

Mother's rights and the therapeutic abortion according to Islam

Fatemeh G.¹, Marzieh A.^{2*}

¹ Ghodrati Fatemeh, Assistant Professor, Department of Theology, Faculty of Humanities Science College, Yasouj University, Yasouj, Iran.

^{2*} Akbarzadeh Marzieh, Assistant Professor, Department of Midwifery, School of Nursing and Midwifery, Shiraz University of Medical Sciences, Shiraz, Iran.

The holy religion of Islam cares about the human life and even accepts the sperm which is placed in the womb to be the beginning of human life. This research aimed to survey various causes of abortion and the Islamic point of view before and after the transmigration of the soul and the mothers rights in Islam. This study is a survey of the religious texts regarding the aims. There are related keywords such as Ethics, Religious, Abortion and Fatwa of the Islamic jurists. We used various databases and the websites of Muslim authorities (the section which responds to religious questions). According to the respected human soul from the perspective of the divine legislator, most of the fatwas of the Islamic jurists are based on the impermissibility of abortion before the transmigration of the soul which is only allowed by relying on the principles of hardship, urgency, contradiction, principle of defense; abortion in order to eliminate the lifethreatening health of the mother; and some other cases. After the soul is breathed into the fetus, some of the contemporary jurists (such as Ayatollah Khomeini and Ayatollah Khamenei) have allowed the abortion under circumstances where the life of the mother is solely dependent on the abortion. And in no other circumstances has the abortion, which has been permitted before the soul is breathed into the fetus, is permitted after the soul is breathed into the fetus by any other ancient or contemporary jurists.

Conclusion: Islam, a religion which is defined by strong principles, has faced the social dilemma which has allowed abortion before and after the transmigration of the soul (such as a threat against the mothers life or health), but it is against the unconditional permission of abortion.

Keywords: Abortion, Islam, Mother, Right

Corresponding Author	How to Cite this Article	To Browse
Akbarzadeh Marzieh, Assistant Professor, Department of Midwifery, School of Nursing and Midwifery, Shiraz University of Medical Sciences, Shiraz, , Iran. Email: makbarzadm@sums.ac.ir	Ghodrati Fatemeh, Akbarzadeh Marzieh, Mother's rights and the therapeutic abortion according to Islam. <i>Biomed Rev J Basic Appl Med Sci.</i> 2016;3(1):134-140. Available From https://www.biomedicalreview.in/mother-s-rights-and-the-therapeutic-abortion-according-to-islam-research-article	

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Introduction

Induced abortion or elective abortion is referred to the termination of pregnancy which can be done by healthy medical conditions and is done according to the health standards and healthy legal policies, or it can be done outside the legal and medical system. An unhealthy abortion of the fetus may be damaging from the physical, mental and emotional point of view [1]. A major cause of unhealthy child abortion in the western countries is the sexual activities during adolescence which has caused an increase in the sexually transmitted diseases (STD) and unwanted pregnancies [2] and an increase in the incidents during pregnancy, intrapartum and the incidents of postpartum in pregnant teenagers [3].

In Islamic Republic of Iran, unwanted pregnancy is considered to be the main cause that under various circumstances, especially the existence of financial problems, leads to induced abortion. Religious beliefs are mentioned to be the most important reason for not attempting the intentional abortion [4]. Having many children, gender, family disputes, repeated and unwanted pregnancies, illegitimate sexual relations, lack of training and lack of precise knowledge over the fertility control methods and prevention of unwanted pregnancies make one perform non-healthy abortion [4].

In Iran, abortion of a fetus is restricted to certain legal and religious conditions, but at the moment, despite these conditions, a number of people who are not willing to continue their pregnancy due to their own reasons, attempt the abortion using secret illegal and unhealthy methods which in some cases occur with failure or even serious complications for the mother and fetus [6-7].

There are over 210 million pregnancies occurring around the world every year, 38% of which is unwanted and 22% leads to abortion; in Iran, there are about 80 thousand cases of abortions every year [8]. In a research in Iran, from a total of 1143 women with a history of pregnancy, 20.9% were unwanted and 8.3% were induced abortion [9].

In different countries, there have been various rules and regulations applied regarding abortion based on their own ideological belief. In the Islamic religious texts, there are various subjects that have discussed the maternal and fetal rights and it may be possible for the Fatwas of the Islamic

Jurists to be different over a single subject [10]. By the Shiite jurisprudents' fatwa, the fetus is a respected creature and its abortion is not permitted except for some special cases.

From the perspective of the Shiite jurisprudence view, with all due respect for the freedom of women around the religious rules, abortion is basically prohibited since the establishment of the sperm, and before the ensoulment, it is only permitted by referring to serious reasons such as severe hardship or miscarriage, and for after the ensoulment, it is absolutely not permitted by the reputed Shiite jurists whether the life of the mother is at risk or causing serious mental or psychological problems or even if the threat is upon the fetus itself [11-12].

The purpose of this article is to research the view of Islam in the case s of the risk for mother's life or health, existence of a fetus with physical deformities, multiple pregnancies and miscarriage, the incidence of an unwanted pregnancy, poverty and social problems and issues (rape); then abortion will be discussed according to the principles of Shiite jurisprudence before and after ensoulment.

The method

This study is a revision over religious texts regarding the aims. There are related keywords such as ethics, religious fatwa of the Islamic jurists, fatwa of the Shiite jurisprudents, interference, rational approach, and the doctrine of legitimate defense, deformed fetus, rape, incest, multiple pregnancies, unwanted pregnancy, and social and economic factors. We have also used the databases such as Google, pub med and magiran SID and also the section of the Muslim authority website which answers the religious questions.

Discussion

Abortion has always been a serious problem and in different societies, the efforts for reducing it has been known by the use of legal instruments, and overall, abortion has turned into medical, religious and a social discourse. In this article, various causes of abortion and the perspective of the Islamic jurisprudents before and after the ensoulment are discussed.

Saving the mother's life

Before the ensoulment

A. Contradictory rules and principles: This is regarding the case of illness, or the inability of the mother to continue the pregnancy period and labor and the risks which can threaten her health and life. Some of the jurists have known the fear of threatening the life of the mother by pregnancy to be a reason for abortion; this is because the intellectuals prioritize the existence of fear in the cases where assurance is mostly not possible [13]. And many jurists have known abortion to be permitted in serious life-threatening conditions for the mother before the ensoulment [14-16].

In fact, the mother can attempt abortion in order to save her own life. This is because in the issue of defense, there is no difference for the influx to be from an external or an internal factor [17]. In this case, the mother can save and defend her own life by abortion where the fetus is acting as a guest that has aimed to take the life of the host or the mother. In the case of life defense, even if the attacker is a respected soul and the life defense is dependent on killing him, putting an end to its life is permitted [18].

Therefore, the scholars of the science of principles have referred to the principle of contradictory rules and principles in order to fix this problem. In this case, the permit of abortion will be granted in order to save the life of the mother. (The principle of contradictory rules and principles: whenever two religious orders cause disturbance and nuisance for each other in a way that both rules cannot be operated at the same time, this situation is called contradiction) [19].

Now, some of the requests for religious opinion will be expressed: - Imam Khomeini (PBUH) has responded to the question which states that "if a lady has been pregnant for about one month and a half, and the doctors have said that pregnancy is a threat to her life and it will cause her to be paralyzed, is abortion allowed in this case?" The answer is "if it is harmful and threatens the life of the mother, abortion is permitted only before the ensoulment." Another question states "Is therapeutic abortion permitted for the advanced diseases which threaten the life of the mother when the fetus is under four months old?" The answer was "If there is a fear of a life-threatening situation, abortion is not denied before the ensoulment by the recognition of a trusted doctor." [20].

Ayatollah Khamenei also responds to the question which states "If continuing pregnancy threatens the mother's life, what will be the rules on abortion?" as follows "Abortion is religiously forbidden and it is not permitted under any circumstances, except for when the continuation of pregnancy is dangerous for the mother and then abortion will be permitted only if there has been no ensoulment." [21].

B. The principle of urgency: By relying on the third verse of Surat Al-Ma'idah, [22] which is in the position of removing the mandate of the obliged over special circumstances or being cornered, some jurists believe that by relying on this verse, the prohibition of abortion is eliminated at times of urgency [23-24]

Due to the possibility of saving one's life, the mother saves her life by urgently committing abortion, and according to the above reasons, there is no legitimacy or prohibition for her action. Before the ensoulment, saving the life of the respected soul, which is the mother, is deemed to be more important compared to the prohibition of abortion which cannot be titled as a respected soul. But after the ensoulment, one cannot rely on this principle for committing abortion because there are the lives of two respected souls being considered [18].

C. The principle of reason and logic: Sometimes, a verdict is appointed in the jurisprudential and principal rules by resorting to reasoning and argumentation; under the condition that the principle of reason and logic must not explicitly contradict the religious rules and foundations. For example, when a mother's life is being threatened by the fetus and the threat of the mother's death has originated from the fetus and the reason of the threat is the continuation of the fetus' life. Therefore we can claim that the principle reasoning and logic is that the mother is permitted to save her life from any internal or external threat, even if the threat is caused by the fetus inside her womb [23].

After the ensoulment

1. The Shiite and Sunni does not absolutely permit abortion if the mother's life is dependent over the abortion. Most of the jurists have not given the permit of abortion by relying over the reasons of urgency and the principle of no harm, because these religious principles do not include the induction of damage to another human (fetus).

Among the former jurists, none have permitted the abortion after the ensoulment for saving the life of the mother, unless there is a serious threat against the life of the mother which they have different opinions in this case. Some believe that abortion is strictly not permissible. Ayatollah Khomeini has permitted the murder and abortion of the fetus by the mother for the case of abortion (for the mother to survive) or the mother's death, but under the condition of making reliability by a medical specialist, and the blood money of the fetus is to be granted by the mother [24].

2.

A. Some of the contemporary jurists have approved the permit of abortion by relying on the principle of contradictory rules and principles.

B. Some have also given the permissibility of abortion by relying on the "principle of defense".

The principle of defense: The principle of defense is the permit of abortion for some of the jurists. By relying on the 195th verse of Surat Al-Baqara and the narrations, self-defense and the necessity of self-preservation are legitimate affairs. Which means the mother can attempt abortion for saving her own life. And this means that there is no difference between a fetus with or without the ensoulment, and the mother can defend herself at any stage against the threats and the problems that the fetus has caused for her. [25].

Ayatollah Khomeini has said the following regarding abortion: It is religiously forbidden and not permissible at any case, unless the continuation of pregnancy is a threat for the mother's life and in this case, there is no problem abortion if it is before the ensoulment. But for after the ensoulment, it is not permitted even if the continuation of pregnancy is dangerous for the mother's life, unless the continuation threatens the lives of both the mother and the fetus, and saving the baby's life is in no way possible, but the saving the mother's life is only possible by attempting an abortion [21].

C. Imam Ayatollah Khomeini has not made any priority for saving one life over another (the maternal and fetal life) and believe that if there is the knowledge of losing both of them where there is the possibility of saving one life, the subject must be chosen by drawing. For example, if two conjoined twins have faced insufficiency,

And we have the knowledge that both will die with continuing the coherence and there is no way except for killing one life in order to save another, it will be subjected to drawing and the doctors will have the permit of killing one of them by the draw. [24]. In the second case, if the mother has more possibility of living compared with the fetus, there will be no need for drawing lots the definitely surviving life will be saved against the life of the possible survival.

2. Protecting the health of the mother

Before the ensoulment: Abortion is permissible before the ensoulment for protecting the mother's health. In the event that continuing pregnancy will cause a severe illness, impairment or the intensification of the mother's illness, and on the other hand, the treatment of the mother will lead to abortion. Some of the jurists have given the permit of abortion in order to treat and protect the health of the mother.

A. Principle of rejecting hardship or "Osr-o-Haraj" by relying to the noble verse which states "He has chosen you and has not placed upon you in the religion any difficulty" (Surat Al-Haj 22:78), in a case where the survival of the fetus requires an unbearable pain and great suffering of the mother, and saving the fetus out of the womb is also not possible, abortion is possible [18].

B. On the other hand, the fetus is not counted to be a human or a respected soul before the ensoulment, to be the subject of murdering prohibition [14].

3. Principle of no harm: It is a principle originated from a famous narration of the prophet. "In Islam, there is no injury or malicious damage". There has been no verdict appointed by the legislator which contains a disadvantage for the obliged. In the cases where the survival of the fetus does a significant damage to the mother's health and threatens it in a manner that enduring it is not licit in terms of intellect, we can accept the abortion of the fetus before ensoulment for repelling harm from the mother. [16, 14].

After the ensoulment: As for after the ensoulment, we cannot rely on the principle of "no hardship" or "no harm" in favor of some (mother) and to the detriment of some other (fetus), because these principles include all of the people which are obliged [17].

3. Deformed fetus (Before the ensoulment):

The stressful mental state of the mother which is carrying an abnormal or a diseased fetus in her body, and that she must also be protecting him/her in the future. The abnormalities of the fetus have cause the issues of feeling pity for the fetus, pity for the parents and respecting their rights and the rights of the community [17].

Due to the extreme emotional hardship on parents, it is included under the principle of rejecting hardship, and abortion is permitted before the ensoulment.

Ayatollah Khamenei has not known abortion to be permitted in his first words even if it is requested by the parents regarding a fetus with severe thalassemia which has been approved by the doctors in the stage before ensoulment. But in his second words in reply of a religious question has stated the following regarding the abortion of fetuses which are affected by severe diseases in way that their life will be excruciating from the moment of birth until the end of life: "If the diagnosis of the disease is final, having and keeping such child might cause hardship, then it is permissible to attempt abortion before the ensoulment, but for taking precautions, his/her blood money must be paid.

After the ensoulment

A. Abortion at this stage is counted as murdering a respected soul, and its impermissibility is final.

B. Most of the contemporary jurists, do not believe the existence of a disease to be a permit for abortion even if it is intolerable and overwhelming, and believe this to be a test for the baby and the parents [18].

4. Fetus caused by an out-of-wedlock relationship or rape:

In these cases, the mother must carry a baby which constantly reminds her of the indecency and shamelessly of others, and is the result of violating her chastity and decency. Such pregnancy will definitely cause a great mental stress in a way that the mother will face hardship during pregnancy and after giving birth to the illegitimate child; the mother will face hardship and a lot of concern regarding the violation of the mother and her family's social status.

Ayatollah Fazel Lankarani has replied to a religious question regarding the permit of abortion of

A child caused by out-of-wedlock relationships in order to save her reputation or from the physical abuse of the family members, and has said the following: Yes, if the soul has not been yet breathed into the fetus (before four months) and still taking the primary stages, if the girl is assured and gives a rational probability that if she does not attempt an abortion, she will face an unbearable harassment and abuse, and she will face severe hardship, in this situation, it is possible for the abortion to be permissible [26].

5. Multiple pregnancies and abortion: Following the use of stimulation methods or infertility treatment methods such as the IVF, the percentage of having twins or prolificacy has increased which can cause side-effects and problems of pregnancy for the mother. In addition to that, the danger of abortion or preterm delivery increases in prolificacy. Therefore a technique has been offered named as selective reduction of the embryos [1].

Financial reasons: Sometimes when a family has already got some children, it may be possible for the mother to attempt abortion fearing that their increase might be setback for enough economic and social protection of the child. Out of poverty and harsh living conditions the attempt abortion on their child and god has explicitly ordered the following regarding these people in the verse 31 of Surat Al-'Isra': "And do not kill your children for fear of poverty. We provide for them and for you. Indeed, their killing is ever a great sin" [27].

Although if the financial problems of the family are extreme (hardship) and insolvency (urgency), first, the government and the economic authorities must find the origination of poverty, because the government might have a solution for fixing the poverty. And if the government failed and the poverty was also approved, according to Shiite jurisprudence, we can appoint a verdict for abortion before the ensoulment with the existence of strong reasoning. Therefore, the economical inability of the family cannot be a permit for abortion.

Social reasons: One of the social reasons which have caused abortion to increase is the increase of out-ofwedlock relationships and sexual relationships outside the context of official marriage. When the illicit relation leads to the creation of a fetus, the man and the woman are subsequently not ready for taking care of a child. Moreover, this child will

Be accounted as an illegitimate child. Having the brand of illegitimacy for the child will definitely ruin his future, and therefore an increase in the out-of-wedlock relationships have cause and increase to illegal abortions. [11]. Unhealthy abortions will lead to endangering the physical and mental health of the pregnant women, and an increase in the commitment of suicide amongst such women. Therefore, in order to coordinate with the realities of the society, this issue must be considered by the religious officials and jurists.

Unwanted pregnancy: If the pregnancy has been caused unwillingly, the reasons of the mother or the family for ending the pregnancy will be discussed during a consultation.

Ayatollah Khameneyi as a reply to a religious question of a person that has known pregnancy to cause psychological distress and hardship has said the following: "according to the psychological and medical distress and hardship and caused by unwanted pregnancy, we cannot say that abortion of such fetus before the ensoulment –four months– is impermissible due to hardship, while hardship and distress are ablative and abortion of such fetus is permissible. [21].

It is the worry and concern of not coordinating with the indicators of civilization that sometimes the women is afraid that may be the frequent pregnancies will prevent her from attending to her social activities or it affects her physical fitness or make her thoughts seem old that makes her refuse frequent pregnancies and in case of an unwanted pregnancy, she attempts the abortion which is not permitted by the law, and these are not among the cases of permitting abortion. In the end, by considering the direct relationship between abortion and the fading of religious beliefs and religiosity, [4] the urgency of coordination and participation of religious leaders, Islamic scientists, and also the legislative organizations and the educational and medical authorities for planning a social solution for this issue is a necessary action.

Conclusion

Since the human souls are respected in the religion of Islam, abortion has been banned by the holy legislator. In the urgencies of abortion (before the ensoulment) the impermissibility of abortion is mostly condemned and the permit

Of abortion is given by relying on the reasons of hardship and severe loss at times when the life of the mother is in danger, her health is being threatened, pregnancy of a deformed fetus, rape and also extreme financial poverty. But for after the ensoulment, most of the jurists believe the impermissibility of abortion to be absolute, even if it is destined to threat the mother's life. In the meantime, some have chosen the right of choice and have known its subject to be of the principle contradictory rules and principles and the principle of defense, or without paying attention to the realization or non-realization of the contradiction, just by relying to the principle of "the most important and the important" has known saving one of their lives (in a case where both cannot be saved) to be obligatory. Therefore by considering the holiness and enforceability of the religious orders, it is necessary for the mother to be consulted by the training and medical centers before facing unwanted pregnancy and illegal abortions, and have enough knowledge regarding the physical, mental, spiritual and religious side effects of the mother and the baby.

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