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## ABORTION AND ITS DIFFERENT APPROACHES IN ISLAM: A REVIEW ARTICLE

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### Abstract

Abortion refers to an act in which a woman removes her fetus from her womb and it does not matter whether it is before the soul inspiration or after it or whether it is done by the subject or caused by another factor. Different types of abortion include: natural, spontaneous, medical and criminal. There are different sentences in case of abortion after 120 days such that the jurists' ideas are different in a religion that can be divided into three classes: 1- after the formation of the embryo in the womb for 40 days that is the first stage of fetal growth, 2- before soul inspiration in the body that is before the day 120<sup>th</sup> and 3- after soul inspiration in the body that is after day 120<sup>th</sup>. Hanafi jurists believe that abortion before soul inspiration is acceptable with religious excuse, according to Maleki jurists after the embryo formation is forbidden, according to Shafei jurists it is reluctantly permissible within 40 days of pregnancy and after that it is impermissible and according to Hanbali jurists abortion is permissible in the first 40 days and it is also allowed before soul inspiration. In the case of abortion it is subject to two theories: 1- abortion is absolutely not allowed, 2- permission of abortion under conditions such as: 1- abortion before the first stage (40 days) or before soul inspiration, 2- the fact that fetus is completely disabled but if the disability is partial such as: blind, lame ... and has the ability to live, its abortion due to this disability is not permissible, 3- If the impartial doctors certify abortion and they are not less than two people, abortion in case that mother's life is at risk is subject to two options: 1- impermissible because mothers' death is imaginary, 2- permissible because mothers life is certain but the fetus life is not. The jurists have divided fetal life into two general parts: before and after the soul inspiration and all of them agree that by the formation of the embryo the foundation of life has been established and the weak possibilities or non-religious personal demands should not be included unless there is an excuse in which the abortion is preferred. Any excuse cannot be an excuse for abortion, however some of the scholars consider abortion allowed at the time of

conception but there should be and excuses that has a legal status. Due to various reasons it can be concluded before the soul inspiration abortion is permitted due to the excuses such as: 1- inevitable loss without any doubt, 2- there is no other way to prevent loss, 3- the fear of destruction, 4- it is better to perform abortion rather than doing the religious act, 5- it is malformed and 6- mother suffers from debilitating weakness. However after the soul inspiration the scholars agree that, abortion is not permitted unless diagnosed by a committed and faithful specialist that the mother's life is in danger. Some scholars believe that if it is determined that the fetus is deformed he will be faced with problems in future, it can be an excuse for abortion. It should be noted that weak and vain possibilities for abortion are not permitted and if it is done, it is a murder. However under all these excuses if the abortion is conducted, it requires repentance and forgiveness because one life has been violated.

**Key words:** miscarriage, abortion, intentionally, fetus, soul

## **Introduction**

Different kinds of Abortion: 1. spontaneous abortion: in some women due to hereditary and structural reasons, various diseases such as hypertension, infections, hormonal disorders, placenta and fetus disorders and some genetic disorders and chromosomal abnormalities abortion happens spontaneously(1). 2- Medical abortion: sometimes the mother suffers from diseases that make the continuation of pregnancy dangerous and deadly for her or the fetus in the womb has abnormalities that are incompatible with fetal life and the post-natal fetus is not able to survive. In these cases by following the required medical arrangements the legal permission for abortion is issued(2). 3. Criminal abortion: if one of the following scenarios is proven abortion is considered criminal: (a) the removal of the contents of the uterus prematurely by the mother or through womb manipulation, having drugs of a deliberate Impact to the womb, (b) manipulation of the uterus with the abortive drugs by others, (c) using special tools by the doctor, midwife or unauthorized people for bleeding and abortion without an official permit(3). 4- Abortion caused by an impact: sometimes abortion occurs following the accidents, traffic accidents and traumatic injuries. Proving the causality between trauma and abortion requires the cooperation between judicial authorities and legal practitioners(4). Article 622 of the Penal Code: Anyone that deliberately causes an impact or injury to the pregnant women and causes her to abort her child, in addition to the payment of atonement, he will be imprisoned for 1 to 3 years. Article 492 of the Penal Code: abortion atonement in intentional or quasi-intentional cases is on the charge of the criminal and in case of pure error the blood relatives are responsible for it whether the soul is inspire or not (5).

Every day shocking statistics are published about abortion. This inhuman and un-Islamic phenomenon is associated with many factors in today's society including: an unprecedented increase in illicit affairs, unofficial marriages,

prostitution, divorce and warm family center destruction, family aversion among the girls, new generation drug addiction, promiscuity and fear of high costs of the children and their education and expenditures that have inflicted the economy and led to worldwide economic crisis(6-8). Infanticide has always existed in human societies throughout history in many different ways and particularly in the Arab community especially on the eve of the rise of Islam and the mission of the Prophet PBUH that they used to bury their children alive that in addressed in Sura Takwir by Allah Almighty as ugly and bad customs against human nature(9). Today, unfortunately, given the problems that exist in the society, children are killed in new ways and some people that are against increasing the population settle for one or two children and after the birth of one or two children follow different methods to prevent pregnancy and use some of them after embryo settlement in the womb while abortion apart from the religious rules is associated with risks such as physical, mental, neurological and so on for mother and in some cases it has led to mother's death(10, 11). On the other hand this problem threatens the human race and especially the Muslims while Islamic law has encourages Muslims to increase their Islamic generation as Nabi Akram prophet PBUH said: marry with women who love to have husband and children because I shall be proud on you outnumbering other nations in the Day of Judgment(12, 13). This paper is an attempt to first analyze the concept of the soul that whether as mentioned in the verses the soul is inspired in the fetus after 40 days or it is less than the mentioned period. Even though the jurists believe that when the soul is inspired in the fetus, abortion is forbidden and it is murder, is it possible to abort the fetus now that it is possible to scan the details with the devises and determine the deformity of the fetus? Perhaps some explain the permit to abortion as the presence of a disabled member ion the family is a burden and even if he is born, he might be faced with serious problems and, in fact, he will be a walking dead. Another problem is that whether abortion is not allowed after the inspiration of the soul in case that the mother's life is at risk or the jurists have allowed it(14). Excused or unexcused abortions before the four months is another aspect of the issue and it should be considered what types of excuses are allowed and whether abortion is allowed before soul the inspiration in case of the lack of excuse(15).

Absolute abortion ruling: absolutely, regardless of exceptions and the necessity of the issue abortion is unlawful and impermissible legally, lawfully, naturally and rationally and it is a threat to society and the human race because first: Sharia is ordered to maintain five rules that include: religion, soul, honor, wisdom and property that abortion violates the maintenance of the soul(16). Second: abortion is against the important purposes of marriage intended by Islam which is the increase and multiplication of generation. As the Prophet PBUH said: Third, abortion is followed by suspicion and mistrust against God because in most cases people in order to evade from alimony, education and so on

take actions to abort while Quran has falsified the absurd and false un-Islamic motives as the Sura Anam says: and in verse 151 of Al-Asra says: Deformed or disabled child abortion: There are two theories in this regard: 1- lack of permitting deformed or disabled child abortion(17). Some contemporary scholars do not approve this case due to non-fulfillment of legal requirements because according to them the medical science has not been able to determine the malformation of the fetus definitely and they are just possibilities and thus abortion due to the probability of deformation is not allowed. On the other hand the detection of fetal defects it is possible when the fetus is complete in the creation and formation of the limbs and this is four months after pregnancy that abortion is not permissible in this case. Also there are risks of abortion that threaten mother's life and they are serious obstacle for the lack of abortion permit for mere fetus defect(18). And on the other hand it is clear and certain for all Muslims that the God has created all creatures and everything has a specific destiny and mortality and this malformation is not beyond his wisdom and it is certainly based on the certain amounts and wisdoms that he is aware of and He is able to change his territory as He wished and form the human being as He desires. As He says this is His divine tradition and thus it is not possible to destroy and abort God's creature because of the defect provided by God(19). 2. Deformed or disabled child abortion permit: This group of contemporary jurists based on the significant progress of human being in science and invention of modern advanced medical tools consider detecting fetus disorder certain or at least probable and thus when it is possible to detect deformed or handicapped fetus abortion is allowed under the following cases: 1- abortion before forty days after pregnancy or before soul inspiration (because some believe that soul inspiration is after the first forty days), 2- fetus defect and deformity is complete such that it causes painful life for himself and his family but disabilities such as blindness, deafness or dumbness and so on that can be tolerated in life are not acceptable for abortion and 3. Defect and deformity is 90 or 100% and 4. Doctors that provide the theory of birth defects should be specialist, skilled, Muslim, and at least two people(20).

Shiite jurists' views: apparently there is no inconsistency among the Shiite jurists' in general. According to them fetal growth has a continuum and it is not possible to separate one stage from another(18, 21). The prohibition covers all stages of pregnancy. For example, Imam Khomeini against the question of "Is it possible to abort the embryo after its formation?" says: "it is not permitted"(22, 23). Ayatollah Tabrizi in response to a question with the same content says: "abortion is not permitted", Ayatollah Khoi considered abortion impermissible at any stage and says: "abortion is not permitted, even if it is an embryo thus there is no difference between before and after four months. This is different in case that a danger threatens the mother's life. This hypothesis has two cases. Sometimes due to pregnancy the lives of mother and child are in danger where abortion is permissible(24). One can even consider abortion

obligatory in the case because in this case one life is saved. But sometimes only the mother's life is at risk and continuation of pregnancy causes harm to her and in this case the Shi'ite scholars have issued abortion permit fatwa because it is considered interference and one is the victim for another but the blood money should be paid. In other words, in this case the impositive decree is resolved but the religious restraining order is still in place(25). In this case the following question is asked from Ayatollah Khoi: Is a mother who should either survive and kill the child or keep the child and perish allowed to abort? Is it possible for the others who are responsible for her treatment to do the abortion? Are the words of the doctors valid? Decree for abortion prior to and after four months Answer: Yes, it is permissible and valid and as long as their error is not proved, paying the blood money is obligatory. As a result the only case that abortion is religiously permissible is mother's risk of life and fetal stages play no role here(15). On March 2002 Ayatollah Sanei issues a about several issues including abortion in this condition: abortion is permitted in the case that the continuation of pregnancy endangers the mother's life; in the case that fetus will have serious malformation after the birth, in the case that the fetus will not survive after the birth, in the case that it causes hardship he event of pregnancy due to rape. Some scholars had issued fatwa on these issues earlier but he answered other alternatives that were not expected. Referring to the principle of "no hardship" and meeting some abortion laws he permitted some of the above cases such as risk of life for mother, serious malformation or where it causes hardship for the parents. The text of his fatwa in the case of abortion due to rape is as follows: "before four months it is permitted by the rule of "no hardship" but after four months since it is proven to be murder legally in the case of legal children based on the text and it does not include such fetuses thus the abortion permission of such fetus due to issues related to human dignity and honor is not extravagant and all reasons for ruling out the hardship are included and it is not possible to rely on reverence(26).

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