

## Single Women Who Want to Have a Baby

Byline:  
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Question to Rabbi Yuval Cherlow, Rosh Yeshiva of the Hesder Yeshiva of Petach Tikva:

I ask you to bravely write an answer to a question that has been disturbing me very much for quite some time. I am a thirty-six years old woman, rather pretty, educated and well taken care of, who has been attempting for over fifteen years to get married, but to no avail...

I want to have a child!!! I dream all the time about him and I want a child!!!

I beg of you: please articulate for me the entire issue from the very beginning till its end. with a specific conclusion. Am I allowed to bring a child to the world while I am not married? To be exact "How may I have a child?"

Response from Rabbi Cherlow:

I shall attempt to the best of my ability to articulate the entire matter and all its various considerations.

- A. The fundamental principle of our existence is the complete Jewish family. The Torah has written in the story of Garden of Eden: "Therefore shall a man leave his father and his mother and shall cleave unto his wife and they shall be one flesh," and it taught us that all the elements of the family are concentrated in one place: Living with a mate [*shall a man leave his father and his mother*], in matrimony [*shall cleave unto his wife*] and the fertilization [and they shall be one flesh.] Therefore, the constant yearning and goal is to establish a family, and the framework to give birth to children. Since the issue is already mentioned in the story of the Garden of Eden, we may learn of its high importance, and its being the foundation of human continuity. In contrast with the culture of the world in which we live now, which is a world of taking apart and colorful reassembling, this is the stability and holiness of the Jewish family. Therefore, before considering any other option, it is essential to make every effort to establish a legal and proper family in which to give birth to children.
  
- B. Due to the holiness of the Jewish family there exists a deep hesitation to giving birth to children outside of such family framework, which *could be established*. The Rabbis integrated the mitzvah of "*be fruitful and multiply*" to the mitzvah of marriage, and they explained that is the reason why the mitzvah to get married is not an independent 'stand-alone' commandment. The halakha expects people who wish to get married to build a Jewish home on principles of concession, mutuality, respect, willingness to compromise, the acceptance of

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a spouse—even if not perfect- and much more.

- C. When a woman reaches a point when it becomes probable that she will not be able to establish a Jewish home despite her strong will to do so and her willingness to compromise towards that goal, coupled with the continuous ticking of her biological clock and the declining chances of giving birth, but she nonetheless still wishes very much to have a child--there exists a serious unresolved question that is still disputed among the halakhic authorities. Some claim that a woman's strong wish for a child should not outweigh the significance of the holiness of the Jewish family, nor the benefit of a child to be born into a family with a father and a mother: thus there is no way to move in this direction. Moreover, there is a social framework that one must consider as well, namely, the desire to prevent the slippery slope of the wish to give birth to children out of wedlock in much younger ages, and in fact where giving birth with no husband may become the normative or even ideal mode of life. Sometimes, social tenets designed to protect the holiness of the Jewish family restrict the private will of the individual.
- D. On the other hand, some rabbis claim that when one reaches the stage where the chances of pregnancy are about to fade, and when a person demonstrates that she did all in her power to get married but did not succeed, there is no way to prevent, halakhically, the realization of her hope to bear children. That is because even the Torah describes that a childless woman feels as if her life without children is not a life, ["Give me children, if not I am a dead (woman)]. The Midrash comments that Jacob pained Rachel when he replied to her in an inappropriate manner; that is because there is no clear prohibition on a woman to give birth without first establishing a home. That is due to the fact that one is prevented from entering into the issue of "the right to become pregnant", for it is an issue of human conduct that preceded the Torah, and is a fundamental of human existence. That is because sometimes a woman may give birth to a unique child of her own with no father, and raise him/her with love and care more than in a dysfunctional family which continues to give birth to children.
- E. I tend to lean toward the second opinion; however, because of the serious responsibility attached to maintaining the holiness of the Jewish family, there is a need to limit that permission to women who are about thirty seven years of age, and who have reached that age unwedded through no fault of their own. The age was arrived at from the research of the medical sciences regarding the declining chances of a woman's impregnation, which is close to the last possible deadline for it. There is no way to permit this at a younger age, but one should continue to try every way possible to establish a Jewish family [by marrying].
- F. Obviously, even after the process of impregnation has been successfully completed, the woman should still attempt to establish a Jewish home [by getting married].

**The ways to do so:**

In today's medical technologies, there are three main possible ways. First is the regular way, namely sexual relationship. On the one hand, it is the natural and simple way, yet on the other hand in these types of relationships there exist a direct violation of Jewish holiness – pre-nuptial sexual relationship.

- a. The second possibility is artificial insemination. The advantage here is that it is not a

- complicated medical procedure. On the other hand, it involves some degree of discomfort, and in addition, there exists the possibility of using a relatively large amount of sperm in the process, giving rise to the issue of “wasting sperm purposelessly”.
- b. The third possibility is in vitro fertilization; this too has advantages and disadvantages. The advantages are its high level of probable success, fertilization with no sexual relationship etc. The main disadvantage is that it requires a medically invasive procedure with no medical cause, in an ovarian stimulation, which may lead to a hyper stimulus, and in full anesthesiology in harvesting the eggs etc. Of the above three ways, it appears that artificial insemination is the preferred method. As a second choice I tend to favor the IVF, which has become the relative norm, better than a sexual relationship intended for the exclusive purpose of impregnation.
  - c. An independent question is which sperm to use. Here there are three basic choices. The first and best of them is the sperm of an identified Jew. It is assumed that we are referring to a person who will be willing to recognize the child as his own, and who reaches an agreement with the woman about the essence of such recognition. One may reach different types of agreements, some which will require nothing from the donor and/or an agreement of full partnership in caring for the child, similar to those that exist among divorced couples.
  - d. The second possibility is to use sperm of an anonymous donor. It is halakhically preferred to use sperm of a non-Jew, in order to avoid the need to define the child as one of unknown parentage (where we need to be concerned whether the child is illegitimate), for even though one is dealing here with a rabbinic prohibition [rather than a Torah prohibition] we observe all those prohibitions very carefully, especially when we deal with genealogy. One has to remember that according to halakha a woman may not marry an illegitimate man. Therefore, it is entirely possible to argue that by [using sperm from an anonymous Jewish donor who may be illegitimate] one may cause harm to the child who was born from the sperm of an anonymous Jew. There are several reasons to prefer a gentile’s sperm; some of them are medical [avoiding marriages between relatives]. It is indeed true that there may be a desire for the child to be born from Jewish sperm, but the halakhic preference for non-Jewish sperm is unequivocal, and one should not use sperm of an anonymous Jew.

The above is written with a deep feeling of pain for this reality where there are women who have reached this age but did not find a way to establish a home despite their strong wish to do so. These things are very personal; obviously, and one should not employ this route a priori, for it stands in clearly against the Torah’s ideal goal, and compromises the holiness of the Jewish family. It is self-understood that there is a long journey following the birth-- raising the child lovingly and with warmth, with proper education in mitzvot; but these are topics of their own.

(In light of the many reactions to Rabbi Cherlow’s first responsum, he wrote a second responsum on this topic.)

According to our tradition, when a person enters the hall of study, he recites the prayer of Rabbi Nehunyah Ben Hakana that includes the words: “May it be thy will, Lord my God, that no stumbling-block be caused by me and that I shall not fail in matters of halakha, and that my colleagues shall rejoice in me, and that I shall not say on the defiled that it is pure and conversely, on the pure that it is defiled, and may my colleagues not err in matters of halakha so that I may rejoice in them.” This prayer was not completely fulfilled in my case. Many of my colleagues did not rejoice in what I’ve written, and a small number even claimed that I have erred in matters of halakha and that I declared the defiled to be pure. I therefore decided to add clarifications to what I have written, and may be the number of those who rejoice in my teaching surpass those who do not rejoice in my teaching. As previously, I pray to the Master of the Universe begging that I shall not fail nor err in matters of halakha, and not err in the way I write it. I predicate my response on the

belief that all those who did not rejoice in my teaching had pure and worthy intentions and their position deserves a carefully weighed response. There were almost no foolish comments nor statements that should not have been made. This issue is worthy of a serious discussion among scholars of halakha, and there are many opinions, which are not so far from each other, as I shall demonstrate, despite the clear variances among them. I wish to thank all those who responded, particularly those who disputed my arguments and required me to re-examine what I've written.

My response will deal with three subjects: The first is my ruling itself, and the decision regarding the status of she who reached the age of almost being unable to give birth to a child of her own. Second are the various considerations that may lead to a different ruling, particularly the fear of the slippery slope leading to the destruction of the institution of marriage. Third is the publication policy and public discussion of such issues. The delving into halakha should always take precedence to the issue of general publication.

Let us commence with the common denominator among all the rabbis: there is no one who disputes the idea that the Jewish family is the unique and basic holy path for a happy and complete life. That is how I started my discussion last time, and I dedicated to it more than a few sentences. Even beyond that, in my daily life I dedicate the majority of my time to this topic. Ten years ago, I acted as a partner in the establishment of the rabbinic association, "TZOHAR", [let me clarify that "TZOHAR" has no common halakhic stand in this matter, and therefore let there be no doubt that my previously stated opinions do not reflect the position of "TZOHAR"; indeed, some of my colleagues there disagree with me]. Since then I have dedicated many days and nights facilitating the establishment of a Jewish home in accordance with the laws of Moses and Israel. I merit the [opportunity] to participate with the rest of Israel's rabbis, whose main preoccupation is to assist in establishing families, peaceful homes, avoidance of divorces, finding solutions to problems of fertility—these are an integral part of their lives. The accusations against me, claiming that I allegedly assist in the destruction of the sacredness of the Jewish family, ought to be refuted by my constant investment of time and effort in these matters. In my two sites "MORESHET" and "KIPAH" alone there are about 15,000 correspondences dealing with these issues. The majority of these correspondences are not made public due to their private and intimate nature. Moreover, a large share of my rabbinical work is involved with similar topics. Therefore, there is no variance between all Israel's rabbis, who see the establishment of a Jewish home as the basis of national sanctity. The previous article opened with a discussion about the Jewish family, which comprise three principles whose origin is already mentioned in the story of the Garden of Eden - living with a mate, matrimony and children - and only when all three elements are simultaneously fulfilled one may speak of complete family sanctity.

Because of the above and due to the extreme importance of the family's sacredness in Israel, I already wrote previously that one must do all needed in order to be married. A part of the spiritual prerequisite is to fully comprehend the deep meaning of living with a mate, the fact that none of us is perfect, and a prospective mate is also imperfect. One must convert the dreams of a charming prince or princess coming into their lives riding on a white horse, into a realistic relationship with people with positive and negative traits. One should be willing to pay some price in order to fulfill dreams - in order to build a proper Jewish family. Moreover, it should be made abundantly clear that any sexual relationship out of wedlock is strictly prohibited. I've written about this topic many times, and in the great disputation regarding immersion [in a Mikvah] of single women, I've stated unequivocally that such action is strictly prohibited, and I find no way to permit it under any circumstances, even if it involves declaring the transgressor as deserving the punishment of "Karet" in this context.

This position is not one of Judaism attempting to guard itself from self-destruction. It is far beyond that, and it is the radical message that the Torah projects to the entire world; it calls on us to resist the major trend of the destructive process in which we find ourselves. In the Western world, in which we live, the various elements of establishing a family are diverse, and what is taking place is the profane destruction and uprooting of sacredness as a basis of the family unit. We strongly deride this major destruction, and we continue to strongly adhere to what is considered to be a novel idea – the molding of the man-woman relationship into the concept of sacredness of the Jewish family unit. This holiness is one of the great messages which we are spreading around the world, and we do so with strength. We believe that this special flag will redeem the world from its current destruction, and will sanctify the reality, and will return the concept of family to its proper position. The preceding, as stated earlier, is a common denominator among all the rabbis in Israel, and as much as I am aware, despite all the multitude of disputation in the rabbinical world, no rabbi disputes this.

The question that must be dealt with is one of “a posteriori” [*Bediavad*]: single women who have done all in their power in order to be true to the concept of family sacredness, and did not merit, for whatever reason, to establish a home in Israel, yet wish to experience parenthood and to raise a Jewish child--what is the law for them? I shall emphasize, particularly addressing the secular public and its criticism of what I wrote, that the intention is by no means to, Heaven forbid, bring the rabbi unto the privacy of the bedrooms of people. The proper place of a rabbi is in the Torah academy and not in people’s bedrooms. A believer incorporates in his considerations as a vital element the spiritual and halakhic implications of his deeds. Then he turns to his rabbi, whose specialty is exactly in those domains, in order to learn how the Torah rules on these subjects. No one knows how many women are perplexed by this question; therefore, any empirical statement will be of no real value. This question is not an exclusive one to women, but to all who seek the true knowledge of the faith, because much of the spiritual world is especially built on principled inquiries on various issues. This is the essence of Torah study; we tell the Yeshiva students repeatedly that we cover the entire Talmud regardless of its practical implications for actual life, exactly because what the Torah in its entirety projects on the rabbinic personality. Therefore, this question relates not only to adult women who are frustrated because of this issue, but to all whose proper study of Torah is important.

In this a posteriori situation I irrevocably think that such action is permissible. From the many critics from the rabbinic world, I heard no one who claimed that this is prohibited in principle, and that there is no halakhic way for a single adult woman to give birth. I even heard the Chief Rabbi of Israel Rabbi Amar in a radio interview on Kol Israel, say that when an extraordinary situation such as this exists one must inquire of a knowledgeable authority. I must emphasize that I do not claim that Rabbi Amar has agreed with what I have said. I simply infer from his reply, as I do from all the critics, that what I said is correct regarding marital issues, There is no prohibition on an adult woman to become pregnant and give birth in a specific manner, when her goal is to merit parenthood and child-bearing.

From the wide public response to what I said, there were those who argued that one must keep in mind the child’s welfare. Because of that, one should prevent a single adult woman from bearing children. There is no dispute with the fact that it is better for a child to grow up in a family with a father and a mother; to the best of my knowledge all the researches agree with that premise. However, the insertion of this argument of ‘the child’s welfare’ into this discussion constitutes a horrible slippery slope, which one must avoid at all cost, even before one commences this slide downwards. I shall emphasize that I am not just talking about a potential slippery slope [which will be discussed later] but about a factual slippery slope. For if we were to incorporate the argument of “the child’s welfare’ in the question of child-bearing, then we will be required to investigate all the

world's couples, leading to a situation where one will require a permit to bear a child. It is possible to unequivocally determine that there are numerous couples that any child born to them may expect a miserable life. Therefore, the insertion of the argument of "the child's welfare" in order to prevent an unwedded woman from impregnation will stand to no test. Deciding who is worthy of having a child and not, based on the argument of "the child's welfare", will inevitably enable a child to sue his parents for living in Tel Aviv with all its pollution, or similarly against parents who live in Hebron and bore children in a dangerous environment.

Beyond that, one may not, in the name of halakha, invoke the argument of "child's welfare" when the concept of child's welfare appears almost nowhere in a halakhic discussion. To remove all doubts I shall emphasize, that there is no body of laws, which considers the child's welfare as does the halakha; however, it is exceedingly difficult to find a single limitation which was placed on the parents because of the argument of "the child's welfare". A halakhic discussion must be conducted on the basis of a search for the truth and not be manipulative in nature. Therefore, one may not employ the argument of "the child's welfare" in places where it is convenient and fits well a priori, and conversely reject it in rulings regarding issues of matrimony, such as birth etc. Such practice may distort the issue of family planning in certain circumstances [mistaken in our view] regarding the damage caused by families with many children and many other issues. Therefore, from the principled or from the empirical aspects one should not regard the consideration of "child's welfare" as an influencing argument on the discussion at hand. Whoever inserts the argument of "child's welfare" to this discussion will cause a far greater damage to the family institution in Israel.

Similarly, it is impossible to invoke an argument against a woman as selfish in the name of halakha. Do women who wish to give birth think of themselves only? About such claims the Midrash says: "Is that the way one answers a painfully hurting women?" Many adult women are tormented with great pain and are abused by men who drag them along for a long time. They see their friends readying their children to get wedded: may we call such women selfish? Even the suggestion that their problem may be solved by adoption resembles the consolation Elkanah [gave his wife Hannah] "Am I not better to you than ten children?" His loving words did not console Hannah at all. In general, I find it difficult to comprehend how one can dare to judge those in such a terrible state and then offer alternative suggestions, while the Torah itself describes such state as "I am dead".

I wish to comment here that there is a severe contradiction in many of the replies: they argue that a married woman should do everything possible and more regarding impregnation, claiming that in the end the reward exceeds the price demanded of her, and the matter is important not only from the ideological and religious aspects but also a matter of mere existence. These proponents are strict in regard to postponements of pregnancies etc., yet when it concerns a single woman who is tormented, all these considerations evaporate. Obviously, they claim, the answer is unequivocally that it must be prohibited. Is there any selfishness spoken about here?

In sum, I have reviewed all the arguments of those who disagreed with the essence of what I've written related to this matter and I found no refutation which proves that what I have written is wrong.

Since the second part of my article -how to do it- did not merit a real discussion, I shall not repeat it. I shall say only that three main arguments were advanced. The first is a medical one: There are those who think that there exists another solution, namely freezing one's eggs [and using them at such later time when one is married]. Being a member of the Helsinki Committee for medical and genetic experimentations, I am proficient in the research subject of freezing eggs. In the last few weeks I have been dealing intensively on various aspects of egg freezing [IMF], both in slow freezing and in the emerging technologies of flash freezing. One should not deceive women in this

matter. The percentage of successful impregnations via these methods is about 2-4% per egg, and the flash freezing which is still in progress is far from being a successful medical procedure. It is still in the realm of research and not a medical protocol. Similarly, it is a complex problem because in reality what is suggested actually tells the woman to freeze her eggs [meaning to prefer harvesting eggs by invasive methods] and to gamble -if she is lucky and gets married then it was a wise decision, if not she will be forced to be impregnated only on the day she defines it as that day when all her chances to bear children have faded away, I find it very difficult to comprehend this logic. Above all, making the procedure of egg freezing into a modus operandi creates with it very serious ethical problems [maintaining one's fertility even beyond the normal age of fertility etc.] and my ethical stand is that one should minimize such procedures. The same argument applies to the suggestion of partial implantation of an ovary. To this day, the scientific research is not convinced that what enables one's impregnation following a partial ovary implantation is due to the implanted portion. There are many researchers who suggest that pregnancy is enabled by the portion of the ovary that was there before. Moreover, what is the medical and halakhic rationale to employ such a drastic procedure?

The second matter regards the order of priorities in impregnation. In view of the fact that in general I tend to articulate my ideas in a very gentle and composed manner, on occasion some matters require a sharp and unequivocal statement. Therefore, I shall repeat and say, in my humble opinion, the preferred manner, from the halakha's point of view, is insemination by an identified Jewish man. This is the great fundamental of preserving the Jewish pedigree. Many commented that it is difficult to find men who would agree to this, because from the legal point of view, even if the woman is willing to waive the recognition of his fatherhood, the child may be able to sue and chances are that his claim may be granted. There are legal remedies, however, and I am not the expert in this field; I am just pointing it out to prevent any stumbling blocks [for the woman]. If the above way is not feasible, the only other way is a gentile's insemination. Under no circumstances is one permitted to enter into a sexual relationship out of wedlock, and if due to my gentle style of expression in my previous article [it might have been understood] that there exists such a possibility, now all is crystal clear.

The suggestion that the woman should be married for one day in a fictitious marriage contradicts all my halakhic way of thinking. The halakha was not designed to create fictions, even though we required them on rare and critical occasions [e.g. the permission to sell hametz before Passover]. One must minimize this method and not create situations where they should be utilized.

The second area is the fear that such a ruling, and certainly making it public, will exacerbate the deterioration of the family's sanctity in Israel. Many claimed that once women will be cognizant of this option, they will not adequately exert themselves to get married. Once this is permitted by halakha, they will prefer to bear a child via that route without paying the price of being married - compromise etc. Moreover, it will draw women of younger ages into this realm, since the age of 37 cannot be upheld unequivocally.

I shall emphasize at the outset that the arguments brought forth by my detractors were more than legitimate in a halakhic discussion; they were essential arguments. The rule of halakha is not decided based upon analytical considerations alone. There are numerous considerations, and this is the reason one must support scholars of halakha so that one may learn from their method of ruling. Even in this article I base my unequivocal rejection to prenuptial relationship on something that is far beyond the formal aspect of the issue at hand. That is the way the halakha has been decided over the generations, and similarly it is true for this matter here and now. Thus, in principle, arguments such as these are truly of extreme import, and one must deal with them seriously. The question is if in the case we are discussing, these arguments allow an adult woman to go through a fertilization process enabling her to have a child.

The confrontation with these heavily weighed arguments has to be conducted on three levels. The first level is the empirical one – would the number of women who will opt not to get married as a result of this ruling, increase substantially? My position that rejects this possibility is based on the Torah itself, as it says that the origin for marriage is “It is not good that a man should be alone, I will make a help meet for him.” Similarly the principle position of the Talmud is that “It is better to dwell with a load of grief than to dwell in widowhood,” [Kidushin, 41A]. Because of my constant preoccupation with the human soul, I increasingly know the reality that the majority of single women want very much to get married. There is no real temptation to remain alone, and it is very difficult to raise a child alone. The assumption that there are many women who marry at an advanced age just to bear a child and now will refuse to be married – is an assumption whose factual support is very weak.

Concerning the biological time-clock, the age of 37 is not arbitrary, but is determined by medical research which affixed this age as the last opportunity [to bear children]. This is the basis for setting this age, and not the fear of the advancing of age. Therefore, my evaluation is that no substantial slide will occur that will draw younger women into this decision that could contribute to the slippery slope of destruction of the family unit.

The second level is the essential question of making a ruling based on the fear of a “slippery slope”. One has to recognize that invoking the argument of “slippery slope” is problematic in essence, for it injures one woman in order to prevent another one from sliding down the slope. This consideration caused our sages to minimize such decrees. One should not make a decree upon a decree, maintaining all the discussions in the Talmud where the question of “should one decree or not decree” are present. Those who believe in the value of the argument of “slippery slope” must be very cautious from the very same concept, due to the hyper usage of this argument [as a basis for ruling,] for if not, one will find himself in a state of self-contradiction. As a result, one who wishes to prohibit suffering single women from bearing children must be the one to produce proof that the usage of the argument of “slippery slope” indeed justifies such prohibition. In my humble opinion no such proof was presented.

The third level is that, opposed to the prohibitive ruling are other fundamental and solid considerations, especially the halakha’s recognition of the horrible suffering of the childless woman left to live alone because she found no one with whom to build a family. Therefore, the assumption that it is better to prohibit [her from bearing children] lest this cause a deterioration of the institution of the family, as I’ve said, I strongly doubt if this is empirically correct, and it is problematic from the halakha’s point of view. Whenever a decree is issued, one must consider the price, and the price here appears very heavy, as we claimed above when we cited Rachel, our matriarch. The suffering of an unmarried woman who is also deprived from having a child is extremely severe. Therefore the ruling prohibiting women to do so is problematic in itself, and the burden of proof is on those who prohibit. One who wishes to decree that a single woman may not be allowed to bear a child, he is the one who must bring forth a proof [for his prohibition] and not the person who permits her to do so.

The most problematic issue is the publicizing of these issues. This is also the main critique which I received, and it requires me to investigate again and again the issue of making such topics public. Much of what I heard from my rabbinic colleagues has made an impact on me, and definitely shook my feeling of certainty in regard to the importance of making these issues public. The heavily weighed arguments against publicity made me reach a certain conclusion. However, prior to that decision I wish to elaborate on the arguments supporting publicizing [such issues].

I shall commence with the personal dimension. I think that one has to live a very “transparent” life in areas of principles [not in matters of personal feelings or other intimate matters]; namely, one

should reduce the gap that exists between his genuine thoughts and what he says aloud; he must seek complete harmony. In my opinion, it manifests the Torah's commandment that one should not lie, as well as the obligation that one's yes is true and one's no is also true. By that I see the fulfillment of the Torah's commandments "Thou shall fear no one" and on occasion "Thou shalt not follow a multitude to do evil". I see in it a wonderful tool to confront the temptation to gossip in private; one has to accustom himself to think that everything he utters in private is as if it were stated in public. By doing so, he will not permit himself to say something he ought not say; it surely is a wonderful controlling device. I resent situations where people say one thing but think something else; [that is the reason I do not assign great importance when various groups of people convene, because the most important thing is not what they say in these conventions but what they say at home; and even more important is that every one would listen to what the other one truly says at home about himself.] I dislike apologetics, where people frequently are not willing to stand courageously behind the true position of the Torah; instead they present all sort of excuses etc. Therefore, naturally I feel that a person must truthfully tell what he thinks and not mask it.

Furthermore, our holy Torah, our sages, the composers of the codes of laws and all the books I know -never hid anything. I assume that if the people who claim that one should avoid making things public had lived during the time of Moses, they would have suggested to him not to write the rules of divorce in the Torah, but to write that if a couple has marital problems they should go to their rabbi to ask for his advice, since if the divorce rules were written in the Torah it would cause the danger of "slippery slope" toward divorce even if it were possible to save the family. Indeed, there exists in halakha a concept of "this matter should not be spoken of in front of the ignorant"; however, it is applied very rarely. All the laws of the oral Torah are fully exposed, all are accessible, and parts deal with subjects much bolder than the relatively narrow one which I dealt with in my responsum. The clear majority [of halakhic opinion] does not require one to ask the advice of a scholar on the specific personal level, but [halakhists] write clear and concise halakha which involves the public at large, and this involves a much larger slippery slope. Thus, it is again incumbent on those who claim that one should hide the halakhic rulings from the public to prove that position.

Beyond that, the main reason we give for learning all of the disputations in the Talmud is that this is a means to attain the spirit of the Torah. The discussion of the topic of adult single women who wish to bear children is not restricted to itself alone but has further implications. It illuminates several general rules, from the great importance of establishing a family, as well as indicating the great sensitivity the Torah demonstrates to those in great pain and suffering. This topic might turn into such a key subject on both of these aspects, and on exposing the world of halakha regarding this subject in its entirety. Finally, it may cause many more to come back in full repentance. It is so important to me to illustrate how the halakha operates with courage and integrity, and to state out loud that a Cohen may not wed a divorcee, that intermarriage is among the most harmful acts to Jewish holiness, and that a man and a woman sign a truthful covenant with no permission of any kind to sway to one side or the other and defile the sacredness of this covenant. Conversely, one must state courageously and honestly what is permissible.

Essential is the understanding of the period in which we are living today. We are living in a period in which the control over knowledge is not the way by which one advances dear and important topics in the world. One of the main characteristics of our time is the fact that the hierarchy in the realm of knowledge is completely different. In view of that, the main struggle is not conducted by attempts at stopping or halting, but by constant nurturing of the free choice. We the rabbis from all affiliations must invest our strongest efforts to refrain from issuing decrees and building walls, to the side of strengthening and glorifying the will, to guard the words of the living God and the deep spiritual direction by which one should live. In our post-modern world people live lives of free

choice in all areas, also in this area. Therefore, one cannot treat the public in general as if it was waiting for the rabbis to give permission to bear children out of wedlock. The public at large is faithful to God's words and His Torah, particularly because of the fact that they choose to do so from free will. Our major effort must be in that direction. Therefore, personally, I tend to strengthen the family unit in Israel in a way of empowerment of the free choice and not by concealing the information. Thus, I find it hard to accept the principle that there are matters one does not divulge to the public. As previously mentioned, the written law did not act that way, and the oral law too did not act that way. Thank God, we are exposed to all that our sages have written, and I find it very difficult to understand why we must start acting differently now.

The claim that making this issue public will bring about the destruction of the institution of the Jewish family unit demands a solid and true proof, and those who criticized me did not present those proofs. The institution of the family unit has been finding itself in great trouble for a long time. Some of the reasons for this have nothing to do with what the rabbinical world does, but emanate from the general culture and from the post-modern world in which we live. However, a major portion of its weakness originates in other areas of the rabbinical world that has no bearing on the subject I discussed above. On the contrary, let the critics ask the women who are not married why are they not married in accordance to the laws of Moses and Israel, and let them discover how many of them do not get married because they are planning to bear children at an advanced age out of wedlock, and how many of them are not married for a variety of reasons which are connected to very restrictive and problematic rulings. Each couple which lives together out of wedlock without a proper Jewish wedding constitutes a painful testimony to this reality.

The strengthening of the Jewish family unit will not be attained by building higher barriers of entry. The building of the family unit is attained from the other direction, i.e. encouragement of proper free choice, education to good family life, exposure to holiness and purity, the establishment of rabbinical authorities the likes of "TZOHAR", and other such groups, which draw the nation to the sacred. In general, there is no room in our world where one can build things by concealment of information. We need to come out stressing the message that emphasizes the strength of the family unit in Israel. Part of this message is the clear spelling out of those things which are prohibited, and part of the message is the humane and compassionate approach of the halakha where it employs those considerations.

Among the many elements that contribute to the destruction of the family unit in Israel is the fact that the halakha is regarded by many as unfair and unethical. This subject is not simple at all, and it requires a thorough examination. The great message of the Jewish family unit also contains the pain sometimes caused to some individuals e.g. a Cohen who wishes to marry a divorcee, a young woman whose husband was injured and is vegetating in a hospital, and many more such cases. We need to stand strong, without apologies, and declare that indeed this is the price we are asked sometimes to pay in order to preserve our holiness and purity. Even then there are occasions where the courts find a solution. Exactly because of that, our Torah must be one of Truth. In areas where the halakha makes possible the utilization of human pity and compassion that do not contradict the manifestation of The Master of the Universe-- one must do so with all his might. I deemed it very important to publicize this issue, as an integral part of the struggle to advance the proper way of the family unit in Israel.

The weighing of all the pro and con reasons led me to conclude in favor of publicizing the issue. Much of what friends and colleagues have told me caused me serious inner doubt about my decision. I intend from now on to consult some of my friends before publicizing such issues. I shall not publicize issues without hearing a second opinion regarding the principle of publication. I assume that there will still be a gap between my thoughts and those of others, yet there is nothing better than having another eye looking at things. This will be the modification that I will implement

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following the large criticism, which consisted of many true ideas which were stated for the sake of the 'fear of God' and the desire to correct.

Let it be the will of God that all will merit to establish a healthy, faithful, pure and holy home in Israel, and that they should not need radical solutions in difficult circumstances, and that they should not need to take apart the three main ingredients of marriage but will build a proper home, and that these issues that we dealt with shall remain in the realm of theory only, and that every one shall find his proper mate.

Byline:

Rabbi Cherlow is Rosh Yeshiva of the Hesder Yeshiva of Petach Tikva. He wrote the following two responsa, which appeared in Hebrew on his Yeshiva's website [ypt.co.il](http://ypt.co.il). He has given permission to the Institute for Jewish Ideas and Ideals to have the responsa translated and published in English. The following translation is by Bentsi Cohen. Rabbi Cherlow has written: "I received a great many responses to this article. The large majority touched on the question whether it was at all appropriate to publicize my position on this issue, or should such topics be dealt with privately out of concern for the 'slippery slope'. My position on this is found in the articles themselves. I think it proper to very much narrow the gap between those things discussed in extreme privacy and those which are discussed openly in public as a halakhic stand. Only a minority of those who disagreed with me disagreed on the contents of what I wrote." This article appears in issue 8 of Conversations.

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