Religious Commitment in Medical Practice:  
A Jewish Perspective

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The physician–patient relationship, which is the cornerstone of medical practice, is based upon a transaction between a sufferer and a healer. The healer is not only confronted with the patient’s immediate medical needs but also with psycho-social problems which the illness causes, or is caused by. The physician therefore fulfills many functions: those of a technologist, philosopher, priest, social worker, and economic advisor. In discussing the influence of religious commitment on medical practice it is helpful to dissect the practice of medicine into the physician’s different functions. Although these functions may overlap, for the purpose of discussion they may be classified into two groups: (A) therapeutic functions and (B) ethical functions. Therapeutic functions deal with the scientific aspect of medicine, how to treat disease. Ethical functions deal with philosophical questions, e.g., should one treat disease? When called upon to fulfill a therapeutic function, such as diagnosing and treating pneumonia, diabetes mellitus, or myocardial infarction, the physician functions as a technologist, operating on scientific grounds. The rules of competent medical practice are relatively clear and will be followed by all physicians regardless of their religious commitment. It is when called upon to fulfill an ethical function such as deciding whether to treat a secondary illness in a primarily hopeless situation that religious commitment may influence medical practice. An example of such a situation is the patient with an incurable cancer suffering great pain, who develops pneumonia. By withholding antibiotic therapy the physician allows the pneumonia to carry the patient away, thus relieving him of his pain. The physician must now decide whether or not to treat the pneumonia. What guidelines can the physician follow when confronted with this ethical question? The guidelines I follow are dictated by my religious commitment. I subscribe to the views of Orthodox Judaism. In this religious system, all human acts are legislated by law considered to be of divine origin. These laws treat the same questions raised by the secular medical ethicist and very often give the same answers. For the Orthodox Jew, however, medical ethics are based on divine law rather than on philosophy. These laws therefore are not subject to the whims of society nor to the interpretation and influence of a human dictator. By the religious anchoring of medical ethics one is assured of a standard to be followed in every generation in every social milieu. The advantage of firmly anchoring medical ethics in an inviolate law rather than a personal ethic which can be changed by manipulating public opinion was demonstrated in recent history. Leo Alexander in his paper “Medical Science under Dictatorship” (1) writes,

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Nazi propaganda was highly effective in perverting public opinion and public conscience, in a remarkably short time. In the medical profession this expressed itself in a rapid decline in standards or professional ethics. Medical science in Nazi Germany collaborated with the regime particularly in the mass extermination of the chronically sick in the interest of saving “useless” expenses to the community as a whole. Sterilization and Euthanasia of persons with chronic mental illnesses was discussed at a meeting of Bavarian psychiatrists in 1931. By 1936 extermination of the physically or socially unfit was so openly accepted that its practice was mentioned incidentally in an article published in an official German medical journal. Lay opinion was not neglected in this campaign. Adults were propagandized by motion pictures, one of which entitled “I Accuse,” deals entirely with euthanasia. This film depicts the life history of a woman suffering from multiple sclerosis; in it her husband, a doctor, finally kills her to the accompaniment of soft piano music rendered by a sympathetic colleague in an adjoining room. Acceptance of this ideology was implanted even in the children. A widely used high-school mathematics text, “Mathematics in the Service of National Political Education,” published in Germany, 1936, includes problems stated in distorted terms of the cost of care for and rehabilitating the chronically sick and crippled. One of the problems asked, for instance, how many new housing units could be built and how many marriage-allowance loans could be given to newly wedded couples for the amount of money it cost the state to care for “the crippled, the criminal and the insane.”

Thus by proper propaganda techniques it was possible to convince a highly educated people that the butchering of humans considered inferior and incapable of the proper quality of life was ethical.

A further significant consequence of basing medical ethics on divine law rather than on personal ethics is my approach to fellow physicians. When stating my position on ethical questions, I do so not out of moral rectitude and self righteousness but, rather, as an obedient servant. Those who do not accept these laws may be just as moral as I am. I pass no judgement.

Having anchored the basis of my medical ethics in Jewish law, I should now define the status of the physician in Jewish law. Is it permitted to heal the sick? Does man have the right to interfere with the deliberate designs of providence? The answer to these questions is clearly stated in Rabbinic law. “The Torah gave permission to the physician to heal. Moreover this is a religious precept and it is included in the category of saving life (2). The physician receives a license to heal. Indeed, it is the physician’s duty to disregard all other religious injunctions in order to save life. For example, the physician may do work on the Sabbath in order to save life. This special status however, pertains purely to therapeutic interventions to sustain life. In deciding ethical dilemmas, the physician has no special status; he is governed by law and must act accordingly. It is not the physician’s right or responsibility to decide questions of personal rights and social freedom.

I shall now briefly discuss Jewish law pertaining to the following questions: euthanasia, abortion, and medical experimentation.

**EUTHANASIA**

The steady advance of technological skills towards the indefinite prolongation of life has focused attention on the question of euthanasia. Whether by reason of mounting costs, the suffering imposed upon terminal patients and their families, or the inevitable denial of limited facilities to other patients, the question of euthanasia must be addressed. Despite the current interest in the question, it is not unique to our civilization, having been discussed in antiquity (3).

Euthanasia may be classified under the following forms (4): (i) eugenic euthanasia; (ii) active medical euthanasia; (iii) passive medical euthanasia.

Eugenic euthanasia encompasses the killing of malformed babies and socially undesirable individuals such as the mentally retarded and the psychiatrically disturbed.
Active medical euthanasia is exemplified by the case in which a drug or other treatment is administered to hasten death. Passive medical euthanasia is defined as the withholding of therapy so that death is not prevented by therapeutic intervention.

Jewish law clearly forbids eugenic as well as active medical euthanasia. Passive medical euthanasia, however, the withholding of therapeutic measures, may be allowed under Jewish law in very specific cases. The critical question applying to a particular case is whether one is shortening life or shortening the act of dying.

A Rabbinic passage (5) from no later than the eighth century C.E. states:

One who is in a dying condition (Hebrew: *goses*) is regarded as a living person in all respects. One may not move him until he dies. One may not close the eyes of the dying person. He who touches him or moves him is shedding blood; as Rabbi Meir (second century) used to say: this can be compared to a flickering flame; as soon as a person touches it, it becomes extinguished. So too, whosoever closes the eyes of the dying person is considered to have taken his soul.

Maimonides (6) (1135–1204) treats this subject matter as follows:

A *goses* is regarded as a living person in all respects. He is not to be rubbed or washed, nor is sand or salt to be put upon him until he expires. He who touches him is guilty of shedding blood. To what may he be compared? To a flickering flame, which is extinguished as soon as one touches it. Whoever closes the eyes of the dying while the soul is about to depart is shedding blood.

Rabbi Jacob ben Asher (1269–1343) in his code (7) extends the prohibition against active euthanasia to include psychological stress. For he forbids the undertaking of funeral arrangements before the onset of death lest the patient hear of this and his death be hastened.

The question of passive euthanasia is first treated by a thirteenth century Jewish ethical treatise in the “Book of the Pious,” where it is written; “If a person is dying and someone near his house is chopping wood so that the soul cannot depart then one should remove the woodchopper from there” (8).

Based on the “Book of the Pious,” Rabbi Moses Isserles (1510–1572) permits the removal of any hindrance to the departure of the soul, such as a clattering noise, since such action involves no active hastening of death, but only the removal of an impediment (9).

Rabbi Solomon Eger, a nineteenth century jurist, in his commentary on Karo’s code quotes other Rabbinic sources who state; “It is forbidden to hinder the departure of the soul by the use of medicine” (10).

Based on these rulings some authorities permit the removal of medications, or machines, from the patient in irreversible coma with no prospect of recovery, as long as no natural means of sustenance such as food and oxygen are withdrawn (11). Other opinions will not tolerate any relaxation of efforts to prolong life however artificial and ultimately hopeless (12).

**ABORTION**

In Jewish law the destruction of an unborn fetus is not considered murder, punishable as a capital offense. This ruling is based on the Talmudic interpretation of the Biblical injunction against murder. Exodus 12:12, “He that smiteth man so that he dieth shall surely be put to death.” The word “man” is interpreted by the Talmud to exclude a fetus (13). Nonetheless the destruction of the fetus is a moral offense which can be justified only by consideration for the mother’s life or health. The Mishnah (14) states: “If a woman is having difficulty in giving birth, so that her life is in danger, one cuts up the fetus within her womb and extracts it limb by limb, because her life takes precedence over that of the fetus. However, if the greater part of the fetus was already born, one may not sacrifice the fetus for the mother because
one may not set aside one person’s life for that of another.” The right to sacrifice the unborn fetus to save the mother’s life rests upon the fact that such an embryo is not considered a person until it is born. The point at which human life becomes inviolable and of equal value to that of any living person is thus distinctly fixed as the moment when the greater part of the body has emerged from the birth canal. Whereas the fetus’ “right to life” on an equal footing with those already living is first established at the time of birth, the fetus does acquire certain rights during gestation. During the first 40 days of gestation the fetus is considered as mere fluid (15). After the first 40 days the fetus is considered as a partial person. This is evident from the laws regarding ritual impurity (16) and offerings (17) that a woman who aborts after 40 days of gestation must adhere to.

Abortion on demand is prohibited by Rabbinic law (18). Some commentaries (19) prohibit abortion because of injunctions upon the mother against needlessly wounding herself (20), or needlessly placing herself in danger (21), or both, depending on the method used to abort. Other commentaries invoke the “right to life” theory for their ruling (22). Therapeutic abortion, although permitted, is dependent on the danger to the mother and the length of gestation. Some rabbinic rulings are of the opinion that as the fetus has no status at all prior to 40 days after conception it is permissible to perform an abortion during this period for fear that a deformed child may be born, as in the case of thalidomide ingestion or the exposure to German measles early in pregnancy (23). Forty days in this context may mean just under 2 months in the currently accepted calculation of the pregnancy period, due to the discrepancy between the Rabbinic and medical methods in determining the date of conception. Other Rabbinic rulings prohibit abortion in these cases because they are not definitely therapeutic to the mother (24). Most Rabbinic authorities require abortion where the health of the mother is threatened (25). Such dangers may include deafness (26), cancer, or psychiatric disease (27). Some authorities permit abortion for any maternal need (28), such as in the event of incest or rape (29). All agree that abortion must be undertaken when the life of the mother is in acute danger. After the head or greater part of the infant is born, only a threat to both lives would allow sacrifice of the child to save the mother (30).

HUMAN EXPERIMENTATION

In no area of medical ethics do the secular ethicist and religious ethicist differ more in their approach to a problem than on the question of human experimentation. Both require that there be a determination of the rightness or wrongness of the action; both agree that ideas such as “the advancement of knowledge” or “benefiting mankind” alone are not sufficient justification. For the secular ethicist a crucial element in answer to the question “what constitutes right action in medical practice?” is the requirement of a reasonably free and adequately informed consent. The definition of informed consent may be found in the Articles of the Nuremberg Tribunal (31).

The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the methods and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.
In Jewish law this concept has no validity. The biblical injunction against needlessly wounding oneself (20) or needlessly placing oneself in danger (32) invalidates free and informed consent. For, in fact, the patient does not have the right to grant consent. Similarly, consent is not required for operations deemed medically necessary for his health. The principles applied in Rabbinic law to the question of human experimentation are summarized by Immanuel Jakobovits (33), the Chief Rabbi of the British Commonwealth. These principles state (i) that human life is inviolable and of infinite worth. Every life therefore is equally valuable, including that of criminals, prisoners, and defectives. (ii) One may not sacrifice one life to save another, or even any number of others. (iii) One does not have the right to volunteer one’s life or injure one’s own or anyone else’s body except for tangible therapeutic purposes. (iv) A person does not have the right to refuse medical treatment deemed necessary by competent opinion. (v) Measures involving some immediate risks of life may be taken in attempts to prevent certain death. (vi) An obligation to save a person from any hazard to his life or health devolves on anyone able to do so. From these principles Jakobovits derives the following tentative conclusions:

(a) Possibly hazardous experiments may be performed on humans only if they be potentially helpful to the subject himself, however remote the chances of success are.

(b) It is obligatory to apply to critically ill patients even untried or uncertain cures in an attempt to ward off certain death later, if no safe treatment is available.

(c) In all other cases, it is as wrong to volunteer for such experiments as it is unethical to submit persons to them, whether with or without their consent, and whether they are normal people, criminals, prisoners, cripples, idiots, or patients on their deathbed.

(d) If the experiment involves no hazards to life or health, the obligation to volunteer for it devolves on anyone who may thereby help to promote the health interests of others.

(e) Under such circumstances and provided the anticipated benefit is real and substantial enough to invoke the precept of “You shall not stand upon the blood of your neighbour,” it may not be unethical to carry out these harmless experiments even without the subject’s consent.

(f) In the treatment of patients generally, whether the cures are tested or only experimental, only the opinion of competent medical experts counts, not the wishes of the patient; and physicians are ethically required to take whatever therapeutic measures they consider essential for the patient’s life and health, irrespective of the chance that they may subsequently be liable to legal claims for unauthorized “assault and battery.”

(g) Wherever possible, exhaustive tests of new medications or surgical procedures must first be performed on animals. These should, however, be guarded at all times against experiencing any avoidable pain.

Jewish law in regard to euthanasia, abortion, and medical experimentation is singularly striking in the absence of a special status for the physician or the patient. Competent medical opinion is essential to supply the factual data, but the decisions themselves must be made along legislative guidelines.

This position, however, is found only in questions pertaining to ethical decisions. Where a therapeutic purpose is to be fulfilled the opinions of the doctor and the patient are of judicial importance. An example of this is the law pertaining to the ill patient and his obligation to fast on Yom Kippur, the Day of Atonement. The Biblical requirement of complete abstinence from all food and drink on Yom Kippur is particularly sacred. The law nonetheless states that if the doctor determines that fasting
would be detrimental to the health of the patient, the patient is obliged to eat on Yom Kippur. Fasting in this situation would be sinful. If however, the doctor finds fasting permissible, whereas the patient finds it too difficult, the patient may be fed.

Two principles permeate the Jewish attitude in regard to medical questions. The first is the patient’s obligation not to harm himself or to place himself in danger needlessly. The second is the physician’s license to heal and his obligation to endeavor to restore his patient’s health (34). The physician is not asked to “play God,” nor is he allowed to do so. Ethical questions are legislated by a religious law which is binding on both physician and patient.

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