



Written by [Raven Clabough](#) on August 10, 2011

Israeli Court Allows Extraction, Freezing of Dead Woman's Ovarian Eggs

According to the Telegraph, "An Israeli court is believed to have made international legal history by allowing a family to extract eggs from the ovaries of their dead daughter." The Blaze reports:

The case centers around 17-year-old Israeli woman, Chen Aida Ayash. She was hit by a car in a tragic accident a couple [of] weeks ago and died after struggling for 10 days. At the time, her family donated all of her organs, but they wanted to keep one thing: her eggs. Why? To eventually make children.

At first the family requested that the eggs be fertilized and frozen as embryos, because fertilized eggs have a significantly better chance of surviving the freezing procedure than unfertilized eggs, but that request was denied. The eggs have since been extracted and frozen, but the family has given up on the idea of having them fertilized.



The extraction procedure was performed at Meir medical centre. Maayan Maor, a spokeswoman for the center, observed:

This is a unique case, since this is the first time an Israeli court has approved the extraction and freezing of ovarian eggs from a dead woman. We don't know the reason why [Chen's] parents wanted it done. We just received the court order and did the procedure.

Regardless of this family's decision to abandon the idea of fertilization, however, the court ruling has set a precedent for a mother to "give birth" after her death. In this particular case, all that the family would have needed to fertilize the eggs is proof that the deceased mother consented to such an endeavor, which they did not have. The Israeli law requires implied consent.

Irit Rosenblum, the lawyer who founded New Family, an Israeli organization that promotes family rights, points out that consent is the main aspect of the case. "We don't know if [Chen] was concerned about continuation," she said. "If the family can prove the fact that she wanted children, I see no reason why not to allow this."

Rosenblum notes, however, that there are conditions for creating a child from extracted eggs, including that "the resulting child be brought up by his or her biological father," since it is deemed important for the child to have a "biological legacy" rather than to be created by anonymous donors.

The recent ruling by the Israeli court is significant in that it pertains to eggs, because Israeli law has already permitted families to extract sperm from deceased sons, [reports The Guardian](#), adding,



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In 2007, the Israeli parents of a deceased soldier won a legal battle to be allowed to use his sperm, which was extracted post mortem, to create a child with an identified surrogate mother. Earlier this year, [another Israeli family embarked on a legal battle to be allowed to use their dead son's sperm to produce a grandchild](#), although they had no surrogate standing by.

Most countries do not have laws that address extracting either sperm or eggs after death, but it is more common for sperm to be taken.

In the United States, there are no laws specifically addressing sperm extraction after death, but disposition laws after death of already extracted sperm, eggs, or embryos do exist and vary by state. According to the National Conference of State Legislatures, state laws on embryo disposition may address one or more of the following areas:

- Advanced written directives prior to the creation of frozen embryos
- Embryo disposition in the event of divorce or death involving a couple that has donated eggs, sperm or had embryos in vitro fertilized
- Options for disposition of unused embryos, including storage, disposal, donation to scientific research and adoption

While a number of cases of sperm extraction from corpses have taken place in the United States, judges and doctors in the U.S. refused to allow eggs to be extracted from a woman after she died from a heart attack in 2010. In that particular case, the petition filed by the family was struck down because the deceased woman had not expressed a desire to have children before she died, proving that consent is a key component in the United States as well.

According to Rosenblum, in a recent case in Israel, a couple had created embryos through IVF treatment; soon after, however, the mother was diagnosed with cancer. Two years after her death, the father decided that he wanted to fulfill his pledge to create a child, and he found a surrogate mother to carry the embryo created by him and his wife.

"It was the first case in the world of a child being born long after the death of its biological mother," said Rosenblum, although the eggs had been extracted from the mother before her death.



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