

Artificial Insemination

by Rabbi Alfred S. Cohen

A number of years ago, a great controversy erupted among leading rabbinic decisors, a dispute which generated a totally uncharacteristic outburst of invective, heat, and partisanship in the halachic world. Scholars all over the world were astounded at the sharp tone and bitter disagreements engendered by a point of law, for generally the tone of rabbinic intercourse is elegantly cordial, and the fine points of halacha are disputed in a measured intellectual atmosphere. Not so the question of permitting artificial insemination.

In cases where a woman is not able to conceive a child by her husband in the natural manner, it may at times be possible to impregnate her by means of a medical procedure whereby sperm is introduced into the uterus. There are a number of potential halachic pitfalls in this. The major questions of Jewish law which troubled the great authorities who addressed the question repeatedly in the course of more than twenty years of controversy are as follows: (1) Is the child born of a married woman who became pregnant from someone other than her husband, by means of a medical procedure, considered a *mamzer*, who as the product of an illicit relationship is forbidden from ever marrying another Jew? (2) Even if the woman's husband could qualify as the sperm donor, may she be artificially inseminated at a time when she is a *Niddah*? (3) Another question

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concerns which method of extracting sperm from the husband for the purpose of artificial insemination of his wife is sanctioned under Jewish law.

The authorities who dealt with these questions often did so with uncharacteristic emotion; also highly unusual is the frequency with which they returned to write on the topic again and again, qualifying and defining their previous opinions, at times almost retracting. After all is said and done, it is still difficult to assess how much weight, in practical terms, is to be given to their several pronouncements. So, for example, Rav Moshe Feinstein, who was the major authority to render a number of "lenient" (i.e., permissive) responsa, at one point noted that "in actual fact, I never told [anyone] to do it."¹ Furthermore, he also writes that "I never gave permission" to any woman to undergo artificial insemination, for there is no halachic imperative for her to bear children; it is only the man who has a mitzvah of "be fruitful and multiply." He also expressed the fear that it might cause deep antagonism between the man and his wife if she has children and he doesn't.² But he notes elsewhere that "if the husband agrees, and they are deeply unhappy [at their inability to have children], it can be permitted."³

Indignant condemnation of the practice was voiced by the eminent author of *Chelkat Yaakov*, Rav Yaakov Breisch, a leading *posek* of the twentieth century:

כמוכן שמצד דתנו האיסור ברור ומבורר שלא לעשות דברים
כעורים ומכוערים כאלו הדומים למעשי ארץ כנען
ותועבותיהם.

It is understood that from the point of view of our religion it is clear that these ugly and disgusting

things should not be done, for they are similar to the deeds of the Land of Canaan and their abominations.⁴

Yet later Rav Breisch conceded that a child so conceived was acceptable.^{4a}

It is not hard to understand why the topic of artificial insemination did and continues to evoke such strong reaction, on the part of laymen and scholars as well. Having children fulfills one of the most fundamental emotional needs which people have. The anxiety and anguish of couples who are unable to conceive cannot fail to move others, who may try to help them medically, psychologically, or with religious advice. If by some miracle of modern medicine it would be possible for a sterile couple to have a baby, there is a great deal of pressure upon the medical and religious community to make this feasible. Not only is there great emotional pressure and empathy for the pain which the unhappy couple experiences, but there is also a strong religious basis for finding a way to enable them to have children. The first mitzvah in the Torah is "be fruitful and multiply," and if a way exists for an otherwise barren couple to fulfill this mitzvah, it might serve as an additional positive factor in arriving at a halachic decision.

On the other hand, the purity of the Jewish family is an absolutely fundamental and important value in our religion. As Rashi notes in his commentary to the Torah,⁵ G-d Himself attests to the purity of the Jewish families in the desert, attaching His name, so to speak, to each clan in order to verify that indeed the sons are the offspring of their fathers. The prohibition of adultery is included in the Ten Commandments which the Jews received as a group standing at Mount Sinai. Regardless of any emotional pain and longing which a childless couple may suffer, conception of a child under circumstances which might be adulterous cannot in any way be sanctioned. Thus it is of overriding importance to determine the halachic status of the act of artificial insemination as well as of

1. אגרות משה, אבן העזר ד, ל"ב:ה.

2. שם. However, in the first responsum which he wrote on the subject (אבן העזר א"י), Rav Feinstein, quoting the Gemara in *סו"ט*, emphasizes how deeply our rabbis were aware of the great desire women have to have children, and how fervently the Matriarchs prayed to be blessed with children; also, that lack of children can be grounds for divorce.

3. אבן העזר ב"י א"ע י"א.

4. חלק איבר, חלק ביקועיה, חלק ג מ"הני"א.

4a. See further in text.

5. במדבר.

the child produced by such a method. The vehemence of the controversy is not a feature of the rabbinic personalities involved but rather of the crucial importance of the decisions, which would have repercussions for all generations.

The artificial insemination controversy is also a testament to the dynamic nature of Jewish law and the brilliance of Torah scholars who are able to find in the eternal parameters of halacha solutions to the most complex problems raised by modern science and technology.⁶

What was the basis for Rav Feinstein's lenient opinions, and on what grounds was he challenged?

In his earliest responsum on the subject,⁷ Rav Feinstein was asked about the status of a woman who had undergone artificial insemination – was she considered an adulteress? This is not a simple problem: what is that the Torah forbids, when it outlaws adultery – the *physical* act of union of a woman with a man other than her husband, or any union of his sperm and her egg, no matter how or where? Rav Feinstein's position on this crucial point is unequivocal: he maintains that the relationship of adultery arises only when there is a forbidden *physical* union between a woman and another man. In the absence of a sexual relationship, the child which the married woman bears by means of artificial insemination is wholly legitimate in the eyes of Jewish law. Not only that, but the husband may continue to live with his wife, something a man may not do if his wife has had an adulterous relationship (i.e., by Jewish law, the cuckolded husband must divorce his wife).

Rav Feinstein relies on a precedent established by Rabbenu Peretz and cited by Rabbi David Halevi (the *Taz*) in the seventeenth century, as well as on the fact that the Gemara often quotes with

great respect the teachings of Ben Sira, who was reputedly conceived in an artificial manner, without any hint of opprobrium for him.⁸ The halachic issue expounded upon by the *Taz* concerns a woman's sleeping in a bed wherein a man had previously lain:

אשה נדה יכולה לשכב אסרינים של בעלה ונהרהר מטרינין ששכב עליהן איש אחר, פן תעבר משכבת ורע של אחר ואמאי אינה חוששת פן תעבר בנרותה משיז של בעלה ויהא הולד בן הנירה, כיון שאין כאן ביאת איסור הולד כשר לגמרי.

A woman who is *Niddah* may lie on the sheets of her husband but has to be careful about [lying on] the sheets where another man had lain, lest she become pregnant from sperm [which might be on the sheet] of another man. And why doesn't she have to be concerned about becoming pregnant when she is a *Niddah*, and the child would be a "child of *Niddah*?" *But since there is no forbidden sexual act, the child is completely acceptable.*⁹ (italics added)

Based on this, Rav Feinstein reaches an important conclusion: if there is no forbidden sexual act, the child is quite acceptable according to Jewish law. He concludes that the only reason the *Taz* said a woman should not sleep in a bed previously occupied by another man is that if she were to become pregnant this way, her child might later unwittingly marry a sibling, unaware that he is not really the child of his legal father. Therefore, Rav Feinstein cautions that a child conceived by artificial insemination might have to be careful not to marry another child of the same sperm donor. However, this consideration poses no problem for Rav Feinstein, for two reasons: obviously, the majority of girls will not be in the

6. Among those who have written on this topic are the following:

שו"ת דברי מלביאל דק"י: לבוש מדרבי ר'מי: תמיא בידיה: אונר תוספוס חלק ט פיסריו דף פ"י: יבט אומר חלק ב: אבן העזר א: עין אלויער חלק ג: ביני האלה לך שלמה אבן העזר ל"ח: עסק הלכה ח"א סי'ת: אחיעור גיבוי: שו"ת יעב"ץ איג"ט: תשובת רמ"א סי'ק: המאור תשי"ב.

7. אבן העזר א"י: ע"ע:א: דא"ה גיבוי אבן העזר גיבוי: אבן העזר ב"י"ב: ט"ז: אבן העזר ז' כ"י: ל"ב: אגרות משה יו"ד גיבוי.

8. But in his responsum (אבן העזר א"י"א) Rav Feinstein rejects absolutely the suggestion that the sperm of the husband and another donor be mixed and then used for the artificial insemination. He labels this simply a ploy to fool the husband into thinking the child might be his and make him feel better about the whole procedure. See כ"ה וחו"ספת טו"ה כ"ב.

9. כ"ש אבן העזר, יו"ד קצ"ה: ו' דא"ה גיבוי משנה למלך ט"ז מאות: שער המלך ט"ז הלכות י"ב.

category of possible sisters; moreover, the overwhelming majority of sperm donors are likely to be non-Jews, whose children according to Jewish law would not be considered siblings of the child in question. We are entitled to rely on the "majority" rule, and therefore to permit this child to marry any other Jew. He also notes that *Otzar Haposkim*¹⁰ cites a number of authorities who allow artificial insemination. Under the circumstances, once it has already been done, even if without previous rabbinic permission, he feels there are sufficient grounds to rule the child to be without halachic blemish.

Once the determination has been made that it is only the sexual act which constitutes an adulterous union, a number of other decisions inevitably ensue. As already noted, based on this determination, Rav Feinstein rules that the husband may continue being married to the woman who underwent artificial insemination. Obviously, if there is no adulterous relationship, there is no reason for them not to stay married. Following the same line of reasoning, he permits a girl born of artificial insemination to marry a Cohen,¹¹ despite the explicit ruling of the *Shulchan Aruch* that

כוחי הבא על בת ישראל וילדה ממנו בת אוחה הבח פגומה
לכהונה.

If a non-Jew came to a [Jewish girl] and she bore from him a daughter, that daughter is "blemished" as far as marrying a Cohen.¹²

Since he holds that there is no illicit relationship attached to artificial insemination, there is no basis for not permitting the child to marry a Cohen. In effect, Rav Feinstein has decided that the biological or genetic factor in itself plays no role and cannot render the child "blemished." In conclusion, however, he writes that if the woman was artificially inseminated without the consent of her husband, the man is under no obligation to tender any manner of

10. אבן העזר א"א.
שם א"י.
11. אבן העזר ד"י"ו.

financial support for the child.

The reaction to these halachic statements was vehement and heated, although at times the grounds for condemnation were not explicated. So Rav Breisch, while calling the act "abominable, forbidden, disgusting, and grounds for divorcing a woman against her will," nevertheless himself writes that "if after all a child was born in this manner, and we have to determine if it is a *mamzer* or not, since we have no clearcut decision from our earlier rabbis on this except for Rabbenu Peretz...the child is acceptable, and similarly we have no grounds for declaring the woman forbidden to her husband."¹³

Rav Breisch did remonstrate with Rav Feinstein on his decision, however, and in his own compendium of responsa printed both his objections and Rav Feinstein's response to them, as well as a point-by-point rebuttal of Rav Feinstein's explanation.¹⁴ Since the correspondence between them touched on additional halachic positions on which they differed, let us review the other opinions Rav Feinstein penned on the subject of artificial insemination, a question to which he returned a number of times.¹⁵

As mentioned, Rav Feinstein holds that if no forbidden sexual act takes place, the child is totally "kosher." However, there are other possible transgressions of Jewish law involved, the most serious one being the manner of collecting the sperm from her husband, assuming that he is to be the donor. (If the donor is not Jewish, this question does not arise). By Jewish law, it is forbidden to "waste" sperm (*zera levatala*); the generally accepted application of the *issur* is that if a man emits sperm not during sexual union, it is "wasted."¹⁶ However, Rav Feinstein rules that since the sperm

13. חלק ג' מ"ח.

14. שם חלק ג'.

15. אבן העזר א"י ע"י ע"א; אבן העזר ב"א, ט"ו"ח — ג"י"ד.

16. שו"ת דברי יואל ק"ד; רמ"א אבן העזר ט"ג"ה; מתיבתא חשבה; שם; אורח חיים חלק ט'.

According to the halacha, if a man is afflicted with certain genital abnormalities or damage, he is not permitted to get married. In *Yevamot 76a*, the Gemara describes a method of testing the man, to determine if the disqualifying genital perforation still exists; this test involves emission of sperm. Rav Feinstein reasons that since the Talmud was willing to permit emission of sperm in a non-sexual context for

will ultimately be used by the doctor to inseminate the man's wife, it cannot be termed "going to waste."¹⁷ On the other hand, he does have reservations about the method of collecting the sperm, because some of the methods employed, such as masturbation, are forbidden according to the halacha. The preferred way would be for the doctor to remove the sperm from the woman after coitus with her husband, although Rav Feinstein is opposed to the couple's having relations in the doctor's office, as being indecently immodest.¹⁸

In a further lenient ruling,¹⁹ Rav Feinstein decided that if a woman is able to conceive only during the time that she is a *Niddah*, she may be artificially inseminated with her husband's sperm at that time, and there is no problem with her offspring.

Those in opposition to the lenient opinions expressed by Rav Feinstein are many and formidable. The fierce rejection of these views by the late Rebbe of Satmar is well known, but others also took Rav Feinstein to task. As mentioned, Rav Breisch not only wrote his own responsum on the subject in his *Chelkat Yaakov*, but also personally corresponded with Rav Feinstein in a vain effort to get him to retract. Without going into the technical details of his strong objections, it will be highly informative to consider the actual final rulings with which he concludes:

1) It is forbidden for a woman to become pregnant through artificial insemination by a donor other than her husband.

2) It is possible that if the husband is the donor, artificial insemination might be permitted.

3) If a woman had it done anyway, the child is not a *mamzer*.

4) The female offspring of artificial insemination may not

the purpose of determining whether this man can get married, then by extension other emissions of sperm, if for a worthwhile purpose such as having a child by artificial insemination, can similarly be permitted. However, Rav Teitelbaum argues that the Gemara permitted this type of test only to determine if the man is qualified to get married, which is of overwhelming importance. However, in the case under discussion in the responsa, the man already is married, and no *heter* may be applied to his case.

17. שם בתשובותיו.

18. אגרות משה אבן העזר ע"ע"א, ראה דעה יג.

19. אבן העזר ב"י"ח.

marry a Cohen. However, if unwittingly she did marry a Cohen, no divorce is mandated.

5) The woman who underwent the procedure may nevertheless continue living with her husband, but if it was done without his knowledge or consent, he may divorce her, even against her will.

Despite his emphatic denial of the validity of any lenient ruling, Rav Breisch does not offer proofs or halachic precedent to support his opposition to the position taken by Rav Feinstein. And, as noted, he agrees that the child is not a *mamzer*.²⁰

Nevertheless, Rav Breisch's opposition was not based on an emotional repugnance to the artificial insemination. He painstakingly reviewed Rav Feinstein's response to his own letter of objection and published a detailed rebuttal to Rav Feinstein's position.²¹ Some of the major points which he made are as follows:

(1) Rav Breisch raised an objection from a totally different vantage point of halacha, that of *Chilul Hashem*. The terrible strictures associated with causing a *Chilul Hashem*, a "desecration of the name of G-d," are well known. But it is not only when a Jew acts in a shameful manner that he perpetrates a *Chilul Hashem*. Great care must also be exercised so that Judaism as a religion not be denigrated or held in contempt by others. Thus, the *Sefer Chassidim* cautions:

אם יש דבר שהעכו"ם נוהגין איסור וליהודים אינו אסור, אסור לו ליהודי שיאכל פן יתחלל שם שמים על ידו.

If there is something that the Gentiles are accustomed to consider forbidden, but for the Jews it is not forbidden, [nevertheless] it is forbidden for a Jew to eat it, lest the Name of Heaven be desecrated thereby.²²

In the same vein, the author of the commentary *Magen Avraham* to the *Shulchan Aruch* notes:

20. שו"ת הלקת יעקב, חלק ג'.

21. שם.

22. ספר החסידים תחכ"ט.

לענין לבנות בית הכנסת בשבת על ידי קבלנות עכו"ם ראיתי שגדולים לא רצו להחיר כי בזמן הזה שאין העכו"ם עושין מלאכה ביום חגם זהו חילול השם בזה.

On the matter of having Gentiles build a synagogue on Shabbat [even though they are being paid for the job and not being paid by the day, under which circumstance it is permitted] I have seen that great rabbinic authorities did not wish to permit it, because in these times, when the Gentiles do not work on their holiday, there would be a *Chilul Hashem* [if we were to allow work to be done on our holy day].²³

Rav Breisch concludes therefrom that we Jews may not be more permissive on moral or religious issues than are non-Jews, for to be so would be to invite contempt in their eyes for our religion. Hence, since the Pope and the Catholic Church have condemned artificial insemination, it degrades Judaism to be more lax on this issue than they are.

(2) Rav Breisch raised another halachic question which had so far not been addressed in this context, the question of *chalitzah*. According to biblical law,²⁴ if a man dies without children, his widow is to marry his brother, who will father a child with her (*yibum*). If the brother-in-law does not marry the widow, he must release her from her ties to the family by a procedure called *chalitzah*. Now, objected Rav Breisch, if a woman has children by artificial insemination from another donor, she will still require *chalitzah* in case she is widowed (since the child was not from the husband) but it won't be done because it will be thought that the couple did have children. Another problem could arise if the brother-in-law was conceived through artificial insemination, which would render him not actually the brother of the deceased husband. Once again the biblical requirement for *chalitzah* would be frustrated. Rav Breisch opposes conceiving a child in such a way as to confuse the genealogy of the family and to render irrelevant

certain Torah requirements. Artificial insemination introduces unconscionable confusion in the family line, a confusion which has numerous unacceptable and unforeseeable repercussions in the area of family law.

(3) The overwhelming importance of absolute certainty of paternity is repeatedly affirmed in Jewish law. For this reason, the *Shulchan Aruch*²⁵ rules that a woman who was divorced or widowed may not remarry for ninety days. Therefore, writes Rav Breisch, in order to be certain as to the paternity of the woman's child, the husband and wife would have to abstain from conjugal relations for ninety days prior to the artificial insemination. Furthermore, once she becomes pregnant this way, they will have to abstain from relations throughout the pregnancy and lactation period of the baby. (This is due to a rabbinic decree forbidding a man to have relations with a woman carrying the fetus or nursing the child of another man, even if she is now his wife.²⁶)

(4) Rav Breisch also mentions a responsum of the Satmar Rebbe,²⁷ based in part on a teaching of the Ramban, which opposes artificial insemination. Although the Rebbe's views will be discussed more fully hereinafter, since Rav Breisch cites the Rebbe in support of his own opposition, it is appropriate to elucidate this point here.

The verse in the Torah forbidding adultery²⁸ seems to have a redundant word:

ואל אשה עמיתך לא תחן שכבתך לזרע ...

Thou shalt not lie carnally with thy neighbor's wife for seed...

Ramban²⁹ focuses on the word "לזרע", "for seed." Why was it necessary to add this word? He suggest that "possibly it says "for

25. אבן העזר ד"י"ג.

26. שם.

27. שו"ת דברי יואל קידוקיים: קים המאור תשכ"ד.

28. ויקרא י"ח: ג.

29. שם ק"ו אות ה'.

23. מנן אכרסם או"ח רע"ב.

24. רברים כ"ה: ה"י.

seed' to mention the reason for the prohibition, because [if there is adultery] it will not be known whose seed it is, and from this many greatly disgusting and awful things will come upon both of them."

From this teaching, the Satmarer Rebbe derives the principle that an integral factor in the prohibition of adultery is the mixing up of the "seed" (sperm). As far as he is concerned, adultery occurs when the sperm of a man is deposited in the body of a woman married to someone else. Since this is precisely what occurs in artificial insemination, he furiously castigates any attempt to declare this procedure acceptable under Jewish law.

On the basis of these arguments Rav Breisch appealed to Rav Moshe Feinstein to reconsider and retract.

After expressing his reluctance to involve himself in controversy, Rav Feinstein nevertheless did respond to the letter of Rav Breisch.³⁰ He rejected the first contention, that we may not be more lenient than non-Jews because it will lower the esteem of Judaism. Could one imagine, he queries, that something which Gentiles abstain from on account of their religion should become the standard which Jews must adopt?! The religious beliefs of others cannot be guidelines for us in the practice of our religion. Rather, he explains, the intent of the religious teachings cited is that we Jews are not permitted to be more lax in ethical or esthetic matters. If others abstain from certain foods, for example, as being disgusting, then it would be wrong for us to indulge in them, even if they are halachically permitted. However, if non-Jews abstain from certain foods or practices due to their religious convictions, this should have no bearing on our conduct. Thus, the ruling of the Catholic Church on the issue of artificial insemination has no relevance for us.

As for *chalitzah* and Rav Breisch's fear that the true paternity of the child will be unknown, rendering performance of the mitzvah impossible, Rav Feinstein cannot accept that as sufficiently urgent grounds for preventing a couple from having a baby

30. דברות משה סוף כתובות: שו"ת חלקת יעקב שם.

through artificial insemination. Referring to another responsum of his,³¹ Rav Feinstein extols the great mitzvah of raising an orphan. Should one not marry a widow because her orphans might mistakenly be thought of as his children and might unwittingly later marry other children of their true father? Of course not! By the same token, we should not preclude the birth of a child through artificial insemination due to some fear that later on there will be confusion as to the brother's true identity in case of *chalitzah*. However, to this Rav Breisch subsequently responded³² that the two cases are not analogous. In the case of adoption, the father and mother or others who know what happened will be sure to inform the children of their true identity, but in an instance of artificial insemination, the parents, on the contrary, are likely to be anxious to cover up the true facts, and a problematic situation might well arise in the future.

Rabbi Feinstein agrees with Rav Breisch that the husband and wife would not be able to have marital relations for three months prior to the conception, in order to be certain that the woman is definitely not already pregnant by her husband. On the other hand, Rav Feinstein posits that if the doctor certifies categorically that the husband is incapable of fathering any children, this precaution would not have to be observed. As for abstaining during pregnancy and lactation, Rav Feinstein does not agree that it is required, for that is a rabbinic regulation and, according to him, such a ruling applies only in situations which are common. But "for cases which rarely occur, the rabbis did not make regulations."³³

Rav Feinstein also rejects as invalid the position of the Rebbe of Satmar, for the methodology of halacha is such that one is not entitled to derive a halachic principle from a non-halachic commentary. Surely one cannot accept the Ramban's commentary as being halachically binding. Were one to do so, we would have to

31. אגרות משה בי"א.

32. שו"ת חלקת יעקב חלק ג. See also the question about the way the ריב"ן understood גוש המסוללות.

33. אגרות משה, חלק ב' ע"א. ראה ג"כ אגרות משה אורח חיים חלק א, חלק קדשים סי' ס"ז. צ"ע אליעזר ג. וגם חלק ט, בי"א.

conclude that if a man is sterile, there is nothing wrong with his committing adultery. Of course this is an absurd contention. Nor can we imagine, continues Rav Feinstein, that Ramban meant to imply that a married woman may run off with her lover, because it will be clear to all whose children she is bearing?! The teachings of the *Sefer Hachinuch* and of the Ramban definitely have an ethical lesson we should learn, but they cannot become the basis for a legal ruling.

At the end of the responsum, Rav Feinstein returns to a matter he brought up earlier, the question of immodesty. Rav Breisch considers the entire procedure of artificial insemination as being immodest and wrong. Rav Feinstein counters that one can only be considered immodest if the intention is to be immodest or to satisfy one's lust. If the procedure is entered into from a sincere desire to bear children, there is no immodesty attached to it. However, he does maintain that it is immodest for a couple to engage in coitus even in a private cubicle of the doctor's office, even if for the medical purpose of extracting sperm to be used in artificial insemination.³⁴

Without question, the fiercest opposition to the lenient views expressed by Rav Feinstein came from the Rebbe of Satmar, Rabbi Yoel Teitelbaum. Despite his avowed principle that a *posek* should not write on a question more than once,³⁵ and notwithstanding his admission of great physical weakness, the Rebbe felt compelled to clarify his vehement opposition to a halachic position which he considered not only mistaken but potentially destructive. In all, there are five separate responsa in the Rebbe's writings on this topic, starting when he was still in Europe.³⁶ It is interesting to contrast the mild tone employed in the early work, when the subject was fairly remote in technical feasibility, with the fire-and-brimstone of his later writings. None of his letters are addressed specifically to Rav Feinstein, and one can only speculate what

34. אגרות משה, אבן העזר א"י.

35. שו"ת הברו ואל ק"י.

36. ק"מ.

impression they may have made on him.

The Satmarer Rebbe's position stands in stark contrast to that of Rav Feinstein—the Rebbe holds that the issue of a woman and a man who is not her husband is considered a *mamzer*. It is not the act alone which is forbidden, but the biological union of egg and sperm, no matter how accomplished. Even absent any forbidden sexual contact or union, if a woman becomes pregnant from a man other than her husband, her child is a *mamzer*, forbidden to be accepted by other Jews.

Based on the same hypothetical situation of a woman's sleeping on sheets used by another man, the Rebbe relies on leading rabbinic precedents which arrived at a radically different conclusion from that of Rav Feinstein. He cites one recorded in *Shiltei Gibborim*:³⁷

נסאל להר"ם למה אין נוהרין מלשכב האשה כשאנה טהורה בסדינים ששכב בעלה דשמן תתעבר מאותו הורע ויהיה הולד בן הגדה כמו שחוששין שלא תשכב בסדינים ששכב בהם איש אחר פן תתעבר בטיפת זרע שהטיל באותן הסדינים כהיא דבן סירא והשיב דכיון שהולד שהוא בן נדה הוא כשר לכל רבר אין חוששין לה ואפילו שהוא פגום.

Rabbi M— was asked why we are not careful about letting a woman who is in a state of impurity lie on the sheets which her husband used, out of fear that she may become pregnant [from sperm which might be on the sheet] and the offspring would be the "child of a *Niddah*," in the same way that we are careful not to let her lie down on the sheets used by some other man, lest she become pregnant. Indeed, this was the case with [the conception of] Ben Sira.³⁸ And the rabbi answered that since a "child of a *Niddah*" is acceptable for all things, we are not worried about it, even though he will be blemished.

37. דפוס סביב הרי"ף טוף פרק שני דשבועות.

38. The Rebbe devotes quite some time to show why, despite this, Ben Sira was not considered to be a *mamzer*.

This case, although superficially similar to the case used by Rav Feinstein, actually implies a totally different conclusion. It leads the Satmar Rebbe to rule that a child conceived by artificial insemination is totally unacceptable, for in the instant case, the rabbinic opinion is clearly that a woman must not become pregnant by the sperm of some other man; moreover, the rabbis unequivocally forbade any practice which might lead to that eventuality.

In the context of his several responsa on the topic, the Rebbe also devotes considerable time and space to defending his reliance upon the biblical commentary of a leading authority such as the Ramban, to derive halachic principles. If the Ramban gave a reason for a mitzvah, that reason ought to serve us as a guide and furnish us with a better understanding of the mitzvah, particularly when we can learn from this how to be more strict and more careful in our observance.

As for the point raised by Rav Feinstein, that since most donors are non-Jews, we do not need to be concerned that the child will grow up to marry his siblings, Rabbi Teitelbaum responds with a different approach altogether, citing the desirability of genealogical purity. Why should we permit the admixture of other peoples to contaminate the pure lineage of the House of Jacob? He counters also that on questions of *yichus* (family purity) we do not follow the majority, and he feels that Rav Feinstein has no right to brush aside halachic objections just because they present only a faint possibility. If that were truly the case, argues the Rebbe, the whole discussion in the Gemara and rabbinic books has no validity. After all, how often and how likely is it that a woman becomes pregnant from sperm which might be on a sheet? How likely was it even in the days of the Gemara that a child so conceived might grow up to marry his sibling? Yet the rabbis were concerned enough about it to legislate against it. Thus we see that on the issue of pure lineage, "מעלה עשו ביוחסין," the rabbis applied a higher standard.

As for the opinion of Rabbenu Peretz cited by Taz, the Rebbe counters that in that instance, no *act* took place, and for that reason the child was accepted. But in artificial insemination there is indeed

an act, and this renders the offspring polluted.

In his responsum, Rav Feinstein allowed the husband to donate sperm for his wife as long as it did not result from masturbation. Although agreeing with the conclusion, the Rebbe does not accept the reasoning, although he does appear to be willing to have the doctor remove from the woman any sperm which was deposited in a normal act of coitus, and to use this for artificial insemination, even if the entire procedure has to take place in a private room in the doctor's office.³⁹

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The controversy over artificial insemination was protracted over decades, and the rabbis involved returned to the vexing issue over and over. Even at this date, it is difficult to discern the final halachic decision of the rabbis involved, because sometimes the protagonists agreed on one point but not on others. Certainly, the issue continued to present a troubling dilemma which was not diminished by the poignant human needs wanting resolution. In a letter which is unusual for so forthright and outspoken a *posek*, Rav Feinstein, the authority who firmly and surely answered thousands of questions with a rare combination of erudition and confidence, returned one more time to this topic. This letter could almost be considered a retraction, although not quite. He writes,

But I never permitted [it] except in a case of extreme need, when the woman was in great distress, for it is clear to all that only an expert rabbi, great in Torah and outstanding in teaching may judge such matters... and because of this [when it came to me] I forbade it, and G-d forbid that any rabbi should permit it based on my book... They are not fit to rule on an issue as grave as this... It is necessary to make a restriction so that under no circumstances should anyone be lenient on this other than an outstanding rabbi.⁴⁰

39. דברי יואל, שם, ק"י"ד.

40. חלקת יעקב ג'מ"ז.