Abortion law in Muslim-majority countries: an overview of the Islamic discourse with policy implications

Gilla K Shapiro

Master of Public Administration (MPA) Programme, Institute of Public Affairs, London School of Economics and Political Science, Houghton Street, London, England, WC2A 2AE. E-mail: gilla.shapiro@cantab.net

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Religion plays a significant role in a patient’s bioethical decision to have an abortion as well as in a country’s abortion policy. Nevertheless, a holistic understanding of the Islamic position remains under-researched. This study first conducted a detailed and systematic analysis of Islam’s position towards abortion through examining the most authoritative biblical texts (i.e. the Quran and Sunnah) as well as other informative factors (i.e. contemporary fatwas, Islamic mysticism and broader Islamic principles, interest groups, and trans-national Islamic organizations). Although Islamic jurisprudence does not encourage abortion, there is no direct biblical prohibition. Positions on abortion are notably variable, and many religious scholars permit abortion in particular circumstances during specific stages of gestational development. It is generally agreed that the least blameworthy abortion is when the life of the pregnant woman is threatened and when 120 days have not lapsed; however, there is remarkable heterogeneity in regards to other circumstances (e.g. preserving physical or mental health, foetal impairment, rape, or social or economic reasons), and later gestational development of the foetus.

This study secondly conducted a cross-country examination of abortion rights in Muslim-majority countries. A predominantly conservative approach was found whereby 18 of 47 countries do not allow abortion under any circumstances besides saving the life of the pregnant woman. Nevertheless, there was substantial diversity between countries, and 10 countries allowed abortion ‘on request’.

Discursive elements that may enable policy development in Muslim-majority countries as well as future research that may enhance the study of abortion rights are discussed. Particularly, more lenient abortion laws may be achieved through disabusing individuals that the most authoritative texts unambiguously oppose abortion, highlighting more lenient interpretations that exist in certain Islamic legal schools, emphasizing significant actors that support abortion, and being mindful of policy frames that will not be well-received in Muslim-majority countries.

Keywords: Abortion, Islam, maternal health, Muslim-majority countries, research to policy

Abortion legislation has seen a tremendous drop in abortion-right to abortion to be enshrined in law: 'liberalization of quality post-abortion care (WHO 2011).

Their development of programmes and policies that reduce maternal mortality ratio by three quarters and achieve universal

improving maternal health through reducing maternal mortality is becoming clearer, but the religious framework and institutions that allow for the development of legalized abortion remains under-researched. Indeed, the framework and institutions that allow for the development of

There was a dramatic rise in maternal mortality ratios from around 80 deaths per 100,000 live births in 1964 to 180 in 1988. After the repeal of these laws in 1989 the maternal mortality ratio fell, to around 40 deaths per 100,000 live births in 1992. This fall was almost entirely due to fewer deaths from abortion (p. 8).

These findings present a compelling public health argument for enshrining the right to abortion into law and liberalizing abortion law on the broadest possible grounds (i.e. upon request). Especially in developing countries where high maternal mortality rates due to unsafe abortions are common, researchers are advocating the elimination of restrictive laws (Brookman-Amissah and Moyo 2004). The importance of pro-abortion legislature in order to prevent unsafe abortions and promote maternal health is becoming clearer, but the religious framework and institutions that allow for the development of legalized abortion remains under-researched. Indeed, the Western examination of religious approaches to abortion concentrates on Christian and secular bioethical positions while Islamic positions are comparatively under-researched (Brockopp 2003). Though Islamic bioethics began in the 1960s, only a few studies in the field have been published despite substantial contributions of Islamic scholars to the debate (Eich and Brockopp 2008).

The paucity of research that has provided a holistic and critical interpretation of Muslim bioethics is remarkable seeing Muslims comprise 23.4% of the world’s population (1.6 billion in 2010) and the Muslim population over the next two decades is forecasted to grow at approximately twice the rate of the non-Muslim population (Pew Research Center 2011). Moreover, the laws in many Muslim-majority countries are prohibitive, and punitive views on abortion is purported to be associated
with religion (Baker et al. 1981; Hertel and Hughes 1987; Boonstra 2001). In addition, some evidence has shown unsafe abortions are common and fatal in many Muslim-majority countries (Hessini 2008) and women in Muslim-majority countries are presumed to have low levels of autonomy (Boonstra 2001). For example, Razzak et al. (2011) found that maternal mortality rates were twice as high in Muslim-majority countries. Furthermore, though many Muslim-majority countries are currently under significant pressure to liberalize their abortion policy (Bowen 2003), there is a research gap in explaining how such a policy, which would have to consider an Islamic perspective, may be sensitively and successfully achieved. Notably, there is remarkable diversity within the Muslim world in Gross Domestic Product (GDP), political and legal systems, in religious sect and schools, among many other factors. Nevertheless, there are also similarities in Muslim-majority countries as ‘[m]any Muslims incorporate their religion into almost every aspect of their lives’ (Daar et al. 2008, p. 410).

It is crucial for researchers and policymakers investigating abortion legal policy in Muslim-majority countries to holistically understand the extremely relevant Islamic discourse on abortion rights in Muslim-majority countries in order to make appropriate policy recommendations. As Hassan (2001) explains, ‘I do not believe that any viable model of self-actualization can be constructed in Muslim societies for women or men which is outside the framework of normative Islam deriving from Qur’anic teachings and exemplified in the life of the Prophet of Islam’ (p. 68). Indeed, constructing policy in Muslim-majority countries is severely hampered if the Islamic religious position is not considered (Hessini 2008). This analysis will thereby provide a detailed and systematic discussion of the relevant biblical sources (i.e. Quran and Sunnah) and further compelling literature (i.e. contemporary fatwa’s and jurisprudence, mystical texts, broader principles, interest groups, and transnational commitments). With a holistic understanding of religious doctrine and positions, this analysis will continue to investigate the diversity of abortion policy in Muslim-majority countries by constructing a count variable numbering the grounds for abortion that are allowed in each country. Lastly, opportunities for policy development and future research directions will be discussed.

Interpretation of key sources: Quran and Sunnah

It is widely accepted that an investigation into any Islamic concern should begin with consulting the Quran and the Sunnah, which are the guiding texts of Islamic religious authority (Brokkop 2003). For Muslims, the Quran and Sunnah are the main sources of Sharia law, law that is prevalent in many Muslim-majority countries. However, notably, neither the Quran nor the Sunnah directly address intentional abortion (Katz 2003). Instead of specifically discussing a pregnant woman seeking a termination of a pregnancy before birth, these sources focus on unwanted children and infanticide (Arbor and Rogers 1999). Table 1 highlights the most relevant texts that are often discussed regarding abortion. It is evident that the Quran condemns killing, and particularly infanticide out of economic hardship. However, these passages are generally understood to refer to live offspring, not abortion (Katz 2003).

Though the Sunnah does not report a case where the Prophet Muhammad directly discusses intentional abortion, on one occasion Muhammad makes a ruling on forced miscarriages. In a case whereby a woman killed her pregnant co-wife, Muhammad requires the murderer’s kin to play blood money (diya) for the co-wife and a payment (ghurra) for the unborn foetus (Katz 2003). This case provides an understanding of the legal position of the foetus. As the value of the ghurra is usually one-twentieth of the diya, it appears that the foetus has some legal protections but is not a ‘full-fledged human being’ (Katz 2003, p. 28).

A central passage in the Qur’an (2012) explains the development from a foetus to a ‘full-fledged’ child: ‘And certainly did We create man from an extract of clay. Then We placed him as a sperm-drop in a firm lodging. Then We made the sperm-drop into a clinging clot, and We made the clot into a lump [of flesh], and We made [from] the lump, bones, and We covered the bones with flesh; then We developed him into another creation. So blessed is Allah, the best of creators’ (23: 12–4). The Prophet Muhammad, the central religious figure in Islam, explains foetal development as occurring in four stages (Table 2). As Table 2 illustrates, the Quran is sensitive to a stage development between conception and childbirth, which has led to diverse perspectives of law depending on the gestational stage of the foetus (Musallam 1983).

Additional aspects for consideration

As the Quran and Sunnah do not specifically address abortion per se, other sources and interest groups inform Muslim countries’ positions and religious practice (Asman 2004). These include: contemporary fatwas and jurisprudence, Islamic mysticism and broader Islamic principles, perspectives of interest groups (i.e. Islamic bioethical and feminist movements), and commitments by transnational Islamic organizations.

Contemporary fatwas

A fatwa is a Muslim jurists’ legal perspective on Islamic law as determined by scholars (or ‘muftis’). Though not legally binding or enforced, contemporary fatwas yield significant authority in informing Sharia law (Nasir and Asnawi 2011). However, Brokkop (2003) explains that though tremendously influential, especially if published by important individuals (e.g. the rector of al-Azhar University), ‘[a]t best, fatwa’s are only a rough guide to Muslim morality’ (p. 7). Indeed, Islamic law itself is a discursive structure whose interpretations are socially contingent. Though Sharia law is often believed to be fixed and clearly discernible from its sacred sources, ‘the sharia’ is a product of articulations of legal discourses and institutions to varying patterns of society and politics’ and has therefore varied considerably over time and place (Zubaida 2003, p. 1). The interpretation of Sharia law is also dependent on sect and school (Zubaida 2003). Although Muslims are often thought of as a homogenous group, there is a primary division around Sunnis (75%–90% of Muslims worldwide), Shiites (10%–20%) and Schismatics (5%–10%) (Barret et al. 2001; CIA 2012).
Furthermore, Sunnis are divided into four equally orthodox prominent legal schools (madhhab) named after their putative founders: Hanafites, Shafites, Malikites and Hanbalites (Barret et al. 2001; Zubaida 2003).

Unlike Catholicism, e.g., Islam does not have a central authoritative structure and no single school or theology dominates Islamic thought (Brockopp 2003). Instead, there is a diverse understanding of how to practise Islam and a large amount of tolerance between schools’ legal rulings (Bowen 2003). Table 2 exemplifies the substantial diversity of laws across legal schools regarding gestational stage of development. For example, the Hanafites, who comprised the majority of

Table 2 Stages of foetal development according to the Quran

<table>
<thead>
<tr>
<th>Stage</th>
<th>Name</th>
<th>Time period</th>
<th>What occurs</th>
<th>Legality of abortion (fiqh)</th>
</tr>
</thead>
</table>
| 1     | Nutfa (sperm)| Conception to 40 days | Semen and the ovum are gathered in the womb | Hanafites: permitted  
Shafites: majority permit  
Hanbalites: some permit  
Malikites: prohibited |
| 2     | Alaqa (blood clot) | 40–80 days | Develops into a clinging blood-like clot | Hanafites: permitted  
Shafites: some permit  
Hanbalites: some permit  
Malikites: prohibited |
| 3     | Mudgha (embryo) | 80–120 days | Clot forms into clump of flesh | Hanafites: permitted  
Shafites: some permit  
Hanbalites: some permit  
Malikites: prohibited |
| 4     | Khalaqan Akhar (spirit) | 120 days to birth | Ensoulment occurs and the foetus possesses a spirit | Prohibited (consensus across schools) |

Note: This table is this author’s compilation through consulting Musallam (1983); Bowen (1997); Brown (1999); Bowen (2003); Katz (2003); Hedayat et al. (2006); Atighetchi (2007); and Al-Hibri (2011). This table discusses Sunni Islam. Each Sunni school interprets the Hadith (i.e. recorded oral traditions of Muhammad) somewhat differently (CIA 2012). A Sunni Muslim may elect to follow any one of these equally orthodox schools (Zubaida 2003). Notably, Shiites reject the four Sunni schools (Asman 2004). Most of contemporary Shiite jurists do not allow abortion without any reason at any time; however, they do allow abortion especially before 4 months on grounds of foetal or maternal conditions that brings extreme difficulties for the mother or family (Hedayat et al. 2006).

Stage: This table is the author’s compilation through consulting Musallam (1983); Bowen (1997); Brown (1999); Bowen (2003); Katz (2003); Hedayat et al. (2006); Atighetchi (2007); and Al-Hibri (2011). This table discusses Sunni Islam. Each Sunni school interprets the Hadith (i.e. recorded oral traditions of Muhammad) somewhat differently (CIA 2012). A Sunni Muslim may elect to follow any one of these equally orthodox schools (Zubaida 2003). Notably, Shiites reject the four Sunni schools (Asman 2004). Most of contemporary Shiite jurists do not allow abortion without any reason at any time; however, they do allow abortion especially before 4 months on grounds of foetal or maternal conditions that brings extreme difficulties for the mother or family (Hedayat et al. 2006).

Specifically, Muhammad explains that 40 days is assigned to each stage (Bowen 1997). The details of the stages are explained by Muhammad’s companion Ibn Mas’ud (Katz 2003).

Fiqh does not merely mean ‘jurisprudence’ but also ‘insight.’
orthodox Muslims in later centuries, permit an abortion until the end of the fourth month of pregnancy. On the other hand, most Malikites prohibit abortion absolutely (Musallam 1983). Despite their differences, all schools concur that after 120 days (i.e. ‘ensoulment’) the foetus is considered a child and abortion is prohibited (Musallam 1983). However, even then, all legal schools make an exception and permit abortion in order to save the life of the pregnant woman (Al-Hibri 2011; Nasir and Asnawi 2011). Notably, even though some schools permit abortion before 120 days, abortion is never encouraged and only allowed on very serious grounds as indicated by contemporary fatwas (Atighetchi 2007). Every act in Islam is classified into five ethical categories, the so-called abkhah al-khamsa: (1) necessary (fard); (2) recommended (mandub); (3) indifferent (mubah); (4) blameworthy (makruh); and (5) forbidden (haram) (Brown 1999). Even when abortion is not haram, it is often seen as makruh (e.g. by the Shafiites) (Bowen 1997).

Table 3 outlines fatwas regarding abortion for different grounds. Importantly, fatwas on the whole do not support abortion (Rispler-Chaim 2003). Instead, most mufhis (i.e. authoritative persons who render legal opinion) prohibit abortion out of a fear of a ‘‘mudslide’’ in religious ethics’ (Rispler-Chaim 2003, p. 92). However, there is extensive debate on what comprises a ‘good’ reason for abortion. Indeed, some fatwas have exhibited leniency, particularly when the life or health of a pregnant woman is threatened or if the foetus is expected to be deformed. The significance of lenient fatwas is greater still due to followers’ ability to consider four equally valid schools within Sunni Islam alone (Brockopp 2003). Evidently, legal consensus has not been reached.

Islamic mysticism and broader Islamic principles

In addition to the social context discussed above, in Islam legal texts are understood within a philosophical and mystical framework. Though Muslims believe the Quran is the word of God they also believe the Quran is a finite book and answers are infinite so in finding answers one must also exercise the ‘mind and spirit’ (Brown, 1999, p. 187). Accordingly, Sufism is an influential mystical aspect of Islam that provides spiritual and ethical guidance (Katz 2003). Abu Hamid al-Ghazalli (d. 1111 C.E.), one of the most recognized and influential Muslim mystics, explains that abortion falls short of murder (i.e. infanticide), but is on a ‘continuum of moral odium’ (Katz 2003, p. 92). However, there is extensive debate on what comprises a ‘good’ reason for abortion. Indeed, some fatwas have exhibited leniency, particularly when the life or health of a pregnant woman is threatened or if the foetus is expected to be deformed. The significance of lenient fatwas is greater still due to followers’ ability to consider four equally valid schools within Sunni Islam alone (Brockopp 2003). Evidently, legal consensus has not been reached.

Interest groups

Growing Islamic bioethical and feminist movements may increasingly be a source of pro-abortion pressure. Interestingly, the category of ‘Islamic bioethics’ is highly disputed, as there is arguably not a singular Muslim position towards bioethical dilemmas (Brockopp 2008). This again points to the diversity of Islamic positions towards bioethical predicaments such as abortion. Significantly, patient autonomy is less valued in Muslim-majority countries than western societies and ‘physicians are more likely to be asked to defend why they did what their patients (including pregnant women) wished, in contrast to cultural settings where they will be asked to defend why they did not do what their patients wished’ (Outka 2003, p. viii). Evidently, physicians’ power to challenge the religious discourse is limited especially when they are not predominantly answerable to their patients, but to Islamic authority. Nevertheless, physicians have been instrumental in the liberalization of abortion (Kunins and Rosenfield 1991; McBride Stetson 2001). For example, when abortion was permitted ‘on request’ in Russia (1920)—the first country to do so—physicians played a pivotal role (Popov 1994). Atighetchi (2007) further explains that doctors have been a pivotal source of healthcare modernization in Arab–Muslim countries.

Similarly, Islamic feminists stress that the ‘heinous practices’ surrounding the plight of women in the Muslim world exist, but that ‘they are less a function of religious doctrine than a reflection of history, culture, economics and especially politics’ (Boonstra 2001, p. 1). Ramirez and McEneaney’s (1997) international event history analysis found greater liberalization of abortion policy in countries with a greater proportion of women in the paid labour force. Evidently changing these traditions is possible; however, importantly, Islamic feminists stress that the impetus of pro-abortion fatwas has not necessarily been the promotion of women’s rights (Hessini 2008). For example, the Grand Mufti in Egypt upholds patriarchal structures when arguing that rape victims should have access to abortions but also to reconstructive hymen surgery to preserve female marriageability and virginity (Hessini 2008; IWRAW 1998). Some Islamic feminists (although a heterogeneous group) find compatibility between abortion rights and Islam and seek to modify strict legal prohibitions, increase safe access, and in particular modify a patriarchal system whereby husbands or fathers make the decision of whether a woman can abort, thereby constricting a woman’s right to personhood (Bowen 2003; Outka 2003).
These circumstances are made for abortion under several circumstances in the first trimester of pregnancy, unless the woman’s life is in danger. However, a more lenient perspective allows abortion for some circumstances, such as medical necessity. Historically, abortion was forbidden after the fourth month of pregnancy, but Islamic scholars have interpreted the Quranic prohibition to include some circumstances, such as the life of the mother or the baby being at risk.

The principle of ‘necessity’ is applied. Ibrahim Haqqi, a Syrian physician, explains that physical health issues are justifiable reasons for an abortion. For example, the text of reasons that merit abortion includes poor health of the mother, such as a weak bladder, a risk of difficult labour requiring a Caesarean section, or a disease or malfunctioning of the uterus.


 Pregnancy is widely permitted. Abortion is generally permitted. Abortion is often permitted, within strict gestational limits. Abortion is disputed, but increasingly permitted within the gestational limit. Widely prohibited with few exceptions.

<table>
<thead>
<tr>
<th>Ground for abortion</th>
<th>Summary of prominent rulings (fatwas)</th>
<th>General conclusions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Life</td>
<td>The principle whereby ‘necessity knows no law’ is applied. There is wide agreement that the primary concern is for the life of the mother and her welfare takes precedence.</td>
<td>Abortion is widely permitted.</td>
</tr>
<tr>
<td>Physical and mental health</td>
<td>The principle of ‘necessity’ is applied. Ibrahim Haqqi, a Syrian physician, explains that physical health issues are justifiable reasons for an abortion. For example, the text of reasons that merit abortion includes poor health of the mother, such as a weak bladder, a risk of difficult labour requiring a Caesarean section, or a disease or malfunctioning of the uterus (Bowen 1997).</td>
<td>Abortion is generally permitted.</td>
</tr>
<tr>
<td>Rape or incest</td>
<td>Causing (i.e. case law) is present on rulings regarding rape or incest. Significant political events have led to occasionally lenient rulings. In Kuwait 1982, permission was given to abort impaired foetuses up to 3 months into the pregnancy (Rispler-Chaim 2003). However, after the rape of Kuwaiti women by Iraqi soldiers (during the first Gulf War), the majority of muftis (i.e. Sunni Islamic scholars) argued that abortion is not permitted on circumstances of rape (Asman 2004). Those who permit abortion on the grounds of rape only do so before 120 days (Asman 2004). In 1998, the Algerian Islamic Supreme Council issued a fatwa allowing abortion in cases of rape explaining that religious extremists can use rape as a weapon of war (Chelala 1998). Similarly, the Egyptian Grand Sheikh of al-Azhar, Muhammed Sayed Tantawi, issued a fatwa in 1998 that allowed abortion to women who had been raped (IWRAW 1998). In 1999, Ikrima Sabri, chief mufti of the Palestinian Authority also permitted Muslim women who were raped in Kosovo to take abortifacient medicine to prevent pregnancy.</td>
<td>Abortion is disputed, but increasingly permitted within the gestational limit. Incest is far less discussed than rape.</td>
</tr>
<tr>
<td>Social or economic reasons</td>
<td>There is substantial concern that the Quran’s prohibition of infanticides out of fear of financial burden is violated under these grounds (Bowen 2003). However, as discussed above, foetuses are not always interpreted to be children. Furthermore, the Sunnah allows termination of the foetus if the mother is still breastfeeding, as the living child has priority over the foetus. Also, an extremely young woman (younger than 15 years) is sometimes argued to be an acceptable reason for an abortion (Bowen 1997). Historically, abortion was also justified to prevent the birth of a child to a pregnant slave so as to avoid the obligation of the owner to free the slave (Bowen 2003). Nevertheless, abortions for SER are explicitly seen to violate Quranic principles, and are therefore widely prohibited (Asman 2004). A notable exception is Sheikh Ahmed Harayd who allows abortion in cases where the family is unable to hire a wet-nurse to feed the unborn foetus.</td>
<td>Widely prohibited with few exceptions.</td>
</tr>
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**Note:** This table is the author’s compilation through consulting Bowen (1997); IWRAW (1998); Arbor and Rogers (1999); Bowen (2003); Rispler-Chaim (2003); and Asman (2004).

### Transnational Islamic organizations

Lastly, law in Muslim-majority countries and positions of transnational Islamic organizations (i.e. Muslim countries that jointly present their view outside their national context, often on the national stage) are a gauge of Islamic positions on abortion. As will be discussed in greater detail below, most Muslim-majority countries have conservative abortion laws, many only allowing abortion when the life of the pregnant woman is threatened. However, a more lenient perspective of Islam’s position has been offered on the international stage. In 1971, an international conference on Islam and family planning concluded that ‘Islam forbids abortion after the fourth month of pregnancy, unless the woman’s life is in danger but allows for abortion under several circumstances in the first four months’ (Hessini 2008, p. 24). These circumstances are made explicit in the Rabat Conference on Islam and Family Planning (1974) whereby Indonesian scholar Achmad Gazali listed conditions that justify an abortion (e.g. rape, incest, psychological state of mother, and foetal impairment).

Importantly, in the influential United Nations ICPD (held in Cairo in 1994), ‘an extremely important landmark in raising global consciousness with regard to a number of issues that are central to the lives of women’, Muslim countries dissented from their originally announced alliance with the Vatican in opposing abortion (Hassan 2001, p. 64). At the ICPD, Muslim countries strayed from their initial total condemnation of abortion (similar to the Vatican) to a circumstantial position (Bowen 1997). Significant to many was that president of Al-Azhar University, whose fatwas are widely followed, attended the meeting (Hassan 2001). Indeed, the conference, notably
Diversity in abortion laws across Muslim-majority countries

The above discussion indicates that there is not a singular Islamic position on abortion. This article continues to evaluate how the diversity in Islamic perspective translates into abortion law in the world’s Muslim-majority countries. Not surprisingly, Muslim-majority countries reflect this diversity. For example, Tunisia was the first Muslim, African, and Arab country to liberalize its law in 1973—before France, Germany, or the USA. In fact, Tunisia permits abortion ‘upon request’ within 12 weeks and services are provided without charge in the public healthcare system (Hessini 2008; UN DESA 2002). This is in stark contrast with many other Muslim-majority countries that only allow abortion if the life of the pregnant women is threatened. Notably, Asman (2004) conducted a comparison of three Muslim countries (i.e. Egypt, Kuwait, and Tunisia) and noted that these countries’ legislation on abortion has become increasingly permissible.

In examining the diversity of abortion law in Muslim-majority countries, this study defined Muslim-majority countries similar to Razzak et al. (2011) as independent countries with a 50% or greater Muslim population in 2011. Although Razzak et al. (2011) includes Palestine, making their count 48, this study, similar to Boland and Katzive (2008), excludes Palestine because the West Bank and Gaza Strip are not currently sovereign and there are significant data limitations in assessing this population. Similarly, the Pew Research Center (2011) includes Mayotte and Western Sahara as Muslim-majority countries; however, these are also not included in this study as these countries are not self-governing (CIA 2012). A total of 47 countries were found to be Muslim-majority countries.

One method to compare Muslim-majority countries position on abortion is by examining the Number of Abortion Rights (hereafter NAR) in a country. In accordance with the United Nations and similar to Ramirez and McEneaney (1997), this study considers seven dimensions to calculate NAR. These include:

- Abortion is permitted to save the life of the pregnant woman (L)
- Abortion is permitted to preserve a woman’s physical health (PH)
- Abortion is permitted to preserve a woman’s mental health (MH)
- Abortion is permitted in cases of foetal impairment (F)
- Abortion is permitted in cases of incest or rape (UR)
- Abortion is permitted for social or economic reasons (SER)
- Abortion is permitted upon request

These seven dimensions are cumulative rather than mutually exclusive. NAR thereby ranges from 0 to 7. When NAR is seven this denotes that abortion is permitted ‘upon request’ (i.e. allowed for all grounds). A country was only recorded to have an abortion right on each of these grounds if that grounds was enshrined in law, i.e. not in cases where abortion is allowed intermittently based on legal interpretation. Notably, the law in some countries does not specify whether the term ‘health’ applies to both physical and mental health. In line with Boland and Katzive (2008), but differing from UN DESA (2011) data, abortion on grounds of mental health is not described as such unless a country’s legal status specifically expresses this to be the case (i.e. enshrined in law). A count variable allows the extent of liberalization of abortion laws to be quantified and visualized. Table 4 provides a compilation of NAR for Muslim-majority countries.

Table 4 exemplifies that many Muslim-majority countries are currently conservative in their abortion policy. Specifically, 18 of 47 Muslim-majority countries only permit abortions in cases where the life of the pregnant women is threatened (Table 4). However, notably, all Muslim countries allow abortions to save a woman’s life, i.e. in no country is there a zero count. The 2011 average NAR in Muslim-majority countries is 2.94 (S.D. = 2.30) out of a possible 7. Nevertheless, substantial diversity can be observed (Figure 1), and while some countries are extremely conservative others permit abortion ‘on request’. The most liberal countries (NAR = 7) include eight previously Soviet countries as well as Turkey and Tunisia. Interestingly, while other countries in the world (e.g. Zambia, Luxemburg or St. Vincent and the Grenadines) allow abortion for social or economic reasons while prohibiting abortions on request (UN DESA 2011), social or economic reasons was not specified in any Muslim-majority country (Table 4). This is especially notable given the Quranic context (Table 2) and many fatwas prohibiting abortion on social or economic grounds (Table 3). Specifically, the explicit condemnation of infanticide for reasons of economic hardship translates into economic or social reasons (rather than grounds of necessity) being ‘the most hotly debated justification for abortion’ (Bowen 2003, p. 70). In addition, it is rare to permit an abortion on the grounds of preserving a woman’s mental health.

Recommendations for policy development

As Cornwall et al. (2008) explain, there are many different constructs (e.g. reproductive rights, social justice, public health,
### Table 4  Number of abortion rights in Muslim-majority countries (2011)

<table>
<thead>
<tr>
<th>NAR</th>
<th>Countries</th>
<th>1</th>
<th>2</th>
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<td>Afghanistan L</td>
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<td>Bangladesh L</td>
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<td>Guinea-Bissau L</td>
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<td>Indonesia L</td>
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<td>Iraq L</td>
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<td>Lebanon L</td>
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<td>Libya L</td>
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<td>Mauritania L</td>
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<td>Total (%)</td>
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**Grounds**: L: Abortion allowed to save the life of the woman; PH: Abortion allowed in cases where the pregnancy threatens the woman’s physical health; MH: Abortion allowed in cases where the pregnancy threatens the woman’s mental health; F: Abortion allowed in cases of foetal impairment; I/R: Abortion is allowed in cases of incest or rape; SER: Abortion allowed on additional enumerated grounds relating to such factors as the woman’s age or capacity to care for a child.

**Note**: This table is the author’s compilation. Abortion legislative data were compiled through analysing cross-country compilations of the WHO (1971); Centre for Reproductive Rights (2008); UN (UN DESA 2002, 2011); Guttmacher Institute (2012), as well as research by Roemer 1967; Cook and Dickens 1978; Rahman et al. 1998; and Boland and Katzive 2008.

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**Figure 1** Muslim-majority countries by Number of Abortion Rights (2011).
development, and harm reduction) that support a woman's right to have 'access to safe, affordable services for the termination of pregnancy for the widest range of reasons’ (p. 1). It is a public health priority to address the thousands of annual deaths that result from unsafe and illegal abortions. For example, as Mohammed (2003) explains in reference to the Nigerian circumstance: ‘It is imperative to do something about the appalling annual death rate from abortion in Nigeria, but success can come about only if the matter is approached with due sensitivity and consideration for these cultural and religious factors’ (p. 225). Indeed, the religious position of Islam ‘affect[s] policy formation in many Muslim nations’ (Bowen 2003, p. 52). Drawing from the analysis of Islam’s position on abortion, some strategies can be outlined which provide opportunities for the formation of more liberalized abortion rights in order to better safeguard Muslim women’s health and rights.

Firstly, it is important to disabuse individuals of the incorrect assumption that the central legitimizing Islamic texts (i.e. the Quran and the Sunnah) unambiguously oppose abortion. This is especially fundamental as ‘few Muslims are versed in the pre-modern legal texts’ and customary practice assumes more force’ (Bowen 1997, p. 181). Contrarily, the Quran and the Sunnah sources do not explicitly address intentional abortion but focus on infanticide and particularly wa’d (i.e. female infanticide) (Asman 2004; Table 1). Although many interpret these verses on children as applying to potential children (i.e. foetuses), it is clear from the Sunnah that there is a distinction between the death of children and foetuses, and a central (and unifying) point of distinction is ensoulment at 120 days (Boonstra 2001).

Secondly, the above analysis exemplifies that Islam has the possibility of being interpreted leniently, despite the monolithic image that is often presented (Hassan 2001). As Brockopp (2003) explains, ‘Islam does not speak with one voice on the question of abortion’ (p. 24). In fact, the flexibility of Islamic law is a cornerstone of Islamic philosophy and because Islam was revealed ‘to all people for all times’ its laws are thought to be capable of adaptability (Al-Hibri 2011). Furthermore, dating from the pre-modern Islamic world, there was a recognition and cultivation of variation to the Islamic tradition (Reinhart 2003). A general prohibition of abortion disregards the leniency of certain religious authorities (Tables 2 and 3). Indeed, the Islamic legal system ‘provides a means to increase the incidence of abortion’ (Bowen 2003, p. 75). Accordingly, lenient positions and the reciprocity of different legal schools should be emphasized which may make ‘abortion religiously possible’ (Bowen 2003, p. 60). Contrary to what many may believe, Musallam (1983) explains that ‘given the fact that prohibition was not the dominant view by any standard, given the fact that Muslims believed in ensoulment as the crucial event before which the foetus was not a person, and given the fact that the sanction of contraception strengthened the view that abortion should be legalized before ensoulment, perhaps we can say that, on the whole, abortion was religiously tolerated’ (p. 59).

It is also evident that Sufism and broader Islamic principles (i.e. equality, public interest, and compassion for individual circumstances) provide justification for the application of lenient legal rulings when legal principles have been otherwise harsh or impractical in their application. These principles allow for a more compassionate understanding of the Quran and Sunnah and have been considered ‘the open frontier of Islamic ethics’ (Brown 1999, p. 192). In this regard it may be useful to emphasize that abortion is a serious health concern as a large number of abortions are performed in Muslim-majority countries and due to their illegality, the practice is often carried out secretly and unsafely, thereby jeopardizing the lives of pregnant Muslim women (Hessini 2008; Pew Research Center 2011). For example, Hedayet et al. (2006) explain that this logic may have been particularly influential in the case of Iran’s liberalizing its laws in 2005: ‘Being faced with health crises on a large scale may be partly responsible for scholars invoking istislah and istislahan in their rulings on medical and health affairs… it is also a social reality that more than 80 000 illegal abortions are performed in Iran every year, possibly in unsanitary conditions that put the life of the mother at risk—a public health crisis in its own right’ (p. 655).

Thirdly, it is important to emphasize significant actors that support legal, safe, and rare abortion. As Bowen (1997) points out, the decision on abortion’s legality currently rests with the government. In this regard, it is important to hold Muslim-majority countries to their transnational and international commitments. In addition, due to the respectability of the juridical-religious bodies in Egypt and Saudi Arabia, fatwas issued in these countries are held in especially high esteem (Atighetchi 2007). Accordingly, a focus on policy development in these countries would have a wide impact. Further, though governments are central for abortion rights to be achieved, there must be greater acknowledgement and support of interest groups, including physicians and Islamic feminists. In this regard, Fazlur Rahmun, a Pakistani theologian who argued in favour of abortion within 120 days of pregnancy, believes that women’s groups in the Muslim world are central in liberalizing abortion legislation (Bowen 1997).

Lastly, it is strategic for policymakers to be mindful of the frames that will not be well-received and emphasize those that will be ideologically acceptable. In this regard, the above discussion has shown that abortion as a method of family planning or as justifiable so to promote woman’s reproductive rights have not been successful frames (Bowen 1997). For example, the Pakistan Medical and Dental Council’s Code of Ethics (2001, art.7) explains that ‘[i]f secular Western bioethics can be described as rights-based, with a strong emphasis on individual rights, Islamic bioethics is based on duties and obligations’ (Atighetchi 2007; Daar et al. 2008). Instead, public health (on the basis of istislah) and economic development have been more persuasive. For example, Bowen (2003) deduces that abortion liberalization in Tunisia centred on economic development and Tunisia’s concern to lower their birth rate.

Conclusion
The diversity in Islamic thought and abortion law throughout Muslim-majority countries is evident. As Al-Azmeh (1996) explains, ‘there are as many Islams as there are situations that sustain it’ (p. 1). Investigating Islam’s position on abortion reveals that though Islamic jurisprudence does not encourage abortion, there is no direct prohibition on abortion from the
Quran and Sunnah, the two most authoritative biblical sources. Further, positions on abortion are notably variable, and many scholars permit abortion in particular circumstances and stages of gestational development. Evidently, Islam has also been interpreted to be compatible with abortion rights in prescribed situations. Particularly, the least blameworthy abortion is that of ‘necessity’ (i.e. if the life of the pregnant woman is threatened) and when 120 days have not lapsed (Bowen 2003; Katz 2003; Hedayat et al. 2006).

An analysis of abortion laws in Muslim-majority countries exemplified a generally conservative approach where 18 of 47 countries only legally permit abortions in cases where the life of the pregnant women is threatened (i.e. not in cases to preserve a woman’s physical or mental health, rape, foetal impairment, or for social or economic reasons). Nevertheless, the substantial diversity among the world’s 47 Muslim-majority countries is often under-appreciated. Indeed, 10 Muslim-majority countries allow abortion ‘on request’, which, e.g., is more lenient than Japan, Iceland, Ireland, New Zealand, or the United Kingdom. The diversity found in Muslim-majority countries is likely in part due to the variability of the Islamic position as well as many other factors including whether the legal system is based on Sharia law exclusively (e.g. Iran), a combination of Sharia law alongside civil or common law (e.g. Saudi Arabia), or whether the legal system is not formally based upon Sharia law at all (e.g. Turkey) (CIA 2012).

This article makes policy recommendations for Muslim-majority countries that currently only allow abortion to save the life of the woman (e.g. Afghanistan, Bangladesh, Yemen and 15 other countries). Particularly, more lenient abortion laws may be achieved through disabusing individuals of the incorrect assumption that the Quran and Sunnah unambiguously oppose abortion, highlighting more lenient interpretations that exist in certain legal schools, emphasizing significant actors that support abortion, and being mindful of policy frames that will not be well-received. In so doing, the heterogeneity of Muslim-majority countries should be taken into account and the implementation of these strategies should be country specific. Other social and cultural strategies should be explored alongside these to reduce the stigma associated with abortion and improve access to abortion.

In terms of future research, further investigation of the Shiite position (rather than Sunni) is especially merited. As Islamic bioethics is neglected as a whole, the minority Shiite position is especially overlooked (Shanawani and Khalil 2008). Moreover, it would be beneficial to more comprehensively survey Muslim believers and religious leaders to ascertain abortion attitudes. In so doing, the World Values Survey asks only one question on abortion (i.e. whether it is a justifiable practice on a scale of 1–10) (WVS 2012). An expansion of this data would be useful in analysing individuals’ practices, reasoning and any cognitive dissonance. A Critical Discourse Analysis would be another effective methodological approach to evaluate a potential discrepancy between reports by religious observers and their practices (i.e. why so many women in Muslim-majority countries have abortions for economic reasons despite its generally prohibitive nature). Further empirical analysis would also be useful in understanding what factors are associated with more liberal abortion laws in Muslim-majority countries.

A better understanding of the factors associated with more liberal abortion laws could guide theoretical analysis. In addition, greater examination of an Islamic perspective on other methods of family planning (including withdrawal, menstrual regulation, sterilization, pre-conception counselling, the pill, long-active reversible contraceptive methods, and infertility management) is merited.

In addition to the findings that have been presented on Islamic perspectives on abortion and the diversity of abortion law in Muslim-majority countries, one more general conclusion results from this study: that a deep and diverse understanding of Islamic positions is crucial given the important use of religion in bioethical decisions (Hessini 2008). Indeed, abortion policy analysis and research in the world’s 47 Muslim-majority countries must consider the Islamic discourse in order to make more successful and sensitive policy recommendations. As Hassan (2001) insightfully explains, ‘compelled by facts of modern history, some social scientists in the West are now beginning to concede that Islam is one of the factors which needs to be considered—along with political, economic, ethnic, social and other factors—in planning and evaluating development projects’ (p. 68).

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Endnotes

1 The science of Usûl al-fiqh, investigating Islamic sources, outlines specific rules for using sources in contradicting cases (Brockopp 2003). It is important to be mindful of which text is being used, as texts differ in importance. Muslims believe that the Quran (or Koran) was divinely revealed (i.e. god’s own speech) to the Prophet Muhammad from 610 to 632 C.E. (Boonstra 2001). Therefore, the Quran is the most fundamental religious source for Muslims (Brockopp 2003; al-Hibri 2011). The Sunnah is a more informal source based upon oral tradition (known as hadith) that is a collection of practices and sayings of Muhammad, which provides guidance on issues not explicitly addressed in the Quran (Brockopp 2003; al-Hibri 2011). The Quran and Sunnah are the primary sources of Sharia law (or ‘Islamic law’). When law cannot be derived from the Quran and Sunnah, Sharia law is determined through Ijma (i.e. unanimous consensus of the faithful) and Qiyas (i.e. reasoning by analogy).

2 These pivotal bioethical concerns in Islam can be compared to the four basic prima facie ‘ethics of principles’ in Western bioethics: autonomy, beneficence, non-maleficence, and justice (Beauchamp and Childress 1989; Gillon 1994; Daar et al. 2008).

References