

Abortion

There are no "pro-life" and "pro-choice" lobbies in Islamic communities, with a raging battle such as takes place in America. Islam views abortion very differently from contraception, since the former entails the violation of a human life. The question that naturally arises is whether the term "human life" includes the life of the fetus in the womb. According to Islamic jurisprudence it does. Islam accords the fetus the status of "incomplete zimma". Zimma is the legal regard that allows rights and duties, and that of the fetus is incomplete in the sense that it has rights but owes no duties. Some of these rights of the fetus are:

(a) If a husband dies while his wife is pregnant, the law of inheritance recognizes the fetus as an inheritor if borne alive. Other inheritors would receive their shares in accordance with the prescribed juridical proportions, but only after the share of the unborn is set aside to await its birth.

(b) If a fetus is miscarried at any stage of pregnancy and shows signs of life such as a cough or movement and then it dies, such fetus has the right to inherit anything it was legally entitled to inherit from anyone who died after the beginning of the pregnancy. After this fetus dies, what it has inherited is inherited in turns by its legal heirs.

(c) If a woman commits a crime punishable by death and is proven pregnant, then the execution of the punishment shall be postponed until she gives birth and nurses her baby until it is weaned. This applies irrespective of the duration of the pregnancy, however early, denoting the right of the fetus to life from its beginning. It applies even if the pregnancy was illegitimate, which shows that the fetus conceived out of wedlock also has the right to life. All sects and juridical schools unanimously uphold this ruling.

There is also a money penalty for abortion even if it was inadvertent. This is called the "ghorra". If aggression or willful action causes abortion, suitable punishment by the court is also imposed.

The question of the beginning of life has been discussed since early times, since the admissibility of abortion hinged around the existence of life (some old jurists permitted abortion before four months, others before seven weeks, of pregnancy, on the assumption that life had not started in the pregnancy.) Some ten centuries ago, a notable scholar called Al-Ghazali rightly described a phase of imperceptible life, before the phase that the mother could feel in the form of fetal quickening. Recent juridical congresses reviewed the subject taking into account the applications of modern technology, and concluded that the stage of an individual's life that can be called its beginning should satisfy ALL the following criteria: (1) it should be a clear and well-defined event; (2) it should exhibit the cardinal feature of life: growth; (3) if this growth is not interrupted, it will naturally lead up to the subsequent stages of life as we know them; (4) it contains the genetic pattern that is characteristic of the human race at large, and also of a unique specific individual; and (5) it is not preceded by any other phase which combines the first four. Obviously, these postulates refer to fertilization. Abortion, however, is permitted if the continuation of pregnancy poses a threat on the mother. The Shari'a considers the mother to be the root and the fetus to be the offshoot; the latter to be sacrificed if this is necessary to save the former. There are some arguments also in favor of expanding the admissibility of abortion to cover drastic cases of congenital anomalies and fetal illness incompatible with feasible life if performed before pregnancy is four months.