



# **From Justification to Reproductive Justice: Evolving Jewish Attitudes towards Abortion**

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## Part I: Justification

### 1. Isaac Klein, "[A Teshuvah on Abortion](#)," Adopted as Majority opinion on August 23, 1983. Originally published in *Conservative Judaism* (Fall 1959)

This is the attitude the Rabbis have taken. Abortion is forbidden. Though it is not considered murder, it does mean the destruction of potential life. If, however, the purpose is therapeutic, this objection is removed. I have chosen a number of responsa dealing with the question.

Rabbi Yair Hayyim Bachrach (1639-1702), the author of Responsa Ifavvot Ya'ir, had this strange case. A married woman committed adultery and became pregnant. She had pangs of remorse and wanted to do penance. She asked whether she could swallow a drug in order to get rid of the "evil fruit" in her womb. In answer, Rabbi Bachrach made it clear immediately that the question of the permissibility of abortion had nothing to do with the legitimacy of the child to be born. The only question involved was whether abortion is accounted as taking a life or not. Rabbi Bachrach drew distinctions between the various stages of the development of the fetus, i.e., forty days after conception, three months after conception. Then he concluded that it might be theoretically permitted at the early stages of the pregnancy, but we do not do so because of the custom adopted both by the Jewish and the general community against immorality.

Rabbi Eliezer Deutsch (1850-1916), the author of Responsa Peri Hasadeh, treats the following problem: A woman who had been pregnant a few weeks began to spit blood. Expert physicians insisted that she take a drug in order to induce a miscarriage for, should she wait, it would not only become necessary to take out the child by cutting it up, it would also endanger the life of the mother; if they acted immediately, it would be possible to bring forth the child with a drug. Is it permissible to do so?

Rabbi Deutsch answered that in this case it is certainly permitted. He made a distinction between the various stages in the development of the fetus, *gufa abarina* ("a separate body"), *ne'ekar havlad* ("the fetus has become detached"), between the use of drugs and the use of surgery, and between another person doing it or the woman herself. The conclusion was that it is permitted in this case for three reasons: (a) Before three months after the conception there is not even a fetus; (b) There was no overt act involved in this case, i.e., surgery; and (c) The woman herself was doing it and it is thus an act of self-preservation.

Our conclusion, therefore, must be that abortion is morally wrong. It should be permitted only for therapeutic reasons.

**2. Rabbi Robert Gordis, "[Abortion: Major Wrong or Basic Right?](#)" Adopted as majority opinion on August 23, 1983**

The rabbinic discussions on the subject are primarily concerned with therapeutic abortions. There are several types of abortion that may be described as extensions of the therapeutic category into the mental area. On these, a broad consensus of agreement probably exists in contemporary society, except possibly for some of those bound closely to Catholic dogma. Earlier Jewish authorities devote little attention to the problem of women who become pregnant as a result of incest or rape, yet, undoubtedly, both of these evils existed in the past. Perhaps we are more conscious of these crimes today because of a greater recognition of women as independent personalities. Whatever the reason, it will be generally agreed that the victims of such atrocities have already undergone major psychological trauma even if they did not suffer additional physical violence.

To permit such a pregnancy to run its course means to bring into the world a permanent reminder of the terror and the shame that the woman experienced at the time the crime was committed. Furthermore, the child would forever bind her to one who had viciously violated the sanctity of her person. Moreover, the child himself, who is totally free from guilt, would carry a stigma almost too heavy to bear throughout his life. Moreover, since a human being is an amalgam of spirit and body, the mental wellbeing of the mother is as important as her physical health.

There is warrant in rabbinic responsa for permitting abortion if the mother is deeply concerned about the health of her unborn child. If, therefore, there is a possibility that the child may be born defective because the mother is a drug addict or has taken some medication with aftereffects dangerous to the offspring, the pregnant woman's worry is sufficient ground for an abortion because of the debilitating effects psychologically or otherwise on her well-being. Under any of these circumstances, few would be disposed to oppose abortions designed to prevent a major traumatic episode from being converted into a lifetime tragedy. These instances may fairly be regarded as falling within a broadened category of therapeutic abortion.

**3. Rabbi Kassel Abelson, "[Prenatal Testing and Abortion.](#)" Adopted as majority opinion on August 23, 1983**

There is clear precedent in the tradition, as it has developed to our day, to permit abortion of a fetus to save a mother's life, to safeguard her health, or even for "a very thin reason," such as to spare her physical pain or mental anguish. Some recent authorities also consider the well-being of other children, and the future of the fetus itself as reasons to permit abortion. All agree that there *must be a reason* to justify the destruction of the potential person the fetus will become after birth.

Where there is reason to believe that the fetus may be defective, it is advisable for the mother to go to her obstetrician and undergo amniocentesis and/or other prenatal tests. If the tests indicate that the child will be born with major defects which would preclude a normal life, and which make the mother and the family anxious about the future, it is permitted to abort the fetus.

**4. Rabbi Robert Gordis, "[Abortion: Major Wrong or Basic Right?](#)" Adopted as majority opinion on August 23, 1983**

While therapeutic abortions are by no means negligible in number, the gravamen of the struggle today lies in the area of non-therapeutic abortions, where the woman simply does not wish to have the child born -- so-called abortion on demand. Her motive may be the size of her family or the fact that she is unmarried or simply a desire not to be burdened by the responsibility of child-raising.

On the one hand, it may be argued that there is no urgency to permit such non-therapeutic abortions, particularly in view of the variety of moral issues that have been raised with regard to the right to life of the unborn fetus. On the other hand, we have seen that such issues as ensoulment and the baptism of unborn infants are strictly dogmatic in character and are applicable only to believing Catholics. For other elements of the population in general, and for Jews in particular, the weight of authoritative opinion, both religious and scientific, does not regard the fetus as a viable and independent human being or abortion as murder.

When, therefore, a woman asks for an abortion for one of the reasons mentioned, we cannot in justice ignore several other aspects of the situation that are of valid social and ethical concern. What destiny awaits a child who cannot be properly cared for, because he is being born into a family where there are already far too many mouths to feed? What about a child who is not wanted because he is the result of extramarital intercourse? In the latter case, does the mother deserve life-long punishment for a single indiscretion? What about the handicaps for a child growing up in a home without a father, from which the mother is often absent, with no one to supervise and guide the youngster because she must work for a living? Think what we may of a woman who does not wish to bear and raise a child simply because she consults only her own convenience and comfort, what environment awaits an unwanted child born under such circumstances? A study of the mounting tide of child abuse and child murder by parents might well disclose this attitude as a motive for crime.

Finally, we cannot, in all honesty, ignore the fact that all too often the issue is not whether or not an abortion is to take place, but under what circumstances. Will it be done through proper procedures by experts, or under unsanitary and dangerous conditions by incompetents or charlatans who threaten the life or health of the mother? We cannot overlook the fact that the affluent and the well-educated have always had access to abortions on demand. All that is being asked is to make the same procedures available to the poor and the under-privileged as well. In effect, opposition to legalizing properly performed abortions on demand amounts to a flagrant

form of economic discrimination. Not altogether unjustly, therefore, the movement against legalizing abortion is often charged with being both hysterical and hypocritical.

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Do these considerations effectively dispose of the case against abortion on demand and justify the practice? Such a conclusion would be premature. The alleged right of abortion on demand is generally supported by the argument that a woman has rights over her own body. This is a contention which Judaism, and indeed all high religion, must reject on both theological and ethical grounds as being essentially a pagan doctrine. It is basic Jewish teaching that no human being is master of his own body, because he did not create himself; male and female alike have been fashioned by God in His image.

##### **5. Rabbi Robert Gordis, "[Abortion: Major Wrong or Basic Right?](#)" Adopted as majority opinion on August 23, 1983**

The victories that the right-to-abortion forces have achieved in legislatures and the courts have stimulated the unfortunate tendency, to which Americans are particularly prone, of identifying the legal with the moral and concluding that what the law permits is, therefore, ethically sound. This fallacy is particularly disastrous in the area of personal morality and family ethics.

The acceptance of abortion as legitimate is, of course, far from unanimous. On the contrary, it has evoked passionate opposition from the Right to Life movement and other groups whose original impetus derived from Catholic theology but whose ranks include people of other persuasions as well. What the anti-abortion movement may lack in numbers and practical influence is largely compensated for by its zeal and dedication. All Americans, including those who do not share its position, owe the movement a debt of gratitude for reminding the American people that moral issues cannot be settled merely by a majority in the legislature or by the decisions of judges.

## **Part II: Justice**

### **1. Rabbi Rachael Pass. "[My Abortion was a blessing](#)," JTA, 2021**

On the second night of Rosh Hashanah, in my second year of rabbinical school, while working at my first-ever High Holiday pulpit, I accidentally conceived. I had my first bout of morning sickness in our introductory Talmud course, and my first pregnancy craving during Hebrew Literature and Grammar (I still swear that pickles on pizza is a million-dollar idea). I took my pregnancy test on Rosh Chodesh Cheshvan, and whispered the blessing "asher yatzar et ha'adam b'chochmah," who created human beings with wisdom, when it read positive.

That night, I attended a required class Shabbat program at Kehilat Romemu on the Upper West Side, where I discovered that morning sickness could indeed happen at night in a shul bathroom. I prayed. I read every piece of Jewish literature on abortion that I could find. I read every opinion article on the internet about "why I'm happy I had an abortion" or "how I came

to regret my abortion.” I made a pros and cons list. I consulted the would-be father and my rabbinic mentor, Rabbi Jen Gubitzi. I cried on the phone with my mom. Ultimately, I made the choice using the instinctual wisdom inside myself, heeding nobody’s opinion but my own. And perhaps God’s. We Jews are commanded, in lines that appear in this week’s Torah portion: “I have put before you today blessing and curse, life and death. Uvacharta v’chayyim, Choose life.” That commandment has been coopted as a rallying cry for those who support restrictions on abortion, such as the Texas ban on abortions after six weeks that went into effect this week when the U.S. Supreme Court declined to block it. But for me and so many others, this verse is a clear rebuttal to that law, the most significant infringement on abortion rights in America since the Roe v. Wade protected a women’s right to choose 48 years ago.

I chose life when I left Literary Artistry of the Bible early on a Thursday afternoon to walk the few short blocks from Hebrew Union College-Jewish Institute of Religion’s New York campus to the Margaret Sanger Planned Parenthood on Bleecker Street. I took the first pill in a quiet office, sitting across from a doctor who looked just like me. The next morning, my Medieval Jewish History class took a field trip to the Met Cloisters. Our professor was late because she had to prepare her brisket for Shabbat dinner. I felt so sick I could hardly stand. That night, I livestreamed Shabbat services while holding the four Misoprostol pills in the four corners of my mouth, waiting for them to disintegrate. I bled all night.

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You may have noticed that my abortion story is very Jewish. Everything from the timing of the accidental conception to the decision and procedure itself was brimming with my Jewish practice, learning and living. It is impossible to extricate my Judaism from my abortion.

And yet you might also assume that my abortion would not have been Jewishly “okay,” permissible under halacha, or Jewish law, because I simply did not want to be pregnant — because mine is the kind of abortion that anti-choicers most disdain. [The standard Jewish line on abortion](#) is that Judaism traditionally permits abortion when the pregnancy endangers the life of the mother. This derives from Mishnah Ohalot 7:6, which states that “[for] a woman who is having a hard labor — makshah leiled — they cut up the fetus in her womb and remove it limb by limb, mipnei shechayeiha kodmin l’chayyav, because her life comes before its life.” Chayeiha kodmin l’chayyav, her life comes before that of the fetus.

What does it mean that the life of the pregnant person comes before that of the fetus? Over the centuries, various rabbinic authorities have offered their answers. It means that her physical needs and pain levels are prioritized over the birthing of the child (Rabbis Josef Trani and Jacob Emden). It means that her mental health is prioritized over the birthing of the child (Rabbi Mordecai Winkler). It means that her dignity and her honor are prioritized over the birthing of the child (Rabbi Ben-Zion Ouziel). It means that the primary consideration in the Jewish question of abortion is the needs of the person giving birth, their life, their health and their dignity.

## 2. Sarah Tuttle-Singer, "[My Jewish Abortion](#)," Kveller, 2012

It's no secret why frightened looking girls walk into the social worker's office on the second floor of the Student Health Center at UC Berkeley. And while I sat there, vaguely nauseous and needing to pee (for the third time that hour) I avoided eye contact with the students walking by. After all, Nice Jewish Girls don't get knocked up freshman year of college...

At that moment, I had a grand total of \$12.97 to tide me over until December 1st. And I knew asking my parents for money would break their hearts. "Hypothetically speaking, what if someone doesn't have enough money?" I asked. The social worker looked at me, her eyes alighting on the silver Jewish star necklace I was wearing.

"Are you Jewish?" I nodded. My face flushed, and I looked down at my shaking hands. I taught Hebrew school at my synagogue. I received the Rabbi's Scholarship for Outstanding Work in the Jewish Community. I kept kosher. And I was 19 and pregnant.

"Ok that's good, because there is a philanthropic Jewish women's group that offers a scholarship of \$250 to help cover costs. Would you be interested in that sort of thing?" I wondered if I would have to write an essay or give them my SAT scores or show them my Bat Mitzvah certificate. "How would I qualify?"

"By being pregnant, and by not wanting to be pregnant. And by being Jewish," she replied. "Look, I'll contact the president of the organization, and I can have a check made out to you by the end of the week. Sound good?"

It sounded great. And not because I had found a way to finance my abortion. But because for the first time since I found out I was pregnant, I realized that I wasn't the first—nor would I be the last—knocked up Nice Jewish Girl.

Look. I know that some of you will not agree with my decision. In fact, some of you will be sickened by it. But I did what many other 19-year-old girls would do: I chose to stay in school. I chose to teach Hebrew on Sundays and Wednesdays. I chose parties at Hillel and ZBT and dating and weekends with friends. And I chose not to bring an unwanted child into the world. And there are a thousand different reasons why I do not regret my decision to have an abortion freshman year, and I am grateful that I was able to make that choice in a safe way.

## 3. Avital Chizhick-Goldschmidt, "[My Dark Secret: Orthodox Women Reveal Their Abortion Stories](#)," The Forward, 2018

**USA. 31 weeks, 2nd pregnancy.**

My pregnancy was fine, but at 31 weeks I felt the baby moving irregularly. A scan showed that the baby was having seizures and extensive intracranial bleeding. The baby was going to be severely brain damaged, with a horrible prognosis. It was suffering, or not suffering — I don't know, I don't want to think about it. The pediatric neurologist recommended that we have an

abortion. We consulted with a prominent Orthodox rabbi, who consulted with both medical specialists and leading Halachic experts and guided us to go ahead with it.

We kept this quiet — we live in a conservative suburban Jewish community, and we were concerned about how we would be judged. Given that we were after the cut-off mark of our state, we had to go to a clinic in Colorado. I went to a dinky clinic with a doctor that completely lacked bedside manner. He charged us over \$10,000; we put it on our AmEx.

The doctor said he saw *frum* people before; he told us that we are not the first people with yarmulkes. They took me down to the basement — my husband wasn't allowed to be with me for the actual procedure — and I received an injection and... waited for the heartbeat to stop. I flew home to deliver. I delivered three days later, after being induced. It was a relief. My *rav paskened* that we not see the fetus, or the gender, and that we not be involved at all in the burial.

*Baruch Hashem*, we had a *rav*, a wonderful *posek*, who was really amazing, who helped us through the entire process, helped us understand this experience through Halacha. We found so much comfort in the fact that Halacha had an answer, a system with which we could deal with the loss. We have gone through infertility before; I've had multiple natural miscarriages. But nothing prepared us to go out of state to an abortion clinic. The fact that we had to travel out of state, and go to an abortion clinic with a doctor that we didn't trust, because we had no other option — and have an abortion in a basement of a medical complex that was not our hospital, without our regular support staff — was so difficult. It was undignified. It was a simple two-second procedure — why did I have to go all the way to Colorado? God forbid if it happens to anyone — where are we supposed to turn? Where will we send women? We almost had to go to Israel to be able to follow Halacha. Israel recognizes that there is room for this, in Halacha.

When you don't have a choice, you really don't have a choice. This was a very wanted pregnancy. We are *frum*. I follow Halacha (I ask a rabbi for permission to use birth control). We went to a rabbi for this decision — and we knew that this was the Halachic response that was most appropriate.

The challenging part for us was that the American legal system made it so difficult for us to follow Halacha. If abortion becomes illegal, our religious right to have access to abortion is challenged.

#### 4. Rabbinical Assembly, "[Resolution on Reproductive Freedom.](#)" February 2007

Whereas Jewish tradition cherishes the sanctity of life, including the potential of life which a pregnant woman carries within her;

Whereas Judaism does not believe that personhood and human rights begin with conception, but with birth;



Whereas Jewish law does not condone or permit abortion for contraceptive purposes, but where the life or health of the mother are in jeopardy;

Whereas the Committee on Jewish Law and Standards of the Rabbinical Assembly has affirmed the right of a woman to choose an abortion in cases where “continuation of a pregnancy might cause the mother severe physical or psychological harm, or where the fetus is judged by competent medical opinion as severely defective;”

Whereas to deny a woman and her family full access to the complete spectrum of reproductive healthcare, including contraception, abortion-inducing devices, and abortions, among others, on religious grounds is to deprive these women of their Constitutional right to religious freedom; and

Whereas every year nearly 80 million unintended pregnancies occur worldwide, more than half of which end in abortion, and access to information, education and services on voluntary family planning prevents unplanned pregnancies thereby preventing abortions.

Therefore be it resolved that the Rabbinical Assembly urges its members to support full access for all women to the entire spectrum of reproductive healthcare, and to oppose all efforts by federal, state, local, or private entities or individuals to limit such access;

Be it further resolved that members of the Rabbinical Assembly communicate with their governmental officials on the key issues mentioned above, urging action which would promote the Reproductive Freedom and well-being of women and girls; and

Be it further resolved that the Rabbinical Assembly support HR 1225, the Focus on Family Health Worldwide Act, a bill introduced in the U.S. House of Representatives which urges access to voluntary family planning and increases authorized funding for the U.S. Agency for International Development’s voluntary family planning programs to \$600 million in FY 2008, and then by an additional \$100 million annually, over the next four years, reaching \$1 billion in FY 2012

## 5. NCJW [“Expanding Abortion Access”](#)

National Council of Jewish Women is committed to creating a world where all people, regardless of race, class, gender, sexuality, ability, or immigration status, have the right to build their families and live their lives with dignity. Our Jewish experience tells us that our reproductive freedoms are integrally bound to our religious liberty; we are committed to advancing the goals of reproductive justice so that every person can make their own moral and faith-informed decisions about their body, health, and family.

Since its founding, NCJW has been a leader in the reproductive health and rights movement, and while much advancement has been made in the past 100 years to legally secure a person’s

right to abortion and contraception, there is so much more that needs to be done to truly ensure reproductive freedom for all.

Reproductive health, rights, and justice go beyond the basics of reproduction. It requires us to dig deeper, advocate louder, and love harder. It requires us to center the voices of those who have been marginalized at the center to lead the conversation for social change.

Until every person has the power to make their own informed decisions about their body, sexuality, and future, our work is not over.

### Abortion Resources

- [Physician-supported medication abortion care online](#). Appointments open Monday-Friday for 22+ US states. Overnight shipping\* and comfort medications included.
- [Find a clinic](#) to meet with a provider in person; visit and you can find one close to you.
- You can also find information about abortion pills [here](#)
- Emergency contraception (EC) can prevent pregnancy when used correctly. It should be taken as soon as possible after unprotected sexual intercourse. It was originally approved to be used within 3 days, but we now know it can be effective for up to 5 days. One type of EC is known as the morning after pill or Plan B. It contains an elevated dose of progesterone and can stop the egg from being released or change the lining of the uterus so that the egg cannot attach and grow. Plan B is more effective if taken earlier. It might be less effective for those with a higher body mass index. You can purchase Plan B at a pharmacy without a prescription.

