

Can an Agreement to Donate Bone Marrow be Retracted?

Rabbi Moshe Sternbuch

I have been asked about a case involving a patient who needed a donation of bone marrow. A young woman with the same blood type was located and she agreed to donate some of her bone marrow.

Prior to transplantation, the patient's diseased bone marrow must be inactivated. Only after such inactivation can the donated, properly functioning bone marrow be injected into the patient. After deactivating the patient's bone marrow, he would soon die without the injection of fresh bone marrow because he would be left with no bone marrow at all.

Therefore, after the young woman agreed to donate, the patient's own bone marrow was inactivated. When they went to extract some of the donor's bone marrow, they gave her an injection and she felt not well. Her parents instructed her to retract her agreement to donate and she complied with her parents' wishes. The patient died shortly thereafter.

I was asked whether the young woman was entitled to retract her agreement to donate.

In my humble opinion it seems that even if there is no obligation to donate bone marrow to save someone's life (just as there is no obligation to donate an organ to save someone's life, as is stated in *Pitchei Teshuva* 157:15), nevertheless it is obvious that in this case it is prohibited to retract an agreement because the patient's own bone marrow was inactivated in accord with that agreement (as they informed her that they would inactivate the patient's bone marrow only on the basis of her agreement to donate. She agreed and on the basis of her agreement they inactivated the patient's bone marrow).

Her retraction and failure to donate bone marrow caused the patient's death and she is in violation of the prohibition of murder. It is therefore prohibited to

retract such an agreement and she should have been compelled to donate.

(In the opinion of R. Chayyim, in his *Novellae* on the beginning of *Yesodei ha-Torah*, even passive violation of the prohibition of murder as in this case is so severe that one must allow oneself to die rather than commit the violation.)

All of this is of course so only if in the opinion of the physicians there is no threat to the life of the donor.

The young woman's claim that she had to retract her agreement because her parents instructed her to do so is clearly dealt with by Ramban and Rashba (*Yevamot* 6b) who wrote that there is no obligation to honour one's parents unless they derive some benefit, as in providing them with food, drink, etc. But there is no obligation to honour a parent who instructs a son or daughter to do something from which the parent derives no benefit.

This is implied in the *Tosafot* (ibid. in the name of Ri) and the Maharik explicitly wrote that a son need not honour a parent's objection to his choice of spouse. This is because the parent derives no benefit in such a case. Rema (end of *Y.D.* 240) decided in accord with the Maharik (See my explanation in 3:275).

The daughter's refusal to donate bone marrow provides no benefit to the parents and she is therefore not obligated to honour them in this matter. All the more is she exempt from honouring her parents in our case because retracting her agreement places her in violation of the prohibition of murder and honouring one's parents cannot permit violation of any prohibition of the Torah, as is clear in several passages in the Talmud.

As far as the obligation to donate bone marrow to save someone's life is concerned, it seems in my humble opinion that despite the physicians' claim that there is no present and no future danger in donating because the bone marrow remaining in the donor will reproduce and within a few months will return to its pre-donation level, nevertheless we have not yet received proof that there is no future danger. It is therefore impossible to obligate anyone to donate bone marrow (Donating blood to save someone's life is however obligatory because the donor immediately recovers). However, although it may not be an obligation, it is certainly a great *Chessed* to save a Jewish life.

International Responsa Project

Tahara after giving birth to a boy or a girl

Why does the Tora say a woman is impure 40 days after having a boy and 80 days after having a girl?

Answer:

Let us first clarify the facts, and then offer possible explanations. After the birth of a boy, the woman is impure for 7 seven days (even if there was no blood), and pure for the following 33 (even if she were to see blood). After the birth of a girl, the woman is impure for 14 days, and pure for the following 66. Thus, both the impure and pure days for a girl are doubled.

Nowadays, we do not practice the "pure" days. The woman remains impure and has the status of a "nidah" until the bleeding stops and she can count the seven clean days, for both a boy and a girl. Afterwards, she may immerse in the mikvah.

Therefore, there is no practical difference nowadays between the pirth of a boy and that of a girl.

Why are the days doubled? Some early commentators (see Ibn Ezra and Ramban Vayikra 12:4-5) suggest that there is a biological difference between the creation of a female and that of a male, or in the quantity of secretions that follow the birth. This explanation is difficult to accept nowadays, although there may be deeper, kabbalistic, differences in the formation of their respective spiritual nature. Another explanation, offered by Rav Shmuel Eliyahu shlita, is that Adam underwent a single creation, whereas Eve underwent a double creation – first as part of Adam, and afterwards as a distinct person. Thus, the birth of a girl represents a double birth, and hence the days of impurity and purity are doubled.

A third explanation can be offered based on Chazal's comment that bris milah is on the eighth so that the couple would be permitted to each other and share in the joyful occasion. Thus, it is possible that the Torah halved the impure and pure days for the birth of a boy to conform to the day of the bris.

In a similar vein, one can offer an additional explanation. R. Meir (Nidah 31b) teaches that the separation required during the days of nidah is so that the husband should not view their relationship as routine, but should cherish his wife with renewed joy after her immersion. Thus, after the birth of a girl, we require a double waiting period so that the husband's subsequent joy will parallel the joy accompanying the birth of a boy.

Answered by: Rabbi Meir Orlian at 19/4/2014