



## **Playing G-d (1) : Choosing Your Child's Gender**

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### **1. Methods of Affecting Gender of Child**

- a. Low Tech/ "At Home" Methods
  - i. Diet, Positions, Timing (Closer [Male]/Farther [Female]) from Ovulation
  - ii. Effectiveness is Questionable
- b. Ericsson Method
  - i. Separate "Fast Swimmer" (Male) Sperm from "Slow Swimmer" (Female) in test-tube and use Artificial Insemination (AI)/Intrauterine Insemination (IUI)
  - ii. Relatively Cheap, success in the 73%-85% range, relatively non-invasive
- c. In Vitro Fertilization (IVF)
  - i. Preimplantation Genetic Diagnosis/Screening (PGD/PGS)
  - ii. Expensive (\$20,000), painful, invasive, side effects

### **2. Reasons for Choosing Gender:**

A. Preference. B. Gender linked diseases. C. Mitzvah of procreation (boy and girl)

### **3. Vayikra 19:19**

Keep my statutes (*Chukim*). You shall not mate your animal with another species, you shall not plant your field with mixed seed, and a garment that is a mixture of combined fibers shall not come upon you.

### **4. Rashi (Rabbi Shlomo b. Yitzchak, 11<sup>th</sup> century, France) to Vakira 19:19**

*Chukim*: these are the decrees of the king that have no reason.

### **5. Ramban, Nachmanides (Rabbi Moshe b. Nachman, 13<sup>th</sup> century, Spain) ibid**

The reason for the prohibition of crossbreeding is that G-d created species in the world...He gave them the ability to reproduce so that the species would survive forever... He commanded them to use that ability to sustain their species and not change them ever, as it says "[they were created] according to their species"... One who mates two species changes and denies the work of Creation, as if he thinks that G-d did not complete the world as was necessary, and he wants to help in the creation of the world by creating more creatures.

### **6. Talmud, Bava Batra 10b (Modified Soncino Translation)**

Turnus Rufus challenged Rabbi Akiva: 'If your G-d loves the poor, why does He not support them?' He replied, 'So that we may be saved through them from the punishment of Gehinnom.' 'On the contrary,' said the other, 'this is what condemns you to Gehinnom. I will illustrate by a parable. Suppose an earthly king was angry with his servant and put him in prison and ordered that he should be given no food or drink, and a man went and gave him food and drink. If the king heard, would he not be angry with him? And you are called "servants"... Rabbi Akiva answered: 'I will illustrate by another parable. Suppose an earthly king was angry with his son, and put him in prison and ordered that no food or drink should be given to him, and someone went and gave him food and drink. If the king heard of it, would he not send him a present? And we are called 'sons'...

### **7. Rabbi Menachem Meiri (13<sup>th</sup> Century, Provence), Sanhedrin 67b**

Anything that is done through natural means is not considered "witchcraft," even if it will become known how to create beautiful creatures without mating...

### **8. Talmud, Berachot 10a**

When Hezekiah was deathly ill, Isaiah the prophet, son of Amoz, came to him and said to him, "Thus said G-d, 'Set your house in order, for you shall die and not live.'... He said to him: What [did I do that] was so terrible? He replied: You did not try to have children. He said: This was because I divined that the children issuing from me would not be virtuous. He said to him: What have you to do with the secrets of the All-Merciful? You should have done what you were commanded, and let the Holy One, blessed be He, do that which pleases Him.

### **9. Talmud, Shabbat 31a**

Rava said "When man is taken to the [ultimate] judgment, he is asked... were you involved with procreation?"



### 10. Mishna, Yevamot 6:6

A person should not be abstain from procreation unless he has children... Beit Hillel says a boy and a girl.

### 11. Talmud, Eruvin 100b

Rava said “one who wants male children, should be with his wife twice” [to ensure she is satisfied]. [Based on the scientific assumption (see Berachot 60a), that if the woman “gives seed first”, she will give birth to a boy.]

### 12. Talmud, Yevamot 69b

Until 40 days, the seed is mere water.

### 13. Talmud, Niddah 13a

Rabbi Yochanan said: Whosoever emits semen in vain deserves death, as it says [concerning Er and Onan] “And the thing which he did was evil in the sight of the Lord, and He slew him also.”

14. **Rabbi Shlomo Zalman Aurbach** (20<sup>th</sup> Century, Israel), cited by Nishmat Avraham E.H 1:5: For non-medical purposes, sperm washing (method 2 above) would be considered “destroying seed.”
15. **Rabbi Menachem Bornstein** posed this question to leading rabbis in Israel. They responded:
  - a. **Rabbi Yehoshua Neuwirth**: “It pains me that you are dealing with “hidden” things. You should help people with marital issues, not things like these. We do our part and leave the rest up to G-d.”
  - b. **Rabbi Shlomo Amar**: Approved of method (1). The other two are problems because of Ramban. For health, procreation, or peace within the family, he would consider.
  - c. **Rabbi Meir Mazuz**: Only permits (2) and (3) for health reasons.

### 16. Assisted Human Reproduction Act, 5(1), 60 (Canada 2004)

No person shall knowingly for the purpose of creating a human being, perform any procedure or provide, prescribe or administer anything that would ensure or increase the probability that an embryo will be of a particular sex, or that would identify the sex of an in vitro embryo except to prevent, diagnose or treat a sex-linked disorder or disease

A person who contravenes [this] is guilty of an offence and (a) is liable, on conviction on indictment, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding ten years, or to both...

17. **Rabbi Yuval Sherlow**, when asked about the slippery slope concerns with gender choosing set out the final principles to consider based on Jewish law:
  - a. The likelihood of the undesired result (based on the law that limits decrees to common issues)
  - b. How negative the result would be (based on the law that we don't set up decrees to protect decrees, unless it is really stringent)
  - c. Cost in quality of life to parent (based on exceptions made in cases of extreme loss)

### 18. What Israeli Policy Can Teach Us About Elective Sex Selection by Gila Leiter

Israel has a unique approach to the question. Israel is known for its high rates of IVF with the highest rates of intervention per capita in the world. PGD is regulated by the Ministry of Health, since 2005, based not on legislation, but mandated by directive, and sex selection for non-medical reasons is basically prohibited. Exceptions can be made in rare cases, after written permission is granted by the committee, appointed by the director general of the Ministry of Health and composed of seven members, including a psychologist, physicians in Ob/Gyn AND genetics, a medical ethicist, social worker, lawyer, and clergyman. Couples and single women can apply if they feel there would be significant damage to the family member's mental health if the procedure was not done. The applicants should be married and have four joint children of same sex and none of other. They must undergo genetic counseling about the PGD process, and give written consent. The applicants must understand if embryos of the non-selected sex remain, no additional IVF cycles can be done until all remaining embryos are used by the couple. In addition, specific and “idiosyncratic” religious reasons were considered, as in cases of priestly Jewish families, requiring a sperm donor, where a son who is not of genetic lineage could not publicly bless the congregation, and thus girls would be preferred. Also included in the application was whether IVF was necessary to achieve a pregnancy in any event. The procedure was not funded by the government, unlike the liberal IVF coverage for infertility in Israel.