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To the Torah & the Testimony
If anyone does not speak according to these words
It is because they have no light in them.
Yesh'yahu (Isaiah) 8:20; Revelation 12:17; 14:12



How Exodus 21:22 Forbids Abortion

Shemot (Exodus) 21:22, 23 reads:

21:22 If men fight and harm a pregnant woman causing her to give birth prematurely, yet no harm follows, the man shall surely be punished according as the woman's husband assesses upon him; and the man shall pay as was determined.

21:23 But if any harm follows, then you shall give life for life...

The question here being asked is, here is a woman who was inadvertently assaulted while trying to separate two fighting men – and resulting in the premature birth of her child; but yet in verse **21:23** it states that if harm follows, it appears that it becomes a capital offense requiring the death of the offender - for it written, "life for life".

The reason for the question is because this would appear to be a case of "unintentional" death, (*manslaughter) which, according to **Shemot (Exodus) 21:12,13** would qualify the offender for protection in a city of refuge, rather than in the loss of their life. So why would a woman's unintended death be treated as murder; **verse 21:23**, but the unintended death of a man treated only as manslaughter?; **verse 21:13**.

For it is written,

21:13 "...if the man did not plot their death...then I will appoint for you a place where the man may flee."

Our first clue to answer this question comes in **verse 21:23** stating that if the harm results in death, then the offender must die.

This means that the offender would be expected to understand that his actions would likely result in the death of the injured party, and so as such, would not qualify his action as manslaughter if it was the death of the woman being referred to here.

The second clue is that the fight was between two men, for it is written "If men fight". And so it is

clear that the offender's actions were not directed towards the woman, but towards the other man, and so under this clue would potentially qualify as manslaughter if it was the woman's death being referred to here.

With these first two clues we must search for additional information to determine which situation is being intended here, for the first clue says the offender would be guilty of murder, but the second clue says that he would only be guilty of manslaughter.

The third clue is that the offender's action was such that potentially no harm at all would have resulted, for it is written "if no harm follows".

This third clue lends support to the action as that of manslaughter if in reference to the woman, for the offender's actions apparently are not sufficiently aggressive enough to guarantee the "following" of any additional harm at all.

So the clues up to this point, in summary, are:

- 1) The offender's actions were directed towards the other man – not towards the woman, and so involved no "premeditated" act of harm against the woman pursuant to verse **21:12,14** that would explain the potential imposition of the "life for life" penalty.
- 2) The woman, as a non-aggressive third party, stepped in between them in an attempt to stop the fight,
- 3) The following actions of the offender were such that they could have resulted in no injury to the woman at all, could have resulted in the death of the woman, or could have resulted in any number of injuries to the woman in between these extremes (**verses 21:24,25 below**); the wide range of potential outcomes, once again, supporting a charge of manslaughter for an unintended death, rather than a charge of murder; and,
- 4) But ultimately, if death did follow, it would be treated as murder indicating that though the offender's actions toward the woman were not intended to cause harm, it would still have been reasonably expected to have caused potential harm of a lethal nature.

For clue number 5, we will go to **verse 21:24, 25** which reads,

21:24 eye for eye, tooth for tooth, hand for hand, foot for foot,

21:25 burn for burn, wound for wound, stripe for stripe..."

From this we can see any number of injuries that a punch to a woman who stepped in between the two parties might inadvertently receive, or that a strike with something hot, like a burning stick taken from a fire pit might inadvertently inflict upon her; but none of these things could be reasonably expected to kill a grown woman, and even much less so, a grown woman who was not the main object of the offender's anger.

That is, this result would not be the expected outcome in a normal fight between two men, or of a person intervening in an attempt to stop the fight. That is, unless the woman who stepped in

between them was pregnant, and it was clearly known that she was pregnant; in which case, the offender would be expected to understand that any injury to the woman, no matter how minor, could “cause harm to follow” by potentially causing her unborn child to die.

It is this unborn child who provides our final clue, for the command states specifically that it is “a pregnant woman” who intervenes, and the commandment is specifically conditioned upon whether the woman gives birth “prematurely”; in which case, harm “may follow”.

Follow what? Follow the premature birth of the child, for which party is the most likely to suffer death in a premature birth? The infant is.

So there is harm that has absolutely been done to the woman in this scenario – because she goes into labor prematurely; and there is “potential” harm that “follows” concerning the unborn child due to their premature evacuation from the womb.

So if no harm “followed” concerning the child, then only the harm done to the woman is compensated for, as it says in **21:22**,

21:22 “...if men fight and harm a pregnant woman causing her to give birth prematurely...the man shall surely be punished...”

That is, he must be punished for the harm he did to the pregnant woman, even though no harm to the child “followed...”.

But if harm followed – to the child, then “life for life...”

So the commandment is not mainly about if a woman steps in between two fighting men and dies; but mainly about if a pregnant woman steps in between two fighting men, and is inadvertently struck, causing the child to die as a result of a premature birth. For the offender should have known to discontinue the fight as soon as the pregnant woman stepped in between them, understanding that failure to do so could be reasonably expected to result in the death of the unborn child.

This means that if “harm follows” the premature birth of the child, then whatever wound was endured by the woman, that is any injury to an “eye, tooth, hand, or foot” or injury caused by a “burn, wound, or stripe” that caused the premature birth to take place, the same injury would be inflicted upon the offender as if the offender had done it to the child directly.

However, if no harm to the child follows, then pursuant to **21:19**, the offender would have to pay for the woman’s full healing and medical expenses, as well as for any loss of income, resulting from the assault – the amount of which would be assessed by the husband and enforced by the court; as it is written in **21:22** “as the woman’s husband assesses upon him; and the man shall pay as was determined”.

Additionally, if the woman in the unlikely event did die as a result of the unintended assault, **verse 21:13** would potentially govern concerning the lesser charge of manslaughter.

Based on this, we can see that the unborn child who was vacated from the womb as a result of

an assault is given equal standing with a person who has been born naturally and in a timely manner, for the child's death was avenged when the child was:

- 1) Unborn at the time of the assault, *and*
- 2) The person who committed the assault was expected to naturally understand that their actions, no matter how harmless to an adult female, could be utterly fatal to an unborn child being carried by that female.

So this passage is not saying that a woman's life is more valuable than a man's life as some propose (for example, like treating the unintentional killing of a man only as manslaughter, while treating the unintentional death of a woman as murder).

And neither is it saying that the life of a mother is more valuable than the life of their unborn child as yet others propose (for example, requiring life for life if the mother dies, but requiring no consequence if the child dies); but rather is treating the life of the unborn child as equal to that of those who have been born (that is, by treating the death of an unborn child as murder when their death would be the likely result of an assault on the mother, even as a wound likely to result in the death of an adult is murder).

This also affirms the lives and deaths of men and women to be equally valued, for the death of a woman unintentionally killed is treated as manslaughter even as a man's unintentional death is treated as manslaughter. And even as an injury caused to a man not resulting in death must be properly healed and financially compensated for, even so it must be done with the woman who has sustained an injury not resulting in her death as well.

Another interesting facet of this commandment is why is it that the woman's injuries are not avenged "life for life, eye for eye, tooth for tooth" like the life of the prematurely born child is? This would seem to imply that the child's life is more valuable than the woman's.

However, this is not the case. The reason for the different consequences and remedies is not because one is more valuable than the other, but rather, because the woman voluntarily chose to place herself in a potential place of harm when standing in between the two fighting men.

So because she voluntarily placed her safety at risk, she shares in part of the responsibility concerning the harm she received, and so though she is entitled to be fully healed and to recover medical expenses and financial loss, she is not entitled to be avenged "life for life, eye for eye, tooth for tooth, etc...".

However, because the unborn child did not volunteer to place itself in the way of potential harm, the unborn child shares no responsibility in any injury it received, and so is entitled to be fully avenged "life for life, eye for eye, tooth for tooth, etc...".

Finally, based on these conclusions we can also affirm that abortion would also be a capital offense under the standard of this commandment, for like the offender above, abortion also involves an assault on a pregnant woman that the person performing the abortion knows will result, or will likely result, in the death of the unborn child.

The difference between the man above, and the abortionist, is that the man who inadvertently assaulted the woman did not intend to harm her unborn child, even though he was expected to know that his actions “*could*” have harmed her unborn child. Whereas, the abortionist in their purposeful assault on the woman, did so with the deliberate and specific intent of harming the unborn child.

With this, we can conclude that if the man, who only inadvertently caused the death of the child, must lose his life in exchange for the life of the child that he caused to be lost, then the abortionist who caused the loss of the child’s life through deliberate and specific intent of action, would also be penalized for the death they caused to the same degree pursuant to this same commandment.

The “eye for an eye, tooth for a tooth” penalty of which, contrary to public misperception, can only be carried out through proper judicial procedure in an official court of law.

With this, we can also conclude that any woman willingly participating in this assault upon herself, as well as any assistant to the abortionist participating in this assault on her body, is likewise guilty of murder and/or of being an accomplice to murder.

Ultimately for this there are only two remedies.

One is to confess the sin to Yeshua, and to repent of the sin by never committing the sin, or assisting in the commission of the sin, ever again; or in the alternative, to lose one’s own life in exchange for the one that was lost; as it is written in **B’midbar (Numbers) 35:33**,

35:33 ...You shall not pollute the land where you are, for blood defiles the land, and no atonement can be made for the land for the blood that has been shed upon it except by the blood of the person who shed it.

Therefore, life for life, is the only alternative that God will allow for the one, and for the land, that has not repented of the shedding of the innocent blood.

Note *: Manslaughter is the unintentional loss of human life without intending physical harm to that person’s life.

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