

‘Till Death Do Us Part: The Halachic Prospects of Marriage for Conjoined (Siamese) Twins

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There are many unknowns when it comes to discussions about Siamese twins. We do not know what causes the phenomenon of conjoined twins,¹ we do not know what process determines how the twins will be conjoined, and we do not know why they are more common in girls than in boys. Why are thoracopagical twins (who are joined at the chest) the most common type of conjoinment making up 75% of cases of Siamese twins,² while craniopagus twins (who are connected at the head) are less common?

When it comes to integrating conjoined twins into greater society, another bevy of unknowns is unleashed: Are they one person or two? Could they get married?³ Can they be liable for corporal/capital punishment? Contemporary thought may have difficulty answering these questions, especially the last three, which are not empirical inquiries. Fortunately, in

¹ R. Yisroel Yehoshua Trunk of Kutna (1820–1893) claims that Jacob and Esau gestated within a shared amniotic sac in the womb of their mother Rebecca (as evidenced from the fact that Jacob came out grasping his older brother’s heel). As a result, there was a high risk that the twins would end up sticking together and developing as conjoined twins. In order to counter that possibility, G-d miraculously arranged for the twins to restlessly “run around” inside their mother’s womb (Gen. 25:22) in order that the two fetuses not stick together. See *Shut Yeshuot Malko* vol. 2 (Piotrkow, 1927), p. 74a.

² T. Izukawa, et al., “Assessment of the Cardiovascular System in Conjoined Thoracopagus Twins,” *American Journal of Diseases of Children* vol. 132 (1978), p. 19.

³ This issue of marriage for conjoined brothers has more recently appeared in the genre of popular Jewish literature in the fictional short-story “The Joiner” by Ezra Olman, which was published in *Lehrhaus* (December 1, 2016) [URL: <https://www.thelehrhaus.com/culture/the-joiner/>].

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the world of halacha, a methodology exists for approaching such questions, and while the final rulings may be subject to dispute, the halachic realm certainly remains a forum for intelligent discussion of the topic.

Two-headed Men in the Talmud and Midrash

Any and all discussion about the status of conjoined twins in halacha begins with a Talmudic passage that seems to address the issue—at least in some limited way:⁴

Plimo asked Rebbe: “He who has two heads, upon which head should he lay *tefillin*?” He said to him, “Either rise up and go into exile or accept excommunication upon yourself.” Meanwhile, a certain man came and told Rebbe: “A baby was born to me that has two heads. How much am I required to give to the Kohen [for redemption of the firstborn]?” A certain elder came and taught to him that he was obligated to give ten *sela* [instead of the usual five].

The Talmud then clarifies this ruling by explaining that redemption of the firstborn is dependent on the “head” (*gulgolet*)⁵ as is implicit in the

⁴ Previous treatments of this topic include: J. D. Bleich, “Conjoined Twins,” *Tradition: A Journal of Orthodox Jewish Thought* vol. 31:1 (1996), pp. 92–125; J. D. Bleich, “*Hafradat Teomim Siamiim Baalei Lev Echad*,” *Or ha-Mizrach* vol. 45 (1997), pp. 70–88; pp. 92–125; J. D. Bleich, “Conjoined Twins,” in *Bioethical Dilemmas* (Hoboken, NJ, 1998), pp. 283–328; and E. Reichman, “Are Two Heads Really Better Than One? Halakhic Issues Relating to Conjoined Twins and a Two-Headed Person,” *The Journal of Torah and Medicine of the Albert Einstein College of Medicine Synagogue and RIETS* vol. 4 (New York, NY: Yeshiva University Press, 2012), pp. 35–59. This paper intends to summarize the relevant arguments in those works and supplement them, with a focus on sources not thoroughly discussed previously.

⁵ The Torah uses the word *gulgotam* when describing the general census of the Jewish People (sans the Tribe of Levi), but does not use that word when describing the census of the Tribe of Levi. R. Moshe Sofer (1762–1839) in *Shut Chatam Sofer (Yoreh Deah §294)* cites those who explain that this is because the word *gulgotam* implies that each *head* should be counted separately, even if one *person* has two heads. Therefore, when counting the Tribe of Levi, the Torah does not use that word because the Levities are counted from the age of thirty days and up. Since a child born with two heads *could* live beyond thirty days, using the word *gulgotam* might cause a child with two heads to be double-counted. Therefore, the Torah does not use that word for the Levitical census. However, the rest of the Jews were counted only from the age of twenty years, and a child born with two heads cannot possibly live that long—because having two heads is considered a *treifah* with a limited lifespan of twelve months—so the Torah was free to use the word *gulgotam*, without being wary of double-

wording of Numbers 18:3. Therefore, because both heads of the firstborn could have simultaneously left the mother's womb, both have the status of the firstborn and the father is obligated to redeem both heads from the Kohen.⁶

R. David Ganz (1541–1613) writes in the name of the Roman historian Dio Cassius (155–235) that in the time of the Roman Emperor Antonius Pius (86–161), a woman gave birth to a boy that had two heads.⁷ R. Matisyahu Strashun (1817–1885)⁸ writes that he is inclined to say that this person is the child mentioned in the Talmud who was born in the time of Rebbi (a contemporary and friend of Antonius).⁹

However, R. Yitzchak of Vienna (1200–1270) writes that the Talmud sometimes refers to fantastic phenomena that do not really exist, and cites Plimo's question as an example of such an occurrence.¹⁰

Nevertheless, other Tosafists¹¹ write that while a person with two heads does not exist in *this world*, it does exist in the realm of the demons.¹²

counting. Nonetheless, in light of the other sources that we shall discuss below, R. Matisyahu Strashun in *Mitet-Yab* (to *Shemot Rabbah* §2:5) argues that a person with two heads *can* live beyond twelve months because only a *treifah* due to the *absence of a limb* has such a limited lifespan, but not a *treifah* due to the *presence of an extraneous limb* (*Shach*, *Yoreh Deah* §57:48). See also *Yad David* (to *Menachot* 37a), *Shut Chikerei Lev* (*Yoreh Deah* vol. 1 §26), *Shut Pri ha-Sadeh* (vol. 3, §139), *Shut Arnei Nezer* (*Yoreh Deah* §399), *Petach Einaim* (to *Menachot* 37a), *Chiddushei ha-Grach al ha-Shas* (*Menachot* 37a), and *Chazon Ish* (*Yoreh Deah* §183).

Similarly, R. Chaim Kanievsky in *Taama de-Kra* (to Num. 26:53) explains that the Torah does not say *gulglotam* in the context of inheriting portions of the Holy Land because a two-headed person receives only one portion (as seen from the story about King Solomon, see below), yet writing *gulglotam* would imply that for every *head*, a portion is allotted. Nonetheless, this explanation is not so clear-cut because the Midrash concerning King Solomon does not state that *every* time somebody has two heads, they are allotted only one portion of their father's inheritance. Rather, the Midrash means that *if* it can be proven that the two heads really belong to one person, then he receives a single portion of inheritance. But if they are actually two people conjoined together, then the Midrash does not offer any ruling on that case.

⁶ *Menachot* 37a.

⁷ *Tzemach David*, Unit II, Year 3904.

⁸ *Mitet-Yab* to *Shemot Rabbah* §2:5.

⁹ See also A. G. Hug, *Fecunditas, Sterilitas, and The Politics of Reproduction at Rome* (Doctoral dissertation), p. 155.

¹⁰ *Ohr Zarua* (*Aveilut* §424).

¹¹ See *Tosafot* (to *Menachot* 37a).

¹² R. Avraham Chaim Schor (d. 1632) explains (*Tzon Kadoshim* to *Menachot* 37a) that Rebbe told Plimo to go into exile because the *Zohar* says that in the place to

To that effect, the Tosafists cite a Midrash¹³ that relates that Ashmadai, the king of the demons, brought before King Solomon a two-headed demon from the netherworld. That demon married a single-headed human woman and fathered single-headed children and two-headed children. Upon the demon's death, his two-headed children demanded double portions of his estate, while his single-headed children contested that claim.

The Tosafists do not cite the conclusion of this Midrash, but other sources do. R. Betzalel Ashkenazi (1520–1592)¹⁴ relates that King Solomon covered one of the heads with a linen cloth and poured boiling water on the other. In response to the pain, both heads screamed out, proving to the wise king that the two-headed entity is indeed one person and not two.

Similarly, R. Yehuda Aryeh Modena (1571–1648)¹⁵ writes that he heard that Solomon used boiling water to determine whether both heads feel the same pain. R. Yosef Chaim of Baghdad (1832–1909) writes¹⁶ that what R. Modena wrote was an incomplete version of the Midrash. To supplement the story cited by the Tosafists, he cites the conclusion found elsewhere: Solomon asked for a linen cloth, hot water, and aged wine. He covered one head with the linen cloth and began to pour the hot water and aged wine on the other head. Suddenly, both heads screamed out, “We are dying! We are dying! We are one, we are not two! We will no longer say we are two people.”¹⁷

R. Dr. Azriel Rosenfeld (1931–2004) draws from the Talmudic source above that a person with two heads is considered one person. He argues that if they were two people, then the query Plimo posed before Rebbe would be moot because both people would independently be obligated to don *tefillin*. Similarly, if they were considered two individuals, then surely their father would be obligated to give only five *se'la* to the Kohen in order to redeem them because only one of them is the firstborn. However, from

where Cain was exiled, there are people with two heads. Therefore, Rebbe told Plimo to go into exile because there he would find such a person.

¹³ R. Mordechai (in *Halachot Ketanot*, end of *Hilchot Tefillin*) cites this tale in the name of *Pirkei de-Rabbi Eliezer*. However, R. David Luria (1798–1855), in his introduction to *Pirkei de-Rabbi Eliezer* (*Kuntres ha-Mavo* §7), correctly points out that this story does not appear in *Pirkei de-Rabbi Eliezer*.

¹⁴ *Shittah Mekubetzet* (there).

¹⁵ *Ha-Boneh to Ein Yaakon* (*Menachot* 37a).

¹⁶ *Ben Yeboyada to Rosh Hashana* 21b.

¹⁷ A. Jellnik (ed.), *Bet ha-Midrash* (Leipzig, 1878), pp. 151–152 and J. D. Eisenstein (ed.), *Otzar Midrashim* vol. 2 (New York, NY, 1915), pp. 533–534. See also *Sinai* vol. 19 (1956), pp. 20–23.

the Midrashic source above, R. Rosenfeld sees that a two-headed person *can* have the halachic status of two people, provided they have independent senses.¹⁸

If we assume that the “two-headed person” refers to a pair of conjoined twins who have only two heads, but no duplication of other major body parts—known as dicephalic twins—then we can attempt to determine the halachic status of such twins based on the above sources. Following Rosenfeld’s methodology, if we can determine that these twins have independent senses, then they are considered two people, and if they share their senses, then they are considered one person. From the story of King Solomon, we may posit that the specific sense that determines individualism or dualism is the sense of touch.

Conjoined Twins in Rabbinic sources

Before moving on to the halachic debate over the nuptial possibilities for conjoined twins, we will first survey accounts of such twins in both rabbinic and secular literature, searching for a precedent upon which we may base our underlying assumptions.

One of the earliest appearances in rabbinic literature may be the Midrash itself. The Midrash¹⁹ says that G-d is allegorically called the “twin” of the Jewish people (Song of Songs 5:2) because just as with twins, if one feels pain in his head, his fellow twin also feels it, so does G-d feel the pain of the Jewish people, as it says, “With him, I am in distress” (Ps. 91:15). R. Matisyahu Strashun finds it far-fetched to interpret this passage as referring to regular, non-conjoined twins because he does not see how one twin feels the pain of his sibling.²⁰ Instead, R. Strashun assumes that the Midrash refers to conjoined twins who can possibly feel the sensations of each other (see below).²¹

¹⁸ See A. Rosenfeld, “The Heart, the Head, and the Halakhah,” *New York State Journal of Medicine* (October 15, 1970), pp. 2616–2617.

¹⁹ *Shemot Rabbah* §2:5.

²⁰ Recent popular literature reports heightened empathy and possibly even ESP amongst twin siblings—even if they are not conjoined—than amongst other segments of the population. If this is true, then the Midrash can reasonably be interpreted to refer to regular twins. Nonetheless, I have been unable to find proper medical studies that either confirm or deny such phenomena.

²¹ *Mittet-Yah* (to *Shemot Rabbah* §2:5).

A brief mention of two-headed people appears in the medical writings ascribed to Maimonides (1135–1204), who attributes a spate of such births to a solar eclipse.²²

R. Isaiah of Trani (1180–1250) reports that he heard from other Jews that they saw a twenty-year-old woman with two backs, two spines, and two heads. Each head had its own pair of eyes, could eat independently, and had its own two arms (in total, four eyes and four arms). But, from the waist and downwards, she had one singular body. This lady was paraded before the local king dressed in fine clothes.²³

Later, R. Gershon ben Shlomo of Catalonia (a 13th-century Spanish sage)²⁴ writes that sometimes a woman can give birth to a child that has two heads and two upper-bodies, while from the navel downwards, they share a body. He claims to have seen such a child. He also mentions that Ali Ibn Ridwan (988–1061), an Egyptian-Arabic physician, testifies in his commentary to Galen’s medical writings to having seen such a monstrosity.

What is more, R. Gershon records the following story in the name of the Muslim philosopher Avicenna/Ibn Sina (980–1037):²⁵ A woman once gave birth to Siamese twin girls who had separate heads, hands, and feet, but were joined at the hip. Eventually, somebody proposed marriage to one of these sisters (A), but the other sister (B) refused. B not only refused, but she also claimed that A should not get married because her would-be husband will end up seeing her (B) naked (a universal violation of decency/privacy). The two sisters went to court, where a wise judge presided. When the two sisters sat in front of the judge, the judge called B and asked her to stand on her feet, but she was unable to move from

²² S. Muntner (ed.), *Kitvei Refuim Pirkei Moshe* (Jerusalem: Mossad HaRav Kook, 1952), p. 302.

²³ See *Piskei ha-Rid, Niddab* (Jerusalem: Machon HaTalmud HaYisraeli, 2012), pp. 34–35 and *Piskei ha-Rid, Chullin* (Jerusalem: Machon HaTalmud HaYisraeli, 2012), pp. 220–221. *Chiddushei ha-Ritva* (to *Niddab* 24a) writes that he saw one authority who testified about a woman with two backs and two spines, and she lived considerably long. R. Chaim Yosef David Azulai (1724–1806) in *Petach Einaim* (there) cites an alternate version of *Ritva*’s commentary in which he identifies the authority in question as R. Oshaya. R. Azulai proposes emending that passage to read “R. Yishaya,” a reference to the above-mentioned testimony of R. Isaiah of Trani. This passage is also found in R. Dosa the Greek’s hitherto-unpublished commentary to *Chullin*, which was recently discovered in the so-called “European Genizah.”

²⁴ He was the father of R. Levi ben Gershon (1288–1344)—better known as Gersonides/Ralbag—and was possibly the son-in-law of Nachmanides.

²⁵ After some perusing, I have been unable to locate this story in Avicenna’s own writings.

her place to stand before the judge. He then called A and asked her to stand up. A was not only able to stand up, but she forcibly dragged B along, so both sisters stood before the judge. From this, the judge deduced that in reality A is the main person who controls the shared body and B is akin to a parasite who feeds from A's body. Therefore, the judge ruled that A was allowed to get married. Not long after A got married, B died from utter embarrassment and distress, and, a short while later, A also died due to her sister's rotting remains attached to her person.²⁶

R. Tuviah the Physician of Frankfurt (1653–1728), a graduate of the University of Padua, affirms that while training in medicine, he was shown the embalmed body of twin girls who shared a stomach. He also cites the same story that R. Gershon does in the name of Avicenna.²⁷ Similarly, R. Yosef Chaim of Baghdad²⁸ tells of a woman in Baghdad who gave birth to a baby with two heads. Although the child had two necks and two fully developed heads, the rest of the child's body was singular. Nonetheless, that baby did not live more than three days.

R. Chaim Elazar Shapiro of Munkatch (1868–1937)²⁹ writes that as a child, he saw in Vienna conjoined twins who had two upper bodies (i.e. head, neck, and hands), but from the waist down, they shared one body.³⁰ R. Shapiro finds it difficult to argue that halacha considers them as one person, given that they had two separate hearts and heads. He therefore concludes that in such a case, each twin should don his own pair of *tefillin*.³¹

²⁶ *Sbaar ha-Shamayim* (Warsaw, 1876), p. 25a

²⁷ *Maase Tuviah* (*Olam ha-Katan*, ch. 6).

²⁸ *Ben Yehoyada* (to *Menachot* 37a).

²⁹ *Ot Chaim ve-Shalom* (§27:9).

³⁰ Based on the time, place, and anatomic description, Reichman 2012:42 estimates that R. Shapiro observed the Tocci brothers (see below).

³¹ The Talmud (*Megillah* 7a) rules that the commandment of giving alms to the poor on Purim requires one to give charity to two separate poor men. R. Yaakov Bendtman (d. 1861) was once asked about whether one can fulfill this commandment by giving charity to one person who has two heads (*Shut Zichron Yaakov*, end of §7). He answered that if such a person existed, then one can possibly do so. However, he notes, such a two-headed person does not exist in this world, as asserted by *Tosafot* (cited above). R. Bendtman nonetheless adds that the case discussed by R. Reischer (below) is not one person with two heads, but two people joined at the head.

Rabbi Chagiz's rulings

R. Yisrael Yaakov Chagiz (1620–1674) writes:

“I remember that I saw in Italy³² a gentile—about twenty-five years old—who was born attached to his twin until his waist, chest adjacent to chest, and from there they were attached. And he was mobile and completely like any other person. The smaller [twin]'s head is inclined towards one side and his feet were hanging downwards and reached to the knees of the larger [twin] and he did not have any feeling at all [in the attached part of his body], rather it was like a limb whose senses have been dulled and he lived many years with his twin.”³³



A contemporary drawing of the Colloredo twins born in Italy in 1617. Public domain.

Three questions were raised: ¹> If one murders the smaller twin, is the murderer liable or do we consider the smaller twin halachically non-existent? ²> Does we circumcise such a child? ³> How does this person live? The first two questions are purely halachic, while the last question is scientific.

R. Chagiz opens his responsum by answering the last question first. He asserts that the smaller twin is sustained through the liver of his twin brother which filters and sends blood to his liver, just as a mother's liver (and placenta) performs that function for her unborn child in utero. Regarding the smaller twin's halachic status, R. Chagiz argues that this person has the halachic status of a *goses* (a moribund individual), but he is nonetheless circumcised. R. Benzion Alkalei (1858–1913),³⁴ disagrees

³² Based on the time, location, and description recorded by R. Hagiz, Reichman 2012:52 asserts that he is referring to the Colloredo brothers, Lazarus and his parasitic twin Joannes Baptista, who were born in Italy in 1617. J. Bondeson, “The Biddenden Maids,” *The Two-Headed Boy and Other Medical Marvels* (Cornell University Press, 2004), p. x cites a French historian named Henri Sauval (1623–1676) who wrote that Lazarus actually committed murder and was acquitted by a court of law on the grounds that punishing him with the death penalty would effectively kill his parasitic twin, as well.

³³ *Shut Halachot Ketanot* (vol. 1, §245).

³⁴ In his work *Halacha Ravachot* (a commentary to R. Chagiz's *Halachot Ketanot*).

with this last ruling, arguing that if such a person is considered a *goses*, then surely he is exempt from the commandment of circumcision. One cannot even *move* a *goses*, let alone surgically remove his foreskin. R. Chagiz also discusses whether or not one should recite the benediction *mishane habriyot* upon seeing such a person and whether or not this child is entitled to a portion in his father's inheritance.

While not discussing conjoined human twins, *per se*, R. Chagiz was also asked about how to view the existence of conjoined chicks:

QUESTION: In Verona, they showed two chicks that were attached from the side. It appears that they came from two different egg yolks. They had two heads, two necks, four feet, and both heads were able to eat. What is [the halachic status of this chicken (i.e. may it be eaten and how)]?

ANSWER: It is a creature from the Six Days of Creation. According to the opinion that Adam was created thusly³⁵ [i.e. Adam and his partner originally formed one back-to-back person], the other animals of creation were also possibly created so.³⁶ If they [the chickens] live for twelve months, you may³⁷ slaughter both heads like one (so as not to [invalidate the slaughtering by way of] waiting [in the middle of slaughtering]) [and the chicks may be eaten].³⁸

Although the rabbinic sources above clearly chronicle cases of conjoined twins—with limited discussion of some halachic ramifications of such a condition—none of them address the possibility of marriage for such people. The only source that comes close to dealing with that issue is the story cited in the name of the non-Jewish scholar Avicenna.

³⁵ *Erwin* 18a.

³⁶ R. Yosef Engel (*Gilyonei ha-Shas* to *Berachot* 61a) cites the commentary of Chizkuni (to Gen. 2:23) who explicitly writes that only man was created thusly, while other animals were not. In R. Engel's assessment, this passage offsets R. Chagiz's supposition.

³⁷ See *Shut Shaar ha-Zekenim, Beit Milo* §19 who disagrees with R. Chagiz and rules that an animal with two heads is considered a *treifah* and may not be eaten. See also *Darkei Tesbuvah (Yoreh Deah* §50:16) regarding such an animal.

³⁸ *Halachot Ketanot* (vol. 1, §249).

Conjoined Twins in non-Jewish Sources

From the eleventh century and onwards, as reports of conjoined twins increased, Christian scholars began to debate, *inter alia*, whether conjoined twins could contract a valid marriage.³⁹ A Christian scholar in France named Eustache of Grand Court (who lived in the late 13th century thru early 14th century) was asked about the theoretical possibility of marriage for conjoined twins. He answered this query by responding in the negative. He rejected the possibility of marriage for conjoined twins—female twins, in the case he considers—on the grounds that they are considered two distinct people with two distinct wills.⁴⁰

Eustache buttresses his position with a triad of arguments: Firstly, marriage, by definition, requires the consent of two entities. Therefore, since conjoined twins have separate intellectual faculties, both would need to accede to marriage, making the total parties in the marriage contract three, instead of two. Ergo, marriage for conjoined twins is, by definition, impossible. Secondly, even if one sister should wed, leaving the other a legal spinster, such an arrangement is also untenable. Because the two sisters have only one shared genitalia, then when the married sister cohabits with her husband, he has effectively committed adultery by fornicating with she who is not his wife. Thirdly, not only would the husband violate the ban on adultery, he would also concurrently commit incest by lying with his wife's sister.⁴¹ Nonetheless, Eustache ultimately concludes that because the twins have “separate wills and separate acts of consent” they can, in fact, independently enter valid marriages.⁴²

Indeed, historians mention several cases of conjoined twins—both male and female—who actually did wed. One historical source mentions

³⁹ See I. Resnick, “Conjoined Twins, Medieval Biology, and Evolving Reflection on Individual Identity,” *Viator* vol. 44:2 (2013), p. 347.

⁴⁰ Another “practical” ramification of the legal status of conjoined twins for Christian scholars was whether they required one baptism or two. The English church leader John Peckham (1230–1292) considers both options in response to such a question. Ultimately, he concludes that conjoined twins have two souls, so the pair requires separate baptisms, a position also adopted by Guido of Mont Rochen (a 14th-century Spanish priest). Similarly, Henry of Ghent (1217–1293) wrote that if conjoined twins have two hearts, then they require two separate baptisms, but if they share one heart, they need only one (Resnick 2013:356–358; 363).

⁴¹ Maimonides (Laws of *Melachim* 9:5) lists the forbidden incestuous relationships for non-Jewish people and does not mention any prohibition of marrying two sisters. That prohibition applies only to Jews.

⁴² Resnick 2013:354–355.

the case of conjoined brothers in Switzerland in 1538. They were observed at the age of 30, by which time both faces had beards and the two-headed man was happily married to one wife.⁴³

Conjoined twins are colloquially called “Siamese twins” after the case of Chang and Eng Bunker (1811–1874), who were born in Siam (Thailand). Those two brothers were put on display in the famous circus of P. T. Barnum (1810–1891). Eventually, they respectively married two (unjoined) sisters and established a joint home with a bed for four. However, eventually the sisters came to resent each other, so the twins established separate households, alternating weekly with each wife. Chang fathered six normal, healthy children and Eng, five. The brothers lived to the age of sixty-three and ultimately died within hours of each other.⁴⁴

The famous Tocci brothers (Giacomo and Giovanni Battista) had one set of genitals, but nonetheless married two separate women. This unusual arrangement gave way to a flock of legal questions including how to determine paternity should one of the wives bear issue and how the brothers’ fortune may be divvied among their inheritors. In the end, the brothers may have actually died childless. Their exact years of birth and death are unknown, but they lived in the late 1800s.⁴⁵

The twins Rosa and Josepha Blazek (who were positioned back-to-back and joined at the sacrum, known as pyopagic twins) were born in 1878 and were reputed to have married one man.⁴⁶ On the other hand, Simplicio and Lucio Godina, who were born in 1908,



The Tocci brothers on display in Berlin (circa 1891). Public domain.

⁴³ J. Bondeson, “Dicephalus Conjoined Twins: A Historical Review with Emphasis on Viability,” *Journal of Pediatric Surgery* vol. 36:9 (2001), p. 1436.

⁴⁴ Bleich 1996:93 and J. G. Wilson & J. Fiske (eds.), “Chang and Eng,” *Appletons’ Cyclopaedia of American Biography* (New York: D. Appleton, 1900).

⁴⁵ Bondeson 2001:1441.

⁴⁶ See J. Bondeson, “The Biddenden Maids,” *The Two-Headed Boy and Other Medical Marvels* (Cornell University Press, 2004), p. 154.

were male pyopagic twins and were reputed to have married identical (un-joined) sisters. In 1936, Lucio died of pneumonia and was subsequently surgically separated from his brother Simplicio, who died twelve days later.

The Hogan Girls

In contemporary times, doctors are baffled by the case of Krista and Tatiana Hogan—a pair of twins conjoined at the head. Not only are those girls joined at the head, but they also share parts of their brain. The two girls are reputed to share a thalamus, which is the brain's sensory relay center. As a result, their brains receive sensory input from each other's bodies, so each sister could see through the eyes of the other or could feel the physical sensations experienced by the other. They are, nonetheless, two independent people with their own individual preferences and proclivities.⁴⁷

Demons with Two Heads

As mentioned above, the Midrash relates that King Solomon tested whether a certain two-headed person was really one person or two by pouring boiling water on one head and seeing if the other reacted. This implies that personhood is defined by the ability to independently experience sensations of touch. In the case of the Hogan twins, then, it would seem that because they share their sense of touch, they might, halachically speaking, be considered one person. This conclusion is somewhat odd because the two girls definitely have different personalities and besides their shared sensory perception, they have the ability to *think* independently from one another.

R. Yitzchok Minkovski of Karlin (1788–1851) writes that the type of two-headed beings mentioned in the Midrash are not people and do not have the halachic status of people. Even if they were to accept upon themselves the commandments of the Torah (i.e., they would convert to Judaism), they still would not become obligated in the commandments because they are not human.⁴⁸

⁴⁷ This case has been reported both in medical journals and in the popular press. See J. Squair “Craniopagus: Overview and the Implications of Sharing a Brain,” *University of British Columbia's Undergraduate Journal of Psychology* vol. 1 (2012), pp. and S. Dominus, “Could Conjoined Twins Share a Mind?,” *The New York Times Magazine* (May 25, 2011).

⁴⁸ *Keren Orab* (to *Menachot* 37a).

Similarly, R. Yosef Chaim of Baghdad⁴⁹ cites the Midrash about King Solomon and infers from that Midrash that Solomon's litmus test was not simply a scientific experiment to determine whether they were one person or two, but rather relied on supernatural elements. If it was simply a scientific test, Solomon could have used boiling water alone. The fact that he needed boiling water, linen cloth, *and* aged wine proves that Solomon's test was predicated on certain supernatural notions. Indeed, R. Yosef Chaim elsewhere⁵⁰ adds that Solomon had to resort to supernatural methods of detection because the person in question was not human, but partially a demon (from his father's side).⁵¹

In line with these understandings, we may argue that in determining the individuality of a part-demonic being, King Solomon's test works. However, the story of Solomon cannot teach us how to determine the individuality of a fully human person with two heads. Therefore, we cannot learn anything about how to decide whether conjoined twins are one or two people from the Midrash cited by the Tosafists. This, of course, begs the question why the Tosafists cited said Midrash if it bears no halachic relevance.

Rabbi J. D. Bleich seems to understand that Solomon's test was not just to determine whether they shared common pain receptors, but to use that example for determining whether or not they shared an entire nerv-

⁴⁹ *Ben Yehoyada* (to *Rosh Hashana* 21b).

⁵⁰ *Benayahu* (to *Erwin* 18a).

⁵¹ This suggests that the offspring issued from a union of a demonic male and a human (Jewish) female is considered a demon and not human (or even Jewish). However, see *Kav ha-Yasbar* (ch. 25) which seems to maintain that such a child is considered Jewish and even requires a circumcision. R. Chaim Elazar Shapiro discusses this source and others in *Ot Chaim ve-Shalom* (§266:12) and concludes that such a child is not considered human or Jewish. See also R. C. Klein, *ha-Makom me-Rachok al Yevamot* (Beitar Illit, 2015), p. 152.

A legend tells of a certain family in the Hungarian *Unterland* who are descendants of such a union. According to the story, a Jewish woman returning from the *Mikvah* was raped by a demon and her descendants became a family of brazen troublemakers who fought many rabbinic figures in the *Unterland* region. See *Shut Chayei Asher* (§123) and P. Miller, *Olam Shel Abba* (Jerusalem: Hod Publishers, 1984), pp. 132–134. Nonetheless, leading rabbinic figures such as R. Shlomo Shapiro (1831–1893) and his grandson R. Chaim Elazar Shapiro deny the veracity of this tale, arguing that it was simply slander spread against an otherwise upstanding family. Their letters on this topic appear in B. Weinberger (ed.), *Iggros Shapirin* (Jerusalem: Ohr Torah Munkatch, 1998), pp. 146–150. See also *Shut le-Horot Natan* (vol. 7 §86) and *Shut Mishneh Halachot* (vol. 12 §291).

ous system. In his own words, he writes: “It may indeed be cogently argued that King Solomon's use of scalding water as a test to determine whether both heads respond to a single pain stimulus was, in actuality, an attempt to determine whether or not the two heads share a common nervous system. If so, separate identity is predicated upon an independent nervous system.”⁵² In the case of the Hogan twins, it appears that they indeed have two separate nervous systems, although the two systems are nonetheless linked. This would mean that they would have the halachic status of two people.

The Possibility of Marriage

In the following paragraphs, we will consider three approaches regarding the halachic possibility of a conjoined twin entering a legal marriage. The prospect of marriage itself actually complicates the issue as a sort of catch-22 because the *kiddushin* that creates the marriages also creates the *ervab*-level prohibitions of *esbet ish* (married woman), *esbet achiv* (his brother's wife), and *achot ishto* (his wife's sister). We will have to take into account the risk of these three prohibitions when talking about allowing conjoined twins to marry.

1. The first approach essentially forbids any marriage on the grounds that because the conjoined twins are attached, if one engages in sexual intercourse with one twin, one has effectively also engaged in intercourse with the other twin. By this approach, if one marries a conjoined twin and consummates the marriage, then one has violated an *ervab*-level prohibition of the Torah.
2. The second approach maintains that conjoined twins are viewed as completely separate entities in regard to the Torah's sexual prohibitions. However, squarely because they are separate entities, they cannot get married due to secondary and tertiary concerns: If the twins are male, then one will inevitably violate the Biblical prohibition of “approaching” an *ervab* (Lev. 18:6) should his brother marry a woman. If the twins are female, then the married sister would inevitably violate the prohibition of copulating in front of others.
3. The third approach understands that conjoined twins may have the legal status of one person. This approach assumes that there is always a dominant twin and a less-dominant twin. Therefore, the dominant twin assumes the primary position and the less-dominant twin is marginalized. According to this reasoning, even though they are viewed

⁵² Bleich 1996:119.

as one person, intercourse with one twin does not amount to an *ervab*-prohibition because of the other, for the other twin is essentially considered non-existent.

Approach #1: Pregnancy as a Precedent

An animal upon which the act of bestiality is committed assumes the legal status of a *nirba* (animal used for illicit cohabitation) and is thus disqualified from ritual sacrifice. The Talmud⁵³ rules that if one cohabits with a pregnant animal, not only does the mother assume the status of *nirba*, but so does her offspring. The Tosafists⁵⁴ write that even according to the opinion that “a fetus is *not* the thigh of its mother,” both the animal and its issue are disqualified.

Drawing from this precedent, R. Akiva Eiger (1761–1837)⁵⁵ understands that any time a man engages in sexual activity with a pregnant being—animal or human—he effectively cohabits with the fetus in utero, as well. Thus, R. Eiger asks: How can a man cohabit with his pregnant wife, if by doing so he may effectively be cohabiting with his own daughter (if the child is female)?

R. Eiger resolves this issue on a technical basis. The Talmud⁵⁶ rules that sex with a female human under the age of three does not have the legal status of sex. Therefore, even if by cohabiting with one’s wife one is considered to be cohabiting with his daughter, the Biblical prohibition of incest does not apply because she is less than three years old. Although incest with a girl younger than three is technically permitted according to Biblical law, doing so is nonetheless forbidden by Rabbinic fiat under the umbrella prohibition of the wasteful destruction of semen (because a girl that young cannot yet conceive). Based on this, R. Eiger argues that since cohabiting with one’s pregnant wife is certainly not considered the wasteful destruction of semen (even though she generally cannot become pregnant again),⁵⁷ the Rabbis never decreed that one should refrain from doing so. Therefore, even though by engaging in relations with his pregnant wife, a man may be halachically cohabiting with his own unborn daughter, such an act is completely permitted because the daughter is certainly

⁵³ *Temurah* 30b.

⁵⁴ *To Bava Kamma* 47a.

⁵⁵ D. Bitton (ed.), *Shut Rabbi Akiva Eiger* vol. 2 (Jerusalem: Machon Hamaor, 2002), pp. 585–586 and S. Arieli (ed.), *Shut Rabbi Akiva Eiger* vol. 3 (Jerusalem, 2011), pp. 70–72; 296–298.

⁵⁶ *Yevamot* 57b (see Rashi and Rashba there).

⁵⁷ See *Pesachim* 72b and *Tosafot ha-Rosh* (*Yevamot* 12b).

younger than three years old and there is no prohibition of wasting semen.⁵⁸

R. Eiger's entire treatment of this issue is predicated on an assumption relevant to our discussion about conjoined twins. It seems that both his question and answer⁵⁹ assume that because one's unborn daughter is *attached* to his wife, then his wife should somehow become forbidden to him—even if we say “a fetus is *not* the thigh of its mother.” This author infers from R. Eiger's responsum that he understands that if a permitted woman is somehow *attached* to an incestuous relative, then even sex with the permitted woman is prohibited at an *ervah*-level. In the case of conjoined sisters, if one sister is married to a man, he should become prohibited from cohabiting with his wife because she is attached to the *ervah* of his wife's sister (*achot ishto*). Conversely, if the conjoined twins are brothers, then the wife of the married brother should be forbidden to her husband because he is attached to her husband's brother (*esbet achiv*).⁶⁰

Problems with R. Akiva Eiger

Nonetheless, the assumptions R. Akiva Eiger makes in his discussion and the conclusions we drew from those assumptions are not unanimously accepted.

It is related that R. Chaim Soloveichik (1853–1918) held R. Eiger in great esteem and once remarked that R. Eiger never proffered any convoluted logic, save for two cases. One of those two cases is the above-

⁵⁸ Anan ben David, the 8th-century founder of the Karaite movement, writes that a man is prohibited from cohabiting with his pregnant wife once she has reached her second trimester and the bulge of her fetus is plainly visible. His reasoning for such a prohibition is because when one engages in intimacy with his wife in such a state, he is also considered to be engaging in sexual relations with the child inside her—either his daughter or a man—which is forbidden. See S. Shechter (ed.), *Ginzei Shechter* vol. 2 (New York, NY, 1929), p. 478. R. Menachem Kasher (1895–1983) in *Torah Shleimah* vol. 17 (Jerusalem, 1992), p. 309 writes that although R. Eiger was most likely unaware of this Karaite source and did not intend to issue an anti-Karaite polemic, Divine Providence nonetheless guided him to unknowingly refuting the Karaite stance on this issue.

⁵⁹ For alternate answers, see *Tiferes Yisroel* (*Temurah* 6:5 §3) and *Shut Rabbi Shlomo Eiger* (vol. 2, writings §31).

⁶⁰ In a private conversation with the author about the topic of conjoined twins, R. Yonasan Wiener from Ramot (a *dayan* in the *Badatz Shearis Yisroel* and *posek* of Yeshivas Ohr Somayach in Jerusalem) also compared the construct of conjoined twins to R. Eiger's case of a pregnant wife.

mentioned discussion in which R. Eiger questions how one can be permitted to cohabit with his pregnant wife. The basic premise of R. Eiger's question extends the Talmudic assertion that one who cohabits with a pregnant animal disqualifies both the animal and its offspring from being offered as a sacrifice to the realm of sexual prohibitions between humans. However, in truth, R. Soloveichik argues that the Talmud only means to extend the disqualified *status* to the offspring, but does not mean that the prohibited *act* is considered to have been done to the offspring as well. Thus, R. Soloveichik rejects R. Eiger's application of said Talmudic principle, instead limiting it only to the case in which it was explicitly used.⁶¹

Furthermore, R. Yisroel Yaakov Fischer (1928–2003)⁶² writes that he does not even understand R. Eiger's opening question⁶³ because sexual prohibitions outlaw intercourse only in the sexual organs. Therefore, even if copulating with one's pregnant wife is, in some way, tantamount to engaging in sex with the unborn child attached to its mother, this should not be considered a violation of any sexual prohibition. Nonetheless, this difficulty has already been addressed by R. Akiva Eiger's son, R. Shlomo Eiger (1785–1852),⁶⁴ who explained that the sexual prohibitions of the Torah do not simply outlaw certain acts of intercourse; rather, they forbid deriving certain sexual pleasures from forbidden unions.⁶⁵

Approach #2: Ruling of R. Yaakov Reischer

R. Yaakov Reischer (1670–1733) reports that in the year 1707, he saw a pair of non-Jewish brothers who were conjoined at the head (side by side), but were otherwise completely separate people. At that juncture, somebody asked him what the halachic status of such twins would be if they

⁶¹ See *Mesorah: A Torah Journal* vol. 6 (1991), p. 43 and C. D. Altusky, *Chiddushei Batra (ha-Masbir to Bava Kama §207)*.

⁶² *Even Yisroel* to Maimonides' Laws of *Isht* 7:16.

⁶³ To answer R. Akiva Eiger's question, R. Fischer argues that the designation of *ervah* can come into existence only once the person in question is born. Therefore, since one's unborn daughter is as-of-yet unborn, she cannot yet be considered an *ervah*. (This answer does not explain why cohabiting with one's pregnant wife is not a possible violation of homosexual intercourse in case the child is male).

⁶⁴ *Shtut Rabbi Shlomo Eiger* (vol. 2, writings §31).

⁶⁵ This understanding is not exclusive to R. Shlomo Eiger; it has been proposed by many prominent Talmudists, including R. Yosef Engel (1858–1920) in *Atvot de-Orayta* (§24), R. Baruch Ber Leibowitz (1862–1939) in *Birkat Shmuel (Kiddushin §20)*, and R. Elchonon Wasserman (1874–1941) in *Kovetz Shiurim* (vol. 2, §23:6).

were Jewish. In response, R. Reischer penned an entire halachic responsum dealing with this issue.

R. Reischer begins by noting that the Talmudic discussion of a two-headed person pertains only to a case in which there is one body and the only limb that is duplicated is the head. In that situation, the Talmud understood that the two-headed person is indeed one individual. However, R. Reischer points out that the twins he observed were certainly considered two different people because they have two separate bodies, which are only coincidentally joined at the head.

After a lengthy discussion of the different ramifications of conjoined twins in halacha,⁶⁶ R. Reischer finally discusses their status in family law. In the case of conjoined brothers, R. Reischer totally rules out marriage on the basis that such a marriage leads to worries of AA—which is a Hebrew abbreviation that can stand for either the *ervah*-level prohibition of *esbet ish* (“the wife of a man”, i.e., adultery) or *esbet achiv*⁶⁷—because the unmarried brother would inevitably lie in the same bed as the other’s wife.⁶⁸ Moreover, he notes that because there is a prohibition for one to

⁶⁶ According to halacha (*Shulchan Aruch, Even ha-Ezer* §161:4), when brothers are obligated to perform *chalitzah*, the firstborn brother should optimally perform the rite. In the case of conjoined twins, R. Reischer writes that the brother positioned on the right has precedence over the other brother, but he fails to explain whether this is true even if the brother on the left is the firstborn or not.

⁶⁷ R. Yehuda Gershon Pikhholz (1844–1914) in *Shut Machane Yehuda* (vol. 2 §2) assumes that when R. Reischer writes AA, he means *esbet ish*, not *esbet achiv*. He argues that R. Reischer chose not to mention the prohibition of *esbet achiv* because that would imply that if the conjoined twins were gentiles and converted to Judaism, then they would halachically be considered like “newly born babies” (*Yevamot 22a*) and therefore not related to each other, so each would be allowed to marry *esbet achiv*, if she is no longer an *esbet ish* (e.g., his brother dies or divorces her). However, this explanation seems to be at odds with the ruling of the *Shulchan Aruch (Yoreh Deah* §169:3) who maintains that the permission of a convert to marry his brother’s wife applies only to his *paternal* brother who is not his *maternal* brother. Thus, in the case of conjoined twins who are surely *maternal* brothers, even if they are converts to Judaism, the prohibition of *esbet achiv* still applies.

⁶⁸ Similarly, R. Menashe Grossberg (1860–1927) rules that conjoined sisters are considered different people, so if one man married both of them, he has violated the incestuous prohibition of marrying a woman and her sister. A man may technically be permitted to marry one of the sisters, but R. Grossberg argues that it should nonetheless be forbidden because the man would become familiar with his wife’s sister and could likely end up cohabiting with her as well. Nonetheless, R. Grossberg does allow for the marriage of one sister after the death of her attached sister. See M. Grossberg, *Degel Menashe* (Berlin, 1892), pp. 28–29.

engage in copulation in the presence of others,⁶⁹ conjoined twins cannot marry, whether they are two brothers, two sisters, or even a brother and sister,⁷⁰ because all their sexual encounters would take place in the presence of the other.

Nonetheless, R. Reischer rules that the father of conjoined twins has fulfilled his commandment of procreation. He maintains that even though one cannot generally fulfill the commandment of procreation by siring children who cannot propagate further, in this case it is only a halachic technicality that bars them from doing so—not a physiological limitation.⁷¹

In short, R. Reischer understands that while conjoined brothers technically *can* enter halachic marriages and even consummate such unions, doing so is nonetheless forbidden because of the secondary issue involving “worries” of an *ervah*-level prohibition and “approaching” an *ervah*. In regard to conjoined sisters or conjoined male-female twins, R. Reischer forbids marriage because of the tertiary concern of copulating in front of others.

R. Akiva Eiger’s Question

R. Akiva Eiger, in his glosses to R. Reischer’s responsa, quibbles over R. Reischer’s wording regarding the case of conjoined sisters. R. Reischer’s wording implies that the only problem barring marriage for conjoined sisters is the tertiary issue of engaging in sexual relations in the presence of other people. R. Eiger asks why R. Reischer wrote that instead of writing that there is the problem of the husband being intimate with his wife’s sister (*achot ishto*). In other words, just as R. Reischer wrote that conjoined

⁶⁹ *Niddah* 17a.

⁷⁰ The scientific consensus denies the possibility of conjoined male-female twins because conjoined twins are understood to be formed by the splitting of a single zygote, which can be only male or female, but not both. See I. Blickstein, “The Conjoined Twins of Löwen,” *Twin Research* vol. 3 (2000), pp. 185–188 for a discussion of a 1547 German illustration that purports to depict a pair of conjoined male-female twins. That paper calls into question the veracity of the phenomenon depicted based on the premise that conjoined twins are always of the same sex. This fact also renders unsustainable the argument that the Talmudic conception of the formation of Adam and Eve mirrors the concept of conjoined twins (as R. Chagiz proposed concerning the conjoined chicks) because all cases of such twins are pairs of same-sex siblings, while Adam and Eve obviously were not.

⁷¹ *Shut Shevut Yaakov* vol. §4.

brothers cannot get married because of “worries” of an *ervab*-level prohibition of *esbet achiv*, so too conjoined sisters should not be able to get married for the same fear of *achot ishto*.⁷²

If our first approach—based on R. Akiva Eiger—has any standing, then R. Akiva Eiger should have raised a stronger objection to R. Reischer’s ruling. In our first approach, we argued that R. Akiva Eiger understood that sexual contact with any woman who is “attached” to an *ervab* is tantamount to having sexual contact with the *ervab* herself. If so, then R. Akiva Eiger should have asked why R. Reischer writes that with conjoined brothers there is only a “worry” of an *ervab*-level prohibition, if it is actually an *ervab*-level prohibition. Nevertheless, R. Akiva Eiger takes R. Reischer’s assumption that there is no actual *ervab*-level prohibition and does not question it. To resolve this issue, we may posit that when R. Reischer wrote that there is a “worry” of an *ervab*-level prohibition, R. Akiva Eiger understood that to mean that there is an actual *ervab*-level prohibition, not just a secondary problem.

Resolving R. Reischer’s Ruling

To answer why R. Reischer ignored the prohibition of marrying two sisters, R. Yosef Shaul Nathansohn (1808–1875)⁷³ proposes a novel ruling about that prohibition. R. Chaim Alfandari (1660–1733)⁷⁴ suggests that because the Torah limits the prohibition against marrying one’s wife’s sister to the lifetime of one’s wife (Lev. 18:18), then if she becomes a *treifah* and is thus no longer considered wholly alive, her husband can now marry her sister.⁷⁵ This has ramifications in the case of conjoined sisters because

⁷² This gloss is first mentioned in R. Yosef Patzanavsky’s *Pardes Yosef* (to Gen. 1:27) and was subsequently published in D. Bitton (ed.), *Shut Rabbi Akiva Eiger* vol. 5 (Jerusalem: Machon Hamaor, 2005), p. 148.

⁷³ In his approbation to the publication of R. Reischer’s work *Shut Shevut Yaakov*.

⁷⁴ *Maggid me-Reishit*, end of §2.

⁷⁵ Truth be told, R. Alfandari actually writes that he is unsure whether or not this logic is sound, yet R. Nathansohn cites him as though he concludes with certainty that it is. See also R. Nathansohn’s *Shut Shoel u-Meishiv* (4th ed., vol. 2 §54) where he again cites R. Alfandari as though the latter decided in accordance with this logic. Other authorities outright reject R. Alfandari’s suggestion; see R. Yisrael Yaakov Algazi’s *Kehillat Yaakov* (*Middot Chachamim*, §9 s.v. טריפה), *Shut Machane Yehuda* (vol. 1 §43), *Pitchei Teshuvah* (*Even ha-Ezer* §15:11), *Shut Beit Yitzchak* (*Yoreh Deah* vol. 1 §62:18 and vol. 2 §99:6), and R. Shalom Yosef Feigenbaum (d. 1928) in *Kol Torah* vol. 11–12 (Pabjanice, 1928), pp. 5–7. See also *Tosafot* (to *Niddah* 23a, s.v. לאיתסורי) which clearly implies that even if a woman is a *treifah*, her husband may not marry her sister.

if under such an arrangement the conjoined sisters have the halachic status of a *treifah*, then the prohibition of *achot ishto* may not apply. With this in mind, R. Nathansohn explains why R. Reischer ignored the prohibition of *achot ishto* and instead resorted to the tertiary problem of copulation in front of others.

R. Yitzchok Schmelkes (1828–1904)⁷⁶ answers this difficulty by supposing that R. Reischer's discussion concerns the case of conjoined sisters who were born non-Jewish and underwent conversion. Such sisters, although biologically siblings, are halachically not considered related to each other, so they can both legally marry the same Jewish man without violating the *ervah* prohibition of *achot ishto*. Therefore, R. Reischer did not mention the prohibition of marrying two sisters, instead appealing to the prohibition of copulating in the presence of others.⁷⁷

R. Schmelkes addresses the elephant in the room by noting that in the case of R. Reischer, each twin had her own reproductive organs, so he ruled that the twins cannot get married. However, R. Schmelkes notes that he heard of a case of conjoined twins on display in Vienna⁷⁸ in which the twins have *one* shared reproductive organ. In that situation, he admits

⁷⁶ *Shut Beit Yitzchak* (Yoreh Deah vol. 1 §62 and vol. 2 §99:4).

⁷⁷ R. Schmelkes clarifies that even though the Biblical prohibition of marrying two sisters does not apply to converts, there is a Rabbinic prohibition barring one man from marrying two proselyte sisters (see *Shulchan Aruch*, Yoreh Deah §269:5). Still, R. Schmelkes explains that R. Reischer disregarded this prohibition because the rabbis did not decree that it should be in effect in the case of conjoined twins either because doing so would effectively bar the sisters from all marriage or because rabbinic ordinances apply only to common situations—which conjoined twins are clearly not.

Without realizing that R. Schmelkes himself addresses this point, R. Avraham Sofer Abraham in *Nishmat Avraham* vol. 3 (Jerusalem, 2007), pp. 4–5 independently asks about how R. Schmelkes can ignore the Rabbinic prohibition of marrying two sisters who converted to Judaism. He then cites an halachic responsum written by R. Eliezer Yehuda Waldenberg (1915–2006) to answer this question (*Shut Tzitz Eliezer* vol. 17 §49:2). R. Waldenberg essentially argues that the Rabbinic prohibition of marrying two sisters who converted does not apply *post facto* to two sisters who were married to one man before they were Jewish and want to remain with him after their conversion. Therefore, he explains that R. Schmelkes argued that R. Reischer ignored the prohibition of marrying two sisters because in case they were converts who were already married to one man, that prohibition does not apply. So instead, R. Reischer sought to mention a blanket prohibition that would apply across the board in all cases.

⁷⁸ Reichman 2012:47 suggests that R. Schmelkes was discussing the Tocci twins who were on display in Vienna.

that the ruling may change. Indeed, R. Dr. Edward Reichman suggests that dicephalic twins (who have two heads, but otherwise share their lower body parts) might be considered one person in halacha because they have only one set of reproductive organs.⁷⁹

A Contemporary Look at R. Reischer's Ruling

R. Yitzchok Zilberstein finds it difficult to accept R. Reischer's argument that the prohibition of engaging in copulation in the presence of others should prevent conjoined twins from ever getting married. That prohibition is only a custom derived from considerations of modesty and in the best-case scenario can be considered a rabbinic law. Such a weak mandate cannot supersede the stronger, Biblical commandment of procreation and bar conjoined twins from marriage. Moreover, R. Zilberstein suggests that perhaps the prohibition of engaging in copulation in the presence of others applies only to individuals who *could* engage in copulation privately, but do not do so. However, in the case of conjoined twins, since they will *always* be in the presence of the other, perhaps this prohibition does not apply.

Similarly, we can argue—although R. Zilberstein does not take note of this—the tertiary concern of copulation in front of others lends itself to flexibility in certain cases. For example, a couple is allowed to engage in sexual relations in the presence of another, if that other person is sleeping.⁸⁰ So in the case of conjoined twins, that prohibition can be avoided if the married sibling is careful to only engage in sex while the other sibling is asleep (if possible).

After trying to fully understand R. Reischer's ruling,⁸¹ R. Zilberstein ultimately concludes his treatment of the topic by citing the words of his

⁷⁹ Reichman 2012:51.

⁸⁰ See *Shulchan Aruch* (*Orach Chaim* §240:6) who allows for such behavior. However, in *Even Ha-Ezer* §25:2, the *Shulchan Aruch* codifies the prohibition of copulation in front of others and does not add the caveat that it applies only if the other is awake. See *Otzar ha-Poskim* (to *Even ha-Ezer* §25:14).

⁸¹ In defending R. Reischer's ruling, R. Zilberstein offers a slight twist on the matter. The Talmud (*Nedarim* 20b) states that "children of a mixture" are considered blemished offspring. The commentaries (see *Pirush ha-Rosh* and pseudo-Rashi there) explain that this refers to a man who engages in sex with one of his wives, but is at the time unaware of with which wife he is cohabiting. Accordingly, since a man who marries conjoined twins will *always* encounter this issue because both sisters will *always* be in his presence during cohabitation, his offspring will inevitably be blemished. As a result, such a person would become exempt from

esteemed brother-in-law, R. Chaim Kanievsky. R. Kanievsky is sympathetic to the plight of conjoined twins and says that one should delve as deep as possible into the depths of halacha in order to find a way to permit Siamese twins to marry. He adds that seemingly flimsy halachic arguments should not bar such people from fulfilling the commandment of procreation for their entire life.⁸²

Approach #3: Ben Ish Chai's Ruling

R. Yosef Chaim of Baghdad provides a rather lengthy excursus on the topic of conjoined twins and, *inter alia*, offers a ruling on their marriage prospects.⁸³ He cites Avicenna's story and takes note of several questions that could arise if Jewish conjoined twins were born. Firstly, if the twins are girls, he wonders whether they are considered sisters so that one is halachically barred from marrying both of them, just as one cannot marry two regular sisters. Secondly, he wonders whether in order to get married both girls would need to receive *kiddushin* from the groom, or if one twin accepts *kiddushin*, the other is automatically also married to him.

R. Yosef Chaim then revises his first two questions by noting that their answers are interdependent. That is, if the two girls are considered sisters in regard to the prohibition of *achot ishto*, then they must be halachically considered separate people, so the *kiddushin* of one sister has no bearing on the other. However, if the two are not considered sisters in regard to the prohibition of *achot ishto*, then they must be halachically considered the same person, so that if one accepts *kiddushin*, it is effective for the other as well.

Following the same basic question, R. Yosef Chaim wonders about two halachic ramifications that would occur should the twins be boys: First, he wonders if they count as two people towards a *minyan* (quorum of ten Jewish men required for the recitation of certain especially holy parts of the prayers). Secondly, he wonders if these twins would receive two portions of their father's inheritance or only one portion.

the commandment of procreation, which does not require him to bring blemished children into the world. Thus, because he is now exempt from procreation, there would be no reason to allow for him to engage in relations in front of the other sister, thereby supporting R. Reischer's ruling that conjoined twins cannot get married.

However, R. Zilberstein's reasoning might actually serve as grounds for allowing conjoined *brothers* to marry because the problem of "children of a mixture" might apply only to a mixture in the thoughts of the husband, but not to a mixture in the thoughts of the wife.

⁸² *Chashukei Chemed* to *Niddah* 17a.

⁸³ *Benayahu* to *Erwin* 18a.

R. Yosef Chaim cites the Talmudic passage about the two-headed person and writes that one cannot answer these questions from the fact that such a child, should he be a firstborn, is obligated to be redeemed twice, because that ruling is a Scriptural imperative derived from the word *gulolet* in the Bible, but cannot serve as a general indicator of the halachic outlook of such a person.

Moreover, Plimo asked on which head a person with two heads should place his *tefillin*. By asking his question in this way, Plimo assumes that such a person is obligated to wear *tefillin* on only one head and his question was which one. This presupposes that a person with two heads has the halachic status of one person. Nonetheless, R. Yosef Chaim explains that this does not conclusively answer his above-mentioned questions because the Talmudic discussion centered on a person who is completely singular, except that he has two heads. In contrast, R. Yosef Chaim's case based on Avicenna's story involves twins who also have separate limbs, not just separate heads, but are nonetheless attached. The status of such a pair cannot be derived from the Talmudic passage concerning the two-headed person.

Additionally, R. Yosef Chaim notes that if the reality would be shown that should one head be killed, the other would automatically die, then that would conclusively prove that they are one person. However, in the case of Avicenna, it is evident that the lives of the two heads were not dependent on each other, and, indeed, in many documented cases of historical conjoined twins, one twin survived for some time after the death of his/her attached twin.⁸⁴ So the question remains whether or not they can halachically be considered the same person.

In one treatment of this issue, R. Yosef Chaim's writing stops short, so his conclusion is not included. However, in another work of his,⁸⁵ he writes about this topic and the ensuing discussion essentially mirrors the above, except that this time he comes closer to a conclusion.⁸⁶

To answer the questions at hand, R. Yosef Chaim compares the case of Siamese twins to the case of a half-slave, half-freedman. In the latter

⁸⁴ See I. Resnick, "Conjoined Twins, Medieval Biology, and Evolving Reflection on Individual Identity", *Viator* vol. 44:2 (2013), pp. 345–346; 355.

⁸⁵ *Ben Ish Chayil* (vol. 2, pp. 13a–14b).

⁸⁶ In that discussion, he infers from Avicenna's story that the weaker twin cannot bear children, while the dominant twin can. He then notes that it might then technically be forbidden for a man to engage in sexual relations with the weaker twin because he will inevitably be wasting his seed. Nonetheless, R. Yosef Chaim writes that one can still discuss whether or not engaging in sex with both sisters after giving them each *kiddushin* creates an *ervab*-situation or not.

case, the two contradictory statuses bear equal standing and do not cancel each other. The result of this dynamic is that such a person cannot even fulfill his own halachic obligations to, say, blow the *shofar* or hear *Megillat Esther*, because his slave half cannot discharge the obligation of his freed half.⁸⁷

Based on this precedent, R. Yosef Chaim proposes that in conjoined twins, the two opposing “people” within their body should bear equal standing and neither can cancel out the other. The result would be that they should have the halachic status of two people.

However, R. Yosef Chaim rejects this logic because the comparison is flawed: the half-slave, half-freedman is truly half-half, neither option has any stronger standing than the other. By contrast, in the case of the twins, Avicenna has already demonstrated that one twin is the dominant—especially in terms of physical control over their shared body—and one is the weaker. If such is the case, then the rules of a half-slave, half-freedman cannot prove anything about the halachic status of conjoined twins.⁸⁸

R. Yosef Chaim then compares the case of conjoined twins to the halacha of a person who is half-Jew, half-gentile. Such a person can be executed for committing sins for which a Jew receives capital punishment, even though his gentile half is not culpable for such sins. Conversely, if a half-Jew, half-gentile carries out a crime for which gentiles are executed, but Jews are not, he is not liable for the death penalty because his Jewish half asserts itself to exempt him from such punishment.⁸⁹ This paradigm demonstrates that when a person is of two diametric statuses, his most prominent status asserts itself as primary and is ultimately used to define the person’s final status. The other status, in turn, is considered null and void *vis-à-vis* the primary status. According to this, the dominant twin

⁸⁷ See *Beit Yosef, Orach Chaim* §689 and *Shulchan Aruch, Orach Chaim* §589:5.

⁸⁸ Much of this approach is independently considered by Bleich 1996:98–99.

⁸⁹ When mentioning these laws, R. Yosef Chaim refers to a work entitled *Machane Chinuch*. However, this is almost certainly a scribal error, as the discussion about a half-Jew, half-gentile is most famously found in the work of R. Yosef Babad (1801–1874), *Minchat Chinuch (Kometz Minchab* §347). Indeed, R. Babad (there) writes what R. Yosef Chaim quotes in the name of *Machane Chinuch*. The same mistake seems to be repeated in R. Yosef Chaim’s *Shnei Eliyahu* (Jerusalem, 1968), p. 7b which elaborates on the case of the half-Jew, half-gentile and again refers to *Machane Chinuch*. See however, R. Yosef Chaim’s responsum in *Hod Yosef* (Jerusalem, 1983), p. 37, first published in *Kovetz ha-Measef* vol. 11 (Jerusalem, 1906), p. 51a, which correctly identifies the name of the work in question as *Minchat Chinuch*.

should assert his or herself over the weaker twin and the two should be considered one person.

However, R. Yosef Chaim also rejects this analogy. He argues that the case of a half-Jew, half-gentile cannot serve as precedent for the case of conjoined twins because the conflicting statuses of the half-Jew, half-gentile are not physically observable, they are simply a conflict in legal status. Such a conflict can be resolved by following the most prominent/dominant of the two options. However, in the case of conjoined twins, the discussion vacillates not merely between two abstract statuses, but rather between two readily observable “persons” attached to one body. In such a case, we cannot simply consider the weaker body null and void if the physical reality demands that we reckon with its existence. Therefore, R. Yosef Chaim concludes that this too cannot serve as a model for deciding the halachic status of conjoined twins.

In his final argument, R. Yosef Chaim cites the Mishnah⁹⁰ that rules that a Jewish court should not wait for a pregnant woman to give birth before executing her, unless she is already in labor. Rashi⁹¹ explains that we do not wait to kill the pregnant woman because she and the child inside her are considered one body, so they collectively will receive the death penalty. However, once she already entered labor and the fetus began exiting the body, the fetus’ movement from its uterine home essentially declares it an independent body and since the fetus is exempt from the death penalty, we must wait until after its birth to execute the mother.⁹²

R. Yosef Chaim deduces from Rashi’s understanding that a fetus of a pregnant woman is not considered a separate entity until such time as it asserts its independence in labor.⁹³ But beforehand, the fetus’ independent existence is considered null and void in deference to its mother to whom it is attached. Therefore, because the mother is liable for execution,

⁹⁰ *Erachin* 1:4.

⁹¹ To *Erachin* 7a.

⁹² In contrast to Rashi, R. Nissim of Gerona (to *Chullin*, Alfasi 19a) writes that the reason we do not wait until the fetus is born is because of the prohibition of delaying the execution of a person’s judgement. In light of that explanation, R. Yosef Chaim admits that his own conclusion is not as clear-cut and perhaps even the opposite may be true.

⁹³ For some reason, R. Schmelkes (*Shut Beit Yitzchak*, *Yoreh Deah* vol. 2 §99:6) compares the case of conjoined twins to the case of a pregnant woman in labor and rules that if one of the twins would commit a capital offense or be liable for corporal punishment, then they would automatically become exonerated in order that the innocent twin not suffer for the consequences of the guilty twin’s actions. The case of the Coloredo brothers (mentioned above) is similar to this exercise.

the fetus is executed along with her. From this we see that even when dealing with two physically observable “bodies,” the dominant body asserts its dominance over the weaker body and the two are collectively granted the status of the dominant body. According to this, R. Yosef Chaim concludes, conjoined twins are considered one person and collectively assume the status of the more dominant twin.⁹⁴

Approach #3: Conjoined Twins are One

This means that according to R. Yosef Chaim, a man is allowed to marry a set of conjoined twin sisters because they are considered one person and require only one *Kiddushin* to be given (to the dominant one). If the conjoined twins are male, then they receive only one portion in the inheritance of their father and they count as only one person for a *minyan*. In terms of marriage, if the dominant brother gives a woman *Kiddushin*, both brothers have effectively married her.

Nonetheless, this ruling should apply only if there is a dominant twin and a weaker twin, but in a case where there is no clearly dominant twin, it would seem that each twin independently asserts its personhood and they should be regarded as two different people. However, R. Yosef Chaim somewhat implies that he understood from Avicenna that in *all* cases of conjoined twins, one must be dominant and the other, weaker. If that is the reality, then even if it is unknown which one is dominant, it would make no difference in halacha and they would still be considered one person. Therefore, in the case of marrying conjoined sisters, if both sisters agree to marry one man, then *Kiddushin* can be effected on both of them because either way the dominant sister already gave her consent. And in the case of conjoined brothers, if both brothers offer *Kiddushin* to one woman, she becomes wed to him/them.

Conclusion

We have essentially explored different places in rabbinic writings in which the phenomenon of conjoined twins appears. We surveyed various such examples and questioned whether the siblings should be looked at as one or two people. The contemporary story of the Hogan sisters served as our case study for questioning what exactly defines individuality in this context and we were left with the choices being either an independent sense of touch or an independent nervous system (or independent genitals).

⁹⁴ D. Engber, "If a Siamese Twin Commits Murder, Does His Brother Get Punished, Too?," *Slate Magazine* (January 5, 2010) also draws a comparison between the legal status of a pregnant woman and of conjoined twins.

Then we segued into the question whether conjoined twins could get married. The very possibility of marriage complicates their status. To summarize that discussion, we found three very different points of view: In the first approach—drawn from different assumptions made by R. Akiva Eiger—we argued that conjoined twins are considered two different people and, by virtue of their attachment to each other, cannot get married because they will always cause the other to violate an *ervah*-level sexual prohibition. Secondly, according to R. Yaakov Reischer, though they are technically considered two different people, they still cannot get married because of other concerns (which may be dispensable in certain situations). Thirdly, we saw the approach of the *Ben Ish Chai* who seems to understand that the two are considered one person and completely assume the position of the more dominant twin. By this rubric, conjoined twins should be allowed to marry. All three of these approaches have their merits and drawbacks and the evidence remains inconclusive as to a final halachic *psak*. 