



Ask The Rabbi...



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This edition contains:

1. Genetic Testing - according to Halacha

Jason from Baltimore asked:

*I read that **genetic testing** was used to identify some of the people killed in the Tel Aviv Bus bombing. Does genetic testing have Halachic validity?*

Dear Jason,

Genetic testing and its Halachic ramifications are presently the subject of much discussion in Medical Halacha journals and seminars. I'd like to try and clarify some of the issues involved.

There are a number of cases where genetic testing could possibly be used to help determine identity, such as:

1. A paternity case.
2. A family who wants to bring a loved one to burial.
3. A woman who wants permission to remarry.
4. An inheritance dispute.

Certainly a major concern in a case such as the horrible bus bombing is to determine who died. There is concern to verify that the person in question actually died and is brought to proper burial. A woman cannot remarry unless we have reliable evidence that her husband is in fact dead and issues of inheritance may also arise. Can we rely on the evidence provided by genetic testing to determine the Halacha in these cases?

The present Halachic literature deals only with the topic of paternity cases. In the paternity cases the problem arises when the results of the genetic testing conflict with results of Halachic determinants prescribed by the Talmud. For instance, according to the Talmud the husband of the mother is assumed to be the father of the child. He bears the financial responsibility for him and determines his status within the Jewish Community (Kohen, Levy, etc.). What happens when the results of the genetic tests conflict with this determination?

The available Halachic responsa rule that we must rely on the Talmudic means for determining identity and that we cannot rely on the results of genetic testing.

I asked Rav Chaim Pinchas Scheinberg, *shlita*, specifically about permitting a woman to remarry solely on the basis of genetic testing and about using those tests to resolve disputes that may arise because of inheritance. He said that there is **not** any ground in Halacha that would permit us to do so.

Perhaps one of the most interesting cases of using a non-Talmudic methodology for determining the identity of the dead took place at the close of the Israeli war of Independence. A group of 35 soldiers was sent to help bolster defense of the Gush Etzion Settlements, and all in the group were tragically killed. After the war the bodies were discovered in an unidentifiable condition. Through a mysterious process known as the "*Goral HaGra*" Rabbi Aryeh Levine *zt"l* identified each of the bodies, which were then all brought to proper burial. The "*Goral HaGra*" uses a particular format of the Chumash and involves the flipping back and forth of pages and then columns until eventually a particular verse is chosen. In each case the verse chosen clearly identified a fallen soldier with a particular body.

When I asked Rav Scheinberg, *shlita*, about the use of "*Goral HaGra*" to permit a woman to remarry or to settle monetary disputes he said that it is not a Halachically acceptable determinant in these cases.

This would indicate that non-Talmudic determinants are enough to satisfy the requirements of proper burial. Therefore, genetic testing would be an acceptable means of determining identity for the purpose of a proper burial.

In conclusion, genetic testing has (at least presently) limited validity, and may not be used as the sole means for determining identity in all cases.

Sources:

- Nishmat Avraham, by Dr. Abraham S. Abraham.
- Medical Ethics - Halacha Tape Series, by Rabbi Avraham Sauer (of Los Angeles), "Genetic Testing".

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