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Understanding Jewish Views of Abortion: An Overview

By Rabbis Susan Grossman and Avram Reisner,
authors of the two most recent decisions on abortion
from the Committee on Jewish Law and Standards of the Conservative Movement.¹

Approved on November 28, 2023 by a vote of 19-0-0. Voting in favor: Rabbis Jaymee Alpert, Adam Baldachin, Pamela Barmash, Emily Barton, Suzanne Brody, Nate Crane, Elliot Dorff, David Fine, Joshua Heller, Barry Leff, Avram Reisner, Tracee Rosen, Rachel Safman, Robert Scheinberg, Miriam T. Spitzer, Ariel Stofenmacher, Ellen S. Wolintz-Fields. Voting against: None. Abstaining: None².

Judaism Values Life: The toast, “*L’Hayim*,” “*To Life!*,” exemplifies Judaism’s priority and commitment to protect and enhance life. This commitment to life is reflected throughout Jewish law, based on the rabbinic understanding of the biblical words, *v’hai bahem* from Leviticus 18:5: *You shall keep My laws and My rules, by the pursuit of which human beings shall live (v’hai bahem); I am Adonai.*³

According to Judaism, Life Begins at Birth: Ensoulment (when the soul enters the body) does not translate into a juridical definition of human life according to Judaism, unlike in Christianity today. Through the fortieth day following conception, the rabbis treat the fetus as mere liquid, *maya b’alma* (Mishnah Niddah 3:7, Babylonian Talmud Yevamot 69b⁴). Though the soul

¹ Rabbi Susan Grossman, “‘Partial Birth Abortion’ and the Question of When Human Life Begins,” and Rabbi Avram Reisner, “*Ein Dohin Nefesh Mipnei Nefesh*.” These two *teshuvot* offer slightly different definitions of the moment of birth under Jewish law and the permissibility of the Dilation and Extraction (D and X) procedure popularly called “partial-birth abortion.” These distinctions do not affect their shared overall approach to the permissibility of abortion and women’s reproductive health care, as reflected in this Overview. Both *teshuvot* can be found at <https://www.rabbinicalassembly.org/rabbinic-resources/committee-jewish-law-and-standards>.

² The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

³ Leviticus 18:5: וְשָׁמַרְתֶּם אֶת־חֻקֹּתַי וְאֶת־מִשְׁפָּטַי אֲשֶׁר יַעֲשֶׂה אִתְּכֶם הָאֱלֹהִים וְתִי בְּהֶם אֲנִי ה' (“You shall keep My laws and My rules, by the pursuit of which human beings shall live [*v’hai bahem*]: I am Adonai).

⁴ Mishnah Niddah 3:7: אחד בריית הזכר ואחד בריית הנקבה זה וזה לארבעים ואחד (Male and female are created equally – both of them on the forty-first day). The discussion in the *gemara* of BT Yevamot 69b assumes the following facts: that the daughter of a Kohen may eat the sacred food of terumah and that the daughter of a Kohen pregnant by an Israelite may no longer do so. The Talmud inquires why the daughter of a Kohen simply married to an Israelite is not prohibited from eating Terumah since it is always possible that she is pregnant, though she does not yet know it. BT Yevamot 69b answers in part that that is unlikely and need not concern us, since -- דאי לא מיעברא - הא לא דאי לא מיעברא, ואי מיעברא - ואי מיעברא (If she is not pregnant, then she is not pregnant, and if she is pregnant, through forty days the tissue is [considered] simply liquid [*maya b’alma*]).

of the woman's body (*ubar yerekh imo hu*⁹); it has no independent legal identity. That is why a pregnant woman who converts to Judaism gives birth to a Jewish child. No additional conversion ceremony is required because the fetus is legally considered part of the mother's body when she converts (Babylonian Talmud Yevamot 78a, codified in the Shulhan Arukh, Yoreh Deah 268:6¹⁰) and not a separate person in need of conversion.

Judaism Allows and Sometimes Requires Abortion: Recognizing the preciousness of potential life in every fetus, Jewish law generally does not permit the destruction of a fetus without cause. Where there is cause, Judaism permits abortion (Statement on the Permissibility of Abortion, Committee on Jewish Law and Standards, 1983¹¹).

In general, Jewish law prohibits needless "wounding" (*habbalah*) (Babylonian Talmud Bava Kama 90b). Wounding (e.g., surgery) is only permitted in order to heal. Therefore, since the fetus is considered part of its mother's body, Jewish law permits abortion to protect the mother's health. Jewish law requires an abortion to protect the mother's life because the mother's life always takes precedence over the potential life of the fetus within her. That is why even the strictest interpretations of Jewish law require an abortion to protect the mother's life at all stages of the pregnancy, even after labor has begun (Mishnah Oholot 7:6¹²).

The Mishnah permits an abortion until the head or most of the fetal body has emerged from the mother during birth. Even at this latest stage of the birth process, Jewish authorities still allow the fetus to be dismembered if necessary to protect the mother's life. (See *Responsa Melammed L'Ho'il* Vol. II, Yoreh Deah, no. 69¹³). In such cases, the physician can act on behalf of the

emerged early but unharmed] then [the father] should pay [the assailant] a midwife's fee! It is clear that the teaching is meant to be: *There is no tragedy*, referring to the woman; he *shall be punished*, referring to the loss of the fetus [viz. for which he is only fined for damages].

⁹ The principle that a fetus is part of its mother's body appears uncontested on BT Sanhedrin 80b. It is debated elsewhere in the Talmud, e.g., BT Yevamot 78a, BT Nazir 51a, BT Gittin 23b, BT Hullin 58a, BT Temurah 25a, BT Temurah 30b-31a, and BT Bava Kama 78b. Many later halakhists conclude that the final legal position agrees with the Talmud's single uncontested position on San. 80b, that a fetus is part of its mother's body. This has been the position taken in Conservative Movement legal writings.

¹⁰ BT Yevamot 78a: אמר רבא: נכרית שנתגיירה והיא מעוברת, בנה אין צריך טבילה. (Rava said,) A gentile who converted while pregnant, her child does not require immersion.) Shulhan Arukh, Yoreh Deah 268.6 cites this as the definitive statement of Jewish law. Rava held that a fetus is treated as part of its mother's body (BT Temurah 30b) and that is the likely foundation of his ruling. (See Tosafot Yevamot 78a, s.v. *elq*).

¹¹ <https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/20012004/07.pdf>.

¹² Mishnah Oholot 7:6 -- האשה שהיא מקשה לילד מחתכין את הולד במעיה... מפני שהייה קודמין לחייו (If a woman is having difficulty in labor, we dismember the fetus in her womb... because her life takes precedence over its life).

¹³ In *Responsa Melammed L'Ho'il*, R. Ezekiel Landau (1713-1793) cites this Mishnah and rules by it, then adds his own additional reason to be lenient in permitting abortions. To the question: אם אשה מקשה לילד אם חייב להציל האם ולחתוך הולד או להציל הולד ותמות האם (If a woman is having difficulty in labor is one required to save the mother by dismembering the fetus or should one save the fetus although the mother dies?) he answers, דבר זה הוא משנה

mother, in effect as her agent. Maimonides treats the fetus “like” a pursuer, a *rodef*, when the fetus endangers the mother’s health or life. Just as a pursuer must be stopped from endangering another by whatever means necessary, the fetus must be stopped from endangering its mother, even though its threat is not intentional. (Mishneh Torah *Hilkhot Rotzeah u’Shmirat HaNefesh* 1.9¹⁴).

Jewish law permits abortion at all stages of pregnancy to protect the mother’s health. In general, Jewish approaches to medicine prefer the most effective and least physically invasive methods possible to protect life and health. Therefore, Jewish law permits medication and surgical abortions (Maimonides, *ibid*). While Jewish law favors abortions performed as early as possible, late-term abortions are allowed and sometimes required, particularly when late-term complications can endanger a woman’s life or health, which includes her physical and mental health and her ability to bear future children.

Jewish law has long recognized a woman’s overall health includes her mental health. Thus, an abortion may be performed to protect a woman from emotional distress. The classic example, though not relevant today, is found in the Talmud: An abortion must be performed on a pregnant woman condemned to death to save her from the emotional distress of miscarrying as the death sentence is carried out (Babylonian Talmud *Arakhin* 7a¹⁵). This precedent led later rabbinic decisors to consider under what other conditions an abortion could be permitted for maternal distress (*Responsa She’elat Ya’avetz* 1.43, *Responsa Tzitz Eliezer* 9.51¹⁶). The Conservative

מפורשת סוף פ"ז דאהלות... ונפסק בש"ע ח"מ סי' תכ"ה ס"ב... מ"מ בענינינו דהולד עדיין ספק נפל לרשב"ג יש להקל להציל עכ"פ האשה (This matter is an explicit Mishnah in the seventh chapter of Oholot... and the ruling is codified in S.A., H.M. 425.2... Moreover, in the matter before us, a fetus is potentially born dying as per Rabban Shimon ben Gamaliel [who rules that an infant who dies before 30 days is not mourned as a living person who died, but as a child who died in childbirth] therefore it is all the more appropriate to be lenient and save the woman).

¹⁴ In Mishneh Torah *Hilkhot Rotzeah u’Shmirat HaNefesh* 1.9, Maimonides (1135-1204) writes: הורו חכמים שהעובר הורו חכמים שהעובר (The sages ruled that if a laboring woman is having difficulty giving birth, it is permissible to destroy the fetus in her womb whether by medicine or surgically since it is akin to one pursuing her to kill her).

¹⁵ BT *Arakhin* 7a: אמר רב יהודה אמר שמואל: האשה היוצאה ליהרג, מכין אותה כנגד בית הריון כדי שימות הוולד תחילה, כדי שלא תבא (Rav Yehudah said in the name of Samuel: When a [pregnant] woman is to be executed, one strikes her belly so that the fetus should die, so that she is not dishonored).

¹⁶ *Responsa She’elat Ya’avetz* 1.43 (Jacob Emden, 1697-1776): הי' צד להקל לצורך גדול. כל כמה דלא עקר. אפי' אינו משום... (There is some reason to be lenient in a case of great need, as long as labor has not begun, even when it is not a case of saving the life of the mother, but only to save her from her distress, for [the child] causes her great pain. But this needs further consideration...). *Responsa Tzitz Eliezer* 9.51, *Sha'ar* 3, 3.8 (Eliezer Waldenberg, 1915-2006): כותב היעב"ץ לצדד אפילו הפלת וולד... להציל לה מרעתה שגורם... (Eliezer Waldenberg writes on the side of aborting a fetus... to save her from her distress, for [the child] causes her great pain... It is clear that if we can permit for this reason, then one should clearly permit [an abortion] in the case of a married woman who is raped... Therefore, it seems that if there is reason for concern that the child who will be born will be disabled and

Movement's Committee on Jewish Law and Standards (CJLS) has passed *teshuvot* permitting the abortion of a severely deformed fetus or a fetus with little chance for survival (such as with Tay Sachs), even in the eighth or ninth month, if continuing the pregnancy would cause significant emotional distress to the mother (e.g., Rabbi Avram Reisner, "Peri and Neonatology: The Matter of Limiting Treatment," YD 339.1995, *CJLS Responsa 1991-2000*¹⁷). This consideration would clearly apply to permit abortion in cases of rape or incest (see Waldenburg, above n. 15).

Some rabbinic authorities also permit abortion to protect the health of a woman's current children, for example, to protect her milk supply if she is nursing (*Responsa Beit Yehudah*, Even HaEzer, 14¹⁸) or, by extension, her ability to support them.

Judaism Recognizes the Right to Determine One's Own Health Needs: The observance of almost any commandment, even fasting on the holiest day of the year, Yom Kippur, is subservient to the need to protect the life and health of oneself and others. According to Jewish law, when doctors tell patients they must eat on Yom Kippur, even if they do not want to, they must follow their doctors' orders (Mishnah Yoma 8.5¹⁹). However, if individuals feel they must eat on Yom Kippur for health reasons, even if their doctors do not require it, they are allowed to eat (Mishnah Yoma 5-6, Babylonian Talmud Yoma 83a²⁰).

In this way, rabbinic law was centuries ahead of its time regarding patients' rights. While Jewish law requires us to seek to heal ourselves and others, it also recognizes that individuals are the best and ultimate judge of their own needs; based on Proverbs 14:10, *only the heart knows its own bitterness*. Therefore, to have or not have an abortion is a decision for the pregnant woman to make, for only she knows the bitterness of her own heart. Hopefully, she will also consult her doctor, her rabbi, and, if appropriate and safe to do so, significant others. (On consulting

will suffer, we should lean toward doing an abortion... if the fetus has not completed three months and is not yet moving...).

¹⁷ https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/reisner_natology.pdf.

¹⁸ *Responsa Beit Yehudah*, Even HaEzer, 14 (Judah ben Isaac Ayash, 1700-1760): האש' המתעברת בימי הנקה מותרת: לעשות מה שיכולה כדי להפיל כיון דאיכ' סכנ' ולד (A woman who becomes pregnant during the time of nursing is permitted to do whatever she is able to abort since there is a danger to her [extant nursing] child.)

¹⁹ Mishnah Yoma 8.5: חולה מאכילין אותו על פי בקיאים... (If one is sick, one feeds him [on Yom Kippur] as prescribed by those who are knowledgeable...).

²⁰ Mishnah Yoma 8:5-6: עוברת שהריחה מאכילין אותה עד שתשיב נפשה... מי שאחזו בולמוס מאכילין אותו אפילו דברים טמאים (If a pregnant woman smelled [food], one feeds her until she is satisfied... If one has been stricken by an insatiable desire, one feeds him even unkosher food). BT Yoma 83a: אמר רבי ינאי: חולה אומר צריך, ורופא אומר אינו צריך (Rabbi Yanai said: If a sick person says: I need [to eat], and the doctor says: He does not need to – one listens to the sick person. What is the reason? *The heart knows its own bitterness* [Proverbs 14:10]).

significant others on abortion decisions, see Rabbi Susan Grossman, “Choosing Parenthood: ART, Adoption, and the Single Parent.”²¹).

Advances in Medically Assisted Fetal Viability Do Not Change Judaism’s Position on

Abortion: Public debate touches on how advances in neonatology (the care of newborns) should inform and extend abortion restrictions. The potential gestational age of viability has moved from the last trimester to as early as 23 weeks with access to proper care and facilities. However, the earlier a baby is born, the lower its chance of survival and the greater its chance of abnormalities if it survives. (Elliot Dorff and Pamela Barmash, “CJLS Update on Abortion.”²²)

Despite advances in viability prognoses, neither gestational age nor probable viability grants the fetus the status of human life in Jewish law. Even if a fetus were carried full term, it would not be considered a living human until birth (*Gur Aryeh* to Exodus 21:22²³). While Judaism prefers that abortion occur as early as possible, neonatal advances do not change Judaism’s basic position on abortion. A fetus in its mother’s body remains legally part of her body and is not yet a human life, regardless of gestational age or prospective viability. Abortion remains permitted or required according to Judaism, depending on the mother’s level of need.

Judaism Requires Us to Heal Ourselves and Others: We are commanded to do whatever we can to heal ourselves and others. The Talmud takes this to be straightforward good sense (Babylonian Talmud Bava Kama 46b²⁴) and learns it from various verses, such as Deuteronomy 4:9, *take the utmost care and watch yourself scrupulously* (Babylonian Talmud Berakhot 32b²⁵), and Exodus 21:19: *and you shall surely heal* (Babylonian Talmud Bava Kama 85a²⁶). We are thus allowed, and sometimes obligated, to “wound” a part of the body to heal the whole body

²¹ <https://www.rabbinicalassembly.org/sites/default/files/2023-03/grossman-art.pdf>.

²² <https://www.rabbinicalassembly.org/story/cjls-update-abortion>.

²³ *Gur Aryeh* (Judah Loeb ben Bezalel, known as the Maharal of Prague, c. 1520/25-1609) on Exodus 21:22: אפילו שכלו חדשים שלו לא נקרא "נפש" כל זמן שלא יצא לאויר העולם, שנקרא אז 'עובר אמו' ולא 'נפש אדם' ידוע (Even if it was known that the fetus was at full gestational age [lit. had completed its months] it is not called a *nefesh*, “a soul,” as long as it has not entered the air of the world, for [until] then it is called “the fetus of its mother” and not “a human soul.”)

²⁴ BT Bava Kama 46b: מתקיף לה רב אשי: הא למה לי קרא? סברא הוא, דכאיב ליה כאיבא אזיל לבי אסיא (Rav Ashi argues: Why do I need a verse for this? It is simple logic: one who is having pain goes to the doctor.)

²⁵ BT Berakhot 32b relates a story of a high government official who was affronted when a Jew refused to greet him because he was in the midst of prayer. “Fool,” he says, “it is written in your own Torah,” citing this verse (Deuteronomy 4:9), to prove that endangering one’s well-being (in this case by dishonoring the official which might elicit a beating or worse) is unacceptable. The analogy to medical treatment is straightforward: we must be scrupulous in caring for our physical well-being.

²⁶ BT Bava Kama 85a: דבי ר' ישמעאל אומר: ורפא ירפא - מכאן שניתן רשות לרופא לרפאות (In R. Ishmael’s school they say: *will surely heal* [Ex. 21:19] – this is the source that gives permission for a doctor to heal [patients].)

(Babylonian Talmud Sanhedrin 84b²⁷). That means we have a religious obligation to take whatever steps are necessary to provide proper medical care, including reproductive health care, for ourselves and our loved ones. It also means that healthcare workers and all of us are obligated under Jewish law to do what we can to help heal others, particularly those least able to help themselves.

Where secular law contradicts Jewish law, as it does particularly regarding abortion law in some states, we must follow the law of the land, as the great sage Samuel ruled, *dina d'malkhuta dina*, the law of the land is the law (Babylonian Talmud Bava Kama 113b, Bava Batra 55a²⁸). As citizens, we can also peacefully advocate for what we consider more just laws.

Religious Minorities have the Right to Follow Their Traditions: Opposition to abortion and women's reproductive care primarily grew out of and continues to be fueled by a particular Christian theology that defines life as beginning from conception and abortion as murder. Judaism has a different view: Life begins at birth, and abortion is required when necessary to save a woman's life and is permitted to protect her physical and mental health.

The worldwide Conservative Masorti Movement actively supports efforts to protect women's reproductive health and access to safe and legal abortion when necessary. We do so from the perspective of a community that believes in our responsibility to protect the lives and health of ourselves and others. We also do so as a religious minority seeking the freedom to follow our religious dictates and conscience.

Legal efforts to protect women's reproductive health care around the world have not focused on the rights of minority faiths. Nevertheless, it is worth noting that laws restricting access to abortion and reproductive healthcare represent a particular Christian perspective. Such abortion restrictions deny individuals the right to follow their own religious beliefs and traditions. In the United States, this is a right guaranteed under the First Amendment to the U.S. Constitution prohibiting the establishment of religion, specifically that government actions cannot unduly favor one religion over another.

To Learn More:

The Classic Committee on Jewish Law and Standards Teshuvot on Abortion and Contraception:

- Ben Zion Bokser and Kassel Abelson, "[Statement on the Permissibility of Abortion](#)" (1983)
- David M. Feldman, "[Abortion: The Jewish View](#)" (1983)

²⁷ BT Sanhedrin 84b: רב דימי בר חנינא אמר: ... מכה אדם לרפואה פטור (Rav Dimi bar Hinena said: ... one who strikes a person by way of healing is not liable).

²⁸ BT Bava Kama 113b, Bava Batra 55a: דינא דמלכותא דינא: (Samuel said: The law of the land is the law).

- Robert Gordis, "[Abortion: Major Wrong or Basic Right?](#)" (1983)
- Kassel Abelson, "[Prenatal Testing and Abortion](#)" (1983)
- Kassel Abelson and Elliot Dorff, "[Mitzvah Children](#)" (2007)
- Miriam Berkowitz and Mark Popovsky, "[Contraception](#)" (2010)

Rabbinical Assembly Statements:

- [Statement on Reproductive Freedom](#) (2019)
- [Statement on the Texas Abortion Law](#) (2021)
- [Statement on US Supreme Court Decision to Overturn Abortion Rights](#) (2022)

Rabbinical Assembly Resolutions:

- [Abortion Rights](#) (1990)
- [Resolution on Support for Informed Access to Reproductive Care](#) (2005)
- [Resolution on Reproductive Freedom in the United States](#) (2012)
- [Resolution on Right to Legal and Accessible Abortion in the United States](#) (2021)