

## **Abortions in Byzantine times (325 -1453 AD)**

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### **Résumé**

*La législation impériale, les écrits des auteurs-médecins et le nombre des canons ecclésiastiques prononçant sur l'avortement, montrent que cet acte était très fréquent dans toute la période de l'Empire Byzantin. Seulement les avortements thérapeutiques sont permis par la loi, l'opinion populaire et l'église, autrement ils sont considérés comme des meurtres.*

*Dans son attitude devant l'avortement, Byzance représente l'influence de l'esprit de christianisme sur les idées païennes, mais aussi la continuation d'un code éthique reflété dans le serment Hippocratique "je ne donnerai à aucune un pessaire abortif".*

*Les peines pour les femmes qui avortent sont : l'exil temporaire, la confiscation des biens, le travail forcé dans les mines et, dans certains cas, la mort. Il y a aussi des peines pour les sages-femmes, les docteurs ou les autres personnes qui aident les femmes à avorter, et les fabricants de drogues abortives. L'Eglise condamne les femmes à la censure de l'excommunication.*

*L'éthique, la religion et la législation à Byzance se positionnent d'une manière négative face au problème de l'avortement, sauf les cas où la santé de la mère se trouve en danger pendant l'accouchement.*

### **Summary**

*The legislation and the texts of the most important medical writers of Byzantine times have been studied with reference to abortions, the ethical aspect of this social and medico-legal problem, the theological and the scientific approach. The theoretical basis of the permanent and absolute condemnation of all kinds of abortions except those permitted for medical reasons, is greatly influenced by the spirit of Christianity. In fact, religion supported the view that the reception of the seed in the uterus and the conception of the embryo means the beginning of life and accepted that the foetus is already a living creature. All legislation of Byzantium from the earliest times also condemned abortions. Consequently, foeticide was considered equal to murder and infanticide and the result was severe punishments for all persons who participated in an abortive technique reliant on drugs or other methods. The punishments could extend to exile, confiscation of property and death.*

*The physicians followed the tradition of Ancient Greece, incorporated in the Hippocratic Oath, representative of the ideas of previous philosophers. According to this famous document, it is forbidden them to give a woman "an abortive suppository". The Orthodox faith reinforced this attitude, protective of every human life. On the other hand, the Church and the State accepted selective abortion based on medical data, such as prevention of dangerous conditions in pregnancy or anatomical difficulties involved.*

*In conclusion, science, church and legislation had a common attitude to matters concerning abortion and this fact reveals an effort to apply a fair policy for the rights of the embryo and the protection of human life in Byzantine society.*

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*The Empress Theodora; mosaic from St. Vitale church in Ravenna, Italy.*

During the eleven centuries of the Byzantine Empire, abortions and castrations remained the two forbidden medical practices. Imperial legislation and Church Canons both expressed social attitudes towards these medico-legal problems, following the main ideological and political currents of those times. The permanent prohibition is probably explained by the extension, the persistence and the repetition of the practices. The rise of Christianity after Emperor Constantine's conversion (313 AD) was the critical point for changes in social behaviour especially in the matter of protection of infancy and childhood.

At this point a short historical review is considered necessary, so that the most important philosophical opinions may be mentioned. The ancient religions of Greece in the Classical period did not include the dogma of an immortal soul and consequently the threat of any eternal punishment. For Plato, foeticide is one of the regular institutions of the ideal state, against the danger of overpopulation. He accepted the use of abortions in birth control, especially when the age of the mother was over 40 years or the mother herself had decided it, without descriptions about the kind of abortifacients.

Aristotle estimates that abortions constitute the best procedure to keep the population within the limits which he considers essential for a well-ordered community. These ideas co-existed with some contrary opinions and theoretical aspects based on a biological and philosophical question about the time when the embryo attains the form of life, because before that time the destruction of a non-living creature was not considered immoral. It would appear that, in classical times, there were those who did not object to abortion, others who felt it to be justified only in certain circumstances, others who were against it in all cases, and it seems that the Hippocratic Oath reflected this point of view. The Pythagoreans held that the embryo was an animate being from the moment of conception



and therefore they could not but reject abortion unconditionally. It seems very probable, if not coincidental, then, that the most famous ancient ethical document, the Hippocratic Oath in its prohibition against abortifacients and contraceptives echoes Pythagorean doctrines, especially ideas of Philolaus.

In antiquity, it was not generally considered a violation of medical ethics to do what the Oath forbade. Many physicians prescribed and gave abortive remedies and medical writings described the means by which they were to be employed. Law and religion then left the physicians free to decide whatever seemed best to them. The Philosophic School of the Stoics did not recognize the entity of the foetus, considering it as a constituent element of the maternal organism. The same idea is supported by some early Roman legislators like Ulpian - "the foetus before naissance is part of his mother=*partio vel viscerum*" and Papinianus "the unborn foetus can not be called a human *be\l'g=partus nondum editus homo non recte fuisse dicitui*".

On the other hand Schbonius Largus (1st c.AD) is the first extant ancient author to mention the Oath and he obviously counted on its being well known. According to him "Hippocrates, the founder of our profession placed the Oath at the beginning of medical education, and by prohibiting abortion, he early turned the minds of his pupils toward humaneness=*adhumanitatem*. Taught to consider it wicked to harm a potential human life, a physician would judge injuring a fully developed one to be all the more criminal".

The first law against abortion appears during the reign of the Emperors Septimius Severus and Antoninus Caracalla ( 195-211) at the beginning of the 3rd c. AD, mainly concerning the final decision not to be left to woman. It did not aim at the protection of the unborn child, but the mother's action was prosecuted because the father's rights to his offspring had been violated. Early Roman law punished both those who provided abortifacient potions and the women who accepted them.

Christianity was early influenced by ancient Greek philosophers who placed the beginning of life at the time of conception. The ethics of the Hippocratic Oath harmonize well with the Judaea-Christian morality and some of its main principles can be traced in the Teaching of the Twelve Apostles. On the other hand, a passage from the Old Testament (Exodus 21.22-23) about the exact age of the animation of the foetus, appeared in the Byzantine Legislation of the 8th c. (*Ecloga* appendix). Apart from the Orthodox Church, some of the most celebrated personalities of Byzantium, supported the view of the immediate animation of the seed in utero, like Gregory of Nyssa (4th c.) Arethas of Caesarea (9th-10th c.) and Michael Psellus (11th c). All the above theories comprised the Ecclesiastical theological thoughts, which were formulated in the Byzantine canon law. Similar opinions about abortions were expressed by the Imperial Legislation, that whenever practised, meant destruction of a living being.

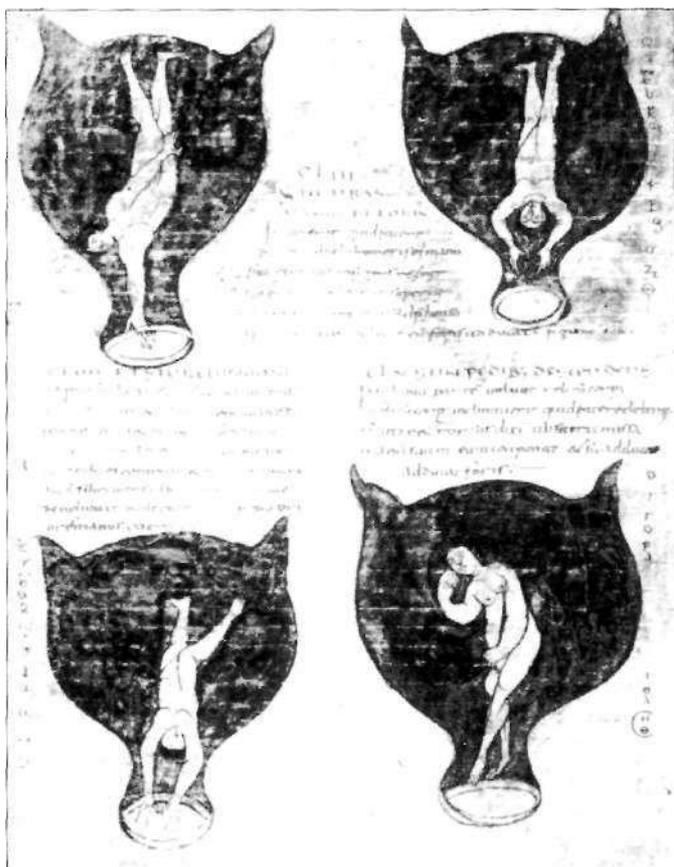
As in all the previous societies, in Byzantium too, several factors created the need for abortions : adultery, fornication and prostitution continued despite the important change of the New Religion. The consideration of youthful beauty and its preservation, the wish to revenge a husband, and as a method of birth-control although the Empire never faced overpopulation problems. Especially the cases of illegitimate conceptions and those involved with matters of inheritance and fortune of the foetus were more seriously punished. The only completely acceptable reason for abortion was dictated by medical necessity and was concerned with every threat to the mother's life.

The Empress Theodora (fig. 1), wife of Justinian I, a well-known personality of Byzantium, underwent some abortions before her marriage. According to the scurrilous account by the historian Procopius about the years when she lived as a prostitute, the use of abortifacients persisted. Ingredients for these drugs were available and common in the 6th c. She was accustomed to use all the abortive techniques, whenever she had to face such difficulties. Maybe her sterility after marriage can be attributed to her repeated abortions.

The Imperial Legislation never accepted legal abortions except those performed for medical reasons. Justinian's *Digest* included experts on early Roman law. The punishments for the women are usually banishment, divorce when the abortion is practised and the husband ignores it, corporal punishments especially for the unmarried.

With the Isaurus dynasty's *Ecloga* the punishment of death is established for those widows, who kill the embryo for money, favoring other heirs. The Macedonian dynasty's *Proheiron* repeats the previous legal collections insisting on the parallel punishment of the physician or the midwife, corresponding to their social class and to the damage caused. Even in the 14th c.

From Soranus' work "Gynaikeia" illustrating various presentations of the foetus. Manuscript of 19th c. Royal Library, Brussels.



canons can be found in the *Nomokanon* of Photius and in *Syntagma* of Mathew Blastaris (9th and 14 th).

Another remarkable point is that the Byzantine Church increases its clemency in sentencing the women who underwent an abortion, while the imperial legislation from the 8th c. increases its severity, adding whipping to exile.

A very interesting trial about an abortion case took place in Constantinople in the year 1370. A monk from the monastery of Theotokos Hodigitria, named Ioasaph and an anonymous nun from Saint-Andrew-in-Krisi convent were the defendants in this affair. It was a rather unusual trial involving the Patriarch Philotheus Kokkinos and the prosecution of the father of the embryo, because the law exclusively punished the mother. The physician Syropoulos who provided the abortifacient drug was condemned to exile, while the price of the potion seems very high : five gold hyperpyra, a cloak and a glass vase (made from Alexandrian crystal). The monk Ioasaph was punished with demotion and expulsion from his monastery.

collection *Hexabiblos*, the providers of drugs and herbs for abortion are considered as murderers.

The Ecclesiastic canons of Byzantium, although permanently condemning the voluntary interruption of pregnancy, seem more merciful. The first evidence of condemnation is seen in the canon of the Ankara Council (ca. 314 AD). The next canons are those of Saint Basil (Nr 2 and 8) which emphasize that the embryo is a perfect individual and condemn those who provide and the women who take abortive drugs to ten years excommunication from ecclesiastic life. With the same spirit the Council of Troullos (691-2 AD) equated abortion with murder. A compilation of the above

demotion and expulsion from his monastery.

### Medical aspects of abortions

Many medical writers and physicians rejected abortion under all circumstances and most of them supported their decision with a reference to the prohibition in the Hippocratic Oath. However, as on a number of other issues, the writings of the Father of Medicine incorporated apparently contradictory views on abortions, for in the treatise " *On the Nature of the Child*", a girl thought to be in the sixth day of pregnancy is advised that, in order to expel the "seed", she should leap strenuously enough that on descent her heels touch her buttocks".

The plant *Helleborus niger* (left), from a manuscript of St. Lavra Monastery, Holy Mountain, Athos.



Soranus (fig. 2), the greatest ancient gynaecologist, allowed abortion, only if it was to avert harm to the mother. He also noted that some physicians in his day discerned two stages of conception, namely reception of the seed and conception of the embryo. Having labelled as an "expulsive" the leaping technique which Hippocrates described above and tolerated, and an "abortive" reliant on drugs, which he did not recommend, the majority of the doctors had little compunction over prescribing some means to expel the seed.

One of the ways in which physicians tried to induce an abortion was to reverse the advice they normally gave to pregnant women who wished to avoid a miscarriage. Thus, from the Roman era it was common knowledge that a woman who wanted an abortion should take

violent exercise, should be jolted and shaken in a carriage and should carry heavy things beyond her strength.

These same measures were supported by the Byzantine physicians, who also added the consumption of spicy foods, the use of diuretics and clysters to empty and purge the abdomen. If these were without effect, protracted baths were prescribed or venesection, according to the Hippocratic dictum that "a pregnant woman if bled miscarries". A wide variety of poultices and vaginal suppositories was also used, differentiated by the great personalities in the medical literature. Among the most used herbs are : pennyroyal, artemisia, mandrake root, wormwood, calaminth, peony, garlic, myrrh, ginger, aloe, saffron, cinammon, violet, iris. These popular to physician and familiar plants were

also related in a number of compound prescriptions.

Oribasius from Pergamum, friend of the Emperor Julian (4th c. AD) recommends a drug made from black helleborus and wine for oral administration, which "kills the embryos". The plant *helleborus niger* (fig. 3) has a vigorous vomiting action. Aetius of Amida, physician to the court of Justinian I, two centuries later, repeats all the methods of "physical" abortive techniques without pharmaceutical remedies, like massage, excessive exercise, jumping, which can bring about the effect with relatively little danger. Although he is Christian, he is realist enough to recognize that there would occasionally be irresistible pressure put on physicians and midwives. His own advice is a vaginal suppository consisting of dried figs and a poultice from the plant *cedrus*, which can also be used as a contraceptive means. Symeon Seth of Antiocheia (11th c.) prescribes another abortive : citrus fruits and/or lemons. It is remarkable that most physicians advocate their selective and responsible use because they consider all these drugs dangerous for the mother's life and health.

Soranus warned against the use of instruments which destroyed the foetus : "separating the embryo by means of something sharp-edged, danger arises that some of the adjacent parts be wounded". This bronze instrument was used in abortions and was known as "foeticide". Maybe a uterine probe could also be used for piercing the amniotic membrane around the embryo. Some examples were found in collections of Byzantine surgical instruments but no descriptions of the performance of the embryo's removal were found in the medical texts. The fact that the survival of the instruments of the Roman Empire is very rich compared with that of the Byzantine era, is the result of a common practice which prevailed then of burying physicians with their instrumentaria, while this custom was not further continued.

In conclusion : civil and canon law, as well as the lay opinion in Byzantine times equated abortion with murder and consequently condemned it. However, both Imperial Legislation and the Orthodox Church accepted selective abortion for medical reasons. This common attitude reflects not only the scientific theories relevant to the starting point of life but also the theological ideas about the mother's health and the embryo's value. This latter seemed to be the object of special care by the legislator, who considered the unborn child as a perfect individual.

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