


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

AB-2223 Reproductive health. (2021-2022)

As Amends the Law Today

As Amends the Law on Nov 18, 2022

SECTION 1. *The Legislature finds and declares all of the following:*

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifaceted issues that women of color and their families face in society.

(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses. For example, the District Attorney in the County of Kings prosecuted two women for murder after they suffered stillbirths.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with

professional care and endangers the relationship between providers and patients. Existing law prohibits a positive toxicology screen at the time of delivery of an infant from being, in and of itself, a sufficient basis for reporting child abuse or neglect.

(l) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state hospitals serving the mentally disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of the report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. (a) The coroner shall, within three days after examination of the fetus, state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person who is immune from liability under Section 123467. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization,

abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

- (a) Every individual has the fundamental right to choose or refuse birth control.
- (b) Every pregnant individual or individual who may become pregnant has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.
- (c) The state shall not deny or interfere with the fundamental right of a pregnant individual or an individual who may become pregnant to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. ~~(a)~~ -The state shall not deny or interfere with a woman's or pregnant person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.

~~(b) A person shall not be compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either another state's laws that interfere with a person's rights under subdivision (a) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.~~

SEC. 6.5. Section 123466 of the Health and Safety Code is amended to read:

123466. (a) The state shall not deny or interfere with a woman's or pregnant person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.

(b) A person shall not be compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either another state's laws that interfere with a person's rights under subdivision (a) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

SEC. 7. Section 123467 is added to the Health and Safety Code, to read:

123467. (a) *Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.*

(b) *A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.*

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

- (a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.
- (b) The abortion is performed on a viable fetus, and both of the following are established:
 - (1) In the good faith medical judgment of the physician, the fetus was viable.
 - (2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

SEC. 9. Section 123469 is added to the Health and Safety Code, to read:

123469. (a) A party whose reproductive rights are protected by this article and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of this article may bring a civil action against an offending state actor in a state superior court.

(b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars (\$25,000), to be awarded to the person denied the right protected by this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

(d) (1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. **Notwithstanding** Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought under this section against an employee or former employee of a public entity.

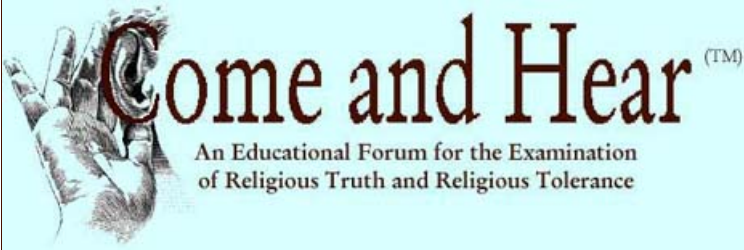
SEC. 10. Section 6.5 of this bill incorporates amendments to Section 123466 of the Health and Safety Code proposed by this bill and Assembly Bill 2091. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 123466 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2091, in which case Section 123466 of the Health and Safety Code, as amended by Assembly Bill 2091, shall remain operative only until the operative date of this bill, at which time Section 6.5 of this bill shall become operative, and Section 6 of this bill shall not become operative.

DEFINITION OF PERINATAL

[HOME MEDICAL DICTIONARY](#)

Medical Editor: [Melissa Conrad Stöppler, MD](#)

Perinatal: Pertaining to the period immediately before and after birth. The [perinatal](#) period is defined [in](#) diverse ways. Depending on the definition, it starts at the 20th to 28th week of [gestation](#) and ends 1 to 4 weeks after birth.



Blood Ritual

3: Human Sacrifice, the Talmud, and the Moloch Problem



Blood Ritual: — Blood ritual is fundamental to Judaism. Some blood sanctifies, some blood defiles. Let's see what the Talmud doctrines are.

Navigate This Site

[Home](#)
[Search](#)
[Valentine](#)
[Dilling](#)
[Talmud](#)
[The Rabbis](#)
[Supplement](#)
[Glossary](#)
[Download](#)
[Admin](#)



 [Text Version](#)
[\(Printer Friendly\)](#)

No one today seriously suggests present-day Jews sacrifice children to Moloch. Moloch (sometimes spelled "Molech") was an Old Testament god whom the Hebrews worshipped from time to time, and to whom they sacrificed their children. The Babylonian Talmud, however, still permits Jews to sacrifice children to Moloch — under certain conditions.

LORD God Accepts Human Sacrifice

First, let's get perspective. Some mistakenly believe human sacrifice is forbidden in the Old Testament. Certainly, some of the prophets railed against it. But in at least one book, LORD God accepts human sacrifice. And in another book, LORD God is appeased by human sacrifice.

In the following account from the Book of Judges, the Israelite warrior Jephthah is about to set off to make war on the Ammonites. In payment for victory, Jephthah promises LORD God he will sacrifice the first "whatsoever" that comes from his house to greet him upon his return. Unless Jephthah keeps oxen, sheep, goats, or chickens in his living room, he must expect the promised victim will be a human being. Notice that Jephthah does not promise to sacrifice "an ox" or "a goat," etc. (7)

30. And Jephthah vowed a vow unto the LORD, and said, If thou shalt without fail deliver the children of Ammon into mine hands,

31. Then it shall be, that whatsoever cometh forth of the doors of my house to meet me, when I return in peace from the children of Ammon, shall surely be the LORD's, and I will offer it up for a burnt offering.

— [Judges 11:30-31](#) (KJV)

The first to pass through the doors of Jephthah's house upon his return is his only child, his beloved daughter.

34. And Jephthah came to Mizpeh unto his house, and, behold, his daughter came out to meet him with timbrels and with dances: and she was his only child; beside her he had neither son nor daughter.

35. And it came to pass, when he saw her, that he rent his clothes, and said, Alas, my daughter! thou hast brought me very low, and thou art one of them that trouble me: for I have opened my mouth unto the LORD, and I cannot go back.

— [Judges 11:34-35](#) (KJV)

Let us reflect for a moment. We know Jephthah vowed to LORD God to sacrifice "whatsoever" first came out of the door of his house. We suspect Jephthah plans to sacrifice one of his servants. But when the "whatsoever" turned out to be Jephthah's daughter, Jephthah is surprised. Notice his daughter's reaction:

36. And she said unto him, My father, if thou hast opened thy mouth unto the LORD, do to me according to that which hath proceeded out of thy mouth; forasmuch as the LORD hath taken vengeance for thee of thine enemies, even of the children of Ammon.

— [Judges 11:36](#) (KJV)



Moloch as pictured by an unknown artist (6)

Moloch was an idol worshipped by the Hebrews and some other people of the area. The priests burned a large fire within the idol, and according to a number of Biblical and Talmudic references, the Hebrews sacrificed their children to the god by throwing them — live — into the fire (the children were termed "thy seed," and the act, "pass[ing them] through the fire" in KJV). Accounts vary in details, e.g., the god was Canaanite in origin and only intermittently adopted by the Hebrews; the children were killed before they were burned (*Catholic Encyclopedia*, s.v. [Moloch](#)); the god was Carthaginian and the children were cast into the fire by priests, not parents (Gustave Flaubert [5]); etc.



Molk defined as "the practice of human sacrifice"

"The rite of the human sacrifice 'Molk' as a [sacrificial] offering is

She expresses no surprise that LORD God would accept a human sacrifice, nor does she protest; she does not say, "Father, let's use some common sense. You know LORD God is dead set against human sacrifice. He must have thought an ox would meet you on your return, or perhaps a goat, or one of the chickens. There must be a misunderstanding." Instead, she urges her father to keep his promise. She says:

37. And she said unto her father, Let this thing be done for me: let me alone two months, that I may go up and down upon the mountains, and bewail my virginity, I and my fellows.

— [Judges 11:37](#) (KJV)

Jephthah agrees:

38. And he said, Go. And he sent her away for two months: and she went with her companions, and bewailed her virginity upon the mountains.
39. And it came to pass at the end of two months, that she returned unto her father, who did with her according to his vow which he had vowed: and she knew no man. And it was a custom in Israel,
40. That the daughters of Israel went yearly to lament the daughter of Jephthah the Gileadite four days in a year.

— [Judges 11:38-40](#) (KJV)

None but perfect animals are permitted to be ritually sacrificed in Judaism. Notice that Jephthah's daughter, too, is a perfect sacrifice — she is a virgin. Notice that LORD God does not stop this human sacrifice, as he stopped the sacrifice of Abraham's son.

The Old Testament does not specify how Jephthah sacrifices his daughter, but following the correct methods for animal sacrifice, he would slit her throat first and drain her blood into a Temple service vessel; cut off her arms, legs, and head; cut the torso in sections, remove her entrails and wash them; pour, sprinkle, and smear her blood at prescribed points around the altar; and burn the flesh. Or of course, a priest might do this for him. Read [Animal Sacrifice and the Third Temple](#) for details. (11)

LORD God is Appeased by Human Sacrifice

In 2 Samuel 21, David is king over Judah. A famine oppresses the land; King David learns that LORD God is punishing Israel for King Saul's sin (Saul attacked the Gibeonites in violation of Joshua's treaty [Joshua 9:15](#)). Therefore, in order to relieve the famine, David must appease the Gibeonites. On negotiation, the Gibeonites demand to be given seven descendants of Saul to be hanged "unto the LORD." David picks two of Saul's sons and five of Saul's grandsons. Coincidentally, the five grandsons are the children of Michal, the woman David had wanted to marry (see [1 Samuel 18:25](#)). David gives these Israelites to the Gibeonites so the Gibeonites can hang them.

- 1. Then there was a famine in the days of David three years, year after year; and David enquired of the LORD. And the LORD answered, It is for Saul, and for his bloody house, because he slew the Gibeonites.**
- 2. And the king called the Gibeonites, and said unto them; (now the Gibeonites were not of the children of Israel, but of the remnant of the Amorites; and the children of Israel had sworn unto them: and Saul sought to slay them in his zeal to the children of Israel and Judah.)**
- 3. Wherefore David said unto the Gibeonites, What shall I do for you? and wherewith shall I make the atonement, that ye may bless the inheritance of the LORD?**
- 4. And the Gibeonites said unto him, We will have no silver nor gold of Saul, nor of his house; neither for us shalt thou kill any man in Israel. And he said, What ye shall say, that will I do for you.**
- 5. And they answered the king, The man that consumed us, and that devised against us that we should be destroyed from remaining in any of the coasts of Israel,**
- 6. Let seven men of his sons be delivered unto us, and we will hang them up unto the LORD in Gibeah of Saul, whom the LORD did choose. And the king said, I will give them.**
- 7. But the king spared Mephibosheth, the son of Jonathan the son of Saul, because of the LORD's oath that was between them, between David and Jonathan the son of Saul.**
- 8. But the king took the two sons of Rizpah the daughter of Aiah, whom she bare unto Saul, Armoni and Mephibosheth; and the five sons of**

peculiar of a mentality which didn't exist in the Greek or Roman society.

"If Phoenicians thought that a God wanted the destruction of a town or a country, they didn't [hesitate] to offer him human lives, avoiding in this way the anger and the curse of the god and blaming on few people.

"As they believed no other sacrifices better than this could appease the anger of that god, Carthaginians vowed themselves to the human sacrifices and in order to increase the value of the sacrifice, they offered even their children's life." — City of Castelvetrano-Selinunte (1).

Thus we see that according to the above scholar, Molk (= Moloch?) was a word describing the practice of human sacrifice, rather than a specific deity. This conforms with the *Catholic Encyclopedia's* statement that the ancient Hebrews may have thought they were sacrificing their children to LORD God. (4).

The writer for the City of Castelvetrano-Selinunte, (1) in saying that human sacrifice "didn't exist in the Greek or Roman society," was limiting his statement to the Classical Greeks, of course.



Mask of Agamemnon, 16th Century BC

Homer records the dilemma of Mycenaean king Agamemnon, who must either sacrifice his daughter Iphigeneia, or give up his ambition to fight the Trojan War. Agamemnon chooses the sacrifice, but the daughter is saved by the goddess Artemis. (8) In retelling the story, Classical Greek playwright Aeschylus (*Agamemnon*) allows the girl to die. However, Aeschylus surrounds the incident with the strongest expressions of disapproval:

"The chorus disapprove of his decision, and describe the sacrifice in sickening

Michal the daughter of Saul, whom she brought up for Adriel the son of Barzillai the Meholathite:

9. And he delivered them into the hands of the Gibeonites, and they hanged them in the hill before the LORD: and they fell all seven together, and were put to death in the days of harvest, in the first days, in the beginning of barley harvest.

— [2 Samuel 21:1-11](#) (KJV)

LORD God did not explicitly request the hangings. But LORD God imposed an insufferable famine on the Israelites, LORD God named the Gibeonites as the people to be appeased, and the Gibeonites named the penalty. When it was done, LORD God apparently found the human sacrifice to be satisfactory: the chapter continues with accounts of battles, and the famine is not mentioned further. This sequence — an angry god causes a natural disaster, innocent life is slain to appease the god's anger, and the hardship ceases — this is the same sequence of events found in the human sacrifice rites of other primitive religions.

The Moloch Prohibition

With these precedents in mind, let us now look at two passages from the Old Testament concerning child sacrifice to the idol *Moloch* (or "Molech"). In the following passages, the words "seed" and "children" are synonymous. First, from Leviticus 18:

King James Version

21. And thou shalt not let any of thy seed pass through the fire to Molech, neither shalt thou profane the name of thy God: I am the LORD.

— [Leviticus 18:21](#) (KJV)

English Standard Version

21. You shall not give any of your children to offer them (1) to Molech, and so profane the name of your God: I am the LORD.

— [Leviticus 18:21](#) (ESV)

An ESV footnote gives a literal translation of the original Hebrew phrase: "1. Hebrew *to make them pass through [the fire]*." Now let's look at Second Kings 23:

King James Version

10. And he defiled Topheth, which is in the valley of the children of Hinnom, that no man might make his son or his daughter to pass through the fire to Molech.

— [2 Kings 23:10](#) (KJV)

English Standard Version

10. And he defiled Topheth, which is in the Valley of the Son of Hinnom, that no one might burn his son or his daughter as an offering to Molech. (1)

— [2 Kings 23:10](#) (ESV)

An ESV footnote gives a literal translation of the original Hebrew phrase: "Hebrew *might cause his son or daughter to pass through the fire for Molech*."

Now let's look at the relevant cite from the Babylonian Talmud.

(When excerpting the Talmud, we sometimes omit footnotes and non-germane text. The omission of text is indicated by an ellipsis [...]. The full text and footnotes may be found by following the hot link at the end of the excerpt. It is our pleasure to make available the text of the complete tractates cited in this article, so you may read the Talmud in full context.)

MISHNAH. HE WHO GIVES OF HIS SEED TO MOLECH INCURS NO PUNISHMENT UNLESS HE DELIVERS IT TO MOLECH AND CAUSES IT TO PASS THROUGH THE FIRE. IF HE GAVE IT TO MOLECH BUT DID NOT CAUSE IT TO PASS THROUGH THE FIRE, OR THE REVERSE, HE INCURS NO PENALTY, UNLESS HE DOES BOTH.

detail, as a murder repugnant to any normal human being. Agamemnon's feelings are perverted from the norm, as are those of all the characters in the trilogy (esp. Atreus, Thyestes, Clytemnestra, Orestes). The sacrifice is not only morally wrong, but futile: the sacrificer becomes the victim. Agamemnon is killed by Clytemnestra who is killed by Orestes." — James Hunter (2)



The Book of Jeremiah,
King James Bible

30 For the children of Israel and the children of Judah have only done evil before me from their youth: for the children of Israel have only provoked me to anger with the work of their hands, saith the LORD.

31 For this city hath been to me as a provocation of mine anger and of my fury from the day that they built it even unto this day; that I should remove it from before my face,

32 Because of all the evil of the children of Israel and of the children of Judah, which they have done to provoke me to anger, they, their kings, their princes, their priests, and their prophets, and the men of Judah, and the inhabitants of Jerusalem.

33 And they have turned unto me the back, and not the face: though I taught them, rising up early and teaching them, yet they have not hearkened to receive instruction.

34 But they set their abominations in the house, which is called by my name, to defile it.

35 And they built the high places of Baal, which are in the valley of the son of Hinnom, to cause their sons and their daughters to pass through the fire unto

— Babylonian Talmud, [Tractate Sanhedrin 64a](#)
Soncino 1961 Edition, page 437

Following the Mishnah is a discussion among the sages. One of the Talmud Sages, Rabbi Ashi, comments as follows:

GEMARA. R. Ashi propounded: What if one caused his blind or sleeping son to pass through, (3) or if he caused his grandson by his son or daughter to pass through? — One at least of these you may solve. For it has been taught: [*Any men ... that giveth any of his seed unto Molech; he shall he put to death ... And I will set my face against that man, and will cut him off from among his people;*] because he hath given of his seed unto Molech. Why is this stated? — Because it is said, *there shall not be found among you any one that maketh his son or his daughter to pass through the fire.* From this I know it only of his son or daughter. Whence do I know that it applies to his son's son or daughter's son too? From the verse, [*And if the people of the land do any ways hide their eyes from the man*] when he giveth of his seed unto Molech [*and kill him not: Then I will ... cut him off:*]

— Babylonian Talmud, [Tractate Sanhedrin 64b](#)
Soncino 1961 Edition, page 439

Rabbi Dr. Freedman, one of the translators of the Soncino Tractate Sanhedrin, clarifies the passage. In a footnote, Rabbi Dr. Freedman confirms that the Talmud Sages use "seed" to denote living children, in the same sense as the Biblical translators understand the term in the above Biblical quotes. In this footnote, Rabbi Dr. Freedman paraphrases the question from Rabbi Ashi:

3. Is 'thou shalt not cause to pass' applicable only to a son who can naturally pass through himself, but not to a blind or sleeping son, who must be led or carried, or does it apply to all?

— Rabbi Dr. Freedman

Other footnotes within the same context clarify the fine point of distinction being drawn in the Mishnah and subsequent debates among the sages:

5. Lev. XVIII, 21. This proves that the offence consists of two parts; (i) formal delivery to the priests, and (ii) causing the seed to pass through the fire.

— Rabbi Dr. Freedman (2)

5. As two separate offences, proving that giving one's seed to Molech is not idolatry. The differences [sic] is, that if one sacrificed to Molech, or caused his son to pass through the fire to some other deity, he is not punished.

— Rabbi Dr. Freedman (3)

Following the Mishnah, Sanhedrin 64a and 64b contain a rousing debate between the Sages concerning:

- the circumstances under which worshipping an idol is idolatry,
- which idols may be worshipped without indulging in idolatry,
- which parts of child sacrifice in what combination are punishable, and
- how children may be sacrificed without violating Leviticus.

Interested students should look up Sanhedrin 64a and 64b and read the entire text, including footnotes. The complete version of Come and Hear™ contains Sanhedrin 64a-64b at http://www.come-and-hear.com/sanhedrin/sanhedrin_64.html. For those to whom Tractate Sanhedrin is not available, the relevant text is included in the [Appendix: Extract from Sanhedrin 64a and 64b](#).

The 1908 *Catholic Encyclopedia* contains an entry on Moloch that is of interest. The *Catholic Encyclopedia* states that the children were burned "after the victims had been put to death" — without citing any authority. This statement is directly contradicted by Rabbi Ashi and by Rabbi Dr. Freedman in the passages quoted above, wherein they consider the case of "a blind or sleeping son, who must be led or carried" to the fire. (Paraphrasing has been added to this *Catholic Encyclopedia* excerpt to aid in readability).

The chief feature of Moloch's worship among the Jews seems to have been the sacrifice of children, and the usual expression for describing that sacrifice was "to pass through the fire", a rite carried out after the victims had been put to death.

The special centre of such atrocities was just outside of Jerusalem, at a place called Tophet

Molech; which I commanded them not, neither came it into my mind, that they should do this abomination, to cause Judah to sin. — Jeremiah 32:30-35



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(probably "place of abomination"), in the valley of Geennom. According to III (I) Kings, xi, 7, Solomon erected "a temple" for Moloch "on the hill over against Jerusalem", and on this account he is at times considered as the monarch who introduced the impious cult into Israel. After the disruption, traces of Moloch worship appear in both Juda and Israel.

The custom of causing one's children to pass through the fire seems to have been general in the Northern Kingdom [IV (II) Kings, xvii, 17; Ezech. xxiii, 37], and it gradually grew in the Southern, encouraged by the royal example of Achaz (IV Kings, xvi, 3) and Manasses [IV (II) Kings, xvi, 6] till it became prevalent in the time of the prophet Jeremias (Jerem. xxxii, 35), when King Josias suppressed the worship of Moloch and defiled Tophet [IV (II) Kings, xxiii, 13 (10)]. It is not improbable that this worship was revived under Joakim and continued until the Babylonian Captivity ...

... Of late, numerous attempts have been made to prove that in sacrificing their children to Moloch the Israelites simply thought that they were offering them in holocaust to Yahweh. In other words, the Melech to whom child-sacrifices were offered was Yahweh under another name. To uphold this view appeal is made in particular to Jer., vii, 31; xix, 5, and to Ezech., xx, 25-31. But this position is to say the least improbable. The texts appealed to may well be understood otherwise, and the prophets expressly treat the cult of Moloch as foreign and as an apostasy from the worship of the true God. The offerings by fire, the probable identity of Moloch with Baal, and the fact that in Assyria and Babylonia Malik, and at Palmyra Malach-bel, were sun-gods, have suggested to many that Moloch was a fire- or sun-god.

— Catholic Encyclopedia (4)

Lessons Learned

It is indeed unfortunate that the Jewish religion has not repudiated the doctrine that children may be sacrificed to Moloch. That doctrine, along with prayers in the Jewish liturgy calling for the return of ritual blood sacrifice (see [Animal Sacrifice and the Third Temple](#)), surely adds credence to charges that Jews engage in the ritual blood sacrifice of children. (See, for example, William Thomas Walsh's *Isabella of Spain* (12) concerning the ritualistic murder of a four-year-old Spanish boy; and a historical overview of the subject, *Jewish Ritual Murder, a Historical Investigation*, written in 1941 by Hellmut Schramm, Ph.D. (10).

Many societies and religions have practices in their histories of which they are not proud. Certainly the United States had slavery, as did many other countries. Catholicism had the persecution of Protestants, and Protestants had the persecution of Catholics; Europe had feudalism, Mexico had human sacrifice, and India had widow burnings (*sati*, the practice of burning a widow at her late husband's funeral). Scandinavia had the Vikings and reavers, Italy had the excesses of the Roman Empire, and China had foot-binding. Among all those people there came the admission, eventually, that those practices were not appropriate, and as hard on the pride as it was, they accepted responsibility and repudiated their former behaviors.

Repudiating the Talmud doctrines that approve of ritually sacrificing children (under certain conditions) would go a long way to creating good will between Judaism and people of other religious faiths. Christians and Muslims, too, should reexamine the Old Testament Scriptures. Is this really the church/mosque they want their children attending?

Thank you for your consideration of the above,

Carol A. Valentine, Ear@Come-and-Hear.com

July 14, 2003 (This article is on line at http://www.come-and-hear.com/editor/br_3.html)

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Appendix: Extract from Sanhedrin 64a and 64b

The full folio can be found at http://www.come-and-hear.com/sanhedrin/sanhedrin_64.html

Note:

- The 1961 Soncino footnotes have been renumbered for this hypertext presentation.
- The symbol [H] represents an unprintable Hebrew character, word, or phrase.
- Unusual terms and abbreviations are defined in the [Soncino Talmud Glossary](#).
- Molech is an alternate spelling of Moloch.
- The sages frequently use "it" when referring to the progeny considered for sacrifice to Moloch. It may be this is only a grammatical device to keep the pronoun in agreement with the word "seed," or it may be a part of the depersonalization process in considering the children for sacrifice.

Sanhedrin 64a

[...]

MISHNAH. HE WHO GIVES OF HIS SEED TO MOLECH INCURS NO PUNISHMENT UNLESS HE DELIVERS IT TO MOLECH AND CAUSES IT TO PASS THROUGH THE FIRE. IF HE GAVE IT TO MOLECH BUT DID NOT CAUSE IT TO PASS THROUGH THE FIRE, OR THE REVERSE, HE INCURS NO PENALTY, UNLESS HE DOES BOTH.

GEMARA. The Mishnah (1) teaches idolatry and giving to Molech. (2) R. Abin said: Our Mishnah is in accordance with the view that Molech worship is not idolatry. For it has been taught, [if one causes his seed to pass through the fire,] whether to Molech or to any other idol he is liable [to death]. R. Eleazar son of R. Simeon said: If to Molech, he is liable; if to another idol, he is not.

Abaye said: R. Eleazar son of R. Simeon and R. Hanina b. Antigonus said the one and same thing. R. Eleazar son of R. Simeon, that which has just been stated. R. Hanina b. Antigonus — as it has been taught: R. Hanina b. Antigonus said: Why did the Torah employ the word Molech? To teach that the same law applies to whatever they proclaimed as their king, even a pebble or a splinter. (3) Rabina (4) said: The difference between them is in respect of a temporary Molech. (5)

1. On 53a.
2. As two separate offences, proving that giving one's seed to Molech is not idolatry. The differences [sic] is, that if one sacrificed to Molech, or caused his son to pass through the fire to some other deity, he is not punished.
3. Molech is connected with the idea of kingship. This shews that he too regards any fetish as a Molech.
4. In his view they did not say the one and the same thing.
5. I.e., anything which was only temporarily worshipped as Molech, such as a pebble which would obviously not be a permanent idol.] According to R. Hanina b. Antigonus, he is executed even then. But R. Eleazar son of R. Simeon holds that the law applies only to a permanent idol worshipped as Molech.

Sanhedrin 64b

R. Jannai said: Punishment is not incurred unless one delivers his seed to the acolytes of Molech, (1) for it is said, *And thou shalt not give of thy seed to pass through the fire to Molech.* (2) It has been taught likewise: I might think, that if one caused his seed to pass through the fire to Molech, without first delivering it to the priests, he is liable: therefore the Writ teaches, *Thou shalt not give.* If he gave it to the priests, but did not cause it to pass through the fire, I might think that he is liable: therefore the Writ states, *to pass through.* If one delivered it [to the priests of Molech], but caused it to pass through to some other deity, I might think that he is punished: therefore the Writ teaches, *to Molech.* Now, if he delivered it to the priests and caused it to pass to Molech, but not through the fire, I might think that he is liable: but, as here is written, *to pass through;* and elsewhere it is stated, *There shall not be found among you any one that maketh his son or his daughter to pass through the fire:* (3) just as there, the reference is to fire, so here too; and just as here the reference is to Molech, so there too.

R. Aha the son of Raba said: If one caused all his seed to pass through [the fire] to Molech, he is exempt from punishment, because it is written, *of thy seed* implying, but not all thy seed. (4)

R. Ashi propounded: What if one caused his blind or sleeping son to pass through, (5) or if he caused his grandson by his son or daughter to pass through? — One at least of these you may solve. For it has been taught: [*Any men ... that giveth any of his seed unto Molech; he shall he put to death ... And I will set my face against that man, and will cut him off from among his people;*] *because he hath given of his seed unto Molech.* (6) Why is this stated? (7) — Because it is said, *there shall not be found among you any one that maketh his son or his daughter to pass through the fire.* (8) From this I know it only of his son or daughter. Whence do I know that it applies to his son's son or daughter's son too? From the verse, [*And if the people of the land do any ways hide their eyes from the man*] *when he giveth of his seed unto Molech [and kill him not: Then I will ... cut him off:]* (9)

Now the Tanna commences with the verse, *'because he hath given of his seed'*, but concludes with *'when he giveth of his seed'*? — This is to intimate another deduction. (10) Thus: [*because he hath given*] *of his seed:* From this I know only that the law applies to legitimate seed [that being the normal meaning of the word]; whence do I know that it also applies to illegitimate seed? (11) — From the verse, *when he giveth of his seed.* (12)

Rab Judah said: He is only liable to punishment if he causes his seed to pass through in the normal way. How is that? — Abaye said: There was a loose pile of bricks in the middle, and fire on either side of it. (13) Raba said: It was like the children's leaping about on Purim. (14) It has been taught in support of Raba. Punishment is incurred only for causing one's seed to pass in the normal fashion; if he caused him to pass through on foot, he is exempt. (15) He is liable only for his own issue; e.g.,

for his son and daughter, he is punished; but for his father or mother, brother or sister, he is not. If he passed through himself, he is free from punishment. (16) R. Eleazar son of R. Simeon ruled that he is liable. Further, whether to Molech or to any other idol, he is liable. R. Eleazar son of R. Simeon said: If to Molech, he is liable; if to another idol, he is not.

'Ulla said: What is R. Eleazar son of R. Simeon's reason? — Scripture saith, *There shall not be found among thee ...* (17) '*among thee*' means in thyself. (18) And the Rabbis? Do they not interpret '*among thee*' thus? Surely we have learnt: If one must search for a lost article of his own and of his father's, priority is given to his own. And we observed thereon: Why so? — To which Rab Judah replied: Scripture saith, *Save that there shall be no poor among thee,* (19) teaching that one's own loss has priority over that of any other man? (20) There the deduction follows from '*save that*'. (21)

R. Jose, son of R. Hanina said: Why is extinction thrice threatened for idolatry? (22) — One teaches extinction for the normal worship of idols; one for abnormal; and one for the service of Molech. (23) But on the view that Molech worship is included in general idolatry, why is extinction mentioned in its case? — To apply to one who causes his son to pass through to an idol [not Molech], where such is not the normal mode of worship. Now, on the view that a *megaddef* (24) is a worshipper of idols, (22) why is extinction stated for it? (25) — Even as it has been taught: (26) *That soul shall surely be cut off from among his people;* (27) he shall be cut off in this world and in the next: this is R. Akiba's view. (28) R. Ishmael said: But the verse has previously stated '*that soul shall be cut off*': (29) are there then three worlds? (30) But [interpret this:] '*and [that soul] shall be cut off*' — in this world: '*he is to be cut off*' — [of the following verse, and denoted by the infinitive] (31) in the next; whilst as for the repetition [the finite form of the verb], (32) that is because the Torah employs human phraseology. (33)

1. He explains this to be the meaning of the Mishnah UNLESS HE GIVES IT TO MOLECH.
2. Lev. XVIII, 21. This proves that the offence consists of two parts; (i) formal delivery to the priests, and (ii) causing the seed to pass through the fire.
3. Deut. XVIII, 10.
4. Probably because this would not be accounted a normal mode of Molech worship: cp. pp. 438, 440.
5. Is 'thou shalt not cause to pass' applicable only to a son who can naturally pass through himself, but not to a blind or sleeping son, who must be led or carried, or does it apply to all?
6. Lev. XX, 2f.
7. Since the passage commences by explicitly referring to this offence, why is it repeated?
8. Deut. XVIII, 10.
9. Lev. XX, 4. Hence the law applies also to grandsons.
10. I.e., from the first verse, because etc. we learn that the law applies to one's grandsons too; *when he giveth* is stated in order that another law may be deduced.
11. Not in the modern sense, but seed from a woman forbidden to him.
12. This is superfluous, since it has already been stated twice in that passage that the reference is to this effect. Hence it indicates the application of the law to illegitimate seed.
13. The victim walked along that pile to Molech, but was not burnt. The statement that Hezekiah was smeared with the blood of the salamander to render him fireproof (63b), shewing that the victim was actually burnt, does not refer to Molech, but to the divinities of Sepharvaim (Rashi).
14. Probably referring to a game played on Purim when children jump over a fire lit in a pit. According to this, a pit was dug and a fire lit therein, and the victim leaped over it (So Rashi). Jast. translates: 'like the stirrup (a ring suspended from a frame) thrust over a bonfire on Purim;' cp. Aruch.
15. This proves that the victim did not walk, but leaped to it.
16. This too proves that the victim was not burnt in passing through the fire to Molech.
17. Deut. XVIII, 10.
18. Hence his view that one is liable if he passes through himself.
19. Deut. XV, 4.

20. The questioner understood this to be deduced from 'among thee' — in thyself. Since this is not taught in the name of any particular Tanna, it should agree with the Rabbis too.
21. Heb. [H], implying an admonition to avoid any action which may lead to poverty. Naturally, this is not to be interpreted as permitting dishonesty, but merely insists that poverty must not be courted.
22. Twice in Lev. XX, 2-5: *Whosoever be he ... that giveth of his seeds to Molech ... I will cut him off from among his people ... And if the people of the land ... kill him not: Then I will set my face against that man ... and will cut him off.* Once in Num. XV, 30f. *But the soul that doeth aught presumptuously ... the same reproacheth the Lord; and that soul shall be cut from among his people. Because he hath despised the word of the Lord.* This refers to idolatry.
23. Which is not included in general idolatry, as stated above.
24. In Num. XV, 30, the Heb. for 'he reproacheth' is megaddef.
25. The meaning of megaddef is disputed in Ker. 7b. By a 'worshipper of idols' is meant, e.g., one who sings hymns in a heathen Temple.
26. Since, being a normal part of idolatry, it is understood.
27. Num. XV, 31. Continuing the verses quoted in note 3. In the Heb, as usual, this emphasis is denoted by the repetition of the verb, [H]
28. He interprets the doubling of the verb as referring to two worlds.
29. Ibid. 30.
30. Rashi explains that this question is not put to R. Akiba, because he interprets *megaddef* in that previous verse as referring to blasphemy, not idolatry. But this question is rhetorically stated by R. Ishmael on his own assumption that *megaddef* means an idol worshipper.
31. [H]
32. [H]
33. In ordinary human speech, such repetition is quite common.

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1. "The Tophet and the rite of human sacrifice," *Comune di Castelvetro-Selinunte*, <http://www.centrocomp.it/castelvetro/selinunte/thetophet.html> cached at <http://www.come-and-hear.com/editor/br-thetophet>
2. Soncino Tractate Sanhedrin 64b, page 438, note 5 available in Come and Hear™ hypertext as [Sanhedrin 64b, note 2](#)
3. Soncino Tractate Sanhedrin 64a, page 437 (printed on 438), note 5 available in Come and Hear™ hypertext as [Sanhedrin 64a, note 21](#)
4. *Catholic Encyclopedia*, s.v. "Moloch," available at <http://www.newadvent.org/cathen/10443b.htm> cached at <http://www.come-and-hear.com/editor/cath-ency-moloch>
5. See *The Jewish Religion: Its Influence Today*, Chapter 8, page 51: <http://www.come-and-hear.com/chapt08.html#Children>
6. *The New Bible Dictionary*, s.v. "Moloch,"
7. Come and Hear™ is indebted to Ursa Major (<http://www.angelfire.com/ga/ursamajor/index.html>) for pointing out this passage
8. *Agamemnon*, by James Hunter <http://www.pantheon.org/articles/a/agamemnon.html>
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12. *Isabella of Spain* by William Thomas Walsh, London, Sheed & Ward, 1931

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