

Forward

WEEKEND READS

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News

What does Jewish law say about abortion?

By Louis Keene

When it comes to abortion, the Jewish legal source material is relatively thin. But what does it say, and how has it formed Jewish opinions on the topic?

These questions gained new urgency after a Supreme Court draft opinion was leaked late Monday: it lays out an argument to overturn *Roe v. Wade*, the 1973 decision to legalize abortion nationwide.

While the vast majority of American Jews – about four in five, according to the Pew Research Center – supports abortion rights, the Jewish legal view on abortion differs depending on denomination, and even then, on who you ask.

Though activists on either side of the abortion debate tend to divide the country into pro-life and pro-choice camps, the Jewish approach to the question is more nuanced.

While non-Orthodox Jewish denominations generally support a woman's right to an abortion, they don't necessarily ground the halachic position on a view of a woman's bodily autonomy. Likewise, while many American Orthodox Jewish authorities rule that Jewish law prohibits abortion, they do not base their interpretation on the belief often propounded by Christian pro-life groups that life begins at conception.

Writing about abortion, Jewish scholars looking at the halacha, or Jewish legal underpinnings, don't have much to go on.

"Abortion is a big question socially, but in the Talmud there's not much direct material on the topic," said Chaim Saiman, the Chair in Jewish Law at Villanova University's Widger School of Law. "It comes up sideways in that later authorities constructed their views from a variety of different sources."

Where everyone agrees is on the edges – on one end, that abortion is at best a last resort,

and on the other, that it is encouraged if the mother's life is threatened by the pregnancy.

In the Orthodox world

Jewish legal opinion largely begins with a verse in Exodus 21 that institutes a financial penalty against a man who injured a pregnant woman, causing her to miscarry. That the consequence is only monetary seems to indicate the Torah's view that a murder has not been committed – and thus, that the termination of a pregnancy through abortion does not rise to that level, either.

Yet a pair of late-20th century Orthodox rabbis, debating the permissibility of abortion in the case of a woman whose unborn child is found to have inherited Tay-Sachs disease, a terminal genetic illness, split on the interpretation of this passage and other Talmudic sources.

Rabbi Moshe Feinstein, widely considered the leading American halachic authority of the late 20th century, said that the monetary punishment did not necessarily prove that killing an unborn child was not murder – in other words, that the seriousness of a crime could not be derived from its punishment.

But an Israeli contemporary of Feinstein, Rabbi Eliezer Waldenberg, relied on a Talmudic discussion of a fetus who is endangering the life of a mother – which the Sages say can be destroyed, limb by limb, until the moment the baby's head emerges from the womb. Waldenberg relies on this source to rule that before the baby's head emerges, the fetus is not considered a person and therefore abortion is not murder.

But even Waldenberg, who was also more expansive than Feinstein in his view of what threatens a woman's well-being, believed those guidelines were to be used cautiously and on a case-by-case basis.

"If someone said, 'We have five kids and used birth control and it didn't work,' Waldenberg would not permit an abortion," Saiman said.

The divergence of Orthodox opinion on the matter has produced an unusual scenario, Saiman said, in which some rabbis who hold by Feinstein, rather than hand down Feinstein's prohibition, will reportedly direct a pregnant Orthodox woman seeking permission for an abortion to a rabbi who holds by Waldenberg.

Other Orthodox women will use informal channels to find out which rabbi is more likely to

give them the guidance they are looking for, as reported by the Forward in 2018.

In spite of the prevailing opinion within Haredi Orthodoxy that abortion is only permitted in the case of immediate risk to the mother, an umbrella Haredi organization has weighed in against abortion bans.

“Blanket bans on abortion, to be sure, would deprive Jewish women of the ability to act responsibly in cases where abortion is halachically required,” wrote Rabbi Avi Shafran of Agudath Israel in 2019. “And so, what Orthodox groups like Agudath Israel of America, for which I work, have long promoted is the regulation of abortion through laws that generally prohibit the unjustifiable killing of fetuses while protecting the right to abortion in exceptional cases.”

Some in the Orthodox community go further. “Judaism allows and requires abortion in many circumstances,” tweeted Blimi Marcus, an Orthodox nurse practitioner and professor. “The mother’s well-being takes priority over a fetus, according to Jewish law. A fetus which harms a woman is termed a murderer.” She added: “An overturned Roe will result in Jewish women everywhere being unable to practice their religion.”

In non-Orthodox denominations

The Rabbinical Assembly – the international organization of Conservative rabbis – codified in 1983 a ruling that a fetus does not have legal status as a human until it is born.

Rabbi Bradley Shavit Artson, dean of the Ziegler School of Rabbinic Studies at American Jewish University, said that while the Conservative position was even older than that, a shift had occurred since the 1980s, as women and LGBT Jews started being ordained and the movement became more egalitarian.

“The idea that men should decide on women’s behalf is increasingly intolerable,” Artson said. “The Conservative movement, we’ve become more and more aware of the right of people to self-advocacy and self-determination.”

Additionally, he said, as the American religious right increased political pressure to restrict abortion, Conservative organizations leaned further into advocacy in the other direction to protect their religious freedom.

By and large, the textual basis for the Conservative understanding is the same as that of the Orthodox. Only on the question of which circumstances permit a woman to have an

abortion – whether concern for the mother’s well-being extends to her psychological and emotional state – do the two movements diverge.

“In Judaism, a fetus is not regarded as an independent being; it is part of the body of the person carrying it,” wrote Rabbi Danya Ruttenberg in an explanatory post, citing the same Mishna as Waldenberg’s Tay-Sachs ruling.

The Reform movement, which holds that a woman’s bodily autonomy is a matter of “kavod ha’briyot,” the Jewish principle of respect for life, has been advocating for reproductive rights for decades.

Inveighing against a George W. Bush administration ban on late-term abortions, Rabbi David Ellenson, a national leader of the Reform movement and chancellor emeritus of Hebrew Union College-Jewish Institute of Religion, said in 2003 that “Jewish religious tradition surely accords the fetus status as potential life. However, Judaism does not regard the status attached to the fetus as potential life as morally equivalent to the condition enjoyed by the mother as actual life.”

That position was echoed by Mara Nathan, senior rabbi of Temple Beth-El, a Reform synagogue in San Antonio, who cited the same section in Exodus considered by Orthodox poskim, or legal authorities.

Nathan said the Reform movement viewed abortion as a human right, and she anticipated universal condemnation from the movement’s umbrella organizations.

“No one says that using abortion as a form of birth control is an appropriate choice,” Nathan said. “But the emphasis from the Reform perspective is on a women’s right to choose, women’s autonomy. They should be given the freedom as human beings to make a decision about their own health and their own bodies.”

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Opinion

Striking down Roe v. Wade will violate Jewish religious liberty

By Ephraim Sherman

A woman who had desperately wanted to get pregnant ended up having to have an abortion.

This woman, who I know well, told me her story through tears but without hyperbole or exaggeration.

She and her husband had tried to conceive for three years before she finally became pregnant. Everything was going smoothly until 18 weeks into the pregnancy, when the woman's water broke and contractions started, stopping the development of the baby's lungs in the absence of amniotic fluid.

An ultrasound additionally showed that the woman's uterus had become infected, and that she could die if the nonviable fetus was not removed. Thankfully, once they did so, the infection cleared and this woman was able to have a son a few years later.

The woman told me this story the morning after a draft ruling was leaked from the Supreme Court. If adopted as law, it would have sentenced this woman and countless others to death.

When this woman's fetus was removed to save her life, the fetus still had a heartbeat. Such an abortion would become illegal in several states if Roe is overturned.

Abortions happen regularly in Jewish communities, even Orthodox ones, but often go undiscussed. Jewish law allows for abortion in many cases, and requires it if the mother's life is in danger.

This ruling is the culmination of a decadeslong political organizing campaign by Christian conservatives, many of whom believe that abortion is murder, even if the procedure is done to save the life of the mother or in the very early stages of pregnancy.

Republican politicians since 1973 have used the promise of banning abortion to get Christian voters out to the polls, and this has been key to many of the GOP's electoral successes. A 2015 poll found that 23% of anti-abortion voters would only vote for a candidate that was also anti-abortion, and Donald Trump's 2016 victory can be largely attributed to his promises that he would only appoint Supreme Court nominees who would overturn *Roe v. Wade*.

The fundamentalist Christian position is the exact opposite of the halachic approach to abortions. The success of this Republican-Christian strategy should strike terror in the hearts of frum communities across America. It should also motivate us to action.

The Orthodox Vote

The Orthodox Jewish community, in recent years, has become overwhelmingly aligned with conservative politics and politicians. Large communal organizations make efforts to remain officially nonpartisan, but it is plainly clear where the political sentiments of the majority of community members rest.

For some, U.S. policy on Israel is the deciding factor above and beyond all others, and increasingly, that has meant that Republican politicians win Orthodox communities in a landslide.

While some Orthodox views of the world are conservative ones, a stance that is against abortion in all cases would prevent many women from fulfilling Jewish law.

Jews who live in Florida, Ohio, Texas, Georgia and other states with Republican controlled governments will soon lose access to legal abortion, even when their rabbi has told them that Jewish law requires them to receive one, thus violating their religious liberty.

Worse, Georgia and other states have already attempted to pass laws that would criminalize traveling to another state for the abortion, and even criminalize helping a woman travel to another state for one.

The law in Texas, which bans all abortions after about 4 weeks, explicitly says that religious leaders can be prosecuted for supporting and helping a woman get an abortion.

There has been no significant national outcry from Orthodox Jewish communal organizations. We are running out of time to organize our political power and communal voice in defense of abortion laws that allow us to keep our faith.

New York and several states have recently passed laws protecting safe and legal abortions no matter what the federal law is, but the looming threat is significant.

Are we prepared to see parents from Brooklyn arrested by Florida State Police because they helped their daughter in Miami get the abortion her rabbi and doctor agreed she needed? Are we prepared to see rabbis arrested for making halachic rulings? Are we prepared to see Jewish doctors convicted of crimes for performing abortions?

When a woman is told the crushing news by her infertility doctor that one of her twin fetuses is thriving but one is not, and neither fetus will be born alive if the second fetus is not aborted, do we want a politician telling her rabbi and medical team that they must not intervene to save her viable fetus?

We cannot accept any of that. The time to organize and prevent this disaster was a decade ago, but the next best time to organize is now.

When laws are proposed that could hinder circumcision, or Shabbat observance, or even public menorah lightings, every Orthodox communal organization has lobbied with passion and fire. Are the literal lives of women less important to protect?

The story I related at the beginning is a straightforward one, as far as Jewish law is concerned. The woman had a significant chance of dying if her fetus was not removed, and the fetus had zero chance of survival: abortion was the only ethical option, and also the only halachically acceptable one.

But soon in many states, this woman's medical team would have had to wait and let the infection worsen. Their choice would have been between risking the woman's life or facing jail time.

That is not a world American Jews should tolerate.

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Opinion

Jewish women are on the frontlines of the fight for abortion rights. We can't give up hope now

By Meredith Jacobs

“Didn’t we expect this to happen?”

That’s the text I sent to my advocacy team when news broke of the leaked Supreme Court draft opinion overturning both Roe and Casey.

I wasn’t being cavalier or defeatist. In the moment, I felt somehow numb. Anyone involved in abortion rights advocacy saw this coming from the moment Merrick Garland’s nomination was blocked by Senate Republicans. We heard it in the way then-nominees Gorsuch, Kavanaugh and Barrett responded to questions about abortion rights with legalese that allowed their answers to be interpreted as respecting Roe v. Wade and Casey v. Planned Parenthood as “settled law” while still giving them pathways to overturn both decisions.

We knew this was coming. But that didn’t blunt the pain when the pen was put to paper. Perhaps numbness is the feeling of hope draining. Before, we could try to imagine that even conservative judges would protect the hard-won rights over our own health care and bodies we have had for 49 years. But now we know, and yet what has happened, what is happening, is somehow unimaginable.

If the leaked SCOTUS ruling stands, in less than 60 days, women will become second-class citizens of this country.

Close to 70% of people in the United States support the federal right to reproductive choice. The overwhelming majority of Americans believe abortion is a decision made between a pregnant person and their physician. This ruling is being made by a minority of religious zealots. This is not democracy.

This ruling will not stop abortions: those with money, and those who live in states where abortion is legal or have the ability and financial means to travel to those states, will still have access. But many, many more women will not. Abortions will continue, but they will be difficult if not impossible to access – and dangerous.

Jewish Women International [then B'nai B'rith Women] and other Jewish organizations have fought for these rights before. We marched in 1973 and, in many ways, we have not stopped fighting.

If you care about life, you must care about abortion rights. Due to this ruling, women will die. It's as simple as that.

If you care about poverty, you must care about abortion rights. Young people, Black and brown people, LGBTQ+ people, those living in poverty and the victims of rape, incest and intimate partner violence will bear the brunt of this decision. Strikingly, those who purport to be “pro-life” also stand against contraception and federally funded child care, meaning this decision will also result in more children being born into poverty. Funny how those who say they want to protect children seem to stop once those children are born.

If you care about health care, you must care about abortion rights. Abortion is a medical procedure, full stop. No one makes this decision lightly. Some are only outraged by state laws that do not make exceptions for rape or incest, as if to say these exceptions would make what is happening palatable. This is not the conversation we should be having. All abortion must be legal.

Talk to me about my friend, who desperately wanted a child, put herself through hell to get pregnant only to learn late in the pregnancy that the child would be born with devastating health implications. She and many other women would put their own life in danger if they continued their pregnancies.

If you care about violence against women, you must care about abortion rights. Reproductive coercion [coercing a partner to have unprotected sex, sabotaging birth control methods to impregnate a partner against their wishes, and manipulating a survivor to stay in an abusive relationship] is often used by abusers to hold their victims in dangerous relationships, affecting an estimated 1 in 10 women.

And, do not think that those who have been fighting to take away our right to choose will stop there. Roe is based on the right to privacy. Once stripped away, the floodgates will open: the right to use contraception, marriage equality, transgender rights, the rights and

autonomy of the physically disabled and those with mental illness are all in danger.

The impact of this devastating ruling will continue for at least a generation.

Our focus must shift to the legislative branch: If we, our families and our communities are to be protected, we must do everything in our power to elect legislators who will protect the right to abortion care.

Those who are able must run for office, donate to support pro-choice candidates, and support access to safe medical interventions like Plan C. The lives of our most vulnerable depend on it.

We owe it – not only to our daughters, but to our mothers and grandmothers, who marched and fought 50 years ago – to fight back. We owe it to the Jewish women whose religious liberty will be trampled if they can't access abortion. We owe it to all who died, and all who will die, seeking abortion care.

We must push past the numbness and fuel our fight with hope.

Meredith Jacobs is the CEO of Jewish Women International (JWI), the leading Jewish organization working to address violence against women and girls. Ariella Neckritz, JWI's senior manager of programs and training, contributed to the writing and research of this opinion piece.

Opinion

The leaked Roe v. Wade decision is a win for religious fervor

By Rob Eshman

The leaked Supreme Court decision reversing Roe v. Wade reverses something almost as consequential as a woman's right to choose: a belief that rights, once won, are ours to keep.

The past several years have been an ongoing lesson in loss, if not a Dark Ages – a time when curtains that had been flung open to the light seem to be closing shut again.

Roe v. Wade, we thought, was “settled law.” But, according to a copy of a Supreme Court draft decision that Politico published Monday night, the Court stands ready to overturn its landmark 1973 decision asserting the Constitutional protection of a pregnant woman's right to choose to have an abortion without undue government restriction.

Abortion is common: about 1 in 4 American women have them at some point under the current legal landscape. But if the court indeed overturns Roe, 26 states would basically ban abortion, according to the Guttmacher Institute. Women in these states, and in others expected to pass laws making abortion more difficult to obtain if not illegal, would face a situation familiar to generations of women pre-Roe: finding ways around the law that could lead to serious health complications.

That means women who are able would flock to states where abortion remains legal and accessible – California, for one, is imagined to see a 3000% increase in the number of women seeking services.

But there would be thousands of women unable to afford the time or expense of travel, the majority of them poor, young and women of color. Sheila Katz, CEO of the National Council of Jewish Women, last year called abortion “a racial justice issue,” saying “our Jewish values compel us” to ensure access to it.

Those women would be the victims of a battle that too many of us believed was won for

good. They made a TV movie about it back in 1989, right? “Roe v. Wade is going to the Supreme Court!” a righteous Holly Hunter declares triumphantly in the film.

That triumph satisfied the majority of Americans who believe abortion should be safe and legal – since 1989, between 52% and 66% of Americans say they want Roe upheld.

But the victory invigorated an opposition, rooted in the Christian Right – evangelicals allied conservative Catholics – who engaged in a long, focused battle to overturn Roe.

One side took victory as a given, another as a goal. Their battle plan was broad: electing local officials who would pass more restrictive laws as well as pushing Supreme Court nominees who would, despite saying that Roe was “settled law,” sign on to a decision eviscerating it.

They even made their own “Roe v. Wade” movie in 2019. It depicts anti-abortion activists behind an “anti-Catholic conspiracy,” as The New York Times put it, “in cahoots, we’re told, with Hollywood, the news media, Protestant clergy and rabbis, with the latter singled out in a caricaturish scene.”

The religious overtones should surprise no one, because the struggle over reproductive rights in America has always been about the blurry lines between church and state.

The anti-abortion views are rooted in a specific Christian belief that life begins at conception and that abortion, therefore, is murder. Jews don’t believe that.

“In Jewish tradition, the pregnant person’s needs are central to the moral equation,” wrote Sarah Seltzer, an editor at the Jewish feminist journal *Lilith*.

The state of Israel, which so many evangelical Christians support unreservedly, has had legalized abortion since 1977.

“Striking down the legality or government funding of abortions is not a cause of any political party, not even the most right wing,” journalist Yardena Schwartz wrote earlier this year. “Why? Because life and the protection of it are sacred in Judaism, and when the physical or mental health of a woman is threatened by an unwanted pregnancy, it is the right thing to do to allow her to end that pregnancy.”

Though Jews are a tiny minority in the United States, that statement more closely aligns with what a majority of Americans believe. Unfortunately, not with abortion’s vociferus

religious foes and the politicians who do their bidding.

It seemed Roe, by enshrining the right of citizens to decide how to handle pregnancy based on their own faith and conscience, put an end to the fight. But it didn't – it just let one side think the fight was won.

And if there's a lesson to be learned from Monday's leaked draft, it's that fights like this are never really won.

When Barack Obama was elected president in 2008, a solid majority of Americans believed that progress in race relations was "inevitable." We now know that struggle is far from over.

There are school boards and libraries across America banning books and the teaching of accepted facts of American history. There is a rise in white nationalism and, as the last of the generation of Holocaust survivors dies, more recorded incidents of antisemitism.

Starting Monday night in front of the Supreme Court, abortion-rights activists took to the streets to protest the forthcoming ruling. They will undoubtedly be joined by large demonstrations across the country in the coming days.

The lesson is learned, and probably has to be forever relearned: Take no freedom for granted.

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Opinion

My abortion story – because it's true and we should not be afraid to talk about it

By Jodi Rudoren

This story was originally published in October, 2021.

I've been pregnant twice. I've had two abortions. And I have two healthy, wondrous children who recently turned 14.

I used to frame my fertility saga as a sort of riddle: "I've been pregnant twice, had two abortions – how many children do I have?" But abortion is not really an appropriate subject for riddles, especially not now.

Not with Texas having enacted a law outlawing the procedure in almost all circumstances. Not with the Supreme Court poised this term to possibly dismantle *Roe v. Wade*, the landmark 1973 ruling that gave me the constitutional right to choose how to build my family.

I've told my abortion story to friends, family and, yes, to my children – it is part of their origin story, the story of how we chose to bring them into this world. I'm telling it publicly now for the first time.

The Guttmacher Institute estimates that nearly 1 in 4 American women have abortions by age 45, which is certainly more than we tend to hear about in polite conversation. The number of abortions has been dropping for two decades – to 862,000 in 2017, down from about 1.6 million annually through the 1980s.

Mine is perhaps not the most compelling story in making the case for choice. I did not survive a rape or incest; my pregnancies did not endanger my life. My choices were made from a place of profound privilege.

But, alongside the brave congresswomen who testified last week about their abortions, and the more than 1,500 women who have joined the storytelling campaign Abortion Out Loud, I share my experience here because it is true and it is real and we should not be afraid to talk about it.

My husband, Gary, and I started trying to get pregnant soon after our 2004 wedding: I was 34, he was 42, and we were ready. Alas, our bodies were not, so after about 15 months of futility we went to the fertility clinic at Northwestern University. We were among its luckiest patients: our very first intra-uterine insemination (IUI), without even hormone therapy, stuck.

On our doctor's recommendation, I underwent chorionic villus sampling (CVS) in my first trimester to check for chromosomal and genetic disorders – negative. We also did a blood test to screen for spina bifida and other birth defects – also negative. And so I bought some maternity shirts and proceeded to tell just about everyone I knew that I was expecting.

Meanwhile, I got a promotion, to become deputy Metro editor of The New York Times. So as I approached my sixth month – September, 2006 – I moved from Chicago to New York, with Gary planning to follow in a few weeks after finishing up at his work. We were a bit bummed that he'd miss the 20-week "level two" ultrasound, which everyone told us would be this incredible opportunity to glimpse little wiggling fingers and toes, but life happens.

As it turned out, I did not get said ultrasound until the 22nd week, due to a scheduling miscommunication. This being my first pregnancy, I did not realize anything was amiss when the scan stretched to 45 minutes, when the technician kept asking me to turn this way and that, when she finally called in a doctor I had never met to take a look.

"Your fetus has a severe neural tube disorder," is how I remember him delivering the news. "You should go see your obstetrician immediately to discuss termination."

Then he gave me his cell-phone number, which underscored the urgency of the situation (this was 2006; doctors did not give out their cell-phone numbers). Ditto the obstetrician, who I'd seen only once before and who rushed me in despite her crowded waiting room.

The scan had found our fetus had club feet and what is known as the "lemon sign" on the brain. Neural-tube defects are one of the things the spina bifida test is supposed to uncover – turns out there are a decent number of false negatives. The doctors said "severe," but could not be much more precise.

If we continued with the pregnancy, they said, the baby's physical limitations could range from just those club feet to a lifetime in a wheelchair. Intellectually, we could be looking at anything from maybe graduating high school to profound cognitive disabilities.

And we had to decide quickly – I was approaching the threshold for fetal viability, when abortion is outlawed or prohibited in many states.

I'm a journalist. I needed more information. The OB suggested I get a second opinion, another doctor to read the scan, and soon I was walking as fast as my swollen feet could carry me across Columbus Circle. I had summoned a work friend to hold my hand, and I can still see us in my mind's eye marching through traffic with Gary on the cellphone telling me what flight he had booked for that night.

The second doctor also advised termination. But that doctor, Mark Evans, was hardly impartial. He was a named plaintiff in the lawsuit that successfully challenged the so-called partial-birth abortion law barring late-term procedures; as he put it, he was in the business of helping women have healthy babies.

Due diligence demanded that I hear the other side, the case for keeping the pregnancy – or, at least, find out what the baby's life would be like if we did.

A friend whose son was born with a neurological condition pulled some strings to get Gary and me a meeting the next day with the head of pediatric neurosurgery at Columbia, Dr. Neil Feldstein. He told us that if we continued the pregnancy, the baby would likely need an operation within 24 hours of birth, and several more after that. He wasn't trying to convince us either way, but he made the situation sound pretty grim.

"Who keeps these pregnancies?" I asked.

People who believe abortion is murder, is the blunt answer I remember Dr. Feldstein giving. And, he added, those are the parents who would be your peers as you raised the child.

I imagine it's not really that simple; the whole point of choice is that you decide what is right for you for whatever reasons are meaningful to you. I'm sure there are people who would not describe abortion as murder but nonetheless accept as fate having a profoundly disabled child – and people who do not find out about such disabilities before birth or early enough to safely and legally terminate.

We knew instantly, though, that we are not those people.

Alone together in the middle of an autumn afternoon in Manhattan, Gary and I held hands on the subway downtown, and then on a series of escalators up through a very large and very empty Times Square multiplex. A matinee seemed both a bit absurd and the only thing that might distract us for a minute.

We saw “Across the Universe,” a story of love, war and peace set to songs by the Beatles. And cried.

We flew back to Chicago to have the procedure at Northwestern – New York didn’t yet feel like home. We were told we had to get it done before 23 weeks, then considered a viability threshold, and so it was that my first abortion was on Yom Kippur.

In the few days since the ultrasound, we had entered a new universe of traumatic pregnancies and heart-wrenching choices. Acquaintances and colleagues poured forth with stories of their infertility struggles, late-term miscarriages and stillbirths, diagnoses of birth defects and more. It was comforting – and overwhelming. Online, there were endless resources and communities devoted to discussing these decisions and their aftermaths.

Many of these forlorn would-be parents had held their aborted or stillborn fetuses, given them names, created funeral-like ceremonies, so I asked our Conservative rabbi what, if anything, Jewish law had to say about such a situation. Could we possibly have to sit shiva or say kaddish?

No, he said clearly. The aborted fetus should be considered medical waste, not a person. No name, no Jewish burial – unless doing those things would help us cope, in which case it probably wasn’t prohibited.

Two months after the abortion, our new fertility clinic in New York cleared us to try again. Though IUI had worked the first time, the doctors urged going straight to the more involved in-vitro fertilization, with hormones. Once again, we were lucky and the first round stuck.

By then I was 36, or what those clinics call “of advanced maternal age,” so the doctors said we should implant all three of the healthy embryos we had produced, to maximize the chance of at least one sticking. I pointed out that I’d had no problem carrying the prior fetus, and suggested implanting two, given the much higher risks to both me and the babies of carrying triplets versus twins. But they insisted on three – and, yes, all three stuck.

I don't remember the specific data we were given about the relative risks, and of course science has advanced since then. I do remember the numbers were quite stark – triplets were radically less likely to make it to full term or to be born without serious health problems.

Only months earlier, we had chosen to terminate a disabled fetus in hopes of making a healthy one. Why would we now risk having three disabled babies rather than giving ourselves the best shot at two healthy ones? We went back to see Dr. Evans for what is known as “selective reduction” – my second abortion in less than a year.

It's an apt euphemism, “selective reduction,” because you get to – have to – select which fetus to “reduce.” First, they do chromosome tests: none of our three showed any signs of problems. Then they check the positions in the womb to see if one is easier to remove without jostling the others – no, in my case. And then Dr. Evans asked if we'd like to choose based on gender.

That shook me a little. Definitely not was the answer – we would be equally happy with two boys, two girls, one of each, nonbinary, whatever. The idea of people being able to select for gender – being able to terminate a pregnancy if they didn't like the fetus's gender – seemed unsettling, wrong, even dangerous.

But I understood that someone else's wish to choose their baby's gender was bound up in the constitutional right to choose that I believed in – the right I was about to exercise for the second time in less than a year for reasons someone else might well find unsettling, wrong, even dangerous.

We told Dr. Evans to just pick at random, but I've always thought he selected based on gender anyhow, leaving us with one boy and one girl because that's what everyone seems to think everyone wants. That part of the story makes me uncomfortable. But it's also real and true and so I'm trying not to be afraid to talk about it.

I almost never think about the babies we didn't have. I started writing a sentence here about how when I see profoundly disabled children and their parents, I feel ... but it felt fake. I don't think I necessarily experience that differently from anyone else. I do not imagine some alternate path for our lives; I do not feel guilty. I do think those parents are heroes, but I bet they just feel like parents.

I threw up every day – Every. Single. Day – of my second pregnancy, which didn't make it to full term. The twins came by emergency Caesarean section at 32.5 weeks. They spent 15

days in the Neonatal Intensive Care Unit, but only because of their size – Lev was 4 pounds, 8 ounces; Shayna 4 pounds, 1 ounce. They were blissfully free of any medical problems despite their prematurity, and we were frankly somewhat grateful to have them in expert hands during those first weeks.

Shayna has grown into an accomplished artist, currently doing a drawing a day for “Inktober.” Lev is a video-streaming savant who just got elected class rep at his high school. They are curious, clever, mostly kind and occasionally annoying.

They were maybe 11 years old when they asked questions about IVF that made it feel dishonest not to tell them the story. The hardest thing was explaining the reduction – I knew they must have been thinking: that could have been me.

Last November, the twins were called to the Torah as bnei mitzvah, reading from Parshat Toledot, the fraught story of those biblical twins, Jacob and Esau. Lev’s dvar Torah questioned why Esau was “canceled” when it was Jacob who lied and tricked his brother and father. Shayna argued against conforming to norms and expectations – “ordinary,” she noted, “is just another word for stereotypes.”

Oh, we were proud. Of course I cannot imagine life without them – but they are only here because I had the first abortion, and they are only exactly who they are because of the second.

Maybe it is a bit of a riddle – choice; life itself. A riddle that allows room for all kinds of choices – and ways to live with them.

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Opinion

'My dark secret': Orthodox women reveal their abortion stories

By Avital Chizhik-Goldschmidt

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Abortion is never simple – no matter the state, the stage of pregnancy, or the reason. While the nation is besotted with headlines, as *Roe v. Wade* is once again brought to the forefront of debate, we often overlook the actual stories of women who go through this experience.

But there is one group of women for whom abortion is an especially fraught decision – women in religiously conservative communities, and particularly, women of the Orthodox Jewish community.

For women here, it is a much more complicated decision to terminate a pregnancy, both because the Halacha, the religious law behind it, is complex – and because the shame associated with it is severe.

There is a story of two layers here: There is an official story, of rigid policy, a community that is publicly anti-abortion-rights.

And there is a secret one.

What is not told is the white space in between those black letters – what happens when Halacha collides with real life. The questions are complicated – and the answers are even more so.

What happens when a woman is raped? What happens when a fetus is found to be unviable, at 24 weeks? Must a woman continue carrying to term, as some will do? A child conceived of an extramarital affair – sure to be a mamzer, a bastard according to Jewish law? And what if a woman is mentally unstable, unprepared for yet another pregnancy and child – does the fetus present life-threatening harm to her?

Many Orthodox women go to rabbis not only for counseling and advice, but for direction, too. Among religious women, in private conversations, it is common knowledge which Orthodox rabbis rule sensitively on pregnancy and medical ethics. They are called poskim, halachic decisors with extensive legal scholarship. They are often heads of yeshivas, spending their days steeped in texts, and are experts in this specific area of Jewish law. Their names are kept private, passed around from woman to woman; a local rabbi or rebbetzin may discreetly forward a posek's phone number to a desperate congregant. Whether in New York or Jerusalem, these rabbinic offices, lined with gleaming talmudic volumes, often turn into places for people to unload their tears, as they face harrowing life decisions.

Here, we have collected the stories of Orthodox women who have bravely shared their experiences with us. They are kept wholly anonymous. Rarely could they tell anyone around them – fearing the humiliating stigmas associated with it. Some women approached poskim for wisdom; others, fearing a rabbi might forbid it (fears largely based on publicly accepted attitudes), went ahead without rabbinic guidance, often feeling shame afterward for not having consulted religious leaders.

These stories are simply fractions of stories that happen all around us.

We hope these stories may illuminate the conversation, inspire sensitivity in those who use this issue as a political prop – and provide comfort to those who feel alone.

These accounts have been lightly edited and condensed for clarity.

'I couldn't tell anyone'

Lakewood, NJ: 27 years old. 2nd pregnancy. 21 weeks.

At a routine ultrasound, we discovered that our baby had trisomy 13 and numerous deformities: a cleft palate, extra digits, as well as defects in the brain and heart, among other issues. We were recommended, by specialists, to terminate.

I had never in my life thought I would have to contemplate having an abortion. We went to a posek, who agreed that we should go ahead with it – to save both mother and child from suffering.

Every minute was nauseating torture. The idea of carrying the baby another 20 weeks – only to have it die – was terrifying.

When I got to the hospital and said why I was there, one of the nurses looked at me with such disdain that I wanted to die. Another nurse took me in and cared for me.

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.

And so I keep my secret.

'I Was So Scared'

Israel: 31 years old. 3rd pregnancy. 9 weeks pregnant.

I was raped by an acquaintance and was so scared. I didn't want to tell anyone, not even my husband.

I did it alone.

I was not emotionally able to talk to anyone at the time – and “their rules” would have killed me.

USA: 24 years old. 1st pregnancy. 8 weeks.

We were in shana rishona (first year of marriage). My husband was already abusive at the time.

When I told him I was pregnant, he informed me that I would be getting an abortion, and that we would tell no one. He explained that if I had the baby, he would divorce me, and I wouldn't be able to finish school. We had very few friends in the Jewish community; he didn't like any of the rabbis, and when I suggested to talk to my rav from before we were married, he refused. I felt that I didn't have an option.

I had a medical abortion. That night, he went out with friends, and I stayed home and terminated it with the second set of pills. I was alone, and started miscarrying, blood everywhere. At that moment, I wanted to die.

I felt isolated, after that, in the community. I was ashamed of my secret, of the abortion, of not talking to my rav.

It would be several more years of abuse before I finally left him and started over.

I never got pregnant again, which made it so much harder. But baruch Hashem, I did not have a child with this man.

While halachically abortion is complicated, the taboo of talking about it is dangerous. If you have chosen or have been forced to have an abortion, you should not be shamed into keeping silent for fear of being judged and disowned. We must teach women and men that in this situation, the rabbis should not and will not treat you badly, they will guide you – do not be afraid of seeking rabbinic counsel.

USA: 21 years old. 1st pregnancy. 5 weeks.

I was unmarried, in an abusive relationship with a man who eventually progressed to rape me.

Only my friends knew about my abortion. I couldn't tell my parents or my rabbi. I have never felt more alone or ashamed or broken.

'It's more common than you think'

Monsey, N.Y.: 22 years old, 3rd pregnancy.

My daughter was 3 months old and her brother was just shy of 2 years. I had severe, undiagnosed post-partum depression and occasional thoughts of suicide when I learned, during a routine check-up, that I was pregnant, yet again.

This wasn't only something we couldn't afford financially; this pregnancy and caring for another baby threatened to kill me. I could barely tend to my two babies at home, and ending it all seemed like an appealing alternative to life.

I asked for a referral to an abortion provider. The doctor was a frum woman who didn't recoil at the outrageous question from a young chassidish wife.

"This must be the first time anyone asked this question in this office," I said to her.

"You'd be surprised at how many women came before you," she told me simply.

The doctor called the following morning to inform me that the pregnancy test was a false

positive. Words could not describe my relief.

Israel: 1st pregnancy, 32 years old, 20 weeks.

At my 12-week scan, it was found that the baby showed serious deformations in the heart and stomach.

After much debate and heartbreak, we decided to end the pregnancy. We consulted an expert in medical care and Halacha who advised us to terminate, alongside a rabbi who did not give a specific opinion but supported our decision.

It was the most painful few months of my life. The process itself was surreal, and writing about it now, I am crying. Baruch Hashem, I have two amazing children, but along with that I have also had another four miscarriages. I don't regret the decision we made, but I always have "what if" thoughts all the time.

I never thought I would terminate a pregnancy. But sometimes Hashem gives us tests we never imagined we would have, and you have to deal with it as it comes. In my pregnancy loss support group, there were at least another two Orthodox women who terminated and I know of at least another three. It's so much more common than we think.

Teaneck, N.J.: 25 years old, 2nd pregnancy, 12 weeks.

My baby had a chromosomal abnormality.

It was surreal. I was shocked into realizing that bad things can happen to anyone. It also sparked the dissolution of my marriage, as my husband could not support me in the way I needed at the time, and it left an indelible mark on our relationship.

Just because you look okay on the outside doesn't mean you're not still struggling with the consequences of your decision.

'I know it was the right thing'**Israel: 32 years old. 6th pregnancy, 5 weeks pregnant.**

My sixth pregnancy was found to have implanted on my C-section scar. It was otherwise healthy-looking, but would have burst my scar if it continued to stay there – a potentially life-threatening situation.

We did not consult a halachic authority – it was very clear there what needed to be done. I had methotrexate treatment to end the pregnancy. Members of my family had tried to dissuade me from the procedure, trying to convince me to give it a chance and that doctors could be wrong. I did not consult a halachic authority then, either – my body, my decision.

USA: 30 years old, 1st pregnancy, 23 weeks.

The doctor identified severe heart problems on the 20-week anatomy scan, and further testing showed more anatomical defects that would significantly affect our baby's life.

We spoke to our local Orthodox rabbi, who sympathized with us and went out of his way not to give us any halachic opinion – to allow us to make the decision ourselves.

We decided to terminate the pregnancy. We told our parents, my sisters and, later, two non-Orthodox friends.

London, U.K.: 32 years old, 14 weeks.

It had taken me over a year to get pregnant. At my 12-week scan, they discovered a small “shadow” to the side of the uterus. I had a twin pregnancy: one healthy fetus in one side of my uterus, and a molar pregnancy in the other side.

In London's best hospital, we were given a dark prognosis: I was at risk of cancer because of abnormality of cell growth. The definitive study showed less than 30% of survival for the baby if I decided to carry on the pregnancy. The likelihood would be a very premature birth, and also a high chance I'd need to be operated on, which if that happened before I reached a certain point in the pregnancy, this would have high risks for future fertility.

I was devastated. Our local Orthodox rabbi was very supportive and from the outset said that it is I who determines the decision and that Halacha supports both decisions. He referred us to a dayan [rabbinic judge] as well.

Our rabbi was amazing. He sat with us. He told us of a personal loss that he has never discussed with anyone. We all cried. He was sensitive and respectful, and he did not try to throw any agenda or ruling onto us. His wife followed up with support and meals delivered to our home.

I had a D and C to terminate the pregnancy.

Two years later, after a high-risk pregnancy, I gave birth to healthy twins.

I often think back sadly to the baby that was healthy, that I decided to abort. It still saddens me, even though I know it was probably the right thing.

New York: 26 years old, 1st pregnancy, 8 weeks.

It's hard for me to write about; even years later, the story is disjointed and painful.

I met someone I fell head over heels for. He was smart, handsome and kind of lost. Although I was not a virgin, as I became more religious I had not had sex with anyone for the five years prior to meeting him. I was squarely Modern Orthodox [Sabbath observant, kashrut observant, wore only skirts]. I thought we were on track to get married. But then I got pregnant.

He was adamant that I not go through with the pregnancy. He felt he was just getting started with his life and that he was not ready to become a parent. I felt that it would be wrong to terminate the pregnancy; I had a job, supportive friends and family, and I was ready. We were at an impasse.

He took me to Planned Parenthood "just to get information." Everyone there was a teenager. I had the exam and they told me about my options to take the RU-486 pills to terminate the pregnancy. I refused to do it.

He thought I would change my mind with another doctor, so he arranged for us to see an OB-GYN. The office was full of pregnant women and pictures of the doctor with lots of smiling young babies.

It was a nightmare. I cried the entire time in the waiting room. I cried to the Latina nurse; she told me I shouldn't do it for him, that she'd raised her son alone, and it was the best thing she's ever done. She said she understood that our religions prohibited it, and that I had to stay true to that and myself. She said she loved her job and helping women who needed abortions, but that I wasn't one. I felt she was right. I davened feverishly during this time; I recited more Tehillim [Psalms] than ten bubbes [grandmothers].

I told my boyfriend that I was going to keep the baby.

He kept begging me not to have it. He told me it was over between us, that we would never be a family, and that the baby didn't deserve to be born to a father who could never love it.

By that point, I was in agony – I was losing a relationship I'd wanted, and I didn't want to have a baby without a father. I spoke with a rebbetzin I am close to throughout those next five weeks. She sought out resources and always told me she would support me if I had the baby.

My boyfriend got increasingly desperate; he told me we had to get rid of it now, that it wouldn't be a big deal, that it was just a "sack of water." Eventually, he wore me down.

The OB-GYN told me I would have to do a suction aspiration procedure. [For all the heartache I went through, it would have been a hundred times worse if I couldn't have counted on decent health care.] I was shaking, and I kept thinking: "Is it too late to turn back? If I stop now, would the baby be okay? And now?" They gave me a shot internally. And then there was a lot of pressure and a loud whirring vacuum sound.

I didn't eat or drink for a few days. I didn't light Hanukkah candles at all that year. I was devastated. I purposely hadn't asked a rav any sheilot [religious law questions]. I knew my boyfriend didn't care what a rabbi would have said, and I was looking for a reason to have the baby, not terminate the pregnancy.

Several months after the procedure, a friend took me to an Orthodox rabbi to see if he could make me feel better, after the fact. It was really awkward. We sat in this rabbi's living room, surrounded by his kids' toys, and I told him my story, looking down at my hands, tears streaming down my face. He said he couldn't pasken [rule], since there was no question to ask now, but that if he were considering it, there is leniency in the case of a rodef [literally, a "pursuer" in Jewish law] – if you could consider the fetus as a murderer trying to end my life, I would be justified in killing it. Could the baby have been a rodef going after my boyfriend? Maybe, but then would it be permitted for me to kill it? He didn't answer, but I know enough to know that by that framing, the answer is no.

It took me a good year before I was able to date again and be myself a little bit. It took years for me to regain my level of observance, and I still ask others to say Tehillim for me rather than saying them myself. I have never been the same. Even now that I'm back to being a functioning, observant person again.

I know that if I hadn't made that decision, I would not have the full life I have now; I wouldn't have met my dream of a husband nor had the beautiful children I have if I had gone through with that pregnancy. My life would be different, probably harder, and worst of all, I would be tied to that boyfriend, whom I obviously don't speak to. I'm so grateful for the way things are, but there is no getting around it – it's harder living with the knowledge

that I could let myself down in so many ways.

Try not to judge those whose stories you don't know. You know people who've gone through this, even if you think you don't.

Avital Chizhik-Goldschmidt was the life editor at the Forward. Follow her on Twitter [@avitalrachel](#) and on Instagram [@avitalrachel](#)



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