

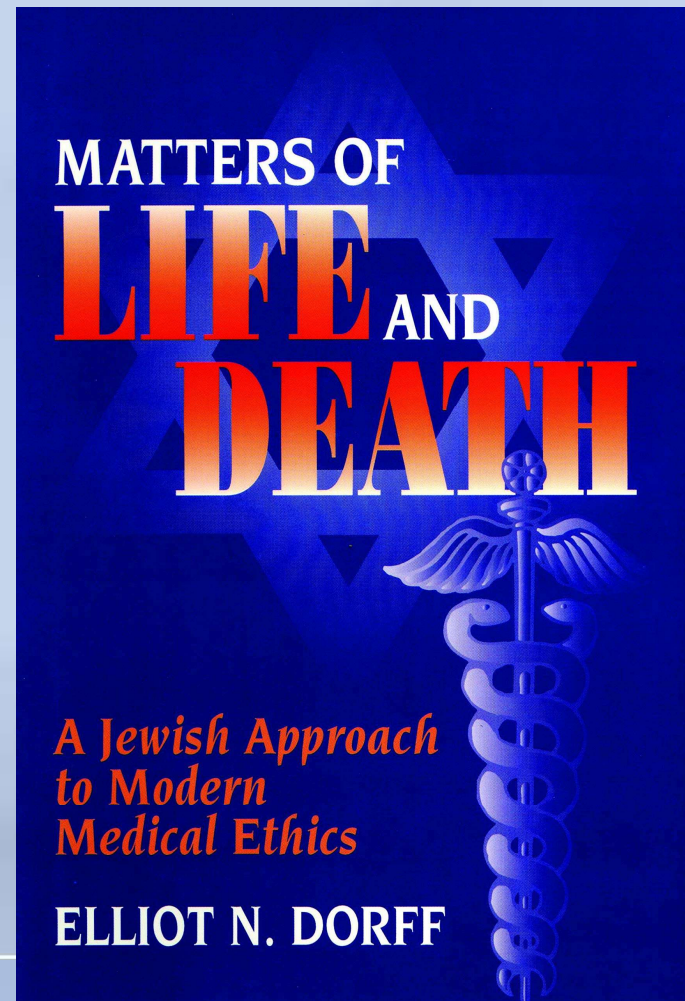
Jewish Ethics: Medical Ethics

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Overview of Our Discussion

1. Jewish Texts and Traditions
2. Children, Sex, Artificial Insemination
3. Preventing Pregnancy & Abortion
4. Homosexuality
5. Death and Dying
6. Preventing and Treating Illness
7. Availability and Cost of Health Care
8. Other topics

My presentation is heavily influenced by Rabbi Elliot Dorff, chairman of the Rabbinical Assembly's Committee on Jewish Law and Standards, and the leading Jewish expert in Medical Ethics. I highly recommend this book and much of this presentation is drawn from it



A Classic Talmudic Case Study

Who Drinks The Water?

It's a classic ethical dilemma: Two people are lost in the desert with only one water bottle. There is not enough water for both people to reach civilization. Who gets the water, or do they share it (and both die)?

The sages (Talmud *Baba Metzia* 62a) were also divided regarding the correct response. Ben Petura believed that the correct solution was to share the water. His reasoning, however, was that sharing the water and both dying was better than either of them living and watching the other die. After all, doesn't it say in Talmud *Sanhedrin* 74a: "Who says your blood is redder? Maybe your friend's blood is redder?" Meaning, how can an ordinary human being choose who lives and who dies?

On the other hand, Rabbi Akiva, whose opinion is the accepted one, declared that the owner of the water is the one who should drink the water. As proof, he cited Leviticus 25:36, which states: "That your brother may live with you." He noted that the Torah said, "with you," to teach us that while in most instances you must help your brother. This is not so if it comes at the expense of your life! Therefore, the owner of the water gets to keep it.

Jewish Tradition

- The Talmud prohibits Jews from living in a community in which there is no physician.
 - *BT Sanhedrin 17b* says “a scholar should not live in a city where any of the following 10 things is missing: 1) court of justice, 2) charity fund, 3) synagogue, 4) public baths, 5) toilet facilities, 6) a circumciser (*mohel*), 7) surgeon, 8) scribe, 9) slaughterer (*shochet*), 10) schoolmaster. And Rabbi Akibah adds several kinds of fruit.
- The Torah gave permission to the physician to heal in the same category as saving life and the physician who withholds his services is considered as shedding blood.
- We are partners in God’s ongoing work of creation.

Children, Sex and Artificial Insemination

- The Torah has two positive commandments regarding sex:
 - “Be fruitful and multiply” (Gen. 1:28)
 - The commandment is understood as applying to the man
 - The minimum necessary is to have a boy and a girl
 - It is understood that if you cannot have children, the commandment is not binding.
 - When a man marries a woman “her food, her clothing, and her conjugal rights he may not diminish (Ex. 21:10).
 - Within the limits of modesty and mutual consent, the couple may have sex in any way that maximizes their physical pleasure.
 - Artificial insemination is permitted (and not considered adultery).
 - The major concern is that the child not inadvertently marry his/her half sibling.
 - Similarly there is no objection to IVF or other technique to have children.

Preventing Pregnancy & Abortion

- **Masturbation**
 - “Wasting the seed” forbidden but no specific punishment specified since no specific negative commandment forbidding it.
 - Concern mentioned about sapping the strength of the man, spawning demons, creating ritual impurity, etc.
 - None of the three major Jewish movements has taken an official position.
 - Female masturbation not addressed.
- **Contraception**
 - Permitted when duty to have children fulfilled.
 - Mandatory to prevent disease or if pregnancy is risky.
 - Sterilization (especially male castration more problematic)

Preventing Pregnancy & Abortion

- Abortion is permitted in some circumstances, required in other but not morally neutral.
 - The Torah (Ex. 21:22-25) specifies that a miscarriage due to assault is not murder/manslaughter but demands a payment for the value of the fetus.
 - The tradition teaches that for the first 40 days, the zygote is “simply water”
 - It is considered part of the mother and as such is not subject to harm except for good cause.
 - When the mother’s physical or mental health is threatened, abortion is required.
 - When the risk is greater than a normal pregnancy, abortion is permitted.
 - Life (ensoulment) begins when head (or greater part of body) emerges.
 - Abortion not permitted as family planning measure.

Homosexuality

There are only two mentions of homosexuality in the Torah

- **“Do not lie with a male as one lies with a woman; it is an abhorrence” Lev. 18:22**
- **“If a man lies with a male as one lies with a woman, they have done an abhorrent thing; they shall be put to death – their bloodguilt is upon them.” Lev. 20:13**

It is not clear exactly what these verses are referring to. Some ideas include

- **Canaanite cultic practices**
- **Literally having sex “as a man lies with a woman” i.e., face to face – permitting anal and oral sex**
- **They only speak of male homosexuality – it appears that the Bible and rabbis didn’t consider female homosexuality as sex at all.**

Homosexuality

In the Conservative movement (which takes the texts very seriously – even literally), the approach is to prohibit homosexuality as it existed until recently – that is cultic, oppressive (e.g., master-slave) or promiscuous. It would therefore allow loving, monogamous homosexual sex.

- And would also assert that such cultic/oppressive/promiscuous relationships would be forbidden to heterosexuals as well.**
- It also takes into critical context the idea the one's sexuality is not a matter of choice and denying sexuality to gays is cruel.**

I also take a textual approach to this question (next slide)

Does *Toevah* Really Mean Abomination?

Lev. 18:22 – “Do not lie with a man as one lies with a woman – it is abomination (תועבה *toevah*).”

- *Toevah* is generally used to proscribe Canaanite and/or idolatrous practices:
 - Kosher laws (Deut. 14:3) “You shall not eat anything abominable thing”
 - Prohibition against marrying ex wife (Deut. 24:4),
 - Prohibition against woman wearing man’s clothing (Deut. 22:5)
 - Also Deut. 18:9 (practices of other nations), 18:12 (consulting spirits), 32:16 worshiping other gods), Gen. 43:32 (Egyptians eating with others), Is. 1:13 (sacrifices and offerings without ethical behavior)

Death and Dying

Preparing for Death

- Advanced Directive or Living Will [www.FiveWishes.org]
- Material Will
- Ethical Will: A letter a person leaves for friends and family containing one's memories, hopes, dreams, beliefs, and values
- *Tzidduk ha-din or viddui* – final confession

Death and Dying

The Process of Dying

- **Active euthanasia and assisted suicide are forbidden acts of murder irrespective of the motive.**
 - **In American thought, our value is tied to what we can do.**
 - **And we own our own bodies.**
 - **In Jewish thought, our value is tied to being created in God's image.**
 - **Our bodies are God's property.**
 - **Jews may not injure themselves much less kill themselves.**

Death and Dying

The Process of Dying

- The appropriate response to the pain, suffering, and cost of the end stages of life is hospice care.
- It is permissible to pray for one's own or another death as a relief from suffering.
- **Passive Euthanasia: Letting One Die**
 - It's only recently that medical care could significantly extend life
 - But our tradition allows and even requires that we do not interfere with the dying process. Some ancient examples:
 - Stopping a woodchopper where the sound sustains life.
 - Removing salt on the tongue if it prevents death.
 - Interrupting prayers that are sustaining life.

Death and Dying

Letting One Die – We May Not Prolong the Dying Process

- Having machines and tube removed.
- Withdrawing or withholding life support
- We can administer pain medication even if it will have the side effect of hastening death.
- We can withhold medication – such as antibiotics to cure pneumonia – if it does not offer hope of recovery from an underlying condition from which the patient is dying.
- Feeding tubes can be considered medication
- Patients in a Persistent Vegetative State, with no brain activity, should be considered dead.

After Death

Three Key Jewish Principles

- ***Kavod ha-met***: honoring the dead – even in death the body remains the property of God.
 - Respectful treatment of body.
 - Prompt funeral
- ***Chesed***: Loving helpfulness – financial and/or emotional
- ***Pikuach Nefesh***: the obligation to preserve life and health.

Cremation prohibited as dishonoring the dead.

- **May be chosen for financial reasons but**
 - Simple casket and shroud is mandated
 - Community should support burial
 - Not connected with belief in resurrection

Treating Illness

Preventing Illness

- Neither dietary laws nor washing rules were originally intended to prevent illness but may have had that result.
- Most movements have come out against smoking.

Visiting the sick – *Bikkur Cholim*

- A mitzvah for all Jews – not just clergy & professionals
- Talmud (B. *Nedarim* 39b-40a): “He who visits an invalid takes away a sixtieth of his pain/illness... He who visits the sick causes him to live, while he who does not causes him to die. How?... He who visits the sick prays that he may live.”
- Do prayers for recovery work? How?

Jewish Tradition Has Advice on Visiting the Sick

1. Who should visit? Everyone.
2. Be sure that the visit is welcome.
3. Time the visit. Family first days – others later.
4. Time the hour of the visit.
5. Position yourself to make the patient feel comfortable.
6. Attend to the patient's needs. Offer specific things you can do.
7. Pray for and with the patient. *Ha-Makom ye'rachem aleicha be-tokh cholei yisrael.* May the All-Present have mercy on you among the sick of Israel.
8. Speaking with the patient. If appropriate, help with a will or ethical will.

Availability and Cost of Health Care

- Until the discovery of penicillin in 1938, there was little a physician could do to treat disease.
- Since now we can do much, the duty to heal is upon physicians and society.
- Rabbi Dorff on triage - priorities regarding who gets limited resources.
 - Clinical care MD's should not make triage decisions
 - Goal is to maximize lives saved (not life-years, youth, social/economic status, etc.
 - Applies to both withholding and withdrawing care
 - Considerations of gender, race, ethnic background, social-economic status, disability, religion, educational background, and ability to pay for care should play no part. Age considered only as a survival factor.
 - Health care personnel & pregnant women given preference to maximize lives saved
 - Lottery used if otherwise "tied"
 - If possible, palliative care for symptom control should be offered to all patients

Availability and Cost of Health Care

- **Health care is not only an individual and family responsibility but a communal one.**
 - **No community complete without personnel and facilities**
 - **Community must pay for the health care of poor**
- **Those who can benefit most come first after that basis is first come first served regardless of social position, wealth, etc.**
- **No specific system (socialized medicine, insurance, etc.) mandated but large numbers of uncovered people is not consistent with Jewish standards.**

Other Topics

- In a prayer for healing, the person's name is Ploni ben/bat Plonite (his/her mother) – Reform Judaism uses both parents' names.
- Tattoos
 - Prohibited in Torah as relating to pagan rites.
 - No legal sanctions apply and, yes, you can be buried in a Jewish cemetery.
- Piercings: Mentioned in the Bible (especially earrings). Only concern is modesty and health.
- Cosmetic surgery: Permitted to augment self worth and mental health so long as risks are not great.

My Bottom Lines

- **The Jewish principle (later adopted by Christianity and Islam) that human life is sacred because we are created in God's image teaches:**
 - **That preserving life & health is the highest priority**
 - **That medical care must not be spared**
- **This leads to the problem that we should spare no expense to save a life, but we do not have infinite resources to do so.**
- **Judaism also recognizes that dying is a natural part of life and should be addressed as such.**