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The Jewish Case Against Abortion Rights

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Newsweek Magazine published an article on 6/29/20 entitled, The Jewish Case for Abortion

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Rights, authored by Sheila Katz, CEO of the National Council of Jewish Women and Rabbi Danya Ruttenberg. The piece drags out all the stale, overworked arguments to support the ridiculous idea that Judaism requires and permits unrestricted killing of children in the womb. The article reinforces the lie that Judaism represents a death culture, and it incites anti-Semitism because it characterizes Jews as baby killers.

We wish to debunk the misinformation in the Newsweek piece, referencing slides from our power point, Judaism: The Original Pro-Life Religion. The text of the article follows with our inserted corrections in bold italics, followed by endnotes.

Earlier today, the Supreme Court issued its ruling on June Medical Services v. Russo, once

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again affirming—as it has again and again over the last forty-seven years—our constitutional right to abortion.

Justice Clarence Thomas in his dissenting opinion writes that there is no right to abortion in the Constitution, He states, "[Roe v Wade] created the right to abortion out of whole cloth, without a shred of support from the Constitution's text. Our abortion precedents are grievously wrong and should be overruled."1

However, this fight is far from over; anti-abortion lawmakers across the country continue their sustained, coordinated attacks on our reproductive freedom, including 25 abortion bans that were signed into law in 2019, nearly 450 restrictions on access to reproductive health care passed over the last nine

years, and numerous attempts to restrict or halt abortion access during the COVID-19 crisis. Just last week, Tennessee passed one of the strictest bans in the country, banning abortions after a fetal heartbeat is detected—about six weeks into pregnancy, before many people may be aware that they are even pregnant. It should be noted that these laws disproportionately harm Black and Brown communities who already face greater barriers to abortion access and systemic racism, including in health care.

Pro-life laws seek to save lives of children in the womb and save women from the grief and danger of abortion. The abortion industry deliberately targets minorities, reflective of its genocidal, racist origins. 2, 3

As we consider the future of

abortion access in this country, it may be helpful to note that abortion access is not only a 14th Amendment issue, as the Supreme Court itself ruled with Roe v. Wade in 1973, but a 1st Amendment issue, in light of the fact that pregnancy termination is not only permitted by Judaism, but, at times required.

The 14th Amendment states: 'No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws'.

Science unequivocally recognizes the unborn child as a person at an early stage of development, therefore, the

unborn child in the United States ought to be included in the definition of persons and protected from deliberate murder.4

"It is incorrect to say that biological data cannot be decisive…. It is scientifically correct to say that an individual human life begins at conception…. Our laws, one function of which is to help preserve the lives of our people, should be based on accurate scientific data." Micheline Matthews-Roth Harvard University Medical School (Slide 30)

Judaism was the first religion in human history to consider innocent human life as sacred and to prohibit child sacrifice. (Slide 5). The Talmud (Sanhedrin 57b) says that a fetus is included in the Noahide prohibition of

bloodshed (distinct from homicide) that is learned from Genesis 9:6-7 that states (in a direct translation from the original text), “He who spills the blood of man within man shall have his blood spilt.”for in the image of God made He man. And you, be fruitful, and multiply; swarm in the earth, and multiply therein. The Talmud interprets "the blood of man in man" as to include a fetus, which is the blood of man in man. Things that are prohibited under the Noahide laws are also prohibited to Jews.(Slide 6). 5

Without a doubt, Judaism considers abortion to be murder. Maimonides declares, "The definition of murder according to the Noahide Laws includes a person who kills "even one unborn in the womb of its mother," and adds that such a person is

liable for the death penalty." Mishneh Torah.(Slide 7).

In Deuteronomy 30:19, The Almighty gives clear instructions on the life issue: "I call heaven and earth to witness against you this day, that I have set before thee life and death, the blessing and the curse; therefore, choose life, that thou mayest live, thou and thy seed."(Slide 8).

Jewish tradition clearly prohibits child sacrifice. "And thou shalt not give any of thy seed or set them apart to Molech, neither shalt thou profane the name of thy God. I am the Lord." Leviticus 18:21. "For the Children of Judah have done that which is evil in My sight, saith the Lord; they have set their detestable things in the house whereon My name is called, to defile it. And they have built

the high places of Topheth, which is the valley of the son of Hinnom, to burn their sons and daughters in the fire which I commanded not, neither came it into my mind." Jeremiah 7:30. "And they mingled with the nations and learned their deeds. They worshipped their idols, which became a snare for them, They slaughtered their sons and daughters to the demons. They shed innocent blood, the blood of their sons and daughters whom they slaughtered to the idols of Canaan, and the land became polluted with the blood. And they became unclean through their deeds, and they went astray with their acts." Psalm 106:35. (Slide 9).

The most fundamental text underlying Judaism's understanding of abortion rights is in the Book of Exodus,

describing a case in which someone inadvertently causes a miscarriage. The Torah specifies that the guilty party would be liable for manslaughter only if the pregnant person themselves die; otherwise, they must simply pay monetary damages, as the fetus is not regarded as a person. (Notably, some Christian commentators understand this passage differently, due in part to a poor translation of one of its critical words, but the Rabbis of the Talmud are clear on the plain meaning of the Hebrew.)

Long used by abortion advocates to reframe abortion as legal in Judaism, this text is not a license to abort an unborn child; rather, it is a reference to involuntary manslaughter, which is not a capital crime. Rabbi Ahron Soloveitchik warns, "the Torah is compared to the

sneh, the Burning Bush, because "fire gives heat, light and devours fuel, but the light of Torah must only give warmth and light, love and hope; it must never be used to destroy or kill. This is not Torah; it is a perversion of Torah." (Slide 17).

On his website, JPLF board member Rabbi Shlomo Nachman, states, "This verse must be carefully understood. Many translations read "and a miscarriage occurs" rather than as "a premature birth results" as I have it here. The passage, in my opinion, is to "a premature birth" when the context is considered. The text actually says that if the child "departs" ["yasa"] the womb and no other damage ensues from the event. In other words, if because of the struggle the baby is born early but is otherwise fine,

then the men may be required to pay damages for their carelessness but no more. "But if other damage ensues," i.e. the baby is born with some deformity or born dead, then the standard penalties will apply, 'an eye for eye, tooth for tooth'. If the child dies as a result the men are guilty of the murder, a life for a life. The text makes no sense any other way. The Hebrew term shachol references an abortion or miscarriage. That word is not used here. There is conclusive evidence that both Torah and Rabbinic halacha regarding the pre-birth child as fully human and subject to the same protections and respect as all other people." http://learnemunah.com/being/abortion.html

Other authoritative Jewish texts further emphasize that the fetus

does not have the status of personhood, describing it as "mere fluid" for the first 40 days after conception and part of the pregnant person's body thereafter. This led some rabbinic authorities to rule that, as Rabbi Jacob Emden did in the 18th century, "there is reason to be lenient [in permitting abortion]... only so as to save her from woe," or as Rabbi Eliezer Waldenberg did in 1978, abortion is a valid choice when not terminating might cause "suffering and emotional pain."

Disregarding modern facts proving the gestational milestones of young human beings in the womb, the author defaults to using primitive, outdated rabbinical opinions that were merely best guesses. Judaism has a rich tradition of updating outdated legal views with new

information. In this spirit of honest intellectual scholarship, we correct these best guesses with facts: It is patently FALSE that The Unborn Child is "considered to be mere water" until its 40th Day, FALSE that the Unborn Child is "an appendage of its Mother", FALSE that the Unborn Child is "created when bones and arteries begin to form", and FALSE that the Unborn Child is "not alive until she's born". (Slide 33). Actually, it is absolutely TRUE that: The Unborn Child Is Alive, TRUE that the Unborn Child Is Human, and TRUE that the Unborn Child is a Person. The Unborn Child is in early stages of development, differing only from a born person in four ways:1. Size 2. Environment 3. Level of Development, and 4. Level of

Dependency.

Changing the meaning of words doesn't change reality. The only objective questions we can ask are: Is it human; that is, did it come from human beings? Is it a genetically unique individual? Is it alive and growing? Like toddler and adolescent, the terms embryo and fetus do not refer to nonhumans, but to humans at particular stages of development.(Slide 34). Most significant developmental milestones occur long before birth during the first eight weeks following conception, when most body parts and all body systems appear and begin to function.The heart beats at 22 days, the brainwaves can be measured @ 6 weeks. At 9 weeks all internal organs are present and the baby is sensitive to touch.Unborn

children as early as 4 months gestation dream.(Slide 35).

Rabbinical opinion on the issue of abortion in Judaism includes that of the supreme halakhic authority in modern times, Rav Moshe Feinstein, who stated, "Not only are Jews prohibited from having an abortion, but they are prohibited from assisting non-Jews from having an abortion, too. According to halacha, abortion is prohibited for non-Jews; it's actually a capital crime. A Jewish doctor may not perform an abortion even if it would result in antipathy towards Jews." (Igros Moshe, Choshen Mishpat 2:73:8). In responsum 69, Rav Moshe not only categorizes abortion as bloodshed; he takes the rare step of unequivocally warning against relying on an erroneous heter for aborting

Down Syndrome babies.(Slide 45).

More than that, our tradition is clear that abortion is absolutely required when the life of the pregnant person is at risk, through the whole duration of the pregnancy ("until the head emerges" in the birthing process is the classical definition of the cutoff time), and that in such a case abortion is considered a form of self-defense against a murderous “pursuer."

Yes, Judaism was the original source of the specific “to save the life of the Mother” exception to the prohibition of abortion, and every pro-life law includes it. The Mishnah explicitly indicates that one must abort a fetus if the continuation of pregnancy will destroy the physical life of the woman. This exception to the prohibition of abortion

was intended to be used only in the case of imminent death of the Mother because of breech birth, when the baby would act as a danger 'rodef' to the Mother.(Slide 14).

Currently, only 1% of pregnancies present a life threatening situation for the Mother. When the mother experiences a life threatening medical crises during pregnancy, it is now possible to remove the growing child from the womb and place him/her in a neonatal intensive care unit to grow to term. Therefore, ectopic pregnancy is now primarily the only case where the pregnancy must be terminated to save the mother's life.(Slide 15).

The narrow exception to the prohibition against abortion in Judaism has expanded

until now abortion is injudiciously normalized through all nine months of pregnancy - and after a live delivery - by many Jews and Jewish leaders in America and Israel. Since the destruction of the temples and subsequent dispersions and exile, Jewish abortion opinions have been influenced by secular cultures, and Torah has been misused to justify unlimited abortion practices.(Slide 16).

And so, given that abortion is permitted--and even sometimes required--by at least one major religion, there are are two critical First Amendment issues at play when legal restrictions are considered.

The first is the Establishment Clause: "Congress shall make no law respecting an establishment of religion." That

is, much of the argument for abortion access has been rooted in a very specific Christian perspective; those who seek to restrict abortion rights are seeking to impose their religious views on others, which is inherently unconstitutional. This is particularly clear with regards to laws and policies based on the premise that life begins at conception which—as may be clear above—is not the case in Judaism. The Establishment Clause is upheld when we allow access to abortion for those who need or want it; and those who do not want abortions do not need have to have them.

Judaism emphasizes the sanctity of human life from conception to natural death, making it incumbent upon Jews to find ways to save lives when dealing with unplanned and unwanted

pregnancy. Adoption, marriage, and single parenthood are much better choices for Jews than the intentional killing of an innocent life to avoid embarrassment, inconvenience, or hardship. When pregnancy results from a mistake in judgement or action, killing innocent life is not the answer.(Slide 100).

Modern Jewish scientists proficient in the study of unborn life provide the authority we need to acknowledge that, "By all the criteria of modern molecular biology, life is present from the moment of conception." Professor Hymie Gordon, Mayo Clinic Professor (Slide 30)

The second is that "Congress shall make no law... prohibiting the free exercise" of religion,

which means that not permitting Jews to freely access abortion may interfere with our own understanding of Jewish law—we should be allowed to be able to access medical procedures that are permitted to us, and we certainly should not be forbidden from those mandated by our tradition, as the saving the life of the pregnant person is a paramount obligation. While this argument probably would not fare well in court given the "religious liberty exemptions" in current legal interpretations of the Religious Freedom Restoration Act (RFRA), a federal bill (the Do Not Harm Act) was introduced last year that would clarify that RFRA was meant to be used as a shield to protect free exercise rather than a bludgeon with which to harm others.

The United States legal code considers murder of innocent

people a capital crime. This definition of murder overrides religious practices that kill innocent people. Just as honor killings and other murder motivated by religious mandate fall under the category of criminal behavior, so should killing innocent children in the womb. The American priority of assigning a severe penalty for taking innocent life corresponds to the moral foundations of our Republic based on Judeo-Christian virtues.

Given the ways in which the conversation around abortion has been driven by Christian fundamentalists, not enough people understand that abortion access is a fundamental Jewish issue. This is especially true given the dominance of Evangelical Christian conservatives in moral and faith-

based conversations about abortion. Their views do not reflect those of most Americans, but instead represent one extreme interpretation of one religion and leave no room for other beliefs. In fact, a majority of Americans believe that abortion should be legal all or most of the time; in one study in 2019, 73 percent, including over half of Republicans, support Roe v. Wade, and in another, 86 percent—including more than two-thirds of Republicans—made it clear that they wanted Roe to be preserved. What's more, a 2017 study showed that nearly one in four of people who can become pregnant will have an abortion by age 45. We must lift up the voices of people of faith who advocate for reproductive health, rights, and justice not in spite of their religion, but because of it.

Jews have been left out of the

pro-life conversation and have remained uninformed about the reality and horror of abortion. Widespread peer pressure and pro-abortion propaganda within the Jewish community and from Jewish leadership have sheltered Jewish men and women from the truth for decades. Natural curiosity about the issue has been squelched by conversion fears from exposure to pro-life information coming from Christian sources. Ironically, Christian pro-life content rests in Old Testament principles!

A little known fact is that Jews were very active in the early pro-life, anti abortion movement in America. Rabbis stood in the public square defending life and warning of the certain damage to family, society, and country. (Slide

25, Slide 40, Slide 88). A Jewish attorney, Victor Rosenblum, successfully argued the Hyde Amendment case in front of the Supreme Court.(Slide 90).

Dr. Bernard Nathanson, a Jew, founding member of NARAL, and owner of the largest abortion clinic in Manhattan, eventually realized he had presided over 60,000 deaths of unborn human beings, and he spent the remainder of his life defending the rights of unborn children.(Slide 89).

Many Jewish men and women secretly harbor pro-life views but remain quiet due to fear of retribution from friends, family, and professional associates. Our outreach saves Jews from converting out of Judaism over the abortion issue, and provides much appreciated moral

support to Jews who strongly disagree with the Jewish majority opinion. Statistics about abortion vary depending on the the bias variable of the poll. For example, a 2019 Marist poll shows that a strong majority wants to elect candidates who support substantial abortion restrictions.6

We remind our readers that legality does not equal justice, nor does it necessarily reflect Jewish values. We recall the moral underpinnings of the pro-life, civil rights activist Martin Luther King, Jr. who asked four fundamental questions: "Cowardice asks the question, Is it safe? Expediency ask the question, Is it politic? Vanity asks the question, Is it popular? But, conscience asks the question, Is it right? And

there comes a time when we must take a position that is neither safe, nor politic, nor popular, but one must take it because it is right."(Slide 63).

This is why we are launching National Council of Jewish Women's new Rabbis for Repro campaign, a pledge inviting rabbis and cantors to pledge to teach and preach about the Jewish perspective on abortion. We're proud that the initial signatories represent every single denomination - Reform, Conservative, Reconstructionist, Renewal and Orthodox - including the heads of the Conservative, Reform and Reconstructionist movements.

We have found that many rabbis are appallingly uninformed about the abortion issue. They often consider their point of view on the abortion question the

only one worth knowing, which prevents them from exercising intellectual curiosity. Their livelihood and reputation depend on keeping their pulpit or leadership position, another challenge to individual thought. As Maimonides explained in his Guide for the Perplexed 1:31, "Men like the opinions to which they have been accustomed from their youth; they defend them, and shun contrary views: and this is one of the things that prevents men from finding truth, for they cling to the opinions of habit." (Slide 3).

This is not just a matter of Jewish law, but of Jewish values. We consider pikuach nefesh, preserving life, to be one of our most critical commandments, and, more broadly, building a just society to be of ultimate Jewish concern—

and, with abortion access, safety, justice, freedom, and lives are at stake. The U.S. has the highest rate of maternal mortality and morbidity among industrialized countries, with African-Americans and American Indian/Alaska Natives three times more likely to die of pregnancy-related causes than white Americans. Those who lack access to reproductive health care—disproportionately low-income people, people of color, young people, immigrants, and LGBTQ individuals—are more likely to live in poverty and to remain in abusive relationships, and unsafe abortions are a leading cause of death worldwide.

Indeed, Judaism considers preserving life a top priority. Any interpretation of this principle that omits the unborn child's life is shortsighted and self

interested. Nowhere in this article do the authors mention the experience of the unborn child during an abortion, Jews have a keen sense of injustice and speak out against it without reservation, as in the case of a death row inmate who may be wrongly accused. Yet, our innocent unborn children have no comparable advocate; instead, the majority Jewish community actively supports killing them for any reason with no second opinion or legal defense required,(Slide 52).

Judaism demands a high level of compassion and mercy for the vulnerable and defenseless. No other demographic is as vulnerable as the defenseless child in the womb. We show no compassion for unborn babies who are given no pain

medication before being starved, poisoned, burned, dismembered, and whose skull is punctured and crushed after partial delivery or who are delivered perfect and alive for organ harvesting. As early as 10 weeks, an unborn baby feels real physical pain during an abortion. As Jews, we cannot inflict this torture on innocents.(Slide 58).

Not mentioned in this article is the harm done from abortion to mothers, fathers, families and communities. Jewish parents suffer in silence after abortion, unable to talk about their abortion to their family, friends, fellow shul members and rabbis. Many regret the abortion decision and bear deep seated resentment towards themselves and others. They also endure a chronic sense

of desolation and alienation from God. We offer a post abortion healing program based on the Jewish concept of Teshuvah, and we offer it at no cost to any Jewish man or woman regardless of their level of observance of affiliation.(Slide 96).

While the Supreme Court upheld Roe v Wade this time, there will be more challenges to come. And we will need all hands on deck when they come.

As the NCJW aggressively works to expand abortion access, we work to provide life saving solutions to unplanned and unwanted pregnancy by offering Jewish friendly pregnancy care resources and adoption referrals.(Slide 101, Slide 102).

Please visit our website

library https://jewishprolifefoundation.org/library to download the entire power point (with live links) and our healing program, and to request our welcome packet. Together, we can save Jewish lives and heal Jewish hearts.

May there be abundant peace from Heaven, and good life upon us and upon all Israel. Amen.

Cecily Routman, Founder & President Jewish Pro-Life Foundation

End Notes

1. Justice Clarence Thomas: Abortion is “Without a Shred of Support From the Constitution’s Text”. https://www.lifenews.com/2020/06/29/justice-clarence-thomas-abortion-is-without-a-shred-of-support-from-the-constitutions-text/

2. Abortion: The overlooked tragedy for black Americans. https://azcapitoltimes.com/news/2020/02/25/abortion-the-overlooked-tragedy-for-black-americans/

3. Margaret Sanger and the Racist Roots of Planned Parenthood. https://frcblog.com/2020/02/margaret-sanger-and-racist-roots-planned-parenthood/

4. Every abortion kills an innocent human being. https://www.abortionfacts.com/facts/1

5. Contemporary Halakhic Problems. J David Bleich. pp 330-331. https://drive.google.com/file/d/1xlse5XgcOWH5wKKE4NngrGFI2W4VJMp8/view

6. Poll: Majority Want To Keep Abortion Legal, But They Also Want Restrictions.

https://www.npr.org/2019/06/07/730183531/poll-majority-want-to-keep-abortion-legal-but-they-also-want-restrictions

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