DEATH AND EUTHANASIA IN JEWISH LAW
Essays and Responsa
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RABBI JUDAH'S HANDMAID
Narrative Influence on Life's Important Decisions
William Cutter

Most of us know that revolutionary technical tools influence our bio-ethical decisions. Miraculous medical strategies have helped us redefine terms whose meaning we once understood like "draconian measures," "euthanasia," and "triage." Cessation of brain wave is replacing cessation of breathing as the principal criterion for when death has occurred. There is a consequent re-definition (for many halakhic Jews) of what constitutes a person who is in a dying state, a goses. Social science categories have changed to an equally dramatic extent and some of our institutions and habits look surprisingly different: Families are redefined, old age does not mean what it used to mean, and medical care has moved out of the hospitals. Communitarian values have given way to the valorization of individual experience. And, finally, we have experienced a unique meeting of socio-economic and technological reality in a crashing irony: Our medical successes, people's expectations of cure, and our complex delivery systems have created a nearly intolerable economic burden for individuals and for society.

Both the technological and the sociological changes have added to our sense of uncertainty by creating a more dynamic and less anchored environment. Antidotes are always at hand, compensations for what is missing, new solutions to the new environments and their problems. This has been true even with regard to Jewish law, whose dynamism was both the goal and the means of thinkers like Solomon B. Freehof. Freehof’s thinking with the passage of time has come to be an even stronger indication of the genius of Judaism to adapt. As Elliot Dorff has said: "Every legal system seeks to provide for both constancy and change."2 In a world where change threatens stability, a certain talent for change can enhance it.3

Does every moment of life have infinite value? Or, can ultimate values change along with intellectual method? J. David Bleich has insisted that every moment of life has infinite value, and is therefore indivisible. The idea that only the Creator can take away what has been given,4 remains an inspired absolute that combats an ever-threatening sense of relativism. Yet we know that society at large may not be served by preserving life per se, no matter what Jewish norms encourage. We don't like to talk this way, but such ideas are on people's minds.

TRUTH CLAIMS VERSUS PRAGMATIC USE OF TEXTS

Obviously Orthodox Jews rely on the idea that Judaism can make truth claims, and can therefore require particular behavior from its adherents. While accommodation is inevitable, even for Orthodox Jews, it is rarely defended on purely pragmatic grounds. Different groups of Jews may have different justifications for accommodation. In a perspective of the middle ground, Dorff's position, for example, the argument is made that accommodation occurs comfortably within the legal system itself, and even Orthodoxy subscribes to the principle of shinui itim. Liberal thinkers struggle to make the claim of timeliness and viability, but sometimes wind up using methods that ill suit their inevitable conclusions. From a liberal perspective there are more purely utilitarian purposes attached to religious adherenence. A liberal argument might contend that we need religious tradition and its prescriptions to preserve communitarian norms, and to remind us of the value of life under divine providence. But many liberal thinkers are probably willing to relinquish specific decisions to those who understand contemporary scientific empirical evidence. Their medical decisions are likely to determine the decisions of the modern liberal. While liberals may applaud certain absolutes in the
interest of preserving a sense of traditional value and stability, these more nearly absolute norms probably will not be applied in the experience of the sick room unless they make scientific or economic sense.

In one way or another, when Jewish norms have loosened a bit, whether from a traditional or a liberal perspective, it is as a concession to technological reality, a reluctant submission to this or that new aspect of the environment: people live too long, living on a machine is not living, disease does not mean the same thing it used to, or our economy cannot handle extended illness in old age.

Yet these technological advances and social changes have not really had as much to do with changing the way we think about Jewish-bio-ethics. Jews must find a way to link Jewish ways of thinking with technological progress - beyond finding a nexus for accommodation. This will be the task for the next generation of ethical thinkers, and my essay is a modest effort to nudge our thinking in that direction. It will do so by suggesting that we may be able to face more fully the realities with which we are living by applying new kinds of questions to medical ethics.

OLD FASHIONED RESPONSES TO TECHNOLOGY

Most people agree that the miracles of science have stretched our imaginations, and that the social experience of our people is vastly different from the experience of insulated communities in which much Jewish law developed. What I seek is a means of thinking that is more natural to human experience - moving towards an even more existential mode of thinking than is allowed by the current Jewish tendency to rely on case method for its flexibility. Case thinking tries to embrace technology, perhaps by applying a recent case based on an earlier principle to a case at hand. It incorporates technological reality into the discourse and permits a new variation on the original principle. For my work, however, I resort to one of the oldest pre-technological and pre-modern activities known to our civilization: The telling of stories. Story telling will be involved in this discussion in two ways: as a reflection of the real and lived experience of the patient in home or hospital; and as a cue to how we might make decisions regarding the last stages of a loved one's illness. In this second regard we must be nearly as rigorous with our use of stories as we have been with our application of "halakhic formalism."

Stories are told by patients who find a balm in them, and a way of communicating with visitors and family. All patients and all families have a story. The stories that are generated by patients' experiences and the "stories" in which our ethical standards are embedded have become an increasingly important part of ethical discussions in philosophical and academic circles. But stories are eccentric, and it has been difficult to draw principles from their aggregate. Each of us dies in a different way, as Sherwin Nuland says in his recent book How We Die. Because that is so vital a truth, we must find a way to balance absolutes like the notion that "each moment of life is of infinite value," with the reality in which people experience death: cost, despair, inevitable loss in spite of end-stage delay of dying, treatment by physicians, and the extent of each personal experience with pain. Jews will continue to debate whether that should be so, but it will be so, of that there is no doubt.

A PERSONAL LOOK AT NARRATIVE

I do not write as a medical ethicist, but as a student of narrative, and as a rabbi who has had significant experience as a hospital patient. I have served as chaplain, and participate on boards and committees designing training programs for spiritual counselors. I teach students about visiting in hospitals. My parents have died, my mother after an extended dooming illness accompanied by a thousand ethical decisions. My father's death, more recent, required no ethical thought, but rather an adjustment to the abrupt demise caused by the angel's kiss. The contrast is not irrelevant to my own way of looking at this problem - to my own story, in other words. In my hospital work I concentrate on the lived experience of the patient, and the ways in which people might help "patients live through their experiences towards a more positive outcome. This "positive outcome" applies whether or not death occurs. I have been concerned with helping professionals develop more spiriting attitudes towards patients rather than with specific decisions in particular concrete situations. My training in literature and personal experience have helped me concentrate on developing a kind of helping person, and have led me to be less interested in deciding this or that action in this or that case. But I have had to help people die. There are times when my commitment to
the general welfare of people and to their morale has had to give way to recommendations in particular circumstances. Stories have helped me in that task, though less naturally than they help in thinking about ideals or the kinds of people that society can produce. One of the ways to use stories for reflecting on death and dying lies in some of the thinking about what literature is all about.

A MASTER STORY

I have called my discussion "Rabbi Judah's Handmaid", because of a story in the Talmud which records the death of this Mishnaic sage. Rabbi Judah was so important that he is often known only as "Rabbi". (The story is called a ma'aseh in Hebrew.) When the ma'aseh begins, the reader knows that "Rabbi" is dead; and that his death was a matter of great distress to his disciples. The unit as a whole comes at the end of a long discussion about death and property rights, great leaders, and public attitudes about death and memory. [11]

Tractate *Keiubot* 104a (Soncino translation) –

On the day when Rabbi (Judah) died, the rabbis decreed a public fast and offered prayers for heavenly mercy. They, furthermore, announced that whoever said that Rabbi was dead would be stabbed with a sword.

Rabbi's handmaid ascended the roof and prayed: "The immortals desire Rabbi to join them and the mortals desire Rabbi to remain with them; may it be the will of God that the mortals may overpower the immortals." When, however, she saw how often he resorted to the privy, painfully taking off his tefillin and putting them on again, she prayed: "May it be the will of God that the immortals may overpower the mortals." As the Rabbis continued their prayers for heavenly mercy, she took up a jar and threw it down from the roof to the ground. At that moment they ceased praying and the soul of Rabbi departed to its eternal rest.

AN INITIAL EXPLICATION OF THIS STORY

This fairly well-known passage looks at first blush like an innocent *aggadah*, a specific kind of rabbinic tale, whose conclusion has application to questions about the termination of life. It is what Gerald Prince calls a "minimal story" - one which moves from a simple predictable state to a major shift in expected conclusion based on one thing that happens within the story. [12] Many contemporary thinkers have assigned the passage as a foundational source, a *locus classicus*, for the principle that while death may not be hastened according to Jewish law, it is permissible to halt an artificial intervention, if the patient would expire soon and naturally if we left him/her alone. The principle of getting in the way of obstacles to death, in this case the prayers of the rabbis is enunciated in the *Shulhan Arukh, Yoreh Deah*, specifically in the gloss of Moses Isserles. [13]

The relevant passage in the *Shulhan Arukh* does not cite the *Ketubot* passage, but it *does* use the same principle when it draws on the 12th Century work *Sefar Hasidim*. [14] There it is noted that if the sound of chopping wood is inhibiting the onset of inevitable death, we may stop the woodchoppers' chopping.

CONVENTIONAL HALAKHIC PRINCIPLES AND THE STORY

Thus the phrase *mesir hamoneia*, removing the impediment, is a term which has formal *halakhic* status within Jewish discourse. The phrase could also be utilized to consider the difference between letting death take its natural course, and stimulating the death process. If we stimulate the death process, we would be crossing the boundary into actively taking a life. The preservation of this boundary is important to anyone who would limit human encroachment on the divine, or for that matter, anyone who would establish human limits for any spiritual purpose. Among the severe exponents of a strict boundary is Rabbi J. David Bleich who notes:

Any positive act designed to hasten the death of the patient is equated with murder in Jewish law, even if the death is hastened only by a matter of moments. ...Only the
Creator, who bestows the gift of life, may relieve man of that life, even when it has become a burden rather than a blessing.\textsuperscript{15}

For Bleich, we must keep the respirator going.

Some ethicists have managed to retain the principle of "the infinite value of life" while finding ways to move from respiration to brain waves as the index for life. Rosner appears to argue that they are one and the same. When we do adopt brain wave as the criterion, death will occur sooner in almost every case, since there is no way to extend brain wave activity in the way we extend respiratory activity. Others have suggested redefinition of the *goses*, and rely on redefining that term to achieve moderation. In high technological times, the three day period for *goses* no longer makes sense, in other words. I have already mentioned the excellent work of such people as Dorff and Gordis who seem to invoke classical norms while arriving at more relevant contemporary conclusions. In one form or another, such thinkers, understand the law as containing the flexibility to combine the ideal principle with existential reality.

**CASTING OFF A VENERATED PRINCIPLE**

Among scientists the embrace of a less strict distinction between life and death appears just on the horizon. This appears to be true even among scientists committed to exploring humanistic implications. So, Sherwin Nuland argues against extending life at all costs:

"At any given moment, some five percent of our nation's elderly reside in long-term care facilities... What do all of these old people die of? Though their doctors dutifully record such distinct entities as stroke, or cardiac failure, or pneumonia, these aged folk have in fact died because something in them has worn out."\textsuperscript{16}

Nuland's statement reflects some of the sociological considerations which I have cited earlier. He leads his readers towards the view that a few more days of life is not what is consequential; and towards accepting the idea that life quality is relevant in bio-ethical discourse. . As this general attitude becomes more widespread, it will subvert any Jewish norm that argues the infinite value of every moment of life. We shall slowly find ourselves thinking differently about the importance of extending life. The term *mesir hamoneia*, aborting the impediment to a natural death process, as cited in *Yoreh Deah* will slowly change its implications. The time will come when we no longer give antibiotics for the pneumonia of an elderly cardiac patient. The time has already come when we may not give the newest experimental drug to all patients with the same disease. The need to perform surgical procedures on elderly people will become less clear-cut. And the community surrounding the ill person will be more distant from that illness than ever before, and less inclined to counter-act economic reality with personal passion. Nuland's book takes us toward a rejection of Bleich's view of the human condition; and by extension, towards modulating the way in which we view tradition. But Nuland, despite his creativity, is only a formal expression of what is already being thought implicitly. That modulation would sound something like this: Only the Creator can take away the life which "He" has given, and only the Creator can continue to create the same life. Medicine confronts us with the possibility both of taking away life and creating it, and while either activity should belong only to God, we as agents in either case must view ourselves as partners with God in either case.\textsuperscript{17}

Current methods of ethical inquiry may become out of date unless we incorporate unmediated human experience into the discussion of our principles. We must do so without cluttering the discussion with a thousand eccentric narratives.

**TRADITIONAL TEXT IN CONTEMPORARY DISCOURSE**

Even in the midst of this weighty discussion about life and death, I remain concerned about the place of traditional literature in the lives of Jews. The rift between *halakhic* thinking and what happens in actual situations will eventually lead to a cavalier attitude toward the very tradition that could contribute so richly to the discourse. In some way, the preservation of Jewish sources, and the active use of them, has more to do with developing a Jewish future than with solving any particular ethical dilemma. From my perspective,
our tradition less world needs Judaism; but its modes will not be fully useful unless there is some richer meeting with narrative eccentricity.

To encourage rapprochement I will examine some principles of narrative, especially as they emerge from the story of Rabbi Judah. Let me begin my approach to narrative thinking through a statement about aspects of language and its functions. The statement is mine, and I acknowledge at the outset that the subject is more complex than is reflected here.

**FUNCTIONS OF LANGUAGE**

Language, through speech or writing, has at least four functions for our purposes here:

1. It can reflect reality, and it can attempt to come close to depicting a thing through its use of figures of speech, measurement, and analogy, as it is shaped into sentences and paragraphs.

2. It can give a construction to reality - a kind of hermeneutic representation in which the listener and the speaker derive a sense of meaning from what is said, and from the way it is said.

3. It can dramatize a situation to convince a reader of a certain attitude, or to encourage action. It may be used to enhance sympathy or antipathy for the situation being described. Language, in other words, has a strong rhetorical function.

4. It can constitute the reality. In other words, there are certain contracts, ontological states that are brought into being by the utterance which creates the reality. An example might be the very "pronouncement" by a physician that "the patient is dead"; but, of course, the most common sense of this term is the naming of things, clerical performance of marriage rites, and the Creator's bringing into being with "a word". The more sophisticated idea that narrative is itself an imitation of speech acts is not relevant to the shape I am giving this discussion; but it is dutifully noted here.

Most ethical decision making draws heavily on the first kind of speech. Here is a rule or a principle, and over there is a circumstance. Is the circumstance over there like the circumstance which the original rule maker had in mind? Is a respirator, in other words, like the woodchoppers' chopping or the Rabbis' praying? In this instance, a "story" might be used to modify or clarify or disagree with the general rule which is being proposed.

But a fuller use of story or narrative as an independent form of speech represents the second function of speech: The giving of construction to reality. From that construction new meanings develop, and sometimes multiple meanings emerge. In this sense of speech, a partnership is always implicit between author, auditor or reader. And once these separate parties become partners, one must expect multiple interpretations. This is due to the nature of language which is always multivalent, and the nature of the reception, the way in which people hear or read. The language of the story and the particular situation of the auditor create different constructions of the same story and a different reality. If we grant this multiplicity of meaning, we must distinguish between the idea that a passage has no particular meaning and the notion that the passage may have various meanings for different auditors, or for the same auditor at different times.

**THE STORY REVISITED**

Let us examine the story again:

On the day that Rabbi Judah died, the Rabbis decreed a public fast and offered prayers for heavenly mercy. They, furthermore, announced that whoever said that Rabbi was dead would be stabbed with a sword.

Rabbi's handmaid ascended the roof and prayed: "The immortals desire Rabbi to join them and the mortals desire Rabbi to remain with them; may it be the will of God that the mortals may overpower the immortals. When however, she saw how often he resorted to
the privy, painfully taking off his tefillin and putting them on again, she prayed: "May it be the will of God that the immortals may overpower the mortals." As the Rabbis continued their prayers for heavenly mercy, she took up a jar and threw it down from the roof to the ground. At that moment they ceased praying and the soul of Rabbi departed to its eternal rest.

Our second reading is an opportunity to focus on elements within the ma’aseh that carry a reader beyond the straightforward plot of the "minimal story", to other dimensions and themes, to its rhetorical strength and possibilities for surprise.

My discussion of this second reading will take place by way of three perspectives on narrative: One from a psychologist-philosopher. Jerome Bruner; one from a literary theorist, J. Hillis Miller; and one from a legal scholar, the late Robert Cover. These three inventive thinkers by no means exhaust the theoretical issues which might be available to this discussion of narrative. In addition the world's great story tellers stand in the background of this discussion in the telling and retelling an infinity of new tales based on the finite number of received themes and narrative patterns.

ONE CONVENTIONAL USE OF NARRATIVE

One may begin the discussion of narrative ethics with two sets of polarities. The first marks the difference between the particular facts of the sickroom with its messy reality and sometimes fuzzy areas of management, on the one hand, and the clean and terse conclusions of principles as enunciated in the Shulhan Arukh, on the other. Responsa that draw on the Shulhan Arukh sometimes embellish the decision of a rabbi, poseq, with stories of exceptional circumstances, application of one set of circumstances to another, etc., but always express some level of abstraction in their conclusion. They inevitably revert to the guiding principles behind an issue. This kind of story telling preserves the principle enunciated in the code, as I think can be said of Kantian ethical discussions.

The other polarity has to do with the nature of rabbinic narrative upon which principles are based. On the normative pole in this set of polarities, one must not forget that within the rabbinic frame of mind, the stories recorded in the Talmudic material represent actual events which happened within a condition of divine providence. Thus in the rabbinic view, the results represent a sense of the way the world ought to be. On the other pole, is the modern secular view of story, which argues that stories are not meant to be apodictic guides to behavior, but rather have much to do with developing the imagination and the perceptual capabilities of readers or listeners. For people who think this way, an overly utilitarian view of literature's function stifles imagination and brings death to the perceptual world. In secular literary theory there is no death more serious than death to the perceptual world.

Both of these attitudes may be at work to some degree and often at the same time. Stories sometimes guide us to specific conclusions, but at other times they exist primarily to enrich our imagination. Narrative reality is more easily related to the second of these purposes.

INDUCTIVE USE OF THE STORY

Let me now examine the elements in the handmaid's story that tell us something about narrative reality. These elements of narrative reality will help us decide what to do in the case of a patient who is likely to die in the very near future; but they can only help us decide. I will then proceed to extract certain principles of narrative which explain or describe these points.

In the first place, the Talmudic story seems to rely on the assumption that the reader would pray for the extended life of Rabbi Judah. The story is important because the conclusion is different from that expectation. Connected to that surprising outcome is the mitigating circumstance which accounts for the change in expectation: the extreme pain of Rabbi. We must also notice that the story may deal with other issues as the power of human prayer, the importance of a woman, or the non-importance of women in that society. Finally, it draws on the idea that witnessing an instance of suffering may lead to a change of mind. Within this little story itself the maid's experience of Rabbi Judah is not simply reported, but
described as having occurred many times. The frequent visits to the privy, and the repeated action of removing his tefillin and putting them on again, are indices - metonyms of his pain.

Each of these elements attaches to an essential aspect of narrative theory. These aspects of narrative take us beyond the more direct use of the aggadah's conclusion as our ethical guide. I am not arguing that because this story "justifies" letting Rabbi Judah die we therefore have a comfortable precedent for letting people die. The story is too complex to limit its meaning to the halakhic principle mesir hamoneia.

I will argue that there are principles in this story which may influence decisions about the care of an aging parent who is "just hanging on." Other principles in the story may illuminate the condition of those who stand by to help. The story could support extending the parent's life or ending it. The story may remind us that the ill parent will certainly die in the very near future, with the time spent barely breathing, filled with tubes, medicine and discomfort; or it may foster our extending life while friends rally as community to encourage the ill person. I do not propose that narrative theory stimulates specific emotions or spiritual impulses nor does it tap the emotions of otherwise cool thinking formalists. I seek narrative principles which can shed light on the way we do make decisions and the way we ought to make decisions.

THREE THEORIES
Narrative and Learning - Jerome Bruner

Distinguished senior Harvard philosopher, psychologist and cognitive theorist, Bruner approaches narrative out of his particular interest in epistemology. He advances the following argument: "Let me begin by setting out my argument as baldly as possible...There are two irreducible modes of cognitive functioning, ... Each provides ways of organizing representation in memory and of filtering the perceptual world. ...One seeks explications that are context free and universal, and the other seeks explications that are context sensitive and particular. ...one mode is centered around the narrow epistemological question of how to know the truth; and the other around the broader and more inclusive question of the meaning of experience. (Note above, the various functions of speech.) ...The imaginative application of the paradigmatic mode leads to good theory, tight analysis, logical proof, and empirical discovery guided by reasoned hypothesis". (Bruner here is more absolutist than he needs to be.) "...As noted, narrative is concerned with the explication of human intentions in the context of action." (He goes on to say that narratives do not occur in an entirely unrestricted fashion, but that...) "most narratives that create an aura of believable life-likeness involve a recounting of an initial canonical steady state, its breach, an ensuing crisis, and a redress, with limited accompanying states of awareness in the protagonists."

Bruner has also focused on the length of time the narrative can reflect. He has called this "narrative diachronicity." Professional literary theorists have dealt at greater length with the phenomenon, both its power and the techniques for achieving it.

Narrative and Law - Robert Cover

Cover, the late Yale law professor, wrote about the place of interpretive pluralism and normative thinking within both the Jewish legal heritage and the American constitutional tradition. Cover emphasizes that acts which signify something new gain their significance if we understand them in reference to a norm. Cover's "Nomos", meaning law, norm or principle, takes place within a narrative which then often generates its own nomos:

A legal tradition is part and parcel of a complex normative world. The tradition includes not only a corpus juris, but also a language and a mythos-narratives in which the corpus juris is located by those whose wills act upon it. These myths establish the paradigms for behavior. They build relations between the normative and the material universe, between the constraints of reality and the demands of an ethic.

Law may he viewed as a system of tension or a bridge linking a concept of a reality to an imagined alternative -that is, as a connective between two states of affairs, both of which can be represented in their normative significance only through the devices of narrative.
Thus one constitutive element of a *nomos* is the phenomenon George Steiner has labeled "alternity", the other than the case, the counterfactual propositions, images, shapes of will and evasion with which we charge our mental being and by means of which we build the changing, largely fictive milieu for our somatic and our social existence. Our visions hold our reality up to us as unredeemed.

I understand Cover to mean that the normative pattern may recommend a way the world would look if it were redeemed, and the narrative may represent the world as it is lived. This does not mean that the narrative world determines our choices over the norms; Cover insists that the narrative cannot take place without the normative being folded in to it. Efforts to split narrative and norms into two distinct categories of argument are not legitimate for understanding how either of them works. Cover's contribution, for my purposes, is to remind us to keep playing the norm, or fixed value, against the dynamism of the narrative reality. That is what produces true *juris-generativity*, the ability of the law to grow.

**Narrative and Ethics - J. Hillis Miller**

Miller calls our attention on the act of reading. The most radical elements in his thought have congruence with certain Kabbalistic modes of thought. Miller has expressed his position in a variety of formats, so I will paraphrase and quote directly:

"The Moral law gives rise by an intrinsic necessity to storytelling, even if that story telling in one way or another puts in question or subverts the moral law. Ethics and narration cannot be kept separate, though their relation is neither symmetrical nor harmonious." For Miller, the primary ethical act in reading is choosing text's meaning, and thus "renouncing" the reading one rejects. Reading is multivalent because of the nature of language. He suggests that this renunciation is allegorized in narratives where characters make the same choices within the plots as readers. For Miller, then, reading involves a non-medical "triage", based on the finite authority of language and its inability to wrap perfectly around an idea. Language has the same limited resources for its task as the community for keeping people healthy. Whether our language reflects reality, interprets reality or brings things into being, our results are imperfect. Choices have to be made and in both reading and life. A non-medical triage is an operative principle. Here is an affinity with Luria's notion of *tzimtzum*, which is the source of all limits; and it is enforced in the final chapter of Miller's *Ethics of Reading*, where he draws on Henry James' image of a white field against which writing (and presumably reading as a consequence of writing) resembles dark footsteps in the snow. We can only walk one way at a time. We may decide to let our aging sick patient live longer, or we may decide the opposite. Either decision involves a renunciation of the alternative. We may find that our family story strengthens any resolve; or it may cause us to preserve the Jewish norm of the infinite value of life. A family story may even require preserving the warmth we feel in the presence of a loved person, no matter how much pain that person is suffering. When we read a story of illness, as in the case of R. Judah, we are committing the act which Miller identifies as *prosopopeia*: the imaginative creation of a reality out of nothing more than black letters on a white page. This ability to create will be a vital part of our decision making at the bedside of a loved one who is probably going to die.

Miller's stance, is radically free of the emphasis on "moral ending", and reminds us how far we are from thinking deeply about narrative. Most readers seem to use stories for ethics as an opportunity to try alternatives of action. Most critics accept this as one legitimate use of story. But Miller's more complex allegorical sense of reading is a direction which has great significance when applied to the decisions which face us in life and death situations. These situations require a triage which underpins all stories in the hospital and which force health care givers to deal with the idealization of life and its infinite value. For while the principle of the infinite value of life is an important spiritual baseline for the ethicist, the stories of people's lives always reveal compromises. The story of society's continuity compromises us even further. Society cannot continue to provide infinite amounts of medical care. These three narrative theorists, selected from many other, provide us with guidelines about the nature of story and its relationship to ethical behavior.

There must be one additional literary pause in our thinking. The history of story telling and story writing is a history of re-writing, of recasting old themes or original simple tales, into more complex novels, dramas
and epics. Basic story outlines are always retold. Sometimes they reach the same conclusion, but include more characters or subplots; and on other occasions the additional material leads to a different story with new conclusions. I suggest that the story of Rabbi Judah can be used in a similar way in our contemporary and more complicated "stories".32

A LAST LOOK AT THE STORY

Let us return for a final time to the story of Rabbi Judah and his handmaid. What is this story about? It may be about the power of love to change one's mind or simply about the changing of mind. It may reveals that real emotions come from particularities and details, she saw how he suffered and how often he went to the privy. It may be about the power of human prayer, and thus support Cover's and Suzanne Stone's position about the partnership between humans and the divine, not to mention Jewish thinkers like Greenberg and Borowitz.33 It may be a tale of mitigating circumstances: we ought to take this action, but we are forced to take the second action. The story of Rabbi Judah's death should, then, not be the locus classicus for a particular action or decision, but a model for the uses of narrative. Like all good stories, it makes explicit the actual experience of the lived life. The lived life which sometimes competing with norms dominates the ethical decisions we make and the compromises which are an inevitable part of them. The preservation of the principle may not be threatened so much by reality as enhanced by it. Yet if reality shall enhance principle instead of struggle with it, we must find a way to connect between life's uncertainty and the clarity of principle in narrative. An inventory may help us:

1) The Rabbi Judah story captures a sense of the duration of his illness, which mirrors very much what happens in the hospital room of dying people. The principle of preserving life often makes a moral sense at the beginning of a long period of suffering, or when discussed in the abstract, and less after sixty days or ninety days, and repealed experience of pain.34 While my mother's slope to her death from a malignant brain tumor led me, my sisters and father from urging aggressive treatment to the more modulated impulse to let go, the very length of her illness had an important positive effect on relationships within our family. How much would have been lost between us in the building of our family story, which included her heroism and our relationships with each other, had she died significantly sooner? In other words, we carried a story into the episode which influenced our thinking; and we remain with a rewritten story when the experience is over. (Bruner's sense of time, grounded in Ricoeur.)

2) The R. Judah story demonstrates from within itself the varying possibilities of the story. The question of the meaning of life and of the lives of the survivors is allegorized within the story. (Miller's notion of allegory.)

3) Creating a reality through the reading of the story is a necessary part of the creativity which the modern reader must employ in reaching decisions. (Miller above.)

4) The story has multiple meanings, which rely on the context of the reader and the story and are congruent with the centrality of context in making ethical decisions in the lived hospital room. (Cover's citation of Steiner and other traditional narrative thinkers remind us of this.)

5) The story contains a mitigating circumstance in its context which represents the first step in the shift from the canonical expectation that we pray for our loved ones to live longer, until we get a real sense of their pain. (Bruner and Cover.)

6) The story affords the opportunity, for the reader to exchange himself/herself for various characters within the story. In a typical family, there may be siblings, a parent, a patient, and a doctor and friends committed to a specific kind of treatment, as well. (George Steiner on alternity.)

7) The story may be rewritten in a contemporary context which includes new economic realities; different ways of looking at priorities; and, for good or ill, increasing valorization of individual experience. (Wallace Martin.)
8) The act of narration may be an act of reflection on the event or events. The conclusion, then, may be less significant than the process.

9) The story includes a renunciation as Rabbi Judah’s maid cannot have it both ways. She makes a choice; doctors make choices and the families of dying people make choices. (Miller)

How would this use of narrative work in a real case? It should not be used on the spot in the midst of any particular medical crisis. The use of narrative thinking is more ambient in nature. Families often need time before their members can agree on the meanings of the words being used, especially in cases of durable powers of attorney or living wills. I have encountered the phrase "not to take extraordinary measures" dozens of times and almost no two interpretations are the same. Narrative thinking might help people reflect on these and other meanings, but probably not under the pressure of specific crises. Yet as an overarching way of approaching bio-ethical problems, a story has much value; and for those of us who must work professionally in these critical circumstances provides much guidance. It would give the agents and the subjects of a medical situation the knowledge that they are part of a long tradition of others who faced ethical dilemmas. Secondly, it may clarify the different contexts in which the principles of inquiry may take place. Third, it highlights the reality in which we make ethical compromise. It will, in addition, give a sense that the time may, after all, have come to let a loved one go. It may also he used to help vulnerable people understand the importance of the relationships with the others who surround them in these critical situations. Would I or my family have reached a better decision about my mother's life had we thought more formally or in a more explicitly narrative way? I cannot tell; but I am convinced that no system would have been perfectly adequate, and the doctor's opinion was never enough!

CONCLUSION

Among the most powerful people in our culture are doctors. As they study diseases and seek a cure, they have god-like moments. That is why medical training is so focused on disease. Nuland calls this "the riddle" which must be solved, but which often gets in the way of treating the patient as a full human being. When the disease and its riddle get folded into the human being who carries an illness, the doctor becomes more human, more tragic, and more a partner with the person served. Her doctors fulfill a real partnership with the Creator. To "be human" is to take the risk that the absolute code is broken in the effort to serve the lived narrative world with its many shapes and too many meanings.

In a distinguished collection of essays, the philosopher Yeshayahu Leibowitz affirms "halakhic formalism" as a necessary mode of Jewish ethical decision making. Yet, in an article in the same collection, he speaks about doctors' healing roles in a slightly different tone. There he cites Maimonides on medical treatment in a way which suggests reversing formalism: "Treatment of a patient is not directed towards an abstract concept, but rather towards the actual sick person. Every ill person is different from every other ill person - even though they may have the same illness. And, thus, the doctor must cure the sick person and not the disease." It is, similarly, the patient who dies.

Jewish law is devoted partially to preserving a tradition and a community. Thus our management of death as a general subject is formal and communal. It strives towards a level and synchronic consensus, and it insists that no life is more important than any other life. It strives for one level in our thinking and our action. The management of individual deaths, however, is another matter; it is a many storied affair.

Notes

1. A goses has generally been defined as a person with 72 hours left to live. It is a measure that is coming under close scrutiny because of our ability to prolong life. Helpful sources for the concept are Mishnah Arakhin 1:3. and Babylonian Talmud Kiddushin 71b.


3. This paper grows out of a workshop I conducted at the Jewish healing conference: Refeatinu, sponsored by the Jewish Healing Center and the Nathan Cummings Foundation in Winter, 1994. Special thanks to Rabbi Nancy Flam and her staff for giving me the opportunity to put forth the tentative ideas that emerged into this more fully developed work.
4. J. David Bleich, in many places, but especially. *Judaism and Healing*. Hoboken, 1981. My most vivid memory of Bleich's explication of this came at a medical ethics seminar at Cedars Sinai Medical Center. A frustrated physician fumed at Bleich's strictness, and tried to illustrate how foolish was his position, and began a thought with the statement: "Rabbi Bleich, I have a terminal patient on the 7th floor who..." Bleich interrupted him with the quip: "Dr. X, we are all terminal."

5. Several contemporary thinkers have moved closer to changing the ways we think about ethics. For a summary of the different efforts to deal with new technological and social realities, and to embrace, at least partially, modern ways of reading literary texts, refer to Elliot Dorff's article, [note2]. Jewish thinkers who are especially important in this regard have been:


7. Here I want to mention two especially important works for the development of my own thing-one from general ethical discourse and one from the religious domain:


   Stanley Haurwas, *Truthfulness and Tragedy*. South Bend, 1977. (My thanks to Rabbi Alan Henkin for introducing me to this work and for his wonderful explications).


9. Here I am speaking of more than harmonizing through the case method that Dorff so eloquently; and I am attempting to move beyond the creativity suggested by David Hartman, Irving Greenberg, (noticed above) and even Louis Newman and Daniel Gordis.

10. See Martha Nussbaum, above, for a description of her notion that the kind of life we lead my be more important than any specific action we take.

11. For a rich understanding of the nature of the sugya I am indebted to Prof. David Kraemer of the Jewish Theological Seminary – to his work and his personal comments; and I am grateful, as always when I venture in to these waters, to my colleagues, David Ellenson, Elliot Dorff, and Rachel Adler. Professor Ronald Garet of the University of Southern California has encouraged my exploration of narrative theory and law.


13. The passage is cited in several articles on Jewish bioethics and the termination of life: Louis Newman, Elliot Dorff, as above. For more canonical discussion, see Fred Rosner, "Rabbi Moshe Feinstein on the Treatment of the Terminally Ill", *Judaism*, 37:2. 1988. See *Babylonian Talmud, Avodah Zara*, 18a, and Rosner’s qualifications based on *Horayot* 13a regarding the infinite value of life.

14. Shulhan Arukh, Yoreh Deah 339:2 The note from Isseries, (REMA) is translated in most English editions.


17. The so-called “covenantal” ethicists have already begun to talk this way. See especially Ellenson and Greenberg, above.


20. On this matter, see David Stern *Parables in Midrash, Narrative and Exegesis in Rabbic Literature*. Boston, 1991. This position is not without some controversy, as can be seen in disagreements between Jonah Fraenkeland Dan Ben Amos. A helpful discussion of some of these problems is available in the unpublished M. A. Thesis of Rabbi Andrea Weiss, "Tell Them, and Tell Them Again: A Literary Analysis of Parallel Midrashic and Talmudic Sage Stories," Hebrew Union College- Jewish Institute of Religion. 1993. The
reader may wish to see Dan Ben-Amos, 'Generic Distinctions in the Aggadah.' in *Studies of Jewish Folklore*, Frank Talmage ed. New York, 1980.

21. Murray Krieger, "An Apology for Poetics," contained in *Critical Theory Since 1965*, Adams and Searle eds., Gainesville, 1986. originally contained in *American Criticism in the Poststructuralist Age*, Ira Konigsberg ed., Ann Arbor, 1981. This struggle is as old as literary criticism, and is dramatically demonstrated in the work of critics as different as Wayne Booth of University of Chicago, and Walter Benjamin, the legendary German thinker and essayist of the 1920's and 30's.

22. Those who know Talmud will recognize Rabbi Judah's legendary digestive illness from other passages, Baba Metzia 85a.

23. The prayer notion would fit into the paradigm set forth by Suzanne Stone both because it contains multiple meanings and because one of those meanings has to do with the power of people to effect the supernal world. See Freehof.

24. On this one may see controversy aplenty as between writers like Giles Gunn, Robert Coles, A. Barlett Giamati, J. Hillis Miller, Wayne Booth, Martha Nussbaum, Nel Noddings, and a host of other thinkers who have wrestled with the place of story in the derivation of ethical principles or the specific conclusions in specific problematic circumstances. In various ways, anyone who has written on this subject has to face the more restricted sense of "the moral" in the story to which most casual readers revert, which is promoted by such writers as John Gardner, in his *On Moral Fiction*, New York, 1977.

25. This material was originally presented at the conference, Refa'enu, sponsored by the Jewish Healing Center and The Nathan Cummings Foundation. Many of my listeners at these workshops were concerned that I was creating a Jewish version of the soft caring and broadly moral outlook embedded in some radical feminist thinking and in even some of the tough minded thinking of people like Nel Noddings and Carol Gilligan. Justice Harry Blackmun has been criticized for overly generalized thinking from time to time. Jeffrey Rosen, *New Republic* commentator has been critical of the Justice in this regard. See the April 29th issue of the magazine and Carol Gilligan, *In A Different Voice*, Boston, 1982, and subsequent research reports as well as Nel Noddings, *Caring, A feminine Approach to Ethics and Moral Education*, Berkley, 1984.


31. I use the word "triage" somewhat informally. The term appears to come from a First World War practice whereby French medics had to divide groups of wounded into one of three categories for purposes of deciding who gets help. I use it, loosely as I suggest, to mean the inevitable exercise of selection wherever infinite wish collides with finite reality.


35. Yeshayahu Leibowitz. "The General and the Particular in the Theory of Medical Practice," (Hebrew) and "Medical Practice and Values." (Hebrew) *Emunah, Historiah veArakhim*, Tel Aviv, 1982. Leibowitz makes a bold distinction between the principle that one cannot "permit" a life to be terminated, and the possibility that doctors may make certain decisions to terminate without asking for a Jewish judgment about the application of the principle.