

The Legitimacy of Terminating a Malformed Fetus in Islamic Jurisprudence and Modern Medicine: A Comparative Analytical Study

Mohammed Ali M. Alasmari¹

¹Associate Professor, Fundamentals of Jurisprudence, Department of Sharia, College of Sharia and Fundamentals of Religion, Najran University, Najran, Kingdom of Saudi Arabia

Email ID: mamalasmari@nu.edu.sa

<https://orcid.org/0009-0006-3016-3283>

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ABSTRACT

This study examines the legitimacy of terminating a malformed fetus from the perspective of Islamic jurisprudential principles and modern medicine, in light of advancements in medical diagnostics that enable early detection of fetal anomalies. The research explores the Islamic rulings on abortion by reviewing the opinions of classical and contemporary jurists, as well as decisions from Islamic legal councils, while analyzing the ethical and legal frameworks governing the permissibility of fetal termination according to Islamic jurisprudence. Additionally, it discusses the medical stance on fetal malformations, their impact on maternal and fetal health, and medical advancements that contribute to making early termination decisions.

The study concludes that Islamic jurisprudence approaches the issue with caution. Some scholars permit abortion before the ensoulment stage (120 days) in cases of severe congenital anomalies that are deemed fatal, whereas abortion beyond this stage is prohibited except in extreme cases where the mother's life is at serious risk. The research recommends integrating contemporary medical advancements with Islamic jurisprudential reasoning to establish a balanced approach that serves both maternal and fetal interests.

Keywords: Fetal termination, Islamic jurisprudence, fetal anomalies, Islamic fiqh, modern medicine, abortion.

1. INTRODUCTION

The issue of terminating a malformed fetus remains a subject of significant debate within Islamic jurisprudence and modern medical ethics, as it intersects with religious rulings, ethical considerations, and medical advancements. The rapid progress in prenatal diagnostic techniques, including ultrasound imaging and genetic testing, has made early detection of fetal anomalies possible, prompting both jurists and medical professionals to reconsider the permissibility of abortion in such cases.

From a jurisprudential standpoint, Islam emphasizes the sanctity of life while allowing certain exemptions in cases of necessity based on the principles of *removal of hardship (raf' al-haraj)* and *choosing the lesser harm (irtikāb akhaf al-dararayn)*. This study aims to examine the issue from a combined jurisprudential and medical perspective, ensuring a balance between adherence to Islamic legal principles and acknowledgment of modern medical developments.

Research Problem

The primary research problem revolves around determining the legitimacy of terminating a malformed fetus under Islamic jurisprudential principles and modern medical perspectives. The study seeks to address the following questions:

- What are the Islamic legal rulings regarding the termination of a malformed fetus?
- Does the ruling differ before and after the ensoulment stage?
- What is the stance of modern medicine on fetal anomalies and their impact on maternal and fetal health?

How can Islamic legal principles be reconciled with contemporary medical advancements concerning abortion?

Research Objectives:

This Study Aims To:

1. To examine Islamic jurisprudential rulings related to the termination of a malformed fetus and analyze the relevant legal evidence.
2. To explore modern medical perspectives on fetal anomalies and their implications.
3. To compare Islamic legal verdicts with contemporary medical views to develop a comprehensive framework.
4. To propose recommendations for regulating Islamic legal rulings concerning fetal termination.

2. LITERATURE REVIEW

Islamic Jurisprudential Studies

- **Anwar (2021)** examined the Islamic legal principles concerning the termination of a malformed fetus, emphasizing that Islamic jurisprudence permits abortion before 120 days in exceptional cases (Anwar, 2021).
- **Hassan & Albar (2017)** discussed the Islamic stance on abortion in the *Medical Journal of Malaysia*, concluding that rulings vary depending on the developmental stage of the fetus and the severity of anomalies (Hassan & Albar, 2017).

2. Modern Medical Studies

- **Ismail et al. (2018)** explored decision-making in abortion within Islamic medical ethics in *Enfermería Clínica*. The study confirmed that some fetal anomalies can be detected before 12 weeks of gestation, allowing for early intervention (Ismail et al., 2018).
- **Yusuf (2022)** analyzed the ongoing debate in *Springer* regarding the point at which a fetus attains human status according to Islamic teachings and its impact on abortion rulings (Yusuf, 2022).

3. RESEARCH METHODOLOGY

This study adopts the following research methodologies:

- **Inductive approach:** To trace and examine Islamic jurisprudential rulings concerning fetal termination.
- **Analytical approach:** To analyze and compare legal and medical evidence.
- **Descriptive approach:** To present the views of jurists and medical professionals in a structured manner.

Islamic Jurisprudential Rulings on Termination of a Malformed Fetus:

1. Before Ensoulment (Before 120 Days):

Islamic scholars have diverging opinions regarding abortion before ensoulment, which can be categorized into three perspectives:

1. Absolute permissibility before 40 days: Some jurists argue that the fetus in its early stages is not yet a fully developed human, allowing abortion for valid reasons (Hassan & Albar, 2017).
2. Permissibility under exceptional circumstances: Some scholars permit abortion before 120 days if the fetus is diagnosed with a fatal anomaly (Ismail et al., 2018).
3. Absolute prohibition: The Maliki school strictly prohibits abortion before 120 days except when the mother's life is at risk (Shahin & Zawai, 2019).

2. After Ensoulment (After 120 Days):

1. Absolute prohibition: Most Islamic scholars agree that abortion after ensoulment is strictly forbidden, except in extreme cases (Anwar, 2021).
2. Permissibility in extreme necessity: Some jurists allow abortion beyond 120 days only if it is the only means to save the mother's life (Al-Khatib, 2021).

4. MODERN MEDICAL PERSPECTIVE

Modern Medical Perspective

- **Diagnostic Methods for Fetal Anomalies:** These include ultrasound imaging, genetic testing, and biochemical screening (Ismail et al., 2018).

- **Medical Recommendations for Termination:** Conditions warranting abortion include lethal anomalies such as *anencephaly* and *Edwards syndrome*, as well as severe maternal health risks (Abdelbasit et al., 2019)

5. FINDINGS AND RECOMMENDATIONS

1. Findings:

1. Islamic jurisprudence permits abortion before ensoulment under specific circumstances.
2. Modern medicine supports early diagnosis for informed decision-making.
3. A unified legal-medical framework is required to address the complexities of fetal termination.

2. Recommendations:

1. Issuing standardized fatwas by major Islamic legal councils on fetal termination.
2. Enhancing collaboration between Islamic scholars and medical experts to define clear ethical and legal guidelines.
3. Raising awareness on the importance of early medical screenings for fetal anomalies.

6. ACKNOWLEDGMENT

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