

SOME HALAKHIC IDEAS RELATING TO JEWISH GENETIC TESTING

Presented at the Union for Reform Judaism 2007 Biennial Convention



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Deuteronomy 4:15-18

(טו) ונשמרתם מאד לנפשתיכם כי לא ראיתם כל תמונה ביום דבר יקוק אליכם בחרב מתוך האש: (טז) פן תשחתון ועשיתם לכם פסל תמונת כל סמל תבנית זכר או נקבה: (יז) תבנית כל בהמה אשר בארץ תבנית כל צפור כנף אשר תעוף בשמים: (יח) תבנית כל רמש באדמה תבנית כל דגה אשר במים מתחת לארץ:

¹⁵ For your own sake, therefore, be most careful -- since you saw no shape when the LORD your God spoke to you at Horeb out of the fire -- ¹⁶ not to act wickedly and make for yourselves a sculptured image in any likeness whatever: the form of a man or a woman, ¹⁷ the form of any beast on earth, the form of any winged bird that flies in the sky, ¹⁸ the form of anything that creeps on the ground, the form of any fish that is in the waters below the earth.

Exodus 21:19-20

(יח) וכי יריבן אנשים והכה איש את רעהו באבן או באגרף ולא ימות ונפל למשכב: (יט) אם יקום והתהלך בחוץ על משענתו ונקה המכה רק שבתו יתן ורפא ירפא:

¹⁸ When men quarrel and one strikes the other with stone or fist, and he does not die but has to take to his bed -- ¹⁹ if he then gets up and walks outdoors upon his staff, the assailant shall go unpunished, except that he must pay for his idleness and his cure.

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Shulhan Arukh Yoreh Deah 116:5

צריך ליזהר מליתן מעות בפיו, שמא יש עליהן רוק יבש של מוכי שחין. ולא יתן פס ידו תחת שחיו, שמא נגע ידו במצורע או בסם רע. ולא יתן ככר לחם תחת השחי, מפני הזיעה. ולא יתן תבשיל ולא משקים תחת המטה, מפני שרוח רעה שורה עליהם. ולא ינעוץ סכין בתוך אתרוג או בתוך צנון, שמא יפול אדם על חודה, וימות. הגה: וכן יזהר מכל דברים המביאים לידי סכנה, כי סכנתא חמירא מאיסורא ויש לחוש יותר לספק סכנה מלספק איסור, ולכן אסור לילך בכל מקום סכנה כמו תחת קיר נטוי או יחידי בלילה, וכן אסרו לשתות מים מן הנהרות בלילה או להניח פיו על קלוח המים לשתות, כי דברים אלו יש בהן חשש סכנה (רמב"ם) ... עוד כתבו שיש לברוח מן העיר כשדבר בעיר, ויש לצאת מן העיר בתחלת הדבר, ולא בסופו (תשובת מהרי"ל סי' ל"ה /מ"א). וכל אלו הדברים הם משום סכנה, ושומר נפשו ירחק מהם ואסור לסמוך אנס או לסכן נפשו בכל כיוצא בזה. (ועיין בחושן משפט סימן תכ"ז).

One must be careful not to put coins in one's mouth, perhaps there is dried spit on them from those afflicted with boils. And one may not put one's finger under one's armpit, for perhaps one's hand will touch something unclean or a bad smell. And one may not put a loaf of bread under one's armpit, because of the sweat. And one may not put food or drink under the bed, for an evil spirit will dwell in them. And one may not wedge a knife into an *etrog* or a radish, for perhaps a person will fall on its projecting point and die.

Comment: And similarly, one must be careful of all things that bring one to danger, for danger is more severely prohibited than other prohibitions, and one should suspect potential danger more than other potential violations of Jewish law, and therefore it is forbidden to walk in any place of danger, such as under a leaning wall or alone at night; and similarly it is forbidden to drink water from rivers at night, or to place your mouth against a trickle of water to drink, for in these things there is suspected danger. ... And they further wrote that one should escape from the city when there is a matter (an event?) in the city, and one should escape at the start of the matter and not at its end. And all these are the matters that are because of danger, and one who guards one's soul will distance oneself from them, and it is forbidden to rely upon a miracle or to endanger one's soul with these or with things like them.

Shulhan Arukh Even HaEzer 2:7

לא ישא אדם אשה לא ממשפחת מצורעין ולא ממשפחת נכפין ...

A man may not marry a woman who is from a family of lepers nor from a family of epileptics...

Shulhan Arukh Yoreh Deah 336:1

נתנה התורה רשות לרופא לרפאות. ומצוה היא. ובכלל פיקוח נפש הוא. ואם מונע עצמו, הרי זה שופך דמים, ואפילו יש לו מי שירפאנו, שלא מן הכל אדם זוכה להתרפאות. ומיהו לא יתעסק ברפואה אא"כ הוא בקי, ולא יהא שם גדול ממנו, שאם לא כן, הרי זה שופך דמים. ...

The Torah gave permission to the doctor to heal. And it is a *mitzvah*. And it comes under the category of saving lives. And if a doctor prevented himself, this is considered the spilling of blood, even if there is someone who can heal him, for not every person is able to heal. However, one may not engage in healing unless he is expert, and not provided there is not a greater name than his, for if it this is so, it is spilling blood....

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Rabbi Moshe Feinstein, Igrot Moshe

It is advisable for one preparing to be married, to have himself tested. It is also proper to publicize the fact, via newspapers and other media, that such a test is available. It is clear and certain that absolute secrecy must be maintained to prevent anyone from learning the result of such a test performed on another. The physician must not reveal these to anyone... these tests must be performed in private, and, consequently, it is not proper to schedule these test in large groups as, for example, in Yeshivas, schools, or other similar situations.