TORAH ACADEMY
of Bergen County

קול תורה

The Sound of Silence
by Rabbi Jeremy Donath

In every language, there is no shortage of ways to inflict pain. In fact, all dialects have their own unique words to express feelings of contempt. Yet, there is one other type of insult that doesn't involve any noise at all. It is a slur that can't be looked up in any dictionary, and its etymology cannot be dissected, however, if used correctly, its effects can be just as sharp and piercing. It is the sound of silence.

In Parashat VaYeishev, we were first introduced to the quarrels of the Shevatim with their brother Yosef. After being told that Ya'akov loved Yosef more than his other sons because he was a "*Ben Zekunim*," "a son of his old age" (BeReishit 37:3), the Pesukim tell us, "*VaYisne'u Oto VeLo Yachelu Dabro LeShalom*," "And they hated him, and they could not speak with him peacefully" (BeReishit 37:4). Ibn Ezra (ad loc. s.v. LeShalom) suggests that although the brothers did not have anything nice to say to Yosef, they did not revert to insults; instead, they chose to not speak to him at all.

Rav Yonatan Eybeshitz suggests that a great lesson about strained relationships can be learned from these brothers. In Parashat Kedoshim, we are told, "*Lo Tisna Et Achicha BiLeVavecha Hochei'ach Tochi'ach Et Amitecha*," "Do not hate your brother in your heart; rather rebuke him for his ways" (VaYikra 19:17). What remedy is the Torah recommending by encouraging rebuke? Rav Eybeshitz explains that the Torah is teaching us an important lesson in conflict resolution: The best way to prevent hatred from escalating is to confront the elephant in the room and have difficult and open conversations. In silence, conflicts do not resolve themselves—that is why the Torah commands us to rebuke a person with whom one is experiencing enmity. By at least opening up the lines of communication, albeit in a respectful and carefully-worded way, there is a chance for reconciliation. Unfortunately, it was this failure of the brothers to speak with Yosef about their differences that led to the ensuing sale of Yosef and ultimately, the Galut.

Is there any proof in the Torah that "silence" played such a prominent role in the relationship between the brothers and Yosef? Not only does silence have a prominent role in VaYeishev; silence also has a prominent role in Yosef and his brothers' relationship in Parashat Vayigash, when Yosef reveals his true identity to his brothers. When revealing himself to his brother, "*VaYomer Yosef El Echav Ani Yosef HaOd Avi Chay VeLo Yachelu Echav LaAnot Oto Ki Nivhalu MiPanav*," "And Yosef said to his brothers, 'I am Yosef, is my father still alive?' And the brothers were not able to respond…they were speechless" (BeReishit 45:3).

The initial shock of the brothers is understandable given the circumstances and their uncertainty regarding Yosef's feelings towards them; yet, it is actually the extent of their silence that is most peculiar.

After Yosef's lengthy monologue with his brothers in which he tries to put their worries to rest, the brothers continue to remain silent. It is only after Yosef tries a different means of communication, when he cries and kisses each of the brothers, that the Torah relates, "*VeAcharei Chein Dibru Echav Ito*," "And afterwards his brothers spoke with him" (BeReishit 45:15). Perhaps the reference to the broken silence is not a tangential point. Instead, the verse is telling us that the resolution to the entire conflict is not complete until the brothers are able to speak to Yosef again, and the broken lines of communication are mended.

Unfortunately, there are times in all of our lives when we experience conflict, whether it be in our workplace, our communities, or even in our own homes. It is crucial that we learn the lesson of the brothers, that when dealing with discord, silence is not an option. It is true that opening the lines of communication with an estranged loved one is not an easy task; yet, the story of Yosef and his brothers reminds us that being brave enough to have those uncomfortable conversations can bring the ultimate Ge'ulah and help put an end to the deafening sounds of silence.

Is My Father Still Alive?
by Leiby Deutsch ('15)

In Parashat VaYigash, Yosef seems to experience an identity crisis. Until this point, Yosef was the youngest in his family and the outlier of its social circles. He is the brother that always wanted to belong, but did not seem sufficiently wise and equipped to find his spot in the family dynamic. He tried to find opportunities to become a part of something with his brothers, whether it be by telling his brothers about his dreams (BeReishit 37:5) or going out with them in the fields (37:13). Despite his many efforts to find his place in the family, Yosef seemed to always fail. As time went on and Yosef rose to power in Mitzrayim, yet another opportunity emerges to become closer with his brothers. Due to the famine, the brothers are forced to go to Egypt to acquire food (42:3). One would assume that when Yosef sees his brothers, he would try his hardest to fit in with them; however, when Yosef reveals his real identity to his brothers, he asks his brothers, "*HaOd Avi Chai*," "Is my father still alive" (45:3)? Why does Yosef ask if "my father" is still alive—he should have asked if "our father" is still alive? Why does Yosef try to further alienate himself from his brothers after years of exclusion?

The Sanz-Klausenberger Rebbe, Rav Yehuda Yekutiel Halberstam, in his Shefa Chaim, answers this question in an essay whose implications may illuminate the answer to our question. Throughout Jewish history, Am Yisrael has experienced so many struggles and miseries. As a result of these struggles, many Jews unfortunately declined in their Emunah in Hashem and did things that were not proper in His eyes. Nevertheless, righteous Jews were always pained to see their fellow Jews struggle, regardless of whether or not those Jews were living in the ways of Hashem. For example, throughout the period of Nevi'im, many prophets cried over the suffering of Am Yisrael, even though the suffering was brought about due to Am Yisrael's lack of compliance with the Torah.

When Yosef asks his brothers whether his father is alive, he already knew the answer, because his brothers had previously told him that they have an elderly father (44:20). In his Toledot Yitzchak, Rav Yitzchak Karo explains that Yosef's question is a rhetorical one whose purpose is to subdue to the brothers' fears. By asking if his father is still alive, he is telling his brothers that he would not kill them, because nobody would become a murderer while his father is alive.

There may be an additional reason as to why Yosef asks if his father is still alive. Perhaps, when Yosef is really asking whether his father's values are alive within him. We are told, "*Titein Emet LeYa'akov*," "give truth to Ya'akov" (Micah 7:20), which teaches us that truth was Ya'akov's main character trait. Yosef finally comes to the realization that he had been tricking his brothers for too long and that he had been dishonest with them. Yosef therefore asks whether or not his father's best quality, truth, is still instilled in him.

When Yosef hears about his brothers' suffering, he could have rejoiced that his hateful brothers are getting what they deserve. The righteousness of Yosef HaTzaddik is that when he hears about the trying circumstances of his brothers, he realizes that he has to look inward to see why everything is going wrong and what he can do to restore it. Instead of blaming others, he takes the responsibility upon himself. When Yosef hears about the suffering of his brothers in Eretz Yisrael, he thinks about what he can do to improve himself, which will hopefully restore the situation in Eretz Yisrael. When Yosef finally comes to this realization, he cannot hold back his emotions and continue to lie any longer—"*VeLo Yachol Yosef LeHitapeik*," "And Yosef could not restrain himself anymore" (45:1). Yosef realizes that even though his brothers are guilty of terrible things, he still has to connect with them and help them, because they are and always will be his brothers, no matter what they do. By improving himself in order to help his brothers, Yosef effectively becomes a part of the family. He is not alienating himself by asking about "his" father, but rather joining his brothers by acting in his father's ways.

As we concluded our observance of Chanukah, we are rapidly approaching the fast of Asarah BeTeiveit. On Chanukah, the Jewish people celebrate as a whole for their communal victory over the Greeks. Similarly, on Asarah BeTeiveit, we should all grieve for the communal loss of the Beit HaMikdash. If we feel a sense of Achdut and Areivut, unity and responsibility, towards each other just like Yosef and his brothers, then we will not only become closer to each other, but also to Hashem.

Ger Katan for a Child Conceived by In Vitro Fertilization – Part Two
by Rabbi Chaim Jachter

Introduction

Last week, we began discussing the question concerning a traditional, but not fully observant, couple who conceived a child through in vitro fertilization. In one case, a non-Jewish woman donated the ovum and the wife gave birth to the child, and in another case, the wife donated the ovum and a non-Jewish woman gave birth to the child. These situations raise two critically important and highly sensitive Halachic issues— whether the children conceived in this manner require conversion and whether a Beit Din may convert a child if it will be raised by not fully observant parents.

We addressed the issue of converting a child that will be raised by non-observant parents. We concluded that a mainstream Beit Din will convert a child only if it is more likely than not that the child will live an observant lifestyle as an adult. We did, however, raise a question concerning when the Beit Din is unsure as to whether the chances for success are more likely than not, such as when parents are "traditional" but not fully observant. In ordinary circumstances, it is appropriate to be strict since Safeik MiDeOraita LeChumra, we must rule strictly regarding matters of Torah law, certainly in regard to something as basic as Jewish identity. However, what if it is questionable if the conversion is altogether necessary such as might be the case regarding a situation of IVF that we described?

Let us first examine the question as to who is defined by Halachah as the mother— the woman who donates the ovum or the host mother, the woman who gives birth to the child.

Defining Motherhood

In some cases of IVF, doctors implant the fertilized embryos inside a woman other than the source of the ovum.[1] These situations raise the difficult issue of determining whom the Halachah views as the fetus's mother. Posekim vigorously debate the definition of motherhood, with each side seeking to marshal proofs from classical sources.

The Aramaic Targum (translation of the Torah) attributed to Yonatan Ben Uzziel (BeReishit 30:21) cites a tradition that Rachel conceived and carried Dinah, while Leah conceived and carried Yosef. Leah prayed on Rachel's behalf that she should give birth

---

[1]Understandably, couples who require IVF normally wish for the procedure to be performed on the wife's own egg, after which she will carry the fetus herself. However, sometimes the wife has a medical condition that prevents her from carrying a fetus. In such a situation, she might provide the egg for IVF and seek a surrogate mother to carry the fetus. In other cases, the wife cannot produce eggs, so she seeks an egg donor for IVF, but she then wishes to carry the fetus herself. A couple should consult their Rav, however, as to whether it is permissible to undergo either of these types of IVF.

to a boy and thus be the mother of one of the tribes. God accepted Leah's pleas on behalf of her sister and exchanged the two fetuses, so Leah's womb carried Dinah and Rachel's womb carried Yosef. Since the Torah records Leah as Dinah's mother and Rachel as Yosef's mother, one might conclude that according to this Targum, giving birth confers the status of motherhood.

However, the Tur (Peirush Tur HaAroch on BeReishit 46:10) explains this Midrash in a manner that seemingly indicates the exact opposite, namely that the ovum donor is the Halachic mother in a case of surrogate motherhood. In analyzing the Midrash (quoted by Rashi to BeReishit 46:10 s.v. Ben HaKena'anit) that Shimon married his sister, Dinah, the Tur wonders why their union did not constitute incest. After all, Shimon and Dinah were both children of Leah, and marrying a maternal sister was prohibited even before the giving of the Torah. The Tur answers that, as quoted above from Targum Yonatan, Dinah began in Rachel's womb. Even after she was switched to Leah's womb, the Halachah still considered her to be Rachel's daughter, so she and Shimon had different mothers. Before the Torah was given, one was allowed to marry a paternal half-sister.[2] Therefore, Leah's son, Shimon, did not violate the Halachah when he married Rachel's daughter, Dinah. We thus see that according to the Tur, the Halachah defines motherhood by the woman whose egg forms the fetus, even if another woman gives birth to the baby. Of course, it is debated as to whether Aggadic passages serve as definitive Halachic proofs.[3] Nevertheless, the Tur's words merit serious Halachic consideration, especially because he is explaining how to understand the story from a Halachic perspective.

Arguments in Favor of the Birth Mother

Megillat Esther (2:7) appears to repeat itself by recounting both that Esther had no mother or father and that her parents died. The Gemara (Megillah 13a) explains that the apparent redundancy teaches that Esther never had a parent. After she was conceived, her father died, and her mother died in childbirth. Rashi (ad loc. s.v.?) explains that at the moment at which she could have been identified as Esther's mother, the woman died. This seems to imply that the act of giving birth confers the status of motherhood, as opposed to the act of conception. Once again, however, we are dealing with an Aggadic passage, so it might lack Halachic significance.

Rav Zalman Nechemiah Goldberg (Techumin 5:252) offers the strongest proof for those who define motherhood by giving birth.[143] He cites a passage from the Gemara (Yevamot 97b) that discusses a non-Jewish woman who conceived twins and converted during her pregnancy. The Gemara considers the babies to be half-brothers on their mother's side.[5] If the mother-son relationship between the woman and her twins had begun at the time of conception, her subsequent conversion would have terminated it, based on the principle of Ger SheNitgayer KeKatan SheNolad Dami (a convert is like a newborn baby, so he or she is no longer related to his or her original family). Accordingly, if the Gemara rules that this woman is related to her twins, the mother-son relationship must have come into existence only after her conversion. We must hence conclude that birth, and not conception, confers the status of motherhood. Indeed, Rav Eliezer Waldenberg (cited in Nishmat Avraham 4:184-186) writes that the birth mother is the baby's Halachic mother. Rav Eliashiv (cited in Nishmat Avraham 4:184) also favors treating the birth mother as the Halachic mother, but, as recorded in 1990, he believes that no definitive Halachic resolution has been reached. Rav Gidon Weitzman of Jerusalem's Machon Pu'ah informs me that Rav Mordechai Eliyahu believes that it is clear that the birth mother is the halachic mother.

Arguments in Favor of the Ovum Donor

Rav Ezra Bick (Techumin 7:266-270) disputes these two proofs. He argues that birth establishes or completes a maternal relationship only if the woman who gave birth to the child donated the maternal genetic material. Both Esther's mother and the female convert conceived the babies to whom they ultimately gave birth. On the other hand, giving birth to a baby who was formed from another woman's egg does not establish a mother-child relationship.

Rav Bick, in turn, cites a Talmudic passage (Chulin 70a) that discusses the status of a fetus who is transferred from one animal to another. The Gemara uses the word, "Dideih," "his" to describe the fetus's relation to his genetic mother, whereas the second female animal, the birth mother, is described as, "Lav Dideih," "not his [mother]". Rav Bick therefore concludes that birth does not confer the status of motherhood upon a woman unless she has provided the maternal genetic material of the child. A counter-argument might be that in the case of the animal-fetus transplant, removal of the fetus from the first animal constitutes an act of birth, so the second animal acts merely as an incubator. One cannot claim, however, that the harvesting of an ovum from a woman is considered an act of birth.[6] Nevertheless, Rav Aharon Lichtenstein believes that the woman who donates the ovum

---

[2] Even nowadays, Noachide Law (Halachah pertaining to non-Jews) permits marrying a paternal half-sister, while a Jew may not marry any half-sister; see VaYikra 18:9, Rambam (Hilchot Melachim 9:5), and Rashi (BeReishit 20:12 s.v. Achoti Bat Avi Hi).

[3] See Yerushalmi (Pe'ah 2:4), Encyclopedia Talmudit (1:62), Teshuvot Yabia Omer (vol. 8, Even HaEzer 21:2), and Nishmat Avraham (3:17).

[4] In his essay, Rav Zalman Nechemiah (Techumin 5:249-252) seeks to demonstrate that Rav Akiva Eiger (commentary to Yoreh De'ah 87:6) believes that conception establishes motherhood, whereas Rav Yosef Engel (Beit HaOtzar, entry "Avot") considers birth the determining factor.

[5] The child of a Jewish mother and non-Jewish father is not considered to be related to his father, so he does not have any paternal relatives (see Kiddushin 68b-69a and Rambam, Hilchot Melachim 8:8).

[6] Many of the articles that we cite address fetal transplants, which seem to depend upon many of the same halachic issues as IVF. Rav Bick's proof from Chulin 70a may apply only to fetal transplants. Also see Rav Bick's essay in the Fall 1993 issue of Tradition (28:1:28-45), where he offers a novel approach for the argument that the woman who gave birth is the halachic mother. Rav J. David Bleich sharply criticizes Rav Bick's essay in the subsequent issue of Tradition (28:2:52-56).

is the Halachic mother.[176] Rav Yaakov Ariel (*Techumin* 16:177) writes that this position "appears more logical" than defining motherhood by giving birth.[187] Rav Mordechai Willig told me that he is also inclined to this position.

Rav Itamar Warhaftig (*Techumin* 5:268-269) cites another Aggadic source (Nidah 31a) to show that the woman who donates the ovum is the Halachic mother. The Gemara describes the physical attributes that each of the "three partners" in childbirth—God, mother, and father— provides, taking for granted that the mother contributes to the genetic makeup of the child. Of course, as mentioned above, since this passage is Aggadic, its Halachic impact is questionable.

Rav J. David Bleich (*Contemporary Halakhic Problems* 4:251-258) points out that the passage in Yevamot regarding the convert who gives birth to twins merely proves that birth can establish a maternal relationship, but it does not prove that **only** birth can create this relationship. Accordingly, Rav Bleich suggests that perhaps a woman can become a mother either by conceiving **or** by giving birth. Hence, in cases of surrogate motherhood or ovum donations, a child might have two mothers!

Neither side has demonstrated its position in a conclusive manner. Hence, absent a clear consensus, Rav Shlomo Zalman Auerbach (cited in Nishmat Avraham 4:186), Rav Zalman Nechemiah Goldberg (*Techumin* 10:281), Rav David Feinstein (personal communication), and Rav J. David Bleich (personal communication) rule that one must act strictly in accordance with both opinions. According to them, if either the donor of the ovum is not Jewish or the host mother is not Jewish, the child needs a conversion, albeit MiSafeik (due to the unresolved Halachic issue of who is regarded as the Halachic mother). This has emerged as standard practice in contemporary mainstream Batei Din.

---

[7] See *Alon Shvut Bogrim* (14:147), where Rav Shmuel David describes a ruling that he received from Rav Lichtenstein in an actual case. A Kohein and his wife donated the sperm and egg cells to create an embryo that doctors then transferred into the womb of a non-Jewish surrogate mother. The non-Jewish woman gave birth to triplets, a girl and two boys, and returned them to the Jewish couple to raise. Rav Lichtenstein told Rav David to convert the babies out of deference to those authorities who consider the non-Jewish woman to be their mother. Nevertheless, Rav Lichtenstein permitted the sons to perform all the functions of Kohanim, for he fundamentally believes that they are considered descendants of the Jewish couple, not converts. Similarly, he ruled that the daughter may marry a Kohein, whom a female convert may not marry (see Kiddushin 78a).

[8] For an infertile woman who wishes to have a child with her husband's sperm and another woman's egg, Rav Ariel recommends obtaining the egg from a non-Jewish woman. According to his position, this child will not be Jewish. After converting the baby, he or she will lack any formal Jewish lineage, thus avoiding many future complications, such as concern for incest with the egg donor's relatives. If the husband in such a couple is a Kohein, Rav Ariel notes that he must inform his son that, although they are genetically related, they lack any halachic connection. Consequently, the son does not have the status of a Kohein. Rav Ariel insists that if the family has a name such as "Cohen" or "Katz," they must change the family's name, lest people mistake their children for Kohanim. Rav Gidon Weitzman (personal communication) observes that according to Rav Ariel's approach, it may be preferable to request from the fertility specialist only girls in this case.

Conclusion

Our question of converting a child whose either donor or host mother is non-Jewish (but the other mother is Jewish) and the parents are traditional but not fully observant, places us at the nexus of two unresolved questions: the question as to the propriety of conducting such a conversion and the question as to whether the donor or host mother is regarded as the Halachic mother. One could argue that such a situation merits leniency since there are two considerations to be lenient (a double doubt, "Sefeik Sefeika")—perhaps the child will emerge as observant and perhaps the child is already Jewish by virtue of either its birth or donor mother.

One could also argue that it is a Zechut Gamur to become Jewish rather than remain a Safeik Jew. It is normally not a Zechut Gamur for the child to convert if he will not observe Torah since he will be accountable to Hashem for violating Torah, for which he would not be held accountable if he remained non-Jewish. However, a child whose birth or donor mother is not Jewish must observe the Torah whether or not he converts, due to the possibility he is Jewish and he will be held accountable if he does not do so. Moreover, it is highly difficult for an individual to have his Jewish status to be unresolved and thus might be a Zechut Gamur for his doubtful condition to be resolved.

Rav Ezra Bick, in a letter that appears in the current issue of the Medical Halacha journal Assia, agrees with this assertion, adding that it is untenable for someone to be in a situation where he is not permitted to marry anyone, as stated in the Mishnah (Gittin 4:5) regarding one who is a half-slave and half free individual. One whose Jewish identity is in doubt may not marry either a Jew or a non-Jew. Thus, in such a situation it is reasonable to state that all should agree that it is a Zechut to convert a child whose either birth mother or genetic mother is non-Jewish provided that either his birth or genetic mother is Jewish.