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Kol Rinah
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Repro(ductive Rights) Shabbat: Judaism & Abortion

This past fall, I participated in a cohort of clergy offered by [NCJW](#) that met for four sessions on Zoom. It was training for how to provide pastoral care to people around issues of reproductive choices. For example, what do you do if someone comes in and says to, “Rabbi, I’m pregnant and I think I want to get an abortion, but I’m not sure.”

I’d never had training in this specific area of pastoral care, and I feel much more competent and prepared to talk to people now about reproductive choices than I did before this training.

The principal of the approach we were taught is that people basically know, or can figure out, what they want to do. The counselor’s role is to help them discover what it is that they already know or feel. My job is not to convince a person to end a pregnancy, to not have an abortion, or to carry a child to term and give it up for adoption. My job is not to tell someone what to do, but to ask them questions that help them figure out what feels right to them.

I want you all to know that I’m comfortable having these conversations. I have some recent training around them. And I won’t try to convince anyone to do anything. So if you, or someone you know would like to talk to a rabbi about a reproductive choice, I’m here and happy to talk.

I’m talking about this today because it’s Repro Shabbat (short for Reproductive Rights Shabbat), a national “Shabbat” focused on this issue, organized by NCJW. And it’s this Shabbat, Parashat Mishpatim, because the core Torah text that that is relevant for the halakha (Jewish law) around abortion is in this week’s parasha.

Just a note about language. I’ll often use the phrase “pregnant person” because there are people of different gender identities who can be pregnant; it’s not only women who can be pregnant, and we don’t want to erase or be blind to people who are not women who can be pregnant. And sometimes I’ll use the words “mother” or “woman” because most (but not all) pregnant people are woman, and I don’t want to erase that identity. When a text uses a particular word or phrase, I’ll keep the quote as it is.

A note of humility. I am a [cis](#) man. I have never been pregnant; I never will be pregnant. Whenever I speak about the realities of pregnancy and reproductive choices, I do so at a measure of remove. Although I am a father, I can’t feel these issues in my own body. But I do care about these issues, and it’s important, I think, that men are able to talk about reproductive rights too. And it’s critical rabbis talk about this. But I do so with a lot of humility.

Exodus 21:22 says, “When [two or more] parties 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, the payment to be based on reckoning.”

Just to recap, if two people are fighting, and amidst the fighting a bystander pregnant person is jostled and miscarries, the one responsible may be fined. There are two important conclusions to draw from this: a pregnancy, even before birth, has value—it's not nothing. And, if someone ends a pregnancy, they have not committed murder.

The rest of Jewish jurisprudence on abortion is exercises in balancing between these two conclusions, and there are two main directions of approach, one builds “up,” and the other builds “down.”¹

The building down approach sees “abortion as akin to homicide, and is therefore permissible only in cases of corresponding gravity, such as saving the life of the mother. It then builds down from this strict position to embrace a broader interpretation of life-saving situations which include a threat to her health, for example, as well as a threat to her life.”²

The other viewpoint... assumes no real prohibition against abortion at any time, except perhaps during the most advanced stage of pregnancy, and builds up from this lenient position to safeguard against [I wouldn't use this word] indiscriminate abortion.”³

There are lots of texts related to abortion in the Jewish legal tradition: a few from the Mishnah, and many in the the Talmud, the codes, and the responsa literature. But they all balance between fetus and the mother, and they all start from a premise either that this is generally prohibited but this case may be an exception, or that this is generally permitted, and this case may be an exception.

What does a legal system, unlike that of America or Missouri, that takes Jewish jurisprudence around abortion into account, look like?

“In the 1970s, the Israeli Knesset debated the legalization of abortion. After several years of discussions, it ultimately passed a law that permitted abortion in certain circumstances: 1) If a woman is younger than 17 or older than 40; 2) when pregnancy results from rape, incest or extra-marital relations; 3) under the possibility that the baby will be born with a physical or mental deformity; and 4) when the continuation of the pregnancy could endanger a woman's life or mental health. This law allows for certain abortions to be performed until the 39th week of pregnancy....

In order to qualify for an abortion that is legal and paid for by the state, Israeli women have to sit in front of a committee and tell them why they are requesting an abortion. Although 98% of abortion requests are approved, the law reflects the belief that women cannot or should not make this decision on their own.”⁴

From our American perspective, Israel has very liberal abortion policies. The question is, is this a question that should be up to anyone other than the pregnant person?

Michal Raucher is a professor of Jewish Studies at Rutgers University. She's studied and written on abortion in Jewish communities, and has done many, many interviews of Jewish and other women around their abortion stories, including within the Charedi (ultra-orthodox) world. I studied with her last year for a few days. She wrote the following in 2022:

¹ Much of this is based on David. M. Feldman's *Birth Control in Jewish Law* (Northvale, New Jersey: Jason Aronson, Inc., 1988), p. 284.

² Ibid.

³ Ibid.

⁴ <https://www.jta.org/2022/05/10/ideas/jewish-tradition-permits-abortion-if-you-believe-in-bodily-autonomy-thats-not-enough>

“Unless you support a person’s right to bodily autonomy, then you are supporting a system wherein someone else determines what you or anyone else can do with their bodies. It does not matter whether that person is a lawmaker, a judge, a contemporary rabbi or one from 2,000 years ago. It does not matter whether that person would permit most abortions or even require some.

There’s a temptation right now to say that restrictions on abortion rights in the United States violate the religious freedom of Jews. That’s true, to an extent. But a religious argument based on Jewish law and rabbinic texts only goes so far. Those of us who support reproductive health, rights and justice ought to be honest about the connection between that and our rabbinic tradition.... It may not be an argument rooted in Jewish law, but it is a Jewish argument — and it’s time to make it.”⁵

There’s something about these powerful words that makes such good sense. And yet, I wonder if there is something that we give up when we place all authority in one’s own autonomous, intuitive self.

There may not be anything lost. Practically, as I began with, no rabbi should be telling a pregnant person what to do with their pregnancy. They have the wisdom and knowledge to figure that out, and my only role is to help them discover and trust that.

In general though, the value of religious tradition is that it gets us out of our autonomy, out of our own feelings, and roots us deeply in a wisdom tradition, in a moral, ethical, and spiritual system that has evolved for three millennia, but can still speak powerfully to us, and can still guide and inspire us.

What we can do now is work to make sure abortion is once again safe and legal in Missouri. There is currently an [Abortion Rights Initiative Petition](#) that is gearing up to put the issue on the ballot. Keep your eyes open for opportunities soon to sign the petition, and to work on this issue.

Shabbat shalom.

⁵ Ibid.