

Abortion Law in the Scriptures— Accidental and Induced

Both sides of the religious controversy over abortion generally recognize the Bible teaching that God is the Author of life and forms humanity in the womb, both fearfully (with great respect) and wonderfully. Without Him there is no life, not even for birds, fish, and animals—or for the vegetation on the face of the earth. Both sides also believe that the Scriptures are inspired, come from God, and should be followed.

Many who oppose abortion believe that the sixth commandment, “You shall not murder” and Psalm 139 clearly prohibit abortions of any kind following conception. Inasmuch as most religious denominations take stands against abortion based on their understanding of the Holy Scriptures, it may come as a surprise that only two passages in the entire Bible deal with an induced miscarriage—one accidental, and the other planned. No other references deal with abortion, either in the Old Testament or the New Testament. We shall do a detailed examination of those two passages.

Religious adherents who favor choice cite these two passages that deal explicitly with abortion—one accidental, and one induced. They point out that biblical law mandated only a misdemeanor fine against one who accidentally caused a woman to have a miscarriage. The induced abortion performed by the priest was the result of a pregnancy that arose from infidelity, and no punishment was imposed for inducing the abortion. Rather, a command came from God to cause it to take place.

Of special significance is that both references are part of the law given at Mt. Sinai by God, or Jehovah, as He is referred to oftentimes in the Old Testament. Both references are not only laws, but God spoke them directly, so it was not someone simply recording a law.

The first passage is found in the book of Exodus, chapter 21, at the close of the Ten Commandments, and is a continuation of God speaking concerning

His law. Those commandments are found in the previous chapter. God's laws are universal, for all time and all peoples. But purely religious laws are not to be adopted by the state and enforced. However, many social laws which the state should enforce, such as the last six commandments, protect people from people. Hence, the One who commanded that we not murder is the same One who continues His laws in the following chapters. They are repeated in Deuteronomy chapters 10–15 and also appear in parts of the book of Numbers.

God, the source of all life, has established all the necessary provisions for life. He carries every developing fetus during its formation in the womb, from its conception through birth, and that fetus is dependent on borrowed life from the mother while in the womb until birth, when breath makes its life independent of its connection with the mother through the umbilical cord.

God also watches over lesser creatures in their development, inasmuch as He has established the birth process. The human fetus is to be held in high regard; however, to assume that the taking of a fetus through abortion constitutes an act of killing or murder is going beyond clear Scriptural teaching. A seed grows but does not become a plant until it comes out of the soil. Likewise, a baby, in becoming a person, awaits the birth process, when it leaves the mother's womb and its borrowed life.

How does God deal with an accidentally caused miscarriage? The most obvious meaning of Scripture we shall examine shortly is that the developing baby is not recognized as a human person with the same protection under the law as one already born. And the one who caused the miscarriage is not charged with murder or manslaughter but rather is required to pay a fine, based on the property value of the fetus. Only two passages in the entire Scriptures deal with abortion. One is an accidental miscarriage, and the other is a planned and biblically required abortion procedure.

The first is found in Exodus:

"If men fight, and hurt a woman with child, so that she gives birth prematurely, yet no harm follows, he shall surely be punished accordingly as the husband imposes on him; and he shall pay as the judges determine. But if any harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe."¹

In this passage two men are fighting, and in the process a pregnant woman interferes and gets jostled. As a result, her developing baby miscarries. The mother is given legal protection as a person, but her miscarried developing baby is not given the same protection. It was considered a valued property but did not have the standing of a person until birth. Consequently, any injury to the woman carried the penalty of a similar injury to the offender.

This statutory law God gave stands unequivocally against any effort to give the unborn equal or priority religious/legal protection over the mother. Leading Jewish Hebrew-language scholars state clearly that the historical understanding of this passage is that it is dealing with a miscarriage and not with—an act of killing. If God considered the fetus a human person, then an accidentally induced miscarriage would have been manslaughter and could have been

punishable by death. God established capital punishment in the Old Testament for premeditated murder—and in some instances of manslaughter.² If one were guilty of manslaughter, the avenger, usually a relative, had the right to take the life of the one who committed manslaughter—prior to the guilty one's safe arrival at a city of refuge—providing that the avenger had two or three credible eyewitnesses.

A Baptist scholar, Graham Spurgeon, in discussing the Exodus passage, reiterates that a fetus is not a person according to the Bible:

“These verses in Exodus, by the way, are backed up by four thousand years of Jewish law; abortion has never been considered murder in Jewish law. A fetus is only a potential person. Incidentally, the fine the Israelite man had to pay was not for the fetus; it was for hurting the woman. This is made clear in another translation of the same verses (Revised Standard Version) ‘The one who hurt her (the woman) shall be fined.’ There was no fine for hurting the fetus because it was not considered a person.”³

The manslaughter law was written in both mercy and justice, to show people that carelessness which leads to death is serious. On the other hand, because of God's great love, justice and mercy are never separated.

One guilty of manslaughter could flee to one of six cities of refuge, where he was required to undergo a trial to determine whether indeed it was manslaughter, an accidental killing, or premeditated murder. If the accused was found guilty of murder, he would be executed. On the other hand, if he were found guilty of manslaughter, he would be required to live in the city of refuge, where he could bring his family to live with him. He was forbidden to leave the environs of the city, for his protection from the avenger would then be withdrawn. In such circumstances, the avenger could take the life of the convicted slayer and not be held accountable. So the convicted party was protected from the avenger only as long as he remained in the confines of the city of refuge.⁴

After the death of the high priest, the slayer was set free. This constituted the only imprisonment for a crime in the plan of God—the city of refuge. By bringing the family to live with the man, or woman—whichever was the case—family life was continued and land was apportioned for the prisoner to till and raise food for the family. No prison cell existed in God's plan. Unlike our contemporary prisons systems, the prisoner could have a relatively normal life.⁵

The high priest did not serve over a long period of time; hence, a long imprisonment simply was not a possibility. Priests served from age 30 and retired at 50.⁶ Choosing a high priest would require that they be retired, and in all likelihood there would be a retired priest with greater ability and experience than one recently retired. The time of service was relatively short. A prisoner could possibly be released in a short time if his conviction came near the end of the life of the high priest.

How would the law have been written had God given personhood status to the fetus? First, no fine would be paid to the potential father. Second, the miscarried baby's death would have demanded the death of the one who jostled the woman and caused the miscarriage. Neither of these factors is involved in the law. God purposely bestowed personhood at the time of birth, and that will be

dealt with in great detail. So if God recognized the developing baby as a human person, then an accidentally caused miscarriage would be manslaughter, punishable by death unless the guilty party reached the city of refuge safely. Or if the miscarriage were brought about on purpose, then the death penalty would surely follow. But obviously, that is not the clear meaning.

In Scripture God does not call for a manslaughter or murder punishment for an accidentally caused miscarriage—but only for a fine. The distinction between the fine for the miscarriage and the penalty for injuring or killing the mother is clear. The fact that God is speaking personally and directly and that the passage comes from the statutory portion of the Scripture makes it of even greater authenticity and force.⁷

The inescapable conclusion of the most obvious meaning of Exodus 21 is that God does not recognize the fetus as a human person. Such a fetus is not given the same protection under the law as one having been born. In Jewish legal reckoning, the fetus is to be regarded as part of the pregnant woman.

This is in agreement with the passage found in the book of Numbers, chapter 5. In that passage a woman, guilty of infidelity resulting in a pregnancy, was required to have an induced miscarriage, as a result of the law that God established. The Scripture refers to this miscarriage as the belly swelling and the thigh rotting—the fetus being expelled. This is also consistent with the principle that the fetus has only borrowed life from the mother, whose blood feeds the fetus oxygen, causing it to develop and grow. The position is also in harmony with Scriptures that attribute life and personhood *only* when one is breathing, following birth. Hence, birth marks the beginning of personhood.

“In dealing with therapeutic abortions, one final point must be made. It is important to note that the Mishna text does not present neither the pregnant woman nor her physician with options. If her life is threatened, the unborn fetus **must** be sacrificed; she must not make the decision to sacrifice her own life for that of the fetus within. And, equally as compelling, once the child is born, no decision may be made to sacrifice its life in order to save that of the mother.”⁸

These considerations lay the foundation on which rest the guiding principles dealing with abortion in Jewish tradition: “a woman’s life, her pain, and her concerns take precedence over those of a fetus; existing life is always sacred and takes precedence over a potential life; and a woman has the personal freedom to apply the principles of her tradition unfettered by the legal imposition of moral standards other than her own.”⁹

Marital infidelity has been present since early in the history of mankind. Under God’s law, those guilty of it were executed. However, not all erring partners were caught. Consequently, God provided a test and a resolution when a man suspected his wife’s pregnancy resulted from unfaithfulness.

A trial of jealousy was held when the husband expressed doubts about his wife’s unfaithfulness. The penalty for conviction called for a mandatory abortion for the guilty wife. It is vital that we understand that the passage is part of the statutory laws God spoke audibly to Moses at Mount Sinai, where He gave

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the Ten Commandments. The principles of God's moral laws apply to all people in all ages, because God has said, "For I am the Lord, I do not change."¹⁰

The book of Numbers states:

"If she has let herself become defiled and has been unfaithful to her husband, then when the priest makes her drink the water that brings out the truth and the water has entered her body, she will suffer a miscarriage or untimely birth, and her name will become an example in adjuration among her kin. But if the woman has not let herself become defiled and is pure, then her innocence is established and she will bear her child."¹¹

This was an abortion procedure that God commanded to be applied *if* the jealous husband's suspicions were found to be true regarding his wife's unfaithfulness. The law provided that if two people were unfaithful, they would be executed by stoning, providing there were two or three credible eyewitnesses. Since there were not credible witnesses in all instances, the trial of jealousy brought out the truth.

Both the husband and the wife went to the priest, she with a prescribed offering. After the priest mixed water with the dust from the floor of the tabernacle, she took an oath, and the priest announced a curse, that if she were guilty, she would abort her developing baby through the induced miscarriage. Otherwise, she would not experience an induced miscarriage, or abortion. So, we have God commanding an abortion procedure for such a guilty act. If the husband's suspicions were unfounded, the wife would bring her baby to full term, and it would be born. Obviously, the husband's reputation suffered from making false charges and for the misery caused to his wife.

The word for "miscarriage" is *Nephel* (nay' fel)—something fallen, i.e., an abortion. In the King James Version it is translated "her belly shall swell and her thigh will rot." The word for "rot" is *Naphal* (naw fel'), to fall, cast down, cease, die, perish.

"According to Jewish law a developing baby is not considered a full human being and has no juridical personality of its own . . . The Talmud contains the expression *Ubar ye reah imo*—the fetus is as the thigh of its mother, i.e., the fetus is deemed to be part and parcel of the pregnant woman's body."¹²

This concept is in harmony with the King James Version.¹³

The ancient patriarch Job, who wrote the most on the subject of the nature of man, was quite clear that a fetus is not a person. In his suffering, pain, and heartache, he cries out, "Why died I not from my mother's womb. . . . For now should I have lain still and been quiet, I should have slept. . . . Or as an hidden untimely birth I had not been."¹⁴ In speaking of His betrayer, Jesus said, "It had been good if he had not been born."¹⁵ The implication is clear. The unborn, "they, shall be as though they had not been."¹⁶ They are not accountable, they had never exercised choice, they are not subject to the judgment, nor have they a future through eternity, but they will sleep in the grave undisturbed, while the righteous live eternally and the wicked are finally cut off by the second death.

Solomon, the wisest man who ever lived, left a similar testimony about the nature of man. He stated that an untimely birth is better than to be born, live

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many years, and beget an hundred children, if a man's soul is not filled with good.¹⁷ So instances exist where being born is not the ideal option and that perhaps a miscarriage or still birth would be preferable.

Nowhere in the Scriptures is there a law against abortion. One hundred and five separate death penalties can be found in the Word, to be applied under varied circumstances. Not one of them deals with abortion. These penalties may be found in Appendix A (see page 600).

Notes:

1. *The Holy Bible, New King James Version* (Nashville, TN: Thomas Nelson Publishers), 1994. Exodus 21:22-25.
2. *Ibid.*, Exodus, 21:12-14.
3. "Bible Favors Abortion, Baptist Claims," *CARAL Newsletter* (Los Angeles, CA: California Abortion Rights Action League—South), Summer 1982, 11.
4. *The Holy Bible, New King James Version* (Nashville, TN: Thomas Nelson Publishers), 1994. Deuteronomy 19:1-6.
5. *Ibid.*, Numbers 35:10-29.
6. *Ibid.*, Numbers 4:1-3.
7. *Ibid.*, Exodus chapters 20-24.
8. Rabbi Raymond A. Zwerin and Rabbi Richard J. Shapiro, *Judaism & Abortion* (Washington, D.C.: The Religious Coalition for Abortion Rights Educational Fund, Inc.), 1987, 2, 5.
9. *Ibid.*, 8.
10. *Ibid.*, Malachi 3:6.
11. *The Holy Bible, The New English Bible* (Cambridge: Oxford University Press), 1970. Numbers 5:27, 28.
12. Rabbi Raymond Zwerin and Rabbi Richard J. Shapiro, *Judaism and Abortion* (Washington, D.C.: The Religious Coalition for Abortion Rights Educational Fund, Inc.), 1987, 1, 2.
13. *The Holy Bible, King James Version* (Cambridge: Oxford University Press), 1970. Numbers 5:21, 27.
14. *The Holy Bible, New King James Version* (Nashville, TN: Thomas Nelson Publishers), 1982. Job 3:11, 13, 16.
15. *Ibid.*, Matthew 26:24.
16. *Ibid.*, Obadiah 16.
17. *Ibid.*, Ecclesiastes 6:3.