

RESEARCH ARTICLE

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Abortion Between Permissibility and Non-Criminalization

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Abstract:

The issue of abortion has received wide attention from jurists, as opinions have oscillated between opponents and supporters, on the grounds that permitting abortion in society leads to the spread of immorality and a form of sexual chaos. For this reason, the Algerian legislator did not include an explicit provision permitting it. Jurisprudence has unanimously tended toward the absence of a state of necessity after the first four months of pregnancy that would allow abortion, in addition to the fact that permitting abortion in this case constitutes an infringement on the fetus's right to life, in which it bears no responsibility for the assault committed against the mother.

Keywords: Abortion; Permissibility, Non-Criminalization

Introduction:

The principle regarding acts is that they are all permissible in accordance with the principle of criminal legality. However, a person may commit acts that appear, on their face, to constitute a crime, where all the elements that

make them punishable are present, yet they are not considered crimes, or this description is removed from them because they were committed under circumstances in which the criminalizing provision cannot be applied, as they aim to protect an interest worthy of consideration. This renders them permissible acts, or what are known as grounds of permissibility.

As for grounds excluding criminal responsibility, they are the reasons that affect a person's capacity, making them unfit to bear punishment. If freedom of choice is absent or freedom of discernment is negated, responsibility is excluded by the absence of either. Grounds excluding responsibility do not eliminate the crime, but rather remove the punishment.

Grounds of permissibility and general grounds excluding responsibility apply to abortion just as they do to any crime or all crimes, but these grounds and exclusions have particular importance in the case of abortion.

There may be calls to terminate the fetus for medical considerations related either to the pregnant woman or to the fetus, or due to social

and economic motives related to the family and society.

Some scholars include other cases, such as the cessation of the mother's milk due to pregnancy, which threatens the infant with death, and cases where the pregnant woman is certain or strongly suspects that continuing the pregnancy will result in emaciation or physical deficiency, or will compel her to undergo an abnormal delivery, namely a cesarean section. These are cases to which legal necessity applies.

Therefore, we say that when grounds excluding responsibility are applied to abortion, a modification to their rules occurs, because their application requires balancing the right of the pregnant woman and the right of the fetus, ultimately resulting in the preference of one right over the other.

Thus, abortion has been and continues to be the subject of extensive discussion and research. Jurists have addressed it from a religious perspective, thinkers and sociologists from the perspective of birth control and as a social phenomenon requiring care and research, and physicians from the perspective of its danger to the pregnant woman's life and the damage to her reproductive organs.

Whether the interest is moral, scientific, religious, or social, abortion remains an infringement and an assault on God's creation. One of the objectives of Islamic law is the preservation of life, which the Qur'an has sanctified and exalted. The Almighty says,

after "In the name of God, the Most Gracious, the Most Merciful": "*And do not kill the soul which God has forbidden except by right.*" God Almighty has spoken the truth. This is what the legislator has done, as he addressed the issue of abortion and placed it under the scope of the provisions of the Algerian Penal Code, allocating deterrent and punitive articles to protect the mother and her health, the fetus and its right to continue growing and developing until birth, and to protect society's right to survival and the continuity of humanity.

The aim of this is to enable the legislator, in light of this, to enact legal provisions that achieve the desired objective, namely "general and specific deterrence."

Accordingly, the issue requires attention to several aspects, including psychological, humanitarian, social, religious, medical, and legal aspects.

The problem we raise in this research paper is: **When is abortion considered a crime? And when is it a permissible act?**

In light of this problem, we have adopted the following plan:

- **First Chapter:** Necessary or Therapeutic Abortion
 - **Section One:** Abortion for a necessity related to the mother
 - **Section Two:** Abortion for a necessity related to the fetus
- **Second Chapter:** Abortion for moral and economic motives

- **Section One:** Abortion for moral motives
- **Section Two:** Abortion for economic motives

First Chapter: Necessary or Therapeutic Abortion

This type or form of abortion is referred to as necessary, medical, or therapeutic abortion. Its purpose is to save the life of the mother or the fetus from destruction that threatens them if the pregnancy continues, or where it is medically proven that the fetus will be born deformed or with a serious disability.

Section One: Abortion for a Necessity Related to the Mother

In this requirement, we will present the opinions of classical and contemporary jurists and what they have concluded on this issue, as well as the position of the Algerian Penal Code.

Subsection One: The Position of Islamic Jurists on Abortion for a Necessity Related to the Mother Before the Ensoulment

First: The Position of Classical Jurists:

There is no dispute among the schools that permit abortion before ensoulment; however, juristic opinions have differed even within the same school. The basis of this disagreement is the absence of an explicit, clear, and decisive text on the issue, especially regarding termination of pregnancy before ensoulment. In the absence of a text, jurists resort to ijtihad in order to reach a solution consistent with the principles of Islamic law. Therefore, the jurist

must consider all the interests involved in the case and must not give precedence to one interest over another without justification or necessity.

In their ijtihad, they balanced the interests of the parties involved, namely the mother, the father, and the fetus. This will be shown in each school.

1. The Hanafi School:

Ibn 'Abidin in his commentary from the jurists of the school what indicates the impermissibility of terminating pregnancy after forty days except for a valid excuse, citing Ibn Wahban, who said: "Among the excuses is the cessation of her milk after the appearance of pregnancy, and the father of the child has no means to hire a wet nurse, and there is fear of the child's death." He also said: "The permissibility of termination is understood to be in the case of an excuse, or that she does not incur the sin of killing."

What can be said about the Hanafi school is that the is permissibility, and it is allowed with an excuse before ensoulment for those who hold its prohibition without an excuse.

2. The Maliki School:

Al-Dardir stated: "The abdomen of a pregnant woman should not be cut open to extract a fetus, and she should not be buried until her death is confirmed, even if her body has changed." From Al-Dardir's words, it is understood that he does not permit cutting open the abdomen of a deceased pregnant

woman to extract the fetus, as it is not hoped that it will live, since its life after her death is only presumed, and therefore mutilating her body to extract it is not permitted, as its life thereafter is not certain.

From this, it is understood that Maliki jurists permitted termination of pregnancy where there is a certain necessity.

3. The Shafi'i School:

Shafi'i jurists have ruled the permissibility of amputating a gangrenous limb if its retention threatens the life of its owner. If it is permissible to remove a limb in which life flows to preserve the owner's life, then it is more permissible to terminate a lump of flesh in which life has not yet flowed, even if it has begun to take form, to preserve the life of the mother and the nursing child. Thus, the Shafi'i's did not see an impediment to committing a prohibited act in order to achieve a benefit or interest when certainty exists. Permissibility without an excuse is unrestricted for them, and permissibility with an excuse is even more appropriate for those who hold prohibition or dislike.

4. The Hanbali School:

The position of Hanbali jurists on abortion related to the mother's health and life before the stage of ensoulment is that termination at this stage constitutes killing, as the fetus leads to human life. Accordingly, they permitted its allowance with a valid excuse.

Second: The Position of Contemporary Jurists

Contemporary jurists based their opinions on the ijtihad of classical jurists permitting causation of termination before the completion of the first four months, and on balancing the interests of all parties, based on medical evidence proving the real existence of danger threatening the life of the pregnant woman.

Thus, they agreed on the permissibility of abortion before the stage of ensoulment if it is proven by a reliable source that the mother's life is threatened with death or with a serious or permanent disability. Dr. Yusuf al-Qaradawi stated in his book *The Lawful and the Unlawful* that if Islam permits a Muslim to prevent pregnancy for compelling necessities, it does not permit him to transgress against an existing pregnancy, even if it resulted from an unlawful act. He also cited the opinion of Sheikh Shaltut, stating: "If it is established through a reliable means that its continuation, after it has been confirmed, will inevitably lead to the mother's death, then Islamic law, through its general principles, commands the commission of the lesser of two harms..."

From what Dr. al-Qaradawi mentioned, it can be concluded that he does not permit abortion without a legitimate excuse before ensoulment. However, he allows it after ensoulment if it is proven that its continuation will result in the mother's death, provided that this is established through a reliable means.

Subsection Two: The Position of Islamic Jurists on Abortion for a Necessity Related to the Mother After Ensoulment

If the pregnancy reaches four months, the soul is breathed into it according to the Qur'an and the Prophet's sayings. When the pregnancy reaches this stage, it becomes prohibited to harm or assault it, as it has become a living being enjoying life and protected by both Sharia and law.

The question we raise is: What is the position of jurists regarding harm inflicted on a fetus into which the soul has been breathed, under the pretext of saving the mother's life? And how can the conditions of necessity be applied in this case?

To answer these questions, we will present the opinions of classical and contemporary jurists and their stance on abortion where the pregnancy has reached the stage of prohibition, and how the conditions of necessity are applied.

First: The Position of Classical Jurists:

All jurists agree that if pregnancy reaches the stage of ensoulment or four months, its termination is prohibited and is considered the killing of a soul without right, requiring full blood money and expiation according to those who hold its obligation.

Islamic scholars unanimously agree that the value of human life is one and does not vary from one individual to another. Therefore, necessity cannot justify preferring one life over another. Just as one suffering extreme hunger may not kill another protected person to eat his flesh and save himself, a mother may not

dispose of her fetus to save her life from an expected danger.

Second: The Position of Contemporary Jurists:

Muslim jurists agree that the life of the fetus after ensoulment is sacred and may not be violated, as it has become human. On this basis, many scholars have rejected killing the fetus to save the mother's life or to prevent her from suffering a disability.

The conditions of permissibility are not met in the case of protecting the mother from disability, as the first interest—protecting the mother from disability—is less important than the second, which is greater and stronger, namely protecting a believing soul. Therefore, killing the fetus to protect the mother is not permissible, as the conditions of necessity are not met. Jurists based their opinion on the following considerations:

- **First:** There is agreement among all jurists that life is one and it is not permissible to prefer one life over another.
- **Second:** If the pregnancy has not been completed and the doctor expresses concerns that the mother's health cannot withstand the hardships of childbirth, such as in the case of heart disease, it is not permissible to kill the ensouled fetus to save the mother from a potential danger, for two reasons:
 - The first is the prohibition of preferring one life over another,

as the lives of the mother and the fetus are equal.

- The second is the absence of the conditions of necessity, including that the danger must be present and apparent, not merely expected.

What we are dealing with are medical expectations and fears based on experience and scientific rules, which may not materialize, and the outcome may be contrary to expectations.

- **Third:** In this case, jurists that the physician finds himself faced with a situation that compels him to choose between the life of the fetus and the life of the mother, where the danger is present and inevitable, and harm will occur with the death of one of them.

In this regard, scholars examined the issue and found the solution in the principles of jurisprudence, specifically the rule of conflict and preference. This is not a case of necessity, because necessity requires the existence of a greater interest over a lesser one, whereas here we are faced with two interests equal in importance. The solution lies, as stated, in the principles of jurisprudence, particularly the rule of conflict and preference.

What we are examining is the conflict between two equal interests: the interest of the mother and the interest of the fetus, each requiring rescue from destruction.

Therefore, we find that all scholars who permitted abortion after the stage of

ensoulment stipulated that it must be based on confirmation and certainty by a group of trusted and specialized physicians—two or more—that destruction is inevitable if the pregnancy continues, and that the death of one of them is unavoidable unless one is sacrificed to preserve the life of the other.

This is the view adopted by the Council of Senior Scholars, which ruled that if the pregnancy reaches four months, its termination is not permissible unless a group of trusted specialized physicians determines that the fetus's continuation in the mother's womb will cause her death, after exhausting all means to save both lives.

Subsection Three: The Position of the Criminal Legislator on Abortion for a Necessity Related to the Mother

The legislator gave great importance to the health of the mother and her fetus. From this, it is understood that no assault is permitted, nor may anyone harm them, except if it is shown that the continuation of pregnancy poses a danger to the mother's life. For this purpose, Article 208 of the Penal Code was enacted, and abortion was considered not subject to punishment if it was required by the necessity of saving the mother's life from danger.

And Article 72 of the Health Law also specified that therapeutic abortion is a necessary procedure to save the mother's life from danger and to preserve her physiological and mental balance threatened by a serious risk.

If the conditions mentioned in the texts of the two articles are met, abortion is considered an act that is not punishable. The legislator used the term *therapeutic abortion* to indicate the act or procedure that must be followed if it is shown that the mother's life is in danger, where there is no escape and no other means to avoid this danger and preserve the mother's life except by sacrificing the fetus.

Likewise, if the mother's physiological and mental balance is threatened by a serious danger, such as when the treating physician or the specialist in gynecology and obstetrics determines that the continuation of pregnancy leads to an organic disease such as paralysis, for example, or to insanity, then, in order to protect the mother and after consulting the specialist in the case diagnosed by the treating physician, a decision is taken to abort the pregnancy.

In addition to this, the Algerian criminal legislator stipulated, in the case of necessary abortion, the availability of formal conditions:

1. **Capacity:** represented by the person of the physician or surgeon.
2. **Notification:** the physician or surgeon may not carry out the necessary abortion except after notifying the administrative authority represented by the Director of Health and obtaining his approval.
3. **Publicity:** if the previous two conditions are met, the abortion is performed in a public hospital

institution in accordance with the day and place determined by the Director of Health (13).

Section Two: Abortion for a Necessity Related to the Fetus

Classical jurists did not address this type of abortion, because at that time they did not have the means that would enable them to know whether the fetus suffered from congenital or mental deformities, or would be born deformed, since it is settled in its mother's womb and this cannot be known except after birth. However, with the development of medicine, especially in the field of embryology, it has become easy to know this through ultrasound imaging.

Subsection One: The Position of Islamic Jurists on Abortion for a Necessity Related to the Fetus

Most scholars hold that this case does not fall within cases of legal necessity. Their basis for this is that no one can be certain that the fetus will be born deformed (14). Consequently, the issue of fetal deformity falls within the scope of conjecture and probability and exits the realm of certainty and decisiveness, because one of the conditions of danger is that it must be certain and immediate, that is, it does not accept doubt. From this standpoint, jurists established their ruling.

This is because the causes that may lead to fetal deformity during pregnancy are almost limited to certain medications that the pregnant woman may take, or exposure of the pregnant

woman to radiation, where it is feared that this may cause deformity in the fetus's creation, such as enlargement of the head or shortening of the limbs.

In any case, most jurists have unanimously agreed that it is not permissible to terminate pregnancy after the lapse of forty days on the pretext that it is deformed (14), on the basis that the fetus at this stage is merely a piece of blood or flesh and has not entered the stage of formation. However, if it exceeds the forty-day stage and human characteristics begin to appear, no one has the right to transgress against it on the pretext that it is deformed, even if that is realized.

If the pregnancy has reached one hundred and twenty days, it is not permissible to terminate it even if the medical diagnosis indicates that it is congenitally deformed, unless it is established by a report of a medical committee of specialized physicians that the continuation of pregnancy poses a confirmed danger to the mother's life. In that case, it is permissible to terminate it whether it is deformed or not, in order to ward off the greater of the two harms. What can be said is that jurists see the permissibility of abortion in the case where it is established that the fetus will be born deformed, especially during the first forty days of pregnancy. As for after forty days until the time of ensoulment, they unanimously prohibited it even if it is truly deformed, because it is a soul and it is not permissible to

assault it or kill it regardless of the degree of its deformity (15).

Subsection Two: The Position of the Algerian Criminal Legislator on Abortion for a Necessity Related to the Fetus

The Algerian legislator did not provide for this type of abortion, and his failure to address this issue can be attributed to two hypotheses:

The first hypothesis: that he deliberately refrained from stipulating this type of abortion. This is inferred from the legal texts he devoted to the issue of abortion, where he surrounded the fetus with broad and extensive protection and was strict in the penalties he allocated for offenders. From this, it is understood that he does not permit abortion of the fetus even if it is proven with certainty from medical sources that it is deformed.

The second hypothesis: that he overlooked this issue or did not wish to open the door of ijtihad.

In this regard, we say that if his rulings are derived from Islamic law, then why this rigidity and hesitation? And since religious scholars, who are the most stringent on the issue of abortion, have exercised ijtihad and discussed this issue from a religious and medical perspective, why should this not occur with our legislator? Especially since the development of medicine has established the existence of serious deformities and serious diseases in the fetus, such as AIDS. It is unreasonable to verify that a fetus is infected with AIDS and remain idle without attempting

to do anything, while knowing that it is possible to establish or verify this in the early stages of pregnancy (16).

Chapter Two: Abortion for Moral and Economic Motives

Islamic law prohibited abortion resulting from an invalid marriage only for the benefit of Muslims, and in order to prevent societies from disintegrating and being overwhelmed by corruption and immorality, after which their rectitude would become impossible or no good could be hoped from them.

It is inconceivable to imagine the state of Islamic society if abortion were permitted without distinction between that resulting from a pregnancy of adultery and that resulting from a legitimate relationship represented by a valid marriage.

Immoralities and corruptions would increase, chaos and indifference would prevail, morals and values would disappear, and it would thus become like the animal world.

Section One: Abortion for Moral Motives

Subsection One: Abortion from Pregnancy of Adultery or Fornication

The fetus should not bear its mother's sin or the consequence of a sin it did not commit. It is not permissible to eliminate it in order to conceal an act of immorality. In application of the principle of blocking the means, the occurrence of pregnancy is the greatest deterrent for a woman from approaching adultery and deviation.

First: The Position of Classical and Contemporary Islamic Jurists on Abortion from Pregnancy of Adultery

The most important motive that may drive an adulteress to get rid of her pregnancy is concealing her crime by eliminating a result that may expose her. Thus, the fetus becomes the victim of a crime in which it has no fault. There is nothing in Islamic law, its rules, or its rulings that permits or legalizes this.

If we wish to know the difference between a woman whose pregnancy results from a valid marriage, we say that the ruling permitting termination during the first forty days of pregnancy resulting from a valid marriage is merely a concession, and it does not apply to a woman pregnant from adultery, because the juristic rule states that concessions are not attached to acts of disobedience.

As for pregnancy resulting from adultery, there is no father; he is absent and has no legitimate relationship with the fetus, except for the biological relationship that does not establish any right over the fetus. The relationship of paternity between the adulterer and the fetus does not exist. Since the father has no guardianship over the fetus, the ruler is the one who becomes its guardian, and he must exercise caution in seeking the interest of the fetus. He does not possess all that the parent possesses; his authority is weaker. Thus, if the father has the right to assess the termination of pregnancy before the first forty days, the ruler does not have that right, because his task is to

preserve the interest of the fetus, and the interest here is that the pregnancy continues and grows until birth.

Dr. Sa‘id Ramadan al-Buti is of the view that the excuse of a woman who fears for her reputation or fears being killed by her family may be accepted if she is not previously married, and if the adultery occurred through coercion or if it occurred due to شبهة marriage. In that case, it is permissible for her, provided that the pregnancy does not exceed forty days. However, what we conclude is that it is not permissible for an adulteress to terminate her pregnancy, even if an urgent necessity exists, in application of the hadith of the Messenger of God, peace be upon him. With the presence of a text, there is no room for ijtihad.

Second: The Position of the Criminal Legislator on Abortion Resulting from the Pregnancy of an Adulteress

The legislator did not exclude this type of abortion from the scope of criminalization and punishment. He criminalized abortion regardless of its forms and motives, and he did not differentiate between abortion resulting from a valid marriage and that resulting from adultery. If the legislator had taken into account the motives that cause abortion, such as fear, scandal, killing of the pregnant woman, or family disintegration, and permitted it, that would have led to the spread of immorality and the destruction of the moral fence surrounding marriage and sexuality in particular.

In this case of abortion, we say that the legislator prioritizes the interest of society over what abortion resulting from adultery causes in terms of its disintegration, fragmentation, and the spread of social maladies, given that adultery is a crime punishable by law. Consequently, it is unreasonable for the law to authorize or subject it to grounds of permissibility when it results from a crime or a prohibited act.

Criminalization included women in general, whether married or unmarried, and no exception was made regarding abortion.

Subsection Two: Abortion from Pregnancy Resulting from Rape

Rape is a heinous crime and unethical behavior that violates values and morals. It is an assault on society just as it is an assault on a specific woman, and it often occurs either due to moral decay, under the influence of drugs, or as a result of wars.

First: The Ruling on Abortion of a Fetus Resulting from Rape According to Islamic Jurists

The issue of aborting a fetus resulting from rape differs from the issue of aborting a fetus resulting from adultery or fornication. In the first case, pregnancy results from an invalid union carried out through coercion and compulsion, whereas in the second it occurs with the woman's consent and approval, and it is considered an act of immorality and a major sin.

Islamic jurists addressed the issue of repelling such aggressors who violate the sanctities of others within the jurisprudence of *defensive resistance* (*fiqh al-siyāl*), defining its legal rulings, legitimacy, limits, and effects. However, they did not address the issue of aborting the fetus resulting from assault or rape.

As for contemporary religious scholars, they addressed this issue and examined it closely, especially in special circumstances such as wars in which rape is collective, such as the Gulf War, specifically Iraq's invasion of Kuwait, where rape incidents reached three thousand cases leading to more than one hundred cases of pregnancy. In such cases, committees legislated the permissibility of terminating the fetus before four months.

In summary, the opinions of contemporary jurists and religious scholars have taken two directions:

- **The first direction:** held that abortion is not permissible in cases of rape, and that the raped woman should not fear or feel shame because the act occurred without her consent, and her fetus is entitled to care and sponsorship by the state, especially in cases of rape resulting from wars or turmoil.
- **The second direction:** most, if not all, of its proponents agreed on the permissibility of abortion in the first stage of pregnancy, which is the first forty days.

Second: The Ruling on Abortion of a Fetus Resulting from Rape in the Algerian Penal Code

The criminal legislator did not address abortion resulting from rape in the articles devoted to abortion. This silence likely means that he does not permit this act and subjects it, like other abortion crimes, to punishment. Some legislations have permitted this type of abortion, while others have not, based on the absence of the condition of legitimate self-defense.

The consent of the concerned woman must be obtained if she is an adult. If she is under guardianship, the consent of the guardian or custodian is required. If she is a minor, the consent of one of the parents or her legal representative is required.

If the physician believes that abortion constitutes a danger to the life of the pregnant woman, especially if she is a minor, he must inform her of this, and if she refuses, he must comply with her will.

The legislator's silence and failure to provide for abortion in cases of rape means that he does not exclude this case from punishment.

However, in view of what we see and what occurs in the form of killing newborn infants at birth or abandoning them in hospitals after birth, and in the face of the enormous increase of this phenomenon, we consider it necessary for the legislator to reconsider some texts. For example, we see no reasonable justification for not exempting from punishment a woman who

was coerced or raped by force or violence, especially in cases of collective assault. The phenomenon of rape, whether individual or especially collective, which many of our girls—if not thousands—have suffered from, particularly in the last decade when our country experienced harsh conditions that many endured, especially women and girls, has nevertheless left the legislator idle until now.

Section Two: Abortion for Economic Motives

This is the abortion aimed at getting rid of offspring whose arrival is feared to deteriorate the economic condition of the family. In this case, it is assumed that both parents (the mother and the father) seek to terminate the pregnancy, such as when the number of children is large and the father's income is low or insufficient to provide suitable living conditions. Is it permissible to terminate this pregnancy if such a motive exists?

Subsection One: The Position of Classical and Contemporary Islamic Jurists on Abortion for Economic Motives

Religious scholars have rejected considering abortion to eliminate a fetus that may worsen the family's or household's economic condition as a case of necessity. Jurists say that among the excuses or justifications that permit abortion before the first forty days of pregnancy is financial hardship regarding the expenses that would follow childbirth and child-rearing.

We say that under no circumstances may the parents, whether the father, the mother, or both together, decide to dispose of the fruit of their marital relationship on the pretext of inability to provide for it. If this applies to the family as the primary cell of society, it applies to society as a whole. No society, especially one that embraces Islam, may take abortion or the call to abortion as a means of confronting economic burdens.

Subsection Two: The Position of the Law on Abortion for Economic Motives

The Algerian criminal legislator did not address this type of abortion resulting from a significant increase in the number of family members leading to inability to provide or deterioration of the family's standard of living, which may drive spouses to get rid of a fetus that bears no guilt except that it came into existence under difficult social conditions.

Most legislations prohibit this type of abortion and subject it to punitive provisions, as did the Egyptian, Jordanian, Syrian, and Algerian legislators.

The family may indeed be in real economic hardship, and the father may be unable to bear the burdens of the family, especially with the arrival of one or more new children. However, this does not grant the father or anyone else the right to eliminate a living being progressing in life. Perhaps that fetus may be the key to relief from his economic hardship.

Moreover, there are other means by which such difficulties can be overcome without

harming the fetus, such as the woman going out to work or the father undertaking additional work (17).

Conclusion

The phenomenon of abortion is one of the phenomena that pose a danger to human societies and their morals. It has become one of the global problems whose severity has escalated, and its practice has spread in many countries of the world, with and without justification. Indeed, some of the justifications do not accord with reason, Sharia, or religion.

Recommendations

- Despite the legislator's enactment of punitive provisions, all of this has not prevented the spread of the phenomenon of abortion in a horrific and massive manner and in complete secrecy. Therefore, the issue is not merely one of enacting punitive texts or abolishing them and replacing them with permissive texts. Criminalization has proven that permitting abortion in some countries has led women to neglect contraceptive methods and be careless in their use, resulting in the doubling of numbers and statistics related to abortion.
- The legislator has not moved, despite the presence of religious scholars comparable to those of sisterly and friendly countries, who could provide solutions in accordance with the provisions of Islamic law. Therefore,

we see it necessary to examine these cases.

- Attempting to find solutions within the framework of Islamic law and legislation; otherwise, what will be the fate of girls thereafter?

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