

Treatment of the Loss of a Fetus through a Miscarriage

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This paper was adopted on January 14, 1987, by a vote of eleven in favor, zero opposed, and one abstention (11-0-1). Members voting in favor: Rabbis Isidoro Aizenberg, Ben Zion Bergman, Elliot N. Dorff, Richard L. Eisenberg, Robert Gordis, Howard Handler, David H. Lincoln, Lionel E. Moses, Joel Roth, Morris M. Shapiro and Henry A. Sosland. Member abstaining: Rabbi George Pollak.

שאלה

In the case of a fully-formed embryo lost at the end or after the fifth month of pregnancy:

1. Is there any ritual or prayer that may be used under such circumstances?
2. What should be the procedure for a rabbi in this case?
3. Assuming the burial of the fetus, may a stone be set up at the gravesite if the family so wishes?

תשובה

It should be noted that the term, “a fully-formed embryo at the end of the fifth month of pregnancy” is self-contradictory. An embryo in the human organism is so designated only up to the third month after conception. Thereafter, it is a fetus. An embryo which is lost is extremely small (the size of a thumb by the third month), not “fully-formed,” and is treated by physicians as any other human tissue which is lost naturally or in the course of surgery.

Since the embryo is not even a limb formed by skin, flesh and bone, on which there is a difference of opinion among halakhic authorities concerning the need for burial, it may be disposed of by the hospital and not buried.

The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

It is only at the end of the fifth month and when a miscarriage would result in the loss of a fully-formed fetus, that most authorities¹ agree on burial. Our tradition, however, does not provide for any specific rituals or prayers at such time, probably since כבוד המת (respect for the deceased) does not apply here.

CONCLUSION

Since the miscarriage of the fetus may be emotionally painful to the parents, the rabbi, should if it be deemed desirable, may accompany them to the cemetery and offer words of comfort along with appropriate psalms. However, no other laws of mourning, such as עינייה (period before burial) and אבליה (formal mourning), are to be observed.

As far as a stone at the gravesite is concerned, the issue was previously raised before the Committee in 1964.² I will reiterate the opinion voiced then: “In such matters of מנהג (custom), it has been the opinion of the Committee that all questions regarding a monument at the grave of a stillborn child are best answered by the rabbi of the congregation,” who should, of course, consider the attitudes and feelings of the family involved. I recommend, nevertheless, that if a stone is erected, only the family’s surname be engraved on it since the stillborn had no name of its own.

NOTES

1. Not all: See *Kol Bo Al Avelut*, p. 199, note 3.
2. CJLS Archives #102364.