

The Sanctity of Life and Euthanasia – Jewish Perspectives

by Nahum Rakover

The Jewish sages explain that man was created alone in order to teach us that whoever saves a single soul is accounted by Scripture as if he or she had saved the entire world; conversely, whoever destroys a single soul is accounted by Scripture as if he or she had destroyed the entire world (see Mishnah, *Sanhedrin* 5:5). Judaism has always glorified and exalted the value of human life. The Torah is not a philosophical system of beliefs but a way of life, for the sake of life, as stated in *Leviticus* 18:5: “You shall therefore keep my statutes... which, if a man do, he shall live by them.” The Talmudic sages expound this verse as follows: “...live by them – and not die by them” (*Yoma* 85b). Hence, the commandment to save human life overrides many other fundamental precepts of Jewish Law, such as the observance of the Sabbath and the prohibition of eating on the Day of Atonement.

The Jewish view of humanity is based on the belief that man was created in God's image, as stated in *Genesis* 1:27: “And God created man in His own image, in the image of God He created him.” This idea, that man was created in God's image, is the basis of the concept that man does not possess exclusive ownership rights to his body. By thus accepting God as man's master, Judaism runs contrary to modern Western thought, which recognizes man as an autonomous being. Accordingly, Jewish Law commands man to care for himself and avoid illness; he is forbidden to commit suicide or otherwise inflict bodily harm upon himself, since he belongs to God.

In addition, the Jewish legal system does not convict criminals on the basis of self-incrimination. Rabbi David Ben Zimra (Radbaz), one of the commentators on Maimonides' legal code, explains that the difference between civil law, where a litigant's admission is effective, and criminal law, where an accused person's confession is not effective, stems from the idea that life belongs to God, as expressed by Ezekiel (18:4): “Behold, all souls are Mine.”

Israeli law accepted this principle in section 5 of the Unjust Enrichment Law, 1979. This section deals with the rights of a person who rescues another over the latter's objections. Is the rescuer in such a case entitled to demand compensation for his expenses from the person rescued? The law distinguishes between rescue of property and rescue of life: When the owner of property objects to the rescue, the rescuer is not entitled to compensation; in the rescue of

life, he is so entitled. In this legislation the Knesset (the Israeli parliament) adopted a ruling handed down by R. Meir of Rothenburg some seven hundred years ago in Germany.

The issue of man's autonomy over his own life was brought up before the Israel Supreme Court several years ago, in *The State of Israel v. Kortam et al.* (1986 1 p.m. 45,54). The case concerned an alleged invasion of privacy, by means of a life-saving operation performed on a person who was suspected of having swallowed two plastic bags containing a potentially lethal dose of heroin. The substance was extracted surgically against the person's will in order to save his life.

Among other things, the Supreme Court deliberated the question of whether it was permissible to operate under such circumstances. One of the justices followed an American precedent, which interpreted the right to privacy as including the right to object to one's own rescue. Another justice, however, cited the Jewish sources according to which the protection of human life overrides all other commandments. Accordingly, his opinion was that a person's obligation to protect his own life overrides his right to privacy. A person has a moral obligation not to submit to death: it is incumbent upon him to fight for his life. The justice cited Jewish sources which state that, when a person is critically sick, the physician is permitted to operate and even amputate a limb in order to save the patient's life, despite the latter's refusal. Furthermore, the sources warn that it is a universal duty to do everything necessary in order to preserve a sick person's life; none may stand by and allow another person to die.¹

Various Jewish sources view doctors, in their practice of healing, as God's emissaries. Nevertheless, the doctor's discretion and authority as God's emissary does not include the right to use his or her knowledge and skills to terminate or even shorten a patient's life. The Sages brand any doctor who uses his authority in this way as a traitor who has deviated from his assignment.

The sanctity of life also has implications with regard to the question of euthanasia. While Jewish law forbids actively committing suicide, Jewish authorities have found a loophole in the law, permitting the passive termination of life. Although Judaism considers every moment of a person's life of equal value, irrespective of that person's health, there are circumstances under which Jewish law permits terminating the life of a patient by passive means. For example, when the patient is in unbearable pain and not interested in the

¹ See R. Ya'akov Emden (1697-1776), *Mor uKetzi'ah*, *Orah Hayyim*, 328.

continuation of his life, it is permitted to discontinue the administration of certain medications. Thus, while the physician may not act in a way that will shorten a patient's life, he may discontinue actions or remove the elements that are external to the patient and artificially prolonging life. However, the authorities agree that one may not deny the patient the basic means of survival, such as oxygen and the basic foods necessary for sustenance.²

One early source that supports the above distinction between active and passive euthanasia is a story cited in the midrashic work *Yalkut Shimoni*,³ of an elderly woman who turned to her spiritual leader and complained that her quality of life was such that she could no longer bear the infirmities of age and wished to die. When the rabbi inquired how she had managed to survive to such an advanced age, she replied that she was still motivated to wake up every day by her long-standing practice of rising early to go to the synagogue and pray – whereupon the rabbi advised her to discontinue this practice for three consecutive days. The elderly woman followed the rabbi's advice, and indeed fell ill and died after having abstained from her practice for three days.

There are several other exceptions to the general prohibition against taking life. Jewish law permits abortion in situations where the embryo is endangering the mother's life. This ruling is based on the provision of Jewish law that a victim who is being pursued is permitted to kill the potential murderer rather than be killed himself; the embryo is considered in such a situation to be a pursuer.

² Abraham Steinberg, "Halachic Perspectives on Euthanasia" (Heb.), *Asia* 3 (1983), p. 424.

³ *Yalkut Shimoni, Parashat Ekev*, p. 871.