

| Abortion in Hanafī Law | |
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| Hanafī school | Dominant legal school among the Muslims of the Balkans (Albania, Bosnia, Bulgaria) Turkey, Pakistan, Bangladesh, India, and China |
| Hanafī methodology | <p>Ẓannī legal evidence cannot modify the clear meaning of qatʿī legal evidence</p> <p>Transmissions from the Prophet that the Companions and Muslim jurists have followed are preferred over transmissions selected on the bases of the memory and integrity of transmitters</p> <ul style="list-style-type: none"> - Transmission with corroborating application certifies its status as legal precedent <p>Applies legal analogy in the absence of an explicit statement from the Qurʾan or the Sunnah</p> |
| Arabic expressions for abortion | إسقاط ، إلقاء ، إتلاف الجنين |
| Consensus | <p>There is consensus within the Hanafī School that abortion after istibānat al-khalq (the clear manifestation of the creation of the human being in the womb) is a sin and is prohibited</p> <ul style="list-style-type: none"> - Some jurists take clear manifestation to correspond to the time of ensoulment <ul style="list-style-type: none"> - Ibn al-Humām holds that manifestation of creation refers to ensoulment <p>وهل يباح الإسقاط بعد الحبل؟ يباح ما لم يتخلق شيء منه ثم في غير موضع، قالوا: ولا يكون ذلك إلا بعد مائة وعشرين يوماً، وهذا يقتضي أنهم أرادوا بالتخليق نفخ الروح وإلا فهو غلط لأن التخليق يتحقق بالمشاهدة قبل هذه المدة</p> <ul style="list-style-type: none"> - Other jurists take clear manifestation to refer to the physical formation of the fetus <ul style="list-style-type: none"> - Ibn Wahbān and Qādī Khān holds that manifestation is indicated by the physical formation of the fetus <p>ويكره أن تسقى لإسقاط حملها ... وجاز لعذر حيث لا يتصور (والتصور أن يظهر له شعر أو إصبع أو رجل أو نحو ذلك)</p> |
| Rulings on abortion before manifestation | <p>One opinion is that abortion before the manifestation of creation is permissible and does not constitute a sin</p> <p>Second opinion is that abortion before the manifestation of creation is</p> |

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| Legal analogy | <p>not permissible and does constitute a sin (allowed only when a legally valid excuse exists)</p> <ul style="list-style-type: none"> - Held by Qādī Khān and Ibn Wahbān - If the muḥrim breaks the eggs of a prey, he is penalized with a penalty <p>ولا أقول بالحلّ إذ المُحرم لو كسر بيض الصيد ضمنّه لأنّه أصل الصيد فلما كان يؤخذ بالجزاء فلا أقل من أن يلحقها إثم لهذا إذا أسقطت بغير عذر</p> |
| <p>“Harm is not removed by its like”</p> <p>الضرر لا يزال بمثله</p> | <p>A starving person cannot take food from someone who would starve if the food is taken</p> <p>After the manifestation of creation, the life of the mother is not prioritized over the life of the child in the womb, since they are both human beings</p> |
| <p>Husband's permission</p> <p>Ibn Nujaym</p> | <p>The unrestricted statement that abortion is permissible before 120 days means that the permissibility of her abortion before the mentioned time does not depend on the husband's permission</p> <p>وإطلاقهم يفيد عدم توقف جواز إسقاطها قبل المدة المذكورة على إذن الزوج</p> |
| Ibn Wahbān | <p>Interprets the position of the Hanafī jurists who allowed abortion prior to 120 days without sin to mean it is permissible with a legal valid excuse and the doer doesn't accrue the sin of murder, not no sin at all</p> <p>إباحة الإسقاط محمولة على حالة العذر أو أنها لا تأثم إثم القتل</p> |
| <p>Penalty for abortion after manifestation</p> <p>Ibn Wahbān</p> | <p>There is a consensus in the school that there is a penalty called ghurrah which is 500 dirhams and is paid by the 'āqilah (clan) to the husband if it was done without his permission</p> <ul style="list-style-type: none"> - If it was with his permission then nothing is owed <p>وإن أسقطت ميتا (أي بعلاج أو شرب دواء تتعمد به الإسقاط) ففي السقط غُرّة ... لوأده من عاقل الأم تحضر</p> |
| Ibn 'Ābidīn | <p>Holds that induced abortion after manifestation is killing from the religious perspective even if it is not dealt like murder from the penal perspective which imposes the ghurrah</p> <p>ولا يخفى أنها تأثم إثم القتل لو استبان خلقه ومات بفعلها</p> |
| Pregnancy from rape | <p>Induced abortion would not be sinful prior to manifestation of creation according to those who hold the first opinion</p> <p>According to both opinions, inducing abortion after manifestation would be sinful and a crime since after manifestation the fetus is a person</p> |
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