

Abortion for a Young Single Female: A Cultural and Islamic Perspective

Abdulaziz F. Alkaabba*

Consultant and Associate Professor of Family Medicine and Bioethics, College of Medicine, AL-Imam University, Saudi Arabia

*Corresponding author: Abdulaziz F. Alkaabba, Consultant and Associate Professor of Family Medicine and Bioethics, College of Medicine, AL-Imam University, Saudi Arabia, Tel: 00966505376990; E-mail: akaabba@yahoo.com

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Abstract

Induced abortion is an ethically charged issue that has been continuously discussed in the ethics literature. There are many ethical issues and cultural views and laws related to induced-abortion.

In this article, I discuss an Islamic perspective on induced abortion using an actual case that I encountered as a family physician. I first present the case, provide an overview on the sociocultural context of the case, and finally present an overview of an Islamic approach to the presented case. My emphasis is on how family physicians can ethically approach such cases.

Keywords: Ethics; Abortion; Islamic ethics and family medicine

Introduction

The case:

In 2004 in a Saudi public hospital, an 18-year-old single, Muslim female presented with 15 weeks pregnancy. She was accompanied with her mother who approached the family physician asking for abortion because both the mother and the daughter were afraid from her family's reaction.

The case in global and local contexts

Abortion, in general, and particularly what could be referred to as 'socially-induced' abortion is not uncommon in many parts of the world. In 2011, an estimated 1.1 million abortions were performed in the United States; the abortion rate was 16.9 per 1,000 women aged 15-44, representing a drop of 13% since 2008 [1].

The global abortion rate was stable between 2003 and 2008, with rates of 29 and 28 abortions per 1000 women aged 15-44 years, respectively [2]. In the developing countries, some studies showed that this type of abortion is common and more complicated. Singh (2008) found that abortion was as high as 15 per 1000 hospitalization in Uganda and Egypt and 4-7 per 1000 hospitalization in other countries like Pakistan and Nigeria [3].

The significance of these numbers is that the practice of abortion in many of these countries is restricted by laws that limit the access of women, especially unmarried ones, from abortion, as it usually socially stigmatizing [4]. Alternatively, those who want to get unsafe abortion seek local 'abortionists', who are usually untrained personnel. Shah and Ahman (2010) estimated that about 47,000 women have lost their lives from the complication of unsafe abortion [5].

In the background of all this, there are various religious beliefs and culture contexts that play important roles in making the decision of abortion.

In the Kingdom of Saudi Arabia (KSA), there are strongly held cultural beliefs related to the value of honor as chastity. Every single

woman is expected to be virgin. Such beliefs are also endorsed in the Islamic teachings as demonstrated later. Generally, there are certain rules that regulate abortion in Islamic jurisprudence. In many cultures such as Islamic has prohibited the induce abortion without strong medical reasons. It is not easy and not permissible for unmarried female to become pregnant. If such happens it will have a negative impact on the family who may need to seek abortion outside the country especially if pregnancy is more than 17 weeks (120 days) according to Islamic rules. So this is an important ethical issue to be discussed and resolved.

The objective of this communication is to focus on the ethical issues of induced abortion in unmarried women in countries which are mostly composed of Muslim populations, with KSA as an example. I emphasize on the differences between the scholarly Islamic approach and the cultural beliefs thought to be of Islamic origin.

An Islamic approach to ethical analysis

There are two main sources for Islamic legislation: Quran and Sunnah. Quran is believed by Muslims to be the words of Allah (God) revealed by Him to his messenger Muhammad, the verses (Ayat) of which written later in the book known as Mushaf. These words were never changed because Allah protects them from any falsification. Sunnah refers to a wide range of what the prophet Muhammad said, did, approved, or disapproved explicitly or implicitly.

As other Abrahamic religions, life in Islam is scarified. The sanctity of life is expressed in many Ayat in the Quran.

"Nor take life-which Allah has made sacred-except for just cause." (Quran, 17:33)

Moreover, it resembled taking one life as the taking the lives of all humans

"We ordained for the children of Israel that if anyone slew a person, unless it be for murder or for spreading mischief in the land, it would be as if he slew the whole of mankind. And if anyone saved a life, it would be as if he saved the life of a whole people." (Quran 5:32)

The regulations about any life-related affair are ideally done by scholars (Ulama) who have extensive knowledge of these two sources.

The Ulama use a legalistic methodology known as Fiqh, which could be translated deep understanding. They have set a set of five goals of Islamic law, known as Maqasid Al-Sharia. Any act is judged against these five goals and then its legality is decided accordingly. These purposes are the preservation of: faith, soul (life), intellect, wealth, and progeny.

Medical decisions, and almost every other lively matter, are decided to be permissible (Halal) or impermissible (Haram) after referring to Quran and Sunnah. If there are no clear scripts on the issue being discussed, they use the five goals of Sharia as means of judgments. However, the assessment of these goals is done using a legalistic methodology of five principles.

These five principles are known as the Fiqhi Principles of: intention (Qasd); hardship (Mashaqat); harm (Dharar); certainty (Yaqiin); and customs (Urf). In the following, I will summarize each of these principles. In the following section, I will use them to explain how such the abortion case could be discussed from an Islamic approach and from within the Saudi cultural system.

The principle of Intention (Qasd) implies that acts are judged by the intentions behind them. For example, if a medical act of removing a body organ is done to protect the patient as in case of cancer; then the act is permissible, while if the intention is to sell that organ, then the

act is Haram. The principle of Harm (Dharar) states that harm should be removed and most of the medical interventions are permissible based this principle. Illness is considered a harm that should be removed, or more precisely to reinstate the status of health. The principle of Certainty (Yaqiin) states that a state of certainty cannot be removed by doubt. For example, if there are two medical interventions, where one has higher certainty of achieving cure; then it should be used. The principle of Hardship (Mashaqat) states that difficulty calls forth ease. For example, in Islam every Muslim should pray five times-a-day on specific time for each prayer. However, if there is a surgeon who is expected to have a long surgery, it becomes permissible for this surgeon to pray two prayers together at the time of one of them. The condition of timeliness of the prayer is omitted because it will present a state of 'hardship' if s/he decides to leave the operation theater to perform the prayers. Lastly, there is the principle of Custom (Urf), which states that the custom is recognized as a source of law. The custom can be interpreted in many ways. In medical practice, custom could be identified as the standard practice. In wider sense, it could refer to any practice that is considered customarily acceptable by the community within which it is done, unless it is haram.

Each of these principles had a number of sub-principles (Figure 1) [6].

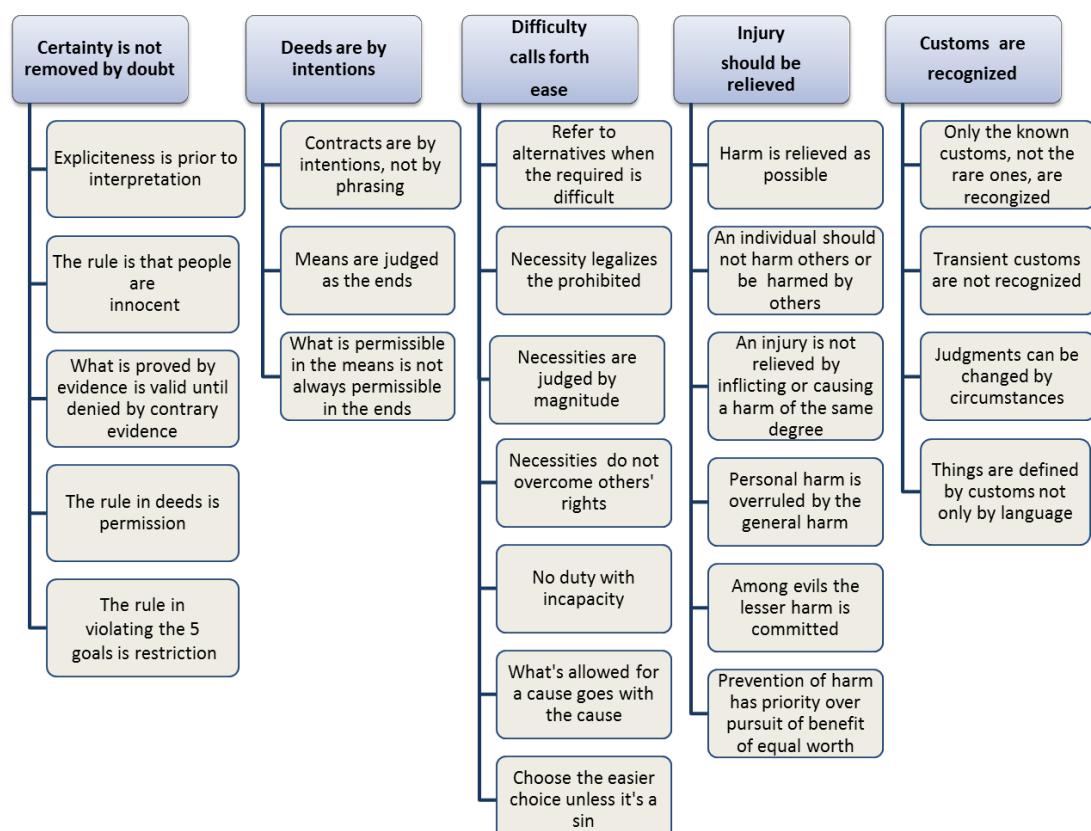


Figure 1: The five fiqh principles of Maqasid Al-Sharia.

How we deal with abortion case ethically?

Some individualistic cultures support the autonomous right of the young female in getting free access to do abortion. This case could be

seen as complicated in most of the Western communities. In the Saudi context, the situation is dramatically different.

I will approach this case from two aspects: Islamic and cultural. Islamically, there is general agreement among Ulama that induced abortion in early pregnancy before 17 weeks if needed for single young female is accepted. However, abortion is dealt with in highly sensitivity, and so some detailed discussion could be useful, where the Ulama prefer to make a specific resolution based on Islamic law and but that depends on each case individually.

In a more detailed approach we will need to utilize the five goals of Sharia and the five major Fiqhi principles. Abortion could be seen as *prima facia Haram* because it violates the Sharia goal of preserving life. However, there are two crucial questions: whose life we are dealing with? Should we weigh the mother's life more priority over the fetus' one, if any?

If we apply the 17 weeks benchmark, then the fetus has (technically) no life, and thus there is not termination of life. The other life is that of the mother. Medically, one could argue that the mother's life is not endangered. Here comes the cultural context into play. In the previous case, the hospital's administration had to inform the Governance, which in turn put the young female's room under police protection. This measure seemed important, as her brother was caught later trying to sneak into her room hiding a gun. Apparently, he was trying to kill her to 'clean the family's name from her sin'. The so-called 'honor killing' is not uncommon in other countries with cultural structures similar to those of KSA [7-9]. Kasule has argued that the mother's life has no more moral value over that of the fetus [10].

Here come other Fiqhi principles into play. For example, the Principle of Harm/injury states that harm should be removed and if faced with two evils, chose the least evil (Figure 1). Abortion, if simply seen as termination of the fetus' life, could be seen as the least of the two evils compared to the loss of the mother's life in an honor killing, or as a complication of a neglected pregnancy without ante-natal care, or an illegal unsafe abortion. The principle of Certainty could also justify the decision to abortion in this case. At a gestational age (GA) of 15 weeks, there is little evidence both religiously and medically that fetus has a meaningful life, so we cannot certainly consider a fetus at this GA a life that needs to be protected. Additionally, if we compare this level of uncertainty to the level of certainty that the single mother might get hurt (Principle of Harm) by the factors I mentioned above.

As Muslim physician we should understand the harm and the benefits of abortion especially for single female cases in our culture. In case the pregnancy is more than 17 weeks, the Islamic law does not allow abortion except in certain pressing situations.

Discussion

There are two main points for discussion here. First, the use of a particular context as an example does not mean that all of this society will react similarly. Moreover, if this young woman was a Muslim in other parts of the world, there would be different ethical and religious concerns and challenges. For example, the so-called 'honor crimes' are not dealt with easily in KSA. That is, if the brother of the girl in this case tried to harm her (which he actually did), the police will protect the girl and the brother will face criminal charges, where the punishment is expected to be high. In other countries, like Jordan, for example, few studies have suggested that the cultural norms and some legal practices support the killing of women for assumed or real sexual misconduct [11,12]. Probably, this is because of the direct linkage between the Islamic Scholarly system represented by the Permanent Committee for Scholarly Research and Iftaa and the legal system. The

judges are mostly graduates of pure Islamic teachings, unlike the legal practitioners in other countries who refer to laws very much influenced by the local cultures. Arguably, this makes their judgments are protective of the woman who are accused by sexual misconduct.

Second, there is a pure Western philosophical approach to the case. We can understand this case through several ethical points of view: the autonomy of the girl, beneficence, harm principle, parental rights, informed consent and justice.

We should in our culture respect Islamic law and also support the autonomous right of the female for abortion if she signs informed consent and if we utilize the principles of medical bioethics theory especially there are family, community and safety concerns.

Of course, we need as medical physicians in our culture to ensure that her decision is fully informed and not done through coercion. In this case she is single young female and 15 weeks pregnant so her family physician in my opinion should support her and her parents because that will solve many social and culture problems. However, given the girl's age it is likely that she is a normal, intelligent person and should have the right to sign informed consent. Of course her family physician need to make sure that she is fully informed and fully educated. She is only 15 weeks and that also a good issue to do abortion for her because that is not against the Islamic law. But if she is more than 17 weeks the issue will be different because the Islamic law will not allow physicians to do Abortion without medical reasons. Also let us consider the option of her trying to abort the fetus, or dropping out of school. All these factors would argue that we should do no harm to that single female (the principle of Non-maleficence).

Other principles-specifically the principle of justice-follow from the above scenario. If the girl's right to a consensual abortion is conditional upon parental rights and they may forbid the abortion, is it fair and just for society to bear the burden of raising the child if the girl decides that she cannot take care of it? On the other hand, her family physician also as a doctor's should support the benefits of the patients and community. In fact in general the pregnant females are preventing harm by not burdening the society with their children, since they can't provide that for them. But, what about the parents reaction for this issue in our conservative culture. Of course this is important because Islamic culture believe that it is prohibited to do abortion if the female pregnant more than 17 weeks and it is illegal to do abortion in this situation specially if there is no medical reason. There are many issues about abortion decision and the role of parents. These include there issues include shame on family which may end in killing the pregnant female. About the parents of the pregnant single female. Family may be forced to travel abroad to do abortion.

Her family physician should support the family and pregnant female from the shame and from the society pressure. Mill stated that in order to draw the line between private and public life there should be what he called the rule of "Harm principle". This rule indicates that females should have full access to do abortion for they are not causing any harm to anyone by doing so. In fact they are preventing harm by not burdening the society with their children, since they can't provide for them. According to the Feminist Theory her family physician could deduce that she should have easy way to do abortion, since it is her body. So there are many benefits if her family physician compare to the harm in this case. So that in our case her family physician should support her because of the benefits of doing abortion in her case and less harm to her and her family. Also this will help the society and community. But he should also inform her parent about the situation

and discuss with them the solution. He should refer her to obstetrician specialist to do abortion specially she is 15 weeks pregnant and that is not against the Islamic law.

Conclusion

Induced abortion is an important ethical issue in the entire world. There are many different ethical issues and cultural views and laws related to induce abortion and that depends on their definition of fetus. Also, we as Muslims culture should definitely support the autonomous right of the young female. We as Muslim culture have an Islamic law from Islamic religion which prohibits abortion after 17 weeks except in emergency case, but if the case is less than 17 weeks and there are some concern, some scholar except abortion to support that girl and her family because this will save her life and support her family in our society. Also if we measure the harms and benefits of doing abortion I think it is important to support and respect the female pregnant chooses. Induced abortion in early pregnancy before 17 weeks if needed for single young female is accepted in Islamic culture and religion according to the Islamic law and that depends on cases.

Overall, I think we need to establish means by which the medical facts, like the possibility of proven serious congenital anomaly in the embryo or fetus with the mainstream scholars' (Ulama) view and that need more Fatwa. The performance of abortion should be done prior to 120 days from start of conception, which is considered according to a Hadith (saying) of the Prophet [PBUH]. As Muslim physician we should understand the harm and the benefits of abortion especially for single female cases in our culture. In case the pregnancy more than 17 weeks the law should be re-discussed among the concerned people in our community for the benefit of our society and community.

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