

أَعُوذُ بِاللَّهِ مِنَ الشَّيْطَانِ الرَّجِيمِ

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْحَمْدُ لِلَّهِ كَمَا هُوَ أَهْلُهُ وَالصَّلَاةُ وَالسَّلَامُ عَلَى سَيِّدِ الْوُلْدِ أَدَمَ كَمَا يَحِبُّ وَيَرْضَى بِأَنْ يُصَلَّى عَلَيْهِ

---

## Shariah Laws Regarding Abortion

*(Hanafi, Shafe'i, Maaliki, Hanbali)*

---

There are three phases of early pregnancy in the initial formation of the fetus in the womb:

1. Pregnancy for less for 40 days
2. Pregnancy for less than 120 days
3. Pregnancy for more than 120 days

### Maaliki View:

The Maaliki ruling is very strict in this concern. Imam Shahaabuddin writes as follows:

“When the womb accepts the sperm then it is not permissible to tamper with it, and when the sperm takes the shape of a blood clot then aborting it will be considered as a more serious crime than what it was in the former situation but when the soul is blown into it then the abortion is consensually regarded as a murder.”

(Al-Dhakheerah Vol. 4, p. 419)

It declares that the abortion is not permissible even in the early 40 days' pregnancy as well according to the Maaliki school of thought, and the abortion before 120 days is more of a serious crime, and after 120 days, it's a murder.

### **Shafe'i View:**

Shafe'i Madhhab deals with the issue of abortion in the following manner:

“There is difference of opinion regarding abortion before the period of 120 days of pregnancy. According to the opinion of Ibn Al-Emad and some other scholars, the preferred ruling is of its prohibition. Such abortion cannot even be interpreted based on ‘Azl (Ejaculation out of its desired place) because there is a clear difference between the two. Since, at the time of ‘Azl, the sperm is just a lifeless object and is not capable of obtaining life from any angle when compared to the situation where the sperm reached the womb and the process of creation has begun.”

(Bejermi ‘Ala Al-Khateeb Vol. 4, p. 47)

### **Hanbali View:**

It is mentioned in Hanbali Fiqh that the abortion is permissible before the period of 120 days of pregnancy; as it is mentioned in Mughni (Vol. 7, p. 816)

### **Hanafi View:**

The Hanafi Fiqh declares it as follows:

“The question whether or not is it allowed to abort the fetus during the pregnancy, then it is allowed during the time when nothing has been formed with it, and that occurs only after 120 days. It signifies that the Jurists have meant “blowing the soul” by “creation”, and if this was not the case then their statement will be wrong because it is a proven fact that the “creation (literally)” takes place prior to the period (of 120 days).”

(Fat’h Al-Qadeer Vol. 3, p. 274)

Fatawa Alamgiri is quite clear about it as follows:

“A woman can abort the pregnancy only when nothing has been formed in the process of its creation which can only be applicable to the early 120 days period.”

(Fatawa Alamgiri Vol. 1, 367)

**Note:** There is no general permission granted for aborting pregnancies as one may derive from the statements above. It’s an evil act. Although there is

permission to abort the pregnancy according to the Hanafi, Shafe'i and Hanbali Madhaahib prior to 120 days but it's only permissible under certain circumstances because it is plainly murder after that period by Ijma' anyway.

For instance, the Hanafi Fiqh states as follows:

**Shariah Ruling:**

“Use of medicines in order to abort a pregnancy is not allowed whether the fetus has been formed or not, it is disallowed to abort the pregnancy except if there is a valid excuse for it; for example:

- ✓ If the mother's life is in danger if she were to give birth
- ✓ If the mother is already breastfeeding her first child and she cannot find another woman who can breastfeed and the father being financially unable to arrange for milk, and due to all these factors, there is a threat to the child's survival then keeping the state of constraint in mind, the fetus can be aborted with the condition that if the body-parts of the fetus have not formed yet, the duration of which is 120 days i.e. if the pregnancy is 120 days old then there will no permission of abortion granted.”

(Fatawa Alamgiri Vol. 5, p. 356)

According to the (Hanafi view) declaration of the local authority, Shar'i Council of South Africa, Newcastle, KZN, in the situation of a rape case or Zina, the woman is not allowed to abort the fetus if the abovementioned criteria is not met.