

Chapter Two. A Right to Life?

The Bible and Human Rights

One of the ways in which the Bible is most clearly at odds with modern sensibilities is in the way ethical issues are framed. For most people in the modern world, ethical issues are framed in terms of rights, usually human rights but increasingly including animal rights too. The paradigmatic expression of human rights in the modern world is the Universal Declaration of Human Rights adopted by the United Nations in 1948, which begins:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world . . .

and goes on to declare:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards each other in a spirit of brotherhood (article 1),

and that “everyone has the right to life, liberty and security of person” (article 3).¹

The UN declaration was a direct descendant of the Enlightenment, and of the American and French declarations at the end of the eighteenth century. The American Declaration of Independence began:

We hold these truths to be self-evident that all men are created equal and that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.²

The French Declaration of the Rights of Man and Citizen (1789) held “that ignorance, neglect or contempt of the rights of man are the sole causes of

public misfortunes,” and “resolved to set forth in a solemn declaration the natural inalienable and sacred rights of man.” The first of these was that “men are born and remain free and equal in rights.” These rights were specified as “liberty, property, security and resistance to oppression.”³ The idea of human rights had percolated in the 18th century. The expression “rights of man” gained currency after it appeared in Jean-Jacques Rousseau’s *Social Contract* in 1762, although Rousseau made no attempt to define the rights in question.⁴

Others, of course, had asserted rights at earlier times in history, but these were generally more restricted in nature, often concerned with property. As Lynn Hunt has insisted

Human rights require three interlocking qualities: rights must be natural (inherent in human beings); equal (the same for everyone); and universal (applicable everywhere).⁵

Or, as Nicholas Wolterstorff puts it, “a human right is a right such that the only status one needs in order to possess the right, the only credential required, is that of being a human being.”⁶ The English Bill of Rights of 1689 referred to rights and liberties deriving from English law, but made no claim of universality. No doubt there were significant antecedents for the idea of human rights, in Stoic philosophy, Roman Law and medieval canon law,⁷ but universal human rights, in the sense outlined by Hunt, were a product of the Enlightenment. One might well argue that the attempt to enforce human rights on an international scale, or even to apply them consistently, is a much more recent phenomenon, beginning with the UN charter and developing mainly in the last fifty years or so.⁸

It is sometimes argued that human rights are already implicit in the Hebrew Bible/Old Testament. Biblical laws impose restrictions on how

human beings can be treated, and so we might infer that they have a right not to be treated in these ways.⁹ In effect, rights are the flip-side of obligations. The first article of the UN Declaration of Human Rights, which proclaimed that all human beings “should act toward one another in a spirit of brotherhood,” reflected the biblical injunction to love our neighbor as ourselves. René Cassin, who received the Nobel Peace prize for his work in drafting the Declaration, wrote:

the concept of human rights comes from the Bible, from the Old Testament, from the Ten Commandments. Whether these principles were centered on the church, the mosque, or the *polis*, they were often phrased in terms of duties, which now presume rights. For instance, Thou shalt not murder is the right to life. Thou shalt not steal is the right to own property, and so on and so forth. We must not forget that Judaism gave the world the concept of human rights.¹⁰

But while the influence of the Hebrew Bible on the development of the idea of human rights should not be denied, the fact remains that the Bible frames the issues very differently. As James Barr has noted incisively:

Any attempt to validate the conception of human rights through appeal to the biblical laws has to seek to build a bridge over the difference between personal commands of God and human rights which are intrinsically invested in the human person. Or to put the same point in another way, the biblical commandment seems to be theonomous, while human rights are anthroponomous.¹¹

Barr goes on to mitigate the contrast. He argues that the Hebrew word *mishpat* (variously translated as judgment or ordinance) sometimes means “rights.” The *mishpat* of the priests is that they receive certain portions of

sacrifices, and it is the *mishpat* of the firstborn to inherit (Deut 21:17). But rights of this sort are of a different order from universal human rights, which all people have by virtue of being human.

We must accept the fact that the Bible does not have a discourse of human rights. Such a discourse may be good for human society. I am not suggesting that it is wrong because it is not biblical! But it is not in fact biblical, and it must find its grounding elsewhere.

The ethical discourse of the Bible is not grounded in the inherent worth of human beings. Genesis 1 famously declares that humanity is created in the image of God, which implies considerable worth, but this fact is seldom invoked in the rest of the Bible. (An exception is found in Gen 9:6, where creation in the image of God is cited as a reason for the prohibition of bloodshed. We will return to this passage below). For better or worse, the Bible is not primarily concerned with the rights of human beings, but with the justice of God.

A Right to Life?

The contrast between the modern way of thinking about ethical issues and the assumptions operative in the Bible is nowhere more evident than in the question whether human beings have a right to life.

Few verses of the Bible are so firmly instilled into popular consciousness as the commandment traditionally translated “thou shalt not kill.”¹² But this commandment is not nearly as sweeping as it has often been taken to be. The Hebrew verb here is *ratsach*, not one of the normal words for “kill,” (*qatal*, *harag*, *hemith*), and scholars now agree that it should be translated “murder” rather than “kill” in this context.¹³ “Murder” is killing that is not sanctioned by

society, but in fact the Bible leaves wide scope for human judgment in the taking of life.

Child Sacrifice

Any idea we might have had that the Bible affirms a right to life is dispelled by a shocking commandment supposedly given to Israel at Mount Sinai:

The firstborn of your sons you shall give to me. You shall do the same with your oxen and with your sheep; seven days it shall remain with its mother; on the eighth day you shall give it to me (Exod 22:29b-30).

There is little doubt as to how oxen and sheep were given to God. Whether sacrifice of the human firstborn was ever standard practice is more difficult to say. Many would argue that no society could systematically sacrifice the firstborn children, who carry the hope for the future.¹⁴ There is nothing else in the Hebrew Bible to suggest that it was generally enforced. Nonetheless, it remained “on the books,” perhaps as a devotional ideal,¹⁵ but certainly as a reminder of God’s prerogative in the matter of life.

The law is both clarified and modified in Exodus 34:19-20:

All that first opens the womb is mine, all your male livestock, the firstborn of cow and sheep. The firstborn of a donkey you shall redeem with a lamb, or if you will not redeem it, you shall break its neck. All the firstborn of your sons you shall redeem.

God is the giver of life. One way of acknowledging this was to return the firstborn, and the first fruits, to God.

Elsewhere in the Bible, we occasionally encounter human sacrifice in early Israel, but it seems to be exceptional. The most famous instance is the sacrifice of Isaac in Genesis 22. God commands Abraham: “Take your son, your only

son Isaac, whom you love, and go to the land of Moriah, and offer him there as a burnt offering on one of the mountains that I shall show you.” Abraham does not hesitate. In the end, Abraham is not required to follow through by actually killing the boy, but he is praised for his willingness:

Because you have done this and have not withheld your son, your only son, I will indeed bless you, and I will make your descendants as numerous as the stars of heaven and as the sand that is on the seashore (Gen 22:16-17).

It is not apparent from this story that God intended to abolish human sacrifice, and there is certainly no suggestion that Isaac had a right to life. Abraham has no difficulty in accepting the command to sacrifice his son as a valid divine command.¹⁶

Jephtah’s daughter is less fortunate than Isaac. Her father made a vow to the Lord:

If you will give the Ammonites into my hand, then whoever comes out of the doors of my house to meet me when I return victorious from the Ammonites, shall be the Lord’s, to be offered up by me as a burnt offering. (Judges 11:30-31).

There can be little doubt that human sacrifice was intended. Jephtah would surely not have sacrificed a dog if the animal had come out to meet him. His vow has often been judged rash by modern critics, but the biblical text passes no judgment on it. Indeed, the Epistle to the Hebrews in the New Testament lists him among the heroes of faith (Heb 11:32). He is heartbroken when his daughter comes out to meet him, but father and daughter agree that the vow must be honored.¹⁷ There are parallels for the efficacy of human sacrifice in other ancient cultures. The Spartan king Agamnonon allegedly sacrificed his

daughter to gain favorable winds to sail to Troy. 2 Kings 3:26 reports that the king of Moab sacrificed his firstborn son to turn the tide of battle against Israel, and succeeded. Kings of Judah, Ahaz and Manasseh, are accused of child sacrifice, and the prophet Micah imagines that an Israelite might think that he should offer his firstborn as atonement for sin (Micah 6:7).

To be sure, many voices in the Hebrew Bible, including that of Micah, were raised in protest against the practice of child sacrifice. Jeremiah claimed that the idea had never entered God's mind (Jer 19:4-6). Ezekiel says that God had given the Israelites "statutes that were not good, and ordinances by which they could not live. I defiled them through their very gifts, in their offering up all their firstborn, in order that I might horrify them" (Ezek 20:25-6). While the verse is enigmatic, it is surely evidence that some of Ezekiel's contemporaries thought it appropriate to sacrifice firstborn children, whether or not they based that idea on Exodus 22.¹⁸ The practice is not attested after the Babylonian Exile. Nonetheless, the evidence about child sacrifice in early Israel renders problematic any idea that the Bible guarantees a right to life. Life belongs to God, who can demand it at his pleasure.

Capital punishment

Moreover, the Hebrew Bible prescribes capital punishment with alarming frequency. One of strongest affirmations of the sanctity of life is found in Gen 9:5-6, after the Flood, when God tells Noah:

For your own lifeblood I will surely require a reckoning: from every animal I will require it and from human beings, each one for the blood of another. I will require a reckoning for human life. Whoever sheds the

blood of a human, by a human shall that person's blood be shed; for in his own image God made humankind.

This passage is exceptional in that it refers to creation in the image of God as a reason why one should not shed human blood, but the penalty for bloodshed is more bloodshed. There is a restriction on what human beings may do, but it is not because there is a right to life.

In the laws of the Pentateuch, murder is carefully delineated as an intentional act. If someone strikes another with an iron implement so that he dies, he is a murderer; the murderer should be put to death. Likewise, if he strikes with a stone or a wooden implement (Num 35:22-28; cf. Deut 19:11-13). Cities of refuge are provided for cases of accidental killing: "someone who has killed another person unintentionally when the two had not been at enmity with each other" (Deut 19:4). But a person who has lain in wait and murdered someone may be taken even from a city of refuge. The judgment as to whether the act was murder or not lies with the elders of the city. They are authorized to decide whether someone should live or die. This may be viewed as divine law, but in the end human leaders had to decide how it should be applied.

Many more offenses besides murder are subject to capital punishment. These include such offences as striking one's parents (Exod 21:15), cursing one's parents (Exod 21:17; Lev 20:9) or being a rebellious child (Deut 21:18-21). In case of adultery, both parties are supposed to be executed (Lev 20:10). The death-penalty is also prescribed for working on the Sabbath (Exod 31:14; 35:2; Num 15:32-36), consulting a medium (Lev 20:27), pagan worship (Exod 22:20), and a host of other offences. Remarkably, however, it is not prescribed for property offences.¹⁹

Jewish apologists in antiquity, such as Philo and Josephus, boasted of the prevalence of the death penalty as if it were a virtue. “Do we find,” asks Philo, “among the Jews anything which so savors of mildness and lenity, anything which permits of legal proceedings or extenuations or postponements of assessments of penalties and reductions of assessments? Nothing at all, everything is clear and simple . . . the penalty is the same, death.”²⁰ From a modern perspective, it seems decidedly primitive, something a civilized society should outgrow. In part, it may reflect the lack of a developed penitentiary system. Prisons were known, but not on a grand scale. Moreover, the fact that a law is found in the Bible does not necessarily mean that it was actually applied. So, for example, while the law provides for the death penalty in cases of adultery, Proverbs 6:31-5 warns that the adulterer “will get wounds and dishonor, and his disgrace will not be wiped away,” and that a jealous husband may refuse to accept compensation or a bribe. There is no mention of the death penalty here, and the passage implies that negotiation about compensation was envisioned. We should also note that there are notable counter-traditions in the Bible, where the death penalty is not applied, despite the law. Examples include the story of Judah and Tamar in Genesis 38, where the patriarch relents when he realizes that it was he himself who got Tamar pregnant, and the case of the woman taken in adultery in John 8:1-11. Nonetheless, it would be difficult to build a case against the death penalty on the basis of biblical precedent. One could, perhaps, point to the counter-traditions, or cite the maxim of Ezekiel that God has no pleasure in the death of anyone (Ezek 18:32). But nothing in the Hebrew Bible excludes the application of the death penalty, and many passages demand it.

Our discussion thus far has focused on the Hebrew Bible, especially on the laws of the Pentateuch. When we speak of the death penalty, we are speaking of communal law. The law codes of the Hebrew Bible were such laws, however they were meant to be applied. In contrast, the New Testament authors were in no position to legislate for a society. The teaching of Jesus certainly mitigates the severity of the law in some respects, but not all. Where the old law said that anyone who murdered was subject to judgment, Jesus (according to Matthew 5:21-22) says that anyone who is angry with his brother is liable to the fire of hell. This is not a punishment that humans can inflict, but it is hardly less severe. Where the law prescribed “an eye for an eye,” Jesus said to turn the other cheek. (Matt 5:38-39). But he did not say that this should be the law of the land, and neither did it become the law of the church.

There are many considerations besides biblical precedent that have to be taken into account in a modern consideration of the morality of the death penalty. Society now has more humane and sophisticated ways available to deal with criminals. But opposition to the death penalty receives scant support from the Bible. Perhaps the most important lesson to be drawn here, however, is that decisions as to how the law should be applied ultimately rest with the society. This is a case where the objections to “textual agency,” noted in the Introduction, are cogent. The Bible provides plenty of precedents for the death penalty, but it does not compel anyone to follow those precedents.

Abortion

The question of a right to life arises most frequently in connection with abortion.

Abortion was certainly known in the ancient Near East. The Ebers Papyrus, an Egyptian medical text from the 16th century BCE, contains a prescription “to cause a woman to stop pregnancy,” involving “unripe fruit of acacia, colocynth, dates, triturate with a six/seventh pint of honey,” and the placing of moist fiber on the vagina.²¹ A medical text from Mesopotamia prescribes a concoction involving beer, a lizard and some unidentifiable herbs to be taken with wine on an empty stomach, “to cause a pregnant woman to drop her fetus.”²² Abortion was specifically forbidden in Middle Assyrian Law, but remarkably this is the only ancient Near Eastern prohibition of abortion that has survived:

If a woman has had a miscarriage by her own act, when they have prosecuted her and convicted her they shall impale her on stakes without burying her. If she died in having the miscarriage, the shall impale her on stakes without burying her. If someone hid that woman when she had the miscarriage . . .²³

It is noteworthy that punishment is prescribed only for the woman.

Yet abortion is never discussed in biblical law. The nearest the Hebrew Bible comes to discussing abortion is in a passage in Jeremiah, where he wishes he had been aborted:

Cursed be the day on which I was born! . . . Cursed be the man who brought the news to my father, saying, ‘a child is born to you, a son,’ making him very glad. Let that man be like the cities that the Lord overthrew without pity; let him hear a cry in the morning and an alarm at noon, because he did not kill me in the womb; so my mother would have been my grave (Jer 20:14-18; compare Job 3:3-16, where Job wishes he had been stillborn).

This passage shows that at least the idea of abortion was known in ancient Judah, but gives us no information as to whether it was practiced.

There is one passage in the Hebrew Bible that may entail a practice leading to abortion. The trial of a woman suspected of adultery in Numbers 5:11-31 involves making her drink a mixture of water, dust and ink from the words of a curse, that will make her womb swell and her thigh sag if she is guilty. The Hebrew specifies that the offence in question is “a lying of seed,” which is to say, genital intercourse such as might result in pregnancy. It seems plausible, then, that the point of the ritual is to cause the woman to abort if she has become pregnant.²⁴ The text, however, does not mention this explicitly, and so it is difficult to attach any weight to such an obscure text.

The text that served as the basis for later discussion, Exod 21:22-25, considers the case of injury to a pregnant woman.²⁵ “When people who are fighting injure a pregnant woman so that there is a miscarriage, and yet no further harm follows, the one responsible shall be fined what the woman’s husband demands, paying as much as the judges determine.” This, however, is accidental miscarriage, and not the same thing as intentional abortion, initiated by the parents.²⁶

The relevance of this text to the discussion of abortion was greatly heightened by the Greek translation, the Septuagint, made in the third century BCE. In the Hebrew of Exod 21:22, a rare word (חַיִּי) is used for “harm.” The Greek translation departs radically from the Hebrew:

If two men fight and strike a pregnant woman and her child comes out not fully formed (μὴ ἐξεικονισμένον), he (the striker) will be forced to pay a penalty . . . But if it is fully formed, he shall give life for life.

A fully formed fetus is reckoned as a “life,” whereas one that is not fully formed is not.²⁷ Philo of Alexandria, following the LXX, expounds the rationale as follows:

If the offspring is already shaped and all the limbs have their proper qualities and places in the system, he (the striker) must die, for that which answers to this description is a human being, which he has destroyed in the laboratory of nature, who judges that the hour has not yet come for bringing it out into the light, like a statue lying in a studio, requiring nothing more than to be conveyed outside and released from confinement. (Philo, *Special Laws*, 3.109).

He goes on to note that:

The view that the child while still adhering to the womb below the belly is part of its future mother is current both among natural philosophers ... and also among physicians of the highest repute.²⁸

Apparently, he acknowledged that there could be a legitimate difference of opinion on that point, but not on the question of infanticide.

Attitudes towards abortion in Greece and Rome varied.²⁹ Plato recommended abortions for women who conceived after the age of forty (*Republic* 5.9). Aristotle (*Pol.* 1335b) allowed abortions before “sense and life have begun,” which he estimated as coming after forty days for a male and ninety for females. The Hippocratic oath forbade abortifacients, except to expel a fetus that was already dead, but there are also reports of Greek physicians who prescribed ways to abort in early pregnancy. An inscription from Philadelphia from about 100 BCE includes prohibitions against the taking of drugs to cause abortions. Abortions seem to have become more common in Rome in the early empire, but there were also protests. The poet

Ovid said that the woman who first aborted a fetus “deserved to die by her own weapons” (*Amores* 2.14.5-6). But while opinion was divided on abortion, the exposure of unwanted infants was widely tolerated, and sometimes even encouraged.³⁰ The Jews were exceptional in the Greco-Roman world in steadfastly condemning the exposure of infants.

Josephus categorically condemns both abortion and infanticide claiming that:

The Law orders all of the offspring to be brought up and forbids women either to abort or to do away with a fetus, but if she is convicted, she is viewed as an infanticide because she destroys a soul and diminishes the race. (*Against Apion* 2.202).

In fact, there is no such stipulation in the written Law, but it does contain a commandment to be fruitful and multiply (Gen 1:28).

In the Mishnah (compiled in the late second century CE) the fetus was only regarded as person after birth, or at least after the crown of the head appeared. M. Niddah 3:5 declares that a person is born when the greater part of its head has come forth, or, in the case of a breach birth, the greater part of its body. Before that, abortion was permitted, at least in some cases:

If a woman is suffering hard labor, the child must be cut up while in her womb and brought out member by member since the life of the mother takes precedence over that of the child (m. Ohol 7:6).

But if the greater part of the head has emerged, then one cannot give precedence to the one over the other. A person who kills a one day old baby is criminally liable and subject to the death penalty, but there is no such sanction for killing a fetus.³¹ The medieval exegete Rashi, understood the Mishnah to permit abortion because the fetus was not yet a *nefesh*, or person.³²

We do not, however, find this kind of discussion about the beginning of human life or personhood in any biblical source. Again, the closest approximation is in Jeremiah 1:5: “Before I formed you in the womb I knew you, and before you were born I consecrated you,” (cf. Isa 49:1), or Psalm 139:13-16: “It was you who formed my inward parts, who knit me together in my mother’s womb.” In the New Testament, Elizabeth tells Mary that “the child in my womb leaped for joy” (Luke 1:44), and Paul says that God set him apart “from my mother’s womb.” None of these passages, however, amounts to a discussion of the beginning of life or personhood. The fetus is formed in the womb whether it is already a person or not, and everyone knows that babies move in the womb.

Abortion in Early Christianity

There is no explicit discussion of abortion in the New Testament. It is sometimes suggested that sorcerers (φάρμακοι), who are consigned to the lake of fire in Rev 21:8 and 22:15 are abortionists, but this is far from clear. The first explicit condemnations of abortion in Christian tradition are found in *Didache* 2:2 and *Epistle of Barnabas* 19:5, in the early second century CE.³³ The *Didache* spells out the implications of the commandment to love our neighbor as ourselves by listing a string of prohibitions, beginning with murder and adultery and going on to abortion and infanticide. *The Epistle of Barnabas* also associates the prohibition with the commandment to love our neighbor as ourselves. The fetus apparently qualified as a “neighbor.”³⁴

Tertullian (late 2nd/early 3rd century CE) stated the position that would become standard:

For us murder is once for all forbidden; so even the child in the womb, while yet the mother's blood is being drawn on to form the human being, it is not lawful for us to destroy. To forbid birth is only quicker murder. It makes no difference whether one take away the life once born or destroy it as it comes to birth. He is a man who is to be a man; the fruit is always present in the seed.³⁵

The second century *Apocalypse of Peter* assigns special torment in Hell, in a gorge full of excrement, for women "who have caused their children to be born untimely, and who have corrupted the work of God who created them."³⁶

There is then a long history of Christian condemnation of abortion, but it is not explicit in the New Testament. Neither is there any acceptance of abortion in either testament. This may mean that abortion was not widely practiced. Mention is rare even in Mesopotamian and Egyptian texts. It was a dangerous procedure, not to be undertaken lightly. It does not appear that the biblical authors saw it as major problem, for whatever reason.

Abortion and the biblical view of life

In view of the lack of biblical guidance on the question of abortion, can we draw any inferences from the symbolic world of the Bible, or specifically from the New Testament. Children are generally regarded as a blessing, and childlessness is an affliction. "Sons are indeed a heritage from the Lord, the fruit of the womb is a reward" (Ps 127:3). The New Testament theologian Richard Hays argues:

As God's creatures, we are stewards who bear life in trust. To terminate a pregnancy is not only to commit an act of violence but also to assume

responsibility for destroying a work of God, “for whom are all things and for whom we exist” (1 Cor 8:6).³⁷

Hays writes as a Christian for Christians. His concern is with a properly Christian way of life, not with legislating for society as a whole. In this context, he insists that “it is not appropriate to set up the issue as a conflict of ‘rights’ In Scripture, there is no ‘right to life.’”³⁸ Neither is there any basis in the New Testament (or in the Old) for “the sacredness of life,” which he describes as a sacred cow. He also argues that the issue is not when life begins or whether the fetus is a person, although these questions are necessarily determinative for those who view abortion as murder. The Bible certainly provides no way of answering those questions. “Whether we accord ‘personhood’ to the unborn child or not,” he writes, “he or she is a manifestation of a new life that has come forth from God. There might be circumstances in which we would deem the termination of such life warranted, but the burden of proof lies heavily upon any decision to undertake such an extreme action.”³⁹ He readily admits, however, that the New Testament does not explicitly or categorically forbid abortion, and that there may be occasions when it might be justified.

This way of construing the biblical world view as hospitable to new life and resistant to abortion, not as a matter of law but as the higher ideal, has much to commend it. Whether it is a necessary way of construing the biblical worldview may be questioned. Must Christians, or Jews, accept everything in life as the will of God? Or is it only in the case of human life that we should not interfere? We have seen that the biblical authors were quite willing to authorize the taking of human life in many cases. Might one not say that to terminate a life, no less than a pregnancy, “is not only to commit an act of violence but also to assume responsibility for destroying a work of God.” Of

course, capital punishment, or killing in war, should not be sanctioned lightly either, but in the end the Bible does not decide the matter for us. The responsibility lies with us, and the Bible is one of many factors that should inform our decision.

To say that the Bible does not affirm either the fetus's right to life or the mother's right to choose, does not mean that such putative rights have no place in the modern discussion. Our concern here is not with the morality of abortion in general, but only with what the Bible says about it. And in fact, the Bible does not say anything directly about the subject. At the very least this should warn us that abortion is not a central concern in the Bible, and it certainly cannot be a litmus test for biblical values.

¹ Quoted from Lynn Hunt, *Inventing Human Rights. A History* (New York and London: Norton, 2007) 224.

² *Ibid.*, 216.

³ *Ibid.* 220-1.

⁴ *Ibid.*, 23-25.

⁵ *Ibid.*, 20

⁶ Nicholas Wolterstorff, *Justice. Rights and Wrongs* (Princeton: Princeton University Press, 2008) 65.

⁷ Wolterstorff, *Justice*, 53-64; Micheline R. Ishay, *The History of Human Rights. From Ancient Times to the Globalization Era* (Berkeley, CA: University of California, 2004) 15-62;

⁸ See especially Samuel Moyn, *The Last Utopia. Human Rights in History* (Cambridge, MA: Harvard/Belknap, 2010).

⁹ Wolterstorff, *Justice*, 90.

¹⁰ René Cassin, "Religions et droits de l'homme," in idem, *Amicorum discipulorumque liber: Methodologie des droits de l'homme*. 4 vols. (Paris: Pedone, 1972) 4.98, trans. Ishay, *The History of Human Rights*, 19. For an attempt by a biblical scholar to find a precedent for human rights in the Hebrew Bible, specifically in Deuteronomy, see Echart Otto, "Human Rights: The Influence of the Hebrew Bible," *Journal of Northwest Semitic Languages* 25(1999) 1-20.

¹¹ James Barr, "Ancient Biblical Laws and Modern Human Rights," in Douglas A. Knight and Peter J. Paris, ed., *Justice and the Holy. Essays in Honor of Walter Harrelson* (Atlanta: Scholars Press, 1989) 21-33 (here 24-5).

¹² Exod 20:13; Deut 5:17. In the Catholic, Anglican and Lutheran traditions, this is the fifth commandment. In the Hebrew Bible, and other Protestant traditions, it is the sixth.

¹³ Michael Coogan. *The Ten Commandments. A Short History of an Ancient Text* (New Haven: Yale, 2014) 80; Patrick D. Miller, *The Ten Commandments* (Louisville: Westminster John Knox, 2009) 223. The verb does not have a single specific meaning "to murder." The translation of the word has to be determined by context rather than purely by philology.

¹⁴ Roland de Vaux, O. P. *Studies in Old Testament Sacrifice* (Cardiff: University of Wales, 1964) 71.

¹⁵ So Jon D. Levenson, *The Death and Resurrection of the Beloved Son* (New Haven: Yale, 1993) 9.

¹⁶ See further my essay "Faith Without Works: Biblical Ethics and the Sacrifice of Isaac," in my book *Encounters with Biblical Theology* (Minneapolis: Fortress, 2005) 47-58.

¹⁷ See the classic essay of Phyllis Trible, "The Daughter of Jephthah. An Inhuman Sacrifice," in her book *Texts of Terror. Literary-Feminist Readings of Biblical Narratives* (Philadelphia: Fortress, 1984) 93-116.

¹⁸ See the discussion of this passage by Levenson, *The Death and Resurrection*, 5-8.

¹⁹ Richard Elliott Friedman and Shawna Dolansky, *The Bible Now* (New York: Oxford, 2011), 126-128.

²⁰ Philo *Hypothetica* 7.1-2. Compare Josephus, *Against Apion* 2.215-7: "the penalty for most offences against the Law is death."

²¹ John M. Riddle, *Eve's Herbs. A History of Contraception and Abortion in the West* (Cambridge: Harvard University Press, 1997) 35-6; Friedman and Dolansky, *The Bible Now*, 54.

²² R. D Biggs, "Conception, Contraception, and Abortion in Ancient Mesopotamia," in A. R. George and I. L. Finkel, eds., *Wisdom, Gods and Literature: Studies in Assyriology in Honour of W. G. Lambert* (Winona Lake, IN: Eisenbrauns, 2000) 1-14; Friedman and Dolansky, *The Bible Now*, 54.

²³ James B. Pritchard, *Ancient Near Eastern Texts Relating to the Old Testament* (3rd ed.; Princeton: Princeton University Press, 1969) 185; Victor H. Matthews and Don C. Benjamin, *Old Testament Parallels: Laws and Stories from the Ancient Near East* (Mahwah, N. J.: Paulist, 2007) 129; Friedman and Dolansky, *The Bible Now*, 54.

²⁴ Friedman and Dolansky, *The Bible Now*, 55-63.

²⁵ Daniel Schiff, *Abortion in Judaism* (Cambridge: Cambridge University Press, 2002) 1-12.

²⁶ Friedman and Dolansky, *The Bible Now*, 44-46. They cite similar laws from the Code of Hammurabbi, Middle Assyrian laws and Hittite laws.

²⁷ Schiff, *Abortion*, 13-14.

²⁸ Philo, *Spec.* 3.117. The view that the fetus was part of the mother is associated with the Stoics.

²⁹ Stephen D. Ricks, "Abortion in Antiquity," in David Noel Freedman, ed., *The Anchor Bible Dictionary* (New York: Doubleday, 1992) 1.31-35

³⁰ Ricks, "Abortion in Antiquity," 32.

³¹ Schiff, *Abortion*, 27.

³² *Ibid.*, 58.

³³ Richard B. Hays, *The Moral Vision of the New Testament. A Contemporary Introduction to New Testament Ethics* (New York: HarperOne, 1996) 453; Ricks, "Abortion in Antiquity," 33-4.

³⁴ Ricks, "Abortion in Antiquity," 33-4, says that the fetus was viewed as having the same rights that a neighbor would have, including the right to life, but the language of rights is anachronistic.

³⁵ Tertullian, *Apology* 9,8. Bert Jan Lietaert Peerbolte, "Ending a Life That Has Not Begun – Abortion in the Bible," in Frances Flannery and Rodney A. Werline, eds., *The Bible in Political Debate. What Does It Really Say?* (London: Bloomsbury, 2016) 50.

³⁶ Peerbolte, "Ending a Life," 56. J. K. Elliott, ed., *The Apocryphal New Testament* (Oxford: Clarendon, 1993) 605.

³⁷ Hays, *The Moral Vision*, 450.

³⁸ *Ibid.*, 454

³⁹ *Ibid.*, 450.