

Contraception in Contemporary Orthodox Judaism

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Contraception

Recent decades have seen a vast increase in the population of Orthodox Jews. It is difficult to know exactly how much the Orthodox population has increased over the last 40 years, but even conservative estimates agree that it has more than quadrupled. While the *kiruv* movement has contributed untold tens of thousands to the Orthodox population, there is no question that the vast majority of the increase is due to birthrate. In America, Modern Orthodox Jews typically average between 3 to 5 children per family. Haredi and Hasidic families in America average between 6 and 8 per family¹. That second average is enormous, among the highest in the world for an ethnic group.

Almost any Orthodox person, if asked about this trend, would say that it is a good thing. It both bolsters the percentage of Orthodox among the Jewish population as a whole, and it offsets the otherwise dismal downward trend of the rest of the Jewish population. Furthermore, it conforms to a commonly held belief that having as many children as possible is obligated in some way by the Torah. Additionally, it demonstrates a firm resistance to popular forms of contraception, typically considered forbidden under almost all circumstances.

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¹ National Jewish Population Survey of 2000-01. There is no reason to assume the numbers have declined over the past 10 years. There is also no reason to assume the numbers in Israel are any lower. If anything, the numbers are likely higher in Israel, particularly among the Modern Orthodox.

These reasons, plus a healthy dose of social pressure coming from various sources depending on personal situations, have created a situation of rapidly growing communities, schools, and an assortment of other institutions. Needless to say, raising a large family and maintaining the various support networks for a large number of these families is costly and not without pitfalls. Not everyone can support a large family. Large families come with larger numbers of problem situations – financial strain, deviant children, medical care, etc. The questions arise: does the Torah truly obligate Jews to have large numbers of children and are all forms of contraception forbidden by Torah law? These are not new issues. They have been discussed in rabbinic literature for centuries. We have chosen to review them in this article because changing social conditions, both in Israel and outside, appear to be generating a rethinking of the wisdom of large numbers of large families.

The Obligation to Procreate

The very first commandment, given to *Adam HaRishon* immediately after his creation, was to be ‘fruitful and multiply and fill the earth’. This statement was repeated to Noach as a blessing upon his emergence from the ark following the flood. At Sinai, in some manner not recorded in the Torah, *B’nei Yisrael* received it as a positive mitzvah, the first of the 613, according to the order of the *Sefer Hachinuch*. At first glance, it seems to be a mitzvah with no definitive end – only when the world becomes filled can the commandment be considered fulfilled. Any Jew not actively involved in this mitzvah would be shirking a fundamental responsibility. Any attempt to prevent the conception and birth of another child would be tantamount to active rebellion against the divine will.

However, as the even moderately educated Jew knows, things are not so simple. The commandment to be fruitful and multiply is subject to

rabbinic clarification like most other mitzvos. The accepted *halacha*, following the opinion of *Beis Hillel*, is that the fathering of one male and one female, both of whom are not noticeably incapable of procreating, fulfills a man's obligation². Women have no obligation. There is a rabbinic addendum to the Torah commandment, known popularly by the term *sheves*, loosely translated as 'settle' or 'dwell'. This word is an extraction from a verse in the book of *Yeshayahu* (45:18) that expresses the idea that *Hashem* did not intend the world to be empty of people. This concept has lent credence to the commonly held belief that the rabbinic obligation is without limit. *Sheves*, however, is mentioned 11 times in the Talmud, and never once is there the slightest indication that it imposes a never-ending obligation to have children.

The singular indication of such an obligation in the entire Talmud is the often-quoted passage found in *Yavamos* (62b):

The Mishna (that states that the obligation of procreation is fulfilled by having two children) goes against Rabbi Yehoshua. It was taught by him... "If a man had children when he was young, he should have children when he is old; as it says – 'In the morning sow your seed, and in the evening do not rest your hand' (*Koheles* 11:6). For you do not know which of the children will be better".

Further down the page, the *gemara* quotes the *amora*, Rav Matna, saying that the *halacha* goes like Rabbi Yehoshua.

It is not clear to what extent Rabbi Yehoshua was making his ruling/suggestion. Is it limitless?³ Is it simply that a man should have

² According to the Yerushalmi (*Yevamos* 6:6), *Beis Hillel* holds that either two boys or a boy and a girl fulfills the mitzvah.

³ The *Shealtos d'Rav Achai* (sec. 165) seems to understand it like this. The *Haemek She'ela*, a commentary on the *Shealtos* by the *Netziv*, explains that the mitzvah of procreation never ends as long as a man is capable of fathering children since he can never be sure which of those children will survive.

some children when he is older? Furthermore, it seems from the way the passage is quoted that normative *halacha* should go against Rabbi Yehoshua, being as he contradicts the Mishna. However, we have a clear ruling in the Rambam (*Hilchos Ishus* 15:16) stating that ‘even though a man has fulfilled the obligation to procreate, he has an obligation from the *Soferim* (most likely meaning from sources in the Tanach) to not give up on this mitzvah as long as he has the strength, since anyone who adds one Jewish soul to the world is considered as if he has built a world’.

Assuming the source for the Rambam is the statement of Rabbi Yehoshua⁴, one could ask why he wrote the final line about adding one Jewish soul to the world when the Rabbi Yehoshua said nothing of the sort. Why did he not simply quote the reason given explicitly by Rabbi Yehoshua?⁵ Furthermore, why does he list it as normative *halacha* if the *gemara* says that it contradicts the Mishna?⁶ If his source is something else, what is that source? Finally, regardless of his source, how far must one go in fulfilling this rabbinic ruling? Is it limitless?

There are more questions from other rulings of the Rambam himself. In the same chapter (15:1), he writes that a woman may give her husband permission to skip the required times for cohabiting if the husband has already fulfilled his obligation of procreation. Further on

⁴ The *Maggid Mishna* writes this explicitly.

⁵ The *Ramach* on the Rambam asks this question and leaves it unanswered.

⁶ The *Rif* quotes the statement of Rabbi Yehoshua in full, indicating that he accepted it as *halacha*. His basis for this is clear. The *gemara* itself states in the name of Rav Matna that the *halacha* is like Rabbi Yehoshua. He writes that the Mishnaic ruling is *d'oraisa* while Rabbi Yehoshua's ruling is rabbinic. The *Rosh* (Sec. 9) seems to suggest that the *Rif* did not have the words stating that the Mishna goes against Rabbi Yehoshua, thus there should be no problem in including both rulings. It is possible that the Rambam understood this issue like the *Rif*. However, this is unlikely because the Rambam, unlike the *Rif*, rules that a man may marry a woman who is incapable of bearing children once he has already fulfilled his obligation of procreation, as explained in the following paragraph of this article. Thus, it seems more likely that the Rambam's text said that the Mishna contradicts Rabbi Yehoshua and that he rejected the conclusion of Rav Matna.

in that chapter (15:7), he writes that a man who has fulfilled his obligation may marry a woman who is incapable of bearing children. If he truly believed that the ruling of Rabbi Yehoshua obligated all men to continue having children even after fulfilling the obligation of procreation, why would either of these rulings be true?⁷

The *Birchei Yosef* (*Even Haezer* 1:1) answers both questions by reinterpreting the original ruling of Rabbi Yehoshua according to how the Rambam understood it. He writes that, unlike the Torah commandment of procreation, which placed constant demands on men to attempt to fulfill the mitzvah, this rabbinic obligation placed only minimal demands on men who had already fulfilled their biblical requirement. They need only make periodic attempts at procreating, at ‘distant intervals’ the times of which are not specified anywhere. Thus, a man could skip the required intervals for cohabiting, if his wife permitted him, and even marry a woman who was incapable of bearing children, as long as he maintains the potential to procreate.

Rav Moshe Feinstein, in a *responsa* written in 1981 near the end of his life (*Even Haezer* IV, 32.3), describes the general obligation of *sheves* in these terms. It is clear that he considers *sheves* to be distinct from the basic mitzvah of procreation. Procreation, he writes, is fulfilled, both *d’oraisa* and *d’rabbanan*, by fathering a healthy boy and girl. *Sheves* is not an extension of this mitzvah but a new rabbinic obligation to ‘not give up completely’ the possibility of procreation. He uses the language of the Rambam (‘to not give up’) as a support for this assertion. According to this, there is no requirement in *halacha*, neither *d’oraisa* nor *d’rabbanan*, that a man father as many children as

⁷ The *Beis Shmuel* (*Even Haezer* 1, note 1) asks the first question. The *Maggid Mishna* commenting on *halacha* 7 asks the second question in the name of the *Ramach*. Various rabbis through the centuries answered both questions by saying that the Rambam is giving the Torah law in the earlier rulings, which does not contradict the more stringent rabbinic ruling given in *halacha* 16. Aside from the obvious problem that the Rambam gives no indication whatsoever that his earlier rulings are limited to Torah law, there is the secondary problem that the *Shulchan Aruch* (*Even Haezer* 76:6) rules exactly like the Rambam in *halacha* 1. Thus, it is not only permitted by Torah law, but also by rabbinic law.

he physically can. There is only a rabbinic requirement to not give up on the possibility of having more. The ramifications of this conclusion as far as contraception are concerned will be dealt with later in this article.

The *Aruch Hashulchan* suggests a variation on this approach that answers every question on the Rambam⁸. He writes that ‘obligation from the *Soferim*’ is only a ‘*bidur mitzvah*’ of ‘*yishuv derech eretz*’ (a way to help society). In other words, the Rambam uses the words of the verse in *Koheles* without the definitive interpretation of Rabbi Yehoshua. There is no obligation to continue having children. There is merely a ‘recommendation’ from *Koheles* to ‘not rest your hand’, since ‘each Jewish soul builds a new world’. The Mishna may contradict Rabbi Yehoshua, but it does not contradict *Koheles*. Once a man has fulfilled his Torah obligation of procreation, he has no further obligations in this area, only a recommendation for how to improve the world.

Another frequently quoted rabbinic statement to support the idea of an unlimited obligation of procreation is found on *Niddah* 13b. It says there that those who marry girls who are too young for bearing children are guilty of withholding Messianic times since the Messiah cannot come until all souls that were destined to be born, have had their turn. This source, also, is a non-starter in the world of *halacha* since the Rambam (*Ishus* 15:7) clearly says the prohibition to marry a girl so young only applies to those who have not fulfilled their Torah obligation.

The *Shulchan Aruch* makes no mention of an obligation of unlimited procreation, nor even of the concept of *sheves*. The only *halachos* that deal with the subject at all are in *Even Haezer* 1:1, which discuss the

⁸ It is likely that the Ramban (*Milchamos Hashem*, *Yevamos*, 19b-20a on the *Rif*) is the original source for this idea.

guilt of one who is not ‘involved’ with procreation, and 1:8, which requires a man to have a wife who is capable of having children even if he has already fulfilled the basic mitzvah. However, even this final requirement is subject to the man’s means – it is not an absolute obligation.

In summary, nowhere in mainstream *halacha* is there found an obligation to father the maximum number of children one is capable of. The only rabbinic source supporting such an obligation is the *Shealtos d’Rav Achai*, whose opinion, though important, did not enter normative *halacha*. The Rambam limits the requirement to remaining capable of fathering children or possibly recommending fathering many children as an embellishment of the basic mitzvah. The *Shulchan Aruch* limits the requirement to marriage to a woman capable of bearing children. While nobody says there is anything wrong with fathering many children, neither is there any requirement to do so.

Regardless of any obligation to procreate, the Jewish conception both of marriage and of sexual relations between husband and wife certainly promotes procreation. There is widespread agreement that a man is obligated to marry as a necessary prerequisite towards procreation. The minimum ages recommended for marriage and the latest age by which a man should marry are all geared around facilitating procreation at an early age.

Furthermore, an argument could be made that the obligations of conjugal relations promote procreation. Ovulation usually occurs around the 14th day after the onset of the menstrual period. The Biblical laws of *niddah* required a wait of 7 days from the onset until the woman can immerse in the *mikveh*. Rabbinic additions required a wait of 7 ‘clean’ days, which can only begin after the woman is sure the bleeding has stopped. Further rabbinic additions by Ashkenazi authorities established that the seven clean days begin only after a

minimum of 5 (or possibly 7) days after the onset⁹. This last extension guarantees a 12 (or 14) day period before the woman can immerse in the *mikveh*. Barring extenuating circumstances, a man must have sexual intercourse with his wife on the night she immerses. Thus, by what appears to be a fortunate coincidence, the laws of *niddah* greatly increase the chances of pregnancy since the one obligatory time for relations in the menstrual cycle happens to fall right around the time of ovulation.

This argument, of course, is somewhat misleading. The Biblical law of *niddah* allows immersion 7 days after the onset, possibly a full week before ovulation, assuming the same 28-day cycle as today. The rabbinic extensions were not instituted to promote procreation. They were adopted to simplify the complex laws of menstrual bleeding and to insure that the seven clean days did not start too soon¹⁰. Nevertheless, the fact remains that the laws of *niddah* with all the extensions, inadvertently promote procreation by delaying immersion until near the time of ovulation. If an orthodox couple has no fertility problems, the only way to avoid a large family is some form of contraception.

Contraception – Background in Primary Sources

⁹ *Yoreh Deah* 196:12

¹⁰ The first extension eliminated the need to distinguish between the different colors of blood and the necessity of knowing exactly when in the somewhat complex *niddah/zivah* cycle the bleeding occurred. The purpose of the second extension was because the seven clean days cannot begin if semen from intercourse that took place immediately before the onset of the period stills lies within the woman. The required waiting time for this semen is 3 days. Both Ashkenazi and Sefaradi Jews accepted this extension, but only Ashkenazi Jews required it even if no relations occurred within 3 days of the onset. They later extended even that to 5 days because of possible cases of doubt as to when the relations took place. Some extended the 5 days to 7 days. It is interesting that a period of rapid increase in the Ashkenazi population followed the widespread acceptance of this final extension (around 1500). For the next 450 or so years (until 1939), the Ashkenazi population grew at a rate (possibly more than 60-fold) that dwarfed that of their gentile neighbors and that of the Sefaradic Jews. The authors are unaware of any study explaining this rapid growth, which took place despite generally appalling health and sanitary conditions, and the ever-present danger of pogroms. It is certainly possible that the *halachos* associated with conjugal relations, and, as we shall see, an increasingly negative view of any form of contraception, had something to do with it.

Contraception has a fascinating history in Jewish law and practice. It began in Biblical times, was first explored in the period of the Mishna, then was interpreted in various ways by the *Rishonim*, and finalized in radically different ways by the *Acharonim* and contemporary rabbinic authorities. In many circles, it is generally held to be forbidden except under pressing circumstances. Yet, it is so rarely discussed in the open that only a tiny percentage of orthodox Jews are familiar with the background and the primary opinions of this important issue.

There is no explicit Biblical prohibition of contraception. Some associated the practice with the evils of society in the days of Noah before the Flood. More explicitly, the Talmud (*Yavamos* 34b) described it as the sin of Onan, the second son of Yehuda. His brief story is found in *Bereshis* 38:4-10. Asked by his father to marry the wife of his dead brother Er in order to carry on Er's name by fathering his wife's children, Onan understood that the children would not really be considered his own. He then 'ruined (his seed) on the ground' so as not to father children on behalf of his brother. The Talmud understood this as an oblique reference to a crude form of contraception commonly known as *coitus interruptus* – withdrawal of the penis prior to ejaculation during intercourse, resulting in the waste of semen. The rabbinic description for this practice is 'to thresh within and winnow outside', and the sin is that of 'spilling of seed for no purpose'. Contraception, at least as practiced by Onan, resulted in the sin of wasted seed, a sin unwritten anywhere in the Bible but traditionally known as one of the most severe transgressions a Jewish man can commit.

This was the classic and perhaps only form of contraception known in Biblical times, and rabbinic authorities judged all other forms of contraception by comparing them to it. By the time of the Mishna, however, at least one other method of contraception was in practice

among the Jews. This was known as the *moch* – a wad of cotton or wool inserted into the vagina to prevent the flow of semen to the uterus¹¹. The primary source for this method is a *Tosefta* (*Niddah* 2:4), quoted in the Talmud five times: *Yavamos* 12b and 100b, *Kesuvos* 39a, *Nidarim* 35a, and *Niddah* 45a. The quote is identical in all places in the Talmud, but significantly different in the *Tosefta*. The relevant passage is as follows:

‘Three (types of) women can (or ‘should’) engage in intercourse with (or ‘use’) a *moch* – a minor, a pregnant woman, and a nursing woman. The minor since she may become pregnant and die; the pregnant woman since her fetus may be crushed; the nursing woman since her baby may die because she may lose her milk. What is the age of a minor? It is from her 11th birthday to her 12th birthday. Before or after that she engages in intercourse normally (without a *moch*). This is the opinion of Rabbi Meir. The Sages say that they all must engage in intercourse normally (or ‘needn’t worry about needing to use a *moch*’) since they will be protected by heaven.’

The *Tosefta* quotes Rabbi Meir justifying his permissive opinion about using the *moch* since he said that a man can ‘thresh within and winnow outside’ – seemingly implying that the *moch* is no worse than *coitus interruptus*. The *Vilna Gaon* removes the insertion and makes it a separate paragraph in the name of Rabbi Eliezer because it is not found in any of the Talmudic quotes of the *Tosefta*. For the purposes of this article, we will be following the text of the *Vilna Gaon* to the *Tosefta*.

The *Vilna Gaon*’s change to the *Tosefta* follows a debate found on *Yavamos* 34b in which Rabbi Eliezer allows *coitus interruptus* for the first 24 months of nursing. The Sages retorted that Rabbi Eliezer’s

¹¹ Some *Rishonim* and *Acharonim* consider the possibility that the *moch* was not inserted before intercourse, but used afterwards to sponge the semen out. This possibility will play a major role in determining the *halacha* of contraception.

leniency was precisely the sin of Er and Onan, clearly implying that they disagreed with him. The Talmud then alters the Sages' retort slightly, saying the Er and Onan engaged in anal sex (for the purposes of this article, we shall refer to this method by its rabbinic phrase '*shelo k'darcha*'), while Rabbi Eliezer and the Sages refer to coitus interruptus during normal intercourse. It seems obvious that Rabbi Eliezer's opinion is more lenient than that of Rabbi Meir, being as nobody said Rabbi Meir's leniency was the identical with, or even comparable to, the sin of Er and Onan. The Sages who argue with Rabbi Eliezer could be taking either side in debate between Rabbi Meir and his opposing Sages.

In summation, we have three opinions: Rabbi Eliezer, who permitted *coitus interruptus* for nursing women; Rabbi Meir, who permitted (or recommends) a *moch* for the three exceptional cases; and the Sages who argued with Rabbi Meir and only allowed normal intercourse (or do not find it necessary to recommend a *moch*). Normative *halacha* will follow the opinion of the Sages. However, the exact position of those Sages is still anything but clear. We can understand what they meant only when we understand exactly what Rabbi Meir was saying. Was Rabbi Meir saying that the three women can use a *moch* before having intercourse, or was it only after intercourse? Furthermore, did Rabbi Meir **permit**, or **recommend** (or possibly, obligate), the use of the *moch*; and did the Sages **forbid**, or **not recommend**, its use? Much of the debate among the *Rishonim* hinges on these questions of interpretation.

Rashi

We shall begin with Rashi, who plays a pivotal role in *p'sak halacha* in this subject, and whose interpretation is subject to considerable debate among the other *Rishonim*. In *Yavamos*, Rashi writes that the three women **are permitted** to use the *moch*. In *Kesuvos* he goes further and writes that the women are not considered to be doing an

action that is like destruction of seed. The two crucial points that emerge from these brief comments are that Rashi clearly took the position that Rabbi Meir **permitted** the use of the *moch*, while the Sages **forbade** it due to some problem associated with destruction of seed. Rashi, thus, aligned the positions on the permission or prohibition of the use of the *moch* with the issue of destruction of seed.

The other *Rishonim* who analyzed Rashi's comments asked a surprisingly large number of questions on them, considering how brief and innocuous they appear at first. The following list summarizes these questions, including whether or not they are resolved by those *Rishonim*:

- 1) Why should women have any prohibition associated with destruction of seed if they do not have the mitzvah of procreation?¹² (answered)
- 2) Why should intercourse with a woman using a *moch* be any more problematic than intercourse with a woman who is naturally infertile (too young, too old, barren, pregnant)?¹³ (answered)
- 3) Why should destruction of seed apply to an underage girl if she is not capable of bearing children even without a *moch*? Can the prohibition of destruction of seed be violated if the seed would have gone to waste anyway?¹⁴ (unanswered)
- 4) If there truly is a problem related to destruction of seed, then why does Rabbi Meir disregard the problem in the cases of the three women? Would it not be more prudent to simply say that they cannot engage in intercourse?¹⁵ (unanswered)

¹² Ritva, Tosefos on Yavamos 12b; Ramban, Ritva, Tosefos HaRosh on Kesuvos 39a

¹³ Ritva, Tosefos HaRosh on Yavamos 12b; Ritva, Tosefos on Kesuvos 39a.

¹⁴ Rashba, Ritva on Yavamos 12b; Ritva, Ramban on Kesuvos 39a.

¹⁵ Tosefos HaRosh (Yavamos 12b).

- 5) Why should the Sages disallow the use of a *moch* and instead say that the woman should rely of heavenly assistance? Shouldn't danger to life set aside the prohibition of destruction of seed?¹⁶ (unanswered)

Ramban and *Ritva* answered the first question by the nuance that women, despite having no positive commandment to procreate, have a prohibition against destroying the seed of a man. They base this on the equal guilt of both sexes in this crime in the generation before the Flood. The second question is answered by differentiating between the *moch* and intercourse with the infertile woman – the latter being normal intercourse while the former has an unnatural barrier. This results in forbidden destruction of seed for either the woman or the man, or both, depending on which *Rishon* is answering the question and how that answer is to be understood. If the violation is on the part of the man it is because he is considered to have spilled his seed onto 'wood and stones' – similar to Onan spilling his seed onto the ground. If the violation is on the part of the woman, she would have played a part in destroying his seed either by placing the barrier inside her prior to intercourse, or by actively removing the still-viable seed after intercourse. Both could constitute violations of a woman's prohibition against destroying a man's seed.

Various *Acharonim* answered the third question, explaining Rashi's position that even though the girl is too young to conceive, the violation of destruction of seed still applies if she uses the *moch* to prevent pregnancy. The violation is not contingent upon the *moch* preventing what would otherwise have been a potential pregnancy. The *moch* causes an unnatural barrier to the seed, thus causing destruction of seed regardless of the seed's potential to impregnate.

¹⁶ *Ritva* (*Yavamos* 12a, *Kesuvos* 39a).

It is the fourth question that goes virtually unnoticed and unanswered by both the *Rishonim* and the *Acharonim*. Perhaps this is because this question was asked only by the *Tosefos HaRosh* on *Yavamos*, a work that might not have been widely available. The answer to his question is contained in the way he frames the question:

‘It could not be that these (the three) women are permitted and all other women are forbidden. For if placing a *moch* before intercourse is like spilling seed on wood and stones, and since destruction of seed is like bringing a flood to the world, it would never make sense to permit these women because of **the pleasure of marital relations**. It would be better to refrain from sexual relations altogether.’

The obvious grounds for permitting the *moch* are the ‘pleasure of marital relations’. It would seem that Rashi must have held that this alone is justification for spilling seed. It follows from this that Rashi’s understanding of ‘destruction of seed’ associated with the *moch* cannot be identical with the sin of Onan (spilling seed on the ground). Onan’s sin was deliberate destruction of seed. Rashi understood the *moch* as a situation in which the intention of the man and the woman is for pleasure of marital relations¹⁷. Perhaps this is why the *Rishonim*, including Rashi, always describe the violation with the Hebrew prefix for ‘like’ or ‘similar to’. It is not the full prohibition of destruction of seed, it merely bears a resemblance to it.

The *Rishonim* do not answer the fifth question but many *Acharonim* do. They explain the position of the Sages that the three cases

¹⁷ Rav Moshe Feinstein (*Even Haezer*1:63:2,3) asked this question on Rashi independently of the *Tosafos HaRosh* and answered it along these lines. It is interesting that Rav Moshe, in his further analysis of this idea, used it to support the position of various *Rishonim*, including *Rosh*, in their permissive stance on intercourse *shelo k’darcha*. One could question why *Rosh* would ask this question on Rashi, apparently not being aware of this fundamental idea, and then use the idea to permit intercourse *shelo k’darcha*. Perhaps *Rosh* held that the idea was not applicable for Rashi, being as Rashi acknowledges the inherent problem in using the *moch* for a situation without any risk to the woman. If there is a problem of wasting seed when there is no risk, that problem should persist even when there is a risk.

specified by Rabbi Meir are all borderline situations of danger. Only Rabbi Meir felt that the risk was great enough that a violation of what would have otherwise been something akin to destruction of seed could be set aside. The Sages, on the other hand, felt that the risk is minimal and there was no justification to violate the prohibition. According to the Sages, these were not a real cases of danger to life at all. This answer is the key step in many *Acharonim* permitting the use of a *moch* for cases in which the woman faces a genuine danger if she were to become pregnant.

Summing up Rashi's position: The use of a *moch* is closer to destruction of seed than intercourse with an infertile woman, but is still not as severe as the sin of Onan. This violation may come about with a *moch* in place during intercourse, in which case either the man or the woman, or both, may be guilty. It may also come about with a *moch* used after intercourse, in which case only the woman is guilty.

Rabbenu Tam

Owing to all of the questions on the position of Rashi, an alternative approach was needed. Rabbenu Tam, the grandson of Rashi, is generally considered the originator of the second approach¹⁸, and was followed by almost all the *Rishonim* who commented on this *sugya*. The core of his position is to assume that Rabbi Meir, rather than **permitting** the three women to use the *moch*, actually **recommends** or **requires** that they use it. The Sages, in response, did not have such a recommendation or requirement, but neither side forbade the use of the *moch*. The only open-ended issue in the position of Rabbenu Tam is whether the *moch* is inserted before or after intercourse.

¹⁸ In fact, the identical position was taken by Rav Hai Gaon, who predated Rabbenu Tam by some 100 years. In all likelihood, the other *Rishonim*, who attribute this position to Rabbenu Tam, were unaware of Rav Hai's comments on the *sugya*, which are found in the *Otzar Hageonim* on *Yavamos* 12b.

It should be pointed out that our knowledge of Rabbenu Tam's interpretations has always been second hand. His interpretations have come down to us through the writings of other *Rishonim* – either the various versions of the *Ba'alei Tosafos* or through Spanish rabbis such as the Ramban, Rashba, and Ritva. Consequently, we have different versions of what Rabbenu Tam actually held concerning the question at hand.

The commentary of *Tosafos* in both *Yavamos* and *Kesuvos*, and that of *Tosefos HaRosh* in *Yavamos*, explained Rabbenu Tam's position as applying only to the *moch* after intercourse. Insertion of the *moch* before intercourse would be forbidden by both Rabbi Meir and the Sages, since this is not considered the normal way of intercourse and it is similar to wasting seed (spilling it on wood and stones). However, the compendium popularly known as *Mordechai*¹⁹ has Rabbenu Tam asking question #2 above on Rashi and rejecting Rashi's interpretation. He limited the debate to whether or not the *moch* is recommended. No mention is made of forbidding insertion of the *moch* before intercourse.

There is another source for Rabbenu Tam that may be even more significant than the commentaries of the *Baalei Tosefos*. This is the *Sefer Hayashar*, traditionally attributed to Rabbenu Tam himself. Unfortunately, we no longer have the original work and must rely on editions derived from manuscripts that were likely not written by Rabbenu Tam²⁰. In any case this is what the *Sefer Hayashar* (Section 165 on *Niddah 45a*) said about our issue (phrases in parentheses are clarification from the authors of this article):

¹⁹ This was written by Mordechai ben Hillel Ashkenazi, a contemporary of Rabbenu Asher, the author of the compendium known as *Rosh*. Both were written around the end of the 13th century.

²⁰ The online Jewish Encyclopedia (JewishEncyclopedia.com), under its entry of Jacob ben Meir Tam (Rabbenu Tam) writes that the critical edition that we have available is actually the work of a student and relative of Rabbenu Tam who was working with the now-lost manuscripts of Rabbenu Tam's original work. The article says that the student worked with 'great literary precision and faithfulness'.

Three women use the *moch*. The explanation is that they should (or must) use the *moch* because of the danger, as the Talmud explains. The explanation that they (the three women) are permitted to use the *moch* is impossible, since this permission actually applies to all women (not just the three), since women are not commanded concerning procreation as found at the end of *Haba al Yavimto*. To explain (the prohibition) as applying to the husband, who is commanded on procreation also is impossible. Firstly, because the words do not support such an explanation (the focus is on the female and not the male). Secondly, the law must apply even if the man has already fulfilled the commandment of procreation. And (to explain the prohibition as referring to) *bitul shichvat zera* (presumably the woman causing the seed to go to waste) for all other women, is not forbidden, as we said at the beginning of our chapter. (The manuscript editor suggests that this should say the beginning of our *mesechta*, a reference to a brief passage found on *Niddah* 3a that brings up an unrelated problem that springs out of the situation of women using the *moch*. The passage indicates that all women are permitted to use the *moch*.)²¹

Though brief, there is a good deal to be gleaned from here. It seems that the Sefer Hayashar divided the two possible situations of the *moch*, one before intercourse and one after, into their ramifications for the man and the woman. The pre-intercourse problem is relevant for the man, but even for the man it only applies if he has not fulfilled his mitzvah of procreation. After fulfilling that mitzvah, the problem no longer exists. In other words, the problem of ‘spilling seed on wood and stones’ associated with intercourse with a *moch*, is really an issue of deliberately sabotaging procreation. As far as the woman is concerned, the only relevant situation is with a *moch* used after intercourse, and to that Rabbenu Tam proved from *Niddah* 3a that there is no problem.

²¹ Sefer Hayashar (Schlessinger edition, 1974) Section 166, on *Niddah* 45a.

In summation, Rabbenu Tam certainly held that there is no debate between Rabbi Meir and the Sages about whether or not a *moch* is permitted. The *moch* before intercourse may be prohibited, though the problem may be related to spilled seed or it may be merely a delay of procreation. Then again, there may be no problem with a *moch* before intercourse at all. After intercourse, there is certainly no problem at all, for either the man or the woman, according to both Rabbi Meir and the Sages.

Rambam

The most noticeable feature of the Rambam's view of the *moch* issue is that he did not mention it at all in the entire *Mishna Torah*. He explicitly forbade spilling seed, though it is not clear what the nature of the prohibition is²². One looks in vain for a problem associated with the *moch*. The simplest explanation for this glaring omission is that Rambam agreed with Rabbenu Tam that there is no prohibition whatsoever, only a recommendation by Rabbi Meir to use the *moch* under certain situations. The Sages disagreed, so there is nothing to write.

However, the situation is a little more complicated than that. First, Rambam does write that one of the implications of the prohibition of spilled seed is that a man should not marry a minor who is not capable of bearing children. In paragraph 26 of the same chapter, he wrote that a man should not marry any other infertile woman. Complicating matters, he wrote elsewhere (*Hilchos Ishus* 15:7) that a man should not marry a woman incapable of bearing children unless he has already fulfilled the mitzvah of procreation or has another wife through whom he could fulfill the mitzvah. At first glance, there seems to be a blatant contradiction – if marrying an infertile woman

²²*Hilchos Issurei Biyah* 21:18

is a violation of spilled seed, how could it be permitted under a situation in which procreation is not an issue.

There is a simple answer to this question. As was mentioned above in the discussion about the *Sefer Hayashar* - some ramifications of spilling seed may really be side problems associated with delaying the mitzvah of procreation. Marrying an infertile woman may indeed be a problem that is related to spilled seed, but only if the man involved has not fulfilled his obligation of procreation. Under those circumstances, he would be shirking his responsibility and wasting his procreative potential. If he has already fulfilled the mitzvah, he can no longer be held guilty of delay, so he is permitted to marry her.

A second solution relies on another *halacha* of Rambam²³ stating that although a man could do whatever sexual activities he desires with his wife, ‘*middas chasidus*’ suggests that he should refrain from anything that veers from what is natural since ‘this matter is only for procreation’. Perhaps Rambam considers all intercourse that cannot result in procreation to be somewhat problematic – a version of spilling seed for those who conduct themselves according to ‘*middas chasidus*’.²⁴ Thus, intercourse with a woman incapable of bearing children may be permitted if procreation is not an issue, but it is still not *middas chasidus*.

Rosh

Rabbenu Asher, better known by his acronym, *Rosh*, is probably the most difficult of the *Rishonim* to clarify with certainty. His primary work in *halacha*, classically known as simply ‘the *Rosh*’, merely copied the original *Tosefta* as it is written in the Talmud. However, he also wrote the *Tosefos HaRosh*, a version of the analyses of the *Ba’alei*

²³ *Hilchos Isurei Biyah* 21:9

²⁴ See *Birchei Yosef*, *Even Haezer* 23:1, who gives this as his final answer to the contradiction in Rambam.

Tosefos, and extensive *responsa*. In these writings, we find considerable discussion of our subject and much that appears contradictory.

In the *Tosefos HaRosh* we find him explaining Rashi, Rabbenu Tam, and perhaps giving his own explanation of the *sugya*. In *Yavamos*, he clearly sided with Rabbenu Tam over Rashi, and equally clearly stated that Rabbenu Tam prohibited the use of the *moch* before intercourse. He rejected Rashi for the reason of question #3 above. Similarly, in explaining the passage alluded to by the *Sefer Hayashar* in *Niddah*, he wrote that the *moch* cannot be used before intercourse since even Rabbi Meir would forbid it because it is ‘like spilling seed on wood and stones’. However, in *Kesuvos* (in answering question #1 above), he proved from *Niddah* (most likely the passage on page 3a) that the *moch* was used before intercourse.²⁵

However, there are three places in which he indicated that the *moch* was used before intercourse. In his glosses to tractate *Nedarim*, in explaining the *moch* debate along the lines of Rabbenu Tam (recommending or not recommending its use, rather than forbidding or permitting), he wrote that the function of the *moch* is to ‘absorb the seed’ – suggesting that it was inserted before intercourse²⁶. In his single *responsum* dealing with contraception he addressed the problem of a women with a blockage that invariably caused a situation of ‘threshing within and winnowing outside’. In other words, the

²⁵ The actual text of *Tosefos HaRosh* states that the proof of a pre-intercourse *moch* is found in the first *sugya* of chapter ‘*Kol Hayad*’ – the second chapter in *Niddah*, a section that is peripherally related to contraception but does not discuss the *moch* at all. It is difficult, if not impossible to see how he might have found a proof from here. Rav Moshe Feinstein, in a long responsum on contraception (*Even Haezer* 1:63) wrote that *Tosefos HaRosh* brought the proof from the ‘beginning of *Niddah*’. None of the published texts of *Tosefos HaRosh*, nor the version found in the *Shita Mikubetztes*, has these words. Nevertheless, a similar statement found in the second version of the compendium of Mordechai ben Hillel on *Yavamos* 12 has this proof coming from the beginning of *Niddah*, like Rav Moshe. Both *Rosh* and *Mordechai* studied under Rabbi Meir of Rothenberg, indicating the likelihood that they derived the proof from the same source.

²⁶ These words can also be interpreted as referring to a post-intercourse *moch*. However, the *Yam Shel Shlomo*, a long and highly influential commentary on many tractates by the 16th century Rabbi Shlomo Luria, wrote (*Yavamos* 1:8) that *Rosh* meant the pre-intercourse *moch*.

anatomy of the woman forced the man to do *coitus interruptus*. *Rosh* forbade intercourse under these unusual circumstances, stating that ‘it is worse than the use of the *moch* since there he engages in normal intercourse even though the seed will go to waste, as in case of intercourse with a barren or older woman, or a minor’. While it is possible to interpret this as referring to a post-intercourse *moch*, the contrast of *moch* to a case involving *coitus interruptus* makes the pre-intercourse situation more likely.

The third indication comes from a case that does not involve contraception at all. Earlier, we referred to a statement on *Yavamos* 34b that the sin of Onan was that of engaging in intercourse *shelo k’darcha*. Both *Tosefos* and *Tosefos HaRosh* asked why this should be a problem at all, being as the Talmud elsewhere (*Nedarim* 20b) permitted a man to engage in any desired sexual activity with his wife, including *shelo k’darcha*, and both gave two answers. First, they suggested that the situation in *Nidarim* involves no spilled seed and thus was not the sinful act of Onan. Second, they suggested that even if seed is spilled it is permitted if done only occasionally and with no intention to spill seed²⁷. While the standard printings of the *halachos* of *Rosh* do not include any of this, the *Beis Yosef* (*Even Haezer* 25) wrote that *Rosh* considered the second answer to be the main one. What comes out of all this is that *Rosh* permitted ‘spilling seed’ if there was no intention to ‘waste seed’. The same would apply, presumably, in

²⁷The *Piskei HaRid* (*Yavamos* 12b) used this same rationale to explain the basis of using the *moch*. He questioned how such a blatant example of wasting seed was ever permitted. He answered that if the intention of the man is not specifically to avoid conceiving a child, but out of concern of danger to the woman or strictly to fulfill his own needs of pleasure, the *moch* is permitted. Rav Moshe Feinstein (*Even Haezer* 1:63:3) elaborated: when the spilling of the seed is done with intention of enjoyment of marital relations, it is not considered ‘wasted’, and is permitted. Of course, one could ask on this if *coitus interruptus* would also be permitted with this intention. Such a conclusion would seem to go against the nature of the sin of Onan and make the entire example irrelevant. Perhaps we must conclude that *coitus interruptus* is inherently an act of intentional seed destruction since the wasting of the seed comes not as a direct consequence of intercourse but as an unnecessary side action. Seed destruction with the *moch* comes as an inherent part of the intercourse.

the case of the *moch* before intercourse, if the intention was strictly for enjoyment of marital relations.

In summation, the various sources found in *Rosh* reveal three different possibilities for the *moch*: Rabbi Meir permitting it before intercourse (like Rashi); both Rabbi Meir and the Sages permitting after intercourse but not before (like Rabbenu Tam); and both Rabbi Meir and the Sages permitting before intercourse. Perhaps the resolution of this inconsistency is that he was explaining three different positions on the *moch* question in the different places. In *Kesuvos*, he was explaining Rashi, and justified Rashi's position based on the passage in *Niddah*. In *Niddah* and *Yavamos* 12b, he was questioning Rashi and supporting Rabbenu Tam, and explained the passage in *Niddah* following the position of Rabbenu Tam²⁸. In *Nidarim*, his responsum, and in *Yavamos* 34b, he was writing according to his own position - that the *moch* is permitted before intercourse²⁹.

In summation of the *Rishonim*, the situation is far from clear. Both Rambam and *Rosh* could be permitting the *moch* under all circumstances, but this can only be a tentative conclusion. Rambam ultimately does not discuss the issue, while *Rosh* is both contradictory and vague. Rashi certainly forbids the *moch*, though it could be either before or after intercourse, or both. Rabbenu Tam is as vague as the others, with permission to use the *moch* after intercourse the only definite conclusion. The Shuchan Aruch follows Rambam in not mentioning anything about the *moch*³⁰. The prohibition of spilling seed is described there as 'the gravest prohibition in the Torah',

²⁸ In section 6 of that same responsum, Rav Moshe Feinstein went so far as to change the text of the *Tosefos HaRosh* in *Niddah* because of the contradiction to his commentary to *Kesuvos*. In light of the same contradiction to the *Tosefos HaRosh* commentary to *Yavamos* 12b, and the resolution suggested here, this textual alternation seems both unnecessary and incomplete.

²⁹ This is how the *Yam Shel Shlomo* understood *Rosh*.

³⁰ *Even HaEzer*, 23:1

following the severe warnings given in the Zohar³¹. Despite this, there is no prohibition concerning the *moch* – a strong indication that the *moch* poses no problems in *halacha*. But again, like Rambam, the clear, definitive statement permitting the *moch* is not to be found.

The *Acharonim*

The *Yam Shel Shlomo* (*Yavamos* 1:8) and *Radvaḥ* (3:596) are the earliest of the *Acharonim* to make clear rulings on the *moch*. The *Yam Shel Shlomo* combined the positions of Rashi and Rabbenu Tam to produce a surprisingly lenient *p'sak*. Taking Rashi's position that the *moch* is inserted before intercourse, and Rabbenu Tam's position that the entire debate was whether the *moch* was recommended or not, but that nobody forbade it, he permitted the pre-intercourse *moch*. He then quotes the brief comment of *Rosh* in *Nedarim* to back up his lenient ruling. *Radvaḥ* took the opposite approach – assuming the most stringent position possible in both Rashi and Rabbenu Tam. He ultimately forbade the use of the *moch* unless the woman is afraid that she will not merit the divine protection the Sages rely on and fears she is risking life by not using it.

Towards the end of the 18th century the question of permission to use the *moch* under conditions of potential danger became increasingly common. There are dozens of *responsa* examining precisely this question. All the *responsa* attempted to answer the question based on the positions of the various *Rishonim*, both those listed in this article and a few others. Generally, the positions of Rashi and Rabbenu Tam carry the most weight, with the 'missing' ruling of Rambam and the *Shluchan Aruch* getting largely ignored.

There are essentially two schools of thought among the *responsa* – those who forbid and those who permit. They all appear to be

³¹ I: *Vayeshev* 188a, *Vayechi* 219b

addressing a similar question: whether a woman for whom pregnancy is a risk can use a *moch*, either before or after intercourse. Those who permit almost invariably only allowed the *moch* in the case addressed – a woman for whom pregnancy is dangerous. It is not unusual that they spelled out the grounds of their leniency in a manner that would permit the *moch* under all circumstances, but are clearly reluctant to go as far as the *Yam Shel Shlomo*. The *Chazon Ish* (*Even Haezer* 37) referred to the *Yam Shel Shlomo* as one who ‘speaks with *ruach hakodesh*’ in building up his case to permit the *moch*, but in the final line of his *responsum*, he permitted the *moch* only in case of danger.

Rabbi Akiva Eiger (1:71,72) heads the list of those who forbid. He hardly discussed the *moch* before intercourse, claiming that no *Rishon* explicitly permitted it, and that Rabbenu Tam clearly forbade it. The relevant issue was using the *moch* after intercourse. Initially, he concluded that this also is forbidden, but relaxed that ruling slightly in the following *responsum*. Many of those who re-examined this question after Rabbi Akiva Eiger, were not satisfied with his reasoning. Specifically, they did not agree with his claim that no *Rishonim* explicitly permitted the use of the *moch*. Furthermore, some claimed that he was unaware of the earlier ruling of the *Yam Shel Shlomo*, and would not have ruled so stringently had he known of it. Finally, both Rav Moshe Feinstein and the *Chazon Ish* make the somewhat surprising claim that he was not really dealing with a case of severe danger, just a mild risk. Otherwise, they claimed, he would never have ruled so strictly. The *Pischei T’shuva* (*Even Haezer* 23:2), the highly influential brief review of relevant issues of *halacha* printed underneath the text of the Shulchan Aruch, understood Rabbi Eiger as dealing with a standard case of a woman for whom pregnancy is a risk.

Rav Moshe Feinstein wrote literally dozens of *responsa* dealing with contraception. His earliest *responsum* (*Even Haezer* 1:63), written in the year 1935 while he still lived in Europe, is quite long and involved

and covers almost all aspects of the issue as it stood at the time, taking into account many of the opinions of the *Rishonim*. All his subsequent *responsa* on the subject are based on this first one. His fundamental assumption is that the ‘three women’ case in the Talmud has only a minimal risk to the woman and this is why only Rabbi Meir permitted the use of the *moch* (according to Rashi’s interpretation). Rav Moshe himself was addressing a situation of a genuine danger to the woman. He defines the key phrase ‘wasted seed’ – the condition required for forbidding the *moch*, as a situation in which the seed was **unnecessarily** spilled. In the case of genuine danger, he asserted, it is necessary to spill the seed to avoid a pregnancy. Enjoyment of marital relations is justification enough for use of the *moch* since not using it is too great a risk. Therefore, even the Sages would agree with Rabbi Meir in permitting its use³².

In a *responsum* written in 1936 (*Even Haezer* 4:70), he took this conclusion one step further. The question at hand concerned a woman who did not want a large family and had no desire for further pregnancies. There was no issue of risk. Could she use a *moch* during relations on this basis alone? This is classic birth control in the sense of ‘Planned Parenthood’, i.e. one who simply does not want more children. Rav Moshe answered that if the husband does not want to divorce his wife, marital relations are permitted even with a pre-intercourse *moch*. He based this on the *Rishonim* who permitted intercourse *shelo k’darcha* even if it entails spilling seed, which he had explained in his earlier *responsum* (*Even Haezer* 1:163) as not ‘wasted’ if the intention was for pleasure of marital relations. Similarly, Rav

³²In a later *responsum* (*Even Haezer* 1:64) written in 1958, Rav Moshe seems to reject precisely this position – that the Sages would concur in a case of clear danger. It is difficult to resolve the two *responsa*. It is equally difficult to conclude that he retracted from his position of the earlier *responsum*, since he referred to it many times in later *responsa*. Possibly, in the 1958 *responsum*, he wanted to stress the need to be cautious in issuing lenient rulings on the issue of contraception in light of changing social conditions. This is born out by the final sentences of that *responsum* in which he emphasizes the need for much investigation into the exact situation at hand, that the rabbi be an expert in the subject, and that any permissive ruling be for a limited time. He also writes that he himself rarely permitted contraception.

Moshe wrote, the *moch* may be used, even in a situation of no danger to the woman, if the husband's intention is strictly for his own marital pleasure and not to prevent pregnancy³³. Interestingly, he ends this *responsum* with the cautionary note to avoid publicizing this leniency, and only inform those who are modest in these matters and will understand that this is not a general leniency but a desperate remedy for those who cannot convince their wives otherwise.

In summation, the *Acharonim* are sharply divided about the use of the *moch* even in potentially risky situations. The most recent *poskim*, including Rav Moshe and the *Chazon Ish* permitted the *moch* if there was a genuine danger to the woman. Rav Moshe went even further and somewhat reluctantly permitted the *moch* for a woman who was adamantly against more children and the husband had no other option other than divorce. However, the weight of the *Pischei T'shuva* as a '*posek acharon*' on relevant questions that were related to laws in the Shulchan Aruch, put an automatic question mark on any lenient ruling in the case of the *moch*.

Modern Methods of Contraception

Modern technology has pushed us light years beyond the days of the primitive *moch*. Up until a little over 100 years ago, the *moch* was a cotton or wool cloth that was very likely visible and certainly detectable by touch. It was a palpable sperm barrier, fitting quite snugly into the phrase 'like placing seed on wood and stone'. Since then, new methods of contraception include non-detectable physical barriers, chemical barriers, and ovulation regulators. These methods

³³At first glance this conclusion seems unwarranted. Isn't the case in question the perfect example of using a *moch* to avoid pregnancy and not merely for the pleasure of marital relations? If this is not forbidden, then what is? The truth is, the same question could be asked on the *Piskei HaRid*, the original source for this idea. The answer must be that the question of 'wasted' seed, when a pre-intercourse *moch* is inserted, is entirely contingent on the intention of the man. The woman may have intention to 'waste' seed, but she is not the active party in the action. Only the husband can truly 'waste' seed during intercourse.

have considerably changed the playing field of contraception, and require a new assessment of *halacha* in terms of the old rules applying to the new options.

The diaphragm is the modern method most closely resembling the *moch*. In fact, many modern *poskim*, including Rav Moshe Feinstein, regarded it as identical to the *moch*³⁴. Both are essentially physical barriers preventing the passage of sperm into the uterus, so both should be identical in *halacha*. The only argument against this lies in the fact that the diaphragm is not detectable during intercourse and therefore there is no interference of contact between the man and the woman³⁵. Consequently, sexual pleasure is not diminished at all. If the criteria for ‘placing seed on wood and stones’ is a detectable physical blockage between the man and woman then the diaphragm should be permitted when there is a risk in pregnancy. If the criteria is the creation of a sperm barrier, it should have the same status as the *moch*.

A more extreme example of the *moch* is the condom. If anything, it is closer to the sin of Onan than the *moch*, which at least had the possibility of being comparable to intercourse with a barren woman since the seed actually enters the woman. This is certainly not the case with the condom. The virtually universal consensus is to forbid it for any reason. There are two notable exceptions. Rav Chaim Ozer Grodzenski (*Achiezer* 3:24:5) suggested that under a situation of risk in which the man has already fulfilled his mitzvah of procreation, the condom may be permitted since the prohibition of wasted seed may then only be rabbinic. Rav Moshe Feinstein (*Even Haezer* 1:63:7) gave the barest of hints that in a situation in which the woman is afraid to use the *moch*, the man may be permitted to use a condom. His basis

³⁴ In a responsum written in 1979 (*Even Haezer* 4:79) he considered the diaphragm the modern equivalent of the *moch*.

³⁵ *Nishmas* Avraham (3:5:13:2) quotes Rav Shlomo Zalman Auerbach permitting the use of the diaphragm in a case of danger, even according to those who forbid the *moch*.

for this was the same as that used to permit spilled seed in intercourse *shelo k'darcha* – that the man's intention of enjoying marital relations and to spare his wife anxiety over a risky pregnancy, makes the spilled seed not 'wasted'. It must be stressed that these latter two opinions were only given under unique situations of risk and even then only with great reservation. They were not intended to hint at a *heter* of the condom for everyday circumstances.

The third method is a chemical sperm inhibitor called spermicide. These create a barrier of sorts for the sperm, but without the physical blockage of the *moch*. Because of this, many modern *poskim* are considerably more lenient with spermicides than they are with the *moch*. In a *responsum* from 1960 (*Even Haezer* 4:74:4), Rav Moshe permitted a woman who was excessively weak after delivering two babies within 12 months to use spermicide, even though he forbade her the use of a diaphragm. In a *responsum* written in 1965 (*Even Haezer* 3:21), he wrote that spermicide is preferable to a diaphragm in a case where pregnancy is a risk. On the other hand, Rav Shlomo Zalman Auerbach³⁶ favored the diaphragm over spermicide, because the latter creates an unnatural medium for the sperm.

The most common method of artificial contraception in the developed world is the 'pill'. Developed during the 1950's, it prevents pregnancy through ingestion of hormones that naturally inhibit ovulation³⁷. Recently, variations of the pill have been created that are not pills at all but do the same thing. One popular variation releases hormones via a ring placed near the uterus. For our purposes, we shall refer to all ovulation inhibitors by the common name 'the pill'. The pill gained great popularity during the 1960's, which it never really lost. Since there is no barrier to the sperm, this method

³⁶ *ibid*

³⁷ A more recent variation of the pill uses a hormone that, in addition to inhibiting ovulation, creates a sticky mucus in the cervix that restricts the flow of the sperm. *Nishmas Avraham* (3:13:2:3) records Rav Shlomo Zalman Auerbach's opinion that in terms of *halacha* the two types are equal.

obviously suffers from none of the problems with the *moch*. There is fairly universal agreement that there is no issue whatsoever of ‘wasted seed’.

Rav Moshe wrote many *responsa* dealing with the pill, and the evolution of his thought on it is a fascinating study. His earliest *responsum* (*Even Haezer* 4:74:2) is from 1960, shortly after the pill was approved by the FDA. At that point, he wrote that if there is no danger in taking them and if they do not cause bleeding, they are permitted for financial reasons if the man has fulfilled his mitzvah of procreation. If he has not fulfilled procreation, the woman can take them if she feels weak. In his next *responsum* (*Even Haezer* 1:65), written in 1961, he expressed reservation about the possibility of bleeding resulting from the pill and weighed against taking it. In 1962 (*Even Haezer* 2:17), he was more emphatic about the problem of bleeding and mentioned an additional concern about side effects from the pill. In an undated *responsum* that is likely from around 1965, he put time limits on the *heter* to use the pill. If procreation is still an issue, the *heter* is for a ‘short time’; if it isn’t, the *heter* is for three years. However, he reiterates the bleeding problem as a concern under all situations.

In 1972, Rav Moshe wrote a fascinating criticism of the pill. In a short *responsum* (*Even Haezer* 4:72) dealing with what appears to be the question of simply using the pill for family planning with no pregnancy risk, he wrote that although there is no problem of wasted seed, it is like ‘*mitchachem negged ratzon Hashem*’ – like outsmarting the will of G-d. What did he mean by this curious statement? Why had he never expressed this in earlier *responsa*? Does this idea apply to any form of technology that offsets the natural course of things? How does the pill go against the ‘will of Hashem’ if Rav Moshe himself stated that there is no obligation to procreate endlessly, just to retain the ability to do so? Furthermore, what about the ‘rhythm method’ – is that also an example of outsmarting G-d?

Perhaps this surprising negative opinion about the pill can only be understood in light of the changing conditions of the times. Rav Moshe's earlier rulings on the pill dealt exclusively with its implications in terms of *halacha*. However, in the 12 years since his first *responsum* on the issue, much had happened in society. The pill, more than any other previous medicinal advance, had reshaped the western world. Birth control was now available to all with no major risks, it was relatively inexpensive, and entailed no great need for self-control. There is no question that a new attitude had been created in the western world concerning sex and reproduction and it must have affected the Jews. Rav Moshe may have been expressing his personal misgivings about the problematic potential of the pill – a quick and painless route to sexual pleasure with no responsibility, and a threat to the innate drive to build a Jewish family. It may not be the 'will of Hashem' to have as many children as possible, but it certainly was G-d's will for every Jew to contribute to the continuation of the Jewish people. The pill, more than any previous factor, stood in potential opposition to that goal. Hence, Rav Moshe's unusual revelation of his personal opinion.

Despite its lack of genuine problems in *halacha*, the pill has never been seen as a completely 'kosher' form of birth control. It is possible that the sentiments hinted at by Rav Moshe underlie the thought of many *poskim* on the issue of contraception in general. In his book *Nishmas Avraham*, Rabbi Dr. Avraham S. Avraham begins the major section on contraception (3:5:13) with the words, 'It is clear that there is no permission to use methods of contraception when the motivation is for financial reasons or for family planning.' Even when all the problems associated with wasted seed were finally eliminated, and nothing really stood in the way of unlimited contraception, rabbinic opinion remained steadfastly against any artificial method of achieving it. Possibly the rabbis sensed a threat to

Jewish continuity that went beyond the criteria of the normal restrictions of *halacha*.

The fifth method, the intrauterine device (IUD) is a small T-shaped structure permanently inserted into the uterus that causes no interference with intercourse. There are two types of IUD – copper and hormonal. The mechanism of the copper type is still the subject of debate, though the consensus seems to be that it works as a kind of spermicide. The copper damages the sperm as they move towards the uterus, rendering them unable to fertilize the egg. In addition, the copper IUD stimulates the production of a fluid that inhibits the flow of sperm towards the uterus. As a result, very few healthy sperm enter the uterus. Both of these effects would appear to be free of any problems associated with the *moch*. However, Rav Moshe wrote against the use of the IUD in 1978 (*Even Haezer* 4:68) since it could cause problems of bleeding which might render the woman a *niddah*. These problems have since been resolved. More recently, Rav Eliezer Waldenburg (*Tzitz Eliezer* 10:25:10:2) has ruled that the IUD is permissible even under situations in which there is no danger to life, just pain or poor health. A newer type of IUD, called the Levonorgestrel (LNg) IUD works by secreting a hormone that seems to damage the sperm and to create a sticky mucus that restricts their flow. In addition, it may prevent the lining of the uterus from growing thick, thus preventing successful implanting of the fertilized egg³⁸. Presumably, any qualms about ‘outsmarting the will of Hashem’ that were said about the pill, would also apply to the IUD.

One final form of contraception is the ‘rhythm’ method – avoiding intercourse during the times when the woman is ovulating. This method was likely not understood until the 1930’s when scientists first studied the ovulation cycle. It is simple to implement, though

³⁸ Because of this, some consider this type of IUD to have mechanism similar to that of abortion, and thus should be forbidden. The ongoing debate on this will resolved only when the mechanism of contraception is fully understood.

not necessarily reliable. It also obviously requires a good deal more self-control than the other methods. It goes without saying that ‘wasted seed’ is not any concern with this method. The only relevant issue of *halacha* is the man’s obligation of *onah* – to have marital relations on the night the woman goes to the *mikvah*, which frequently corresponds to the time of ovulation. As long as the man has not fulfilled his mitzvah of procreation, the requirement of *onah* stands. Once he has fulfilled that obligation, the clear *halacha* in the *Shulchan Aruch* (*Even Haezer* 76:6) is that the woman can forgive him this requirement. From then on, they are free to use the rhythm method if they have some need to do so. Rav Moshe Feinstein wrote this explicitly in a *responsum* from 1952 (*Even Haezer* 1:102) and another from 1981 (*Even Haezer* 4:32:3). The need, he wrote, could be the woman’s health, needs of other children, or even, he writes in the later *responsum*, financial pressure³⁹. He cautions in the latter case, however, that trust in Hashem should outweigh any fears that they won’t be able to support additional children.

In summation, the three final methods are essentially problem-free as far as wasted seed is concerned, but clearly are not permitted *carte blanche*. The basic objection is not one of *halacha*, but of *hashkafa*. Contraception using these three methods comes under the nebulous

³⁹Clearly, Rav Moshe did not equate the rhythm method with the pill as far as ‘outsmarting G-d’. Perhaps, he reasoned that the rhythm method, unlike the pill, required a good deal of self-control in the form of abstinence, so it was unlikely to present the same threat to Jewish continuity.

It is interesting that the very same question – the difference between the pill and the rhythm method – circulated through the highest echelons of the Catholic Church during the mid to late-60’s. The rhythm method had already been permitted and the pill was looked upon somewhat favorably up until around 1964. In 1968, after years of internal debate, Pope Paul VI finally issued a famous encyclical entitled *Humanae Vitae* (Of Human Life) forbidding the use of any ‘artificial’ method of birth control. The essential difference, according to the Pope, was between ‘natural’ and ‘artificial’ means of achieving birth control. The pill, specifically, was seen as a means of separating sex from procreation. This crucial separation, the Pope asserted, would lead to a breakdown in marriage, a disrespect for women and their childbearing role, a devaluation of raising children, and a general deterioration of social morality. Use of the ‘natural’ method, rhythm, would result in none of these dangers. It is possible, but by no mean definite, that Rav Moshe had similar arguments in mind when he expressed his misgivings about the pill.

category of things that are permitted by the letter of the law, but frowned upon by the spirit of the law. Issues of this nature tend to be rather vague and debatable, and not subject to the cut-and-dry rules of normal halacha. They are much more open to the ‘show me where it’s written in the *Shulchan Aruch*’ type of objection. How this plays out in common contemporary questions is the subject of the next section.

Three Modern Test Cases

A man and woman come to a rabbi asking about contraception, using the pill, the IUD, or the rhythm method. They are unmarried and they tell the rabbi that pre-marital sex is an integral part of their relationship. The woman uses the *mikvah* and the man has not fulfilled the mitzvah of procreation. What should the rabbi tell them?

First off, the authors of this article believe that the rabbi does not have an obligation to grant this question the courtesy of an answer. The very question is couched in a framework of ‘I want to do something I know you don’t approve of, and I want to do it in the easiest possible manner for me.’ A rabbi has no responsibility to let himself be put on the spot like this – knowingly risking his reputation and compromising Torah standards for a loaded question.

If the rabbi decides to deal with the question, and recognizes that talking them out of pre-marital sex is not in the cards, what are the guidelines? On the one hand, it is clear that permitting contraception would be permitting the man to delay procreation. It is similar to the Rambam’s prohibition of marrying a woman incapable of bearing children when he has no other wife and has not yet fulfilled procreation. On the other hand, why is this any worse than a man not getting married at all? Aren’t both examples of not actively pursuing this vital mitzvah? Is contraception any worse than abstinence? The answer, it would seem, is yes. It is clear that the Rambam viewed

sexual intercourse primarily as a means of procreation. Using it to delay procreation is a distinct problem that is worse than not procreating at all. Granted that contraception is not the cause of this misuse of sex, but it certainly facilitates it. This alone might be the basis for not permitting contraception.

On the other hand, rabbis are aware that their role does not exist in some social and spiritual vacuum. Pre-marital sex is a real issue spanning much of the Jewish world. If this is the case, why is the pre-marital case any different from a case in which the couple is already married?⁴⁰

This brings us to case two. A recently married young couple (the man has not fulfilled procreation) feels they need a certain amount of time to solidify their finances, or to establish their careers, or get to know one another. They ask a rabbi for a *heter* to use an IUD or the pill⁴¹ for one to three years. What should the rabbi's response be?

In this case, the rabbi is certainly not justified in ignoring the question. This is a very reasonable question, asked with no intention to take the easy way out or to corner the rabbi into compromising on his beliefs. After discussing the matter with them, he finds that they intend to have a reasonably large family (over 2 children) and intend to do so as soon as they feel they are in a stable enough position. The central issue is the same as the previous case – procreation is essentially being delayed, thus violating a basic tenet of the Rambam. However, in this case, the reason for delaying procreation is not simply to enjoy a sexual relationship with no commitments. It is to get started on building the foundation of a family before actually having children. It is difficult to not see the validity of the question.

⁴⁰ Rambam (*Isbus* 1:4, *Na'ara B'sulah* 2:17, *Malachim* 4:4) with the major commentaries; Shulchan Aruch *Even Haezer* 26:1 with the major commentaries and the *Otzar Haposkim*.

⁴¹ The rhythm method has the problem of missing the mandatory *onah*.

One important point should be noted in this case. Procreation is a unique mitzvah in that *Chazal* mandated an acceptable age (18) for pursuing it that is significantly later than Bar Mitzvah ⁴². Thus, inherently in the mitzvah itself is the basis for delaying until the man is ready. There may be a general assumption that a man is ready for this mitzvah around the age of 20, but that does not always have to be the case. Of course, one could ask, if the couple is not ready to have children, then why should they get married? The obvious answer to this question is that a marriage, in addition to all the benefits of a committed relationship, is itself is preparation for procreation. A couple may be better prepared for procreation if they spent some time living together without children during which they worked on their relationship and solidified their financial security, than if they started having children right away. This is the crucial point of difference between this case and the first case – in the post-marital case the sexual relationship is an important element of preparing to have children; in the pre-marital case, the one has nothing to do with the other.

Nevertheless, there is no getting around the problem of a married man conscientiously delaying the mitzvah of procreation. Because of this, most modern poskim who have dealt with this question (there are too many to list) have been hesitant to issue a clear-cut *heter*. Some forbid it altogether, while others suggest tentative periods of 6 months to a year. Almost invariably, the time period is short and never open-ended. There seems to be a consensus that the couple must get started as soon as possible with procreation, no matter how young they are.

It is difficult to avoid coming to the conclusion that the ideal of having a large family (arbitrarily defined here as more than 6 children) plays a pivotal role in modern rabbinic thinking. This has become an

⁴² Shulchan Aruch *Even Ha'ezer* 1:3

almost universal goal in the *haredi* society and much of the *dati leumi* society, and has assumed a status in which it is practically mandatory. This, of course, is not the case according to the strict letter of the law. One wonders, if this elusive goal was not in the forefront of the collective conscience of the orthodox world, would there be such a negative attitude towards this young couple's question of contraception?

This brings us to the third hypothetical case – a married couple who have at least one son and one daughter, and perhaps more, have decided that enough is enough, at least for now. Their reason may be financial, it may be personal, or may be simply to concentrate their efforts on the children they already have. There are no health issues concerning either the parents or the children. They ask a rabbi the question of contraception. What should he tell them?

Right off the bat, there is a clear *p'sak* from Rav Moshe Feinstein that the rhythm method is perfectly acceptable in *halacha*. This, however, was not what they had in mind. They want a form of contraception that imposes no further restrictions than they already have from the laws of *niddah*, meaning the pill or IUD. These two methods suffer from the nebulous problem of artificial contraception inherently contradicting the will of Hashem. It is unclear whether Rav Moshe meant this as a genuine prohibition or not. Assuming the latter, does this couple not have a right to make their own choice in *hashkafa*, regardless of the sentiments of the rabbi? If they tell him that they simply do not agree with Rav Moshe's premise, then what could be the basis for denying them a *heter*?

This question essentially boils down to whether philosophical objections to contraception in general should play a role in *halacha*. If yes, a *heter* can only be given for health reasons. This seems to be the position of the *haredi* world in general, at least from what is available in print. If not, there is no reason to not permit contraception.

Perhaps the appropriate approach for the rabbi would be to spell out the issues to the couple and let them decide for themselves. Ultimately, how many children a couple bears is a matter of personal choice since the Torah requires only fulfilling the basic mitzvah and retaining the option of continuing. He should inform them of the issues associated with ‘problem free’ contraception, and neither permit nor forbid. Personal choice need not be antithetical to *halacha*, particularly in cases in which the *halacha* itself is unclear and the matter impacts the questioner in a very personal way.

This same approach could really be employed in the second case as well, with the focus on different issues. The couple should be told about the obligations of procreation and the problem of delaying it. They should be aware of the dangers of an ‘open-ended’ period of preparation for procreation and the need to set a time limit. After that, the rabbi could leave the decision to them, with the guiding principle being sincere preparation for procreation, as opposed to avoiding responsibility.

The first case is the most difficult and potentially the most explosive. Even the discussion itself is not something the typical rabbi wants on his record. No matter how clear and confidential the discussion is, there is always a danger of misunderstanding and of it being made public. In the modern world, even discussing birth control with an unmarried couple is only a small step away from an implicit *heter* for pre-marital sex.

It is quite interesting that in none of these test cases does the matter hinge upon the original issue associated with contraception – spilling seed. The pill and the IUD both eliminated that problem and left us with the more nebulous problem of delaying procreation. While there is no denying that this is indeed something to be concerned about, it hardly rates as a severe transgression that should make contraception forbidden except under specific cases involving health risks. One gets

the feeling that the general undeniably negative attitude about contraception that exists within the orthodox world is due to something other than the rather vague problem of delaying procreation.

The Hashkafa of Contraception

It would seem reasonable that the negative attitude is based upon the *hashkafa* underlying the statement of Rabbi Yehoshua from *Yavamos* 62b quoted earlier in this article: “If a man had children when he was young, he should have children when he is old; as it says – ‘In the morning sow your seed, and in the evening do not rest your hand’ (*Koheles* 11:6). For you do not know which of the children will be better”. While it may be true that this statement ultimately imposed no *halachic* obligations on a man, there is no question that it emphatically suggests the proper attitude towards bearing children. Rambam’s interesting spin on this statement strengthens the idea: ‘since anyone who adds one Jewish soul to the world is considered as if he has built a world’. The *Tur* (*Even Haezer* 1) takes it one step further and states that procreation is the very purpose of the creation of man.

An overwhelmingly positive attitude towards bearing and raising children has always been a cornerstone of Judaism. Historically, it has rivaled such fundamentals as belief in G-d and observance of the Torah in terms of emotional importance. Modern forms of contraception represent an unprecedented threat to this long-standing tradition. Never before has there been such an option that largely complies with the letter of the law and yet misses entirely the spirit of the law. The *moch*, according to many opinions, was a grave violation of *halacha*. The rhythm method, while permitted in terms of *halacha*, was never a threat to procreation. The pill and the IUD are both largely problem-free in terms of *halacha* but stand in potential direct conflict to procreation and the *hashkafa* associated with it.

Perhaps the modern issue of contraception must be viewed as a matter of *hashkafa* instead of a matter of *halacha*. Focusing exclusively on guidelines of *halacha* inevitably creates an ‘all-or-nothing’ situation – either contraception is completely forbidden (except in situations of health risk) or it is completely permitted (once the mitzvah of procreation has been fulfilled). Through the lens of *hashkafa*, however, the matter might not be so black and white. The *hashkafa* behind the goal of raising more children than the minimum required by the mitzvah of *p’ru ur’vu* would have to be weighed against the circumstances of each couple. Factors such as their financial status, the stability of their relationship, the amount of time they can devote to children, their personal goals, their health, and the conditions and needs of their other children, could and should play a role in determining just how far any given couple should go in pursuing the *hashkafa* of bearing and raising a large family.

The authors believe that each of these factors, and perhaps others, are the real issues upon which the question of contraception should hinge. We will explore each one briefly to illustrate how they play a role in the question.

- 1) Financial status: Financial issues do not eliminate the man’s obligation of procreation, but they can play a role in determining when he is ready for this obligation and how much he should go beyond the basic minimum. While it is true that *bitachon* in Hashem may ease emotional stress associated with limited finances, it won’t necessarily pay the bills. Nor is it a solution for everybody. Some people, possibly most, simply do not have the required *bitachon* to cope with raising a large family under a situation of relative poverty. Placing the financial burden on parents or the community or the state is not a viable answer to this problem, as tempting as it may be. It is a temporary solution at best, that only puts off the day of reckoning until some inevitable future time.

- 2) Stability of the relationship: Although the physical mitzvah of procreation technically ends at birth, there is no denying that the spirit of the mitzvah continues at least until the child is ready to leave home. Thus, parental responsibility includes not only bearing the children, but raising them in the manner befitting a Jewish family. A couple with an unstable relationship can have children, but those children are as likely to suffer from the marital strife as the parents. It is common knowledge that a marriage on the rocks is a recipe for emotionally confused children. It is highly doubtful that any rabbi would not recommend contraception in the case of a troubled marriage if the man has already fulfilled procreation. A strong argument could be made that the same advice should be given to a couple that has not fulfilled the mitzvah⁴³.
- 3) Amount of time they can devote to their children: Even a couple with stable finances and a stable relationship may feel that they cannot divide their already limited time to more children than they already have. The reasons for the time limitations could be related to jobs/careers, Torah learning, dealing with the needs of other children, or community related obligations. As we all realize at some point or another, there is only so much time in the day. Raising children in a manner suitable for an orthodox lifestyle is extremely demanding and should consume a considerable amount of any parents' time. It would be somewhat ironic if the obligation of 'in the evening do not rest your hand' forced devoted parents to devote less time than they believe necessary to raise the children they already have.
- 4) Personal goals: Many people, perhaps, would take offence at the idea that personal goals could take precedence over the opportunity to bringing another Jewish child into the world.

⁴³ Rav Yehuda Henkin, in his *sefer*, *B'nei Banim*, suggests an automatic *heter* of six months for newlywed couples.

However, not everyone shares the same aspirations for what they want to accomplish in life. There are those for whom the goal of achievement in Torah learning, success in business, career advancement, community activity, or even hobbies and recreation play an important role that cannot be sacrificed for the sake of additional children beyond what is required by *halacha*. One fully committed orthodox Jew need not have the same goals as another. The dream of a large family is absolutely wonderful and usually highly fulfilling, but it is not the only goal. Those who have it cannot and should not expect others to possess identical dreams.

- 5) Health: Aside from the critical health issues that may have been grounds for permitting the *moch*, there are other, more minor health matters that may effect the decision of how many children a couple chooses to have. If the mother faces situations of physical or emotional weakness it goes without saying that *halacha* imposes no requirements on how many children she must bear for her husband. Certainly after he has fulfilled *pirya v'rivya*, the health of the woman should limit how many more children she can bear⁴⁴. The man's health, although not quite as limiting as the health of the woman, can also be a limiting factor in the number of children.
- 6) The conditions and needs of their other children: This is a frequently overlooked factor in the decision of having more children. The needs of older children have to be compromised in some manner if there are infants or toddlers to take care of. Parents may have difficulty accepting this limitation but that doesn't make it any less true. There are only 24 hours in a day and each child needs some of that from the mother and the father. If even one child has some special need, whether physical, emotional, or mental, the time limitations are

⁴⁴ The Chazon Ish was known to have permitted any form of contraception for 6 months to a year following delivery of a baby. Presumably, this *heter* could be extended longer with the less problematic forms of birth control available today.

increased geometrically. The very personal decision of how much a new child will affect the upbringing of the older children, and whether such a new time and energy allotment is truly fair to them, is not one that should be taken lightly.

These, and other factors, should be ultimate determinants in the question of ‘having another one’. Parents should be aware that, the question is not really one of *halacha* per se (assuming the man has fulfilled procreation), but of weighing out the *hashkafa* of raising a large family versus their personal capabilities. On the other hand, they should realize that the role of a rabbi, or other spiritual advisor, is not diminished by removing the decision from the confines of *halacha*. On the contrary, this is the true role of a rabbi – helping and advising people through those nebulous times and decisions when there is no black and white answer.

Recent history of the orthodox communities in North America reveals an abrupt change in the outlook regarding large families. Up until the early to mid-70’s, a large family had about 6 children⁴⁵. A rather subtle, and rapid change took place around that time that was a consequence of the religious shift to the ‘right’ – getting *frummer*. What was once an accepted norm, families of 2 to 6 children, gradually became viewed as less religious or and less satisfactory on a personal level. Perhaps this trend was strictly due to religious reasons. Perhaps financial prosperity played a role. Whatever the cause, over the next two decades, the norm among the *yeshivish* and *chasidish* became 8 to 10, with higher numbers

⁴⁵ The authors heard from a prominent American rabbi, whose career dates back to the 1940’s, that during the middle decades of the 20th century, it was routine for women to view any more than 2 or 3 children as beyond their capabilities. Permission was frequently given to use contraception. The rabbi believes that this was because the personal attitudes of the women were shaped by society as a whole, which, of course, saw more than 3 children as a little excessive. Since the mid-70’s he believes that the attitude of orthodox women changed radically in terms of how many children they were capable of raising. This occurred in spite of the trend of increasingly smaller families in society as a whole.

hardly raising an eyebrow. Paralleling this trend, the question of contraception faded into the background to the point that in many circles it became almost beyond the pale of acceptable discussion . Parents with smaller families were seen as ‘*nebuch*s’, and considered themselves unfortunate or cheated.

We can see the results of this trend today. On the one hand, we see the old communities bursting at the seams – schools overflowing, shuls on every block, Jewish institutions dotting the landscape. New communities have sprung up by the dozens. Built on the prototype of Lakewood and Brooklyn, they also grow at remarkable rates that could only be called successful. On the other hand, these same communities have witnessed the accompanying growth of social problems – higher divorce rates, the rapidly expanding matter of ‘at-risk’ kids, and parents who simply cannot cope with the financial and emotional stress of taking on too much. It is difficult, if not impossible, to know to what extent these problems are due to an out of control rate of reproduction. By the same token, it is somewhat naïve to pretend that the size of families is not a contributing factor in these problems.

In summation, the issue of contraception is unusual in Torah law in that scientific and technological advances have shifted the core question from one of *halacha* to one of *hashkafa*. This does not simplify the matter – on the contrary, it complicates it by the more nebulous factors of what Torah really expects from us, and weighing that against our individual capabilities. There may be other factors that have not been considered in this article on both sides. Among them could be the enormous change the Holocaust made in Jewish population and the responsibility of succeeding generations to replace those losses. Each couple may have their own unique situation that adds further variables in this already

complicated equation⁴⁶. The number of children a couple decides to raise and the way they choose to raise them are among the most important decisions they will make in their lives. This decision should not be taken lightly nor be left to the whims of fate. It requires guidance from the Torah and from those versed in the Torah's guidelines, in addition to a good deal of self-awareness. It is both a great opportunity and a great responsibility to bring a new child into the world. As Rambam wrote, 'anyone who adds one Jewish soul to the world is considered as if he has built a world'. Building a world is not a task to be taken lightly.

⁴⁶ In this article we have not considered the role that social pressure should or should not play in this issue. There is no denying that it has been a major factor in the vast number of orthodox families who have made the choice of raising a large family. Whether this outside pressure from society is a good thing or not is a matter of personal opinion. The authors tend to believe that it forces people to go against what might have been their better judgment. Others may differ.