Orthodox Judaism and women's health

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Judaism is the mother of monotheistic religions. However, it is not only a system of rituals defining religious practice outside of day to day life, but an all-encompassing way of life that provides guidance for such apparently mundane tasks as the correct order of putting on one's shoes in the morning.

There is a vast treasure of commentary extending back more than 3000 years on all areas of life, with extensive and continuing commentary on Jewish law (*halacha*) in relation to medicine in general and issues of women's health occupies much of this. Of necessity, here I can only skim the surface. The interested reader is referred to the references. There is an excellent website aimed at health professionals dealing with issues of women's health and Jewish law from the viewpoint of halacha (www.jewishwomenshealth.org). Hebrew terms in this article are transliterated and shown in italics.

This article will take an orthodox viewpoint. This presupposes the Divine origin of the *Torah*, both that which was given in written form at Sinai together with its verbal exposition – the oral law. Judaism holds that all men (and women) have free will, so there will be great variance in adherence to practice. Even within the orthodox world, there are gradations of practice and variations in opinion and practice. On many issues, only general guidance can be given here – the specifics of a particular case are often vital in a definitive rabbinic ruling. Whilst less religious Jews may not be so strict in their observance of ritual, in difficult ethical situations they may still consult their rabbi.

The importance of women's issues in Jewish law is reflected in the fact that one of the six orders of the earliest reduction to writing of the oral law, the *Mishnah* (compiled in about 200 by Rabbi Yehudah Hanasi), is called *Nashim* (Women), and a further tractate is *Niddah*, devoted to the laws of the menstruant.

Licence to heal

The first question to address is the licence to heal. If we see illness as being due to the will of 'G-d', it might be argued that medical care interferes with Divine will. However, we are commanded that if one causes another injury, he/she must 'cause him to be thoroughly healed'.[1] Furthermore, not only is the doctor permitted to heal, he/she is commanded to do so: 'and thou shalt return it to him'.[2] This is interpreted as referring to the patient's health. We are also commanded 'neither shalt thou stand idly by the blood of thy neighbour'[3], establishing an obligation to assist someone in need. For the doctor, this means that he/she has an obligation to treat the unwell. Conversely, someone who is sick has an obligation to seek medical treatment.

This obligation to heal reflects the supreme value Judaism puts on human life: 'And whoever saves a single soul from Israel is deemed by Scripture as if he saved a whole world'.[4] A further corollary of this regard for human life – *pikuach nefesh* – is the fact that safeguarding life takes precedence over nearly all other religious obligations. We are taught: 'You shall keep my decrees and my laws that a person will do and live by them, I am G-d.'[5] From this, the rabbis deduce that one is not obligated to sacrifice one's life in order to keep the commandments, excluding the sins of murder, idolatry and forbidden sexual relationships. This exemption also applies to the Jewish doctor, who is allowed, for example, to do otherwise forbidden work on the Sabbath for an ill patient.

Niddah

Much confusion and misinformation exists about the status of the menstruating woman in Jewish law. The basis of the law is *Leviticus 15:19*. The laws are often referred to as the laws of family purity (*Taharat Mishpacha*). The menstruating woman has the status of *niddah* (set apart). The status arises from any uterine bleeding not due to injury, but the most common cause is menstruation. A similar status exists with childbirth, with identical restrictions.

The woman who is *niddah* is not permitted any physical contact with her husband. In addition, they are not permitted to sit or lie on the same surface, may not see each other unclothed and may not touch the same object at the same time. For example, once a woman is in advanced labour, her husband may not touch her, nor even hand her a glass of water directly. While this may seem strange to healthcare staff not familiar with these laws, it in no way reflects any lack of caring between the couple, rather the reverse.

A common misconception is that the woman is in some way impure. However, it is only her husband with whom she is forbidden contact – other members of her family are in no way affected by these restrictions. The state of *niddah* is not determined by the amount of blood. Even clinically, insignificant intermenstrual bleeding will cause the state of *niddah*, which can obviously be very distressing to the couple. They will often request treatment for abnormal menstrual bleeding that gynaecologists would consider of no importance. The couple will also seek advice as to the source of the bleeding. If the origin of the bleeding is vaginal or cervical rather than uterine, *niddah* does not result. Special circumstances that are worthy of consideration include postpartum atrophic vaginitis, cervical ectropions and other local conditions. Occasionally, women will be asked by their rabbi to have a gynaecological examination to determine if bleeding is extra-uterine in origin. Women will also often ask if a gynaecological examination will cause bleeding and therefore possibly *niddah*. If no instrument passes through the cervix, there should be no problem. Specifically, any bleeding resulting from a Pap smear should not result in *niddah*.

The state of *niddah* continues until the bleeding stops and then for a further seven days with no blood loss, as determined by internal examination performed by the woman. For menstruation, this totals a minimum of 12 days, as the rabbis considered the minimum length of normal menstruation to be five days. After this, the woman immerses completely in a *mikveh* (ritual bath – a body of natural water – usually a specially constructed pool set aside for the purpose). After immersion, the woman can and is encouraged to

resume marital relations. Obviously, this is the time of peak fertility in a normal cycle!

Brides will often seek hormonal manipulation of their menses to ensure they are not *niddah* on the night of their wedding. This and other forms of menstrual manipulation are permitted. For brides, the choice lies between combined oral contraceptive and norethisterone. The latter, at least in short courses (for example, 5 mg tds starting ten days before the wedding) is associated with less breakthrough bleeding. As the *niddah* state also begins with first intercourse in a woman with an intact hymen, withdrawal bleeding can be scheduled to begin two days after the wedding so it coincides with this.

Be fruitful and multiply

Adam and Eve[6], the sons of Noah[7] and Jacob[8] were all told to 'be fruitful and multiply' so as to populate the Earth. The rabbis deduce the commandment to have children from the second instance to the sons of Noah and ranked it very highly: 'the purpose of this commandment is that the world be populated; it is a great *mitzvah* for, through it, all other commandments – which were given to men and not angels – may be fulfilled'.[9] Interestingly, the obligation to have children falls on the man rather than the woman, although of course she performs a *mitzvah* (commandment) in enabling her husband to fulfil his obligation. Perhaps the woman does not need a commandment because her maternal instinct is strong enough.[10]

The *Mishnah* [11] rules that the minimal fulfilment of this commandment is by the birth of a son and a daughter. However, later rabbinic teachings were, firstly, that the Earth was created for habitation, and furthermore, because when children are born one does not know if they will survive, the obligation to have children continues past this minimum of two. There is no doubt that the ravages of history – massacres and forced conversions, culminating in the murder of one-third of the Jewish population of the world in living memory – have spurred the tendency to have large families, especially amongst the more fervently orthodox.

Contraception and sterilisation

While there is an obligation to have children, this does not override the requirement to preserve health and life. Therefore, in some circumstances, contraception is permitted in Jewish law. For a very complete discussion of the many philosophical and *halachic* dimensions of this subject, the reader is referred to the work by Feldman listed in the further reading section.

Since the obligation to have children falls on the man, but in general the risks fall on the woman, the preferred contraceptive methods are those used by the woman. Contraception and occasionally sterilisation is permitted when there are significant risks to the woman due to pregnancy. This can include personal reasons for delaying pregnancy, in consultation with a rabbi. Spacing of pregnancies, in order to allow a woman to recover, may be regarded by a rabbi as justification for contraception.

Where pregnancy entails a clear danger to the woman's health, contraception is not only permitted, but under the laws of *pikuach nefesh*, it is mandated. The method used should be the one that is most effective, interferes least with natural intercourse, and is least likely to be associated with breakthrough bleeding. This should be determined in conjunction with the rabbi and a doctor.

Any method should be reversible and effective. Sterilisation is never permitted for men and only for women where pregnancy will always be seriously dangerous. The *Talmud* [12] discusses the permissibility of a device called a *mokh*, probably some kind of absorbent tampon inserted before coitus. In general, the ranking is: lactational amenorrhoea (Jewish law encourages breast feeding for two years); fertility awareness methods (though the 'early' safe days are not available); hormonal methods; IUCD; and diaphragm. Some authorities suggest the use of spermicide alone. Both female and male condoms are forbidden. The progestagen-only pill can be associated with significant breakthrough bleeding, which causes severe problems of *niddah*. A similar problem occurs with injectable and implantable progestagens, and the initial period of Mirena® use.

If sterilisation is permissible, the method used should be as minimally destructive as possible. Therefore, tubal clips or even Essure® are preferable – the latter does not involve direct destruction of any tissue.

Abortion

In Jewish law, the fetus, until birth, is legally regarded as part of its mother.[13] For example, if a pregnant woman undergoes conversion to Judaism, regardless of gestation, the child when born is regarded as Jewish with no further ceremony. Furthermore, a child is not regarded as definitely viable until 30 days of age.

Feticide is clearly not regarded as a case of murder or manslaughter. We are taught: 'If men will fight and they strike a pregnant woman, causing her to miscarry, but there is no fatal injury [to the woman], he [the guilty one] is to be punished with a [monetary] penalty when the husband demands compensation. He shall pay as determined by the judges'.[14] If the deceased were already born, this would be at least a case of manslaughter and the offender would have to flee to one of the cities of refuge or be capitally liable.

In the *Mishnah*, we receive specific sanction for abortion to save the mother's life: 'If a woman has difficulty in childbirth, one dismembers the embryo within her, limb by limb, because her life takes precedence over its life. Once its head has emerged, it may not be touched, for we do not set aside one life for another life'.[15] Clearly, where there is a risk to the mother's life (and by extension a serious risk to her health), therapeutic abortion is permitted and possibly mandatory.

The attitude to abortion is clearly that it is not murder, but neither is it generally permissible. The fetus has the form of human life and this is regarded with reverence. However, mental health risks and anguish, including shame, are equated to physical risk. This leaves us with a similar situation to the *Menhennit* ruling, although each case for the orthodox woman requires its own rabbinic ruling.

Pregnancy

In Jewish law, the pregnant woman is regarded as in some way ill, especially in later pregnancy and childbirth. Some laws are therefore set aside for her, depending on her stage of pregnancy and her general health. Once in active labour, she is regarded as someone who is seriously ill and in mortal danger, and all laws are set aside for her (although she has the status of *niddah* as above). She is therefore permitted to drive on the Sabbath amongst other things.

Antenatal diagnosis for fetal anomalies is generally not permitted, as abortion on these grounds alone is not permitted. However, because there are some genetic disorders that are more prevalent in Jews (for example, Tay Sachs disease), there are programs for screening in place, both for the less and more orthodox. The

Victorian Clinical Genetics Services offer a pre-pregnancy and antenatal screening program for *Ashkenazi* (Northern European) Jewish genetic disorders.[17] For the fervently orthodox, an American organisation, Dor Yesharim (Generation of the Righteous), has a service where people can be screened for these conditions before marriage. They are assigned a code rather than given the results and when they enquire about a potential partner, they are only told if both are carriers of the same condition. In these circumstances, consideration of marriage would usually not proceed. However, if a married couple are both carriers of a recessive condition or one has a dominant condition, pre-implantation genetic diagnosis will often be allowed.

During labour, some rabbis forbid the husband to be in the same room as his wife, though many permit it. The husband is prohibited from looking directly at his wife's vaginal opening, even when she is not in the state of *niddah*. A mirror should not be used to allow the husband to see the baby emerging. The wife should be covered as much as possible. The husband may not touch his wife unless no one else is available to help her.

Babies are not given a name at the time of birth. Girls are named in synagogue, usually on the first Sabbath after birth. For boys, there will often be an open house celebration (*sholom zocher* – welcome the male) on the first Friday night after the birth. The boy is named at his *brit milah* (covenant of circumcision), usually on the eighth day of life – delayed if the infant is unwell.

Infertility

With the supreme value placed on family, infertility is a very distressing situation for the Jewish couple. Infertility treatment is encouraged, although some special guidelines are needed. One special circumstance is the woman with either short cycles or prolonged menstruation, so that in both cases, immersion in a *mikveh* cannot take place until after ovulation, preventing conception. In these cases, luteal phase progestagens to lengthen the cycle and shorten menstruation are often useful. Other techniques for delaying ovulation are clomiphene or early follicular oestrogen.

In infertility investigation, semen analysis can pose problems, as many rabbis will not permit collection by masturbation. Solutions include post-coital testing, coital collection with a special condom, or coital stimulation and collection into a normal jar.[16]

Most treatment methods pose no special problems. Donor insemination and oocyte donation are generally prohibited for a variety of reasons, including that the former does not fulfil the husband's obligation to have children. In-vitro fertilisation is permitted, though some couples will request special supervision to ensure that there is no inadvertent mixing up of gametes. In Melbourne this is available through Shifra, servicing both Melbourne and Monash IVF, and in Sydney through Sydney IVF and Fertility East (apologies to other services not mentioned).

There are other areas of women's health where Judaism has much to say, or where cultural issues have an influence that are not dealt with here due to space limitations. There is a wealth of material online and in print, and many rabbis and Jewish doctors with experience are very willing to share their knowledge. Judaism encourages questions!

References

1. *Exodus, 21:19.*
2. *Deuteronomy, 22:2.*
3. *Leviticus, 19:16.*
4. *Mishnah, Sanhedrin 4:5.*
5. *Leviticus, 18:5.*
6. *Genesis, 1:28.*
7. *Genesis, 8:17, 9:1 and 9:7.*
8. *Genesis, 35:11.*
9. *Sefer Hachinukh, 1.*
10. Jakobovits I. *Journal of a Rabbi.* New York, Living Books, Inc. 1966, p 216.
11. *Mishnah, Yevamot 6:6.*
12. *Talmud Bavli, Yevamot 12b.*
13. *Talmud Bavli, Hulin 58a.*
14. *Exodus, 21:22.*
15. *Mishnah, Oholot 7:6.*
16. Gerris J. Methods of semen collection not based on masturbation or surgical sperm retrieval. *Hum Reprod* Update 1999 May-Jun; 5(3):211-5. Review.
17. Information on *Ashkenazi* (Northern European) Jewish genetic disorders is available at www.vcgspathology.com.au/sections MolecularGenetics/?docid=8918135a-5f3f-48e4-8c70-992e00f02035 .

Further reading

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