



INDUCED ABORTION IN PENAL LAW AND FORENSIC MEDICINE OF THE ISLAMIC REPUBLIC OF IRAN

Hamid Reza Taleghani Isfahani

Ph.D ,Assistant Professor of Department of Islamic Education, Isfahan University of Medical Sciences, P.O. Box 319, Hezar- Jerib Ave, Isfahan, IR Iran

ARTICLE INFO

Received:

03th Jun 2017

Accepted:

29th Nov 2017

Available online:

14th Dec 2017

Keywords: *abortion, Islamic penal code of law, forensic medicine, Islamic Republic of Iran*

ABSTRACT

The entire today's human communities are faced with a disorder called criminal induced abortion; but another type of the induced abortion is medical abortion that cannot be considered criminal. The current analytical-descriptive study has made based on library research to find an answer to the question as to "what has the Islamic Republic of Iran legally approached the induced abortion, including criminal and medical?" The holy Quran and the Islamic jurisprudence, venerating the human personality, from the very beginning of fetus creation and formation till the birth and afterwards up to the point of death spreads a comprehensive legal system before the mankind in which fetus protection and the necessity to observe its honor and reverence is a principle. Shiite jurisprudential verdicts regarding fetus and, subsequently, the regulations that are currently being exercised in Iran's criminal law follow the same principle implying that every single one of the human beings even in embryonic stage should enjoy identical conditions and criteria of "human veneration" and "the right to live". Human veneration and the right to live are the origins of all the other rights and if these are ignored the other human rights will be abused as well.

Copyright © 2013 - All Rights Reserved - Pharmacophore

To Cite This Article: Hamid Reza Taleghani Isfahani, (2017), "Induced Abortion in Penal Law and Forensic Medicine of the Islamic Republic of Iran", *Pharmacophore*, 8(6S), e-1173392.

Introduction

Human beings play an important and unique role in the creation system. Thus, the humans' beginning and ending of their lives have always been studied by the various thinkers as well as by the divine religions. "Embryology", as a branch related to anthropology and investigating mankind's life periods and growth before being born, enjoys an archaeological history and it has been the topic of the serious discussions since the Ancient Greek era and stoics epoch (1).

Induced abortion, as well, is a social and medical phenomenon that has long been dealt with in the majority of the communities and its social aspect has been increasingly debated during the contemporary era and it is undergoing a process of constant expansion for the time being.

Medical abortion is allowed in the entire human communities under certain conditions and specifications (2); although its social type is prone to different kinds of misuses but it is enumerated among the disorders and abnormalities of the today's communities and its dazzling increase is the effect of psychological confusions and unduly free lifestyles which has taken a firm grip of the developed communities due to their being inflicted with a decline in spirituality and ethics (3; 4).

In some of these communities, induced abortion is considered as the primary social rights of the women for such reasons as considering it as an individual right and that the human beings are free to decide about their own health and also that they can enjoy their freedoms and volitions over their own bodies (5). Nowadays, illegal abortion is regarded as one of the most critical healthcare problems worldwide (6).

However, the important matter that is of concern to the current research paper is that "what stance has been adopted by the Islamic Republic of Iran in regard of induced abortion, including criminal and medical abortions?"

1. A Succinct Elucidation of Abortion:

1.1. Defining Induced Abortion:

1. Induced and willful ejection of a woman's gestation product before the due date;
2. Ejecting the gestation product from the uterus when the fetus is not capable of surviving outside thereof;
3. Ejection of gestation product before week 20 of pregnancy;
4. Intentional or spontaneous ejection of the fetus before the natural date;
5. Termination of pregnancy at a stage in which the fetus is not capable of surviving outside the uterus, and finally WHO defines abortion as below:
6. Spontaneous or induced cessation of pregnancy during a period from the first day of menstruation till the week 20 of pregnancy (7; 8; 9; 10: 11).

1.2. Fetus Development in Uterus and Embryonic Stages:

After fertilization and spermatozoid entry to oocyte, cell divisions follow and a cell mass is formed. At the end of the first week, the foresaid mass begins nesting and in the second week the stage completes with fetus being emplaced in the uterus wall. The main organs of the fetus form from the week 3 to the week 8 that is called embryonic period; but the human fetus cannot be distinguished from the other mammals half a way to the second month of conception and the recognition is made possible at the end of the second month. In the third month of fetus formation, its reproduction organ is also developed hence the gender can be determined. At the end of the fifth month, the fetus's eyebrow and head's hair are visible and the mother can feel the fetus's movements. During the upcoming months, the fetus continues growth and perfection and it is only during early tenth month that the fetus is ready to be born while it weighs about three kilograms (Ibid).

Based on Islamic sources, especially according to Holy Quran's AYAT 13 to 15 of the Surah Mu'minin and the AYA 5 of Surah Hajj, the fetus's growth stages are: "Notfeh", "Alaqeh", "Mozqeh", "Izam" and "woluj Al-Ruh".

1.3. Perceptions of a Fetus:

In this regard, there is a great deal of discrepancy among the scientists of the field (12; 13). Judith Thompson divides the collection of theories in this regard to four sets:

- 1) The theory of birthday: based on this perspective, fetus cannot be considered a human being unless it is born and an infant is considered a human being since the birth date. He knows this perspective as being rather ancient and it is confirmed as well by the contemporary Jews (14).
- 2) The theory of gestation onset: some believe that as soon as a fertilized egg is formed and even before the beginning of cell divisions and propagation, the newly formed creature is a human being. These are of the belief that the fetus is a live, dynamic and evolving creature since the very beginning of its genesis. One such individual is Dan Markey (1996) who writes in an article titled "the wrongfulness of abortion" that "by fetus I mean a human being who is growing since its conception till birth. Therefore, I, as it is common, call the seminal oocyte and the fertilized ovum a fetus" (15).
- 3) The theory of fetus's motions: the proponents of this viewpoint believe that the first tangible movement of the fetus in the mother's uterus is the beginning of its human life; that means the date at which the mother feels the first movement by her fetus.
- 4) The theory of viability: the proponents of this perspective propose the fetus's potential ability for surviving outside the mother's uterus, even by means of medical devices, as an appropriate criterion for the determination of fetus's human life initiation (1).

It seems that the first perspective generally ignores the humans' embryonic period; whereas, scientifically, it is evident that the fetus qualifies the human traits since the week 18.

The second perspective that considers the conception as the beginning of human life cannot be justified; because, the seminal cell resulting from fertilization of an egg is devoid of any human characteristics and it solely can be turned into a human being qualified for an independent life potentially after weeks of growth and development.

The third approach cannot as well offer a fixed scientific criterion that can be generalized to the entire cases; in other words, the feeling of fetus movement by the mother is a personal matter in the first place and, secondly, does this first movement by the fetus happen identically in all of the cases and can all the mothers feel their fetuses' movement exactly within a certain time interval since the conception? A scientific response to this question is negative. Therefore, it is worthwhile to determine a fixed and precise scale that marks the human life initiation and presents a source of reference for specific legal effects and takes the rights of the fetuses into consideration.

Of course, it seems that this perspective is close to the Holy Quran's approach and the Islam Religion's that consider the ensouling of a fetus as the beginning of the human life but basing it on the fetus's first movement in the mother's uterus and her perception of the fetus's first move cannot be a correct and accurate scale.

As for the fourth perspective, it has to be mentioned that the fetus's potential competency for surviving outside the mother's uterus is a function of scientific research and studies and such a potential capability cannot be envisaged as a fixed scale, as well, because it undergoes changes with the progress in the medical knowledge and the invention of more efficient devices that render possible the life a fetus outside the uterus. The holy Quran in the AYAT 13&14 of the Surah Mu'minin, firstly, presents the five-fold stages of fetus growth, namely "Notfeh", "Alaqeh", "Mozqeh", "Izam" and "woluj Al-Ruh" that respectively mean semen and liquid, coagulum, like a chewed meat and formation of bones and flesh on the fetus's bones.

Although this fivefold stage is important in terms of every single constituent thereof and replete with wonders but the most important stage, the sixth one, is the creation of a new creature for which the eminent God has admired Himself.

The majority of the Holy Quran interpreters and Islamic jurisprudence opine that this stage is the one that the fetus finds a human life (16, p.25).

In other words, the stages one to five of the fetus's growth and development are the preliminary stages to a final stage of fetus creation and the human life begins here (9, p.25).

The fetus fits a human soul at this stage and it seems scientifically that the heart beat initiation marks its initiation (17).

In summary, it can be said that this latter perspective conforms to the decrees issued by Shiite exegetes because they seem to have reached a consensus that in case a mother is at risk of life, abortion is permissible before the fetus ensoulment. Based on scientific research, ensoulment corresponds to the month four of the embryonic stage and the Islamic Republic of Iran's forensic medicine adheres to the same scale according to the extant rules.

There is no doubt that in Islam and Shiite jurisprudence, the fetus has been given certain rights even before ensoulment as the article 716 of the new Islamic penal code of law, following the lead of Imamiyyeh Jurisprudence, clarifies a five-fold stage for the fetus growth, namely conception, coagulum, lump of flesh, bone formation and ensoulment. The aforementioned provision has determined an age for each of the abovementioned stages and specifies certain atonement based on the fetus's abortion at each of the foresaid stages and the paragraph "C" thereof stipulates that the atonement for the fetus that has gained soul is equal to atonement for a perfect human being (Ibid).

2. Islamic Republic of Iran's Legal Approach towards Induced Abortion:

Induced abortion cannot be always considered a crime because there are various cases that the intellectual expediencies of a fetus or its mother or both renders unavoidable taking measures in line with induced abortion that is also termed "medical abortion". In the Islamic Republic of Iran's legal system, these two are different from one another and criminal abortion has been reproached and punishments have been predicted for its perpetrator(s); in the meanwhile, medical abortion has been granted permissibility considering strict and accurate constraints and stipulations.

2.1. Criminal Abortion Punishment in the Islamic Republic of Iran's law:

The legal source of the punishments for crime in Iran's criminal law is the Islamic penal code of law approved in 2013 which was also confirmed by the Guardians Council at 11/05/2013. In sum, it has to be said that articles 306 and 716-721 of the new Islamic penal code of law specifies criminal abortion.

2.1.1. Criminal Abortion by the Mother:

According to the article 718 of the aforementioned law, "whenever a woman intentionally, quasi-intentionally or by mistake destroys her fetus, at whatever the stage of growth, she or her husband should pay atonement, depending on the case".

How much atonement should be paid?

Article 716 of the same law determines the atonement rate as stated below and it asserts that "the abortion atonement is as below:

- (a) For the fertilized egg that is nested in the uterus wall, two percent of the total atonement should be paid;
- (b) For the coagulum in which the fetus has been formed into a closed blood, four percent of the total atonement should be paid;
- (c) For the lump of flesh in which the fetus has taken the form of a morsel of flesh, six percent of the total atonement should be paid;
- (d) For the stage in which the fetus has grown bones but the flesh is yet to be developed, eight percent of the total atonement should be paid;
- (e) For the fetus that has grown perfectly the bones and the flesh but the ensoulment has not been completed, ten percent of the total atonement should be paid; and,
- (f) For a fetus that has gained a soul, the atonement is the total sum of atonement as specified in the law if he is a boy and half of the total sum if she is a girl and if it is not clear whether s/he is a he or a she then the three quarters of the total atonement sum should be paid".

Therefore, for any case in which the payment of a sum of atonement is sentenced, including the case where the atonement should be paid by the mother or others, the aforementioned article is the base of action and article 719 stipulates that "when there are several fetuses inside a uterus, the abortion of each requires separate atonements".

The above-cited provision even stipulates certain atonements to be paid for the fetus's body organs and it states in the article 720 that "the atonement for the fetus's body organs as well as the atonement for any injuries caused to the fetus at a stage where its bones are grown perfectly but the ensoulment is yet to be finished should be computed in proportion to the atonement specified for the fetuses at this stage of their development and after the ensoulment, the atonement should be calculated based on its gender and if the fetus is destroyed as a result of the same crime, only the atonement should be paid as clarified above".

2.1.2. Abortion as a result of Beating or Annoying and/or Murdering the Fetus or a Pregnant Woman:

Article 306 of the new law stipulates that "intentional crime against a fetus, even after ensoulment, does not necessitate retaliation. In such a case, the perpetrator is sentenced to Canonical Punishment of Ta'azir as specified in the fifth book of Ta'azirat besides paying atonement.

Note: if a fetus is born alive and capable of continuing life and a crime before its birth results in its defection or death after it is born or in case that the defection persists after its birth, the perpetrator is to be retaliated”.

Article 717 of the new law stipulates that “whenever a fetus is destroyed as a result of incurring the mother with crimes, besides atonement or a pecuniary punishment for the crime sustained by the mother, certain amount of atonement should be paid for the fetus according to whatever the stage of growth s/he is in”.

It can be understood from whatever was presented so far that Islamic Republic of Iran protects and supports the fetus at any stage of its growth and perpetration of any crime against a fetus, whether be it performed by the mother or any other person, will be punished in proportion to its growth stage.

2.2. Medical Abortion in Islamic Republic of Iran’s Law:

The note to the article 718 of the Islamic penal code of law specifies that “whenever a fetus’s survival endangers the mother’s life it can be aborted with no atonement being required to be paid”. In this way, the aforementioned law excludes the medical abortion from criminal abortion punishments; and, the issue has been dealt with elsewhere in a single article enacted in 2005 by Islamic Consultative Assembly.

Islamic Jurisprudence and, subsequently, the Islamic Republic of Iran’s laws take a realistic approach to abortion and allow it solely under special medical conditions that can be justified intellectually and scientifically. Islamic Consultative Assembly in 2005 approved a single article permitting medical abortion. The foresaid single article was enacted in an open session on Tuesday, 10/06/2005 and it was passed by the Guardians Council at 25/05/2005.

The article reads: “medical abortion, before ensoulment of the fetus (month four) is allowed by the mother’s consent through a decisive diagnosis by three specialized physician and a confirmation by forensic medicine indicating any sort of mental retardation or physical defection in the fetus that will later on bring about the grounding for the mother’s painful life or the presence of a disease in the mother that is concomitantly accompanied by a risk of mother’s life and the assisting physician will not be liable to any punishment or responsibility. The violators of the contents cited in this law will be sentenced to the punishments specified in the Islamic penal code of law”.

The aforementioned enactment is comprised of two parts: the first part pertains to a mentally retarded or physically impaired fetus the rearing of which by the mother would cause a lot of difficulties to the mother and the second part posits cases in which continuation of pregnancy threatens the mother’s life due to the existence of a certain disease.

The term “by the mother’s consent” in the aforesaid single article implies that there is no need for the father to be present and express his agreement if an abortion permit is to be granted and the mere mother’s consent suffices.

The important question here is that with the existence of such a single article and the permit it grants to medical abortion, does the physician still needs permission by the parent or is he required to acquire an acquittance as stipulated in article 495, 496 and 497 of the Islamic penal code of law?

Article 495 states that “whenever a physician causes a physical injury or a loss in the course of treatment of a patient, s/he is liable to atonement payment unless his or her actions are found corresponding to the medical regulations and technical rules; or unless s/he has acquired an acquittal letter before the onset of treatment and performed no fault and if the acquittance acquired is rendered invalid due to the immaturity or insanity of the patient and/or if the acquisition of an acquittal letter is rendered impossible for the patient being in a state of coma, then the acquittance should be acquired from the patient’s parents”.

Note (1): In case that the physician is found faultless in theory and practice, s/he is not liable to any punishment even though an acquittal letter has not been acquired.

Note (2): Patient’s parent includes specific parents such as a father and general parent which is the supreme leader. In case of the specific parents’ unavailability, the head of judicature, being granted with permission from the supreme leader and vesting authority to the attendant attorney generals take measure in granting the physician with an acquittance.

Therefore, the physician is not liable to atonement payment in either of the two abovementioned cases or both; firstly, correspondence is required between his or her actions and measures with the medical rules and technical regulations and, secondly, acquiring an acquittal letter from the patient and/or his or her parent; with this extra explanation that acquisition of an acquittal letter renders the physician not liable to any payment of atonement provided that s/he is found not performing any fault in the course of treatment.

Note (1): in the abovementioned cases, when the patient or nurse know that the instructions are wrong and cause injury or loss and continue executing them knowingly the physician is no to be held liable rather the injury or damage should be shouldered by the patient or the nurse.

Note (2): in amputation or the injuries caused during medical treatments, the measures are taken corresponding to the article 495 of the same law.

Article 497, as well, emphasizes the aforementioned cases and states that “in cases of emergency when there is no possibility for acquiring an acquittal letter and the physician takes medical measures, corresponding to the regulations, in line with the treatment nobody should be held liable for the losses or injuries, if any”.

It is highly important to note that the single article enacted in 2005 is specifically connected to medical abortion; not the other treatments or medical operations; while the three aforesaid articles incorporate the other types of treatments and medical operations, as well. It means that the physician’s compliance of measures and interventions to the medical rules and

technical regulations or, instead, an acquisition of an acquittal letter from the patient or his or her parents removes any responsibility giving rise to the payment of atonement in the other treatments and medical measures; but, the foresaid single article on medical abortion equalizes a permission granted by the legislator to the parents' permission and acquittal letter and the physician's exemption from atonement payment and compensation for the losses is only rendered possible when the conditions and criteria stipulated in the single article are exactly observed. These conditions and criteria are:

Firstly, decisive diagnosis by three specialized physicians and confirmation by forensic medicine; thus, the physician cannot suffice to his own sole diagnosis and/or perform abortion without it being affirmed by the forensic medicine.

Secondly, the medical abortion should be before fetus's ensoulment (month four); thus, the physician cannot perform abortion after the fetus's ensoulment or, in other words, after the month four of gestation.

Thirdly, mother's consent; thus, the physician is obliged to acquire a consent letter from the mother besides adhering to the aforementioned criteria.

The result is that lack of adherence to any of the aforementioned rules and criteria as well as perpetration of any fault in the process of medical abortion will make the physician and others involved liable to medical responsibilities and atonement payment.

2.2.1. Medical Abortion in Islamic Republic of Iran's Forensic Medicine:

Currently, corresponding to the single article, enacted in 2005, the major source of issuing abortion permit is the Islamic Republic of Iran's forensic medicine organization, and the provincial forensic medicine offices. Therefore, in case that an obstetrician or a gynecologist realizes, after performing the necessary examinations, that the continuation of pregnancy exposes the mother or the fetus to a risk of life, s/he should refer the patient to the provincial forensic medicine offices maximum till the month four of gestation and it is only after running the required analyses and investigation that a medical abortion permit might be granted. The letter of recommendation by the specialized physician should be appended with the patient's photo, bearing the stamp of the corresponding physician, the couples identification documents and specifications for identity recognition, diagnosis of the disease and prognostication method (symptoms, signs and paraclinical tests) and the document and evidence related thereto. In case of fetus-driven abortion necessities, there is a need for at least two sessions of sonography and in case of mother-driven abortion necessities, there is a need for at least one sonography session during which pregnancy duration is determined and the test results are accompanied by the physician's letter of recommendation in order to refer the patient to the provincial forensic medicine offices. In addition, the corresponding physician has to append a confirmation letter to the document indicating the accomplishment of at least two sessions of specialized counseling regarding the diagnosis of the fetus or the mother's disease.

As usual, the pregnant mother should refer to the provincial forensic medicine office and deliver the aforementioned letter of recommendation as well as all the documents annexed thereto for a return of which a medical abortion form is received and completed accordingly. The forensic medicine office will investigate the file as soon as possible and the applicant will be informed of the decisions made. If the decision indicates the permissibility of the abortion it will be accompanied by an order from a judicial authority, usually the justice department vice chancellorship, and it is only then that medical abortion is carried out through an observation of all the healthcare and treatment aspects.

2.2.2. Medical Abortion Allowed Cases in the Islamic Republic of Iran's Forensic Medicine:

At present, the decision-making criteria by the provincial forensic medicine offices is the circular no.1/4176, circulated by the Islamic Republic of Iran's Forensic Medicine Organization at 11/12/2003 in which there is explicitly outlined the abortion cases in regard of the fetus's death or mother's risk of life; but, it has been simultaneously indicated that cases other than what is specified in the circular can also be investigated with the difference that besides all the required document there is a need for a confirmation letter indicating the accomplishment of at least three sessions of specialized counseling regarding the existence of a disorder that would otherwise lead to the death of the fetus or the mother.

2.2.2.1. Medical Abortion Indications in regard of Mother-related Diseases:

A) Heart:

- 1) any valve diseases that result in heart failure leading to Class III and IV malfunction and irreversible to Class II;
- 2) Any acute heart problem involving parts other than coronary arteries that has reached to an intensity of class III and IV malfunctioning including myocarditis and pericarditis;
- 3) A past history of dilated cardiomyopathy in prior pregnancies;
- 4) Marfan Syndrome in case that the ascending aorta is more than five centimeters in diameter; and,
- 5) Eisenmenger.

B) Digestive Tract:

- 1) Fatty liver of pregnancy;
- 2) Grade III esophageal varices;
- 3) A past history of esophageal varice bleeding as a result of portal hypertension;
- 4) Uncontrollable autoimmune hepatitis

C) Nephrology:

- 1) Renal impairment;

2) Hypertension uncontrollable via pregnancy permissible medications

D) Lungs:

Any pulmonary diseases including amphiem, fibrosis, keiphoscoliosis and bronchiectasis on the condition that they cause pulmonary hypertension even of the weak type

E) Hematology:

Coagulopathies that exacerbate upon administering heparin and thus threatening the mother's life

F) Infection:

Being diagnosed with HIV that is developed to AIDs stage

G) Rheumatology:

1) Uncontrollable active Lupus engaging a major organ; and,

2) Vasculitis, when a major organ is engaged.

H) Nerve Surgery:

All the peripheral CNS masses according to their type and location for which the initiation of treatment in fetus and the lack of treatment initiation for the mother poses a risk of life

I) Skin:

Vulgaris Pemphigus, severe and generalized psoriasis and advanced type melanoma that cause the mother to be at serious life risk

J) Neurology:

1) Epilepsy resistant to multi-drug treatment;

2) MSs that have made the patient unable and handicapped;

3) Advanced gravis myasthenia in case it poses a mother's risk of life;

4) Certain kinds of motor neuron diseases; like ALS that exacerbates in pregnancy and exposes the mother to serious risk of life.

2.2.2.2. Medication Abortion Indications regarding Fetus's Diseases:

It includes indications for fetus disorders that lead to the death of fetus inside the uterus (stillbirth) or the death of the infant immediately after birth:

A) Surgery and Orthopaedy:

1) Congenital imperfect osteogenesis;

2) Puller bone-cartilage dysplasia or epypheasal stillness; and,

3) Infantile osteopetrosis (malignant form).

B) Nephrology and Urology:

1) Bilateral renal agnesis;

2) Non-dominant polycystic kidney;

3) Multi-cystic dysplastic kidney;

4) Potter syndrome;

5) Congenital nephritic syndrome provided that it results in hydrops;

6) Chromosomal impairments that cause advanced lesions, especially with the engagement of the brain and kidney (such as VACTERL syndrome); and,

7) Severe hydronephrosis at both sides of the kidneys.

C) Hematology:

1) Alpha leukemia (in the form of fetalis hydrops);

2) Thrombotic disorder: such as homozygous protein C deficiency and Factor Five Leiden (Homozygote)

D) Infants:

1) Trisomy 13;

2) Trisomy 18;

3) Trisomy 3/8/16;

4) Anencephaly;

5) Fetalis hydrops with any mechanism;

6) Cat cry syndrome;

7) Holoprosencephaly;

8) Syrengomyelia;

9) Cranioschisis;

10) Meningoencephalocele, menengohydroencephalocele;

11) Thanatophoric dysplasia or infantile fatal dwarfism;

12) Cyclopia accompanied by holoprosencephaly;

13) Congenital gravis ichthyosis;

14) Schizencephaly, and,

15) Exencephaly

As it was said, the cases outside the above indications can also be suggested for further investigation on the condition that besides the entire required documents, as outlined above, a confirmation letter is issued confirming the accomplishment of at least three sessions of specialized counseling regarding the disorders posing fetus or the mother's life threats.

Conclusion and Summarization

Abortion has become one of the most extensive and the most perplexing social issues and problems in the present era and despite all the efforts made by the scientists and good minds in line with its prevention or reduction it has continued its ascending trend and the issue is still having the governments and nations substantially concerned. The provided solutions have not led to a general consensus by the human communities' thinkers due to the diversity and multiplicity of the ideologies and ethical schools attitudes and they are most often found contradicting one another and it has to be said that, unfortunately, some of these thoughts and contemplations have not only not resolved such a huge social challenge but they also have resulted in its becoming legally customary via gaining support from some of the governments. Cultural and social factors as well as, particularly, unduly free lustful relationships in various communities, weakening of the family foundation and an array of the other factors have paved the way for the exacerbation of such a disorder and the offered solutions have not relaxed the pains of such a social wound.

Within the stretch of Islamic civilization, there is this general belief that the Holy Quran and Islam Religion, with its specific comprehensiveness, provides the mankind with the last and most superior methods for a safe and sound move through the individual and social problems.

The holy Quran, greatly venerating the human personality, provides the human beings with a comprehensive legal system that incorporates the life since the very beginning of creation and formation of a fetus till its birth and after that into the adulthood and finally death; protection of fetus and the necessity to observe the fetus's human veneration and reverence are also covered in this legal system. From the perspective of the Holy Quran, all humans, including the fetuses, should identically enjoy the benefits of such principles as "human veneration" and "the right to live" under certain conditions and considering certain criteria.

Human veneration and the right to live are the sources of all the other human rights. If these principles are ignored then the other rights will be trampled, as well. Thus, the Holy Quran knows murdering of an innocent human being equal to killing the mass of all human beings (Ma'ida: 32) and it is also stated in the discourses made by the Great Apostle of Islam (may Allah bestow him and his sacred progeny with the best of His regards) that "if all of the people of heavens and earth participate in shedding the blood of a Muslim and do not express their disagreement the God will throw them all into the fire of hell by their faces" (18)

Respectful attitudes towards the human beings and, subsequently, to mothers and their fetuses are frequently mentioned in the Islam's jurisprudential verdicts and the Islamic Republic of Iran as the only government based on the Islam religion in the today's world has always endeavored to make statutory provisions based thereon to offer a novel legal system to the entire world. In such a system, the human veneration of the mother and the fetus in whatever the stage of growth is taken into account and induced abortion is not only reproached except for special cases that it cannot be evaded due to reasons such as the mother and the fetus's good but it also is regarded a crime for which punishments are enforced proportionately.

In Islam and Shiite jurisprudence, the fetus is endowed certain rights even before ensoulment. Therefore, article 716 of Iran's new Islamic penal code of law, as well, following the lead of Imamiyyeh Jurisprudence, elucidates five stages of growth for the fetus, namely conception, coagulum, lump of flesh, bone formation and ensoulment. The foresaid law has defined an age for each of the abovementioned stages and the atonement is specified based on the fact that in which stage of embryonic life the fetus has been aborted and the paragraph (C) therein stipulates that the atonement for a fetus post-ensoulment is equal in value to the atonement for an adult.

So, as ruled strictly in Shiite jurisprudence, abortion with no medical necessity is considered as a crime by Iran's punitive rules hence punishable; in the meantime, in the Islamic jurisprudence and, consequently, in the Islamic Republic of Iran's law, abortion is in real terms admissible under certain medical conditions that can be justified both intellectually and scientifically. The note to the article 718 of the Islamic penal code of law excludes medical abortion from the regulations pertaining to criminal induced abortion and the rules associated thereto can be found in a single article approved in 2005 by the Islamic Consultative Assembly. It was shown in this single article that abortion of a mentally retarded fetus or a physically impaired fetus rearing of whom causes the mother to face with difficulties and via great effort as well as abortion under circumstances that the continuation of pregnancy threatens the mother's life due to a disease of the mother can be allowed before ensoulment of the fetus through adherence to certain conditions. Thus, Islamic Republic of Iran's forensic medicine has determined the example cases in which abortion is allowed in the form of indications pertaining to the mother and fetus's diseases and in fear of the death of the fetus inside uterus (stillbirth) or the death of the fetus immediately after birth.

References:

1. Palmer, M., (2006), "ethical issues", tr. Ali Reza Al-e-Bouyeh, 1st ed., Islamic culture and sciences research center, Islamic promotion office's research vice chancellorship, Seminary of Qom, Qom

2. Bruce O, Bentar S., (2008), "Policy update on safe and legal abortion 30 years after Roe", Institution for Women's Population Research (IWPR.org)
3. Cohen SA., (2003), "envisioning life without Roe: Lessons without borders", The Guthmacher Report on Public policy; 6(2)
4. Behjati Ardakani, Z. Akhoondi MM, Sadeghi MR, Sadri Ardekani H., (2005) "The necessity of a comprehensive study on abortion in Iran", Medical Journal of Reproduction & Infertility
5. Bandewar, s. "exploring the ethics of Induced abortion". Indian J med. Mar 2005
6. Rasch V, Mohammad H, Urassa E, Bergstrom S., (2000), "The problem of illegally induced abortion: results from a hospital-based study conducted at district level in Dar o Salaam", Trop Med Int Health, 5(7)
7. Hekmat, S., (1987), "forensic medicine and medical ethics", 2nd ed., Shahid Beheshti University, Tehran
8. Ghaza'ee, S., (1989), "forensic medicine", 3rd ed., Tehran, Tehran University
9. Goudarzi, F., (1998), "forensic medicine", Tehran, Einstein
10. Gray Cunningham F, Kenneth J. Leveno, Steven L. Bloom, Jone C. Hauth, Dwight J Williams, (2010), "Obstetrics", 23rd Ed., McGraw Hill
11. Ronald S Gibbs, Beth Y. Karlan, Arthur F. Haney, Ingird E. Nygaard, (2008), "Danforth's Obstetrics and Gynecology" 50th ed., Philadelphia: Lippincott Williams and Wilkins
12. Modabber M., (2005), "Abortion for keeping mother alive", Journal of Jahrom University of Medical Sciences, 2(2)
13. Mohaghegh Damad M., (1995), "Proceedings of Medical Ethics", Vol. 5, article research on abortions, complications, problems and issues surrounding it. 1st ed., Tehran. Research Center of Medical Ethics
14. Eslami S.H., (2005), "Ethical approaches to abortion: A case study", Medical Journal of Reproduction & Infertility Fall 2005; 6(4)
15. Markey, D., (2008), "a reason why abortion is wrong: ethics philosophy, articles on normative ethics, applied ethics and meta-ethics", tr. Mahmoud Fathali, 1st ed., Islamic Teachings promotion center, Qom
16. Tabataba'ee, M., H., (1995), "a translation of Tafsir Al-Mizan", tr. Muhammad Bagher Mousavi Hamedani, Islamic publication office associated with the Qom Seminary's society of scholars, Qom
17. Ebadi SH. (1992), "Medical Law", 2nd ed., Tehran, Ganj Danesh Library Publications
18. Horr Ameli, M., H., (1993), "Wasa'el Al-Shi'a", 2nd ed., researched by Al-e-Bayt (peace be upon them) institution of revitalizing the Islamic heritage, Al-e-Bayt (peace be upon them) Institution, Qom