


Shabbat Shalom: Tazria-Metzora (Leviticus 12:1-15:33)

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By Rabbi Shlomo Riskin

Efrat, Israel – **“Speak to the children of Israel saying, when a woman conceives (*tazria*) and gives birth to a male ... on the eighth day the child’s foreskin shall be circumcised.” (Leviticus 12:2-3)**

The Hebrew word “*halacha*” is the term used for Jewish law which is the constitution and bedrock of our nation; indeed, we became a nation at Sinai when we accepted the Divine covenantal laws of ritual, ethics and morality which are to educate and shape us into a “special treasure... a kingdom of priest-teachers and a holy nation” (Exodus 19:5-6).

The verb of the root “*hlch*” means “walk”; progressing from one place to another, and not remaining static or stuck in one place, as in the biblical verses: “Walk before Me [*hit’halech*] and become whole-hearted” (Genesis 17: 1) and “You shall walk [*ve’halachta*] in [God’s] pathways” (Deuteronomy 5: 33).

This is important since scientific discoveries and social norms are constantly evolving, and it is incumbent upon scholars to consider these changing realities when determining *halachic* norms, such as establishing time of death (no longer considered the cessation of the respiratory function, but rather now considered brain-stem death), which would allow for heart transplants.

For this reason, the Oral Law was never supposed to have been written down – for fear that it become ossified.

It was only because our lost sovereignty (70 CE), pursuant exile and almost incessant persecution might have caused us to forget our sacred traditions that the Sages reluctantly agreed to commit the Oral Law to writing in the form of the Talmud, declaring, “It is time to do for the Lord, they must nullify the Torah law” not to record the Oral Law (Tmura 14b).

However, thanks to responsa literature, where sages respond to questions of Jewish law from Jews in every country in the globe, *halacha* has kept “in sync” with new conditions and new realities.

I would like to bring to your attention a ground-breaking responsum published by the great Talmudic luminary Rav Moshe Feinstein in 1961, regarding the verse which opens our Torah portion. Reactionary forces opposed his ideas, burnt his books and harassed his household, but he refused to recant.

The Hebrew word *tazria* in the above quote literally means “inspermated,” *zera* being the Hebrew word for seed or sperm. The rabbi was asked whether a woman who had been artificially inseminated, after 10 years of a childless marriage because of her husband’s infertility, could still maintain sexual relations with her husband. In other words: did the “new invention” of artificial insemination by a man who is not her husband constitute an act of adultery, which would make the woman forbidden to her husband?

Rav Moshe responded forthrightly and unequivocally: “It is clear that in the absence of an act of sexual intimacy, a woman cannot be forbidden to her husband or considered to be an unfaithful wife ...similarly, the child is kosher, because *mamzerut* (bastardy) can only occur by means of an act of sexual intimacy between a married woman and a man not her husband, not by means of sperm artificially inseminated.” The sage added how important it is for us to understand the deep existential need a woman has for a child and how our “holy matriarchs” all yearned to bear children “and all women in the world are like them in this respect.” If the mother does not know the identity of the sperm donor, it would not prevent the later marriage of the child (lest he/she marry a sibling), since we go in accordance with the majority of people, who would not be siblings to this child (Igrot Moshe, Even HaEzer, *siman* 10).

This responsum opened the door for many single women who refuse to be promiscuous, or to take a marriage partner solely for the sake of having a child with him, but who desperately wish to have a child of their own and continue the Jewish narrative into the next generation. Especially given the obiter dictum Rav Moshe included, in which he explained the importance of having a child especially to a woman and specifically states that he would have allowed the woman to be artificially inseminated ab initio (*l’hat’hila* — since the woman asked her question after she had already been inseminated), this responsum has mitigated to a great extent the problem of female infertility. If a given woman does not have a properly functional ovum, her husband’s sperm can artificially inseminate a healthy ovum, which can be implanted within the birth mother who will then carry the fetus until delivery; and if a woman is able to have her ovum fertilized by her husband’s sperm but is unable to carry the fetus in her womb, a surrogate can carry the fetus until delivery.

The question is to be asked: Who then is the true mother, the one who provides the fertilized ovum or the one who carries the fetus to its actual birth? Depending on the

response, we will know whether or not we must convert the baby if the true mother was not Jewish.

Rav Shlomo Goren, a former chief rabbi of Israel (and previously the IDF chief chaplain), provides the answer from our parsha's introductory text: "When a woman is 'inseminated (*tazria*) and gives birth..." The word "*tazria*" seems at first to be superfluous. Rav Goren explains that it took 4,000 years for us to understand that this word is informing us that the true biological mother is the one whose ovum was "inseminated."

Shabbat Shalom!

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