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The Ethics of Health, 1984.

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The Ethics of Health
Daniel Jeremy Silver
December 23, 1984

William Bartling was 70 years of age, hospitalized, bed-ridden and in constant pain. He survived because he was being maintained on various life support systems. One day Bartling summoned hospital personnel and asked them to remove the tubes. He wanted to be free of pain. The administration of the hospital refused. Bartling summoned a lawyer. The lawyer prepared, and Bartling signed, a document for submission to a California court, asking that the Glendale Seventh Day Adventist Medical Center carry out his instructions. Due to the court's crowded docket there was some delay in the request being processed. The day before his petition was to be heard, he died. He had suffered hopelessly for three months because a hospital's administration was not willing to do what he asked.

Bartling's case, which was reported at length in the New York Times, is another of a growing number of instances in which hospitalized patients are refused ~~when they request~~t release from treatment by an institution whose services they are, in effect, purchasing. The hospitals claim ~~that~~ they ~~are~~ act~~ing~~ in terms of principle, the duty of preserving life; but more is involved. Certainly, hospital administrations are concerned that someone in the patient's family might sue them for malpractice or that some hospital personnel may have rigid views about the sacredness of life and will protest such a decision. They may also be concerned that some governmental agency may intrude, as the Federal government did in the case of Baby Doe, and accuse the hospital of malfeasance or non-feasance.

One result of all this is that a growing number of elderly people ~~have~~ express~~ed~~ to me a fear of entering a hospital. Theirs is not a primitive fear of medicine but the worry that the hospital will force them to endure a prolonged period of dying. They do not want to become prisoners of a system which operates for its self-protection rather than for their benefit ~~and~~ OR whose personnel ~~do not~~ operate with clear guidelines because they have not sorted out their feelings about limitations that medicine should accept on its ability to delay death.

A few weeks ago a family told me that they had sent away the ambulance which had been summoned to their parents' apartment by a well-intentioned neighbor when their grandfather, suffering terminal heart failure, had another seizure. They wanted to allow him a calm death. They didn't want him subjected to the pain and indignity of frantic, and ultimately hapless, procedures that might be attempted if he were transported to the local hospital.

As you know, most religious traditions, certainly those of the West, condemn suicide. Life is God's gift to us, a precious and sacred possession. We teach that all that can be done to maintain health and sustain life must be done; but this presumes that we can adequately define 'life.' Medicine's new techniques have made such a definition hard to come by. Is a patient alive who cannot survive without the support of mechanical contrivances, has little, if any, awareness of his situation, and when there is almost no likelihood that he will regain that consciousness? today there are situations where the prolongation of life is no more than a prolongation of dying.

I affirm the sacredness of life as it is affirmed by our tradition, but I remind myself that the rabbis of the Talmud circumscribed the concept of suicide and that the Bible reports a number of instances in which someone committed suicide and does not condemn them.

Just at the point that the tribes began to secure their conquest of the Holy Land, they found themselves face to face with a new foe, the sea peoples, those who are called Philistines. The Philistines represent various groups from the Greek Peninsula and Crete who had been dispossessed by migrations entering those areas from the north. To find new homes the sea peoples took to their ships and attacked many cities along the Egyptian and Palestinian coasts. Egypt repulsed their attacks. The Israelites at first could not. The Philistines were armed with iron-forged weapons and Israel did not yet possess this technology. Under Saul the tribes finally began to hold their own. Saul fought with fair success until he was fatally wounded. We are told in the Book of Samuel that

the wounded Saul appealed to his armor bearer: 'run your sword through me and kill me lest the Philistines find me and make sport of me.' According to the text, the young armor bearer was afraid to raise his sword against the king so Saul took his sword, fell upon it and killed himself. There is not a word of condemnation in the text. When the rabbis comment on it in the midrash they make a great deal of the extenuating and mitigating circumstances - "Lest they make sport of me."

Samson committed suicide. Chained to the walls of a Philistine Temple, he was tormented until he could take it no more and pulled apart the pillars and brought down the roof of the Temple, killing himself and his tormentors. He committed suicide and is not condemned for it.

Almost every tourist to Israel visits Masada. Israelis have wrapped Masada in myth. What is Masada? It is Herod's great palace where during the revolt against Rome a small band of zealots fortified themselves, defied for some months the beseiging Roman Legions and committed suicide when the Roman ramp was about to reach their walls. No further defense was possible. Their heroism and suicide command wide respect. When we read the sad records of the Holocaust we come across Jewish leaders who committed suicide rather than be responsible for sending fellow Jews to their death. We empathize and respect the preservation of life. Life is not an absolute obligation.

Language can be revealing. Suicide is a generic term which comprehends any act which involves killing one's self. 'Sui' comes from the Latin, 'to do something to oneself,' as does 'cide,' 'to kill,' hence, 'to kill one's self.' The Hebrew equivalent has a narrower and more specific focus: Le'abed atzmoh lada'at, 'to take one's life when one is fully aware of what one is doing.' The opposite term, she-lo la-da'at, suggests a person under overwhelming stress or in a deep depression. The Hebrew term suggests that before we declare a death a suicide, the question of mitigating and extenuating circumstances must be considered.

The earliest extended examination of this question in rabbinic literature occurs in Avel Rabbati, (The Great Book of Mourning), a collection of laws dealing with mourning, grief and death compiled toward the end of the Talmudic period in the sixth or seventh century of this era. At one point in this book the rabbis ask: 'who is a suicide' and answer not with a legal definition but by providing examples. If a man climbs a tree or walks out on a roof and jumps off the act of jumping cannot be taken as prima facie evidence of suicide. He is a suicide only if he climbs a tall tree or walks out on a roof and declares loudly, 'I am going to kill myself,' and then jumps. The question of intent must be resolved. It must be shown that the victim was not so overcome by emotion that he could not know or control what he was saying and doing.

My point is a simple one. Modern medicine has made miraculous strides and in so doing has faced us with many new and difficult moral dilemmas. Our tradition, shaped in another and simpler age, cannot be expected to provide us fully satisfactory answers to these new problems. The rabbis could not have foreseen many of these problems. Still, the tradition does provide an approach to moral judgement which has merit and can be profitably adopted. Get the facts. Consider carefully all the surrounding circumstances.

The Jewish approach suspects simplicity and fears spur-of-the emotion answers. The proposition: life under any condition is sacred, is such a simplicity. Life is sacred. We all agree. But what is life? When does life cease to be life? Is a brain-dead person alive? Must we use heroic measures to allow a pain-ridden, fatally ill, nonegenarian to gasp a few more times? If a proud and sensitive person is not willing to spend his last months on a mattress grave, shall we deny him the right to end life with dignity? We need to do some hard thinking about the role of the healer. When is medical intervention called for? When is it not called for? If life is a gift of God, may not intervention in the natural process of dying be, in certain situations, a devilish intervention?

I commend to you a familiar rabbinic statement, Lo am ha-aretz hasid, which the rabbis interpreted to mean that an innocent cannot be a saint. A good heart must be coupled to a good head. The person who knows what's right, just knows, is often wrong. A good heart will not solve the complex of problems which modern medicine has brought into being.

I understand and appreciate the taboo against suicide. Those who are depressed or caught in the slough of despond believe that all hope is lost. They cannot see any light at the end of the tunnel. Society understandably conspires to try to get them through the dark night. If they survive the night, the morning may be far brighter than they can possibly conceive. On the other hand, it is not always true that: where there is life there is hope. Karen Quinlan was/is a hopeless case. There are situations in which death may be preferable to life.

I've always been intrigued by those religious traditions which are adamant about suicide and allow no qualification to their declaration of the sacredness of life. Often these are the same traditions which consecrate martyrdom. There were martyrs who had no choice. Under the Final Solution the Jews of Europe were killed because they were Jews. They were not given the choice of renouncing Judaism as a way of escaping death. That choice was given to many of the martyrs of the past. The Romans often gave the early Christian martyrs precisely that choice. They chose death and are venerated as martyrs; yet, if we define suicide broadly such a choice of death over life is suicide.

The willingness of religious traditions to praise such martyrdom suggests to me, at least, that we need a more careful and qualified understanding of suicide than that which is general in our society. Jews had various taboos against suicide. No eulogy was delivered at a suicide's funeral. In some communities they were to be buried along the fence of the cemetery. But a careful reading of rabbinic literature makes it clear that our leaders did everything they could not to point the finger. They frequently quoted Rabbi Akiba who, on overhearing a disciple condemning somebody who had committed suicide, is reported to have

said: "Leave him be, neither curse him nor bless him."

Medicine is evolving with such speed and the issues are so complex that our generation probably must resign itself to the fact that we will not be the ones who will develop a consensus on the question of limits. There is a time to search and a time to find. We are just beginning the search; so it's a good time to remind ourselves of the Jewish way of going about ethical thought: a serious review of the facts coupled with careful consideration of all the issues involved. We respect and cherish God's gift of life and will do all that we can to preserve life as long as it has quality and involves capacity, mobility and consciousness. But there are limits. There is a time when medicine prolongs the act of dying rather than the act of living.

Let me illustrate the Jewish approach in relation to another area of medical concern. In traditions which operate with a simple definition of life, life is said to begin with conception and, therefore, the taking of a fetus at any time for any reason is seen as an act of life-taking. The halachic attitude toward abortion is relatively restrained, but the rabbis distinguished a fetus and the delivered infant. To the rabbis a fetus was not yet fully alive. Life is fully present only when there is present the ability to sustain life on one's own. It followed that when the rabbis faced a situation where a choice had to be made between the life of the mother and the life of the fetus, they did not hesitate. The mother was saved. The mother was alive in the full sense of the word; the fetus was not yet fully alive.

This ability and willingness to make difficult, yet necessary, distinctions marks the traditional Jewish approach. I would not argue that halachic statements on abortion represent the best possible thinking for us on the subject. The tradition supports a narrower view than I do; in part because my predecessors could not conceive of today's surgical procedures and viewed abortion almost entirely as an endangerment-of-life problem. In their day abortion took place generally in situations near full term. Today most abortion decisions are made

in the first trimester. We have machines which can discover early on if an embryo is seriously deformed. Surgery is safe. Quality-of-life issues must be faced. New possibilities mean new issues must be considered. We must think with our heads as well as our hearts.

It is easy to point out the limitations of yesterday's generalities; not so easy to pick out our own unexamined generalities. I am troubled by the new catch-all term, 'quality of life.' Quality of life sounds wonderful, but it can mean almost anything. For some 'quality of life' is the distinction between a comatose person sustained on a mechanical life support system and death. For others 'quality of life' suggests full capacity and complete mobility. Anything less lacks quality. Every once in awhile we hear of someone in the early stages of aging who commits suicide when their eyes begin to dim, their hearing hardens and the stairs seem like Mt. Everest. They don't want to live when the quality of life has lessened.

Distinctions have to be made. Were the Germans right when they removed from the old folks' homes all their occupants because their life had no quality to it? That's not the reason they gave, of course. They saw these people as parasites who took from the state and failed to make a contribution, but one could as easily make the argument that someone confined to a wheel chair faces a life without quality.

Franz Rosenzweig was a significant German Jewish philosopher who lived during the early decades of this century. Shortly after the first World War Rosenzweig, then only 35 years of age, contracted a paralytic bone disease. He became bedridden and progressively lost control of his limbs. Ultimately, he was unable to move. Rosenzweig lived in that condition for another eight years and during that period, though he lay on a mattress grave, he translated and annotated a volume of Judah ha Levi's poetry and worked with Martin Buber on a new translation of the Bible into German. Toward the end he could communicate only by pointing to the keys on a typewriter Board. His wife or someone at the

bedside would press the indicated key. I doubt that Rosenzweig would make the same quality-of-life decision as many who speak facilely of its importance.

A few years ago a distraught woman came to my office. Her mother, a proud and vain woman in her mid-70's, had taken an overdose of sleeping pills. She had feared aging - what she called the loss of the quality of life. The daughter was distraught. "Mother never trusted me. I wanted so much to take care of her, to help her. I wanted to bring her into our home. I wanted to support her as she had supported me. She never gave me a chance. There was so much I wanted to talk about with her, so much we could have done and now all this denied me. She never trusted me." Quality-of-life judgements can be selfish judgements.

Platitudes are easily spoken. Thinking is a difficult and time-consuming process; yet, we need to think. Terms like life and death need to be defined in the light of today's realities. Our legal system needs to examine the question whether there is a right to die; to find ways to remove doctors from the threat of malpractice suits when they know that it's time to stop and to insure that hospitals will not become prisoners of administrative systems which make prisoners out of patients. After all, hospitals, presumedly, were designed for our benefit. The medical profession needs to rethink its purposes. Must the doctor do all that can be done to prolong something called life? Must the dying always be put on machines? When can the machines be turned off? By whom? Difficult decisions must be made. Who should make them? And how much should the patient's desires affect such decisions? Do we not have a right to say: "No more; it's enough?" Do we flaunt God's gift of life if at some point we say: "I can't move. I can't control my bodily functions. I can't remember, hardly think - enough."

Remember as we face these problems: "An innocent, however well-intentioned, cannot be a saint."

William Bentley was 70 - he developed - on a examination of a
constant pain and suffering from several painful fistual diseases.
He was also constipated - [illegible] - One day he felt it
he knew that he [illegible] had enough. He called the nurse
turned off ___ - The Hospital - Called the Coroner and medical
Center board NO

W.B. asked to see a lawyer, he came, at his request,
prepared a document expressing W.B.'s wishes. W.B. signed & the
attorney filed it. Talked with the Coroner Center a part
of the process which enough the Coroner to request the hospital
to carry out W.B.'s express wishes. It took several months for
W.B.'s ashes to come out for the burial - Rabbi Lefkowitz officiated
was to be buried, he died.

W.B.'s case is another example of [illegible] under of existence
in which a Hospital [illegible] with a patient -
when the patient is, in effect, a prisoner of the Hospital's
elaborate procedures. -- Though the patient is
technically purchasing a service from the Hospital

Increasingly older people spend the end of their lives
being hospitalized -- and they are not receiving an
appropriate form of medicine -- which they have become
prisoners of Hospital procedures - Rather than a [illegible]
pain because the Hospital has become a [illegible]
[illegible] - and patients suffer -- a become prisoner

who contrived to prevent Adam and Eve from ever coming to life - & among them — to become the Hospital Jew that was self appointed judgment of & would decide who of mankind

Just a few weeks or so a family who so that they had sent away the wise & good & the conscience would had been removed & would introduce rights — & that a letter with present could die [illegible] of them.

Many a man society — despair, [illegible] would — have not [illegible] out their feeling or the human: whether A PERSON has no right TO DIE — — The [illegible] & the claims of a [illegible] did person or an artificial life support system to be taken off to prolong the dying to succumb?

[illegible] selected the reason for the TABOO. Don't depression — not a mere depression — Older people & & people in the shadow [illegible] — and & people in [illegible] would, [illegible] by & be surprised there during the storm blows over. LIFE IS A GIFT OF God TO EACH OF US which should not be disposed of lightly

But — when we observe — by attempted

of suicide without calling the suicide a sinner

When, King Saul was pierced through by the Philistines,
he called his armour bearer

DRAW YOUR SWORD AND RUN ME THROUGH, SO
THAT THE PHILISTINES MAY NOT RUN ME THROUGH
AND MAKE SPORT OF ME.

The armour bearer would not bring himself to strike at the
King - so Saul took the sword, fell on it - A
SUICIDE - but the noble would call it SUICIDE
UNDER MITIGATING CIRCUMSTANCES "

Language is revealing - The English Term is
SUICIDE - SUI - oneself - CIDE - to kill - to KILL
oneself - a general and embracing term - We have
Three in most use entitled הִתְאַבְּדוּת INTO P.12 Lc
TO DO AWAY WITH ONESELF WITH PREMEDITATION

In medieval Judaism suicide was seen as
a Crime, but not all suicide was suicide - If you
Think you are right when you were WRONG - Yourself
mind - under stress - Then was not suicide. The extent
Limited of the subject was a 6th of 9th cent. Egypt
הִתְאַבְּדוּת - The Hebrew Equivalent of Term denoting
much mourning rather than actual WRONG
A SUICIDE - I.E. someone from one who does NOT
NOT himself who is Full control of his Faculties. This

illustrations in point — I am finding off & and y &
this — under the two streams and known at last month by
a spoken declension ~~text~~ F am going to do away
with myself by simply — he is not considered a
suicide

Later authorities added also similarly. He must do
y and not make such steps when he makes
such a declaration — R. Akiva writes that a
guilty in hours, and to discipline each one endures
in expiated suicide

Leave him in silence — not near him
him nor send him.

The point I make to make is A.M. — is great grave
Jewish matter too easy to make judgment in how—
others; Judaism true to Avoid simplicities

he no more members

Committee very

must only die any make records learn
members — last ~~not~~ only rule of applied based
in more great hist; here

Also also has unpleasant at one of
one rule tradition whose voluntary leader
suicide not ~~Morality~~ does a supreme untrue-
and ~~stated~~ one morality is more than
a form of suicide, there is less only ~~not~~ less wrong

to remove [illegible] from [illegible], they would not have been ordered.

Such wonderful words who be found during the Philadelphia Temple it which he was found on the head of her Temple

The effect of words would help [illegible] they were overwhelmed by the Romans

men & female bed - Negro Corps committed suicide rather than make act desperate last to come -

[illegible] - great deal [illegible] & terrible apology to the statistics appear against to a W.B. He was also [illegible] & can go to bed really by going up to the roof - would die - perhaps he was gone - it be - discovered - WB was about - if you are called life - and he was & a [illegible], [illegible] & was, but already Tube to life. -- the men [illegible] would be used not because of any deep rooted [illegible] principle, but because he was trapped [illegible] ADMINISTRATIVE Timidity and a dread after which prefer to [illegible] preferred dead rather to [illegible] [illegible] [illegible] THE right TO DIE

There who holds an opposite view - in primarily moral grounds - argue that LIFE is voluntary SACRED - A GIFT TO US from God - to be

Chanukah - purpose of all that - and why candle lighting

at the beginning of these passages & stages - each known with

ordered events with one of another & some -

When none is left - none is kept -

2 ways last kept - saved

2 ways will kept in a person left from dark.

2 ways last ~~kept~~ remember in be done to which help

should be done - Jews ordered about these to person

make return meaning ordered traditions

But given an Eternal obligation of Divine Simplicity,

I would suggest that at the very least - we must remove

to Term & to practice Like a SACRED - that we

mean by life.

In a human dead picture what kept alive by ordered means ALIVE

If a person would die without ordered

accept system - if lead has destroyed & what

will help back - must we flout God's order?

One we location help as a sacred gift when

was written & taken ordered as -

Matthew's Jesus

as to be hated - what's our Prodigal life

in Prodigal Days?

My point - to - day - is to review the issues of the Township and political & the support system - Each one must be the object of consideration & not to judge - but to support what I have to do & the decisions to appreciate one person.

It - to read books on the subject & the one

It - to avoid value judgments - [illegible] of the

[illegible] you - in order - [illegible] - Antinomian

[illegible] can not be a saint - keep [illegible] Think with your head as well as your heart.

It - learn y [illegible] even our [illegible]

[illegible] in some [illegible] in some

[illegible] to be R.L - To be R.L, [illegible]

your example life [illegible] in

my relations must be [illegible] of the [illegible]

in order [illegible]

well y God

The most [illegible] of the Talmud [illegible] by [illegible] - they

[illegible] but see the goodness of the book & also who spent

[illegible] and some applied - - There were

[illegible] & they finally spent [illegible] - but [illegible]

out [illegible] of the Psalm & respond to value:

life - - one and but [illegible] of "the

[illegible] [illegible] — the ROUND [illegible] [illegible] the [illegible] [illegible]
the [illegible] [illegible] that [illegible] [illegible] [illegible] [illegible]
pregnant [illegible] to be [illegible] together [illegible] the [illegible] —
[illegible] she could no longer walk — the [illegible] of the
[illegible] Ephraim Oshry [illegible] ruled that a pregnant woman
could be aborted in order to spare her life.

[illegible] [illegible] [illegible] [illegible] not [illegible] [illegible]
in Talmudic & medieval times — best [illegible] so [illegible] [illegible]
see that the approach seeks to [illegible] beyond the singular
[illegible] life is sacred — nonetheless [illegible] [illegible] all abortions are
murder —

[illegible] [illegible] [illegible] of medical science [illegible] [illegible]
the [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] —
[illegible] [illegible] [illegible] [illegible] [illegible] — of [illegible] [illegible] [illegible] — [illegible]
[illegible] [illegible] [illegible] of the [illegible] of [illegible] that [illegible] to [illegible]
[illegible] [illegible] [illegible] [illegible] — But [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]
careful [illegible] [illegible] [illegible]
to specific cases

[illegible] [illegible] a [illegible] [illegible] of life and [illegible]
[illegible] [illegible] [illegible] of [illegible] [illegible] [illegible]
[illegible] — a [illegible] [illegible] [illegible] of [illegible]
[illegible] [illegible] [illegible] by the [illegible] [illegible]
[illegible] [illegible] [illegible] for the [illegible] [illegible]
[illegible] [illegible] [illegible] for the [illegible] approach

Dear Mrs.

Yours of the 23rd ult

and I must admit that the matter has

to be old stuff, but when nothing will be the same

anything you can do - - give the [illegible]

Bernard means about the anxiety you

how long, but was still - unless we can get

complete text when the [illegible] -

yours also - to the future text of [illegible] ready

It was so sad to lose your life

I'm not ready to believe - that I'm not to

sure -

I the [illegible] Fung Mungung - he is now 35

to begin to suffer from [illegible] - this not

to [illegible] prolonged end of the [illegible] - distinguish in pain

of others - the [illegible] [illegible] for 7 years - He was [illegible]

during the year by parts of the Kyoto Typewriter -

[illegible] from [illegible] [illegible] of [illegible] and [illegible] [illegible]

+ [illegible] M. Rabbi) [illegible] [illegible] [illegible] and Rabbi

[illegible] to spend 3 to 4 [illegible]

The [illegible] anxiety [illegible] in [illegible] and

Time - both [illegible] and [illegible] -

[illegible] refused to [illegible] point - The

who [illegible] [illegible] to [illegible] [illegible]

unexpected [illegible] heart to leave her [illegible] — they
There was [illegible] as a statement of [illegible] of [illegible] in [illegible] —

Daughter — [illegible] she — [illegible] care of
her — she [illegible] — she
[illegible] —

[illegible] — I found it in [illegible] Shelley's [illegible]
[illegible] Nollan [illegible], but [illegible] found.

Got it in Ro detail