

transformed by dreams has an adequate basis to believe in revelation.

3. *Redemption*: Science has not redeemed man. Joseph's dreams did redeem him. Had he gone to a modern therapist, taken some drugs, and been taught to live with other people without dominating them ("bowing" = "power"), Joseph would never have been cured or redeemed; rather his symptoms would have been controlled. But Joseph transformed his personality, redeemed himself, and saved the entire world through his prophetic approach to dreams. To achieve redemption we must reactivate our religion's interest in dreams.

Notes

1. Norbert M. Samuelson, "The Challenges of the Modern Sciences for the Jewish Faith," *CCAR Journal* (Winter 2012): 16–18.
2. Tikvah Frymer-Kensky, *Studies in Bible and Feminist Criticism* (Philadelphia: Jewish Publication Society, 2006), 159.
3. *Ibid.*, 255.
4. Russell Jay Hendel, "Genesis 1 Speaks about the Creation of Prophecy, Not the Creation of the World," *B'Or Ha-Torah* 13 (English section) (2002): 71–87; Russell Jay Hendel, "Sacrifice Categories and Personality Types," *Jewish Bible Quarterly* 38, no. 1 (2010): 41–51.
5. Samson Raphael Hirsch, *Grundlinien Einer Jüdischen Symbolik*, first appeared in German, in his *Gesammelte Schriften*, ed. J. Kauffmann (Frankfurt on Main, 1902). For an English translation see Jacob Breuer, "Groundlines for a Jewish Symbolism," in *Timeless Torah, An Anthology of the Writings of Rabbi Samson Raphael Hirsch* (New York: Samson Raphael Hirsch Publication Society, Feldheim, 1957). The complete collected works have also been translated into English in *Collected Writings of Rabbi Samson Raphael Hirsch* (New York: Samson Raphael Hirsch Publication Society, Feldheim, 1984).
6. See Hendel, "Genesis 1 Speaks about the Creation of Prophecy, Not the Creation of the World," vol. 3, 3–61.
7. *Ibid.*, 87
8. The material for this section comes from Russell Jay Hendel, "Joseph: A Biblical Approach to Dream Interpretation," *Jewish Bible Quarterly* 39, no. 4 (2011): 231–238.
9. See J. Bigner, T. Grayson, and A. Milevsky, *Understanding Foundations in Human Development*, 2nd ed. (Reeding, CA: Horizon Textbook Publishing), 5.

Rethinking Conjoined Twins

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In the Beginning

It is a truism that human bodies come in many shapes and sizes. It is no less true that Judaic legal and homiletical sources speak about normal, abnormal, and idealized human forms. Many of the texts addressing abnormal physical bodies wrestle with what it means to be a legal subject, or more precisely, what a human subject *is* and what a human subject *should* look like. This struggle is especially apparent in recent considerations of conjoined twins, a discourse primarily peopled by Orthodox bioethicists. Curiously, this conversation about conjoined twins functions with certain assumptions that appear reasonable at first glance but further reflection reveals dangers—not only to human bodies but also to the Judaic textual tradition itself. These tensions between physical phenomena and Judaic norms reflect a larger, ongoing debate about the interrelationship between science and Judaism generally.

Before turning to the modern discourse about conjoined twins, the famous midrash about the first primordial human merits remembering. According to the Rabbis this first human creature had two faces, one male and the other female.¹ One face looked ahead and the other behind, not unlike the two-faced Roman god Janus who presides over beginnings and transitions.² A version claims that not only was the original human diprosopus (two-faced), it also had two spinal columns; or perhaps it was androgynous insofar as it had both male and female sexual organs.³ Such theories of the primordial human express an early Rabbinic impulse to appreciate the phenomenological diversity of human morphology. Even

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more, these theories insist that this diversity was the first manifestation of divinely created humankind. As such they are closer to the divine will than the human singularities with which we are so accustomed, with our but one set of limbs, one torso, and one head. Polymorphism thus raises interesting if not critical theological and legal questions.

Then There Were Two

That human beings are not always born as embodied singularities has long been acknowledged in the Judaic textual tradition, as evidenced from biblical and Rabbinic discussions of congenital deformities.⁴ One kind of abnormal birth configuration is that of conjoined twins.⁵ Conjoined twins can exist in any number of configurations wherein viscera, organs, and even nervous systems are seemingly shared between what some think as two distinct people. Especially since Ambroise Paré, the famous sixteenth-century French physician, this shared flesh was viewed as an opportunity to develop and practice innovative surgical techniques of separation. Legal and ethical thinking endorsed such interventions primarily because the one, or perhaps two, entities once cleaved apart would better conform to existing notions of human form and function. Indeed, a recent British court endorsed surgical separation because it would promote “the bodily integrity and human dignity which is the right of each of them.”⁶

Contemporary Jewish scholarship on conjoined twins has predominantly joined this bandwagon by employing legal and ethical constructs that favor separation of conjoined twins. To support this goal of physical division, such luminaries as J. David Bleich, Mordechai Halperin, Moshe Feinstein, Avraham Steinberg, and Moshe Tendler repeatedly invoke two traditional tropes: the concept of the *rodeif* and the incident with Sheva ben Bichri.⁷ Each trope, they argue, is sufficiently similar to that of conjoined twins to be analogous and thus brought into the overall conversation. And moreover, they assume that these analogies can and should have normative suasion in the conversation. This raises the question, however, of whether these tropes are indeed analogous and if it is jurisprudentially appropriate to ascribe to them normative powers when the subject matter is conjoined twins.

Pursuit

Take, for example, the notion of the *rodeif* (a pursuer with lethal intent). The *rodeif*'s roots are biblical, its branches Rabbinic, and its leaves have drifted into myriad of modern ethical and legal deliberations. The upshot of the *rodeif* concept is that if someone pursues another with lethal intent, it is permissible, preferable, and in some cases required to intervene to save the intended victim; this intervention may be injurious and even lethal if need be. A superficial look at the *rodeif* legislation reveals its ready applicability to lethal conflicts between distinct parties, ranging from personal fights to international warfare, and perhaps even to terrorism.⁸ The impulse to invoke this concept in biomedical deliberations has Talmudic foundations, as the Rabbis use it when considering whose life to save in a difficult birth—the mother's or the emerging child's.⁹ Yet, is it reasonable to rely upon the concept of the *rodeif* to calculate what to do with neonate conjoined twins, that is, twins already outside the womb?

In his discussion of conjoined twins in which he assumes “the girls were separate human beings with their own brains and nervous systems,” Moshe Tendler uses the *rodeif* concept to differentiate between a fetus that is completely dependent on the mother for its existence from an independently breathing neonate.¹⁰ In the former instance it would be impermissible to favor the fetus over the mother; the fetus may be eliminated to save the mother. In the latter case, however, the child's independent circulatory and respiratory systems afford the child “full rights and privileges of an adult. The most important of these privileges is the right to life.” Tendler reasons that, “surely it is the fetal status of dependency on the mother that justifies the sacrifice of fetal life to save maternal life.” Given the situation in which conjoined twins share a heart that cannot sustain both, he concludes: “Without the attempted separation, both would surely die, and therefore in halakhic terminology we classify the baby that had no independent survival, Baby A, as the pursuer [*rodeif*], as if she were pursuing her sister and threatening her life.” This therefore justifies surgically separating Baby A from Baby B so the latter could have a better chance of survival. Baby A, the doctors said, could not be saved without and certainly with the separation surgery.¹¹

This analogy suffers faulty logic, however. The Judaic legal tradition defines a *rodeif* as a distinct person who intends lethal harm

upon another distinct person or persons; hence the term pursuer.¹² Even if we disregard the notion of intent when considering a fetus, a child emerging in the birth canal could be called a *rodeif* only after achieving cardiovascular activity independent of the mother. As Baby A had no independent cardiovascular activity, much less capacity for such, Baby A was wholly dependent on Baby B. Insofar as Baby A's existence was inseparable from Baby B's, Baby A was not and could not be considered a distinct being "full of rights and privileges of an adult," including the opportunity to fit the formal definition of a *rodeif*.

Other scholars offer a different way to utilize the *rodeif* analogy. Mordechai Halperin argues that perhaps Baby A and Baby B were mutual pursuers.¹³ If this were the case, medical intervention in favor of one or the other would be prohibited. Yet the case was not of equal pursuers: Baby A was wholly reliant upon Baby B and thus posed a greater threat to Baby B's survivability. Without getting into the details of this or any other case, the calculus using the *rodeif* concept would go as follows. Insofar as Baby A's prospects for living post-operation were negligible compared to Baby B's, Halperin concludes: "then Baby A poses a greater danger to Baby B than Baby B to Baby A. Baby A is therefore considered a pursuer and we may and must separate the twins, thereby killing Baby A, in order to save Baby B." Such draconian consequentialist calculus that maximizes lived life, however, abandons a central and critical principle invoked among contemporary Jewish bioethicists: that every moment of human life is sacred and is of infinite value. This calculus apparently values purported quantity of life over quality of life, that is, the inherent quality—not experienced quality.¹⁴ It remains unstated in Halperin's essay why or whether the *rodeif* concept can or should trump this principle.

J. David Bleich is also suspicious of using the *rodeif* analogy to justify surgical intervention. In his view, because Baby A and Baby B shared a six-chambered heart they were a case of mutual pursuers, which therefore prohibited intervention. The only situation in which one baby or the other could "be judged to be a pursuer [was] if the heart can be shown to belong to one twin exclusively, [then] the second is, in effect, a parasite."¹⁵ But since both Baby A and Baby B shared DNA, it could be said the heart was either's; and since proximity between a head and an organ does not automatically indicate "ownership" among conjoined twins, it was

medically inconclusive who "owned" the heart.¹⁶ The only way to salvage the *rodeif* analogy was to declare by fiat that one baby did not have a heart at all and thus was—"in effect" but not in fact—a parasite; excising a parasite would be halachically permissible if not required.

Yet this reasoning simultaneously requires and denies medical evidence. On the one hand it requires knowing if the heart could be successfully located in either Baby A or Baby B. If it could, then ownership would only be clarified in the process of surgery, not beforehand. If it could not, then ownership was clear before operation and the "heartless" twin would be an excisable parasite. And at the same time this logic had to reject medical evidence. Insofar as before operation Baby A and Baby B undoubtedly shared the entire organ, they were joint "owners" of the heart and both benefited from it. Declaring that one or the other was not an "owner" of, or had no legitimate biological claim upon, the heart could only be made by denying medical facts.

Another level of critique may be levied against the *rodeif* analogy. The *rodeif* concept applies both (1) to self-defense against a lethal pursuer, and (2) to intervention to save an intended victim from a lethal pursuer. Obviously it would be unreasonable to invoke rules about self-defense insofar as neonates cannot conscientiously obey (or disobey) rules.¹⁷ In regard to intervention, the question then is whether intervention is justifiable when it cannot be ascertained definitively (medically or halachically) whether the conjoined twins pursue each other in anything but in equal degrees.¹⁸ Since in this case it is impossible to ascertain with any certainty which twin is the greater pursuer, the rule is not to intervene.¹⁹ Moreover, recall that the overarching assumption of *rodeif* legislation is that the pursuer and the pursued are ab initio two distinct beings. So, in fact, the *rodeif* analogy cannot reasonably apply to conjoined twins because they are not distinct and already separate persons; and, in theory, it cannot apply because the nature of pursuit in this case is unclear.

Designate

The other major analogy brought to bear on conjoined twins is a narrative from the Jerusalem Talmud.²⁰ Heathens encircled a group of traveling Israelites and threatened, "Give us one of your

company and we shall kill him; if not, we will kill all of you." The Talmud concludes that the group should rather be killed than send forth any individual for certain death. The story continues: If the heathens specify someone, such as Sheva ben Bichri, the group may deliver him so that the group would not be killed. Rabbi Shimon ben Lakish maintains this deliverance is justified only if the intended victim is already deserving of the death penalty.²¹ Rabbi Yohanan disagrees: the guilt of the named victim is irrelevant; that he was singled out by name is what matters.²²

It is methodologically curious that Orthodox bioethicists would invoke this narrative of social politics to create a bioethical norm. As Bleich claims, there is the principle "that halakhic matters are not subject to determination on the basis of aggadic statements."²³ This principle aside, Tendler asserts that "from this story is derived a halakhic ruling," which is that "it is clear . . . it was permissible to sacrifice one [baby] in order to save the other," and he points to the Rama who links the story of Sheva ben Bichri to a fetus to ground his methodological claim.²⁴ Insofar as a fetus "did not have a chance to live, there would be no problem about killing it to save the mother, because the absence of any hope that the fetus could survive, and not the mother, makes it as if this individual were designated for death."²⁵ This logic leads Tendler to conclude that the weaker conjoined twin "has been designated for death, and therefore it is permissible to hasten that death in order to save the life of the sister." This logic equates one of the conjoined twins with a mother and one with an unborn fetus, equations that defy the double fact that neither conjoined twin is a mother nor in utero.²⁶ And, moreover, Tendler insists that Rambam's interpretation, which follows Shimon ben Lakish's requirement of prior guilt, is the more appropriate analogy than Yohanan's. That is, the weaker twin should be viewed as already guilty of a capital crime, and delivering her to the heathens merely hastens her inevitable demise.²⁷

Some scholars salvage the relevance of the Sheva ben Bichri narrative by invoking the notion of mutual pursuit. Just as the heathens are pursuers of Sheva ben Bichri, he is also a pursuer of his fellow travelers. This is because his very presence among them exposes them to the heathen's lethal threat were they not to deliver him over to the heathens. Yet this also means that the group itself is a pursuer of Sheva ben Bichri insofar as the group

could deliver him to his certain death. The way out of this three-fold mutual pursuit is to focus on life expectancy. Regardless of what happens, Sheva ben Bichri's life expectancy is short; the group's could be long were he delivered. By inversely transposing life expectancy into threat, the logic runs as follows: "Although both parties [Sheva ben Bichri and the group] are pursuers, the [designated] victim [Sheva ben Bichri] poses a threat to the others that is qualitatively greater than their threat to him. Elimination of the designated victim rather than allowing the others to be put to death results in a net gain in the qualitative category of life preserved."²⁸ Halperin concludes this logic forcefully: The weaker twin "is unquestionably considered a pursuer and in order to save [the other] we may and must separate the twins . . . Therefore her life should be ended in an effort to save the life of [the other]."²⁹ Akin to the consequentialist calculus with pursuit, this logic aduces to itself the capacity to ascertain different life expectancies and then render a lethal normative conclusion for the lesser of the two. This flies in the face of the fact that even physicians caring for these conjoined twins were uncertain about life expectancy were they to operate and even if they were not to operate; not only was there uncertainty among individual doctors, there was substantial disagreement between them.³⁰

Yet the Talmudic interpretation of the narrative of Sheva ben Bichri does not end here. As Bleich notes, the Talmud refers to R. Joshua ben Levi who instructed a town harboring a fugitive to turn that person over to the marauding heathens so that the town would be saved from siege. Whereas beforehand Elijah frequented Joshua ben Levi's, he now absented himself from visiting the rabbi. Distressed, Joshua ben Levi fasted until Elijah finally reappeared with the retort, "Shall I reveal myself to a betrayer!" Ben Levi protested that he was merely acting according to the law, to which Elijah rhetorically responded, "Is this the law of the pious?"³¹ This story means to Bleich that although an action may be legally defensible, "it is a course of action that a person possessing a keenly honed moral sensitivity should eschew as repugnant."³² Put differently, this narrative about Sheva ben Bichri simultaneously establishes a norm that is best not followed. Why, then, do some ethicists invoke this story to construct a bioethical norm?

In addition to these textual difficulties, a more profound challenge is the assumption embedded in the Sheva ben Bichri

narrative. Sheva ben Bichri is but one individual, distinct and clearly identifiable from the others who surround him. Not only can he be singled out, he can be separated from the group without harming the integrity of the other people comprising the group. Such assumed human form, however, meets with difficulty the realities of conjoined twins whose morphologies defy clearly identifying one from the other. How reasonable is it, then, to impose this narrative that presupposes certain, singular, human forms upon humans whose bodies would become singular only after surgery? As it stands, applying this narrative to conjoined twins is anachronistic insofar as it puts the proverbial cart before the horse, the conclusion before the beginning, the final—and supposedly idealized—human form before the initial, or given, form.

But Then There Was One

Insofar as it is jurisprudentially difficult to justify invoking either analogy (*rodeif* or Sheva ben Bichri) when considering conjoined twins, might there be other elements of the Judaic textual tradition that could offer normative guidance for these abnormal phenomena? Whereas the *rodeif* and Sheva ben Bichri analogies stretch—even contort—the textual tradition, there are other sources that could better inform contemporary Jewish deliberation about conjoined twins. Just as there are midrashic stories about the original human being that fathom and even commend diverse human morphologies, other texts exist that speak explicitly about conjoined twins that could serve as sources for constructing norms regarding them.

The Rabbis consider diverse human morphologies as early as the Mishnah.³³ Regarding the biblical *gibben* (Lev. 21:20) and why it disqualifies someone from being a priest, the second-century Palestinian *Tanna* R. Chanina ben Antigonus asserts that a *gibben* is someone with two backs and a double spinal cord.³⁴ The Gemara discusses the plausibility of this understanding of *gibben* by invoking a position articulated by the second-century Babylonian *Amora* Rav in regard to an aborted offspring of a woman that has two backs and spinal cords.³⁵ There, Rav rules that such a birth does not assign ritual impurity to the woman as would a birth of a normal child. His friend and adversary, R. Shmuel, disagrees: If a woman births an entity with two backs and spinal cords, it is a valid birth and

she accrues the appropriate ritual impurity. When these two sages dispute, Rav's opinion trumps in matters of ritual but in regard to civil issues the ruling accords with Shmuel.³⁶ Returning to the *gibben* debate, it is logical that Rav's opinion and not Shmuel's is repeated because the discussion there is about fitness to serve as a priest.

The disagreement between Rav and Shmuel warrants closer scrutiny, however. They disagree in regard to their contemporary Babylonian *Amora* R. Channin bar Abba's interpretation of the biblical *sh'suah* (Deut. 14:7), a characteristic of animals prohibited for consumption—often understood as cloven hooves. According to Channin bar Abba, the *sh'suah* refers to a creature that has two backs and two spinal cords. In Rav's view, no such creature exists in the world; the eating prohibition must therefore pertain to animals that have such abnormal fetuses within them. Shmuel, by contrast, says that such double-backed creatures do exist in the world, and that the eating prohibition must regard *sh'suah* generally but not to double-backed fetuses found within otherwise normal kosher animals.³⁷ Rabbi Shimi bar Chiya—Rav's grandson, prodigy, and medical care provider³⁸—disagrees with his senior colleagues by reciting the teaching by Chanina ben Antigonus, albeit slightly altered from the Mishnaic version noted above: An animal with two backs and spinal cords is unfit for service. Nonetheless, such a creature can survive. This counters Rav's opinion that no such creature exists, much less persists. Indeed a bit later on, Rav insists that even if such a creature could emerge from a woman, it would not survive even eight days and be circumcised, thus obviating the woman from the *tamei* associated with a birth of a normal, healthy boy.

It is clear thus far that despite Rav's protestations, sages in both Palestine and Babylon had encountered or at least heard of human offspring with two backs and spinal columns. Even if such offspring could exist and survive, it would not be eligible to serve in ritual matters, according to Rav.

The question of survival is taken seriously in another Talmudic discussion regarding *t'fillin*.³⁹ The second-century Palestinian *Tanna* Pelimo asks Judah haNasi, "If a man has two heads, on which of them does he place *tefilin*?" Judah haNasi responded harshly, "Either rise and go into exile, or accept upon yourself excommunication." While the *Tosafot* defend Judah HaNasi by saying that no such thing exists in the world, the *sugya* immediately

recites an incident, itself suggesting historical fact, of a man who has sired a two-headed child and now inquires how much money he is required to give to the *kohein* to redeem his offspring. An elder concludes that he should give twice the usual amount for one child, reflecting a presumption that a two-headed offspring is tantamount to two distinct humans who were born simultaneously. This conclusion is challenged by the observation that neonates who die⁴⁰ within the first thirty days do not oblige the parents to pay for their redemption from the *kohein*. The only way to understand the elder's position is that for conjoined twins God based the mitzvah of redemption on head count, not survival of a month.

These questions of *tefillin* and redemption reject the assumption that conjoined twins are automatically two distinct persons, and the *Tosafot* seemingly agree. After declaring that no such creature exists in the world, the *Tosafot* says, "but, there is a midrash: Ashmedai⁴¹ took from below the earth⁴² a man with two heads and brought him before King Solomon. He married a woman and sired several normal children, one of which also had two heads. When it came time to divide his inheritance, the two-headed child requested two portions. The case came before King Solomon."⁴³ Though the *Tosafot* ends here, the midrash it refers to continues: Solomon constructed a test to discern whether the two-headed child is one person or two distinct persons. He had hot water poured on one head to see if it would evince a response in the other. If there was no response, then the offspring comprised two distinct persons; if there was a cry from the other head, then the offspring was but one. As both heads cried out in pain, Solomon ruled that the offspring was a singleton and warranted only one inheritance portion.⁴⁴ The sixteenth-century collection, *Shitah Mekubetzet*, composed by Bezalel ben Abraham Ashkenazi, extracts the norm from this midrash: the conjoined twins "are a single offspring with two heads, and they shall be judged only as a single person."⁴⁵

A conundrum remains. On the one hand the Gemara seemingly insists that conjoined twins should be viewed as two distinct people, albeit with shared flesh. Later tradents would rather view and rule such twins as a single person. One way to reconcile these positions is to observe that the Gemara speaks specifically about redemption from Temple service, that is, ritual matters, and the others—based on Solomon's test—refer to inheritance, or civil matters. It is tempting to relate this to the earlier dispute between

Rav and Shmuel and deduce that Rav views conjoined twins as two people, albeit deformed and thus disqualified from service, and Shmuel sees conjoined twins as a singleton. Such a conclusion, however, projects inappropriately upon Rav, for he does not explicitly declare that the reason for barring conjoined twins from service is because they are two deformed distinct humans. It could as easily be claimed that he views conjoined twins as a conglomerate singleton, as would Shmuel, but a singleton whose deformities disqualify him from service nonetheless.

Indeed, throughout these classic texts the opinion seems to be that conjoined twins—whether they exist only in theory, or only briefly, or in the fullness of human longevity—are to be viewed as singletons, albeit with complex legal ramifications.⁴⁶ While this position may not be upheld in every instance of concorporation, of humans living in a combined unit, it would be wrong to presume that it is never appropriate. For there are some twins, like Krista and Tatiana Hogan, whose thalami are connected, enabling one to sense what the other feels and perhaps even think the other's thoughts.⁴⁷ In many ways they manifest distinct personalities though their bodily connections suggest a singular, complex, being.

Refashioning *B'tzelem Elohim*

The prevailing Jewish bioethical opinion about conjoined twins favors surgical separation, and it supports this conclusion by invoking rationales that, ab initio, presume human physiques conjoined twins do not already embody. It promotes invasive cutting and severing and sewing physical bodies to conform to the law's preconceived notions of human form and function. In a way it uses the law to cut human flesh as would a cookie cutter. As such, this methodology privileges law over creature.

The Judaic textual tradition, however, does not insist that particular legal assumptions about human form must always prevail. Indeed, the many sources that speak about concorporation neither automatically nor even eventually want to force idiosyncratic human existence into a generic shape and size. The plasticity of human biology, including the rare instances of conjoined twins, is reflected well in the theological notion of *b'tzelem Elohim*. *Elohim*, simultaneously a plural and singular noun, suggests that most any

b'tzelem would, or at least could, be similarly complex. A close look at Genesis 1:26–27 supports this reading, insofar as the verbs and subjects blur singular and plural. The distinction of human sexes (Gen. 1:27) is subsequent to the initial creation of the conglomerate human (see also Gen. 5:1–2). So, too, does Genesis 2:22–23 endorse this reading, for from the original man woman was surgically separated and fashioned. Though it is biologically impossible for conjoined twins to be sexually different, the force of the biblical text is not lost: Singular divine multiplicity is reflected in human ontological complexity. Human singularity as we now know it is a theologically and ontologically later form of being. Might this suggest that creatureliness should transcend humanly interpreted law?

Then again, it could be argued, and rightly so, that the few sources addressing concorporation are insufficient for all scenarios regarding conjoined twins. Extracting norms from these scant foundations for the ever-expanding array of social, political, and economic complexity—not to mention ritual and medical issues—surrounding concorporation would be akin to hanging a mountainous legal corpus on a thread (*Mishnah Chagigah* 1.8). On the other hand, it is undeniable that these sources do exist in the textual tradition and may, in fact, be better suited to address some of the complex needs of conjoined twins than sources presupposing other kinds of bodies. Why, for example, does Bleich review many of these twin texts but immediately abandons them so as to develop a convoluted apologetic for his teacher's musings? Though the answer may be a matter of deference, it still raises the bioethical question: why rely upon analogies that are so dissimilar both explicitly and implicitly to the issue at hand, instead of sources that are obviously relevant in text if not context?⁴⁸

Bioethicists who take seriously both the Judaic textual tradition and the complexities of human existence would do well to do several things simultaneously when thinking about conjoined twins. First, they should defend why certain analogies like the *rodeif* and Sheva ben Bichri are more relevant than others. Identifying the principles (deference aside) that mandate including seemingly far-fetched analogies when more similar ones are readily at hand is part and parcel to this effort. Second, once the *relevance* of certain analogies has been reasonably established, the *salience* of certain details therein must also be defended. It is unclear, for example, why some ethicists focus on the Sheva ben Bichri story without

considering its conclusion, which, as Bleich rightfully points out, encourages supererogation. Only in this transparent way can the analogical reasoning quintessential to Jewish bioethical discourse be both defensible philosophically and sensitive to the complexities of human existence. Moreover, such a methodology would protect the integrity of the Judaic textual tradition itself from being ripped and contorted to shape abnormal circumstances.

Ontologically, humans are borne—theologically as well as biologically—complex. It makes only reasonable sense, then, to think about humans and to construct (legal) norms regarding them, using assumptions that reflect this fleshy complexity. Perhaps a better bioethical methodology regarding conjoined twins is one that joins together texts that speak of conjoined twins as well as those that could speak to their circumstances.

Notes

1. See BT *B'rachot* 61a; BT *Eiruvin* 18a; *Tanchuma, Tazria*, 2.
2. Hence, *kalendæ Januariæ*, or *kalends*, a pagan holiday that perhaps even Adam instituted when he witnessed the days getting longer after the winter solstice. See *Mishnah Avodah Zarah* 1:3; BT *Avodah Zarah* 8a; JT *Avodah Zarah* 39c. Of course the Rabbis debated which face looked ahead and which backward. Unsurprisingly, it was unconscionable for a woman to precede a man.
3. *B'reshit Rabbah* 8.1. See also *Yafeh Toar*, ad loc., who would rather the notion of androgyny be divided into two distinct, gender-specific bodies.
4. Such concerns also extend to animals, as will be seen below, for the question arises as to whether physiologically abnormal animals can be sacrificed and/or consumed. Many of the biblical comments about congenital dysmorphism pertain to defining disqualifications for priestly service. See, e.g., Lev. 21:16–24. For Rabbinic consideration of these and other human morphologies, see *Mishnah B'chorot*, ch. 7. See also BT *Nidah* 21a–24b for varieties of (aborted) fetuses and other kinds of births. It could be argued, as does Diego Wyszynski, that even though humans with such abnormalities were barred from priestly service they were not universally ostracized or devalued in society generally. See Diego F. Wyszynski, "Dysmorphism in the Bible and Talmud," *Teratology* 64, no. 4 (2001): 221–25. Such notions of linking disvalue with statistical aberrance came perhaps only with the rise of eugenics in the nineteenth and twentieth centuries.
5. Current scientific estimates locate their prevalence at ~1/50,000 births.

6. Concluding argument by Lord Justice Robert Walker, case no. B1/2000/2696, September 22, 2000, <http://news.findlaw.com/crn/docs/siamesetwins/siamesetwins1.html> (accessed June 10, 2011).
7. A third notion was put forward as well. Two people jump out of a plane. Only one parachute opens and the free-falling person grabs the legs of the other. See discussion in Donald D. Drake, "Siamese Twins: the Surgery: An Agonizing Choice—Parents, Doctors, Rabbits in Dilemma," *Assia* 4, no. 1 (February 2001). Reprinted from the *Philadelphia Inquirer* (October 16, 1977). The catalyst for this recent spate of essays was the birth of conjoined girl twins (Baby A and Baby B) to an Orthodox family in 1977. The surgeon, Dr. C. Everett Koop, requested consultation from Rav Moshe Feinstein. What Feinstein advised was not written by him; all that remains are notes of meetings where he spoke or his opinion was aired. In 2000, conjoined twins (Jodie and Mary) were born in Britain, which sparked another round of halachic deliberation.
8. See Jonathan K. Crane, "'With a Mighty Hand': Judaic Ethics of Exercising Power in Extraordinary Warfare," in *Enemy Combatants, Terrorism, and Armed Conflict Law: A Guide to the Issues*, ed. David K. Linnan (Westport: Praeger Security International, 2008), 167–206. See note 18 below for classical sources.
9. BT *Sanhedrin* 72b–75a.
10. Moshe D. Tendler, "So One May Live," *Assia* 4, no. 1 (February 2001), <http://www.daat.ac.il/daat/kitveyet/assia%20english/tendler-1.htm> (accessed February 14, 2011). All quotes are from the Web version. In Drake (2001) this analogy was raised by Moshe's son, Yaakov Tendler.
11. Catholic Reverend Francis Meehan reasoned that Baby A's "terminal event" had already begun; surgery was therefore permissible because Baby A's death would be "an indirect result" of the attempt to save Baby B. See Drake, "Siamese Twins." While the notion of double-effect has long played a role in Catholic moral theology, a question arises here whether Baby A's medically foreseen and medically certain death from surgery would or should qualify as "an indirect result."
12. Some scholars apply this concept to parasites and other diseases, which also begs the question whether intent, so prevalent in classic Rabbinic sources, can rightfully be jettisoned.
13. Mordechai Halperin, "Siamese Twins: Rav Feinstein's Ruling and the Subsequent Controversy," *Assia* 4, no. 1 (February 2001), <http://www.daat.ac.il/daat/kitveyet/assia%20english/halperin2-1.htm> (accessed February 14, 2011). All quotes are from the Web version.
14. Halperin seemingly doesn't comment on the fact that both Baby A and Baby B died, one in surgery and one three months later from complications unrelated to the surgery, respectively. Nor does he seem to contemplate the possibility that the twins could have survived longer had no intervention been tried.
15. J. David Bleich, "Conjoined Twins," *Tradition* 31, no. 1 (Fall 1996): 92–125 (citation on p. 102).
16. *Ibid.* Bleich, "Conjoined Twins," 119 n. 64.
17. It would also be unreasonable to apply the analogy of the two parachutists (see note 7 above), as that analogy bespeaks of the one with the working parachute defending himself by shaking off the one with the malfunctioning chute. Put differently, that analogy is about self-defense and not intervention, which is the concern here. Bleich, "Conjoined Twins," 101, agrees that applying this parachute analogy to conjoined twins sharing a single heart is misplaced.
18. If it were not a case of mutual pursuit, the rules of intervention stipulate that while lethal intervention is permissible, it is preferable to use non-injurious force to prevent a pursuer from transgression. If non-injurious force would be insufficient to achieve this task, injurious force would be required. And, finally, if injurious force would be insufficient, lethal intervention would be required to save the intended victim. See BT *Sanhedrin* 73a–74b; *Sifrei to Ki Teitzei*, 223, BT *Bava Kama* 41b; *Piskei HaRosh to BT Bava Kama*, 3:13, 126a; Marashal's *Yam Shel Shlomo to BT Bava Kama* 3:9; *Mishneh Torah, Hilchot Rotze'ach Ush'mirat Nefesh* 1.6, 1.7, 1.13, 1.14; *Sifra to BT K'doshim* 2:4, 8; *Shulchan Aruch, Choshen Mishpat* 421:13.
19. See Akiva Eiger's *Novellae* on BT *K'tubot* 33b. Cf. Bleich, "Conjoined Twins," 101–2; Halperin, "Siamese Twins."
20. JT *T'rumot* 8:10. See also BT *Sanhedrin* 72b and Rashi there.
21. As was Sheva ben Bichri for attempting to assault King David. See II Sam. 20:4–22.
22. While most tradents follow R. Yohanan, Maimonides sides with R. Shimon ben Lakish. See discussion in Bleich, "Conjoined Twins," 100–101; J. David Bleich, "The Case of the British Conjoined Twins," *Tradition* 34, no. 4 (Winter 2000): 61–78 (relevant pages, 70–74).
23. Bleich, "Conjoined Twins," 114 n. 32. Bleich makes a similar claim in many of his ethical tracts. Yet later on (106–107), Bleich relies upon Rashi's interpretation of this "narrative" to support his own normative position.
24. Tendler, "So One May Live." See Rama at BT *Sanhedrin* 72b.
25. *Ibid.*
26. Bleich seemingly argues against this equation when he observes that a fetus is not a neonate, conjoined or otherwise. See Bleich, "Conjoined Twins," 109.

27. Tendler, "So One May Live." Curiously this narrative is absent in contemporary Jewish bioethical discourse about euthanasia where, again, an individual whose life has already been "designated" for death (e.g., a trauma or end-stage disease) is kept from, or hastened to, that inevitability.
28. Bleich, "Conjoined Twins," 108.
29. Halperin, "Siamese Twins."
30. See Drake, "Siamese Twins: The Surgery"; Bleich, "The Case of the British Conjoined Twins."
31. JT *T'rumot* 8.10. See Bleich, "The Case of the British Conjoined Twins," 71.
32. Bleich, "British Conjoined Twins," 72. Nestled in his footnote to this comment, Bleich admits that this Joshua ben Levi narrative qualifies Shimon ben Lakish's requirement that the designated individual already be guilty of a prior capital crime. So at one level Bleich portrays this concluding story as a rebuttal to the whole *sugya*—that is, it would be better not to surgically intervene and necessarily condemn one twin to an immediate death; at another level he disagrees with Tendler's view, based on Rambam and Shimon ben Lakish, that such surgery cannot be justified insofar as the weaker twin is not legally culpable for a capital crime.
33. There are, of course, biblical references to diverse human forms—besides deformities. These are, however, hybrid species that combine human and divine or human and animal attributes.
34. *Mishnah B'chorot* 7.2; BT *B'chorot* 43b. Other Tannaim think a *gibben* has abnormal eyebrows. Unsurprisingly, not all manuscripts of the Bavli have this full mishnah or the Gemara discussion thereto.
35. BT *Nidah* 24a.
36. See BT *Nidah* 24b; BT *B'chorot* 49b.
37. See *Tosafot* and Rashi at BT *Nidah* 24a for more discussion on whether it is acceptable, or even plausible, to eat double-backed animals and/or fetuses.
38. See BT *Chulin* 111b.
39. BT *M'nachot* 37a–b.
40. There is disagreement whether the child dies from being killed or from natural causes. See Rashi and *Tosafot* there.
41. Known elsewhere as the prince of demons. See BT *P'sachim* 109b–112a. Ashmedai probably derives from Zoroastrianism's Ašma, and is found in kabbalistic and other non-canonical Judaic texts.
42. There are seven "earths," each with its own inhabitants and natural order. According to some sources, the fifth-lowest earth—Arka—was given over to the descendents of Cain—a people with two heads who can never reach decisions because of argumentation. See *Haqdamat Sefer ha-Zohar* I:9b; Louis Ginzberg, *The Legends*

of the Jews, vol. 1 (Philadelphia: JPS, 1936), 114. Or perhaps this place was Tevel, the second topmost earth, where inhabitants have two heads, four hands and feet, but only a single trunk. See Ginzberg, *The Legends of the Jews*, vol. 1, 10.

43. BT *M'nachot* 37a, s.v. *o kum gelei*.
44. Adolph Jellinek, ed., *Beit HaMidrash*, part 4, Solomon, end. See also Moses Gaster's *The Exempla of the Rabbis* (New York: Ktav Publishing House, 1968), #113 in the Hebrew (p. 75) and #392.11 in the English (pp. 150–51); Ginzberg's *The Legends of the Jews*, vol. 4, 131–32.
45. BT *M'nachot* 37a, #18. Bleich, "Conjoined Twins," 97, is therefore incorrect to assert that in *Shitah Mekubetzet's* view, conjoined twins "must be deemed to be separate persons, not only for purposes of inheritance, but for all other halakhic purposes as well."
46. Bleich, "Conjoined Twins," 98–99, recalls a Talmudic discussion of a slave originally owned by two and now manumitted by one, and because of this dual-status is prohibited from marrying either a slave woman or a free woman (BT *Chagigah* 2a–b). Bleich uses this analogy to argue that just as this slave is prohibited from marrying and "dicephalus twins are separate biological entities who physically share a single set of sexual organs . . . the identical result should obtain, *a fortiori*, in instances of shared proprietorship of sexual organs." Conjoined twins are thus prohibited from marrying because of the "dual halakhic identity insofar as legal status of those sexual organs is concerned." Curiously Bleich omits the Gemara's conclusion: the remaining owner should be compelled, for the sake of repairing the world (or social order), to free the slave so that he can freely fulfill the obligations of propagation. Bleich thereby ignores the Talmud's promotion of eliminating legal constructs (or at least this one) for morphologically normal humans.
47. See Susan Dominus, "Could Conjoined Twins Share a Mind?" *New York Times Magazine* (May 25, 2011).
48. For a discussion about the power of dissimilar analogies, see Heidi Mertes and Guido Pennings, "The Force of Dissimilar Analogies in Bioethics," *Theoretical Medical Bioethics* 32 (2011): 117–28.