Religious ideologies shape the way that cultures conceptualize the body, and how the body should be regulated. This can become complex when dealing with gendered issues, because Abrahamic religions have come under fire for being highly patriarchal and oppressive to women. Islam, in particular, is a deeply controversial and cultural religion in regards to the way it interacts with human rights, especially the rights of women and their bodies. It is important to understand that Islam is highly varied in its cultural practices depending on other regional and historical factors, and that one cannot generalize a certain kind of sexism to the religion as a whole. However, there have been many cases where Islam has created incredibly traditional environments that subordinate women and leave them institutionally voiceless.

These traditional environments contribute to the institutional rights that are granted to women around reproduction, and their various freedoms and restrictions on when and how they want to have children. Issues around Islam and human rights are often analyzed within an Islam versus Western thought dichotomy, which constructs Muslim women as victimized versus Western women who are considered liberated. Just as one cannot generalize sexism to Islam, one also cannot forget the agency and complex personhood of those in these contexts. Islam has created a discourse and practice around reproductive politics that combines interpretations of theology with other cultural norms. Shariah law and Islamic theology are the guide posts for how someone can expect to navigate their reproductive rights within a Muslim context that reproduces a traditional gender hierarchy.
Maqasid al Shariah, or Sharia Law represent the divine and immutable laws laid out within the religious precepts of Islam, mainly focused around the principles found within the Qu’ran and the Hadith. These laws are not just cultural, but consist of real policies that govern Muslim societies. It has been argued that Islamic systems of power, that predominantly consist of men, have appropriated the Qu’ran and Hadith in order to reproduce gender inequalities. This is most likely due to the amount of ambiguity within interpretation of theology within Islam.

Tauhid, represents oneness and unity with God within the Islamic faith, and it provides the theological basis for how personhood is defined, which is through the eyes of Allah. Tauhid provides for interesting and often gendered cultural conceptions of the body. Fitrah, the idea that humans have the ability to mediate between their spirit and their reality implies a certain kind of agency within individuals which is most strongly imbedded into the notion of Khilafah.

Khilafah, another guiding theological principle within Islam, is a moral agency that exists within every human being that gives them the power to make decisions for their own spiritual growth and journey. Along with this idea comes the question that plagues many arguments around reproductive rights. Should people have the right to choose what they do with their bodies? Should they be able to make decisions for themselves about how and when they want to have children? If one abides by the simple interpretation of Khilafah, then yes, people have the spiritual ability to decide what is moral and right in the eyes of Allah and will make these decisions themselves. Some scholars argue that Sharia Law has violated the ideas of Tauhid, Fitrah and Khilafah through its various policies that reproduce gender inequalities. (Maguirre, Chapter 4) However, one will notice how these theological concepts provide bodily freedoms rather than restrictions within Muslim cultures. Daniel C. Maguirre, author of Sacred Rights: The
Case for Contraception and Abortion in World Religions, makes the assertion that “The notion that God’s unity is reflected in the equality and unity of human kind provides a basis for the strong critique of sexism and gender hierarchy” (110). Some of the constructions of reproductive rights can be interpreted to align with as well as contradict the ideas of personhood laid out in the Qu’ran. Throughout the process of analyzing reproductive rights within these theological frameworks, one will see that there are varying interpretations that create a wide spectrum of spiritual ideals within these contexts.

Historically, contraception has been a more accepted practice within Muslim societies than one might assume. Marriage is not exclusively linked with procreation, meaning that some interpretations of Islam encourage sexual pleasure within marital relationships, exclusive from decisions about having children. These freedoms seem to align more with notions of Khilafah and Fitrah because it gives agency to couples in regards to their sexual and procreative decisions. Sex within marriage also mirrors the idea of Tauhid, in that the act is often described as the man and the woman becoming “one” with another. Azl, known as coitus interruptus otherwise known as the “pull out method” in Western terms, was and still is a common form of contraception among Muslim women, and gives them a historically and culturally accepted method that also has spiritual meaning. The website halalbirthcontrol.com, sells a set of videos that can help guide Muslims how to use birth control within their marriage in a way that is halal, and does not violate Sharia Law. Al Ghalazzi, an influential Muslim scholar, supported the use of contraception for several different reasons, including the psychological and financial effects of having many children, to protect the life of the wife who could face physical dangers during childbirth and “preserve her beauty and attractiveness for the enjoyment of marriage” (Maguirre,
While access to contraception could be considered liberating for those who want the ability to control their reproduction, it must be considered that liberation is not the underlying reason for these policies and practices, but still reflect the utility of women as vehicles for pleasure and reproduction, as it is mirrored in Al-Ghalazzi’s reasoning around “beauty and attractiveness.”

Experiences of women in Jordan reflect the ways in which contraception and family planning is conceptualized in Islam. “Withdrawal is a particularly popular method in Jordan, perhaps because it is documented that the Prophet Muhammad approved of its use” (Knudsen, 175), demonstrating the modern use of Azl. A study on contraceptive use among Jordanian Muslim women connected gender inequalities such as domestic violence and abuse with use and non-use of contraception. “The consent of the marital partner is essential for the use of any contraceptive method, including withdrawal because the husband’s or wives’ unilateral decision may jeopardize the rights and interests of the other partner, including the right to full sexual enjoyment” (Mehryar et al., 2007). Despite this, women who were abused within their marriage were statistically more likely to use contraception without the consent of their husbands, a dangerous political act. Birth spacing, which is the choice to wait in between having multiple children, is also encouraged within Jordanian family planning policies, as a compromise between economic motives and the protection of women who are navigating the risks of giving birth.

Discourse and practice around family planning and contraception in Islam are not only religiously bound, but also reflect the structural inequalities that create poverty within these contexts and may encourage problematic yet subtle neo-eugenic ideals. There can be a fine line...
between these two frameworks, as reflected in Maguirre's arguments about family planning and

Khilafah:

In the current context of living in a world characterized by increasing populations with limited access to resources, being a khilafah involves responding constructively to these resources instead of further taxing the overburdened resources of the World...family planning, including contraceptive usage, may be seen as extension of the human capacity to plan, to respond to and to actively make choices in terms of contextual needs and emerging realities” (Maguire, 114).

Although his argument comments on an interesting dynamic between theology and cultural practice, it creates a Western assumption that children must always be a burden on impoverished families, with the underlying implication that they should not be reproducing. The insertion of khilafah into an argument for family planning contradicts the idea that the populations to whom he is referring, would make the “right” choice not to have children. “Within this context, the burden of numerous pregnancies and children may be fundamentally debilitating, threatening one’s survival and well being. Moreover, in conditions of poverty, undernourished and weak-offspring are more a source of anxiety and stress than the ‘comfort’ or ‘allurement’ of the parents eyes as the Quran intends” (Maguire, 111). More of Maguirre’s commentary addresses the theological ideals around parenthood, but does not address the systematic issues that would contribute to a woman’s reproductive choices. A discussion of poverty, as well as it’s roots and potential solutions, is lacking from his argument, thereby producing a eurocentric perspective that does not allow for the acknowledgment of third-world injustices.
Abortion within Islam is a practice that reflects the wide variation of theological interpretations of personhood. Like the pro-life and pro-choice movements that we see in Western culture, the nature of the fetus, the process of fetal development, and the point at which a fetus becomes a human being all come into consideration in the construction of the Islamic stances on abortion. The idea of ensoulment has guided many a stance on how life is defined, “In the prophetic tradition this same point of transition into a human being is described as the point at which the angel breathes the spirit into the fetus at 120 days” (Maguirre, 120). Causing the miscarriage of an ensouled fetus is a criminal offense in all Islamic legal schools, while causing the miscarriage of an “unformed” fetus is a lesser offense. Under Islamic law, only the formed fetus has the right to inheritance, to be named, and to be given a ritual burial. Occasionally, some scholars have applied a verse in the Qu’ran that warrants against the “killing” of children, which is ambiguous to what constitutes a child, but is interpreted as a reason to make abortion un-lawful. One conservative scholar utilized the verse, saying, “Praise be to God! Causing the abortion of a fetus is forbidden by the consensus of the Muslims. It is a category of wa‘d, about which God said: “When the buried child will be asked/ For what crime she was killed, he also said “Do not kill your children for the fear of want” (26, Brockopp). This scholar took the idea of “children” to mean any form of life, inside or outside of the womb, thus supporting their idea that abortion is murder in all cases.

Although there is diversity in the Islamic legal perspectives on abortions, the realities of many Muslim societies reflect a more rigid approach to policy. This is theorized to “ensure that people do not adopt an uncritical acceptance of easy abortions, since the decision to terminate a potential realization of a human life is a grave decision not to be taken lightly or without
circumspection” (Maguirre, 123). However, Islam is a religion that emphasizes the
reinterpretation of religious texts and rulings. Reinterpretations, in regions where abortions were
considered unconditionally unlawful, allowed for permissibility of abortions in cases of rape, or
cases when the fetus is tested with a fatal genetic disorder. “In the event that such as decision is
deemed necessary, it is important that we remember that the God of the Qu’ran is consistently
described through the divine qualities of mercy and compassion”. (Maguirre, 123). Muslim
culture aims to balance the reproductive freedoms that can be interpreted in the Qu’ran while still
maintaining *Fitrah* with *Allah*. Mediating between a spiritual relationship with *Allah* and the
reality of reproductive decision can be an existential crisis for those involved. Apart from the
idea of ensoulment, Jonathan E. Brockopp editor of *Islamic Ethics of Life: Abortion, War and
Euthanasia* makes the argument that the conceptualization of the fetus within Islamic Law is
“founded largely on a system of logical corespondences rather than on a well-articulated set of
fundamental generative principles” (Brockopp,31). This implies that the policies around abortion
within Muslim societies are not necessarily religious, but based around other cultural and
scientific norms. It is often in “pronatalist” countries (Myrdal, 67), where a woman’s social value
is linked to conceiving and bearing children, that abortion is prohibited or highly discouraged
through state policies. In these countries, motherhood is praised and women who choose not to
have children are considered deficient, incomplete, or unfulfilled. Within pronatalist countries
that are predominantly Muslim, it can be difficult to discern whether or not the stance on
abortion can be attributed to something within Islamic theology or if it is simply a result of
pronatalist ideologies.
Islam constructs infertility and the use of artificial reproductive technologies in its own unique way. “According to the *fiqh* (Islamic theory of law) infertility primarily concerns the wife, and sperm have been traditionally considered fertile” (Tremayne, 54). This mirrors the typical conservative construction that has historically placed the burden of reproduction on women. The practice of surrogacy does not align with Islamic bioethics due to *progeny*, the protection of pregnant women, and the emphasis on the preservation of lineage. Mufti Sheikh Ahmad Kutty an Islamic scholar writes, “The introduction of sperm into the uterus of a woman to whom he is not married trangresses the bounds of *Allah*”(Al Mahmood, 2). To quote G I Serour, professor of obstetrics and gynecology, “The basic concept of Islam is to avoid mixing genes, as Islam enjoins the purity of genes and heredity. It deems that each child should relate to a known father and mother. Since marriage is a contract between the wife and the husband during the span of their marriage, no third party intrudes into the marital functions of sex and procreation. A third party is not acceptable, whether providing an egg, a sperm, or a uterus. Therefore, sperm donation, egg donation, and surrogacy are not allowed in Islam.”(Al Mahmood, 2). This concept is perplexing, considering the historical practice of *Mu’tah*. *Mu’tah* is the historical practice of a husband having a contract with a woman so that she is his temporary wife. There is a divide on the modern practice of *Mu’tah* between Sunni and Shia practicing Muslims, with Shiites considering the practice *halal* and permissible, and Sunnis considering the practice *haram*, and forbidden. This divide is based around differing historical interpretations of *Mu’tah*, in which Shiites attribute it’s permissibility to the idea that it was practiced by the Prophet Muhammad during the founding period of Islam (Mahmood and Nye). This practice has been utilized in order to continue blood lines within Muslim families, contradicting the words of
G I Serour, who has hard and fast beliefs that reproduction should be kept within a nuclear marriage. Another Muslim Scholar, Syrian muftial-Būṭī proposes an alternative, “You can act only by two recognized and legal manners: the one is that you unite with a second woman by having been assured that you are not the cause of the infertility. The other is to have recourse, and is designated by a test-tube baby; the solution is authorized only in unique cases of necessities.” (Inhorn, 10). Islamic Law aims to keep the process of reproduction as “natural” as possible, only advocating for outside methods such as invitro fertilization if there are no other options available. The disparity comes between those who believe that it is permissible to use Mu’ṭah, or other forms of traditional surrogacy to carry out a lineage, or those who believe that these lineages must be kept within Holy and committed marriages.

The exploration of reproductive politics and rights from an Islamic perspective has proven itself to be murky and convoluted. Moreover, it is a byproduct of a rich religious interaction with culture and policy that fosters theological ambiguity and social and historical bias. The way in which gender inequalities have become reproduced leaves one wondering which aspect is to blame. Nadje el Ali, a Muslim feminist offers some insight around cultural influence, “It’s not about ‘their culture’, but it is about political economies. It is about authoritarian dictatorships and conservative patriarchal interpretations and practices. It is about foreign interventions and invasions and their gendered politics” (Davis). Post-colonial relations between the West and predominantly Muslim countries play an important role in the construction of gender and bodily rights, another aspect of the equation that can be overlooked when analyzing reproductive policy. Daniel C. Maguirre, a scholar of religious ethics whose theological thinking informed much of this paper, would benefit from branching out of a
Western biased perspective. Further research would be imperative to understand the ways in which foreign relations and colonial impositions of culture construct various societal aspects. However, as of now, we can apply the ideas that we have when we think about reproductive rights within our own contexts, with the understanding that these issues are never straightforward and come from a long history of religion, politics, and colonialism.
Works Cited


