

Jewish Law on Abortion and its Implications for Stem Cell Research

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Exodus 21

שמות פרק כא

(כב) וכי ינצו אנשים ונגפו אשה הררה ויצאו ילדיה ולא יהיה אסון ענוש יענש באשר ישית עליו בעל האשה ונתן בפללים:

(כג) ואם אסון יהיה ונתתה נפש תחת נפש:

(כד) עין תחת עין שן תחת שן יד תחת יד רגל תחת רגל:

(כה) כויה תחת כויה פצע תחת פצע חבורה תחת חבורה: ס

(22) Should men fight, and strike a pregnant woman and her child exits (her body), but their be no tragedy, he shall be punished as is meted out, to the husband of the woman, and [he] shall pay it as it is judged.

(23) But if there is a tragedy, then punish life for life.

(24) Eye for eye, tooth for tooth, leg for leg.

(25) Burn for burn, wound for wound, injury for injury.

EXPLANATION AND DISCUSSION: The Biblical text speaks of a pregnant woman being hit. Sometimes, the punishment is monetary. However, if there be "a tragedy," then talionic punishment (an eye for an eye) is applied. What does it mean that the child leaves the mother's body? Is this miscarriage or premature birth? To whom does this tragedy occur? Does this refer to injury to the fetus (as the Greek translation of the bible known as the Septuagint (ca 3rd century BCE) and Greek/Jewish philosopher Philo (ca. 20BCE-50CE) indicate) or to the mother? The Rabbinic read of this text is that it refers to injuries to the mother.

Mechilta

מכילתא דרבי ישמעאל משפטים - מס' דנזיקין פרשה ח ד"ה ויצאו ילדיה
ולא יהיה אסון, באשה, ענוש יענש, בולדות;

"But their be no tragedy", to the woman, "shall be punished" with [the value] of fetuses.

Rashi on Exodus 21:22-23 (excerpts)

רש"י שמות פרק כא פסוק כב
ולא יהיה אסון - באשה:

"But their be no tragedy", to the woman.

ענוש יענש - לשלם דמי ולדות . . .

"Shall be punished" to pay the money (value) of fetuses . . .

Babylonian Talmud Bava Kama 48b

תלמוד בבלי מסכת בבא קמא דף מח עמוד ב

מתני' . . . ואדם שהיה מתכוין לחבירו, והכה את האשה ויצאו ילדיה - משלם דמי ולדות.

Mishnah: . . . A person who intended (to strike) his fellow, and hit a woman and her child exited (her body) pays the value of fetuses.

Mishnah Ohalot 7:6

משנה מסכת אהלות פרק ז משנה ו

האשה שהיא מקשה לילד מחתכין את הולד במעיה ומוציאין אותו אברים אברים מפני שחייה קודמין לחייו יצא רובו אין נוגעין בו שאין דוחין נפש מפני נפש:

A woman who has trouble in childbirth, we cut the fetus within her and take it out limb by limb, for her life supersedes his. If most of him has come out¹, we do not touch him, for we do not sacrifice one *nefesh* (soul, life) for another.

DISCUSSION: This section discusses trouble in childbirth. The fetus coming out of the mother's body is a liminal moment. Until then, the interests of the mother supersede those of the fetus. Once the child begins to come out, its life interests are equal to hers, and we are not permitted to interfere. Note that the explanation is that we don't sacrifice one *nefesh* for another. However, while the fetus is still in the woman's body, her *chayim* (life) supersedes the life of the fetus.

J. David Bleich, in "Abortion in Halachic Literature," in Contemporary Halakhic Problems Volume 1 p. 327 writes "It may readily be inferred from this statement that destruction of the fetus is prohibited in situations not involving a threat to the life of the pregnant mother. Incorporation of the justificatory statement "for her life takes precedence over its life" within the text of the Mishnah indicates that in the absence of this consideration abortion is not sanctioned." It seems to me that this inference does not hold up. First, permission given in one particular situation does not imply a lack of permission in other circumstances. Second, at the heart of the Mishnah is the distinction of the liminal moment of birth, which may effect how the pre-birth situation is described. Finally, as we shall see below (re: Arachin 7a), there is legal significance to the beginning of labor, and therefore even if lifesaving circumstances are required by this Mishnah, that requirement may only apply to the labor process.

Babylonian Talmud Arachin 7a

תלמוד בבלי מסכת ערכין דף ז עמוד א

מתני'. האשה שיצאה ליהרג - אין ממתנין לה עד שתלד. האשה שישבה על המשבר - ממתנין לה עד שתלד. . . .
Mishnah: A woman who is taken out to be executed, we do not wait until she gives birth. A woman who has sat on the birthing stool, we wait until she gave birth. . . .

גמ'. פשיטא, גופה היא! איצטריך, ס"ד אמינא: הואיל וכתוב + שמות כא + כאשר ישית עליו בעל האשה, ממונא דבעל הוא ולא ליפסדיה מיניה, קמ"ל. . . .

Talmud: This is obvious! It (presumably the fetus) is her body! It was necessary (to tell us this rule), because it would cross your mind to say that since it says, "(he shall be punished) as is meted out, to the husband of the woman," it is property of the husband, and we should not cause him to lose it. Therefore, [the Mishnah] teaches us [that the execution should be immediate]. . . .
ישבה על המשבר וכו'. מ"ט? כיון דעקר, גופא אחרינא הוא.

"Has sat on the birthing stool, etc." Why [do we wait for her to give birth]? Since it has dislodged, it is another body.

אמר רב יהודה אמר שמואל: האשה היוצאה ליהרג, מכין אותה כנגד בית הריון כדי שימות הוולד תחילה, כדי שלא תבא לידי ניוול.

Rabbi Judah said in the name of Samuel: The woman who is taken out to be executed, we strike her in the womb so as to kill the fetus first, so that it not come to desecration (of the dead body).

¹ This should perhaps say "its head" in addition to, or instead of "most of him."

EXPLANATION AND DISCUSSION: Jewish law requires immediate execution after sentence is passed (cf. BT Sanhedrin 35a where the Talmud argues that we do not sit in judgment on Friday, for fear that that might result in delaying the execution of judgment until after Shabbat). The Mishnah tells us that the interest in speedy execution requires a pregnant woman be executed before giving birth. However, if she has sat on the birthing stool, then we wait for her to give birth. The Talmud says that the difference is that until the fetus has dislodged, its legal status is as part of the woman's body. Also significant is the fact that the Talmud says that one might argue (unsuccessfully) that the execution should be put off because the fetus is the father's property, and our execution should not cause financial loss to the father. It is not clear if this argument is unsuccessful because the father does not have a property right, or because that right does not override the need for immediate execution. We are also told that the fetus should be killed before the mother, so as to avoid the fetus causing destruction of the mother's body after death. As gruesome a suggestion as this is, it implies that the status of the fetus is fairly negligible.

Babylonian Talmud Arachin 7a-7b

תלמוד בבלי מסכת ערכין דף ז עמוד א - עמוד ב

א"ר נחמן אמר שמואל: האשה שישבה על המשבר ומתה בשבת, מביאין סכין ומקרעים את כריסה ומוציאין את הוולד. פשיטא, מאי עביד? (עמוד ב) מחתך בבושר הוא! אמר רבה: לא נצרכה, להביא סכין דרך רשות הרבים. ומאי קמשמע לן? דמספיקא מחללינן שבתא, תנינא: מי שנפלה עליו מפולת, ספק הוא שם ספק אינו שם, ספק חי ספק מת, ספק כנעני ספק ישראל - מפקחין עליו את הגל! מהו דתימא: התם הוא דהוה ליה חזקה דחיותא, אבל הכא דלא הוה ליה חזקה דחיותא מעיקרא אימא לא, קמ"ל.

Rabbi Yochanan said in the name of Samuel: A woman who sat on the birthing stool and died on Shabbat, we bring a knife and cut open her stomach and take out the fetus. This is obvious?! What is he doing (7b)?! He is just cutting dead flesh (Rashi: whereas cutting a live person is not permitted on Shabbat, cutting dead flesh is not a violation, and therefore obviously should be done to save the fetus). Rabbah said: This (ruling of Samuel) is necessary [to tell us that it is permissible] to bring a knife through a public domain (which would be a violation of Shabbat, permissible only to save a life). So what does this teach us? That in cases of doubt we may save a life? This has already been taught: "Someone upon whom a building collapsed, and we are unsure if s/he was there, unsure if s/he is alive or dead, unsure if it is a Cananite or an Israelite, we remove the debris. What might you say (to distinguish the case of the fetus from the case of a building collapse)? There, we had an established life, but here where we don't have an established life, I will say no (we can't violate the Shabbat for the fetus). This teaches us (that we should).

DISCUSSION: We see here that one may violate the shabbat to save a fetus (at least where labor has started), even though this is a case of doubt (probably meaning there is doubt if the fetus is alive, not that there is doubt as to whether it is considered a life). It is not clear what the rule would be were the woman not in labor before she died, though one could make a convincing argument that we should err on the side of saving the fetus.

Babylonian Talmud Niddah 43b (Mishnah 5:3) (משנה ה:ג) תלמוד בבלי מסכת נדה דף מג עמוד ב
מתני'. תנוקת בת יום אחד . . . וההורגו חייב

Mishnah: A child one day old . . . the one who kills it is liable (to death).

DISCUSSION: Killing a child is considered a capital offense. This implies, however, that until it is one day old, killing the fetus is not a capital crime (as we already saw above). In fact, Maimonides in Mishneh Torah Laws of the Murderer and Guarding Life, rules that if the fetus was born prematurely, and is murdered before getting to 30 days old, there is no capital offense. This is because Maimonides holds that until we can be sure that the fetus/child has developed for 9 months, it is not considered certain to survive (similarly, Maimonides holds that while we do not sit *shiva* for a child which dies within 30 days of birth, if we can be sure that the fetus gestated for a full 9 months, we would sit *shiva* even if the child died on the day it was born, cf. Laws of Mourning 1:6-7).

Babylonian Talmud Sanhedrin 57b תלמוד בבלי מסכת סנהדרין דף נז עמוד ב

אשכח רבי יעקב בר אחא דהוה כתיב בספר אגדתא דבי רב: בן נח נהרג בדיין אחד, ובעד אחד, שלא בהתראה, מפי איש ולא מפי אשה, ואפילו קרוב. משום רבי ישמעאל אמרו: אף על העוברין. . . מאי טעמיה דרבי ישמעאל? - דכתיב +בראשית ט"ו+ שפך דם האדם באדם דמו ישפך, איזהו אדם שהוא באדם - הוי אומר זה עובר שבמעו אמו. . .

Rabbi Jacob the son of Acha found that it was written in the book of *Agadah* of the Rabbis² (alt: The book of *Agadah* of the Academy of Rav) "A Son of Noah may be executed by a single judge, and by a single witness, without being warned, by the word (i.e. the testimony or ruling) of a man, but not by a woman, and even [by the words of] a relative. In the name of Rabbi Yishma'el they said: [A Son of Noah is executed] even for [the killing of] of a fetus. . . What is the rationale of Rabbi Yishma'el? It is written: "Who spills the blood of a person within a person, his blood shall be spilled"³ (Gen. 9:6) What person is within a person? This is a fetus in its mother's womb. . .

EXPLANATION AND DISCUSSION: When Noah got out of the ark, God gives certain laws to him and his children. Since these laws are given before Sinai, they are considered to apply to all people, and not only Jews (in fact, they are not really applicable to Jews, as the Torah is seen as superseding these laws). People who observe these laws are called Sons of Noah. In this piece of Talmud, we are told some of the laws regarding murder cases that are different for Sons of Noah. For example, the court may accept the testimony of a single witness, where Jewish courts require two witnesses. We are told that Rabbi Yishma'el considers killing a fetus to be a capital offense for a Son of Noah. Note that though the Talmud indicates disagreement on this ruling, Rabbi Yishma'el's opinion is accepted at least by Maimonides (Law of Kings 9:4). According to some, the halachic principle that there is nothing forbiddin to the Sons of Noah that is not also

² The Soncino Talmud notes that though "*Agadah*" generally means nonlegal material, there is indication that this "Book of *Agadah* of the Rabbis" refers to a specific book of law regarding the laws of the Sons of Noah.

³ Note that this verse can alternatively be read "Who spills the blood of a person, by a person his blood shall be spilled."

forbidden to Jews⁴ indicates that feticide is also forbidden to Jews. However, applying general principles such as this is often dangerous, particularly because the Talmud already notes some exceptions, and because our piece of Talmud is dedicated to identifying distinctions between the laws of the Sons of Noah and Jews. Granted, it may be that the Talmud is telling us that the difference is that while feticide is forbidden to both, it is only a capital offense to Sons of Noah (there are also some who suggest that any violation of the Laws of Noah are punishable by death, including such violations of the prohibition of stealing). However, it is also possible that the point is that feticide is not at all forbidden to Jews.

Babylonian Talmud Yevamoth 69a-b **תלמוד בבלי מסכת יבמות דף סט עמוד א - עמוד ב**
מתני'. . . ישראל שבא על בת כהן - תאכל בתרומה, (עמוד ב) עיברה - לא תאכל בתרומה . . .

Mishnah: If an Israelite has relations with the daughter of a Cohen, she may still eat tithes. If she became pregnant, she may not eat tithes. (Note that on 67b it is established that a Cohen's daughter may no longer eat Terumah after she becomes pregnant).

גמ'. . . כיון דעיברה לא תאכל, ליחוש שמא עיברה! . . . אמר רב חסדא: . . . ואוכלת עד ארבעים, דאי לא מיעברא - הא לא מיעברא, ואי מיעברא - עד ארבעים מיא בעלמא היא. אמר ליה אביי: אי הכי, אימא סיפא: הוכר עוברה במעיה - תהא מקולקלת למפרע! מאי מקולקלת? עד ארבעים.

Talmud: Since if she were pregnant she could not eat [Terumah] let us be concerned lest she is pregnant (and therefore not let her eat Terumah)! . . . Rav Chisda said . . . She may eat until 40 days, for if she is not pregnant, [it will be clear that she is] not pregnant, and if she is pregnant, up to forty days it (the embryo) is mere water.

EXPLANATION AND DISCUSSION: Once a Cohen's daughter becomes pregnant through a relationship with a non-Cohen, she is no longer part of her father's house, and therefore can not eat Terumah (the tithe given to the Cohen). The Talmud questions why after known intercourse we do not deny the woman's right to the Terumah, lest she is pregnant (i.e. to avoid her eating something she is not permitted to eat). Rav Chisda explains that for the first 40 days of pregnancy, the fetus is considered mere water, and is not of legal significance vis a vis Terumah. A similar idea is found in the Mishnah in Niddah 3:7 (Found in Babylonian Talmud 30a) which tells us that a miscarriage within 40 days does not impart the same impurity that is imparted by births and miscarriages in general.

⁴ This principle, along with a discussion of some exceptions is found in BT Sanhedrin 59a. Tosafot Chullin 33a s.v. אחד עובד כוכבים notes a case where Resh Lakish seems not to follow this principle.

שו"ת פסקי עוזיאל בשאלות הזמן סימן נא Responsa "The Decisions of Uziel On Contemporary Questions" #51 (Rabbi Ben Zion Meir Chai Uzzie (1880-1953), lived mostly in Israel and was appointed Chief Rabbi in 1939). The question asked regards a woman who is told by doctors that she will lose her hearing in both ears if she does not have an abortion.

שנינו במתניתין: תינוק בן יומו ההורגו חייב. ומפרש בגמ' דכתיב, ואיש כי יכה כל נפש, מכל מקום, . . . מכאן משמע דעובר אינו בכלל נפש, כלומר שאין בו אפילו נפש כל דהוא . . . אלא חיותא דאמו הוא שיש בו הלכך אין נהרגין עליו. תדע מדאמרינן בגמ' דאיצטריך למכתב מכה איש ומת דאי כתב כל מכה נפש הוה אמינא אפילו נפלים אפילו בן שמונה (סנהדרין פ"ה (צ"ל פ"ד): ומדלא אמר הוה אמינא אפילו עובר, משמע דעובר לאו נפש הוא כלל . . .

We learned in a Mishnah (Niddah 43b, above): "A child one day old . . . the one who kills it is liable (to death)." And this is explained in the Talmud that the verse says "'If a person kills any soul,' [meaning] in any event (i.e. no matter how old the person is." This implies that a fetus is not a soul, i.e. that it has no manner of [status of a] soul, rather it only has the life of its mother, therefore, we are not executed for it (i.e. for killing a fetus). Know, that since we say in the Gemara (Sanhedrin 84b) "[Scripture] needed to write 'one who strikes a person, and [the person] dies,' because had scripture written 'Anyone who strikes a soul,' I might say that even [a person who kills] a stillborn or a [fetus born at] eight [months] [is included in the death penalty]," and since it does not say, "I might say that even [a person who kills] a fetus," it implies that a fetus is not a soul at all. . . .

. . . מדבריהם למדנו שכל שנעקר הולד לצאת בכלו חדשיו הרי הוא כתינוק בן יומו לכל דבר, וכמו שכן הוכיחו מדגרסינן התם האשה שיצאה ליהרג אין ממתנין לה עד שתלד, האשה שישבה על המשבר ממתנין לה עד שתלד. ומקשה בגמ' פשיטא גופה היא: איצטריך, ס"ד אמינא הואיל וכתוב כאשר ישית עליו בעל האשה ממונא דבעל הוא. ולא ליפסדיה קמ"ל ישבה על המשבר, מאי טעמא? כיון דעקר גופא אחרינא הוא (ערכין ז'). מסוגיא זו למדנו דמותר להרוג את העובר דאם לא תאמר כן מאי פריך פשיטא אדרבא כיון דאסור להרוג את העובר סברא הוא להמתין עד שתלד כדי שלא לעשות אסור הריגת העובר. ואפשר לתרץ ולומר דהואיל ואין ביי"ד עושין מעשה הריגה בולד עצמו אין כאן אסור משום העובר אבל מלשון הגמ' פשיטא, גופה הוא מוכח להדיא דעובר אין לו חיות מעצמו כלל ומותר להורגו.

From their (the Rabbis') words we learn that whenever the fetus dislodged to be born when its moths (of gestation) are completed, it is treated as a child one day old for all purposes, just as is they demonstrated by saying there (Arachin 7a) "A woman who is taken out to be executed, we do not wait until she gives birth. A woman who has sat on the birthing stool, we wait until she gave birth," and the Gemara asks "This is obvious! It is her body! It was necessary (to tell us this rule), because it would cross your mind to say that since it says, '(he shall be punished) as is meted out, to the husband of the woman,' it is property of the husband, and we should not cause him to lose it. 'Has sat on the birthing stool,' Why [do we wait for her to give birth]? Since it has dislodged, it is another body."

From this piece we learn that it is permitted to kill a fetus, for if you do not say so, how does it ask "This is obvious!," quite the opposite, since it would be forbidden to kill a fetus, it would be sensible to delay [the execution] until it is born, so as not to do the transgression of killing a fetus. One may answer that since the court is not actively doing the killing of the fetus itself, there is no prohibition because of the fetus, but from the language of the Gemara "This is obvious! It is her body!," it proves explicitly that the fetus is does not have a life of its own at all, and it is permitted to kill it. . . .

After some other argumentation, Piskei Uziel continues with a discussion of the Mishah in Ohalot, found above, regarding a woman in danger during childbirth.

מכאן אתה למד שגם במקום סכנת האם, אין נוגעין בהעובר שמא יפגעו בו בנגיעתם ויהרגוהו משום שאין דוחין נפש מפני נפש, ואם איתא שגם עובר שנעקר לצאת יש לו נפש חיים משלו, גם כשלא יצא ראשו לא יגעו בו משום שאין דוחין נפש מפני נפש; אלא ודאי כמו שכתבנו דתנוק בן יומו אע"פ דאין לו אלא כל דהוא נפש (סנהדרין פ"ד) אין דוחין נפש מפני נפש; אבל עובר הואיל ואין לו נפש משלו מותר להורגו דאינו אלא מחתך בשר.

From this you learn that even in a place of danger of the woman, we do not touch the [now partially born] fetus lest they bother it by touching it and kill it, since we do not sacrifice one *nefesh* for another, rather, in truth, as we have explained, a one day old child, even though it has very little life (*nefesh*), we do not sacrifice one soul for another, but a fetus, since it has no life of its own, it is permitted to kill it, for it is only a piece of flesh.

וגם מסוגין דערכין מוכח כן, דגרסינן: אמר רב יהודה אמר שמואל האשה היוצאה ליהרג מכין אותה כנגד בית הריון כדי שימות הולד תחלה כדי שלא תבוא לידי נוול, ופרש"י שאם יהיה חיות בולד יצא לאחר מיתת אמו ויהיה נוול (ערכין שם /דף ז') ואם איתא דאסור להרוג העובר משום שיש בו נפש חיה, היאך נתיר להורגו בידים על ידי הכאה כנגד בית הריון.

And the text in Arachin also demonstrates this, for we read" Rabbi Judah said in the name of Samuel: The woman who is taken out to be executed, we strike her in the womb so as to kill the fetus first, so that it not come to desecration (of the dead body)." And Rashi explained that if there were life in the fetus, it would come out after the death of its mother, and it would cause desecration. But if it were forbidden to kill a fetus, since it has a living soul, how could we kill it by hand through a strike to the womb?

על כל פנים הדבר ברור מאד שלא התירו להרוג העוברים אלא כשיש צורך בדבר ואפילו אם הוא צורך קלוש כגון דמנוולה האם, אבל שלא לצורך ודאי שאסור משום השחתה ומניעת אפשרות החיים לנפש מישראל. . . .
Nonetheless, the matter is quite clear that [the sages] did not permit killing fetuses except where there is a need, even if it is a minor need, such as the desecration of the mother. However, where there is no need, it certainly is forbidden because of destruction (of property) and stopping the possibility of a life in Israel. . . .

אבל מצד אחר יש מקום לאסור הפלת העובר או הריגתו ממ"ש בגמרא: כל יהודי שאינו עוסק בפריה ורביה כאלו שופך דמים, . . . (יבמות ס"ג ע"ב ס"ד). ואם דברים אלה נאמרו במי שאינו עוסק בפריה ורביה, שאינו עושה שום מעשה בפעל על אחת כמה וכמה במי שעושה פעולה שממעטת אפשרות קיום וגדול נפש אחת מישראל, ואין זה ספק כי לזה כוונת התוס' באומרם שישראל אסור בהמתת עוברין, שהבאנו דבריהם לעיל.
However, from another angle, there is room to forbid causing a miscarriage of the fetus or killing it, from that which is written in the Gemara: "Any Jew who does not participate in being fruitful and multiplying, is as if s/he has spilled blood . . . (Yevamoth 63b)." And if this was said regarding one who is not involved in being fruitful and multiplying, who is not doing any particular act, how much more so regarding one who does an act, by reducing the possibility of sustaining and growing one soul in Israel, and there is no doubt that this is the meaning of the Tosafot when they said that Israel is not permitted to kill fetuses, which we discussed their words above (NB: *The discussion of that Tosafot is not included in this source sheet*).

אולם ברור מאד שאין הדברים הללו אומרים אלא במתכוון להרוג את העובר, אבל כל שהוא מתכוון לצרף האם אעפ"י שהוא צרף קלוש כגון למנוע ספק נוולה אחרי מותה מותר . . . מכאן נלמוד לשאלה דנדון דיין שעובר זה לפי דברי הרופאים יגרום חרשות לאמו לכל ימיה ואין לך נוול יותר גדול מזה שהיא פוגמת את כל החיים ועושה אותה עלובה כל ימיה ומתנוולת בעיני בעלה. לכן נראה לע"ד להתיר הפלת עוברת על ידי רופאים מומחים ומובהקים שיבטיחו למפרע הצלת סכנת מיתת האם במדה היותר אפשרית. והנלע"ד כתבתי (שם חו"מ סי' מ"ו).

Nonetheless, it is quite clear that these words are only said regarding one who intends to kill the fetus, but anyone who intends [to act for] purposes of the mother, even if it is a minor need, for instance to avoid her desecration after her death, it is permitted . . . From here we will learn for our matter, that this fetus, according to the words of the doctors, will cause the deafness of its mother for all her days, and there is no greater desecration than this, since it mars her whole life, and makes her unfortunate all the days of her life, and makes her desecrated in the eyes of her husband, therefore it seems in my humble opinion [appropriate] to permit the killing of the fetus by way of expert doctors who can insure the safety from death of the mother as much as possible. This as it appears to my humble opinion I have written

DISCUSSION: I tend to agree with Rabbi Uziel's halachic conclusion - that there are some restrictions on abortion, but these restrictions in no way approach the restrictions on murder, and they may be overridden by many other concerns. Besides health concerns mentioned here, it would seem to me that some other concerns may form valid reasons to permit abortion, such as psychological, economic, social, etc. During the first 40 days of pregnancy, one can argue that the standards are to be held even lower. Of course, these decisions should not be taken lightly, and should include considerations for likely outcome (including future impact on the person who has an abortion). This analysis sets the broad outline for what is permitted. At this point, Jewish thought will be an appropriate guide to decision making, but the final outcome will be the individual's choice. Similarly, in Mishnah Yevamoth 12:6, the bet din gives a person advice as to whether or not to perform leverite marriage, but the prerogative is left with the individual as to whether to follow that advice.

ON STEM CELL RESEARCH: For our discussion on stem cell research, we read most of "Stem Cell Research in Jewish Law" by Dr. Daniel Eisenberg. This can be found at <http://www.jlaw.com/Articles/stemcellres.html>. The article presents an excellent discussion on the topic, and applies many of the texts discussed above to the issue of stem cell research. As it seems to me that a fetus afforded much protection until the beginning of labor, I tend to agree with the more permissive views of stem cell research presented in Dr. Eisenberg's paper. Additionally, since a fetus is largely a halachic nonentity before 40 days, research performed on cells fertilized in a petri dish seems to me a halachic no-brainer.

One interesting question to be asked is this: Although Jewish law clearly values saving lives, and allows doing so to override most commandments, one could argue that the more attenuated relationship between scientific research and the saving of a life (as compared, say, to driving a person to the hospital on Shabbat) might lead us to be less eager to brush off potential halachic restrictions. I don't endorse this idea, but I think there is at least a valid argument in that direction.