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The Soul and Abortion in Ancient Greek Culture and Jewish Law

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Abstract

In Classical Greece and following centuries, the uncertainty of when a soul entered the body of a fetus, termed ensoulment, was closely connected to abortion. The Greeks created no laws concerning abortion, so the personal opinion of philosophers and physicians outlined the social acceptability of abortion based on ensoulment. This discussion of social acceptability references Pythagorean, Aristotelian, and Platonic beliefs as well as medical texts to establish the disjointed nature of the Greek perspective. In a culture contemporary with the Greeks, Judaism, abortion was agreed upon as wrong and punishable by law. Ensoulment dictated the severity of Jewish law and gave the fetus rights that the Greeks did not. Using ensoulment as a link for comparing the unified Jewish legal perspective of abortion with the varying Greek cultural opinions, the Greek inability to define the personhood of a fetus can be established. Founded on the comparison of contemporary Greek and Jewish cultures, this paper will argue that the Greeks perceived the fetus as a living thing, but not as a human being.

1. Introduction

Ensoulment is a modern term used to describe the moment a soul enters a body. As early as the Classical period in Greek history, the uncertainty of when the fetus had a soul was a concept closely tied to abortion. I will argue that ensoulment defined when abortion was acceptable in the ancient world. Since the Greeks had no laws on abortion, the personal opinion of philosophers and physicians defined the general acceptability of abortion based on ensoulment. In antiquity, abortion was not only debated among the Greeks. In Judaism, there was one overarching law, namely that the destruction of a human was not only unacceptable but also punishable.¹ Whether or not the fetus had a soul dictated the severity of the punishment for abortion in the Jewish culture. As both cultures relied upon ensoulment as a moderator for the discussion of abortion, the question that can be asked is why law encompassed the fetus in Judaism, a religion that neighbored the Greeks, but was never established among the Greeks. By contrasting the soul's presence as a condition for abortion among Greeks and Jews, it can be understood that the Greeks perceived the fetus as a living thing, but not as a human being.

Though ensoulment defined the acceptability of abortion for the Greeks, it defined legal ramifications of abortion for the Jews because murder was punishable by law. This paper will expand on the differing views of the human status of a fetus in these two cultures. Despite the differences between the philosophy of the Greeks and laws of the Jews, the connection and importance of when a soul entered a fetus as the distinguishing feature between the two cultures remains. The discussion spans from the 5th century BCE to the 1st century CE and encompasses works from philosophers, physicians, and biblical texts.

To begin, a connection between medicine and philosophy must be made. I will show that ensoulment was the common standard by which abortion was perceived in Greek culture and was commonly discussed in the works of Pythagoras, Plato, Aristotle, Hippocrates, and Soranus. Evidence of the soul within the fetus as a legal variable in Jewish culture on the other hand will be taken from Jewish scripture. The use of ensoulment as a moral judgment

among the Greeks stands in direct contrast to the legal ramifications of Jewish law. A distinct division in the perceived human status of the fetus among these two cultures appears from this contrast. In Judaism, destruction of a human was not only unacceptable but also punishable. The Greeks did not punish the act of abortion but rather discussed its acceptability. I will argue that these differences in the cultural perception of abortion indicate that the Greeks, unlike the Jews, did not perceive the fetus as a human being.

2. Language and Methodology

The Greek word for soul, ψυχή, is also translated as “breath” or “life,” and the verb form, ψύχω, means “to breathe or blow.” These words therefore establish that the soul among the Greeks was a foundation for life since breathing was also necessary for life.² Physicians and philosophers in the Classical and Hellenistic periods held different notions of when and in what way the soul entered the fetus. There are three categories into which these beliefs fell. Some thought that the embryo obtained a soul at conception, some believed the fetus was alive once fully formed in the uterus, and others did not believe that life began until the moment the child was born and took its first ψυχή of air.³ This paper will address each of these categories to examine when abortion was deemed acceptable among the Greeks.

The belief regarding the precise moment a soul entered a fetus was debated among philosophical and medical authors in the Classical world. The debate between medicine and philosophy shows how the two fields came together, not unlike the connection between the body and soul, and highlights the relationship between the physical act of abortion and the conceptual notion of ensoulment. In his paper on the relation of medicine and philosophy, Ludwig Edelstein makes the argument that “in antiquity philosophy influenced medicine rather than being influenced by it.”⁴ He emphasizes the dependence of physicians on philosophers and claims that the most important contributions of medicine were the physical analogies that philosophers repurposed to explain abstract concepts. For example, he references Aristotle’s *Nicomachean Ethics*, which states that “both excessive training and too little training will destroy our strength” and “so too it is, then, with moderation, courage, and other excellences.”⁵ Edelstein accurately points out the relationship between medicine and philosophy but overstates the inequality of their connection. Since medicine was easier to comprehend, philosophers were able to use the same language to teach their readers about the health of their soul. Roy Porter’s analysis points out that “because the mind was influenced by the body, the doctor had a part to play in teaching virtue.”⁶ He describes the relationship of doctors and philosophers as mutually beneficial and claims that medicine was an equal contributor. Porter continues that “Greek thinking thus emphasized the common ground between what would *later* become the separate disciplines of philosophy, medicine and ethics.”⁷ The relationship between the two fields was not merely an uneven trade, but a cohesive, one—faceted analysis of human life. Since life was equally described to ancient people through the work of philosophers and medicine, the same approach should be used for discussing abortion.

The language used to discuss abortion and ensoulment is very important in understanding the varying ways in which the Greeks and Jews reacted to the act of abortion. Abortion occurred in two methods: elective and therapeutic. Elective abortions were procured for financial reasons, vanity, or as proof of infidelity.⁸ Therapeutic abortions were procured out of necessity for the protection of the mother’s life. For example, in Hippocrates’ work *On the Nature of the Child*, he described how he gave instructions to a prostitute to electively terminate her pregnancy. As a prostitute, her beauty directly affected her income. Kapparis also discusses the dangers of infidelity and how abortions would be procured as a way to remove the physical evidence of a sometimes punishable act.⁹ Soranus, an ancient physician, also noted that therapeutic abortions were practiced “to prevent subsequent danger in parturition if the uterus is small and not capable of accommodating the complete development.”¹⁰ In their philosophical and medical texts, the Greeks focus on both types of abortion, whereas the Jewish texts primarily focus on therapeutic abortions.¹¹

From the Classical period on, Jews categorized elective abortion with murder because it was an intentional act, and so there was little room for discussion. Nevertheless, because therapeutic abortions affected the life of the mother as well as of the fetus, the acceptability of therapeutic abortions became a much greater focus of Jewish law. Even so, the definition of the therapeutic abortion changes over time to merely mean miscarriage instead of an intentional act to save the mother. Because of the differing treatments of and reaction to abortion, it is clear that these differences highlight the division in cultural beliefs. Jewish law was willing to punish those who accidentally aborted a child, whereas the Greeks did not even do so for those who aborted a child willingly. This difference in ideology makes the cultural comparison difficult but the difference is also extremely important in showing the varying belief in the human status of the fetus. The Jews perceived that the fetus deserved to live as much as any adult and punished its destruction. On the other hand, the Greeks were willing to accept the destruction of the fetus

to protect a woman's beauty. This perspective among the Greeks demonstrates their view that the fetus was not human.

To fully understand the status of the fetus, we must first discuss the Greek language used to describe it. The terminology changed as the fetus developed in the womb. Language used to define development was used in medicine to connect abortion and ensoulment in philosophy. Different authors use seed, embryo, fetus, or child to represent varying stages of the pregnancy when specific changes occurred in the fetus. Hippocrates in *On the Nature of the Child* defines the earliest stage of conception as the γονή, the 'seed.'¹² After the breath and nutrition of the mother have begun to enter the seed and form the flesh, it becomes the diminutive παιδίον or 'small child,' which is equivalent to the ἔμβρυον, an 'embryo' or 'young child.'¹³ Through the distinction between a γονή and a παιδίον, Hippocrates indicated that the embryo, though not officially a παῖς, was closer to a child than merely a seed. Soranus fully explained his interpretation of the language used in the early stages of pregnancy when he wrote:

...during the first period, when the offspring is still unshapen, the conception of the seed begins, but after the first period, when that which comes from the womb has been formed and is no longer seed, conception does not stop, though it is not a seed, but an embryo; for the seed has already been changed and there is a form, according to its progress, and there is a soul too, and it is no longer a seed.¹⁴

These stages of growth connect and reveal the connection of physical growth and the presence of the soul as outlined by both Hippocrates and, later, Soranus. As the two fields overlap, the sequential stages of the growth of the fetus directly reflect the varying beliefs about the moment the soul was present in the fetus. Each biological phase of the fetus from seed to small child to the moment of birth is incorporated in different philosophical beliefs concerning the fetus and its life.

This close connection of philosophical and medical discussions is crucial to the understanding of ensoulment and therefore the acceptability of abortion. While abortion could be considered the destruction of a seed, embryo, fetus, or child, the one common element is when the soul entered the body, and the acceptability of its destruction. After establishing that the beliefs of a soul's arrival in the fetus directly affected the perspective of abortion among physicians and philosophers, I will analyze the fetal rights based on ensoulment in both cultures. This comparison will show that the fetus held rights as a human being in the Jewish culture but did not qualify for human rights among the Greeks.

3. Ensoulment and the Greek Judgment of Abortion

For the Greeks, the question was not whether abortions were legally punishable or sinful, but rather when they were considered acceptable. Though there were a variety of reasons for abortion, both medical and non-medical, abortions were judged by the earliest moment the soul was present in the fetus. I will begin by discussing different philosophers and their beliefs on when the soul entered the body and when abortion was considered acceptable.

Though none of Pythagoras' works survive, his beliefs are at least partially preserved by the later biographer Diogenes Laertius who discussed the Pythagorean view of ensoulment and described the process itself in detail. Laertius explained the Pythagorean belief:

Living creatures are reproduced from one another by germination; there is no such thing as spontaneous generation from earth. The germ is a clot of brain containing hot vapour within it; and this, when brought to the womb, throws out, from the brain, ichor, fluid and blood, whence are formed flesh, sinews, bones, hairs, and the whole of the body, while soul and sense come from the vapour within.¹⁵

Because the soul and body met at the moment of conception it established that "the Pythagoreans could not but reject abortion unconditionally."¹⁶ This idea was shaped by the belief that the soul migrated between bodies in an attempt to return to a divine state. There is ambiguity in the belief of transmigration and the description of ensoulment described by Laertius. He used the verb συνίστημι, which can be translated in a variety of ways, but, in this instance, "to come or be put together." Pythagoras believed that the soul was considered immortal,¹⁷ that it was present at conception, and that it migrated into bodies; nevertheless, Laertius did not indicate how Pythagoras

believed that the soul could both arise at conception and move independent from a body. One explanation is that the soul was reconstructed and organized¹⁸ at conception each time it migrated.

Diogenes Laertius further described that Pythagoras even “forbade the killing, let alone the eating, of animals which share the privilege of having a soul.”¹⁹ As such, Pythagoras held all living things with a soul to be equal, a concept which relies heavily on the Pythagorean belief in reincarnation. Though it is not explicitly defined, the ability of a soul to migrate through humans and animals by being reborn at conception equally implies that Pythagoras’ predominant motive against abortion was not to protect a human’s mortality but to preserve the journey of an immortal soul. Despite other reasons for Pythagoras’ prohibition against abortion, such as an attempt to hide the product of sexual deviancy which also forbidden,²⁰ his emphasis on the immortality of the soul makes the protection of the soul the most important reason for condemning abortion. Transmigration of the soul was essential for life to exist, and therefore any attempt to interfere with the moment the soul entered the body was to interfere with a divine process. While all reasons for prohibiting abortion should be weighed, the damage to the soul would have been a greater motivation for condemning abortion regardless of age, health, or status.

Whereas Pythagoras made it clear that abortion was unacceptable in all situations, Aristotle argued that it was acceptable for the good of the state. When a state becomes overpopulated, he says, πρὶν αἰσθησθῆναι ἐγγενέσθαι καὶ ζωὴν ἐμποιεῖσθαι δεῖ τὴν ἄμβλωσιν, “let abortion be procured before life and sense have begun.”²¹ Such a statement greatly mirrors the Platonic discussion of population control in *The Republic*,²² which will be discussed below. Aristotle believed that there should be a law restricting the number of children that families could have. When a family reached this point, he argued, they should abort any future pregnancies.²³ While both Aristotle and Plato struggle with how to maintain a perfect population, Aristotle offers a more explicit and specific solution to creating an ideal population: namely, through abortion but before ensoulment.²⁴

Aristotle’s view on abortion was defined by his view on when the soul entered the body. Abortion was acceptable before there was a soul, and sense, within the fetus. The earlier Pythagorean belief of abortion and the soul stands in contrast. In part, the contrast is the result of changing ideas of the fetus among fifth century physicians. As Kapparis points out, the Hippocratic writers developed the concept that the formation of the fetus defined its status and so the acceptability of destroying it. Aristotelian philosophy, contemporary to Hippocrates, adopted this understanding and overlapped to form the clearest example of how medicine and philosophy evolved together. As Hippocratic physicians learned more about the physical formation of a fetus in the womb, earlier beliefs on ensoulment changed. The soul was no longer perceived as expanding in the body at conception but rather only after the fetus had developed fully in utero. Aristotle argued that the soul was only truly present once sense and particularly animation were present within the fetus.²⁵ Animation signified the beginning of life because the fetus was able to move on its own accord. In order to move on its own, the fetus had to have sense, which had long been established as part of the soul.²⁶

Not only does Aristotle believe abortion was acceptable *in utero*, he even gives a timeline for when it was acceptable. For a male, the timeline for the growth of the fetus was forty days, and for the female it was ninety.²⁷ Until the fortieth day or ninetieth day, abortion was acceptable because the soul was not yet present in the fetus. Only once the fetus was fully formed and its flesh turned into distinct parts, and so capable of movement, was it considered to have a soul.²⁸

In Greek medicine, the topic of abortion was discussed in terms resembling the Aristotelian model. In the fourth century, the practice of abortion was prevalent, in part due to an advancing medical understanding of the fetus.²⁹ Hippocrates, for example, in his *On the Nature of the Child* does not refer to the fetus as a παιδίον until it is fully formed, which suggests that he believed the soul did not enter the body until the fetus had moved beyond the γονή stage. Since he believed that ensoulment defined the fetus as a παιδίον, Hippocrates himself gave instruction on how to have an abortion far before this stage. For example, he instructs a young singer to jump up and down in order to abort her seed.³⁰ Due to this, it is surprising that the Hippocratic Oath still prohibited abortions by means of a pessary.³¹

As Demand claims, though Hippocrates did give instructions on abortion, it was still unlikely he would perform one on a woman without the consent of her husband. She further explains that men would likely not choose abortion over exposure since abortions could be dangerous for the woman.³² Nevertheless, for some women, parturition could be more dangerous as well. This and the hypocrisy of the Hippocratic Oath was not lost on other ancient authors. The physician Soranus witnessed the controversy between prescribing abortions and the physician’s responsibility to the patient, namely the safety of the mother, which was outlined in the Hippocratic Oath:

For one party banishes abortives...because it is the specific task of medicine to guard and preserve what has been engendered by nature. The other party prescribes abortives, but with discrimination, that is, they do not prescribe them when a person wishes to destroy the embryo because of adultery or out of consideration for youthful beauty; but only to prevent subsequent danger in parturition if the uterus is small and not capable of accommodating the complete development...³³

Abortion directly opposed the healing purpose of medicine; however, Soranus understood the risks of parturition and the commitment to a woman's safety above all else. Therefore, despite his reservations, Soranus, much like Hippocrates, offered specific instructions for abortion. He suggested methods such as extreme exercise, uterine muscle strain, and herbal recipes. He believed that these methods could only be applied within thirty days of conception.³⁴ The thirty day marker is especially significant given the similarity to the Aristotelian model for fetal development. Since Soranus seemed to recognize that abortion was only acceptable within these thirty days, he too must have believed some change occurred in the fetus at this stage of development.

Though Aristotle, Soranus, and the physicians believed the soul entered the fetus in utero, the Platonic view of ensoulment is not as clear. Plato did not explicitly express the point at which the soul entered the fetus. Similar to Pythagoras, he did believe in the transmigration of the soul. However, the Platonic soul was established as far more independent than the Pythagorean soul and even moved by its own volition. In the *Republic*, Plato described that souls drank from the river of forgetfulness before shooting away to be reborn.³⁵ In *Phaedo*, Simmias agrees that the soul "flees from [the body] and seeks to be by itself."³⁶ The Platonic soul's active independence contributed to a different perspective of ensoulment. The Pythagorean concept vaguely outlined the soul's construction within the seed at conception. On the other hand, Plato expressed in *Phaedo* that the soul actively existed before human life, that "it [came] to life and birth" from death,³⁷ and described the soul as "entering into a human body."³⁸ Both ideas imply a selected and inward motion at birth rather than rebirth from within. The soul's entrance into the body from outside expressed a different view to those who believed the soul was present at conception and in utero, which indicates that Plato did not believe ensoulment happened until birth. At birth, the soul gave the fetus life and animation.

Plato, like Aristotle, endorsed abortion. The children of well-matched couples, those who were healthy and therefore able to contribute healthy children to the population, would be sent to nurses and raised into the ideal citizens.³⁹ In regard to the children of bad matches or those who were handicapped, however, Plato wrote that they "should be hidden away both in abominable and uncertain places as it is fitting."⁴⁰ Plato also believed that there was a specific age for well-matched couples to produce the best children for his ideal state. If a pregnancy occurred beyond this age, inferior children were born and polluted the population. Plato wrote that "we'll impress upon them the importance of trying their best to abort absolutely every pregnancy that occurs."⁴¹ This claim appeared with no indication of a time at which abortion would be unacceptable, unlike other philosophers, further demonstrating that ensoulment occurred at a later time.

Despite the inconsistency of beliefs between Greek physicians and philosophers, one unifying constant remains: abortion was acceptable so long as the soul was not present. Different signs indicated the soul was present, such as independent animation and breathing, which indicated that the fetus was alive. For authors who did not believe that ensoulment occurred at conception, the fetus was considered alive for only part of its gestation. However, despite this distinction between the living and non-living fetus and the varying determinations of when the soul entered the body, the acceptability of destroying a fetus relied solely on philosophical, medicinal, and social constructs, not legal. For Jews, the situation was entirely different. Their discussion of when the soul entered the body was directly reflected in religious laws, which were defined by the fetus' human status. Furthermore, their focus was on therapeutic abortions without much consideration for elective abortions, which were inherently unacceptable. Without a consensus about the status of the fetus among the Greeks, there was no clear distinction of personhood other than ensoulment. The differing opinion concerning the importance of ensoulment between the Jews and the Greeks is illustrative and worth further exploration. The divergence between the two reveals that the Greeks did not consider the fetus as a human being.

4. Jewish Ensoulment and Value of the Fetus

Judaism in the Classical and Hellenistic periods focused on ensoulment and abortion within a legal perspective in addition to a philosophical one. Ensoulment defined punishment in religious law rather than mere judgment.

Michael Gorman points out that Jews did in fact discuss the soul's presence in the fetus, just as the Greeks did; this debate, however, occurred within the context of legal ramifications.⁴² A focus on the legal perspective of Judaism shows that the point at which a fetus had a soul qualified the Jewish perspective of abortion as it did for the Greeks. However, whereas the Greeks discussed the value of the fetus, the Jews valued the humanity of the fetus enough to protect it under law.

As Gorman continues, the Jewish legal discussion of abortion addressed only therapeutic abortions and did not consider elective abortions.⁴³ The Greek and Jewish cultural beliefs were so distinct that their discussions of abortion were not even under the same conditions, despite their focus on ensoulment. The Jewish people did not debate whether elective abortions were immoral, because the Ten Commandments made it clear that deliberately killing was wrong. This distinction alone shows an immediate dissimilarity in the two values of human life. While the Greeks discussed abortion as a general occurrence, Judaism discussed abortion only within the context of a mother's safety.

Jews valued any form or stage of the fetus, which made its destruction a criminal act. Genesis 1:27 established the sanctity of human life, and therefore the fetus' life:

So God created humankind in his image,
in the image of God he created them;
male and female he created them.⁴⁴

If every human stems from the image of God as Genesis indicates, then every human must retain some value obtained from this divine creation. The divinity possessed by humans is evident elsewhere within the Jewish canon, especially in the description of Adam's creation. Genesis 2:7 mirrors the Greek concept that the breath carried the soul into the body; after forming Adam from the dust, God "breathed into his nostrils the breath of life; and the man became a living being."⁴⁵ Psalm 139:13-16 accredited God with the formation of the fetus within the mother's womb:

For it was You who formed my inward parts;
You knit me together in my mother's womb.
I praise You, for I am fearfully and wonderfully made.
Wonderful are Your works;
that I know very well.
My frame was not hidden from You,
when I was being made in secret,
intricately woven in the depths of the earth.
Your eyes beheld my unformed substance.
In Your book were written
all the days that were formed for me,
when none of them as yet existed.⁴⁶

Given that formation indicated the presence of a soul, these passages show that the Jews also acknowledged the distinction of ensoulment. Genesis 2:7 established the entrance of the breath, soul, as indicative to human human life. However, unlike the Greeks, the Jews had a religious canon to underlie their value of a fetus even prior to ensoulment when Psalm 139:13-16 showed that a fetus was even acknowledged as an "unformed substance," which deserved the potential, divinely inspired life already "written" for it. This value of the unformed fetus resided in man's creation by God which was noted in Genesis 1:27. Andreas Schuele focuses on this concept, called *imago Dei*, which denotes "the distinctiveness of humankind in the created world."⁴⁷ *Imago Dei* recognizes inherent value in every human because of the reflection of God, which is specific to the human species alone. Therefore, there is inherent value in the fetus "as an individual who not only possesses a right to life but also a right to the formation of that life."⁴⁸

5. Abortion and Law in Judaism

In the discussion of abortion, the Greeks did not see the fetus' life or formation as an inherent right. They discussed at what point formation happened, whether it made abortion right or wrong, and how it related to ensoulment. Even so, the Greeks never agreed on these topics nor explicitly discussed a fetus' right to life. Jewish laws on abortion

reflect their general consensus about the human status of the fetus, which was discussed within two Jewish schools of thought.

There were two distinct views in Jewish culture being discussed around the 1st century BCE and onward among scholars and Rabbis, Alexandrian and Palestinian.⁴⁹ The Palestinian school focused on the fetus as merely a part of the mother, and did not restrict abortions that were necessary for the mother's safety. The majority Palestinian view did not give legal rights to the fetus because the fetus was less important when the mother's life was in danger.⁵⁰ However, my primary focus will be on the Alexandrian school because the city of Alexandria had a closer relationship with Greek culture, and the Alexandrian school focused on the fetus itself rather than the fetus as only a part of the mother.⁵¹ Though Jewish perspectives were based in religion, as previously discussed, the focus on their legal codification solidifies an important cultural distinction. The Alexandrian perspective focused on the fetus as an individual with a soul because it considered the fetus as a separate entity, and, at the time the soul connected with the body, as a human being with a right to life.⁵²

To show this right, scholars such as Gorman refer to the Septuagint version of Exodus 21:22-25 used by the Alexandrian school.⁵³ The following passage focused on how to punish a man who accidentally aborted a woman's fetus:

If men strive together and strike a pregnant woman so that her child comes out while *not yet fully formed*, the one liable to punishment will be fined; whatever the woman's husband imposes, he will give as is fitting. But if it is *fully formed*, he will give life for life.⁵⁴

The original Hebrew meaning of the passage in the italicized sections was translated as "harmed" or "unharmd," in reference to the mother, whereas the Greek indicated "not fully formed" or "fully formed" to focus on the fetus; the Palestinian school used the Hebrew because their focus was the mother.⁵⁵ When the Hebrew was translated into the Greek Septuagint version in the 3rd century BCE, the authors changed the words to focus on the formation of the fetus, which is the version used by the Alexandrian school.⁵⁶ This change reflected the Aristotelian concept that the soul entered the body only once the fetus was fully formed.⁵⁷ Ensoulment, as a condition for the beginning of life in both the Greek and Jewish cultures, was important enough to impact Jewish law. However, the Jews went a step further than the Greeks and punished the accidental destruction of an unformed fetus; the Greeks would not even legally punish the intentional destruction of a formed fetus. Formation as the basis for life in Jewish culture is likewise stressed by Philo of Alexandria's *Special Laws*, which discusses the same selection of Exodus.

Philo of Alexandria was a Jewish philosopher born in the first century BCE "whose primary aim was to build bridges between Judaism and Hellenism."⁵⁸ With his knowledge of Greek philosophy, he was able to help shape Jewish beliefs. He wrote in his *Special Laws* that "Thou shalt not kill" should also encompass the rights of the fetus. Philo claimed that if someone harmed a pregnant woman, and caused the abortion of an "unshaped and undeveloped" fetus, there was merely a fine, just as it was stated in Exodus. He continued to say that if the fetus was formed, the penalty should be death, because "that which answers to this description is a human being."⁵⁹ Though Philo does not mention ensoulment specifically, the connection between the soul existing within the fetus and the formation of the fetus had already been established. His acknowledgment of the distinction between an unformed and a formed fetus implies his awareness of earlier philosophical and medical discussions on ensoulment.

Both Exodus and Philo's extension of the law prescribed "life for life" as the punishment for the death of a formed fetus. From this punishment, it is evident that the Jewish fetus was of equal value to any other human being. Furthermore, the destruction of the unformed fetus was still punishable by law, even if the punishment was not as severe. The Greek fetus could not be given this right, only a vague moral judgment by physicians and philosophers. Greeks failed to institutionally define the importance of ensoulment in the same way as the Jews.

In philosophy and medicine, specific, technical language helped to indicate at what point a soul was present in a fetus, and so defined the Greek perspective on abortion. The terminology used to express the growth stages of the fetus made a distinction of formation in pagan Greek texts and in the Greek version of Exodus. In Judaism, the language for abortion changed as well. Aristotle used the word ἀμβλωσις, which translates directly as an abortion. As the "bridge" between the two cultures, Philo of Alexandria used ἀμβλωσις in Jewish philosophy to refer to a miscarriage. The contextual change from abortion to miscarriage further illustrates the distinct differences between Greek and Jewish perspectives. The language implies a shift from an intentional to an unintentional act, just as the focus shifted from discussing all abortions to only therapeutic abortions. Jews only discussed therapeutic or accidental miscarriages because the fetus' formation and soul dictated its rights as a human, which the Greeks did not attribute to the fetus. The linguistic overlap highlights the attitudes towards abortion.

Though Aristotle and Philo used the same language for abortion, they used different language for the fetus.

Aristotle held the fetus as a unique and distinct form of life, while Philo actually equated a fetus with a human being. Though similar language shows where the cultures overlap, the different contexts of law and philosophy highlight the division of Greek and Jewish beliefs. Only the Jews protected the fetus as a human being, which is seen in their focus on the language of formation, and therefore ensoulment, in law.

6. Greek Law on Abortion

Whereas the Jews used ensoulment to codify laws against abortion, there were no laws to punish abortion in Greek courts. The destruction of a fetus was only dangerous, as Richard Feen discusses, because “laws” for abortion were actually a way to protect the father’s rights, not a way to punish the destruction of a fetus; the fetus was merely a potential human and abortion violated the father’s right to a potential male heir.⁶⁰ In Athenian law courts, however, there were laws against homicide. Different classifications for homicide were punishable based on the perpetrator’s intent to kill: unintentional homicides often resulted in exile, and intentional killings often resulted in death.⁶¹ Though the language of abortion changed to indicate a miscarriage in Jewish texts, abortion for the Greeks was often an intentional act.⁶² Regardless of the acceptability of abortion, abortions were still intentionally performed and went both untried and unpunished by these courts. Kapparis states that “the laws of each society perform a twofold task: they reflect the attitudes and beliefs of the community, and at the same time influence and regulate those attitudes by defining the limits of what is permissible and what is not.”⁶³ The laws on homicide and the absence of laws on feticide, in comparison to the Jewish culture, indicate that there was something innately different about the beliefs of fetal status in Greek culture.

Pollution and religious law were just as important in Greek culture as judicial law seen in the integration of legal punishments and religious purification.⁶⁴ Kapparis explains that, in sacred law, women, who procured abortions, did not suffer from the same pollution that a murderer in a homicide case would have; the purification was similar to what was necessary after childbirth.⁶⁵ He points out inscriptions that show varying levels of contamination and the associated purification rites or times. One inscription claimed that a priest of Zeus “is not to enter a house...where a woman has given birth for three days after the day of birth, and five days after the day of an abortion.”⁶⁶ In contrast, homicide, whether voluntary or involuntary, involved a significantly longer process of exile, return, sacrifice, and purification.⁶⁷ The disparate consequences of abortion and homicide, even within religious sanctions, demonstrate that abortion was no more powerful as a pollutant than childbirth and far less powerful than homicide. The Greeks did not hold a fetus to the same human standard in law, religion, or philosophy, as the Jews. The Greeks did not make laws against abortion because the value of ensoulment was never agreed upon, which was a foundation of personhood that fluctuated among across medicine, philosophy, and even law. Without abortion laws to institutionalize the value of ensoulment and, therefore, the fetus, the Greek fetus could not be considered a human being beyond a reasonable doubt.

7. Conclusion

Darrel Amundsen, in his work on medical ethics, claims that “children’s worth is not intrinsic but only potential, and children are valued in proportion to their approximation to the ideal adult.”⁶⁸ Using the Platonic and Aristotelian views of abortion and population control, he argues that human value is based on social value. Since it is uncertain what social value a fetus will have, the value of that fetus is the value of a ‘potential’ child.⁶⁹ This reasoning recognizes the fetus as only a potential human instead of declaring it to have the same value as an actual human. He claimed that “no pagan, whether philosopher or jurist, appears to have asked whether human beings have inherent value, or possess intrinsic rights.”⁷⁰ The Jews already agreed that human beings had inherent value because of the concept of *imago Dei*, which led to the creation of laws to protect not just grown humans, but fetuses as well. For the Greeks, since they only gave the fetus potential value instead of actual value, the fetus was not seen as a human.

Physicians and philosophers in the Greek world defined the acceptability of abortion through their beliefs on ensoulment. Their perspectives changed throughout the Classical period, which created a broad range of beliefs on when they believed abortion was acceptable. The beliefs about when the soul entered the fetus were divided within three time frames: at conception, in utero, and at birth. Though the soul’s presence made the fetus a living being and determined the acceptability of abortion, there was no agreement on the personhood of the fetus.

Using ensoulment as a link between two cultures, the human status of the Greek fetus was defined through a comparison to Jewish beliefs. Abortion was not considered a punishable crime in Greek culture and was only measured as a minor source of pollution. The Jews viewed abortion as murder, and, under a clear distinction of ‘do not kill,’ they punished the death of a formed fetus under the principle of a ‘life for life.’ For the Greeks, the fetus

had no rights and had no laws to prevent abortion; a fetus only represented potential life, and as such, was not considered a human.

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10. References

1 Exodus 21:14, NSRV. See also 21:22-25 which will be discussed further. NRSV stands for the New Revised Standard Version.

2 This is not to say that the fetus was able to breathe on its own, but rather to point out the necessity of the soul for life.

3 Pythagoras believed in the soul at conception. Aristotle, Hippocrates, and Soranus believed in ensoulment in utero. Plato and the Stoics thought the soul entered at birth.

4 Edelstein 1967, 350.

5 Ibid., 361; Aristotle *Nicomachean Ethics* II.2.1104a 15-20; Trans. by Rowe.

6 Porter 1997, 64.

7 Ibid., 64. Emphasis my own.

8 Financial and vanity reasons are encompassed by prostitution in Hippocrates *On the Nature of the Child*, 2. Vanity is also seen in Theocritus *Idylls*, 27.30. Abortion to remove proof of adultery is found in *Plutarch Moralia*, 242c.

For information on abortifacients see also Riddle, 1992.

9 Kapparis 2002, 97-107.

10 Soranus *Gynaecology*, I.60; Trans. by Temkin.

11 Gorman 1982, 33.

12 Hippocrates *On the Nature of the Child*, 1.

13 Ibid., 7. See also Soranus *Gynaecology*, I.43.

14 Soranus *Gynaecology*, I.43; The translation is my own: κατὰ μὲν τοὺς πρώτους χρόνους, ὅτε ἀκμὴν ἀδιατύπωτος ἔστιν ὁ γόνος, ἢ σύλληψις σπέρματος ὑπάρχει, μετὰ δὲ τοὺς πρώτους χρόνους, τετυπωμένου τοῦ κατὰ γαστρὸς καὶ μηκέτι ὄντος τοῦ σπέρματος, οὐ παύεται μὲν οὐσα σύλληψις, ἔστιν δὲ οὐ σπέρματος, ἀλλ' ἐμβρύου· μεταβέβληται γὰρ ἤδη τὸ σπέρμα καὶ φύσις ἐστί, κατὰ προκοπὴν δὲ καὶ ψυχῆ, καὶ οὐκέτι σπέρμα.

15 Diogenes Laertius Βίοι καὶ γνῶμαι τῶν ἐν φιλοσοφίᾳ εὐδοκίμησάντων, VIII.28-29; Trans. by Hicks: τὰ δὲ ζῶα γεννᾶσθαι ἐξ ἀλλήλων ἀπὸ σπερμάτων, τὴν δ' ἐκ γῆς γένεσιν ἀδύνατον ὑφίστασθαι. τὸ δὲ σπέρμα εἶναι σταγόνα ἐγκεφάλου περιέχουσαν ἐν ἑαυτῇ θερμὸν ἀτμόν: ταύτην δὲ προσφερομένην τῇ μήτρᾳ ἀπὸ μὲν τοῦ ἐγκεφάλου ἰχώρα

- καὶ ὑγρὸν καὶ αἷμα προῖεσθαι, ἐξ ὧν σάρκας τε καὶ νεῦρα καὶ ὀστᾶ καὶ τρίχας καὶ τὸ ὅλον συνίστασθαι σῶμα: ἀπὸ δὲ τοῦ ἀτμοῦ ψυχὴν καὶ αἴσθησιν. See also Kapparis 2002, 39-40.
- 16 Edelstein 1967, 19.
- 17 Diogenes Laertius Βίοι καὶ γνῶμαι τῶν ἐν φιλοσοφίᾳ εὐδοκιμησάντων, VIII.28-29; Trans. by Hicks.
- 18 See the LSJ for other meanings of συνίστημι.
- 19 Diogenes Laertius Βίοι καὶ γνῶμαι τῶν ἐν φιλοσοφίᾳ εὐδοκιμησάντων, VIII.13; Trans. by Hicks.
- 20 Edelstein 1967, 19-20.
- 21 Aristotle *Politics*, 7.16.1335b19-26; Trans. by Jowett.
- 22 Plato *Republic*, 459d-462e; Trans. by Waterfield.
- 23 Aristotle *Politics*, 7.16.1335b19-26; Trans. by Jowett.
- 24 Although Aristotle does mention his acceptance of exposure as well, it is only in cases of disfigured or handicapped children.
- 25 Aristotle *De Anima*, 415b; Trans. by Ross.
- 26 Diogenes Laertius Βίοι καὶ γνῶμαι τῶν ἐν φιλοσοφίᾳ εὐδοκιμησάντων, VIII.30; Trans. by Hicks. See also Aristotle *De Anima*, 415b; Trans. by Ross.
- 27 Aristotle *De Historia Animalium*, 7.3.583b; Trans. by Thompson.
- 28 *Ibid.*, 7.3.583b; Trans. by Thompson.
- 29 Edelstein 1967, 14.
- 30 Hippocrates *On the Nature of the Child*, 2.
- 31 Insertion of a pessary was only one method of abortion. In Greek, the Oath vouches to never give a woman a πεσσοῦν, which some scholars translate collectively to incorporate every abortive method, while others take it more literally to mean only a specific kind of abortion. Despite this debate, the fact remains that a Hippocratic author wrote down evidence of an abortion being instructed, which is my primary focus.
- 32 Demand 1994, 62.
- 33 Soranus *Gynaecology*, I.60; Trans. by Temkin.
- 34 *Ibid.*, I.64.
- 35 Plato *Republic*, 621a-b; Trans. by Waterfield.
- 36 Plato *Phaedo*, 65c-d; Trans. by Grube.
- 37 *Ibid.*, 77c-d; Trans. by Grube.
- 38 *Ibid.*, 95d; Trans. by Grube. The verb used consistently is ἐρχομαι, implying motion.
- 39 Plato *Republic*, 460c-d.
- 40 *Ibid.*, 460c; See also 459e. I used my own translation due to constant inconsistency among other scholars.
- 41 *Ibid.*, 461c; Trans. by Waterfield. Furthermore, Plato intended to ensure “that any baby born despite their efforts is not brought up.” In the attempt to create the best lineages, it is important to realize that he does make abortion preferable to what sounds like infanticide or exposure. Despite his willingness to abandon imperfect children, abortion was the most preferable method because the fetus was not yet alive until birth.
- 42 Gorman 1982, 39-40.
- 43 *Ibid.*, 45.
- 44 Genesis 1:27, NRSV.
- 45 Genesis 2:7, NRSV.
- 46 Psalm 139:13-16.
- 47 Schuele 2011, 6.
- 48 *Ibid.*, 7.
- 49 Bakke 2005, 111.
- 50 *Ibid.*, 111.
- 51 Gorman 1982, 35-38.
- 52 *Ibid.*, 35.
- 53 Though the Talmud is the basis for Jewish law, it was written as a culmination of earlier legal scripture in the 2nd century CE and later. For my purpose of a comparison with Greek beliefs, the discussion focuses on scripture contemporary with the Classical and Hellenistic periods.
- 54 Gorman 1982, 35. ἐὰν δὲ μάχωνται δύο ἄνδρες καὶ πατάξωσι γυναῖκα ἐν γαστρὶ ἔχουσαν καὶ ἐξέλθῃ τὸ παιδίον αὐτῆς μὴ ἐξεικονισμένον, ἐπιζήμιον ζημιωθήσεται καθότι ἂν ἐπιβάλῃ ὁ ἀνὴρ τῆς γυναικός, δώσει μετὰ ἀξιώματος.
- 55 *Ibid.*, 34-36.
- 56 *Ibid.*, 34-36.

- 57 For more information on the transition between the Hebrew and Greek and its significance, see Riddle 1997, 79-80.
- 58 Winston 2010, 235.
- 59 Philo of Alexandria *Special Laws*, 3.108-109.
- 60 Feen 1983, 291.
- 61 Lanni 2006, 76-77.
- 62 See the earlier discussion of Hippocrates' singer and evidence of elective abortions.
- 63 Kapparis 2002, 167.
- 64 *Ibid.*, 170.
- 65 *Ibid.*, 170-171.
- 66 *Ibid.*, 171-173.
- 67 Demosthenes *Against Aristocrates*, 72-73.
- 68 Amundsen 1996, 51.
- 69 *Ibid.*, 51-53.
- 70 *Ibid.*, 52-53.