

Lecture #3- THE ABORTION PROBLEM
I. The Basic Issue

↓ So... This test: BASIC HPL FRAMEWORK.

c) Next week: the moral issue (as opposed to purely technical); Hal's p of gentiles = AB; & what attitude Jews should be to public policy.

3) Why all this attention to Ab? • Publt controversy; • ~300,000 involun Abc/yr USA

4) some p's in Hnl: is foetus "murder"? Is foetus a "person"? Is not murder, is Ab permitted on demand? In case of illness? Threat to mother's life? Deformed foetus? Rape? Illegit. ch? Any difference in how long since conception?

5) Bible: factors treated primarily as PROPERTY, not PERSON. ע"פ חז"ל: נפש אדם אינה רכוש, אלא היא נשמה.

6) Thimeral (Junk): 2218 ליל ע"ה - מלחמה, מלחמה, ע"ה נכח
so dear: foetus NOT person (ע"ה), no מלחמה for Ab.

זכורנו כי מ"ן: בולט לבית מקדש א"ב, מחתכין את ה"ז זמ"ר
(מזכיר את א"ב א"ב, מ"ן ש"ה קוצמין א"ר).
י"ז ח"ר - אין נ"ר ע"ב, ל"ן ז"ר נ"ב מ"ן נ"ב.

obvious from both parts multih: $22/8 \neq "e2)"$ (s: 011. 011)

and (ii) is for the fact: (N/A) (N/A).

(will come back to this key Mishnah later)

After 40 Amp = 11310. $\therefore$ # miscarriages (> 40 Amp) = 23.1111%

• 1st trip to for p. (see re 2032 later this term).

- Here: the factors > 40 may NOT power (e.g., $l(1)$) - DOES HAVE SOME STRENGTH

IV AFTER BIRTH - for 30 days, inf't not considered viable (חייב 30). [So: if 30 on 31st day]. Thus, if child ~~later~~ born before full term & someone kills it - if less than 30 days old - no מיתה. But - גזל'ת חיה חיה [crime, but not penal crime]. And the חייב 30, still - is called עב - hence עב יון עב יון חיה (in Mishnah).

V. BACK TO MUHNAH (אין ארץ): can kill fetus before 12 weeks, i.e. save mother.

a) why? main (אין ארץ): זהו אדם בן אדם, אבל לא אדם בן אדם, זהו אדם בן אדם, אבל לא אדם בן אדם.

b) But after birth (of 12 weeks) no Mishnah says: לא יאכלו בשרו.

c) Q: if really פלוני - why not same AFTER birth? - thus, spare mother or kill child bec. sh = פלוני?

d) A (in main): פלוני פלוני - or Talm: אדם בן אדם.

I.e., after birth, is "not of you" - & not "yourself"

e) But why? On what basis make distinction?

f) many opinions: Before birth ≠ לא, yet aware of it. ∴ - can't abort.

• But - if is פלוני, overcomes shock & may abort.

• After 12 weeks, fetus → person, לא, & killing it = murder.

Here פלוני not strong enough on his own. Since is not deliberate & conscious פלוני (i.e. אדם בן אדם).
Internally - let nature take its course (main: פלוני פלוני)

bec. לא יאכלו בשרו.

(• פלוני פלוני: this is only if her life line threatened. But if birth in jeopardy, we have to make choice, we prefer her, since sh = פלוני & פלוני פלוני פלוני.)

Time

VI - REASONS FOR PROHIBITION OF AB (אין ארץ ≠ לא, hence not אדם בן אדם)

a) אין אדם: No better than אדם בן אדם (with potential human)

b) אין אדם: fetus ≠ לא but is "potential person"; thus - אדם בן אדם

c) אין אדם: Ab = אין אדם

VII - R. UNTCHMAN (most definitive - אין אדם). Digest of his views on whether German monster, very early in pregnancy, Ab?

a) ה' אין אדם לא יאכלו בשרו. ואם לא יאכלו בשרו - לא יאכלו בשרו. ואם לא יאכלו בשרו - לא יאכלו בשרו.

- Ch. R. Untchman: so, while not person - is of sufficient status that one will try to save him, even < 40 days.

- ∴ while no אדם בן אדם is אדם בן אדם.

- Proof: when אדם בן אדם we permit Ab bec. (main): פלוני.

Thus, if not for פלוני reason, NO Ab even though mother in danger - bec. אדם בן אדם and לא יאכלו בשרו.

- Thurs - decides AGAINST AB in her German measles case!
 "Can't permit murder b/c of fears of adverse effects of illness. Further, even if know definitely child maligned physio or mentally - can't abort, any more than may kill cripple. Only sufficient factor adult = punishment."

- Why so clear to find that you permit abortion < 40 days (o Thurs - that we forb. AB even < 40 days)?
 Doesn't Thalman say (in his 11.11.71)?
- Ch. R. Vinterman: w. regard to (in p. 2811C etc - is (in bec. consider only 11.3.71 before vs. 0.10.71 not 2.12.71 p. 2811N. But w. reg. 11.3.71 - consider potential development, FUTURE. And since nat'l development → 11.3.71, consider fertilized egg as full human being (∴ 11.3.71 11.3.71/1)
- How prove: Karyotyping fetus? I.e. knowing parent mother, return her after birth but keep ch. as it. Thurs. 11.3.71 11.3.71. Flash - violates 11.3.71 (= Karyotyping). Why? Bec. Torch - egg in future...

- with all: not all agree w. R. Vinterman - but majority now.

VIII - SPECIAL CASES.

- ADULTERY-ILLEGALITY. 11.11.71 - case adultery, contr. wants to take medication to abort. Ans: No diff bet 11.3.71 11.3.71 re: AB. Only possibility 11.3.71 = marriage & not legalised adultery. (However - we permit AB if < 40 days - in all cases).
- BUT - 11.3.71 disagrees w. 11.3.71. AB certainly prohibited. But for 11.3.71 - permits known: mother (adulteress) is guilty, 11.3.71 11.3.71, only that taking no 11.3.71, also - no 11.3.71. But she 11.3.71 11.3.71. ∴, since 11.3.71 11.3.71, fetus to 11.3.71 11.3.71.
- Accordingly, would have to hold that no 11.3.71 to 11.3.71 11.3.71 R. Vinterman - 11.3.71 11.3.71 (11.3.71 11.3.71 11.3.71 11.3.71) 11.3.71: Acc. 11.3.71 - only adultery, not rape!

Dr. Vinterman: "in Germany" - < 40 days - 11.3.71 11.3.71; potential deformity (> 40) - 11.3.71 11.3.71; threat mother's life - 11.3.71 11.3.71; threat mother's health - 11.3.71 11.3.71...

IX - Summary of opinions.

- weniger 740 - all: no.
- A) "On Demand" (für unvenenue, etc.) < 40 days - grt maj - NO.
- B) German measles (or thalassaemia etc) - i.e. potential deformity:
1. R. Vintman, many others - NO; wen < 40 days.
 2. R. H. H. Weinberg (GPYU) - < 40 days - YES (proceeds)
 from: 7e; 25.11.11 4e; 0.3.11.11. R. Stahl & J. Stahl - YES if
 Doctors - prob. determined. others -
 no just prob. 1!
 3. ~~40 days - R. Stahl & Emmer.~~
- C) After 40 days - R. Stahl & Emmer permits if continued
 pregnancy causes 'in ill & 13 to mother (Hru - Ger. measles
 permit Ab if mother agitated).
- D) Illegit. ch - "if - same as least, only 31.11.11 is < 40 days.
 R. Stahl & Emmer - OK (apparently - all thru preg. but - not rap.).
 Others - both milking & rape; some: 40 days; 3 mo. 3 all
- E) All - pref. thru medication > surgery.