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MALE INFERTILITY: HALAKHIC ISSUES IN INVESTIGATION AND MANAGEMENT

INTRODUCTION

Difficulties in the male partner are recognized as contributing to infertility in over forty percent of barren couples, and hence the husband is frequently the focus of consideration in the evaluation of the couple. Notwithstanding the plethora of tests currently available to analyze these problems, successful treatment of male infertility remains restricted to only a few correctable conditions. Some of these diagnostic and therapeutic interventions prompt significant halakhic concerns. As in other areas of medical ethics, Judaism’s attitudes are often distinctly inconsonant with prevailing secular ethico-legal systems. However, some principles are shared with other religious groups.

For the practitioner used to managing the “average” member of contemporary society, the unusually intense longing for children exhibited by their observant Jewish patients—even quite early in their marriage—requires clarification. The approach to this group of patients demands a sensitive understanding of their particular concerns and aspirations.

1. THE LONGING FOR OFFSPRING

Judaism regards the gift of children as one of life’s preeminent endowments—and challenges. Fecundity is among the most cherished of blessings, an attitude graphically amplified in Psalm 128 which speaks of “a wife as fruitful as a vine”, whose “children are as olive plants around the table” leading to the ultimate joy of seeing “children to thy children”. This is vividly emphasized by the belief that there is a predestined number of people who must be born before the Messiah can come. Therefore, having more children hastens his arrival.

It has been postulated that the Jewish approach to procreation is, in addition, partially shaped by a legacy of lamentable historical conditions. Frequent physical assault by massacres and pogroms coupled with equally devastating forced conversions and not-so-forced assimilation constitute an
enormous—and, alas, persistent—depletion of Jewish demographics. A collective, subconscious instinct may exist to replenish these losses by achieving birth rates far in excess of the growth of the ambient society. Interesting and attractive as this theory is, its validity as an historically valid social force remains conjectural: the thesis has not yet been tested by comparing different Jewish communities in separate periods.

The most distinctive defining characteristic of the observant Jew is, of course, loyalty to the dictates of Jewish law. Though not the only reason for marriage, bearing children fulfills three specific religious imperatives—and sets the stage for many others—and is therefore the quintessential ambition of a religious couple. Indeed, the primacy of the mitzva of procreation is reflected in its being the first Mitzva in the Torah. Actually, the Mishna regards the biblical references in Bereshit as merely exhorting, as a minimum, the reproduction of the couple by having at least two children. However, the Talmud explicates two supplementary ordinances. One, of biblical origin, known as lashevet, is based on the verse in Isaiah 45:18: “Not for void did He create the world, but for habitation (lashevet) did He form it”. The second, of rabbinic derivation, is known as la’erev and is based on the verse: “In the morning, sow thy seed, and in the evening (la’erev) do not withhold your hand” (Eccl. 11:6). Subsequently these precepts were codified by Maimonides: “Although a man has fulfilled the mitzva of pru urvu—be fruitful and multiply—he is commanded by the Rabbis not to desist from procreation while he yet has strength, for whoever adds even one Jewish soul is considered as having created an entire world”.

The pressure, therefore, on Jewish devout infertile couples is often more intense than that which is found among the population at large. Indeed, the opposite calculations may pertain. Whereas a modern, secular couple might choose to “protect” against pregnancy during their first few years of marriage, the Jewish allegiant couple yearns for early parenthood. Actually, both prototypes are motivated to solidify their as yet tenuous relationships. The secular couple maintains that the premature arrival of children would likely undermine their vulnerable ties. By contrast, the religiously inclined pair believe that early parenthood is more apt to cement their marital bonds through the commonality of offspring. These divergent positions can be traced to the fundamentally differing views of the marital covenant itself. On the one hand, the secular couple thinks of the privileges of marriage as paramount—if indeed the privileges of conjugal sharing are delayed until the formality of matrimony altogether. On the other hand, a religiously sensitive couple regards marriage’s responsibilities as preeminent. Consequently, the secular view emphasizes the couple’s fulfillment in one another; the religious view stresses their fulfillment in their offspring.

These sociologic features are ubiquitous in the religious Jewish community, fostering an unusual urgency to the resolution of infertility difficulties. It is common for childless couples to seek early counsel, perhaps even
within the first few months of marriage. The urge to ignore such entreaties as premature must be tempered by the recognition that these cultural phenomena are deeply rooted in religious law and custom.

Mindful of these fundamental influences we proceed to consider the halakhic intricacies which can develop when evaluating an apparently infertile male.

2. GENERAL OVERVIEW OF MALE INFERTILITY

The perception of the degree of male involvement in infertility has undergone a number of revisions in the past 50 years. Initially, and still in the minds of many, infertility was considered primarily a female problem. As we shall see, however, the halakhic aspects are much more serious in the male than in the female.

The extent of male "liability" is hard to quantify with precision. For example, it is estimated that 40% of infertility is wholly or partly due to male factors. On the other hand, there have been attempts to redefine, in a downward direction, the lower limit of "normal" sperm counts. Thus, many men who previously would have been considered as sub-fertile are now considered normal, and the focus has turned back again to the females. Some conditions adversely affecting seminal function include changes in hormone levels, genetic or congenital anatomic abnormalities, including retrograde ejaculation, and drug use, toxins, infections, and surgical sequelae; some are discussed below in more detail.

3. BLOOD TESTS

Subsumed under male infertility is a diagnostically heterogeneous group of disorders. One key basis of discrimination within this group rests upon widely available blood tests. Chief among these are assays of gonadotrophins. A defect in the production of gonadotrophins can be measured in the blood by finding low levels of these hormones. Approximately 9% of infertile males belong to this category. Causes include brain tumors and several rare congenital syndromes. Treatment by injections of gonadotrophin may be effective in selected cases.

On the other hand, patients with testicular failure will have high levels of circulating gonadotrophin hormones. Such patients comprise about 14% of the total number of infertile males. Causes include, in particular, radiotherapy, chemotherapy, and post-infection such as after mumps orchitis. Treatment is currently not possible.

By far the largest group of infertile males—77%—have normal gonadotrophin levels. These patients are said to have "post-testicular dysfunction", that is, impairment of the outflow or production of sperm, in spite of nor-
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6. Pituitary and Testicular Structures

This category encompasses men with mechanically obstructed ejaculatory ducts (6%), infections such as prostatitis and epididymitis, which are often transient, varicoceles (37%), and idiopathic (25%).

4. VARICOCELE

Celsus, in the first century, described superficial and deep varicoceles and noted the presence of testicular atrophy on the affected side. A varicocele is an abnormal dilation of veins within the spermatic cord. This cord consists of nerves, blood vessels, and spermatic ducts through which the testes are attached to and communicate with the body. These deformities, which probably exert their deleterious effects on sperm production by raising the temperature around the testes, occur on the left side in 90% of cases because of the direct insertion of the spermatic vein into the renal vein on that side. By contrast, the right testicular drainage is through the right iliac veins, a venous system with lower resistance pressure. This asymmetric vascular arrangement may also be the basis of the halakhic ruling that injuries to the left testicle (the "weaker one") are less problematic than injuries to the right one which can bar conjugal union within the genetically Jewish community.

The exact significance of a varicocele—and hence of the indications for surgical obliteration—in the management of infertility is controversial. Approximately 10-15% of males in the general population have a varicocele. There is no evidence that males with normal semen characteristics need corrective treatment even if a varicocele is present.

In men with varicoceles and documented impairment of fertility, surgical correction results in a 30-50% pregnancy rate, although this response rate is very controversial. In spite of lingering questions, current practice is to offer correction of varicocele in such men. Surgical interruption of the internal spermatic vein is the usual treatment for clinically apparent varicoceles; there is also a nonsurgical approach that utilizes embolization to occlude the vein.

Halakhically speaking, varicocele repair presents little difficulty. Provided that the medical risks are low and the possibility of fertility improvement is real, one would give every encouragement to correction of this potentially significant impairment.

5. SPERM EVALUATION

Most infertility problems, however, are multifactorial in origin—a virtual axiom in all of medicine. Thus varicocele patients often demonstrate spe-
specific sperm abnormalities as well, the recognition of which can help in selecting patients for varicocele treatment. The evaluation of sperm characteristics lies at the center of male infertility testing—and at the crux of the halakhic concerns.

Van Leeuwenhoek, the inventor of the microscope, first observed sperm with his new instrument in 1677. However, it was not until 1929 that the modern era of sperm analysis really began. In addition to the initial exclusive emphasis on the sperm itself, attention is now paid to the noncellular biochemical components of the seminal fluid as well.

6. SEMEN PROCUREMENT

The proper collection of sperm is described in detail in many texts. The following extract from a book on infertility testing is instructive in that it directs us immediately to some of the special problems with which Jewish law is concerned.

The specimen may be obtained at home or in the physician's office, but it should be kept warm during transit. It is very unusual for a patient to object to masturbation as a form of inducing ejaculation. When there is an objection, coitus interruptus is an alternative method of obtaining the specimen. If the patient has religious objections to both masturbation and withdrawal, he can use a perforated plastic condom manufactured by the Milex Corporation of Chicago, and if he is of the Catholic faith, he may have the condom perforated by a priest. In the rare situation in which none of these methods is satisfactory to the patient, the physician will have to rely on post-coital examination of the ejaculate in the vagina. The patient should understand that an incomplete collection is not only worthless but also misleading.

Although there is no parallel to clerical boring (this type of boring, at any rate!) in Jewish sources, halakhic misgivings are prompted by every option summarized in this excerpt. The collection of sperm, masturbation, coitus interruptus, and the use of condoms are all of concern to the halakha. Notwithstanding the strongly pro-procreative attitudes outlined earlier, there are several halakhic principles which pull in the antithetical direction, curtailing any routine or automatic authorization to investigate male infertility.

By omitting explicit condemnation of masturbation, the Torah has promoted much discussion as to the precise categorization of this prohibition. The "improper emission of genital seed" is regarded as fitting within the general heading of prohibited sexual relations by some as a "freestanding" prohibition by others, or as merely of rabbinic origin by yet others. In addition to these negative aspects, improper emission of seed may be forbidden as a breach of the obligation to have children. However,
another authority\textsuperscript{27} holds that the ban on conscious wastage of seed is entirely unrelated to the mitzva of procreation. Other candidates for the classification into which masturbation properly fits are the interdictions forbidding wastage in general,\textsuperscript{28} and censuring eroticism even when only by contemplation,\textsuperscript{29} let alone by performance.

The tradition records its condemnation of the wasting of seed in two historical settings. This was the sin which is thought by many commentaries to have been a principal reason for the Flood in Noah's days.\textsuperscript{30} Secondly, it was the transgression of both Er and Onan\textsuperscript{31} which gave rise to the term “onanism.” Chief among the several sinful ingredients in Onan’s act is its association with coitus interruptus, a topic which prompts apparently contradictory views in the Talmudic literature.

Despite the Onan story, with its unequivocal censuring tones, there is a Talmudic\textsuperscript{32} record of R. Eliezer’s opinion which actually recommended the practice of coitus interruptus! He taught so in order to protect a lactating mother from a second pregnancy which could endanger the existing infant by diminishing the mother’s milk supply. Rabbi Moshe Feinstein, the recently-deceased, universally acknowledged premier halakhic adjudicator comments: “Since this is the same R. Eliezer in whose name the Talmud quotes a dictum warning against even unintentional improper emission of seed, his endorsement of coitus interruptus for reasons of the health of the child is all the more instructive. It means that, to him at least, seed is not said to be “uselessly” destroyed if a proper purpose is served thereby, and if this is the only manner in which that purpose can now be served. Marital relations is that purpose; since normal intercourse would cause a hazard to health, the emission of seed for such relations, where there is no alternative, is not wasteful; where there is an alternative, it is wasteful, even according to him.”\textsuperscript{33}

The normative ruling, however, is in accordance with the Sages’ dissenting opinion. Ergo Maimonides prohibits the practice without equivocation: “It is forbidden to destroy seed. Therefore, a man may not practice coitus interruptus, etc.”\textsuperscript{34}

The strict attitudes regarding coitus interruptus\textsuperscript{35} should be considered alongside, and in contrast with, the somewhat more lenient attitudes towards “unnatural intercourse” (bi’a shelo kedarka). The prevailing Talmudic view is that “a man may do with his wife as he wishes.”\textsuperscript{36} Tosafot\textsuperscript{37} records two notable formulae proposed by R Yitzhak to resolve the law’s permissiveness in Nedarim as compared with the restrictive attitude held in Yevamot. Firstly, the tolerant view sanctioning unnatural intercourse may have assumed that no semination occurs. Alternatively, semination is in fact tolerated provided unnatural intercourse is resorted to only on occasion and that the contraceptive intention of the husband is not constant.

This second answer of R. Yitzhak—highlighting both ‘intent’ and ‘irregularity’—may constitute broad foundation for authorization to practice un-
natural intercourse within marriage when it fulfills a “purpose”. Even the assuagement of the husband’s sexual desire may be included within the parameters of acceptable standards of sexual relations, this being reaffirmed by many authorities. All authorities emphasize, however, that this general license is controversial and certainly applies only to occasional sexual expression.

There are several instances where prominent early sources sanctioned masturbation—and the inevitable spillage of seed to which it leads—to achieve an overriding “purpose”. A man may resort to masturbation in order to relieve an otherwise uncontrollable sexual desire, thereby avoiding an even graver transgression of a prohibited sexual relationship. The Talmud itself recommended masturbation for the investigation of sexual impotence (erectile dysfunction), a disability which can preclude marriage within the genetically Jewish community. Some authorities also sanctioned masturbation in order to ascertain whether post-coital vaginal bleeding derives from the male or from the female. Post-coital bleeding in the female may pose restrictions on the resumption of sexual relations.

Other specific “purposes” may also be acceptable reasons to sanction a lenient attitude. Medical considerations—though not specified—would be generally pardoned and can provide halakhic grounds for sanctioning this method for temporary birth control. This is clearly articulated by Rabbi Isaiah da Traní who writes:

How [in the light of the sin of Er and Onan] did the Sages permit unnatural intercourse [as when using a diaphragm] when it involves [wasteful] emission of seed? The answer is: Wherever the husband’s intent is to avoid pregnancy so as not to mar his wife’s beauty and he does not want to fulfill the mitzvah of procreation, it is forbidden. But if his intent is to spare her physical hazard, then it is permitted. So also if he does so for his own pleasure [unnatural intercourse is permitted] . . . for ‘a man may do with his wife what he wishes.’

Strikingly, as Feldman points out, though this passage was written in the thirteenth century but remained unpublished until 1931, it nevertheless reflects an off-repeated mainstream opinion. It has been used to provide significant support for lenient rulings by several twentieth century halakhic masters such as Rabbi Isaac Herzog, the late Chief Rabbi of Israel, and Rabbi Moshe Feinstein.

It should be noted, however, that there is a notable body of extra-halakhic Kabbalistic literature which inveighs heavily against any spillage of seed under any circumstance. Reflecting this view is the comment of R. Yosef Karo: “Had R. Yitzhak seen what the Zohar says about the gravity of hash-hatat zera, namely that it is the most severe of sins, he never would have written what he did.” Both the permissive and restrictive opinions are recorded by Rabbi Moshe Isserles.

These considerations form the foundation upon which the halakhic
position regarding masturbation is based. Of paramount importance is purpose. When the intention is procreation, either directly through artificial insemination and in-vitro fertilization or indirectly when evaluating male infertility, there is significant room for leniency within the halakhic guidelines. A large body of rabbinic literature exists delineating the Jewish attitude to artificial insemination. Briefly: most authorities would sanction this technique, provided there are rigid safeguards insuring that only the husband's sperm is introduced into his wife. Conversely, artificial insemination using the sperm of a donor from outside the marriage (AID) is strongly condemned. However, note the remarkable, and at first glance paradoxical, leniency of one leading halakhist permitting—nay, recommending—using the sperm of a non-Jewish donor. The prohibition of using “outside” Jewish sperm arises from concerns regarding adultery and/or incest. In addition the identifiable lineage of the offspring would be severely compromised, leading to potentially dreadful situations of personal status and marriage-ability.

It is important to recognize that no carte blanch regarding the method of semen procurement, even under conditions of need and sanction, is granted. Justification for a tolerant approach exists only in special circumstances, as in the investigation of male infertility. For example, by recommending either warm perianal applications (Rava) or visually evocative stimuli (Abaye) to arouse ejaculation, the Talmud itself appears to be deliberately avoiding any suggestion of direct penile stimulation to avoid conflict with the Talmud's (Niddah 13a) express admonition against such contact. A similar reluctance may have prompted the “teach us our Rabbi” phrase used to establish an acceptable method of penile evaluation. The expression assumes that there is difficulty with the seemingly obvious technique, masturbation.

Specifically germane to our discussion here are the expressed rabbinic positions regarding procurement of sperm by masturbation in the medical investigation of male infertility. Mindful of the pro-procreative intent of the procedure, where no other technique is appropriate, many authorities sanction such artificial collection of sperm. Others, however, disagree, arguing that because of the many technical uncertainties coupled with the strongly condemnatory Talmudic and, in particular, Kabbalistic pronouncements, masturbation can never be sanctioned—even in the interest of siring offspring. Similarly, some even have argued that because of the severity of the sin of masturbation, one would rather recommend that a childless couple divorce and remarry someone else! Mindful of the limited likelihood of helpful medical intervention, several authorities are similarly disinclined to sanction masturbation even with the intention of aiding procreation.

On the other hand, contrary, more lenient views exist as well. Chief among these opinions are the previously quoted views of Rabbi Yaakov
Emden and Rabbi Chaim O. Grodzinski. The latter suggests that, if possible, it is better to collect seminal fluid from a condom worn during intercourse, thereby avoiding masturbation. More contemporaneous decisors have also suggested this method as most acceptable. In addition, Bet Shmuel, citing the same Talmudic passages, also deduces a liberal attitude with respect to semen procurement in pressing circumstances. Accordingly, where post-coital bleeding is detected, he permits the non-coital ejaculation of sperm to establish whether hematospermia is responsible. This license may only be appropriate when the evaluation of the female companion is not conclusive.

A leading contemporary halakhist, Rabbi S.Z. Auerbach, has ruled “that even when he has a male and a female child [the halakhic minimum], a man is permitted to obtain sperm [notwithstanding the severe restrictions which normally apply] in order to fulfil the imperative of lashevet (see earlier discussion) or where his wife is in significant [psychological] distress from not having more children”. However, the precise method of procuring sperm is not indicated.

Yet another approach might be applied in situations of infertile couples where investigations already undertaken fail to identify any female disorder. Here it may be fair to assume, that the male either has no viable sperm or has defective sperm. In either case, wastage of his seed would not constitute zera lvatalah, there likely being no viable seed to speak of. This line of reasoning is developed by Rabbi S.B. Sofer who concludes by advising that “where it is possible, a postcoital diaphragm may be used; even during coitus one may be lenient for this purpose. . . . But if it is impossible [to use the semen collected] by a diaphragm—then my opinion is to be lenient [about manual masturbation]. . . . However, since I failed to find absolute proof, and due to the gravity of the issue I would solicit additional [concurring] opinions. . .”.

7. SUMMARY OF SEMEN COLLECTION METHODS

The reader may be excused if he is left quite bewildered by the foregoing account of widely differing views. A workable algorithm of graduated choices along the lines of Rabbi E. Waldenberg’s is suggested:

The preferred method of semen collection is from the vagina following normal coitus.

Where that is not possible because of technical or emotional reasons, sperm may be procured after coitus interruptus.

Where that is unsuitable, the collection should be made using a condom—preferably one with a perforation—worn during intercourse.
If that is impossible a collecting receptacle should be placed intravaginal.

Finally, if that too is impractical, sperm may be obtained by masturbation. Penile stimulation should preferably be achieved by a mechanical stimulator, though self-stimulation is also permitted.74

8. TESTICULAR BIOPSY

Occasionally, biopsy of the testicle is indispensable to accurate diagnosis. It is usually recommended in azospermic men with normal-sized testes to discriminate between ductal obstruction and spermatogenic failure. In men with poor quality sperm or very low counts, results of histological evaluation will rarely, if ever, alter therapy. The biopsy will assist, however, in making a definitive diagnosis which can aid the physician in providing the patient with a reliable prognosis, thereby avoiding needless treatment in unsalvageable circumstances.

Evidently, the futility of testicular biopsy was assumed by one early halakhic writer75 who reports that “none of the physicians of my town are familiar with such a test”. Nevertheless, he proceeds to discuss the halakhic concerns in some detail. The obstacles relate in particular to the biblical injunction proscribing marital bonds with a genetically Jewish woman by any man who has “wounded testes or severed membrum.”76 The Talmud77 elaborates this injunction to include any wounding or crushing injury to the penis, testes or cords of the testes. The author concludes that testicular biopsy would be permitted from a “wounded or crushed” point of view in that the perforation in the testes heals completely. However, he regards this method of semen procurement as “unnatural” emission of seed and therefore rules against it. He does not speak of actual biopsy of the testicle.

Arguments allowing the procedure because testicular sperm are immature prior to their maturation in the collecting ducts, and therefore would not be subject to any restrictions on sperm emission, have been advanced.78 Furthermore, the prohibition on surgical damage to the genitalia might be applicable only where the patient has reproductive capacity, a precondition clearly not extant in the investigation of an infertile male.79 Similarly, Rabbi Feinstein80 also sanctions testicular biopsy, arguing that the Talmudic constraints are applicable only when the perforation of the testis results in infertility; nowadays the procedure has the reverse likelihood, being designed to help alleviate infertility.

9. METAPHYSICAL AND PSYCHOLOGICAL CONSIDERATIONS

The mysterious nature of the miracle of procreation instinctively prompts many infertile couples to first seek guidance and blessing from spiritual
rather than medical sources. An ancient axiom states that "a blessing is only effective on that which is concealed from the eye". The psychological sensitivity of intimate human relationships cannot be over-emphasized. Great care must be exercised in advising a couple to embark on the trail of infertility investigation. A precise recommendation as to how much time should elapse before infertility investigations are begun cannot be made. Though, by convention, couples who remain childless after one year of a regular, sexually active married life are called infertile, the point at which the diagnosis of infertility is earned is quite variable.

Regarding the "right time" at which to initiate the various stages of infertility testing, the rabbinic opinions are quite variable. For example, while some allow semen analysis only after ten years, others urge only a five or even a two year period. Rabbi Waldenberg underscores the need to tailor one's approach to the individual cases at hand.

Even though the halakha may have no technical opposition to some investigations, there are some important psychological aspects to consider. The confirmation, particularly during the early months of marriage, by objective scientific testing of aspermia or azoospermia can have a devastating impact on the male and hence on the marriage itself. Consequently, great deliberation must be exercised when agreeing with—or advising—a couple asking for fertility testing.

We have already emphasized the degree to which a religious Jewish infertile couple may feel compelled to seek medical help. The couple will often first seek the counsel of their rabbi. Indeed, infertility difficulties, in particular, are associated with prayer and spiritual exertions. The very concept of supplication in prayer to the Creator finds roots in our principal matriarchs, Sarah, Rebecca, and Rachel, all of whom were infertile through many years of marriage. The Bible chronicles their yearning for the blessing of children through anguished prayer, prompting the Rabbis to declare that "God is desirous of the prayer of the righteous". These moving passages were eventually regarded as the paradigm of prayer and were therefore incorporated into the High Holiday services. All who are involved in advising such people must be sensitive to these metaphysical aspects of their petitioner's needs and aspirations.

NOTES

1. G.S. Berkowitz, "Epidemiology of Infertility and Early Pregnancy Wastage", in Reproductive Failure, A.H. DeCherney, ed. London, Churchill Livingstone, 1986, pp. 17-40. In the U.S., today, approximately 10%-20% of couples are infertile. Infertility is defined as the inability to conceive after one year of regular coitus without contraception. This definition is based on an expected monthly pregnancy rate of 20%-25% in normal couples attempting pregnancy. (See: S.B. Jaffe and R. Jewelewicz, "The basic infertility investigation", Fertility and Sterility 56:599, 1991.)

2. The Roman Catholic Church's generally restrictive attitudes in matters of procreation are
well known. Less widely appreciated are the fairly detailed Church proscriptions bearing upon infertility testing. These are often remarkably similar to Judaism's teachings. A brief review by G. Kelly, *Medico-Moral Problems* (St. Louis, 1966), pp. 218-228, reflects the view of the Catholic Hospital Association.

3. *Yevamot* 62a, 63b; *Avoda Zara* 5b; *Nidda* 13b.


5. See, for example, the series of expositions on the inherent value of marriage for the male partner in *Yevamot* 62b where one who is unmarried is regarded as being without joy, blessing, good, Torah protection, and peace. Likewise, the Talmud (e.g., *Yevamot* 118b; *Kiddushin* 7a, 41a) often assumes that marriage is beneficial for the female partner: "tav l'metav tan du mil'metav armeu"—It is always to her advantage to be part of a tandem, married, rather than alone. Both references focus on companionship, a non-procreative aspect of marriage.

6. Rashi and Tosafot (*Yevamot* 65b) and Ramban (*Bereshit* 9:7) hold that the verses addressed to the Noachidic survivors of the Flood (*Bereshit* 9:1 and 7) and to Jacob (*ibid.,* 35:11) are the source of this injunction. Contrary to the common assumption, the charge to Adam and Eve (*ibid.,* 1:28) is actually a blessing, not a commandment.

7. *Yevamot* VI, 6 (61b).


11. Gonadotrophins are a set of hormones secreted by the pituitary gland in the base of the brain which stimulate (=trophic) the testicular apparatus (=gonads) to produce seminal fluid (=sperm) and the fluids in which it is suspended.

12. Because the pituitary gland tries to drive the unresponsive testes, unrestricted by the negative biofeedback which successful spermatogenesis would provide.


14. See a fuller discussion below, in the section regarding testicular biopsies.


20. However see the discussion regarding the use of perforated condoms below, note 64.

21. The primary Talmudic source is in *Nidda* 13a (see *Magid Mishna* on *Yad HaHazaka, Issurei B'ta* 21:18).

22. Known in Hebrew as either *hotza'at zera levattala* or more commonly as *hash-hatat zera,* generally regarded as interchangeable phrases. Feldman, *loc cit.,* p. 109, cites Resp. *Hinnukh Beit Yitzhak, E.H.,* No. 7, who proposes a plausible distinction between the two.

24. Sefer Mitzvot Ketanot No. 292 and Ma’adane Yom Tov on Rosh, Niddah Chap. II, No: 40. Contemporary discussions: Rabbi M. Feinstein, Resp. Iggerot Moshe, Even Ha’Ezer III, No. 14, staunchly reiterates the biblical nature of this transgression; Rabbi E. Waldenberg, Resp. Tzitz Eliezer IX, 51:1.1 cites various opinions but comes to no firm conclusion.

25. Resp. Penei Yehoshua, Even Ha’Ezer II, no. 44 argues that the severe strictures applied by the Sages are exaggerated and were meant to underscore the repulsiveness with which they regarded Onanism.

An unusual analysis is suggested by Haggag Salt Ezer Mikodesh cited by Rabbi A. M. Babad, Resp. Imre Tova, no. 33: “The [biblical] prohibition of wasteful spillage of seed pertains only prior to the ban on polygamy promulgated by Rabbenu Gershon ben Yehuda (c. 1000) when [by having several wives] it may have been possible for each ejaculation to achieve fruition. Today—especially in our countries where secular laws makes [even] divorce difficult—the matter has changed and the halakha has changed and there is no more than a Rabbinic prohibition here.” R. Babad also quotes his uncle, the author of Resp. Hatzelet Hasharon (Addenda to Even Ha’Ezer. Vol. 1), who concluded similarly that today spillage of seed is only a Rabbinic prohibition. I am grateful to my brother-in-law, Rabbi C. Z. Pearlman of London, for directing me to these citations.

26. Tosafot Sanhedrin 59b. Those excluded from the mitzva of procreation would therefore be free from this restriction (Rabbenu Tam in Tosafot, Yevamot 12b, s.v. shalosh).

27. Ramban, Niddah 13a.

28. “Bal tashchit” (Devarim 20:19), undoubtedly civilization’s earliest conservation legislation! Rabbi Yaakov Etlinger in his Resp. Binyan Tzion, no. 137 and novella Arukh LeNer, on Niddah 13b, makes this tentative suggestion. He also suggests that this interdiction may be based upon a halakha le Moshe m’Sinai.

29. See Achiezer III, no. 24:5 based on Devarim 23:10 and Avoda Zara 20b.

30. Bereshit 6:12 and alluded to by Rashi on 6:11. See also Avot D’Rav Natan 32:1, Zohar I, 66:2 on Bereshit 7:4; Ramban and Ritva on Niddah 13a; Menahem Kashin in Torah Shlema no. 150, on Bereshit 6:12, comparing similar suggestions in Shabbat 41a.

31. Bereshit 38:7-10 and the Talmud’s discussion thereof in Yevamot 34b. The passage in Yevamot equates the sin of Er and Onan with unnatural intercourse (she/o k’darka) rather than with Rashi’s assumption (on Bereshit, loc. cit.) that the failing was coitus interruptus. See Ritva and Maharsha on Yevamot 34 and Ibn Ezra on Bereshit 38:7 who offer a variety of approaches to reconcile these differing interpretations. See the trenchant passage in Levush, Bereshit 38:10.

32. R. Eliezer on Yevamot 34b, a position with which the Sages disagree.


34. Yad HaHazakah, Hil. Issurei Bi’a, 21:18 and so Sefer Mitzvot Gedolot, Neg. 126 and Shulhan Arukh, Even Ha’Ezer 23:1.

35. Not all authorities are always strict; some advocate coitus interruptus as the desirable method to obtain sperm for analysis: Resp. Z’kan Aharan Vol I, nos. 66, 67, and Vol II, no. 96, p.18 n.67.

36. Nedairim 20b. See Bet Yosef on Tur, Even Ha’Ezer 25, and Kol Bo, Hil. Ishut, Par. 76, p. 66a, who counsel caution to the pious.

37. Yevamot 34b, s.v. “Velo”.

38. Tur, Even Ha’Ezer 25 and Orah Hayyim 240; Yam Shel Shlomo, Yevamot, ch. 3, par. 18, and Haggahot HaBah on Rosh to Yevamot 34b and others refer to a permissive ruling by Rosh on Yevamot, Ch. 3, Par 6—a text absent (censored?) from extant versions of this commentary. Similarly, Drisha on Tur, Even Ha’Ezer 23:1; Resp. Maishiv Davar, Yoreh De’ah, no. 88; and Resp. Iggerot Moshe, Even Ha’Ezer, no. 63, p. 156, who also records his pleasure to hear that Resp. Tzemah Tzedek, Even Ha’Ezer, no. 89 supported this position.

39. For example, Rema, Even Ha’Ezer, 25:2: “A man may act with his wife as he wishes, hav-
ing intercourse when he wants . . . [and how he wants] provided he does not ejaculate.

Others are lenient and rule that he may have unnatural intercourse even if he emits sperm so long as this is not habitual. However, even though all this is [strictly speaking] permitted, 'He who sanctifies himself [by denying even] that which is permitted is called holy.'

40. R. Yehuda HaHasid, Sefer Hassidim, no. 176; but Hiddah (Petah Enayim, Nidda 13) dismisses this as a case of unavoidable spillage and not of intentional masturbation.

41. Yevamot 76a.

42. Bet Shmuel, Even Ha'Ezer, 25:2.

43. Levush on Even Ha'Ezer, 23:5, though dyspareunia (painful intercourse) may not be an acceptable reason to suspend the restrictions (Resp. Melamed Leho'il, III, No. 18).

44. Tosfot RiD on Yevamot 12b.

45. In Marital Relations, p. 162.


47. Resp. Iggerot Moshe, Even Ha'Ezer, no. 63 and no. 64.

48. In particular, the Zohar on Shemot, 259a and 263b. Similarly strongly worded restrictive views are recorded by Sefer Haredim, Ill, Ch. 2, by R. Eliezer Azikri (1601), and in R. Isaiah Hurvitz's Shenai Luhot Habrit (Shlah), I, Sha'ar Ha'Otiyot, 100 a, b. The latter, on p. 102b (Amsterdam ed.), writes: "Study to observe all the laws of marital relations as enumerated in the Tur Orah Hayyim 240 and Even Ha'Ezer 25. Omit nothing . . . A man should know every word by heart—except in the matter of unnatural intercourse. In that connection I have cited (the restrictive) words of Sefer Haredim—to him you should listen [rather than to the Tur]."

49. In Bedek Habayit on Bet Yosef, Even Ha'Ezer 25.


51. This ancient technique was well know by Talmudic times. See for example, Hagiga 14b.


Several finer points warrant consideration here. For example, Jewish law proscribes conjugal relations during the nidda period, which is defined as the duration of the wife's menses—or at least for five days, whichever is longer—and for the next seven "clean" days. At this point relations can—nay, should—be resumed, provided the woman has "cleansed" herself by immersion in a mikva, a ritually prescribed "bath". Noteworthy is the caveat recorded by several authorities insisting that insemination even with the husband's sperm be confined to the non-nidda days of the wife's menstrual cycle (Resp. Tzitz Eliezer, Vol 9, 51:4.6, quoting Hazon Ish and others). On the other hand, Rabbi Moshe Feinstein (Resp. Iggerot Moshe, Even Ha'Ezer II, 18) permits this. Resp. Maharsham (3:268), Har Tzi (Even Ha'Ezer, No:1), by Rabbi Tzi Pesah Frank, and Resp. Yabia Omer (Vol. 2, Even Ha'Ezer, No:1) by Rabbi Obadia Yosef are inclined to permit artificial insemination after ten years of fruitless marriage. Rabbi Y. Y. Weinberg (Resp. Seride Esh 3:5) and others regard sperm procurement for artificial insemination as purposeful, and is therefore not considered zera le vattala. Assurances regarding the physician's trustworthiness are mandatory in all such matters (Rabbi Shlomo Zalman Auerbach in Noam, I: 157).

Other decisors hold very restrictive views on artificial insemination altogether. Resp. Divre Malkiel (4:107, 108) condemns the procedure even when the semen is that of the husband, partly because physician safeguards may be insufficient to insure against some zera levattala. Note that sperm loss must be recognized as an inevitable consequence of all forms of insemination, whether natural or artificial.

An interesting question is raised by Rabbi Eliyahu Bakshi-Doron, Chief Rabbi of Haifa, in Assia, 44:35-39, April 1988: May an unmarried bridgegroom who requires pre-marital
cancer therapy and fears that the therapy will render him infertile procure semen for freezer storage and use it later? The author concludes that this is not permitted insofar as the positive mitzva to procreate is not yet of practical application to the unmarried bridegroom. Therefore, this mitzva cannot serve as a counterweight to the negative restriction against spillage of seed. The author reports that Rabbi Yosef Eliashiv concurred with this reasoning. This author finds this argument unconvincing: An unmarried man also has a mitzva to procreate, albeit in practice this must await his actual marriage. Compare, for example, the Rosh on Ketubot 17b who notes that the mitzva of peru urevu can be realized by procreation with a concubine and is therefore, strictly speaking, independent of marriage.

In a note, the editor of Assia suggests that in a situation where the bridegroom had an actual mitzva to procreate, but couldn’t consummate the marriage—for example, when the bride was a nidda—then the husband could presumably procure semen for storage. However, in a letter to Joel B. Wolowelsky (dated December 15, 1991), Rabbi Bakshi-Doron disagreed, arguing that the groom of a nidda would also not be prohibited to collect semen. He left open the possibility that a married person about to undergo chemotherapy may procure semen for frozen storage. A widow may not be impregnated with the licitly obtained semen of her deceased husband. On the one hand, the deceased is exempt from the mitzva of procreation and hence could not claim the usual legal protection authorizing the normal risk to the mother which is inherent in every pregnancy. On the other hand, the woman herself is always excused from the obligation to procreate. I am grateful to Dr. Wolowelsky for sharing this letter with me.

Intracervical insemination, which most closely mimics coitus by placing the ejaculate “as is” into the vagina, actually may not involve much wastage. However, this fairly simple technique is only needed for the management of fairly unusual cases to overcome purely anatomical defects such as hypospadias or psychological difficulties which impair ejaculation.

Much more frequently, AIH is used to overcome either a low sperm count or cervical mucus antibody mediated infertility. Here intra-uterine insemination (IUI) must be performed. The procedure of necessity involves separating the spermatozoa from the seminal fluid, which were it also injected into the uterus would cause painful uterine contractions thus jeopardizing the whole procedure. Ineffective non-motile spermatozoa and seminal fluid are discarded. Inevitably some healthy spermatozoa are also lost. The situation is more complicated in in-vitro fertilization (IVF). In order to minimize the possibility of polyspermatic fertilization, only 50,000 sperm are added to each egg-containing dish. Even in cases of very successful harvesting of eggs, where tens of oocytes are recovered, only about a million spermatozoa are used in the fertilization process. As the normal ejaculate has at the very least 25 million sperm—and more often has over 100 million—IVF must involve discarding very large numbers of sperm. (I am grateful to Richard V. Grazi, MD, for providing this technical information.)

53. See note 49. Also, Resp. MaHarsham III, no. 268; Resp. Helkat Ya’akov I, No. 24; Resp. Yabia Omer, Even Ha’Ezer, No. 1; Resp. Emek Halakha, no. 68.

54. Rabbi Moshe Feinstein devotes five responsa directly to artificial insemination (Resp. Iggerot Moshe Vol 3, Even Ha’Ezer I:10; I:71; II:71; Vol 7, Even Ha’Ezer, IV: 32.5). These are among his most controversial decisions in which he permits AID provided the sperm is obtained from a non-Jew, arguing that while it is not as acceptable as the husband’s own sperm, a non-Jew’s sperm is nevertheless preferable to an “outside” Jewish male’s contribution. The child born to a Jewish mother of a non-Jewish father is fully Jewish. A child born of a Jewish woman and a Jewish father other than the lawful husband is a mamzer—a bastard—which in Jewish law has important consequential marital disabilities. The issue grew into a rabbinic cause célèbre, drawing criticism from many authorities (see Hama’or, Tishri-Heshvan 5725, pp. 5-9). R. Waldenberg, Resp. Tzitz Eliezer, ibid., claims that R. Feinstein later withdrew from his position in a letter dated 1965, ruling negatively to an individual petitioner. See Resp. Iggerot Moshe Even Ha’Ezer IV, 32:5 where R. Feinstein still
Yael Lakavitch defends the theory behind his earlier decision but emphasizing his opposition for AID using non-Jewish sperm in practice.


56. Normally, men with rabbinically-identified anatomical disfigurement of the penis are barred from wedding a genetically Jewish spouse; undamaged anatomy and function of sexual organs are prerequisites for such relationships. Elaborating, the Talmud in Yevamot 76a states: "If a hole which had been made in the [penile] corona itself is closed, the man is disqualified if it re-opens when semen is emitted; but if it does not [re-open, the man is deemed] fit. Rava the son of Rabbah sent to R. Joseph: Will our Master instruct us how to proceed [with a test when it is desired to ascertain whether the semen will re-open an occluded perforation]? The other replied: Warm barley bread is procured, and placed upon the man's anus. This stimulates the flow of semen and the effect can be observed. Said Abaye: Is everybody like our father Jacob . . . because [of whose saintliness] he never before [marriage] experienced the emission of semen? [An alternative technique was offered by] Abaye who said "No, colored [female] garments are dangled before him". Said Rava: Is everybody then like Barzillai the Gileadite [known for his indulgences]? In fact it is obvious that the original answer is to be maintained."

57. Yam Shel Shlomo, Yevamot 8:16.

58. Quite another application of the restriction of masturbation is found in the laws of circumcision. A tense penis is recommended prior to the procedure to assure safe amputation of the foreskin and thus reduce the risk of injury to the underlying glans. This is especially true for the adult. It is permissible to achieve an erection by physical stimulation of the penis, but since this can lead to hotza'at zera levattala, it ought to have been banned because of the Talmud's opposition to manual masturbation as recorded in Niddah 13a. Rabbi Shlomo Kluger (introduction to Sefer Kin' at Sofrim) eliminates this apparent difficulty: in accordance with the general rule that positive commandments take precedence over negative ones, especially when the former are Biblical and the latter Rabbinic in origin. Therefore, circumcision takes precedence over the ordinance banning masturbation. Based upon these considerations it is arguable that in spite of whatever Rabbinic restrictions may exist, masturbation would still be permitted when it is performed to facilitate reproductive capability. However, a counter-argument might point out that in the case of circumcision seminal spillage is not inevitable; in the case of infertility it is.


A valuable review of semen destruction and contraception in general appears in the Reb Yaakov Rosenheim Jubilee Volume, New York, 1932, p. 87, by Rabbi J. Z. Horowitz of Frankfurt. He gathers the major opinions and concludes that seminal procurement for analysis intended to facilitate procreation is permissible.

60. Otzar HaPoskim Even HaEzer, Vol 5, p. 86a (quoting in particular Resp. Divre Malkiel Vol 5, No. 157); Yava'an Avraham, No. 7; R. S. Engle (quoted below); etc.

61. Uncertainties include: The impediment may be in the female partner; there may in any case be no effective therapy; it may be possible for him to father children were he married to someone else; a problem with the technique of intercourse may exist.

62. In his Responsa (Vol 6., No. 75), Rabbi S. Engel recommends this radical answer when ten years of barren marriage have transpired. See Shilo, S., "Impotence as a Ground for Divorce (To the End of the Period of the Rishonim)," The Jewish Law Annual, 4:127-43,
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1981, for an interesting historical review.

63. Sedei Hemed "Pe'at Sadeh" in Ma'arekhet Ishut, No. 13; Resp. Ezrat Kohen, Hil. Ishut, No. 32, by Rabbi A. Y. Kook; Resp. Avne Nezer, Even HaEzer 83. They advocate empiric therapeutic trials without regard to specific diagnoses. On the other hand, Resp. Tzitz Eliezer, Vol IX, 51:1.2, acknowledges that modern differential diagnoses may indeed have a significant impact on treatment choices. Rabbi Eliezer of Munkacz, author of Resp. Minhat Eliezer, in Darkhei Teshuva, Hil. Nidda agrees with the restrictive views, but would sanction the post-coital vaginal collection of sperm for analysis.

64. Rabbis Y. Newirth and S.Z. Auerbach are quoted by Abraham Abrahams in Nishmat Avraham, Even HaEzer, 23:2, p. 112, as recommending that when a condom is worn a small perforation should be made, enabling sperm to enter the female's reproductive tracts. This would obviate concerns about wastefulness of seed in that it is possible that the coital act will result in pregnancy.


67. Rabbi Waldenberg, Resp. Tzitz Eliezer, loc cit, takes issue with Mahatzit Hashakel, loc cit, who maintains that the dispensation of ha'tza'at shikhvat zera levattala implied by Yevamot 76a is limited to when the investigation is needed to establish marriageability within the genetically Jewish community; R. Waldenberg argues that avoiding divorce is no less a reason for permissiveness. Evidence of spermatogenesis may be required to overcome restrictions which pertain to certain categories of infertile men. Such investigations, of course, must be made on the male in question. Rabbi Waldenberg cites Taharas Yisrael, Orah Chayyim 240:39, who rules that ejaculation is permitted when physicians are undertaking investigations designed to promote fertility and eventual procreation.


70. Resp. Tzitz Eliezer, loc cit, end of 'Gate' 1.

71. Abraham S. Abraham in Nishmat Avraham, Even HaEzer 23:2, p. 112, reports that Rabbi S. Z. Auerbach recommends that if possible this be performed by a female doctor or nurse.

72. As recommended by Resp. Zekan Aharon, vol 1, no. 66, but see next note.

73. Though other authorities would reverse this step with the previous one.

74. In accordance with Resp. Ahiezer, but in contrast with Resp. Iggerot Moshe, which would never allow self-stimulation.

75. Resp. Zekan Aharon, vol 1, no. 66. He assumed the purpose of this test to be the analysis of the semen.

76. Devarim 23:2.

77. Yevamot 75b.


81. E E. Wallach, "The Enigma of Unexplained Infertility" Postgrad Obstetrics and Gynecology, 5:1, 1985, alludes to some of these unexplained phenomena. In general, it emphasizes, that the shorter the duration of infertility, the better the associated prognosis.

82. Ta'anit 8b; Bava Metzia 42a. In fact several studies highlight the fact that pregnancy rates are fairly independent of treatment! See, for example, J. A. Collins, W. Wrixon, L. B. Jones,

83. See note 1. It should be noted that the authors report that 64% to 79% of women with infertility will conceive within nine years. Clearly, however, investigations should not be delayed until then.


88. *Yevamot* 64a.

89. The Torah reading for the first day of Rosh Hashanah, taken from *Bereshit* 21, recounts the realization of Sarah's plea. Similarly, the Haftara (Samuel I:1 and 2) relates how Hanna was blessed with the birth of Samuel. The Talmud (*Megilla* 31a) tells us that Sarah and Hanna were both remembered on Rosh Hashanah.