

## Abortion: An Islamic Ethical View

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### ABSTRACT

The debate over abortion remains controversial as ever. This article offers an explanation of the main Islamic attitudes towards abortion and areas of need to change in the related rules and regulations in Islamic communities with a special attention to Iran.

A selected collection of Islamic references, as well as discussions with experts have been used as a basis for discussion and interpretation of Islamic views.

Almost all of Muslim scholars and authorities regard ethical dilemmas surrounding abortion as jurisprudential topics. Obviously, all schools of Islamic jurisprudence regard abortion as wrong and forbidden (Haram). On the other hand, they allow abortion, before the point in time in which the ensoulment takes place, only when physicians declare with reasonable certainty that the continuation of pregnancy will endanger the woman's life or put her in intolerable difficulties. The Iranian parliament has ratified the Therapeutic Abortion Act, by which, therapeutic abortion should be based on diagnosis of such fetal or maternal diseases that go ahead to unbearable burden for the mother or endangering her health.

The Therapeutic Abortion Act can be considered as a significant improvement regarding women's health in an Islamic country. Such improvements show the inherent and valuable flexibility of Islamic jurisprudence encountering new emerging and difficult issues and would be promising for greater advancements in the future.

**Key Words:** Abortion; Ethics; Islam; Islamic Jurisprudence.

### INTRODUCTION

Abortion, which can be defined as the deliberate termination of a pregnancy before normal childbirth, is an old, but living topic for debate and disputation. It has been argued that the world remains divided between jurisdictions in which abortion is legal and schools have various views and opinions in this regard.

those in which it is not.<sup>1</sup> Different secular and religious Their different answers to vital questions about abortion have great influences on the life of many people in the world.

Many of the opinions in this regard, are religious in nature because many people seek the answers of their questions about issues such as life, death, and morality, in their believed religion. All of main existing religions in the world have their own perspectives towards abortion.

In Christianity, for example, the majority of scholars believe that the ensoulment (which refers to the creation of a soul within, or the placing of a soul

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into, a human being) takes place at the time of conception, hence, the Roman Catholic Church, for instance, regards abortion, at any stage of embryonic life after conception, as forbidden and immoral.<sup>2,3</sup> As another instance, The Church of England, shares the Roman Catholic view that abortion is 'gravely contrary to the moral law'. However, this church does accept that under some circumstances abortion could be permissible.<sup>4</sup>

As another example among Abrahamic religions, in Judaism, abortion is not forbidden but it is not permitted to be done on demand. Abortion is only permitted for serious reasons and with consideration on its own merits in every case and the decision should be taken after consultation with a rabbi competent to give advice on such matters. In cases where continuing pregnancy would put the mother's life in serious danger, Judaism considers the mother's life as more important than that of the fetus. Jewish law is more lenient concerning abortions in the first forty days of pregnancy as it considers the embryo to be of relatively low value during this time.<sup>5,6</sup>

Among Dharmic religions, I briefly mention Buddhist perspective. There is no single Buddhist view on abortion. Most modern Western and Japanese Buddhists believe in the permissibility of abortion, while many other Buddhists consider abortion to be murder because Buddhists believe that life should not be destroyed and abortion involves the purposeful destroying of a life. Buddhists regard life as starting at conception.<sup>7,8</sup>

Among Taoic religions, Confucianism could be a good example. There is evidence that the Chinese practiced abortion in ancient era and neither Taoism nor Confucianism explicitly forbade it. Of course, as in the present, there existed different and opposing views on the subject of abortion in the history of China, and many Confucian Chinese, believed that intentionally terminating pregnancy is to destroy a human life which starts far earlier than at birth. However, it was usually regarded as a necessary evil and it was rarely encouraged, for instance, if the health of the mother necessitated it. Thus, it seems that in contemporary Confucianism, the decision about necessity of abortion is left entirely in the hands of the parents.<sup>9,10</sup>

Islam is one of the most important religions in the contemporary world, and has great influences on all

aspects of life of more than one billion people around the world. In some countries, such as Iran, rules and regulations about issues such as abortion, are rooted in the Islamic jurisprudence and even in the countries with secular governments, most of Muslim people are committed to behave conforming to religious teachings, in particular in issues relating to marriage, reproduction, and termination of life. This article offers my explanation of the main Islamic attitudes towards abortion and areas of need to change in the related rules and regulations in Islamic communities with a special attention to Iran.

## MATERIALS AND METHODS

In this article I reviewed and evaluated the viewpoint of authorities and scholars from different Islamic schools of theology and jurisprudence towards abortion and I try to show the areas of need to changes in the related rules and regulations in Islamic communities. I examined related books, articles, Fatwas and websites, collected over almost a year through searches of databases such as Medline and Iran Medex and search engines such as Google and Yahoo. In addition Fatwas requested from great Sunni and Shiite authorities and references recommended by experts, and also related rules and guidelines in Islamic Republic of Iran were considered search terms included Abortion, Miscarriage, Prenatal diagnosis, Islam and Islamic.

I used a selected collection of above mentioned references based on their relevance to the subject of this article and I based my discussion on my understanding and interpretation of them as well as my conversations with experts.

## RESULTS AND DISCUSSION

Almost all of Muslim scholars and authorities regard ethical dilemmas surrounding abortion as jurisprudential topics. Obviously, all schools of Islamic jurisprudence regard abortion as wrong and forbidden (Haram). On the other hand, they allow abortion, before the point in time in which the ensoulment takes place, or only when physicians declare with reasonable certainty that the continuation of pregnancy will endanger the woman's life or it would put her in

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intolerable difficulties.<sup>11,14</sup>

The holy Qur'an as the most important source for Islamic jurisprudence does not explicitly mention abortion. But it explains the stages of creation of a human in the intrauterine life:

"We created man of an extraction of clay, then We set him a drop in a safe lodging, then We created of the drop a clot, then we created of the clot a tissue, then We created of the tissue bones, then We covered the bones in flesh; thereafter We produced it another creature. So blessed be God, the Best of Creators." 23:12-14

And obviously, the holy Qur'an gives a very high priority to the sanctity of life:

"Whosoever has spared the life of a soul, it is as though he has spared the life of all people. Whosoever has killed a soul, it is as though he has murdered all of mankind." 5: 32

The holy Qur'an makes it clear that a child should not be killed because the parents fear that they will not be able to provide and support him or her - they should trust Allah to look after things:

"Kill not your offspring for fear of poverty; it is we who provide for them and for you. Surely, killing them is a great sin." 17:32

Islamic schools, based on a tenable interpretation of the Holy Qur'an and teachings of the prophet, do not at all agree with those who say that a woman has full control over her unborn child as part of her body. Islam considers our bodies as a trust, which we have to preserve and maintain. It also confirms that the fetus is the creation of Almighty God. No one, not even the parents, has the right to make decision about his life, unless its presence threatens the life of the mother.<sup>12</sup>

However, different schools of Islamic jurisprudence hold different views on whether any other reasons for abortion are permitted, and at which stage of pregnancy, one is allowed to assist abortion. For example, among Sunni schools, the Hanafi school (prevalent in Turkey, the Middle East and, Central Asia), permit abortion until the end of the fourth months. According to them, a pregnant woman could have an abortion without her husband's permission, but she should have reasonable justification for this act. One reason, which is mentioned frequently, is the presence of a nursing infant. A new pregnancy put an upper limit on lactation, and the jurists believe that if

the mother could not be replaced by a wet-nurse, the infant would die. The Shafei School (dominant in Southeast Asia, southern Arabia and parts of East Africa) allows abortions to be performed up to day 120. For the Maliki School (prevalent in North and Black Africa) an abortion is permissible with the consent of both parents up to day 40; it is no longer allowed after that time. For the Hanbali School (predominant in Saudi Arabia and United Arab Emirates), abortions are principally prohibited from day 40 onward.<sup>13</sup>

Shiite jurisprudence (one of the large Islamic jurisprudence schools) makes the basis or has great influences on the governmental rules or public attitudes and behaviour regarding public health issues in pregnancy and abortion, in a large part of the world (Iran, most of Iraq, and large parts of Lebanon, Syria, Afghanistan, and some countries in the south of the Persian gulf). Thus, any global, regional, and - in above mentioned countries- national health authorities planning these issues should understand the Shiite perspective.

In the last 3 decades, because of the commitment of Iranian government to adaptation of the law to the Shiite jurisprudential rules, the religious authorities paid a great deal of attention to issue practicable Fatwas regarding important topics such as abortion.

In the Shiite jurisprudence, the ensoulment occurs after about 4 months.<sup>11</sup> Before this stage, all Shiite authorities regard abortion as Hiram unless if continuing the pregnancy would put the mother's life in real danger or it will be intolerable for her. But after that, they regard abortion as Hiram, even if it endangers the mother's life, unless in conditions in which continuing the pregnancy results in dying of both mother and fetus, but abortion will save the life of mother.<sup>15,19</sup> In occasions in which there is equal danger for the mother and fetus, and one of them will certainly survive, it has been said that the pregnancy should be continued till one of them dies and another one remains alive.<sup>18</sup> If the danger is not equal for mother and fetus, the physician should save the one who has more chance to survive.<sup>15</sup>

Regarding the stages before ensoulment, however, the abortion is permitted if its consequences, including growing the fetus or birth of a child, were intolerable for the parents (put them into Haraj). So, some genetic anomalies as major Thalassemia or Hemophilia have

been accepted as permitted reasons for abortion.<sup>15</sup> Based on these Fatwas, the act of abortion therapy has been approved in Iran's parliament and the health deputy of the ministry of health, has proposed a related guideline in which he issued a detailed list as the indications for abortion, after confirmation by a committee of experts.<sup>20</sup>

However, the Shiite authorities have not accepted to legitimate abortion in unwanted pregnancies and even in pregnancies resulted from adultery (Zina) or rape.<sup>15,19</sup>

Whatever be the cause of abortion, all Islamic jurists insist that the payment of blood money (Diya) according to related rules is incumbent.<sup>11, 15-19</sup>

The Iranian parliament has ratified the Therapeutic Abortion Act on June 21, 2005.<sup>21</sup> This Act authorizes therapeutic abortion after an explicit diagnosis by at least three experts that should be verified by the Legal Medicine Organization (LMO). According to this act, Therapeutic abortion should be based on diagnosis of such fetal or maternal diseases that go ahead to unbearable burden for the mother or endangering her health, for example, severe fetal malformations or retardation, or life-threatening maternal diseases. Abortion should be done before the ensoulment takes place (during the first four months), with the woman's consent and any legal responsibility or punishment would not be directed towards the physician.<sup>22</sup>

Even though most Islamic authorities have not accepted the rape as an indication for abortion even before 4 months; in some countries in which the problem occurred in extended dimensions, Islamic authorities issued Fatwas allowing women to abort, for example, it is reported that, for Bosnian women raped by the Serbian army, were issued a fatwa allowing them to abort, of course, they were urged to complete the abortion before the 120 day. A similar fatwa was issued in Algeria.<sup>14</sup> In Egypt (where abortion is illegal) in June 2004, Muhammad Saeed Tantawi, the Grand Sheikh of Al Azhar, approved a draft law allowing women to abort a pregnancy that is the result of a rape. His decision caused controversy among other Muslim scholars: The mufti of Egypt, Ali Gomaa, said Tantawi's decision was wrong and violated the Qur'an's injunction that forbids killing innocent souls.<sup>14</sup> This demonstrates that Islamic law has the valuable flexibility to be compassionate in appropriate circumstances.

## CONCLUSION

As mentioned above, in Islamic communities, especially countries in which the rules and regulations are rooted in Islamic teachings, such as Iran, the Islamic jurisprudence plays an important role in finding proper solutions for controversies about vital issues such as abortion. The importance of this issue is partly because of the apparent differences that exist between the real conditions of the life in these communities, and the rules that are based on some jurisprudential principles.<sup>23</sup> Each year, there are many cases of maternal mortality because of illegal abortions in Iran<sup>24</sup>, so, there is a need to provide solutions to women who for different reasons wish to abort and at the same time enact laws that would not contradict Islamic principles. Of course, there are some important and notable related Fatwas that make a jurisprudential basis for approving some new and problem solving acts by the Islamic parliaments.<sup>23</sup> The Therapeutic Abortion Act can be considered as a significant improvement regarding women's health in an Islamic country, which is rooted in jurisprudential decrees. Such improvements, for example, accepting the major chromosomal anomalies as approved indications for abortion before ensoulment, show the inherent and valuable flexibility of Islamic jurisprudence encountering new emerging and difficult issues and would promise for greater advancements in the future.

It seems that this valuable flexibility can be used for extending the permitted indications of abortion before 4 months to some other problematic topics, such as inability probably of the family or society for supplying future children. Of course, the final decision has to be taken by jurisprudential authorities, based on related specialized discussions.

On the other hand, the priority of saving the life of mother, when there is equal risk for mother and fetus, or even when the fetus is at greater risk, after ensoulment (4 months) can be referred to jurisprudential authorities for more assessment and decision making.

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