

Shariah Rulings on Contagious Disease: An analysis of HIV and AIDS disease

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Abstract

In many Muslim nations, HIV and AIDS are significant problems. The day provides a chance for public and private sector partners to disseminate information about the pandemic's current state and to promote advancements in HIV/AIDS prevention, treatment, and care around the globe, especially in nations with high prevalence rates. In this work, I have examined many HIV and HIV-related topics in the context of Islamic law, such as what the doctor's responsibilities are, whether a woman may ask for the annulment of her husband's nikah if he has HIV, the right to an abortion, and other related topics. In addition, the Changing Face of HIV: An Emerging Problem in Muslim Countries. In order to stop the spread of HIV in Muslim countries, it is necessary to ensure that the social, cultural, and religious structures now in place in Muslim nations do not provide a setting for any kind of safe disclosure for those who are infected.

Key Words: AIDS, HIV, Effects, Contagious Disease, Shariah Perspective and Rulings

Introduction

While AIDS stands for Acquired Immune Deficiency Syndrome, HIV (Human Immunodeficiency Virus) is a virus that weakens the body's defences, making it unable to successfully fight infections. When a person contracts certain diseases and malignancies due to a compromised immune system, they get AIDS. The HIV pandemic has entered our awareness during the last three decades as an unfathomable catastrophe. Millions of lives have already been lost as a result of HIV and AIDS, which has also caused suffering and loss, dread and uncertainty, and potential economic destruction. According to a recent study from UNAIDS, Pakistan is one of the 11 nations in the Asia-Pacific that are home to the bulk of the region's HIV-positive residents. UNAIDS reports that Pakistan's HIV prevalence almost quadrupled from 11% in 2005 to 21% in 2008. The use of heroin injections was the main factor in the spread of the virus, and according to UNAIDS, about one in

five drug users in Pakistan are HIV-positive. The list also covers Cambodia, Indonesia, Malaysia, Myanmar, Nepal, Papua New Guinea, Thailand, and Vietnam. Neighbouring China and India are also included.

The deadliest feature of this illness is how quickly a person who has contracted the virus may disseminate it to others via unrestricted sexual activity. It is not, nonetheless, infectious. An HIV positive/AIDS patient may live with us in our houses like any other person, and we can kiss, hug, dine, and sit with him just like any other family member. In terms of our socialisation, this does not imply that AIDS is a problem-free illness. In actuality, this terminal illness has brought about a number of issues for the sufferer, his or her loved ones, and the community in which they reside. In order to guide the patient and society at large regarding the appropriate course of action, Shariah law must be followed. In this study, I examined many HIV and AIDS-related topics in the context of Islamic law.

A law was passed in Pakistan in 2007 to provide care, support, and treatment for those living with HIV and AIDS as well as to prevent the spread of HIV among the general community, especially among most-vulnerable and at-risk communities. HIV AND AIDS PREVENTION AND TREATMENT ACT OF 2007. This act's main goal was to make it illegal to discriminate against people based on their HIV status. In terms of our socialisation, this does not imply that AIDS is a problem-free illness. In actuality, this terminal illness has brought about a number of issues for the sufferer, his or her loved ones, and the community in which they reside. In order to guide the patient and society at large regarding the appropriate course of action, Shariah law must be followed. In this work, I have covered several topics related to HIV and AIDS in the context of Shariah judgements, such as what the doctor's responsibilities are, whether a woman may ask for the annulment of her husband's nikah if he has HIV/AIDS, the right to an abortion, and other related topics.

To stop the spread of HIV among the general population, “THE HIV & AIDS PREVENTION, AND TREATMENT ACT, 2007”, was passed. The prohibition of discrimination based on HIV status, the prohibition of discrimination in the public and private sectors of employment, the prohibition of discrimination in public and private health facilities, the prohibition of discrimination in public and private education, the prohibition of discrimination in public and private accommodations, and the prohibition of discrimination with regard to goods and services were the goals of the promulgation of this act. Discrimination by public and private sector organisations is forbidden, as is vilification based on HIV status.

2. Human Immunodeficiency Virus (HIV)

The Human Immunodeficiency Virus (HIV) harms the body's immune system, making it incapable of efficiently warding off diseases. Our defence system begins combating HIV as soon as it enters the body. Our immune system deteriorates with time to the point that it can no longer defend itself against several illnesses. The virus may be found in bodily fluids including vaginal, sperm, and blood. AIDS is brought on by this virus (Hasnain et al., 2005).

3. Acquired Immune Deficiency Syndrome (AIDS)

Acquired Immune Deficiency Syndrome (AIDS) is referred to by this abbreviation. When a person contracts certain diseases and malignancies due to a compromised immune system, they get AIDS (Stolley & Glass, 2009).

4. Causes of HIV/AIDS spread

HIV may spread via the following channels:

1. Unprotected sexual activity between two men or between a man and a woman.
2. By exchanging syringes, needles, and other injecting tools that haven't been sterilised.
3. Through the transfusion of plasma or Factor 8 that has been exposed to HIV.
4. Through the transplantation of HIV-positive organs.
5. Using semen contaminated with HIV for artificial insemination.
6. From an infected mother to her unborn child (via nursing, labour, or both). In industrialised countries, the transfer rate from mother to child is 14–25%, but in underdeveloped countries, it is 29–40%.

The following are included in the operational description of the Islamic perspective on HIV/AIDS:

Believing in Allah and Prophet Muhammad (PBUH)

This is the first pillar of Islam, signifying acceptance in the existence of an unseen God who has control over all creation, is the Most Gracious and Most Merciful, and has provided humans with instructions on how to live both on this planet and in the Hereafter. Islamic teachings that encourage HIV prevention, treatment, care and support, stigma reduction, and the use of life skills are included in this advice. The following are some passages from the Holy Qur'an that reinforce this.

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“Certainly your Lord is Allah, who created the heavens and the earth in six days and He established Himself on the throne of authority regulating and governing all things. No intercessor can plead with Him except after His leave has been obtained. This is Allah your Lord; therefore, serve Him. Will you not receive this reminder?” (Al-Quran 10:3)

5. Scientific knowledge about HIV/AIDS

Understanding the scientific facts concerning HIV prevention, risk avoidance, treatment, care, and support for persons living with HIV/AIDS (PLWHA) is necessary to eliminate or reduce the risk of infection. Allah advises his followers to read and study in order to become knowledgeable and educated.

“Read! In the Name of your Lord who has created all that exists. He has created man from a clot. Read! And your Lord is the most generous who has taught by the pen. He has taught man that which he knew not.” (Al-Quran 96:1-5)

Hadith:

Anas Ibn Malik relates from the Prophet when he addressed the issue of knowledge in the hadith where he said, “Seeking knowledge is compulsory upon every Muslim and Muslimah,” (Ibn e Maja: 240)

6. Making use of relevant Islamic teachings and practices

The Holy Qur'an contains a Muslim doctrine that forbids adultery, which might increase the risk of HIV transmission.

"Don't even consider adultery. Because it is a dishonourable act and an evil, it opens the door to additional ills.

This suggests that individuals should refrain from engaging in behaviours that pique their desire for sexual fulfilment since doing so might result in adultery. Adultery is an unacceptable activity that raises the possibility of contracting HIV.

7. The Changing Face of HIV/AIDS: An Emerging Problem in Muslim Countries

Because many Muslim nations either under report their statistics or do not report them at all, the credibility of the HIV/AIDS incidence, prevalence, and death data for Muslims is meager. Global epidemiological indicators, such as those from the Global Health Atlas of the World Health Organisation, do point to evidence of the escalating danger of an HIV/AIDS epidemic in Muslim nations. The ongoing HIV/AIDS pandemic in the Muslim world is an issue that offers potential major risks on a national, regional, and global scale, according to a new analysis from the National Bureau of Asian Research in the United States (Langendam et al., 2000).

The prevalence and incidence of HIV/AIDS continue to be greatest in Africa, especially in the southern section of the continent. In Nigeria, there are 6–10% HIV-positive people, whereas Ethiopia has 10–18%; the bulk of the population in both nations is Muslim. Where the illness load is heaviest, Africa, 40% of the population in 2013 was Muslim. Some Muslim nations, like Sudan and Nigeria, already exhibit signs of a rapid pandemic. Countries like Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan, which were a part of the former Soviet Union, are facing a nascent and quickly spreading pandemic in the Eastern Hemisphere.

If HIV/AIDS rates continue to rise at the present pace, East and Southeast Asia, which includes nations with some of the biggest populations in the world like China and India, might soon overtake Africa in terms of the total number of cases (UN, 2010).

These forecasts are especially important for HIV/AIDS in Muslim communities since they have large Muslim populations (about 138 million Muslims in India and 40 million in China), while not being nations traditionally associated with Islam.

Although the absolute number of HIV/AIDS infections in the majority of Muslim nations, especially those in the Middle East or South East Asia, like Pakistan, may still be smaller than in other nations, apathy towards this problem will be expensive in terms of lives lost and medical expenses.

One might speculate on the causes of the HIV epidemic in Muslim nations. Islam puts a strong importance on modest behaviour and forbids unmarried sexual relations. Adultery, homosexuality, and drug usage are all expressly forbidden (Pickthall & 'Ashshī, 2006).

What therefore accounts for the spread of HIV/AIDS in Muslim nations? One reasonable explanation is that, despite Islamic teachings, some Muslims do participate in dangerous behaviours that increase their chance of contracting HIV, such as using illegal drugs and/or having extramarital or premarital sex. Risky behaviour by men has the potential to spread the illness to their spouses' unknowing bodies. Women, however, are also directly vulnerable since brothels and other types of commercial sex trading are common in many Muslim nations. Due to their low social support and lack of screening for STDs, including HIV, sex workers contribute to the spread of infection (ibid) .

8. HEALTH-SENEGAL: The Number of Women Living with HIV/AIDS

The risk pool for the pandemic has discovered its centre to be made up mostly of women. While the percentage of males with the illness hasn't even doubled, the number of women living with HIV/AIDS has increased fourfold in only 14 years. The National Council Against AIDS' Executive Secretary, Dr. Ibra Ndoeye, has recognised the seriousness of the problem.

Because women are more likely than males to be exposed to the virus via unprotected sexual intercourse, Ndoeye claims that women are more susceptible to it. "Women generally don't have a lot of say in their sexuality in marital homes,"¹

"Women infected by HIV/AIDS are generally not responsible for their sickness," claims Aminata Toure, who oversees the Gender and Human Development Programme for the West African regional office of the UN Fund for Women's Development (UNIFEM). They are often the targets of careless behaviour by others and lack the right to decline unsafe sexual connections.

Toure calls for a change of several elements of Senegalese family law, which establishes males as the head of home, saying that "some husbands continue to have sex with their wives even when they know they are infected." She also urges the removal of the HIV/AIDS test's anonymity since it "too, often favours the law of silence."

9. Violence against women in conflict settings and HIV

¹ The annual report of UNAIDS in 2006 declared that the practical policies needed to prevent AIDS are: to ensure that human rights are reserved, protected and respected, and it means to end racial discrimination.

"The militia at the barricades claimed to defend me, but they detained me and sexually assaulted me in their houses. I was kept by one militiaman for two or three days before being selected by another. I was able to escape Kigali, and when I got there, I discovered that my husband had died. (Kigali resident and survivor of the Rwandan genocide)

Women and girls are far more likely to experience physical and sexual violence during times of crisis. Numerous women and girls are raped, including via gang rape, forced unions with hostile troops, sexual enslavement, and other types of brutality (such as being made to watch others being raped or having their bodies mutilated). Many people have abandoned their homes, lost their family and their means of support, and may not have access to medical treatment at all. All of these elements combine to produce an environment where women and girls are disproportionately more susceptible to contracting HIV.

All recent wars, including the ones that are still going on in Pakistan, the Darfur area of Sudan, the former Yugoslavia, the Democratic Republic of the Congo, Rwanda, Sierra Leone, Liberia, northern Uganda, and Chechnya (Russian Federation), have included violence against women and girls. Rape has been and continues to be used as a purposeful tactic to brutalise and degrade people as well as a tool of war or political power in many of these wars, some of which have been characterised as ethnic cleansing. Additionally, it is probable that all types of violence against women including intimate partner violence increase during wars, and this may be related to the ease with which weapons are accessible, the intensity with which males are displeased with one another, and a general breakdown in law and order.

9. Challenges

In the Muslim world, culture is defined by religion, and each part of an individual's life has a purpose. When creating HIV prevention programmes for Muslim nations, the following sensitive topics need special consideration:

9.1. Gender Inequality

There is a power gap between men and women in the majority of Muslim civilizations. This gap is seen in heterosexual relationships as well as in the economic and social realms of life, with males holding more sway than women. Women are still undereducated and under-resourced, which leaves them economically vulnerable and primarily reliant on males. They are also uninformed of their civil, legal, and sexual rights. Women are more likely to catch HIV/AIDS as a result of these disparities because they are less likely to be able to bargain with partners who are HIV/AIDS positive. Women are also more likely to be the victims of violent relationships and have a worse ability to recover from infections.

9.2. Stigma and Discrimination

Due to the Islamic prohibition on illegal sex and drug use, the social stigma associated with HIV/AIDS that occurs in all civilizations is significantly more apparent in Muslim cultures. Negative consequences for unlawful sexual behaviour are more severe than those for drug usage. Even if there is a suspicion of unlawful sexual activity, the afflicted individual or persons face prejudice and rejection from both the family and the society (Buning et al., 1986).

9.3. Ignorance/Misinformation

Most people who live in Muslim-majority countries believe that HIV infections can only be contracted through immoral sexual behaviour. They are unaware, however, that HIV infections can also be accidentally passed from mother to child, through accidental skin pricking and contact with contaminated blood (as in the case of health care professionals), or by a husband who may have contracted HIV through sexual or drug-related contact with other infected people. As a result, lack of understanding causes compassion for HIV/AIDS patients to be misunderstood as tolerance for the behaviours that cause the illness.

9.4. Other issues

The main obstacles to implementing an HIV prevention strategy, in addition to the issues mentioned above, are poverty and economic instability, a lack of education, wars, internal conflicts, refugees, migrant labour forces, the intimidating role of religious leaders and activists, and a dearth of healthcare infrastructure and resources.

10 Different issues Regarding HIV/AIDS in the light of Shariah

10.1 Disclosure of AIDS or HIV positive status of a person

A major and crucial concern is whether or not someone with AIDS or HIV should reveal their status. Because he may face serious consequences from a revelation and risk being shunned by society. Similar to this, not disclosing might lead to major issues for others, such as the spread of a disease due to a lack of security measures. Scholars and jurists have differing viewpoints on the issue, which is in line with the issue (Ibn e Najeem).

They further argued that concealing the disease of this nature will be very harmful not only for the patient but also for his immediate family, relatives, and the community. Despite potentially upsetting social consequences for the HIV positive person, some scholars suggested that AIDS or HIV positive status should be disclosed by the affected person to save others from virus transmission. They contend that although the sufferer would personally suffer, others would suffer collectively and more severely. As a result, the patient should tell his close family members about the problem since keeping it a secret may put his loved ones in risk in addition to complicating things for him (Allamah Sayyid Muhammad Ameen ibn `Aabideen ash-Shaami). He should not fear from the fact that he would be treated like an untouchable, and the people would shun him.

However, the majority of jurists agree that the patient should keep his illness a secret since disclosing it would render the sufferer and his family social outcasts. Therefore, such a person is not required under Shariah to disclose that he or she is HIV positive. In addition, there will be concern that, in the event of revelation, the victim's friends and family may disregard and neglect him. They also said that there is no risk to anybody living with an HIV positive individual and that AIDS is not an infectious illness. Regular interactions like caressing and kissing him or sharing a meal with him do not result in the HIV being transmitted. As a result, the individual is not required to disclose the ailment (Dr. Abdul Kareem Zaidan)

Even while disclosure is not required, it cannot be construed as a person's right to always conceal their illness. For instance, if someone has HIV and is married, they should take extra precaution to

avoid having sex with their spouse since doing so would spread the infection to her. Therefore, such a state cannot be totally kept a secret. Additionally, the individual has to be made aware that if he engages in sexual activity with his wife who is already pregnant, the unborn child will also come into contact with this fatal virus. Additionally, the individual should be honest with their spouse about their HIV status and the implications of having sex with them. In this patient's best interests, the physicians must advocate avoiding risky sex and taking all preventative measures against virus transmission. It is important to note that the Shariah does not mandate or obligate any kind of patient to disclose their illnesses or conditions to others.

11. Duties of the Doctors

The issue of what the doctor's obligations are in this situation and whether or not he should reveal the patient's disease arises when dealing with an HIV-positive individual. Second, is the doctor required to keep the information private by both Shariah and modern medical ethics?

All the jurists have essentially argued the same thing in this instance, despite differences in tone and style. Their primary stance is that the doctor should only be responsible for disclosing an illness if doing so would cause more damage than would be caused by disclosing the patient's HIV status.

According to Shariah, the doctor is not required to keep such illnesses a secret or to adhere to the patient's desires. However, it is the doctor's responsibility to provide the patient with the best care possible and to advise the patient and his family on safety measures (Ibid).

If the doctor discloses the patient's illness to others, it will likely just be referred to as "back bite". Although back bites (gheebah) are undoubtedly evil, Imam Ghazali allows them "to save the Muslims from harm," and Allama Shami has provided eleven arguments in support of them. In these situations, the patient is constantly concerned about a societal backlash and demands that the doctor not discuss his illness. It is preferable for the doctor to work with the patient in these situations because, in the event of disclosure, fictitious and unknown injuries will take priority over the concrete and certain hurt of social isolation (Abd-ur-Rahman bin Muhammad 'Awd Al-Jazeeri, 1360).

However, the doctor must notify the patient's family and friends and help them implement the necessary precautions in their everyday lives. Since concealment might hurt the group as a whole, it is preferable to safeguard the group as a whole than an individual. (Rana, 2021)

"The responsibility that humanity owes to Allah is that (the Manasik mandated Hajj tasks), and whoever respects the holy items of Allah, then that is preferable for him with his Lord." (Al-Quran, 22:30)

In a similar vein, the Islamic legal maxim reads: "Private harm shall be tolerated to avert public harm." (Ibn e Najeem)

12. AIDS: Whether a Mortal Disease (Maraz-ul-Maut)

It is very crucial to decide whether to refer to AIDS as a "mortal disease" or a maraz ul maut. Various ideas exist on what constitutes a "mortal disease". According to renowned judge Haskafi,

a patient's illness would be referred to be a "mortal disease" if his or her death is unquestionably expected to result from it and the patient is bedridden and unable to care for himself or leave his or her home." (Imam Al Haskafi)

The jurist Abul Lais did not see bed rest as a necessary prerequisite for classifying a sickness as a fatal disease. He said that it was sufficient for the illness to continue till the patient passed away. Shami, another distinguished jurist, agrees with this claim. (Allamah Sayyid Muhammad Ameen ibn `Aabideen ash-Shaami).

A "mortal disease" is defined differently by various authorities. The idea is quite different and not as straightforward as described before. However, if there is a progressive increase in severity, these illnesses, which are often chronic, will be regarded as "mortal diseases". Such illnesses will not be regarded as "mortal diseases" if the deterioration ceases after reaching a particular level and if there is no growth in their severity (and the state stays static) for around a year.

"Durr-e-Mukhtar" states that if a paralysed, paraplegic, or tuberculosis patient's illness lasts a long time but they are not bedridden, they will be regarded as healthy. According to renowned jurist Hulwani, a condition may only last up to a year in medical terms. Only when the illness is still progressing will a patient or a disabled person be considered to be in imminent danger of dying; if, however, the illness reaches a point where it stops progressing and becomes static and the patient's condition does not change for about a year, the illness will not be regarded as a fatal one. As a result, in the context of these viewpoints, AIDS is seen as an incurable illness that will only be deemed a "mortal disease" if its severity continues to progressively worsen. Another theory, however, holds that when an illness reaches an incurable level and a patient dies from it without recovering their health, Islamic Shariah will pronounce it to be a lethal disease. (Ibid)

13. AIDS and Annulment of Nikah

There are important questions regarding the wife's rights in case the husband gets infected with the Human Immunodeficiency Virus after the marriage. Shall the wife have the right of the annulment of her nikah on this ground?

Moreover, if an AIDS patient marries concealing his ailment; can his wife demand the annulment of her nikah? The issue is controversial; according to some jurists, the woman has the right to ask for *Khul'* while the husband, if the wife is infected with AIDS, can resort to divorce. Other jurists, however, state that the annulment of marriage is the best solution in such a case. (Rana, 2022)

Nearly all the theologian and experts have collectively opined that in the conditions noted above the wife can demand annulment of her nikah as per the three Imams and Imam Mohammad.

The Maliki, Shafeie and Hanbali jurists include 'nikah' in the affairs which can be annulled because of some defect in the husband. If such a defect was already in the husband at the time of 'nikah' or it occurred after the 'nikah' but the woman was not informed of it, the jurists of all the three schools of thought have opined that the woman (wife) can demand the annulment of her marriage (Allamah Sayyid Muhammad Ameen ibn `Aabideen ash-Shaami), though there is some difference about the details of the defects causing the annulment.

Basically these defects are of two kinds; one which make one incapable of deriving any sexual pleasure from the other, and the other defect is that which is loathsome with a tendency of infectiousness like leprosy I or tuberculoid leprosy (Jezam) or Leprosy II or lepromatous leprosy (Bars). According to Imam Abu Hanifa there is no other condition except impotency when a wife can demand separation from her husband (Kāsānī). while Allama Kasani has said the husband should be free from all such defects like insanity, leprosy I or tuberculoid leprosy (Jezam) or Leprosy II or lepromatous leprosy (Bras), that a woman can live with her husband without any harm. Imam Mohammad says that a wife can claim annulment of nikah on the ground of every such defect because of which the wife is not able to live his husband. It is also harmonious with Shariah outlook. In the light of these details it can be safely claimed that AIDS is also included in the list of diseases because of which the wife can have the right of separation from the husband. Therefore, it may be said that the wife has a right to annul her nikah on the ground that the husband is HIV positive under the Hanafi school of jurisprudence as well for the simple fact this condition is much more dreadful than leprosy I or tuberculoid leprosy (Jezam) or Leprosy II or epromatous leprosy (Bras).

Besides, the sexual intercourse being one of the major sources of spread of this virus it is all the more qualified to be included in the ground of annulment of nikah (Syed Amir Ali, n.d.). According to Imam Abu Hanifa and Imam Abu Yusuf, a wife has no right of demanding annulment of the nikah on the ground of insanity of the husband; however, the Malekei Fiqh has allowed annulment in case of insanity because there is apprehension of the death of the wife at the hands of an insane husband. Apart from insanity of the husband, the Malekei Fiqh gives no right to the wife for separation. (Maulana Khalid Saif ullah Al-Rehmani)

Allama Ibn-e-Nujaim Misri is more explicit about separation of the wife from a “defective” husband. He writes “If the Qazi (the magistrate) announces his decision of annulment of nikah on the ground of some defect in the husband, this decision shall be final and binding”. AIDS is comparatively a recent disease and may be safely included in the list of repulsive diseases on account of which the wife can appeal to the Qazi (judge) for annulment of the ‘nikah’. The aim of marriage, among other things, is the sexual satisfaction between the husband and wife, and also to procreate.

According to Ibn-e-Taimiah every woman will shrink back because of any defect in the husband which is an impediment in establishing sexual relations. AIDS also holds the same condition, but in comparison to all other defects and diseases it is found more repulsive and loathsome. If a man acquires this virus, a woman would try to avoid him and both of them will be deprived of sexual pleasure and procreation. AIDS was unheard of in ancient times, and insanity, leprosy I or tuberculoid leprosy (Jezam) or Leprosy II or lepromatous leprosy (Bras) were considered as general cause for the annulment. But our era is medically more advanced and apart from the above mentioned three diseases all other painful, contagious and repulsive diseases like syphilis and gonorrhea are also considered among the hateful diseases on which a wife can demand annulment of her ‘nikah’.

Shedding more light on the issue, **Sheikh Fahd Al-Yahya**, a prominent Saudi scholar, states the following:

It goes without saying that AIDS is one of the most harmful defects that gives any of the spouses the right to ask for separation. Since Muslim jurists have defined only the defects that validate terminating marriage according to their knowledge, AIDS is much more dangerous than most of these defects, given the fact that it is a contagious disease. May Allah save us all from it! Amen;

Annulment of marriage in case of a defected spouse takes authority from the practice of `Umar, may Allah be pleased with him, who, as is recorded in *Muwatta* (written by Imam Malik) to have invalidated marriages in case of spouse's being infected with leprosy, madness and vitiligo. `Umar is reported to have said: "Whenever a man consummates his marriage with a woman and later finds that she is mad, leprous or a victim of vitiligo, she has the right to take all her dower. The woman's guardian has to pay back the husband because he has cheated him."

AIDS is similar to leprosy or much more dangerous. However, it is to be born in mind that the defect that enables one of the spouses to seek annulment of the marriage is the one that already exists before the contract of marriage and even unknown to the spouse. If the defect exists after the marriage, this does in no way validate annulment. Rather, the husband has the right to divorce the wife and she has the right to ask for *Khul`*. This is the view held by some jurists.

According to other jurists, the defect, whether exists before or after marriage contract, makes a room for annulment of marriage. This view is maintained by Shafi`is and Hanbalis. Thus, according to the first view, defects that occur after marriage contract does not render the marriage annulled. In this respect, it is important to know that annulment of marriage in such a case should be decided by a Muslim judge. Many jurists emphasize on this point, stipulating that annulment of marriage is to be declared by the Muslim judge and should not be left to the spouse's personal decision.

If one of the spouses informs the other about his/her defects and the other spouse shows readiness to live with that, then the latter has the right to consummate the marriage. However, the decision of consummating the marriage in this case will be deemed to have been taken with full awareness of the danger such defect may pose. One remaining point to be stressed is that a person who accepts another one (as a spouse) while knowing that he/she is infected with AIDS through an illicit affair and still keeping on his evil ways, can never be considered a chaste and faithful person." (*Onislam.net*)

13. AIDS & Termination of Pregnancy

The pregnancy of an AIDS-positive woman is the major topic of discussion. If a woman with AIDS becomes pregnant and there is a medical concern that HIV will be transmitted to the unborn child during the pregnancy, childbirth, or nursing, can she choose to end the pregnancy out of fear that the virus will be passed to the unborn child? Can she be compelled to have an abortion by her husband or government organisations on the grounds that the child would be a threat to society and a burden on the government in a different scenario where she is not ready or willing to end her pregnancy? Everyone in the discussion agrees that a woman can only undergo an abortion when the foetus is still without life. After this time, she is not permitted to terminate the kid. It is important to note that there are two phases to pregnancy in this context.

The first phase lasts for the first 120 days, or the first four months. The foetus is not alive at this time. After the first 120 days are over, the second stage starts, during which the foetus progressively becomes a human form and life begins to enter it. The infant enters the world after the conclusion of the whole nine-month gestation period.

After the first 120 days, abortion is not permitted even if there is every cause to believe the kid would have the virus. Abortion is permitted at this time for a variety of reasons (Allamah Sayyid Muhammad Ameen ibn `Aabideen ash-Shaami). Such an abortion shall amount to murder (Ibid). A deadly inherited condition in a child is clearly a significant cause, and in such instances, pregnancy termination is only permitted within the first 120 days.

Another viewpoint is that if a woman with AIDS falls pregnant, she does not necessarily need to have an abortion since the child may not catch the virus from the mother and develop AIDS. There is no excuse to murder the kid before his birth, even if he is HIV-positive. Only in situations when the mother's life is in danger may there be a justification. Abortion is not only discouraged by Shariah, but it is also seen as a highly heinous and abhorrent conduct. The spouse or government health care organisations may be able to pressure the woman to have an abortion during the first trimester, but not during the second.

Some well-known jurists from different schools of thought claim that even when abortion occurs inside the first 120 days, it is against Shariah. Abortion is the murder of a live person because as soon as the ovum is fertilised, it has the status of a legitimate representation of a soul (Shams ul A'immah Abi Bakr Mohammad Ibn Ahmad Al Sarkhasi).

It plainly indicates that a drop of sperm has the capacity for life once it enters the mother's womb, and if it is killed by abortion, its punishment will become legally enforceable. Even if the mother intentionally aborts the kid, she will still be accountable for the death of the unborn child. Even as a dead foetus, the kid is an essential component of the mother's body, and no one has the right to remove and discard any portion of the body (Ibid). In addition, Allah created humans as the most respectable creatures; as a result, respectability dictates that no one commit murder against another person.

After looking through all of the information, it is clear that there is no legal basis for aborting a child only because there is a remote chance that the kid would do harm to others or be a burden on society. However, if the expecting mother's life is in danger, she may choose to have an abortion.

14. Children with HIV/AIDS

Even if a kid has a terrible illness, parents who have an unending amount of love and compassion for them consider them to be their most valuable possession. Medical research has shown that children with AIDS do not often live lengthy lives, seldom surviving beyond the age of fifteen. In these situations, the parents offer their kids even more affection. There are only two ways for a kid to get the HIV/AIDS virus: either via inheritance from AIDS-affected parents or by an HIV-infected blood transfusion during infancy due to an illness or weakness.

The kid is the most innocent victim of this illness, thus not only his or her parents but also his or her relatives and the whole community should be by his or her side. The society shouldn't abandon or leave this youngster alone to suffer a horrible death like a penniless child who is despised by

their parents, relatives, the society, or the state's health services. This kid should be given the opportunity to live in dignity, have a joyful and typical childhood, and get an education in regular schools.

It is the responsibility of the government and society to take such children under their care, admit them to children's homes, and provide them with attentive and understanding doctors and nurses in the event that the parents are unable to provide the child with food, clothing, and medical care due to their poverty. These youngsters should never feel that others are attempting to avoid them or that they are being viewed with dread or hatred (Mujahid ul islam Qasmi).

It is the duty of the government and society to take such children under their care, admit them to children's homes, and provide them with attentive and understanding doctors and nurses in the event that the parents are unable to afford the child's medications, medical care, and a nutritious diet due to their poverty (Islamic Fiqh Academy). These kids should never feel that others are attempting to avoid them or that they are being viewed with dread or hatred.

15. Education of HIV Positive/AIDS affected Children

One of the significant difficulties facing society is the provision of education for children who are HIV positive. Is excluding all AIDS-affected children from school admittance the right course of action? If it is established that this illness does not transmit via a child's daily routine activities, would it not be unjust to deny them an education? It is now undeniable that touching, kissing, hugging, eating, or sitting next to an AIDS patient does not spread the virus. Under normal conditions, there is no risk of infecting other students if an AIDS-positive kid is accepted to a school. This does not mean, however, that there is absolutely no risk to other kids, since it is possible for one of these kids to be harmed while playing or in a fight with other kids, bleed, and then spread the virus via their blood. (Ibid)

16. Recommendations

In summary, recommendations to stop the spread of HIV in Muslim countries include:

1. Addressing the underlying societal problems such as poverty, lack of education and gender imbalance;
2. Developing collaborative prevention and care models (including all possible stakeholders such as, religious scholars, academics, expert health professionals, policy makers, non governmental organization, community based organizations, and HIV positive persons);
3. Development and provision of appropriate healthcare resources and infrastructure including:
 - i. Blood safety and infection control
 - ii. Appropriate surveillance and reporting mechanisms
 - iii. Drug abuse prevention and rehabilitation services
 - iv. Medical care and social support including HIV counseling, testing and treatment facilities

- v. Adequate number of trained health care workforce
- vi. Appropriate reproductive health care programs
- vii. Broader efforts directed at enhancing information, education and communication. (Kagimu M *et al.*, 1997)

In conclusion, the social, cultural, and religious structures now in place in Muslim nations do not provide a setting for any kind of safe disclosure for those who are infected. As a result, it is often difficult to design effective preventative and support programmes. The prevalence of the virus among marginalised and disadvantaged populations across the Muslim world, as well as the growing gender disparities in HIV rates among women, reflect deeply ingrained societal inequalities that contribute to the epidemic's further spread. (Hasnain M. *et al.*, 2015)

Cultural expectations are very difficult for uneducated people to ignore. It takes both individual and collective action to improve behaviour and lifestyle in Muslim nations in order to break the chain of transmission and control the HIV/AIDS pandemic. Cultural expectations are very difficult for uneducated people to ignore. It takes both individual and collective action to improve behaviour and lifestyle in Muslim nations in order to break the chain of transmission and control the HIV/AIDS pandemic.

Pakistani Law on HIV/AIDS

An Act “The HIV & AIDS Prevention, and Treatment Act, 2007”, was enacted to provide for the care, support, and treatment of people living with HIV and AIDS as well as to prevent the spread of HIV among the general community, especially among most-at-risk and vulnerable communities. The prohibition of discrimination based on HIV status, the prohibition of discrimination in the public and private sectors of employment, the prohibition of discrimination in public and private health facilities, the prohibition of discrimination in public and private education, the prohibition of discrimination in public and private accommodations, and the prohibition of discrimination with regard to goods and services were the goals of the promulgation of this act. Discrimination by public and private sector organisations is prohibited based on HIV status.

In consultation with the Commission and the Provincial AIDS Commissions, respectively, the Federal Government may in any part of Pakistan and the Provincial Governments within the limits of a Province ensure the introduction and implementation of strategies promoting comprehensive prevention, care, and treatment of diseases affecting women and children, as well as policies to provide them access to a full range of high quality and affordable health care, including sexual Counselling and therapeutic treatments must be made available to women who have experienced rape or other forms of sexual assault in both public and private healthcare institutions. Post-exposure prophylaxis is a service that must be provided to rape victims. Regardless of whether they have reported the sexual assault to authorities, every victim of sexual assault is entitled to the following confidential treatment in a public health care facility: The following services are provided:

- (a) counselling;
- (b) STI prevention and management, including testing access and prophylactic treatment;

- (c) prevention, treatment, and management of other medical conditions or injuries related to the sexual assault;
- (d) HIV/AIDS related counselling and treatment, if necessary;
- (e) follow-up treatment and care;
- (f) referrals.

15. Law reforms needed in Pakistan

Law reform should be informed by systematic legislative reviews that assess laws against the International Guidelines on HIV/AIDS and Human Rights. Governments should ensure comprehensive protective legislation is in place that addresses the following rights:

- a. Right to equality and protection from discrimination.
- b. Right to protection from HIV-related vilification, stigmatization and insult.
- c. Right to protection from violence.
- d. Right to privacy and confidentiality.
- e. Right to voluntary and informed consent to HIV testing and treatment.
- f. Rights of young people. This includes consideration of young people's rights to confidentiality and to consent to testing and treatment, independent of their parents.
- g. Right to pre-test and post-test counseling.
- h. Right to participation of PLHIV and key populations in planning and HIV programmes.
- i. Right to access to the means of HIV prevention.
- j. Right to education and information on HIV prevention, treatment and care.
- k. Right to the highest attainable standard of health, including access to ARVs.
- l. Sexual and reproductive health rights of HIV and key populations.

Islam is a religion that is quite similar to human nature. It recognises that people have strong sexual drives. Therefore, it argues for and supports marriage so that sexual urges may be satisfied via marriage, encouraging the fulfilment of these wants. Islam offers us a moral ethic for engaging in sexual pleasure, just as other celestial faiths. Islam forbids the use of any chemicals that could dull one's senses. As a result, it is highly illegal to use heroin and alcohol.

However, it's important to acknowledge that individuals have sex before being married and outside of marriage as well. Islam is defined as the submission or surrender of one's will to Allah; as a result, a Muslim should not engage in any behaviour that is against Islamic law. However, we must be realistic and acknowledge that not all of us practise our faith to the fullest extent. However, there are sexual practises that may be prohibited by our faith. As a result, we must face reality and create HIV and AIDS education projects for all of our communities. These efforts must highlight Islamic moral principles while also educating the public on how to prevent this potentially fatal disease.

Some Muslims could believe that AIDS and HIV do not affect the community. In many Muslim nations, HIV and AIDS are significant problems. Therefore, it is crucial to acknowledge that we are all equally susceptible to HIV and AIDS. It is more crucial than ever that we have an open conversation about HIV and AIDS given the rise in HIV infection throughout the world.

Conclusion

To sum up the above discussion, it is concluded that every year on December 1, World AIDS Day is observed to promote HIV/AIDS awareness and show global unity against the disease. The day provides a chance for public and private sector partners to disseminate information about the pandemic's current state and to promote advancements in HIV/AIDS prevention, treatment, and care around the globe, especially in nations with high prevalence rates. World AIDS Day's theme from 2011 through 2015 is "Getting to zero: zero new HIV infections." No bias at all. Zero fatalities from AIDS. Since there is no vaccine or permanent treatment for AIDS, the people needs to be made aware of the need to safeguard future generations from this fatal illness, according to the programming manager. The only solution is to avoid contracting HIV in the first place, and for those who test positive, early access to AIDS medications will help them to live longer, healthier lives while lowering their chance of spreading the virus to others. And to do this, cooperation between the Pakistani government administration, civic society, religious organisations, and the media is required. We must face reality and create HIV and AIDS awareness activities for all of our communities. These campaigns must emphasise Islamic moral principles, but they must also educate the public on how to protect themselves from this potentially fatal disease and provide HIV-positive individuals with guidance in line with Shariah laws.

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