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The Bible and Abortion: Exodus 21:22-23 in the Septuagint and Other Opinions

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Abstract: This research aims to contribute to the discussion on the subject of Abortion by analyzing the concepts of formed and unformed in the Septuagint in Exodus 21:22-23, and the opinions of St. Augustine and St. Thomas Aquinas on the social status of the fetus. The Greek version of the Hebrew Bible, which was translated in stages into Greek between the 3rd century BC and the 1st century BC, presents a different point of view than that found in the Hebrew text of Exodus 21:22-23. It introduces the notions of formed and unformed fetus. In other words, he understood the fetus (embryo) in a perspective of developing reality. Augustine and Aquinas, two important names in Christian theology, seem to have reflected a tradition that granted protection to the unborn child according to the stages of its development. The discussion around the topic of abortion is complex, very sensitive, but it should not be avoided. Bibliographical research was used as methodology. As a result, it will be pointed out that the biblical presentation of human beings does not begin with an explanation of conception or the fetal period. It does not discuss the point at which the embryo attains the full moral status of a human person. Thus, for this research, the discussion about abortion must necessarily take into account issues such as risk to the pregnant woman's life; fetal malformation etc. But, above all, it must be centered on the personality of the pregnant woman.

Keywords: Pregnant, Abortion, Fetus, Christian Tradition, Septuagint

1. Introduction

The abortion debate is back in prominence in Brazil after the United States Supreme Court suspended the decision known as *Roe v Wade*, arguing that there is no longer a federal right to abortion [1]. In this discussion, religious, legal, medical, sociocultural and political aspects have been considered. Some religious groups, more specifically Christians (Catholic and Evangelical) insist that human life (as a divine gift) must be protected at any embryonic or fetal stage. They cite many biblical texts to support this position. Pope Francis said that "abortion is murder and said that health professionals can refuse to perform the procedure, even if the practice is authorized by law [2]. However, it has been observed that claiming an absolute right to life for the embryo or fetus would be morally awkward: "the claim is inconsistent with other accepted moral claims" [3]. Furthermore, it has been pointed out that absolute protection for the human embryo "from the beginning" is a novelty in Western and Christian moral traditions: it is practically a

creation of the late 19th century [3]. But does the bible discuss the point at which the embryo reaches full moral status? In other words, does the biblical presentation of the human being begin with an explanation of conception?

To elucidate these questions, this research sought to dialogue mainly with Michael J. Gorman; Thomas F. McDaniel; G. R. Dunstan; Wilson-Kastner; B. Blair.; and M. J. Elsackers. Authors who deal with the subject and contribute to the reflection of this investigation. Bibliographic research was used as a methodology.

Thus, this research will answer these questions and signal that the discussion about abortion should, above all, focus on the person of the pregnant woman.

2. Old Testament: Exodus 21. 22-23

Exodus 21.22-23 is the biblical passage that deals with the penalty to be applied in case of induced abortion. Therefore, this is the text that has frequently appeared in discussions on this topic. Hence the importance of getting to know him to

know if he really has some contribution to make.

Below, the transliterated Hebrew text of Exodus 21: 22-23 [4]:

hārāh ishāh vĕnāgēfu anāshym vĕkhy-ynātsu
 āson yĕyeh vĕlo yĕlādeyhā vĕyātsēu
 ālāyv yāshyt kaasher yeānesh ānosh
 bifĕlilym: vĕnātan hāishāh baal
 tachat nefesh vĕnātatah yĕyeh vĕim-āson.
 nāfesh

Literal translation:

What if men fight and beat a pregnant woman and the boys leave her but there is no accident; he will be fine as the husband of the wife is imposed on him, and he will provide as arbitrators. But, if there is accident; and you will give life instead of life.

The Jerusalem Bible translated Exodus 21: 22-23 as follows [5]:

If men fight, and hurt a pregnant woman, and are causes of abortion, without further damages, the guilty will be obligated to indemnify what the woman's husband demands; and pay what the referees determine.

But if there is serious damage, then thou shalt give life for life (...).

2.1. The Hebrew Words: 'āsōn/ āson

The word 'āsōn is usually translated by the term "accident". Thomas F. McDaniel presented an interesting portrait of the relationship of this term with other words of the same linguistic trunk. Macdaniel suggests that the word נִסָּךְ quoted in the Hebrew lexicons was related to the Arabic (asaya): "he was grieved or lamented". The word "ניסא" would have been known from early Israelite and Alexandrian dialects, but was lost in later Hebrew and Samaritan dialects. This (lost) word would be related to Arabic (sawaya): "he made him equal; he became full, grown in body (...)." Macdaniel supposes this word to be in the Hebrew Vorlage behind the Septuagint [6].

2.2. Near Eastern Traditions

The ancient collections of Near Eastern laws regulated a pecuniary settlement for the loss of the fetus [7]. The Babylonian Code of Hammurabi prescribed penalties for anyone who struck a woman in such a way as to cause her to lose the child in her womb [3]. Penalties were graded according to the pregnant woman's social status [3]. Dunstan suggested that the Hebrew law of Exodus 21: 22-23 related similarly to penalties for wounding a woman, though without explicit social classification [3].

2.3. The Fetus and the Pregnant Woman

Verse 22 of the Hebrew text begins in typical casuistic style and deals with the case of the wound inflicted on a pregnant woman [8]. The author seems to have in mind the occurrence of a fight with a circle of people around [9]. In the riot a pregnant woman is injured.

Scholars dispute whether she was accidentally injured; [8]

for interfering in the fight; [10] or in an act of malicious intent [8]. In any case, if the injury resulted in an abortion, the person responsible would have to pay compensation demanded by the husband [10].

But if there was serious harm, that is, death, then the death penalty should be applied to the aggressor.

2.3.1. Death of the Pregnant Woman

The Hebrew passage is not so easy to understand, the wording and meaning of the final clause of verse 22 are very obscure. However, some translators understood that the death penalty should be applied if the pregnant woman died [6]:

If men, while fighting, hurt a pregnant woman and make her abort, but does not lose life, the fine for the child imposed by the woman's husband, he shall pay according to the judges. But if death survives him, then thou shall judge the murderer's life by the woman's life.

2.3.2. The Status of the Fetus

It is assumed that the author of Exodus 21: 22-23 understood the unborn child more as a member than as a person [11]. And, therefore, his accidental death cannot be considered a capital offense [11].

According to Michael J. Gorman, such a view of the legal status of the fetus as a non-person became prevalent later in Judaism: "the fetus could not inherit property, until its head emerged from the birth canal, legally, it was a part, an appendage, of the pregnant woman" [11]. Some authors are convinced that the fetus is not a human being [7]. For them, the establishment of a fine for the loss of a fetus in Exodus shows that, according to biblical law, at least, a fetus is not considered a human being [7]. Some go further and claim that abortion is not murder, and the fetus is not an independent life [7]. But, does the establishment of a fine rather than the application of talion law indicate something like the devaluation of the unborn child? Assuming that the injury to the pregnant woman was accidental, can we still insist that the penalty applied has to do with the devaluation of the unborn child?

3. The Septuagint

The translator of the book of Exodus in the Septuagint (LXX - Greek version of the Hebrew Old Testament) gave a new meaning to the passage of Exodus 21: 22-23, as we will see below.

Exodus 21: 22-23 [12]:

ἐὰν δὲ μάχωνται δύο ἄνδρες καὶ πατάξωσιν γυναῖκα ἐν γαστρὶ ἔχουσαν, καὶ ἐξέλθῃ τὸ παιδίον αὐτῆς μὴ ἐξεικονισμένον, ἐπιζήμιον ζημιωθήσεται· καθότι ἂν ἐπιβάλῃ ὁ ἀνήρτηςγυναικός, δώσει μετὰ ἀξίωματος.

ἐὰν δὲ ἐξεικονισμένον ᾦν, δώσει ψυχὴν ἀντὶ ψυχῆς (...).

Translation:

and if he fights two men, and strikes a woman in the womb (who has one), and she gives birth to a child not fully formed, he shall be punished with a fine, according to the measure established by the woman's husband, he will give whatever is

convenient. And if he is fully formed, he will give life to life (...).

3.1. *The Concept of Formed and Unformed*

The translator of the Septuagint signaled his understanding of the passage by using the verb form “ἐξεικονισμένος”, which can be translated as “being fully formed”: the reference is to the fetus [13]. He understood that if the woman miscarried, and the child was “not fully formed” - “μὴ (not) ἐξεικονισμένον”, the man who caused the abortion should pay a fine [14]. But if the child “were fully formed” - “ἐξεικονισμένον”, then the principle of “life for life” - “ψυχὴν ἀντίψυχῆς” should apply [14].

The author makes a clear distinction between “μὴἐξεικονισμένον” - “not fully formed” and “ἐξεικονισμένον” - “fully formed”. In this perspective, only a fully formed fetus required the “LexTalions” [6]. However, it is believed that the fetus at any stage of development is a living human being [6].

3.2. *The Stages of Fetal Development*

The Hittites based their penalties, in the case of abortion caused by deliberate human action, according to the gestational age of the fetus [3]. For example, ten shekels of silver for a ten-month fetus, five shekels if the pregnancy was in the fifth month, and so on [3].

It is assumed that when the Hebrew text of Exodus was translated into Greek in the Septuagint (LXX) version in the 3rd century BC., the Hittite principle of relating punishment to gestational age was replaced by the concept of formed and unformed [3].

The Hebrew passage does not distinguish between the stages of fetal development [15].

But, as we saw earlier, the author of the Greek version applied the Aristotelian concept of “formed” and “unformed” to grade the penalty of the man who caused a pregnant woman to have an abortion [15].

Aristotle (in book VII of the Politics) wrote that abortion should have been practiced before meaning and life had begun [16]. Classical Greek biology regarded the formed fetus as a human being [15]. But Roman (and Jewish) religious law considered the fetus to be part of the mother's body, “pars viscerummatris” (part of the maternal bowels) [15].

3.3. *The Importance of the Greek Version*

The Septuagint had its place in the Christian discussion of abortion: development and status of the unborn child. This opinion was reflected in the Old Latin versions, evidenced before the end of the 2nd century CE, as they resembled the Samaritan and Karaite versions [3].

The Septuagint was the version most commonly used by the early Christian fathers (as well as the New Testament writers); and the language of the Old Latin versions became the language of the Western moral tradition [3]. Jerome's translation of the Hebrew text into Vulgate Latin in the late 4th

century did not overturn the Septuagint tradition [3]. It is the distinction between the LXX (Septuagint) and Old Latin versions that appears in all canonical legislation in the West [3].

4. *The Unborn in the Christian Tradition*

It was argued that Christian thought prior to the 19th century understood the human embryo as a developing reality [3, 17]. It has been argued that the claim to absolute protection for the embryo “from the beginning” is a novelty in Western, Christian and specifically Roman Catholic moral traditions: “it is practically a creation of the late 19th century, just over a century ago (...)” [3, 17].

It was also emphasized that great thinkers both within the Christian world and outside it reflected a moral tradition that tried to classify the protection granted to the unborn child according to the stages of its development [3, 17].

But, it has been recalled that ecclesiastical legislation in the first millennium treated abortion as homicide without distinction as to the stage of the embryo's development [17].

Gregory of Nyssa, for example, when addressing the matter directly, defended that the unborn child had a spiritual soul from conception [17]. However, in Thomas Aquinas and in Augustine, at least on one occasion, an awareness of “a developing reality” can be noted [17].

From 1869 onwards, the distinction between formed and unformed fetus was no longer canonically recognized by the church [18].

It was also on that date that Pius IX extended the penalty of excommunication to all abortions “without distinction as to the gestational age of the fetus [17].

4.1. *Thomas Aquinas*

Thomas Aquinas is considered the main proponent of the delayed animation theory, the view that the human embryo does not initially have the rational soul proper to human beings [19].

In the Summa Theologica we can read [20]: “the embryo has, first, the soul that is only sensitive; when this disappears, it comes to the sensitive and intellectual soul, which is the most perfect (...)”. Melissa Bout commented that Aquinas is following Aristotle's embryology here, in which an embryo is animated by successions of souls [19].

In this perspective the embryo is not a human person until its body receives a rational soul [21]. However, it has been observed that a search of texts will reveal that Aquinas saw the embryo as human before the rational soul, although he does not methodically work out the implications of this view in several areas [19].

Aquinas' thesis on human embryogenesis is often rejected by contemporary researchers because of its reliance on medieval biological data, which has since been superseded by current scientific research [21].

But some authors have sought to combine Aquinas' basic metaphysical account of nature with current embryological data to develop a contemporary Thomist position on early human life [21]. There is even a thesis

that argues that a human person does not begin to exist until the fetus has developed a functioning cerebral cortex [21].

4.2. *Saint Augustine*

Augustine is seen as someone who contributed significantly to debates in the area of embryology [22]. The bishop would have followed the tradition of Aristotle who considered the progression of life in the womb, starting with a vegetative or vegetable existence and soul, then an animal soul, and finally a human soul, reaching the full moral worth of a human being [22]. Augustine would have positioned himself as follows [3]:

If what is generated is formless (inforne), but at this stage some kind of living and formless thing (informiter), then the law of homicide would not apply, for it could not be said that there was a living soul in that body, for it lacks sense, and if it is not yet formed (nondumformata) and therefore not yet endowed with its senses.

Augustine's position above is very clear: the law of homicide does not apply when the fetus is not fully formed. However, it has been recalled that while Augustine's writings indicate that he struggled with the idea of late hominization, he chose not to delve too deeply into when exactly this would occur and whether the embryo should be considered a valuable human entity from the moment of birth. Conception [22]. It is assumed that these struggles resulted in part from her belief in the Immaculate Conception [22].

But it has been argued that Augustine made it clear that abortion at any stage was considered a grave sin, though perhaps less so if it was performed before the fetus received a soul [22]. However, some believe that from the moment of conception, the life of every human being must be absolutely respected [18]: "all life is a splendid creation on the part of God; this is especially true of human life at any stage of its life." development". In support of this view, so-called proof texts are presented: Psalm 139; Luke 1:41-44; Jeremiah 1.5, which supposedly answers all the important ethical questions on the topic at hand. However, it has been correctly observed that these texts do not refer explicitly to abortion and, for the most part, do not address the general issue of the status of the fetus [11].

5. Conclusion

The translator of Exodus 21: 22-23 in the Septuagint presented a distinction between the formed and unformed fetus. He understood that (the cause of) abortion of an unformed fetus should be punished with a fine, but if the fetus was fully formed, the death penalty should be applied: life for life. From this perspective, it was suggested to include the concepts of formed and unformed in the abortion debate, in other words, to discuss whether the personality begins to exist at conception or only when the embryo is fully developed. However, we must recognize that no one before the discovery of DNA could give an adequate biological account of the development and functioning of

human life. Furthermore, the bible does not discuss the precise point at which the embryo attains the full moral status of a human person. The biblical presentation of human beings does not begin with an explanation of conception [23]. Adam and Eve are described as complete and multifaceted people with the ability and responsibility to make a choice: "the fetus does not meet these criteria, who unquestionably fits this portrait is the pregnant woman" [23]. And, in this case, the discussion on abortion must be centered on the personality of the pregnant woman, who in turn considers the potential personality of the unborn child in terms of the multiple dimensions of her own history and future [23].

The matter is complex and should not end here. However, we hope that this article has at least shed some light on this intricate topic. It is urgently necessary to find a way so that thousands of Brazilian women, mainly poor, black and young, do not lose their lives because of unsafe abortion [24].

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