
ABORTION FOR FETAL CNS MALFORMATIONS – RELIGIOUS ASPECTS

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Introduction

Abortion is one of the most widely discussed medical-ethical subjects in the medical, legal, philosophical and religious literatures as well as in the lay press. There is hardly a current religion or country in the world that is not concerned with this issue. Some countries are stringent and some are lenient with respect to criteria and conditions under which abortion is permitted. All the great religions of the world address this issue.

Abortion involves several aspects: medical, psychological, social, demographic, ethical, political, legal and religious. In addition to the religious and human value judgment, there are psychological concerns in abortion. The complexity of the topic relates to the fact that it deals with a being that is close to us but is not identical to us. On the other hand, the fetus is not like a plant or even like a living being in the animal kingdom. Yet the fetus is not a complete and independent human being either. Its functioning cannot be observed since it is hidden from view. It is difficult for us to fully appreciate the fact that it is alive and vibrant. Undoubtedly, this is an important factor in our perception of the fetus even though this factor should carry little weight.

This article deals with some aspects of the approach of various religions, in particular the Jewish viewpoint, to abortion for fetal indications.
Historic aspects

Most religious and legal systems in ancient cultures were opposed to induced abortion. Thus, the Assyrians, Indians and ancient Egyptians, among others, were opposed to induced abortion. There were differing opinions among the ancient Greeks. By contrast, beginning in the 2nd century, the Romans prohibited abortion and established severe punishment for those who performed them. A negative attitude toward induced abortion is also evident in most known ancient physicians' oaths. Thus, the Hippocratic Oath states that "I will never give a potion to a woman nor use any instrument to induce an abortion". Nonetheless, there were several accepted reasons in primitive societies for induction of abortion [1].

In many countries of the world, periodic shifts occur in public opinion and in the views of national policy makers and courts of law. In the past, abortion was considered to be unethical and illegal. During the second half of the 20th century, a tendency to allow abortion on demand has become accepted by the public, by ethicists, and by the courts. In the last few decades the pro-life view is re-emerging which prohibits abortion vehemently and which emphasizes the right of the fetus to be born and to exist.

Ethical aspects

There are strongly opposing philosophical/religious viewpoints on abortion: On the one hand, are pro-life groups and the Roman Catholic Church absolutely oppose abortion. They view the fetus as a full and independent human being, with absolute rights equal to those of the mother. According to this view, one can never set aside the right of the fetus to life, and abortion is viewed as murder. On the other hand, the permissive, feminist, liberal view, emphasizes the basic right of a woman over her body. This right justifies abortion on demand solely dependent on the woman's wishes during any stage of pregnancy and for any reason whatsoever. This view totally ignores the rights of the fetus and views it as a part of the mother’s body.

These two diametrically opposing views are irreconcilable and result in a significant practical dilemma. If abortion is ethically justified, one is hard pressed to force a woman to continue with her pregnancy and to give birth to a child which she does not want, particularly if it is malformed or ill. On the other hand, if abortion is considered as the killing of the embryo, it is extremely difficult to allow the extermination of an innocent and helpless human being.

Since all religions are opposed to abortion, especially on demand, I shall present the most important, compelling and strong ethical argumentations against abortion:

- One cannot totally ignore the existence of a fetal entity and define it solely as an integral part of the mother's body. This view is incorrect both biologically and philosophically.
- Evaluation of the biological status of the fetus leads one to the inescapable conclusion that there is no essential difference between a fetus and a newborn. If one is opposed to the destruction of newborns, one must also be opposed to the destruction of fetuses. From the
biological standpoint, a fetus is an independent entity since it has independent movements, independent neurological activities and independent cardiac activities. From the very start the embryo is immunologically unique from the mother.

- Of course, for its continued growth and survival the fetus is dependent upon the uterine environment. However, its survival even long after birth, is also dependent on a supportive environment.
- Indeed, a fetus does not have any of the characteristics which we associate with personhood, but this is true as well for a newborn, and certainly a prematurely born baby. Nevertheless, no one suggests that a newborn is not an independent and separate being with a right to life, even if it does not have characteristics which define a complete person.
- Even if one accepts the thesis that a woman has the right to do with her own body as she pleases, this does not apply if there are opposing rights of others. In the case of abortion one must carefully weigh the right of the fetus to be born as an opposing right to the mother's wish to abort it.

In reality, the extent of the ethical-religious analysis reaches a critical point: Does the fetus have an individual human identity as a human being? Does the fetus have an individual and independent soul and life? The polarization of the argument relates to the opposing rights. To ignore the rights of either concerned party, i.e., mother and fetus, is to do an injustice to both. The answer to this question, is not scientific but philosophical and religious. The question is how to select among the relevant factors that determine and define human biological-social life. When life begins is not a biological or medical question but an ethical-religious-social one.

Thus there seems to be two extreme viewpoints: total permissibility of abortion according to the exclusive wishes of the mother versus an absolute prohibition of abortion under all circumstances. These views produces difficult existential and philosophical questions. There is, however, a third approach which is the golden middle path between the two opposing views; it is the Jewish approach, which is shared with some others religions and ethical-legal approaches: A fundamental principle is that the fetus has a right to be born and to exist. On the other hand, its claim for life is less than the right of the mother to live. Therefore, in specific and limited circumstances, such as danger to the mother from the pregnancy, the right of the mother takes precedence over that of the fetus.

**RELIGIOUS APPROACHES**

The Roman Catholic religion is the most strict in regard to abortion and absolutely prohibits it at any case and by all means, even if the mother's life is at stake, and even if both the mother's and the fetus's lives are at stake [2-3].

The Protestant churches are opposed to abortion on a basic moral-religious ground, but most of them permit abortion in specific circumstances [4-7].

Abortion is prohibited in Moslem law, including pregnancy reduction in case of multiple fetuses. Abortion is permitted only if the mother's life is in danger [8].
The Buddhist law concerning abortion is debatable [9].

**JEWISH APPROACH**

In general, a negative attitude toward abortion is expressed unanimously among the Jewish rabbinic decisors and commentators. Nearly all agree that some type of prohibition is involved in the performance of an abortion. However, there are differing views as to the nature of the prohibition, its seriousness, and the reason for the prohibition. Of prime importance is the debate whether abortion is prohibited biblically or rabbinically.

**Maternal indications for abortion:** Where there is danger to the mother, abortion is permitted even in the far advanced stage of pregnancy [10]. Many of the Rabbis allow abortion even if there is only the possibility of danger or a remote danger to the mother from continued pregnancy (for detailed references see [11]). Most Rabbis also permit abortion where the pregnancy produces mental illness in the woman, because mental anguish is a form of danger to life (for detailed references see [11]).

**Fetal indications for abortion:** When a severe malformation or illness is detected in the fetus the permissibility of abortion is disputed among the Rabbis. According to the view that abortion is biblically forbidden, particularly if it is considered a form of murder, there is generally no justification for aborting it, since the prohibition against murder applies to such a fetus no differently than to a healthy fetus. In such a case, the fetus is legally considered like a newborn with a major illness or defect, the killing of which is prohibited [12]. According to some Rabbis, however, if the pregnant woman has severe mental anguish, one must assess abortion in the light of mental illness in the mother (for detailed references see [11]).

By contrast, according to the view that abortion is only rabbinically prohibited, permission is granted to abort some fetuses with a variety of illnesses or defects. The lenient ruling, however, distinguishes between several situations:

- It is absolutely certain that the fetus is suffering from a defined disease or defect as opposed to situations where there is only a statistical probability to suspect the presence of a disease or defect. Such certainty can be obtained by ultrasound examination which can demonstrate major defects, i.e., neural tube defects, various types of brain malformations, or amniotic fluid analysis which can diagnose chromosomal or metabolic abnormalities, i.e., Tay-Sachs disease, Trisomies and their like.
- Defects and illnesses which are fatal in a short period of time, i.e., anencephaly, as opposed to fetal abnormalities which lead to an inferior quality of life but are not fatal.

**Preventive measures:** In the Jewish legal system there are several permissible options to prevent the birth of seriously defective or ill babies:

- **Pre-marital screening:** It is permissible, and in fact strongly advised to avoid a marriage that might lead to the birth of defective babies. Hence, one should avoid marrying close relatives. Also, it is strongly advocated to undergo pre-marital screening tests to detect the carriers of recessive genes of serious illnesses in order to discourage the marriage of two carriers of the gene. One must, however, preserve confidentiality of results of those tested. The organization known as *Dor Yesharim* provides confidential screening for Tay-
Sachs disease, Canavan’s disease, Gaucher’s disease, cystic fibrosis and other prevalent genetic disorders. Potential spouses are told in confidence that their prospective marriage is safe (if neither or only one partner is a carrier) or if they should not marry (if both are carriers). This approach in the Orthodox Jewish community has markedly reduced the number of Tay Sachs babies born in the United States and Israel [13].

- **Pre-implantation diagnosis**: One can test the fertilized egg following *in vitro* fertilization (IVF) even before it is implanted in the uterus, so that only genetically and biochemically healthy fertilized eggs are implanted in the womb. New techniques in molecular biology allow DNA analysis of a single cell, thus permitting the identification of dozens of hereditary diseases. According to most Rabbis it is permissible to perform such tests and to discard the severely affected *in-vitro* fertilized eggs.

- **Less than forty days of gestation**: According to the Talmud, until forty days after conception, the fetus is “mere fluid” [14]. Some Rabbis assert that up to forty days one can be very lenient in regard to abortion and it is not forbidden to abort a fetus at that stage or it is an additional reason to permit it. Other Rabbis, however, state that it is biblically prohibited to abort a fetus prior to forty days just like it is prohibited after forty days (for detailed references see [11]). According to today's accepted methods of calculation, the weeks of pregnancy are counted from the first day of the last menstrual period. The Talmudic calculation is from conception. Therefore, this "forty day" stage is at the end of the seventh week of pregnancy by current calculation.

- **Pregnancy reduction**: If multiple fetuses constitute a danger to the mother, it is certainly permissible to abort some or all of them to save her life [15]. If there is no danger to the mother but danger to some of the fetuses, it is permissible to destroy some of them to save the others [11, 15]. Pregnancy reduction to abort one defective fetus and to leave the normal fetus depends on the question as to whether or not it is permissible to abort a defective fetus. If, however, one fetus is seriously defective to the degree that he might die *in-utero* and thus endanger the healthy fetuses, it is permissible to abort him in order to save the healthy ones [16].

**REFERENCES**


