

AN INVESTIGATION INTO THE ANCIENT ABORTION LAWS: COMPARING ANCIENT PERSIA WITH ANCIENT GREECE AND ROME

USPOREDBA DREVNIH ZAKONA O ABORTUSU PERZIJE, GRČKE I RIMA

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SUMMARY

Since the dawn of medicine, medical rights and ethics have always been one of mankind's concerns. In any civilisation, attention paid to medical laws and ethics depends on the progress of human values and the advancement of medical science. The history of various civilisations teaches that each had its own views on medical ethics, but most had something in common. Ancient civilisations such as Greece, Rome, or Assyria did not consider the foetus to be alive and therefore to have human rights. In contrast, ancient Persians valued the foetus as a living person equal to others. Accordingly, they brought laws against abortion, even in cases of sexual abuse. Furthermore, abortion was considered to be a murder and punishments were meted out to the mother, father, and the person performing it.

Key words: Abortion; ancient Persia; human rights; history of medicine

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INTRODUCTION

Since the dawn of medicine, medical rights and ethics have always been one of mankind's concerns. In any civilisation, the amount of attention paid to medical laws and ethics depends on the progress and level of human values and the advancement of medical science. Therefore, the state of development of medical laws and ethics in any given period of time reflects which ideas are promoted in a specific civilisation.

Abortion has always been a controversial issue in medical ethics. Different cultures had different opinions about it, and consequently, every society made its own laws and adhered to them. Medical methods related to abortion have a long history and can be tracked down to civilisations such as ancient China and Egypt [1,2]. The first documented abortifacients in China date back to 4500 years ago [1]. It seems that the Chinese did not consider the foetus to be alive and did not prohibit abortion [3]. Although we can find a lot of evidence about abortifacients in ancient Egyptian papyruses, no reference to abortion laws has been preserved [4,5]. The first abortion laws appear in the Code of Hammurabi (1772 BC) and the Old Testament, where punishments have been defined for harming a pregnant woman or her foetus [6,7]. According to these laws, if the injury to a pregnant woman resulted in miscarriage, the guilty person would be fined, and if the injury resulted in the death of the mother, the guilty person (in the Old Testament) [7] or his/her daughter was sentenced to death (in the Code of Hammurabi) [6]. These punishments suggest that the foetus did not have equal value as a living person; moreover, the law was mainly designed to compensate the grieving families for their suffering. Neither of the books refers to intentional abortion. The first mention of a punishment for intentional abortion by a pregnant woman appears in the Code of Hammurabi in Assyria [8], where harsh punishments such as impalement with no burial rights were used to deter mothers from wrongdoing. Surprisingly, this law was implemented in a society where a father had the right to kill an unwanted newborn [2], so it is clear that the law was not intended to protect the foetus, but rather to entitle the father to decide whether the foetus or the newborn deserved to live or die.

Ancient Greece and later Rome are usually referred to as the birthplaces of medical science. The role of another great contemporary civilisation, ancient Persia, is less known due to a lack of investigation. A review of current literatures (indexed in Google scholar and PubMed) shows that abortion in ancient Persia has not been studied in detail.

Ancient Persia belongs to pre-Islamic Persian civilisations that existed before the Arab invasion of 637 AD. Three main great dynasties ruled Persia in that period, including the Achaemenid (550-330 BC), Parthian (247 BC-224 AD), and Sassanid (224-637 AD) [9].

This article seeks to shed light on the abortion laws and ethics in ancient Persia through ancient Iranian sources such as *Avesta* and *Vendidād*, and later studies on this subject. We also compare Persian laws on abortion with its great contemporaries, ancient Greece and Rome.

ABORTION LAWS IN ANCIENT GREECE

Although Greek city-states did not have a uniform code of law, written documents such as Plato's (428-348 BC) recommendations about abortion in women over 40 years of age [10] and Aristotle's (384-322 BC) recommendations about abortion as a way of family planning [11] suggest that abortion was accepted as legitimate by many city-states. Among ancient Greek schools, only the Pythagoreans opposed any type of abortion because they believed that human soul entered the body at the time of fertilisation and regarded abortion as an act of murder [8]. Another exception is the Hippocratic Oath (460-370 BC), by which doctors swore not to provide a pessary to a pregnant woman to induce miscarriage [12]. Some researchers doubt whether this provision belongs to Hippocrates at all [8] or had been added later under the influence of Pythagorean philosophy [2]. They argue that Hippocrates denied the foetus a soul/life at the time of fertilisation, at least not until the male foetus reached 40 days and the female foetus 90 days.

ABORTION LAWS IN ANCIENT ROME

In ancient Rome, people did not consider the foetus a living human, and abortion was not a crime [4]. The husband had the right to permit his wife to end her pregnancy, but if she had an abortion without her husband's permission, the husband could either punish or divorce her [13]. It seems that abortion was allowed in ancient Rome mainly for social and economic reasons; some scholars even saw it as a therapeutic method. For instance, Soranus (2nd century AD.) states that abortion should be prescribed to prevent further risks at birth if the uterus is small and incapable of developing fully, or if the uterus has knobby swellings and fissures at the orifice, or if some medical difficulty is involved [14]. Despite Christian opposition, abortion was widely popular in ancient Rome until 374 AD (2). Christian sources clearly witness

that church elders such as Tertullian (155-222 AD), Cyprian (200-258 AD), and Saint Basil (320-379 AD) opposed abortion. Eventually, at the church council held in Ancyra in 314 AD, this opposition resulted in the church condemning any woman who attempted abortion to a 10-year-atonement [2].

ABORTION LAWS IN ANCIENT PERSIA

Ancient texts suggest that Persians were familiar with abortifacient medications such as *Bang* (*Hyoscyamus niger* L.), *Shaēta* (unknown), *Ghnāna* (unknown), and *Fraspāta* (unknown). All of the above are mentioned in the *Avesta*, the holy book of Zoroastrians. Zoroastrianism was the official religion of Iran predating Islam [15,16]. *Vendidād* (properly *vī-daēvō-dāta* or the Anti-demonic Law), the only completely preserved chapter of the *Avesta*, mentions a woman named *Hana*, who was familiar with the techniques of abortion [15]. While some people define the word *hana* as “a midwife or a nurse”, most historians define it as “an old white-haired lady” [17], which had a negative connotation in ancient Persia, especially during the Sassanid period in which the text was written, as being old and white-haired was deemed a satanic quality [18].

In general, ancient Persians considered abortion as an act of severe obscenity and condemned it. Ancient Persian customs and the religion’s view about abortion can be found in many of the remaining *Avesta* texts, and the Pahlavi texts such as *Ardā Wirāz-nāmag* (*The Book of Ardā Wirāz*) [19,20], in which they all condemn abortion, citing the many sins of it and foretelling harsh punishments in the afterlife. Ancient Persians saw abortion as “cutting off the roots of life and the most important blessing of God” [21]. Therefore, in their view, abortion equalled murder, and both doctors and priests condemned it [21].

Little is known about the abortion laws and rights during the Achaemenid dynasty, but some information has been preserved from the Sassanid and, to a certain degree, from the Parthian dynasties. The little that we know about these times comes from the religious laws comprised in the *Vendidād* collection. In the section discussing medical laws and rights of abortion the act of abortion is considered as a wilful murder. All guilty parties are sentenced to death [22]. Interestingly, this law was not specific to the mother, but included all involved parties. Clauses 13 and 14 of Fargard (chapter) 15 of the *Vendidād* says: “If a man come near unto a damsel, either dependent on the chief of the family or not dependent, either delivered [unto a husband] or not delivered,

and she conceives by him, and she says: 'I have conceived by thee'; and he replies: 'Go then to the old woman and ask her for one of her drugs, that she may procure thee miscarriage'; and the damsel goes to the old woman and asks her for one of her drugs, that she may procure her miscarriage; and the old woman brings her some *Banga*, or *Shaēta*, or *Ghnâna*, or *Fraspâta*, or some other drugs that produce miscarriage; and [the man says], 'Cause the fruit to perish!' and she causes her fruit to perish; the sin is on the head of all three: the man, the damsel, and the old woman." [22].

As regards the type and the severity of punishment and the involvement of all parties, it seems that in ancient Persia prevention was the main aim of these harsh laws and punishments. Ancient Persian texts reveal that besides heavy punishments to prevent abortion, other measures had been arranged to eliminate or at least to minimise issues that could encourage abortion, which was almost unique in the ancient world. The following section explains these preventive measures.

PREVENTIVE LAWS FOR WOMEN DURING PREGNANCY, CHILDBIRTH, AND FOLLOWING CHILDBIRTH

Among the factors that could lead to abortion were the problems associated with pregnancy and birth. The following laws were enacted to minimise these issues:

Prepartum watch: A guardian was appointed to take care of the mother and her foetus. The guardian was personally responsible for the health and the wellbeing of both, until childbirth. If the mother or her child faced any harm due to the fault of their guardian, the guardian was to be punished [22]. Furthermore, the husband, the mother, or any other person responsible for the pregnancy also had to take responsibility for the wellbeing of the mother before and during delivery [22]. If any of the above mentioned persons were unavailable at the time of delivery, this responsibility was on the shoulders of any household or any person who was nearest to her. For example, if the father was unavailable at the time of birth, the nearest neighbour was responsible for taking care of the mother and child [22].

Postpartum watch: After giving birth, a guardian was appointed to take care of the mother and child (19). If, for any reason, the father was not present at the time of delivery, the person who *was* present at the delivery had to take care of the mother and the child until it reached 7 years of age [22].

Generally, if any harm, including intentional abortion by the mother, threatened the life of the mother and/or the foetus/child due to lack of attention and poor service provided by the guardian, he/she would be sentenced to a punishment equal to that of intentional abortion [22]. In Zoroastrianism foetal life was deemed to begin with fertilisation, and guardians were supposed to look after the mother from as soon as her pregnancy was known.

GOVERNMENT SERVICES FOR MOTHERS AND THEIR CHILDREN

Judging from the Persian fortification tablets of Persepolis from the Achaemenid dynasty, arrangements were made for the wellbeing of both mothers and their newborns. These arrangements included five month food allowances and maternal leave for government employees, the option to work part-time after maternal leave, and the possibility for fathers to work extra hours during maternal leave, which was all aimed at providing more comfort for the family and reducing the economic burden of having a new child [23]. As far as work was concerned, women seem to have been equal to men and independent.

PROHIBITION OF PROSTITUTION

One of the causes of unwanted pregnancy and abortion was prostitution. Ancient Persians were extremely repulsed by prostitution and made it punishable by death. But if she became pregnant, the punishment delayed until childbirth to preserve foetus life. Moreover, they considered prostitution an unforgivable sin that would entail an awesome punishment in the afterlife [22].

PREGNANCY DUE TO SEX ABUSE

In situations of pregnancy due to sex abuse, measures had been taken to prevent abortion by the mother or her family. In these situations, the father of the foetus had to summon the mother's family, explain what happened, show remorse, and accept the responsibility of taking care of the mother and her foetus/child. In return, the mother's family had to stop blaming the man and prevent abortion. If the foetus was threatened because either the father's or the mother's family did not fulfil their obligations, the government would severely punish all of the guilty parties [22].

CONCLUSION

This review of ancient documents clearly shows that different civilisations knew different methods of abortion. While in some of these great civilisations, such as some of the Greek states and Rome, abortion was a legitimate method to control population, others had strict laws against it. Even so, their aim was not to protect the life of the foetus, but rather empower fathers to make the decision as a way of compensating for the damage done.

In contrast, in ancient Persia, even the foetus had the right to live, and governments designed strict laws to protect it. Severe and equal punishment for all persons involved in abortion and the measures as well as supporting laws to protect the wellbeing of the mother and child suggest that the aim of Persian legislation was to prevent abortion for preserving foetus life as a Wight as well as the mothers' life, which in itself was unique, or at least rare in the ancient world.

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SAŽETAK

Od samih početaka medicine, čovječanstvo se bavilo medicinskim pravima i etikom. Svaka je civilizacija posvećivala onoliko pažnje medicinskim zakonima i etici koliko je bila napredna u poštivanju ljudskih vrijednosti i medicinskoj znanosti. Povijest civilizacija uči nas da je svaka imala vlastite poglede, ali su u mnogočemu oni bili zajednički. Antičke civilizacije poput grčke, rimske ili asirske, fetus nisu smatrale živim bićem pa mu stoga nisu davale ni ljudska prava. Za razliku od njih, Perzijanci su fetus smatrali živom osobom s jednakim pravima kao i drugih ljudi. Stoga su zabranjivali abortus, čak i u slučajevima spolnog zlostavljanja. Štoviše, abortus se smatrao umorstvom, a kažnjavali su se i majka i otac i osoba koja bi obavila postupak.

Ključne riječi: abortus, Stara Perzija, ljudska prava, povijest medicine