SIXTH COMMANDMENT: Abortion and genetic diseases

We continue to analyze the Sixth Commandment and its application in complex medical situations. Yesterday we explained that the Talmud discusses and allows under certain conditions therapeutic abortion, i.e., when the mother's life is in danger.

Now, except for medical reasons, abortion is strictly forbidden by Jewish law. However, Jewish law does not consider abortion as murder, i.e., a crime that would have deserved the death penalty in the days when the Jews courts applied execution. The Tora explicitly mentions the case in which a person negligently causes a pregnant woman to miscarriage her baby (Shemot 21:22) and does not consider this case as homicide, but considers other penalty for the perpetrator (□□□□□□□ □□□□). In this regard, Judaism is different from other religions. For the Catholic church, for example, life begins at conception and it usually equates abortion with murder.

Abortion is viewed in Jewish law as injuring someone's body or mutilation (□□□□), not murder (□□□, there are very few rabbis who disagree on this point). Since an individual is considered a legal person only once he or she is born. Before birth, the fetus is considered *yerekh immo*, a limb of the mother's body . This consideration has implications, for example, for determining the legality of abortion when a congenital malformation of the fetus is detected. Such cases represent a new challenge in Jewish law. Why? Because obviously, the rabbis of the Talmud or the Middle Ages, Maimonides or Shulchan Aruch, did not address these cases, since only today we have the ability to determine the health of a baby in the mother's womb. As it happens with other modern scenarios or medical situations such as organ transplant, etc. there is no Talmudic legislation which we can base upon to determine the law. And it is important to know that every time we can not find a direct precedent in Talmudic law, we will generally find more than one rabbinical opinion, which based on Talmudic analogies, not legal precedents, would usually arrive to

different or opposite conclusions. The issue just mentioned, abortion in a case of genetic malformation is no exception to this rule. The case of Tay-Sachs, for example, a serious genetic disease that progressively destroys the nervous system and results in the death of the individual at a very young age, has been analyzed by modern rabbinical legislators (= posqim). And while most rabbis are inclined to authorize abortion in this specific case, there is no absolute consensus on the matter. Besides the type of malformation modern rabbis would also take into consideration for example, in what month of pregnancy the problem is detected; the emotional state and mental health of the family; how would the abortion be performed, etc.

From a halakhic point of view, in cases like this, where there are no direct Talmudic precedents and there is no consensus among the rabbinical authorities, each situation must be analyzed in particular, in consultation with the rabbis of one’s community, regarding the criteria to follow.