



Controversial Issues of Criminalizing Abortion from the Perspective of Islamic and Jurisprudential Laws and its Impact on Community Health: A Review Study

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Abstract

Abortion has been criminalized in some countries. International human rights institutions report low-quality health services as a result of the criminalization of abortion, which they consider incompatible with the right to privacy and the right to maternal health. The present study aimed to review controversial issues of criminalizing abortion from the perspective of Islamic and jurisprudential laws in Iran and its impact on community health.

In this article, studies published between 1980 and 2023 were searched in reputable scientific databases using the keywords “abortion, rights, criminalization, harm principle, freedom principle, jurisprudence, and Islamic law”.

Human rights organizations associate decriminalization with improved quality of care and access to safe abortion. Drawing on insights from reproductive health from the perspective of Islamic and jurisprudential law, this review addresses knowledge gaps related to the health consequences of criminalizing abortion, such as continued pregnancy and increased fertility rates, recognition of the legal personality of the fetus, and other dimensions of health and mental well-being, and demonstrates that the recommendations outlined are consistent with international human rights standards.

This review does not show the incompatibility of criminalization with the substantive requirements of international human rights law and the legal protections in the preamble to the Convention on the Rights of the Child have accepted and placed the fetus. The legal personality of the fetus and the sanctity of the human being from the moment of its conception are worthy of respect and the principle of the mother's free will causes harm and conflicts with the rights of the fetus.

Keywords: Abortion, Islamic law, Jurisprudence, Rights

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Introduction

Criminalization based on respect for human dignity

In medicine, abortion refers to the termination of pregnancy before the twentieth week, which may occur spontaneously or intentionally (1). Intentional abortion of the fetus is a silent crime, but it is also common and a major problem for most countries in the world, especially those faced with population growth on the one hand and poverty and economic, cultural and social problems on the other. In 2015-2019, there were 121 million (112.8-131.5) unintended pregnancies in the world annually, which corresponds to a global rate of 64 unintended pregnancies (60-70) per 1000 women aged 15-49. Among them, 61% (58-63) ended in abortion (totaling 73.3 million abortions per year [66.7–82.0]) (2). Over 97% of these abortions occurred in developing countries. The incidence was 33–37 per 1000 pregnancies in Africa, Asia and Latin America, with the highest rates of 78–90 per 1000 pregnancies in Cuba, Vietnam and Eastern Europe (3). Basically, the decision to have or not to have children should be made before pregnancy, not after, but many couples resort to intentional abortion after conception rather than choosing an appropriate method to prevent having a child. Abortion is one of the most controversial issues, with the differences between pro-life and pro-choice groups becoming a cultural battle in many countries (4,5). Abortion is an issue that has been a constant struggle for societies, and has been approached differently throughout history. Intention abortion is prohibited in the laws of most countries due to religious and social expectations (6,7).

Crime in a religious context is a prohibition for which God has determined a Hadd or Ta'zir punishment.

The Holy Quran has also outlined rules for the management of the individual and society and the preservation of human values, and has declared behaviors harmful to fundamental interests as crimes.

The criminal provisions of the Quran are based on human nature and principles. The criminalization of actions in Quran is in harmony with reason and logic and is in line with human findings. Such criminalization in Quran is based on respect for the human status, which revolves around the vital values and fundamental interests of the individual

and society (8). Criminalization of abortion is a process by which the legislator, taking into account the basic norms and values of society and relying on the theoretical foundations accepted by it, provides access conditions for women, those who help them or offer them abortion, provides means (including medicine), assistance, and information for some or all people who seek abortions (9).

In fact, it prohibits the performance of an action or its omission and establishes a criminal penalty to guarantee its implementation. Accordingly, criminalization is based on basic sciences such as philosophy of law, political philosophy, and social sciences (10). The foundations of criminalization differ according to religious, ethical, and philosophical approaches, and the criminalization and decriminalization of abortion also have wide supporters and opponents, and the basis for these differences of opinion are the different theories that exist in this field (11).

Theories related to the foundations of criminalizing abortion

1. Theories of thought based on the religious teachings; they oppose and do not allow abortion and consider the protection of the right to human life a duty and obligation, therefore, they decree a complete and unconditional ban on abortion.

2. Theories of thought based on the human rights; *i.e.*, freedom of will, right to control one's own body, which have been expanding since the early 20th century. The latter has accepted this social phenomenon absolutely and has called for the abolition of all restrictions on abortion and its unconditional freedom. They believe that criminalization contributes to delayed abortion, with women traveling abroad or using telemedicine services to access abortion services (12). A study by Aiken *et al* found that criminalization leads to providers delaying care for women with severe pregnancy complications and delaying abortion until the woman's health has deteriorated and "the pregnancy is considered a serious risk to life/health" (13). It also creates and fuels an unregulated market for abortion drugs, which can lead to some women being sold counterfeit or substandard drugs, putting their lives at risk and further contributing to late abortions (14). Human rights organizations recommend decriminalization, which is generally

associated with reducing social stigma, improving the quality of care, improving access to safe abortion, improving the emotional well-being of patients, and strengthening the doctor-patient relationship (9,15).

3. The third group has adopted a middle view and believes in the relative freedom of abortion. They believe that abortion, while in principle a criminal and prohibited act, is permissible under special circumstances (16). Therefore, the life of the fetus and the preservation and respect for it are the most important grounds for criminalization. It is argued that abortion is murder and should be legally prohibited since the fetus is a moral person at the moment of conception. It has been argued that if a man or woman does not want to become a father or mother, they should simply refrain from having sex (17).

Decriminalizing abortion and supporting pro-choice thinking

On the other hand, the argument for decriminalization is raised in relation to protecting the rights of the mother and respecting her free will. Osborne *et al*'s study found that support for abortion has been increasing over time in the United States and New Zealand. In one study, a large proportion of respondents (43.8%) in the United States were "pro-choice," while 14.8% were "pro-life" in the various streams of elective and harmful abortion. Age, religiosity, and conservatism were also negatively associated with abortion. Freedom from abortion was positively associated with support for abortion, and support for women's pro-choice thinking has been increasing over time, from only 33.3% of the sample supporting abortion for any reason in 1978 to more than 50% in 2018 over the next three decades (18,19). Abortion advocates deny that a fetus is a person. In their view, abortion, while it may have moral value, does not rise to the level of murder that should be legally prohibited. Abortion should be legally permitted at least until the fetus begins to develop brain activity, with the mother's reproductive rights taking precedence (20). Even requiring third-party authorization, whether from a specialist or medical committee, the court, the woman's parents, guardian, or partner, is considered violating women's privacy and a barrier to safe abortion services (21). Given that one of the main threats to the health of individuals

in society around the world is intentional abortion, the International Parental Planning Federation (IPPF) considers intentional abortion to be one of the main challenges of societies (22). Considering that the majority of studies have focused on the decriminalization of abortion, the purpose of the present study is to examine the controversial issues of criminalization of abortion from the perspective of Islamic and jurisprudential laws and its impact on the health of society, in a way that takes into account the effects of criminalization on the conflicting principles of harm to the fetus and the mother's freedom of will.

Materials and Methods

Review protocol

This review article was conducted from May to September 2024 to better assess the criminalization of abortion from the perspective of Islamic and jurisprudential laws in Iran and its impact on the health of the community, according to figure 1.

Search strategy

Search strategy in several electronic databases, between 1980 and 2023 in Iranian and international scientific databases such as Scopus, Cochrane, PubMed, Science Direct, Medline, Ovid, SID, and Magiran was done. The keywords were: "Abortion", "Rights", "Criminalization", "Principle of harm", "Principle of freedom", "Jurisprudence", "Islamic law". Also, Jurisprudential texts were reviewed to complete the process of searching for sources.

Study criteria

Studies should meet the following criteria to be included in the study: 1. Being published in Persian and English. 2. Full-text articles should be available. 3. Given the diversity of viewpoints on abortion, this review article focuses on the controversial issues of criminalizing abortion from the perspective of Islamic and jurisprudential laws in Iran. Exclusion criteria included articles, content outside the article, articles where the author's perspective was unclear, and by eliminating duplicate articles, 29 articles were reviewed that met the inclusion criteria.

Study selection and data collection process

A total of 54 articles that had the keywords in their

titles or abstracts were selected. First, the titles of the articles were reviewed, and the articles that were most relevant were included in the study as reviews. If there were multiple reports of a study, the most complete one was considered. The selection process of articles was carried out by two of the authors, and in case of disagreement, the articles were reviewed by a third, and any discrepancies were resolved by discussion between the authors. After evaluating and eliminating irrelevant studies, the full text of 29 articles related to the study topic that met the inclusion criteria was extracted by one of the authors

and provided to another researcher for review and correction. The exclusion criteria for studies were insufficient data in the study and unavailability of the full text of the relevant articles (Figure 1).

Results

The results of the studies showed that criminalization can affect the reproductive health of the society through the continuation of pregnancy and increasing the fertility rate, non-opposition to divine will, the mental foundations of a positive religious attitude and reluctance to abort, the recognition of the legal

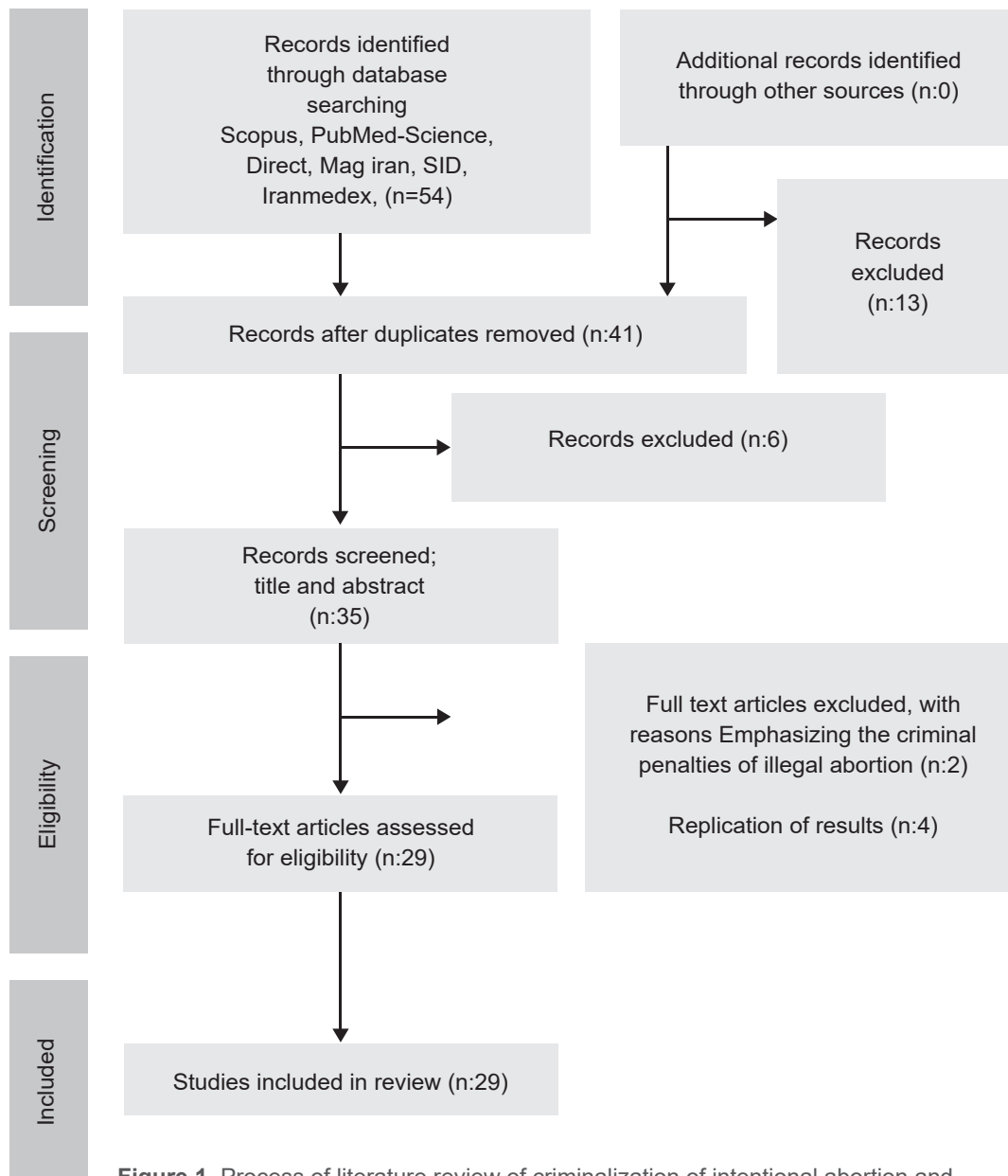


Figure 1. Process of literature review of criminalization of intentional abortion and its positive impact on the health of society.

personality of the fetus in accordance with the principle of human dignity, the reduction of complications resulting from abortion, and government control over the implementation of fertility laws to reduce induced abortions. These cases are detailed.

Continued pregnancy and increased fertility rates

Studies have shown that criminalization indirectly contributes to continued pregnancy and affects the birth rate of women aged 20 to 34. One study pointed to a greater effect among adolescents (23), while another study demonstrated that criminalization does not affect the birth rate of adolescents (24). On the other hand, decriminalization is associated with a decrease in fertility. Clarke and Mühlrad reported the results of the impact of a free and elective abortion program implemented in Mexico City in 2007. Only 62 cases were reported in the five years before the reform, which had very limited access to elective abortion, while after the local reform there was a sharp increase in the number of abortions requested by public health providers in the four years after the reform. The program resulted in a 2.3-3.8% reduction in births among women aged 15-44 and a 5.1-7.1% reduction in adolescents (aged 15-19) (25). Gutierrez *et al* also suggested that abortion legalization had an impact on fertility reduction. In terms of the number of births, it is estimated that abortion legalization prevented about 4,000 births in Mexico City in 2010, with the effect of the law being particularly evident among women aged 20-29 and the possibility that it reduced their childbearing by 12-18%. This effect is most visible among women aged 20-34 in relation to the transition from first to second child and has a limited impact on adolescent fertility (26).

Not opposing the divine will and carrying out the divine command is an obstacle to destroying the fetus as a divine gift

The word *hiba* (gift) appears 19 times in the Quran, 15 of which are directly about human procreation.

And those who say, 'Our Lord! Give us joy and comfort in our spouses and offspring,' (25/74).

"He gives to whom He wills a daughter and to whom He wills a son" (Shura, verse 74).

The position of man in the Quran and the importance

given to it is the position of "Divine caliph" who begins to grow with the formation of the human sperm, and such a great being cannot be treated with a joke or even entertained the thought of destroying it. Therefore, destroying a fetus that has been formed from the moment of fertilization and is a gift from God is against morality and Sharia (27). God Almighty loves His creation and the fetus is a living being and if someone that denies its life in any way, according to Sharia rules, must pay blood money in proportion to the age of the aborted fetus (28).

The mental basis of positive religious attitudes and aversion to abortion

Religion plays a key role in the abortion debate. The importance of religious affiliation, adherence, and belief in contemporary moral and ethical issues are negatively associated with abortion in a range of countries (16). Catholics show the strongest opposition to the legalization of abortion. Other religious practices in the Bible are also significantly associated with opposition to abortion (29). Frequency of Catholic church attendance is negatively associated with support for harmful abortion. Frequency of religious attendance is also negatively associated with support for abortion across religions. Catholics and conservative Protestants are more pro-life than Protestants and Jews. One important reason is that religious scriptures condemn abortion. Also, as pro-life attitudes increase, abortion laws, policies, and access to abortion become more restrictive, and living in areas with high levels of religiosity generally reinforces pro-life attitudes for both religious and non-religious individuals (30). Mosley *et al* reported that despite abortion being legal in South Africa, negative attitudes toward abortion are common and poorly understood. They measured the correlation between abortion attitudes and important predictors such as religiosity, attitudes toward premarital sex, attitudes toward preferential employment and promotion of women, and attitudes toward family gender roles. The results indicated that negative attitudes toward abortion are common in South Africa and are closely related to religiosity, traditional ideologies about sexuality, and gender role expectations about motherhood (31). In a study by Holman *et al*, various forms of religiosity (belonging to a denomination,

specific religious beliefs, and religious behavior in church and in private) were examined with regard to abortion preferences. Results demonstrated that belief in the Holy Bible and regular church attendance were associated with anti-abortion attitudes among Latino men, while religious beliefs were found to be gender-neutral (32).

Recognizing the legal personality of the fetus in accordance with the principle of human dignity

From an Islamic perspective, the legal personality of the fetus is accepted throughout the fetal period, and giving the mother the right to abort the fetus destroys the right and legal personality of the fetus. In this case, the power of life and death of a vulnerable human being is transferred to another person (the mother) and the fetus is deprived of all the legal protections that is entitled to in terms of its legal personality. The human fetus's life is respectable and cannot be terminated from the stage of the embryo until the divine spirit is breathed into its lifeless body, since it has the potential to become the best of creatures although it has not yet been granted full legal personality. However, after the completion of physical creation and the incarnation of the fetus's soul, the fetus passes from the vegetative state and becomes a human being with divine dignity (Quran: Surah Al-Hijr, verse 29). At this time, the fetus has the right to be recognized as a legal personality and no valid reason justifies its killing (33).

Pregnancy continuation and reduction of complications from abortion

The results of some studies suggest that criminalization indirectly contributes to increased pregnancy continuation and that decriminalization is associated with a decrease in birth rates (23,26). Findings from a 2017-2019 Brazilian online study revealed that mothers who voluntarily terminated their pregnancies expressed some degree of depression, anxiety, guilt, and shame as current suffering, but some also reported a sense of liberation from the experience (34).

A study that assessed Post-Traumatic Stress Disorder (PTSD) in induced abortions before, three months, and six months after the abortion reported 4.3, 2, and 1.9% of PTSD, respectively. Post Traumatic Stress Disorder (PTSS) symptoms were also reported in

23.5, 4.6, and 6.1% of cases before, three months after, and six months after the abortion, respectively (35). Pain, bleeding, and septic abortion are the major complications of abortion. According to the World Health Organization, tens of thousands of women worldwide die each year from infectious abortions. Some women have reported serious psychological complications after abortion, including depression, grief, anxiety, low self-esteem, regret, attachment, flashbacks, and substance abuse (36).

Reducing induced abortions by government control over the implementation of fertility laws (criminalization of abortion)

Criminalization of abortion is one of several strategies endorsed by the anti-abortion movement and has been implemented in a number of countries to defend abortion bans against medical abortion. Research from the Guttmacher Institute shows that medical abortions now account for 63 percent of abortions in the United States, up from 53 percent in 2020. Today, there are calls to prevent women from self-administering medical abortions by prosecuting women and those who may assist them. For example, Georgia has passed Georgia's "fetal personhood" law. The Georgia House Bill 481, formally named the Living Infants Fairness and Equality (LIFE) Act, prohibits abortion after six weeks, when most women do not even know they are pregnant, stating that "it is the policy of the state". An American anti-abortion law was passed in 2019, that sought to prohibit doctors in the US state of Georgia from performing abortions beyond six weeks, except in certain cases. In fact, the LIFE Act defined "unborn child" as a natural person and increased the possibility that a woman who has an abortion after six weeks can be charged with murder (37,38).

Discussion

The change in social lifestyle in the world and in Iran has led to a change in the attitude of couples to preserve and care for the fetus. Also, the cultural, economic and social conditions in Iran and some other countries have created a suitable environment for prioritizing the wishes and opinions of parents over the preference for the time of birth of the fetus. The absence of law or the existence of strict regulations are

factors that has paved the way for illegal abortions in the world (39). This review article aimed to examine criminalization of intentional abortion and its positive impact on the health of society. Intentional abortion is almost universally frowned upon in many cultures. The reason is that even the perpetrators try to keep the abortion a secret so that others do not know. Feelings of guilt and shame play an important role in creating and hiding the consequences of abortion (40). In the laws of most countries, abortion is also a crime and is not permitted except in special circumstances and when the mother's life is in danger. Therefore, it can be stated that abortion is an act that is against nature and is based on corruption and indecency. In the Holy Quran, God has forbidden people from indecency and corruption, which also includes abortion. The noble verse 151 in Surah An'am is in this regard:

... you shall not kill your children due to penury-We will provide for you and for them-you shall not approach indecencies, the outward among them and the inward ones, and you shall not kill a soul [whose life] Allah has made inviolable, except with due cause. This is what He has enjoined upon you so that you may exercise your reason (6/151).

Results have shown that one of the factors that contributes to the criminalization of abortion is an increase in maternal fertility. Some studies believe that decriminalization of abortion is not negatively associated with the number of births in a woman. Some also report that abortion law reforms can increase the number of unwanted pregnancies (41,42). Among the first countries to decriminalize abortion were the former communist countries of Eastern Europe. A comparison of birth rates in Bulgaria, Romania, and Poland before and after abortion reforms concluded that legalizing abortion reduced births (43,44). Results also demonstrated that Mexico City and Nepal witnessed a sharp decline in fertility rates after abortion was legalized (45,46).

Another point that was addressed in the results is not opposing the divine will and the mental foundations of a positive attitude, which are among the effective factors in criminalizing abortion. In this regard, the question arises whether "preserving the life of the fetus" is the right of the parents or the fetus or God? From a religious and monotheistic perspective, this is the right of God, who is the creator of man. Even if

viewed from a materialistic and worldly perspective, is abortion still not the right of the parents? If parents decide to have a child, it cannot be concluded that they also decide on the right to life and death of that child? Is a human being who is not even allowed to decide on his/her own life allowed to decide on the right to life of another being? Does the fetus also have rights in this regard? In the meantime, what is the God's right? He who gave the good news that saving the life of one human being is equal to saving the life of all humanity (Surah Al-Ma'idah, verse 32). Religious identity has always been a factor in decision-making regarding abortion. According to religious beliefs, life is a gift from God and therefore sacred and inherently valuable. Abortion may be viewed by believers as an affront to the sanctity of God and as a violation of collective morality (47). Religious identity has also been positively correlated with anti-abortion attitudes (18). Beliefs, religious practices, and other aspects of religious practice are best understood as tools for creating a moral community. Thus, religiosity has been negatively associated with support for legal abortion in a range of countries (29,32,48,49). For instance, Francis *et al's* study found that religiously inclined students were less likely to accept euthanasia and abortion. Religious practice was a key indicator with a significant negative correlation with disapproval of abortion. Muslim and Catholic students were less likely to accept euthanasia and abortion than Protestant and non-religious students (50). Criminalization of abortion may also create fear among women and influence their decision to have an abortion. A subjective correlation of attitudes across six different religious traditions (Roman Catholic, Protestant, Eastern Orthodox, Buddhist, Hindu, and Islamic) shows the strongest relationship with abortion attitudes (4). Religious groups (such as churches) have played the most important role in opposing the legalization of abortion, and feminist and liberal groups have been the most active in pushing for more liberal abortion in European and American countries (51). According to Islamic views, abortion is forbidden by law. From the perspective of the Quran, the destruction of the right to life unjustly is equivalent to the destruction of the entire society, as it is stated in verse 32 of Surah Al-Ma'idah:

"That is why We decreed for the Children of Israel

that whoever kills a soul, without [its being guilty of] manslaughter or corruption on earth, is as though he had killed all mankind, and whoever saves a life is as though he had saved all mankind ..." (51).

Another point that was addressed in the results is that the human dignity and legal personality of the fetus are among the effective factors in criminalizing abortion. The right to life exists from the beginning of the fetus's development and, like a complete human being, it has the right to enjoy health. Dignity of the fetus is of particular importance in the legal and jurisprudential sources of Iran, as the pregnant mother is exempted from some religious duties such as fasting. Another example of the importance of the right to life and dignity of the fetus is the delay in punishing a pregnant woman until after delivery and sometimes after the end of breastfeeding. Not enforcing divorce during pregnancy is another example (52,53). Also, the blood money for abortion in Islamic schools is a strong argument that expresses the rights of the fetus. From the moment of fertilization, abortion is subject to blood money until the soul is breathed into the fetus, from which point in the event of an abortion, the blood money for a complete human being must be paid. This means that in Islam, there is no difference between an adult human being and a 5-month-old fetus in the mother's womb, and just as the murder of an adult human being is considered a crime from the perspective of Sharia, morality and humanity, the taking of life from a fetus is also equally vicious. Also, the rights that the fetus enjoys (provided it is born alive) include: Last Will, Waqf, inheritance and maintenance. On the other hand, punishments such as Hudūd and Qisās and ta'zir for a woman are not implemented during pregnancy, indicating the rights of the fetus (54).

Similarly, some authors stated that the mother does not have the right to the death of the fetus (55). On the other hand, women, in defense of the "right to abortion", argue that the fetus is part of their body and they have the right to decide about their body. This argument is accompanied by a disregard for a fundamental point, which is that the woman's body did not produce the fetus alone. The formation of the fetus in the woman's body is not possible without the participation of the man. Therefore, it seems that the man should also have a right to the survival

or destruction of the fetus. Those women do not recognize such a right for the man (56). The United Nations in the Declaration of the Rights of the Child and later in the Convention on the Rights of the Child declare that the child, due to his physical and mental immaturity, needs special care, including appropriate legal protection before and after birth, on the one hand, has accepted and recognized the human rights of the fetus and, on the other hand, proves that the definition of the child in legal texts includes the rights of the born and unborn child. Therefore, according to the Convention on the Rights of the Child, it can be concluded that the protection of the life of the unborn child is a matter of concern under international law, and that performing abortion freely and in non-emergency circumstances would be a violation of international law (33). However, the European Convention on Human Rights does not contain any explicit protection for the fetus.

Another aspect that was mentioned in the results is that the continuation of pregnancy and the reduction of complications from abortion are effective factors in the criminalization of abortion. Neuropsychological and physical disorders are likely to be faced after abortion (57-63). The perceived stress of abortion was significantly associated with more negative emotions and more disruption in daily life, work or interpersonal relationships. There was also a greater sense of loss, sadness and grief about the abortion, more moral and maternal conflict over the abortion decision and a decrease in overall mental health that mothers attributed to their abortion. A greater desire or need for help to cope with negative emotions about the abortion was also reported (61). In the case of the "silent murder" of blood money, the penalty is the apparent, material, and legal effect of abortion, but this act will also have serious developmental, religious, and psychological effects for many parents. Imam Sadiq (IS) in his introduction to major sins referred to intentional abortion as self-murder and considered the sin of self-murder greater than the sin of disbelief in God. Guilt arises most in a belief system when what a person has done is wrong in terms of belief and a feeling of discomfort and despair arises from not acting according to one's beliefs. Abortion is an important moral issue whose legal aspect is a sub-section of civil and religious law. When a person

violates her moral beliefs, she feels guilty since she has acted against divine laws. Although guilt may serve as a temporary motivation to change one's life, it is often draining, damaging, and destructive. Some women experience intense guilt after an abortion, believing that every bad event in their life is retribution for a sin they have committed and they deserve it. Sometimes the resulting neurotic disorder is so severe that the person constantly torments and punishes themselves, believing that they are worthless (64,65). Such feelings may be part of the persistent, exaggerated, or dysfunctional responses that accompany posttraumatic stress disorder (66). Of course, a significant number of these individuals deny any psychological effects of the abortion, and believe that the abortion had no negative effect on them, but rather that they felt a sense of relief (67).

In relation to the government's control over the implementation of fertility laws to reduce induced abortions, Iranian laws have imposed severe penalties on those who perform this act, for both the mother and the doctor. In Iranian law, the issue of abortion and its penalties is also mentioned in Chapter 7 of the Islamic Penal Code approved on 21-04-2013, which refers to the protection of the mother and the fetus, and the blood money for the fetus is mentioned in Articles 716-717-718-719-720. In France, according to the law, abortion is a crime, whether it is a therapeutic abortion or a criminal abortion. In some countries, such as Georgia, legal prosecution of women and those who may help them has been proposed to prevent intentional abortions (37,38). It has been argued that criminalizing abortion does not necessarily involve physical surveillance of women, but that internet searches, purchases made, and data shared with mobile apps can become evidence that can be used in prosecutions against women and those who help them. On the other hand, it has been argued that state laws criminalizing abortion restrict women's freedom and endanger their privacy and health (60). Criminalization poses new and complex challenges to the benefits of women's freedom. In a qualitative study examining the reasons for intentional abortion in Iran, the authors predicted that changing the law to allow abortion would at least change the way abortion is performed in society, transforming it from a clandestine and complicated situation to a healthy

abortion situation (68).

Study limitations and suggestions for future studies

One limitation of this study was that 29 studies were included, which may not be representative of all existing research in this field. Another limitation of current study is that many of the articles were review and library articles, and the small sample size of the included studies may limit the generalizability of the results. It is suggested that field research be conducted in different regions and with different ages of women and even their spouses regarding the criminalization of abortion and its positive and negative effects, in order to express the views of the community more clearly.

Conclusion

This study found evidence of the impact of criminalization on those seeking access to abortion and on abortion providers. Intentional abortion is almost universally frowned upon in many nations. This is because even perpetrators try to keep it a secret from others. This study did not demonstrate the incompatibility of criminalization with the requirements of international human rights law and clearly points to the effects that have positive consequences for women's health. For instance, the United Nations in the Preamble to the Declaration of the Rights of the Child and subsequently in the Preamble to the Convention on the Rights of the Child declares that the child, by reason of his physical and mental immaturity, needs special guarantees and care, including appropriate legal protection before and after birth, on one hand, has accepted and recognized the human rights of the fetus, and on the other hand, proves that the rights of the child include both the born and the unborn. Performing abortion freely and in non-emergency situations would be a violation of international law. Also, many movements have been formed against abortion that do not have a religious basis and consider it a human issue in line with social justice, and from a non-religious perspective, they cite the sanctity of the human being. This sanctity is from the moment of fertilization, according to some researchers, because the human being is the highest point of the evolutionary process and deserves

value and respect. In addition, criminalization of the reproductive health of society in continuing pregnancy and increasing the fertility rate is accompanied by the recognition of the legal personality of the fetus and other dimensions of health and mental well-being. By accepting the legal personality of the fetus and the sanctity of the human being from the moment of fertilization, he is worthy of respect, and the principle of the mother's free will causes harm and conflicts with the rights of the fetus.

It is suggested that:

1. Although pregnancy is socially and culturally romanticized and evolutionary in many cultures, not all women are predisposed to accept these roles, as many elements influence their desires and the legitimacy of this role. Therefore, the cultural and social suffering internalized in each woman will be responded to in a unique psychological way. Therefore, this issue requires emotional and psychological attention in some mothers in conditions of depression, anxiety, guilt or shame. Counseling and participation in the decision-making process before and after abortion will be effective in reconstructing the mother's

perceptions, feelings and emotions in addition to reducing physical complications. 2. Of course, due to the criminalization of abortion laws, health care providers may delay the treatment of women with pregnancy complications in abortion, which poses a threat to the life of the mother, which should be considered and planned by health-treatment systems. The gaps in perceptions, feelings, and emotions resulting from a therapeutic break are particularly important, based on the discourse of those who have experienced it.

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Conflict of Interest

There was no conflict of interest in this manuscript.

References

1. Gary Cunningham F, Leveno KJ, Dashe JS, Hoffman BL, Spong CY, Casey BM. Williams Obstetrics 26th ed. McGraw Hill LLC; 2022.
2. Bearak J, Popinchalk A, Ganatra B, Moller AB, Tunçalp Ö, Beavin C, et al. Unintended pregnancy and abortion by income, region, and the legal status of abortion: estimates from a comprehensive model for 1990–2019. *Lancet Glob Health* 2020 Sep;8(9):e1152-e1161.
3. Henshaw SK, Singh S, Oye-Adeniran B, Adewole IF. The incidence of induced abortion in Nigeria. *Int Fam Plan Persp* 1998;24(4):156–64.
4. Koleva S P, Graham J, Iyer R, Ditto P H, & Haidt J. Tracing the threads: How five moral concerns (especially Purity) help explain culture war attitudes. *J Res Pers* 2012;46(2):184–94.
5. Jelen TG, Roth-Johnson D, Tuman JP. Culture wars in Latin America: Religion and attitudes toward homosexuality and abortion in four countries. *J Religion Theology* 2017;1(1):1–7.
6. Ahmadnejad S, Ahmadnejad E, Fayazjahani F, Jafari G, Koohkan Talebkhan Z, Ghorbanipoor M, et al. A review to abortion and reproductive health law in Middle East Islamic region. *MLJ* 2011;5(16):161-78.
7. World Health Organization. Global abortion policies database. 2018.
8. Daneshpazhou V. Criminalizing by Quran and rationality. *J Islam Jurisprud Law* 2016;9(1):129-56. Persian. *magiran.com/p2097416*
9. de Londras F, Cleeve A, Rodriguez MI, Farrell A, Furgalska M, Lavelanet A. The impact of criminalisation on

- abortion-related outcomes: a synthesis of legal and health evidence. *BMJ Glob Health* 2022 Dec;7(12): e010409.
10. Aga Babaei H. Fiqhi Discourse and criminalization in the area of crimes against national security and the state. *Islamic Law* 2005;2(5):11-42. Persian.
 11. Haditabar E, Mehri Matankolaei M. A survey on the conflict of harm principle and free will in criminalisation of abortion. *Judiciary Law J* 2019;83(105):211-34. Persian.
 12. Aiken ARA, Padron E, Broussard K, Johnson D. The impact of Northern Ireland's abortion laws on women's abortion decision-making and experiences. *BMJ Sex Reprod Health* 2019;45:3–9. 10.1136/bmjshr-2018-200198.
 13. Aiken A, Gomperts R, Trussell J. Experiences and characteristics of women seeking and completing at-home medical termination of pregnancy through online telemedicine in Ireland and Northern Ireland: a population-based analysis. *BJOG* 2017;124:1208–15. 10.1111/1471-0528.14401.
 14. Casseres L. Structural racism and the Criminalisation of abortion in Brazil. *Sur Int J Hum Rights* 2018;28:77–88.
 15. LaRoche KJ, Wynn LL, Foster AM. "We have to make sure you meet certain criteria": exploring patient experiences of the criminalisation of abortion in Australia. *Public Health Res Pract* 2021 Sep 8;31(3):30342011.
 16. Fallahnejad, F. A Comparative study of abortion in Iranian and Russian penal law. *Women Stud* 2013;4(8):85-114.
 17. Playford RC. Elective abandonment: A male counterpart to abortion. *New Bioeth* 2018 Jul;24(2):122-34.
 18. Osborne D, Huang Y, Overall NC, Sutton RM, Petterson A, Douglas KM, et al. Abortion attitudes: An overview of demographic and ideological differences. *Politica Psychol* 2022;43:29-76.
 19. Koosha J, Samavati Pirouz A. Abortion; Mother's life or that of fetus. *MLJ* 2010;4 (15):91-106.
 20. Himma KE. A dualist analysis of abortion: personhood and the concept of self qua experiential subject. *J Med Ethics* 2005 Jan;31(1):48-55.
 21. Hosseini SM, Rahae S. A functionalist attitude towards "free abortion" with emphasis on the procedure of the European Court of Human Rights. *J Hum Rights* 2023;17(33):141-64. Persian.
 22. Behjati Ardakani Z, Akhundi MM, Sadeghi MR, Sadri Ardakani H. The necessity of investigating the different dimensions of abortion in Iran *J Reprod Infertil* 2004;6(4):299-320. Persian
 23. Antón JI, Ferre Z, Triunfo P. The impact of the legalisation of abortion on birth outcomes in Uruguay. *Health Econ* 2018;27:1103–19.
 24. Antón J-I, Ferre Z, Triunfo P. Evolution of adolescent fertility after decriminalization of abortion in monteideo, Uruguay. *Int J Gynecol Obstet* 2016;134:S24–7.
 25. Clarke D, Mühlrad H. The impact of abortion Legalization on fertility and maternal mortality: new evidence from Mexico. *University of Gothenburg Working Papers in Economics*. No. 661. 2016.
 26. Gutiérrez Vázquez EY, Parrado EA. Abortion legalization and childbearing in Mexico. *Stud Fam Plann* 2016 Jun;47(2):113-28.
 27. Alebouyeh A, Eslaminasab H. Immorality of miscarriage on the basis of embryo's state as divine gift. *Res Q Islam Ethics* 2017;9(33):27. Persian. magiran.com/p1680307
 28. Ghodrati F. Controversial issues of abortion license according to religious and jurisprudential laws in Iran: a systematic review. *Curr Women's Health Rev* 2020 May 1;16(2):87-94.
 29. Ogland CP, Verona AP. Religion and attitudes toward abortion and abortion policy in Brazil. *J Sci Study Relig* 2011;50(4):812-21.
 30. Adamczyk A, Valdimarsdóttir M. Understanding Americans' abortion attitudes: The role of the local religious context. *Soc Sci Res* 2018 Mar;71:129-44.
 31. Mosley EA PhD MPH, Schulz AJ PhD MPH MSW, Harris LH MD PhD, Anderson BA. South African abortion

attitudes from 2007-2016: the roles of religiosity and attitudes toward sexuality and gender equality. *Women Health* 2020 Aug;60(7):806-20.

32. Holman M, Podrazik E, Silber Mohamed H. Choosing choice: How gender and religiosity shape abortion attitudes among latinos. *J Race Ethn Politics* 2020;5(2):384-411. doi:10.1017/rep.2019.51

33. Ahmadinejad M. An analysis of mothers' right to abortion as a violation of the individual's right to legal personality recognition in international law with an Islamic approach, *Islam Hum Rights Stud J* 2013;3(6):9-34. Persian. magiran.com/p1362676

34. Barretto RS, Figueiredo AEB. Mental health and criminalization of abortion: emotional experiences in restrictive scenarios. *Braz J Dev* 2023;9(1):3210-28.

35. Wallin Lundell I1, Georgsson Öhman S, Frans Ö, Helström L, Högberg U, Nyberg S, et al. Posttraumatic stress among women after induced abortion: a Swedish multi-centre cohort study. *BMC Womens Health* 2013;13:52.

36. Javadi H. A review of the effects of abortion on health from a medical-jurisprudential point of view. *Razi J Med Sci* 2022;29(7):170-9. Persian.

37. Dellinger J, Pell SK. Commentary: The criminalization of abortion and surveillance of women in a post-Dobbs world. 2024. <https://www.brookings.edu/articles/the-criminalization-of-abortion-and-surveillance-of-women-in-a-post-dobbs-world/>

38. Evans DP, Narasimhan S. A narrative analysis of anti-abortion testimony and legislative debate related to Georgia's fetal "heartbeat" abortion ban. *Sex Reprod Health Matters* 2020 Dec;28(1):1686201.

39. Asadi M, Nuzari Firdusiyih M, Omidifard A. Fetal civil rights in the family system. *Jurisprud Leg Stud Woman Fam* 2020; 2(4):113-39. Persian.

40. Whitney DK. Emotional sequelae of elective abortion: The role of guilt and shame. *J Pastoral Care Counsel* 2017;71(2):98-105.

41. Assifi AR, Berger B, Tunçalp Ö, Khosla R, Ganatra B. Women's awareness and knowledge of abortion laws: A systematic review. *PLoS One* 2016;11(3):e0152224.

42. Canning D. The causes and consequences of demographic transition. *Popul Stud (Camb)* 2011;65(3):353-61.

43. Levine PB. Sex and consequences: Abortion, public opinion, and policy economics of fertility. Princeton University Press; 2005.

44. Levine PB, Staiger D. Abortion policy and fertility outcomes: The Eastern European experience. *J Law Economic* 2004;47(1):223-43. doi: 10.1086/380475.

45. Gutiérrez Vázquez EY, Parrado EA. Abortion legalization and childbearing in Mexico. *Stud Fam Plann* 2016;47(2):113-28.

46. Henderson JT, Puri M, Blum M, Harper C, Rana A, Gurung G, et al. Effects of abortion legalization in Nepal, 2001-2010. *PLoS One* 2013;8(5):e64775.

47. Lockhart C, Lee CHJ, Sibley CG, Osborne D. The sanctity of life: The role of purity in attitudes towards abortion and euthanasia. *Int J Psychol* 2023 Feb;58(1):16-29.

48. Graham J, Haidt J. Beyond beliefs: religions bind individuals into moral communities. *Pers Soc Psychol Rev* 2010 Feb;14(1):140-50.

49. Evans J, Tonge J. Partisan and religious drivers of moral conservatism: Same-sex marriage and abortion in Northern Ireland. *Party Politics* 2018 Jul;24(4):335-46.

50. Francis LJ, McKenna U, Sahin A. Religion, human rights and matters of life and death: Exploring attitude toward abortion and euthanasia among adolescents in England and Wales. *Euthanasia, abortion, death penalty and religion-the right to life and its limitations: International empirical research.* 2019:139-59.

51. Mousavi SMA, Amidian H, Nowruzi Y, Safari A. Historical and legal review of abortion in US and the role of women

movements in decision making. *J Sci Res Women Stud* 2011;5(2):96-123. Persian.

52. Pezeshki S, Hosseini SA, Nazemi Ashani MH. Review of legal regulations related to the fetus based on the issues of his physical and mental health in the family center. *MLJ* 2021;15(56):419-29.

53. Fathi Najafi T, Najafi Fathi M, Dashti S, Farnoosh E. Comparative study of the fetal rights in national and international laws: A narrative review paper. *J Prevent Med* 2022;9(3):292-301.

54. Amin Z, Zahid M. Right of fetus (Janīn) in Islam and Western law a comparative and analytical study. *J Posit School Psychol* 2022 Aug 23;6(8):5731-43. Persian.

55. Hendricks P. There is no right to the death of the fetus. *Bioethics* 2018 Jul;32(6):395-7.

56. Altshuler AL, Nguyen BT, Riley HE, Tinsley ML, Tuncalp Ö. Male partners' involvement in abortion care: a mixed-methods systematic review. *Perspect Sex Reprod Health* 2016 Dec;48(4):209-19.

57. Biggs MA, Brown K, Foster DG. Perceived abortion stigma and psychological well-being over five years after receiving or being denied an abortion. *PLoS One* 2020 Jan 29;15(1): e0226417.

58. Haghparast E, Faramarzi M, Hassanzadeh R. Psychiatric symptoms and pregnancy distress in subsequent pregnancy after spontaneous abortion history. *Pak J Med Sci* 2016;32(5):1097.

59. Iversen G, Løkeland M, Fjereide A, Bjørge L, Iversen O. Is it possible to obtain reliable information about the long-term effects of induced abortion? *Tidsskr Nor Laegeforen* 2012;132(12-13):1450-2.

60. Kulathilaka S, Hanwella R, de Silva VA. Depressive disorder and grief following spontaneous abortion. *BMC Psychiatry* 2016;16(1):100.

61. Reardon DC, Longbons T. Effects of pressure to abort on women's emotional responses and mental health. *Cureus* 2023 Jan 31;15(1):e34456.

62. Bellieni CV, Buonocore G. Abortion and subsequent mental health: Review of the literature. *Psychiatry Clin Neurosci* 2013;67(5):301-10.

63. Alipanahpour S, Zarshenas M, Ghodrati F, Akbarzadeh M. The severity of post-abortion stress in spontaneous, induced and forensic medical center permitted abortion in Shiraz, Iran, in 2018. *Iran J Nurs Midwifery Res* 2019 Dec 27;25(1):84-90.

64. Ehsani Mutlaq MR, Meftah AR. "Right to life" in monotheistic religions. *Comparative Theology* 2016;6(14):125-38. magiran.com/p1509355

65. Atrak H. Abortion and its philosophical identity in medical ethics. *IJMEHM* 2008;1(3):55-64.

66. Alipanahpour S, Zarshenas M, Akbarzadeh M. Promotion of posttraumatic stress disorder following traumatic birth experiences and the influence of maternity religious Attitude: A correlational study. *J Educ Health Promot* 2021 Oct 29;10:385.

67. Worrell FC. Denying abortions endangers women's mental and physical health. *Am J Public Health* 2023 Apr;113(4):382-3.

68. Chinichian M, Holakoic Nainie K, Rafaie Shirpak Kh. Voluntary abortion in Iran: a qualitative study. *Payesh* 2007;6(3):219-32. Persian.