



**The Principle of Al-Darar Yuzal (الضرر يزال) in Islamic Family Law
Perspective: Implications of Premarital Medical Testing for the
Prevention of Sickle Cell Disease and Implications on Marriage**

Aishatu Abubakar Kumo

Department of Religious Studies, Faculty of Arts & Social Sciences
Gombe State University, Nigeria
Email: aishatukumo@gsu.edu.ng

Ahmad Muhammad Jungudo

Department of Religious Studies, Gombe State University, Nigeria
Email: abuzubair777@gmail.com

Murtala Muhammad Abdu

Department of Zoology, Faculty of Sciences, Gombe State University, Nigeria
Email: abumuaz@gsu.edu.ng / alamin882005@gmail.com

Abstract

Premarital medical testing serves as a preventive mechanism whereby prospective couples undergo medical screening to detect genetic, infectious, and blood-transmitted diseases such as Sickle Cell Disease (SCD). This practice has become increasingly relevant in light of the rising number of children born with genetic disorders, particularly in regions with high SCD prevalence such as sub-Saharan Africa. While premarital screening has sparked debate within certain cultural and religious contexts, Islamic jurisprudence offers a compelling framework that supports such preventive health measures. This study aims to examine the legal and ethical justification of premarital genetic testing from the standpoint of Islamic law, focusing specifically on the maxim Al-Darar Yuzal (harm must be eliminated), one of the five major legal maxims (Al-Qawa'id Al-Kubra) in Islamic jurisprudence. Employing a qualitative and doctrinal research methodology, the study utilizes content analysis of classical juristic texts, contemporary academic literature, and public health data. Through this approach, the paper critically explores arguments both for and against premarital testing while highlighting the relevance of Islamic principles that prioritize the elimination of harm and the preservation of public health. The findings suggest that Islam not only permits but encourages any lawful measure aimed at safeguarding human health, provided it does not contradict the core teachings of the Shari'ah. Ultimately, the study concludes that premarital genetic testing especially for conditions like SCD is not only compatible with Islamic teachings but also aligned with the broader objectives of Shari'ah (Maqasid al-Shari'ah), particularly the protection of life and progeny. As such, both government and religious institutions should actively promote premarital screening as a responsible and preventive step toward ensuring healthy future generations.

Keywords: Pre-marital, Family Law, Marriage, Genetic Compatibility, Child health.

Introduction

Eliminating harm is portrayed as one of the major principles of Shari' ah to which all legal determinations can be traced back. According to (Izzuddin ibn Abd al-Salam in *Qawa'id al-Ahkam fil Masail al-Anam*) the Whole law is intended to achieve both *jalbu al-masalih* (attracting interests) and *dar'u al-mafasid* (eliminating harms).¹ Al-Shatibi also States that “the basic purpose of the religious ordinances is to secure the Welfare and public interest of human beings (*maslahah*) and to protect them against harm (*mafsadah*)”². This formula has always been considered the criteria of legislating legal rulings for the new incidents and emerging issues, such as Sickle cell disease (SCD) become one of the most common genetic diseases worldwide and its highest prevalence occurs in Middle East, Mediterranean regions, Southeast Asia, and sub-Saharan Africa, especially, Nigeria. Sickle cell disease (SCD) is an umbrella term for a group of genetic disorders affecting the body's red blood cells. It is the most prevalent genetic disease in the World. According to world Health Organization (WHO) African Region, about 5-7% of the global population carries an abnormal hemoglobin gene. The most predominant form of Hemoglobin abnormality worldwide is sickle cell disease. The greatest burden of the disease lies in sub-Sahara Africa and Asia³

Islam as a complete way of life always encourages what is beneficial and discourages what is harmful, and as such as not in any way against the prevention which is always better and cheaper than cure. The major concern should be about the spiritual aspect of life in the first place by following the tradition of our Noble Prophet (peace be upon him) through application of the maxim of *Al dararar yuzal* the source of this maxim is from hadith. It was narrated from Ubadah bin Samit that the prophet SAW ruled:

“There should be neither harming nor reciprocating harm.”⁴

“لا ضرر ولا ضرر”

It is clear from the above tradition of the prophet (SAW) that premarital medical testing of SCD to detect and guide prospective couples to avoid or at least reduce the number of children born with SCD which debilitates their life or at worst kill them, is permissible or even commendable. This paper examines

¹ Izzuddin Abd Al-salam, 1996. *Qawaid al-Ahkam fi Masalih al-Anam*. (Beirut: 1;12. Darul Makrifat), juz 1, 96.

² Abu Ishaq al-Syatibi, *Al-Muwafaqat*, (Beirut: Darul Ma'rifah, 1997), Vol. 1-2, 6-7.

³ www.patient.co.uk/doctor. Retrieved on 15/02/2024

⁴ Ibnu Majah; [2340;2;784]

the Islamic legal implications of premarital medical testing of SCD in relation to laid down rules under Islamic law. The paper briefly sheds lights on SCD, its modes of spread and prevention measures among others. Also definition of relevant concepts has been made for easy understanding of the direction of the paper.

This article presents novelty through a fiqh-based (Islamic legal) approach to a contemporary health issue, specifically concerning the importance of premarital medical testing for detecting Sickle Cell Disease (SCD). The primary uniqueness of this research lies in the application of the classical Islamic legal maxim Al-Darar Yuzal (الضرر يزال - "harm must be eliminated") to a modern medical context, a perspective rarely explored comprehensively in previous academic studies. Unlike conventional medical studies or general Islamic law discourses, this article bridges two disciplines—Islamic jurisprudence and medical science to address the ethical and legal dilemmas of genetic compatibility in marriage. Its focus on SCD makes the study highly relevant, especially in regions like Sub-Saharan Africa and the Middle East, where the disease is prevalent and preventative measures such as premarital testing are critical. Another key novelty lies in the use of Al-Qawa'id Al-Kubra (universal jurisprudential principles) as the foundation for evaluating the permissibility and preference of premarital genetic testing in Islam. The article asserts not only that such testing is allowed but also that it is encouraged, based on the objectives of Islamic law (Maqasid al-Shari'ah), especially the protection of progeny (hifz al-nasl) and health (hifz al-nafs). By employing content analysis of both classical and contemporary sources, as well as a normative approach from a Shariah perspective, the article offers an original contribution to the formulation of public health policies grounded in Islamic ethics. Thus, the article expands the understanding of how Islamic legal principles can be applied to modern health issues, providing moral and legal guidance to Muslim communities in facing modern genetic challenges.

Research Methodology

This study adopts a qualitative and doctrinal research methodology, with a focus on content analysis of classical and contemporary Islamic legal sources, medical literature, and official reports regarding Sickle Cell Disease (SCD) and premarital medical testing. The doctrinal approach involves a critical examination of Islamic legal principles, particularly the maxim Al-Darar Yuzal (harm must be eliminated), within the framework of Usul al-Fiqh (principles of Islamic jurisprudence). Relevant classical texts by scholars such as Al-Shatibi and Izzuddin Ibn Abd al-Salam are analyzed to understand the juristic foundations of harm prevention in Islam. Furthermore, secondary data was collected through extensive library-based research, including academic journal articles, fatwas, medical reports, World Health Organization (WHO) statistics,

and policy documents from health ministries and Islamic institutions. The study also draws upon legal and ethical discussions surrounding genetic compatibility, health preservation, and public interest (maslahah) to assess the permissibility and necessity of premarital screening in Islamic law. The content analysis method was applied to interpret textual evidence and derive legal conclusions from both religious and scientific perspectives. Through this approach, the research critically engages with arguments for and against premarital genetic testing and investigates the potential of Islamic legal maxims to support public health initiatives aimed at reducing hereditary diseases like SCD. The methodology allows for a multi-dimensional exploration of how Islamic legal theory can accommodate and even promote modern medical practices when they serve the purpose of harm elimination and societal well-being.

Meaning of Qawa'id

Linguistically, qawa'id is the plural form of the word qaidah, which has many meanings in Arabic, denoting foundation, stability, firmness.⁵ In the Qur'an, the plural form (i.e. qawa'id) was mentioned in three places; two of which were used to mean foundations, whereas the third refers to women who are past child-bearing age.⁶ In contrast, there is no mention of the singular form (qa'idah) in any place in the Qur'an. As a term, the word qa'idah is synonymous with the terms of base, principle, maxim and the like, and is used as such in different contexts, religious, philosophical, political or legal.⁷

Technically, al-qawa'id al-fiqhiyya are the governing legal principles that inform the process of reaching a legally consistent judicial decision. As such, Al-qawa'id al-fiqhiyya are most commonly rendered as legal maxims or Principles of jurisprudence⁸. They are predominantly valid determinations through which the legislator can know the individual legal decisions of similar cases directly.⁹ However, neither modern nor medieval scholars of the field have agreed upon one particular definition of al-qawa'id al-fiqhiyya and offer a range of slightly different conceptions of the field. Modern scholars of the field define al-qawa'id in one of three ways: as generally valid (kulliyya), predominantly valid (aghlabiyya), or as a theory, (nazariyya). However, some have taken all of these factors into consideration to offer the following definition, "A generally

⁵ Ibn Manzur, *Lisan al-Arab* (Beirut: Dar sadir, 1968), 115.

⁶ Surah Al-Baqarah verse 127 and Al-nahl verse 26

⁷ Al-Nadwi, "al-Qawa'id", 43, "Aslun fiqhiyyun kulliyyun yatadammanu ahkaman tashri'iyyatin wa'ammatin min abwabin muta'addidatun fi...."

⁸ See al-Nadwi's al-Qawa'id, where he defines it as "ukmun aghlabiyyun yata'arrafu minhu 'ala juz'yyatih al-fiqhiyya mubasharatan".

⁹ Al-Nadwi Al-Qawa'id al-Fiqhiyyah, 41. See also: Luqman Zakariyah, Applications of Legal Maxims, 26.

valid legal principle which encompasses general shar'i determinations, from different chapters [of fiqh] in Matters which come under its subject area"¹⁰

The Concept of the Maxim Al-Darar Yuzal (Harm must be eliminated)

Being among the major factors of social, physical, political and economic Instability, harm has been given special treatments and various discussions In the Islamic legal discourse. In this context, jurists have developed in the Course of history the theory of nafa al-darar (eliminating harm) based on multiple pieces of evidences from the Qur'an and the Sunnah of the Prophet (PBUH), which declare clearly that causing harm to oneself or to others is prohibited.¹¹ Although each of the pieces of evidence is mentioned in the Course of treating a specific issue, applicability of any verse or Prophetic Tradition is based on the generality of its wording not on the specificity Suggested by the occasion of its revelation, as the usuli principle states.¹²

This qa'idah is an essential principle within the theory of nafa al-darar, which aims to fight darar regardless of its nature, origin or cause. This includes preventing its occurrence, since protection is better than cure, and, in case it occurs, eliminating it by whatever means.¹³ Al-Darar means harm or injury, in which it's the opposite of benefit.¹⁴ According to Ibn Hajar Al-Darar stands for infliction of harm on others. In kitab Fayd Al-Qadir also stated Al-Darar is infringement of others' rights.¹⁵

Source of the Maxim al-Darar Yuzal from Al-Qur'an:

وَلَا تُفْسِدُوا فِي الْأَرْضِ بَعْدَ إِصْلَاحِهَا

Do not spread corruption in the land after it has been set in order. And call upon Him with Hope and fear. Indeed, Allah's mercy is always close to the good-doers.¹⁶

لَا تَضَارُّ وَالِدَةَ بَوْلِهَا وَلَا مَوْلُودَ لَهُ بَوْلِهِ

"No mother shall be treated unfairly (with harm) on account of her child, nor father on Account of his child".¹⁷

Narrated from 'Ubadah bin Samit that the Rasulullah SAW ruled

¹⁰ Muhammad H. Kamal, *Principle of Islamic Jurisprudence*, (Cambridge: The Islamic Texts Society, 1991). 36.

¹¹ Al-Kuwaitiyah, H. B. (1983). *al-Mausu'ah al-Fiqhiyah al-Kuwaitiyah*. 28:180. Shubayr, al-Qawa'id al-Kulliyah, Beirut: Dar al-Kutub al-Islamiyah. 251.

¹² Ali haydar, *Durar al-hukkam Shari Majallat al-Ahkam*, Translation of Fahmi al-Husayni, (Beirut: Dar al-Kutub al-illmiyyah, nd), 1:15.

¹³ Al-Ghazali, al-Mustafa, 235.

¹⁴ Ibn al-'Arabī 1392

¹⁵ Fayd al-Qadīr Sharḥ Jāmi' al-Ṣaghīr, n.d.

¹⁶ Al-A'raf 7:56

¹⁷ Al-Baqarah 2:233

“There should be neither Harming nor reciprocating harm.”¹⁸

Based on the abovementioned Hadith (i.e. *La darara wala dirara*) the terms between Darar and Dirar seem similar because they are related to harmfulness'. Some scholars argue that the latter harm (Dirar) is an emphasis on the former harm (Darar). While significant number of scholars believe that the latter harm (Dirar) has a completely different meaning with the former harm (Darar). Here is a view on the terms “Darar” and “Dirar”. Darar and Dirar are synonyms, and Dirar is used as evidence.¹⁹ Darar refers to initiating danger while Dirar refers to responding with danger.²⁰ Darar is causing loss without intention while Dirar is with intention.²¹ Darar is used as a noun while Dirar is used as a verb.²² Darar is used when danger brings profit and Dirar is used when neither the oppressor nor the victim gains from the loss.²³ Darar and Dirar are terms for harm. Darar is existing harm that occurs without Intention, while Dirar is a prohibited act which will cause new harm. So, the Maxim of *La darara wa la dirar* has ruling the harm occurs suddenly and unintentionally, that harm cannot Be resolved or replaced by an act that causes new harm. However, different Wordings were used in the books of fiqh and qawa'id for this qa'idah. For Example, al-Sarakhsi(d. 490 / 1097) in *al-Mabsut*, al-Ghazali (d. 505 / 1111) In *al-Wasit*, al-Kaasaani (d. 587 / 1191) in *Bada'i al-sana'i*, al-Zayla'i(d. 713/ 1277) in *Tabyin al-aqa'iq* use the phrase: '*al-aslu anna daf'a al-darar Wajib* (protecting from and removing harm is an essential rule). Moreover, Al-Qarafi (d. 684 / 1285) in *al-Furuq* use the phrase '*al-aslu fil-madarri al-Tahrimu wa al-man'u* (the essential rule is that everything causes harm is prohibited).²⁴

This qa'idah is mentioned in most books of qawa'id as one of the five Universal legal principles. In this regard, many scholars have been quoted Saying that it embodies half of the fiqh, since its subject is combating harm; one of the two major goals of the Shari'ah, as stated earlier. For example, Ibn al-Najjar said in his *Sharh al-Kawkab al-Munir*: “it encompasses Countless particulars, and it may embody half of the whole fiqh, since legal Determinations are either to attract interests or to eliminate harms.

Darar is of various types according to different Considerations. First, it either affects one or more of *al-daruriyyat al-khams* (the five essential values) specified in *ilm maqasid al-shari'ah*, namely: Faith, life, intellect, property and lineage or affects a value with lesser Importance. In this case, priority is given

¹⁸ Ibnu Majah: 2340: 2:784

¹⁹ Taqiyy al-Dīn al Ḥaṣṇī, 1997

²⁰ Majd Al-Dīn al-Mubārak bin al-Athīr, 1973

²¹ Burhān al-Dīn Al-Shabarkhīyī, 2007

²² Zayn al-Dīn Abū al-Faraj bin Rajab, n.d.

²³ Abū 'Umar Yūsuf bin 'Abd Allah ibn 'Abd al-Barr, 1414

²⁴ Ibrahim al-hariri, *al-qawa'id al-Fiqhiyyah al-Kulliyyah*, First Edition, (Amman: Dar Ammar, 1998), pp. 89-90.

to fighting darar that threatens the safety of these five daruriyyat. Priority is also observed among these Five; so combating what threatens faith precedes what threatens life, and Combating harm which affects life has priority over that which affects the Intellect and so forth.²⁵ Second, in terms of the role of one who causes harm to others, darar is either direct or indirect. The former is when a person causes darar to others by himself, and is the actual performer of the act, while the latter is when a person does something that indirectly causes harm, such as marrying a wife which is AS while the husband is still AS unknowingly, which then resulted with a child with sick cell disease. The performer of the direct darar is legally responsible for whatever injuries his action causes, while in the indirect darar, the performer is responsible only if he did the action deliberately and intentionally. Third, darar is either material or moral.²⁶

However, in order to systemize the issue, certain conditions are to be observed to count an action as harmful to apply the legal procedures. First, it must be an actual harm that exists in the present or in the future, not a Mere expectation of harm or a rare occurrence. Second, Harm must be excessive. Thus, little harm is to be tolerated, as it cannot be avoided in most human actions. 'Urf (custom), in this regard, must be Referred to in order to determine whether harm is little or excessive²⁷.

Definition of Sickle Cell Disease

This is an autosomal recessive inherited genetic condition that occur with greater frequency among individuals of certain ethnic groups; African - Americans, Hispanics, etc. Sickle cell disease is a group of inherited Erythrocyte or red blood cell (RBC) disorders that cause the production of abnormal hemoglobin (Hb). Hemoglobin is the oxygen- carrying component of the RBC. ²⁸ Lesi define SCD as, "An inherited disorder of the red cell in the blood which makes the sufferer experience varying kinds of ill-health throughout his life."²⁹

The prevalence of SCD is highest in sub-saharan Africa, the sickle cell gene is spread widely throughout people of African descent, the middle East, and less often in people who have descended from Mediterranean countries, and or the aboriginal tribes of India, For instance, sickle cell gene are present in 1 in every 50 Asian and 1 in every 100 Northern Greek.^a The gene has spread

²⁵ Al-Shatibi, *Maqasid al-Shari'ah*, First Edition, (Beirut: Darl Qutaybah, 1992), 120.

²⁶ Shubayr, *al-Qawa'id al-Kulliyyah*, 171.

²⁷ Al-Khafif, *al-Daman*, 56.

²⁸ Sickle Cell Disease, Published On - May 6, 2019 By Niyi Oduwole
<https://oouagoiwoye.edu.ng/sickle-cell-disease/>

²⁹ Lesi F.E.A, (1985), *sickle cell disease a handbook for patients, parents, counsellors, and primary Healthcare practitioners* MacMillan Nigeria. Lagos

though population movement to the Caribbean, Northern America and Europe. The frequency of sickle cell carriers is up to 1 in 4 West Africans and 1 in 10 in Afro- Caribbeans.³⁰

In Nigeria alone, 3.4 million to 4 million people are living with SCD. According to Dr Okpe, Head of the sickle cell unit of the Jos University Teaching Hospital (JUTH) about 3.4 million Nigerian are currently suffering from SCD while about 4 million Nigerians carry the gene of reproducing sickle cell patients, Okpe further stated:

“The burden of SCD is enormous. About 30% of outpatient who visit this hospital (JUTH) daily. Live with this sickness while a lot of children die of the illness daily.”³¹

In a collaborative statement, a professor of Hematology and president sickle cell hope alive foundation (SCHF), Falusi, has said about 4 million Nigerians are currently suffering from SCD and over 40 million Nigerians have AS genotype; while 66-72% of the country's population is AA. She remarked that the disease was one of the problematic health issues facing the nation as it is the most prevalent in Nigeria affecting 2.3% of its population. Therefore, Nigeria is one of the countries in the world that has the highest number of SCD patients.³²

Accordingly, over 150,000 SCD children are born annually and 100,000 children and adults affected by SCD die annually. However, before the advent of modern Medicine, there was higher mortality Rates in both adults and infants. All these happened because there was no appropriate Information on ABO blood grouping or genotype. As a result, People that get married irrespective of their genetic Makeup were not be blamed for their ignorance. But with the advent of modern medicine, biological Explanations are now being made on the causes of Infant death rate; this led to the discovery of sickle Cells disease.³³

The above statistic on the epidemic of SCD show that, it is a global health issue that needs adequate attention to curtail its spread. In this regard, exploring all possible means-scientific or socio-religious to highlight and educate people on this issue is of utmost importance. In fact, it is currently mandatory to establish a code of regulation preventing marriage between carrier individuals; “AS”. Because of its effects on Socio-Economic toll on individuals, families, and the larger society.

³⁰ A. Falusi, Dailypost Online Newspaper, www.dailypost.com.ng. Retrieved on 03/03/2024

³¹ <http://www.alqalam.ly/science>

³² www.nytimes.com/sicklecellanaemia/prognosis.htm. Retrieved on 03/03/2024

³³ *Ibid*

Mode of Transmission and pathophysiology of Sickle Cell Disease (SCD)

Normally, red blood cells are disc-shaped and flexible so they can move easily through the blood vessels. In sickle cell disease, a genetic mutation causes abnormal hemoglobin in Erythrocytes (RBC) to clump together, causing the red blood cells to turn sickle shaped. Therefore, the pathophysiology of Sickle cell anemia (SCD) is centered around a genetic mutation in the beta-globin gene, leading to the production of abnormal hemoglobin (HbS). This HbS is prone to polymerizing under low oxygen conditions, causing red blood cells to deform into a crescent shape (sickling). This sickling leads to impaired blood flow, hemolysis, and vaso-occlusive crises.

In order to unravel the cause(s) of disease at genetic level, spectacular advances have been made in human genetics. With mapping of human genome consisting of about 30,000 genes, it is possible to perform molecular profiling of diseases at genetic level. SCD is a genetic disorder of blood that is transmitted only from parents to their children. Medically it has been established that children inherit a hemoglobin gene on position 129 of the β -particle a particular chromosomal gene from both their parents (father and mother) to determine their genotype. And the Red Blood Cell or Erythrocyte (RBC) which contains the haemoglobin that form complexes with oxygen and carbondioxide to be transported to and from the lungs and the tissues. The haemoglobin, could be normal; that is, round shaped or abnormal; Sickled shaped, and each individual has a pair (two) of genes, AA normal gene with no sickle cell trait. Those are a pair (two) of genes/ genotype for normal, while those carrying a pair containing one normal and one abnormal gene; AS has genotype with abnormal hemoglobin; while, SS have sickle cell disease. In this regard, one's genotype might be normal; AA or a carrier of sickle cell anaemia trait; AS or sickle cell disease SS depending on the person's parental genotype.³⁴

However, the best option for avoiding the scourge of SCD is to avoid marriage between people who have the abnormal genotype; SS. That means prospective couples should know beforehand their genotype status to avoid the avoidable. However, Genetic Engineering, Biotechnology and stem cell Technology are new spheres of science, although, not altogether religiously acceptable. But there are some techniques which improve the outcome of an individual's life. These techniques include gene splicing; Preimplantation genetic testing (PGT) is the process of screening a small sample of cells from embryos for genetic abnormalities and chromosomal disorders. Preimplantation Genetic Testing for Aneuploidies (PGT-A). PGT-A identifies aneuploidy, the term used to describe any embryo with either too many or too few chromosomes (or large extra or missing pieces of chromosomes). Preimplantation Genetic Testing

³⁴ Compatibility test for the sake of good and healthy Nasir, A. Family Health Education (Medico-Islamic Approach) Al Ikhlas Publication Ltd, 1421A.H, 23

for Monogenic/Single-Gene Disorders (PGT-M). Preimplantation Genetic Testing for Chromosomal Structural Rearrangements (PGT-SR) PGT-SR looks for structural rearrangements, when a parent is known to carry a chromosome change such as a translocation or inversion. These can cause extra or missing chromosomal material in embryos. This is an elective screening that some fertility patients choose to have performed in conjunction with in vitro fertilization (IVF), prior to embryo transfer. This procedure can be a helpful tool for determining which embryo to transfer, reduces the risk of miscarriage, helps parents avoid passing down genetic disorders, determine the sex of the foetus (XX or XY) and provides a general assessment of each embryo's potential.

Pre-Marital Genetic Compatibility Test in Islamic Point of View

Pre-marriage (mutual) medical check-up is among the matters that have been introduced into Islamic fiqh and in turn the path for issuing fatwas on it is still unpaved. This is because there are no established statements from earlier jurists on this issue. Hence, judging it will be based on the fiqh of Muwazanat (balancing benefits and harms) regarding the benefits and harms of having such a checkup, and giving preponderance to that which outbalances the other. The contemporary scholars have examined the benefits and harm, they concluded that it is permissible to have such medical testing, without them being made compulsory by the state or by society. They added that it is the right of the prospective couples meaning that they could either demand or disregard it.³⁵ Furthermore, the international Islamic Fiqh Academy of the Muslim World League has reviewed the issue of medical testing, which means having a medical check-up using all available methods (including radiography, medical analysis, and genetic examination), in order to know whether either the prospective couples have an infectious disease or a disease that could affect the objectives of marriage. Following deliberation and discussion of the researches conducted on the issue, the council has decided the following:

1. Indeed, a pre-marriage medical testing has benefits as regards the detection of infectious or influential diseases that may determine or undermine the prospective marriage. However, it - especially genetic examination - has disadvantages and risks as regards divulging hidden things, and the harm it entails to the sick person (physiological harm) and to his future.
2. Legally, there is nothing that precludes having a medical check-up, including genetic examination, since it could be of benefit in treating diseases, but with the condition of observing secrecy.

³⁵<https://gradesfixer.com/free-essay-examples/islamic-view-to-pre-marital-care/> Retrieved 01/03/2024

3. There is nothing that prevents either the bride or the groom from stipulating that the other partner run genetic tests before marriage.
4. There is nothing that precludes their agreement to having a (non-genetic) medical check-up before marriage on the condition that they both (bride and groom) adhere to the Islamic ethics of keeping secrets and avoiding harming each other.
5. It is not permissible for either of them, upon marriage, to hide any infectious or influential disease he or she may be suffering from - in case there is any - from the prospective marriage partner, and in case one does so, and in turn the other is infected with the disease or dies as a result of it, then the partner causing it bears all consequent penalties and indemnities according to the rulings and the regulations of the Shari`ah.
6. Both of them have the right to demand revocation of the marriage, after contracting it, in case it is proven that the partner is suffering from an infectious disease or a disease that affects the objectives of marriage.³⁶

Furthermore, Affanah, Professor of Fiqh and its Fundamentals in Al-Quds University, Palestine, says,

“Having a pre-marriage medical testing is legitimate, and its legitimacy is proven by general proofs that prescribe seeking medication. It is also known that a pre-marriage medical testing is a means of prevention, knowing that prevention is better than cure”.³⁷

It is well-known that among the objectives of marriage in Islamic Shari`ah is to beget children and that such children should be healthy, both physically and morally. Moreover, the children cannot be healthy unless they are free from diseases, especially genetic diseases. Almighty Allah says about the Zakariyah peace be upon him Oh my Lord! Grant me from you, a good offspring. You are indeed the All-Hearer of invocation.³⁸

Besides, the believers invoke their Lord saying, Our Lord! Bestow on us from our wives and our offspring who will be the comfort of our eyes, and make us leaders for the Muttaqun (pious).³⁹ Indeed, offspring cannot be the comfort of the eyes when they are deformed, mentally retarded or disabled. In addition, the Prophet (peace and blessings be upon him) urged those who intend to get married to choose their wives well, as it was stated in the hadith reported by

³⁶<https://fiqh.islamonline.net/en/pre-marriage-medical-checkup-islamic-perspective/> Retrieved 15/02/2024

³⁷ Pre-marriage Medical Check -up Islamic perspective. www.onislam.net Retrieved on 15/02/2024

³⁸ Ali-Imran 3: 38

³⁹ Al-Furqan 25: 74

A'ishah (may Allah be pleased with her) from the Prophet (peace and blessings be upon him) that he said,

“Select (good wives) for your sperm, and marry the competent (husbands) and get (your progeny) married to them”.⁴⁰

From the foregoing, it is clear that premarital medical testing is new to Islamic Jurisprudence as the issue was not discussed by earlier jurists. The contemporary Muslim jurists consider it based on the fiqh of Muwazanat, where the scholars examined both the benefits and the harms of the issue and concluded that considering its benefits it is permissible to undergo premarital examination. It is not however a general conclusion of all Muslim scholars as some accept it to be permissible but insisted that it should not be made mandatory. While the other group are against the examination, and they all supported their view based on the precepts of Shari`ah.

Argument against Pre-Marital Test of Genotype Compatibility

It is apposite to examine the argument against pre-marital test of genotype compatibility with a view to comparing these with the views of its protagonist, to enable us arrive at balanced points. However, those who against it based their prohibition on a number of evidences from the Glorious Qur'an, Ahadith and Logical evidences, such as:

1. Some are of the thought that early Muslims do not conduct such tests and they have good and healthy Families.⁴¹
2. They argued that in Islam, the conditions to marriage do not include genotype test as the Prophet (SAW) did not include in pre-marital prescriptions. He (SAW) said people marry a woman because of any of four reasons; beauty, background, wealth, or faith. He advised the best is to choose who is religious. by religious is meant God-fearing. He admonished not to marry because of those things because they fade away with time. And a statement related to his saying was that “you know best your worldly affairs”. Hence choosing anyone who is a Muslim should be considered good enough. The point here is that a would-be spouse should not put genotype at the front banner of their marriage to the point that it tells if they will marry or not.
3. Some rests on the belief that “Wherever a man puts his faith on God and belief, that's where he shall find him”. Hence, if one belief any human invention would limit one's freedom of choice; hence, one has placed

⁴⁰Ibn Majah (vol.2, No.1968)p. 473 and Sheikh al-Albani said in Sahih Sunan IbnMajah that it is a sound hadith⁴⁰ (1/333)

⁴¹ Salihu, H. M. “*Genetic Counseling among Muslims: Questions Remain Unanswered*. Lancet 1997, 350.

his/her believe on such invention at expense of total reliance on Allah's power.⁴²

4. Some of them, especially those scientifically learned usually assert that there are many other diseases that are deadlier and riskier than the sickle Cell disease, hence, why the noise about sickle cell which results by marrying a non-genetically compatible spouse.⁴³
5. They also argued that, what Prophet Mohammed (SAW) recommended before any decision is made is Istikharah, including marriage and not medical test for genetic compatibility. This alone will do as Allah suffices for all.⁴⁴
6. They also maintained that, marital challenges are bigger than genotype issues. It is faith, love and responsibility that will stand the tests and trials of marriage. They added that, although the prospective couple can do genotype test only to know their status but not to determine the marriage possibility or not.⁴⁵
7. Another argument they said that, people should not say that it is because of SS that a child or two will die or has died Allah alone determines that. He has already told us as: We shall test you with something of fear, hunger, loss of wealth, lives and. Fruits, but give glad tidings to the patient⁴⁶ (Q2: 155). This is so because even one who belongs to AA genotype cannot boast of living beyond any particular age nor can the father and mother claim such. So why not leave things to Allah? Conduct of such tests may be an investigation of the ghaibb of Allah that is, things that are hidden; hence, it should be discouraged.⁴⁷
8. Among those who disproof of this medical test is Ibn Baaz (RTA). He said it negates total reliance on Allah. He also said that the result could sometimes produce faulty outcomes. This stand point of his is not borne out of mere dislike for science but one may infer he fear humans not to over rely on this at the expense of God's spouse selection procedures.⁴⁸

⁴² Rispler-Chaim, V. "Islamic Medical Ethics in the 20th Century" Journal Medical Ethics, 1989, 203-208

⁴³ Kolawole Azeez "Genotype Important When Considering Marriage In Islam?", retrieved from <http://www.nairaland.com/1183470/genotype-important-when-considering-marriage>, on the 24/02/2024

⁴⁴ Al-Bukhari, Abu 'Abdullah Muhammad ...Opcit Volume 2, Hadith Number 263 and Volume 9, Hadith 487

⁴⁵ Asif Razvi, M.D "Islamic Perspectives on Cloning and Genetic Engineering", Islamic Center of Boston, retrieved from <http://www.Counterbalance.org/iftm/razvi-frame>. Html, on the 24/02/2024

⁴⁶ Q2: 155

⁴⁷ Muhammed Ali Albar "Genetic Counseling And Genetic Diseases: An IslamicPerspective" The Fountain Magazine, Issue 22 / April - June 1998,12

⁴⁸ Yusuf Al-Qaradawi "How Does Islam View Genetic Engineering?" retrieved from <http://www.hdcglobal.com/publisher/pid/b368dc7b-039b-4335-9df3-8c015cbb33af/container/>

9. They argued further that, there are many doctors who died of malaria fever. Sailors have died in water. Hunters have died in the forest while hunting. And professional drivers have died while plying their trade: driving. And so will all of people one day or another.⁴⁹
10. They also maintained that, there is no fault in Allah's creation and that Allah gave man the purest and best nature. Perfection and balance are evident in mans' physical, mental and spiritual composition⁵⁰ (Qur'an 82:6-8) *الذى خلقك وصواك فعدلك. فى سورة ما شاء ركبك. ما غرك بربك الكريم ياليتها الانسان* They claimed further that while focusing on the physical aspect of man, one needs only to study the systems of the body to comprehend the significance of these verses and the wonder of Allah's creation. The human body is composed of a number of specialized systems, Each one of these systems is miraculous In nature and more amazing than any scientific Advancement that man can achieve. Therefore, the Assumption behind pre-marital test is that the body is not "perfect" enough to withstand infectious diseases, Implying that somehow Allah did not complete his Job or carry it out well enough, that the immune System is faulty and needs correction, that people is Somehow flawed, incomplete, Intervention to survive.⁵¹
11. Finally, they said that, one often forgets that whatever befalls man is to the will and power of Allah. "And there is not a thing, but the supplies for it are with Us, and We do not send it down but in a known measure."⁵² Therefore, if anybody is to experience an illness, this is from the decree of Allah, if he is to be cured from it, this is also from the decree of Allah. To rely upon humans to somehow prevent or cure without trusting in Allah is a sign of Weakness of faith. Whatever good or bad that happens to man he should say "Alhamdulillah" Because it is from Allah who has decreed it for some reason (either as a test or as punishment). Allah says⁵³, Men should rely upon Allah and ask Him to assist them in their times of need. The use of Supplication to Allah is much more powerful than any medicine that is available because Allah is the Only One Who can send the cure.⁵⁴

According to them genotype test is really unnecessary. For one who follows the commands of Allah, the chances of having long-term health will be

⁴⁹ Kolawole Azeez "Genotype Important When Considering Marriage In Islam?". 66

⁵⁰ Qur'an 82:6-8

⁵¹ Sulaiman, K.O "The Challenges of using Islam to fight HIV/AIDS Scourge in Nigeria" Journal of Islamic Research, Islamic University of Europe, Hollanda, 2013, Year 6, Issue 1, 98-107

⁵² Qur'an 15:21

⁵³ Shaykh 'Abd al-'Azeez Ibn Baaz, Ruling on childhood Immunizations and Vaccinations, Retrieved from, <http://islamqa. Info/en/20 276>, on the 24/02/2024

⁵⁴ Qur'an 64:11

increased. Even if a Disease is contacted, the person with a strong immune system will likely be able to combat it. But it's a provision for both the intending couple to be hale and hearty before marriage and the husband or wife can reject the marriage if one of the spouses having ill-health.

Argument in Support of Pre-Marital Test of Genotype Compatibility

Having examined the argument against pre-marital test of genotype compatibility, we shall now examine the argument in support it with a view to determining its compatibility with Islam. However, the proponents see the legality of the Pre-marital test as does not negate total reliance on Allah nor does it contradict the Shari'ah of Islam because it's a way of taking to means and preventing unnecessary trial for instance:

1. They argued that, Umar bn Khatab said "when Plague entered in Shaam; I run away from the decree Of Allah to the decree of Allah". Perhaps this is the closest prevention. That is running away from something which could cause problem to ones' future progeny and lead to trial of one's faith and marriage.⁵⁵
2. They also said that, Prophet Mohammed (SAW) Advised that we should preserve our progeny from the Five necessities; Religion, intelligence, dignity, Property and life. Hence, an SS progeny that may result from such Union may have his/her live under medical threat; His/her dignity may be shaky if not well orientated and perhaps ignorant of the associated medical challenges may lead to a test of faith by seeking help from where Allah doesn't approve of thereby jeopardizing one's faith.⁵⁶
3. In another argument they said that, Prophet Zakariyyah (ASW) said "My Lord grant me from yourself a good offspring (Q 3 vs. 38). A good offspring is a relative phrase; however, an offspring whose health is shaky is preventable by simply obliging to genetic compatibility. Good health and high survival rate is among qualities of good offspring which is realizable through genetic compatibility.⁵⁷
4. They maintained that, Muslims supplicate 'Our Lord! Bestow on us from among our wives and our Offspring who will be the comfort of our eye⁵⁸. Comfort of eye can be derived only if children are healthy and righteous. Because children debilitated by genetic disease like SCD or other stigmatized sicknesses can hardly be a source of comfort in the eyes of their parents. Based on these facts, nothing prevents one from ensuring

⁵⁵ Umar Ibn al-Khattaab (Second Caliph), retrieved from <http://www.islamicboard.Com/companions-of-the-prophet/384-2-umar-ibn-al-khattaab-caliph.html>, on the 24/02/2024

⁵⁶ This hadith is reported by Muslim bin al-Hajjaj Bin Muslim al-Qushairi: Sahih Muslim,

⁵⁷ El-Hashemtic, N: The Islamic View in Genetic Preventive, Procedure Lanet 1997, 350:223

⁵⁸ Q, 25 VS 74)

a sound and healthy family (progeny) which is free (or risk reduced) from defects or diseases. Hence such as, prior to marriage and the need for this supplication, one may reduce the risk of putting his or her selves to unnecessary and avoidable trial (hardship) by not endangering the lives of our offspring.⁵⁹

5. In another point, the prophet Mohammed (SAW) urged men to choose spouse from a family whose women were known for productivity. On this he (SAW) Said 'Marry the fertile, the favorably disposed, loving Women for indeed my ummah will outnumber other Nations '⁶⁰. Based on this proof, one may relate spouse to selection is important to ensure sound and pure progeny.⁶¹
6. Also, on the authority of Abu Hurairah (RTA); a man proposed to a woman then the Prophet (SAW) Said: Look at her very well for indeed there is indeed something in the eyes of Ansaar Muslims'⁶². This May be related here as being a need to look beyond the religion and physical attraction because the woman in question here is a Muslim and the thing in her eye isn't necessarily a defect but what he (SAW) felt may lead to a loss or reduction of his love towards her. A genotype test to proof compatibility can therefore be related as a means of investigating the things that may lead to a reduction in the love of Prospective couple.⁶³
7. They said that, is better for things to happen naturally than to invite them into once lives. Doctors that died of malaria would be very few, because it's one in a million, but the children that have died through the genotype and blood group are uncountable. It's not easy for somebody to know he or her child could die at any time.⁶⁴
8. They wonder why people push everything to God, when God had already given everyone a good thinking faculty, He made them to know right from wrong, and gave them free will to chose. Destiny only comes after one have already taken all necessary precautions against odd, or all necessary efforts towards even, what happen afterwards if not favorable could then be referred to as destiny. Otherwise, it is the destiny of which

⁵⁹ Albar, M. A "Counseling about Genetic Diseases: An Islamic Perspective", East Mediterranean Health Journal, 1999, Volume, 5, Number, 6, 1129-1133.

⁶⁰ This hadith is reported by Abu Da'ud, Sulaiman bin al-Ash'ath al-Sijistani, Sunan Abu Da'ud

⁶¹ El-Hazmi, M.A.F "Ethics of Genetic Counseling -Basic Concepts and Relevance To Islamic Communities" Annual Saudi Medical Journal, 2004, Volume, 24, 84 - 92

⁶² This hadith is reported by Muslim bin al-Hajjaj Bin Muslim al-Qushairi: Sahih Muslim,

⁶³ Tibi, Selma "Al-Razi and Islamic Medicine in the 9th Century" Journal of the Royal Society of Medicine, 2006, 99, Volume, 4, 206-208

⁶⁴ Ghareeb, B.A.A "Genetic Decisiveness and Genetic Counseling and their Application in Islam" Journal of the International Society for the History of Islamic Medicine (JISHIM), A Publication of the International Society for the History of Islamic Medicine, Turkey, 2011-2012, 44-46

all are the architect. Everybody should not forget the saying of the prophet: "Make a good choice for your sperm, for the diseases of the blood are Heritable" It is better to avoid a fitnah when it is avoidable.⁶⁵

9. They also maintained that, as for having a test before marriage to check the harmony of blood groups between the prospective couples for the sake of good and healthy offspring, there is no harm as long as such an action is done under control of reliable medical authorities. Since the Prophet Mohammed (SAW) advised that adequate investigations should be made about the family history and virtues of the person one intends to marry.⁶⁶
10. It needs to be mentioned that the mother's womb is the first environment of the child. The Prophet thus warned that Muslims should seriously give this its rightful consideration. He declared: "Be selective of where you drop your sperm and do not drop it except in its equals (akfai), which is "a position in which one thing is equal to another thing". Hence, al-kafa'ah can summarily be put as equality.⁶⁷
11. Finally, they argued that, a couple who might produce an SS offspring that wed due to love may have that love gradually diminished if they produce such child. High cost of medical management of the child and the doubt of the life of such child may make them devote more attention than necessary on the child. This may lead them to shirk thereby seeking help from where it's ungodly. Also other children may be deprived their time and needs in order to satisfy the SS child, hence, injustice from the parent to their children. This may lead to unnecessary jealousy or hatred in such a family.⁶⁸

More so, Islam does not concern itself only about spiritual life of a man but also his well-being while living on earth. Allah (SWT) says "And of them there are some who say:

"Our Lord! Give us in this world that which is good, and save us from the torment of the fire."⁶⁹

According to Imam Ibn Kathir, this verse includes all good aspect of this life and seeks refuge from all that evil. The good of this life concern every

⁶⁵This hadith is reported by Muslim bin al-Hajjaj Bin Muslim al-Qushairi: Sa

⁶⁶ Bilal A.A. Ghareeb "Human Genetics and Islam: Scientific and Medical Aspects" Journal of Islamic Medical Association of North America, 2011, Volume, 43, Number, 2, 83-90

⁶⁷ Adebayo, R.I "An Islamic Perspective on Ante-Nuptial and Pre-Natal Preparation for effective Child Health" in Al-Fikr Journal of Department of Arabic and Islamic Studies, University of Ibadan, 2007, Volume 20, 32 Majah, Beirut: Dar Ihya al-Turath al-Arabi, n.d , Volume. 2, Hadith No. 252

⁶⁸ Bilal A.A. Ghareeb "Human Genetics and Islam: Scientific and Medical

⁶⁹ Quran 2:201

material request of well-being,⁷⁰ Also Imam Ibn kathir said that Al-Qasim Ibn Abdurrahman said;

“Whoever is gifted with a grateful heart, a remembering tongue and a patient body will have been endowed with a good deed in this life, a good in the Hereafter and saved from the torment of the fire”.⁷¹

In the above narration, patient body attains good in this life, a sick one such as sickler whose body is weak and feeble and is more often in a difficulty, may not find it easy to perform some essential acts of worship. And also Islam concern about the function of the society in smooth manner and the general good, it recognize the essence of having healthy and strong body for man to effectively discharge his duties as Allah (SWT)’s vicegerent on earth. Allah says:

“Verily Allah (SWT) has chosen him above you and has increased him abundantly in knowledge and stature”⁷²

These two verses showed the essence of having a healthy and strong body for running the affairs of the family and the society at large. In addition the prophet (SAW) said:

“The strong believer is better and beloved in the sight of Allah (SWT) than the weak believer.”⁷³

Based on what have been cited as reasons for permissibility of premarital medical testing, even if government has not made it mandatory, it should be encouraged and each of the potential couples has the right to demand the other partner to undergo a medical test. However, despite the fact the scholars have opposing views with regards to mandatory premarital medical examinations, governments may study the two opinions critically and accept the one that they feel is the best to the interest of their subjects regards to their welfare and freedom.

Application of al-Darar Yuzal on Pre-marital Medical Testing for SCD

Darar is of various types according to different Considerations. First, it either affects one or more of al-daruriyyat al-khams (the five essential values) specified in ‘ilm maqasid al shari’ah, namely: Faith, life, intellect, property and lineage or affects a value with lesser Importance. In this case, priority is

⁷⁰ S. Al- Mubarakpuri al, Tafsir Ibn Kathir (Abridged) Vol.1, Darussalam/ Riyadh, 2000, p.569.

⁷¹ *Ibid.* p.570

⁷² Qur’an 2:247

⁷³ A. Ibn Hambal, Al- Musnad (Vol.8, No 6945), *Muassasatul Risalah*, Beirut, 1990, p.56

given to fighting darar that threatens the safety of these five daruriyat.⁷⁴ Now let us attempt to justify premarital genetic testing in light of the above five Objectives of Islamic Law:

Firstly, in Islam the idea of having a perfectly healthy and strong body is necessary so that it may act as a perfect instrument of the soul to realize the very purpose for which it have been created, that is to worship Allah. Preservation of the Faith is very concerned, the Faith of the prospective marriage couples who have undergone premarital genetic testing and have been cleared of being carriers of any genetic disease would be boosted. This would result in bringing them closer to their Creator, Placing their full trust in Allah Almighty to be blessed with healthy children once their marriage is solemnized.⁷⁵

Secondly, protection of life is second in priority in Islamic law, and the primary purpose of medicine is to fulfill this purpose of the Islamic law. Medicine cannot prevent or postpone death, since such matters are in the hand of Allah (SWT) alone. In the context of preservation of life, that would be in the form of mandatory restraining such prospective marriage couples who have been positively tested to be carriers of specific genetic diseases from contracting their marriage. Thus, that would in essence be preserving the life of their unborn who would have been predisposed to morbidity and mortality depending on the nature of the inherited genetic diseases.⁷⁶

Thirdly, preservation of intellect of the prospective marriage couples would be achieved after they have undergone premarital genetic testing and found not to be carriers of genetic diseases. Their anxiety would be transformed into relief and that would augur well for their sanity to have their marriage speedily solemnized. Here it may be appropriate to point out that caring for children with genetic disorders would undoubtedly affect the parents' mental sanity.⁷⁷

Fourthly, preservation of progeny (Nasl). This could be moral or physical, would apply to the directive that such prospective marriage couples who are found to be carriers of genetic diseases such as SCD would not be mandated to be married to each other. Hence, this would precisely be for the sake of safeguarding their offspring from succumbing to the genetic diseases that could be transmitted to them. This is more relevant today with Advancement in

⁷⁴ Al-Ghazali, 1322 AH/1904 CE. *Al-Mustasfa Min 'Ilm usul Bulaq*. Al-Matba'ah al-Amiriyyah.

⁷⁵ *Ibid*

⁷⁶ *Ibid*

⁷⁷ *Ibid*

medical knowledge that can detect the possibilities of giving birth to children with genetic disorder such as SCD.⁷⁸

Fifthly, preservation of wealth (hifz al-maal), caring for children with genetic disorders would place their parents into financial difficulties and not to sanction the marriage of such prospective marriage couples who are found to be carriers of genetic diseases.⁷⁹

Islam instructs us to consider and prioritize the results over actions. When a particular action will result in both positive and negative effects, an analysis of the extent of the impacts should be carried out. If the potential benefits outweigh the potential drawbacks, then it is more important to pursue the potential benefits. On the other hand, if the potential for harm is greater than the potential for good, then the prevention of harm should take priority. When the potential benefit and the potential harm are of equal magnitude, the Sharia places a higher priority on minimizing the potential for harm.⁸⁰

The statement above supported by the maxim of “Averting harm takes precedence over achieving benefit”, which is this maxim is subsidiary of the leading maxim “Harm should be eliminated”⁸¹. In this case, if the parents give birth to a child with a severe form of the disease, it would affect them physically, spiritually and socially. That’s why darar must be eliminated through Pre-marital counseling and testing of genetic diseases including SCD.

However, in terms of the role of the one who causes harm to others, darar is either direct or indirect. The former is when the prospective couples are tested and confirmed as carriers of sickle cell trait, and they understand the negative consequences and they decide to take the risk for the seek of love, Some even go to the extent of producing fake results, then they have causes darar to others (their children and the family)by themselves, and they are the actual performer of the act, and the performer of the direct darar is legally responsible for whatever injuries his action causes, while the latter is when a person does something that indirectly causes harm, but is not in our case now because ignorance about the genetic testing before marriage would not to be an excuse, As a result of this deteriorating health condition of the people, these days, some imams and Muslim leaders have decreed that premedical examinations should be conducted for men and women who intend to get married and the result should be presented before the marriage could be solemnized and supported.

⁷⁸ Ismail, A. and Rahman, M.H. (2013) *Islamic Legal Maxims, Essentials and Applications*. Kuala Lumpur.

⁷⁹ A.F.M Ebrahim, Egypt. J. Fertil. Steril. Volume 22, Number 1, January 2018, p. 26-27

⁸⁰ Shubayr, al-Qawaid Al-Kuliyyah, p. 182.

⁸¹ Al-Suyuti, al-Ashbah wa Al-Nazair, p. 87.

Third, darar is either material or moral. While scholars are in agreement that a victim is entitled to full compensation for the material darar, in a narration which has been reported from Umar (RA) it is said that:

“If a man married a woman and she is suffering from insanity or leprosy and the husband cohabit without knowing about her condition, he should pay the full dowry and take penalty compensation from the guardian (But this is in the case where the guardian is the woman’s father, brother or a very near relative who knows the condition of the woman”).⁸²

According to Habib, this narration shows that marriage partners has the right to investigate the health status of themselves and of course medical test before marriage nowadays which is one of the ways of investigating the health status of prospective couples.⁸³ However, In the case of SCD, we all understand is a terrible disease condition that debilitates the life of its victim and associated with high morbidity and mortality rates. Parents of the sickler experience a variety of problems such as psychological trauma, emotional distress and economic hardship among others. These eventually affect the well-being of the society in general. Allah (SWT) says

“Allah (SWT) intends for you ease and He does not want to make things difficult for you”⁸⁴, in this case one must do his possible means to block an expected evil and leave the rest in the hand of Allah (SWT)”.

Responses of Some Scholars

Taliyawa stated on the issue of premarital medical investigation, that despite the fact that Islam urges those who want to engage in marriage to thoroughly investigate the whereabouts of their proposed marital partners, the current premarital medical test as advocated by modern medicine is a new issue which need to be studied based on its benefits and harm. As a member of both Jamaatul Izalatul Bidah wa Iqamatus sunnah [JIBWIS] and Jama'atul Nasril Islam [JNI] of Gombe State, he stated that both the organizations, considered it to be permissible and recommendable, but should not make it mandatory for now, However, what people at present need, is public enlightenment and education on what it contains and the choice is theirs whether to opt for it or reject it. He added that despite the fact that JIBWIS did not made the test compulsory on its members, it insisted to be undertake when contract so as to encourage people to accept it voluntarily.⁸⁵

⁸² A.F.M Ebrahim, Egypt. J. Fertil. Steril. Volume 22, Number 1, January 2018, p. 26-27

⁸³ M.I Anas Al-Muwatta (No.1119) maktabat - Nizaar Mustapha Al- Baz, Makkah, 2005, p.244

⁸⁴ . A.G. Habib. The attitudes of Muslim youth Toward HIV/AIDS premarital test: A case study of Ungogo Local Government of Kano state Nigeria www.iiste.org/journal . Retrieved on 20/02/2024

⁸⁵ Sheikh U.I. Taliyawa (81) Scholar JIBWIS, interviewed on 31/03/2024 at Bolari Quarter, Gombe.

Daurawa also stated that premarital medical testing is not a new issue in Islamic Jurisprudence because even the books of Maliki school of law that are common in our area mentioned some categories of diseases that can warrant dissolution of marriage. For instance, the book Al-Askari mentioned thirteen diseases as bases for repudiating marriage contract and most of the diseases are not deadly as SCD, therefore premarital medical testing is permissible and recommendable In Muslim today, it is only countries like ours that are left behind. In countries like Saudi Arabia, Oman, United Arab Emirate and many others, it has become a national law. But in Nigeria what needed much is public enlightenment through media, Friday sermons and public lectures on premarital testing.⁸⁶

In the foregoing. The Muslim scholars interviewed have generally asserted that prevention of diseases have been given prime position in Islam and always gives priority to the well-being of man and therefore designed some manual frameworks that guide man to success and avert self-inflicted calamities and self-induced disease like SCD which is deadly in nature.

Responses of Some Healthcare Professionals

Mu'azu stated that SCD poses threats to human life, Many of its victims die in infancy stage, and even those who survive adulthood suffer a variety of difficulties, hence the need to take possible measures to tackle it's scourge. Mu'azu added that since SCD can be detected by laboratory test, then there is strong need for people to know their genotype so that they will be aware of their health status, and will enable them to take a proper decision when selecting marital partners. Medically, genetic counseling plays a vital role in solving the problem of SCD, and Islam stresses much importance on counseling which betters the standard of living, in fact, as indicated earlier, he said that the religion of Islam itself is counseling and good advice.⁸⁷

Yuguda opined that the test should be made mandatory when the people are properly educated on it, but for now it should be voluntary because it reduces the rate of spread of the disease and new born will be protected particularly against SCD, which claim their lives in the early phase of their living.⁸⁸ Based on the interviews conducted with healthcare providers, it has been clear that they emphasized much on the necessity of premarital test, and they emphasized more on health education and public awareness.

⁸⁶ Sheikh A. I Daurawa, (57) Scholar and commander Hizba Kano, interviewed on 31/03/2024 at jekadafari, Gombe

⁸⁷ A.A.Ubaida mu'azu, (62) retired former head, public Health Unit, FTH, interviewed on 06/04/2024 at Bunduwailaru Gombe

⁸⁸ S.Yuguda, (51) CEO(NBSC) interviewed on 31/03/2024 at PDP Street, Gombe

Responses of Some Judges

According to Usul, Islamic law clearly stated that sickness is an impediment to marriage contract and abhors marriage between healthy and sick person, this is to avoid further spread of diseases to others and to remove disaffection between the couples. Usul opined that the Muslim ummah should be very conscious about this contemporary health issue in order to avoid calamities associated with it, after all, Islamic law is very comprehensive and it contains provisions that cater for all legal issues. Muslim should do their best to return to the book of Allah (SWT) and the examples of the prophet (SAW). They do not need to be subservient to other nations provided they stick to Islamic teachings.⁸⁹

According to Umar, he explained that with regards to SCD as a hereditary disease, the prophet (SAW) said: "Choose well your mate (for your semen) as (hidden) traits can re-appears".

According to him this narration can be directly related to hereditary disease like SCD. Therefore, there is need to seek for medical advice of the experts in the on how to prevent it, he opined that premarital test could be helpful in prevention of the diseases, therefore it should be encouraged among Muslims, on whether to make it compulsory,⁹⁰

In the above interviews with the Muslim judge and lawyer, they expressed that in Islam marriage is a serious matter which must be founded on solid ground so as to avoid anything that leads to hardship and suffering and even collapse. One of the major marital discords that lead to marriage collapse nowadays is the health issue, they emphasized on the need to undergo premarital test to minimize the spread of diseases among marriage partners, the test according to them does not contradict Islamic law since the aim is to prevent the spread of deadly diseases.

Responses of Some of the Victims and the Relative

According to Fatima (a victim of SCD), life with the sickness day in day out is very tiring and hard both for me and my parents and relatives, because right now I'm good and at the same time I will be at hospital suffering from different types of pains, my parents are suffering spiritually and economically, they pity my situation a lot, if I would have a option of living or death I will choose death, because since childhood the situation reminds the same and now my parents are facing economic hardship. She suggested that people must made pre-marital test as mandatory to avoid getting into her shoes and her parents.⁹¹

⁸⁹ Alhaji U. M. Usul, (74) retired Director area court, interviewed on 31/03/2024 at PDP Street, Gombe

⁹⁰ Barrister I.M.Umar, (43), lawyer Gombe interviewed on 06/04/2024 at Tudun wada

⁹¹ Fatima Muhammad (18) patient of SCD interviewed on 31/03/2024 at FTH Gombe

Haruna one of the victims father started that they not to sleep with their two eyes, because they have three children that are suffering with SCD, and every time they should be at hospital because of one pain or the other, some time all of the three children would be admitted, but I'm not complaining, because Allah Knows our situation and He know the best for us. But if I may advise the test of genotype before marriage even before courtship must be conducted, and government must made it compulsory, that will be the easy way to reduce the spread of this evil disease.⁹²

Conclusion

The study revealed that, Islamic teachings offer a great deal in the prevention and control of genetic diseases such as SCD to Islamic community. In Islam any measure or step that is taken to safe guard the health against any negative force external or internal as long as that measure is not contrary to the teaching of Shari'ah is lawful and even recommended. The ultimate goal of Islam is to preserve what are called the five necessities: keeping faith, existing, royalty, the intellect and the continuity of humanity. In order to keep these necessities, people need to be in good health. That's why the harm must be eliminated, pre-marital examination should be encouraged which may detect the trait in those intending to get married. And that governments and Islamic institutions spread understanding of the importance of pre-marital genetic tests and encourage their use. The paper concluded that, Healthy living is part and parcel of Islam, introduced with the inception of Islam more than 14 centuries ago. And the Prophet Mohammed (SAW) has advised that adequate Investigations should be made about the family History and virtues of the person one intends to marry. Therefore, there is no harm in pre-marital genetic Compatibility test for the sake of good and healthy offspring. The final Messenger of Allah, Prophet Muhammad (SAW) mounted the pulpit, then wept and said, "Ask Allah for Forgiveness and health, for after being granted certainty, one is given nothing better than health."⁹³

Recommendations

There is need for all stakeholders such government at all levels, traditional leaders, religious leaders and health personnel to create more awareness about the importance of premarital genotype testing

We all need to think as lovers, guide as friends, advice as parents and discourage as religious leaders any relationship that may increase this preventable health condition and encourage genotype and other medical tests

⁹² Haruna Yahya(45) parent of the patient of SCD interviewed on 07/04/2024 at zainab Bulkachuwa

⁹³ Qur'an 2:185

prior to marriage to reduce, if not totally eliminate this preventable genetic disorders. There is urgent need for collaboration between medical experts and Islamic scholars in finding out solutions regarding health issues particularly genetic diseases like SCD in order to rid the Muslim Ummah from their agonies based on the dictates of Islamic law.

Bibliography

- Adebayo, R.I “An Islamic Perspective on Ante-Nuptial and Pre-Natal Preparation for effective Child Health” in Al-Fikr Journal of Department of Arabic and Islamic Studies University of Ibadan, 2007, Volume 20.
- Albar, M. A “Counseling about Genetic Diseases: An Islamic Perspective”, East Mediterranean Health Journal, 1999, Volume, 5, Number, 6, 1129-1133
- Alhaji Abu Ubaida Mu'azu, age 62, former Unit head public Health Unit, Federal Teaching Hospital Gombe State.
- Alhaji Usman Muhammad Usul, age 74, Retired Director of Area court Gombe State judiciary.
- Al-Hasin, Abd al-Salam, al-Qawa'id wal-Dawabit al-Fiqhiyyah Lil-Mu'amalat al-Maliyyah Ind Ibn Taymiyyah, First Edition, Cairo, Dar al-Ta'asil, 2002.
- Al-Khafif, Ali, al-Daman fil-Fiqh al-Islami, Beirut: Dar al-Fikr al-Arabi, 2000.
- Al-Nadwi, Ali al-Qawa'id al-Fiqhiyyah: Mafhumuha, Nash'atuha, Tatawwuruha, Fourth Edition, Damascus, Dar al-Qalam, 1998.
- Al-Shatibi, Abu Ishaq, al-Muwafaqat, Cairo, Dar al-Fikr al-'Arabi.
- Al-Suyuti, Jalal al-Din, al-Ashbah wal-Naza'ir, First Edition, Beirut, Dar Al-Kutub al-Ilmiyyah, 1983.
- Barrister Ibrahim Muhammad Umar, age 43, lawyer Gombe State judiciary.
- Bilal Ghareeb A.A “Human Genetics and Islam: Scientific and Medical Aspects” Journal of Islamic Medical Association of North America, 2011, Volume, 43, Number, 2, 83-90
- Brunner and Suddarth's Medical - Surgical Nursing (2001) 10th Edition connection.LWW.com/go/smeltzer
- Bukhari, Al-, Abu 'Abdullah Muhammad, Hadith No. 4802 and Muslim bin al-Hajjaj bin Muslim al-Qushairi: Sahih Muslim, Cairo, 1393 A.H, Hadith No. 1466

El-Hashemtic, N: The Islamic View in Genetic Preventive, Procedure Lanet 1997, 350:223

El-Hazmi, M.A.F “Ethics of Genetic Counseling -Basic Concepts and Relevance to Islamic Communities” Annual Saudi Medical Journal, 2004, Volume, 24, 84-92

Fadl, Abul, Mohsin Ebrahim, Egypt. J. Fertil.Steril. Volume 22, Number 1, January 2018.

Fatima Muhammad age 18 student at zubair ibn Awwam Gombe State.

Ghazali, Al- Abu Hamid, al-Mustafa Min ‘Ilm al-‘Usul, First Edition, Beirut: Dar al-Kutub al-‘Ilmiyyah, 1413 A.H.

Hammadi al-Ubaydi Al-Shatibi wa Maqasid al-Shari’ah, First Edition, Beirut, Dar Qutaybah, 1992.

Hanbali, Al-, Ibn Rajab, al-Qawa’id fil-Fiqh al-Islami, Beirut: Dar al-Ma’rifah, ND.

Hariri, Al-, Ibrahim, al-Qawa’id al-Fiqhiyyah al-Kulliyyah, First Edition, Amman: Dar Ammar, 1998.

Haruna Yahya age 45 civil servant Gombe State.

Haydar, Ali, Durar al-hukkam Sharh Majallat al-Ahkam, translated by Fahmi al-husyni, Beirut, Dar al-Kutub al-Ilmiyyah.

Ibn Abd al-Salam Izzuddin, Qawa’id al-Ahkam Fi Masalih al-Anam, ed. Mahmud al-Shinqiti, Beirut: Dar al-Ma’arif.

Ibn al-Arabi, Abu Bakr, Ahkam Al-Qur’an, Third Edition, ed. Muhammad Ata, Beirut: Dar al-Kutub al-Ilmiyyah, 2003.

Ibn Anas Malik Al-Muwatta (No.1119) maktabat - Nizaar Mustapha Al- Baz, Makkah, 2005,p.244Ismail, A. and Rahman, M.H. (2013) Islamic Legal Maxims, Essentials and Applications. Kuala Lumpur.

Ibn Hanbal, Ahmad, Musnad al-Imam Ahmad Ibn Hanbal, Misr: Dar Al-Ma’arif.

Ibn Manzur, Lisan al-Arab, Beirut, Dar sadir, 1968.

Kamali, Mohammad Hashim, Istihsan and the Renewal of Islamic Law, 8, International Institute of Advanced Islamic studies (IAIS), Malaysia, See: www.iais.org.my.

Kolawole Azeez "Genotype Important When Considering Marriage In Islam? at <http://www.nairaland.com/1183470/genotype-important-when-considering-marriage>, on the 24/02/2024

Mohan H., (2015) 7th Edition, Textbook of Pathology" Jaypee Brothers Medical Publishers, jaypee@jaypeebrothers.com, www.jaypeebrothers.com; India.www.bloodbook.com/ranges.html

Mubarakpuri, Al- S. al, Tafsir Ibn Kathir (Abridged) Vol.1, Darussalam/ Riyadh, 2000, p.569.

Muhammed Ali Albar "Genetic Counseling and Genetic Diseases: An IslamicPerspective" The Fountain Magazine, Issue 22 / April - June 1998, 12

Porto, Anthony, M.S., LCGC, and Jerme Speer (2024) your guide to Preimplantation Genetic Testing (PGT): Cost, FAQs and More. www.illumefertility.com North Western University USA

Pre-marriage Medical Check-up Islamic perspective.www.onislam.net on 15/03/2014

Professor Saleh Yuguda, age 51, National Blood Service Commission's Chief Executive Office.

Razvi, Asif, M.D "Islamic Perspectives on Cloning and Genetic Engineering", Islamic Center of Boston, at <http://www.Counterbalance.org/iftm/razvi-frame.Html>, on the 15/02/2024

Rispler-Chaim, V. "Islamic Medical Ethics in the 20th Century" Journal Medical Ethics, 1989, 203-208

Salihu, H. M. "Genetic Counseling among Muslims: Questions Remain Unanswered. Lancet 1997, 350.

Shaykh 'Abd al-'Azeez Ibn Baaz, Ruling on childhood Immunizations and Vaccinations, at <http://islamqa.Info/en/20276>, on the 24/02/2024

Sheikh Aminu Ibrahim Daurawa age 57 commander Hizbah organization Kano, Kano State.

Sheikh Usman Isah Taliyawa, age 81, Jama'tul Izalatul Bid'ah wa Iqamatis Sunnah (JIBWIS), Bolari Quarters Gombe, Gombe State

Shubayr, Muhammad, al-Qawa'id al-Kulliyyah wa al-Dawabit al-Fiqhiyyah, Second Edition, (Amman: Dar al-Nafa'is, 2007),

Sulaiman, K.O “The Challenges of using Islam to fight HIV/AIDS Scourge in Nigeria” Journal of Islamic Research, Islamic University of Europe, Hollanda, 2013, Year 6, Issue 1, 98-107

Tibi, Selma “Al-Razi and Islamic Medicine in the 9th Century” Journal of the Royal Society of Medicine, 2006, 99, Volume, 4, 206-208

Traub SL. Basic Skills in Interpreting Laboratory Data. 2nd ed. American Society of Health-Systems Pharmacy, Bethesda, 1996

Umar Ibn al-Khattaab (Second Caliph), at <http://www.islamicboard.Com/companions-of-the-prophet/384-2-umar-ibn-al-khattaab-caliph.html>, on the 24/02/2024

Yusuf Al-Qaradawi “How Does Islam View Genetic Engineering?” at <http://www.hdcglobal.com/publisher/pid/b368dc7b-039b-4335-9df3-8c015cbb33af/container//contentId/cc170e96-408d-485d-8ec3-f63644df412c>, on the 01/03/2024 <https://fiqh.islamonline.net/en/pre-marriage-medical-checkup-islamic-perspective/> Retrieved 15/02/2024

Yusuf Haamid al-Alim, al-Maqasid al-Ammah lil- Shari’ah, Second Edition, Riyadh: al-Dar al-Alamiyyah lil-Kitab al-Islami 1994.

Yusuf Haamid al-Alim, al-Maqasid al-Ammah lil- Shari’ah, Second Edition, Riyadh: al-Dar al-Alamiyyah lil-Kitab al-Islami 1994.