

# The Halakhic Parameters of Delaying Procreation

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**Abstract:** This article aims to show that there is a strong halakhic basis to allow a childless couple to postpone procreation temporarily and without an arbitrary time limit imposed. It focuses on the rulings of Rivash and Rema, who recommend that the rabbinic leadership adopt a *laissez faire* policy regarding marital issues. The Talmudic teaching extolling zealotry is not absolute and would not apply if a delay would enhance the performance of the commandment. The fear of a premature death is not a factor with regard to the commandment to procreate.



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# The Halakhic Parameters of Delaying Procreation<sup>1</sup>

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As a Talmud teacher at Stern College for Women for almost three decades, I have found myself confronted in recent years by an increasingly greater number of requests to decide questions of marital issues. My students seem simultaneously pulled in opposite directions. On the one hand, many of these women are classically modern Orthodox, independently learned and fluent in halakhic texts; on the other hand, they appear increasingly reliant upon rabbinic authority to decide matters that may fall under the rubric of personal autonomy. Nowhere is this tension more poignant than in questions of contraception.<sup>2</sup>

Many of my finest students are unaware of the latitude offered them by halakhic precedent. They are often embarrassed by their wish to postpone procreation (as if it reflects a lack of faith) and they approach me with painful trepidation to tell their stories. Some of them and their prospective husbands intend to pursue graduate study, they are torn by a perceived difficulty in managing baby and career. Others, who may be leaving their childhood home for the first time, are struggling with a lack of confidence in their ability to assume parenting roles. And I suspect that there are further reasons that these young men and women do not know or cannot articulate. They frequently ask their rabbi because they believe or have been told that they must do so, sometimes because they perceive rabbis as benign paternal authorities who will help them cope with their anxieties.

We, as rabbis, must give our young men and women proper counsel and guidance. In that

context, I would like to consider the following questions: Does a couple's wish to delay fulfilling the commandment to procreate require rabbinic permission? If so, what are the halakhic determinants of the discussion? If not, what are the consequences of rabbinic involvement into this personal matter?

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*Does a couple's wish to delay fulfilling the commandment to procreate require rabbinic permission?*

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At the outset, we must distinguish between two categories of positive Torah laws. Some positive commandments are time-bound: Once a designated time passes, the opportunity to fulfill them is gone. Eating *matsah* on the fifteenth day of Nissan is such an example. Other positive commandments—such as procreation—are not limited to a certain time. If a man<sup>3</sup> fulfills this mandate late in life, the fulfillment is just as valid as that of a younger man. Nevertheless, the question remains whether the delay itself is permitted.

There are three halakhic issues that we must address:

1. Is a delay considered a violation and cancellation of the commandment itself until it has been fulfilled?
2. Does the concept of *zerizin maqdimin le-mitsvot*, the conscientious fulfill the commandments expeditiously, necessitate a prompt fulfillment?
3. Does the fear of an early demise—

1. I owe a debt of gratitude to Dr. Judith Isaac for assisting me in the preparation of this article.  
2. The halakhic permissibility of various methods of contraception is beyond the focus of this article.  
3. Only men are obligated.

*heishinan le-mitah*—also necessitate a prompt fulfillment?

### Is a Delay a Violation?

At the end of his commentary to *Nega'im*, the *Hazon Ish* discusses the temporal parameters of positive non-time-bound commandments.<sup>4</sup> He first suggests, based on a ruling in the Talmud (BT *Mo'ed qatan* 7b), that delaying the performance of such laws is a violation of the laws themselves. In other words, even though a man can still fulfill the commandment, the mere delay constitutes a temporary cancellation of that law. In that context, the *Hazon Ish* cites the talmudic discussion (ibid.) of a *kohen's* obligation to examine a person suspected of having contracted leprosy. Can a *kohen* delay the performance of this obligation? The Talmud cites a biblical verse (Lev. 13:14; 14:36) to prove that a *kohen* can delay for the purpose of facilitating the fulfillment of another statute (and according to one opinion even for a secular purpose). By implication, it would appear that a postponement is forbidden for those commandments that remain unrooted in an explicit Biblical text to permit a delay. The *Hazon Ish* provisionally suggests, therefore, that a delay may constitute a temporary cancellation of the law itself.

Yet the *Hazon Ish* ultimately rejects that view, given the absence of support for it in other talmudic rulings. He says, for example, that the mandate of *halitsah/yibbum* can be delayed. He also cites the talmudic statement (BT *Pesahim* 4a) that, in general, a delay in fulfilling a positive commandment represents only a lack of conscientiousness, not a cancellation.<sup>5</sup> He therefore concludes:

...with all non-time-bound positive commandments one can delay for the sake of another *mitsvah* or to avoid a monetary loss. And the need for a verse in the leprosy case is either because the essential

nature of the mandate is particularly severe, or because the *kohen* is relieved of the more general obligation expressed in the talmudic dictum of *zerizin maqdimin le-mitsvot* (BT *Pesahim* 4a). Still, if one procrastinates for no reason at all, he might arguably cancel and violate the injunction. Yet even in such a situation, it possibly may not be a violation: As long as his intention is to fulfill the law, the delay is not viewed as a nullification of the Torah's mandate. This position is supported by a ruling of *Tosafot* (BT *Pesahim* 29b): If one possesses *hamets* at the start of *Pesah*, with the intention to destroy it later during *Pesah*, he does not violate the prohibitions against owning *hamets*.<sup>6</sup>

In sum, the *Hazon Ish* starts with the view that a delay in performing non-time-bound commandments constitutes a cancellation of the law. He then rejects that position based upon several talmudic rulings, and finally concludes that a delay would be permitted for a divine or secular motive and possibly even for no reason at all. But the *Hazon Ish* only discussed non-time-bound *mitsvot* in general; he did not address the specific commandment to procreate.

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*“The commandment to procreate begins at the age of seventeen; if he is not married by the age of twenty he is violating this mandate.”*

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Regarding procreation, R. Huna (BT *Qiddushin* 29b) says that a man should be married by the age of twenty, because all his days will otherwise be filled with immoral sexual thoughts. In the *Mishneh torah*, Maimonides codifies the *halakhab* as follows:

The commandment to procreate begins at the age of seventeen; if he is not married

4. He does not discuss the specific commandment to procreate, but only this category of *mitsvot* as a whole.

5. The *Hazon Ish* does not find this proof very compelling, because this citation refers to time-bound commandments, which one does not violate until the passage of the particular time frame.

6. The translation is mine.

by the age of twenty he is violating and canceling this mandate (*Hilkebot Ishut* 15:2).

Clearly, Maimonides would agree that a person can fulfill this commandment at any age since, according to the Torah, it is not time-bound. However, for as long as he postpones, he is transgressing and temporarily abrogating the law.

Maimonides codifies a similar ruling with respect to the mandate of circumcision (*Hilkebot Milah* 1:2). He rules that from the time an uncircumcised male becomes an adult he is transgressing and canceling this mandate, yet he is not liable for  *karet*  unless he dies uncircumcised. Undoubtedly, once circumcised, he has indeed fulfilled his obligation. Nevertheless, until that time, each day he procrastinates is considered an active breach of the statute.

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*Rosh differs from Maimonides on the  
permissibility of delay*

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Maharit (Responsa, Section 2, *Yoreh de`ab* 47) accepts Maimonides' formulation of the commandment to procreate in a case involving a thirty-year-old man who is engaged to a young girl of six. The man has taken an oath (*shevu`ab*) not to marry another woman during her lifetime and never to divorce her. The question posed to Maharit is whether his vow violates the Torah, since she is presently too young to have children and he will have to wait. If it is a violation, the vow is null and void. Maharit contends that the oath is valid and takes effect since it does not totally negate a law of the Torah. The Torah's mandate to procreate can still be fulfilled, albeit at a later time. However, argues Maharit, even though the oath is valid, he is still transgressing the commandment to procreate because any delay in the fulfillment of a Torah law is viewed as a transgression of the law.

7. *B'er ha-golah, Even ha-ezer* 1:9

Rosh differs from Maimonides on the permissibility of delay, arguing that the court may force a man to marry by the age of twenty in order to enforce the mandate to procreate (*Yevamot* 6:16). He specifically notes that the courts can coerce someone *who does not want to marry* [emphasis mine], and herein lies the difference between Maimonides and *Rosh*. Maimonides simply says he does not marry—the mere fact that he reaches the age of twenty and is not married is a violation. But according to *Rosh*, he is only subject to judicial coercion if he does not ever want to marry. By implication, if he wishes to marry at a later date, he would not be transgressing. (The *Pithei teshuvah* makes this inference, which I will elaborate on later.)

Rashba (Responsa, 4:91) rules in the same way as Rosh. Rashba was asked whether a person's vow not to marry for a certain period of time violates the Torah. If that were the case, the vow would be void. Rashba responded that the vow does indeed take effect because it does not annul a Torah commandment: The man can fulfill both the vow as well as the commandment to procreate. Furthermore, Rashba claimed this ruling would apply even for a time-bound statute, such as circumcision: If a father swears not to circumcise his son on the eighth day before the afternoon, he should heed his vow and wait until the afternoon because the vow is not a violation; it only expresses a lack of conscientiousness. By comparing a delay to marry with a delay to circumcise until the afternoon of the eighth day, Rashba implies that the command to procreate is not violated by delay.

The *Shulchan arukh* codifies the law according to the opinion of Rosh:<sup>7</sup>

The commandment to marry begins at the age of eighteen...and if by the age of twenty he is still not married, *and he does not want to marry* [emphasis mine], the court will force him to do so. However, someone

who is immersed in Torah study and fears that the responsibilities of marriage will interfere with his studies is allowed to delay (*Even ha-ezer* 1:3).

The *Shulhan arukh*'s statement that "he does not want to marry" seems to entail an affirmative decision not to marry. The implication is that if he wants to marry at a later date, he is permitted to do so.

This explication of the *Shulhan arukh* is endorsed by the *Pithei tesbuvab* (*Even Ha-ezer* 1:5). The *Pithei tesbuvab* cites the opinion of Maharikash, who expounds on the ruling of the *Shulhan arukh*:

If he ultimately wants to marry but he is seeking a temporary stay, the court will not compel him to do otherwise (*Erekh Lehem Pirya Va'rivya*).

By implication, Maharikash permits a delay of marriage, because if it were forbidden then the court should compel. One might argue that even though the court does not compel, the delay might still be illegitimate. However, the *Otsar ha-poskim* (*Even ha-ezer* 1:5) interprets the opinion of *Maharikash* as saying, "it would be permitted [emphasis mine] to postpone since he ultimately wants to marry."<sup>8</sup>

There seems to be an internal inconsistency in the ruling of the *Shulhan arukh*. If the general rule is that anyone is allowed to postpone marriage (provided he intends to marry at a later date), why is there a specific exemption

for the person immersed in Torah study? By making a distinction between these two individuals, one might infer that only the Torah scholar is permitted to delay but everyone else is not.

This inconsistency is resolved by a comment of the *Beit shemu'el*,<sup>9</sup> who says (*Shulhan arukh*, *Even ha-ezer* 1:5) that someone immersed in Torah study is permitted to delay marriage because he might not persevere in his study if he were compelled to support a family. In this view, the Torah scholar can delay indefinitely, as long as he lives, provided he is able to control his sexual urges. The distinction between the Torah scholar and the ordinary person, according to the *Shulhan arukh*, is that one who studies Torah can postpone marriage and procreation for his entire life; everyone else is not absolved of his obligation and can delay only temporarily.<sup>10</sup>

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*If he wants to marry at a later date, he is permitted to do so.*

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Netsiv, in his commentary *Ha'ameq she'eilah* (*She'eiltot* 5:4), apparently agrees with the *Pithei tesbuvab* that one is permitted to delay marriage and procreation. Yet he questions the particular nature of the obligation to procreate and its relevance for Torah scholars. He cites the Talmudic statement (*Mo'ed qatan* 9b) that a personal obligation that cannot be executed by others cannot be neglected for the sake of Torah study. Since procreation is such an

8. The concluding statement of *Maharikash*—that he should not delay beyond the age of twenty-four—is based on his concern regarding uncontrollable sexual urges, not the injunction to procreate. Obviously, if he is already married, this would not be an issue.

9. The *Beit Shemu'el* was not deliberately seeking to address this inconsistency, but his comments are instructive for our purposes.

10. The ruling of the *Shulhan arukh* in *Even ha-ezer* 76:6 does not necessarily contradict the above ruling. There, he says that a husband who has not yet fulfilled the commandment to procreate is obligated to provide his wife with *onah* until he has fulfilled this commandment (procreation), even if his wife is willing to absolve him of the *onah* obligation. This does not necessarily imply that a postponement in the commandment to procreate is forbidden. It does suggest that the commandment to procreate and the commandment of *onah* are connected. The obligation to procreate should be fulfilled through the ongoing fulfillment of the obligation of *onah*. And as long as he has not fulfilled his obligation to procreate, his wife cannot absolve him of his *onah* obligation.

obligation, Netsiv asks why Torah study should take precedence over procreation. He answers, “Any personal obligation that is not limited to a fixed time is analogous to a personal obligation that can be implemented by others.” Since the requirement to procreate is not restricted to a set time, it should be treated as a commandment that can be performed by others on one’s behalf.

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*One who studies Torah can postpone procreation for his entire life; everyone else can delay only temporarily*

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One must conclude based on Netsiv that the Torah scholar’s obligation to procreate is no different from his obligation, say, to visit the sick. If the Torah scholar is released from that obligation (because others can perform it on his behalf), he is likewise released from the obligation to procreate without delay. Consequently, the ongoing act of delay does not violate the law.<sup>11</sup>

### ***Zerizin Maqdimin le-Mitsvot***

There is a further dimension to the discussion of delay, namely, the Talmudic principle of “*zerizin maqdimin le-mitsvot*,” the conscientious are zealous to fulfill the commandments expeditiously (BT *Pesachim* 4a). One can derive the importance of this principle from a *mishnah* (BT *Yevamot* 39a) that states that the commandment to perform *yibbum* is imposed upon the oldest brother. If he refuses, it falls to the other brothers. If they all refuse, the oldest brother is told by the courts to either consummate the relationship with *yibbum* or release the woman through *halitsah*. The courts do not honor the older brother’s request that she wait for the younger brother who is a minor to become a *bar mitsvah*, or for the return of the oldest brother from abroad. Apparently,

the law desires a speedy resolution of the *yevamah*’s predicament.

The Talmud (BT *Yevamot* 39a) then discusses the comparative desirability of *halitsah* by the oldest brother or *yibbum* by a younger brother who is an adult. The Talmud attempts to prove from the *mishnah* cited above that *halitsah* by the oldest is preferred because we do not accept the brother’s request to wait for the minor, even though he might decide to perform *yibbum*. However, the Talmud continues, this proof is inconclusive because that *mishnah* also states that we do not wait for the oldest brother to return from abroad. Apparently, says the Talmud, there is another principle that determines the halakhic decision: “one should not delay in the performance of a *mitsvah*.”<sup>12</sup> Whether *yibbum* by the younger or *halitsah* by the oldest is preferred, we do not delay the fulfillment of the precept. This conclusion demonstrates that one should encourage the prompt fulfillment of a commandment even if a delay would enhance the way in which it is performed.

Yet the *Terumat ha-deshen* concluded otherwise in a ruling (1:35) concerning the timing of the blessing for the new moon. He was asked if it would be preferable to recite the blessing at the earliest time or to wait until Saturday night, when the community would be dressed in formal *shabbat* attire and this precept would thereby be beautified (*biddur mitzva*). The *Terumat ha-deshen* responded that it is preferable to wait until Saturday night. He added the condition that the delay should not jeopardize the prospect of performing the commandment. Therefore, he required that it still be early in the month and there be several opportunities to perform the commandment after Saturday night.<sup>13</sup>

The *Trumat ha-deshen* reconciled the apparent contradiction between his decision and the

11. If a postponement actually were to violate the Torah’s injunction to procreate, then he must perform the *mitsvah* now. It would be totally incongruous for Netsiv to compare it to a Torah obligation that others can fulfill on his behalf.

12. This principle, although worded differently, basically parallels the above-mentioned dictum extolling zealousness.

13. For example, inclement weather would require a further delay.

talmudic law (in the matter of *yibbum*) that one does not wait for a preferred outcome by introducing another consideration: the performance of a commandment must not be delayed if there is a realistic fear that it might never be fulfilled. In the case of *yibbum*, for example, the minor brother of the deceased may die before reaching adulthood. Yet if it is reasonable to assume the statute will be obeyed later and in a more dignified manner, it is better to wait. The *Shulhan arukh* codifies the law according to the opinion of the *Terumat ha-desben* (*Orah hayyim* 426:2).

If one applies the *Terumat ha-desben's* position on *biddur mitsvah* to the commandment to procreate, it appears that a couple may delay having children until a time when they will better be able to care for their children. The fulfillment of the commandment to procreate would be enhanced and beautified by parents who are psychologically and materially capable of nurturing their child.<sup>14</sup>

### ***Haishinan le-Mitah*—The Risk of Death**

However, as the *Terumat ha-desben* stated, there are limits to the justification for postponing the performance of a commandment. If there is a chance the statute will never be fulfilled, one should execute it immediately. In numerous cases the Talmud considers the possibility of premature death as a necessary concern and a justification for not procrastinating. That concern may apply to the fulfillment of any commandment, including procreation. However, the Talmud presents inconsistent applications of the principle that one must be concerned about death. For example, a *mishnah* (at *Yoma* 2a) states that the kohen gadol must be married in order to perform the service in the temple on Yom Kippur. To that end, it cites the opinion of R. Judah, who says that one must take into account the possibility that his present wife may die. Therefore, seven days before Yom Kippur, another woman should be identified as a potential wife. But the sages disagree with R. Judah, claiming there is no

14. It would be inconceivable to suggest that the commandment to procreate has nothing to do with the raising and caring of the child.

need to consider the prospect of death because death is uncommon (*ibid.* 13a).

The *Tosafot yeshanim* (ad loc.) challenges the view of the sages on the basis of the *mishnah* found in *Yevamot* 26a. That *mishnah* says that if two of four brothers are married to two sisters and the two married brothers die, the two sisters are subject to *halitsah* but not to *yibbum*. The rationale is based on the fear that one of the surviving brothers will perform *yibbum*, and then the other brother may die. In that case, the second sister would be wholly exempt from *yibbum* or *halitsah*: she would become forbidden to her brother-in-law because a man may not be married to two sisters. Obviously, this demonstrates that the fear of dying is a bona fide consideration.

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*One should not delay in the performance of a mitsvah.*

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The *Tosafot yeshanim* reconciled these opposing views of death by noting the difference between a long period of time and a short one. Over a short period of time, as is the case with the *kohen gadol*, the likelihood of death is rare; over a long period of time, as in the case in *Yevamot*, it is more probable. *Tosafot to Yevamot* (18a) made the same distinction as did the *Tosafot yeshanim*, but never clarified what constitutes a long time. There are different opinions: Some suggest that more than seven days constitutes a long time, while others claim that thirty days is considered a long time (*Talmudic Encyclopedia* [Hebrew], Vol. 15, *Haishinan le-mitah*:1). It appears that a person should never delay the performance of any commandment for more than seven or thirty days because of the fear that he might die prematurely.

One may legitimately argue that the commandment to procreate is essentially different from *yibbum/halitsah*, and that the possibility of death need not be taken into

account. In the *yibbum/halitsab* case, the death of one person would adversely affect another living person—i.e., the death of one brother would affect one of the sisters. Similarly, the kohen gadol would be affected by his wife's death. However, the commandment to procreate has no effect on another person. If a man dies before he fulfills this commandment, his death does not affect anyone else. Furthermore, his death exempts him from all obligations, as the Talmud says, "Once a person dies he is free from the commandments and absolved of all responsibilities" (BT *Shabbat* 151b). Consequently, a delay in procreation should not be subject to the consideration of possible death.

In a similar vein, Netsiv (*Mashiv davar* 1:41) addresses the issue of possible death and makes this very distinction with regard to the timing of the *megilah* reading on *Purim*. Netsiv rules that villagers who are permitted to read the *megilah* before the fourteenth day of Adar can delay its reading until the fourteenth, which is the preferred time. The chance of their premature death and consequent failure to perform the commandment is not considered, because their death would not affect others. Therefore, it is better that they wait for the preferred time rather than read at the merely allowable one.

However, there is a talmudic ruling concerning a *nazir* that seems to contradict Netsiv's position on the consideration of an early demise (Talmudic Encyclopedia [Hebrew], Vol. 15, *Haishinan le-mitah*, 6). The Talmud says (BT *Rosh ha-shanah* 6b) that if a person takes a vow and delays fulfilling it for approximately a year (actually, the passage of three festivals), he violates *lo te'aher* (the prohibition against delaying fulfillment of a vow). For example, someone who vows to donate a sacrificial

offering to the Temple in Jerusalem is obligated to fulfill his vow within the year. If he fails to do so, he violates this prohibition. The Talmud further asserts (BT *Nedarim* 3b), based on a biblical verse (Num. 6:2), that *lo te'aher* also applies to someone who vows to become a *nazir*, but the Talmud is hard-pressed to find a situation in which the aspiring *nazir* violates this prohibition. After all, once he says, "Behold, I am a *nazir*," he becomes a *nazir* immediately and any failure to observe the terms of *nezirut* constitutes a violation of the *nezirut* itself, not of *lo te'aher*. The Talmud finally states that the violation occurs if he says, "I will not leave this world without having been a *nazir* [and having fulfilled all its requirements]." Since a person is unaware of the day of his death, he must accept the *nezirut* immediately, and if he procrastinates for a year he will violate *lo te'aher* (Rosh, *Nedarim* 3b).

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*It appears that a couple may delay having children until a time when they will better be able to care for their children.*

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At first glance, this ruling appears to contradict Netsiv: It suggests that a person must consider the prospect of an early demise and not delay fulfilling a statute even though it affects no one but himself.<sup>15</sup> However, if this were true, one might expect that a person who vows to accept *nezirut* within two years should also be obliged to implement his *nezirut* immediately for fear of an early death. But Ran (*Nedarim* 3b) does not make this demand. He says that the consideration of an early death depends upon the formulation of the vow. If he vows, "I do not want to leave this world without having observed *nezirut*," the person is stipulating, as part of his vow, to fulfill this pledge during his lifetime, which is, of necessity, an unknown

15. His obligation to accept the *nezirut* immediately, explains Rosh, does not contradict the opinions of the *Tosafot* cited above, since the duration of time needed to fulfill *nezirut* is thirty days, which, according to Rosh, is considered a long time.

quantity. Therefore, he must consider his death no matter how remote the possibility. If he does not want to jeopardize his objective, he must begin his *nezirut* immediately, because a delay would constitute a violation of the actual vow. However, if he vows to accept *nezirut* within the next two years, he is not introducing the prospect of death into his vow and his vow will not be violated before the passage of the two-year period.<sup>16</sup> Consequently, he need not be concerned about the possibility of a premature death, since failure to heed the vow affects only himself and no one else.<sup>17</sup>

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*According to Rosh and Shulhan arukh, as understood by Maharikash, postponement is not a violation of the law.*

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Many rabbis, generally speaking, are opposed to contraception, but would grant a reprieve to a childless couple for a limited amount of time, generally three to six months. After that time the women are expected to stop using contraception or consult the rabbis once more for a dispensation. Yet, because the women are again embarrassed or fearful, they either avoid the rabbi and suffer ensuing guilt or they conceive a child whether they feel ready or not. Paradoxically, their initial submission to

rabbinic authority creates a subsequent aversion to that same authority.

The rabbis are faced with an internal contradiction in their position: If they grant any dispensation to a childless couple, they are relying on the “lenient” interpretation of the law—apparently, they conclude that a delay is permitted. If so, they need not qualify their decision or limit its validity to an arbitrary period of time, whether three or six months.<sup>18</sup> On the other hand, if delay is forbidden, then no moratorium should be tolerated because no rabbi has the authority to permit that which is forbidden. He must find a halakhic basis for it. Presumably, the rabbis who issue temporary dispensations are functioning as pastoral/spiritual counselors who wish to encourage the couple to establish a faithful house in Israel. In that case, they should clarify their role to the couple, and tell them directly that they speak as spiritual advisors, rather than as halakhic decisors.

Many young couples are at this time struggling to reconcile the contradictory objectives of their education. They have been taught to develop their talents, pursue their education, and become self-sufficient financially and emotionally. On the other hand, they are taught humility and subordination to rabbinic

16. He would have to implement his vow within the first year because of *lo te'aber*.

17. Rav Herschel Schachter, in an article (“Halakhic Aspects of Family Planning”) in the *Journal of Halakha and Contemporary Society* (Fall 1982), posits that a delay in the commandment to procreate is forbidden. He bases this view on the following principles:

1. The *Hazon Ish*'s conclusion that a delay in fulfilling a positive non-time-bound commandment is viewed as a temporary cancellation of the commandment.
2. *Zerizin maqdimin le-mitsvot*, the conscientious carry out the Torah's mandates expeditiously.
3. *Haishinan le-mitah*, we must consider the possibility of an unexpected early demise.
4. Maimonides' position (*Hilkebot Ishut* 15:1) that a delay in the fulfillment of the commandment to procreate is viewed as a violation of the law itself.
5. Shulhan arukh's conclusion (*Even ha-ezer* 76:6) that a postponement is forbidden.

While I have deep respect for Rav Schachter, I must respectfully disagree with his reading of the *Hazon Ish*. I believe the conclusion of the *Hazon Ish* is unequivocal to permit a delay. As far as the principle of *zerizin maqdimin le-mitsvot* is concerned, I have attempted to show that it does not apply if a delay would enhance the fulfillment of the commandment. The principle of *heishinan le-mitah* also does not apply with respect to the commandment to procreate, based on the ruling of the Netsiv. It is true that Maimonides does not permit a delay. However, I have attempted to show, based on the Maharikash, that the *Shulhan arukh* does not follow Maimonides' view and the citation from *Even ha-ezer* 76:6 is not necessarily positing that a delay is forbidden. I have elaborated on this last point in footnote 10.

18. I cannot find a legal source on which to base any specific amount of time during which a delay (for a childless couple) is permitted.

authority. At best, the couple is confused about the extent of their autonomous decision-making. The conflict is at once philosophical, theological, and psychological.

There is potential for grave harm in this situation. Young people experience great pressure to marry at an early age and are frequently overwhelmed by the combined pressures of marriage and parenting. Many mental health professionals I have consulted describe epidemic problems among young people who discover their identities and define their aspirations and values only after marriage. They too frequently feel trapped by an earlier decision, and often find their way to psychotherapists and sometimes divorce courts. The problem is much more poignant when there are children involved whom neither parent is prepared to care for. These tragic cases may contain a measure of harmful rabbinic enmeshment.<sup>19</sup>

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*There is considerable compatibility between halakhic precedent and psychological thinking.*

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In fact, there is considerable compatibility between halakhic precedent and psychological thinking. Young people who think that their concern for financial autonomy reflects a doubt in divine providence might draw comfort from the wisdom of the *midrash aggadah* that compares a poor person to one who is dead (BT *Nedarim* 64b, cited by Rashi on *Exod.* 4:19). On this point, the *Gur Aryeh* (on *Exod.* 4:19) explains that the desire for self-sufficiency and autonomy is innate. It is not a luxury for the select few or something to

dabble in during one's spare time. It is essential in sustaining a wholesome and enriching life. Indeed, a person who fails in this endeavor is lacking a crucial dimension of life. In this view, an absence of concern for one's financial future is an expression of personal folly and not a testament to a higher faith.

Maimonides (*Hilkhot De'ot* 5:11) makes a similar point:

It is the way of sensible people to obtain a job that will support them, then to buy accommodation and then to get married, for it is written, "Who has built a house and has not yet dedicated it? Who has planted a vineyard and has not eaten of it? Who has betrothed a wife and has not yet taken her?" Stupid people start by getting married, then buying a house if they can afford one, and then, towards the ends of their lives, try to find a job, or else support themselves by charity. It is written in the curses, "You shall betroth a wife and another man shall lie with her; you shall build a house but shall not dwell in it; you shall plant a vineyard but shall not gather its grapes." This is to say that if one's actions are in the wrong order one will not be successful.

In this light, even though Maimonides believes a man should marry by the age of twenty, he must first obtain a degree of financial security. If, however, he has not yet achieved this, then he may (or perhaps should) delay marriage. And since a fundamental objective of marriage is procreation, it is quite reasonable to assume that just as financial security is an important prerequisite for marriage, so too should it be for starting a family. Therefore, since young

19. At times, the woman does not reveal to the rabbi the full dimension of her predicament. To illustrate how this could result in unintended harm I would like to present the following clinical example. A psychotherapist related to me the case of a childless nineteen-year-old married woman who suffered from an obsessive-compulsive disorder and severe depression. She consulted a rabbi for permission to practice birth control. The rabbi, apparently unaware of the severity of her disorder, made his decision solely on the basis of his concern for the health of the fetus: Since her medication might harm the fetus, she could use contraceptives as long as she required the medication. At that time, she was also being treated by a psychotherapist who recognized the larger personality issues of her illness: She was emotionally immature and terrified at the prospect of bearing and raising children. The therapeutic goal was to wean her from her medication and prepare her for the challenges of motherhood. Meanwhile, the patient knew that she could delay childbearing only as long as she took the medication and she consequently refused to alter her drug regimen. In light of the rabbi's decision, she stymied the therapy and subverted its goals.

couples today are marrying while pursuing an education and profession, delaying procreation is a valid and logical consideration.

The need for rabbinic restraint in marital matters is supported by weighty halakhic precedent. Rivash was questioned (Responsa, 15) about the permissibility of performing a marriage between a man who had not yet fulfilled the commandment to procreate and an elderly wealthy woman beyond the years of reproductive capacity. The young man sought financial security and the woman desired a companion, but the community resolved to stop the marriage and consulted Rivash. His response provides the basis for future decisions. He replied that the community did technically have the right to compel the young man and prevent the marriage. However, the practice has been for many generations not to coerce marriage or object to one. In his pithy phrase, “the sages of past generations hid their eyes when it came to marital matters,” even if the couple’s actions were forbidden so long as the marriage itself was not illegitimate. He further states that rabbinic coercion could lead to arguments and legal battles, and that the rabbinic function with regard to marriage should be limited exclusively to adjudicating disputes between husband and wife.

Based upon this ruling, Rama (*Even ha-ezer* 1:3) limits the role of rabbinic courts in matters of marriage. Although the *Shulhan arukh* states that the courts should coerce a man to marry at the age of twenty, Rama claims that we no longer adhere to such a policy. Even if someone who has not fulfilled the commandment to procreate wants to marry a woman who is incapable of having children, the established practice has been not to

interfere. Likewise, a man who has been married for ten years and remains childless should not be pressured to divorce his wife.<sup>20</sup> This, concludes Rama, should be the established policy in all matters of marital relationships. Certainly then, according to Rama, this policy should be adhered to in marital matters of behavior that the *halakhab* itself does not prohibit!

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*The need for rabbinic restraint in marital matters is supported by weighty halakhic precedent.*

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We must apply the decisions of past generations to the contemporary scene. Young people are marrying at a young age, frequently when they are still psychologically immature and emotionally insecure. Furthermore, they must advance in a culture that requires a long apprenticeship in graduate study or otherwise before they are financially self sufficient. As rabbis, we must maintain our role as facilitators of their growth, and allow them the latitude to make decisions based upon needs that are unique to each couple and that only they can know. We must accept the fact that we cannot know the deepest motives that impel young people to turn to us for permission to delay procreation. Nor are we qualified to discern the nuance of such blanket terms as “anxiety” and “marital jitters”; one person’s mild apprehension may be another’s insurmountable emotional torment. Following Rama, it may be that we best serve our young people by granting them the opportunity to decide when they are ready for the noble task of parenthood. Perhaps what is required is less their faith in us than our faith in them.

20. According to *halakhab* (BT *Yevamot* 64a), he would be required to divorce her.