

# Exhibit E

**IN THE DISTRICT COURT**

**FOR THE NINTH JUDICIAL DISTRICT OF WYOMING**

RENE HINKLE, M.D.;	)	
GIOVANNINA ANTHONY M.D.;	)	
KATHLEEN DOW;	)	
DANIELLE JOHNSON;	)	
CHELSEA'S FUND;	)	
CIRCLE OF HOPE, d/b/a Wellspring	)	
Health Access;	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	Case No. 18853
STATE OF WYOMING;	)	
MARK GORDON, Governor of Wyoming;	)	
BRIDGET HILL, Attorney General for the State	)	
of Wyoming;	)	
MATTHEW CARR, Sheriff Teton County,	)	
Wyoming; and	)	
MICHELLE WEBER, Chief of Police, Town of	)	
Jackson, Wyoming,	)	
	)	
Defendants.	)	

---

**EXPERT REPORT OF RABBI DANYA RUTTENBERG**

---

**I, Rabbi Danya Ruttenberg declare as follows:**

1. I am a Rabbi and serve as Scholar in Residence at the National Council of Jewish Women (NCJW). I am the award-winning author of eight books on Judaism, culture and ethics. My newest book, *On Repentance and Repair: Making Amends in an Unapologetic World* is a National Jewish Book Award winner, and an American Library Association's Sophie Brody Honor Book. I am a founding Steering Committee member of the Safety, Respect and Equity organization, a member of the Rabbinical Assembly Gender and Power committee, a recipient

of Auburn Seminary's the Lives of Commitment Award, and have received many other awards and accolades for her work. My writing has appeared in *The New York Times*, *The Washington Post*, *The Atlantic*, *Salon*, *Time*, and many other publications. I have been featured on *NPR*, *The Atlantic*, *USA Today*, *CNN*, and elsewhere.

2. The state of Wyoming's fetal personhood ban is a violation of religious liberty, as it is inconsistent with Jewish doctrine on several critical levels and impedes Jews' religious freedom, as I will show. It both enshrines as policy one specific theological concept about when life begins—one that is incompatible with Jewish thinking—and prevents Jews from accessing abortion care, even when Jewish law would permit or even compel them to do so. For, Judaism not only permits abortion, but even requires it when the life or health of the pregnant person is at risk—and Jewish legal decisors have long established that this includes not only physical health, but mental and emotional health as well.

3. The plaintiff in this case is a Conservative Jew. As a Conservative rabbi, I can attest that her beliefs and approach to abortion are well within mainstream Jewish doctrine, theology, and approach to religious law.

4. In order to best explain how this is so, I will begin with a bit of conceptual background before delving into the specifics.

5. Conservative Judaism is based around *halakha*, Jewish law, which is a system of religious obligation.<sup>1</sup> Our religious commitments are not merely “nice to dos,” but binding obligations that flow from our covenant with God, formulated at Mount Sinai and described in the Book of Exodus. The nature of this covenant is, to be sure, understood by different communities of Jews in different ways, but is nonetheless universally accepted as a central part of our religious tradition and our self-conception as a people.

---

<sup>1</sup> See, for example, *Emet Ve-emunah Statement of Principles of Conservative Judaism* By Commission on the Philosophy of Conservative Judaism, 1988 (found online at <https://tinyurl.com/EmetEmunah>) and the Committee on Jewish Law and Standards (CJLS) website: <https://www.rabbinicalassembly.org/jewish-law/committee-jewish-law-and-standards>

6. For Jews, *mitzvot*, commandments, exist in two categories: positive and negative commandments. The “Thou Shalts” and the “Thou Shall Nots,” if you will—and they carry equal weight.<sup>2</sup> The positive commandment to keep Shabbat, for example, may be foundational to Jewish life and culture, but the negative commandment to not murder is, certainly, critical to humanity. Jews traditionally understand there to be 613 commandments in the Torah,<sup>3</sup> and the work of subsequent texts elaborating on them in subsequent generations—the work of interpreting and determining *halakha*—is the project of attempting to live the divine will in the world.

7. For example: The Torah instructs us to keep Shabbat, the Sabbath, the seventh day, and to sanctify it. How, one might ask? What does that mean? What does keeping it entail? As such, the Mishnah—an authoritative early Rabbinic text known as the Oral Torah that was codified around 150 CE—delineated 39 categories of prohibited work.<sup>4</sup> On Shabbat, this Mishnah teaches, among other things, it is forbidden to plow, to reap, to sow, to bake, to write, and so forth. This is clarifying! But then, other questions arise that reflect the vicissitudes of lived reality. If I drag a bench in the dirt and, as an accidental byproduct of moving this piece of furniture, a furrow is created, have I plowed? Have I violated the Sabbath, and am thus acting in a way that is discordant with my sacred covenant? The answer matters, so that I can make choices that are in alignment with my holy obligations to God. So later thinkers—in this case, the Rabbis of the Babylonian Talmud (ca. approx. 200-500 CE) began to work out some of these specifics to articulate the path forward.<sup>5</sup>

8. So with this understanding of what Jewish law is and how it is developed, let us turn our attention to abortion. The foundation of the Jewish approach to pregnancy termination is found in the Torah—the Five Books of Moses, our most holy text,<sup>6</sup> which teaches,

---

<sup>2</sup> See, eg. <https://www.jewishvirtuallibrary.org/mitzvot>

<sup>3</sup> Talmud Makkot 23b, Midrash Exodus Rabbah 33:7, Numbers Rabbah 13:15–16; 18:21 and Talmud Yevamot 47b and, most famously, *Sefer Hamitzvot* (“Book of Commandments”) by Maimonides.

<sup>4</sup> Mishnah Shabbat 7:2

<sup>5</sup> See eg Talmud Shabbat 22a, 29b for a discussion of the bench-dragging case.

<sup>6</sup> Exodus 21:22-25

*When men fight, and one of them pushes a pregnant woman and a miscarriage results, but no other damage ensues, the one responsible shall be fined according as the woman's husband may exact from him, the payment to be based on reckoning. But if other damage ensues, the penalty shall be life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise.*

9. In other words, if someone accidentally causes a miscarriage to take place, they are obligated to pay financial damages only; the case is not treated as manslaughter. The “other damage” that would result in a more serious penalty would be the death of the pregnant person herself (or some other serious punishment relating to the damage caused—“eye for eye, tooth for tooth...”) In other words, causing the termination of a pregnancy is not, in the Torah, considered manslaughter.<sup>7</sup> This, of course, has massive implications with regards to the concept of “personhood” of the fetus—the Torah, here, is clear that while the loss of the fetus is significant and requires remunerative justice, it is in no way comparable to what happens if the pregnant person herself is killed or otherwise harmed.

10. A mistranslation of this passage has caused some confusion. In the Greek translation of the Hebrew Bible (known as the Septuagint, completed in 132 BCE), the word *ason*, aka “damage” or “harm” in these Exodus verses, was mistakenly translated to *exeikonismenon*, “from the image,” making the verse appear to be about the stage of fetal development rather than whether or not the pregnant person dies. (“If a miscarriage results and it is not in the image/if, however, it is in the image...”)<sup>8</sup>

---

<sup>7</sup> This is unambiguous in the tradition. See Talmud Sanhedrin 87b, and Maimonides, Mishneh Torah, One Who Injures a Person or Property 4:1. The latter reads, “One who strikes a woman and causes her to miscarry, even though this wasn't his intent, he must pay the value of the fetus to the [woman's] husband, and damage and pain to the woman.”

<sup>8</sup> Jones, D.A., “The Human Embryo in the Christian Tradition: A Reconsideration.” *Journal of Medical Ethics*, Vol. 31, No. 12 (Dec., 2005), pp. 710-713. Ruttenberg, Danya and Zeh, Katey, “An ancient mistranslation is now helping to threaten abortion rights.” *The Washington Post*, October 12, 2021. The original Septuagint translation can be found here: <https://tinyurl.com/LXXAbortion>

11. That is, the question of whether one pays mere damages or incurs the death penalty could potentially appear to depend on whether the fetus is “formed,” or sufficiently developed in terms of gestational stages, to warrant a harsher punishment. Notably, the Septuagint translated the word *ason* in a different, more accurate, way (as *malakia*, affliction) in the Book of Genesis.<sup>9</sup> There are a few theories as to why this mistranslation occurred, but regardless, it did take place—and it appears to have influenced Augustine’s theories about ensoulment—that is to say, the idea that the soul entered the fetus at a certain point in development.<sup>10</sup>

12. It may also be germane to note that the King James Version (which is widely read in the United States) chose “mischief” as the translation for “harm” or “damage.” This was an appropriate translation in 17<sup>th</sup> century English, but a reader today might not fully understand this text based on that word choice.<sup>11</sup>

13. The Torah’s specification that the fetus does not have the same status of personhood as the pregnant person becomes critical in Judaism, and in our understanding of what may be possible in our sacred covenant with the divine. The Babylonian Talmud—the significant authoritative Rabbinic corpus upon which the last 1500 years of Judaism rests<sup>12</sup>—notes the following on the status of the fetus:

*If she is found pregnant, until the fortieth day it is mere fluid.*<sup>13</sup>

---

<sup>9</sup> Schiff, Daniel, *Abortion in Judaism*. (Cambridge, UK: Cambridge University Press, 2009). P. 13.

<sup>10</sup> Noonan, John. “Abortion and the Catholic Church: A Summary History.” (1967). *Natural Law Forum*. Paper 126. Da Silva Carvalho, Adriano. “The Bible and Abortion: Exodus 21:22-23 in the Septuagint and Other Opinions” *International Journal of Philosophy* Volume 11, Issue 1, March 2023, Pages: 6-10.

<sup>11</sup> The Bible, King James Version, Exodus 21:22-23. For the contextual definition, see John Kersey the Younger, *A New English Dictionary* (1702)

<sup>12</sup> “Babylon” was the Rabbinic name for the area of the Sasanian Empire in which these Talmudic rabbis resided, in what’s now Iraq. This was more or less the same region to which Jews had been sent during the Babylonian Exile after the fall of the First Temple; and now the Rabbis were once again exiled from the Land of Israel in the wake of the disastrous Bar Kochba revolt after the fall of the Second Temple. The parallels were both geographic and historic/theological for them.

<sup>13</sup> Talmud Yevamot 69b

14. The fetus has no technical status for the first forty days of pregnancy. It is like water—a thing of no legal significance. Was this principle established because of the prevalence of miscarriages? Was it a larger philosophical claim? It is unclear. Regardless, this text is a clear assertion that life does not begin at conception. (Notably, Islam makes a similar claim.)<sup>14</sup>

15. Modern decisors of Jewish law count the 40 days as beginning from conception.<sup>15</sup> Given that contemporary medical practice is to count pregnancy gestation from the last menstrual period—not conception—the end of those 40 days lands at about 7 or 8 weeks of gestation, by our current counting.

16. The Talmud elsewhere teaches:

*What is the reason for Rabbi Yehuda HaNasi's position [in a conversation that is irrelevant to this last point]? He holds that a fetus is considered as its mother's thigh [that is, as part of the pregnant person's body].<sup>16</sup>*

17. In the middle of a Talmudic debate about whether a fetus is considered separate from the pregnant person, we see a clear statement by Rabbi Yehuda HaNasi who, as redactor of the Mishnah, holds great authority. His statement, in fact, closes the debate and lends credence to the discussion at hand.

18. In Judaism, a fetus is not regarded as an independent being; it is part of the body of the person carrying it.

19. If a Jewish pregnancy was taking a dangerous turn, there would be no doubt about what to do. Our tradition not only encourages, but mandates the termination of pregnancy if the life of the pregnant person is in danger. The principle of *pikuach nefesh*—saving lives—is so strong

---

<sup>14</sup> Sahih al-Bukhari: 3036, explicating Qur'an 23: 12-14

<sup>15</sup> The origin for this can be found in Mishneh Torah, Heave Offerings 8:3

<sup>16</sup> Talmud Gittin 23b

that one is permitted to violate almost any commandment in order to save a life.<sup>17</sup> Since the fetus is regarded as merely potential life, the pregnant person's health and safety take precedent up until and even partway into the process of birth. This is clarified through a Mishnah (the authoritative early Rabbinic source mentioned above.) This source is somewhat graphic.

*If a woman is having trouble giving birth, they cut up the child in her womb and brings it forth limb by limb, because her life comes before the life of [the child]. But if the greater part has come out, one may not touch it, for one may not set aside one person's life for that of another.*<sup>18</sup>

20. In a situation in which the pregnant person's life is in danger from the pregnancy or labor, Jewish law is abundantly clear: The adult's life takes precedence. That dynamic only starts to shift when the birth is already more than half completed (defined in the Talmud [Sanhedrin 72b] as when the head has emerged)--only then does the life of the baby come into consideration. As Rabbi David Feldman put it,

*"Implicit in [this] Mishnah is the teaching that the rights of the fetus are secondary to the rights of the mother all the way up until the moment of birth."*<sup>19</sup>

21. Rashi, the important 11th century French commentator, says about this Mishnah above that *"the entire time that that it [the fetus] has not gone out into the air of the world, it is not [considered] a life,"*<sup>20</sup>, likely referencing Genesis 2:7:

---

<sup>17</sup> Leviticus 18:15, extended in Talmud Yoma 84b-85a. The three exceptions to this obligation are that one is not permitted to commit murder, sexual abuse, or idolatry in order to save a life. Killing in self-defense is permitted, however. As I discuss below, the Talmud and then Maimonides both define a fetus who endangers the pregnant person as a *rodef*, a murderous pursuer; Maimonides says explicitly that it is not only permitted, but a mitzvah, a commandment, to abort in such a case, and that this act should be regarded as self-defense. (Mishneh Torah, Murder and the Preservation of Life 1:9 based on Talmud Sanhedrin 72b).

<sup>18</sup> Mishnah Oholot 7:6

<sup>19</sup> Feldman, David M. "Abortion: The Jewish View," adopted as a majority legal opinion by the Conservative Committee on Jewish Law and Standards on August 23<sup>rd</sup>, 1983.

<sup>20</sup> Rashi on Sanhedrin 72b.



*“Then God formed the human of the dust of the ground and breathed into his nostrils the breath of life; and the human became a living soul.”*

22. That is, these texts regard full life—rather than potential life—as taking place with the first breath.<sup>21</sup>

23. Elsewhere in the Talmud (Sanhedrin 72b), the Rabbis assert that abortion to save the pregnant person’s life should be considered self-defense—that the fetus in this case is a *rodef*, a “pursuer” attempting to kill the pregnant person. Maimonides—the 12<sup>th</sup> c. philosopher and one of the most authoritative interpreters of Jewish law—concluded that, since we are commanded in the Torah not to protect the life of a *rodef*, that abortion in cases that threaten the life of the pregnant person is not merely a wise course of action, but, rather, a commandment—a *mitzvah*, a means of serving the Divine by protecting one’s own body and life.

*It is a negative commandment that one should not protect the life of a rodef (pursuer). For this reason, the sages ruled that in the case of a pregnant woman in a dangerous labor, it is permissible to dismember the fetus in her womb - whether with a drug or by hand because it is like a rodef pursuing her to kill her. However, once his head has emerged one may not touch him, as we do not set aside one nefesh [soul] for another, and this is the natural way of the world. (Maimonides, Mishneh Torah, Murderer and the Preservation of Life 1:9)*

24. Abortion is not merely permitted in the Jewish tradition, it is, when the pregnant person’s life and health and safety are at risk, a requirement. A sacred obligation. A mitzvah.

25. Abortion bans’ prioritizing of the “life of the fetus” (a concept antithetical to *halakha*’s general framing of a fetus as potential life) disproportionately impact Orthodox Jewish families, who have a comparably high rate of having children — an average of 3.3 children, higher than

---

<sup>21</sup> See also Mishnah Arakhin 1:4: “If a woman is about to be executed, they do not wait for her until she gives birth. But if she had already sat on the birthstool, they wait for her until she gives birth.”

the US average.<sup>22</sup> Having more children means more instances where reproductive health care could be medically necessary. In addition to requiring abortion if the life of the mother is at risk, for Orthodox women (and others seeking to be pregnant), abortion bans mean a lack of access to basic medical care for Dilation and Curettage (D&C) procedures needed if they can't naturally miscarry and for medical emergencies such as ectopic pregnancies. Jewish women - disproportionately Orthodox Jewish women - will die as a result of these bans.

26. It is also worth noting here that Maimonides specified that abortion is permitted "*with a drug or by hand*." There have been forms of medication abortion since ancient times, and Maimonides, a physician to Sultan Saladin living in 12<sup>th</sup> c. Egypt at the time of his writing this, would have been aware of the various methods used to terminate pregnancy at his time, including herbal or medicinal approaches. "By hand," refers, of course, to surgical abortion. But the point stands: Access to both medication abortion and surgical abortion is critical for Jews trying to live their religious commitments and values in the world.

27. The question of how to live Jewish law—the specifics of our holy covenant with God—in the world persisted in each generation, as it persists today. New questions arise. Specific cases emerge that don't seem to be answered cleanly by existing literature. A system of question and answer emerges, in which people seek advice from local rabbis; if the local rabbi is unclear or unsure, he may write to a more acclaimed, respected scholar for advice. The literature of *tshuvot*, or "answers" (responsa literature) emerged, and persists today (often with people writing their idea with no specific question in place.) Once again: Based on the information that we have, what is the best course of action for someone who wishes to live the mandates of the Torah in the world? How can we make choices that are holy, righteous and just? What are our boundaries and what open spaces exist? Sometimes we go to great scholars for their insights and skill at interpreting these sacred commitments.

28. Here are a few more recent texts that show some of the ways in which the texts above have been applied to more specific situations.

---

<sup>22</sup> Pew Research Center, "Jewish Americans in 2020," May 11, 2021. Section 10.

29. We have already seen that abortion is required when the life of the pregnant person is at stake. We also know that the fetus does not have the status of full personhood—it is not treated as such in the Torah; it is “mere water” for the first 7 or 8 weeks of gestation; and part of the pregnant person’s body subsequently. But what about a situation in which a woman is pregnant with a child whose status in the Jewish community would be extremely problematic, and for whom the revelation of her pregnancy might cause significant problems?

30. The answer, from a leading 18th. c. German legal authority:

*The questioner asks about an adulterous married woman [who is pregnant; it] is a good question. It appears to me to permit her [to abort]...And even in the case of a legitimate fetus there is reason to be lenient if there is a great need, as long as the fetus has not begun to emerge; even if the mother’s life is not in jeopardy, but only so as to save her from woe associated with it that would cause her great pain...<sup>23</sup>*

31. Whatever his focus, Rabbi Emden—a deeply respected 18<sup>th</sup> century German rabbi—says that Jewish law would, indeed, permit abortion for this adulterous woman, for whom so much is at stake. A fetus is a potential life, but if bringing this pregnancy to term would cause great suffering for child and/or parent, there is cause to terminate. Even if that suffering is social, and not medical.

32. And he could have ended his letter—his response—there. But instead, he continues, making it clear that even in the case of a fetus for whom there are not status issues or other questions, “*there is reason to be lenient if there is a great need, as long as the fetus has not begun to emerge.*” He does not define “great need,” he simply acknowledges that there are times when abortion may be appropriate, when someone may have a need—and, significantly, he does not limit the timeframe in which this abortion should take place. Or, rather, his boundary is at birth. He is supportive of the possibility that there may be “great need” even in later term abortions, as there so often are. Abortion is permitted, Rabbi Emden says clearly, to

---

<sup>23</sup> Rabbi Jacob/Yaakov Emden, Responsa She’elat Ya’vetz 1:43. 1739-1759, Germany.

save oneself from “woe.” To use today’s parlance, he seems to leave any further specifics up to the pregnant person and her doctor.

33. Around the same time—in 18th c. Algeria—an extremely respected rabbi, head of the rabbinic court of Algiers, was sent a letter about women who had been using some sort of herbal medicine to self-manage their own abortions. Is this permitted according to Jewish law? The questioner wanted to know. Are they transgressing their commitments to the Divine? Rabbi Yehudah ibn Ayyash considered the question, and replied:

*I was asked and searched my heart/intellect to examine and explore what I had heard about a small group of women who become pregnant and do not want to give birth again, and who do not want to remain pregnant anymore [once they had already conceived]. And some of these women...make a medication and drugs that are known to them to terminate a child, and it will become a nefel— a nonviable fetus...Behold— we have before us exactly what everyone acknowledges [is an acceptable situation in which abortion would be permitted]...and [the mother] is permitted to drink an abortive drug, so it seems, according to my understanding of the issue.<sup>24</sup>*

34. It should be noted that ibn Ayyash refers to scenarios in which what we would now both call "self-managed abortion" and "medication abortion," are taking place--and that nowhere in the full responsum does he say that husbands should be consulted, or that a rabbi should be called in to check specific cases, or anything of the sort. It appears that he trusts these women to make their own assessments about what is appropriate for them.

35. As we bring this thinking into the modern age, we see the logic of the 18<sup>th</sup> century extended, in many ways. Rabbi Eliezer Waldenberg, who sat on the High Rabbinic Court in Israel and was a major 20th c. Jewish medical ethicist, refers to one of the texts above when he writes,

---

<sup>24</sup> Rabbi Yehudah ibn Ayyash of Algiers, ‘She’eilot U’tshuvot’ Beit Yehudah, part “Even haEzer,” Siman 14, 1740. Translation by Rabbi Margaret Hughes-Robinson.

*We see clearly that this permission of Rabbi Yaakov Emden is even when it is not a matter of saving the mother's life, and it is only to save her from great pain because of the child, and that in general there is room to be lenient for great need. ...And suffering and emotional pain in great measure are greater and more painful than physical pain.*<sup>25</sup>

36. Rabbi Waldenberg doubles down on Rabbi Emden's assertion that abortion can and should be permitted to save the pregnant person from "great pain" and extends this thinking even further. He compassionately makes room for the impact of emotional pain and suffering in the conversation about abortion. Rabbi Emden's descriptor of "woe" was vague—perhaps even intentionally so. It enabled him to broaden the scope for abortion access. Both Rabbi Emden and Rabbi Waldenberg communicate to the person whose life and body are at stake that their own suffering matters, that preventing their own suffering matters. That caring for their own self was permitted within their sacred covenant with God.

37. In 1919, the major Hungarian legal scholar Rabbi Mordechai Winkler ruled that *"Mental-health risk has been definitely equated with physical-health risk,"* when we consider criteria for not only permitting, but requiring abortions in order to preserve the life of the pregnant person.<sup>26</sup>

38. Rabbi Ben Zion Chai Uziel, the first Sephardi Chief Rabbi of Israel, extended this thinking even further, writing between 1947-1964,

*"It is clear that abortion is not permitted without reason. That would be destructive and frustrative of the possibility of life. But for a reason, even if it is a slim reason, such as to prevent disgrace, then we have precedent and authority to permit it."*<sup>27</sup>

---

<sup>25</sup> Rabbi Eliezer Waldenberg, *Tzitz Eliezer* 13:102 (1978)

<sup>26</sup> *Levushei Mordechai, Hoshen Mishpat* 39. This position first appears in the work of Rabbi Israel Meir Mizrahi, the 17<sup>th</sup> c. Sephardi scholar writing from Jerusalem, cited in *Pri ha-Arez*, III, *Yoreh De'ah* (Jerusalem, 5665), no. 21. Cf. *Piskei Teshuvah*, ed. R. Abraham Pieterkovsky (Pietrkow, 5693), II, no. 261. Mizrahi follows Nahmanides, who ruled that insanity constitutes a danger to life, and accordingly permits an abortion when it is feared that the mother may otherwise become mentally ill. The Winkler/*Levushei Mordechai* position is subsequently cited by Rabbi Eliezer Waldenberg, (*Tzitz Eliezer*, 9:327). Rabbi Yitzchak Ya'akov Weisz, *Minhat Yizhak*, I, no. 115, and Rabbi Moses Feinstein, *Iggrot Mosheh, Even ha-Ezer*, I, no. 65, also declare that mental illness can constitute a danger to life.

<sup>27</sup> *Responsa Mishapte Uziel* 4:46

39. Again, there must be some reason for an abortion, but it can even be a "slim reason," such as to prevent disgrace—which is a social concern, akin to the adulterous woman's case. Both the social and emotional context of the pregnant person matter, and both are possible grounds for termination of a pregnancy. Even for a slim reason.

40. When we think about our relationship with the Holy and our sacred covenant with the divine, we understand that, though the fetus is to be understood as potential life, that there are many important reasons why a person might seek abortion care, and honor and respect this fact. Part of our obligation, as people created in the divine image—*b'tzelem Elohim*, as we put it<sup>28</sup>—is to care for ourselves, our bodies, our families, and our place in the world. Potential life matters, but the central concern, as we understand the divine perspective, is that of the need of the pregnant person.

41. Abortion bans are a violation of Jewish religious freedom. "Fetal personhood" bans enshrine in policy a theological viewpoint that is not universally shared across religious traditions. Jews do not believe life begins at conception, or that fetuses have any rights of "personhood" at any point up until birth. (Nor do most atheists, agnostics, Muslims, many Christians, and others, but I write as a rabbi and expert on Judaism.)

42. And Jewish law not only *permits* abortion, but also, valuing the primacy of the life and health (including mental health) of the pregnant person, *requires* abortion in many cases in which it is currently banned in the state of Wyoming, in order to preserve the mental and emotional health of the pregnant person. So abortion bans—and, specifically, this abortion ban—also impedes the free exercise of the Jewish religion.

43. It should be noted that all of the sources above are either indisputable Jewish sacred text or rabbis whose authority would be accepted without question in the Orthodox world today. But Jews from a range of halakic and theological perspectives all hold abortion access as a holy Jewish value.

---

<sup>28</sup> This is a reference to Genesis 1:27.

44. The Conservative Movement, a denomination rooted also in the covenantal obligation of *halakha*, but with a different philosophy underlying how we might understand divine will in our world today, issued the following in 2019:

*“Jewish tradition cherishes the sanctity of life, including the potential of life which a pregnant woman carries within her, but does not believe that personhood and human rights begin with conception, but rather with birth as indicated by Exodus 21:22-23.*

*The Committee on Jewish Law and Standards of the Rabbinical Assembly has affirmed the right of a woman to choose an abortion in cases where “continuation of a pregnancy might cause the mother severe physical or psychological harm, or where the fetus is judged by competent medical opinion as severely defective.”*

*Denying a woman and her family full access to the complete spectrum of reproductive healthcare, including contraception, abortion-inducing devices, and abortions, among others, on religious grounds, deprives women of their Constitutional right to religious freedom:*

*The Rabbinical Assembly supports full access for all women to the entire spectrum of reproductive healthcare and opposes all efforts by government, private entities, or individuals to limit such access or to require unnecessary procedures. We also oppose so-called “personhood” legislation on the federal and state levels that would confer legal rights under the law to a fetus or an embryo.*

*The R[abbinical] A[ssembly] has consistently supported these reproductive freedoms for nearly 50 years.”<sup>29</sup>*

45. And in 2021, passed the following:

*“The Rabbinical Assembly, more than forty years ago, became a founding member of the Religious Coalition of Reproductive Choice (RCRC). We have passed resolutions in 2005, 2007, and 2012, published a statement in 2019, and supported education and advocacy for reproductive freedom. For five decades the Rabbinical Assembly has affirmed the halakhic necessity of access to abortion in teshuvot – modern rabbinic responses.*

*We are deeply troubled by the continued erosion and decline of reproductive rights. Legislative efforts in the United States on both the federal and state levels continue to pose new threats to reproductive freedom. These threats include, but are not limited to, the personhood movement which defines life as beginning at conception, legislative efforts to require ultrasounds prior to abortion, fetal-homicide laws, and*

---

<sup>29</sup> Rabbinical Assembly, “Statement on Reproductive Freedom.” 2019.  
<https://www.rabbinicalassembly.org/story/statement-reproductive-freedom>

*intense restrictions aimed at closing women's health clinics. As a result, many clinics have been forced to shut down and some states only have one or two clinics.*

*Additionally, these efforts to restrict reproductive freedom acutely discriminate against communities of color, people with lower-income, as well as LGBTQ individuals and couples.... Therefore be it further resolved that the Rabbinical Assembly urge its members to support full access for all individuals to the entire spectrum of reproductive healthcare, and to oppose all efforts by federal, state, local or private entities or individuals to limit such access...."<sup>30</sup>*

46. The Reform Movement, the largest denomination of American Jewry—which too relates its obligations both to the notion that, in Judaism, abortion is permitted, and sometimes required in our covenantal relationship with the divine, as well as in core Jewish values. As the denomination frames it,

*The Reform Movement's advocacy around reproductive rights is grounded in careful reading of text and tradition. The rabbis teach that life is sacred, and held that the life and well-being of an existing life must be prioritized over the possibility of potential life. ...It is due to the fundamental belief in the sanctity of life and the Jewish value of kavod ha'briyot, respect for human dignity, that abortion is sometimes viewed as both a moral and necessary decision. This same sanctity underscores the vital need for medically accurate sexuality education and for high-quality family planning services.<sup>31</sup>*

47. The Reconstructionist movement—a denomination rooted in the idea of Judaism as an “evolving civilization”—too, has spoken out in favor of abortion justice. In the following resolution, for example, passed in 1981, the Reconstructionist Rabbinical Association pulls from our holy covenant, but leans more on the core Jewish values that undergird its thinking—for example, that all human beings are created in the divine image.

*Jewish tradition affirms the infinite value of human life and regards all human beings to be created in the Divine image. Our moral and legal traditions judge the decision to abort a fetus to be a most serious matter. Yet a survey of Halakhic (Jewish religious and legal) rulings over the centuries would yield several guiding principles: First, the definition of "human" life is associated with birth not conception. Second, the abortion of a human fetus, though a serious moral issue, is not judged to be murder. Third, that*

---

<sup>30</sup> Rabbinical Assembly, “Resolution on Right to Legal and Accessible Abortion in the United States,” 2021. <https://www.rabbinicalassembly.org/story/resolution-right-legal-and-accessible-abortion-united-states-0>

<sup>31</sup> Reform Action Committee of the Union for Reform Judaism, “Jewish Values and Position of the Reform Movement: Reproductive Rights.” <https://rac.org/jewish-values-and-position-reform-movement-reproductive-rights>



*abortion is warranted indeed required when the fetus threatens the life of the woman. Fourth, in addition to physical health concerns, a woman's mental anguish may under certain rulings be viewed as a sufficient ground for abortion. Moreover, Reconstructionist Judaism affirms the values of democracy, pluralism, and individual freedom in both Jewish and general life. Therefore, the Reconstructionist Rabbinical Association opposes any legislation to make a woman's decision to abort a fetus an issue of public morality.*<sup>32</sup>

48. For Jews of all denominations and backgrounds, abortion access is a deeply held value; part of the warp and weft of our covenantal identity. The secular world in which we live speaks so often of rights, but in Judaism, we talk about responsibilities – to one another, to the divine. And so we can speak of obligations both technical and ethical, both the literal and the prophetic, moral, visionary. For us, the person centered in conversations about abortion is the pregnant person, and their needs—physical, mental, emotional—are at the core of any consideration, and we live out our obligations when we make sure that every pregnant person is able to access care for those needs. Certainly every Jew.

49. Jews hold abortion access as a sacred value, both because of their own religious commitments, and understanding that the pregnant person's needs are primary and must be—must be—attended to, and the desire, rooted deep in the Jewish values of *kavod ha'briyot*/dignity<sup>33</sup> and the understanding that each person is created in the image of the divine, to make sure that everyone has that same access as well.

50. And this is what we mean when we say that abortion access is a Jewish mandate, a legal obligation, deeply engrained in our covenant with God, and a Jewish value. And abortion bans are a violation of Jews' freedom of religion.

---

<sup>32</sup> Reconstructionist Rabbinical Association Resolution, "Right to Reproductive Choice," 1981. <https://therra.org/resolutions/reproductive-choice.pdf>

<sup>33</sup> See the Talmud in Brachot 19b, Shabbat 81b, 94b, Eruvin 41b, Megillah 3b.

I declare under penalty of perjury under the laws of the State of Wyoming that the foregoing is true and correct. Executed at Evanston, IL.

Dated this 17th day of July, 2023.

A handwritten signature in black ink, consisting of stylized, overlapping loops and strokes, positioned above a horizontal line.

---

Rabbi Danya Ruttenberg