

From Justification to Justice

Calling for a New Conservative Movement Position on Abortion

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In this article I review the Conservative Movement's official positions on abortion, as seen through *teshuvot* from the Committee on Jewish Law and Standards (CJLS), as well as statements and resolutions from the Rabbinical Assembly (RA).¹ These publications, written between 1975 and 2022, have often been composed in response to a law, court case, or regulation being discussed in the American political sphere. I will demonstrate that, through these publications, the Conservative movement created an official position about abortion rights that reflected the justification framework. This framework starts from the assumption that abortion is morally wrong but can be permitted—that is, justified—in certain circumstances. I argue that the Conservative Movement's position on abortion is ethically flawed because of its reliance on the justification framework and because it does not reflect the lived experience of abortion in the United States. In line with feminist ethical critiques of halakhah, I maintain that the CJLS and the RA have overlooked women's experiences. Conservative Jewish leaders should revisit their *teshuvot* and resolutions on abortion and revise them in order to foreground and center the experiences of Jews who have had abortions.

In *Trust Women: A Progressive Christian Argument for Reproductive Justice*, Rebecca Todd Peters defines the justification approach. In the late nineteenth century, Christian physicians aimed to criminalize and stigmatize all abortions that they did not consider acceptable. Peters argues that they were motivated by a myth of white Christian nationalism that included an expectation that white women should be wives and mothers.² To them, white women having abortions violated gender norms and threatened their survival in an increasingly multicultural and multifaith country.³ These

¹ These do not represent all the positions taken, because both individual rabbis and lay groups have made statements. Many Conservative Jews are not necessarily in agreement with these positions, but they do represent the official positions of the leadership.

² Rebecca Todd Peters, *Trust Women: A Progressive Christian Argument for Reproductive Justice* (Boston: Beacon, 2018).

³ Samira Mehta and Lauren MacIvor Thompson, "The Supreme Court's Abortion Decision is

gender and racial norms have persisted among white Christian nationalists today who similarly oppose abortion.⁴ Today, the justification approach is ubiquitous. We can see it when people or governments discuss under what circumstances abortion would be permissible. The circumstances that have received the broadest public support for decades have been those termed the “PRIM” justifications. These are **p**renatal health, **r**ape, **i**ncest, and **m**aternal health. Readers might be familiar with recent state legislatures establishing abortion bans with certain exceptions; those exceptions are often one or more of the PRIM justifications.

In a recently published article in the *Journal of Jewish Ethics*, Louis Newman demonstrates how narratives inform Jewish ethical approaches even though ethicists claim to be basing their moral evaluations solely on their legal analysis.⁵ My argument here is similar. When the CJLS approved their first four *teshuvot* about abortion in 1983, the justification framework was prevalent in public discourse. Although the four *teshuvot* from 1983 and two from the early 2000s approve of the halakhic permissibility of abortions for PRIM reasons, they exclude all other reasons. Legal scholar Robert Cover wrote that law is generated from and exists within certain narratives about self, other, and the surrounding context.⁶ The justification framework for abortion was—and in many ways still is—the narrative that informed Conservative rabbinic readings of Jewish law. CJLS rabbis did not admit to the way this narrative was shaping their reading of Jewish law. Instead, they claimed that their conclusions about the halakhic permissibility of abortion derived directly from the rabbinic texts. We can see the influence of the justification narrative in the language they used when discussing women who had abortions. The authors of these *teshuvot* wrote derisively about women who terminated pregnancies outside of their guideposts, referring to these women as procuring “abortion on demand” and terminating for their “mere convenience.”⁷ PRIM abortions constitute just 25% of the abortions

Based on a Myth. Here’s Why,” *Washington Post* (June 24, 2022), <https://www.washingtonpost.com/outlook/2022/06/24/supreme-courts-abortion-decision-is-based-myth-heres-why/>.

⁴ Sophie Bjork-James, “White Sexual Politics: The Patriarchal Family in White Nationalism and the Religious Right,” *Transforming Anthropology* 28, no. 1 (2020): 58–73.

⁵ Louis E. Newman, “Reassessing the Role of Narrative within Legal Approaches to Contemporary Jewish Ethics,” *Journal of Jewish Ethics* 8, no. 1 (2022): 87–110.

⁶ Robert M. Cover, “Foreword: Nomos and Narrative,” *Harvard Law Review* 97, no. 1 (1983): 4.

⁷ For the direct quotes, see, respectively Robert Gordis, “Abortion: Major Wrong Or Basic Right?,” in *Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement 1980–1985* (New York: Rabbinical Assembly, 1988), 19–28 and Susan Grossman, “‘Partial Birth Abortion’ and the Question of when Human Life Begins,” Database of the *Proceedings of*

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performed in the United States. The majority of abortions are performed because either a woman cannot afford a(nother) child or does not want a(nother) child.⁸ CJLS responsa make it clear that these reasons are insufficient rationales for terminating a pregnancy. Moreover, the language in the CJLS *teshuvot* contains ideas about women and reproduction that come from the justification narrative of the Christian anti-abortion movement. As Historian Rachel Kranson has argued, Conservative Movement rabbis were engaged in an imagined discourse with the Christian anti-abortion movement and attempted to depict Judaism as in line with Christianity in terms of sexual and reproductive morals.⁹ This led to decades of position statements from the RA that repeated the same principles even while advocating for much broader reproductive rights.

Recently, Jewish women have published their abortion narratives in the Jewish press, and, although these narratives constitute but a small sampling, they reveal the ways Jewish women have made the decision to terminate pregnancies.¹⁰ These are stories that reflect adherence to Jewish beliefs, a desire to create Jewish rituals, and even the use of Jewish blessings in many ways, but they do not necessarily reflect the Conservative halakhic framework for abortion. These narratives offer us an alternative way of thinking about abortion in Judaism that the CJLS and the Conservative Movement's rabbinic leaders have not considered. Fundamentally, these narratives demonstrate that Jewish women have abortions, and that they make that decision for all sorts of reasons; moreover, many women see their decision as a sacred choice despite what halakhah says about abortion. These narratives offer a significant corrective to the way the Conservative Movement's rabbinic leaders have thought about abortion for the last fifty years. I argue that, just as the Conservative movement's *teshuvot* about abortion have been shaped by their surrounding cultural narrative, a new Conservative Jewish

the Committee on Jewish Law and Standards, Hoshen Mishpat, 425:2 (2001b): 1–29 (quote 20), <https://www.rabbinicalassembly.org/rabbinic-resources/committee-jewish-law-and-standards/teshuvot-database>.

⁸ Lawrence B. Finer et al., “Reasons US Women have Abortions,” *Perspectives on Sexual and Reproductive Health* 37, no. 3 (2005): 110–18.

⁹ Rachel Kranson, “From Women's Rights to Religious Freedom: The Women's League for Conservative Judaism and the Politics of Abortion, 1970–1982,” in *Devotions and Desires: Histories of Sexuality and Religion in the Twentieth-Century United States*, ed. Gillian Frank, Bethany Moreton, and Heather R. White (Chapel Hill: University of North Carolina Press, 2018), 170–92.

¹⁰ Anybody with a uterus can get pregnant. I do not intend to overlook the experiences of pregnancy termination by anyone who does not identify as a woman. For this article, I have used narratives only from people who identify as women.

approach to abortion should consider the contemporary context and the voices of individuals struggling to access abortion today.

The Conservative Movement has demonstrated its commitment to both halakhah and historical change. Opinions from the CJLS reflect the ways in which Conservative rabbinic leaders have altered their understandings of halakhah or created innovative halakhic responses in light of changing community norms and historical development.¹¹ The current Conservative halakhah on abortion is outdated. It came out of a particular historical moment in which Conservative Jewish leaders were trying to establish themselves as an American religion on par with Christianity in their moral opposition to abortion. The historical context is different in 2022. A vast majority of Jews support legal abortion in all or most cases.¹² As I will show in this article, even the RA currently holds a position that is much more supportive of abortion than the position they held in the 1980s. Ronit Irshai's survey of Orthodox responsa about abortion reveals that they have changed over time and in response to different historical and particular needs of the community.¹³ It is time for the CJLS to approve new *teshuvot* about abortion that respond to the contemporary context.

I argue that new *teshuvot* should be informed by the experiences of Jewish people who have terminated pregnancies. In making this argument, I draw on feminist criticisms of halakhah. Irshai and Dena Davis have both problematized the lack of female voices in halakhic rulings on abortion.¹⁴ When the first four *teshuvot* about abortion were approved in 1983, there were no women on the CJLS. The CJLS had not yet approved of ordaining women. When women were ordained in the Conservative Movement and joined the CJLS, they added their perspectives and introduced new topics for discussion such as mourning rituals for people suffering a miscarriage or stillbirth.¹⁵ One of the *teshuvot* about abortion from the early 2000s was written by a woman, Rabbi Susan Grossman. Yet representation of women on the committee and among authors of *teshuvot* is not sufficient. Feminist

¹¹ Daniel H. Gordis, "Wanted—the Ethical in Jewish Bio-Ethics," *Judaism* 38, no. 1 (1989): 28–40.

¹² "PEW Religious Landscape Study" (Washington, DC: PEW Research Center, 2017), <https://www.pewresearch.org/religion/religious-landscape-study/>.

¹³ Ronit Irshai, *Fertility and Jewish Law: Feminist Perspectives on Orthodox Responsa Literature* (Waltham, MA: Brandeis University Press, 2012).

¹⁴ Dena Davis, "Abortion in Jewish Thought: A Study in Casuistry," *Journal of the American Academy of Religion* 60, no. 2 (1992): 313–24.

¹⁵ Shuly Rubin Schwartz, "Conservative Judaism in the United States," Jewish Women's Archive, updated by Helene Herman Krupnick (June 23, 2021), <https://jwa.org/encyclopedia/article/conservative-judaism-in-united-states>.

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ethicists have long questioned the ability of a male-composed legal code to respond to women's experiences. As I have argued elsewhere, the "view from nowhere" angle that is common in legal codes is not actually a view from nowhere but a view from male positions that overlooks women's experiences.¹⁶ For example, Irshai demonstrates that the rabbinic focus on the status of the fetus is missing women's experiences of reproduction.¹⁷

CJLS *teshuvot* on abortion need to include—and be informed at the outset by—the experience of abortion. In *The Social Justice Torah Commentary*, Rabbis Emily Langowitz and Joshua Fixler argue that the legal texts about abortion fall short in seeing women as subjects in abortion decisions. They write,

The text in Exodus 21 begins with an act of violence perpetrated against a pregnant woman, and yet this woman is all but absent from subsequent conversation about this passage. Across the centuries, almost all of the voices of Jewish interpretation, and even many modern commentators, fail to acknowledge her story. The interpreters miss the opportunity to see her as subject, rather than object. To see the woman in this text as merely a hypothetical in a legal case study is to deny that cases such as these were very real to the people who experienced them. To reach a full sense of justice in our understanding of abortion, we must pair *mishpatim* (laws) with *sipurim* (stories).¹⁸

Langowitz and Fixler maintain that the biblical and legal narratives are doing harm to the people who make reproductive decisions, and they are impeding our ability to think broadly and more ethically about abortion because they are ignoring the experiences of people who have abortions. Following the suggestion by Langowitz and Fixler, I will share some examples of Jewish women's abortion experiences in the final section of this article. In these narratives we will learn what Jewish women need from their communities and their rabbis. We will see how the justification approach to abortion

¹⁶ Michal S. Raucher, "Ethnography and Jewish Ethics: Lessons from a Case Study in Reproductive Ethics," *Journal of Religious Ethics* 44, no. 4 (2016): 636–58, doi:10.1111/jore.12160.

¹⁷ Irshai, *Fertility and Jewish Law*.

¹⁸ Emily Langowitz and Joshua R. S. Fixler, "Abortion and Reproductive Justice: A Jewish Perspective," Religious Action Center of Reform Judaism (September 2, 2021), <https://rac.org/blog/abortion-and-reproductive-justice-jewish-perspective>.

is harming them. Finally, we will discover alternative ways of reading Jewish texts and constructing Jewish rituals around abortion. I maintain that these abortions are no less Jewish than those deemed *halakhically* permissible by the CJLS, and that the CJLS should construct a new *halakhic* response to abortion that reflects lived Jewish experiences of abortion.

CJLS *Teshuvot* and the Justification Framework

The CJLS has approved six responsa about abortion, including four from 1983, one in 2001, and another in 2003. In 1975 it passed an official resolution about abortion wherein its members called for “issuing a statement for public information setting forth the traditional Jewish view” and explained that this view would be the “official position of The Rabbinical Assembly and of Conservative Judaism.”¹⁹ In other words, these *teshuvot* are supposed to inform the public positions of the movement. In all of them, the authors analyzed biblical and rabbinic texts, incorporated different degrees of medical information, and drew on *teshuvot* from prior centuries. Two ideas are central to their positions. First, according to Jewish law, fetal life is classified as “potential life.” Life begins at birth and fetal life is not equivalent to full human life, yet fetal life is sanctified as potential life. Second, because the fetus is considered potential life, abortion can be performed only for a justified reason. Although I will be focusing on the second idea, I will first offer a brief summary of the claims about fetal life.

Teshuvot from the Conservative Movement demonstrate that biblical and rabbinic teachings do not ascribe to the fetus full and equal personhood but hold a more nuanced perspective of fetal life. According to the authors of these *teshuvot*, the fetus is a potential life that is inseparable from the pregnant woman. In his 1983 *teshuvah*, Rabbi Kassel Abelson based his position about fetal status on the passage in Exodus 21:22–25 wherein men fight and one of them pushes a pregnant woman. Abelson wrote: “It is obvious that the Torah considers the death of the woman a capital offense, while the death of a fetus is a lesser offense, punishable only by a fine.”²⁰ To make the claim that the fetus is not a separate entity from its mother, authors of *teshuvot* have referenced the talmudic expression ‘*ubar yerekh immo hu*,

¹⁹ “Resolution on Abortion,” *Proceedings of the Rabbinical Assembly* 37 (1975): 278.

²⁰ Kassel Abelson, “Prenatal Testing and Abortion,” in *Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement 1980–1985* (New York: Rabbinical Assembly, 1988), 4.

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translated by Rabbi Isaac Klein as “The fetus is thus accounted as the loin of its mother.”²¹ In his 1983 *teshuvah*, Rabbi Robert Gordis wrote: “What is fundamental is that *halakha* explicitly recognizes that the fetus is not a viable being while it is in its mother’s womb, since its life cannot be sustained outside its natural shelter there.”²² Contrary to Christian teachings that life begins at conception, the rabbis of the Conservative Movement maintained that, according to Jewish law, life and all its attendant rights begin at birth. Conservative rabbis discussed precisely when those rights were transferred in their discussion of one abortion procedure: an intact dilation and extraction (D&X) performed in the third trimester. The two approved responsa from 2001 and 2003 each came to a different conclusion about when birth is considered to have occurred halakhically because, after that point, this abortion procedure could not be performed unless required to save the life of the mother.²³ They agreed, however, that life does not begin until birth.

The second central idea in CJLS *teshuvot* is that an abortion must be justified. We can see the justification framework originating in the earliest *teshuvot* on the topic. Klein’s 1983 *teshuvah*, first published in *Conservative Judaism* in 1959, provides an early reference to the justification framework. He wrote that “abortion is morally wrong. It should be permitted only for therapeutic reasons.”²⁴ He argued that, because the fetus is “potential life,” there must be a therapeutic reason to support its termination. Although Klein did not say what reasons he would support, he listed several previous legal decisors who permitted abortion in several circumstances. Abelson, whose *teshuvah* was also approved in 1983, similarly relied on the justification framework. He wrote that “there *must be a reason* to justify the destruction of the potential person the fetus will become after birth.”²⁵

Several of the *teshuvot* on abortion considered particular reasons. Abelson explored the question of whether abortion would be permissible after a prenatal test revealed a fetal deformity or illness, and he concluded that there is precedent within the Jewish tradition to permit abortion after a

²¹ Isaac Klein, “A Teshuvah on Abortion,” in *Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement 1980–1985* (New York: Rabbinical Assembly, 1988), 33.

²² Gordis, “Abortion,” 21.

²³ Grossman, “Partial Birth Abortion” and Avraham Israel Reisner, “Ein Dohin Nefesh Mipnei Nefesh,” Database of *Proceedings of the Committee on Jewish Law and Standards of the Rabbinical Assembly*, Hoshen Mishpat, 425:2 (2001a), <https://www.rabbinicalassembly.org/rabbinic-resources/committee-jewish-law-and-standards/teshuvot-database>.

²⁴ Klein, “Teshuvah,” 35.

²⁵ Abelson, “Prenatal Testing,” 9 (emphasis original).

fetal diagnosis. Gordis's *teshuvah* supported the legalization of abortion but insisted that abortion is not a universally moral act. He agreed with his colleagues about their determinations regarding "therapeutic" abortions and added to the list pregnancies conceived out of rape or incest. He argued that these victims should not be forced to continue pregnancies conceived out of trauma.²⁶ The last *teshuvah* approved by the CJLS in 1983 was written by Rabbi David Feldman, who agreed with the others that the welfare of the mother—specifically her physical and mental health—must be the focus of any abortion approval.²⁷ Finally, the two *teshuvot* written in the twenty-first century approved late-term abortion for "maternal cause, when continuation of the pregnancy poses a significant risk to the mother's physical well-being, as determined by her physician, or in the face of maternal emotional distress, for example as when faced with a fetus with severe abnormalities."²⁸

The justifications that the CJLS rabbis approved are the PRIM justifications (prenatal health, rape, incest, and maternal health). Meanwhile, they expressed in their *teshuvot* vehement opposition and judgement toward women who terminated for other reasons. Gordis referred to women who "simply" do not want to have children, or who are motivated to terminate a pregnancy because they do not want to be "burdened by the responsibility of child-raising." He considered women who terminate for non-PRIM reasons to be procuring "abortion on demand" and violating a "basic ethical principle"—namely the "reverence for life."²⁹ Feldman connected the question of abortion to the demographic challenges facing Jews. He reminded readers that those who do not procreate are "guilty of bloodshed" and analogized them to those who have "casual abortions."³⁰ One such "casual abortion" for Feldman is an abortion for economic reasons. In his view, financial difficulty should not justify either birth control or an abortion.³¹ Even Grossman's 2003 *teshuvah*, which permits late-term abortions, states that abortion

²⁶ Gordis, "Abortion," 23.

²⁷ David Feldman, "Abortion: The Jewish View," in *Proceedings of the Committee on Jewish Law and Standards of the Conservative Movement 1980–1985* (New York: Rabbinical Assembly, 1988), 11–18.

²⁸ Grossman, "Partial Birth Abortion," 20.

²⁹ Gordis, "Abortion," 24–26.

³⁰ This line of reasoning continues even today. CJLS Chair Rabbi Elliot Dorff argues that abortion should be avoided particularly among non-Orthodox Jews who have lower demographic rates, revealing that this argument is still alive among Conservative rabbinic leaders; see Elliot Dorff, "Conservative Judaism on Abortion and Related Issues," in *Abortion: Global Positions and Practices, Religious and Legal Perspectives*, ed. Alireza Bagheri (New York: Springer, 2021), 9–22.

³¹ Feldman, "Abortion," 806.

should not be performed for “the mere convenience of the mother.”³² The rhetoric found in the *teshuvot* by Conservative rabbis is reminiscent of political anti-abortion rhetoric. It reinforces moral judgments about women who do not want to be mothers, peddling stereotypes that these women are irresponsible about their use of contraception and/or that they are not thinking seriously about the decision to terminate a pregnancy. Additionally, referring to the decision to terminate as one of “convenience” undermines the physical, mental, financial, and intellectual toll of parenting. They see women who terminate because they do not want to be mothers or do not want another child as violating their social and gender norms. This line of thinking is not unique to the CJLS rabbis. In fact, it is prominent in Christian anti-abortion discourse, as shown above. It is even found in medical discourse that distinguishes between elective and therapeutic abortions. Bioethicist Katie Watson argues that this distinction is a “moral judgment dressed up as a medical judgment. Medical versus elective is code for morally justified and morally unjustified, as determined by someone other than the patient and her physician.”³³ In other words, the CJLS rabbis were reflecting the moral discourse that was dominant at the time they composed their *teshuvot* about abortion.

It is not surprising that the CJLS and the RA have been influenced by their surrounding cultural context. Scholars have written extensively about the effect of context in rabbinic rulings and ethical discourse. Although they often use authoritative sources as evidence, a rabbinic decisor or leader ultimately makes their own moral determination based on their experiences.³⁴ It appears, though, that CJLS rabbis were aware of the influence of the Christian Moral Majority and perhaps even welcomed it. Gordis, for example, praised conservative Christian activists for their “zeal and dedication... reminding the American people that moral issues cannot be settled merely by a majority in the legislature or by the decision of judges.”³⁵ According to Kranson, Gordis wanted to position Judaism as a “high” religion. As

³² Grossman, ““Partial Birth Abortion,”” 17.

³³ Katie Watson, “Why We Should Stop Using the Term ‘Elective Abortion,’” *AMA Journal of Ethics* 20, no. 12 (2018): 1177.

³⁴ Gordis, “Wanted”; Louis Newman, “What Are We Doing When We Do Jewish Ethics? Halakha, Aggadah, and Contemporary Ethical Discourse,” paper presented at the Society of Jewish Ethics Annual Meeting, January 11, 2014, Seattle, WA; Alyssa Henning, “From Medical Halakha to Jewish Bioethics,” *Journal of Jewish Ethics* 7, no. 1 (2021): 106–17; and Mark Washofsky, “On the Absence of Method in Jewish Bioethics: Rabbi Yehezkel Landau on Autopsy,” in *Jewish Law Association Studies* 17 (2007): 254–78.

³⁵ Gordis, “Abortion,” 20.

she explains, “Gordis’s notion of ‘high’ religion, implicitly pitted against ‘low’ religion, referenced a colonialist discourse in which non-Christians were thought to engage in spiritual traditions that celebrated the body and encouraged sexual abandon.”³⁶ Gordis’s concern was that Judaism would cease to be considered a “civilized religion by the American public because of its relatively lax views on abortion.”³⁷ In order to counter this fear, Gordis and other leaders in the Conservative Movement emphasized that Jewish law imposed ethical restrictions on abortion.³⁸ These ethical restrictions, however, reinforced the authors’ own gender and racial norms surrounding reproduction among Jews.

When viewed in this context, we can see how rabbis in the Conservative Movement were responding to the dominant American religious framework. In their *teshuvot* they distinguished Jewish views on fetal personhood from Catholic views; however, they ultimately aligned themselves with Christian anti-abortion perspectives through their use of the justification framework. When CJLS *teshuvot* employed the justification framework, they allowed the reason for the abortion to determine the status of the fetus. In cases where the CJLS rabbis determined a reason to be justified, they argued that the fetus’s “potential life” (and not actual life) is what allows for abortion. Their reasoning in these cases is that, because the fetus is not a full life, and because its life is inseparable from the mother’s life, abortion would be permissible. For example, Grossman and Avraham Israel Reisner refer to a fetus that is threatening the mother’s life as “only potential life.”³⁹ Yet other rabbinic responsa use the category of “potential life” to argue that the fetus is a precursor to actual life, and abortion is therefore forbidden. In Feldman’s discussion of abortions that are impermissible, he writes of a “pro-natalist respect for potential life.”⁴⁰ The difference between their positions on “potential life” is entirely driven by whether they view the reason for the abortion to be justified. In other words, when the reason is justified, the fetus is seen as *just* potential and not actual. When the reason is not justified, authors of the *teshuvot* argue that the fetus’s future status as a person makes abortion forbidden. Although this nuanced perspective of fetal life perhaps

³⁶ Kranson, “From Women’s Rights to Religious Freedom,” 182.

³⁷ Kranson, “From Women’s Rights to Religious Freedom,” 183.

³⁸ This is a surprising turn for Gordis, who in the 1950s insisted that Christianity had a lot to learn from Jewish ethics; see Martin Kavka, “Judaism and Christianity in Jewish Ethics of the 1950s,” *Journal of Jewish Ethics* 7, nos. 1–2 (2021): 63–81.

³⁹ Grossman, “Partial Birth Abortion” and Reisner, “Ein Dohin Nefesh.”

⁴⁰ Feldman, “Abortion,” 806.

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yields more support for abortion than the Catholic Church's position, it is clear that the perceived legitimacy or illegitimacy of the reasoning drives the determination of fetal status.⁴¹

The RA's Resolutions: Church and State

In the decades following *Roe v. Wade*, the RA released ten resolutions and five statements about abortion. The RA is the official public representative of the Conservative rabbinate. Their goals include taking strong moral positions on issues of public concern in order to offer "wise rabbinic voices, grounded in Torah."⁴² In some ways, the CJLS responsa informed the rationale for the RA's resolutions; it is not surprising, then, that the RA repeated the justification framework found within CJLS *teshuvot*. For example, in 1990 the RA declared: "WHEREAS, Jewish law does in fact, in a number of circumstances, sanction abortion...in cases where continuation of a pregnancy might cause the mother severe physical or psychological harm, or when the foetus is judged by competent medical opinion as severely defective."⁴³ The RA reprinted this line in their resolution on reproductive freedom in 1993, again in 2007, 2012, and most recently in 2022. Other resolutions did not repeat this phrase verbatim but stated Jewish legal support for abortion when a mother's life is at risk. At the same time, these declarations restate Jewish legal prohibitions on abortion. For example, in 1993 they wrote: "Whereas Jewish law does not permit abortion on demand."⁴⁴ Additionally, in 2007, the RA's resolution on reproductive freedom stated that "Jewish law does not condone or permit abortion for contraceptive purposes."⁴⁵

The RA has, however, also expressed broad support for abortion and reproductive rights, often in ways that are contrary to the positions of the CJLS. For example, in 1993 the RA supported the Freedom of Choice Act.⁴⁶

⁴¹ This is similar to the way many US states have recently instituted abortion bans out of concern for the "unborn child" yet contain exceptions for certain abortions they consider less objectionable. Although some activists consider themselves abortion abolitionists and say there should be no exceptions for abortion, this is currently a fringe position in the anti-abortion movement.

⁴² RA Vision Plan, shared by Rabbi Ashira Konigsburg, August 2022.

⁴³ "Resolution on Abortion Rights," *Proceedings of the Rabbinical Assembly* 52 (1990): 273–74.

⁴⁴ "Resolution on Reproductive Freedom," *Proceedings of the Rabbinical Assembly* 55 (1993): 193–94.

⁴⁵ Rabbinical Assembly, *Resolution on Reproductive Freedom* (2007), <https://www.rabbinical-assembly.org/resolution-reproductive-freedom?tp=257>.

⁴⁶ "Resolution on Reproductive Freedom," 193–94.

Although it was never passed into law, this bill would have codified a woman's right to terminate a pregnancy for any reason until fetal viability, which was not in line with CJLS responsa. In 2007 the RA's resolution "urged its members to support full access for all women to the entire spectrum of reproductive healthcare."⁴⁷ They reprinted this resolution in 2012 and again in 2019, reflecting a much more lenient position on abortion than the CJLS *teshuvot* permit. In their resolution in the spring of 2021, the RA expressed support for abortion access in several ways, including the expansion of telehealth options and medically induced abortions. These abortions in the first trimester are most often for reasons that the CJLS does not permit.⁴⁸ In September 2021, after Texas passed SB8, misleadingly known as the "heartbeat bill," which made abortion illegal after approximately six weeks gestation, the RA denounced the law and stressed repeatedly that it violates a "woman's right to choose" abortion.⁴⁹ This value—that a woman has the right to choose an abortion—is contrary to the CJLS *teshuvot*, which make it clear that abortion is permitted only in certain circumstances as determined by rabbinic authorities. In fact, several months later, in response to an RA member inquiring about Jewish legal positions on abortion, CJLS chair Rabbi Elliot N. Dorff and co-chair Rabbi Pamela Barmash clarify that "neither viability nor a woman's right to choose is the basis of Jewish law on abortion."⁵⁰ It is therefore surprising that the RA uses the responsa discussed above as rationale for their resolutions.

The dissonance between the rationale and the resolution in so many of the RA's public statements about abortion can be explained by the RA's concern about a separate but overlapping issue in the public sphere—namely, the separation between church and state. This concern is a value that the RA stressed in various resolutions in the decades prior to the legalization of abortion and since then. In the case of abortion, though, it took two different forms. In the earlier statements, the RA saw religion (Judaism and Christianity) as a force that imposed moral restrictions on abortion that were not consistent with the US legal framework. While they expressed support for

⁴⁷ Rabbinical Assembly, *Resolution on Reproductive Freedom* (2007), <https://www.rabbinical-assembly.org/resolution-reproductive-freedom?tp=257>.

⁴⁸ Rabbinical Assembly, *Resolution on Right to Legal and Accessible Abortion in the United States* (March 15, 2021), <https://www.rabbinicalassembly.org/story/resolution-right-legal-and-accessible-abortion-united-states-0>.

⁴⁹ Rabbinical Assembly, *Statement on Texas Abortion Law* (September 10, 2021), <https://www.rabbinicalassembly.org/story/statement-texas-abortion-law>.

⁵⁰ Committee on Jewish Law and Standards, *CJLS Update on Abortion* (December 29, 2021), <https://www.rabbinicalassembly.org/story/cjls-update-abortion>.

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the legalization of abortion, they also wanted to make clear that Judaism provides moral guidance that differed from US law. In the 1990 resolution on “Abortion Rights,” they repeated Jewish legal positions and then stated that they oppose government laws imposing restrictions where personal moral or religious choices may differ. This resolution supports a “woman’s right to abortion” while also urging Conservative rabbis to represent the Conservative rabbinate’s position on abortion.⁵¹ The following year, they released another statement about abortion, here making it even more clear that religious positions on abortion will differ from political positions. They wrote: “Whereas the free exercise of a legal right, like abortion, may, under certain circumstances, violate halakhic standards, therefore be it resolved that the Rabbinical Assembly, in Convention assembled, take pains to distinguish, in the media and from the pulpit, between politics and the halakha of abortion.”⁵² Still aligning Jewish moral views on abortion with Christian views, the RA nonetheless supported legal access to abortion. This is in line with Gordis’s position that abortion should be “legally available but ethically restricted.”⁵³ The ethical restriction should, in Gordis’s view and that of the RA, come from religion.

The RA’s support for the separation of church and state took a different form in later statements. By the early 2000s it was clear to them that restrictive abortion regulations were the result of the Christian Right’s influence on the US government. As such, the resolutions in the first and second decades of the twenty-first century linked their support for reproductive freedom with support for religious freedom. For example, in 2007 they reasoned: “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.”⁵⁴ The 2019 “Statement on Reproductive Freedom” repeated this claim. Another example followed the 2014 Supreme Court ruling in favor of Hobby Lobby, a decision that allowed for-profit employers to be exempt from regulations that contradict their religious beliefs, including providing contraception as part of the health care coverage. The RA released a statement in response

⁵¹ “Resolution on Abortion Rights,” 273–74.

⁵² “Resolution on the Politics and Halakha of Abortion,” *Proceedings of the Rabbinical Assembly* 53 (1991): 218.

⁵³ Kranson, “From Women’s Rights to Religious Freedom,” 182.

⁵⁴ Rabbinical Assembly, *Resolution on Reproductive Freedom* (2007), <https://www.rabbinical-assembly.org/resolution-reproductive-freedom?tp=257>.

to this decision wherein they strongly condemned imposing an employer's religious beliefs on their employees.⁵⁵ Finally, in 2021, in their condemnation of Texas law SB8, the RA pledged to "work to overturn this egregious law and return the right to choose and religious freedom back to women in Texas and to all others similarly seeking to overturn these rights which are guaranteed under the US Constitution."⁵⁶ By the twenty-first century, the RA was no longer aligning Judaism and Christianity in their moral opposition to abortion; instead, they opposed implementing Christian views on abortion and advocated for religious freedom.⁵⁷

In sum, although the RA claimed to base their public positions about abortion on CJLS *teshuvot*, they were in fact influenced by the way the Christian Right had shaped the debate in their cultural context. When the Christian Right was *only* influencing moral attitudes, the RA aligned with their position on the immorality of abortion even while supporting the legality of abortion. At this point, they saw Judaism and Christianity as having identical moral attitudes about abortion. Once it became clear that the Christian Right was shaping legislation about abortion, the RA advocated for religious freedom and distanced Judaism from Christianity. In fact, even as the RA acknowledged the conservative positions of the CJLS, they aligned themselves with liberal values in the public sphere and distanced themselves from conservative religious views about abortion, even those expressed by their own rabbinic authorities.

The RA resolutions and the CJLS *teshuvot* come to different conclusions about the permissibility of abortion and seem to have different ideas about the relationship between Judaism and Christianity on this issue. Yet, they both reify the authority of halakhah for determining the permissibility of abortion within Judaism. Although other *teshuvot* and many resolutions make use of sociological and anthropological data, the responsa and resolutions about abortion are lacking in this area. In this way, the Conservative Jewish discourse about abortion is similar to the public discourse. For decades, our understanding of religion and abortion has been primarily

⁵⁵ Rabbinical Assembly, *Rabbinical Assembly Expresses Grave Concern Over Hobby Lobby Decision* (July 1, 2014), <https://www.rabbinicalassembly.org/story/rabbinical-assembly-expresses-grave-concern-over-hobby-lobby-decision>.

⁵⁶ Rabbinical Assembly, *Statement on Texas Abortion Law* (September 10, 2021), <https://www.rabbinicalassembly.org/story/statement-texas-abortion-law>.

⁵⁷ In her current book-length research project, Rachel Kranson demonstrates that liberal Jewish groups in the 1990s were also trying to carve out a space for Judaism to be religious and supportive of abortion. The Christian right had defined "Judeo-Christian" values as opposed to abortion, so Jewish liberal groups advocated for religious freedom to support abortion.

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composed of dogmatic religious statements. In recent years, however, people have been sharing their abortion stories. In 2016, Renee Bracey Sherman founded We Testify, an organization that helps people share their abortion experiences and increases public understanding of abortion.⁵⁸ Christian women have also come forward with their abortion stories.⁵⁹ In the section that follows, I share Jewish abortion stories and analyze how they offer an alternative source of information for Conservative Jewish positions on abortion.

An Alternative: Women's Experiences

The abortion narratives featured in this section have all been shared in widely accessible publications. These stories represent just a fraction of Jewish abortion stories, but, until very recently, there has not been an official way for Jewish people to share their experiences of abortion.⁶⁰ Reading these experiences, it becomes clear that the *halakhic* response is not satisfactorily responding to the needs of Jews who terminate pregnancies. Moreover, I will demonstrate that the justification framework does harm to Jewish women by reinforcing a stigma around abortion. Finally, we will see that Jewish women have constructed alternative ways of reading Jewish texts and constructing Jewish rituals around abortion. I maintain that these abortions are no less Jewish than those deemed halakhically permissible by the CJLS. I argue that these diverse accounts of Jews having abortions are the primary appropriate source for ethical and halakhic reasoning about abortion. In order to begin to rectify the problems articulated above with the Conservative Movement's position on abortion, we must first center the voices of those who have terminated pregnancies.

Fetal Diagnosis and Maternal Health

Fetal diagnosis and maternal health, respectively, account for approximately 12% and 13% of abortions performed in the United States. Despite these relatively low numbers, the majority of public narratives of Jewish women who have terminated pregnancies contain a diagnosis of fetal deformity or

⁵⁸ We Testify, <https://www.wetestify.org/>.

⁵⁹ Peters, *Trust* and Katey Zeh, *A Complicated Choice: Making Space for Grief and Healing in the Pro-Choice Movement* (Minneapolis, MN: Broadleaf, 2022).

⁶⁰ The Jewish Women's Archive is partnering with the National Council of Jewish Women to collect Jewish women's abortion stories; see <https://jwa.org/stories/abortion-stories>.

a situation in which an abortion will save a woman's life or health.⁶¹ This does not necessarily mean that most abortions among Jews are the result of these two circumstances. Instead, it might mean that many Jewish women view these to be more acceptable reasons for abortion, which I hypothesize is attributable to the fact that Jewish law—as publicly framed by the opinions studied above—explicitly permits abortions for fetal diagnosis or maternal health. When women understand Jewish law to permit an abortion in a given case, it has the effect of reducing the stigma and shame that already permeates pregnancy termination in the United States.⁶²

For example, most of the abortion stories in an anonymous collection of accounts from Orthodox Jewish women surround fetal diagnoses. In these narratives, women spoke about the comfort they received from a halakhic system that permitted their abortions. One woman talked extensively about the hurdles surrounding her abortion. She had to travel to another state in order to procure an abortion in the third trimester. Yet she stated:

*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.*⁶³

Rabbi Jaclyn Cohen, who was ordained at Hebrew Union College-Jewish Institute of Religion in 2014, wrote about her abortion for *Kveller* in 2020. Her narrative reveals that she felt confident there was sufficient halakhic support for her abortion. Cohen was married and had one child, a son, when she terminated a pregnancy due to a diagnosis that determined the fetus to be incompatible with life. Several doctors told her that, if she con-

⁶¹ A full 62% of abortions are among women who identify as people of faith. The vast majority of that number consists of Christian women, although 8% of abortions are among women of minority religious traditions in America. We do not know exactly how many of those are Jewish women, and we also do not know how many Jewish women terminate for fetal anomalies or maternal health. See Finer et al., "Reasons," 110–18.

⁶² Research shows that women do not regret their abortions, but that they do suffer stigma and shame from having to keep it secret for fear that others will judge them; see C. H. Rocca et al., "Emotions and Decision Rightness Over Five Years Following an Abortion: An Examination of Decision Difficulty and Abortion Stigma," *Social Science and Medicine* 248 (2020): 112704–8.

⁶³ Avital Chizhik-Goldschmidt, "'My Dark Secret': Orthodox Women Reveal their Abortion Stories," *Forward* (August 1, 2018), <https://forward.com/life/406674/orthodox-jewish-women-abortion-stories/>.

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tinued the pregnancy and miscarried, she would be risking physical complications and suffer emotional anguish. Cohen had experienced postpartum depression with her first pregnancy, and she feared that she might suffer even more severely if she continued the pregnancy. She wrote:

And so, I chose life. My life. My son's and my husband's lives. Our family's collective life. I took the science being offered me and I listened. As painful as it was, and as heartbroken as I felt, I listened. I recalled my own education, from adolescence up through rabbinical school, on Judaism's nuanced approach to abortion. In the Mishnah, our post-biblical pre-Talmudic sacred text, we read: "If a woman is in hard labor [that threatens her life]... her life takes precedence over its life." In other words, the health and well-being of the mother is of utmost importance, even through childbirth.⁶⁴

Cohen's story supports the CJLS rulings that a mother's mental and physical health take precedence over the potential life of the fetus. She even quotes the same mishnah that many of the CJLS *teshuvot* referenced. These two examples demonstrate that women are comforted by the knowledge that normative readings of *halakhah* support their decisions.

Although many people may be pleased to know that Jewish law supports their decision to terminate after a fetal diagnosis, or to preserve maternal health, these narratives also reveal that *halakhah* has not adequately responded to their emotional needs. In the fall of 2021, Jodi Rudoren, editor-in-chief of the *Forward*, wrote about her abortions. Rudoren terminated two pregnancies. The first was after she received a poor fetal diagnosis. Rudoren consulted many medical specialists before the termination, and she consulted a rabbi when considering what to do with the fetal remains. Rudoren was reading online discussion boards where other people in her situation had given their fetuses names or held funerals for them. When she asked her rabbi whether they needed to do something like that, he responded: "No.... The aborted fetus should be considered medical waste, not a person. No name, no Jewish burial—unless doing those things would

⁶⁴ Jaclyn Cohen, "I'm a Rabbi and a Mom. And I Had an Abortion," *Kveller* (October 15, 2020), <https://www.kveller.com/im-a-rabbi-and-a-mom-and-i-had-an-abortion/>.

help us cope, in which case it probably wasn't prohibited."⁶⁵ It is not clear from Rudoren's article whether she would have liked some sort of ritual, but other women do express remorse at the callousness with which their rabbis seem to deal with these abortions. One Orthodox Jewish woman explained:

Delivering the baby was another hell. My rabbi came and took the body, had it prepared and buried. I went home to deal with lying to everyone that I'd had a miscarriage. Even though I know I did everything right, asked all the right professionals, I knew people would be aghast.⁶⁶

For Rudoren and others, Jewish legal support for these abortions did not necessarily translate into emotional and psychological support for the complex emotions surrounding them. The CJLS *teshuvot* and the prevalence of particular Jewish ideas surrounding abortion leave little space for the nuance that many people feel when they terminate a wanted pregnancy. Rudoren and others who terminate for medical reasons often grieve their loss. Yet Jewish law as interpreted by the CJLS has determined that a fetus's status is insignificant when an abortion is justified, as would be the case for Rudoren. Many people who terminate wanted pregnancies often find that, although they know abortion was the right decision, they do not think their fetus was insignificant.⁶⁷ Unfortunately, religious authorities and communities that are familiar with the halakhic permissibility of abortion after a poor fetal diagnosis may not offer the emotional support that people often need after a termination of this kind.

Not Wanting A(nother) Child

Current Conservative Jewish readings of halakhah do not support women seeking abortions because they do not want a child, because they do not want a child now, or because they cannot afford a child. Yet these are the most common reasons that people in America terminate pregnancies.⁶⁸ The

⁶⁵ Jodi Rudoren, "My Abortion Story—because It's True and We Should Not Be Afraid to Talk about It," *Forward* (October 8, 2021), <https://forward.com/news/476361/my-abortion-story-because-its-true-and-we-should-not-be-afraid-to-talk/>.

⁶⁶ Chizhik-Goldschmidt, "My Dark Secret."

⁶⁷ Rebecca Todd Peters, "Listening to Women," *Journal of Religious Ethics* 49, no. 2 (2021): 290–313.

⁶⁸ Finer et al., "Reasons," 110–18.

CJLS *teshuvot* demonize people who terminate out of concern for their financial or educational future and claim that this is a decision made out of “convenience.” These judgements reflect a misunderstanding about the physical and financial long-term impacts of pregnancy and childbirth.⁶⁹ The Turnaway Study, a longitudinal study of women who were denied abortions, reveals that these women were significantly worse off physically and financially, and that their children’s well-being was negatively affected.⁷⁰ This study, completed in 2018, was not available to prior generations of Conservative rabbis, particularly those who wrote the *teshuvot* discussed in this article, but these data call for a reevaluation.

There are some, although admittedly fewer, narratives from Jewish women who terminated unwanted pregnancies. Yet the stories we have represent a range of reasons why people terminate unwanted pregnancies. The narratives reveal that Jewish women decided to terminate out of concern for their educational goals, their professional goals, and the well-being of their future children. These narratives also reveal that, although women fear the stigma surrounding their decision, they also come to see their decisions as sacred moments in their lives. Jewish women who have terminated unplanned pregnancies are not callously doing so, as the CJLS *teshuvot* claim or imply. Instead, they are seriously considering the responsibility of raising a child and charting a course for their life and the lives of their other (or future) children.

One of the first published Jewish abortion narratives came from Sarah Tuttle-Singer, who had an abortion while she was a student at University of California, Berkeley. She expressed shame as a Jewish college student who wanted to terminate a pregnancy. “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.”⁷¹ In other words, getting pregnant in college was not something that Tuttle-Singer thought was acceptable for her as a Jew. She told the social worker that she did not want to be pregnant, but that she

⁶⁹ Although several CJLS *teshuvot* and other writings from Conservative leaders promote contraceptive use to avoid these unplanned pregnancies, it is important to note that contraceptives are not as effective as most people think. Failure rates increase over time, and roughly 50–60% of women were using contraceptives in the month that they got pregnant. In other words, even with contraceptive use, unplanned pregnancies are going to happen. See Peters, *Trust*, 30–34.

⁷⁰ Diana Greene Foster, *The Turnaway Study: Ten Years, a Thousand Women, and the Consequences of Having—Or Being Denied—an Abortion* (New York: Scribner, 2020).

⁷¹ Sarah Tuttle-Singer, “My Jewish Abortion,” *Kveller* (May 29, 2012). <https://www.kveller.com/my-jewish-abortion/>.

could not afford the abortion. Fortunately, the social worker told her about a Jewish organization that provided abortion funds. Tuttle-Singer did not have to provide any reason for her abortion in order to access the funds. The support of this Jewish philanthropy not only helped her pay for her abortion, it also normalized her decision. She explained: “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.”⁷² She stayed in school after the abortion, taught Hebrew school, had children, and eventually made aliyah.

In 2021 Rabbi Rachael Pass wrote about her accidental conception and her decision to terminate. Her narrative is replete with references to Jewish holidays, biblical quotes, and a *miqveh* ritual to mark the termination. Pass certainly saw this abortion as a Jewish decision, although she recognized that her reason would not be supported by Jewish law. She wrote:

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.⁷³

Pass continued by citing the “standard Jewish line on abortion” that a mother’s life comes before the life of the fetus. She used this line to provide support for her abortion, despite the fact that it fell outside the bounds of traditional halakhic support. Pass wrote: “What does it mean that the life of the pregnant person comes before that of the fetus? ...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.”⁷⁴ Pass expanded Jewish legal support for abortion to any circumstance in which a pregnant person deems it necessary. She became the arbiter of her own experience.

The CJLS *teshuvot* claim that women who terminate pregnancies because

⁷² Tuttle-Singer, “My Jewish Abortion.”

⁷³ Rachael Pass, “My Abortion was a Blessing,” *Jewish Telegraphic Agency* (September 3, 2021), <https://www.jta.org/2021/09/03/opinion/my-abortion-was-a-blessing-as-a-rabbi-i-will-fight-for-others-to-be-able-to-make-their-own-sacred-choice>.

⁷⁴ Pass, “My Abortion.”

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they do not want to be pregnant are doing so casually and callously. Yet narratives reveal that people are not making these decisions casually. In fact, they see these decisions within a Jewish ritual framework. When the pregnancy test revealed that she was pregnant, Rabbi Pass whispered the *asher yatsar* blessing, which she understands to recognize that God created human beings with wisdom. She then created rituals surrounding the abortion and referred to her abortion as a “blessing.” After she terminated the pregnancy, she wrote that “there is nothing more sacred than the right to live one’s life as one chooses.”⁷⁵

Deborah Eisenbach-Budner also created a Jewish ritual for her abortion. When she found herself unintentionally pregnant at forty, she did not know what she was going to do. She was married with two small children, and her life was in a period of transition. She and her husband debated whether they wanted a third child. Eisenbach-Budner writes that she was pro-choice politically, but, as she considered Jewish texts and her previous pregnancies, she felt that “spiritually speaking” she was pro-life. She and her husband ultimately decided to terminate the pregnancy, and when they did, they both cried. She tried to find Jewish prayers to sanctify the abortion, but she said that “the little I found addressed only losses that followed ‘medically necessary’ procedures. I knew I needed to bring a sense of kedusha, of blessing and wholeness, to the abortion while I was experiencing it.”⁷⁶ They ultimately wrote their own prayer and have shared it with others. The prayer acknowledges and thanks God for the power and responsibility to choose life. Eisenbach-Budner’s narrative reveals that, through the abortion, they chose their lives, their children’s lives, and their relationship together.⁷⁷

For Pass, Eisenbach-Budner, Tuttle-Singer, and many other Jewish people, these choices are neither casual nor callous. While some people certainly feel like making the decision to terminate is clear, this does not mean it is done without emotion. More and more we see that people who decide to terminate know what it is they want from their lives and are making this decision after great consideration. More to the point, as their narratives make clear, their decisions are *Jewish* choices. They identify strongly as Jews making these decisions, they use Jewish texts to think about their decision, and they mark these experiences using the tools and traditions of Jewish

⁷⁵ Pass, “My Abortion.”

⁷⁶ Deborah Eisenbach-Budner, “Ambivalence: When the Abortion on the Table is Your Own,” *Lilith* (October 14, 2013), <https://lilith.org/articles/ambivalence-when-the-abortion-on-the-table-is-your-own/>.

⁷⁷ Eisenbach-Budner, “Ambivalence.”

ritual. They also search for Jewish communal support for their abortion. Some even find it. For them, and for many Conservative Jews, Judaism is not made up solely of halakhah, and Jewish perspectives on abortion are not created by reading halakhic texts. When we take these narratives seriously as Jewish perspectives on abortion, we learn that Jewish views on abortion are much more expansive and nuanced than the Conservative halakhic teachings have allowed.

Conclusions: Toward a Jewish Reproductive Justice

The argument I have advanced in this article is that the Conservative Movement's official rabbinic authorities should write new *teshuvot* about abortion and make public resolutions that reflect these new positions. These *teshuvot*, statements, and resolutions should center the lived experiences of Jews who have terminated pregnancies.⁷⁸ Doing so will validate the experiences of many Jews who do not see how their abortions—their reproductive experiences—fit within their Jewish identity and their Jewish community. It will also bring the Conservative Movement to the movement for reproductive justice. Although women of color had been advocating for reproductive justice for decades, the term and its principles were coined in 1994 by twelve Black women. The movement understands bodily autonomy as a human rights issue. The movement also centers the experiences of those most vulnerable to reproductive injustice, and its principles reflect the many ways in which the people have been reproductively oppressed. Aware of the history of forced sterilization of women of color, then, they advocate for the rights of individuals to not have children, to have children if they want, and to raise their children in a healthy and safe environment.⁷⁹

As seen in many of the narratives above, Jewish women express their bodily autonomy by making decisions to terminate pregnancies. Advocating for reproductive justice means supporting an individual's bodily autonomy. Some might say that the halakhic system cannot sustain an argument for bodily autonomy. Yet there is evidence that rabbis have respected women's autonomy over abortion decisions in the past. Rabbi Margo Hughes-Robinson wrote of an eighteenth century rabbi in Algiers, Rabbi Yehuda ibn

⁷⁸ Rabbis in the Reform Movement have recently argued for a new Jewish view on abortion that centers women's experiences.

⁷⁹ Loretta Ross and Rickie Solinger, *Reproductive Justice: An Introduction* (Berkeley, CA: University of California Press, 2017).

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Ayyash, whose *teshuvah* about abortion prioritized the legal subjectivity of women. The *teshuvah* starts with Ibn Ayyash noting that women in his community are already having abortions, and none has asked for his permission. He ultimately continued to permit the practice and, as Hughes-Robinson writes, rooted his analysis “in the lived experience of pregnant people, listening to their concerns about their bodies and their families.”⁸⁰ Ibn Ayyash emphasized that women can make this decision based on their embodied experiences and their family’s priorities.

The justification framework has done considerable damage to people who have had abortions. It has created a system where people are shamed for having abortions that others consider “unjustified.” This has led to a culture of stigma around pregnancy termination. Women are effectively told that they are meant to get pregnant and have children, and the only way out of an unwanted pregnancy is if that pregnancy meets certain criteria. Moreover, by requiring that one justify their abortion, the framework does not respect an individual’s autonomy over their body. Rabbis in the Conservative Movement should listen to the experiences of Jews who have had abortions and allow those voices to inform their rabbinic positions. New *teshuvot* from the movement should start by prioritizing reproductive experiences and creating a framework that moves away from justification and toward justice.

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⁸⁰ Margaret Hughes-Robinson, “Citizen-Souls: Translating a Jewish Understanding of Abortion from Algiers to America,” *Zeremim* 5, no. 2 (2021): 1–18, <https://zeramim.org/past-issues/vol-v-issue-2-spring2021-5781/citizen-souls-translating-a-jewish-understanding-of-abortion-from-algiers-to-america/>.