

Abortion in Algeria: Treatment and crime

Aissaoui Adel
Abbes Laghrour University-Khenchela (Algeria),
aissaoui.adel@univ-khenchela.dz

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Abstract:

Abortion is subject to the monitoring and supervision of specialists, according to various legal texts in the health and legal field, in order to ensure the desired result of saving the mother's life. Other than that, it is a crime that can be subject to the harshest penalties set by the Algerian legislator. However, this remains hostage to the increasing number of abortions due to medical necessity, which necessitates updating the texts that deal with the process between necessity and criminalization.

Key words: Protection; Pregnant woman; Fetus; Penalty; Abortion.

Corresponding author: Aissaoui Adel, e-mail: aissaoui.adel@univ-khenchela.dz

INTRODUCTION

Preserving life is one of the most important purposes that legislation came with the aim of protecting people, and this is only through the development of legislative texts that are keen to preserve the right to life for individuals in general, especially the fetus, as the Algerian legislator treated his legal status in many laws that guarantee him the right to life as well as the protection of his financial assets.

However, in many cases, it may be necessary to nominally sacrifice the fetus if its survival poses a danger. For pregnant women, what should be disposed of, taking into account of certain controls, they were defined in many legislative texts in a narrow way so as not let this be a reason for losing the pregnancy.

Also, the controls on abortion and harming the fetus can be approached a crime against him, which made the legislator address this by stipulating abortion a crime as long as it was applied to get rid of the fetus for any illegal reason, which makes abortion a permissible necessity in specific cases, as well a crime in other cases, which prompts the following problem: How successful is the Algerian legislator in distinguishing between making abortion a necessity and a crime according to the legal status in an attempt to keep them together ?

The importance of these details is evident in the research in terms of necessity and criminality a serious matter that aims to reveal the fine line between the two matters, which is one of the reasons for its choice, in addition to the personal desire to discuss topics of a family nature and their relationship to the modern medical field.

For this, the analytical approach will be adopted for all the details of abortion from the medical and legal aspects, focusing on the details that make abortion a medical and therapeutic necessity that is irreplaceable in order to protect the pregnant mother, and make abortion a crime full-fledged crime due to the lack of a serious motive for it, and the consequent penalties stipulated by Algerian legislation.

To study this crime, the topic will be divided into four Parts. In the first requirement, the meaning of abortion is presented in terms of jurisprudence, legal and medical, as well as distinguishing it on some terms that are close to it in meaning, as for the second requirement, it includes the types of abortion, which range from therapeutic necessity to the unjustified criminal, as well as the third requirement, which includes considering abortion as a therapeutic necessity according to certain conditions that should not be deviated from as an exception from the general framework, up to the fourth requirement that will deal with abortion as a crime and the measures and penalties approved by the Algerian legislator to reduce crime.

First Requirement: Definitional controls for abortion.

Due in large part to the influence of European imperial powers, many nations had severe legal restrictions on abortion by the end of the nineteenth century. As a reflection of the moral and religious climate of the day, countries passed legislation making abortion illegal. Following the adoption of these laws in their colonies, abortion became widely prohibited in many areas ruled by Europe. As a holdover from their colonial past, many former colonies kept enforcing these restrictive abortion laws even after they gained independence (Berer, 2017, p. 14). Legal perspectives on abortion differ greatly amongst legal systems; some nations are pro-abortion while others are against it. These disparities frequently stem from ideological allusions; in certain nations, abortion is seen as a medically necessary solution in particular situations, while in others, it is seen as a woman's personal freedom that permits her to end the pregnancy for any reason.

Therefore, a precise and unambiguous definition of abortion is necessary for the study of this act. This entails separating it from related concepts, emphasizing its implications in multiple areas, and concentrating on its profound technical meaning.

First Section: The diversity of meanings of abortion.

Different definitions have been given to explain the abortion process, by clarifying the various meanings that it implies from a theoretical as well as technical point of view, as well as highlighting its meaning from the aspect that is considered important, which is the medical aspect, according to the following detail :

First: The definition of abortion in jurisprudence and law.

There were many definitions that dealt with abortion from the jurisprudential and legal side in many aspects, because each trend was affected by the many aspects of abortion between making it legal within certain limits, and prohibited in other aspects, therefore, the jurisprudential and legal definition should be detailed according to the following :

1- Jurisprudential definition.

Abortion is the use of a device that, if done with the intention of causing this outcome, causes the fetus to be expelled before the date of birth(Labneh, 1996, p. 28).

This definition clearly illustrates that abortion hinges on the requirement of a current pregnancy, along with the presence of the action that calls for the aborti, infused with criminal intent(Rahim, 2002, p. 86).

2- Legal definition.

Abortion is the act of prematurely removing a pregnancy from the womb, without a valid reason, through any method(AlNujaimi, 2011, p. 19)

The abortion process may be legal, in the sense that it is necessary to protect the life of the mother, and sacrifice the fetus, but it may not be legitimate by violating the life of the fetus without a real motive for it, and thus killing it, which constitutes a full-fledged crime.

As for the Algerian lawmaker, and by alluding to the legitimate writings that he relegated to this wrongdoing (304 to 313 of the Penal Code), he did not allow a definition of it, but was constrained to characterizing its shapes and tending to its components, as article 304 of the Penal Code shown that there are numerous ways in which It includes a pregnant lady having

an premature birth With many methods like eating, drinking or the utilize of viciousness with or with her assent, or by allowing it (Penal Code, 1966, p. 733).

By extrapolating the legal content, it can be said that fetus removal could be a wrongdoing against a pregnant woman, or who is gathered to ended up pregnant, with her assent or bad habit versa, whether by instigator or endeavor, or by endeavoring to, intentioned assault the life of the embryo interior the womb, or to evacuate it from the womb some time recently the characteristic date of its birth, lively or dead, or by any implies, whether physical or ethical, without need, such as sparing the life of the pregnant.

Second: Medicine's defintion of Abortion.

Abortion, medically speaking, means the separation of the fetus from the uterus approximately in the eighth week of pregnancy (Alawari, 2010, p. 12).

It is additionally known as the exit of the substance of the uterus some time recently twenty weeks and the plummet of the contents of the uterus within the period between 20-38 births some time recently pregnancy, and fetus removal was already known as: the exit of the substance of the uterus some time recently the section of 28 weeks, wich is calculated from the woman's final menstrual period (Al-Dibsi, 2010, p. 115).

Some forensic scientists have also defined abortion as: emptying the uterus of a pregnant woman from its contents using artificial means such as inserting a machine, or taking medicines or drugs or others that would produce its proceeds at Before the end of pregnancy, for illegitimate reasons.

Until as of late, specialists considered that on the off chance that a child came out some time recently 28 weeks, it was not reasonable, but after the headway of cutting edge therapeutic strategies, it got to be conceivable to live some time recently this period, and numerous newborns lived for six months, and advanced restorative references made the slightest period that can

be the infant lives twenty weeks or more and weighs 500 grams or more (Albar, 1985, p. 11).

Second Section: Distinguishing abortion from what is similar.

There is often confusion between the crime of abortion and similar crimes, so it is necessary to distinguish between these terms from a legal point of view, and this is what we will be shown in the following:

First: Distinguishing abortion from contraception.

Abortion is the end of pregnancy some time recently the characteristic date of conveyance ; in fetus removal, the pregnancy is expected, whose development and improvement have been ended, on the off chance that there's no pregnancy at all, there's no way to say that an abortion was happened (Labneh, 1996, p. 50).

As for contraception, it is expected that there's no pregnancy, as one of the different prophylactic strategies is utilized to anticipate it (Alyasin, 2013, p. 61).

Preventing pregnancy prior to its occurrence is not considered an abortion, but if it was carried out by a surgical operation that resulted in damage and injuries to the victim, such as permanent infertility, which makes the woman unable to have children, then the perpetrator Legally, it is considered as if he committed the crime of disability, without taking into account the victim's consent, as is assumed that these methods are limited to preventing pregnancy, and therefore, if pregnancy begins, it is the dividing point between considering the method before us as a means of abortion or a means of contraception.

Second: Difference between abortion and crime of murder.

The wrongdoing of abortion contrasts from the wrongdoing of kill in terms of the put of criminal assurance, abortion points to require the life of the fetus some time recently the normal date of birth, whereas kill points to annihilate the soul of a living individual, appropriately, the security given by the Algerian legislator shifts for both the fetus and the human being alike,

and the punishments for kill are more extreme than those for fetus removal(Labneh, 1996, p. 54)

In the expanded sense, abortion is a crime, it is an intention, and therefore abortion errors do not in most cases constitute liability (AlNujaimi, 2011, p. 89).

Many modern laws and legal concepts have modified the distinction between fetal life and human life, prioritizing the immediate life over the former. This becomes clear when a dispute arises between the two parties, who agree on the principle of relinquishing the right of the lesser value in order to preserve the right of the higher value.(Labneh, 1996, p. 55).

Third: Distinguishing abortion from preterm birth.

Preterm birth is the birth of a child some time recently its organs reach their full improvement, that's , some time recently the expiry of the fundamental period for this adolescence within the mother's womb, which is assessed at approximately nine ordinary months or ten lunar months, one of the signs of untimely birth is that the fetus's skin is delicate to ruddy, his bones are delicate and lean, his breathing is shallow, his crying is powerless, his developments are by and large moderate, and his body temperature is unsteady(Alrifai, 2011, p. 3).

Second Requirement: Types of abortion.

Medical scholars, along with legal scholars, have divided abortion into several types, depending either on the source from which the abortion occurred, or on the intention behind it, which will be clarified according to the following detail :

First Section: Natural abortion.

It influences almost 10 to 25% of pregnancies, the substance of the uterus are suddenly removed without human will suddenly after the hatchling stops creating, due to Shortcoming in ovarian hormonal discharges amid pregnancy.

It can be also as result of other maladies influencing the mother or embryo such as syphilis, diabetes, kidney malady, contaminations,

uterine tumors, and intrinsic deformity of the hatchling(Ghazioui, 2019, p. 81)

This may be without the woman's consent, due to a mistake on her part or because of the physiological condition, as well as the lack of what the fetus needs, which appears in fetal deformities that doctors believe cause death. are distorted, which in around 10% of the pregnancies, a miscarriage occurs without any external intervention, and the reason for this is either a defect in the pregnancy itself, or for pathological reasons for the pregnant woman(Jeddaoui, 2010, p. 25).

Second Section: Therapeutic (Natural) abortion.

In many countries, abortion laws stay excessively prohibitive, and these restrictions are not connected with lower abortion rates. On the other hand, basically having a restorative abortion law in put does not ensure getto to secure abortion administrations(Moland, Haukanes, Blystad, & Tadele, 2017, p. 7).

This sort of abortion is additionally called therapeutic abortion , since it is the result of wellbeing conditions for the pregnant woman, which is required by need within the occasion that she endures a genuine infection that undermines the continuation of her pregnancy and her life and her wellbeing as a entire, and among these maladies are heart diseases and cancers, and also other willinfections which influence thecapacities the imperativeness of the body, and its increment may lead to chance of pregnancy such as unremitting hepatitis,intense renal disappointment and pneumonic tuberculosis (Djemai, 2019, p. 1763).

This sort of abortion is consideredan uncommon strategy carried out bya master specialistafter affirming thatthepregnancy postures a risk to the mother's life, and specialists must attempt to treat her some time recently making the choice to prematurely end, the Algerian legislator, considered abortion asreasonable and lawful and not culpable in cases of therapeutic need as an exemption to the first

(Kasmieh, 2016, p. 113), and he specified it within certain conditions according to article number 308 of the Algerian penal code, which denies punishment for abortion if it is necessary to save the mother's life from danger when a doctor or surgeon performs it in secret and after informing the administrative authority.

Article 77 of the health law (health law, 2018, p. 10), stipulates that abortion for a restorative reason could be as basic strategy to spare the mother's life from threat or to protect her mental and mental adjust, which is in grave peril (Saleh, 2019, p. 877).

Third Section: The Criminal face of abortion.

During the period of 2015 to 2019 the Initiated abortion is one of the foremost common Gynecological methods universally, an assessed 73.3 millions abortions were performed yearly due to unintended pregnancies. This implies that about three in ten pregnancies finished in fetus removal, with a normal rate of 39 premature births per year per one thousand women of regenerative age (DempseyI, Callaghan, & Higgins, 2024, p. 2).

From a lawful point of see, criminal abortion is purging the mother's uterus of its substance utilizing different implies such as robotized mediation or the utilize of medications and elements that work to launch the substance of the pregnant woman's uterus for a reason other than sparing the life of the pregnant mother (Mihoub & Ghoul, 2020, p. 168), criminal abortion takes two forms :

First: Pregnant woman's self-abortion.

This image of abortion is verified when a pregnant woman deliberately aborts herself, meaning excluding the error if it occurred from the pregnant woman, because for this crime to occur, she must have deliberately had an abortion regardless of the motive for it, without the help of others (Benazza, 2013, p. 150).

This form of abortion is stipulated in article 309 of the Algerian Penal Code, by punishing a pregnant woman who deliberately has an abortion or simply attempts it using various means, or agrees to

commit an abortion, by imprisonment for a minimum period of six months and a maximum of two years, in addition to a fine between 250 to 1000 Algerian dinars.

Second: Abortion by others.

This picture is accomplished when a pregnant woman looks for the assistance of another individual to prematurely end her, by advertising all sorts of foods, nourishments and drinks or practicing any developments or acts of violence against her, and there's no lesson within the woman's acknowledgment or non-acceptance, whether or not the abortion happened as a result of the abortion.

Also, Article 304 of the Algerian Penal Code stipulates how to commit the crime of abortion, and therefore whoever performs these acts, whatever the method he uses, even if the pregnant woman consents to it, is considered to have committed the crime of abortion.

Third Requirement: Abortion is a medical necessity.

A parcel of nations have worked to outline abortion lawfully, and the Soviet Union was the primary to change the abortion law, with the part of women's activist dissident Alexandra Kollontai developing, as a declare on women's wellbeing care was issued in October 1920.

Abortion is a legitimate way to preserve the life of the mother or fetus in exclusive cases with the aim of restricting its practice, so that it is not a pretext to get rid of the fetus and encourage this behavior.

Therefore, the Algerian legislator has surrounded this process with a number of restrictions, provided that certain means are followed to make the operation a success for the mother's safety.

First Section: Restrictions to be observed in performing an abortion.

The lawful arrangements related to the hone of premature birth must be followed to, particularly what is expressed within the Code of medical ethics through article 33, which incorporates the sign that the specialist cannot perform the method of ending a pregnancy but inside the legitimate system (Medical Ethics, 1992).

It is concluded from these legal texts that the conditions for performing a therapeutic abortion are :

First: there must be a peril that debilitates the mother's life, and this threat must be really related to the pregnancy, and there's no other way to spare the mother's life.

Second: It should be performed by a doctor or surgeon, after consulting two doctors, one of whom is an ace certify by the courts, they issue an examination certificate illustrating the require of turning to hatchling expulsion, given that it is openly educated to the competent definitive pro. Third : It should be open and not hidden.

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Fourth: The obligation to inform the administrative authorities.

It is concluded through these conditions that the birthing specialist and the nurture are not authorized to perform this sort of premature birth indeed in case it is aiming to spare the mother's life, meaning that they are criminally capable.

There's a distinction between common abortion and helpful one, as the primary is an automatic act, whereas the moment is considered a intentional act, in any case, therapeutic advance has been able to decrease the require for abortion to spare the mother's life, as the specialist resorts to actuating labor or performing a caesarean area, by which he spares the fetus and its mother.

Second Section: Medical methods to practice abortion to protect mother's life.

Restorative abortion may be a secure and successful life-saving device that can be given in a assortment of clinical settings, counting through telemedicine, concurring to rules required by the mother's restorative condition (Messbah & Lacheb, 2020, p. 2). The strategies of abortion are various and shifted, as sketched out by the Algerian legislator in article 304 of the penal Code.

The legislator intentioned didnt indicate or restrain these strategies to maintain a strategic distance from taking Off a lawful vacuum,

recognizing that premature birth strategies advance which societal changes can present unused strategies. This awareness is reflected in the inclusion of the phrase "...any other means...". Among these ways are :

First: The Method of absorption.

It is a method, in which they use local anesthesia to slight cervix, and then the pregnancy crop is pulled out with a fine tube (Raifman, 2024, p. 2)

The fetus is sucked through the tube, and the method keeps going from 5 to 15 minutes, and this strategy is characterized by its few complications, as well as less passings from fetus removal (less than 0.5 per 100,000), On the off chance that the gestational age is between 7 and 12 weeks, a vacuum suction is utilized, with a more unbending tube associated to the suction gadget (Benazza, 2013, p. 155).

Second: Extension and curettage.

During the abortion process, the doctor inserts certain objects After dilating the cervix, the doctor removes the fetus using a curettage tool uterine wall, and during this process, the wife must be under the influence of anesthetic, and these operations are often done without anesthetic, which causes great pain (Labneh, 1996, p. 1 2 3).

Third: Using Abortion with specialized medications.

Some medications may be given to help the fetus exit, either by mouth, injection, or vaginal delivery.

1-Use of female hormone antagonists.

It works by stimulating the uterus to expand and contract, which leads to the separation of the fetus. This is done by inhibiting progesterone receptors. This substance was called Mifégine, and it was precluded until 1988, when Allowed in France, since the victory rate in abortion does not surpass 80%, prostaglandins were included to it, which raised the rate to 95% (Albar, 1985, p. 1 5).

It may cause some health effects, including gastrointestinal disturbances, bleeding, and heart problems in women, which can lead to miscarriage. Therefore, it should only be used during the first six weeks of pregnancy.

2-Prostaglandins.

It is a greasy substance found in most animal tissues, especially in semen, It is considered important through its effect on the uterus, especially the muscles that contract and relax.

Currently, this substance is produced incorrectly, which leads to abortion, through injection or application of bandages, which causes the pain associated with uterine extraction, death, some digestive and respiratory disorders, and leads to sepsis in 2% of cases, and intestinal disorders in 5%. As for the mortality rate, although it was rare with the advancement of technology, it was not completely absent, and this rate is higher in developing and poor countries. (Jeddaoui, 2010, p. 25).

Third Section: Exceptions to abortion.

The individual may perform acts that show up on the surface to be a crime, however they are not considered as such, or this depiction falls from them since they were committed in circumstances that the content of the criminalization cannot be connected to, since they point to secure an intrigued that's to begin with in thought, which makes it a reasonable act, meaning the need to actualize premature birth.

As for the obstacles of duty, they cruel the reasons that influence a person's eligibility, making him unfit to bear the punishment, on the off chance that the flexibility of choice is denied or the flexibility of segregation is denied, the duty is avoided by going without from one of them, and the obstacles to obligation don't delete the crime but lift the discipline.

First: The necessity of implementing abortion.

It can be cleared as takes after :

1- Abortion for a related necessity by mother.

The Algerian lawmaker stipulated that abortion ought to not be rebuffed, a circumstance demonstrated by article 308 of the Penal Code, which clarified that on the off chance that the abortion was in agreement with a need spoken to in sparing the mother's life from threat, at that point it isn't subject to discipline, when the doctor performs it subtly. And after educating the regulatory specialist.

The Code of Medical Ethics indicated in article 33 that a doctor may not perform a surgical operation to terminate a pregnancy. Thus, the Health Law clarifies the place and conditions for performing an authorized abortion.

2- Abortion due to a necessity related to the fetus.

The Algerian legislator did not stipulate this type of abortion, and his failure to address this issue implies two hypotheses :

A- The first hypothesis: that he deliberately did not provide for this type of abortion, and it derives this from the legal texts that he devoted to the subject of abortion, where the fetus is surrounded by great and wide protection, and from here it is understood that that does not permit abortion of the fetus even if it is proven with certainty from sources Medically it is distorted.

B- The second hypothesis: which is that he has ignored this theme, or he did not proposed to approach the entryway of think about.

Second: Responsible impediments to the practice of abortion.

It can be appeared as takes after :

1- Abortion from a pregnancy of fornication or incest.

Abortion was criminalized in any case of its thought processes and shapes(Mihoub & Ghoul, 2020, p. 170).

He did not differentiate between an abortion that is performed with a valid marriage, or the fruit of fornication.

2- Abortion from pregnancy rape.

The Algerian legislator did not subject to abortion of pregnancy coming about from assault within the articles he assigned for abortion, and maybe his hush implies that he did not permit this act.

However, there is an exception that is taken if the abuser is a child and he fears that she will become pregnant, give birth or commit suicide, this is permitted based on medical considerations.

3- Abortion for economic reasons.

The Algerian legislator has not been uncovered to this sort of abortion, which comes about from a expansive increment within the number of family.

A lot of legislations criminalize this sort of abortion and subject it to discipline arrangements, and so there are other implies by which these challenges can be overcome without influencing the fetus, such as the woman going out to work, or the father doing extra work to overcome the troublesome living conditions.

The companions can take safeguards some time recently the event of pregnancy, and they ought to not fall flat to require the fundamental measures for this, such as prophylactic strategies, which are accessible to the woman who needs to decide the birth (Jeddaoui, 2010, p. 117).

Fourth Requirement: Abortion as a crime.

Transnational systems of performing artists pushing for more preservationist abortion arrangements are getting to be progressively dynamic around the world (Blystad, Haukanes, Tadele, & Moland, 2020, p. 1), and Algeria is taking this approach, implementing abortion on a limited scale according to controlled legal frameworks, under penalty of sanctions stipulated in the texts.

Intentional end of pregnancy may be a profoundly talked about and lawfully perplexing issue that has created global controversy between defenders and adversaries, it may be a restorative strategy that permits women to legitimately and securely

end an undesirable pregnancy (Argote & Levinstein, 2022, p. 5).

First Section: Pillars of the crime of abortion.

For considering abortion as a complete crime, there must be legally defined pillars, and this is as follows :

First: The legal pillar.

Culpable abortion is criminal fetus removal, that the Algerian legislator alluded to as its legitimate column within the penal code through articles 304-306-309 and 310 related to abortion.

1-The Case Of Pregnancy Is Assumed.

It is fundamental some time recently going into the accessibility of the components other crime (Slakh, 2020, p. 114), this is what article 304 of the Algerian penal code stipulates by saying (whoever aborts a pregnant or presumed pregnant woman...), and if the supposed element fails, the crime is legally nullified.

2- Pregnancy case.

In arrange for an abortion to require put, there must be a case of pregnancy, meaning the presence of a fetus within the woman's womb, by bringing it out lively some time recently it is born actually (Kasmieh, 2016, p. 113).

Legislator expanded his assurance to the fetus, whether it was completely shaped and the soul streamed in it, or it was within the handle of arrangement prior to that organize within the to begin with months of pregnancy, and he moreover did not give prove of its prerequisite that the fetus be lively at the time of the attack (AlRaq & Benmhidi, 2020, p. 106).

Second: Material element.

It is an act of any behavior that's positive or negative, and so it is the concrete criminal occurrence, and without it the crime does not exist within the see of the law.

1-Criminal behaviour.

It is the activity carried out by the guilty party, and this behavior varies from one crime to another, and is continuously based

on the components of will and natural development to carry out this behavior.

It may be a positive crime where the guilty party does an act that will lead to the passing of the fetus, (Benazza, 2013, pp. 102-103).

A-Physical force.

This violence consists in taking very hot showers, riding on vibrating cars, or jumping from above(Rahim, 2002, p. 238)

B- Taking drugs harmful to pregnancy.

Women resort to this strategy, after utilizing viciousness without having an abortion, such as rye, or the utilize of solid aggravations such as severe melon, too drugs that control feminine cycle such as thyme are too utilized for this reason drugs(AlNujaimi, 2011, p. 8 9).

C- Touching women's private parts.

The legislator gave cases of these implies, he said nourishments, drinks, solutions, acts of savagery or any other way without indicating, it can be said that the legislator did not consider the implies utilized by the guilty party in carrying out his criminal movement(Jeddaoui, 2010, p. 36), so the arrangements of the correctional code came in common, and on that her articulations can be utilized to all implies, and there's no contrast between whether the guilty party specifically ambushed the pregnant woman, or arranged the Fundamental implies for that, such as putting hurtful drugs in her nourishment (Ghazioui, 2019, p. 82).

The significance of the implies is constrained to recognizing between sorts of violations, where abortion may be a lawful offense in case violence and cruelty are utilized, and abortion may be a misdemeanor in case savagery isn't utilized.

This abstention may be issued by the pregnant woman herself by deliberately refraining from taking medication or starving herself, which causes abortion, or even by people with a special capacity (such as doctors and midwives...) such as their refusal to provide their services and fulfill their obligations towards pregnant

supply their services and fulfill their commitments towards pregnant(Dardous, 2005, p. 102).

2- Criminal result.

it is not important after that whether it comes out The fetus is dead from the womb, or it remains in it for a period of time until it is expelled, even if it did not come out at all due from its mother before its natural date of birth, and this result can be visualized in the following three cases :

A-The first case: the dead fetus came out of its mother's womb.

B- The second case:continue normal growth until natural birth(Slakh, 2020, p. 117).

- Whoever kills a pregnant woman and has the criminal intent required for abortion at the time of his killing, his crimes are morally numerous, so he is responsible about murder and abortion.

-The pregnant woman fizzled to commit suicide, but the fetus passed on or was removed as a result of this endeavor, and it was demonstrated that she aiming to have an abortion, she was capable for the abortion, in spite of the fact that she does not inquire around the endeavored suicide(Dardous, 2005, p. 104).

3- The causal relationship.

Criminal activity and the result, and thus contributes to determining the scope of criminal responsibility,birth, so that the offender's behavior is the appropriate reason for obtaining the result. If these elements are available, the criminal responsibility is established on the offender, and he deserves all its punitive consequences (Ghazoui, 2019, p. 84).

Third: The moral element.

It is the mental aspect of the crime, so it does not emerge simply by the physical reality, but or maybe it must exude from the will of the culprit and be ethically connected to him.

1- Knowledge.

The offender must know that he is directing his action to a pregnant woman, and he must know the seriousness of his actions to the fetus, if he was ignorant of the existence of a state of pregnancy, or he knew that pregnancy could not continue, and the abortion was caused by his action, or by the means he used, He should not be asked about the crime of abortion due to his deficiency (Jeddaoui, 2010, p. 75).

2-The will .

The offender's will must be coordinated to prematurely end or evacuate the fetus from the womb some time recently its normal date of birth,

Taking into account medical expertise, which is one of the legally legitimate methods of proof in medical crimes, and issues of medical liability, as it was defined in accordance with article 95 of the Code of Medical Ethics, which referred that medical expertise is an act in which a doctor or dental surgeon, appointed by a judge, authority or other body, provides technical assistance to evaluate the physical or mental condition of a person. This usually includes an assessment of the consequences the case may have in terms of criminal or civil implications (Medical Ethics, 1992, p. 63).

Second Section: criminalization of abortion.

Article 304 of the penal code gives several faces of punishes of the complete abortion or just an attempt, and whether it was with the consent of the pregnant woman, and it is punishable by ten to twenty years imprisonment, and stipulates the permissibility of preventing residence (Dardous, 2005, p. 105).

First: The penalty for abortion is a misdemeanor.

Misdemeanors of abortion have been stipulated by the Algerian legislator in articles 304, 305, 306, 307, 308, 309 and 310 of the penal code, and each provision establishes whose pregnancy has been aborted, the Algerian legislator stipulated that food, drinks or medicine be provided, or using a violent means that would lead to this crime.

Second: The penalty for abortion as a felony.

Article 304/2 punishes the crime of abortion with temporary imprisonment from 10 to 20 years if it leads to the death of the pregnant woman, and the penalty for abortion becomes imprisonment, and it is considered a felony, if it leads to death.

Third: Penalty for abortion as habitude.

These circumstances were stipulated in article 305 of the penal code by saying : If it is proven that the offender usually practices the acts referred to in article 304, the temporary imprisonment.

Fourth: Penalty for partner.

Incitement to abortion is an independent and original crime if this it takes place, even if does not lead to any methods mentioned in article 310.

CONCLUSION

In Algeria ; legislator in the aimof protecting the family, has limited the abortion as a necessary treatment method to preserve the mother's life, and linking this to legislative texts shared by the legal and medical field, excuted by competent authorities, and a doctor undertakes the operationif the necessary cases need for it, whatever the reason for that, especially the relations between crinal act and penalties that include imprisonment and fines, and the financial situation that affects everyone who goes beyond the limits set for abortion.

First: Important results.

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Takes after :

- Algerian legislator made abortion a therapeutic means to protect the life of the pregnant mother, and this is linked to several determinants that must be taken into account, and away from concealment, which is considered a necessity dictated by the exceptional circumstances without which it would not have been applied.
- Algerian legislator has established criminal provisions for illegal abortion far from the legally defined standards, which proves the bad

faith of the pregnant woman or her partners or whoever incites to do so, and stipulates special deterrent penalties related to imprisonment.

- By extrapolating some legal articles, it is completely clear that the financial penalties for the crime of abortion have not been modernized and updated, which makes their application dependent on their simple value, which may empty the crime of its punitive dimension.

Second: Important suggestions.

Based on the foregoing, some suggestions can be made as follows :

- It is better to reconsider the legal texts related to the crime of abortion and to try to update the penalties prescribed for it, based on the seriousness of this crime to the family and society as a whole.

- Holding seminars and forums at universities, educational institutions, and healthcare institutions, especially since this is a dangerous practice despite its increasing incidence, particularly among teenage girls.

- The final closure of all institutions, especially health private institutions, that are proven to be involved in such crimes.

- Following the teachings of Islamic law regarding public morals, and to encourage marriage in order to avoid moral problems, of which abortion is one of its consequences.

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