

JEWISH THINKING ABOUT END OF LIFE ISSUES

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Jewish bio-ethics deliberation tends to follow a pattern of legal formalism which calls on classic texts to be applied to contemporary existential situations. The classic text is often a description of a concrete situation within Jewish lore, and from that situation a principle may emerge which is then used to help reckon what one ought to do in a present predicament. The "situation in the lore" is usually matched up with a principle which has also been extrapolated from classic biblical or rabbinic texts. This has been the way in which Jewish thought has stayed relevant in the face of vast technological and sociological shifts. Underlying the methodological formulas has been a principal that I believe has united the Christian, Muslim and Jewish practice of bio-ethics: Our bodies belong to God and it is not our right to do with them whatever seems convenient at a given moment. Therefore, end of life issues are exceedingly weighty and strike at the very theological beliefs of our traditions.

While any of us can read these texts and ponder these issues, we use the word "decisor" to describe the individual responsible within the community for rendering a more or less "official" position.

I am here today both to represent that methodological tendency, and as such I will speak with reference to such significant Jewish thinkers as Elliot Dorff and Laurie Zoloth, whose names have been mentioned today in several contexts. But I will also suggest that there are other ways in which the Jewish tradition can be utilized in our currently complex "end of life" environment. Some of these other ways have been begun by both Zoloth and Dorff. I will argue that narratives of illness demonstrate that our current situations are more complex than most normative ethics situations allow, and that we are thus obligated to move beyond simple formulas and/or less grounded expressions of conscience.

I was moved towards a search for some new method by philosopher Sydney Hook's argument in a NY TIMES Op Ed piece some years ago. The article followed his survival of a cardiac arrest at 83 years of age. He was revived, and he argued that with his children grown and great pleasure drawn from his grandchildren, that perhaps he should have been allowed to die. He explained that his having been revived meant that he would have to experience death twice. On behalf of Jewish tradition, I question his conclusions in light of the issues surrounding dying patients and their care, but I have to admit that Sydney Hook's sense of life and death must be reckoned with by any thoughtful ethicist.

On the "conservative" side of the ledger, my colleague Lori Zoloth does something with my own rabbinic students which demonstrates the complexity of the environment we are in. She shows them a tape of a man with ALS who is asking for some kind of intervention to end his life. There is no hope for longevity, he is in considerable discomfort and he is causing a great deal of turmoil within his home environment. Dr. Zoloth's effective homiletical trick sets up my students to say: "Well, of course, let the man go." She then tells the rest of the story including the surprise that within the following week the patient was feeling better and soon was watching his children play softball. And, yet, it is Professor Zoloth who has paid most attention to the relationship of end of life issues to public policy realities.

My hope is that we may begin to develop—within Judaism—a formal way to help people reach a range of choices around each situation, and perhaps to include aspects of the larger context surrounding each issue within our description of the situation. Judaism is essentially conservative when it comes to end of life issues. As such, the distinction between terminal sedation and physician assisted suicide is ambiguous. That is to say, physical assisted suicide by any label cannot be permitted by any responsible Jewish point of view. But Judaism does endorse the principle that when there are impediments to death taking its natural course, we may remove the impediments. Some cynics have asked the question "Why is there so much discourse about this, if the answers are so clear cut?" But what makes the questions tougher—within mainstream Jewish bio-ethics—is the definitions of "impediment" and "natural course".

The narrative of Rabbi Judah, the great compiler of the Mishna, is often used by decisors of such issues. It is partly a homily about the effectiveness of prayer. In the story, the people are praying for Rabbi Judah's life to be extended. God hears the prayers and they are efficacious. Rabbi Judah does not die. His handmaid (unnamed) is on the side of the people until she experiences his suffering, (which she notices by evidence that he visits the privy too frequently.) Finally convinced that he is suffering too much, she goes to the roof of a little house, and drops a jar which crashes. The sound of the crashing startles the intercessors from their prayer, and in that split second where there is no prayer, God is distracted (so to speak) and Rabbi Judah's soul is able to depart. This

narrative provides the locus classicus, the basic textual warrant, for allowing death to take its course. While we may chuckle at the telling of this story, in Judaism we take special joy in the problem of how to make modern analogies out of very old stories. Christians and Muslims seem to do the same thing.

What are the analogies in the contemporary world? And how can we go beyond the analogies? In the world of analogy, the task is to decide whether or not a respirator constitutes the modern equivalent of prayer in the Rabbi Judah story. This is especially important given the fact that brain death is more commonly used as a criterion; but the most conservative Jewish decisors, continue to consider respiration as the criterion. But, of course, perhaps there is an even more appropriate locus classicus. In the quote from the great Jewish lay person Morris Abram, the argument "to choose life" can be interpreted to mean that we must keep life going at all costs. But if we view "life" in the broadest terms possible, then we might include family considerations, economic status, the needs of the hospital, the social expense of medical care, and so forth. A patient, in other words, could "choose life" for his family.

There is a small movement abroad within the Jewish community to expand the hermeneutic ground to include more narrative thinking, which means more contextualization of each individual case; a greater range of possibilities when decisions have to be made; and a greater willingness to overturn standard methods. Most radically, we shall soon have to ask if analogical thinking is working at all. These impulses come out of the narrative tradition, out of contemporary hermeneutics, and from the prophetic tradition which operates more vigorously out of a concern with social welfare and rejection of current norms. These new approaches could represent a revolution which would make traditional Jewish, decisors uncomfortable: they may force a change in intellectual discourse and they may make Jews feel as if they are following the Protestant non-legal model. Now Jews never mind looking Protestant in social terms, but intellectually we pride ourselves in a distinct discourse which I believe may be coming under some negative scrutiny.

So the challenge for Jewish practice will be to learn to draw on Jewish sources without seeking out textual warrants in quite the prescriptive way that has held sway so far. We live in communities and therefore an individual's decision or condition is contingent on a community. We may have a fundamental responsibility to determine what God's wish might be in a spiritual sense, we may want to consider more communal precedents, and we may want to re-examine the reading of some of our basic texts in any event.

"This is risky business, but a business well worth the risk if religious thinkers are going to have an influence on practice in this delicate area as that practice is experienced in the lived situation.