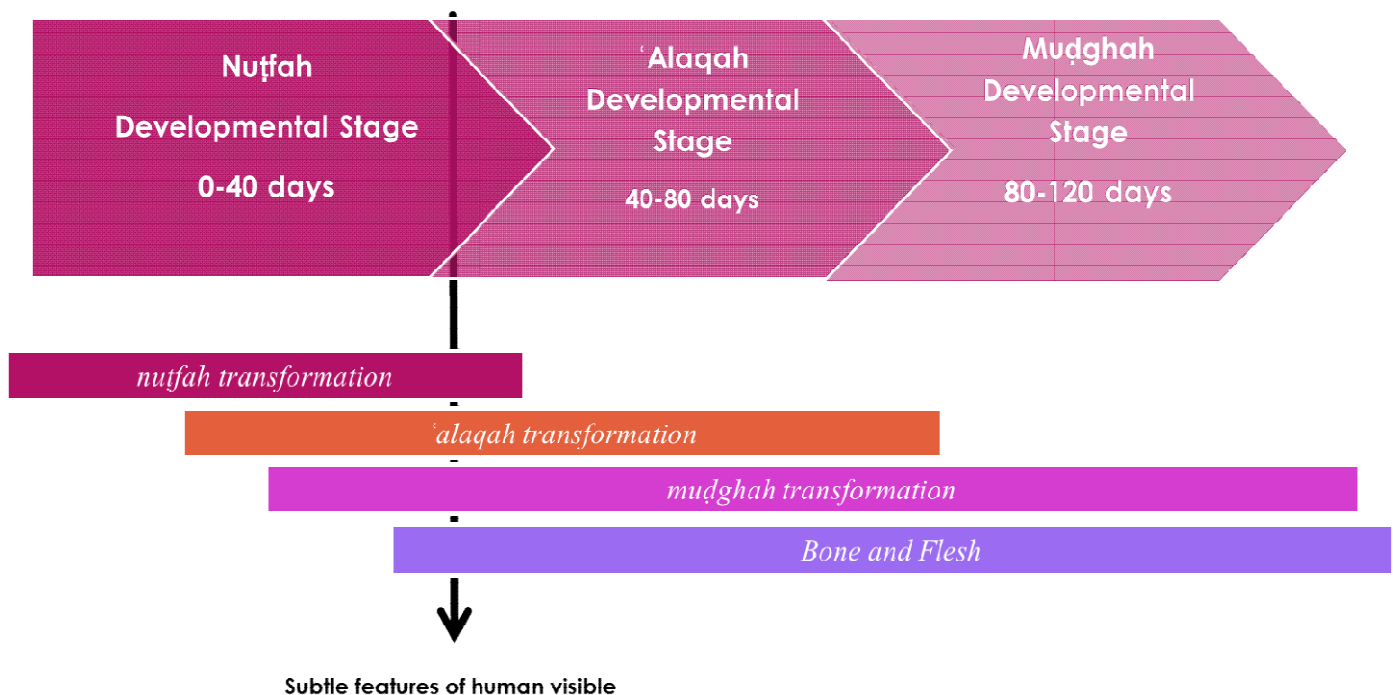


Fig. 1. The developmental stages of the embryo and its substance transformation

Classical Muslim Jurists and Interpretation of *Takhlīq*

The process of *takhlīq* evaluation rests on what the exegetes deduced from the meaning of *mukhallaqah wa ghayr mukhallaqah*, literally "formed and unformed." These terms in the verse describe the transformation of the substance of the embryo which matures and then qualifies the threshold for its readiness for ensoulment. The substance of the embryo has to go through the developmental stages of *ghayrmukhallaqah* (unformed) then *mukhallaqah* (formed) to achieve this.

There is a difference of opinion amongst Muslim scholars of what was understood by *mukhallaqah* and *ghayrmukhallaqah* and also when this occurs. There are those, mainly amongst the Ḥanafīs, who describe moral importance at a later stage of development and hence they describe *mukhallaqah* after the *mudghah* stage having achieved the threshold of *takhlīq* as a normative stage when there is *taṣawwur* (complete fashioning and

human manifest form). These two terms (*takhlīq* and *taṣawwur*) were synonymously used to describe the stage during, and after *mudghah* developmental stage, when there were manifest visible physical human characteristics. By making *mukhallaqah* the state of *taṣawwur* or *taṣwīr* (complete form), they can associate these descriptions to a later stage of foetal development when there is clear manifestation of human form *istibān al-khalq*. The *ghayrmukhallaqah* is the substance which has little moral status, not having qualified this threshold for *takhlīq*. [8][9][18]

Mukhallaqah and *ghayrmukhallaqah* are properties associated with the development of each of the stages of embryological development and describe the level of completeness of each stage. Projections or subtle human features of *mudghah*, bone and muscle are visible in the *nutfah* stage as they are present but not fully formed.

Classical Muslim theologians described a human being as one who has an external and internal complete physical form which is biologically alive with a heart, sensory

organs, a chest cavity, bones, ribs, a liver, and all the organs involved in nutrition. This would then include such a being as a member of the human species. Being a member of the human species accords high moral status and a requisite to FMS (Full Moral Status). The external physical human form may look complete, but the substance of the embryo both externally and internally is yet not fully formed, the flesh and bones being the last. [19] During the incomplete phase, the substance of the embryo, externally, and more importantly internally, is *mudghah ghayr mukhallaqah*. It is when it has qualified as *mudghah mukhallaqah*, that it is ready for ensoulment. *Mudghah ghayr mukhallaqah* does not just relate to the physical substance and hence physical appearance, but it also refers to the nature and property of the substance of the embryo in readiness for ensoulment.

The Approach to Embryology in the Qur'ān

Whenever we discuss embryology, we do so in our culture of science. The culture of science encourages individuals to uphold its methods as the main standard upon which we judge and come to know our world. The naturalist scientific modes or method of understanding entails a kind of knowing that moves away from existence and personal experience, something that the Qur'ān appeals to, into a world of concepts. The Qur'ān concerns itself with interpretive hermeneutic understanding, which is rooted in a historical encounter, attaching itself with personal experiences of being here in this world and so relates embryology in a similar way. One that appeals to the people of its time from the time of the Prophet (ﷺ) until the last day. In this hermeneutic interpretation, language is pivotal, because language shapes all situations and experiences that we find ourselves in. Language and understanding are inseparable structural aspects of human-being-in the world. [20] These interpretations move beyond the limitations associated with knowledge constructed purely from the methodologies of the natural sciences- methodologies which rely on a predominantly epistemological and instrumentalist conception of understanding where the *nutfah*, *'alaqah* and *mudghah* fit in to a microscopic and reductionistic perspective through the lens of our scientific culture.

It is important to begin to see the way in which our blind attachment to certain classifications and categorizations limit how we may understand and come to know our world from the perspective of those before us and more importantly the limitations of the meanings we take from the language of the Qur'ān. Any interpretation or understanding from a hermeneutic perspective always

begins with the interpreter's fore-projections, our fore-projections being a product of our situatedness in the world through a scientific lens. Individuals who possess a limited horizon of natural science have difficulty seeing far enough and may overvalue that which is nearest to them. There is a tendency to do this in our interpretations of the staging of embryology in the Qur'ān, where embryology in the Qur'ān is given a scientific interpretation.

Since man has been able to observe the world through the microscope, science has moved to the position of a methodological reductionism. This is the position that the best scientific strategy is to attempt to reduce explanations to the smallest possible entities. [21] In a biological context, this means attempting to explain all biological phenomena in terms of their underlying biochemical and molecular processes. [22] In this case down to the microscopic level of embryological development.

The dynamic relations among the homogeneous components in the early stages of an embryo that eventually beget a unified whole organism containing heterogeneous parts in appropriate arrangement and connection is a good example of how we have imposed our understanding upon the language of the Qur'ān in light of our reductionist explanation.

The language used in the Qur'ān allows for different theories of embryological development, accommodating different understandings of knowledge of science throughout time. It is therefore acceptable to translate verses of the Qur'ān in light of our science as long as it doesn't compromise our agreed theological position like the timing of ensoulment.[23]

Nutfah, refers to a physical drop of liquid and represents the stage or process of pre-implantation and implantation, as would be seen by the unaided eye, or described to one who does not perceive the world from a naturalist science perspective. It is problematic to limit the meaning of terms, *nutfah* or *mā'*. The term *nutfah* is therefore used to describe the processes as drops that contain sperm, ovum, zygote and blastocyst. Otherwise, it would make more sense to have used separate terms for each, as they are very distinct from each other - physically, functionally and biologically.[5]

The actual literal meaning of *'alaqah* is that of a congealed clot or clot that clings. This would be in line with ancient medics who thought the embryo was a congealed clot of blood which sticks or clings onto human tissues and this description would satisfy that, but

we now know that this is not a clot and what is being described is the miscarried embryo as witnessed with the unaided eye or that which sticks, clings or hangs and hence the early stage of pregnancy when the embryo grows whilst being embedded into the womb lining via the placenta.[5] The important point being that this is how that stage can be described visually.

Conclusion

These stages of embryological development are named as a result of their physical properties, as observed by the naked eye and more in line with how earlier scholars would have described them. Our advancements in embryological knowledge view and perceive embryology at a microscopic level and hence we begin to interpret these words in this sense, which is not always what is intended by the Qur'ān. Important stages which refer to descriptions of the essential properties of that which is visible with the unaided eye is related in the language used in the Qur'ān allowing for the application of different theories and hence accommodating such understandings throughout generations.

The foetus must pass a number of stages before it is ensouled and that is in relation to conscious thoughts (*idrāk*) that make a 'human being' (related to form) a 'human person' (related to higher brain functioning). Life of personhood only enters the body when the soul enters, and this is after fashioning.

The foetus may show movement before 40 days. However, ensoulment is after 120 days. These movements before 120 days are not associated with the soul and are not voluntary movements (*harakatan zātiyatan ikhtiyāriyatan*) but are involuntary and reflexes (*harakatan 'arīḍatan*).

In conclusion, there is a need to revise our fiqh of abortion and other related legal and normative queries to accommodate the earlier observation of *takhlīq*. There is a need to explore the fiqh literature in much more detail and provide explanations and practical approaches which will support and inform on prospective policy issues related to abortion and its legal permissibility.

The Diagrams below summarises the outcome of the paper in both tabular and visual form [5].

Times of <i>Takhlīq</i> according to different schools		<i>Nutfah</i> substance development	<i>'Alaqah</i> substance development	<i>Mudghah</i> substance development	Bone and flesh
Fertilization	<i>Nutfah</i> Developmental Stage	<i>Ghayr Mukhallaqah</i>			
Implantation			<i>Ghayr Mukhallaqah</i>		
Malikī Position of Embryo now Human Being		<i>Mukhallaqah</i>		<i>Ghayr Mukhallaqah</i>	Unformed bone and flesh
40-45 days Post Fertilization	<i>'Alaqah</i> Developmental Stage				
Shāfi'ī/ Ḥanbalī Position of Embryo now Human			<i>Mukhallaqah</i>		
80 days Post Fertilization	<i>Mudghah</i> Developmental Stage				
Ḥanafī Position of Embryo now Human				<i>Mukhallaqah</i>	
120 days Ensoulment					Formed bone and flesh

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