

FROM OUR PRESIDENT

## It's Both Public and Private

By Pam Scheininger

The Call for Articles for this edition of the *JOFA Journal* began with this hook: “Our awareness of our human capacity for reproduction is a vital aspect of our view of our bodies and ourselves stretching from menarche to menopause.” As women, we are acutely aware of this aspect of our lives, particularly as experienced within a society and religious framework that prioritize and honor reproduction and family. Although certainly both men and women struggle with reproductive challenges, it is within women’s bodies that these challenges manifest themselves. Month after month, even year after year, women experience within their very essence the joy, frustration, pain, and longing associated with their reproductive journey.

*Halakhah* prescribes an affirmative obligation of *p’ru u’rvu* (“be fruitful and multiply”), which is incumbent upon men but cannot be fulfilled without the participation of women and the cooperation of their bodies in both the act of procreation itself and the ability to carry a fetus to term. This mitzvah is performed within myriad, complex laws of *taharat hamishpachah* (fam-



ily purity), whose boundaries establish the opportunities for procreation, while also presenting challenges to its attainment. A disproportionate share of the burden of these laws falls on women, who bear the obligations to count days and to familiarize themselves with *ketamim* (stains) and *hargashot* (feelings), who prepare for and visit the *mikveh* whether embracing the opportunity for reproduction or struggling with infertility, and who must affirmatively state whether they are permitted to engage in sexual relations.

What, then, for those among us whose experience of reproduction is painful, perhaps because they do not want to have children or because they cannot, whether due to primary or secondary infertility, financial constraints, the challenge of having children outside of marriage, abusive or unhealthy relationships, or for many other reasons? And for women who do become pregnant but do not give birth because of circumstances within or beyond their control, how do they reconcile what their bodies cannot or choose not to do with what is viewed as “normal” and desired by their society and the religious

*continued on page 3*

## A Maharat Speaks of Her Fertility Journey

By Ruth Balinsky Friedman

In March 2016, I decided to “go public” with my fertility journey. This decision was born mostly out of a lurking feeling of dishonesty. Ohev Sholom, the National Synagogue, in Washington, D.C., where I have served since 2013, had been invited to participate in Yesh Tikva’s Infertility Awareness Shabbat, which is now an annual event. Having had personal struggles with fertility in the preceding two years, I was aware of the importance of this event and knew that my *shul* had to participate. Once we were participating, I felt that it would be meaningless if I addressed this issue from a third-person perspective, as something that happens to other people.

A common sentiment expressed in the infertility community is the frustration—even anger—at the fact that



fertility issues are usually invisible. Infertility isn’t typically accompanied by visual indicators, and our culture tends to keep it quiet. This silence contributes to the pain of the experience and the isolation that it creates. If I didn’t say anything about my own life, I knew that I would be part of the problem, not part of the solution.

That Shabbat morning when I got up to the *bimah* to give my *d’var Torah* I remember being so nervous that I didn’t look up from my notes for most of the sermon. I was so worried that my congregants would think I was oversharing, and that my gut had been wrong and I should have just kept my mouth shut. Gratefully, the audience’s reaction swiftly abated my nervous-

*continued on page 4*

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## IN THIS ISSUE:

From Our President: It's Both Public and Private by Pam Scheininger	1
A Maharat Speaks of Her Fertility Journey by Ruth Balinsky Friedman	1
Message from the Executive Director by Daphne Lazar Price	3
How Haredi Women Embody Reproductive Authority by Michal Raucher	5
The Silent Struggle of Infertility by Tricia Anbinder and Elana Frank	8
Getting Personal About Infertility by Elana Frank	9
Halakhic Infertility, Halakhic Solutions by David Bigman	11
Be Fruitful and Multiply—But First, Genetic Testing by Hillary Kener Regelman	16
Career and Kinder: The Choices We Make, the Challenges We Face by Plonit Almonit	18
What Does Halakhah Say About Abortion? by Noam Stadlan	20
The Politics of Abortion by Gail Katz	22
A Call for Open Conversation on Reproduction and Sexuality by Rivka Cohen	24
Book Corner by Debbie Weissman and Roselyn Bell	26

## JOFA NEWS

High School Leadership Development Program	14
Building Community	14
JOFA Webinars	14
Online Davening and Megillah Reading	14
JOFA Gala Dinner	15
Sharing Personal Stories	15
Siyum HaShas	15
Agunah Advocacy	15
Looking at Racism in Our Midst	15
Memorial Tribute to Ruth Bader Ginsburg	15

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All correspondence should be mailed to:

JOFA, P.O. Box 300009, Brooklyn, NY 11230.

We can be reached by phone at (212) 679-8500

or email [jofa@jofa.org](mailto:jofa@jofa.org)

# Message from the Executive Director

By Daphne Lazar Price

Publishing this issue of the *JOFA Journal*, which focuses on women's health and reproductive issues, might seem out of touch amid a global pandemic, heightened racial tension, an increasingly polarized society, and rising anti-semitism. And still, supporting women's health and reproductive rights and exploring these fundamental human values through the lens of personal, halakhic, educational, and public policy perspectives is essential to ensuring the maintenance of a healthy society.

Once, some twenty years ago, while visiting a major European city, I commented on the number of bicyclists weaving in and out of rush-hour traffic. My host responded that the city had recently come out of a mass transit strike that had forced people to look for alternative ways to commute, and ultimately they had found that they enjoyed cycling even after bus service resumed. This choice resulted in less pollution, easier parking, and improved fitness. It was the first time I had given thought to the gift of unintended consequences.

Fast forward to the fall of 2020: We are over half a year into the pandemic. As of this writing, more than 200,000 Americans have died of COVID-19. Countless more have fallen ill and retain symptoms long after they have "recovered." Reliance on government-funded public services has increased exponentially, reflecting the high rates of joblessness. People are feeling anxious and stressed because of the overall lack of stability and in anticipation of further waves of shutdowns. The net loss to humanity as a whole will be incalculable.

Nevertheless, there have been so many positive unintended consequences: Slowing down our frenetic daily routines and creating healthy boundaries. Nuclear families having more time together. A growing awareness of the needs of others—especially those who live alone—and a need to connect. A renewed and amplified awareness of those struggling with depression in isolation. Appreciating our own health and wellness and recognizing that it is incumbent on each of us to do our part in the world to safeguard our friends, relatives, and neighbors. And, ulti-



mately, maintaining a sense of normalcy.

In March, when schools, synagogues, and businesses shut down, JOFA's doors stayed open. We didn't change the work we did—only how we were doing it. We shifted from in-person gatherings to online gatherings. We announced the recipients of funding for the Devorah Scholars program. We began to hold women-led *tefillah* services and *Megillah* readings. We offered programmatic content that ranged from *mikveh* use in the age of COVID-19 to leadership development to racial justice to women's health and included ritual engagement and text-based learning. We advocated for women's involvement in the phased reopening of Jewish communal institutions.

We addressed a communal void that could no longer be filled by sanctuaries and social halls. So many people refer to Zoom-based programs as "virtual," but I find it to also be an authentic meeting space. Geographic distances are eliminated, and other access barriers are instantly lifted. We provide more opportunities for women to lead in ways they hadn't previously been able to. At the start of every program, I invite people to chime in about where they are joining us from, and the results are always staggering. There are always many of the "usual suspects," people who join us from Massachusetts, New York, New Jersey, and the greater Washington area as well as parts of the Midwest. We have also drawn participants from Toronto, Montreal, and Calgary, from New Mexico, Colorado, Georgia, and Maine, and from Oregon, Texas, and California, as well as international audiences from the UK, France, Israel, South Africa, South America, and Australia.

Which brings me back to the topic at hand—women's reproductive health. There have been and will continue to be volumes written on the lasting impacts of 2020. And I have no doubt that JOFA will provide content and nuance to those conversations. But as long as there are women, there will be women's health-related concerns. And we will continue to dedicate ourselves to addressing those relevant issues.

## From Our President *continued from page 1*

community? For women, this dichotomy is not something external; it is experienced within our actual bodies, as well as our minds and hearts.

Furthermore, we cannot ignore the political environment within which these experiences are taking place today. Reproductive rights are under attack in every branch of the federal government, as demonstrated by limitations placed on the acquisition of contraceptives, whether through restrictions on access or financial constraints, or the perpetual threats to abortion rights

and the ability of every woman to make a choice in and for her own body.

The conversation about reproduction and reproductive rights, particularly as filtered through the lens of *halakhah* and the Orthodox world, is thus both deeply private and personal and decidedly public and political. It is essential that we continue to explore these topics in the pages of our journal, with men and women in our broader community; with our children, spouses, and families; and with our clergy, in spaces both personal and political.

ness and validated my decision. People approached me to share their own stories of infertility. They thanked me for sharing publicly and giving voice to what they had struggled with on their own. Perhaps most importantly, a few congregants remarked that by speaking about my own challenges from the *bimah*, I had instantly demystified a topic that so many people consider off-limits for public discourse. “Just like that,” someone declared, “you removed the stigma.”

### People approached me to share their own stories of infertility.

When I gave that *d’var Torah*, I was two and a half years into my current seven years at Ohev Sholom. People had approached me earlier to ask the occasional question about pregnancy, birth control, and reproductive technology. I had taught a number of women and couples the laws of *niddah* and halakhic approaches to sex. Congregants knew that they could come to me for open and honest conversations about sensitive topics. But despite this existing openness, the reactions I received indicated that my decision to speak honestly with my community added additional levels of sharing.

#### Two Types of Responses

There were two main categories of reactions. The immediate ones were the individuals (mostly, though not exclusively, women) who reached out to share their own stories of infertility. They were grateful to see this experience being discussed in the public sphere and wanted to share that this was something that they had gone through, too.

The second category represents more of a general shift than an immediate flood of responses. I have noticed over the weeks, months, and years since that people have felt that they can come to me with questions about their own reproductive treatments and struggles. Sometimes it is for emotional support, and other times for halakhic advice. Some are congregants, and others are from different *shuls* in different cities. They approach me specifically because they know that I “speak their language.” If they have a question about an IVF procedure, they don’t first have to explain how the procedure works. If they are struggling to get a clean *hefsek taharah* (an internal vaginal exam that confirms the cessation of bleeding and the onset of the seven clean days) on day five and are concerned about missing their fertility window, they know that I can relate to the anxiety and speak from a place of empathy. Being able to get advice from someone who already has a background in the reproductive details means you can bypass that stage, thereby saving the person a lot of emotional energy.

#### When Firsthand Knowledge Helps

By no means do I intend to suggest that the only person qualified to answer questions about a particular issue

is one who has firsthand experience. Rather, the lesson that I take from my experience is that for rabbis to properly support people, we need both the general knowledge about the field and the ability to cultivate genuine empathy with what this person is going through. I recall a few situations over the past seven years that demonstrate what happens when this is not the case:

**A** The time that our *mikveh* opened on a Friday before Shabbat for a woman who needed to immerse on time. She did not live within walking distance to a *mikveh*, so she could not go on Friday night, and she could not delay until Saturday night because she was on fertility medication and could not lose a day with her husband. She lived in a nearby city where none of the *mikvaot* would open for her to immerse during the day. Luckily, her rabbi knew that our *mikveh* would open, so he put us in touch and she was able to immerse before Shabbat. Although it was very frustrating that no *mikvaot* nearby would open for her, the fact that her rabbi understood her situation and knew that I did as well meant that she was able to get what she needed.

**B** The time that I helped a family who were experiencing a late pregnancy loss to secure a burial plot for the remains of their fetus. The loss had been devastating and unexpected, and they struggled with the thought that the remains would be disposed of by the hospital and not be buried. The general custom in Orthodoxy is not to bury the remains (though my sense is that this is changing slowly). However, I knew of a couple of Orthodox rabbis who had experienced late pregnancy loss. I consulted with them, and they both vehemently agreed that if the family wished to bury the remains, they should be able to do so, as this is an important component of the healing process. And so we worked with the cemetery to secure a small plot where the family could bury the remains.

For rabbis to properly support people, we need both the general knowledge about the field and the ability to cultivate genuine empathy with what this person is going through.

**C** The time that a couple approached me with questions about securing a *shomer*<sup>1</sup> for local fertility treatments, which is a practice recommended by many rabbis. They had received the *p’sak* (directive) from

<sup>1</sup> A *shomer* is a Jewishly observant individual who guards the man’s sample in the lab to prevent a possible mixup. For more information, see <https://www.yoatzot.org/articles/659/>. Please note that this requirement is not accepted by all authorities. If you are concerned that you might need a *shomer* for fertility treatments, please consult a halakhic authority you trust and who is knowledgeable in these matters.



# How *Haredi* Women Embody Reproductive Authority

By Michal Raucher

When people learn that I have conducted research on reproduction among *haredi* (ultra-Orthodox) women in Jerusalem, their first questions usually are: “Do they use birth control?” “Do they get abortions?” and “Will they use fertility treatments?” These questions are understandable. People generally know that *haredi* women have a high birthrate, even by Israeli standards, and although most Americans can easily articulate the normative religious positions on these reproductive practices, we don’t talk a whole lot about what women actually do.

This was, after all, the reason that I had started conducting interviews with *haredi* women in 2009. I moved to Jerusalem after I finished my comprehensive exams for my Ph.D., and set out to discover whether women’s reproductive actions aligned with the reproductive norms of their religious and cultural context.

In short, yes, *haredi* women use hormonal birth control to space out their pregnancies; they get abortions for fetal anomalies and even, early in their pregnancies, out of financial concerns; and they use fertility treatments when they are having trouble conceiving.

These findings, though, are not the most surprising aspects of *haredi* women’s reproductive lives. Despite the

authorities (doctors, rabbis, and the state) who are attempting to control women’s reproductive lives, *haredi* women, as I demonstrate in my book, make reproductive

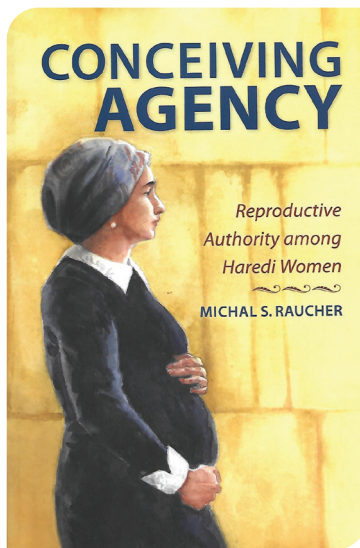
decisions after considering their own embodied experiences and authority. Women reject rabbinic norms in favor of an embodied authority situated in their ideology of a woman’s importance in reproduction. When they are pregnant, they make decisions without their rabbis, husbands, or doctors because they believe that being pregnant multiple times (an experience their rabbis and husbands will never have) affords them greater authority over reproductive decisions. The specific decisions *haredi* women make regarding pregnancy and reproduction vary from woman to woman and even from one pregnancy to the next. Thus, there is no way to generalize what all *haredi* women do or won’t do with regards to reproductive actions. However, I repeatedly found

that *haredi* women have developed a unique approach to making these decisions.

## “This Is My Avodat Hashem”

Let me tell you about Talya, an Israeli *haredi* woman whom I interviewed multiple times during and after her

*continued on page 6*



their own rabbi that they could pursue treatments only if they secured a *shomer*. They didn’t know how to proceed, so they called me. Having gone through IVF myself, I recognized how enormously stressful it could be to try to navigate this process outside of the New York area, where the use of a *shomer* is not commonplace. I spoke with a local *rav* who has experience in this field, and he shared that there weren’t

**Every question that is asked is not just a function of the *halakhah*, but also of the circumstances surrounding the person asking it.**

any labs in the District of Columbia that work with *shomrim*, and that it was okay for them to proceed without one.

This last story has always stuck with me. A well-intentioned rabbi delivered a *p’sak* without understanding the facts on the ground and the reality of what he was

prescribing. Because the couple was able to engage the help of local advisors who understood the sensitivities involved, they were able to get an answer that spoke to the actual circumstances. How many people have suffered unnecessary emotional pain because they consulted with rabbis who were not fully informed and/or sensitive to their circumstances, and thus provided inadequate or incorrect guidance?

One of the lessons we discussed in yeshiva was that no *she’elah* (question) exists in a vacuum. Every question that is asked is not just a function of the *halakhah*, but also of the circumstances surrounding the person asking it. To best serve our communities, rabbis should know the *halakhot* of infertility, and also be aware of the sensitivities that accompany these questions.

*Maharat Ruth Balinsky Friedman serves as maharat at Ohev Sholom—the National Synagogue in Washington, D.C. Her responsibilities include overseeing the conversion program, supervising the operation of the community mikveh, directing adult education, providing pastoral counseling, teaching in the community, and more.*

fourth pregnancy.<sup>1</sup> Talya faced a tough decision regarding the hospital where she would give birth. She preferred a hospital that is more inclined toward natural birthing

**The absence of societal and familial discussion of pregnancy leaves fertile ground for a *haredi* woman to make her own reproductive decisions.**

and has a policy of allowing the baby to remain with the mother as tests are performed on the newborn. This hospital, however, is not “Shabbat-oriented,” meaning that it does not observe the laws of Shabbat. The other hospital is Shabbat-oriented but will take the baby away right after the birth and place him or her in the nursery. Talya knew this was a question she should ask her rabbi, but she hesitated before approaching him. She assumed that he would want her to give birth at the Shabbat-oriented hospital; however, Talya did not want to give birth there. Instead, she registered at both hospitals.

At her husband’s urging, Talya ultimately asked her rabbi. He responded to her dilemma by saying, “Which is more important to you—to have the birth go ‘exactly the way you want it’ or to have someone not work for you on Shabbat?” When Talya relayed the story, she quoted her rabbi as asking in a mocking tone, clearly insensitive to her desires. This answer hurt Talya, because her rabbi undermined her preferences for natural labor in favor of observing Shabbat. Talya continued, “It’s not an easy thing for a woman. This is my *avodat Hashem* [service of God]. I carry this child for nine months, and I don’t want someone taking it away from me after it’s born.” Her response can be seen as responding both to her rabbi’s words and to what would occur in the Shabbat-observant hospital. Talya’s rabbi had taken away from her the ability to make her decision based on her embodied preferences, which she felt entitled to exercise. Instead, he wanted her to decide on a hospital based on its observance of *halakhah*.

Another reason Talya wanted to avoid the Shabbat-observant hospital was that by removing the baby from her after birth, this hospital removes the source of a *haredi* woman’s authority immediately after the baby leaves her body. Many women shared with me their sadness at birth because someone else takes the baby away from them. They explained that after birth, the umbilical cord no longer connects a woman to her baby, and, moreover, once the umbilical cord is severed, a woman’s direct line to God is severed as well. I heard this embodied theology repeated in a few settings. Although many women might be disappointed to have their baby taken away right after birth, *haredi* women emphasized the severing of the um-

bilical cord as the moment when their unique connection to God ended and, therefore, their source of authority disappeared.

Talya acknowledged the importance of *halakhah* and observing Shabbat. She questioned her own preference for the natural-birthing hospital by saying, “Who am I to put my emotional needs before Shabbat?” In the end, however, she went into labor early in the week and did not have to decide between the two hospitals. Talya gave birth to her fourth child in a hospital that was not particularly Shabbat-oriented but allowed her to stay with the baby immediately after the birth. As she shared this story with me, Talya described prioritizing her “emotional needs,” despite the fact that the timing of her labor released her from any concerns about Shabbat. In this way, Talya privileges her own pregnant positionality over the prohibitions of Shabbat, indicating that the authority she derives from the embodiment of pregnancy exceeds her sense of obligation to *halakhah*. Allowing someone else to make a decision for her, or to tell her what she needs to do during pregnancy, birth, or the immediate postpartum period would violate what Talya sees as her Divinely ordained role.

### **Cultural and Theological Norms**

To prioritize their embodied experiences, *haredi* women draw on certain cultural and theological norms that bolster their own authority over reproductive decisions and make space for its expression. For example, despite the prevalence of pregnant *haredi* women in Jerusalem, many expressed to me that they did not discuss their reproductive decisions with their husbands, family, or friends. Avoiding discussing a pregnancy is considered a *segulah* (a taboo or folk practice) that can protect women from reproductive misfortune. Women explained the *segulah* as fear that acknowledging the pregnancy in a trivial way might result in harm to the fetus. The absence of societal and familial discussion leaves a fertile lacuna for a *haredi* woman to make her own reproductive decisions.

**Many *haredi* women emphasized the severing of the umbilical cord as the moment when their unique connection to God ended and therefore, their source of authority disappeared.**

Furthermore, the tension between the trivialization of pregnancy and the fear of reproductive catastrophe leads women to understand that their decisions are important but should not be discussed with others. As a result, a *haredi* woman feels the authority to make decisions regarding prenatal testing, ultrasound, and birth control because pregnancy carries such great risk, for which she is responsible—and she can do so without fear that her community will judge her, as long as nobody talks about

<sup>1</sup> All names and identifying details of the women who participated in this research have been changed.

her pregnancy. If nobody asks her which prenatal tests she is getting, because her community considers such discussions to be a *segulah*, she does not have to tell anyone that her decision might be counter to what her rabbi would advise. For an individual *haredi* woman, this space to experience her pregnancy free from the involvement of the community results in her ability to make reproductive decisions independently.

*Haredi* women do not take this responsibility lightly. They understand that their reproductive actions carry great weight individually, communally, and religiously, and they draw on their embodied experiences to justify their choices. I found that women were more likely to express reproductive authority after they had experienced one or two pregnancies. Then, they explained, they understood pregnancy and knew what decisions to make. *Haredi* women speak about their third and subsequent pregnancies as if pregnancy is a ritual in which they have authority. This places pregnancy squarely within other *haredi* bodily practices, where devotion to *haredi* life, distinction from the outside world, and relationship with God are established through repeated action. This alignment with *haredi* norms is what ultimately provides women with the agency to make decisions without their rabbinic leaders.

#### Embodying Divine Authority

One more example will illustrate what it means for *haredi* women to embody Divine authority while pregnant. At the conclusion of our two-hour interview, Naomi walked me to the bus and told me a *midrash* about Michal, the wife of King David and my namesake in the *Tanakh*. We know from the text (2 Samuel 6:23) that Michal never had children, and Naomi added a *midrash* that Michal made up for the fact that she was barren by wearing *tefillin*. Naomi explained that Michal wore the *tefillin* voluntarily to remind herself of God's presence in her life. "Unlike other women who know *Hashem* intuitively, Michal needed to teach herself, and she did this through *tefillin*." Naomi clarified that, whereas women who are able to get pregnant "know *Hashem* intuitively," Michal's inability to have children prevented her from experiencing God through her own pregnant body.

As we approached the bus stop, Naomi concluded, "Pregnancy is that bodily reminder of *Hashem*. You can't ignore *Hashem* when you are pregnant or say that anything is higher than *Hashem*." According to Naomi,

Michal used *tefillin* to create that physical connection to God, but for *haredi* women, pregnancy is the embodied experience that enables them to experience God directly and to draw on God's authority, without the interference of their rabbis.

*Haredi* women's theology of embodying Divine authority changes prominent structural characteristics of the *haredi* world and its construction of moral knowledge. Whereas rabbis are involved in the daily activities of their *haredi* constituents, when *haredi* women cultivate a relationship with God through reproduction, they can avoid medical and rabbinic involvement if they want. In other areas, rabbis act as intermediaries interpreting God's will for *haredi* individuals, but during pregnancy and birth, women draw a direct line to God, thus cutting out the middlemen.

What strikes me as so significant about this is that *haredi* women are doing something that is independent of rabbis yet completely within the theology and cultural norms of *haredi* life. By creatively complying with the dominant theological and cultural norms about reproduction, *haredi* women exert their authority over their bodies and their pregnancies. Furthermore, despite *haredi* women's insistence that they make reproductive decisions without their rabbis, by drawing on these theological concepts, they are connecting themselves to the Jewish past and the Jewish future. In this way, their rejection of rabbinic authority does not imply their rejection of *haredi* Judaism in its entirety. Instead, it is a reclaiming of concepts to prioritize women's embodied experiences.

In other areas, rabbis act as intermediaries interpreting God's will for *haredi* individuals, but during pregnancy and birth, women draw a direct line to God, thus cutting out the middlemen.

*Dr. Michal Raucher is an assistant professor of Jewish studies at Rutgers University. This essay is adapted from her book, Conceiving Agency: Reproductive Authority among Haredi Women (Indiana University Press, 2020).*

JOFA advocates for expanding women's rights and opportunities within the framework of *halakhah*, to build a vibrant and equitable Orthodox community.

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# The Silent Struggle of Infertility

By Tricia Anbinder and Elana Frank

A staggering one in eight couples will experience challenges in achieving and maintaining pregnancy. Some studies report that the number is closer to one in six. At these rates, it is highly likely that you or someone you know has struggled with this problem—whether you know it or not. And, sadly, there’s a good chance you don’t.

A condition most often battled in silence, infertility is defined as the inability to achieve a healthy pregnancy after one year of trying (or six months for women over age 35). The diagnosis of infertility is usually made once fear and profound disappointment have already set in. Couples have had many months to envision the family they wish to build. Often, by this point, possible baby names have been discussed, nurseries imagined, indescribable joy and fulfillment anticipated. Meanwhile, the negative pregnancy tests and unsuccessful efforts to chart menstrual cycles, take temperatures, and time intercourse have slowly drained the excitement from the fantasy of parenthood. In its place, a desperate longing often takes hold. By the time a diagnosis of infertility is made and exploration of cause is under way, couples are often already coping with a very personal kind of pain.

The planned conception of a child is, of course, something a couple pursues in privacy. For adults who have long envisioned themselves as parents, the imagined road to parenthood is paved with love, intimacy, and creation. The mechan-

profoundly and potentially life-altering experience. And the treatment options involve time-consuming, intensive, painful, and incredibly expensive medications and procedures; for example, IVF can cost between \$14,000 and \$25,000 per cycle. It’s understandable and not uncommon for infertility to become the preoccupying, defining chapter in the life of a couple.

## Infertility as a Jewish Issue

The Jewish Fertility Foundation’s Medical Advisory

Committee believes that about one in six Jewish couples suffer from infertility, as compared with a national average of one in eight. The pressures on more observant Jewish couples are compounded by the halakhic commandment to “be fruitful and multiply,” which is understood to mean having many children in quick order. With that added pressure, the stigma surrounding infertility is very present within Orthodox Jewish communities.

Dr. Daniel Shapiro, former chair of the Jewish Fertility Foundation’s Medical Advisory Committee and a reproductive endocrinologist, explains that couples from all Jewish denominations—Reform, Conservative, and Orthodox—experience age-related fertility decline in equal proportions. The age brackets don’t vary, but diagnosis at presentation likely

will. Polycystic ovary syndrome (PCOS) and male factor infertility are most prevalent among the Orthodox, reflecting high rates of obesity in the Orthodox community and because marriage and attempts at fecundity start earlier among the Orthodox than among the non-Orthodox. Conversely, women in liberal denominations or nonaffiliated women would be more likely to experience egg-related issues, as they typically would have their first attempts at pregnancy at an older age than Orthodox women.

Organizations such as the Jewish Fertility Foundation



The joy of pregnancy

**It’s understandable and not uncommon for infertility to become the preoccupying, defining chapter in the life of a couple.**

ics and biology of conception are often bits of sharp reality uninvited into the softness of hope. But as the months of trying to conceive pass, hope can erode and questions emerge, such as “What’s wrong with me?” “Why us?” and “What now?” It’s no wonder that fear and shame can take hold and lead to isolation just when couples are experiencing a life crisis that experts liken to receiving a cancer diagnosis.

Couples struggling with infertility can—and often do—experience waves of intense emotion, ranging from shock, fear, and disillusionment to anger, shame, and despair. Loss of control over one’s body and future is a

## Jewish Fertility Foundation

**Contact:** Elana Frank, CEO and Founder

**Phone:** 770-843-7413

**E-mail:** [elana@jewishfertilityfoundation.org](mailto:elana@jewishfertilityfoundation.org)

**Website:** [jewishfertilityfoundation.org](http://jewishfertilityfoundation.org)

**Facebook:** [facebook.com/jewishfertilityfoundation](https://facebook.com/jewishfertilityfoundation)

**Instagram:** @JewishFertilityFoundation

**Current Locations:** Atlanta (established 2015)  
and Cincinnati (established 2019)



are making great efforts to meet individuals and couples in their pain and offer resources for hope. JFF provides financial assistance, educational awareness, and emotional support to Jewish people who have medical fertility challenges. As an organization built on awareness of the emotional, social, and financial burdens infertility can bring into a couple's life, JFF offers support groups, financial grants for couples undergoing IVF, and community education.



JFF's unique Fertility Buddies program pairs women and men who are experiencing infertility with infertility "veterans." These veterans are men and women who are now parents and can offer the kind of validating support that couples crave. "Getting it" and having been there, they provide a big piece of the success of the work in the field of infertility.

JFF has recently expanded from its original Atlanta, Georgia, base to a second office in Cincinnati, Ohio, and is hoping to grow into other Jewish communities. JFF serves candidates, preferably aged 37 and younger, who have at least one Jewish parent and plan to raise their child Jewish. For contact information, see the sidebar on page 8. JFF programs are free to all qualifying candidates, helping them financially, educationally, and emotionally through their fertility journey.

*Tricia Anbinder is a licensed clinical social worker in private psychotherapy practice in Atlanta, specializing in persons experiencing infertility and the transition to parenthood. She has a B.A. from Emory University and received her M.S.W. from the University of Georgia. Elana Frank is the founder and CEO of the Jewish Fertility Foundation.*

## Getting Personal About Infertility

By Elana Frank

I have three rambunctious and adorable boys whom I love more than life itself. All were born via the miracle of in vitro fertilization (IVF), or, as my husband calls it, "test tube babies." Technically, my husband is right because, like it or not, that little glass tube or dish is where the magic happens. Regardless of how you refer to it, the whole thing truly is a mix of medical marvel and Divine inspiration. And though I try not to imagine my babies spending their first moments of life in a glass tube, I just remind myself that they would not have been born any other way.

Yet even with three beautiful, perfect children to be grateful for, I still get sad because I'll never *not* be infertile. We can never just say, "Hey, let's have another." It'll always be a process and a risk. I'll never know the feeling of getting pregnant while on a romantic vacation or after a night of passion gone wild. And when I think about my sadness, it's made even worse by the guilt I feel knowing that although it worked for me, for others even this process doesn't work.

I remember those frustrating moments in our early months of "trying," hoping that this month we would finally succeed. I remember a husband who found sex a chore, a baby always on my mind—probably not unlike many women whose biological clocks are ticking. At first, we bought the expensive pregnancy tests, waiting for two lines to pop up. Then, when month after month there was just one line, we began buying a pack of 20 tests from Canada and importing them to our home in Israel. I felt sure that this would be the month. But after taking way too many tests and always seeing only one line, we came to understand that nothing was working.

**I still get sad because I'll never *not* be infertile. We can never just say, "Hey, let's have another."**

### Israeli Factors in the Equation

Living in Israel, with its socialized medical system and strong cultural message about the desirability of creating Jewish babies, afforded me the opportunity to visit my doctor after only four months of trying. My husband says that it was my type A personality that made me expect something to work the first time, but I feel that I was fortunate to have had the foresight to get the process started early.

It didn't help that women (and men) at the religious nonprofit where I worked did not understand why I'd been married for more than a year and did not have kids. "It's time you started trying," they prodded. "You don't want your kids to have old parents." Note that at the

*continued on page 10*



## Getting Personal *continued from page 9*

time I was 31 years old! Several of my colleagues started saying *Tehillim* (Psalms) for me. Keep in mind that they did *not* know that I was trying, but how could I tell them? On the secular front, my (blunt) Israeli family began to question our status as well. I'd say things like "Don't worry, we are trying" or "All in due time"—and then go home crying with frustration and embarrassment.

In Israel, infertility procedures are based not on how long you've been trying, but rather on how long you have been married. We had already been hitched for more than a year, so the Clomid pills came rather quickly. Now, with popping the pills and getting my husband back into bed, I was sure I was going to conceive.

Our first few rounds of Clomid failed. As new *olim* (immigrants to Israel), we were still trying to navigate the health care system, and I started really having doubts that I'd ever get pregnant. I was getting desperate. I opened up to an Israeli family member who was connected to a well-known fertility specialist. Although he was not in my insurance plan, we were able to secure a private visit. In Israel, "private" might mean in someone's own home. In this case, it was in his personal home at 9:30 p.m. For several months, we'd visit his "office" in the basement of his home, write him a check (we were Americans, after all, and were used to paying for medical care), and try to get pregnant. There was little testing and it did not feel right, but I was so desperate to see those two lines on a pregnancy test that I didn't care if my husband was forced to do his business in this doctor's personal bathroom in preparation for an IUI (intrauterine insemination) in his back room.

### Tears in the Mikveh

Going to the *mikveh* was a constant source of pain for me. I was reminded monthly that my body wasn't working the way that it should. I surely wasn't going to open up to the *mikveh* attendant when she saw the tears in my eyes as I dunked. I know that *mikveh* should be a time to put my faith in *Hashem*, but truthfully, at the time, I just felt scared, anxious, and alone.

My best friend called to tell me that she was pregnant.

It happened sooner than they had intended. She was more afraid to tell me than her single friends with no kids because she knew we had been trying so vigorously. I was so happy for her, but so sad for myself. It was almost a year of trying. Sex was no longer fun. I felt like my body was betraying me. Was *Hashem* punishing me?

Then something clicked, and my husband and I decided to move on from our sketchy basement doctor. We found another doctor through another Israeli relative. He didn't come without a bit of "Oh, just relax, I'm sure that nothing is wrong" or "Go on vacation, just enjoy this time, and it will happen." After another three months (the time it took to switch insurance plans), we finally met our miracle worker, Dr. Meir Nitzri. Within

one month and after several painful tests, he found the problem. It was mine, but I was happy because this meant that we could finally pursue an action plan. The

doctor did a little typing on his computer and told us that we qualified for IVF next month. I started treatment the next month. Yes, the injections hurt and the medications made me gain weight, not to mention that I was a hormonal mess—but IVF worked, and we welcomed our first son. And 18 months later, our second arrived. Both began as twins, and we suffered a loss during each pregnancy. I knew there were risks in implanting more than one embryo, but they were risks I was willing to take.

### Returning to America

After five years of living in Israel, we made our way back to America with two young kids. I felt in my heart that I had more to offer my family. I felt guilty for wanting more children. Why couldn't I be satisfied? I loved my beautiful kids and felt beyond grateful for my little miracles, but it was a visceral urge. My husband was not on the same page. He grew more and more frustrated that I was willing to do anything to grow our family. We had six embryos left in Israel, and I flew back and forth to transfer them (which was significantly less expensive than starting again in America). I was stressed. I put so much pressure on myself, but none of the remaining embryos

Going to the *mikveh* was a constant source of pain for me.

# Halakhic Infertility, Halakhic Solutions

By David Bigman

Over the past hundred years, as medical knowledge has advanced, it became clear that infertility was a problem among a small percentage of the halakhically observant population. Jewish families were being denied offspring solely because of their observance of the Torah commandments of *taharat hamishpahah* (family purity laws). This problem has been discussed sporadically in the responsa literature. The following is a description of my approach and how I came to co-author a halakhic monograph on this issue.

Close to forty years ago I was sent by my community, Kibbutz Ma'ale Gilboa, to study *halakhah* because there was a great need for a local *posek*, especially in the realm of family purity. Because of the pressing needs of my community, I agreed to prepare myself to function as

**My rather limited experience has shown that almost all cases of so-called halakhic infertility could be solved without medical intervention and without forgoing the *shiva nikiyim*, if one is extremely attentive to a woman's particular situation and is aware of the latitude in the halakhic system.**

a community *posek*. I commuted daily to the Ariel Institute in Haifa, headed by Rabbi Sha'ar Yashuv Cohen. Almost all the members of the *kollel* were from various *haredi* communities—hasidic, Litvish, and Sephardic. As we studied *hilkhot niddah*, the problem of halakhic infertility came up. This was described as ovulation that occurs regularly before the night on which the woman is supposed to go to the *mikveh* (ritual bath); thus, the renewal of sexual intimacy occurs too late for conception. Almost all the members of the *kollel* felt the need for a halakhic solution very keenly. Their intuition was that this problem must be faced because the almost universal

desire for family and the fulfillment of the commandment of *p'ru u'rvu* ("be fruitful and multiply") were at stake.

*continued on page 12*

"took." No one could answer why. It took us another five years of angst, stress on our marriage, judgment (mostly from myself), more failed IVF cycles, and unsuccessful attempts at adoption to go on to have our blessing of a third child through embryo donation. Embryo donation is a form of third-party reproduction. We received another family's remaining embryos after their IVF.

**Over time, I learned that I wasn't the only one in the world who had a hard time conceiving.**

Over time, I learned that I wasn't the only one in the world who had a hard time conceiving. For others it takes years, miscarriages, unbearable debt, oceans of tears, and heartache before finally giving birth, if at all. With the cost of IVF ranging from \$14,000 to \$25,000 in America, on average, many don't even have a chance for a chance. Knowing that there is a grave need for funding, support, and enhanced awareness of this sometimes unspoken issue in the Jewish community, I founded the Jewish Fertility Foundation (JFF), which provides financial assistance, emotional support, and educational guidance to help others who are facing the challenges that I went through. People often ask if I can allow myself to feel satisfaction in what I've created. I admit that is something

I'm working on, because living in the moment is hard for me. I'm already thinking of JFF's goal of opening fifteen more community-based offices over the next five years. But daily reminders of the work that we're doing offer me moments of pure joy. Just this week I was brought to tears twice. We gave out our forty-second grant to an Israeli couple living in Atlanta who came to us after four years of losses. The happiness we felt in offering them our largest JFF grant to date brought us all to tears. In addition, this week our forty-first baby was born. Baby Remy is particularly special to me because her mom is a single mother by choice—not an easy feat in the Jewish community today! Baby Remy is lucky to have a mom who fought so hard to bring her into the world.

This week, after I light one extra Shabbat candle for all the infertile men and women seeking to have a child, I will share my high, low, and unexpected events of the week with my family. I will look around my Shabbat table at each of our young kids and take a moment to appreciate just how truly fortunate I am to be able to build my family.

*Elana Frank is the founder and CEO of the Jewish Fertility Foundation. A native of Atlanta, Georgia, she has twenty years of experience working with nonprofit organizations in America and Israel, doing fundraising, marketing, community outreach, and program development.*



## Halakhic Solutions *continued from page 11*

The only consolation we had was the common belief that the phenomenon was rare.

A year or two after I completed my studies in the *kollel*, a family in my community approached me with this problem. Their gynecologist had said that the reason there was no pregnancy was because ovulation preceded the night of *t'vilah* (immersion) by a day or two. (At that time, the means used to determine the time of ovulation were very approximate.) I immediately called my mentor, Rabbi Akiva HaCarmi, and he suggested the following leniency. He said to instruct the couple that the woman may go to the *mikveh* at day-

**I have had the privilege of helping many couples, but have also learned a lot from listening attentively to the women asking my advice.**

break on the seventh day of her *shiva nikiyim* in order to renew sexual intimacy approximately twelve hours earlier. Rabbi HaCarmi told me that, from his experience as a community rabbi, this leniency would solve the problem within a few months, but only if the discrepancy between the time of ovulation and the night of *t'vilah* was not more than a day or two. This novel leniency was my main vista to solve the problem for quite a few years. The basic halakhic discourse to allow this solution was outlined to me by Rabbi HaCarmi, and is discussed in our book, *Akeirut Hilkhaitit (Halakhic Infertility)*.

### Two Views on Hormonal Solutions

Over the years, other solutions based on medical intervention have come into vogue. The most prevalent method is hormonal treatment, usually to delay ovulation. In extreme cases, artificial insemination has been suggested. The medical establishment on the whole, including secular Israelis, has accepted these solutions as legitimate. Two prominent observant gynecologists, both friends of mine, differ on this issue. One has said that hormonal treatment is extremely detrimental to the long-term physical well-being of the woman. The other says that these particular short-term hormonal treatments are innocuous, and there is no scientific basis for the need to avoid them.

The view that hormonal treatments are detrimental has led to a radical suggestion—to revamp the whole halakhic practice of *shiva nikiyim*. In time, some women and some doctors have expressed dismay that medical intervention, whether mild or extreme, was being used for a problem that was not medical in its nature, even when the medical intervention was not detrimental to a woman's health, yet very uncomfortable for the couple. Out of this genuine concern, the thought arose to apply one specific radical way to help the couples

in question—the complete eradication of the practice of *shiva nikiyim* for all couples; the possibility of other solutions was not presented.

Although this approach was the result of genuine concern for the woman and the family, it bespoke an originalist approach to the *halakhah*, denying the latitude and flexibility of the Oral Law and its relationship to myriad human experiences. This solution was halakhic brinkmanship and led to serious problems. The substratum of many leniencies in the laws of *taharat hamishpahah* is the safety net of the *shiva nikiyim*, without which, quite likely, any aberrant bleeding would render the resumption of sexual relations forbidden because of its close proximity to *issur karet* (that which is strenuously forbidden). When a couple chooses the paths of pure Torah law, complications are quite common. On the practical level, this radical approach of getting rid of the *shiva nikiyim* is accepted only in a minuscule segment of Torah-observant society.

Although I do not feel that it is appropriate for a *posek* to take a stand on a medical issue, clearly there was a piece missing in the discussion. Was the source of the couple's distress really because of halakhic infertility, or was it a simple misunderstanding or a rigid, artificially stringent reading of the halakhic material? One inherent problem is that most doctors have very little knowledge of *halakhah* and accept the patient's assessment at face value. The woman who makes the assessment may be completely off track. Her assessment is possibly based on poor instruction in the laws of *taharat hamishpahah* before her marriage or complete ignorance of the nature of the halakhic system. Young people in Israel are often taught that there is only one correct way of observing *halakhah*, one correct answer to a halakhic question. Thus, if a woman approaches her local rabbi with a question of family purity, she often does not think it relevant to mention her particular situation of halakhic infertility or, for that matter, any other extenuating circumstance. The rabbi does not think it appropriate to ask whether there are special contingencies. Although he must be aware of halakhic variants, he too

**A solution has almost always been found without medical intervention, often in consultation with gynecologists and my mentors and friends.**

may have grown up with a very rigid view of *halakhah*. Even when the particular circumstances do come up in his discussion with the person who asked the question, often he simply does not have the expertise or the latitude to solve the problem. He may have been chosen as the community rabbi because of many other skills important for his community.



## A Note about My Halakhic Approach

I think it appropriate to explain my approach to *halakhah*. In many circles, the *posek* is viewed as a scientist looking for truth based on empirical facts. I would suggest that the analogy to science is misplaced, and the work of the *posek* should be likened more to that of an architect, whose plan must take into account the laws of physics, but will not exclusively be determined by them. Based on the laws of physics, the architect will create a functioning edifice that is both practically and aesthetically compatible with its surroundings. Natural phenomena such as geography, climate, and topography limit the architect's creative license, as do man-made constructions such as buildings, roads, and sewage systems. In spite of these constraints, different architects will provide different solutions to the challenge and very often several competitive solutions are successful. So, too, the *posek* takes into account the human condition and the particulars of the situation at hand, as well as the binding nature of Jewish law in all its variants and complexities. The foundation of the halakhic process is the total commitment of both the recipient of the decision and the decisor to the Written and Oral Law, but the pinnacle of its achievement is the well-being of the individual, the specific community, and the community at large. These principles are discussed with various nuances by many renowned scholars from the period of the Gaonim to the present day. In retrospect, although not articulated, these basic principles were present in almost all of my contacts with *poskim*, when the cultural and social contexts were taken into account.

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## Solving Halakhic Infertility without Medical Intervention

The result of this insufficient process is that many women go through unnecessary medical procedures. These procedures may be innocuous for some but horrendous for others. Some are extremely unpleasant for all. As medical solutions have become prevalent, they actually exacerbate the problem, as they present the *posek* with a simple solution. He often feels he can shirk his duty and does not bother to dive into the halakhic literature and to take responsibility for difficult decisions. My rather limited experience has shown that almost all cases of so-called halakhic infertility could be solved without medical intervention and without forgoing the *shiva nikiyim*, if one is extremely attentive to a woman's particular situation and is aware of the latitude in the halakhic system.

About ten years ago, my students asked me to make my views public. I allowed them to summarize what I had already written down, with one stipulation: My cell phone number must appear in the article. Thus I was able to move away from polemics and into a position of actually helping. Since the publication of my views, I was called several times a week. The people who called have often had some halakhic advice or medical intervention that wasn't successful. Sometimes a *posek* or *poseket* would call. Along with several other *poskim*, I gained a reputation as being a troubleshooter on this issue, and *poskim* started referring couples to me.

I have had the privilege of helping many couples, but have also learned a lot from listening attentively to the women asking my advice. The women come from a wide spectrum of the observant community in Israel and abroad. A solution has almost always been found without medical intervention, often in consultation with gynecologists and my mentors and friends, including my friend Rabbi Elyashiv Knoll (ז"ל). I have, however, come across a few cases of true halakhic infertility in which more extreme solutions were necessary.

My colleague, Rabbi Binyamin Holtzman, helped me write up these case studies into a book, and we are grateful to Rabbanit Dr. Hannah Adler Lazerovitz for writing an introduction. The book itself is simply an anthology of responsa on this issue. We delineate several avenues to deal with the problem. We hope that the methodology is clear and convincing. We hope this book, by disseminating knowledge and methodologies to *poskim*, *poskot*, and learned laypeople, will help many couples have children.

One of the dominant characteristics of responsa literature is the open and frank communication between the person asking for halakhic guidance and the person who provides it. While codes of law have much value for study and reference, the responsa mode is the right mindset for the quest for halakhic truth. Hopefully, with heightened awareness of the workings of *halakhah* will come the most appropriate choices, especially for sensitive matters of *taharat hamishpaha* (family purity).

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*Rabbi David Bigman has been the rosh yeshiva of Yeshivat Ma'ale Gilboa since 1995. He was one of the founders of Yeshivat HaKibbutz HaDati laBanot, which later became Midreshet haBanot b'Ein Hanatziv. His book on halakhic infertility, Akeirut Hilkhatit, co-authored with Rabbi Binyamin Holtzman, was published (in Hebrew) by Yeshivat Ma'ale Gilboa and HaKibbutz HaDati.*

## High School Leadership Development Program

On June 29, 2020, JOFA launched its first online High School Leadership Development Program. Over the course of this virtual three-week program, 26 young women from all over the country participated in skills-building seminars, career fairs, and cohort-bonding exercises. Participants focused on strengthening their critical thinking skills, taking advantage of opportunities for activism, and gaining active listening tools through fun breakout activities. Each Friday featured short conversations with women who are leaders in their fields, including an assemblywoman, a doctor, a Jewish educator, and an author. At the end of each session, the high school students jotted down takeaways from the speakers on a virtual platform. Since the completion of the program, participants have gone on to demonstrate leadership skills in their schools and synagogues and through their writings in online publications.

## Building Community

On January 28, 2020, JOFA, together with the Sixth Street Synagogue in New York City and Jews for Racial and Economic Justice (JFREJ), hosted a panel titled “Building Community: Creating Unity in a Polarized Society—Jewish Responses to the Rise of Antisemitism and Other Forms of Hate.”



Photo by Andrea Karshan



As a response to rising antisemitism in America, this panel looked at hate as a shared concern for Jews and for people of color. Observing that people of color are also members of the Jewish community, the panel urged that the Jewish world recognize the intersectionality of these two identities.

## JOFA Webinars

With in-person events limited due to the COVID-19 epidemic, JOFA has ramped up its online programming. Over the past year, JOFA has hosted various webinars focusing on women’s health issues (in partnership with Sharsheret), the quality of the secular education in *yeshivot* within the New York area, and what self-care means for the modern woman. Approaching the various *haggim*, JOFA brought in speakers and teachers to discuss the book of Esther, how to make a meaningful seder, and how to apologize before the *Yamim Nora'im*. JOFA also hosted an online program celebrating Orthodox Jewish women authors, which culminated in a reading list made available to a broader audience. JOFA members were invited to add their favorite Jewish women authors to the list.

## Online Davening and Megillah Reading

One of JOFA’s most successful online programs has been the ongoing Rosh Hodesh women-led virtual davening. After the popularity of the monthly morning gatherings, JOFA expanded into women-led *Megillah* readings, including a Megillat Ruth reading led entirely by Gen-Zers and a live-streamed *Eikhab* reading.

To celebrate Lag Ba’Omer, JOFA live-streamed a *minhah* service, followed by a concert led by Neshama Carlebach.

All JOFA online programming can be found in the JOFA webinar archive.

## JOFA Gala Dinner

On November 3, 2019, JOFA hosted its gala dinner honoring Ann and Jeremy Pava and Judy Heicklen. The evening featured live music, speakers, and the announcement of the Devorah Scholars initiative, an innovative program that offers seven \$20,000 grants to communities that are committed to hiring women in spiritual leadership positions. This initiative was made possible thanks to a generous gift from Ann and Jeremy Pava.



Jeremy and Ann Pava and Blu and Rabbi Yitz Greenberg at the JOFA Gala Dinner

## Sharing Personal Stories

JOFA cosponsored an online webinar series with the creators of a new book, *Monologues from the Makom*, an anthology of poems and short essays by women reflecting on Judaism and gender, sexuality, and body image, among other topics. Throughout the four webinars in the series, editors and contributors to the book shared their personal stories. A *Monologues from the Makom* Book Club was formed on Facebook, offering an online space to continue these discussions after the webinars.

## Siyum HaShas

On Sunday, January 6, 2020, JOFA held a celebration of women's learning. The 150 attendees and 14 women scholars—two of whom led the reciting of the *Hadran*—helped make history by being a part of the first women-led *Siyum HaShas* in the greater Washington, D.C. area. This event was part of the first international *Siyum HaShas* for Women, in which some 3,300 women participated worldwide.

## Looking at Racism in Our Midst

JOFA held a series of online programs focusing on racial justice in the Jewish community. These webinars included "Racist Matters in Our Midst," in partnership with Skokie Valley Agudath Jacob Synagogue, about uncovering implicit and explicit racial biases in synagogues and day schools, and "From the Playground to the Pulpit: Parental Perspectives," featuring three

parents of school-aged Jews of color. JOFA also featured several blogs about the Black Lives Matter movement on the *Jewish Week* blog platform, including one written by a participant in the High School Leadership Development Program.

## Agunah Advocacy

On November 24, 2019, JOFA partnered with the Organization for the Resolution of Agunot (ORA) and Chochmat Nashim for a New York City event discussing *get* refusal. "Happily Never After: Jewish Divorce in the U.S. and Israel" featured a panel of three expert speakers who explained how to move the Orthodox Jewish community forward on this critical issue.

## Memorial Tribute to Ruth Bader Ginsburg

On October 26, 2020, JOFA paid tribute to the late Justice Ruth Bader Ginsburg, the first female Jewish Supreme Court justice, on the occasion of her *shloshim* (thirty days after her death), with an online program that combined a *Siyum Mishnayot* in her memory and personal recollections from two whose lives connected with hers. Rabba Wendy Amsellem recalled how touched she had felt when she received a letter from RBG as a new law student at Harvard. Rachel Wainer Apter, who clerked for Justice Ginsburg, described what a role model she was, in her precision with words, in her work ethic, and in her pursuit of justice for the litigants in every case.



# Be Fruitful and Multiply—But First, Genetic Testing

By Hillary Kener Regelman

One of the first *mitzvot* in the Torah is to “be fruitful and multiply” (Gen. 1:28). In light of modern medicine, many rabbis today interpret the verse to mean “Be fruitful and multiply ... but be cautious and get genetic testing first!” Since the 1970s, tremendous innovations in the field of human genetics have opened up a world of newly discovered diseases, testing, reproductive technologies, and treatments. These advances have also opened up new choices and moral dilemmas.

## Basic Genetics

Here’s a recap of Genetics 101: Our DNA is made up of thousands of genes that we inherit from our parents. We have two copies of each gene—one from each parent. Each gene has a unique job in the body and must function properly for us to be healthy. An alteration in a gene that affects its function is called a *mutation*. For many genetic diseases, when a person has a mutation in a particular gene, he or she is a healthy carrier and has no symptoms because that person has a second working copy of the gene to compensate. However, when someone inherits mutations in the gene from **both** parents, they are at risk to have the disease. Indeed, carrier couples have a one in four, or 25 percent, chance of having an affected child in each of their pregnancies. Diseases that are inherited this way are called *recessive diseases*.

Some diseases are more common in certain ethnic groups than in others—for example, sickle cell disease is more common among African-Americans, and Tay-Sachs disease is more common among Ashkenazi Jews. Tay-Sachs disease is well known in Jewish circles because, over the past few decades, Jewish communities around the world have united to educate about the prevalence of this disease and to organize community-wide testing. In fact, many rabbis require Tay-Sachs testing for couples who plan to marry. Screening on such a large scale has worked so well that the prevalence of Tay-Sachs disease in Jews has plummeted by 90 percent in the past 40+ years.

When Rabbi Moshe Feinstein was asked about his views on Tay-Sachs testing in the 1980s, his response was clear: Not getting tested is like crossing the street with your eyes closed—an obvious danger. We have come a long way since this question was posed, and screening is now possible for more than 200 diseases, but his opinion still applies today.

One of the biggest myths is that genetic testing is relevant only to Ashkenazim. The truth is that Sephardim and Mizrahim also are at risk for a number of genetic diseases—for example, hereditary inclusion body

myopathy is common among Iranian Jews, and thalassemia is common in Jews from Mediterranean regions. Nowadays, genetics professionals believe that anyone planning a pregnancy should be screened, regardless of ethnic background. This makes genetic testing equally as important for converts, those in interfaith relationships, and LGBTQ individuals who are planning on using a donor egg or sperm to build their families.

## What Is JScreen?

JScreen is a national nonprofit initiative dedicated to the prevention of genetic diseases. Through extensive educational campaigns, JScreen reaches rabbis, physicians, and persons of childbearing age with the message of the

importance of thorough genetic testing before having children or expanding one’s family. Launched almost seven years ago out of Emory University’s Department of Human Genetics, JScreen has tested thousands of individuals and couples

from all 50 states. Accessible, affordable, and comprehensive are the key hallmarks of our program.

## When to Do Genetic Testing

At what stage in life should one consider genetic carrier testing? This is really a personal choice with a multitude of options. The consensus in more traditional Orthodox circles is often to test before dating or when the relationship becomes serious. Others feel that the right time for testing is before an engagement, and some believe that after marriage is the optimal time.

At JScreen, we do not recommend testing at a specific point in a relationship, but strongly encourage people to get tested before pregnancy. This allows people to use the knowledge gained from the results to make informed decisions about family planning. High-risk couples receive genetic counseling and are given multiple options. Some may choose disqualification before dating or even breaking up an ongoing relationship. But thanks to advances in reproductive technology, couples are also given options to use in vitro fertilization (IVF) with genetic testing of embryos, or to use an egg or sperm donor who is not a carrier, to maximize their chances of having healthy children. Other couples may choose to get pregnant naturally, test the fetus in the early stages of pregnancy, and use the results to decide about proceeding with the pregnancy. Some couples will decide to “roll the dice” with each pregnancy, and others will choose not to have biological children. Every couple is different and will base their decision on a variety of factors, including severity of the disease, treatment options, financial resources, and personal, religious, and ethical concerns.

**Screening on a large scale has worked so well that the prevalence of Tay-Sachs disease in Jews has plummeted by 90 percent in the past 40+ years.**



There is a *mitzvah* in the book of *Devarim* (Deut. 4:15): *venishmartem me'od lenafshotekhem* (to safeguard your health). Just as the medical community embodies this ethic through prevention practices such as vaccinations and mammograms, so too does the use of genetic testing keep babies from having serious illnesses. Maharat Ruth Balinsky Friedman of Ohev Sholom in Washington, D.C., remarks that genetic screening can save couples from future suffering. "If they know their genetic risks," she said, "a couple can know if they need to pursue fertility treatments, and thereby avoid having to experience the pain of miscarriages or pregnancy termination. All couples should consider genetic screening a critical step in trying to conceive."

**At JScreen, we do not recommend testing at a specific point in a relationship, but strongly encourage people to get tested before pregnancy.**

#### The Process of Testing at JScreen

Most people who come through JScreen (approximately 75 percent) test positive as carriers for at least one disease. There should be no stigma associated with getting tested or with knowing the results. In fact, having this information can help siblings and other family members who may be unaware of their carrier status.

The process of getting tested through JScreen is now easier and more affordable than ever. Through this national nonprofit initiative, anyone 18–45 years of age can request a kit at [JScreen.org](http://JScreen.org), which will be mailed directly to their home. After a saliva sample is collected, the kit is mailed to the lab; several weeks later, a genetic counselor shares the results with the person tested by phone or secure video teleconference. These results allow the couple to make informed decisions when planning their future family.

Through proper education and comprehensive genetic testing, we are able to greatly reduce the suffering caused by devastating genetic diseases and to help families be fruitful and multiply for many healthy generations to come.

**To learn more or request a test kit, visit [www.jscreen.org](http://www.jscreen.org).**

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*Hillary Kener Regelman is the director of national outreach at JScreen. She is the author of Fingerology: The Complete Guide to the Fingers and is active in multiple charitable organizations.*

## Resources for Reproduction

### In Shifra's Arms

Jewish Unplanned Pregnancy Services  
[www.jewishpregnancyhelp.org](http://www.jewishpregnancyhelp.org)  
Helpline: 888-360-5872  
Textline: 646-632-8547

### JScreen

Saliva-based screening for genetic diseases common among people of Jewish ancestry  
Based at Emory University's Department of Human Genetics  
[www.jscreen.org](http://www.jscreen.org)

### IWSTHAB

"I Was Supposed to Have a Baby"—online support platform for those facing pregnancy and infancy loss  
[Linktr.ee/iwassupposedtohaveababy](https://linktr.ee/iwassupposedtohaveababy) on facebook.com

### Jewish Fertility Foundation

Provides financial assistance, educational resources, and emotional support to Jewish people with fertility problems  
[www.jewishfertilityfoundation.org](http://www.jewishfertilityfoundation.org)

### Bonei Olam

Provides financial support for fertility treatments and genetic research in the Orthodox community  
[www.boneiolam.org](http://www.boneiolam.org)

### Fertility Fund of Jewish Family and Children's Services of Greater Philadelphia

Provides financial aid for fertility treatments and supportive counseling  
866-532-7669

### Puah

Provides worldwide educational, counseling, and coaching services, as well as lab supervision  
[www.puahfertility.org](http://www.puahfertility.org)  
Brooklyn phone: 718-336-0603; fax: 718-336-0683  
Jerusalem phone: 02-651-5050; fax: 02-651-7515

### Yesh Tikva

Supports those facing infertility and increases sensitivity throughout the community  
[www.yeshtikva.org](http://www.yeshtikva.org)  
324 S. Beverly Drive, Suite 354, Beverly Hills, CA 90212

### Hasidah

Raises awareness of fertility problems and provides support, including financial help  
[www.hasidah.org](http://www.hasidah.org)  
P.O. Box 9531, Berkeley, CA 94709  
415-323-3225

## Career and *Kinder*: The Choices We Make, the Challenges We Face

By Plomit Almonit

*“I hope you don’t resent....”*

That’s what my boss said to me in the course of the discussion in which I was fired while still new on the job. She agreed that my performance had clearly been affected by my pregnancy. Positive feedback had gone down during my second trimester but up when I hit my third. We knew it wasn’t a coincidence, and there was every reason to think that, once my first baby was born and I had a chance to recover, my performance would soar. But, alas, that apparently was not enough.

It was enough, however, to inspire my boss to offer some counsel, expressing her concern that I might resent the baby.

Resent the baby?

I’m not sure that I had ever actively decided I wanted to have children. It wasn’t a question I ever asked myself; it was just a given. I didn’t daydream about my future family the way some classmates did, even in junior high, imagining their future husbands and naming the children they imagined they would have by design. “He’ll look like this, and we’ll have this many boys.” If you’d asked them, would they have said that, of course, no one could guarantee what life will bring. I never asked; I kept my thoughts to myself, knowing my adolescent imaginings would ultimately be irrelevant anyway. If you’d asked me, I would have said I wanted children, but I never asked myself.

There was talk of careers, of course, but I didn’t know what I wanted there either—until I was 17, when it all became clear to me and never wavered: I would teach Torah. I would stand in front of a classroom and draw my students into animated, thoughtful group discussions. I would guide them through the toil and sweat of analyzing a Hebrew or Aramaic text and celebrate their moments of comprehension. I would show them why each commentary said what he (or she) said and how they could both be right—and would help my students discover how they could be right, too.

**I resent the realities that make it so hard for so many of us to achieve both motherhood and professional success.**

### Would Teaching and Children Clash?

Would my presumed desire for children and my passion for teaching ever clash? I didn’t really think about it during my first year as a full-time teacher, staying up late to prepare or grade tests, sometimes crying after a bad day at school, but always eager to go back in the morning. I didn’t anticipate how much less time or energy I

might have for my students once I had my children.

We can’t ever know the realities of a situation until those realities are upon us. And soon enough, they were upon me. I was very fortunate to become pregnant not long after I developed a longing to be. It was as if my biological clock ticked “ready” and suddenly my desire for a child wasn’t just a latent assumption but a living thing that accompanied me wherever I went. Thank God, not long after that “ding,” I had a beautiful baby girl.

**We talk about being progressive, about supporting women in the workforce, about the importance of a work–life balance. But when life throws a wrench in the balance, does it all fall apart?**

Not long at all—but long enough to start and lose a job.

Did I resent my baby? Oh, no. I wanted her and loved her, and it wasn’t her fault that I became tired and distracted with pregnancy—a fatigue and sense of general distraction that haven’t disappeared in 15 years, but have only seemed to increase as one sibling and then another and another were born. I don’t resent any of them.

But I do resent the women who shot down my dreams almost before they’d begun. (With female bosses like these, who needs patriarchy?) I resent them for not giving me the time and support I needed to prove myself, for not having patience through my ups and downs, for not recognizing that everyone has them and that my ups were valuable enough to make it worth waiting out the downs.

And if I’m honest, I resent the realities that make it so hard for so many of us to achieve both motherhood and professional success. It doesn’t really matter that I resent those realities; my feelings won’t change them (much), and so I don’t make much fuss about my resentment. It’s latent, like that longing for children was before my clock chimed. Just there. Feeling unfair, even though I know it’s pointless to go down the road of “fair.”

Was it “fair” for God to give women this job of child-bearing, to make it so difficult (thanks, Eve), to make it so unpredictable? When I was just two months pregnant with child number three, I met a woman who was eight months pregnant and told me she felt great, “strong as an ox.” She was outside playing softball with all the children of all the families at that Shabbat meal.

I wondered about the woman who fired me, who I

know had children of her own. Was she also strong as an ox? Did she have easy pregnancies, making her unsympathetic to my reality and unwilling to offer me patience and support to work through the rough spots?

### For Some Women, It's Easy

There are, apparently, women for whom it's easy to be pregnant and have babies and work outside the home, and manage it all.

I never thought about whether I would be one of them; I took it for granted that I would do both. But now I know. I know it's so, so hard. While pregnant, while caring for a newborn, while trying to keep track of the various needs of various children and give them love and attention and food they'll eat, and making doctors' appointments and recognizing when there's a problem that requires a different doctor, and finding and paying for extracurricular activities, and washing dishes or doing laundry once in a while. I knew it would be hard, but it was a latent knowledge. You can't really know until you're in it, because it's so unpredictable, and everyone is different.

### Female Leaders Who Were Childless

At this point in my life, I think often about how many of our greatest female scholars and leaders were unmarried and/or childless. There are three who particularly stand out for me, forming a distinguished category of their own: Sarah Schenirer (very briefly married), whose dedication to Torah education for girls reverberates through the generations of women who owe her their learning in Bais Yaakov schools; Nechama Leibowitz, whose Torah scholarship brought her students from around the world (and who influenced me through my teachers who were her students); and going back to biblical times, Devorah the prophet and judge, who describes herself as "a mother in Israel," but whose own children, if she had any, are never mentioned.

Some women manage both—to be mother to their own children as well as a mother-figure to the world. But these three women and their lives remind me just how rare it is to achieve excellence in Torah study and teaching while being a parent.

Strikingly, Nechama Leibowitz was quoted as saying she would have given up all her professional achievements to have been able to have children. She apparently saw it as a dichotomy, and now, decades later, it seems it still is.

### Supporting Women in the Workplace

We talk about being progressive, about supporting women in the workforce, about the importance of a work-life balance. But when life throws a wrench in the balance, does it all fall apart? Do we rise to our values and say, "I value you; you have so much to offer; we'll

work through this together?" Or do we abandon those who could do so much because they can't do it now?

My worst fear is that perhaps they were right. The ones who judged me by my performance while pregnant—were they onto something? Was it just that I couldn't do it then or was it really over? A year or two of good teaching, and then mommy brain for life? Was I really supposed to choose?

We're all different, with different bodies, different pregnancies if we're blessed with them, different babies if we're privileged to have them. And we can't ever predict what the future will bring, which challenges we will rise to and when and how.

But we can be open about the existence of those challenges. We can let the next generation in on the secret that maybe it won't be so easy, that maybe they will have to make choices. We can guide our children to

make informed choices and to be ready, without resentment, for whatever reality might bring.

*Plonit Almonit is a passionate teacher of Torah who wishes to remain anonymous.*

**We can guide our children to make informed choices and to be ready, without resentment, for whatever reality might bring.**



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# What Does *Halakhah* Say About Abortion?

By Noam Stadlan

The discussion of abortion in *halakhah* begins with the life of the mother. *Pikuah nefesh*, the obligation to preserve life—in this case, the life of the mother—trumps every other obligation except for three: murder, sexual immorality, and idol worship. Until the head of the fetus or the majority of its body has exited the birth canal, the life of a fetus is not considered entirely on par with the life of the mother, and abortion is mandatory if the mother's life is in danger.

On the other hand, all *poskim* (halakhic decisors) agree that the fetus is at least a life in potential, and it is forbidden to destroy it for casual reasons. Our bodies are on loan to us from God, and we have an obligation to use them for beneficial purposes.

## Two Approaches to Abortion

Many different approaches to abortion exist, but two are predominant—and differ regarding the status of the fetus. One view, popularized by Rabbi Moshe Feinstein, is that the fetus is considered as a human being, and therefore abortion is considered tantamount to murder—the only exception being imminent danger of death of the mother. The other position, popularized by Rabbi Eliezer Waldenberg (*Tzitz Eliezer*), views the fetus essentially as part of the mother, and therefore abortion is considered predominantly as an injury to the mother. Under this approach, there can be competing positive *mitzvot* obligating the physician to alleviate major physical and emotional distress of the mother. If the physical and/or emotional distress that the mother suffers because of the pregnancy is of an adequate magnitude, the obligation to relieve the distress can overcome the prohibition of injury, as injury is allowed when it leads to significant benefit. Both views use the same primary sources, but understand them differently.

For the sake of convenience, the classification of abortion as murder will be referred to as the restrictive approach and the classification under injury as the permissive approach.

The Torah references abortion once in *Shemot* (21:22): When men fight, and one of them pushes a pregnant woman and a miscarriage results, but no other damage ensues, the one responsible shall be fined according to what the woman's husband may exact from him.

Here, the punishment for causing an abortion is a monetary fine. The punishment for murder, even of a one-day-old infant, is different. Because there is a difference in punishment between killing a one-day-old and killing a fetus, it is reasonable to conclude that they are different crimes. However, those who consider abortion to be murder can claim that because there is no

certainty that the fetus would have been viable, the abortion resulted in termination of only a *potential* life, and therefore, even though the act was similar to murder, the punishment isn't the same as for actual murder.

The Talmud also mentions abortion, in *Mishnah Ohalot* 7:6:

If a woman has difficulty in childbirth, one dismembers the embryo within her, limb by limb, because her life takes precedence over its life. Once its head (or greatest part) has emerged, it may not be touched, for we do not set aside one life for another.

## The Notion of a *Rodef*

The Rambam's interpretation of this *mishna* is the prime source for the restrictive approach (*Mishneh Torah, Hilkhot Rotzeah U'Shmirat Nefesh* 1, 9):

The Sages ruled that when a woman has difficulty in giving birth, one may dismember the child in her womb ... because he is like a pursuer (*rodef*) seeking to kill her.

The restrictive school concludes that *only* when the fetus is threatening the mother is there a place for abortion. In all other cases, abortion is prohibited. By using the label of *rodef*, the Rambam is elevating the status of the fetus to essentially a human being, as those who chase others with murderous intent are human beings.

However, others interpret the Rambam differently. Rabbi Shneur Zalman of Lublin (*Torat Chesed, Even Ha'Ezer*, Vol. II, No. 42) references the Rambam's usage of the term *rodef* in a different context (*Mishnah*

*Torah, Hilkhot Hovel U'Mazzik* 8, 15):

A boat is about to sink from the weight of its load. One passenger steps forward and jettisons the baggage of another to ease the boat's load. He is not liable (to make restitution), because the baggage is like a *rodef* seeking to kill them.

Rabbi Shneur Zalman maintains that the use of the term "like a *rodef*" in the abortion discussion should be understood in the context of this law. The use of the term *rodef* simply indicates that someone who performs an abortion to save the life of the mother is not liable for monetary damages. The term does not have any implications regarding the status of the fetus.

The permissive school also relies on a completely different understanding of the *mishnah*. Rashi states (BT *Sanhedrin* 72b s.v. *yatza roshto*) that abortion in the case of threat to life of the mother is mandated simply because the fetus is not a person. According to this approach, there is no need to invoke the concept of *rodef* or give any other rationale for abortion.

The restrictive approach also derives support from the

**All *poskim* agree that the fetus is at least a life in potential, and it is forbidden to destroy it for casual reasons.**



mandate to violate Shabbat in order to save a fetus. The Talmud (BT *Arachin* 7a–b) states:

Rabbi Nachman said in the name of Shmuel: If a woman who has been sitting on the birth stool died on Shabbat, one may bring a knife and cut her womb open to take out the child.

Shabbat may be violated only to save human lives. The fact that carrying in public areas and making an incision (both considered work, *melakhab*, on Shabbat) are mandated to rescue a fetus seems to confer the status of human life on the fetus.

The permissive school points out that this case is limited to a woman already in labor, when the fetus would be viable outside the womb. They distinguish between a fetus at the time of labor and prior to labor. Once labor has begun, the fetus takes on more of the status of a life, and the unfortunate dead mother at this point is only an impediment to the life of the baby. It is only under this circumstance that the fetus assumes more of the status of a life.

Another source supporting the connection of abortion to murder is found in *Sanhedrin* (BT *Sanhedrin* 57b):

In the name of Rabbi Yishmael they said: [a Noahide receives capital punishment] even for [destroying] a fetus. What is the reason of Rabbi Yishmael? It is the verse “he who sheds the blood of man, in man (*adam ba’adam*) shall his blood be shed (*Bereishit* 9:6). What is the meaning of “man in man”? This can be said to refer to a fetus in its mother’s womb.

Rabbi Yishmael’s exegesis, despite not being the plain meaning of the verse, provides a basis for establishing that feticide is a capital crime, at least for non-Jews.

On the previous page in the Talmud, it is written (BT *Sanhedrin* 59a):

There is nothing that is permitted to a Jew but prohibited to a non-Jew.

From the proximity of these two passages, the *Tosafot* wrote (s.v. *lica*):

A Jew is forbidden to cause its [the fetus’s] death, but is not culpable. Even though [a Jew] is not culpable, nevertheless it is not permitted.

From these sources, a connection between abortion performed by Jews and murder can be made. Alternately, those of the permissive approach would note that the prohibition is given only in the name of Rabbi Yishmael, and it is possible/probable that the other sages did not agree. Furthermore, the *Tosafot* elsewhere (BT *Hullin* 33a s.v. *ehad*) state that although abortion is not permitted for Jews, they are not liable for capital punishment. And in one other instance (BT *Niddah* 44b s.v. *ihu*) they state that “it is permitted to kill it [the fetus].”

### Prohibition Against Injury

If abortion is not considered murder, what then is the basis for the prohibition? The most commonly

accepted basis for the permissive position is that abortion violates the prohibition against injury (*havalah*).

The Talmud (BT *Arachin* 7a) states:

Before a [pregnant] woman is executed, she is struck across her abdomen, so that the fetus will die prior to the execution, to prevent her dishonor at the time of execution.

The restrictive school would note that because the woman is sentenced to death, the fetus inside the woman is essentially sentenced to death as well. Therefore, the mandate to abort a fetus that has no realistic chance at life cannot be generalized to fetuses that have an expectation of life.

However, based in part on this source, Rabbi Joseph Trani (1568–1639) (*Maharit* Vol. 1: 97 and 99) ruled that abortion was prohibited based on the prohibition against wounding oneself or others. Therefore, the prohibition could be overridden for the need (*tzorekh*) of the mother, including, as in this case, preventing the dishonor of the mother. This position is supported by the concept that for some purposes, such as conversion or states of ritual purity/impurity, the fetus is considered part of the mother—*ubar yerakh imo*—literally the

fetus is considered like the thigh of the mother. (Other examples appear in BT *Baba Kamma* 78a, *Nazir* 51a, and *Yevamot* 78a–b.) Those of the restrictive school would point out that this concept was not applied automatically, but was used in situations in which there were changes in legal status.

### Twentieth-Century Responses

As noted previously, two giants of the past generation debated abortion in a number of *teshuvot* (responsa). In 1967, Rabbi Waldenberg (*Tzitz Eliezer*, vol. 9, no. 51) wrote that the prohibition against abortion is not the same as the prohibition against murder, and that there is a basis to permit abortion for a nursing mother, a married woman who has committed adultery, or a woman who has been raped. He also noted that there is a basis for abortion when the woman is suffering emotional but not physical anguish. He allowed for abortion “if there is a grounded fear that the child will be born with a defect or with restrictions.” Although he encouraged abortion prior to 40 days of gestation, he allowed it up to three months. Later, in 1975 (*Tzitz Eliezer*, vol. 13, no. 102), he wrote, regarding a child with Tay-Sachs disease, “It is permissible to terminate the pregnancy until seven months have elapsed, in a way in which no danger will befall the mother.” The basis for his opinion was: “Is there greater pain and suffering than that which will be inflicted upon the woman in our case if she gives birth to such a creature whose very being is one of pain and suffering and his death is certain within a few years, and the parents’ eyes will witness without any capacity to alleviate it?”

*continued on page 22*

**The words  
autonomy and  
rights do not  
appear in the  
discussion.  
However, that  
does not mean  
that choice is  
not present.**

Rabbi Moshe Feinstein (*Iggerot Moshe, Hoshen Mishpat* II no. 69) responded that the prohibition of abortion was indeed based in the prohibition of murder, and that abortion is strictly prohibited except when there is a clear threat to the life of the mother.

Rabbi Waldenberg (*Tzitz Eliezer*, vol. 14, no. 100/101) reiterated that abortion was allowed if the mother's distress amounted to "great need." Although Rabbi Waldenberg did include in some of his responses some consideration of the distress of the future child, the major factor in permitting abortion was the alleviation of the physical or mental distress of the mother. He concluded one of his *teshuvot* with these words:

All Jews are warned strictly not to terminate pregnancies lightly. A great responsibility is placed on both the inquirer and the responding rabbi.

**The mother and family are the only people who can adequately convey the amount of physical or emotional distress that they are suffering.**

#### **"Autonomy and Rights" Are Not Discussed**

The words *autonomy* and *rights* do not appear in the discussion. However, that does not mean that choice is not present. The *halakhah* presents *mitzvot*—obligations. Abortion for convenience is prohibited. On the other hand, if carrying the fetus imposes significant distress on the mother, she should discuss the issue with her rabbinical authority. The answer that this authority provides will depend on the facts of the case and his/her understanding of the halakhic sources. Although it is frowned upon to seek an opinion from a specific authority only because of its leniency (or stringency, if that is what one is looking for), it is perfectly valid and reasonable to seek someone who shares the questioner's fundamental approach to Orthodoxy and someone who understands the person who is asking the question.

In addition, the mother and family are the only people who can adequately convey the amount of physical or emotional distress that they are suffering—pain and distress are, to a great measure, subjective. What is extreme stress and unbearable distress to one family is manageable to another. Ultimately, each rabbinical authority needs not only to understand the *halakhah*, but also to understand the people who have come to him or her for *p'sak*/advice/support.

*Dr. Noam Stadlan is vice-chairman of the Department of Neurosurgery, NorthShore University Healthcare system, and recently completed a Masters in Bioethics from New York Medical College/Touro. He is proud to be a JOFA board member.*

## **The Politics of Abortion**

*By Gail Katz*

The typical pro-choice and anti-abortion positions in debate in American society today do not line up well with halakhic views on abortion. *Halakhah* never frames the issues in terms of individual choice, nor does *halakhah* talk in absolutes around the theology of when life begins. Rather, the issues are framed in terms of the value of life—the value of the mother's emotional and physical self, balanced with the level of development of the fetus into a living being. Thus, the question arises for Jewish advocacy groups and individuals—how do we advocate for our ability to preserve and practice *halakhah* in the face of secular laws that really don't fit within the halakhic framework?

Jews have a rich history of weighing in on secular law when it comes to freedom of religion. Generally, though, we weigh in when secular laws impose an obstacle to our ability to practice our religion. Decades ago, Jewish groups took a fairly uniform approach in front of the Supreme Court, seeking the broadest possible reading of the Constitution to protect religious freedoms. Jewish groups weighed in frequently on behalf of themselves, as well as other religious minorities, including Muslims. Examples included advocating for the Jewish man who wanted to wear his *kippah* in the military, and for the Native American tribe that wanted to smoke peyote. (Peyote is a banned substance under secular law, but is used in the tribe's ritual practice.) Jews across the board, from both traditional and secular Jewish organizations, have weighed in to assert broad rights of freedom of religion under the Constitution on behalf of all religious minorities.

That approach has been challenged in recent years by a slew of cases on behalf of a new kind of plaintiff. In the past decade or so, Christian groups, feeling threatened in their religious practice by changing cultural norms on issues such as contraception, sexual orientation, and gender identity, have begun to seek broad protection for their religious practices as well. The practice of a majority religion seeking broad protection from anti-discrimination laws under the guise of religious freedom has placed members of minority religions, including Jews, in the awkward position of pitting the value of expansive freedom of religion against another very necessary value of expansive anti-discrimination laws.

#### **Two Cases that Have Shaped Jewish Advocacy**

Two recent cases show the awkward position in which Jewish advocacy groups have been placed. In *Burwell v. Hobby Lobby Stores*, Christian business owners argued that the Affordable Care Act, which mandates that employers provide insurance coverage for their employees, including provisions for contraception, violates their religious freedom because in their religious practice, contraceptives are prohibited. The court ultimately agreed that

this was a violation of their free exercise of religion under the First Amendment.

In *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, a Colorado baker asserted that Colorado's LGBT anti-discrimination laws violated his practice of his religion in requiring him to provide business services for a same-sex wedding. In that case, the Supreme Court did not decide the issue directly, but found that the Colorado Civil Rights Commission had treated a sincere religious belief with hostility and sent the case back to Colorado to make a neutral, non-hostile determination on the law.

**Jews across the board, from both traditional and secular Jewish organizations, have weighed in to assert broad rights of freedom of religion under the Constitution on behalf of all religious minorities.**

In both cases, Jewish organizations weighed in, but this time they were split. Some groups advocated on behalf of the Christian business and on behalf of the baker, arguing along traditional lines, that any assertion of a religious practice should be supported and should not be questioned through government intervention, and that these people had a right to assert broad religious freedoms under the law.

Others, however, viewed the case from a very different lens—the lens of discrimination. They argued on varying legal grounds against the baker and against the Christian-owned business, ultimately asserting that the government did have a broad right to enforce anti-discrimination laws, and should prohibit the baker from using religion as a basis to discriminate.

#### **Why Jews Split on Cases**

The split highlights the fact that expansive freedom of religion laws, as well as broad anti-discrimination laws, are both necessary for the survival of Jewish and other minority religions in America. Thus advocacy splits in two directions, with organizations trying to balance two important values.

What is interesting to me with respect to abortion is that it actually should be less complicated than these cases. I would argue that there is near consensus in *halakhah* that, at least under certain circumstances, almost every rabbinic decisor holds that an abortion is not only permitted, but likely is mandated. That might occur only under the narrowest of circumstances regarding the *rodef* (pursuer), when the fetus might be endangering the life of the mother. Or one might take a more expansive view and permit or mandate abortion in other circumstances as well. In either case, there is agreement among Jewish legal advocacy groups that for our practice of *halakhah* we need the ability and the legal right to practice abortion in certain circumstances. It is not just theoretic-

cal. A ban on abortion would literally limit our ability to practice *halakhah* as we need.

Therefore, our role as Jewish advocates should be clear cut: We should oppose any restrictions on the legal right to abortion. Why? All the proposed restrictions are unhelpful to a halakhic analysis for any observant women's individual case. The boundaries that *halakhah* places on abortion do not line up in any way with the restrictions that states place on abortion. *Halakhah* does not speak in terms of viability. *Halakhah* doesn't identify a specific number of weeks wherein life begins. *Halakhah* doesn't talk about whether the medical provider needs to be board certified. None of those things match up with the boundaries that *halakhah* places on abortion. Women and their *poskim* faced with these restrictions could find themselves without options to make decisions in accordance with their view of the *halakhah*.

#### **Positions Taken by Orthodox Authorities**

In 1990 the Rabbinical Council of America (RCA) passed a resolution stating that the RCA:

Takes note of the different values of the many religious communities in America that are often at variance with one another, in the nature of a politically pluralistic society;

Is aware that the question of abortion is currently in the forefront of moral concerns in American society;

Proclaims that neither the position of "pro-life" nor the position of "pro-choice" is acceptable to *halakhah*;

Precludes the endorsement of legislative measures which would impede the appropriate application of *halakhah*;

Calls upon the total Jewish community to acknowledge that abortion is not an option, except in extreme circumstances and in consultation with proper halakhic authority.

Thus, the concept that abortion should follow halakhic guidelines without government interference seems to be a reasonable position that a Jewish organization could take.

**We have always advocated for the least restrictive state intervention and for the broadest possible freedom of religion.**

However, Agudah chose to take a different tact. Agudah filed an *amicus* brief in 1992 in *Casey v. Planned Parenthood*, the case that followed *Roe v. Wade*. *Roe* had found a constitutional right to abortion, whereas *Casey* determined that the right was not unrestricted and states

*continued on page 24*

# A Call for Open Conversation on Reproduction and Sexuality

By Rivka Cohen

Growing up in a Modern Orthodox community, I did not encounter open or positive discourse about female sexuality. Besides the quick basics of reproduction covered in biology class, little or no effort was made to ensure that the women in my all-girls high school were familiar with our bodies, in touch with our sexuality, or aware of the nuances and debates around reproduction. We didn't discuss common conditions such as vaginismus, polycystic ovary syndrome (PCOS), endometriosis, or postpartum depression. We didn't talk about all-too-common premarital activities such as masturbation, sex, and everything in between. We did not explore the complicated dynamics of premarital relationships, and we did not discuss consent.

This lack of discourse has bred shame, confusion, and loneliness for many women who grew up as I did. In an effort to open up this conversation, a group of observant Jewish women have bared their souls through poetry,

prose, and stories, producing a new anthology, *Mono-logues from the Makom: Intertwined Narratives of Sexuality, Gender, Body Image, and Jewish Identity*.

## Discussion of Sexuality = Immodesty

The Orthodox community often deems discussion of sexuality—and especially women's sexuality—immodest. “Relations that happen in the bedroom” should stay within the confines of a marriage, and should neither happen nor be spoken about outside of a marriage. It is assumed that *kallah* classes, which are given just weeks before a wedding, are enough formal instruction to learn about all of the intricacies of sexuality and reproduction within *halakhah*. However, as one writer in the anthology points out,

*I spent the first two and a half decades of my life being told that sex—that any touch between the*

## Politics of Abortion *continued from page 23*

could place limits on that right.

Agudah argued that *Roe* had been wrongly decided. It argued that the Constitution does not grant any right to abortion; the Constitution, however, does provide a right to free exercise of religion. Therefore, the only way an abortion is constitutional, according to Agudah, is if a woman asserts her right to an abortion under her freedom of religion right. In essence, Agudah was saying, “Abortion should be banned, unless the woman has a note from her rabbi.”

**We can advocate for freedom from state intervention while still aligning ourselves with our halakhic views.**

In 2019, the RCA shifted from its 1990 resolution in its response to New York's Reproductive Health Act, passed in the same year. The new law lifted restrictions on abortions in the state. The RCA opposed the lifting of the restrictions; in discussing its opposition, the RCA moved away from its 1990 statement, in which the RCA had said that abortion is permitted only when *halakhah* says it is permitted, but here it talked about abortion as murder and even lamented the state of our society “where killing babies is no longer construed as immoral.”

## Bad Strategy for Freedom of Religion

Putting aside everything that is wrong with that statement, including its horrific language, it—together with

the Agudah position—denotes probably the only time that Jews have ever sought for the government to impose restrictions on our ability to practice *halakhah* and then ask to carve out some exceptions for the practice of our minority religion. We have always advocated for the least restrictive state intervention and for the broadest possible freedom of religion. Oddly, however, here Jews are advocating for state restrictions that do not align with *halakhah*. We are really asking the state to act in a way that imposes a burden on our practice of religion.

The state is, by definition, oriented toward the majority. The judges who sit on our highest courts are majority-oriented. For a minority, asking for restrictions and relying on the good will of the majority for carve-outs is the ultimate in a losing long-term strategy. Abortion differs from the *Hobby Lobby* and *Masterpiece Cakeshop* examples, in which the impact of broad freedom of religion laws can come in conflict with the impact of broad anti-discrimination laws. There, advocacy is going to have to be nuanced, and reasonable minds can differ on strategy. In the case of abortion, however, there is simply no need to compromise on either of those principles in our advocacy. We can advocate for freedom from state intervention while still aligning ourselves with our halakhic views. Otherwise, we are playing a dangerous game that relies on the continuing good will of a majority-led legislative body and judiciary to carve out exemptions—now and in the future—for our ability to practice *halakhah* as we define it.

*Gail Katz is a JOFA board member. She practices law in Los Angeles and is currently the chief intellectual property counsel for Envista Holdings Corporation.*



sexes—was bad and shameful. It's hard to flip a switch on that mentality just because I had a ring on my finger. ("Growing Pains," pp. 91–92)

Education about sexuality and reproduction, and open discussion within the community about these topics, need to happen long before the weeks leading up to a wedding.

With regard to the biology of reproduction in particular, matters such as infertility, childbirth, and breastfeeding are sorely missing from public discourse. For most Orthodox Jewish women, these topics come up only when they are already experiencing them. Many are uninformed or misinformed, and feel lost, alone, and ashamed when their expectations aren't met. One of the contributing authors writes:

*Several months after the birth of my son, I went to an OB/GYN who specializes in VBAC deliveries—a vaginal birth after cesarean. I did not go because I wanted to have another baby anytime soon. I went because I needed someone in a white coat to tell me that what I had gone through was not my fault. ("One Day This Scar Will Be Beautiful," p. 93)*

Of course, such stigma surrounding reproductive difficulties also exists outside the Orthodox community. But in a community that deeply values marriage and family, silence about fertility and reproduction can make women feel a strong sense of failure and loneliness. Feelings of guilt around women's sexual and reproductive experiences are common, but they may be avoidable. If only we shared our stories and spoke openly about these topics, women could feel less alone. Knowing that many others had shared similar experiences would also allow women to feel more comfortable to speak out themselves.

### Silence about Bodies Begins Early

Unfortunately, the silence surrounding female bodies and sexuality starts very early in a young girl's life. Lacking a culture of speaking openly about our bodies, young girls hide from their mothers instead of getting the help that they need. The author of one piece describes the pain she started to experience during her period:

*I started to experience what was (at the time) unimaginable pain. Instead of telling my mom or doctor, I googled it and saw that "cramps" were*

*normal. And so I assumed that two days out of every month, when I couldn't get out of bed without the stabbing feeling of 3,000 dull knives running through my lower abdomen, back, and skull, were normal. I said nothing as the pain overcame my body and washed away every ounce of my will to live. I said nothing as the pain nearly caused me to pass out, taking away my breath every time I tried to stand up. I pretended it was normal so I wouldn't have to talk to anyone about the fact that I was now regularly bleeding out of my vagina. ("Built-Up Bravery," p. 49)*

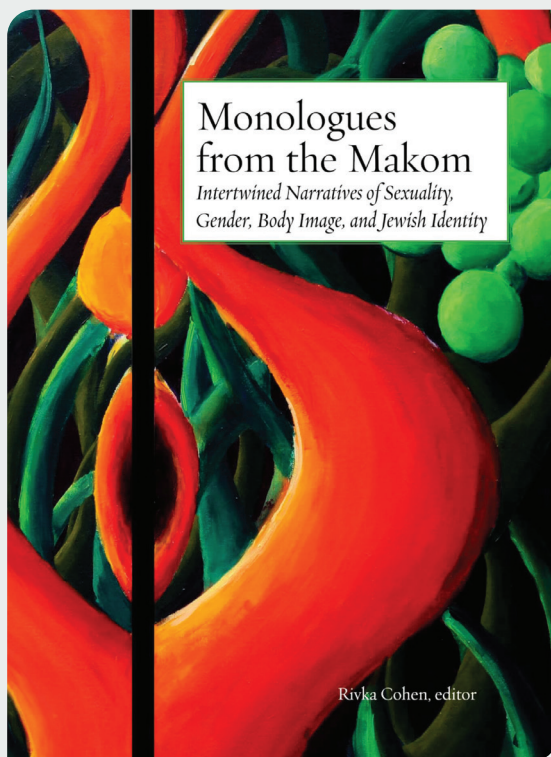
The only way for women and girls to learn what is normal is by creating spaces for open conversation and literature that shows the spectrum of lived experiences of women in the observant Jewish community. Such normalization is vital for girls' and women's mental health, and it is also a critical women's health issue.

Similar to the theme of this *JOFA Journal*, *Monologues from the Makom* seeks to expand our communal conversations. What started as a one-time event led by Sara Rozner Lawrence turned into a series of performances with *JOFA* as the cosponsor. The programmatic series *Monologues from the Makom* has sought to create space for women to share their stories and challenge the boundaries of our normative discourse. With the publication of the book, we hope to expand our engaged audience and spark

much-needed conversations with women, men, girls, and leaders throughout our wider communities.

The book *Monologues from the Makom: Intertwined Narratives of Sexuality, Gender, Body Image, and Jewish Identity* can be ordered online through Ben Yehuda Press, Amazon, and Book Depository. The 32 monologues reflect deeply personal struggles, pains, and joys described honestly and poetically. The bravery these women demonstrated in sharing their stories should inspire us as a community to bring their voices into our own homes and schools, and to put them into conversation with our own voices and those of our daughters and sons. The health and well-being of our communities depend on it.

*Rivka Cohen is the managing editor of Monologues from the Makom and former program manager at JOFA. She currently serves as director of partnerships and strategic development at Lissan, a nonprofit that provides Hebrew language skills to Arab women from East Jerusalem.*



***Rabba, Maharat, Rabbanit, Rebbetzin: Women with Leadership Authority According to Halachah***

By Rabbi Daniel Sperber,

Afterword by Rabbanit Dr. Michal Tikochinsky

Maharat/Uriim Publishers, 2020, \$27.95

Review by Debbie Weissman

In the Bible, there are many important female figures—although many fewer than the male figures—occupying a variety of roles far beyond the traditional domestic ones, including judge, queen, warrior, and “wise woman.” If *Proverbs* 31:10–31—the *Eishet Hayil*—can be taken as a description of the ideal wife, she is far from a meek homebody. If anything, the problem is that she is expected to be a kind of “superwoman,” active in agriculture and commerce as well as running a household and family. It seems unlikely that these biblical texts would include such descriptions unless they were anchored, at least to some extent, in the reality of their times. The women mentioned in the Hebrew Bible—from Eve and the matriarchs to Queen Esther—are proactive, pivotal figures whose actions move the plot along, changing the course of history. One significant omission, though, is that even though women assumed many roles of leadership in society, these did not include ritual–cultic leadership. There were no priestesses in the ancient Israelite religion.

Several scholars have suggested that their absence may have been a kind of reaction against ancient Canaanite fertility cults, in which goddesses and priestesses played central roles. But this absence of women in cultic roles may explain, at least in part, why, when the Second Temple was destroyed and rabbis replaced priests, only men were rabbis. Those rabbis improved the legal status of Jewish women in matters relating to, for example, marriage, divorce, and inheritance law, but contributed to the decline of the status of Jewish women socially. For close to two millennia, women were excluded from the centers of power and authority—the *beit midrash* and the *beit din*. Much of the exclusion can be traced to the exemption of women from the *mitzvah* of learning Torah. When women are exempt from learning Torah, the venues of Torah—the *batei midrash*—become male domains.

Since the nineteenth century in Germany, and more markedly within the past forty or so years, Jewish women have begun to study Torah in a serious way. In the 1970s and 1980s, important institutions for women’s Torah learning were established, both in New York and in Jerusalem. During those years, the non-Orthodox streams of Judaism began to ordain women for the rabbinate. Even if they lacked prophetic talents, one might have envisaged that, sooner or later, some Orthodox women would be

interested in becoming rabbis. Two Orthodox feminist organizations, not mentioned in this volume, contributed to the interest in this new development: JOFA in 1997 and *Kolech*, its Israeli parallel, in 1998.

As Rabbi Professor Daniel Sperber chronicles—especially in one long footnote—by the early twenty-first century, some Orthodox women had received private ordination. And the end of the first decade of this century saw the founding of the first Orthodox institution for ordaining women, Yeshivat Maharat, in New York City.

For a while, there was much concern and discussion about nomenclature; hence, the title of this volume. But the topic quickly became passé and is given short shrift in the text. What is at stake is what is in the subtitle—“Women with Leadership Authority.” It appears that people who object to female rabbis object as well to women sitting on synagogue boards.

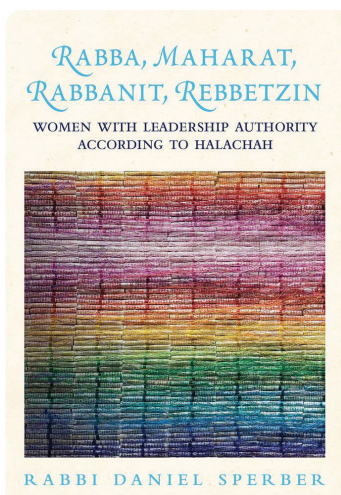
Early in the book, Rabbi Sperber writes, “I am not a feminist, but rather a halachist.” Exhibiting both great breadth and depth in the sources he musters, Sperber makes a strong case for qualified, learned, and pious women’s ability to lead their communities, including in rabbinic roles. His use of the concept of human dignity, *kevod ha’beriyot*, lies at the basis of his work with partnership *minyanim*, both in Israel and in the diaspora. In the appendices to this volume, he brings an essay in English and in Hebrew by his late father, Rabbi Dr. Samuel Sperber (1906–84), who was himself both a *talmid hakham* and a law professor. We can see that the son is indeed following in the footsteps of his father.

Rabbi Sperber is a prodigious Torah scholar as well as a man of wide general knowledge. He is deeply committed to the cause of interreligious dialogue, serving as an advisor to the Israeli Chief Rabbinate in its work with both Western and Eastern faiths. He is also a sensitive and humble person who shows great respect for those with whom he disagrees. His reply to Rabbi Hershel Schachter of Yeshiva University is a model of humility and civil discourse. Sperber not only espouses *kevod ha’beriyot* as a concept in his decision-making; he also actively practices it and models it.

Rabbi Sperber’s contribution to this book is followed by an afterword by Rabbanit Dr. Michal Tikochinsky, which raises an important question: Will female rabbis bring a different or new perspective to the *halakhah*? The examples given are largely from *hilkhot mikvah* and *niddah*. But her approach is intriguing and, hopefully, will be developed further in another volume.

This is an important book that is well worth reading.

*Dr. Debbie Weissman made aliyah in 1972. She has written about her work in Jewish education, religious feminism, and interreligious dialogue in *Memoirs of a Hopeful Pessimist*, published by Uriim/Ktav.*





## From Left to Right: Lucy Dawidowicz, the New York Intellectuals, and the Politics of Jewish History

By Nancy Sinkoff

Wayne State University Press, 2020, \$34.99

Review by Roselyn Bell

Lucy Dawidowicz was not a feminist, nor was she Orthodox, yet much in her life experience and in her intellectual contributions will resonate with JOFA readers. She was often the only woman in a room filled with opinion-shaping men. She was sometimes given lesser recognition for her work than her contributions to a project deserved. She did not shy away from speaking her mind.

Until now, Dawidowicz has not received the sort of critical assessment that her scholarship and influence merit. With *From Left to Right*, Nancy Sinkoff, a professor of Jewish studies and history at Rutgers University, has given her the deeply researched and personally nuanced biography that she deserves. Sinkoff traces the arc of Dawidowicz's transformation from a Bronx-born daughter of Eastern European immigrants, sent to Yiddish-speaking Sholem Aleichem *shule* and Camp Boiberik, to a member of the Young Communist League in college, to becoming a participant in the circle of New York intellectuals and a spokesperson for neoconservatism.

Although the title, *From Left to Right*, suggests a straightforward journey from one political pole to another, the path Sinkoff describes was shaped by Dawidowicz's encounters with Eastern European Jewry during two pivotal episodes in her life. From 1938 to 1939 she was in Vilna as part of the YIVO Aspirantur, a fellowship in Yiddish, working in the YIVO archives. She barely made it out, as war broke out in September 1939. Having left behind friends and colleagues "on the precipice of catastrophe," she would come to see herself as their voice. Seven years later, she returned to Europe under the auspices of the American Jewish Joint Distribution Committee to work with the survivors in displaced-persons camps in the American zone in Germany, recording their testimonies in a Yiddish newspaper. During this stay, she played a pivotal role in identifying and cataloguing books that had been in the YIVO library and had been plundered by the Nazis, and bringing the books "home" to YIVO in New York City—not without a provenance fight between New York and Jerusalem.

These two formative experiences led Dawidowicz to see herself as the "last witness" to the culture and history of Eastern European Jewish civilization, and to feel a calling to preserve its gems for contemporary

American Jewry. At the suggestion of Rabbi Abraham Joshua Heschel, in 1967 she published *The Golden Tradition*, an anthology of autobiographical writings that showcased the varieties of Jewish life in prewar Eastern Europe.

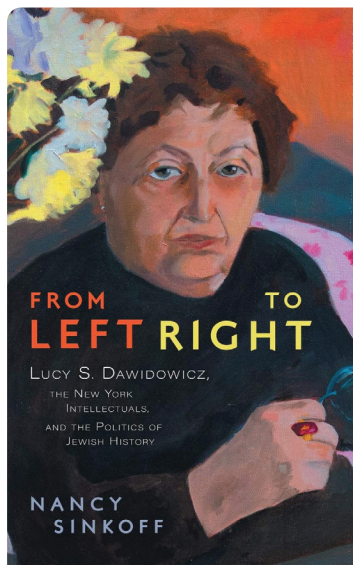
In another act of fealty to those who perished, Dawidowicz taught one of the first university courses in Holocaust history at Stern College. In 1970 she came to occupy the first dedicated chair of Holocaust studies—a field that has grown exponentially since then. In this field, she found herself in the middle of numerous controversies—with Raul Hilberg, with Hannah Arendt, with Leslie Epstein. Most centrally, she fought against the universalistic interpretation of the Holocaust. Dawidowicz insisted on the specificity of the Holocaust

to Jewish suffering, on the centrality of antisemitism to Hitler's intentions, and the defense of the *Judenrat* as functioning in service to their community.

Dawidowicz's views of Jewish history clearly influenced her political stances and were a part of what moved her "from left to right." Her appreciation for the concept of *dina d'malkhuta dina* ("the law of the land is the law"), which she saw as the governing political principle of diasporic Jewish communities, led her to condemn the protest movements of the late 1960s and to move into the neoconservative camp. In researching Jewish economic history for an intended social history of American Jews, she came to appreciate the American Jewish businessman and the opportunities of capitalism. Sinkoff makes the argument that the Jewish neoconservatives and the "New York intellectuals" had their forerunners in the merchants and the *maskilim* of European Jewish history. There were many factors at work in Dawidowicz's shift, of course, and Sinkoff offers a comprehensive view of the players, the arguments, and the *zeitgeist*.

A strength of this book is that it not only traces the personal journey of its biographical subject but also fills in the background of her mentors, her fellow travelers, and the organizational cultures in which she worked. As one who lived through a good part of the era described, I felt reminded, almost viscerally, of the tenor of those times. And so many of the issues that Dawidowicz addressed—such as the relationship between diaspora Jewry and Israel and American Jewry's love-hate relationship with the evangelicals—are still very much with us.

Sinkoff has very thoroughly researched her subject, as shown by the extensive footnotes and selected letters that capture Dawidowicz's voice. My favorite line, however, was one excised from a speech she intended to give to alumni of Yeshiva University's rabbinical program: "Gentlemen," she wrote but did not say, "you may be in trouble for talking overmuch with women."







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