



ZIONESS



Reproductive Rights are a Jewish Mandate

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“Because Humans are the image of God they are endowed by their creator with three intrinsic dignities: infinite value, equality, and uniqueness”.

- Rabbi Irving (Yitz) Greenberg, *The Jewish Way*

The Status of the Fetus

Exodus 21:12

מִכָּה אִישׁ וּמֵת מוֹת יוּמָת:

He who fatally strikes a man shall be put to death.

Our tradition is unambiguous that the penalty for taking a life can be death - if a fetus were to be considered a life with rights, it would follow that the penalty for accidentally or purposefully killing a fetus could be death.

Exodus 21:22-25

וְכִי־יִנְצְוּ אַנְשִׁים וְנִגְפוּ אִשָּׁה הָרָה וַיִּצְאוּ יְלֵדֶיהָ וְלֹא יְהִי אָסוֹן עָנּוּשׁ יַעֲנֹשׁ כַּאֲשֶׁר יִשְׁתּוּ עָלָיו בְּעַל הָאִשָּׁה וְנָתַן בַּפְּלִיִּים:
וְאִם־אָסוֹן יִהְיֶה וְנִתְּתָה נֶפֶשׁ תַּחַת נֶפֶשׁ:
עֵינַי תַּחַת עֵינַי שֵׁן תַּחַת שֵׁן יָד תַּחַת יָד רֶגֶל תַּחַת רֶגֶל:
כּוֹנֵה תַּחַת כּוֹנֵה פֶּצַע תַּחַת פֶּצַע חִבּוּרָה תַּחַת חִבּוּרָה:

When men fight, and one of them pushes a pregnant woman and a miscarriage results, but no other damage ensues, the one responsible shall be fined according as the woman's husband may exact from him, the payment to be based on reckoning.

But if other damage ensues, the penalty shall be life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise.

This scenario describes two different categories of crimes. In the first one, a fetus is killed and the punishment is a monetary payment for the market value of the fetus. The second, and more serious crime involves injuring the pregnant woman herself. For this crime the punishment is more severe, is physical and can even include death. This text teaches us that the rights and life of the pregnant person supercede the rights of the fetus. Jewish tradition considers a fetus to have value, to represent a potential for life, but it is not a life.

When does life begin?

Genesis 2:7

וַיִּצְרֶה יְהוָה אֱלֹהִים אֶת־הָאָדָם עָפָר מִן־הָאֲדָמָה וַיִּפַּח בְּאַפָּיו נְשֵׁמַת חַיִּים וַיְהִי הָאָדָם לְנֶפֶשׁ חַיָּה:

The LORD God formed man from the dust of the earth. He blew into his nostrils the breath of life, and man became a living being.

In Jewish tradition it is breath, not heartbeat, that constitutes the beginning and end of life. Nefesh - the Hebrew word for “life” and “soul” is the same word for “breath.” When a baby draws its first breath it crosses the threshold from potential life to full life—and not beforehand.

When is abortion permissible?

Mishnah Oholot 7:6

הָאִשָּׁה שֶׁהִיא מְקַשָּׁה לִילֵד, מַחֲתִיכִין אֶת הַיֶּלֶד בְּמַעֲיָהּ וּמוֹצִיאִין אוֹתוֹ אֶבְרִים אֶבְרִים, מִפְּנֵי שֶׁחַיִּיהָ קוֹדֵמִין לְחַיֵּיו. יֵצֵא רַבּוֹ, אִין נוֹגְעִין בוֹ, שְׂאִין דּוֹחִין נְפֶשׁ מִפְּנֵי נְפֶשׁ

If a woman is having trouble giving birth, they cut up the child in her womb and brings it forth limb by limb, because her life comes before the life of [the child]. But if the greater part has come out, one may not touch it, for one may not set aside one person's life for that of another.

Pikuach Nefesh is the Jewish value of saving a life. It is one of the most important commandments in our tradition. If a pregnancy threatens the life of the pregnant person, some scholars argue that it is not permissible but imperative to terminate the pregnancy before it takes the life of the person who is pregnant at any stage in the pregnancy.

Rabbi Jacob Emden Responsa She'elat Ya"vetz 1:43 (1739-1759)

The questioner asks about an adulterous married woman (who is pregnant) is a good question. It appears to me to permit her (to abort)...And even in the case of a legitimate fetus there is reason to be lenient if there is a great need, as long as the fetus has not begun to emerge; even if the mother's life is not in jeopardy, but only so as to save her from an evil associated with it that would cause her great pain...

Rabbi Mordechai Winkler, Levushei Mordekhai, Hoshen Mishpat 39 (1913)

Mental-health risk has been definitely equated with physical-health risk. This woman, in danger of losing her mental health unless the pregnancy is interrupted, would therefore accordingly qualify.

Rabbi Kass Abelson, Proceedings of the Committee on Jewish Law and Standards, pp. 3-10 (1980-5)

There is clear precedent in the tradition...to permit abortion of a fetus to save a mother's life, to safeguard her health, or even for "a very thin reason," such as to spare her physical pain or mental anguish.

Voices of our Modern Sages

"The recent push to legislate women's choices may employ the language of protecting God's creations, but at the heart of each of these laws is the desire to legally re-establish that idea that a man is the creation made in God's image, while a woman is simply a creature that is man-adjacent...I categorically reject this interpretation of both gender and religion. We do not have to return to this brokenness." – **Rabbi Rachel Bearman**

"The antidote to a conservative religiously driven political agenda on reproductive rights is not a call for the removal of faith from public life, but the presentation of a platform of reproductive choice firmly rooted in a different understanding of religious values. As progressive religious leaders, then, we have both the opportunity and the moral responsibility to offer nuanced religious language in discussing abortion and all facets and stages of the reproductive life cycle."

– **Rabbi Emily Langowitz**