

Abortion Policy

and Christian Social Ethics
in the Post-Roe United States

Session 3:

Abortion, Harm, and
Retributive vs. Restorative Justice

Objectives

- Trace what Jewish and Christian leaders have said about the fetus and abortion
- Identify mistakes Christians have made, and aim to correct them: contraception; economics; etc.
- Discern how abortion is used for other political purposes

Other Ways to Engage

- The Anástasis Center for Christian Education and Ministry
 - Lots of resources on the website
 - On [abortion](#) in particular



Website



Classes &
Messages



Discussion
Group



General

- Mako's social media



Author



Personal

Consider Giving, Partnering

- The Anástasis Center for Christian Education and Ministry
 - www.anastasiscenter.org/donate



Website



Classes &
Messages



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General

Outline

- Recap of Sessions 1 and 2 (5 min)
- Presentation: Restorative Justice in Exodus 21 (15 min)
- Q&A (15 min)
- Presentation: Restorative Justice in God (15 min)
- Q&A (10 min)
- Open Q&A

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Babylon: The Code of Hammurabi

- Hammurabi 209 – 214
 - If an awilu strikes a woman of the awilu class and thereby causes her to miscarry her fetus, he shall weigh and deliver ten shekels of silver for her fetus.
 - If that woman should die, they shall kill his daughter.
 - If he should cause a woman of the commoner class to miscarry her fetus by the beating, he shall weigh and deliver five shekels of silver.
 - If that woman should die, he shall weigh and deliver thirty shekels of silver.
 - If he strikes an awilu's slave woman and thereby causes her to miscarry her fetus, he shall weigh and deliver two shekels of silver.

Code of Hammurabi vs. Law of Moses

• Hammurabi 209 – 214

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- If he strikes an awilu's slave woman and thereby causes her to miscarry her fetus, he shall weigh and deliver two shekels of silver.
 - Bill T. Arnold and Bryan E. Beyer, *Readings from the Ancient Near East* (2002), p.113 – 114

• Exodus 21:22 – 25 NRSV

- 22 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.
- 23 If any harm follows, then you shall give life for life, 24 eye for eye, tooth for tooth, hand for hand, foot for foot, 25 burn for burn, wound for wound, stripe for stripe.

Code of Hammurabi vs. Law of Moses

• Hammurabi 209 – 214

- Punishment is based on the victim's class status
- Punishment for harming a mother depends on mother's class
- Wife, daughter treated as property of the father
- Fines for fetus based on fetus' class status
- Fines determined by Hammurabi
- Assailant's motive could have been to cause an abortion
- **Retributive**

• Exodus 21:22 – 25 NRSV

- Punishment is not based on the victim's class status
- Punishment for harming a mother is proportional to harm done to the mother
- All persons treated as children, property of God
- Fines for fetus based on circumstances, including stage of the fetus (Greek LXX)
- Fines determined by a community process including men and women "judges" (Judg.4; Hebrew Masoretic)
- Assailant's motive could have been to cause an abortion
- **Restorative**

“An Eye for an Eye” – Restorative?

- “I Become Your Second Eye”
- Exodus 21:2 – 36, following Egyptian harm
- Chiastic structure, **bodily harm and bodily relations**
 - C and C’ are symmetrical: fight; bodily harm; compensation

- A. Restoration Without Payment: people set free (21:2 – 11)
- B. Sacredness of Bodies and Relations: death for murder, kidnapping, or harming parents (21:12 – 17)
- C. **Injuries from a Physical Fight**: pay for loss of time, care until fully healed (21:18 – 19)
- D. The Full Humanity of the Slave: murder or manslaughter accordingly (21:20 – 21)
- C’. **Injuries from a Physical Fight**: pay for fetus, “an eye for an eye” for mother (21:22 – 25)
- B’. Sacredness of the Body and Relations: change the relation, remove the power (21:26 – 27)
- A’. Restoration With Payment: “if ransom is imposed, the owner shall pay” (21:28 – 36)
 - Temporary (C): pay for loss of time; care until fully healed
 - Permanent (C’): pay for the fetus; “eye for eye” for mother
 - Loss of life (A’): ransom, payment

“An Eye for an Eye” – Restorative?

- “I Become Your Second Eye”

- Consistency with Leviticus 19:17 – 18

(A) 17 You shall not **hate** your fellow countryman in your heart;

(B) you may surely **reprove your neighbor**, but shall not incur sin because of him.

(A') 18 You shall not **take vengeance**, nor **bear any grudge** against the sons of your people,

(B') but you shall **love your neighbor as yourself**; I am the Lord.

- Compensation is consistent with this

- Reciprocal bodily harm is not

- See Darren W. Snyder Belousek, *Atonement, Justice, and Peace: The Message of the Cross and the Mission of the Church* (Grand Rapids, MI: Eerdmans, 2012), p.408

“An Eye for an Eye” – Restorative?

- “I Become Your Second Eye”
 - Rabbinical literature
 - An outer limit of proportionality for cases of bodily harm, meant to represent
 - Financial compensation (Talmud Bava Kamma 83b–84a)
 - Or, in some cases, lashes (Makot 1:1)
 - A Lesson
 - Context determines the meaning of words
 - N.T. Wright: “I’m mad about my flat”

Pay for the Fetus – Restorative?

- Harm to fetus overlaps with
 - Harm to the mother's body
 - Harm to parents' future
- Stage of the fetus encompasses
 - Assailant's side:
 - Obviousness of pregnancy?
 - Victims' side:
 - Biological viability/stability of fetus
 - Level of potential harm/risk to mother's body
 - Level of parental hope

Pay for the Fetus – Restorative?

- Modern abortion dilemma and Exodus 21
 - Not covered explicitly
 - Husband assumed to be a victim with wife and fetus in Exodus 21:22 – 25
 - Can we extrapolate?
 - What if mother/wife was “the assailant”?
 - Possible motive: Woman was raped
 - Majority Jewish tradition considers it self-harm
 - Possible motive: One birth control method among many?
 - What if father/husband was “the assailant”?
 - Possible motive: Jealous husband of Numbers 5:11 – 31
 - Possible compensation: Wife could own and manage her own property
 - Any more basis for extrapolation?

Pay for the Fetus – Restorative?

- Tentative Solution: Fine the Father
 - Biblical precedents:
 - A Pattern: Women given systemic advantages over men in certain situations
 - Right to marital sexual pleasure; protection from marital rape
 - “Me too”: Value of woman’s witness in rape accusations
 - Moral exemption for remarriage (or other) because of poverty
 - Church history precedent:
 - Prostitutes not responsible; buyers are
 - Related to early Christian critique of chattel slavery
 - Scientifically possible
 - Politically possible?
 - Health care providers?

Forward-Looking?

- Remove the Threats, Change the Power
 - Consequences for direct bodily harm in B, D, B'

A. Restoration Without Payment: people set free (21:2 – 11)

B. **Sacredness of Bodies and Relations: death for murder, kidnapping, or harming parents** (21:12 – 17)

C. Injuries from a Physical Fight: pay for loss of time, care until fully healed (21:18 – 19)

D. The Full Humanity of the Slave: murder or manslaughter accordingly (21:20 – 21)

C'. Injuries from a Physical Fight: pay for fetus, “an eye for an eye” for mother (21:22 – 25)

B'. **Sacredness of the Body and Relations: change the relation, remove the power** (21:26 – 27)

A'. Restoration With Payment: “if ransom is imposed, the owner shall pay” (21:28 – 36)

- Filial, Neighbor (B): remove the threat
- Master, Servant (B'): remove the power
- Master (D): remove the threat if murder

Forward-Looking?

- Remove the Threats, Change the Power
 - Fathers and abortion
 - Require vasectomy or pay an even higher fine
 - Improve the legal standing of women
 - North Carolina's old rape laws
 - Violence Against Women Act
 - Improve the economic standing of women
 - Including contraception costs (see *Abortion Policy* ch.10)

Forward-Looking?

- Remove the Threats, Change the Power
 - Fine industries causing birth defects and abortion:
 - Later in the pregnancy, so cost should be higher
 - Raise corporate contributions to health
 - Corporate taxes, profit setting: e.g. Windfall Profits Tax
 - Repeal or restrict limited liability: for some industries
 - Rebalance power of lawyers
 - Make investments in clean energy with good labor union jobs
 - Make corporations produce more economic equality – reduce abortions through
 - Reducing poverty through better wages
 - Fixed wage multiple from CEO to janitor
 - Tax Excessive CEO Pay Act (CEO to median; corporate taxes levied)
 - Cleaning up working conditions and communities

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God is Forward-Looking, Restorative?

- Shouldn't we be backward-looking?
 - Inflict proportional suffering on offenders?
 - Meritocratic-retributive justice is backward-looking
 - Reward good behavior
 - Punish bad behavior
- Isn't God backward-looking?
 - Why does God take human life?
 - What does God do with them?
 - Why does God have a hell?

Comparison of Theologies

	Majority Protestant	Patristic & Eastern
God looks	Backward	Forward
God's justice is	Retributive	Restorative
What framework?	Legal (judicial)	Medical (being, ontology)
What is human sin?	Wrong actions	Wrong condition, direction
God's wrath is like	A judge's	A surgeon's
God's wrath went from... to...?	Father to Son, or God to God	Jesus to the corruption in his human nature
Jesus is the	Victim	Victor
God saves us from	Himself	Our corruption, misdirection
Gets us into the	After-life	Mission-life
Hell is	A prison	Increasing jealousy
Hell is	Against your desires	What you desire

God is Forward-Looking, Restorative?

- Creation
- Corruption
- Clinic
- Cure
- Consummation

Abortion
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and
Christian
Moral Ethics
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United States

God is Forward-Looking, Restorative?

- Creation
- Corruption
 - Why does God take human life?
- Clinic
 - Why does God take human life?
- Cure
 - Didn't God punish Jesus for our bad choices?
- Consummation
 - Why does God have a hell? Punish bad choices?

God is Forward-Looking, Restorative?

- Creation: God calls us to grow infinitely
- Corruption: We damage human nature, develop addiction
 - God stopped us from making sin eternal right away
- Clinic: God called Israel to help restore human nature
 - God protected Israel from the worst threats
- Cure: Jesus fulfilled what Israel could not
 - Jesus judged the sin-sickness out of human nature
- Consummation: God keeps bringing out new things
 - Addicts are backward-looking, with wrong desires

Hell is for the Backward-Looking?

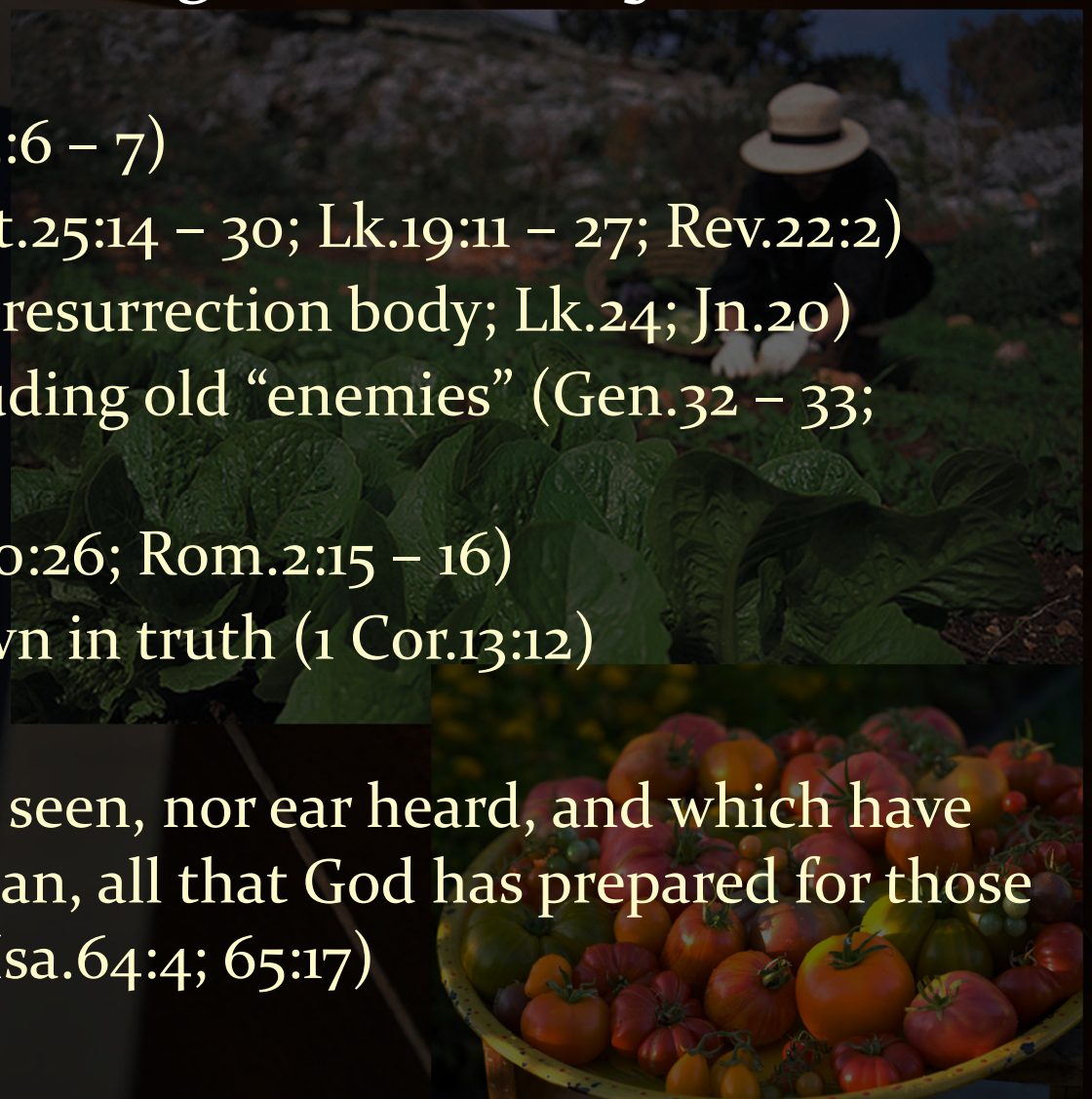
- “In eternity God supplies good things to all because He is the source of good things gushing forth goodness to all... For what is hell but the deprivation of that which is exceedingly desired by someone? Therefore, according to the analogy of desire, whoever desires God rejoices and whoever desires sin is punished.”
 - Syrian priest John of Damascus (c.675 – 740), *Against the Manicheans* 94.1569, 1573



Hell is for the Backward-Looking?

- In eternity, Jesus will give us good *new things, more and more*:
 - New food, dishes (Isa.25:6 – 7)
 - New responsibilities (Mt.25:14 – 30; Lk.19:11 – 27; Rev.22:2)
 - New abilities (see Jesus’ resurrection body; Lk.24; Jn.20)
 - New relationships, including old “enemies” (Gen.32 – 33; Rom.12:17 – 21; etc.)
 - New transparency (Mt.10:26; Rom.2:15 – 16)
 - New ways of being known in truth (1 Cor.13:12)

“Things which eye has not seen, nor ear heard, and which have not entered the heart of man, all that God has prepared for those who love Him” (1 Cor.2:9; Isa.64:4; 65:17)



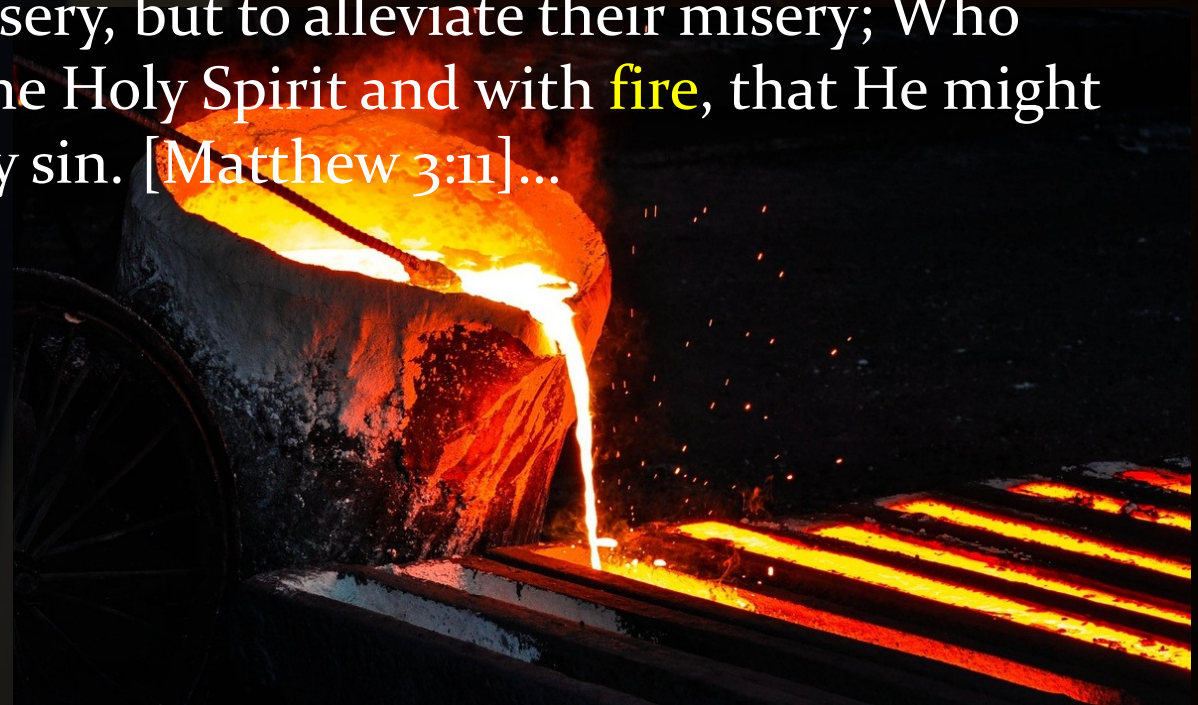
Hell is for the Backward-Looking?

- What about fire? **Fire** is symbolic of God's *refining* presence: Ambrose of Milan (c.337 – 394)
 - “And Isaiah shows that the Holy Spirit is not only Light but also **fire**, saying: And the light of Israel shall be for a **fire** [Isaiah 10:17]...



Hell is for the Backward-Looking?

- What about fire? **Fire** is symbolic of God's *refining* presence: Ambrose of Milan (c.337 – 394)
 - “For our God is a consuming **fire**, as Moses said [Deuteronomy 4:24]... For the bush was **burning** but was not consumed, because in that mystery the Lord was showing that He would come to illuminate the thorns of our body, and not to consume those who were in misery, but to alleviate their misery; Who would baptize with the Holy Spirit and with **fire**, that He might give grace and destroy sin. [Matthew 3:11]...



Hell is for the Backward-Looking?

- What about fire? **Fire** is symbolic of God's *refining* presence: Ambrose of Milan (c.337 – 394)
 - “What, then, is that **fire**? ...that **fire** which improves good deeds like gold, and consumes sins like stubble. This is undoubtedly the **Holy Spirit**, Who is called both the **fire** and light of the countenance of God.



Hell is for the Backward-Looking?

- What about fire? **Fire** is symbolic of God's *refining* presence: Ambrose of Milan (c.337 – 394)
 - “And as there is a light of the divine countenance, so, too, does **fire** shine forth from the countenance of God, for it is written: “A **fire** shall burn in His sight.” For the grace of the day of judgment shines beforehand, that forgiveness may follow to reward the service of the saints.”
 - Ambrose of Milan, *On the Holy Spirit* 1.14.164 – 165, 169 – 170



Hell is for the Backward-Looking?

- What about fire? **Fire** is symbolic of God's *refining* presence: Athanasius of Alexandria (298 – 373)
 - “For a servant of the Lord should be...burning like a **flame**, so that when, by an ardent spirit, he has destroyed all carnal sin, he may be able to draw near to God who, according to the expression of the saints, is called ‘a consuming **fire** [Exodus 24:17; Deuteronomy 4:26; Hebrews 12:29]’ Therefore, the God of all, ‘Who makes His angels [spirits],’ is a spirit, ‘and His ministers a flame of **fire** [Psalm 104:4; Hebrews 1:7].’



Hell is for the Backward-Looking?

- What about fire? **Fire** is symbolic of God's *refining* presence: Athanasius of Alexandria (298 – 373)
 - “Moses... entered into the cloud also, and when the mountain was **smoking**, he was not injured; but rather, through ‘the words of the Lord, which are choice silver **purified** in the earth [Psalm 12:6],’ he descended **purified**.”



Hell is for the Backward-Looking?

- What about fire? **Fire** is symbolic of God's *refining* presence: Athanasius of Alexandria (298 – 373)
 - “Paul, desirous that the grace of the Spirit given to us should not grow cold, exhorts, ‘**Quench not** the Spirit [1 Thessalonians 5:19].’



Hell is for the Backward-Looking?

- What about fire? **Fire** is symbolic of God's *refining* presence: Athanasius of Alexandria (298 – 373)
 - “And our Lord Jesus Christ, being good and a lover of men, came that He might cast this upon earth, and said, ‘Would that it were already **kindled** [Luke 12:49]!’ ... so that evil should be **entirely consumed** in all men, that the soul, being **purified**, might be able to bring forth fruit...



Hell is for the Backward-Looking?

- What about fire? **Fire** is symbolic of God's *refining* presence: Athanasius of Alexandria (298 – 373)
 - “Paul, when seized by this **fire**... became a preacher of the Word [Acts 9].
 - There is no hope for the ungrateful, the last **fire**, prepared for the devil and his angels, awaits those who have neglected divine light”
 - Athanasius of Alexandria, *Festal Letter 3* (331 AD) 3 – 4



Jesus Healed Human Nature

- God's Motivation for Jesus: Athanasius
 - "He saw... the race of men... wasting out of existence, and death reigning over all in corruption.
 - He saw that corruption held us all the closer, because it was the penalty for the Transgression;
 - He saw, too, how unthinkable it would be for the law to be repealed before it was fulfilled.
 - He saw how unseemly it was that the very things of which He Himself was the Artificer should be disappearing.
 - He saw how the surpassing wickedness of men was mounting up against them; He saw also their universal liability to death...

Jesus Healed Human Nature

- God's Motivation for Jesus: Athanasius
 - '...All this He saw and,
 - **pitying** our race,
 - **moved with compassion** for our limitation,
 - **unable to endure** that death should have the mastery, rather than that His creatures should perish and the work of His Father for us men come to nought,
 - **He took to Himself a body, a human body even as our own.... Thus, taking a body like our own, because all our bodies were liable to the corruption of death, He surrendered His body to death on behalf of (*anti*) all, and offered it to the Father...**

Jesus Healed Human Nature

- God's Motivation for Jesus: Athanasius
 - ‘...This He did out of sheer love for us, so that in His death all might die, and the law of death thereby be abolished because, having fulfilled in His body that for which it was appointed, it was thereafter voided of its power for men. This He did that **He might turn again to incorruption men who had turned back to corruption, and make them alive through death by the appropriation of His body and by the grace of His resurrection. Thus He would make death to disappear from them as utterly as straw from fire.**”
 - Athanasius of Alexandria, *On the Incarnation* 8.1 – 4

Jesus Healed Human Nature

- Why Not Send Jesus Immediately? Why Israel?
 - Jesus needed to be truly human
 - Real human experience in the womb, toddler, childhood, etc.
 - Real human experience of learning his vocation in a human way
 - Real, physical community in a physical land
 - Jesus needed real human partners in his mission
 - Israel as a medical focus group anticipating a cure
 - Irenaeus of Lyons (130 – 202), *Against Heresies* 4.14.2
 - Gregory of Nazianzus (329 – 389), *Oration* 2.18, 23, 25
 - Macarius of Egypt (4th or 5th century), *Homily* 15.45; 20.6
 - Cyril of Alexandria (376 – 444), *Lecture* 12.6 – 8

Why Did God Take Life At All?

- Creation: God calls us to grow infinitely
- Corruption: We damage human nature, develop addiction
 - God stopped us from making sin eternal right away
- Clinic: God called Israel to help restore human nature
 - God protected Israel from the worst threats
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Why Did God Take Life At All?

- The Fall Was Self-Harm
 - “Had it been a case of a trespass only, and not of a subsequent corruption, repentance would have well been enough; but when transgression had begun men came under the power of the corruption proper to their nature and were bereft of the grace which belonged to them as creatures in the image of God.”
 - Athanasius of Alexandria, *On the Incarnation* 7.4

Why Did God Take Life At All?

- Mortality Was Preventative and Restorative
 - “The Word perceived that **corruption** could not be got rid of otherwise than **through death...**”
 - Athanasius of Alexandria, *On the Incarnation* 9.1
 - See also:
 - Irenaeus of Lyons, *Against Heresies* 3.23.6
 - Clement of Alexandria, *Stromata* 7.16
 - Methodius of Olympus, *Discourse on the Resurrection*, Part 1.4 – 5
 - Gregory of Nazianzus, *Oration* 45
 - Maximus the Confessor, *Ad Thalassios*, Question 44.5
 - Or, let us make evil immortal in ourselves?
 - Mortality and exile are better
 - Jesus will heal human nature

Why Did God Take Life At All?

- God Protected Israel from
 - External threats:
 - Sodom and Gomorrah; Egypt; Midian; Canaanites; etc.
 - Internal threats:
 - Onan; golden calf worshipers; Nadab and Abihu; Korah; etc.
 - Even Aaron and Moses!
 - But Moses reappeared with Jesus (Matthew 17:1 – 13)
 - **Jesus reveals a backstory; he still gave/gives them a choice**
 - God called Israelites to undo the harm they caused (restorative justice):
 - Parents undid the harm to their children's faith despite exile (Numbers 13 – 14; etc.); hoped for a cure (e.g. Numbers 21:4 – 7)
 - Moses trained others, compiled the Pentateuch, hoped for a cure (Deuteronomy 30:6)

God is Forward-Looking, Restorative

- Creation
- Corruption
- Clinic
- Cure
- Consummation



What Difference It Makes

- Retributive Justice + Fetal Personhood
 - Baseline: Murder
- Retributive Justice + Fine for Fetus
 - Baseline: Compensation, but to who?
- Restorative Justice
 - Personal responsibilities and prevention
 - For abortion: fine the father (men, categorically?)
 - For unintended pregnancy: extra fine or optional vasectomy
 - Systemic responsibilities and prevention
 - Fines for fetal deformity caused by chemicals: corporate, societal
 - Giving women more legal and economic support
 - Make childraising more affordable; all policies

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