

pledged themselves to continue to acknowledge and to uphold the importance of the prophetic gift as defined in the Scriptures. This recommitment followed the presentation given by Kenneth H. Wood, Chairman of the Board of Trustees of the Ellen G. White Estate.

The text of the papers and sermons given at the Indianapolis meeting will appear in the spring 1991 issue of the JOURNAL.

Our prayer is that God's richest blessings may rest upon the new President of the Society, Dr. Gerhard Hasel, Professor of Old Testament and Biblical Theology at the Seventh-day Adventist Theological Seminary, Andrews University, and on the Vice President, Dr. C. Raymond Holmes, Professor of Preaching and Worship at the same institution, as they guide the Society into expanded paths of scholarship, fellowship, and witness.

Sincerely yours,

Jack J. Blanco

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## THE STATUS OF THE FETUS IN MOSAIC LAW

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Only one law in the Bible deals with the human fetus. This legislation, located in Exodus 21:22-25, can be considered the most crucial passage in the Old Testament in regard to the life of the unborn. Naturally, it has received close scrutiny for the light it might shed on the critical question of the nature of the fetus and its value and status in relation to its mother.

Undeniably, this passage contains several exegetical problems.<sup>1</sup> Nevertheless, because of the fact that many people on both sides of the abortion issue have appealed to it, and because it is the only Biblical passage used in support of the official Seventh-day Adventist position regarding abortion in the denomination's medical institutions, it deserves to become the focus of this paper.

### Conflicting Translations of Exodus 21:22-25

During the preparation of this paper, 40 available English versions of the Scriptures were examined in order to see how Exodus 21:22-25 has been translated. Essentially, the translators have interpreted our passage in one of two ways.<sup>2</sup> Twenty translations, from the *Douay Version* of 1609 to the *New Jerusalem Bible* of 1985, render the text in such a way that the fetus can be viewed as of less value than a human being. For instance, the *Jerusalem Bible*, published in 1966, puts the passage this way:

If, when men come to blows, they hurt a woman who is pregnant and she suffers a miscarriage, though she does not die of it, the man

responsible must pay compensation demanded of him by the woman's master; he shall hand it over, after arbitration. But should she die, you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stroke for stroke.

Here the *Jerusalem Bible* implies that the death of the fetus can be compensated for by a fine, while the mother's death invokes the "life for life" legislation. This is seen by many as tacit approval of abortion, for the fetus is not treated as a human being but rather as a personal possession of the father.

The Seventh-day Adventist Church, in its "Recommendations to SDA Medical Institutions" on the issue of abortion, bases its position partly on the interpretation of the *Jerusalem Bible*. Number 4 of the Statement of Principles in these recommendations reads in part: "The Adventist position recognizes that no Bible passage expressly condemns abortion or speaks of man as fully human before birth." After quoting Exodus 21:22-25, it draws the conclusion that "it is to be noted that the fetus was not considered a human life to the point where 'life for life' was to be demanded. Thus a distinction is made between the destruction of a fetus and the killing of a person."<sup>3</sup>

In contrast to the twenty Bible versions under consideration so far, 13 other versions are ambiguous enough to support either position, and seven versions, dating from the 1560 *Geneva Bible* to the 1984 *New King James Version*, translate the text in such a way that the fetus can be viewed as of equal value to its mother. Of these seven, the 1978 *New International Version* is the clearest, translating the passage as follows:

If men who are fighting hit a pregnant woman and she gives birth prematurely but there is no serious injury, the offender must be fined whatever the woman's husband demands and the court allows. But if there is serious injury, you are to take life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise.<sup>4</sup>

This translation in the *New International Version* indicates that the fine is to be paid for the premature birth itself and that any serious injury to either mother or fetus requires equal punishment. Thus the fetus is placed on a par with its mother, to be treated

as a real human being and not merely as a matter of material loss for which monetary compensation can be made.

Which translation is correct? Why have linguistic experts interpreted this passage in such contradictory ways? And, what are the implications of all this for the Christian perspective on abortion? These are some of the questions that this study will consider.

More specifically, an attempt will be made to categorize, compare, and contrast the different ways in which commentators and other writers have interpreted the passage. The two main positions will be presented, analyzed, and evaluated for strengths and weaknesses. An overall summary will then be made and conclusions drawn.

### Perspective One: The Miscarried Fetus

#### Status of Mother and Fetus

A careful analysis of all available English-language reference works makes it evident that most commentators believe that Exodus 21:22-25 deals with a miscarried fetus, i.e., a stillborn child. From the 1844 commentary of Thomas Scott<sup>5</sup> through the 1986 work of Everett Fox,<sup>6</sup> dozens of Biblical scholars have held this view.

Most of these commentators suggest that the passage reveals three facts: (1) that as a result of the accidental injury incurred, the pregnant woman suffers a miscarriage; (2) that a fine should be paid by the offender as compensation for the loss of the fetus; and (3) that only if the woman herself suffers serious, permanent injury or death does the *lex talionis* (the law of retribution) apply.

This fundamental understanding of the text is followed and promoted by various modern authors, writing either on ethics or on the *lex talionis*. However, this is not merely a modern notion. David M. Feldman, in his *Birth Control in Jewish Law*, shows that this position is an ancient one. He says:

Taking their cue from the Mekhilta, the early halakhic Midrash to this verse, Talmudic commentators made its teaching explicit: only monetary compensation is exacted of him who causes a woman to miscarry. The killing of *nefesh adam* alone is a capital crime, says the Mekhilta.<sup>7</sup>

Based on the understanding that only a fine is required as compensation for the loss of the child, two Roman Catholic com-

mentaries<sup>8</sup> come to the following categorical conclusion: "The foetus is not regarded as a person, but if the woman dies the *lex talionis* is applied."<sup>9</sup> None of the other commentaries I consulted seemed willing to go this far.

However, several writers, mostly Protestant, have accepted this view. Paul D. Simmons, for example, says, "The woman has full standing as a person under the covenant, the fetus has only a relative standing, certainly inferior to that of the woman."<sup>10</sup>

The Talmud, which uniformly interprets the passage as referring to a miscarriage,<sup>11</sup> together with at least one modern commentator,<sup>12</sup> goes one step further in saying that the loss of the child is equivalent to a property loss on the part of the father. David Chidester concurs with this view when he shows that within the Jewish tradition the miscarriage seen in Exodus 21:22-25 "is treated as if it were a case of property loss and not the killing of a human being."<sup>13</sup>

In the Talmudic Period, abortion, although prohibited, was not considered a transgression unless the fetus was viable.<sup>14</sup> Even though the child is considered to be a living soul and as possessing biological life as soon as it is born, if it dies during the first 30 days of infancy no funeral services are held, because the infant is not considered to have existed at all.<sup>15</sup> But this is not to be interpreted as license to commit infanticide during the first month of a baby's life, for Talmudic teaching clearly states that if an infant is destroyed even when it is only one day old, his killer is guilty of murder.<sup>16</sup>

#### Analysis of the Traditional Position

This "miscarried fetus" interpretation has both strengths and weaknesses which need to be critically analyzed and thoroughly discussed. The strengths will be looked at first.

First, as Jack W. Cottrell confirms, the majority of translations of the Bible favor this interpretation.<sup>17</sup> Second, this has been the dominant view of Bible commentators and theologians. And third, the Jewish Talmudic commentators have from ancient times uniformly understood the passage as referring to a miscarriage.

However, when these strengths are evaluated meticulously it becomes evident that they contain serious difficulties.

TRANSLATIONS OF THE BIBLE. The first argument is based on

the strength of the majority of Bible translations. But is it safe to go with the majority? A brief study of Luke 23:43 will serve to answer this question. Jesus, while hanging on the cross, was responding to the repentant criminal who had accepted Him as Messiah and Savior. Of the 63 English Bible translations investigated, 58 render Jesus' statement in a manner similar to the *Revised Standard Version's*: "Truly I say to you, today you will be with me in Paradise." By placing the comma before the word "today" an overwhelming 92 percent of Bible translators imply clearly that Jesus would be in Paradise with the dying thief that very day. Many have used this text in an attempt to prove that man has an immortal soul. It is an established fact, however, that punctuation marks were added to the Greek text in the ninth century A.D. Thus Seventh-day Adventists and others, demonstrating that the rest of Scripture indicates that man does not possess an immortal soul, have correctly argued that the comma should be placed after the word *today*, even though only three out of 63 Bibles have it so. Thus, a majority opinion is not necessarily a correct position.

BIBLE COMMENTATORS AND THEOLOGIANS. The second argument in favor of the "miscarried fetus" position is that it has been the position of the majority of Bible commentators and scholars. A careful check of English-language commentaries reveals that almost all of them are based upon English translations of the Bible rather than on the original languages in which Scripture was written. More than half of these reference works are based on the *Revised Standard Version*, which translates the text as a miscarriage, and the *King James Version*, which because of its imprecise rendition, is sometimes interpreted to make it support the miscarried-fetus idea. Because these commentaries for the most part have been based on English Bible translations, it is unwise to unquestioningly accept their view, even though it represents a majority position.

INTERPRETATION OF TALMUDIC COMMENTATORS. The third argument, which is based on the uniform interpretation of Talmudic commentators, turns out to be rather tenuous when we realize that, even though the Jewish law taught that a fetus becomes a living soul at birth, it also stated that "the infant is not considered to have lived at all"<sup>18</sup> up to even 30 days after birth. In other words, we

cannot turn to the traditional Talmudic exposition of Exodus 21:22-25 to support the "miscarried fetus" interpretation without also accepting the Jewish belief that an infant is not considered to have lived at all unless it has survived for an entire month—a position that few if any Christians would feel comfortable supporting.

Besides the above-mentioned arguments that have been shown to have serious defects, several other weaknesses significantly undermine this position.

**LINGUISTIC AND EXEGETICAL SUPPORT.** Without exception, of the dozens of scholars who have written in favor of the "miscarried fetus" position, not one has provided any significant exegesis of the most important words of this passage in the original Hebrew. No unbiased linguistic support whatever has been offered by either commentators or ethicists in support of their position. Admittedly, one scholar does acknowledge that the Hebrew text indicates literally that "her children [a generic plural] come forth,"<sup>19</sup> but even he proceeds to assume that it refers to a miscarriage.

**EMENDATION OF THE MASORETIC TEXT.** A further weakness of this position can be observed from the fact that six of the commentaries that support it follow the emendation of the Hebrew text in such a way as to further artificially reinforce the "miscarried fetus" view.<sup>20</sup> The specific Hebrew term in question is *bifelilim*, which traditionally has been understood to mean "as the judges determine." However, some scholars, following Karl Budde, have conjecturally emended it to read *banefalim*, which means "for the miscarriage."<sup>21</sup> This "slightly corrected"<sup>22</sup> text is now made to read as the *Smith and Goodspeed* translation puts it:

If men get into a fight, and hurt a pregnant woman so that she has a miscarriage, without further harm, he must pay such a fine as the woman's husband imposes on him, and so pay for the miscarriage; but if there is further harm, you must give life for life, . . .

But there is no textual support for this emendation, which actually creates more difficulties. For instance, if the first part of the verse refers to a fine for the miscarriage as most commentators hold, then the emendation of the text results in a needless repetition of the same concept.<sup>23</sup>

**COMPARATIVE WORD STUDY.** It is to be noted that none of the 33 commentaries that sees this passage as referring to a stillbirth

does any etymological, contextual, or comparative study of the most crucial words in this text—the nouns *yeled* and *ason*, and the verb *yatza*. On the contrary, it seems as if most of the linguistic study that has been done has attempted to get the Hebrew text to conform to a preconceived belief that the passage deals with a miscarriage.

**LAW CODES OF THE ANCIENT NEAR EAST.** Another weakness of this view is that as many as 11 of the 33 reference works apparently base their interpretation partly on a comparison with other local laws. Laws dealing with miscarriages were found in most Mesopotamian legal collections, such as the Sumerian Laws 1-2; the Code of Hammurapi 209-214; the Middle Assyrian Laws A 21, 50-52, and the Hittite Law Code 17-18. For example, the Code of Hammurapi specified "that he who caused someone else's daughter to have a miscarriage had to pay a fine; if the woman died, the offender's daughter was to be put to death."<sup>24</sup>

While most of these law codes required only a fine for the destruction of the fetus, at least two Middle Assyrian Laws apparently treated the fetus as fully human. One of these Middle Assyrian Laws stated that "if someone struck her so that she had a miscarriage, they shall put the striker to death."<sup>25</sup> These regulations, which differ from the majority of the legal codes, point out one of the difficulties of basing our interpretation of Scripture on a comparison with other local laws.

While these ancient codes should not be ignored totally or discarded, it is obvious that it is more accurate hermeneutically to compare scripture with scripture than to depend on extra-Biblical sources. This is especially true in connection with the passage being studied because this entire legal section, Exodus 20:22-23:33, is "represented as words spoken directly by God to Moses."<sup>26</sup>

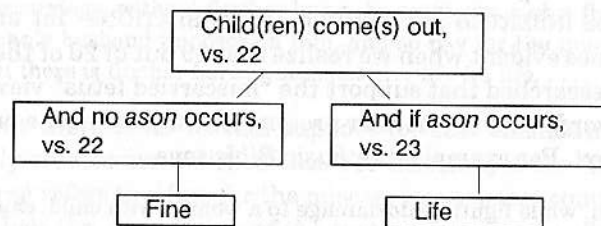
**WORDS INSERTED INTO ENGLISH TRANSLATIONS.** Yet another flaw becomes evident when we realize that 19 out of 20 of the Bible versions researched that support the "miscarried fetus" view have inserted words that are neither present nor implied in the original Hebrew text. For example, the *Basic Bible* says,

If men, while fighting, do damage to a woman with child, causing the loss of the child, but no other evil comes to her, the man will have to make payment up to the amount fixed by her husband, in agreement with the decision of the judges. But if damage comes to her, let life be given in payment for life, . . .

This translation, apparently assuming that the fetus was miscarried, inserts the words "to her," implying that the word "evil" or "harm" (Hebrew, *ason*) was intended to refer to the mother and not to the fetus. However, a closer look at the Hebrew original reveals two things: first, that the words "to her" (*lah* in Hebrew) are not in the text; and second, that the position of the word "evil" in the sentence structure indicates that it refers to either the *fetus only*, or to *both* the fetus and its mother.

Besides the unwarranted insertion of the words "she," "herself," or "to her" by more than half of these Bible versions, additional research indicates that 14 of these 20 translations have added the words "other," "further," or "otherwise" in front of the word "harm" in either verse 22 or 23, or both. The insertion of these words implies that some harm already has been done, namely the alleged miscarriage, which is then judged to be relatively insignificant because it draws only a fine. But the original Hebrew text contains no word that can be translated in these ways. On the contrary, the Hebrew clearly states that this first contingency is a case in which no *ason* (harm) occurs, as can be seen in the accompanying diagrammatic sketch. The text indicates that even though the offspring comes out as the result of a blow to the woman's body, both child and mother are alive and well. Only in the following verse is the possibility of *ason* introduced. It reads literally, "and if *ason* occurs." The text does not say that this is "further" *ason* or that it applies only to the mother. Rather, it makes absolutely no distinction between the mother and the child.<sup>27</sup>

When comparing all available evidence, it seems reasonable to conclude that the position that Exodus 21:22-25 refers to a miscar-



ried fetus is seriously problematic and stands in tension with the passage in the Hebrew Scriptures. As Jack Cottrell says, "There is

absolutely no linguistic justification for translating verse 22 to refer to a miscarriage."<sup>28</sup>

### Perspective Two: A Premature Birth

#### Legal Standing of the Fetus

Only seven out of the 42 reference works available propound the view that Exodus 21:22-25 deals initially with a premature birth.<sup>29</sup> But it is helpful to note that this concept has been held for centuries, from the sixteenth-century Reformer, John Calvin, to the 1987 work of John Durham.

A careful investigation of these commentaries reveals a basic consensus of opinion concerning the following four facts: (1) that as a result of the apparently accidental thrust against her body, the pregnant woman gives birth to a live premature baby; (2) that in verse 22 no injury or death is envisioned for either the woman or the fetus; (3) that the fine to be paid by the offender to the husband of the woman is for the hurt, trauma, danger, and/or stigma in connection with the premature birth itself; and (4) that according to verse 23 if either mother or fetus suffers injury or death, the principle of "life for life" is to apply equally.<sup>30</sup>

Of the seven commentators in this camp, only John Calvin was willing to verbalize the natural conclusion to this understanding of the passage. He stated expressly that "the fetus, though enclosed in the womb of its mother, is already a human being."<sup>31</sup>

When we review works that emphasize ethics, the following becomes evident. Of the 20 books and articles available, 17 move beyond the mere statement that *ason* refers to both mother and child and conclude that this passage indeed treats the fetus on a par with its mother.<sup>32</sup> Representative of this position, Bruce K. Waltke states:

The fetus is human and therefore to be accorded the same protection to life granted every other human being. Indeed, feticide is murder, an attack against a fellow man who owes his life to God, and a violation of the commandment, "You shall not kill."<sup>33</sup>

#### Exegesis of the Hebrew Text

Because the "miscarried fetus" position has been supported by the majority of Bible translations and commentators, the question naturally arises: On what do those who hold the "premature birth"

view base *their* interpretation? Undoubtedly most of them would answer that their position is supported solidly by a thorough exegesis of the passage in the Hebrew original. And it is true that the majority of *these* writers do make a careful study of the most disputed and most important words in these texts. Essentially, the Hebrew words *yeled*, *yatza*, and *ason*, are the ones most often investigated.<sup>34</sup>

**THE NOUN YELED.** Gesenius' well-respected Hebrew lexicon says that *yeled* means "child, son, boy, youth."<sup>35</sup> It perceives no distinction between an unborn child and a child after birth in the Pentateuch, in the entire Old Testament, or in Hebrew society as a whole.<sup>36</sup> Moreover, in every other passage of Scripture *yeled* never refers to a child that lacks recognizable human form or to one incapable of existing outside the womb.<sup>37</sup> Furthermore, *yeled* is not the usual Old Testament term for the product of a miscarriage. In the case of the death of an unborn child, the designation *nefel*, meaning "one untimely born" (Job 3:16; Ps 58:8; Eccl 6:3), is used.<sup>38</sup>

That the term *yeled* as used in Exodus 21:22 refers to a premature child and not to an unformed fetus or the product of a miscarriage, is the rather evident conclusion of these scholars and writers. The only peculiarity is that the word *yeled* is in the plural —*yeladeyha*. Umberto Cassuto suggests that a generic plural is used here since the fetus may be "male or female, one or two."<sup>39</sup> Gesenius indicates that the plural is used to denote an indefinite singular "where evidently only one child is thought of, though certainly in connection with a contingency which may be repeated."<sup>40</sup> It also has been postulated that the plural may have been used in order to indicate that this was a highly irregular birth because it was prematurely and violently induced.<sup>41</sup>

**THE VERB YATZA.** Another word that is studied meticulously in this disputed passage is the verb *yatza*. According to the Hebrew dictionary its basic meaning is to "go or come out,"<sup>42</sup> and its consistent use in the Hebrew Old Testament bears out this meaning.<sup>43</sup> The word *yatza* when used alone in connection with human reproduction, as it is here in verse 22, ordinarily is used to describe normal birth (see Gen 25:25, 26; 38:27-30; Jer 1:5; 20:18). Whenever *yatza* is used of a stillbirth it is always accompanied by some form of *muth*, "to die," as in Numbers 12:12 and Job 3:11.<sup>44</sup> Because

*yatza* appears without any form of *muth* in Exodus 21:22, we must conclude that the passage deals with a live birth.

The Old Testament verb normally used for miscarriage and spontaneous abortion is not *yatza*, but *shakol*.<sup>45</sup> The Hebrew word *shakol* is not used in Exodus 21:22-25. Had Moses intended to convey the idea of a miscarriage in the passage under consideration, he most likely would have used the term *shakol*, as he did later, in Exodus 23:26. Because he did not use *shakol* in Exodus 21:22-25 but rather selected the word *yatza*, perception that he was referring to a live birth is preferable.<sup>46</sup>

**THE NOUN ASON.** The third Hebrew word in this passage that is examined carefully by most scholars in this camp is the word *ason*. Outside of the two times it is mentioned here, it occurs only three times in the rest of the Old Testament, all three in connection with the story of Joseph. Lexicographers have interpreted *ason* to mean anything from "hurt, damage, mischance"<sup>47</sup> to a "mortal accident."<sup>48</sup> A thorough study of the contextual usage of *ason* in the Joseph episode indicates that it can mean some type of mishap that befalls one's offspring, causing an apparently permanent separation between parent and child.

But whom does *ason* refer to in Exodus 21:22-25? Based on the fact that the text states clearly that if the woman is struck so that her child comes out "and no *ason* occurs," most scholars of this persuasion conclude that the *ason* refers to both mother and child.<sup>49</sup> As further support for this conclusion some have pointed out that the Hebrew expression *lah*, "to her," which would restrict the harm to the woman as opposed to the child, is *not* present in the text. This *absence of lah* makes *ason*, in both verses 22 and 23, indefinite in its reference. Other interpreters, apparently taking into account the fact that *ason* follows directly upon "her children come out," conclude that "harm" originally referred to the offspring and not to the mother.<sup>50</sup> But whether *ason* refers only to the child or to both the mother and the child, there is no doubt that our passage grants to the fetus the status of a full human being under the law.<sup>51</sup>

It is clear that those who have studied the passage in this manner conclude that Exodus 21:22 does not concern an induced abortion or a miscarriage. Furthermore, this pericope makes absolutely no distinction between the mother and the fetus; both are treated equally according to the law.

### Analysis of the Textual Perspective

This investigation of the "premature birth" view indicates that one of its greatest strengths is the fact that 21 of the 27 commentaries, books, and articles researched base their findings on an exegesis of the original Hebrew text. These sources also translate and interpret the text essentially as it stands, without adding or attempting to change any words, as is done by several of those subscribing to the "miscarried fetus" position. Therefore, this interpretation appears to be most consistent with the overall Biblical concept of the sanctity of life, particularly in light of the high value placed on children.

This interpretation, however, is not without weaknesses and difficulties. Basically, two problems still need to be resolved. First, it has to be admitted that the plural of the word *yeled*, "child," has been interpreted in different ways. The reason for the use of the plural form has been given variously: as a generic plural, as an indefinite singular, and as a way of describing a prematurely, violently induced birth.

Second, there is no consensus among proponents of this view as to the precise definition of *ason*. Some say that it means merely harm or injury, and others that it can refer to serious injury as well as fatal accidents. The context seems to imply that it means a mishap that results in permanent separation between parent and offspring.

Even though different views are held as to the meaning of the above-mentioned terms, none of the interpretations suggested here causes any conflict or problem with the position that Exodus 21:22-25 treats the fetus as equal in value to its mother.

### Summary and Conclusions

#### Recapitulation of the Two Views

Essentially, the traditional position maintains that this passage in Exodus deals with a situation in which a pregnant woman is accidentally injured, resulting in a miscarriage. A fine is paid for the loss of the fetus, but if the mother suffers any serious harm or death, the law of retaliation is put into effect. This passage is thus seen to differentiate between fetus and mother, treating only the mother as a human being. Thus, because the fetus is not considered

fully human, abortion is a permissible practice and is not to be equated with murder.

The textual position, however, suggests that this passage initially discusses a live premature birth, for which a fine is to be paid; but should harm or death come to either mother or fetus, the *lex talionis* is to be invoked. The consensus of opinion is that because the fetus is treated on a par with its mother, this passage protects the sanctity of the life of even the unborn and gives no support whatever to the legitimacy of abortion.

Even though the "miscarried fetus" interpretation is supported by the majority of Bible versions and commentators, it should not be accepted for the following reasons: no significant linguistic study of the Hebrew text is done; a needlessly repetitive and insupportable emendation is attempted; words that are neither present nor implied in the Hebrew original are conjecturally introduced into the English text; and extra-Biblical sources are resorted to arbitrarily.

As previously admitted, the "premature birth" interpretation is not without its own minor difficulties; nevertheless, because most of those who support *this* view have exegeted the passage from the original Hebrew and have interpreted it in a manner consistent with the basic meaning of the key words involved, this position definitely is preferable.

### The Weight of Evidence

The question now naturally arises: What is the committed Christian expected to do when faced with various options or interpretations, none of which is perfectly clear or without difficulty? The answer according to one author is as follows:

God does not propose to remove all occasion for unbelief. He gives evidence, which must be carefully investigated with a humble mind and a teachable spirit, and all should decide from the weight of evidence.<sup>52</sup>

This comparative, critical study adequately demonstrates that the weight of evidence clearly favors the "premature birth" view, which sees the fetus as equal to its mother. Thus for the Christian, this Biblically-based position should be considered carefully in

theological, ethical, and medical discussions regarding the abortion issue that so occupies our world today.

At the very least, this study shows that Exodus 21:22-25 can no longer be appealed to legitimately in an attempt to find a decisive Biblical justification for abortion. On the contrary, this passage treats as of equal value the fetus, the mother, and the person who causes the early delivery. In conclusion, it is quite clear that the Mosaic Law considers the fetus to be fully human. In the words of Meredith G. Kline,

The life-for-life formula is applied to the destruction of a fetus, with no qualification as to how young the fetus might be. The fetus, at any stage of development, is in the eyes of this law a living being.<sup>53</sup>

### Endnotes

- 1 See Meredith G. Kline, "Lex Talionis and the Human Fetus," *Journal of the Evangelical Theological Society* 20/3 (Sept. 1977): 193.
- 2 Besides these two main views there is a variant viewpoint which states that the miscarried fetus, if not fully formed, is to be compensated for by a fine; but if it is fully formed it is to be treated on a par with its mother.
- 3 "Interruption of Pregnancy (Recommendations to SDA Medical Institutions): Statement of Principles," 1971, TMs [photocopy], p. 1, proposed by ad hoc committee of the General Conference of Seventh-day Adventists, Takoma Park, Washington, D.C.
- 4 Admittedly, the NIV does add a footnote to the word "prematurely," saying "or 'she has a miscarriage'"—a distinction in translation which is the topic of this discussion. The other four translations that appear to support this position include: *Complete Bible in Modern English*, by Ferrar Fenton (1906); *Literal Translation of the Holy Bible*, by Robert Young (1911); *Twenty-four Books of the Holy Scriptures*, by Isaac Leeser (1913); *King James II Version*, by Jay P. Green (1971).
- 5 Thomas Scott, *The Holy Bible Containing the Old and New Testaments* (London: C. Baldwin, 1844), p. 217.
- 6 Everett Fox, *Now These are the Names: A New English Rendition of the Book of Exodus* (New York: Schocken Books, 1986), pp. 120, 121.
- 7 David M. Feldman, *Birth Control in Jewish Law* (New York: New York University Press, 1968), p. 255.
- 8 Dom Bernard Orchard, ed., *A Catholic Commentary on Holy Scripture* (London: Thomas Nelson and Sons, 1951), p. 220; Reginald C. Fuller, ed., *A New Catholic Commentary on Holy Scripture* (London: Thomas Nelson and Sons), p. 218.
- 9 Orchard, ed., *A Catholic Commentary on Holy Scripture*, p. 220.
- 10 Paul D. Simmons, *Birth and Death: Bioethical Decision-Making*, Biblical Perspectives on Current Issues Series, ed. Howard Clark Kee (Philadelphia: Westminster Press, 1983), p. 84. In the past, Norman L. Geisler in his *Ethics: Alternatives and Issues* (Grand Rapids, Mich.: Zondervan, 1971), p. 219, offered a similar view: "The unborn baby was not considered fully human and, therefore, causing its death was not considered murder." Geisler, however, has now changed his understanding, saying in his *Christian Ethics: Options and Issues* (Grand

- Rapids, Mich.: Baker Book House, 1989), p. 145, that Exodus 21:22-25 "is a strong passage affirming that the unborn are of equal value to adult human beings." Analogously, Bruce K. Waltke has also changed his perception of the passage. Compare his "The Old Testament and Birth Control," *Christianity Today*, Nov. 8, 1968, p. 3 with his later "Reflections from the Old Testament on Abortion," *Journal of the Evangelical Theological Society*, 19/1 (Winter 1976), p. 3.
- 11 Jack W. Cottrell, "Abortion and the Mosaic Law," *Christianity Today*, March 16, 1973, p. 7.
  - 12 S. R. Driver, *The Cambridge Bible for Schools and Colleges: The Book of Exodus* (London: Cambridge University Press, 1929), p. 219.
  - 13 David Chidester, *Patterns of Action: Religion and Ethics in a Comparative Perspective* (Belmont, Calif.: Wadsworth Publishing Company, 1987), p. 121.
  - 14 *Encyclopedia Judaica*, 2:97.
  - 15 John W. Klotz, *A Christian View of Abortion* (St. Louis: Concordia Publishing House, 1973), p. 47.
  - 16 *Encyclopedia Judaica*, 2:97.
  - 17 Cottrell, "Abortion and the Mosaic Law," p. 7. Note: This "majority" factor is true not just of English versions as the following ancient translations show: Old Latin, Vulgate, Peshitta, The Targums of Onkelos and Jonathan, and the Palestinian Targum of Neophyti. The Babylonian Talmud and Midrash Rabbah concur on this view.
  - 18 Klotz, *A Christian View of Abortion*, p. 147.
  - 19 Driver, *The Cambridge Bible for Schools and Colleges: The Book of Exodus*, p. 219.
  - 20 *Ibid.*; A. H. McNeille, *The Book of Exodus*, ed. Walter Lock, *Westminster Commentaries* (London: Methuan & Co., 1931), p. 130; Charles M. Laymon, ed., *The Interpreter's One-Volume Commentary on the Bible* (Nashville: Abingdon Press, 1971), p. 56; Matthew Black, ed., *Peake's Commentary on the Bible* (New Jersey: Thomas Nelson and Sons, 1964), p. 230; George Arthur Buttrick, *The Interpreter's Bible*, vol. 1 (New York: Abingdon Press, 1952), pp. 999, 1000; Orchard, ed., *A Catholic Commentary on Holy Scripture*, p. 220.
  - 21 Buttrick, ed., *The Interpreter's Bible*, 1:1000; and see notably Francis Brown, S. R. Driver, and Charles A. Briggs, *A Hebrew and English Lexicon of the Old Testament*, based on Edward Robinson, trans., *The Lexicon of William Gesenius* (Oxford: Clarendon Press, 1906), p. 813.
  - 22 Orchard, ed., *A Catholic Commentary on Holy Scripture*, p. 220.
  - 23 See Walter C. Kaiser, Jr., *Toward Old Testament Ethics* (Grand Rapids, Mich.: Zondervan, 1983), p. 103; B. S. Jackson, "The Problem of Exod. XXI:22-5 (IUS TALIONIS)," *Vetus Testamentum*, 23 (1973): 278. Note: The following commentaries, however, state that the reading "judges" is preferable: John Marsh and Alan Richardson, eds., *Torch Bible Commentaries: Exodus* (London: SCM Press, 1967), p. 178; Ed van der Maas, *Bible Student's Commentary: Exodus* (Grand Rapids, Mich.: Zondervan, 1982), p. 213.
  - 24 Van der Maas, *Bible Student's Commentary: Exodus*, p. 213.
  - 25 James B. Pritchard, ed., *Ancient Near Eastern Texts Relating to the Old Testament*, 2d ed. (Princeton, N.J.: Princeton University Press, 1955), p. 184.
  - 26 Wayne A. Gruden, "Scripture's Self-attestation and the Problem of Formulating a Doctrine of Scripture," in D. A. Carson and John D. Woodbridge, eds., *Scripture and Truth* (Grand Rapids, Mich.: Zondervan, 1983), p. 20.
  - 27 Cottrell, "Abortion and the Mosaic Law," pp. 8, 9.
  - 28 *Ibid.*, p. 8.



- <sup>29</sup> John Calvin, *Commentaries on the Four Last Books of Moses*, trans. Charles W. Bingham, vol. 3 (Grand Rapids, Mich.: Wm. B. Eerdmans, 1950), p. 41, 42; Chr. Wordsworth, *The Holy Bible in the Authorized Version; with Notes and Introductions*, vol. 1 (London: Rivingtons, 1869), p. 278; C. F. Keil and F. Delitzsch, *Commentary on the Old Testament*, vol. 2, trans. James Martin (Grand Rapids, Mich.: Wm. B. Eerdmans, 1978), p. 135; Umberto Cassuto, *A Commentary on the Book of Exodus*, trans. Israel Abrahams (Jerusalem: The Magnes Press, 1967), pp. 275-77; John H. Dobson, *A Guide to Exodus* (London: S.P.C.K., 1977), p. 123; R. Laird Harris, Gleason L. Archer, and Bruce K. Waltke, eds., *Theological Wordbook of the Old Testament*, vol. 2 (Chicago: Moody Press, 1980), p. 552; John I. Durham, *Exodus, Word Biblical Commentary*, ed. David A. Hubbard and Glenn W. Barker (Waco, Texas: Word Books, 1987), pp. 308-324.
- <sup>30</sup> Dobson, *A Guide to Exodus*, p. 123, only implies this point.
- <sup>31</sup> Calvin, *Commentaries on the Four Last Books of Moses*, 3:41, 42.
- <sup>32</sup> Two of the other writers look at this passage more historically than ethically; see William Whiston, trans., *The Works of Josephus* (reprint; Lynn, Mass.: Hendrickson, 1980), p. 100 note; and Michael J. Gorman, *Abortion and the Early Church* (Downer's Grove, Ill.: InterVarsity Press, 1982), p. 35. The other writer gives a personal account; see Charles E. White, "Why I Joined the Fight Against Abortion," *His*, February 1984, p. 6.
- <sup>33</sup> Waltke, "Reflections from the Old Testament on Abortion," p. 13.
- <sup>34</sup> The *lex talionis* (law of retribution) is discussed by scholars of this viewpoint. While some understand this law to mean proper and full compensation, others believe the law must be applied literally. However, regardless of the interpretation, the law is clearly perceived as referring equally to both mother and fetus.
- <sup>35</sup> Brown et al., *A Hebrew and English Lexicon of the Old Testament*, p. 409. William L. Holladay, *A Concise Hebrew and Aramaic Lexicon of the Old Testament* (Grand Rapids: Wm. B. Eerdmans, 1971), p. 135, offers simply "boy, male child."
- <sup>36</sup> H. Wayne House, "Miscarriage or Premature Birth: Additional Thoughts on Exodus 21:22-25," *The Westminster Theological Journal*, 41/1 (1978), p. 112; Richard A. Fowler and H. Wayne House, *The Christian Confronts His Culture* (Chicago: Moody Press, 1983), p. 90; Harold O. J. Brown, *Death Before Birth* (Nashville, Tenn.: Thomas Nelson, 1977), p. 120.
- <sup>37</sup> John M. Frame, "Abortion from a Biblical Perspective," in Richard L. Ganz, ed., *The Christian Case Against Abortion: THOU SHALT NOT KILL* (New Rochelle, N.Y.: Arlington House Publishers, 1978), p. 54.
- <sup>38</sup> *Ibid.*; John Jefferson Davis, *Abortion and the Christian* (Phillipsburg, N.J.: Presbyterian and Reformed Publishing Co., 1984), p. 51. The KJV and RSV translate *nefel* as "untimely birth," the NIV as "stillborn child," and the NASB as "miscarriage," as do Brown et al., *A Hebrew and English Lexicon of the Old Testament*, p. 658, and Holladay, *A Concise Hebrew and Aramaic Lexicon*, p. 242.
- <sup>39</sup> Cassuto, *Commentary on the Book of Exodus*, p. 275. Kaiser, *Toward Old Testament Ethics*, pp. 103, 170, concurs by saying there is a "plural allowing for several children and either sex."
- <sup>40</sup> E. Kautzsch, ed., *Gesenius' Hebrew Grammar*, trans. A. E. Crowley (Oxford: Clarendon Press, 1910), p. 400.
- <sup>41</sup> House, "Miscarriage or Premature Birth," p. 114.
- <sup>42</sup> Brown et al., *A Hebrew and English Lexicon of the Old Testament*, p. 422; see also Holladay, *A Concise Hebrew and Aramaic Lexicon*, p. 139.
- <sup>43</sup> House, "Miscarriage or Premature Birth," p. 110.
- <sup>44</sup> Jackson, "The Problem," p. 292; Davis, *Evangelical Ethics*, p. 151.

- <sup>45</sup> Frame, "Abortion," p. 55; Holladay, *A Concise Hebrew and Aramaic Lexicon*, p. 369.
- <sup>46</sup> House, "Miscarriage or Premature Birth," p. 111; Fowler and House, *The Christian Confronts His Culture*, p. 91.
- <sup>47</sup> Julius Fuerst, *A Hebrew & Chaldean Lexicon to the Old Testament*, trans. Samuel Davidson (London: Williams & Norgate, 1867), p. 126.
- <sup>48</sup> Holladay, *A Concise Hebrew and Aramaic Lexicon*, p. 23.
- <sup>49</sup> Cottrell, "Abortion and the Mosaic Law," pp. 8, 9; House, "Miscarriage or Premature Birth," p. 118; Frame, "Abortion," p. 55; Kaiser, *Old Testament Ethics*, pp. 103, 172; Cassuto, *A Commentary on the Book of Exodus*, p. 275; Keil and Delitzsch, *Commentary on the Old Testament*, vol. 2, p. 135.
- <sup>50</sup> Jackson, "The Problem," pp. 292, 293.
- <sup>51</sup> Davis, *Abortion and the Christian*, p. 52.
- <sup>52</sup> Ellen G. White, *Testimonies for the Church*, 3:255.
- <sup>53</sup> Kline, "Lex Talionis and the Human Fetus," p. 200.