



**RABBI GIDEON**

**Machon Puah for Fertility and  
Gynecology in Accordance with Halacha**

**WEITZMAN**

# The Androgynous Precedent

Last week we saw the complex question posed by the Minchat Chinuch, whether we should accept witnesses who would disqualify themselves. Rabbi Yosef Babad, the author of the Minchat Chinuch, answered that when the witnesses were accepted they were bona fide witnesses. As such, their testimony should be valid and admitted despite the consequences, that if it is accepted they will be disqualified.

Rabbi Ariel used this same principle to suggest that we should interfere and operate on the child who looks to be a girl but has male internal organs and genes. In the same way that we decide to sanctify the new month even though it may have negative ramifications, similarly we can determine the child's gender even though, in so doing, we have to make a

decision as to whether the child is male or female. Our decision may be mistaken and there are negative ramifications for whatever we choose, still, we do not sit back and let nature take its course. Rather, we determine that the child is male and operate to make it look like a male child as well.

However, if the child is halachically similar to an androgynous, a child that is both male and female, how can we remove part of the child's gender? This depends on how we define the androgynous, and there are several possibilities and opinions.

One possibility is that the androgynous is either male or female but we cannot determine which. The Rambam and most poskim are of this opinion. Rabbi Avraham ben David, the Raavad, is of the opinion that the androgynous is half male and half female. The Mishnah (Bikkurim 4:5) writes in the name of Rabbi Meir that the androgynous is a distinct being and is a separate gender being both male and female. The Rabbis in the Mishnah were unable to determine whether it was male or female.

If we follow the latter opinion, then we cannot make it into one or other gender since by doing so we castrate the child. If the child is half male and half female

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then, by changing it into one gender, we are not making a significant change and there is no halachic problem of castration. If the androgynous is an undetermined gender, then we can also operate and determine the gender without concern for the prohibition of castration.

Rabbi Yaakov Ariel concludes that the child is considered an androgynous and can be operated on to be made into a boy.

More on this next week. ■

*The Puah Institute is based in Jerusalem and helps couples from all over the world who are experiencing fertility problems. Offices in Jerusalem, New York, Los Angeles & Paris. Contact (Isr) 02-651-5050 (US) 718-336-0603 [www.puahonline.org](http://www.puahonline.org)*



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