

82334 - Ruling on abortion, divorcing a pregnant woman and putting pressure on a wife to make her give up her rights

the question

What is the Islamic ruling on a husband who tries to make his wife have an abortion in the second month of pregnancy because he wants to divorce her, by giving her medicine against her wishes, although the abortion did not happen? Is that halaal or haraam? What is the expiation for that deed? Is it permissible to divorce a wife when she is pregnant? What is the ruling on forcing a wife to give up her rights before she is divorced?.

Detailed answer

Firstly:

Aborting pregnancy is not permissible, whether the soul has been breathed into the foetus or not, but after the soul has been breathed into it, the prohibition is more emphatic. If a husband orders his wife to have an abortion, it is not permissible for her to obey him.

Shaykh Muhammad ibn Ibraaheem (may Allah have mercy on him) said:

As for trying to abort a pregnancy, that is not permissible so long as the death of the foetus in utero is not proven; if that is proven then it is permissible.

Majmoo' Fatawa al-Shaykh Ibn Ibraaheem (11/151).

Shaykh Saalih al-Fawzaan (may Allah preserve him) said:

Firstly:

Aborting pregnancy is not permissible. If a woman is pregnant the pregnancy must be protected, and it is haraam for the mother to harm this pregnancy or to put any kind of pressure on it, because it is a trust that Allah has placed in her womb and it has rights, so it

is not permissible to mistreat it, harm it or destroy it. The shar'i evidence indicates that it is haraam to abort pregnancy.

The fact that she cannot give birth without surgery is no justification for abortion. Many women cannot give birth without surgery, so this is not an excuse to abort the surgery.

Secondly:

If the soul has been breathed into this foetus and it has begun to move, then she aborted it after that and it died, then she is regarded as having killed a soul, so she must offer expiation by freeing a slave. If that is not possible then she must fast for two consecutive months as repentance to Allah. That applies if it was four months old, because in that case the soul had been breathed into it. If she aborted it after that, then she must offer expiation as described above. This matter is very serious and cannot be taken lightly. If she could not bear the pregnancy because she is sick, then she should take medicines that prevent pregnancy before it begins, such as taking pills to delay getting pregnant until she regains her health and strength.

Al-Muntaqa (5/301, 302).

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) was asked about a man who said to his wife: Abort what is in your womb and the sin will be on me. If she did that in obedience to him, what expiation must they offer?

He replied:

If she did that, then they must both offer expiation by freeing a believing slave. If they cannot do that, then they must fast for two consecutive months, and they must give a male or female slave to his heirs who did not kill him, not to the father because the father is the one who ordered that he be killed, so he does not deserve anything.

The phrase "male or female slave" refers to the diyah for the foetus, the value of a male or female slave, which the scholars set at one-tenth of the diyah for the mother.

The ruling on abortion has been discussed previously in more than one question. Please see: [13317](#), [42321](#) and [12733](#).

Secondly:

With regard to divorcing a pregnant woman, it is a sunnah talaq. It is widely believed among many of the common folk that it is contrary to the Sunnah, but there is no basis or evidence for their view.

Muslim (1471) narrated the story of how Ibn 'Umar divorced his wife, and the Prophet (peace and blessings of Allah be upon him) said: "Tell him to take her back and divorce her when she is pure (not menstruating) or is pregnant."

Ibn 'Abd al-Barr said:

With regard to the pregnant woman, there is no difference of opinion among the scholars that she may be divorced according to the Sunnah from the beginning of the pregnancy to the end, because her 'iddah is until she gives birth. Similarly it was proven from the Prophet (peace and blessings of Allah be upon him) in the hadeeth of Ibn 'Umar that he told him to divorce her (his wife) when she was pure (not menstruating) or was pregnant, and there is no distinction between the beginning or end of pregnancy.

Al-Tamheed (15/80).

We have quoted the fatwa of Shaykh 'Abd al-'Azeez ibn Baaz (may Allah have mercy on him) about the ruling on divorcing a pregnant woman in the answer to question no. [12287](#).

Thirdly:

It is not permissible for a husband to take any of his wife's property unless she gives it willingly, including her mahr (dowry), unless she has committed an act of blatant immorality, because Allah says (interpretation of the meaning):

"but if they, of their own good pleasure, remit any part of it to you, take it, and enjoy it without fear of any harm (as Allah has made it lawful)"

[al-Nisa' 4:4]

“and you should not treat them with harshness, that you may take away part of the Mahr you have given them, unless they commit open illegal sexual intercourse”

[al-Nisa' 4:19]

Ibn Qudaamah said:

[The scholars] are unanimously agreed that it is haraam to take her wealth except in the case of wilful defiance (nushooz) or bad conduct on her part. Ibn al-Mundhir narrated that al-Nu'maan said: If the wrongdoing and mistreatment comes from him and she separated from him by means of khula', then it is permissible but he is sinning; what he did is not permissible for him but he should not be forced to return what he took.

Ibn al-Mundhir said: What he says is contrary to the apparent meaning of the Book of Allah, and contrary to the proven report from the Prophet (peace and blessings of Allah be upon him), and contrary to the consensus of most of the scholars.

Al-Mughni (3/137).

Shaykh al-Islam Ibn Taymiyah said in Majmoo' al-Fataawa (32/283):

It is not permissible for a man to treat his wife with harshness and put pressure on her until she gives up some of the dowry, or to beat her for that purpose. But if she commits an act of blatant immorality, he has the right to treat her harshly so that she will give him something in return for letting her go, and he may hit her. This is something that is between a man and Allah. As for the wife's family, they should find out who is in the right and support him or her. If it becomes clear to them that she is the one who has transgressed the limits set by Allah and has been unfaithful to her husband, then she is the wrongdoer and transgressor so she should give something in return for divorce. End quote.

What is meant by an act of blatant immorality (translated as “illegal sexual intercourse”) in the verse “and you should not treat them with harshness, that you may take away part of

the Mahr you have given them, unless they commit open illegal sexual intercourse”[al-Nisa’ 4:19] is zina (adultery) and lack of understanding and bad conduct, such as speaking bad words or mistreating her husband.

See Tafseer al-Sa’di, p. 242

And Allah knows best.