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## POPULATION CONTROL — THE JEWISH VIEW

The world's increasing population is viewed by many as one of the basic problems of our time. The "demographic problem" or, as referred to in the lay press, the "population explosion," has received the attention of the best minds of the fields of medicine, economics, law, and religion. Reports of authoritative decisions reflecting the Catholic, Protestant and Jewish viewpoints appear with annoying repetition. This paper is offered firstly to summarize and clarify the Torah view of the demographic problem, and secondly as a cry of protest against those who took unto themselves the mantle of spokesman for the Jewish people on this complex and delicate issue.

The penalty for the failure of the Orthodox community to speak out on the great issues of the day is twofold. The truths of our Torah are unavailable as guidelines for our people, and many who should be silent represent themselves as prophets of Judaism. The validation of a prophecy occurs when there is absolute concurrence between the prophetic message and the prophecy of Moses — our Torah teachings. Based on this criterion, we must conclude that the topic of population control has attracted a disproportionate number of false prophets whose teachings weaken rather than strengthen the hearts of our people.

For almost a decade, I have had the unique opportunity of conducting a seminar series in *Hilkhos Nidah* for the senior

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students at Yeshiva University. The laws relevant to the principle and practices of birth-control techniques comprise a significant part of these seminars. Despite the lucidity and accuracy that is the teacher's reward from the student — teacher countercurrent,<sup>1</sup> I approach my task with trepidation. What right do I have to don the mantle of spokesman? Indeed I claim none. Let no one read into my words the language of *Pesak Din* — a language reserved for the ears or eyes of the individual questioner on this complex, intimately personal problem. I present for considered judgment a point of view based on the primary sources of our faith — the words of the Talmud and its commentaries. It is my hope that it will serve to counter-balance the views already expressed by others.

*Definition of the problem:* Recent advances in disease control have given new impetus to the recurring Malthusian nightmare of world population outstripping world food supply. Unless vigorous action is taken to correct the imbalance of a declining death rate coupled to a burgeoning birth rate, mankind is irrevocably committed to a catastrophic famine.

The Torah attitude consists of the composite answer to the following questions:

(a) *Are the facts presented accurate?*

In the many publications presented to the lay public, the basic mathematics of the Malthusian nightmare goes unchallenged. Historically speaking, the projections of Malthus were totally inaccurate. He failed to allow for the scientific and technological advances that have kept food production increases ahead of population growth. Indeed, at the World Conference on Populations, organized under the auspices of the United Nations in September 1965, many expressed the opinion that<sup>2</sup> “there was no problem of excessive rates of growth in underdeveloped areas and therefore no public or private action was needed.”

At a recent symposium the view that the world faces a choice between birth control and famine was not at all unanimous. Many maintained that “despite the stresses imposed upon our food supply by the unprecedented population explosion, we could feed everyone well.”<sup>3</sup>

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(b) *What are the philosophical or ethical implications of projected programs to reduce the birth rate?*

The conflict of science and religion was once limited to the question of the authenticity of the Torah. In the 19th century the challenge to the Torah came from the evolutionists. In our time the spotlight is focused on the methodology of natural science. The challenge to Torah values stems from the claim that the methods of natural science constitute man's only reliable access to the knowledge of reality.

Those familiar with the personal letters of Charles Darwin know that he first lost faith in God as a Judge and Ruler and then rejected Him as a Creator. Evident from the writings of many of the leaders in the study of the demographic problem is the conviction that the Darwinian refutation of God, the Creator, compels us to discount Him as an active force in the affairs of mankind. In the halakhic sense, if the God of Shabbat does not exist then the God of the Exodus is equally non-existent.

Such is not the Torah view! The management of the world's population is relegated unto God.<sup>4</sup> The insistence that God erred in not realizing the mathematical certainty of a geometrically increasing population outstripping arithmetical increases in food supply is but another manifestation of the theology of blasphemy which is in vogue today. Inherent in our concept of a Personal God is the philosophy of the verse in Psalm 145 in which God is praised for providing sustenance for all His creatures. Food supply and world population are areas of divine concern.

However, man has been granted a junior partnership in the management of this world. Imbued with the spark of Divine Intelligence, man is permitted, even required, to use his partnership rights to regulate his own affairs, on condition that he does not violate the by-laws of this God - man relationship that are formulated in the Torah. What if the present projections prove to be more accurate than those made by Malthus? We are told that at the present rate of increase in world population, 300 million tons of *additional* grain annually will be needed by 1980. This is more grain than is now produced by

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all of North America! What guidelines have been set down for our instruction in this yet hypothetical situation?

The Jew as a world citizen is personally concerned with famine in India and China.<sup>5</sup> However the Noahidic laws which serve as Torah (instruction) for all humanity demand a proper sequence of actions. Before a Jew can support birth-control clinics in overpopulated areas of the world, he must insist that there be heroic efforts made to utilize fully the agricultural potential of the world. This implies the extension of modern farming technology to all parts of the world, as well as a more effective and more morally responsible distribution of food surpluses. It is ludicrous to maintain that an Indian will allow himself to be surgically sterilized, his wife aborted or implanted with a plastic loop, bow, or spiral, yet he will obstinately refuse to use a better grain seed, add chemical fertilizers to his land, or adjust his plowing pattern so as to minimize water loss.

It is equally untenable to insist that the logistics of world-wide food distribution present insurmountable obstacles. A nation that can transport the men and material needed to wage modern war in Korea and Vietnam can, with efficiency and dispatch, overcome all obstacles in the way of food distribution. Surely we have adequate motivation. Is it more immoral to allow a family to lose its political freedom than to sit idly by while it loses its personal freedom to bear children? At the symposium previously referred to<sup>3</sup>, a leading professor of Political Science bravely presented a prognosis that clearly spells the doom of the concept of the integrity and worth of the individual upon which all democratic principles depend. He predicted, "Inescapably there will be changes in our most intimate habits and patterns of living. It is not enough to have a pill. People must be willing to take it — in many cases not merely to prevent the birth of unwanted children, but even to prevent the birth of deeply wanted, even longed-for children. The time may not be far off when some societies, at least, may find themselves pressed by unyielding circumstances into an extraordinary invasion of human privacy — the limitation of births by legal ordinance, with severe penalties for infraction." The threat of communism pales in comparison with this summary of the

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fantasy of "1984" materializing because man lacks the humility to admit that there are areas that are immune to his encroachments. Can any moral individual concern himself with abortion clinics before he has suggested, nay demanded, that our resources be committed to increase meat and poultry production, tap the wealth of the oceans, and then develop new sources of high quality proteins from the algal and microbial cultures studied experimentally these last few years? The idea that an illiterate African, Asian, or South American would rather starve than accept a diet "strange" to him, has been fully disproved by the Incaparina Program in South America. Under this program, teams of nutritionists educated the protein-starved masses to accept a flour composed of corn, sesame or soy oil, yeas, and vitamin A. New recipes were accepted by the "illiterate masses" with the resultant upgrading of the national diet of millions of people. There must be unanimity in the conviction that we dare not dump potatoes, burn excess wheat, cut back on production quotas, and then make impassioned pleas for free distribution of contraceptive devices as a humanitarian effort to prevent world-wide famine.

Let us assume, once again, the hypothetical situation of world-wide food shortages uncompensated by our best utilization of the latest technological advances in food production. The question to be answered is: (c) *Are there religiously acceptable means of artificially limiting family size?*

All people, Jew and non-Jew, are enjoined to procreate. The philosophy of the halakhah is clearly opposed to any limitation of family size.<sup>4</sup> Abstinence is hardly more in compliance with the spirit of the halakhah than are other more artificial means of contraception. Only when proper motivation for family planning can be ascertained does specific methodology become the critical issue. Any halakhic principle that requires the prior determination of unexpressed motivations proves to be most difficult to legislate. Thought processes are so variable among different people, that whenever possible overt acts are substituted by our Sages for the equally authoritative intellectual commitments.<sup>6</sup>

Poverty that threatens a family's physical and spiritual wel-

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fare may indeed be adequate motivation for the use of acceptable contraceptive methods or for delaying marriage until there is an improvement in the financial situation.<sup>7</sup> However, poverty has many interpretations. The psychological poverty of the \$15,000 income family surrounded by families with \$50,000 yearly incomes must be clearly differentiated from the physiological poverty of the protein-starved Peruvian or Indian. The demarcation line between necessity and luxury has been obliterated so often during the maturation of the economies of the western nations, that objective criteria for a universal standard of living must be established before the need for population control can be evaluated.<sup>8</sup>

Many of the population-control techniques being proposed for mass use are categorically unacceptable to Judaism. Surgical intervention, in the form of vasectomies (male), oophorectomies and tubal ligations (female), or abortions, is forbidden to both Jew and non-Jew unless necessitated by life-threatening medical emergencies. Abortion is included in the Noahidic prohibition of murder. Surgical induction of male infertility (*sirus*) may likewise be proscribed in the universally applicable Noahide laws. The use of the intrauterine contraceptive devices (I.U.C.D.) such as the Grafenberg rings of the 1920's or their modern counterparts designed by Margulies and others, present unique problems to halakhic authorities. Medical scientists have yet to fully elucidate the mechanism of contraceptive action of the I.U.C.D. If the evidence we now have proves accurate, contraception is accomplished by increasing uterine or tubal contractions. The resulting expulsion of the fertilized ovum is actually an early abortion. Abortions prior to 40 days of conception are halakhically differentiated from true abortion that is equated with murder. However it is clearly prohibited unless there be adequate justification based on medical or other equally valid grounds. The recently proposed post-coital contraceptive pills must be equated with the I.U.C.D. since their effectiveness is the result of abortifacient action.<sup>9</sup>

If all ancillary criteria for their use are met, the anovulatory pills, or the use of a mechanical barrier with or without chemical spermicides (condom and diaphragm method) may be accept-

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able for use by the non-Jewish populace that is obligated to the observance of the Noahide laws. Three experimental techniques, unavailable as yet for mass use, may also prove to be acceptable. I refer to the use of various drugs by the husband to inhibit sperm formation; the injection of a silicone plug into the sperm duct to prevent the passage of sperm, but with the important feature of easy removal to restore fertility; and the infertility that can be induced by immunological means.

There are different guidelines for the Jew on this question of population control. If reduction in the birth rate of the famine-threatened population of the world is indeed the proper response, then the Jew as a world citizen should join in the world-wide effort of providing contraceptive materials to those desirous of limiting family size. The Jew as a Jew must at this time reject the suggestion that he, too, limit the size of his family. We have unique problems created for us by world citizenry. Six and one half million Jews destroyed at the hands of world citizenry in one generation represents a staggering loss. When calculated on the Malthusian geometric tables it represents an astronomical loss of our life blood. Only a total lack of moral and historic responsibility can explain the present-day statistics which show our brethren leading the list of ethnic groups with the lowest birth rates in America. Their motivation is that of an egotistic hedonist, rather than of a world citizen sleepless from nights of Malthusian nightmares. Reduction of family size must be justified only on a personal, familial basis, not as part of the demographic problem.

For the observant Jew, the use of any contraceptive device introduces new halakhic considerations. The basic prohibitions are well known. Onanism, and the *condom method* which is tantamount to onanism, is clearly a biblical prohibition. Many halakhic authorities classify the *diaphragm method* as "casting the seed on wood and stones" and prohibit its use even if life-threatening medical consideration demands contraception.<sup>10</sup> The use of non-mechanical barriers to conception such as chemical spermicidals or hormonal repression of ovulation present us with the least objectionable methodology for contraception. However the hormonal contraceptives pose a new

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problem. Many women find that the "pill" induces intermenstrual bleeding. The earlier dosage forms caused such major or minor spotting in 65% of the women, especially during the first 3 months of use. Such spotting induces the state of *nidah* (menstrual bleeding) which necessitates abstinence and *mikvah* with all the *Halakhot* of menstrual bleeding. The use of I.U.C.D. likewise is often accompanied by intermenstrual spotting. If this spotting be due to physiological modification rather than mechanical damage to the uterine wall, then this too is true *nidah*. The newer low-dosage "pills", and new designs of the I.U.C.D., may minimize the problem of *nidah*. However, no observant Jew can consider their use except under the constant supervision of a competent halakhic authority.

The use of hormonal or chemical inhibitors of spermatogenesis, or of the temporary interference with sperm passage, is prohibited to the Jew. The use of chemical spermicides or the yet experimental induction of immunological infertility, or the use of injected high dosage progesterones which appear to inhibit ovulation without the problem of intermenstrual spotting, offer the best possibilities for halakhically acceptable contraception for the family that must use artificial contraceptive techniques.

The concept of proper motivation as a prerequisite for any halakhic evaluation of the contraceptive technique to be used, requires further elaboration. *Emunah* (Faith) and *Bitachon* (Trust) are not psychological crutches. They are the natural laws of our existence. The big sacrifice, the *Akedat Yitzchak* (the sacrifice of Isaac) is rarely demanded of us. However the small daily acts of sacrifice that are the basis of our survival as a Holy Nation, should be woven into the personality fabric of every Jew. It may be "inconvenient" to measure every thought and act against the yardstick of Torah right and wrong. Indeed to live the life of a human being clearly differentiated by his every act from those infrahuman species that are his co-tenants on this planet, is a major inconvenience. The Torah concerns itself with every aspect of our personal and interpersonal life.<sup>11</sup> When probing one's own motivation for family planning there must be a differentiation between proper motives and those that reflect the flaws in the Torah personality. When a Yeshiva

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trained young man presents to the halakhic authority motives such as: We want time to get to know each other better; we would like to travel first; if my wife can work we can raise our standard of living, he simultaneously reveals that the years of Torah training had little impact on his personality. Even if the absence of a second income necessitates continued parental support, there is little validity to the claim of financial hardship. It is a misdirected sense of dignity that dictates that money may be borrowed from parents for the purchase of a car, a home, even for travel tickets, but not to permit fuller compliance with our Torah regulations.

Competent halakhic authority may under specific circumstances permit the use of some contraceptive techniques. Any permission granted is based on major and minor details of the particular situation. Such permission is “non-transferable” and “non-extendable” in time. It is a *Pesak Halakhah* in its finest, purest, and most legalistic form. In general the following factors would first be carefully evaluated:

(a) What are the true motivations of husband and wife that induced them to seek halakhic permission?

(b) Has there been minimum compliance with the commandment, “to be fruitful”?

(c) What specific contraceptive technique is being considered?

(d) What is the medical status of husband and wife? Psychological as well as physiological factors are most significant.

(e) What is the financial status of the family?

The Torah attitude toward family planning is the consequence of its teachings about the function and purpose of the marital act. A full treatment of these teachings is beyond the scope of this paper. We are taught that the purpose of the sexual union is far more encompassing than merely the biological generative function. The laws of *nidah*, the commandment “to be fruitful”, the details of *mitzvat ona* that recognizes the sexual rights of the wife, the laws of *Mikvah* and the laws that determine our position on contraception, all join to formulate a philosophy of family life for the Jew. It is a program of refinement in thought and act so that the individual can fulfill his duties and obligations

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inherent in this intimate association of a man, his wife, his people and his God.

### NOTES

1. *Ta'anit* 7a.
2. *Science* Vol. 151, Jan. 14, 1966.
3. "Time for Decision: The Biological Crossroads", University of Colorado School of Medicine, June 1966.
4. *Rosh Hashanah* 1:5; *Yevamot* 62b-63; cf. Rashi *ad locum*.
5. *Taanit* 11a. Cf. *Derishah* on *Orach Chayim* 574:5. ....
6. Cf. *Yevamot* 39b.  
Rabbeinu Nissim, *Pesachim* 1, comment on need for *Bedikah* and *Bitul*.
7. *Shulchan Arukh*, *Even Haezer* 1, 3 and 8; Maimonides, *Hilkhot Deot* 5:11.
8. *Ta'anit* 11; *Orach Chayim* 574:5.

This reference has little relevance despite its erroneous application to our discussion by previous authors. Firstly the prohibition is one of abstaining from pleasurable activity when the populace is in distress and applies with equal force to calamitous childhood epidemics or wide-spread infertility. Secondly, the exemption of the *Tevilah* night from this prohibition minimizes its impact on the birth rate since this is usually the period of peak fertility for the wife.

9. Recent findings raise the question of a possible abortifacient action by the anovulatory pills. At the *Third Teratology Workshop* in April 1966, experimental evidence was presented of direct damage to pre-implanted embryos by these drugs. Likewise the observation that contraception occurred even in subjects in whom ovulation was not suppressed, suggests an abortifacient role.

10. Rabbi Akiba Eiger, *Responsa*, 71.

11. The health safety aspect of contraceptive pills or mechanical devices is also of Halakhic concern. Man is required by Torah Law to avoid all acts that may prove injurious. In May 1966, the "pills" were reported on by a 12-member Scientific group of the World Health Organization. In general they found risks to be "minimal" with the warning that doctors keep alert to individual idiosyncrasies, and that the possibility of long-term harmful effects cannot be excluded.