

Abortion in Judaism

Soleimani H. (L.L.M.)

- Research Faculty Member, Department of Religious Descended from Abraham, Center for Religious Studies and Research, Qom, Iran.
- Ph.D. fellow, Department of Criminal law and Criminology, Faculty of Law, Shahid Beheshti University, Tehran, Iran.



Abstract

In Torah, the first and most important source of Jewish laws, there is no direct mention of a willful abortion. This book only refers to the abortion of a pregnant woman's fetus in the course of a quarrel. In similar cases one who causes this kind of abortion shall pay fines. Talmud, the second important source of Jewish laws, refers to willful abortions. According to Talmud, abortion, although prohibited, is not punishable by death penalty. In spite of prohibition of abortion in Talmud, this book sometimes permits abortion. According to Talmudic laws, abortion is permitted if the fetus endangers the mother's life, but from the moment that the head or the greater part of its body has emerged into the world, no one can abort it; because here there are two living beings, and no one can say the life of the mother is more important than that of the fetus. Yet, when the mother's life is endangered, she herself may destroy the fetus even if the greater part of the fetus has come out of her body, according to "self-defense" rule. Some Jewish texts maintain that abortion should be permitted if it is necessary for rescuing the mother's life, even if there is no fatality attached to the pregnancy or the mother's illness is not directly caused by the fetus. The permissibility of abortion in relation to a pregnancy resulting from adultery has been a matter of controversy. Many Jewish scholars have permitted abortion by a married woman made pregnant through adultery, but not by an unmarried woman who becomes pregnant, because, according to the Jewish laws, the child of the former woman is regarded as a bastard, but the child of the latter, i.e. unmarried woman's, is not regarded so. According to Talmud, abortion is permitted, if a woman's pregnancy results from adultery and she is condemned to death. In this case, abortion is permitted, and it is even said that it is obligatory to do it before execution process starts, except the time when delivery has started. In recent years, the question of permissibility of abortion has been raised in cases where there is the fear of malformation or of a birth defect in the fetus. The general tendency is to uphold the prohibition against abortion in such cases. Yet, some neo-Jewish jurists have adopted a lighter view and permitted abortion in some cases.

Key Words: Abortion, Judaism, Jewish laws, Torah, Talmud, Malformation, Birth defect adultery, Neo-Jewish jurists.

Corresponding Author: Soleimani Hossein., No. 99, Sadoq 45-meter St., Hazrat Abu-al-Fazl 20-meter St., Qom, Iran.
P.C.: 37185-178.

E-mail: ho_soleimani@yahoo.com