The Siamese Twins Case

Early in September, 1977, in Lakewood, New Jersey, Siamese twins were born to a prestigious family of Torah educators. The twins were taken by helicopter, on September 15, to the Children’s Hospital in Philadelphia, where Dr. C. Everett Koop, who subsequently became the Surgeon General of the United States, was then the hospital’s Chief of Surgery. Immediately after the initial evaluation, it was obvious to all the physicians called in to evaluate the twins that both would die unless they were separated. However, the only way one child would be viable was if the other child was killed during surgery. The question was referred to Rav Moshe Feinstein for his evaluation and decision.

The children, designated Baby A and Baby B, were fused in the ventral area all the way from the shoulder down to the pelvic region. The twins shared one six-chambered heart. The wall separating the essentially normal four chambers from the other two, most likely the stunted heart of Baby A, was too thin to be divided. It was not possible to give the two chambered heart to Baby A, so that she would survive for as long as a two-chambered heart could carry her physiological needs. There was only one solution. The entire six-chambered heart had to be given to Baby B, and the life of Baby A would have to be sacrificed.

It was clear to all concerned that this was a major ethical issue that had ramifications for the abortion debate, and for the ethics of neonate salvage. The Chief Surgeon, a deeply religious man, was fully aware of the ethical import of any decision in this case. Dr. Koop referred the case to the courts so as not to have any accusation of premeditated murder leveled against him. In addition, nurses and doctors at Children’s Hospital consulted with their religious guides, and many reported back that they would not be able to participate in the surgery.

The first halachic concern was to establish that they were, in fact, dealing with two separate human beings. Although they were joined at the chest and their livers were co-joined, as were the hearts, the girls were separate human beings with their own brains and nervous systems. Dr. Koop recommended that the twins should be separated as soon as possible, because there were signs that the heart was failing and could not maintain the load of supplying blood to two infants. It was emphasized that even with surgery the chance was slim that one could be saved. Never before had Siamese twins been successfully separated from a ventral connection, and certainly not when they had a joined liver and a single heart between them.

On September 30, twenty doctors and nurses assembled in the meeting room to be brought up to date. Many were already disturbed by the lapse of time. They were all leaders in their fields and had gathered to be able to participate in the separation. Practically every surgical and medical specialty was represented, since no one really knew, despite the X-rays and the many tests that had been done, what they would encounter during actual surgery. Dr. Koop had prepared a team that would be able to handle any emergency that might arise. In brainstorming sessions, all possible problems were discussed. The simple problem of fitting a six chambered heart into the small chest of Baby B proved to be unexpectedly difficult and could be resolved only by building the chest larger by using part of the chest of Baby A.

On October 3, the intensive care unit nurse assigned to the twins noticed significant changes in the heart rate and respiration and in the electrocardiograph tracings. This was reported to Rav Feinstein, who then posed, once again, the key question: Was Dr. Koop sure that the six-chambered heart could only be given to Baby B? Could it not also be given to Baby A and have Baby B die?

Dr. Koop responded that there was no doubt that the only infant who could be helped by surgery was Baby B, because in addition to the shared liver and heart, Baby A also had a circulatory defect that would not permit her to survive any length of time, even if she were given the six-chambered heart.
The surgical team had essentially completed its work and had a plan which allowed for the separation of the twins despite the unknown consequences of the separation. If Baby A was to be sacrificed, it was important that the separation be done immediately after Baby A was no longer alive, so that the toxins that immediately pour out when tissue is devitalized would not begin to affect the survival of Baby B. Yet there was little knowledge as to what impact the sudden removal of a large volume of blood (the blood that was circulating in Baby A) would have on the functioning of the six-chambered heart now in Baby B’s chest.

To Rav Feinstein’s critical question, “Can the heart be given to Baby A and she would live?” Dr. Koop had responded, “No, there is no way to save Baby A. The issue is only should both die or should Baby B be saved.” Without the attempted separation, both would surely die...

A. The Law of ‘Rodef’ - The Pursuer

1. If a thief is found breaking in, and he is struck so that he dies, there shall no blood be shed for him. If the sun has risen upon him, there shall be blood shed for him..
Exodus Chapter 22:1-2

2. What is the reason for the [permission to kill the] burglar? No man controls himself when his money is at stake, and since [the burglar] knows that he [the owner] will oppose him, he thinks: If he resists me I shall kill him, therefore the Torah says: If a man has come to kill you, anticipate him by killing him!
Talmud Yuma 85b

3. One who tunnels into [a home] whether by day or by night, there is no penalty for killing him. If the homeowner or another person kills him, they are not punished. It is permitted to kill him on a weekday or on Shabbat in any manner of death…Why does the Torah specify a thief tunneling in? Because it is the natural manner of thieves to tunnel it at night…and why does the Torah permit one to kill him in spite of the fact that he is only there for money? Because it can be assumed that if the homeowner tried to prevent him [from stealing] the thief would try to kill him. Thus, this person who enters the home is considered a ‘Rodef’ (one who is pursuing someone to kill him) therefore he can be killed whether young or old, male or female. If it is clear to the homeowner that this thief would not kill him and is only there for money, he may not kill him and if he does so he is considered a murderer.
Maimonides Laws of Theft – 9:7-9

4. You shall not stand idly by the blood of your neighbor
Leviticus 19:16

5. The following people are stopped even if it means killing them; One who is chasing another to kill him...
Mishna Sanhedrin 8:7

6. If someone is chasing another person to kill and [in spite of being] warned continues to chase the person – even if the one chasing is a juvenile, every Jew is commanded to save the victim [either] by harming a limb of the chaser and if he is unable to be that precise, and can only save him by killing the chaser, he should kill him even though he has not yet murdered.
Code of Jewish Law – Choshen Mishpat 425:1
**B. The Fetal ‘Rodef’**

1. If a woman is in difficulty during childbirth, it is permissible to destroy the fetus surgically because her life comes first. If, however, the head of the fetus has already been delivered, then it is forbidden to intercede even though it may cost the life of the mother. The fetus is now an infant with the ability for independent life. Therefore, we do not sacrifice one life to save another.

*Ohalos 7:61*

2. Why should you not sacrifice the infant even though the head has already been presented, since this infant is endangering the life of the mother? Is not the infant, then, a rodef [pursuer]? The law of the pursuer should apply, which is to kill the pursuer in order to save the life of the victim.” The Talmud answers: “No, Heaven is the pursuer.” In other words, this is an act of Hashem, and therefore it is not correct to assume that the fetus is the attacker.

*Talmud in Sanhedrin 72b*

3. There is a prohibition not to have pity on the soul of the pursuer. Therefore, if there is a pregnant woman who is in [potentially fatal] distress during labor, one may kill the fetus within her either by poison or by hand since it is considered a ‘pursuing’ her to kill her. However, once it’s head emerges one cannot harm it since we do not choose between one soul and another, and this is the way of nature.

*Maimonides - Laws of Murder 1:9*

**C. Choosing who to ‘kill’**

1. And there happened to be there a worthless man, whose name was Sheba, the son of Bichri, a Benjaminite; and he blew a shofar, and said, We have no part in David, nor do we have an inheritance in the son of Jesse; every man to his tents, O Israel. So every man of Israel withdrew from David, and followed Sheba the son of Bichri; but the men of Judah followed fast their king, from the Jordan to Jerusalem...

And they came and besieged him in Abel of Beth-Maachah, and they threw up a mound of earth against the city, and it stood up against the wall; and all the people who were with Joab battered the wall, to throw it down. Then cried a wise woman from the city, Hear, hear; say, I pray you, to Joab, Come near here, that I may speak with you. And when he came near to her, the woman said, Are you Joab? And he answered, I am. Then she said to him, Hear the words of your maidservant. And he answered, I hear. Then she spoke, saying, They were wont to speak in old times, saying, Let them ask counsel at Abel, and so they would have ended the matter. I am one of those who are peaceable and faithful in Israel; you seek to destroy a city and a mother in Israel; why will you swallow up the inheritance of the L-rd? And Joab answered and said, Far be it, far be it from me, that I should swallow up or destroy. The matter is not so; but a man of Mount Ephraim, Sheba the son of Bichri by name, has lifted up his hand against the king, against David; deliver him only, and I will depart from the city. And the woman said to Joab, Behold, his head shall be thrown to you over the wall. Then the woman went to all the people in her wisdom. And they cut off the head of Sheba the son of Bichri, and threw it out to Joab. And he blew a shofar, and they retired from the city, every man to his tent. And Joab returned to Jerusalem to the king.

*2Samuel 20:1-2*

2. A caravan of Jews [who are attacked] and are told by the gentiles ‘Give us one of you who we will kill or else we will kill all of you’. They should let themselves be killed and not hand over a Jewish soul. However, if they specified an individual, as in the case of Sheba son of Bechri, then they should hand him over and not be killed....

*Tosefta Terumos 7:23*
3. If idolaters tell a group of Jews ‘give us one of you and we will kill him’, they cannot do so unless they specify who they want…there are opinions that say that even in such a case they should not hand him over unless he is guilty of death like Sheva ben Bichri (who rebelled against David).

*Code of Jewish Law - YD 157:3*

**D. Conclusion**

On October 6, Rav Feinstein instructed that a call be placed to Dr. Koop and to instruct him to go ahead with the surgery. On Tuesday, October 11, the surgery was completed. Baby B successfully survived the surgery. Baby A had to be sacrificed.

Based on an article from JLaw.com - www.jlaw.com/Articles/ravmoshe.html

**More halachic analysis of this story:**

http://www.jlaw.com/Commentary/cojoinedtwins.html

www.daat.ac.il/daat/kitveyet/assia_english/halperin2-1.htm