

When Do Life Begins from The Scientific, Religious and Judiciary Perspective

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1.ABSTRACT

This study depicts the consensus granted by the religious, scientific and judiciary on when do life begins. Many arguments have taken place as to when the “life” of a human being begins. Some people believe that life begins when an egg is initially fertilized by a sperm. Others believe that life begins when the zygote, or fertilized egg, implants into the wall of the uterus. Some hold the stance that life begins when the developing embryo has a detectable heartbeat. Others suggest that life begins at birth when the baby is born.

Key words: Conception, Embryos, Foetus.

2. INTRODUCTION

‘Birth and Death are no two different states, but they are different aspects of the same state’.

Life is a gift of God, given once to all the living creatures of this world. It is complicated to define a human life. Now a days dilemmas consider the respect of human life from the birth to death involving not just biology but other sciences also. Philosophy, theology, psychology, sociology, law and politics evaluate this topic from different point of views. Integration of all would result proper definition. Despite remarkable scientific development on the subject matter, curiosity and speculation dating back to Hippocrates, life before birth still remains a big secret. Different kinds of intellectuals involved themselves trying to contribute to the solution of human life puzzle. This led to an idea that each newborn child will only reach its full potential if its development in uterus is free from any adverse influence, providing the best possible environment for the Embryo and Foetus.

Some authors say that ‘life as such does not exist-no one has ever seen it. Szent -Gyorgy says that noun “life” has no significance because there is no such thing as “life”. Le Dantez holds that the expression “to live” is too general and that it is better to say a dog “dogs” or a fish ‘fishes’ than a dog or a fish lives.¹

¹ Kurjak A. When does human life begins? Encyclopedia Modem, 1992; 383, <https://www.Google Scholar.com>

According to Sec 2-17 of The Bhartiya Nyaya Sanhita, 2023 “life” means the life human being, unless the contrary appears from the context.²

3. OBJECTIVES

- a) To know the Judiciary Perspective on the subject matter.
- b) To enhance the knowledge for being a layman and students of law.
- c) To put forward suggestion and recommendation for the like-minded people and the law makers if any, incase.

4. METHODOLOGY

The study is being carried out purely based on “Doctrinal methods”. In this research work religious testament and other relevant statutory materials besides relevant case laws touching on the topic have been analyzed. The Primary data have been collects from various books, journal, newspaper, articles, Court rulings and various enacted laws have been relied upon. The secondary sources of data will consist of various interpretations made in commentaries on the Jurisprudence, Indian Constitution, the books, articles and research paper published in different journals.

5. FINDINGS

5.1 STAGES OF LIFE: once conceived, life goes through different stages i.e., Embryo and Foetus.

EMBRYO: Etymologically, the term originates from the Greek word ‘emvryo’, ‘en-in the inside’ ‘vryein-to grow, to develop’ According to Oxford Medical Dictionary, in the case of human species, the term ‘embryo’ defines it as ‘an unborn offspring situated in the womb in particular of human being not more han eight weeks of development after conception, a period during which the main inner organs are formed.’³

The developmental stage of an unborn child during the first (usually 2-8 weeks) following fertilization is known as an embryo. A child development in the womb begins extremely early in an embryo. Following fertilization, the body’s organs, tissues, bodily parts etc., continue to develop at this stage. Biologist defines an embryo as “the organism that develops in the rudimentary stage, hatching from an egg. The foetal growth can be seen after the conception. The pre-embryo stage is the phase in which a fertilized egg has begun dividing into cells. An embryo is able to move its neck and back, this can clearly be seen by ultrasound after six to seven weeks of conception. The heartbeat of an embryo begins around seven weeks.

² The Bhartiya Nyaya Sanhita, 2023, Bare Act, Professional Book Publishers, Delhi.

³ MC Lucan, 2017, The Unborn Child: History, Philosophy and Religion, vol. 20 *Journal of legal studies*, [ISSN Online 2392-7054], P-13, <https://publicatii.uvvg.ro/index.php/jls>.

According to the Assisted Reproductive Technology Act, 2021, Section 2(f) defines “embryo” as ‘developing or developed organism after fertilization till the end of 56 days from the day of fertilization.’⁴

According to The Surrogacy (Regulation) Act, 2021, section 2(j) defines ‘embryo’ as ‘a developing or developed organism after fertilization till the end of 56 days.’⁵

According to The Pre-Conception & Pre-Natal Diagnostic Techniques Act, 1994, Section 2(bb) defines ‘embryos’ as ‘a developing human organism after fertilization till the end of eight weeks of (fifty-six) days.’⁶

FOETUS:

A foetus is defined as a later stage when the unborn child develops after eight weeks of Conception. The Foetus develops from an Embryo. After embryonic development, the development of the foetus takes place. This phase lasts until the infant is born, starting in the ninth weeks. A foetus has a heartbeat as it develops at an early stage. The heartbeat’s range is 90-110 bpm. It increases from the ninth weeks and reaches 140-170 bpm. The infant weighs approximately one ounce and is 3-4 inches long after the third month. A child’s vital growth occurs during the first three months of life. Thus, the chances of miscarriages reduce after the third month. The foetus in the womb does breathing-like movements. These movements are necessary for the developments and as well as necessary for the development of the lungs. The heart, lungs, brain and several other organs are developed through these breathing movements. These movements are felt after 21 weeks. After the fifth month, the size of the foetus reaches 8 inches.⁷

A “foetus” is defined as ‘a human organism during the period of its development beginning on the 57 days following fertilization or creation (excluding any time in which its development has been suspended) and ending at the birth, per Section 2(m) of The Surrogacy (Regulation) Act, 2021.’⁸

According to Section 2(bc) of the Pre-Conception and Pre-Natal Diagnostic Technique Act, 1994 define ‘foetus’ as ‘a human organism during the period of its development beginning on the 57 days following fertilization or creation (excluding any time in which its development has been suspended) and ending at the birth.’⁹

5.2 MEDICAL SCIENCE PERSPECTIVE

For many years, many debates have taken place as to when the “life” of a human being begins. Some people believe that life begins when an egg is initially fertilized by a sperm. Others believe that life begins when the zygote, or

⁴ The Assisted Reproductive Technology (Regulation) Act, 2021, Section 2 (f).

⁵ The Surrogacy (Regulation) Act, 2021, Section 2(j).

⁶ The Pre-Conception & Pre-Natal Diagnostic Technique Acts, 1994, Section 2(bb).

⁷ <https://hellocue.com.>articles/pregnancy-birth-and-postpartum>, by Laurie Clue, DNP- August 24,2021.

⁸ The Surrogacy (Regulation) Act, 2021, Section 2 (m).

⁹ The Pre-Conception & Pre-Natal Diagnostic Technique Acts, 1994, Section 2(bc).

fertilized egg, implants into the wall of the uterus. Some hold the stance that life begins when the developing embryo has a detectable heartbeat. Others suggest that life begins at birth when the baby is born.¹⁰ Dr. C. Ward Kischer, affirms that “Every human embryologist, around the globe affirms that the ‘life of the new individual human being begins at fertilization’.”¹¹ In 1965, the American College of Obstetrics and Gynecology has made an effort to define “Conception” to mean ‘implantation’ rather than ‘fertilization’. Medical dictionaries and English language dictionaries define “conception” as ‘synonymous with fertilization.’¹² Conception is a process which occurs when a sperm fertilizes an egg.¹³ Moore’s 1974 edition ‘the developing human’ states that ‘development is a continuous process that begins when an ovum is fertilized by a sperm and ends at death.’¹⁴ It is a process of change and growth that transforms the zygote, a single cell, into a multicellular adult human being.

5.3 RELIGIOUS PERSPECTIVE

India, being a Secular nation- perception has been drawn from three different religion i.e., Christian, Hindu and Muslim.

According to Christian theologian: life begins once conceived. According to Christian, one of the most fascinating stories was that of ‘Mary visits Elizabeth’- “At the time Mary got ready and hurried to a town in the country of ‘Juda’ where she entered Zechariah’s home and greeted when Elizabeth heard Mary’s greeting, the baby leaped in her womb, and Elizabeth was filled with Holy spirit. In a loud voice she exclaimed; blessed are you among women, and blessed is the child you will bear. But why am I so favored, that the mother of my lord should come to me? As soon as the sound of your greetings reached my ears, the baby in my womb leaped for joy. Blessed is she who has believed that the Lord would fulfil his promise to her.”¹⁵

“Jeremiah 1:5 “I knew you were before I formed you in your mother’s womb. Before you were born, I set you apart and appointed you as my Prophet to the nation.”¹⁶

According to Hindu theologian two different perceptions exist-

First is “life begins when conceived” and,

¹⁰ <https://study.com/academy/lesson/the-moral-question-when-does-life-begin.html>.

¹¹ Kischer CW, The Corruption of the science of human embryology, ABAC Quarterly, Fall 2002, American Bioethics Advisory Commission.

¹² Fred de Miranda, When Human Life Begins, The American College of Pediatricians, 2014.

¹³ <https://www.cancer.gov/publications/dictionaries/cancer-terms/def/conception>.

¹⁴ Moore KL, The Developing Human: Clinically Oriented Embryology, WB Saunders Co. Philadelphia, 1974, p.1.

¹⁵ Luke 1:30, The Holy Bible, The New International Version, verse 39:45, Page 1026.

¹⁶ Ibid.

Second is “Life begins when they are in 7 months”.

According to Hindu theology, “the soul” is one with ‘God’, and therefore, it is pure, divine and immortal and the body is a material product subject to birth, growth and decay.

According to the Law of Karma and Reincarnation, when a person dies, the soul leaves the body with subtle impressions of the person’s accumulated Karma at the moment of death. Thereafter, the soul with the karmic impressions of the previous life enters into growing fetes in a mother’s womb.¹⁷

According to Hindu scripture Garba Upanishad (The book of knowledge of the womb), body (embryo) is created at conception and starts growing. At the end of one month, embryo gets “solidified”. At the end of three months, it starts taking the shape. At the end of six months, a human body with limbs is formed. The “life force” enters the body in the seventh months.¹⁸

Hindu ethics also proclaimed against voluntarily termination of a fetes at any stage of fetal growth, unless the mother’s life is in danger. One of the cardinal Vedic teachings is “Killing a fetus is a great sin.”¹⁹

According to Muslim theology, the Holy Quranic Verse and Hadith- both are the foundational texts of Islamic law and indispensable to understanding context. In Sura (Chapter) entitled, Almu- minum (the Believers), the Quran mentions the stages of life-

“And certainly, did we create man from an extract of clay. Then we placed him as a drop of sperm, firmly fixed. Then We made the sperm into a clot of congealed blood, and of that clot We made an embryo; then We made out of that lump, bones, and clothed the bones with flesh. Then We developed another creation out of it. So blessed is God, the best of Creations”.²⁰ (Quran 23:12-14).

According to Hadith-the Prophet discussed in detail the developmental periods between in these stages as mentioned in the Quran. Abdullah ibn Masud narrated that the Messenger of God said:

“Each one of you is constituted in the womb of the mother for 40 days, and then he becomes a clot of thick blood for a similar period, and then a piece of flesh for a similar period. Then God sends an angel who is ordered to write

¹⁷ A.M. Bhattacharyya, in your faith, when does human life begins, the Norman Transcript, May 6, 2010, updated on Oct 10, 2014, <https://www.normantranscript.com/news/lifestyles/in-your-faith-when-does-human-life-begin/>.

¹⁸ <https://www.ece.Isu.edu/kak/GarbhaUpanishad>, accessed on 2/03/2024, 10:30 am.

¹⁹ Supra.

²⁰ Holy Quran, Sura-23, Aayat 12-14.

four things. He is ordered to write down his deed, his livelihood, the date of his death, and whether he will be blessed or wretched. Then the soul is breathed into him...”²¹ (Sahih al Bukhari:3036).

Based on the above Quranic verse and Hadith, the jurists inferred that the soul enters the fetus at around 4 months, or 120 days, after conception.

5.4 JUDICIARY PERSPECTIVE

In India, there is no such specific statutes and precedents exist which deals with the subject matter, but in 1973, the honorable United States Supreme Court’s while deciding the matter in Roe vs Wade, response to the question: when does life begins? the opinion of the court was written by Supreme Court Justice Blackmun. It was observed that “We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man’s knowledge, is not in a position to speculate as to the answer.

“There has always been strong support for the view that life does not begin until live birth.”

“Physicians and their scientific colleagues have regarded that even with less interest and have tended to focus either upon conception, upon live birth, or upon the interim point at which the foetus becomes “viable”, that is, potentially able to live outside the mother’s womb, albeit with artificial aid.”²²

6. CONCLUSION

According to science, life of the new individual human being begins at fertilization’ as affirm by the human Embryologist around the globe. Conception is a process which occurs when a sperm fertilizes an egg. It is also known as Fertilization. This scientific consensus is quite similar with religious testament of different religion. According to Christian theologian, life begins at conception. According to Hindu theologian, life enters at Conception and Life enters when foetus is 7 months old, at per Garbha Upanishad. According to Islam, life enters when foetus attained 4 months which is equivalent to 120 days of pregnancy. However, the judiciary has different opinions, in 1973 when hearing the matters of Roe vs wade addresses the question-when do human life begins? It was opined that “We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man’s knowledge, is not in a position to speculate as to the answer”.

²¹ Hadith, Sahih al Bukhari- 3036.

²²<https://www.britannica.com/event/Roe-v-wade>.

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