

Abortion in Islam: Shariah Rulings on a Controversial Issue

By: Qazi Dr. Shaikh Abbas Borhany al-Waleed

PhD (USA), NDI, Shahadat al Aalamiyah (Al Hawzah, Najaf, Iraq), M.A, LLM (Shariah)

Musheer: Fed. Shariat Court of Pakistan

Member: Ulama Council of Pakistan

Chairman: The Guardian Pakistan

The Writer is an Attorney at Law and a Religious Scholar

Website: www.durrenajaf.com

Academia: <https://durrenajaf.academia.edu/QaziBorhany>

Contact for spiritual help: najafspiritualcenter@gmail.com

During the last 10 years, I have received several queries on the topic of abortion, under various circumstances. Here I have tried to deal with this sensitive & crucial topic in light of the Shariah.

Abstract: *This paper synthesises Shariah Talim on unintended pregnancy, abortion, and family planning, focusing on the protection of life, lineage, and maternal welfare. It begins with pregnancy outside wedlock and notes that, where paternity is known and conception occurred through a consensual relationship (including during engagement or a pre-marital relationship), the primary corrective option is to regularise the relationship through Nikah with the father of the child, thereby safeguarding the child's dignity and social rights. Where conception results from Zina bil-Jabr (rape), the position is different: the victim, whether unmarried or married-is permitted to terminate the pregnancy, recognising coercion and trauma as decisive factors. The paper then considers fatal deformity. Where a serious abnormality is confirmed on a final medical report, termination may be undertaken within the recommended period of four months from the last menses. This time marker is treated as a strict medical window linked to classical discussions of embryonic stages, not a matter of personal convenience. A further section addresses abortion to save the mother's life. Shariah permits termination on medical grounds when qualified physicians declare with reasonable certainty that continuing the pregnancy will endanger the woman's life. The Fuqha rationale is the principle of choosing the lesser of two harms - "al-Aham wal-Muhim" which means: "the more important, then the important". Allowing a living person to die is regarded as the greater wrong, so the lesser harm may be adopted to preserve life. The discussion also notes that, where pregnancy is terminated deliberately, Diyah becomes payable. The paper distinguishes family planning from abortion. Contraception prevents fertilisation or implantation, whereas abortion is the induced expulsion of the foetus with the intention of ending fatal life. While prophetic guidance encourages fertility, family planning is not deemed unlawful where it serves responsible parenting and supports raising well-nourished, educated children. Finally, the paper rejects abortion on grounds of poverty, career, luxury, gender preference, or similar motives, invoking warnings of the Qur'an against killing children for fear of want and emphasising shared parental responsibility. It concludes by recording graduated Diyah assessments for abortion at successive developmental stages and by recalling a moral poem that underscores the ethical gravity of abortion.*

Keywords: *Shariah; abortion; Zina bil-Jabr; fatal deformity; medical necessity; Diyah; family planning; contraception; Nikah; lineage – Nasab; Medical Doctor, Surgeon; Gynaecologist.*

Introductory Note:

The following Questions and Answers set out, in a structured form, the principal Shariah-based considerations relating to pregnancy, abortion, and family planning, including situations of unlawful intercourse, rape (Zina bil-Jabr), foetal deformity, and medical necessity. The responses aim to clarify the permissible options, the underlying juristic principles (including the doctrine of choosing the lesser harm), and the ethical gravity attached to the taking of life, while distinguishing contraception from abortion and addressing common contemporary justifications advanced for termination. These answers are intended as a consolidated reference for general understanding. In practice, individual circumstances may materially affect the ruling and its application-particularly where medical risk, gestational age, evidentiary considerations, or trauma is involved. Accordingly, where termination is contemplated, reliance should be placed on competent medical opinion (including a final medical report where relevant) and consultation with qualified religious authority, and-where applicable-advice on any governing legal requirements and potential liabilities (including Diyah) should also be obtained.

Q.1) *If somebody who is unmarried becomes pregnant, what choice(s) do they have-abortion or adoption?*

Ans. *In Shariah, the choices depend on the cause of conception and the presence (or absence) of lawful grounds for termination: Nikah with the father (where consensual and paternity is known): If pregnancy occurred through a consensual relationship, the first and preferred option is to enter into Nikah with the father, to protect lineage and the child's rights. Carry to term and place the child in care - adoption/Kafālah: If Nikah is not possible or not chosen, the woman may carry the pregnancy to term and arrange for the child to be raised under lawful guardianship/care - Kafālah. This achieves the practical objective of "adoption" while preserving the child's lineage. Abortion only on recognised grounds: Termination is permitted where pregnancy results from Zina bil-Jabr (rape) (and, separately, where doctors certify serious danger to the mother's life, or within the stated medical window in cases of confirmed grave deformity).*

Q.2). *Is abortion allowed if the child could be handicapped?*

Ans. *In case of deformity in an unborn child, termination of pregnancy should be done on the final medical report within the recommended period which is four months from the last menses.*

Q.3). *If a married woman gets pregnant due to "Zina bil-Jabr", what choice does she have?*

Ans. *The victim is allowed to terminate the pregnancy.*

Q.4). *Is abortion allowed to save the life of the mother?*

Ans. *Abortion is allowed on medical grounds where it can save the life of the mother. The mother should be saved as she is alive and has a greater right to life. If the pregnancy is aborted deliberately, Diyah has to be paid as well. Shariah allows abortion only when doctors declare*

with reasonable certainty that the continuation of the pregnancy will endanger the woman's life. This permission is based on the principle of lesser of the two evils, known in the terminology of Fiqh: Al Aham Wal Muhim - the more important and the less important. It means "the more important, then the important"-i.e., rank matters by importance and start with what is weightier. It refers to the rule that when two duties/interests compete and you cannot fully do both, you give precedence to the one that is "more important" - al-Aham over the one that is merely "important"- al-Muhim. Rasulullah (S) informs that when two forbidden things come (upon a person) together and one has to choose one, the lesser will be sacrificed for the greater. In the present case, one is faced with two forbidden things: either abort the unborn child or let a living woman die. Obviously, the latter is a greater wrong than the former, therefore, abortion is only allowed to save the living in such a state.

Q.5). What is the difference between Family Planning and Abortion?

Ans. Family planning and abortion are two completely different matters. Contraception prevents the fertilization of the ovum or the implantation of the fertilized ovum. This is obviously unlike abortion which is an induced expulsion of the foetus from the womb with the intention of killing it.

Q.6). What is the status of Family Planning in the light of the following Hadith: "Marry those who are loving and fertile, for I will be proud of your great numbers before the other nations."

Ans. Apparently this Hadith indicates that it is encouraged to have many children. One of the intentions behind marriage is to have children, and this is an act of ibadah for which one will be rewarded because of one's good intention. After the death of parents, their righteous children are a source of blessings. It is well known that having children is the great desire of many and that will continue to be the case so long as the human innate Fitrah remains sound. Children are a blessing whom people love and on whom they pin their hopes. Undoubtedly the benefit of increasing the productive nation is obvious but no one desires an army of fools. Hence, if family planning allows the couple to have less children but those who are highly educated and well-nourished, then this is better than producing more children in poverty and ignorance. This is why family planning is not illegal.

Q.7). Many couples terminate pregnancy on the ground of financial crisis; is this allowed?

Ans. Without a doubt, poverty can be crushing and a hardship in society, and it is often hard to overcome. Islam however does not permit abortion on the excuse of poverty. Ayah 8 of Surah al-Takwir clearly explains that on the day of the Qayamah parents will be asked to explain on what ground and against which crime they killed the new born, innocent existence. What is the crime of the innocent baby? The parents have no right to do so and deprive the innocent baby from life. Ayah 31 of Surah Bani Israel clearly guides us:

"Do not kill your children on the excuse of poverty. We are responsible to provide you Rizaq for them. To kill children is a great sin".

Moreover, abortion is quite dangerous for the health of the mother. Many gynecologists opine that abortion can lead to shortening the life and many scientific researchers have concluded that abortion ruins the woman's psychological health as well.

Upon pregnancy, it is the duty of the parents to share the responsibilities and divide the workload. Unfortunately, abortion has become common today due to various reasons:
Sometimes it is a matter of choice between a child and a career.
Sometimes it is a matter of choice between a child and a luxurious life style.
Sometimes it is because of the unwanted gender of the child.
All these justifications are unacceptable from the Shariah point of view.

Q.8). What is the penalty Shariah has fixed for Abortion?

Ans. Moula Abi Abdillah Al Imam Jafar al-Sadiq (as) says:

- i. If the aborted issue is a Nutfah, then it is liable for payment equal to murder, in terms of twenty Din'ar.
- ii. If it is an Alaqah, then the penalty imposed is forty Din'ar.
- iii. If it is a Musgh'a, then the penalty imposed is sixty Din'ar.
- iv. If it is a bony structure then eighty Din'ar should be paid.
- v. In case of a complete human body, the penalty is one hundred Din'ar.
- vi. In case of murder of an infant, full Diyah as prescribed under the law should be paid (Wasa'il, vol. 19, Beirut, Lebanon).

Khanam Afsar Muluk Aamilee, a renowned Persian poet, composed a moving poem in Farsi (Persian) on abortion titled "Look! Ask from My Mother."

While the beauty of Farsi resist complete translation, I have tried to maintain that follow and preserve the poem's emotional and ethical force. The poem proceeds on the premise that an aborted, innocent child appears to his mother in a dream and questions her.

Mother! What was my mistake?
You have killed me without any crime!

I lived peacefully;
So why was my death warrant issued?

O Mother! You have sharpened your teeth in me;
And spoiled your skirt with my blood.

I had come to you as a guest;
And my presence did not bring you any harm.

It was binding on you to show cordiality;
Whereas you showed cruelty.

*You were anxious about my expenditure;
So you killed me.*

*O Mother! I had come to you with my Rizaq;
But alas you did not believe in it.*

*A child's hope rests with their own mother;
It feels much pleasure and peace when close to her.*

*I wished to look upon your face;
And pick up a blooming rose from your beauty.*

*My desire was to suck your bosom;
And provide relief to your grief.*

*My wish was to drink your milk;
And to hear your voice in my ears.*

*My thought was that you will be so happy and pleased;
To see my smiling face and sit near me.*

*My hopes were that you will send me to school;
And give me the education of Haq.*

*When I reach back home;
And make you happy with my presence*

*That I will sing sweet songs for you;
It was my dream to grow up*

*That you will appreciate my presence in your old age;
I may be a helper for you during it*

*I am now a pious soul in Jannah;
Among the company of the Hooris.*

*Now you do Taubah and offer 'istaghfar;
Perhaps Allah may with his Rahmah forgive you.*

*O Afsar! Someone should guide such mothers;
And convey them my message.*

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