

## **OPINION OF ISLAMIC SCHOLARS ABOUT PREMARITAL MEDICAL EXAMINATION UNDER ISLAMIC LAW**

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## **Abstract:**

This article analyses that Premarital Medical Examination (PMC) diagnose and treat unrecognized disorders which will provide help to reduce the transmission of hereditary and contagious diseases to married couples and children. Hence, consanguine marriage is customary practice in Pakistan and Middle Eastern Muslim countries. In consanguine marriages, premarital medical examination leads to safe and healthy marriage life otherwise it will be effective on every perspective of spouse life after marriage. The Maqasid-ash-Shari'ah is the backbone of the Islamic legal system. It is a pattern of Islamic legal system which provides a vast category of Islamic rules to Ulama, religious scholars, and Muftis in the derivation of the new rule by this methodology. Premarital Medical Examination is beneficial for public interests. Contemporary scholars accept this rule as a darurah. This is the time of advanced technology and genetic information which is the main cause of prevailing diseases.

## **INTRODUCTION**

Premarital Medical examination is the matter which is almost found all over the world. Exclusively Middle East countries are working on this matter. Moreover, *Maqasid ash-Shari'ah* provides guidelines to Ulama's, Mufti's, and religious scholars to certify and to solve a particular

issue that falls in the ambit of Shariah. It is not allowed for religious scholars to deviate their derivations of ruling beyond the jurisdiction of Maqasid-ash-Shari'ah. In Islam, fatwas following the *Maqasid ash -Shari'ah* can be considered to resolve or explain a matter within the framework of Shari'ah as a sort of separate action (*Ijtihad*). So in the Qur'ān, the All-Mighty Allah described effort like *jihad-al-Kabir*.

## OPINIONS OF SCHOLARS

In that regard, Imam *Al-Ghazāli* highlighted three fundamental elements which were important for the development of new law in Islamic case law, namely: *ahkam* (rules), *adilla* (sources) and the method of extracting rules from such sources, and this includes a review of the qualifications, i.e., *mujtāhid* (lawyer). Therefore the term *māqāsid* is a subjective phenomenon that cannot be unanimously agreed upon according to *Al-Shātibi*. It is complex and subject to change, as times and cultures change. There is a Fatwa related to a premarital medical examination; the premarital medical examination is obligatory and preferable for those who are wishing to conduct marriage must go for it as the safety measures of their children otherwise spouse will suffer after their union from some infected disease. This Fatwa is supported by the Hadith of the Holy Prophet,

***“Religion is the best advice”***

*Muhammad al-Zuhaylî* opinion is that the government should take the step to make premarital medical examination mandatory as it favors the public interest. *Nāsir al-Maymān and Hamadâtî Mâ'-al-`Aynayn Shabîhunâ*, also support mandatory Premarital Medical Examination certificate should be issued before marriage which will be helpful for both bride and groom to spend a healthy life with their progeny. *Abd Allah Ibrâhîm Mûsâ, Muhammad Shabîr, `Ârif `Alî `Ârif, and Usâmah al-Ashqar* also favors that It is under the authority of the government to pass the law which requires prospective marriage partners to undergo a medical exam before they are allowed to

marry. The marriage permit shall not take place without medical certificates from parties proving that these tests have been performed.

*Abd-al-Karîm Zaydân* opinion is that requiring prospective partners to undergo pre-marital medical exams is Islamically unlawful. The government can only promote and inform people about its advantages. *Muhammad Ra'fat `Uthmân and Muhammad `Abd al-Sattar-al-Sharîf* also favors the opinion of *Abd al-Karim Zaydân*.

## **GLOBAL SCHOLAR OPINION ABOUT PRE-MARITAL MEDICAL EXAMINATION**

All the religious scholars, except a few promoting premarital medical examination. In Saudi Arabia Imams of Masjids all over the country said about the importance of premarital medical examination and there is no contradictory statement or ruling is given any Islamic legal source therefore is advisable to encourage mandatory premarital medical examination for a prospective spouse. The scholar was further given his opinion that the teaching of Islam promotes and encourages premarital medical examination. Islam encourages counseling and educating and counseling sessions for Premarital Medical Examination. He elaborated regarding the benefits of PMC as it prevents the infective genetic diseases and blood transmitted diseases which can be fatal for a would-to-be couple or their children in the future. In Abu Dhabi, Shaikh Muhammad Najeeb, who is the Imam of Abdullah Bin Khulaib Mosque also given his opinion by narrating the same Hadith of the Holy Prophet (S.A.W).

***“Religion (Islam) is sincere counseling and good advice”***

He further said that negligence is the root cause of all the infected diseases in the society which are widely spreading due to health problems and people do not go for a medical checkup which becomes alarming and leads to the fatal disease for them. He said, if people are intended to marry premarital medical examination would be mandatory for them which will spare them and their children or offspring's from all the health issues which are Prevailing widely around us. We

should promote awareness and counseling regarding this test. Shaikh Najeeb elaborated that there is no harm to opt medical checkup through which we can diagnose and low at-risk marriages, we can also reduce the reproductive genetic risk and reduce the incidence of babies born with defamatory problems due to hereditary diseases. There is an emerging need to address the counseling this test exclusively for consanguine marriages or blood-related spouses to avoid the risk of foe hereditary diseases. Genetic diseases are commonly found in society or mostly in all families. It does not necessary that parents do not suffer any disease some genes are recessive which can later on transmitted in their offspring. Therefore, the premarital medical examination is darurah to save children's lives. Therefore, the pre-marital medical examination of blood-related married couples should be encouraged to avoid the risk of hereditary diseases. Medical Experts also have opinions regarding PMC as it is a sensitive medical issue. According to them some families or people do not take it seriously they consider it a minor thing or unnecessary thing due to which they bear worst circumstances after marriage. Three additional diseases, including thalassemia and sickle cell anemia, are being checked by legal marriage certificates by the concerned authorities further.

Progress in genetic modification opens new opportunities and the transmission of diseases like AIDS places a great burden on prospective couples to undergo medical examinations before their marriage. In the UAE tests are mandatory. As co-chair of the higher pre-marital Committee, Dr. Amin Al Amiri, a medical expert, has also expressed his opinion that the PMC requirement in the UAE is mandatory for all countries, including non-nationals. Couples intending to tie their nodes in the UAE had to have their blood tests for TB X-rays sexually transmitted and transmitted in the air, HIV, hepatitis B, and Syphilis. 8% of the local population is projected to have inherited hemoglobin deficiencies with thalassemia and Sick Cell Disorders.

## **CONCLUSION**

In conclusion, in pre-marital medical exams, there are no issues of protecting partners but they cannot affect children's rights. Islam guarantees children's rights, such as the child s right to

health care, proper nutrition, children's rights to education and to the acquisition of capability, children's rights to live in peace and protection, children's right to the dignity of human beings and to security under the parent's responsibility. It is also the duty of society and the State to guarantee these rights. Therefore, the right to life skills, that is to say, they should have the right to be trained by their parents in performing their rituals in their faith, have also been recognized in the *Qur'ānic* text and the tradition of Sunnah. Early education is important in that it makes religious practice easy and acceptable to maintain and maintain children. Parents should, of course, be the models of moral behavior for their children. You must always give compassion, kindness, and mercy to your children and avoid harshness and cruelty. Parental care is the most important for children. If due to any reason they have lost their parents their personality remains incomplete. No person or relative can fill the space of parents for the child and their upbringing would not be suitable for a child. A parent's health, mentally, physically is the most important factor of a child's upbringing. Imam Ali (R.A) narrated that, ***“Teach your children things you did not learn when you were their age for they have been created for a time that is different from your time.”***

To sum up the whole discussion in the above passages in the light of *Qur'ānic* rulings, Prophetic hadith, and by the arguments of *jurists* and *Fuqaha*, it is said that children's fate and their morality completely depends upon the sustainability, ability, and capability of their parents. If the parents are mentally and physically healthy, they can do keenly and better care of their children which is parental obligation and children's basic rights. Premarital Medical Examination is that ladder that provides good health assurance. As the purpose of Islamic Jurisprudence is to provide safeguards and protection to every single human. Parental safeguard is one of the foremost obligations of a government which should be provided to parents which will lead to the better upbringing of their children.

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