

## Abortion Policy and Christian Social Ethics in the United States Scripture Addendum on Exodus 21:22 – 25

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In 2021, I published a book titled *Abortion Policy and Christian Social Ethics in the United States*. Chapters 2 and 3 of my book engage with Exodus 21:22 – 25, the single most important passage from which we might understand the moral weight of the fetus. Following its release, a friend who I call “Questioner” discussed the passage and my interpretation of it with me.

In 1989, pastor and theologian John Piper also wrote an article about Exodus 21:22 – 25 using the same points as “Questioner,” but with less detail. I added footnotes referring to his article here. Unlike John Piper, though, “Questioner” engages more deeply with Exodus 21:22 – 25, with Exodus 21:2 – 36, and the larger literary context as a whole, which is what I do in the book.

See John Piper, “The Misuse of Exodus 21:22–25 by Pro-Choice Advocates,” *Desiring God*, February 8, 1989; <https://www.desiringgod.org/articles/the-misuse-of-exodus-21-22-25-by-pro-choice-advocates>.

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### Questioner

*Hi Mako,*

*On page 17 you repeat Bruce Waltke’s claim (mentioned earlier in chapter 1) that Exodus 21:22 – 25 is “a passage that suggests that the death of a fetus is not equivalent to the death of a born child or an adult human person.”*

*While some translators have opted to translate יָצָא [yatsa] in Exodus 21:22 as “miscarriage,” this hardly seems to be a settled translation question nor does it seem to me to even be plausible given the words used in this section. Wondering if you can comment on any countering points to what I have listed below as I don’t see any reason to support the “miscarriage” translation upon which this principle rests. The text here seems to strongly favor the idea of a “premature birth” instead.*

*1. Ex. 21:22 says of the event in question:*

*“yet, no harm comes to pass”*

*Would any expectant mother or father consider a miscarriage resulting from being struck as “no harm?” That strikes me as rather far fetched. Some translations have added “no FURTHER*

*harm comes to pass” but that word “further” is not in the Hebrew text and would seem rather to be added in order to make sense of the choice of “miscarriage” - a fairly inverted translation process.*

*2. A word occurring at least three times in the Hebrew bible for “stillborn” is not used here.*

*Job 3:16; Psalm 58:8 and Ecc 6:3 all say “nephel” נֶפֶל denoting a still born child.*

*Or the Psalmist, refers to “unformed substance” (embryo or fetus?) using the word “golem” גֹּלֵם Psalm 139:16 (and mentions a plan of God already in place for this “golem” – whom the Psalmist identifies as himself, seemingly denoting at least some sense of personhood.)*

*3. Instead of the options listed in (2), Exodus 21:22 simply says the “child” תֵּלֵד – a common word occurring more than 85 times by my reckoning – and in none of those occurrences elsewhere does it ever refer to a stillborn, nor even a developing child in the womb or a fetus. It’s simply used of young children.*

*4. Just one more chapter later, we see an example of a Hebrew word for miscarry, which is absent in chapter 22-לָשָׂה “shakol” (see Ex. 23:26). Interestingly, the same word gets used in association with bereavement. This seems further to suggest an association with a miscarried child as representing a human life that has died [Gen. 42:36; Eze. 5:17, etc.]*

*5. Instead of the word for miscarry/bereavement; we see a fairly common word for “bring forth” is used: “yatsa” יָצָא*

*Now, “yatsa” is used for a still born birth (see Num. 12:12) but the text there is very clear. It says [my literal translation] “as a dead one coming out of the womb”*

*But it is also used for simply being born (Jeremiah 20:18) – Job even uses it to ask why he did not just die at his birth instead of having to endure his suffering (Job 3:11) and it is used several times to denote children having come from their parents, out of their loins - with the meaning of “coming forth” as to be born of them, of come out of their loins.*

*Based on (1 – 5), it seems far more likely that a “miscarriage” is not the intended meaning of Exodus 21:22; but rather that the child was born early and was otherwise unharmed.*

*We could further note that the mention of what should be done if there was “no harm” requires a judge (21:22) yet the very next verse says if there was any harm, then an equivalent punishment should follow up to a life for a life (21:23 – 26). The meaning then, as noted in point (1) seems to lean strongly toward a premature birth in which no other harm was observed - the judge will then need to decide appropriate restitution. But then if there was harm (note it never specified the mother is the only one in view here) then the appropriate restitution will fit the harm up to a life for a life. On the “miscarriage” view, this would have to refer only to the mother as the one being harmed; but the context directs our attention to the developing child instead. Why would we think the “harm” is now exclusively about the mother? It seems we have to read it that way for the “miscarriage” view room make sense at all.*

*I find it rather hard to believe that “miscarriage” is the intent here despite some translators opting for that.*

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### **Mako’s Reply**

Thanks for engaging here. The short answer in defense of the miscarriage view is the Greek Septuagint manuscript. The LXX has miscarriage in mind. At the level of manuscripts, the question is why you think the LXX is inferior to the Hebrew Masoretic text on this particular point. On what textual or historical basis can you set it aside?

If we constrain ourselves to discussion of the Hebrew Masoretic text, then my response is as follows.

Prior to your question 1, and explaining it, is the question of what kind of blow was dealt the woman. And on page 24, I did explain that the use of “smite” (נָגַף, nagaph) means “death-dealing blow” or “mortal blow” in every other instance where that word is used in the Torah. Beyond the Torah, it is used of warfare strikes where someone dies. Outside of a few poetic references in the Psalms and Proverbs where the context is not necessarily a narrative, in the uses of “nagaph” in historical narratives, someone always dies. The issue therefore is this: Who was killed? Not the woman. That only leaves the unborn child. That’s why the word “further” modifying the word “harm” is precisely appropriate in English translations, despite not being there in the Hebrew. It accompanies the decision to translate נָגַף, “nagaph,” as simply “strike.” Which is inadequate as a translational choice. More disambiguation is needed. So it is appropriate and necessary to say, “and no further harm” with regards to the woman. Thus, in reply to your point, “nor does it seem to me to even be plausible given the words used in this section,” I’d say this: You neglected to examine or discuss the word that denotes the central action by which harm was dealt. What type of strike was this? What type of harm was dealt?

To your question 2A. The absence of the word “stillborn” (נֶפֶל, “nephel”) is not determinative or decisive. In general, it is difficult to prove a case from the absence of words, which is the case you’re making. And, the opposite case can be made that “stillborn” *should not* be used in Exodus 21:22 – 25, and that the ordinary word for “child” (“yeled”) *should* be used, because this was not an ordinary “stillbirth.” There is a *moral* situation here, not just a *biological* situation. The unborn “child” was the victim of the “lethal strike.” The same construction is found in 2 Samuel 12:15, using both “nagaph” and “yeled,” when David’s child with Bathsheba was only a few days old. This is important for larger literary reasons. For the book of Samuel is the inversion of Genesis, and to some degree, Exodus. For Samuel to reverse the situation of a case law in Exodus and show that God has become a qualified opponent of David is devastating.

To your question 2B. Psalm 139:16 (LXX Psalm 138:16) uses the word “golem” (גֹּלֵם) and this is precisely what raises the question, without answering it. When the Psalmist speaks of being “unformed,” he could be referring to the earlier stage of gestation, prior to being “formed.” That is the conceptual distinction introduced by LXX Exodus 21:22 – 23, of being “unformed” and

“formed.” Even if we were able to ignore LXX Exodus 21 here (which I do not believe we can), the question arises why the Psalmist refers to some stage of gestation as a stage of being “unformed.” Surely there is some point when the fetus becomes “formed”?

To your question 3. Yes, MT Exodus 21 uses the word “yeled,” which is used of a born child in an ordinary sense. But this begs the question again. What if “yeled” is used precisely to denote that the unborn child was not a stillborn in an ordinary sense? The child was dealt a “mortal blow.” There is a moral situation here, not just a biological situation.

To your question 4. The ordinary Hebrew word for “miscarry” refers to a simple biological situation, not a moral one. When we are adding the moral gravity of a strike, a different word is appropriate.

To your question 5. Regarding “yatsa,” often translated “bringing forth,” I think the evidence of its usage supports my point, doesn’t it? You cite Numbers 12:12 as an example of a woman “bringing forth” a stillborn, dead child. Then you cite Jeremiah 20:18 as an example of a woman “bringing forth” a child alive. Yes, of course the word can be used for the joyous occasion of a healthy child being born. But the word can still be used on grievous occasions, too. It can be used in other non-childbirth situations where profoundly negative emotions or connotations are being communicated: Cain “went out” from the presence of the Lord (Genesis 4:16), which is brooding and foreboding; Lot offered to “bring out” his daughters to the men (Genesis 19:8), which is unnerving; etc.

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## Questioner

Thanks! 😊

*My thoughts in response to the LXX question as that alone takes some unpacking. I use the LXX as well; but the passage in question has had multiple interpretations over the years (similar to how you described differing views historically in the book and the LXX is not the only one. I think this passage is a good example of some of the things you spoke of in the book as views have differed - perhaps owing to a hapax legomenon being identified by some while not identified by others in the prior manuscripts - or even perhaps Hebrew manuscripts which differed between sects which are now lost to us?*

*- The Targum Onkelos focuses on a fine for the life of the infant provided the mother is uninjured otherwise. And then death as a penalty if the mother die. The text here differing from how one would read the MT or the LXX.*

*But even in this translation, the rendering seems off. For the text seems to present an either/or situation for selecting the appropriate manner of restitution or punishment - from condition A in v. 22 to condition B in v. 23.*

*Yet, the inference made in the Targum translation presupposes that 22 is a restitution for the child while 23 shifts to the mom, with no mention of the child. There is nothing in the Greek or Hebrew texts to suggest such a shift of thought.*

*- The Peshitta seems to favor verse 22 as being a situation where the child is born early but does not die (“no calamity follows”) while 23 is a death.*

*This translation could be referring to a calamity as the death of mother or child or both. No word occurs here to exclude either or both. It seems to favor that the object of the “calamity” or “no calamity” difference is if the child died or not though based on the structure. In this case, I suggest the Peshitta also favors the MT reading.*

*The array of textual options leaves us with all of the following;*

- 1. A child born prematurely but otherwise okay vs. a stillborn (The MT and possibly the Peshitta)*
- 2. Restitution for a stillborn when mom is otherwise okay vs. judgment for the death of the mom (Targum)*
- 3. Restitution for a stillborn which is not fully formed vs. restitution for a fully formed [with the sense of “fully formed” relating to a concept of “quickenning” or “making to rise up” - vs. perhaps an earlier state where a child is not “quickenning.” (LXX and Vulgate)*

*The Targum actually does not permit the LXX option since the matter does not hinge in that text upon the child at all, but rather upon the mother. If the mother dies, then “life for life...” absent any mention of the state of the child’s development. So, we have divergent views there certainly and as I suggested the MT seems also to diverge from the LXX.*

*So, I don’t think it’s a LXX vs. MT kind of issue exclusively; rather there appear to be multiple explanations given depending on the source.*

*Philo and others attest to an understanding similar to the LXX.*

*But this leaves open the question: “Why think the LXX is superior on this point?” which seems to have equal force to “why think the LXX is inferior?”*

*I would suggest that what seems out of place in the translations of the LXX is the use of “fully formed?” Many cite Philo – yet, this is not the same word he chooses to describe “unshared and undeveloped.” So Philo shares a similar idea; but not similar language.*

*As noted, the Targum Onkelos seems to suggest the verse is actually about the mom and not the baby – similar time as the Vulgate.*

*Interestingly, the DSS and Samaritan Pentateuch agreement with the MT – which seems to suggest that the MT is not a later erroneous view; but rather that it may very well faithfully*

*represent the Hebrew. The question then seems to boil down more to the interpretation of the Hebrew – which is what I suggest the LXX is doing here vs. translating.*

*This agrees with Neophyti I, Pseudo-Jonathan and more or less with Josephus as well – Rashi also seems more focused on if there was harm to the mother or not and not if the child was fully formed or not. Some have even suggested that if the verses 22 – 23 do focus on the woman then the case of the death of the child is treated more like accidental manslaughter and not intentional murder (hence no lex talionis).*

*Either way, it seems most likely that the LXX was not simply translating here; but was offering a kind of explanation based on philosophical reflections. There seems to be no other early indication of anything like “fully formed.” We may in fact simply be reading one of the several views on how this law was to be applied rather than reading what the law actually said originally.*

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*Regarding “nagaph” - I would suggest your view is an oversimplification.*

*Setting aside the wisdom books for example as you suggested, the range of the word seems better suited to a “defeating blow” or a “serious blow”*

*Exodus 8:2 – God smites the land with frogs. This is presented as a serious “blow” to Egypt but clearly different than the same word being used in the context of dealing a death blow later following the last calamity on Egypt in the smiting of the firstborn.*

*Leviticus 26:17 is just one example of many where people, having been smitten, are still fleeing. – in Torah, Dt. 28:7; 28:25 have the same concept. The nation as a whole suffers a serious defeat or blow; but we don’t think that means everyone dies since many still live in and flee.*

*I Samuel 7:10 describes being smitten by fear of thunder and lightening. Again, they are overwhelmed; but there doesn’t seem to be an indication they die from it.*

*In II Samuel 2:17 Abner is named specifically as one who was smitten and yet, he is alive and running and even kills his pursuer and lives on after this whole event.*

*II Samuel 10:15 – like the earlier Torah references to groups of people being smitten suggests that while some did die, the group as a whole suffered a serious blow or defeat – so they regroup and try to fight again.*

*2 Chron 13:15 – 20 is interesting in that Jeroboam is smitten in verse 15 – he flees and is dispossessed of his power. His strength goes out of him – verse 20 though adds that he did not recover his strength – and in this verse Yahweh smites him (a second time) and THEN he dies. The first smiting does not seem to be thought of as a death dealing blow.*

*2 Chron. 21:18 – Jehoram does die, but not for another two years afterward.*

*Isaiah 19:22 portrays people as being smitten and then healed by God*

*Jeremiah 13:16 – has a similar idea to what the wisdom literature does with the word - “smiting ones foot on the mountain” – which again sounds like a serious injury, but it seems odd to think of this as dealing death just to ones foot?*

*So the concept here seems more nuanced. If we assume it’s “dealt a death blow” then the common addition “and he died” seems unnecessary. But if it a “serious blow” then the “and he died” addition makes perfect sense. And we see in several examples that people did not die from being smitten – rather, they were dealt a serious blow – sometimes fatal, sometimes not.*

*I would also note that it is the mother that is said to be smitten. So if the focus of the text is the child, but a death blow was committed against the mother, then wouldn’t the mother die?*

*Rather, the child may be in view precisely because it is a “serious blow.” Which may harm the mother or possibly the kill the baby.*

*I’m also pretty puzzled by your conclusion based on the possible chiasm of chapter 21.*

- A. Restoration Without Payment: Indentured Servants; Betrothed Daughters (21:2 – 11)*
- B. Sacredness of Bodies and Relations; Crimes Punished by Death (21:12 – 17)*
- C. Injuries from a Physical Fight; Toward Full Healing (21:18 – 19)*
- D. The Full Humanity of the Slave: Cases of Murder vs. Homicide (21:20 – 21)*
- C’. Injuries from a Physical Fight; Compensation (21:22 – 25)*
- B’. Sacredness of the Body and Relations; Freedom to Servants (21:26 – 27)*
- A’. Restoration With Payment: Indirect Injuries; Servants; Compensation (21:28 – 36)*

*If C and C’ are paralleled (pages 27 – 28) then both may suggest:*

*A fight resulting in an injury short of death results in a fine – this fits the MT just fine.*

*If anything, the chiasm suggests the opposite to me – I cannot see why, if the chiasm is correct, how miscarriage fits at all.*

*You noted that it is hard to see why there would be any liability at all. That seems simple – for the same reason as in the C portion of your chiasm – the event itself would likely involve costs and time to heal.*

*The family might not have been ready for the baby yet.*

*Further, the mother may have more difficulty in childbirth as a woman’s body spends the final weeks of the last trimester getting the baby (and her hips and internals) into birthing position. Without this final preparatory period of time, a woman is likely to need more time to recover and the birth itself may be more traumatic.*

*The man (apparently just one out of the two as the text switches to singular) who is responsible for it would be liable for the costs and the healing time for child or mother – if anything this seems to fit even better if C and C' are paralleled.*

*The clear implication of 18 – 19 is that the person struck “did not die” but merely was injured. Then the guilty party pays for medical cost and recovery. Likewise for the woman and baby who are not harmed beyond the event itself – is day beyond the event itself (whether a miscarriage or a premature birth) because it clearly states that something happened to cause a child to come out of her – I can’t conceive of that as the “no harm” being spoken of regardless of interpretation - but of the two, “no harm” seems a bigger stretch for miscarriage in my mind. Does any parent think a miscarriage is a “no harm” situation? Most families I know mourn the loss – and a family friend in Tokyo named their miscarried child and still keeps a shrine for them after 40 years – and this is not uncommon. People all over the world have done some form of mourning for a miscarriage – to think of that as “no harm” strikes me as disconnected from human experience.*

*The text then would also mean that if, because of this premature delivery, some other harm does come (possibly to mom or baby or both) then you shall... (lex talionis)*

*The MT seems to fit that just fine:*

*“If men fight and strike a pregnant woman so that “comes out” “the child” – yet not comes to pass serious harm” – then a fine is imposed. And since a wife or child wouldn’t have wages – a judge determines what is due for their medical cost and lost time.*

*This seems entirely consistent with the principle in C.*

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## **Mako’s Reply**

A few things about the Hebrew word “nagaph.” I disagree with the way you suggest we handle this very important word. Let me take one at a time.

Regarding Exodus 8:12, I disagree with you in the particular plague of frogs and the overall context of that plague in the whole set of ten plagues. While it is true that no human being is reported to have died in Exodus 8:12, that was not the *objective* of the “nagaph” of the second plague to begin with. Rather, the object of God’s “nagaph” of frogs was *the land* of Egypt (Exodus 8:2, 5, 6, 7, 14). To be overwhelmed by frogs from the Nile River is something that must have meant death and devastation for *the land*. I’m not an agriculturalist, but from an ecological standpoint, that must have been horrifying. The narrative of Exodus itself shows that the people of Egypt and Pharaoh were overwhelmed, and even though the magicians of Egypt were somehow able to produce even more frogs from the Nile, too (how was that comforting?), Pharaoh actually relented to Moses.



What's even more significant is what happens when we integrate the first plague into the backdrop of the Genesis creation story. In Genesis 1, God established boundaries between water and land, and that included some semblance of order for animals like frogs which kept to their realms. In Genesis 1, God used these boundaries to bring forth "life" for the land, and on the land. For God to relax the boundary between water and land, and to call forth frogs out of their realm in the Nile River and onto dry land in Egypt was "death." Whatever ecological damage "really happened" or whatever later Israelite readers of Exodus 8 might imagine is surely grotesque in itself, especially when all the frogs are said to have died and the land of Egypt was a stinking mess. But even more significant is the damage done from a literary-theological perspective. From an integrated, literary-canonical perspective of the whole Pentateuch in view, God's undoing of the creation boundary between water and land was a "mortal blow" to the *land*, just as Exodus 8:12 indicated it would be.

Then, when we integrate the second plague (of frogs) into the larger pattern of the ten plagues as a unit, and Exodus 7 – 14 as a larger literary unit, we can only reinforce that conclusion: all ten plagues were a "nagaph" on Egypt. In Genesis 1, God spoke ten times to establish boundaries and bring forth life. But here in Egypt, God spoke ten times to undo boundaries and bring forth death. That by itself is really important. So is the notion that we are meant to read the ten plagues as *one overall movement* of God, which is established by God's early narration of the whole experience in Exodus 7:1 – 7. The first plague of turning the Nile River into blood did not persuade the Egyptians, even though it, too, expressed the undoing of a boundary within the waters and between the waters, also to bring about death. So the next stage of striking *the land* commenced with the second plague, that of frogs. The undoing of boundaries continues until the reversal of Genesis 1 happens, when God deals a "nagaph" on all Egypt by gathering the lives of the firstborn children to Himself (Exodus 12:23, 27). From a literary perspective, we need to hold all ten plagues together. When we do so, as the text invites and requires us to do, we indeed see that "nagaph" means "mortal blow."

Regarding Leviticus 26:17, it's not that God promises that the whole nation of Israel will be killed. Of course some people – probably the majority of people – were left alive to flee. Otherwise, the covenant itself would collapse. But notably, some people died when the word "nagaph" is used in the phrase, "I will set My face against you so that you will be struck down ["nagaph"] before your enemies; and those who hate you will rule over you, and you will flee when no one is pursuing you." This finds confirmation in the fact that the word "nagaph" was used in Exodus 32:35 in the same way: "The Lord smote [root "nagaph"] "the people" over the incident of the golden calf." Not all of the people per se, but three thousand men were killed by the Levites (Exodus 32:28).

This narrative pattern is part of the Sinai covenant, to signify the parallelism of Israel being a new instance of Adam and Eve in a new version of the garden land, in a settled mode of life as compared with a pilgrim mode of life as in Genesis. In Genesis, God didn't relate to the family of faith this way. The apostle Paul later called the Sinai covenant "a covenant of death" (2 Cor 3), and that was shown in the Pentateuchal narrative itself. Once the Sinai covenant was inaugurated, God would be faithful to the covenant, of course, and therefore preserve some of Israel in order to serve as the human partners to Jesus in his birth and vulnerable childhood, as witnesses to his life, death, and resurrection, and partners with him in his mission to the world.

All that is to say this: Even though in Leviticus 26:17, the action of God's "nagaph" takes "the people" as a direct object, which if taken "literally" might mean every single Israelite, we have to acknowledge that word choice alone (or "semantics" not in a disparaging sense, but simply meaning "word choice"), does not determine how "nagaph" is applied. There is a *narrative-covenantal context* which also requires that God preserve some of Israel all the way through to see Jesus fulfill it. Thus, my point stands: "nagaph" in Leviticus 26:17 involves a mortal blow.

Regarding usages of "nagaph" after the Pentateuch, the details do matter, especially, again, literary context.

1 Samuel 7:10. It is true that God struck ["nagaph"] the Philistines with fear due to unexpected thunder. But in the very next verse, "The men of Israel went out of Mizpah and pursued the Philistines, and struck them down as far as below Beth-car" (7:11) I think the actions of God in 7:10 and the men of Israel in 7:11 are meant to be taken together. In the Sinai covenant, as compared again to Genesis, God established a closer partnership between Himself and Israel when it came to Israel's self-defense.

2 Samuel 2:17. Immediately preceding this verse is the start of civil war and this particularly gruesome event: "Each one of them seized his opponent by the head and thrust his sword in his opponent's side; so they fell down together. Therefore that place was called Helkath-hazzurim, which is in Gibeon" (2:16). Therefore, when the narrator says in v.17 that "That day the battle was very severe, and Abner and the men of Israel were beaten before the servants of David," once again we are to read "Abner and the men of Israel" as represented by those who did die. My point here to you is the same as my point in Leviticus 26:17. "God struck Israel." That does not mean that every single person in Israel died. It does mean "defeat" but, more to the point, that a representational portion of Israel did die in fact. So when "God struck Abner" or some such construction is used, "Abner" as a name represents a faction and not just himself as a person. We can be fairly certain about that because the text says "Abner and the men of Israel" anyway.

2 Samuel 10:15. Same thing. Defeat of a larger faction or faction represented by a person's name. But a representative portion is killed.

2 Chronicles 13:15 – 20. Same thing. Note especially v.17: "Abijah and his people defeated them with a great slaughter, so that 500,000 chosen men of Israel fell slain."

2 Chronicles 21:18. I do think Jehoram's death is in immediate view when the narrator says that God struck him with a disease in his bowels, even if his death took another two years. I wonder if he hoped it came sooner.

Isaiah 19:22. God said He would strike Egypt and then heal Egypt, yes. The ecological devastation and famine described in Isaiah 19:1 – 18 mean people in Egypt would die. And when God acts to heal Egypt, it is with language that I take to mean "the gospel" – in Isaiah itself, literally, as Isaiah was looking ahead to the message of the Servant-Messiah being announced there (Isaiah 19:19 – 25). The Egyptians would become partners with God and children of God on par with Israel. So this "resurrection" healing could only mean the coming of the Servant-

Messiah. To your point: Just because God does act to heal and resurrect, does not mean the death blow was any less actual death.

Jeremiah 13:16. Jeremiah was using a poetic usage where he portrays the whole nation of Israel as one human being. And the context is Jeremiah telling Israel that they will go into captivity. So yes, in that poetic image, striking one's foot is a poetic way of saying that some people will die.

Please reconsider here, Questioner. Even if you were correct, and even if the meaning you propose – “defeat” – is the correct one, it would still be impossible to square with the context in Exodus 21:22. In what sense is a physical blow which simply causes a woman to deliver her otherwise healthy baby early, a “defeat”? That is still a very incongruous usage, especially of a very significant word that's used in very specific ways in the narrative of the Pentateuch.

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### **Questioner**

*I am thinking more as in “defeat” as describing the strength of the blow.*

*I think we agree that the verses where this occurs all seem to describe a serious or even a “grave” injury. On my take, one that very well may lead to death – or when used more figuratively of a large group of people, one where at least some of the members of that group do die.*

*When an army is involved the concept of a “defeat” would involve many deaths. So we might say “he struck a mortal blow to their ranks” – which I believe is your point of this usage.*

*But the several occurrences of a smitten person running away and needing to be hunted down – one in particular being well enough to kill his pursuer and not actually dying himself and another needing to be re-smitten by God again (do death dealing blows need two instances to deal death? At least one of the blows then was not fatal) – these seem out of place if one thinks that death always results. We tend to say “mortal blow” but we don't usually think that such blows are 100% resulting in death.*

*My point is not so much to try and define the word in one way – but to suggest that, as with most Hebrew words, one definition alone rarely covers the semantic range. They had substantially less words than Koine Greek and both languages have substantially less words than modern English so most Hebrew covers a wide semantic range per word depending on context.*

*On Exodus, I fail to see how “a mortal blow” that causes “a miscarriage” = “and no harm comes.” I can only make sense of that if the child survives and the mother is, surprisingly, not otherwise seriously hurt.*

*So, if one insists that the word needs to mean “a mortal blow” – does that therefore mean that it always leads to death? Many cultures have used such terminology to describe the severe force of a strike, but some survive such strikes.*

*The LXX may also be instructive here as it uses “patasso” which I would suggest more clearly has the very kind of semantic range I am describing. Just one example is Acts 12:7 cf. Acts 12:23*

- *An Angel of the Lord “patasso” Peter and he wakes up. We know this was not a fatal blow.*
- *An Angel of the Lord “patasso” Herod and he dies and is eaten by worms.*

*Which echoes my point of the Hebrew word. When death is intended, we see very often that the Hebrew text clarified that a person was “struck” and then “died” – a fairly superfluous addition of one assumes such a blow always results in death.*

*But if we consider that this is simply a blow, possibly (or usually) even a severe one which may be a death dealing blow in some contexts but not a death dealing blow in other contexts, then I think this is closer to what we see in the range of uses - the passage will tell us if it leads to death (in the case of an army, every knows that armies lose battles when their soldiers die more than the other guys so it may not be clarified there).*

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### **Mako’s Reply**

I appreciate how you’re trying to work with the chiasm of Ex.21:2 – 36 as relates to the Masoretic Text. In my view, the forced miscarriage view, the symmetry between C (2:18 – 19) and C’ (21:22 – 25) is fairly straightforward. This again depends on the view that the word “nagaph” means lethal strike, as I explained above.

In C, there is a fight. In C’, there is a fight. These are the only physical fights in the whole of Exodus 21:2 – 36, which adds significance to the parallel between C and C’. While there is no detail given as to why there is a fight, or why a woman gets involved, presumably this is not one woman against two men. Or a three way fight, where one party is a pregnant woman. I am assuming that one fight scenario of C’ could be between one person against two people, where the one was a man, and the two against him were a man and a woman: Most likely a husband and wife, but not necessarily. In Deuteronomy 25:11 – 12, another fight scenario is played out where one man is fighting against another man, and the wife of one gets involved. Maybe there’s a grammatical possibility where there’s an adult brother and sister on one side, in a family feud situation? Or, perhaps an estranged husband suspected his wife of having an affair, and wanted to cause a miscarriage, and her brother was defending her? Since Numbers 5 also handles the situation of the suspicious spouse, this was possible, too. The more likely possibility, in any given situation, is that a husband and wife are one party in the fight. But Exodus 21:22 – 25 stands independently of what caused the conflict. The case law is about the outcome, not the motivation.

In C, there is bodily harm. In C’, there is bodily harm.

In C, the consequence is a fine and/or physical help. In C', the consequence is a fine if the unborn child is miscarried, and/or a fine if the mother is also bodily hurt (I am interpreting the lex talionis as an outer limit of equivalent financial compensation).

It would seem that in this interpretation, which subsequent Jewish opinion affirms, the unborn child is treated functionally as part of the body of the mother, which is how the majority of the Jewish community understands this passage.

In the premature delivery view, the symmetry between C and C' is substantially weaker, despite C and C' being the only situations involving a fight.

In C, there is bodily harm. In C', there is no actual bodily harm, but only premature delivery? I think this is a weakness of the premature delivery view. Throughout Exodus 21:2 - 36, there is a strong interest in actual bodily injuries and the compensation required: Killing a person (21:12 - 14). Striking one's parents (21:15) may involve honor, but physical injury is probably implied as well. Causing bodily injury in a fight (21:18 - 19). Causing a servant to die or be injured bodily (21:20). Causing a servant's eye to be blinded or a tooth to fall out (21:26 - 27). Bearing responsibility for an ox that gores someone else (21:28 - 36). Again, these case law examples were probably chosen because they were an immediate application of the Ten Commandments (especially murder and stealing), but also because Israel's experience in Egypt needed to be re-understood: kidnapping into slavery (21:16), permanent slavery (21:2 - 6), bodily harm, etc. were morally evil. The Israelites were not to practice what they experienced in Egypt.

Is financial compensation required for causing emotional distress, as opposed to lasting physical harm, to a pregnant woman who got involved in a fight? It's unlikely. There is probably some level of emotional distress caused by other actions named in Exodus 21, and perhaps there are other places in Scripture where that concern could be addressed, but it goes unaddressed in Exodus 21 per se. For example, there might be emotional distress in being physically disciplined (if you did something wrong) by the person employing you as a servant on his/her own household farm, where you lived because there was no commuting to work back then. But emotional distress is not a factor in compensation or consequence. That is germane here.

You raise the questions of the family being unprepared for a baby and of the mother's body going into labor early. While I certainly respect you for thinking about those things in today's context, I think that the family's preparedness is more of a modern concern. It had less meaning in a village and extended family setting. As for the mother's body going into labor early, I'm sure going into labor is harrowing for any pregnant woman, even if she is ready and carries full term. But labor would have happened anyway, and early deliveries do happen as well. The question here is whether Jewish case law and observers would have been so attuned to the state of the pregnant woman's hips, etc. that they would compare what actually happened with what might have happened otherwise. If the mother is unharmed, and her baby is healthy, then the mere fact that the baby came early would be an unusual reason to impose a fine in the context of all of the other case law examples of Exodus 21:2 - 36. Especially if the woman entered the fight to side with her husband, a la Deuteronomy 25:11 - 12, which for various reasons to me seems the most likely scenario, while not limiting the significance of Exodus 21:22 - 25 to that.

The symmetry between C and C', or at least the conceptual relationship between them, probably influenced subsequent Jewish commentary. So, take Targum Onkelos, the early Aramaic translation. Here I depend on the English translation by J.W. Etheridge:

If men contending strike a woman with child and she miscarry, but die not, fined he shall be fined, as the husband of the woman may set upon him, and he shall give according to the sentence of judgment. But if death takes place, thou shalt give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, bruise for bruise.

In Etheridge's translation, there is no ambiguity. The text is about forced miscarriage. The penalty for causing a forced miscarriage is a fine. The penalty for causing death to the mother is based on the principle of *lex talionis*. The contrast rests on what happens to the woman as she delivers her child.

You wrote this: "Yet, the inference made in the Targum translation presupposes that 22 is a restitution for the child while 23 shifts to the mom, with no mention of the child. There is nothing in the Greek or Hebrew texts to suggest such a shift of thought."

But the continuity of thought in Targum Onkelos as in Exodus 21 is *bodily harm*: the situation of an actual delivery of a dead child ("and she miscarry but die not"), and I think the same is true in both the Greek Septuagint and the Hebrew Masoretic. If the woman miscarries but does not die *in childbirth*, then there is a fine. If she not only miscarries but also dies in childbirth ("But if death takes place"), then the principle of *lex talionis* applies – but only weighed out against the mother's life.

By contrast, if a man struck a pregnant woman on the head and she died immediately without giving birth, then there would be no further need to elaborate on the value of her life and the penalty to be levied: *lex talionis* for her life, and probably a lesser fine for the child lost in utero, based on this text in Exodus 21. Note: Jewish law, based in Numbers 5:11 – 31 and Deuteronomy 22 and subsequent rabbinical opinion, was aware of the possibility that an adulterous woman could be pregnant, and did not say that the pregnancy should delay the stoning. The case law in Exodus 21 presumably exists at all because the woman is struck in such a way that she does not die instantly. Rather, she goes into labor. Targum Onkelos is primarily concerned about what happens to the pregnant woman.

Quite possibly, the Israelites did experience a form of brutality like this at the hands of the Egyptians. In Exodus 1 – 2, when Pharaoh ordered the Jewish children to be thrown into the Nile River, it is possible that Egyptian soldiers struck pregnant Jewish women in such a way so as to cause forced miscarriages. Though the biblical text does not mention this *per se*, it seems likely. And later readers of the biblical text could probably wonder such things, assuming that the biblical narrator was being economical and taciturn in the narration.

In any case, it is notable that the miscarried child and the woman who dies in childbirth do not add up to two human lives, when the penalty is handed down to the offender. Given that penalties for death were arguably expected to be translated into a financial penalty anyway (e.g.

Ex.21:18 – 19, 28 – 36), with the lex talionis principle establishing an outer boundary in financial terms, that is very important to consider. A man who harmed two other people could and should pay for both people's injuries; and a man who caused the deaths of two people could and should pay for both people's lives. But Targum Onkelos denies that. The miscarried child's life does not count as a fully human person, as evidenced by the absence of the principle of lex talionis in that case. Therefore, Targum Onkelos provides direct evidence for my case.

The Aramaic Targum Onkelos is important because of its proximity to the Hebrew Old Testament. This document reflects the scholarship and translational efforts of the Babylonian Jewish community, which had been deported by Nebuchadnezzar to Babylon from 586 BC. Targum Onkelos dates from the late 1st or early 2nd century AD, but Jewish tradition holds that its essential content dates back to Ezra the scribe. The Aramaic Targum Yerushalmi / Pseudo-Jonathan, which reflects the scholarship and translational efforts of Palestinian Jewry from between the 4th – 10<sup>th</sup> century AD; its essential content probably also dates back from far earlier. The two communities were in remarkably close dialogue with each other over centuries. Significantly, both hold to the forced miscarriage view of Exodus 21:22 – 25.

I acknowledge that the Syriac Peshitta allows for the premature delivery interpretation, and perhaps favors it. I am dependent on English translations here for this impression, because I do not know Syriac. It would be helpful, though, to be able to do comparative word studies on the word that is translated into English as “calamity” or “misfortune.” (<https://biblehub.com/hpbt/exodus/21.htm>), though perhaps even that might not be determinative.

But here is where several questions enter in. First, there is of course the fundamental question of the original Hebrew text. As I've said above, I think the word “nagaph” in its consistent usage in the Old Testament to mean “lethal blow” or “mortal blow” is weighty, and determinative. When this word is used, death occurs. How is this rendered in the Syriac Peshitta? Is there translational integrity into the Syriac?

Second, there is the question of tradition history as reflected in manuscript families. The Syriac Peshitta was translated from Hebrew to Syriac in the 2nd century AD, in the view of most scholars, and probably by Christians, since the New Testament was translated from Greek to Syriac at around the same time. Presumably the Syriac Peshitta and Aramaic Targum Onkelos circulated in the same regions and around the same time. Both Syriac and Aramaic were common tongues, though not as common as Koine Greek even in places as diverse as Antioch. The difference between the Syriac Peshitta and Aramaic Targum Onkelos becomes significant here because they probably reflect different communities.

If the Syriac Peshitta was developed and used by Syriac-speaking Christians, it concurs regionally and conceptually with the Didache, which also seems to take the formidable stance of forbidding abortion completely. Scholars also suspect that the Didache came from, or was directed towards, Christians in Syria. The Didache was written in Koine Greek because Koine Greek was probably more accessible than Syriac, even in those regions. If so, then the authors of the Apostolic Constitutions set for themselves a subtle and perhaps ambitious task in 400 AD: to align the Syriac-Greek speaking Christian community in that region with the Greek LXX translation of Exodus 21, not the Syriac Peshitta.

Therefore, the difference between the Greek Septuagint and Syriac Peshitta becomes important again, not just in their fidelity to the Hebrew original, but in terms of reception history and tradition history. The LXX preceded the Peshitta by 400 – 500 years, at least with regards to LXX Exodus. The LXX won the acceptance of the Jewish leadership in Jerusalem, whereas the Peshitta cannot make that claim. And the LXX won widespread usage in diaspora synagogue communities to a far greater extent. It is unknown to me whether the Peshitta was used by any synagogue communities at all. It seems significant that the most prominent scholars on the Peshitta are Christian: Sebastian Brock, Bruce Metzger, etc. If the Peshitta reflects a Christian effort, quite possibly these Christians wanted to have their text reflect an even more morally demanding stance on the unborn than Jewish synagogues in their region.

Is it plausible that some Syriac-speaking Christians developed a more stringent position on abortion? Yes, it is perfectly plausible, in order to differentiate themselves further from Jews, not just the pagans. It is not out of the question that some Christians would try to morally outcompete another group who believed they were morally superior to the Christians. As early as Paul wrote 1 Timothy 4:1 – 5, there were those who began to not just idealize, but require, singleness as opposed to marriage, largely because of the influence of Platonism and Stoicism. This idealization left a strong imprint on early Christian literature. This is the likely reason why the Corinthian Christians deposed their elders around 90 AD, which was countered by the letter from the Roman Christians now called 1 Clement (see Clement of Alexandria, *Epistle of the Romans to the Corinthians* 3, 14, 42 – 57 for the overthrow of elders; see chs.33 – 34 for the defense of marriage and Genesis 1 – 2). It is why Ignatius of Antioch wrote to a fellow bishop, Polycarp of Smyrna, around 110 AD, cautioning him about those who choose singleness and viewed themselves as morally and spiritually superior to the bishop (Ignatius of Antioch, *Epistle to Polycarp of Smyrna* 5). When we find excessive stringency on a related issue – celibacy over marriage – the hypothesis of excessive stringency on abortion is quite credible. This explains Syriac Peshitta Exodus 21.

The fact that the Dead Sea Scrolls and the Samaritan Pentateuch agree with the Hebrew Masoretic is not determinative, but it is important. The numerical preponderance of manuscripts is by itself circumstantial, and not necessarily reflective of originality or chronology. This diagram of manuscript relationships (<https://en.wikipedia.org/wiki/Hexapla>) explains why. The Greek LXX is “prior” to other manuscripts when considering the internal manuscript evidence, such as linguistics.

Chronologically, not only is the Greek LXX earlier to even Qumran, which goes back to the 1st or 2nd century BC, but the Greek LXX has a sociological distinction as well. The Greek LXX was also in use while overlapping with the Hebrew textual traditions (Masoretic or proto-Masoretic) in Palestinian Judaism and in Jerusalem itself, which is very important. Jewish leaders for centuries either co-existed with the Hebrew and Greek, or saw no fundamental incompatibility between them, or saw the Greek LXX as being a particular application of the Hebrew meaning, or something like that. As I said before, the Syriac Peshitta did not have this distinction. And the Aramaic Targum Onkelos is in basic agreement with the forced miscarriage view, which is quite important when we factor in its sociological significance. Targum Onkelos became the official synagogue version of the Torah for quite some time. Targum Yerushalmi /



Pseudo-Jonathan, which developed from Palestinian Jewry and replaced it, also holds the forced miscarriage view, not the premature delivery view.

([https://www.sefaria.org/Exodus.21.22?ven=The\\_Contemporary\\_Torah,\\_Jewish\\_Publication\\_Society,\\_2006&vhe=Miqra\\_according\\_to\\_the\\_Masorah&lang=bi&aliyot=0](https://www.sefaria.org/Exodus.21.22?ven=The_Contemporary_Torah,_Jewish_Publication_Society,_2006&vhe=Miqra_according_to_the_Masorah&lang=bi&aliyot=0)).

Thus, as far as which manuscript can lay claim to reflecting or being the mysterious original text, between the Hebrew and Greek, I don't think it is possible to decide between the two. And unfortunately, I don't think Syriac Peshitta Exodus 21 can lay serious claim to be an authentic translation of the original text of Exodus 21.

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### **Mako's Postscript**

I must sadly disagree, therefore, with the decision of the seven Oriental Orthodox Churches to receive the Syriac Peshitta as the authoritative translation of the Old Testament, especially with regards to Exodus 21. This decision leads to confusion.

For example, the Ethiopian Orthodox Tewahedo Church asserts that abortion is only permissible in the event of risk to the life of the mother, which is a conclusion one can reach based on Syriac Peshitta Exodus 21:22 – 23. Yet, in its formal liturgy, the Tewahedo Church incorporates a view of the fetus that can only come from *the Greek LXX and Aristotle together*. The Anaphora of St. Athanasius (a prayer sequence read over the eucharist) reads:

“O You, Who takes a child from his father's waist to the woman's womb,  
Who clots him after he is formed as fluid,  
You breathe out the breath of life into him  
On the fortieth day...”<sup>1</sup>

As I said in the book on page 37, a convergence with Aristotle's views to this level of detail is rather suspect, though perhaps understandable given Aristotle's prestige as a scientific authority. We find this convergence in two ways. First, the Greek philosophers like Aristotle and physicians like Hippocrates and Galen believed that the father contributed the whole human being via his sperm, and the mother provided the nourishment to the fetus. This is the Anaphora's view when it says that the “child” comes from the father to the woman's womb; the child is not the merger of something contributed by the father and something contributed by the mother. Moreover, the sperm is regarded as a fluid which God must “clot.” This is disappointing because the Jewish, Hebraic tradition offered another insight, at least potentially. The biblical idiom ascribed a “seed,” which was typically thought of as male, to the *woman*: the phrase “the seed of the woman” from Genesis 3:15 was mysterious but at least raises a doubt that the father contributes the whole human being, with the mother merely incubating the unborn child.

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<sup>1</sup> The Ethiopian Orthodox Tewahedo Church Faith and Order, *Liturgy of the Ethiopian Church*, translated by Rev. Marcos Daoud, *Anaphora of St. Athanasius* 113, page 104;  
<http://www.ethiopianorthodox.org/biography/englishethiopianliturgy.pdf>

Second, the Anaphora maintains that God breathes the breath of life into the fetal body “on the fortieth day,” which is the day that Aristotle believed that the male fetus reached a form that was reasonably human. He thought female fetuses reached that stage at ninety days of gestation. The Liturgy, therefore, attempts to connect Aristotle’s estimate of fetal development with a biblical motif – God’s breathing of a soul into Adam from Genesis 2:7. The Liturgy thus weaves together both Greek scientific and Hebraic-biblical beliefs.

This means that the Syriac-speaking and Oriental Orthodox traditions bear witness to more than one textual tradition and more than one scientific viewpoint. This is somewhat to be expected, given the turbulence of Christian existence under Persian rule, then Arab Islamic rule. But it is problematic. The Syriac-speaking tradition contains three beliefs about the fetus:

1. The fetus became a full human person at birth and breath, consistent with the Hebrew Masoretic Text and coordinated with Genesis 2:7. Aphrahat the Persian (died 345) wrote in *Demonstrations* 6: “For they are endowed with the soulish spirit [from] the first birth, which [spirit] is created in man, and is immortal, as it is written, ‘Man became a living soul’ [quoting Genesis 2:7, 1 Corinthians 15:45].”<sup>2</sup>
2. The fetus’ stage of development needs to be accounted for, consistent with the Greek Septuagint translation of Exodus 21:22 – 25.
  - a. The *Apostolic Constitutions* (380 – 400) qualifies or interprets “child” in the *Didache* (50 – 100) around the Greek LXX language of “formation.”
  - b. Even more remarkably, the *Liturgy of the Ethiopian Orthodox Tewahedo Church* contains this prayer recited over the eucharist, called the Anaphora of St. Athanasius:

“O You, Who takes a child from his father’s waist to the woman’s womb,  
Who clots him after he is formed as fluid,  
You breathe out the breath of life into him  
On the fortieth day [in the womb] . . .  
Anaphora of St. Athanasius 113<sup>3</sup>

3. Full fetal personhood is suggested from the Syriac Peshitta translation of Exodus 21:22 – 25. The Syriac Peshitta is one of the translations of the Scriptures into Syriac. The translation dates from 2nd – 4th century, and was almost certainly done by Christians, not Jews. Significantly, the Peshitta seems to hold to the early delivery view of Exodus 21, based on the English translation available to me. However, it is not the only Syriac translation of Scripture as well, though I have not yet found English translations. The Philoxenian was completed in 508, though it only survives in quotations in other words.

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<sup>2</sup> Aphrahat the Persian, *Demonstrations* 6; Parisot’s edition; quoted in Church of Beth Kokheh Journal, “The Destiny of the Soul after Death in the writings Fathers of the Church of the East,” page 4; found here: <https://bethkokheh.assyrianchurch.org/wp-content/uploads/2017/12/The-State-of-the-Soul-Church-Fathers-of-the-East.pdf>. It is significant for historical purposes that the Assyrian Church of the East offers this paper, as Aphrahat lived before the Council of Nicaea 325 and probably wrote between the Council of Nicaea 325 and the Council of Constantinople 381.

<sup>3</sup> The Ethiopian Orthodox Tewahedo Church Faith and Order, *Liturgy of the Ethiopian Church*, translated by Rev. Marcos Daoud, page 104; <http://www.ethiopianorthodox.org/biography/englishethiopianliturgy.pdf>.

The Harklean was completed in 616. “Scholars have regarded the Harklean as the last of the Syriac revisions. However, in the Comparative Edition of the Syriac Gospels (1996), Andreas Juckel successfully demonstrates that the Harklean was by no means the last of the revisions. Juckel describes two post Harklean revisions: the first by the Syriac Orthodox scholar Mor Dionysius bar Salibi (d. 1171) and the other represented in J. White's edition of the Harklean, not earlier than the 12th century. These translations were aimed at bringing the text into closer line with their contemporary Greek texts.”<sup>4</sup>

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<sup>4</sup> Syriac Orthodox Resources, “The Harklean”; <https://syriacorthodoxresources.org/Bible/Harklean.html>.