

CHALLENGING ETHICAL PROBLEMS OF THE PAST YEAR

Rabbi Prof. AVRAHAM STEINBERG, MD



THE YEMENITE DECEASED CHILDREN

YEMENITE CHILDREN – THE STORY

- **In the 1950's - ~300 infants, most but not only – Yemenite died in hospitals**
- **According to the health authorities – they were buried in several cemeteries**
- **The parents were notified post-factum**
- **The families claimed that the children were “sold” for adaption**
- **Several official investigating committees did not reach a final conclusion**
- **In 2018 a suggestion for a legislation was proposed – to uncover the sites in cemeteries where allegedly the infants were buried.**

Yemenite children – halakhic issues

Halakhic issues

- Opening a grave; taking out parts of the dead (bones); transferring bones to a special lab – all are forbidden because of חרדת הדין and ניוול המת
- Using parts of a bone for DNA analysis, which will not be buried – ביטול קבורה

Technical problems

- Movement from original place
- More than one skeleton under sign

Yemenite children – halakhic issues

הוועדה לכבוד המת של הרבנות הראשית לישראל

- Halakhic sources that in case of need, benefit, or honor of the deceased, or in case of great need for others (i.e., עגונה) – there is no prohibition of חרדת הדין or ניזול המת
- Identifying the dead, putting up a proper מצבה, relieving the grief of the families – halakhically legitimate need and benefit
- For DNA testing – 2 gr' are sufficient, less than כזית, most hold no obligation to bury

Legislation

Based on the היתר of the Chief Rabbinate - a detailed legislation was passed in Knesset

Yemenite children – test cases

Case #1:

- The grave was opened
- Almost an entire skeleton was found
- The entire skeleton was moved to a special lab
- A small piece of bone was taken from the skull and analyzed for DNA
- The alleged mother still alive, but demented
- Since no consent could have been obtained from the demented mother – a court order allowed taking from her a sample for DNA analysis

A full match between the infant and the mother was found!

Yemenite children – test cases

Case #2:

- After opening the grave - most of a skeleton was found under the sign, and next to it – in the same grave – a smaller part of another skeleton was found
- Around this grave there were another 8 graves with partial connections
- The grave was covered until the court decides what to do
- The dilemma: should all other families of the 7 graves be contacted to obtain their consent?
- The court asked the opinion of the ועדה לכבוד המת של הרבנות הראשית לישראל
- Majority opinion – to examine the skeleton that is mostly under the sign without obtaining a consent from any of the others
- Minority opinion – to obtain consent at least from the family of the other skeleton, if can be done within 2 weeks
- Court ruling – accepted the minority opinion

Procuring semen after death

Procuring semen after death

- Electric stimulation / testicular biopsy
- Up to 36 – 72 hours
- Soldier / everyone
- Married / single
- Spouse veto / consent
- Parents
- Disagreements between spouse / father / mother
- Court / committee
- Status of the newborn – son of the deceased / inheritance
- A priori consent form

Halakhah – conceptually similar to יבום; only if married (shows a חזקה of looking for offspring), and only with the consent of the spouse

Abortion and Roe v Wade



Ramifications of Roe v. Wade Reversal

I'm a High-Risk Obstetrician, and I'm Terrified for My Patients

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On June 24, 2022 Roe v. Wade was overturned and a near-total abortion ban became law in Ohio, where my wife and I practice. There are no exceptions for rape, incest or fetal anomalies, including lethal conditions.

Diagnosing birth defects is what I do. Over the years many of my patients with lethal anomalies have elected to continue their pregnancy knowing that their child will die after delivery. These patients always have my full support. Sometimes this is in concurrence with their religious beliefs, though sometimes it's simply meaningful for them to deliver and spend time with their child, even if only for minutes or hours. Most patients, however, elect to discontinue the pregnancy.

Halakhah – abortion dispute

Mistaken implant of an embryo

The story

- IVF clinic a fertilized egg was returned to a woman under fertility treatment
- During pregnancy a serious cardiac anomaly was detected in the fetus; intra-uterine surgery on the fetus was successfully performed
- Etiologic investigation of the defect incidentally revealed that genetically the couple are not the biological parents of the fetus
- Hence, a fertilized egg from another couple was mistakenly implanted in the currently pregnant woman
- One other couple was treated the same day, but they did not match genetically with the fetus
- 22 other couples had their fertilized eggs stored in that lab; they asked the court to examine all of them genetically for a match.
- In the meantime a female baby was born, and underwent a complicated cardiac surgery

Mistaken implant of an embryo – the dilemmas

- Should the mistake be revealed at all?
- Who is the mother?
- Husband is not the father; Similar to sperm donor
- Best interest of the child
- Continue to look for the genetic parents?

Follow-up story

- The challenging couples turned to the court – the ruling was to test them
- Only 6 out of the 22 couples requested to follow the court orders
- The surrogate mother appealed to the supreme court
- 2/3 of the judges dismissed the appeal - no reasonable chances – only 4.5% for each couple
- Another appeal for a larger panel of supreme court judges was rejected

Halakhic approach –

The half-known mother and a half unknown mother

Best interest of the child

The saga of the surrogate mother

THANK YOU!

