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## QUALITY AND SANCTITY OF LIFE IN THE TALMUD AND THE MIDRASH

### INTRODUCTION

The talmudic maxim "to save one life is tantamount to saving a whole world" (*Sanhedrin* 37a) indicates that the value of human life is infinite. A fraction of infinity is still infinity. Nothing in this world is of higher value or greater ethical import than human life. Even Torah commandments of the Holy One, blessed be He, must give way to the higher value of preserving human life. The biblical verse "You shall study and observe my laws and live thereby" (Lev. 18:5) is interpreted in the Talmud (*Yoma* 85b) to mean that the saving of a life takes precedence over Sabbath observance. By inference, all other Torah laws must also be suspended to save a life since none are more important than the Sabbath laws.

One exception exists to this absolute "vote for life." Rav Yohanan (*Sanhedrin* 84a) taught that the rabbinic consensus is that if someone's life is in danger, he should transgress all Torah laws to save his life. If, however, to save his life, he must transgress the laws of murder, idolatry or forbidden sexual relations such as adultery, he must rather forfeit his life. Maimonides explains that these three exceptions to the rule of "transgress and do not die" exist because of the duty to sanctify God's name:

All the members of the house of Israel are commanded to sanctify the great Name of God. . . . Should an idolater arise and coerce an Israelite to violate any one of the commandments mentioned in the Torah under the threat that otherwise he would put him to death, the Israelite is to commit the transgression rather than suffer death. . . . This rule applies to all commandments except the prohibitions of idolatry, forbidden sexual relations and murder.<sup>1</sup>

The sanctity of human life is superceded only by the biblical imperative to sanctify God's Name. One may not, even pro forma, engage in an

idolatrous act or service, as the infinite worth of human life is devalued by the debasing idolatrous service. It is prohibited to commit murder to save a life since there is no net gain of life—only a substitution of one life for another. Forbidden sexual relations such as adultery are equated, by Divine decree, with murder.

This essay explores the attitude of the rabbinic Sages to the question of quality of life. Is there a level of quality of life beneath which life loses its sanctity? Is such life no longer of infinite worth? Are there qualities of life which rank higher than the sanctity of life? If there are, they are, for the purposes of this essay, encompassed in the term “quality of life.” The secular world has indeed reached such a conclusion. The courts in the United States have repeatedly permitted the withdrawal of hydration and nutrition from a patient in irreversible coma known as persistent vegetative state. The reasoning offered is that the quality of life in coma is usually unacceptable to such patients who may have expressed their opinions on this issue when they were yet competent.

Torah law disputes such court decisions because the inevitability of death by dehydration classifies the removal of hydration as active euthanasia. But must we fight for every additional breath of life with every weapon of modern medical pharmacology and technology? Can a terminally-ill competent patient refuse further treatment because of intractable pain or the psychotrauma that results from the loss of control over his life, or the unrelieved loneliness of a mind preoccupied with thoughts of dying? Is life with a little quality of life also of infinite worth?

The competent patient is the only one who can decide that life has lost its quality, not the family nor friends nor the courts. What is an unacceptable quality of life for a healthy thirty year old man may be perfectly acceptable to him as a wheelchair-bound invalid of eighty. A recently published study revealed that 87% of patients with muscular dystrophy using long-term mechanical ventilatory support who must spend the rest of their lives bound to a ventilator and a wheel chair “have a positive affect and are satisfied with life despite the physical dependence which precludes many of the activities most commonly associated with perceived quality of life for physically intact individuals.”<sup>2</sup>

Our analysis in this essay should not be interpreted or misconstrued as a final halakhic ruling. Each case must be presented to a competent rabbinic authority (*posek*) for a halakhic directive. This individualized decision-making approach is particularly important concerning decisions about withholding specific therapy for a terminally-ill patient. Decisions about resuscitative measures or discontinuation of ventilator or pressor drugs are not free of family and physician emotional involvement or bias. Only the objective, individualized analysis of a *posek* can help plan a course of action in accord with Torah law.

## TREATMENT OF THE DYING IN JUDAISM

Judaism never condones the deliberate destruction of human life except in judicial execution for certain criminal acts, in self defense, or in time of war. One may not even sacrifice one life to save another life. The principles of Jewish medical ethics are based on this concept of the sanctity and infinite value of human life. Judaism is a "right to life" religion. The obligation to save lives is both an individual and a communal obligation. A physician is biblically mandated to use his medical skills to heal the sick and thereby prolong and preserve life.<sup>3</sup> A patient is also (authorized and perhaps) mandated to seek healing from a physician.<sup>4</sup> How far does the physician's obligation and patient's mandate extend? Is a physician always obligated to provide even futile therapy just to keep the patient alive a little longer? Is a patient obligated to accept all medical treatments even if the medical situation is hopeless and the patient has considerable pain and is suffering? Jewish law opposes euthanasia without qualification and it condemns as sheer murder any active or deliberate hastening of death, whether the physician acts with or without the patient's consent. How does Judaism resolve the conflict between the sanctity of life and the relief of human suffering? Rabbi Moses Isserles (Rema), in his famous gloss, asserts:

If there is anything which causes a hindrance to the departure of the soul, such as the sound of a wood chopper or a lump of salt on the patient's tongue . . . it is permissible to remove them because it is only the removal of the impediment to the dying process.<sup>5</sup>

Rabbi Solomon Eger comments that "it is forbidden to hinder the departure of the soul by the use of medicines."<sup>6</sup>

In modern medical care, are antibiotics, blood transfusions, medications, dialysis machines, respirators and their like impediments to dying? The impediments spoken of in the codes of Jewish law, whether far removed from the patient (as exemplified by the noise of wood chopping) or in physical contact with him (such as the case of salt on the patient's tongue), do not constitute even at that time any part of the therapeutic armamentarium employed in the medical management of the patient. They are not intended to restore the patient to a former, healthier condition. Therefore, such impediments may be removed. However, the discontinuation of life-support systems which are specifically designed and utilized in the treatment of both curable and incurable patients might only be permissible if one is certain that in doing so one is shortening the act of dying and not interrupting life. Is there any basis for such a formulation? Is there indeed a difference between prolonging life and postponing death?

## RECENT RABBINIC RULINGS

The numerous responsa of Rabbi Moshe Feinstein on the treatment (or non-treatment) of the dying and terminally ill have been reviewed elsewhere.<sup>7</sup> These responsa comprise the most authoritative rulings on matters of life and death. With reference to comatose patients, the terminally ill and those suffering from intractable pain, he rules that no effort should be made to prolong their lives by pharmacological or technical means; however, hydration and nutrition must be provided. If the patient is competent to decide and refuses to eat, no coerced feeding is permitted. Food and drink should be offered at regular intervals with proper emotional support. But how does the rabbinic decisor (*posek*) direct the treatment modalities for the many different kinds of patients who are terminally ill? Does he take into account the patient's "quality of life", or is this phrase foreign to Judaism because of the principle of the sanctity and infinite value of human life? Is there any validity in the claim of some rabbis<sup>8</sup> that we are obligated to fight for the last breath of life?

## QUALITY OF LIFE IN CLASSIC JEWISH SOURCES

Although mercy killing and assisted suicide are opposed in Jewish law and considered as a deliberate hastening of death, Judaism is deeply concerned about pain and suffering. Judaism does not always require physicians to resort to "heroic" measures to prolong life but sanctions the omission of machines and artificial life support systems that only serve to prolong the dying patient's agony, provided, however, that basic care, such as food, good nursing and psychosocial support is provided. All reputable commentators on the halakhic perspective on terminal care concur that analgesics and narcotics may be given to relieve pain and suffering even if these increase the danger of depressing respiration and of predisposing the patient to contracting pneumonia.

Quality of life is a recognized concept in Judaism. The Talmud (*Ketubot* 77b) relates an amazing tale about the great righteous sage Rabbi Yehoshua ben Levi who feared not the fatal infectious disease *ra'athan* but attached himself to sufferers of that disease and studied the Torah with them saying, "Torah bestows grace upon those who study Torah and protects them." When he was about to die, the Angel of Death was instructed "Go and carry out his wish." While travelling toward Paradise in fulfillment of his wish to see his "place in Paradise" before he dies, Rabbi Yehoshua ben Levi asked to hold the sword of the Angel of Death. When shown his place in Paradise, he jumped in and refused to return the sword. God exclaimed, "Return it to him, for it is required by My mortals." The sword is the scythe of the grim reaper in modern imagery and is needed when life becomes so burdensome that death is preferred.

## TRADITION

Quality of life is a major concern even for a condemned man who, according to Jewish law, is given a cup of wine containing a grain of frankincense to benumb his senses and intoxicate him prior to execution (*Sanhedrin* 43a). Rashi there explains that the benumbing of the senses is an act of compassion to minimize or eliminate the anxiety of the accused during the execution. Although the criminal's right to live was forfeited by his crime, the duty to maintain as much of a quality of life as possible is imposed on society.

## PHYSICAL PAIN

Intractable pain is described in the Talmud in several cases. In each instance, death is the preferred outcome and either the removal of an impediment to death or the withholding of a life-prolonging measure to allow death to occur naturally is not only sanctioned but praised. One case concerns Rabbi Yehuda haNasi, known as Rebbe, the compiler of the Mishna. When he fell deathly ill, his handmaid ascended the roof and prayed for his recovery as follows:

The immortals [i.e., angels] desire Rebbe [to join them] and the mortals [i.e., the Rabbis] desire Rebbe [to remain with them]; may it be the will [of God] that the mortals overpower the immortals" (*Bava Metsia* 85a).

She saw how often he resorted to the privy because he suffered from acute and painful intestinal disease. She observed him painfully taking off his phylacteries whenever he went to the privy and putting them on again when he returned. As a result she prayed: "May it be the will [of God] that the immortals overpower the mortals."

But the Rabbis incessantly continued their prayers for heavenly mercy for Rebbe's recovery. She, therefore, interrupted the prayer service by throwing an urn to the ground. The noise startled the Rabbis who momentarily ceased praying and the soul of Rebbe departed to its eternal rest (*Ketubot* 104a).

Another quality of life case involving intractable pain is that recorded in the Talmud as follows:

One of Rabbi Akiva's disciples fell sick and none of his fellow students visited him. So Rabbi Akiva himself entered [his house] to visit him and provided necessary care. "My master, you have revived me," said the disciple. [Straight-away] Rabbi Akiva went forth and lectured: He who does not visit the sick is like one who sheds blood (*Nedarim* 40a).

Rabbi Nissim Gerondi, known as Ran (1320-1380), states in his talmudic commentary that "none visited him" and, therefore, none prayed on his behalf either that he recover or die. What the Talmud means, continues

Ran, is that sometimes it is appropriate to pray that a patient die, particularly if the patient is undergoing great suffering and has an incurable disease or condition. He then cites the case of Rebbe and his handmaid as an example of severe suffering where it is to the patient's benefit that one pray for their death.

Perhaps the most famous talmudic case of severe physical pain and suffering is the story of Rabbi Hanina ben Teradion who was martyred because he refused to abide by the Roman decree not to study and teach Torah. According to the Talmud (*Avoda Zara* 18a), he was wrapped in the Torah Scroll, and bundles of branches placed around him and set on fire. The story continues as follows:

They then brought tufts of wool, which they had soaked in water, and placed them over his heart, so that he should not expire quickly. . . . His disciples called out, "Rabbi, what seest thou?" He answered them, "The parchments are being burnt but the letters of the Torah are soaring on high." "Open then thy mouth" [said they] "so that the fire enter into thee" [and put an end to the agony]. He replied, "Let Him who gave me [my soul] take it away, but no one should injure oneself." The Executioner then said to him, "Rabbi, if I raise the flame and take away the tufts of wool from over thy heart, will thou cause me to enter into the life to come?" "Yes," he replied.

Several lessons are derived from this narrative. First, the removal of an impediment to death, i.e., the tufts of wool, is permitted to allow nature to take its course. Second, it is forbidden to hasten one's death, i.e., by opening the mouth to let the flames enter. Third, there was great concern voiced about the intractable pain that the Rabbi was suffering—an important quality of life issue.

Increasing the flame presents a serious challenge to the unanimity of halakhic opinion that active euthanasia is never condoned. This view was affirmed by Rabbi Hanina who refused to open his mouth and breathe in the flames. One of us (MDT) has suggested that, as an extra measure of cruelty not mandated by the Emperor or Governor, the Executioner had placed the wads of wet wool and had lowered the flame. "Burning at the stake" had a formal protocol which was not followed by the cruel Executioner. Restoring the flame to its original intensity is not considered an act of hastening death but merely the removal of the extra measure of cruel torture introduced by the Executioner.

## MENTAL ANGUISH

Judaism is not only concerned with physical pain but also with psychological or emotional pain. Mental anguish is just as significant as intractable

physical pain. Mental and physical suffering are recognized as being of equal importance in Jewish legal thought. A woman who has had two post partum psychoses is allowed to use contraception since another pregnancy would be a serious threat to her mental health.<sup>9</sup> Even abortion is sanctioned for serious maternal psychiatric disease that may lead to suicide.<sup>10</sup>

In the area of death and dying, Judaism is concerned with psychological trauma. A classic example of this concern is the talmudic story of the great righteous Sage Honi the Circle-Drawer who slept for seventy years. When he awoke and identified himself, no one would believe him. When he came to the house of study and told the rabbinic scholars who he was, they did not believe him nor give him the honor due to him although they recognized his great mastery of Torah Law. This hurt him greatly and he prayed for death and was granted his wish. Raba commented: Hence the maxim, "Either companionship or death" (*Taanit* 23a). Honi had no terminal illness but suffered from severe mental anguish and psychological pain. By divine intervention his suffering was ended and his wish for relief by death was granted.

Another example of concern for psychological pain is recorded in the Midrash.<sup>11</sup> A very old woman came to Rabbi Yose ben Halafta saying that she was so old that life had no more meaning. She complained of loss of appetite and lack of desire to live and she asked to be taken from this world. He said to her, "How did you reach such a ripe old age?" She replied, "I go to synagogue services every morning to pray, I allow nothing to interfere with that daily activity." He said, "Absent yourself from the synagogue for three consecutive days." She complied with the Rabbi's suggestion. On the third day she took ill and died. The Midrash is a proper source for halakhic directives when unopposed by talmudic sources.<sup>12</sup>

This story illustrates the fact that the psychotrauma of depression and the mental anguish of loneliness, resignation, senility and the like are of significant concern in Judaism. Even in the absence of terminal illness, death is sometimes a welcome and desired goal as God instructed Rabbi Yehoshua ben Levi, "My mortals need it." There are times, however, when it is appropriate to pray for the death of a suffering patient in intractable physical pain or with severe psychological or mental pain.

Another talmudic passage dealing with the quality of life relates to the old men of the city of Luz who became tired of life and "became greatly depressed" (*Sota* 46b). The Angel of Death had no permission to enter that city. When these elderly righteous men of Luz determined that life had lost its quality and that life was tiresome to them, they went outside the wall of Luz to await natural death. No negative comment is recorded by the talmudic Sages. Loss of quality of life is seen to be adequate justification for their behavior.

Two additional traditional sources about the quality of life relate to the biblical Moses. One homiletical passage<sup>13</sup> states that if Moses had want-

ed to live many more years he could have lived, for the Holy One, blessed be He, told him "Avenge the vengeance of the children of Israel of the Midianites; afterward thou shalt be gathered unto thy people" (Numbers 31:2), making his death dependent upon the punishment of Midian. Had he delayed waging war with Midian, he could have prolonged his life. But Moses decided not to delay. He thought: Shall Israel's vengeance be delayed that I may live? He immediately ordered the Israelites "Arm ye men from among you for the war" (Numbers 31:3). Why did not Moses wait? One must conclude that the desire or need to avenge Jewish honor took precedence over increasing his life span. Sanctity of life is not the supreme value in Judaism. The quality of life of his nation that had been degraded by the Midianites who led Jewish youth to lechery and idol worship had to be restored in preference to a longer personal life for Moses.

The other homiletical passage deals with the imminent death of Moses.<sup>14</sup> When God told Moses to call his successor Joshua (Deut. 31:14), Moses said to God: "Master of the Universe, let Joshua take over my office and I will continue to live." Whereupon God replied: "Treat him as he treats you." Immediately Moses arose early and went to Joshua's house, and Joshua became frightened. Moses said to Joshua: "My teacher came to me," and they set out to go, Moses walking on the left of Joshua as a disciple walks on the left of his teacher. When they entered the tent of meeting (*Ohel Moed*) the pillar of cloud came down and separated them. When the pillar of cloud departed Moses approached Joshua and asked him: "What was revealed to you?" Joshua replied: "When the word was revealed to you did I know what God spoke with you?" At that moment Moses exclaimed: "Better to die a hundred times than to experience envy, even once." Solomon has expressed this clearly: "For love is strong as death, jealousy is evil as the grave" (Song of Songs 8:6). This refers to the love wherewith Moses loved Joshua, and the jealousy of Moses towards Joshua. A life of envy and jealousy is not worth living for a man of the ethical stature of our Teacher, Moses.

## SUMMARY

Judaism espouses the principle of the infinite value of human life and requires that all biblical and rabbinic commandments (except the cardinal three) be waived to save a human life. Physicians are divinely licensed and obligated to heal, and patients are mandated to seek healing from physicians. Any deliberate hastening of death of even a terminally ill patient is prohibited as murder. Active euthanasia is not allowed in Judaism.

A physician is only obligated to heal when he has some medical treatment to offer the patient. If the patient is dying from an incurable illness and all therapy has failed or is not available, the physician's role changes



from that of a curer to that of a carer. Only supportive care is required at that stage such as food and water, good nursing care and maximal psychosocial support.

If a patient near death is in severe pain and no therapeutic protocol holds any hope for recovery, it may be proper to withhold any additional pharmacological or technological interventions so as to permit the natural ebbing of the life forces. The physician's role at that point may be limited to providing pain relief. Experimental therapy, if available, is an option which the patient can accept or reject, particularly if significant side effects are anticipated. Judaism is concerned about the quality of life, about the mitigation of pain, and the cure of illness wherever possible. If no cure or remission can be achieved, nature may be allowed to take its course. To prolong life is a *mitsva*, to prolong dying is not.

## NOTES

1. Maimonides (Rambam), *Mishneh Torah, Hil. Yesodei Hatorah* 5:1.
2. J.R. Bach, D.I. Campagnolo, and S. Hoeman, "Life Satisfaction of Individuals with Duchenne Muscular Dystrophy Using Long-term Mechanical Ventilatory Support," *American Journal of Physical Medicine and Rehabilitation*, vol 70 (3), June 1991, pp. 129-135.
3. *Bava Kamma* 85a; Maimonides, *Commentary to the Mishna, Nedarim* 4:4, Maimonides, *Mishneh Torah, Hil. Rotseah* 1:14; *Shulhan Arukh, Yoreh De'a* 336.
4. Maimonides, *Mishneh Torah, Hil. Deot* 4:1; *Bava Kamma* 46b; *Yoma* 83b.
5. *Rema, Shulhan Arukh, Yoreh De'a* 339:1.
6. R. Sh. Eger, *Commentary Gilyon Maharsha on Shulhan Arukh, Yoreh De'a* 339:1. Other rabbinic authorities such as *Responsa Shevut Yaakov*, part 3 no. 13 disagree.
7. Fred Rosner, "Rabbi Moshe Feinstein on the Treatment of the Terminally Ill," *Judaism*, vol 37, Spring 1988, pp 188-189.
8. Rabbi Eliezer Yehuda Waldenberg (*Responsa Tzitz Eliezer*, vol. 5, *Ramat Rahel*, no. 28:5) rules that physicians and others are obligated to do everything possible to save the life of a dying patient, even if the patient will only live for a brief period, and even if the patient is suffering greatly. Any action that results in hastening of the death of a dying patient is forbidden and considered an act of murder. Even if the patient is beyond cure and suffering greatly and requests that his death be hastened one may not do so or advise the patient to do so (*ibid*, no. 29 and vol. 10, no. 25:6). A terminally ill incurable patient, continues R. Waldenberg, may be given oral or parenteral narcotics or other powerful analgesics to relieve his pain and suffering, even at the risk of depressing his respiratory center and hastening his death, provided the medications are prescribed solely for pain relief and not to hasten death (*ibid*, vol 13, no. 87). He also states that it is not considered interference with the Divine will to place a patient on a respirator or other life-support system (*ibid*, vol. 15, no. 37). On the contrary, all attempts must be made to prolong and preserve the life of a patient who has a potentially curable disease or reversible condition (*ibid*, vol 13, no. 89). Thus, one must attempt resuscitation on a drowning victim who has no spontaneous respiration or heartbeat because of the possibility of resuscitation and reversibility (*ibid*, vol 14, no. 81). One is not obligated or even permitted, however, to initiate artificial life-support and/or other resuscitative efforts if it is obvious that the patient is terminally and incurably and irreversibly ill with no chance of recovery.

Rabbi Shlomo Zalman Auerbach (*Halakha uRefua*, vol 2 (1981), pp. 131ff) states that a terminally ill patient must be given food and oxygen even against his will. However, one

may withhold, at the patient's request, medications and treatments which might cause him great pain and discomfort. Rabbi Gedalia Aharon Rabinowitz (*Halakhah uRefua*, vol 3 (1983), pp. 102-114) reviews the laws pertaining to the care of the terminally ill and the criteria for defining the moment of death. He also states that experimental chemotherapy for cancer patients is permissible but not obligatory (*ibid*, pp 115-118). Such therapy must have a rational scientific basis and be administered by expert physicians; untested and unproven remedies may not be used on human beings. Dr. A. Sofer Abraham (*Halakhah uRefua*, vol 2 (1981), pp. 185-190) quotes Rabbi Auerbach as distinguishing between routine and nonroutine treatments for the terminally ill. For example, a dying cancer patient must be given food, oxygen, antibiotics, insulin, and the like, but does not have to be given painful and toxic chemotherapy which offers no chance of cure but at best temporary palliation. Such a patient may be given morphine for pain even if it depresses his respiration. An irreversibly ill terminal patient whose spontaneous heartbeat and breathing arrest does not have to be resuscitated.

Rabbi Moshe Hershler (*ibid*, pp. 30-52) opines that withholding food or medication from a terminally ill patient so that he dies is murder. Withholding respiratory support is equivalent to withholding food, since it will shorten the patient's life. Every moment of life is precious, and all measures must be taken to preserve even a few moments of life. However, if the physicians feel that a comatose patient's situation is hopeless, they are not obligated to institute life-prolonging or resuscitative treatments.

He also states that if only one respirator is available and two or more patients need it, the physicians should decide which patient has the best chance of recovery. However, a respirator may not be removed from a patient who is connected thereto for another, even more needy patient, since one is prohibited from sacrificing one life to save another. Only if the patient has no spontaneous movement, reflexes, heartbeat, and respiration can the respirator be removed.

Rabbi Zalman Nehemia Goldberg (*ibid*, pp. 191-195) discusses the question of whether or not a physician may leave a dying patient to attend another patient. Rabbi Avigdor Nebenzahl (*Assia*, vol. 4 (1983), pp 260-262) describes the permissible use of narcotics for terminally ill patients. The treatment of the terminally ill and the definition of a *goses* (a deathly ill person) are reviewed by Levy (*Noam*, vol. 16 (1973), pp 53-63) and Abraham (*Assia*, vol. 3 (1983), pp 467-473). Rabbi Nathan Friedman (*Responsa Netser Matai*, no. 30) reiterates that euthanasia in any form is prohibited as an act of murder even if the patient asks for it. A person is prohibited from taking his own life even if he is in severe pain and suffering greatly (*Responsa Besamim Rosh*, no. 348; *Responsa Hatam Sofer, Even Haezer*, part 1, no. 69). Even if the patient cries out, "Leave me be and do not help me because I prefer death," everything possible must be done for the support and comfort of the patient, including the use of large doses of pain relief medications (*Responsa Tsits Eliezer*, vol. 9, no. 47:5).

9. R. Moshe Feinstein, *Responsa Iggerot Moshe, Even Haezer*, part 1, no. 65.
10. R. Nathan Z. Friedman, *Responsa Netser Mata'ai*, part 1, no. 8.
11. *Proverbs Rabba* 8.
12. The great talmudic authority Rabbenu Tam (1100-1171), head of the French School of Tosofists, cites in two places (*Berakhot* 48a, s.v. *velet hilkhata* and *Sefer haYashar*, no. 619) that the Midrash is the source of practical Jewish law (*halakha lemaase*) if it is unopposed by any talmudic reference.
13. *Numbers Rabba* 22: 2.
14. *Deuteronomy Rabba* 9: 9.