

Physician - Assisted Suicide: A Halachic Approach



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Question: In recent months, Dr. Jack Kevorkian has assisted a number of persons in ending their lives. These persons suffered from a wide range of ailments from chronic, debilitating pain to Alzheimer's Disease. Does Judaism ever sanction suicide and may a physician or any other third party facilitate this process?

Answer: Taking one's life is regarded as halachically and morally improper. While we cannot personally condemn those who in the midst of unbearable pain and suffering take their own lives, we cannot encourage, condone, or participate in the commission of such an act.¹

The preservation of life has always been regarded as a cardinal value in Judaism. The Torah was given to man so "that he may live." The paramount necessity to save life (pikuach nefesh) supersedes virtually all the commandments of the Torah (Shabbat, Yom Kippur, Kashrut) except for idolatry, sexual offenses, and murder. Because all human beings are formed in the image of the Divine, all life is regarded as being of infinite value regardless of its duration or quality. As all mathematicians realize, infinity cannot be halved. If and when some human life is deemed to be less valuable than others, then life as a whole has gone from being infinite to being relative and the lives of us have become cheapened and debased.

Contemporary rhetoric, however, has taken a decidedly different turn. In an time of rapid technological advance, aging populations, and limited resources, "death with dignity" is a slogan that carries considerable appeal justifying taking comatose patients off respirators, allowing patients to starve themselves to death, and most recently, encouraging "voluntary suicides" á la Derek Humphrey and Jack Kevorkian. This article will explore the halachic parameters of this issue.

Before proceeding to the sources, however, one preliminary observation may be in order. The watchword of the "death with dignity" movement is autonomy or self-

determination. All well and good. What proponents of autonomy fail to realize, however, (or more ominously, what they realize and fail to express) is that as formerly unspeakable options become widely available, there is a tremendous societal pressure to have them exercised. If and when assisted suicides become legalized and socially-acceptable, one could easily visualize scenarios where persons who truly would want to live given the chance and the encouragement will instead opt for death, viewing their lives as worthless, nonproductive, and a drain on their families. Subtly or explicitly, societal consensus will push people into directions which on their own would have remained off-limits.² What starts off as a "right to die" quickly turns into an obligation.³ Rather than enhancing autonomy and self-respect, the Derek Humphrey-Kevorkian approach does precisely the opposite, ultimately debasing the sanctity of the individual and the meaning of his existence. Judaism, which values and cherishes all life, inescapably proceeds from the opposite premise as the following halachic sources indicate.

Judaism regards the taking of one's life as abhorrent and tantamount to murder. "One who intentionally takes one's life has no share in the world to come." Even the mourning rituals of shiva are not observed and such persons are not buried in proximity to other Jews (though within a Jewish cemetery). In practice, we generally assume that most suicides are the result of unbearable stress, pain, or depression and do not fall within the category of a premeditated, volitional act that is subject to these sanctions. Nevertheless, the sympathetic recognition of a category akin to "temporary insanity" in no way lends normative sanction to the commission of the act. Life is regarded as a sacred trust given to us by G-d and only G-d can take it away. Indeed, contrary to much of the rhetoric in contemporary moral and political discourse which stresses autonomy and control over one's life, Judaism teaches us that our very bodies are not our own. They are a bailment. As a repository for the soul, the body must be cherished and protected. Activities involving reckless endangerment (e.g., bungee jumping and perhaps cigarette smoking) are proscribed. It is forbidden to engage in self-mutilation. In a fascinating essay, the late Rabbi Shlomo Zevin demonstrated that, under Jewish law, Antonio's agreement to give Shylock a "pound of flesh" would be null and void because Antonio's very body is not his own to give away. Granted that there may be occasions when aggressive, life-prolonging treatment need not be administered or may even be discontinued, the allowing of the natural process of death to occur by withdrawal of treatment is a far cry from actively terminating life. Even ignoring the fact that persons may change their mind at a point where the process is irreversible, the "patient"'s desire is simply irrelevant. Killing oneself is not regarded as being within the legitimate scope of personal autonomy. It stands to reason that it is immoral to assist, enable, or facilitate someone's committing an act which in itself is immoral for that person to commit.

Therapeutic Exceptions: The foregoing does not necessarily commit Judaism to a "life at all costs" position. There are a number of situations where, in the face of

grave suffering, steps may be taken that would or could hasten death. First, pain-relief medication such as morphine may be administered in spite of the risk that it may induce cardiac arrest, provided that the dose is not definitely lethal and is not administered for the purpose of life termination. Second, a patient may undergo a life-threatening, hazardous procedure which holds out even a slight hope of cure, though there is no obligation to do so. Third, halacha permits the invocation of prayer that G-d take the person out of their pain and misery. Fourth, under narrowly-defined circumstances, life-sustaining (or death prolonging) treatment such as chemotherapy, or antibiotics may be discontinued; DNR or "Do Not Resuscitate" orders may be entered.⁴ As noted, however, all of this falls far short of actively terminating life.

The Saul Precedent: The end of the Book of Samuel I recounts that King Saul, after falling in war, took his own life (fell upon his sword) when his arms bearer refused to slay him.⁵ (Interestingly, in the beginning of Samuel II, there is a conflicting account where an Amalekite convert claims credit for this act seeking to curry favor from David but David promptly has him executed). The exact interpretation of the Saul precedent is a matter of considerable controversy. Some halachic authorities simply posit that Saul's action was halachically improper and does not represent a normative or acceptable position. At the other extreme, there is the opinion of the Besamim Rosh [a collection of responsa originally attributed to the illustrious Rabbi Asher of 14th Century Germany and Spain but which has been shown to be the later work of a far less eminent authority] who adduces from Saul that if one is in a terminal condition, i.e., death is imminent, and one is suffering unbearable pain or anticipates such pain (Saul feared both being tortured and humiliated), one is allowed to take one's life. The Besamim Rosh's approach would indeed lend support to some of the Kevorkian suicides though not all since many of the "victims" were not in terminal states and could have lived relatively pain-free. In any case, it must be emphasized that Besamim Rosh's position has unequivocally been rejected by the overwhelming majority of halachic literature and indeed, by the bitter crucible of Jewish history and experience.⁶

Even in the darkest moments of our existence - the Holocaust - suicide was rare and, among halachic Jews, virtually nonexistent. It was always the Jewish way to affirm life, to seek the glimmer of hope within the darkest gloom, and while none of us may dare stand in judgment and condemn personally those who could not withstand the awful vicissitudes of life, neither can we condone or encourage that which is regarded as a desecration and a profanation of the Divine. As the great Talmudic sage Rabbi Chananya Ben Teradyon was being burned at the stake by the Romans for the "crime" of teaching Torah and was suffering excruciating pain, his students urged him to open his mouth and let the flames enter so that he could die more quickly. He responded, "Let He who gave me life take it."

It is the task of all of us to attempt to fathom the redemptive potential of existence- to nurture, to love, to encourage, to strengthen, to provide hope. Ever cognizant of our limitations, however, let us not invade the exclusive province of the Divine.

"My G-d, the soul you have given me is pure. You have created it, you have formed it, You have breathed it into me, you preserve it within me and you will in the future remove it from me and will some day return it to me."

(Daily Prayers, emphasis added)⁷

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Footnotes

1. Note that although the sources in this article are grounded in halachic texts, Judaism regards its proscription, against suicide as being of universal application. These laws are part of the Noachide Code, applicable to Jews and non-Jews alike. All human beings are created in the image of G-d and all human life must be accorded reverence, respect, and sanctity.
2. Indeed, several years ago, former Governor Richard Lamm of Colorado openly expressed the view that when people reach a stage where they are a net drain to society and consume more than they produce, they should essentially just "walk into the sunset." How easy it is to move from a stance proclaiming "death with dignity" to a position that regards the value of human life as no greater than its contribution to the gross domestic product.
3. One striking example occurred recently in Minnesota where both the patient and her family wanted aggressive, life-prolonging measures to be applied and the physicians went to court to have those measures discontinued. This is hardly the deference to self-determination to which the proponents of the "right to die" supposedly adhere.
4. According to most, but not all, halachic authorities, this dispensation would not encompass the withholding of food, water, or oxygen, contrary to the current state of American law.
5. Two other recorded instances of suicide in the Old Testament should be briefly mentioned. In Judges _____, Samson declares, "Let my soul perish with the Philistines" as he pulls down the columns supporting the temple. His death occurs in the context of vanquishing the enemy and is analogous to a soldier who gives his life fighting for his country, clearly not a suicide as that term is normally understood. The second instance appears in Samuel II. Ahithofel, who sided with Absalom against David, discovers that the rebellion has failed and kills himself. Ahitophel is clearly assigned a villainous role in the Biblical narrative and his behavior can hardly be regarded

as normative. Indeed, the Talmud Sanhedrin 90-b states that Ahithofel does not have a share in the world to come.

6. Other interpretations view the Saul narrative in a much more limited way. Some posit that Saul, as leader of the beleaguered Jewish forces, felt that were he captured alive by the Philistines, the anticipated torture and public humiliation would have a devastating impact on combat morale. He thus took his own life to protect the overall war effort. A second interpretation states that Saul was afraid that, as a result of Philistine torture, he would be coerced into idolatrous worship. Since a Jew must indeed be willing to give up his life before submitting to idolatry or renunciation of Judaism, it is argued that one may even actively commit suicide to avoid the greater evil of apostasy or conversion. Under either of these interpretations, pain and suffering alone, no matter how severe, do not furnish justification for suicide in the absence of "combat necessity" or "religious persecution."

7. Some other instances of recorded suicide:

1. The Babylonian Talmud in Gittin records that a number of young Jewish children captured by the Romans during the conquest of Jerusalem jumped off a ship and drowned. The Talmud praises their act as saintly. The context of the passage indicates, however, that the children would be subject to sexual abuse (including homosexual activity). Since sexual offenses are recognized as among those for which a Jew must give his life, this incident falls under the "religious persecution" rubric. Similar incidents, occurred with female Beth Yaakov students during the Holocaust.
2. During the crusades, a number of Jewish communities committed mass suicide rather than be captured by Christian troops. The most famous of these was the suicide of 500 Jews in York during the Third Crusade in 1189. Here too, the rationale was the avoidance of forcible conversion to Christianity due to inability to withstand torture. Indeed, some authorities not only condoned suicide but the murder of children. Others found this practice utterly abhorrent and sinful. See Daat Zekainim, Genesis 9:5.
3. The famous story of Masada where a group of zealots led by Elazer Ben Yair, realizing that their situation was hopeless, took their own lives rather than surrender to the hands of the Roms. To the extent the suicide was "political", i.e., better to be dead than surrender, which is the way the story is commonly interpreted, it is generally regarded as halachically improper. To the extent the decision was taken to avoid torture and protracted pain, its permissibility would hinge on the acceptance of Besamim Rosh's position. If it was done to avoid forcible religious apostasy, the act would have halachic sanction based on the Saul precedent. Not being privy to either the halachic authorities, if any, who advised the zealots or the actual deliberations within the fortress, we can never know for sure.