

BAR-ILAN UNIVERSITY

Boundaries of Childbearing Commandments

in Light of

Scientific Advances in Fertility Treatment

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Abstract

The treatment of infertility has developed greatly with the result that today 5% of children in Israel are born through *in vitro* fertilization. This reality raises questions about the halachic command to bring children into the world. This research deals with the question of how the new fertility treatments relate to the mitzvah of bringing children into the world, and to what extent the couple will endeavor to fulfill the mitzvah to bring children into the world. This research discusses only the subject of the alternative method of fertilization, which is *in vitro* fertilization (insemination and fertilization of the egg outside of the body, and then implanting the egg in the uterus), and not any corrective procedures.

These questions depend on the extent to which the *mitzvot* of procreation were meant—*leerev al tanach yadecha* (“At the evening let not your hands be idle.” Ecclesiastes 11: 6) and of *leshevet yetsrah* (“He formed her [the earth] to be inhabited.” Isaiah 45: 18)—to whom they apply and when to exempt them. Those who believe that these commandments relate to “outcome” (have children in the world), hold that those treatments must be used. But, most of the *poskim* think that the extent of the *mitzvah* also concerns the activity between husband and wife. So the question is: Is this fertilization treatment considered to be a *mitzvah*? This question relates to a discussion concerning many issues relating to *halakha*: What is the attitude of the Torah about fulfilling the *mitzvot* with the help of machines and technology? Is it allowed? Is it worthwhile? Is it an obligation?

All of the *poskim* agree that because the Torah was given to humans, observing the Torah must be conditioned by the nature of human beings. Therefore, there are *poskim* who say that the Torah only demands that the *mitzvot* be performed in a natural way without including enhancements of human development; hence the Torah does not require compliance with things which are not natural. However, the term “natural” has two aspects: on the one hand, there are those who think that the Torah certainly did not require us to use modern instruments to fulfill *mitzvot*. The *poskim* who take this

approach are divided about the use of technology. There are those who forbid the use of technology for various reasons. There are those who say that using technology makes no difference. And there are those who say technology can enhance one's fulfillment of *mitzvot*, thus they also ruled on the *halacha* of alternative methods of fertilization treatments. On the other hand, there are *poskim* who say that "natural" means what is normal/accepted; and if it is common or customary, it then becomes a requirement to fulfill the *mitzvah*. Hence if this alternative method of fertilization treatment is customary, it thus becomes a requirement according to halachic law.

This research has shown that the increasing use of alternative methods of fertilization in recent years has resulted in a change in how *halacha* relates to them. Even those who initially rejected them, with increasing customary use eventually do not object to them or even encourage them.