The Bible is Silent on Abortion, but Vocal about When Life Begins

Egyptian and Mesopotamian abortion-inducing recipes attest to the practice of abortion in the ancient Near East. While the Middle Assyrian Laws prohibit the practice, the Torah offers no ruling. Nevertheless, throughout the Bible, expressions like נִשְׁמַת חַיִּים, “the breath of life” (Genesis 2:7), imply that life begins at first breath.

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The abortion debate postulates two potential positions: a “pro-life” position focused on the right-to-life of the fetus; and a “pro-choice” one concerned with the woman’s right to bodily autonomy. Both positions reflect modern values.

Women’s Autonomy in the Bible

Many individuals in ancient Israel and the larger ancient Near East had no autonomy over their own bodies: slaves and minors of both sexes could be bought and sold, and they then belonged to propertied adult males and females. The Torah accepts as normal that Sarai owns Hagar as her maidservant and could use her as a surrogate mother without consultation.[1]

Even women who were not slaves had little agency: for the most part, their bodily autonomy was guarded by their father or their husband. For example:

Sex with a virgin – Her father receives compensation and decides whether the couple will marry (Exod 22:15–16).[2]

Vows – A father or husband may annul a woman’s vow (Num 30: 6, 13–14).[3]

The Levirate Law – To preserve a deceased man’s property and name if he does not have an heir, his widow may not marry outside the family (Deut 25:5–6).[4]

Women may not have been considered property in all matters; like other members of a household, in a worldview that valued a community over the individual, people were primarily considered to be representatives of larger entities—families, clans, tribes, and nations—and only secondarily autonomous individuals, in a way that is very foreign to modern western ideas of the self.[5] Indeed, the concepts of individual agency and autonomy over one’s own body, self, and identity, are largely foreign to the Bible.[6]

Needless to say, the Bible does not address fetal rights in modern terms, either. But was abortion viewed as murder in the ancient world?

Abortion in the Ancient Near East

We know from ancient Near Eastern texts that abortion was practiced. For example, recipes for herbal and dietary abortifacients appear in the Ebers Papyrus, a medical text from second millennium B.C.E. Egypt (e.g., Ebers 783), and in the collection of Babylonian and Assyrian Medical Texts text (e.g., BAM 3 246).[7]

In addition, the Middle Assyrian Laws (15th–13th c. BCE) legislate the case of a woman who purposely causes herself an abortion:

MAL A 53 If a woman aborts her fetus by her own action and they then prove the charges against her and find her guilty, they shall impale her, they shall not bury her. If she dies as a result of aborting her fetus, they shall impale her, they shall not bury her.[8]

Such severe punishment goes beyond the death penalty, as the prohibition against burying the woman’s body would also deny her access to the afterlife.

The Absence of Abortion in the Bible

By contrast with these ancient Near Eastern medical and legal texts, the Bible at most only alludes to the topic of abortion, in two passages in which an individual wishes he had never been born. A suffering Jeremiah cries out:

‏ירמיה כ:יד אָרוּר הַיּוֹם אֲשֶׁר יֻלַּדְתִּי בּוֹ יוֹם אֲשֶׁר יְלָדַתְנִי אִמִּי אַל יְהִי בָרוּךְ. כ:טו אָרוּר הָאִישׁ אֲשֶׁר בִּשַּׂר אֶת אָבִי לֵאמֹר יֻלַּד לְךָ בֵּן זָכָר שַׂמֵּחַ שִׂמֳּחָהוּ.

Jer 20:14 Cursed be the day in which I was born! The day that my mother bore me: let it not be blessed. 20:15 Cursed be the man who informed my father, saying ‘A male child has been born to you,’ making him glad.[9]

His reason for cursing the messenger uses terminology strongly consonant with the idea of abortion:

‏ירמיה כ:טז וְהָיָה הָאִישׁ הַהוּא כֶּעָרִים אֲשֶׁר הָפַךְ יְ־הוָה וְלֹא נִחָם וְשָׁמַע זְעָקָה בַּבֹּקֶר וּתְרוּעָה בְּעֵת צָהֳרָיִם. כ:יז אֲשֶׁר לֹא מוֹתְתַנִי מֵרָחֶם וַתְּהִי לִי אִמִּי קִבְרִי וְרַחְמָה הֲרַת עוֹלָם.

Jer 20:16 And let that man be like the cities that YHWH overturned and did not regret; and let him hear crying in the morning and wailing at noontime, 20:17 because he did not cause my death from the womb (*loʾ motetani merachem*), that my mother would be my tomb and her womb an eternal pregnancy.

Job 3:10 expresses similar sentiments, cursing the night of his birth כִּי לֹא סָגַר דַּלְתֵי בִטְנִי, “because it did not close the doors of my womb.” In the continuation of his lament that he survived his birth (vv. 11–16), he wishes that his mother had miscarried:

איוב ג:טז אוֹ כְנֵפֶל טָמוּן לֹא אֶהְיֶה כְּעֹלְלִים לֹא רָאוּ אוֹר.

Job 3:16 Or why was I not buried like a stillborn child, like an infant that never sees the light?

The term נֵפֶל (*nepel*), literally “a fallen one” (from the root נ.פ.ל; see similarly Ps 58:9, Eccl 6:3) describes the expulsion of a pre-mature fetus from the womb.

Both passages are hyperbolic, meant to convey the extreme distress of these suffering men. They cannot be taken as prescriptive or as indicative that abortion was either permitted or forbidden in ancient Israel.

Causing a Miscarriage: The Law Treats the Woman and Fetus Differently

The one biblical law that deals with miscarriage presents a case in which two or more fighting men accidently strike a pregnant woman:

‏שׁמות כא:כב וְכִי יִנָּצוּ אֲנָשִׁים וְנָגְפוּ אִשָּׁה הָרָה וְיָצְאוּ יְלָדֶיהָ וְלֹא יִהְיֶה אָסוֹן עָנוֹשׁ יֵעָנֵשׁ כַּאֲשֶׁר יָשִׁית עָלָיו בַּעַל הָאִשָּׁה וְנָתַן בִּפְלִלִים.

Exod 21:22 And if people will fight, and they strike a pregnant woman, and her children go out, and there will not be an injury, he shall be penalized according to what the woman’s husband will impose on him, and he will give it by the judges.

If the fetus is lost but the woman is unharmed, the woman’s husband will determine the (presumably monetary) penalty. If the woman is harmed, however, the perpetrator is punished according to talion law, i.e., “a life for a life, an eye for an eye,” etc.:

‏שׁמות כא:כג וְאִם אָסוֹן יִהְיֶה וְנָתַתָּה נֶפֶשׁ תַּחַת נָפֶשׁ. כא:כד עַיִן תַּחַת עַיִן שֵׁן תַּחַת שֵׁן יָד תַּחַת יָד רֶגֶל תַּחַת רָגֶל. כא:כה כְּוִיָּה תַּחַת כְּוִיָּה פֶּצַע תַּחַת פָּצַע חַבּוּרָה תַּחַת חַבּוּרָה.

Exod 21:23 And if there will be an injury, then you shall give a life for a life, 21:24 an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot, 21:25 a burn for a burn, a wound for a wound, a hurt for a hurt.[10]

A straightforward reading of the relative value of fetus versus mother here is clear: the mother’s life is worth more, as her death requires capital punishment, while the loss of the fetus is treated as an injury to the husband—as the loss of a potential household helper or heir—that requires only monetary compensation.[11]

Similar Ancient Near Eastern Miscarriage Laws

The biblical law is consistent with other ancient law collections. For example, the Laws of Hammurabi (18th century B.C.E.) state that if a householder strikes the pregnant daughter of another householder and causes her “to drop that of her womb,” he is obligated to pay ten shekels of silver for the fetus; but if the woman dies, then the daughter of the perpetrator is to be put to death in true talionic fashion.[12] Hittite Laws (17th–16th centuries B.C.E.) provide for monetary compensation in the same situation, with the amount dependent on the status of the pregnant woman’s father.[13]

Would Abortion Have Been Considered Murder?

In the absence of a specific biblical law against abortion, pro-life arguments often draw on the Decalogue, which declares:

שׁמות כ:יג לֹא תִּרְצָח.

Exod 20:13 You shall not murder.

The term used here, ר.צ.ח, almost always refers to intentional homicide, to taking a life with malice.[14] Leviticus presents an even broader law that presumably includes both intentional and unintentional homicide:

ויקרא כד:יז וְאִישׁ כִּי יַכֶּה כָּל נֶפֶשׁ אָדָם מוֹת יוּמָת.

Lev 24:17 Anyone who kills any human being shall be put to death.

The question, however, is whether these laws apply to a fetus: is a fetus a נֶפֶשׁ אָדָם (*nefesh ʾadam*)? The formulation in the law, which translates literally as “a man who strikes any human throat…,” hints at how the biblical authors defined life.

When Does Life Begin?

In many modern societies, brain-death distinguishes between life and death. In ancient Israel, however, breathing was understood as the prime indicator of the status of being alive. Thus, Genesis describes life as beginning when YHWH gave the human breath:

בראשׁית ב:ז וַיִּיצֶר יְ־הוָה אֱלֹהִים אֶת הָאָדָם עָפָר מִן הָאֲדָמָה וַיִּפַּח בְּאַפָּיו נִשְׁמַת חַיִּים וַיְהִי הָאָדָם לְנֶפֶשׁ חַיָּה.

Gen 2:7 YHWH God formed the human from the dust of the land. He blew into his nostrils the breath of life (*nishmat chayyim*), and the human became a living being.

Hebrew נְשָׁמָה (*neshamah*; or *nishmat*, in the construct state) is often translated “soul,” but has a root meaning of “to breathe” (as evident in modern Hebrew, where the root is used in the term for “respirator”). Other passages characterize the condition of being alive in similar terms. For example, YHWH declares that the flood will kill everything that has the breath of life in it:

‏בראשׁית ו:יז וַאֲנִי הִנְנִי מֵבִיא אֶת הַמַּבּוּל מַיִם עַל הָאָרֶץ לְשַׁחֵת כָּל בָּשָׂר אֲשֶׁר בּוֹ רוּחַ חַיִּים מִתַּחַת הַשָּׁמָיִם כֹּל אֲשֶׁר בָּאָרֶץ יִגְוָע.

Gen 6:17 “And I, here, I am bringing the flood, water on the earth, to destroy all flesh in which is the breath of life (*ruach chayyim*), from under the skies. Everything that is on the earth shall die.”

Later, the animals approach the ark שְׁנַיִם שְׁנַיִם מִכָּל־הַבָּשָׂר אֲשֶׁר בּוֹ רוּחַ חַיִּים, “by twos of all flesh in which was the breath of life (*ruach chayyim*)” (7:15), and when the flood arrives, כֹּל אֲשֶׁר נִשְׁמַת רוּחַ חַיִּים בְּאַפָּיו, “everything that had the breath of the wind of life (*nishmat* *ruach chayyim*) in its nostrils,” dies (7:22). Hebrew רוּחַ (*ruach*)in these passages, commonly translated as “spirit,” means “wind” or “breath” (as understood by the Septuagint Greek translation of *pneuma*).[15]

Other authors also use the presence of breath as a proxy for life. Thus, Isaiah describes the living as those to whom YHWH has given breath:

ישׁעיה מב:ה כֹּה אָמַר הָאֵל יְ־הוָה בּוֹרֵא הַשָּׁמַיִם וְנוֹטֵיהֶם רֹקַע הָאָרֶץ וְצֶאֱצָאֶיהָ נֹתֵן נְשָׁמָה לָעָם עָלֶיהָ וְרוּחַ לַהֹלְכִים בָּהּ.

Isa 42:5 Thus said God, YHWH, who created the heavens and stretched them out, who spread out the earth and what it brings forth, who gave breath (*nishamah*) to the people upon it and wind (*ruach*) to those who walk in it.

Job’s possession of breath is synonymous with his possession of life:

איוב כז:ג כִּי כָל עוֹד נִשְׁמָתִי בִי וְרוּחַ אֱלוֹהַּ בְּאַפִּי. כז:ד אִם תְּדַבֵּרְנָה שְׂפָתַי עַוְלָה וּלְשׁוֹנִי אִם יֶהְגֶּה רְמִיָּה.

Job 27:3 As long as my breath (*nishamah*) is in me and the wind (*ruach*) of God is in my nostrils,[16] 27:4 my lips will not speak falsehood, and my tongue will not utter deceit.

In biblical terms, these passages suggest that those who did not breathe were not alive. Although it is nowhere explicitly stated that a child’s life begins at the first breath rather than at conception, it is difficult to argue for a common Israelite understanding otherwise.

Caution!

The values that drive the modern political debate over abortion are not directly addressed in the Bible in modern terms.[17] In fact, the Bible is neither pro-choice nor pro-life, and drawing on proof-texts from the Bible to support either position distorts both the present issues—the theological challenges of determining what the Bible has to say about contemporary concerns—and the ancient contexts.[18]

It bears remembering that abortion in the ancient world would have been a risky and potentially life-threatening affair for the woman. Perhaps the Bible and the majority of the ancient law collections do not address abortion because the physical danger to the mother made the practice relatively rare.

It is noteworthy, however, that the Bible does not clearly condemn abortion; it simply does not rule on it. It does, however, unequivocally demonstrate, within its own cultural constructions, that a woman’s life was considered to have more value than that of an unborn fetus, and that life begins at first breath.

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בראשׁית טז:ב וַתֹּאמֶר שָׂרַי אֶל אַבְרָם הִנֵּה נָא עֲצָרַנִי יְ־הוָה מִלֶּדֶת בֹּא נָא אֶל שִׁפְחָתִי אוּלַי אִבָּנֶה מִמֵּנָּה וַיִּשְׁמַע אַבְרָם לְקוֹל שָׂרָי.

Gen 16:2 Sarai said to Abram, “You see that YHWH has prevented me from bearing a child; go in to my slave; perhaps I shall have a child by her.” And Abram listened to the voice of Sarai.

1. Editor’s note: See Eve Levavi Feinstein, [“The Rape of the Unbetrothed Virgin in Torah and Assyrian Law,”](https://www.thetorah.com/article/the-rape-of-the-unbetrothed-virgin-in-torah-and-assyrian-law) *TheTorah*(2013).
2. See Shawna Dolansky, [“Why Can Women’s Vows Be Vetoed?”](https://www.thetorah.com/article/why-can-womens-vows-be-vetoed) *TheTorah* (2016).
3. Editor’s note: See Sara Milstein, [“The Levirate Law: A Marriage Contract Clause That Became Legislation,”](https://www.thetorah.com/article/the-levirate-law-a-marriage-contract-clause-that-became-legislation) *TheTorah* (2021).
4. See Judith Romney Wegner, *Chattel or Person? The Status of Women in the Mishnah*(New York: Oxford University Press, 1988), for an in-depth study of these issues in the Mishnah.
5. Asking whether the Bible supports gay marriage is a dead end. Marriage in the ancient world was for economic and procreative purposes and to secure lineage and property rights through the generations. Permanent same-sex unions were a non-issue and irrelevant within the worldview of the biblical authors.
6. Editor’s note: See Kristine Garroway, “Abortion in the Ancient World,” *TheTorah* (forthcoming).
7. Martha T. Roth, *Law Collections from Mesopotamia and Asia Minor*, 2nd ed., SBL Writings from the Ancient World 6 (Atlanta: Scholars Press, 1997), 174.
8. Unless otherwise indicated, biblical translations are my own.
9. The law here seems to assume that, if the woman dies, it is not a case of wholly accidental killing, in which the death occurs by an act of God (cf. וְהָאֱלֹהִים אִנָּה לְיָדוֹ in Exod 21:13). Instead, the miscarriage law begins with the presumption that the attacker may not have planned to attack the woman, but he did intend to commit an act of violence, and therefore he is responsible if the woman’s death results from that violent act.
10. This leads T. Lemos to conclude that “the fetus…has no apparent legal standing separate from its father.” “Visiting the Iniquity of the Father on the Son: Violence and the Personhood of Children in Ancient Israel,” in *Violence and Personhood in Ancient Israel and Comparative Contexts*. Editor’s note: Arguing that the punishment for killing the woman in Exodus 21:23 is not death, but relinquishment of a woman from the perpetrator’s family, see Sandra Jacobs, [“Deathblows to a Pregnant Woman – What Restitution Was Required?”](https://www.thetorah.com/article/deathblows-to-a-pregnant-woman-what-restitution-was-required) *TheTorah* (2020). For a discussion of this law in the Septuagint and in the writings of the Jewish philosopher Philo of Alexandria (30 B.C.E – 45 C.E.), see Marianne J. Elsakkers, “Abortion as Homicide: Its Origins in the LXX and the Early Church,” *TheTorah* (forthcoming).
11. If the woman is the daughter of a commoner or a slave, however, the householder simply pays a fine for the death of the woman—and nothing for the fetus (LH 209–214, Roth, *Law Collections from Mesopotamia and Asia Minor*, 122–123).
12. Tablet I, laws 17–18. See James B. Pritchard, ed., *Ancient Near Eastern Texts Relating to the Old Testament*, 3rd ed. (Princeton: Princeton University Press, 1969), 190, for changes in the compensatory amounts over time. Only the Middle Assyrian Laws demand talionic compensation for both the fetus and the mother: if a householder causes another man’s wife to miscarry, then the man whose wife has miscarried is to cause the perpetrator’s wife to miscarry. If the woman dies, then the perpetrator is also to be put to death. The penalties faced by the perpetrator, however, suggest that the concern is more for the lost potential value to the family of a male heir than for the life of the fetus: If the woman’s husband has no sons, then the perpetrator is executed if the fetus is male; if female, he is only required to provide a child from his household in recompense. For the text of the laws, see MAL A 50–52, in Roth, *Law Collections from Mesopotamia and Asia Minor*, 173–174. It is interesting then to compare the law in Exodus, as there is no difference in penalty specified by the sex of the fetus.
13. Editor’s note: On the meaning of ר.צ.ח, see Marty Lockshin, [“Does the Torah Differentiate Between Murder and Killing?”](https://www.thetorah.com/article/does-the-torah-differentiate-between-murder-and-killing) *TheTorah* (2016).
14. The association of breath with life crosses the boundaries of authorship: Genesis 6:17 and 7:15 are usually attributed to the Priestly source, and Genesis 2:7 and 7:22 to the J source.
15. The expression רוּחַ אֱלוֹהַּ, “wind of God,” suggests that God is the one who put the breath in Job (cf. 32:8, 33:4, 34:14–15).
16. A similar difference between ancient and modern concerns applies to the debate over homosexuality. See my article, [“Regarding Azazel and Homosexuals in the Same Parasha,”](https://www.thetorah.com/article/regarding-azazel-and-homosexuals-in-the-same-parasha) *TheTorah* (2015).
17. It is often challenging to separate a theologically motivated reading of the text from an historical-critical one. After all, historians reading the Bible in the 21st century are bringing modern constructions to bear on the ancient text in the questions they ask, the categories within which they work, and the ideological frameworks they employ.