Al-Islam.org
Ahlul Bayt Digital Islamic Library Project
Published on *Al-Islam.org* (https://www.al-islam.org)

Question 74: What Is The Legal Position Regarding Abortion of Illegitimate Fetus?

Question: If a person performs such an action as a result of which the illegitimate fetus is aborted, does he have to pay the same Diyat (Penalty) that is payable for legitimate fetus or not?

Answer: Whether the fetus is legitimate or illegitimate its abortion is absolutely illegal. And in this matter there is no difference between the two. As far as the matter of abortion of illegal fetus, the parents are not eligible for the Diyat amount (when the two were aware that the intercourse they were having was illegal).

And like the inheritance of an heirless person it becomes the part of Bait al-Maal (Islamic treasury). But if a legitimate fetus is aborted its Diyat is paid to its heirs. Except one of the heirs (father or mother) had been instrumental in the abortion because in those conditions he is deprived of Diyat just as the killer cannot inherit from the killed one.

Source URL:
https://www.al-islam.org/philosophy-islamic-laws-naser-makarem-shirazi-jafar-subhani/question-74-what-legal-position#comment-0