

REPRODUCTIVE RIGHTS

National conversation swirls around changes in abortion accessibility, in light of the Supreme Court's recent *Dobbs v. Jackson Women's Health Organization* ruling, overturning *Roe v. Wade* and *Planned Parenthood v. Casey*. While many Jewish opinions generally skew more liberal, more right-wing views are shifting to the right. Individual situations to terminate a pregnancy might include the health of the fetus, the physical and mental well-being of the mother, rape, incest, and economic hardship. In addition to the monumental issues, IVF, birth control, and even a fetus who dies *invitro* may too be at risk now in some states.

In addition, issues of Religious Freedom, bodily autonomy and privacy might become adjacent issues in this struggle. There are voluminous texts to help us understand the Rabbinical viewpoint. Here are a few selected texts to discuss.

שופך דם האדם באדם דמו ישפך כי בצלם אלקים עשה את האדם [בראשית טו:]

Whoever sheds the blood of man, by man shall his blood be shed; For in His image Did God make man. Genesis 9:6

יצא ראשו - באשה המקשה לילד ומסוכנת וקתני רישא החיה פושטת ידה וחותרתו ומוציאתו לאברים דכל זמן שלא יצא לאויר העולם לאו נפש הוא וניתן להורגו ולהציל את אמו אבל יצא ראשו אין נוגעים בו להורגו דהוה ליה כילוד ואין דוחין נפש מפני נפש ואם תאמר מעשה דשבע בן בכרי [שמואל ב כ:א] הנה ראשו מושלך אליך דדחו נפש מפני נפש התם משום דאפילו לא מסרוהו לו היה נהרג בעיר כשיתפשנה יואב והו נהרגין עמו אבל אם היה הוא ניצול אע"פ שהו נהרגין לא היו רשאים למסרו כדי להציל עצמן אי נמי משום דמורד במלכות הוה והכי מפרש לה בתוספתא [דתמורה] [רש"י על סנהדרין עב ב:ד:א]

Its head came out: With a woman that is experiencing difficulty giving birth and is in [mortal] danger. And it is taught in the first section [of this teaching], "the midwife extends her hand and cuts it up and extracts [the pieces];" as the entire time that that it has not gone out into the air of the world, it is not [considered] a soul, and [so] it is possible to kill it and to save its mother. But when its head came out, we cannot touch it to kill it, as it is like a born [baby]; and we do not push off one soul for the sake of another. And if you will ask [from] the story of Sheva ben Bichri - [wherein it is written] (II Samuel 20:21), "behold, his head is sent to you" - they pushed off one life for the sake of another; there, it was because even if they had not delivered him, he would have been killed in the city when Yoav would have seized it, and they would have been killed with him. But if he would have [otherwise] been saved - even though they would have been killed - they would not have been allowed to deliver him [to Yoav] in order to save themselves. And also (another answer) is that it is because he was a rebel to the kingdom, and so is it explained in the Tosefta (of Terumah). Rashi on Sanhedrin 72b:14:1

אף זו מצות לא תעשה לא לחוס על נפש הרדף. לפיכך הרו חכמים שהעברה שהיא מקשה לילד מתר לחתוך העבר במעיה בין בסם בין ביד מפני שהוא כרודף אחריה להרגה.

ואם משהוציא ראשו אין נגעין בו שאין דוחין נפש מפני נפש וזהו טבעו של עולם [משנה תורה הלכות רוצח ושמירת נפש א:ט]

This, indeed, is one of the negative mitzvot - not to take pity on the life of a rodef. On this basis, our Sages ruled that when complications arise and a pregnant woman cannot give birth, it is permitted to abort the fetus in her womb, whether with a knife or with drugs. For the fetus is considered a rodef of its mother. If the head of the fetus emerges, it should not be touched, because one life should not be sacrificed for another. Although the mother may die, this is the nature of the world. Mishneh Torah, Murderer and the Preservation of Life 1:9



כשנשקפת סכנה לאשה בהמשכת ההריון יש להתיר הפלת העובר בשופי. גם כשמצב בריאותה של האשה רופף מאד ולשם רפואתה או השקטת מכאוביה הגדולים דרוש לבצע הפלת העובר אע"פ שאין סכנה ממשית גם כן יש מקום להתיר לעשות זאת וכפי ראות עיני המורה המצב שלפניו

If there is a danger to the mother from continuing the pregnancy, one should permit abortion without hesitation. Also, if her health is poor and to cure her or to relieve her from great pain it is necessary to abort the fetus, even if she is not in actual danger, there is room to permit it, based on the halachic authority's evaluation of the situation. (Tzitz Eliezer, Volume 13:102)

CONSIDER:

- Discuss the various Jewish opinions surrounding the termination of a pregnancy. Are all reasons the equal?
- What does the term rodef, pursuer, suggest with regard to the fetus or the mother?
- Do women have bodily autonomy? Privacy?
- Whether you agree or disagree with the right to choose, how does Religious Freedom intersect with this issue? How do you feel about your personal view versus the law of the land?
- How does Israeli law navigate this issue?

NEXT STEPS:

- Actively participate in efforts and initiatives where you can learn more about the other side.
- Take the time to call/write/visit your government official to explain your viewpoint.
- Attend rallies to support your viewpoint.
- Donate money to an organization that supports your point of view.
- Commit to passionately treat others, especially with those you disagree with the dignity and respect they deserve.