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En Route

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EN ROUTE
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The Particular Ethics of Judaism

Jonathan Neumann

➤ ***Jonathan Neumann** writes on politics and religion, and is working on a book on Tikkun Olam.*

Social justice, a liberal political ideology that variously advocates statist economic policies, social permissiveness, a multilateral approach to foreign affairs, and comprehensive ecological reforms, has permeated American Judaism, where it is more commonly known as "tikkun olam". One of the significant features of this contemporary version of tikkun olam – which has essentially nothing in common with classical usages of the term in the Jewish canon – is an emphasis on the universal over the particular. This emphasis is not organic to Judaism. It stems, in my view, from an apparent need on the part of the advocates of tikkun olam to impose their political agenda on a Jewish tradition that does not naturally endorse it. This has led to a systematic distortion of the traditional Jewish approach to (for lack of a better term) ethics.

As might be generally assumed, there is some tension in the Jewish tradition between universalism and particularism. On the one hand, Judaism is the national faith and religious culture of a particular people, much of the history of which has been spent in separation from the wider world. This has sometimes been by choice, when in its historic and traditional homeland, and at other times it has been more a result of coercion, as when Jews were forced to live in exilic ghettos. On the other hand, the God of the Hebrews is, according to the Bible, the Creator of the entire world and of all its inhabitants, and there is biblical evidence of a broader Divine concern beyond merely the Jewish People. Rabbinic thought has also presumed that there is Divine interest in the affairs and welfare of all of humanity. Thus, there is within Judaism both a robust parochial impulse and also a more universal interest.

The contemporary view of social justice, meanwhile, is a decidedly universalistic ideology that eschews distinctions between people as far as possible. Jews who subscribe to this

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ideology and wish to root it in Judaism – who wish to read social justice into tikkun olam – inevitably seek to downplay the particularistic aspects of the Jewish tradition and emphasize the universalistic ones. The lynchpin to their approach is found at the beginning of the Bible – Creation. The creation of human beings in the image of God in the Book of Genesis delivers precisely the universalist foundation for the ethos of social justice, because, if all of humanity emanates from a single individual created in the Divine image, it can plausibly be argued that everyone – whether man or woman, black or white, theist or atheist, rich or poor, straight or gay, etc. – is deserving of the same rights, dignity, and treatment.

However attractive this approach may be though, it encounters a very obvious problem: notwithstanding the Creation story, the Bible is ultimately the story of the relationship between a single, particular people and its God. It may begin with a universalistic vision, but, as one continues to read, the Bible's interest quickly narrows to focus on one family alone. Rabbinic Judaism has largely maintained this primarily particularistic focus, and functionally any practitioner of Judaism today (especially in its Orthodox rabbinic mold) will find him- or herself very rarely moved by Creation or any universalistic ethical demands it might make. Of course, there are references to Creation in rabbinic literature and even legal enactments or amendments that appeal to human dignity or respect for created beings at large – justifications connected to Creation. But Creation is nonetheless hardly the animating force of traditional Judaism. Instead, that accolade indisputably belongs to the Bible's other major event, and the more particularistic one, namely Revelation.

The Bible begins with a universalistic appetite, but that soon diminishes, with God coming to focus His attention and expectations on one man, one marriage, and one family. Almost immediately, the oppression of Egyptian servitude is prophesied, and the rest of Genesis recounts how a family becomes a nation and how that nation comes to find itself in Egypt, setting the stage for the Exodus. The Exodus, in turn, is premised on the demand to Pharaoh to let the Children of Israel go "that they may serve Me in the wilderness." Thus, the culmination of the Exodus is the Revelation of the Torah at Mount Sinai, which gives expression to that service in the form of laws. It is, the Jewish tradition has always held in one way or another, on the basis of those laws that the interactions between Jews and their fellow Jews, and Jews and gentiles, are governed. Creation is simply not the motivating force in providing a concrete social ethos.

One might even go further and say that Creation is superseded. The building of

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the Tabernacle (where the sacrificial order, a key component of the Jews' law, is to take place) is conceived by the rabbis to represent a reenactment of Creation. And the Sabbath – previously the culmination of Creation and logically the inheritance of all of humanity – is reserved by rabbinic law to the Jews alone. Not only is Creation of little practical import in Jewish life, then, but much of the universalism that it symbolizes and bequeaths seems to be appropriated and particularized by Revelation. The notion that Judaism somehow privileges the universal – as the advocates of contemporary tikkun olam imagine – is therefore something of a stretch.

There are two principal approaches by which those who try to reformulate tikkun olam as social justice make that stretch. The first is to suggest that although Revelation appears to be particularistic (since it is made before the Jewish People alone and directly impacts only that people), its salient lesson is nonetheless universalistic. Revelation (and by extension Judaism) teaches social justice, it is contended. Because Revelation commands the utmost morality, and because social justice encapsulates the utmost morality, it follows that Revelation must urge social justice. The problem with this first approach is that it constitutes a refusal to confront and learn from the laws of Revelation on their own terms. Instead, it superimposes a different and alien moral framework on the Bible and Judaism, and misappropriates Jewish terms and motifs to do so. Worse still, this approach reduces the Jewish People's purpose in the world to preaching a universalistic message (social justice) that ultimately undermines the Jews' very existence as a distinct people.

The second approach is to accept that Revelation is particularistic but then to reject it on that basis as being too chauvinistic, in favor of explicitly privileging Creation and the universalistic message it is taken to imply. The problem with this second approach is that it readily accepts part of what the Bible says but dismisses another part, which calls into question the appeal to the Bible in the first place. Indeed, this approach ends up ignoring what the Bible is principally and almost exclusively about, namely the Jewish People and its particular relationship to its God. Further, this approach also fails to convincingly make the connection between Creation and liberal ethics. Just because all of mankind emanates from one individual created in the Divine image does not in itself mean that we should support liberal politics.

Both of these approaches and their drawbacks can be illustrated by recourse to a famous Talmudic dispute over which is the most important verse in the Torah. Rabbi Akiva suggests

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Leviticus 19:18 – "you shall love your fellow as yourself, I am God". A fellow sage, Ben Azzai, points to Genesis 5:1 – "This is the book of the generations of Adam. In the day that God created man, in the likeness of God made He him." This dispute alludes to the tension between Revelation and Creation, because whereas Rabbi Akiva's verse captures the intimate, triangular relationship between each Jew, his fellow Jew, and God, which is particularistic and founded on Revelation, Ben Azzai's verse speaks to the creation of humans in the image of God, a foundational universalistic teaching of Creation. Rabbi Akiva is indisputably regarded as the more authoritative of the two Talmudic personalities, and his preference is the accepted one – traditional Judaism has always held that the primary impulse in the Torah is the particularistic.

Advocates of tikkun olam who subscribe to the two approaches outlined above treat this dispute differently, yet in each case they distort its traditional meaning and its conclusion. The first approach rereads "your fellow" of Rabbi Akiva's verse as referring not just to fellow Jews, as it has traditionally been understood, but to everyone. (Historically, this is a not exactly a novel misreading, but it has become popularized in the tikkun olam movement.) In order to superimpose the universalistic moral framework of social justice on the Bible and Judaism, laws are deliberately reinterpreted to downplay their particularistic meaning. If Jews are commanded to love their fellow Jews as themselves, their priority is inevitably the welfare of the Jewish People, but if Jews are enjoined to love their fellow human beings as themselves, concern for fellow Jews is no more a priority than that for anybody else.

The second approach affirms the traditional reading of Rabbi Akiva's chosen verse; it is agreed that it is limited to Jews. But just as this approach rejects Revelation as chauvinistic in favor of the more universalistic Creation, so it finds the particularism of Rabbi Akiva's verse unacceptable, with Ben Azzai's verse becoming the preferred of the two.

Regardless of the approach taken, the advocates of tikkun olam are seeking to transform Judaism as it is traditionally understood not only into something different, but arguably into something fundamentally antithetical. The two biblical attempts to build a society based on the universalistic principle that the human is created in the image of God – i.e. the epoch between Adam and Noah ending in the deluge (Gen 1:27); and the generation of the Tower of Babel ending in the Dispersion (Gen 9:6) – are failures. We should not dismiss these biblical warnings lightly. Establishing a moral system on the

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basis that all humans are created in the Divine image – as the advocates of tikkun olam (and many others besides) are doing – is inauspicious. But the Bible, which turns from these disappointing societies to the story of the Israelites, suggests a different option. After these failures, God elects one man and his family and progeny, eventually covenanting with them alone at the Revelation at Sinai and thereby creating a distinct and cohesive nation under God: "you [Jew] shall love your fellow [Jew] as yourself, I am God."

This is not to say that the values learned from Creation are to be excised from the Bible's teachings, nor that we should ignore Ben Azzai's position entirely. The creation of humans in the image of God is not without significance, but, contrary to the view of the advocates of tikkun olam, ethical principles do not obviously follow from it – and, if they do, they are certainly not necessarily the principles of the contemporary tikkun olam movement. Just because humanity shares a common origin does not mean that Jews (or indeed anyone) owe the same allegiance to everybody else. Most reasonable Americans, for instance, do not believe that they owe the same obligations to, or can expect the same treatment from, foreigners living on the other side of the globe. The Torah, too, is effectively a constitution for a single people living in its own land under God, where obligations are designed to benefit the other citizens who have accepted the same laws and can be held accountable for any lack of reciprocity.

This enhanced obligation of Jews toward their fellow Jews is especially critical for Judaism because it is intended that the Jewish People remain distinct from the rest of mankind. Moreover, the special obligation of Jews to their fellow Jews is also connected to their common relationship with God. The Jews are obligated to one another because they are also obligated together to God. Advocates of tikkun olam, in portraying Judaism as founded on Creation rather than on the particularistic demands of Revelation, are thus undermining the covenantal connection between each Jew, the Jews' distinction from the gentiles, and the relationship between the Jewish People and its God.

That all human beings are created in the image of God remains significant, however. Although, in the Bible, God narrows His attention from all of mankind to just the Jewish people, the Bible also prophesies that obedience by Jews to their covenant with God will bring about a universal redemption enjoyed by all peoples. In a sense, therefore, the Bible's eschatological aspirations do not change. Rather, what changes is the means – redemption will come not through all of humanity but

through this elected people. Between now and that redemption, however, Jewish law commands that, while a Jew's commitment to his fellow Jew is critical, Jews must nonetheless still carry out good works for their gentile neighbors too.

The attempt to root the liberal, universalistic political ideology of social justice in Judaism, the theology of which is particularistic, obfuscates the real ethical teachings of this ancient faith. Right behavior should begin with those closest to us and depends on a shared culture and relationship to God. Tikkun olam corrupts this understanding, and in doing so is profoundly injurious to Jewish observance, hinders Jewish continuity, and retards our moral development.

Moral Intuition & Education

Anthony Knopf

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Our generation is currently witnessing acts of terrorism around the world, performed in the name of God. Movements that define and present themselves as devoted to God have expressed that devotion through a deadly violence, which is antithetical to Godliness. Far less extreme than Islamic terrorism, though still of great relevance to our concern, are the significant number of scandals that have been exposed in Orthodox Jewish communities. There are, of course, major dissimilarities between terrorism and scandals, but the common denominator is the obscuring of the fundamental relationship between Godliness and ethics. These cases provide the impetus and, perhaps, the imperative for the Orthodox community to ask whether sufficient focus has been given to ethical development as an essential and fundamental component of Torah life. It is incumbent upon all of us to look inwards and ask whether we are succeeding in expressing the lofty ethical values of Torah and the Jewish Tradition in our own lives, schools and communities.

Indeed, the laxity of many Jews with regard to ethical imperatives, when contrasted with their scrupulousness in adhering to ritual requirements, was already noted in the 19th century by Rabbi Yisrael Salanter:

"[I]n our districts injunctions against consuming [unkosher food] have become innate in the Jewish soul… But in our great iniquity the contrary is true in commercial relations. When their business dealings possibly entail thievery and extortion, most men will not be concerned prior to being sued, and there are some among them who, even after being sued will employ deceitful devices or will be arrogant."

To be sure, these deficiencies must not be exaggerated, and there are many outstanding ethical features of the contemporary Orthodox community. Nevertheless, we must constantly seek to improve our community's conduct in the sphere of ethical behavior.

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In Western philosophical discourse, discussions regarding the relationship between religion and morality often begin with the Euthyphro dilemma. In response to Euthyphro's affirmation that piety is that which the gods want us to do, Socrates asks whether the gods love piety because it is pious or if it is pious because they love it. This question's structure was frequently echoed in a monotheistic context when theologians asked whether Divine law is valid because it conforms to reason or because it is willed by God.

Christian and Islamic theology were split on this question. The early Islamic fundamentalists known as the Asharites posited that the content, value and significance of religious norms are to be understood as solely deriving from the fact that God revealed them. This view was championed in the Christian tradition by John Duns Scotus and is consistent with the theology of Tertullian who viewed faith and reason as distinct and opposed, such that the requirements of religion could not be understood or appreciated through human reason. It has frequently been noted that such a position is hardly found in Jewish sources, which understand God's revelation to be in accordance with antecedent moral or rational standards. Building on this foundation, I will argue that a compelling reading of the Bible supports the position that human beings have the capacity to recognize moral truth by means of moral intuition. This understanding is also advanced in rabbinic sources and has theological and practical significance as it pertains to moral development.

The Bible's positive understanding of human capacity for moral intuition can be well appreciated through analysis of stories involving Biblical characters who are not bound by Torah law. While those living prior to the giving of the Torah and those who are not members of the people of Israel are not bound by the Sinaitic covenant, the Biblical narrative clearly assumes that they have a capacity for appreciating moral truth.

This understanding is supported by the fact that such characters are punished when they behave immorally, even though their behavior does not transgress any explicit command. Cain is punished for murdering his brother and declines to advance the obvious defense that God never commanded him not to do so; the generation of the flood is punished for corruption and immorality; the people of Sodom are destroyed for not caring for the poor and needy; and Onan is designated as evil and is caused to die after destroying his seed.

Moreover, other Biblical personalities behave in a laudatory way on the basis of their own moral sensitivity without having been commanded to do so. Examples include Avraham, who

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undergoes remarkable self-sacrifice to save Lot, and the midwives, who refuse to obey Pharaoh's command to kill every male Hebrew child.

The human capacity for recognizing moral principles is also exemplified by Avraham's questioning God's decision to destroy the city of Sodom. Avraham appreciates that a certain standard of justice is antecedent to the Divine command not to kill and that even God should be accountable to it. That human beings can recognize and appreciate the moral wisdom of the Divine law is further supported by Moshe's declaration that the Jews' proper observance of the commandments will lead the nations to recognize Israel as 'a wise and understanding people'.

These implicit notions were later articulated explicitly and sometimes expansively by Jewish philosophers from the period of the Gaonim to the modern day. Hence, while some Christian and Muslim thinkers affirmed that the only significance in Divinely revealed laws is that they are commanded by God, the dominant position in the Jewish tradition is that many Torah laws are based on antecedent moral norms that can be recognized by human intuition.

The Bible and representative Torah authorities also support the further claim that the human intellect can recognize and apply moral principles, even with regard to behavior which is neither halachically required nor prohibited. According to many Torah thinkers, the capacity to recognize moral norms constitutes the Divine image for which humanity is distinguished.

However, moral intuition is nevertheless fallible and, therefore, the Jewish tradition recognizes that moral clarity must be garnered and preserved through exposure to and study of the Torah worldview. In an incisive passage, Leo Tolstoy explained how the deviation from a traditional worldview eventually leads to an erosion of moral standards:

"The institutions of a secular morality that is not based on religious doctrines are exactly what a person ignorant of music might do if he were made a conductor and started to wave his hands in front of musicians well-rehearsed in what they are performing. By virtue of its own momentum, and from what previous conductors had taught the musicians, the music might continue for a while, but obviously the gesticulations made with a stick by a person who knows nothing about music would be useless and eventually confuse the musicians and throw the orchestra off course."

While mankind bears the capacity for intuiting moral truths, the sensitivity to this intuition is diluted when people reject the worldview which gives those moral principles structure and meaning.

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Learning the sections of Torah which deal with moral principles enables us to understand and inculcate the Torah's perspectives on such fundamental concepts as responsibility, dignity and justice. It is through this process that our moral clarity is preserved.

I propose that this discussion of the relationship between moral intuition and Torah ethical living is of great significance in addressing the issue of moral education in the Jewish community.

Character Focus in Discipline

Social science research has revealed that the moral education of children is more effective when a greater focus is applied to the child's character than to his behavior. For example, Christopher J. Bryan's experiments revealed that a group of three to six year olds were more likely to assist with a task when encouraged to be a helper than if they were merely requested to help. Similarly, the rate of cheating was cut in half when children were told 'please don't be a cheater' instead of 'please don't cheat'. Research also indicates the efficacy of praising children's character rather than just their behavior. Hence, telling children that you recognize that they are nice, helpful and giving was more effective in generating future generous behavior than merely remarking that what they did was nice and helpful.

These findings are of particular significance in the context of our discussion. When a child is praised or receives ethical guidance relating to his character, his attention is drawn to his Divine image. An identification of one's inner character is not only effective in stimulating ethical behavior but in appreciating the Godliness that is the very essence of each human being's character. As a result, ethical behavior is likely to be seen as an expression of the child's deepest spiritual yearnings.

Affirmation of Moral Intuitions

Psychologist Dan Ariely had participants complete a test and award them with cash for each correct answer. The participants were given ample room to cheat. Prior to starting the test, half the participants were asked to list 10 books from their high school reading list whilst the other half recited the 10 commandments. Whilst many of those in the former group cheated in the test, there were no cheaters amongst those who had recited the 10 commandments. Ariely notes that a follow up experiment involving atheist participants showed that reading the commandments had the same effect. The normative impact of the 10 commandments is not only because they are revealed in a sacred text but because they (or the bulk of them) correspond to our intuitive moral sense. Ariely sees this experiment as indicative of the potency of what he calls 'moral reminders'. The participants were

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aware that lying is wrong even prior to reading the 10 commandments, but the process of reading them (especially the prohibition relating to honesty, that against bearing false witness) reminded them and reinforced their moral awareness.

This principle has implications for anyone who is involved in Jewish leadership and education (including within the home). Moral principles typically supported by ethical intuition must not be taken for granted but must constantly be reaffirmed. If we want to develop and preserve a heightened ethical sensibility in the Orthodox community, we must frequently and consistently take the opportunity to hammer home our recognition and affirmation of intuitive moral principles.

Building on Intuitive Foundations

The laws, concepts and stories in the Bible should not merely be regarded as information regarding what is classified as mandatory or prohibited, meritorious or reprehensible. Rather, before learning a given topic in Jewish ethics, one must first identify one's own intuitive position on the topic in question and then ask how the texts address that inclination and how one's own deepest spiritual yearnings relate to the issue. While there may be times when one must simply cast aside one's position in deference to the authoritative text, the more typical experience will be a process of refining and building upon one's intuitive moral foundations. It is this relationship between natural morality and Torah that is advanced by Rabbi Natan Zvi Finkel: "The giving of the Torah came to build on these [innate character traits] and to command [the Jewish People] to continue to rise heavenward to ever higher levels transcending those who are in the realm of derekh eretz."

Moral Education should not be confined to halachic observance, narrowly defined

A final recommendation relates to the recognition of moral norms with regard to matters which are not the subject of halachic demands. As mentioned above, this was recognized by many rabbinic authorities and is supported by a number of Biblical indications. However, this idea is seldom recognized in Orthodox Jewish life. Rabbi Yehuda Amital has bemoaned this failure, to which he refers as the "impression… that there is nothing in Torah but that which exists in Halakha, and that in any confrontation with the new problems that arise in modern society, answers should be sought exclusively in books of Halakha."

We must ensure that our communities, schools and families frequently emphasize the message that adherence to the letter of Jewish law does not satisfy Judaism's ethical requirements. This must also inform our attitude to

specific behaviors which are not subject to halachic stipulation, such as praying for someone in need, drunken and gluttonous behavior, obsession with material possessions, speaking in an uncouth manner, sensitivity toward all human beings including evil doers, and even the ethics of taking advantage of a computer glitch to get cheap tickets from an airline.

Conclusion

The Jewish tradition supports a definitive position with regard to the relationship between Divine law and natural morality: Moral norms exist independently of being revealed in the Torah and mankind bears some ability to discern those norms. Nevertheless, Judaism rejects a pollyannaish perspective on humanity and recognizes both the capacity and reality of widespread moral error. It is into this space that a morality-focused Jewish education can affirm, complement, and deepen moral commitment. The recognition of the importance of both human moral intuition and the revealed Torah in the process of moral development leads us to several conclusions for consideration by all those who are concerned with the advancement of ethical standards in the Jewish community.

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The Role of a Chaplain on Today's Health Care Team

Charles Sheer

➤ ***Rabbi Charles Sheer** was appointed (2010) Director of Cultural Competency Education at Westchester Medical Center (WMC), in Valhalla, NY. He has offered grand rounds and seminars to medical departments and staff regarding the interface between culture, ethnicity, religion and healthcare. He has also been on faculty of the New York Medical College Biomedical Ethics program for four years. This past year he was appointed Staff Chaplain at WMC.*

In a recent JAMA article (Dec. 22/29; "Responding to Suffering"), Dr. Ronald Epstein noted that physicians must recognize how patients suffer at times of illness, "Yet," he notes, "clinical care has moved away from addressing suffering… [which] spans physical, emotional, social spiritual, existential and financial domains, and as a whole-person problem it doesn't fit neatly within current biomedical paradigms." Because, he continues, "Suffering occurs in many clinical contexts, not only at the end of life", the presence of suffering "calls on us as physicians to address our patients as whole persons, [which is] particularly challenging in our age of specialization and atomization in medicine."

Given the complex demands that are on a medical staff, the person at the hospital who cares for a patient's emotional/existential/spiritual aspects of illness is often a chaplain. Although most of a chaplain's encounters will not entail end-of-life cases or patients who are or severely ill and/or suffering, pastoral care demands specialized training and skills in this area. (Chaplains are trained in a specific method called Clinical Pastoral Education which requires 4 units of 400 hours each of supervised pastoral visits, followed by formal board certification. See http://bcci.professionalchaplains.org.) In many hospitals, chaplains are fully integrated within the clinical staff. They receive referrals and work in concert with physicians, nurses and social workers; they serve on ethics committees and participate in family consults.

In this article I will highlight cases (modified to protect privacy) I have encountered which illustrate the roles chaplains play in today's large and complex hospitals.

Like most chaplains, I am on night-call every few weeks. One night I received a page from a neurology nurse at 1:30 AM. Her thirty-year old patient was scheduled for brain surgery the following day and she was crying uncontrollably. She was

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a devout Christian and desperately asked to talk with a chaplain. During that first meeting, I did little talking. I allowed my ears and heart to play the dominant role at that early-morning encounter. I gently invited her to express the angst that plagued her that night. Only at the end of our meeting did we consider how we might jointly work together to walk through her fears. I continued to see her most days throughout her hospitalization. We explored her sources of faith and hope which included her faith, Scriptures as well as nature. I asked whether she could express how she felt when she was in the countryside near her home, and whether she could bring those feelings of peace and assurance here to the hospital. Visual imaging is a method many chaplains use, together with meditation, prayer and breathing exercises. She loved Psalm 23 ("The Lord is my shepherd, I lack nothing."), so we studied it together. After exploring its images and emotions, I asked her to read it as a prayer. When we reached verse four - "Though I walk through a valley of deepest darkness, I fear no harm, for You are with me (23:4)" – she looked right at me with a huge smile: "Hey, this is just like me. Here I am, in one hospital after another, and Jesus is right here, with me!"

I was pleased that she could acknowledge what she called God's enduring presence with her, even when she was in a hospital, her current "valley of deepest darkness." I also smiled to myself at her invocation of Jesus. I doubt the rabbis in my yeshiva who taught me Psalms would have imagined that their student would have inspired this understanding of Hebrew Scripture. Yet, that's how chaplains work. Although we personally espouse a specific faith tradition, we function in a multi-faith fashion, serving patients of all religious traditions or no religious tradition. A chaplain is not assigned exclusively to his/her own faith community. I was honored to help my patient explore and identify resources within her that she could use to confront the demons that plagued her. There is a robust scholarly literature which demonstrates that, for individuals of religious faith such as my patient, beliefs, rituals, images and holy texts can provide meaning, structure and hope. (For example, see "Attention to inpatients' religious and spiritual concerns: predictors and association with patient satisfaction", Journal of General Internal Medicine, 26 (11), 2011.) These resources do not cure illness but they can advance healing.

Another night, a call came from the Emergency Department. "Could you go to the Medical Intensive Care Unit? A patient suffered a severe head trauma. Our preliminary diagnosis is that the patient has no brain stem function. Could you join us when we share this

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with the wife and family?" My role as chaplain was to be present with the family, and to allow them to express – in words, or tears, or by embrace – the pain and shock which they felt, and to offer gentle support in the face of a reality they struggled mightily to deny. The family asked me to pray for their loved-one. My personally held view, based upon Jewish sources, is that one does not pray for a miracle when the objective facts indicate futility. However, as a chaplain, I am here to serve my patients in accordance with their beliefs, whether personal or systemic. I petitioned for the peace of the patient, that he be free from pain, that our staff be granted wisdom and compassion, and that the loved-ones at his bedside be strengthened to endure the coming events. I did not petition for a "return" to life. I was relieved when I noted that my formulation was well-received by the family.

But then came the biggest challenge: "Tell me, rabbi, is the doctor right? He can come back, can't he? I'm sure you must have seen people like him who were called "brain dead" by the Doc but later revived?" They had asked this of the neurologist previously. They possibly assumed that the chaplain would tell them "the truth."

As a chaplain, we are trained to "stay in our lane." We focus upon emotional/spiritual care and do not deal with medical diagnosis and such. I responded that I value the expertise of our clinical staff, and that I urged the family to listen to the information provided by our physicians. (I often find that my chaplaincy entails providing support for my medical colleagues.) "Look, nothing has to be decided at this time. This is all so new, so shocking and so painful. It might be wise to get some sleep, and return tomorrow to talk with the doctor again." The family was unrelenting. "But can he come back? You are not answering us!" The family insistently turned to me to clarify his status.

Full disclosure: I have studied the issue of brain death for many years. In addition to a fair amount of experience with actual patient cases, I delivered grand rounds to many WMC departments, chaplains and our ethics committee on the positions of faith traditions towards brain death. I chaired a hospital task force charged with the task of formulating a policy on "reasonable accommodation" - what should our protocol be when a family does not accept a neurological declaration of death due to religious or ideological reasons? Finally, I have taught this topic in our biomedical ethics seminar for years and I published an article last summer on the Jewish perspective on brain death.

I responded: "Well, I have read the studies the doctor referred to. What is known is that when a hospital finds –

The Role of a Chaplain on Today's Health Care Team

on the basis of established procedures and tests – that the brain stem is no longer functioning, there is no known case where a patient "came back". I'm sorry; but that's what is known about this. But, you are not at that time now. It is still early and the staff wishes to see how he is tomorrow."

The family silently absorbed my words. They agreed that it was time to go home (it was 5 AM). I walked them to their cars, and we embraced each other for a few moments. I drove home feeling that I had done right for the family and for my hospital. I had enabled the patient's family to hear the medical diagnosis provided by the physicians, and offered emotional and spiritual support to the family.

My final case entails a more traditional chaplaincy role. It does not have the painful sweep of the two cases above, but it illustrates the occasional tension between religious observance and hospital practice.

This occurs many Fridays. "Rabbi, please help me," the mother intones. "Our son has been cleared for discharge. He can't leave until the doctor signs the papers. It is already early afternoon and if the doctor doesn't get here soon it will be *Shabbos* (Sabbath) and we will have to stay here until Saturday night!"

One who is not conversant with the power and meaning of rituals cannot appreciate the anxiety this situation produces. I've had doctors tell me, "Come on, Chuck, what's the big deal. Will God really punish the family if they drive home on *Shabbos*?"

Of course not. The issue is not punishment, but a desire to live in accordance with a value system and the practices it mandates, which this patient's family has followed their entire life. This is not the place to review the conceptual or ideological underpinnings of Jewish Sabbath observance – or the meaning and importance of a ritual practice of any faith tradition. However, to a person of faith, observance is discarded at great cost. Illness and hospitalization destabilize life in major ways. Religion and culture provide moorings and values which help our patients negotiate life's muddy waters.

As is my usual practice, I confirmed that the doctor who must sign the discharge papers is aware of the time factor. Then I explained to the mother that "we are a trauma hospital and many times our well-intentioned doctors are called to emergency cases, just like when your son was admitted…."

Most of the time things work out. A gentle/balanced intervention by a chaplain often brings resolution to both patient and hospital.

New York's End-of-Life Options Act

Ira Bedzow

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With the signing into law the "End of Life Option Act" in California, it is becoming more and more obvious that the wave of social approval is moving in that direction. Five states now permit physician-assisted suicide, and, in general, the country is becoming more aware and more responsive to the challenges people face with respect to end-of life care. While the ethics of the right to refuse medical treatment should not be conflated with that of physician-assisted suicide, the legal and political views regarding interpreting and enforcing advance directives has also shown the way in which concern for individual autonomy has greatly increased.

The move towards increasing the priority of individual autonomy with respect to choosing when and how one may live and die reflects the way dying has changed from the beginning of the previous century to today. In 1900, death predominantly occurred at home, and most people died from accidents or infections without suffering a long period of disability. Today, death predominantly occurs in a hospital, hidden from public view, despite the fact that people say they would prefer to die at home. Also, today, people suffer, on average, two years of severe disability on their way to death. Over the past century, dying has become a longer, more alienating process. It is no longer seen as part of life. Rather, it is an adversary. From a societal perspective, health care spends a greater amount of its resources on patients at the end of life than on anything else. Patients with chronic illness in their last two years of life account for approximately one third of total Medicare spending, with much of it going towards physician and hospital fees associated with repeated hospitalizations.

When viewed from the perspective of avoiding these types of deaths, one could

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not have anything but sympathy for the idea of wanting to avoid ending one's life in suffering. In fact, the "New York End-of-Life Options Act" authorizes doctors only to prescribe medicine that leads to death for individuals with terminal illnesses, defined as incurable and irreversible diseases that have been medically confirmed and would result in the death of the patient within six months. It does not provide an open-ended ability to end one's own life whenever one wants.

Yet we should also recognize how the ethical reasoning used to support Death with Dignity demonstrates a fundamental change in how we understand the morality of our individual actions as they make up a life, as well as the role of communities as they relate to their individual members. The two major ethical underpinnings used to support Death with Dignity legislation are a) the use of consequentialist argumentation and b) the change of emphasis to include a quality of life argument.

Consequentialism is the idea that we should strive for the outcome that has the greatest benefit for everyone. In a way, it can be the most democratic ethical tool, both in terms of calculating the welfare of people as well as prioritizing the various factors involved. However, the consequentialist argument changes our ethical perspective to look to outcomes without being sensitive to the way we achieve them. This, in turn, creates potential blinders to what may be the underlying cause of the issue and any potential alternative to ameliorate it.

In the Death with Dignity debate, consequentialist argumentation is used to disregard the moral distinction between the various ways in which a given result occurs. For example, because there is a fundamental right to refuse medical treatment voluntarily, even though it will result in the patient's death, then – according to this reasoning – it is ethically inconsistent to deny anyone the right to cause his or her own death voluntarily. Just as a person is considered to be master of his or her own body and therefore has the right to refuse treatment, a person should also have the right to demand treatment that produces the same effect.

Just to know - certain responses by those opposed to Death with Dignity legislation rely on consequentialist thinking as well, by raising the fear that it will cause a slippery slope, either to include the incompetent or to euthanasia. These types of responses do not challenge the ethics of physician-assisted suicide per se; they only question whether it can be controlled or not. The question of whether we can enforce the boundaries created in legalizing physician-assisted suicide is an empirical and legal one, and not an

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ethical one.

Justice demands fairness; like cases should be treated alike. Yet the ethical distinction between refusing treatment and physician-assisted suicide is and has historically been a very stark one, both in the legal tradition and within the medical profession, or making the recent comparison between these two a demonstration of a change in ethical thinking.

When refusing medical treatment, both patient and physician are passive, while with physician-assisted suicide, both are active. While Death with Dignity advocates dismiss this distinction, Catholic moral theology, the American Medical Association, and the US President's Commission for the Study of Ethical Problems in Medicine accept it when thinking about the moral culpability of an action. By making this distinction, the focus is not solely on the result, it is also on how actions affect people's outlooks and how habits mold character. Passivity on the part of the physician is a demonstration of the reluctant acceptance of a situation that is contrary to his or her role as a healer. For the patient, passivity may be interpreted as exercising one's self-sovereignty while still recognizing a societal interest in the preservation of life. Activity on either part would be a contradiction either of the traditional values of the medical profession, the state interest in preserving life, or both. Also, this is a good example of when a liberty right does not necessarily entail an entitlement right. The freedom from others' interference in dying does not necessarily grant a freedom to demand others' assistance in dying.

The use of morphine to alleviate pain has a similar ethical posture. If a doctor uses morphine to alleviate pain, and does not intentionally attempt to lay the patient to rest, the physician can view the patient's death as an inevitability that was not in his or her control.

In both of these cases, many may respond that the ethicist is creating moral loopholes in order to justify a position. This is not true, what these distinctions defend is a morality based not only on consequence but also on the intentions and habits of the people involved.

With respect to the second underpinning - the increased emphasis on quality of life has made suicide a value-neutral option rather than a moral harm. When arguing that life should be about quality and not necessarily about quantity, the value of life is not measured on a common scale; rather, each person's life is valued subjectively by the person himself. When the benefit of staying alive is so diminished by illness and suffering that it is less than the value of a dignified death, the choice of how to act should be up to the person doing the valuations.

This calculation does not consider

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the act of suicide as a moral wrong unto itself, which is a major change in New York's legal history. For example, while suicide was already a crime according to common law, the earliest American statute explicitly to outlaw assisting suicide was enacted in New York in 1828, and in 1865, New York prohibited, specifically, "furnish[ing] another person with any deadly weapon or poisonous drug, knowing that such person intends to use such weapon or drug in taking his own life." In more recent history (the mid-1990s), New York State's Task Force on Life and the Law wrote that "[w]hile suicide is no longer prohibited or penalized, the ban against assisted suicide and euthanasia shores up the notion of limits in human relationships. It reflects the gravity with which we view the decision to take one's own life or the life of another, and our reluctance to encourage or promote these decisions." The New York Court of Appeals, when judging right to refuse medical treatment cases, uses the highest standard for interpreting the wishes of incompetent patients, because in the court's words "if an error occurs it should be made on the side of life." Mentioning this history does not mean that I oppose the notion of change. Rather, it demonstrates how big a change we are making and raises the question of what other values it might affect.

With respect to the ethical arguments put forth in support of Death with Dignity legislation – I am concerned with the change in moral reasoning we are making when it comes to the ethics of the medical profession since it can easily become a method of first identifying a desired good and then justifying the process of achieving it. I am also concerned with the idea that suicide is now seen as morally neutral in and of itself and can be justified when a life is no longer deemed worth living. These two moral rationales do not only have great social implications in health care, but in all areas of society and moral discourse. The ends do not always justify the means, and once life and death are subject to a utility or happiness function, then six months or sixty years is only a variable that can be manipulated.

However, from a political and social perspective, when considering New York's potential Death with Dignity legislation, one can not only think about his or her own personal ethics on life, the manner in which one lives it, and how it ends. As I said in the beginning of my talk, the social wave is moving towards individual autonomy and away from a communitarian perspective. Moreover, imposing legislation on those who hold a different ethical premise, especially in an area that affects the personal sphere, has a long history of failure in this country. And while the ethics behind abortion and

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death with dignity are not the same, we can certainly learn a lesson from the illegal abortions performed before Roe v. Wade. We do not want people attempting to take their life with dignity only to fail.

We live in a community that is multicultural and diverse in the ways that people understand and prioritize certain values. Furthermore, values are reinterpreted as certain habits or public policies pervade civil society. The US Supreme Court in Washington v. Glucksberg held that a law prohibiting assisted suicide does not offend the Fourteenth Amendment, since such a prohibition is in line with our nation's history and traditional ethos (it did not explicitly uphold the right to physician-assisted suicide as so many advocates claim), yet it left it to the American voters to decide whether values once held should be changed to make room for death with dignity laws. That is why public discussion is so important, since it allows us as concerned citizens to think about what is at stake when considering this change in ethical perspective.

Yet, if the reason why people want to take their own lives is to avoid the personal and familial pain and suffering that today's end-of-life care provides, then there are other avenues to explore besides avoidance. Improved medical technology and the widespread acceptance of palliative care should be seen as areas for further exploration as to how to mitigate the harm in both one's dignity and the state's economy. Social discourse should communicate the need to further both the rights of individuals and the responsibilities we have to each other's welfare so that people do not have to die alone and alienated from their loved ones.

The ideas of life, liberty and the pursuit of happiness are three distinct goals and their order has always been intentional. We are now reversing that order as a country without thinking necessarily about how it changes our priorities or the ways in which we relate to each other.

On the Difference Between Philosophy and Reality

Ira Bedzow

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When a social philosopher wants to give us a theory by which to live, he is first burdened by the choice of whether to start with an idealized version of who we should be or to accept us as how we are. Contemporary philosophy has tended to conflate the two, claiming that we are already our ideal selves as rational beings or that we are nothing more than a first among equals in the animal kingdom. The former argue, "If one would only listen to reason, then all will be well with the world." The latter contend, "If we would only recognize our true nature, then we can design our world accordingly." Both sides proclaim the universal equality of mankind in theory, yet those who want to apply either philosophical stance in practice concede, in Orwellian fashion, that in reality some are more equal than others, depending on how close one is to the theory propounded. Of course, one may say that a good philosopher will hold in his hands both sides of our human nature like a juggler who can bring them together in a great feat of skill. Oftentimes, however, the philosopher is better compared to the jester whose performance is entertaining for the occasion but cannot endure an encore.

The difference between philosophy and reality is seen both in how philosophy describes reality and in how people attempt to apply philosophical theories to reality. With respect to describing life, Montaigne, in his essay "On Experience," wrote that we exchange one word for another, and often for one less understood. How true is this for all areas where we try to abstract a philosophy from the reality of experience! Even physical sensations and the meaning of emotions are oftentimes diluted by objective explanation. For example, the five senses, which we were all taught as children, are not as distinct as their classifications demand. Even without synesthesia, we often smell or taste what we hear or see, giving credit to the expression that a circumstance may not smell or feel right. Similarly, I

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may truly understand the pain of loss, yet a philosophy of suffering could not accurately describe the depth of what I feel. The reason is that philosophy is a method of distilling life in order to study it. By doing so, one necessarily removes all of life's impurities, yet one also transforms life into something else entirely.

Philosophy's distillation of life is not only a whitewashing of personal experience in order to consider universal truths. It is also a removal of the present from the continuum of history; it is to see the universal as a synchronic event – a point in time – rather than the diachrony that gives it its depth and meaning.As such, the philosopher is like the poet who, while striving to be an individual, leaves his poem empty by cutting his words off from his predecessors. Both the philosopher and the poet should remember T.S. Elliot's advice in "Tradition and the Individual Talent" that one's work cannot provide meaning without appreciation of those who came before. In his words, one "must be very conscious of the main current" of history.

Today, philosophizing from the immediate present, or discounting tradition for the sake of innovation, is found in many areas of social thought. In literature, the reader has become more important in determining meaning than the author of a work. In law, the question of whether judges make or apply law has become a moot point. Economic and political decisions are based on short-term strategies, either to get to the next election or, to quote one famous economist, "In the long run we are all dead." If we would look at our world history for only a moment, we would see how short-term thinking leads to long-term extinction – both for ourselves and our environment. How many times has history repeated itself with respect to fuel crises and droughts? How many resources have been depleted because of our shifting baseline?

In the rank of social philosopher, I include not only those readily identified, such as

- the economist who seeks to maximize prosperity,
- the political theorist who seeks to maximize democracy, or
- the ethicist who seeks to maximize our moral fabric.

I also include scientists, since they suffer from the same challenges as the others.

To give just a few examples of how a (social) theory does not hold up in practice – in economics, the law of comparative advantage proclaims that trade will always be better than protectionism. Even when one country is more productive than another in every respect, both will benefit through trading with one another. However,

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the law of comparative advantage assumes that specialization will not deplete a country's resources, or that increased supply of a particular good will not affect its price or the returns of production. In reality, diversification of production within a country is ecologically more beneficial when the goods are foodstuffs, politically beneficial since international trade is always affected by international politics, and even economically beneficial since protective tariffs and subsidies can maintain particular industries, such as the American automobile and farming industries, from bankruptcy. Political strategies to protect democracy have ranged from containment to active intervention in another country's development of democratic institutions, and while the explanations for carrying out these theories have always seemed rational, the reality of their efficacies was not always what was expected. Utilitarian and deontological ethical theories provide universal maxims and calculations, which, in the abstract, allow for the greatest good for the greatest number and true autonomy for the ethical person. Yet, in reality, the economic calculations of utilitarianism can lead to great suffering and being duty-bound by a moral law can lead to disregard of social consequences.

Science should seem to be an obvious choice for inclusion as a social philosophy since its goal is not only to describe reality accurately but also to predict, through the formulation of laws and theories, what will happen in the future. Scientists look for "effective theories," i.e. those theories that fit a set of measurable data points and are said to be true given the limits imposed upon them. For example, Newton's laws of motion are true enough, given the general parameters by which we rely on them in our everyday life. We all know that, when viewed with different parameters, Newton's laws do not accurately depict reality, but they work the vast majority of the time. This is not a philosophical bother, unless we rely on these laws of nature to infer something about the world that is more than its simple mechanics.

In the grandest of the sciences, which studies the origin and the development of the universe and on which people often rely when making metaphysical arguments, it is a well-known expression that "cosmologists are often in error, never in doubt." Sometimes, tenacity in accepting theory over reality (or, better stated, another description of reality) is a correct decision, such as Einstein's refusal to accept Walter Kaufmann's refutation of special relativity. However, more often, the tenacity of the scientific community will turn theories into orthodoxies, even when they have a harder and harder time explaining reality as we experience it. Examples of contradictions are more readily chalked

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up as anomalies than considered to be whistle blowers for a bad theory – at least until there are so many anomalies that it is no longer possible to call them so. The difficulty in creating objective scientific truth from lived experience is demonstrated by the motto of the Royal Society (the oldest society for the promotion of science), which is nullius in verba, Latin for "on the word of no one." The irony of the motto is that scientific knowledge and philosophy in general are reliant on the words of someone, and usually on as many people as can be found to intelligently join the conversation.

When scientists venture out into actual social theorizing, they apply the cold universal laws of nature, with which they are so comfortable, to the reality of human nature. Scientistic social theorists speak of "the mediocrity principle" or "the Copernican principle" through which they take our selves out of the center of our own lives. According to these principles, nothing is unique in any special way; all is a natural product of statistics, universal laws, and randomness – as if the three contradictory terms can fit into a triple-braided cord that cannot be broken. While such a philosophy can allow for a certain moral sense (in a Rawlsian way), since all that one is comes through no merit of one's own, its truth in theory does not fit our immediate reality. Our lives are egocentric, community-centric and planet-centric because it is only through our own being while in our own communities and on our own planet that we live. Real meaning does not come through statistical significance or universal laws, but rather through intimate interactions with others whose importance is as great as that which we attribute to ourselves. While everyone may be mediocre in the abstract, each of us is infinitely important in actual fact.

With respect to applying philosophical views as policy decisions, how often do we find ourselves at odds with the philosophy we or our community are meant to uphold! When these dichotomies are seen as virtuous, our motivation cannot be chalked up as a weakness of philosophical will; rather, the opposition to our own philosophy should be seen as times when our own experiences provide a fuller picture than what the philosopher is painting. For example, economists are fascinated by the economics of charity because, according to economic theory, it shouldn't exist. Yet we give charity, not as rational, self-interested individuals but as compassionate human beings.

Because philosophy cannot provide a comprehensive outlook, and the truth of a theory must be tempered by our experience, the application of any philosophical view should not be doctrinaire. Unlike abstract philosophical theories, which must

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be consistent, in practical reasoning, consistency need not be the only measuring stick to judge a policy decision. Practical reasoning can be coherent even when not consistent. It is possible to recognize that, in a certain situation, other factors, which one's philosophy does not take into account, must be considered and, therefore, another philosophical view might have a better answer. This is not a method of choosing reasons willy-nilly; rather, it is a means to finding synthesis in application so that our choices fit our needs and not necessarily the theories we uphold.

Without making any statement as to the differences between Athens and Jerusalem, I would like to propose that in our practical reasoning, when we must choose how to act for the good of ourselves and our communities, we stop being lovers of wisdom (philosophers) and instead become wise students (talmidei chachamim). A lover of something keeps it close, identifies with it, and eventually owns it or becomes its equal. Intimacy turns defensive when the object/subject of one's love is attacked or questioned. A lover, when pushed, will love at the expense of his own reality. A student, however, learns from his teachers – he can have more than one – but ultimately becomes his own person, since he has always kept a healthy and respectful distance from them. He has great regard for the ideas presented to him, but will consider them first before adopting them as his own. A wise student will learn from many different perspectives and see the benefit in many different theories, yet he will not toe any line in particular. It is not that he straddles the fence and cannot decide; rather, he is aware that he never holds all the pieces at any one time. His choices may therefore cross party lines, but that doesn't cause a bother since he never chose a party in the first place.

Wisdom for the philosopher is like a straight line of reason, for the wise student it is like piecemeal construction built with reasons. While the wisdom of the philosopher seems like the quickest route between two points, because of perturbation, straight lines are not actually found in nature. Piecemeal construction, on the other hand, is everywhere.

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