



**WHAT DOES JUDAISM  
SAY ABOUT...?**

**LIBRARY OF JEWISH KNOWLEDGE**

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# **WHAT DOES JUDAISM SAY ABOUT...?**

**by LOUIS JACOBS**

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## Introduction

Although the topics in this book are arranged for convenience in alphabetical order, it is neither an encyclopedia nor a dictionary of the Jewish religion. The aim of this book is limited to the consideration of themes widely discussed in the contemporary world in their relationship to Judaism. Consequently, the subjects are not examined primarily from the point of view of Jewish history. The purpose is rather to see what Judaism has to say now about these issues. With this aim in mind it has been difficult to avoid entirely a somewhat didactic, though it is hoped not a sermonic, form. Most of the topics discussed are also not those one would normally find in a Jewish encyclopedia.

The major obstacle to any endeavor of the kind attempted here is the difficulty in pinning down the entity called "Judaism." It is acknowledged that the title: *What does Judaism say about . . . ?* begs the question in that it assumes that the answer is there to be found. The truth is, of course, that Judaism is not monolithic, with entirely consistent views on all topics. One can only think in terms of a consensus of opinion among the great teachers of Judaism and frequently even that cannot be discovered. Whether any writer on religion can be entirely objective is a moot point. In a book of this nature he would be wise not even to try. Subjectivity is here a virtue in that it calls attention to the complexity of the ideas found in Judaism so that one man's conclusions, influenced by his personal predilections, are bound to be different from the conclusions drawn by others. Without this kind of reservation, the exponent of Jewish attitudes toward complicated moral and religious problems soon finds himself speaking of *the* Jewish view when what he is really putting forward is *a* Jewish view—his own.

There are many positions about which it can be stated with considerable ease and clarity that Judaism is either for or against them. Judaism is for justice and compassion and it is opposed to idolatry, oppression, and hatred. On such themes as ambition, happiness, infallibility, optimism,

and stoicism the answers are bound to be far more elusive. The method adopted here is first to discover whether a given topic has been discussed directly in the classical sources of Judaism or, if not, whether an attitude can be inferred from statements in these sources. The sources may display a variety of opinions on the matter and it is then necessary to try to discover which is the more authoritative. With regard to some problems there are fresh insights arrived at only in more recent times, which render precarious a direct application of the ancient teachings to the new situation. The only approach is to note tendencies and suggestions, avoiding dogmatism as far as possible, and to resist the temptation to write a collection of Responsa.

Some topics have been treated in greater length than others, either because of their importance or because there is more material on them in the Jewish sources. For most of the topics comprehensive bibliographies are not available, but the attention of the reader is called to books and articles, especially in English, in which relevant discussions are to be found.

Most of the topics examined are controversial. Their consideration may stimulate further controversy. If it does, so much the better. Easy answers to questions on which men of goodwill are divided are generally bogus solutions. There is much warrant in the Jewish tradition for the view, in the words of Maharal of Prague, that the search for the Torah is itself Torah.

## Abortion

The main Rabbinic statement regarding abortion occurs in the Mishnah (*Oholot* 7:6). The date of the passage is uncertain but is not later than the end of the second century C.E. The passage reads:

*If a woman is in hard travail (she finds it extremely hard to give birth to her child and there is consequently danger to her life) her child must be cut up while it is in her womb and brought out limb by limb, since the life of the mother has priority over the life of the child. But if the greater part of it has already emerged (from the womb) it may not be touched, since the claim of one life cannot override the claim of another life.*

The meaning of this is clear. It is not permitted to murder one person in order to save the life of another. Consequently, once the greater part of the child has emerged from the womb it is considered as if the child had been born and the child is then a person in Jewish law. The life of the mother must not be saved by destroying that of her child. But while the child is still in the womb it is not a person in law. To destroy a fetus is not to commit an act of murder, so that when the fetus is destroyed in order to save the mother's life it is not comparable to the case of murdering one *person* in order to save the life of another.

The Babylonian Talmud (*Sanhedrin* 72b) takes up the matter further. Although it is not permitted to murder one person in order to save the life of another in normal circumstances, it is permitted to kill a potential murderer if this is the only way in which the life of his intended victim can be saved. The technical term for a potential murderer is *rodef*, "a pursuer," i.e., one who pursues another in order to kill him. Why, then, asks the Talmud, does the Mishnah make a distinction between the fetus and the child the greater part of which has emerged? True, in the

latter case the child is a *person* (the term for this is *nefesh*, "a life") but is he not a *rodef*? That is to say, it is the child which threatens the life of the mother and the law is that a *rodef* must be killed in order to save the life of his intended victim, and this applies even if the *rodef* is a minor and so not responsible for his actions. The answer given in the Talmud is that the mother is not "pursued" by the child but by "Heaven," i.e., it is the result of natural causes and hence the child's life cannot be made forfeit on the grounds that he is a *rodef*.

The famous French commentator Rashi summarizes the Talmudic argument as follows: The question of *rodef* can be disregarded since it is all due to natural causes. Therefore the principle applies that it is forbidden to murder one person in order to save the life of another so that once the child has acquired the status of a person (*nefesh*), i.e., when the greater part has emerged, it is forbidden to destroy him even to save the mother's life. But a fetus is not a person (*nefesh*) and its destruction is not an act of murder. Consequently, the fetus must be destroyed if this is the only way in which the mother's life can be saved. Other commentators interpret the Talmudic passage differently from Rashi but Rashi's interpretation seems the most plausible and is generally followed.

Nowadays, the problem of whether or not an abortion is permitted in Jewish law depends, then, on the question of whether the destruction of a fetus is considered to be homicide. If it were, no abortion would ever be permitted. But since the fetus is not a person in law its destruction is not an act of homicide. All the codifiers agree, therefore, as the Mishnah rules, that where the life of the mother is at stake an abortion is not only permitted in Jewish law but must be performed.

However, cases of abortion in order to save the life of the mother (as in the Mishnah) are, nowadays, extremely rare, if they occur at all. When abortion is discussed it is in the context of terminating an unwanted pregnancy. Although feticide is not homicide, the whole tenor of the Talmudic discussions on the subject suggests that it is, nonetheless, a serious offense and it follows, therefore, that it is only to be undertaken for the weightiest reasons. The codifiers are divided on what would be considered weighty reasons for terminating a pregnancy. Many of them permit abortion when the birth of the child would cause the mother to lose her sanity. Many of them would permit it if the doctors are of the opinion that the child would be born seriously deformed or as an imbecile. (The case of the thalidomide babies is one instance of this.) Others would permit it in cases where the pregnancy is the result of rape,

especially the rape of a married woman. None would permit abortion for economic reasons or where the child is simply unwanted.

An excellent summary of all these views is given in English by David M. Feldman: *Birth Control in Jewish Law*, New York, 1968, part 5, pp. 251–294.