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Abortion and Exodus 21

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As traditional values (i.e., **biblical** values) continue to be systematically extracted from American culture, moral and spiritual confusion have been the inevitable result. While the Bible does not speak **directly** to the practice of abortion, it does provide enough relevant material to enable us to know God's will on the matter. One insightful passage from the Old Testament is Exodus 21:22-25, which describes what action is to be taken in a case of **accidental**, or at least coincidental, injury to a pregnant woman:

If men fight, and hurt a woman with child, so that she gives birth prematurely, yet no lasting harm follows, he shall surely be punished accordingly as the woman's husband imposes on him; and he shall pay as the judges determine. But if any lasting harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe (NKJV).

Several features of this passage require clarification. First, the NKJV and NIV rendering of the underlying Hebrew as "she gives birth prematurely," and the KJV and ASV rendering "so that her fruit depart (from her)" are accurate reflections of the original. "Fruit" in the KJV is the noun form of a verb that means "to bring forth (children)" (Schreiner, 1990, 6:76; Harris, et al., 1980, 1:378-379). Thus the noun form (*yeled*), used 89 times in the Old Testament, refers to that which is brought forth, i.e., children, and is generally so translated (Gesenius, 1847, p. 349; Wigram, 1890, 530-531; cf. VanGemeren, 1997, 2:457). For example, it is used to refer to Ishmael (Genesis 21:8), Moses (Exodus 2:3), Obed, the child of Boaz and Ruth (Ruth 4:16), and even to the Christ child (Isaiah 9:6). It is used in the same context earlier in the chapter to refer to the children born to a Hebrew servant whose wife was provided by his master (Exodus 21:4). There is nothing in the word itself that indicates the physical condition of the child/children, whether dead or alive (cf. 2 Samuel 12:14-23).

Second, the term translated "prematurely" or "depart" (*yatsa*) is a Hebrew verb that has the broad meaning of "to go out, to go forth" (Gesenius, p. 359). It is used in the Old Testament to refer to everything from soldiers going forth to war (1 Samuel 8:20), or the sun going forth in its rising (Genesis 19:23), to a flower blossoming (Job 14:2) or the birth of a child (Job 1:21). The Hebrew is as generic as the English words "to go out or forth." As with *yeled*, there is nothing in the word itself that would imply the physical status of the child—whether unharmed, injured, or dead (cf. Numbers 12:12; Deuteronomy 28:57). For example, referring to the births of Esau and Jacob, the text reads: "And the first **came out** red...Afterward his brother **came out**" (Genesis 25:25-26, emp. added). Only by contextual details may one determine the condition of the child.

Consequently, in Exodus 21:22, those translations that render the Hebrew as "miscarriage" (e.g., NASB, RSV, NEB) have taken a linguistically unwarranted and indefensible liberty with the text. Hebrew lexicographers Brown, Driver, and Briggs were accurate in their handling of the underlying Hebrew when they listed Exodus 21:22 as an instance of "untimely birth" (1906, p. 423).

In contrast, the Hebrew had other words more suited to pinpointing a miscarriage or stillbirth. For example, suffering Job moaned: "Or why was I not hidden like **a stillborn child**, like infants who never saw light?" (Job 3:16, emp. added). The psalmist pronounces imprecation against unrighteous judges: "Let them be like a snail which melts away as it goes, like **a stillborn child** of a woman, that they may not see the sun" (Psalm 58:8, emp. added). The word used in these verses (*nephele*), occurring only three times in the Old Testament (cf. Ecclesiastes 6:3-5), is defined by Gesenius as "a premature birth, which falls from the womb, an abortion" (p. 558; cf. Brown, et al., p. 658). In all three contexts, a miscarriage or stillbirth

is clearly under consideration.

Still another Hebrew term would have been more suitable to identify deceased offspring. When Jacob protested his father-in-law's unkindness, he exclaimed, "These twenty years I have been with you; your ewes and your female goats have not **miscarried their young**" (Genesis 31:38, emp. added; cf. Job 21:10). Hosea called upon God to punish the nation: "Give them a **miscarrying womb** and dry breasts!" (Hosea 9:14, emp. added). In fact, just two chapters after the text in question, God announced to the Israelites details regarding the conquest of the Canaan and the blessings that they would enjoy: "No one shall suffer **miscarriage** or be barren in your land; I will fulfill the number of your days" (Exodus 23:26, emp. added). The underlying Hebrew verb in these verses (*shachol*) means "to cause abortion (in women, flocks, etc.)" or "to make abortion, i.e., to suffer it" (Gesenius, p. 822; cf. Brown, et al., p. 1013). Despite these more precise terms to pinpoint miscarriage or stillbirth, Moses did not use them in Exodus 21:22.

Third, consider the next phrase in the verse in question: "yet no lasting harm follows" (NKJV), "but there is no serious injury" (NIV), "and yet no harm follow" (ASV). These English renderings capture the Hebrew accurately. Absolutely no grammatical indication exists in the text by which one could assume the recipient of the injury to be either the mother or the child to the exclusion of the other. As Fishbane observed: "it is syntactically and grammatically unclear whether the object of the 'calamity' is the foetus or the pregnant mother" (1985, p. 93). In order to allow Scripture to stand on its own and speak for itself, one must conclude that to understand "injury" to refer exclusively to the mother is to narrow the meaning without textual justification.

Hence, one is forced to conclude that the absence of specificity was deliberate on the part of the inspired writer and that he intended for the reader to conclude that the prescription applied to **both** mother and child. The wording is, therefore, the most appropriate and economical if the writer intended to convey all possible scenarios without having to go into tedious elaboration—which would have included at least the following eight combinations: (1) non-lethal injury to the child but no injury to the mother; (2) non-lethal injury to the mother but no injury to the child; (3) non-lethal injury to both; (4) death to the child but no injury to the mother; (5) death to the child with non-lethal injury to the mother; (6) death to the mother with no injury to the child; (7) death to the mother with non-lethal injury to the child; and (8) death to both mother and child. Old Testament scholar Gleason Archer Jr. summarized the point of the passage:

What is required is that if there should be an injury either to the mother **or to her children**, the injury shall be avenged by a like injury to the assailant. If it involves the life (*ne-pes*) of **the premature baby**, then the assailant shall pay for it with his life. There is no second-class status attached to the fetus under this rule (1982, p. 248, emp. added).

Numerous commentators agree with this assessment of the text. Responding to the poor translation of the Hebrew in the Septuagint, and the corresponding misconception of the Alexandrian Jew, Philo, Keil and Delitzsch correctly countered: "But the arbitrary character of this explanation is apparent at once; for *yeled* only denotes a child, as a fully developed human being, and not the fruit of the womb before it has assumed a human form" (1976, pp. 134-135). They also insisted that the structure of the Hebrew phraseology "apparently renders it impracticable to refer the words to injury done to the woman alone" (p. 135). Walter Kaiser noted: "For the accidental assault, the offender must still pay some compensation, even though both mother **and child** survived... Should the pregnant woman **or her child** die, the principle of *talio* is invoked, demanding 'life for life' " (1990, 2:434, emp. added). In view of this understanding of the text, under Mosaic Law "the unborn child would be considered viable *in utero* and entitled to legal protection and benefits" (Fishbane, p. 93).

In his *Treatise on the Soul* (ch. 37), Tertullian (who died c. A.D. 220) alluded to this passage in Exodus 21: "The embryo therefore becomes a human being in the womb from the moment that its form is completed [i.e., at conception—DM]. The law of Moses, indeed, punishes with due penalties the man who shall cause abortion, inasmuch as there exists already the rudiment of a human being, which has imputed to it even now the condition of life and death" (1973, 3:217-218).

So Exodus 21 envisioned a situation in which two brawling men accidentally injure a pregnant bystander. The injury causes the woman to go into early labor, resulting in a premature birth of her child. If neither the woman nor the child is harmed, then the Law of Moses levied a fine against the one who caused the premature birth. But if injury or even death resulted from the brawl, then the law imposed a parallel punishment: if the premature baby died, the one who caused the premature birth was to be executed—life for life. To cause a pre-born infant's death was homicide under the Old Testament—homicide punishable by death.

Notice that this Mosaic regulation had to do with injury inflicted indirectly and **accidentally**: "The phrasing of the case suggests that we are dealing with an instance of unintentional battery involving culpability" (Fishbane, 1985, p. 92). Abortion, on the other hand, is a **deliberate, purposeful, intentional** termination of a child's life. If God dealt severely with the **accidental** death of a pre-born infant, how do you suppose He feels about the **deliberate** murder of the unborn by an abortion doctor in collusion with the mother? The Bible states explicitly how He feels: "[D]o not kill the innocent and righteous. For I will not justify the wicked" (Exodus 23:7). As a matter of fact, one of the things that God **hates** is "hands that shed innocent blood" (Proverbs 6:17; cf. 2 Kings 8:12; 15:16; Hosea 13:16; Amos 1:13). Abortion is a serious matter with God. We absolutely must base our views on **God's** will—not the will of men. The very heart and soul of this great nation is being ripped out by unethical actions like abortion. We must return to the Bible as our standard of behavior—before it is everlastingly too late.

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