

EXCERPTS FROM THE DIVINE CODE
THE PROHIBITION OF MURDER AND INJURY

The Prohibition of Murder

(Including Abortion, Euthanasia, and the Severity of the Sin)

1. A Gentile is forbidden to commit murder or bloodshed, and would be liable to the death penalty for this in a court of law,¹ as G-d commanded Noah,² “But your blood of your souls I will demand; of every beast I will demand it; but of man (*adam*),³ of man for his brother, I will demand the soul of man (*adam*). Whoever sheds the blood of man (*adam*), by man (*adam*) his blood shall be shed; for in the image of G-d He made man (*adam*).”

The Sages explained:

- (a) “... your blood of your souls I will demand” refers to one who commits suicide.
- (b) “... of every beast will I demand it” refers to one who places another person before an injurious animal so it will kill him.
- (c) “... of man for his brother” refers to one who sends another to kill. For all these three cases, the verse states, “I [G-d] will demand,” which refers to punishment by G-d.⁴
- (d) “Whoever sheds the blood of man” refers to one who kills actively and deliberately.⁵
- (e) “Whoever sheds the blood of *adam* within *adam*” refers to one who kills a human fetus, which is “a person within a person.”⁶
- (f) “... his blood shall be shed” refers to the judgment of capital punishment that is meted out by a court of law.⁷

¹ Rambam, *Laws of Kings* 9:4.

² Genesis 9:5-6.

³ *In most contexts of the simple meaning of the Hebrew Scriptures, this term refers to any human being, as we see from Genesis 1:27, “And G-d created man (*adam*)...; male and female He created them.”

⁴ Rambam, *Laws of Murderers* 2:3, the source being Rabbi Yohanan in Midrash *Bereishit Rabbah* ch. 34.

⁵ Rambam *ibid*.

⁶ Tractate *Sanhedrin* 57b; Rambam, *Laws of Kings* 9:4.

⁷ Tractate *Sanhedrin* 57a; Rambam *ibid*.

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The reason for the prohibition of murder is clear and simple: it is necessary since G-d desires the world that He created to be inhabited and settled, and not destroyed and desolate,⁸ as is stated,⁹ “He did not create it for emptiness; He fashioned it to be inhabited.” Also, no person should presume that he has mastery over others to be able to take their lives or injure them according to his own will or desires. Rather, a person should recognize that there is a Master and Creator of everything, Who directs the world and judges its inhabitants. A person should respect the life, property and honor of his fellow human beings and not harm them, and know that the authority over human life is in the hands of G-d alone, and human beings do not have this authority or discretion in their own right.¹⁰

2. It is forbidden to murder *any* human life: a man or a woman; an adult or a minor; a free person or a slave;¹¹ a deaf, handicapped, deformed, aged or physically or mentally ill person;¹² or even a fetus in its mother’s womb.¹³ A Gentile who kills any of the above is a murderer and is liable to capital punishment by a court of law.

Abortion

3. One who hits a pregnant woman and kills her fetus,¹⁴ or a doctor who performs an abortion by which the fetus cannot possibly live,¹⁵ or a doctor who gives the mother medicine for the purpose of aborting the

⁸ Rambam, *Laws of Murderers* 4:9; *Sefer HaHinuĥ* Commandment 34.

⁹ Isaiah 45:18.

¹⁰ Rather, we must follow G-d’s directives in matters of life and death, as taught by the precepts of G-d’s Torah.

¹¹ Rambam, *Laws of Murderers* 2:10.

¹² *Minĥat Hĥinuĥ*, Commandment 34.

¹³ Rambam, *Laws of Kings* 9:4.

¹⁴ Rashi on Tractate *Sanhedrin* 57b.

¹⁵ If the aborted fetus might survive in an incubator, but the doctor does not intend this, and it isn’t done, this is considered murder; see topic 4 above.

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fetus or killing it in place, or a pregnant woman who did this herself,¹⁶ are all liable to be punished for murder in a court of law.

However, one who hits a woman in another area of her body, which causes her to weaken and subsequently miscarry, is not liable in court unless he has intention with his action to cause the miscarriage, and the miscarriage was inevitably a result of the blow.

One who hires a doctor to perform an abortion is considered as one who hires a mercenary to kill, and this is punishable by G-d.¹⁷

4. An implanted embryo is not judged to be a human life until 40 days after conception. Until then, its substance is considered like mere water,¹⁸ but during that time, it is still forbidden within the prohibition of murder to cause an abortion, and G-d will seek justice for the destruction of the implanted embryo.¹⁹ Nevertheless, within 40 days after the egg is fertilized (the moment of conception), a killer of an implanted embryo is not liable to capital punishment by a court of law.²⁰

¹⁶ Since the abortion-inducing medicine will surely take effect in her body, it is tantamount to the case where one pushes a victim into a pit where he will surely die from hunger or lack of air, and this is direct murder for a Gentile.

Although Rambam, *Laws of Murderers* ch. 6, differentiates between a murder caused directly from one's own power or that comes as a result of one's actions, this difference applies only for inadvertent killing by a Jew.

¹⁷ See *Kli Hēmda Parshat Shemot*, paragraph 4, which holds that even though a Gentile who hires others to kill is liable to be punished by G-d, this only applies if the victim is a born person and not a fetus; in the author's opinion, this reasoning does not appear to be valid.

¹⁸ Tractate *Bechorot* 47b; *Shulhan Aruḥ Yoreh De'ah* 305:23.

¹⁹ In this case, as for any murder, the blood of the victim and of the would-be descendants are all avenged, as G-d said to Cain (Gen. 4:10): "The voice of your brother's bloods, they cry out to Me..." Based on *Sanhedrin* 37a, Rashi explains this as "his blood and the blood of his [would-be] descendants."

²⁰ Responsa of *Beit Shlomo Hōshen Mishpat* ch. 132; *Aḥiezer* 3:65; *Hēmdat Yisrael Hilhot Melāḥim* 9:7. (In medical terminology, the transition from an implanted embryo to a fetus is complete at the ninth week after conception.)

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5. Even if the mother has emotional justification for not wanting the pregnancy (for example, in cases of rape or incest), aborting the fetus is forbidden according to the severity of the prohibition of murder.²¹

If it is known that the child she is carrying will be born with a fatal illness or defect, it is nevertheless forbidden to abort the fetus, and one who does so is a murderer.²²

It would appear that if it is medically proven that the fetus will be miscarried or not born alive, or that it will be born but will die within 30 days, then one who transgresses and aborts such a fetus is not liable to capital punishment from a court of law.²³

6. A pregnant woman whose own life is at risk because of her pregnancy is permitted to have an abortion.

The use of methods that prevent conception from happening is permissible for Gentiles.

7. One who kills a born child that *could not* have lived for 30 days after birth, due to a serious illness or defect, is exempt from liability to capital punishment.²⁴ If, however, the child could live at least 30 days

²¹ See Responsa of *Havot Yair* ch. 31, who gives no permission for abortion even in the first 40 days, even for an embryo conceived out of wedlock; *Tzitz Eliezer* vol. 9, ch. 51, permits this for a Jew. *Igrot Moshe Hoshen Mishpat* vol. 2, 69:3, states that for a Gentile this is permitted in a dire case.

²² *Igrot Moshe Hoshen Mishpat* vol.2, ch. 69 and 71. *Sridei Aish* vol. 1, ch. 162, permits abortion for a Jew in the first 40 days if the child will have a permanent illness or defect that will impede normal living; it appears that the same applies for Gentiles and there is allowance for them to do so, but requests for this permission should be judged very carefully because of the severity of the prohibition of murder if it is done without correct justification.

²³ This is based on the case described in topic 14, when it is medically determined in accordance with Torah-law standards that a born child would have been a short-lived and nonviable. Liability to capital punishment for the transgression of abortion of a fetus applies if it has no defect that would preclude the child from being capable of living for at least 30 days after a full-term birth. See Responsa of Radvaz vol. 2, ch. 695, in regard to Jews.

²⁴ This is the ruling of Rambam, *Laws of Murderers* 2:6 regarding a Jew, and *Minhat Hinuḥ* Commandment 34 and *Maharam Shik Orah Hayim* ch. 142 write that the same applies to a Gentile. (Nevertheless, it is still forbidden to

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after birth, even if only through medical intervention, it is considered viable, and one who kills it is liable to capital punishment.

Euthanasia

8. Killing a mortally sick or injured person or a “*goses*” (the Hebrew term for a dying person who has become moribund and whose death is imminent) is considered murder, and this carries liability to capital punishment.²⁵ If a victim was close to dying as a result of one person’s act of murder, and *another* person dealt the victim a final blow (e.g. decapitation), both are liable by the court if they intended to kill²⁶ – the last perpetrator,²⁷ since he made the final murderous blow, and the

do so, within the prohibition of murder.) The difference between a nonviable child and a mortally wounded living person (for whose murder one would be liable to capital punishment) is that the mortally wounded person has already gained the distinction of viable living, as opposed to a newborn child that emerged so unhealthy that it cannot gain the distinction of viable living.

(The ruling is unclear for a fetus that will be born prematurely and then placed in an incubator – especially when there is a good chance that it will fully develop – as to whether a Gentile who aborts this fetus is liable to capital punishment. On one hand, this fetus should be considered as living, since it has a better chance for survival after its premature birth than a mortally wounded person. Conversely, an underdeveloped fetus that will be born prematurely does not yet have the potential to be born as a “viable living person.” The ruling is likewise unclear regarding a woman who died with a 9-month old fetus in her womb: is one who destroys this fetus liable to capital punishment, since it is possible for the fetus to be pulled out alive from the mother? Or is he exempt from capital punishment, since it would die if it is left alone? It appears that in both cases, one who aborts the fetus is exempt from capital punishment because it will not be born as a viable living person, as can be seen from the Responsa of Radvaz vol. 2, ch. 695.)

²⁵ Rambam, *Laws of Kings* 9:4 and *Laws of Murderers* 2:7.

²⁶ Meaning that each knew that his actions would cause the victim to die. A person is not exempt from punishment if he hastens someone’s death to lessen the suffering (even for a victim who was mortally injured by another person); see topic 10 below..

²⁷ *Minhat Hínuh* Commandment 34; *Or Same’ah Hilhot Rotze’ah* 2:4; *Igrot Moshe Hoshen Mishpat* vol. 2, ch. 73.

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first,²⁸ since his actions would surely have brought death without the actions of the second. (This is “murder after murder”.)

However, one who hastens the death of a “living carcass”²⁹ is exempt from capital punishment by a court.³⁰ (Examples of a “living carcass” are one whose body was split in two, or whose back was ripped from behind “like a fish,” or whose thigh with its cavity was removed, or whose neck and most of the surrounding flesh was broken – before the person dies, i.e., while the heart is still beating.)

²⁸ Rabbi Zalman Nehemiah Goldberg agrees that the second person who struck and subsequently killed a mortally wounded victim is liable; and therefore it is also correct that one who kills a *goses* is liable, even according to the Sages (Tractate *Sanhedrin* 78) who hold that a *goses* who came to his situation as a victim of a person’s action is judged to be the same as a mortally wounded person.

However, he questions if the first of two people who struck a mortally ill victim is liable, for a Jew who struck a victim first is exempt if a second person then struck and thereby killed the victim (and is therefore liable for the murder). Also, *Tosafot* on Tractate *Sanhedrin* 78a asks why the first of two people who struck a *goses* should be exempt, if most people in a *goses* condition will not recover. *Tosafot* answers there that Torah Law requires a striker to be held in jail until it is determined if the victim died from his action. Thus it stands to reason that we don’t automatically make the first striker liable just on the basis that in the majority of cases a *goses* will die, and therefore it is considered that only the second (final) striker has killed the *goses*. It is unclear from the opinion of *Tosafot* if a Gentile who is the first of two who strike a *goses* is exempt on the same grounds, or if the majority rule is followed, making the first striker also liable, since he gives what is considered a lethal blow – which is the opinion of *Yad Ramah* on *Sanhedrin* 78.

The author responds that there is no source in Torah for requiring a Gentile to be jailed while it is being determined if his action will result in a victim’s death. (Although there is obviously a logical allowance for a Noahide court to do this, it has no bearing on whether or not the person will be liable according to Torah Law.) Rather, the Torah Law for Gentiles follows the majority of situations, as *Tosafot* writes.

²⁹ See Rambam, *Laws of the Principal Impurities* ch. 2.

³⁰ A person in this condition is considered to already be dead, and not in the category of a *goses*. A *goses* is still considered fully alive, as explained in *Shulhan Aruḥ, Even HaEzer* ch. 121 and *Yoreh De’ah* ch. 370.

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9. It is forbidden to even *touch* a dying person, even to close his eyes, since doing so might hasten the person's death, which is forbidden within the prohibition of murder.³¹ (It is clear that one would not be liable as a murderer for touching a dying person, especially since it is not certain if these actions cause death; rather, the Sages warned about this as a possible harm to a *goses*.)

However, one who is trying to revive a *goses*, or to lessen his suffering, is clearly allowed to touch the stricken person in the course of trying to save or help him,³² and indeed it is commendable to do so.³³ However, from the moment that a doctor knows that it is impossible to help the *goses* at all, it is forbidden to touch him..

10. Mercy killing is forbidden, even if the patient is suffering and wants his life to be terminated. Even if it is clear that the person will not emerge alive from his current sickness, it is forbidden to kill him, and one who does is a murderer. Nonetheless, one does not have to *prevent* a terminally-ill or mortally-injured person from dying, and it is permitted to *allow* him to die (from that illness or injury that will be fatal if left untreated) if this is his true wish,³⁴ provided that he is an adult and this is his clear-headed decision, and he knows his true condition. The prohibition is only against actively killing a person,

³¹ *Shulhan Aruh Yoreh De'ah* ch. 339. This law applies as well for Gentiles.

³² *Shvut Yaakov* vol. 1, ch. 13; *Biur Halaha* ch. 329; *Igrot Moshe* *ibid*.

³³ See Responsa of *Tzitz Eliezer* vol. 13, ch. 87, and vol. 14, ch. 103.

³⁴ Gentiles are not obligated in the Jewish commandment (Lev. 19:16), "Do not stand [passively] by your brother's blood," so they aren't required to save a Gentile or Jew who does not want to be saved. There is no commandment to lengthen one's life if he can only live a short time and with suffering, since his life cannot be saved. If he does not want to be saved, a Gentile is not obligated to save him, even if it is possible. This is clear from *Tosafot* on *Sanhedrin* 59a in regard to saving the life of a mother at the expense of the life of her fetus. Although a person has no jurisdiction over his own body for harming himself, we are discussing here the issue of preventing the application of a life-support system. One who is terminally ill and suffering, and does not want to continue living, is not obligated to prolong his suffering in order to prolong his life; therefore, he is permitted to put himself in a **passive** situation where his terminal illness will take its natural course, if he will not be actively violating any commandment.

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e.g., by removing or turning off a life-support system.

However, if one in this situation says that he wishes to die, but his mind is not sound, or he is being coerced or is not making clear-headed decisions, the above case does not apply. It appears that it is forbidden to let the person die of his own choosing, and it is obligatory to take the medically necessary steps to save his life.³⁵

Even if there is no hope for a patient, and the relatives do not wish to prolong his suffering, they do not have any permission to withhold medical treatment. (This does not apply to a patient who was put on a ventilator machine, but he has entered clinical death and does not have any heartbeat; in such a case, one may turn off the ventilator, since the person is not considered to be alive.³⁶)

11. If a person is nearing death (or still in good health) and he expresses a wish that if he falls into a near-death condition, some parts of his body should be removed for transplant donations before he dies (before his heart has permanently stopped beating), it is forbidden to do so, even though in that condition he would surely die in a short time regardless of what is done. This is obvious, since the operation will or might hasten his death (and it is not done for the purpose of healing).³⁷

The Severity of the Sin of Murder

12. The sin of bloodshed is so severe that if someone kills just one person, it is as if he has destroyed the entire world. Thus does the Torah say about Cain, in reference to his murder of Abel (Gen. 4:10): “*The **bloods** of your brother cries out to Me.*” It does not say “*the blood of your brother,*” but rather “*the **bloods** of your brother*” – meaning the victim’s blood and the blood of the offspring he would have had until the end of all generations.

³⁵ See *Igrot Moshe Hoshen Mishpat* vol. 2, ch. 73-5.

³⁶ *Responsa of Tzitz Eliezer* vol. 13, ch. 89.

³⁷ *Igrot Moshe Yoreh De'ah* vol. 2, ch. 174.

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Therefore, G-d created the first man, Adam, as a lone individual, to teach that if anyone murders even one person,³⁸ it is as if he has destroyed the entire world, for behold, from one person (Adam) the entire world population was brought forth – including Hava (Eve), who was brought forth from Adam. And conversely, if someone saves one person's life, it is as if he has saved the entire world.

Another reason why G-d created Adam as a lone individual was to teach the value of peaceful relationships – that a person should not say to another, “My father is greater than your father,” or other types of inflammatory statements. Also, G-d did so to refute the polytheists who would claim that there are many deities in the spiritual realms (saying that each of these deities created a primordial person).

Mankind produces many coins from a die and they are all similar, but the Holy One blessed be He, the King of all kings, creates every person in the image of Adam and Hava, and yet no two people have the same features, to teach us that every human being is significant in his own right. Therefore, each person should rightfully be permitted to say, “The world was created for my sake”³⁹ – that is, for the sake of the good deeds and the service to G-d and mankind that He sent me to accomplish in the physical world.

³⁸ This version is used by Rambam in his commentary on Mishna *Sanhedrin* 4:5 (see R. Kapach ed.), as explained in *Laws of the Sanhedrin* 12:3. This is the version in the Jerusalem Talmud, and *Avot D'Rabbi Natan* 31:2.

³⁹ See Mishna, Tractate *Sanhedrin* 37a and Rashi there. See also Rambam, *Laws of the Sanhedrin, ibid.*:

“Each person is obligated to say, ‘The world was created for my sake,’ ” (including Gentiles in this fundamental principle).