

(I En. 104:6); "you shall have great joy as the angels of heaven" (*ibid.* 104:4); "the righteous will be transformed into the glory of the angels" (*II Bar.* 51:5); "and become like them," i. e., the angels (*ibid.*, 51:10); "and their surpassing splendor will exceed that of the angels" (*ibid.*, 51:12).

²⁹ Matt. 22:30; Luke 20:34:36: "And Jesus said to them, 'The sons of this age marry and are given in marriage; but those who are accounted worthy to attain to that age and to the resurrection from the dead neither marry nor are given in marriage, for they cannot die any more, because they are equal to angels and are the sons of God, being sons of the resurrection.'"

³⁰ S. Zeitlin, *Rise and Fall etc.*, Vol. I, p. 187, has offered a weak suggestion to explain the Sadducean denial of angels. "They (the Pharisees) did assert, however, that the Judaeans were under the Providence of God Himself. This was the underlying reason why the Sadducees rejected the belief in angels. God was for them an ethnic God, the God of the children of Abraham, Isaac and Jacob alone, and was not concerned with other nations, even through angelic intermediaries." This does not answer the basic question of how to reconcile the Sadducean denial of angels with the presence of these celestial beings in the Pentateuch and the other books of the Bible. The most detailed attempt to establish angels as a point of controversy between the Pharisees and Sadducees on the basis of the passage in Acts is that of L. Finkelstein. He first advanced his thesis in the *Harvard Theological Review*, Vol. XXII (1929), 235-240, and later expanded it in his *The Pharisees, loc. cit.* His argument is tenuous and his proofs conjectural. Basically his thesis involves a contrast between Michael, Gabriel, Raphael, etc. and the impersonal angel of the Lord who figures so prominently in the patriarchal tales of Genesis. "The true analogue," he writes, "in the later theology to the patriarchal 'angel of the Lord' was the Divine Presence (Shekinah) of rabbinic Judaism and in a sense the 'Holy Ghost' of Christianity; nothing but the name unites this 'angel' with the 'watchers,' 'holy ones' and other semidivine beings of Pharisaiism and its derivative doctrines" (p. 160). He examines biblical and apocryphal books to determine whether they affirm or deny the existence of angels. He argues that "in addition to Deutero-Isaiah and Haggai already mentioned, Ben Sira and the writer of the Book of Esther among other authors of this period *apparently* (italics mine) negate the existence of angels. . . ." (p. 117). This is an argument from silence. How can one speak of a denial of angels by the author of Esther when we do not even know his conception of God who is not mentioned in the book?

The Karen Ann Quinlan Case: A Jewish Perspective*

SID Z. LEIMAN
YALE UNIVERSITY

There are few ethical issues as controversial as euthanasia. Feelings run high on all sides, and there are few people who can discuss the issue of euthanasia calmly. Despite a landmark decision by New Jersey's Supreme Court—which ruled in March of 1976 that Karen Ann Quinlan's respirator could be disconnected with impunity if her attending physicians and a panel of hospital officials ("an ethics committee") agreed that there was no reasonable possibility that she would recover—the issues are hardly settled. Perhaps the major reason for the controversial nature of euthanasia is the fact that it touches so many different bases. Euthanasia is:

1. *a moral issue.* Who controls life? Who decides when it is proper to abandon a terminally ill patient? On what grounds?
2. *a legal issue.* May a state enforce the prolongation of the act of dying by prohibiting euthanasia? What is the legal status of the moribund? Is euthanasia homicide?
3. *a medical issue.* The physician performs the act of euthanasia. Does his medical degree or licensure authorize him to engage in such activity? Does society's mandate to the physician include the right to decide when to terminate life? Should federal funds be allocated to hospitals whose stance with regard to euthanasia can at best be described as being irresponsible and, at worst, as bordering on homicide?
4. *a sociological issue.* What role does the family play in the decision making process with regard to euthanasia? To what extent do federal and state regulations reflect the attitudes of the citizenry toward euthanasia?
5. *a psychological issue.* What are the after-effects of an act of euthanasia on the family that agreed, perhaps prematurely, to its taking place? What are the after-effects on the one who pulls the plug, or on the one who administers the lethal drug?

* This paper was delivered at the Gratz College Community Conference on "Life and Death in Judaism," held May 12th 1976.

Any balanced view of euthanasia must take these—and many other factors—into account. For the purposes of this discussion, I should like to focus on four specific problems which will enable us to formulate a Jewish perspective on euthanasia in general and, more specifically, a Jewish response to the Karen Ann Quinlan case. The four problems are:

1. May a patient hasten or induce his own death in order to relieve physical suffering or in order to reduce the financial burden on the family savings?
2. May a physician hasten or induce the death of a patient for any of the above reasons? May he do so only with the patient's consent, or even without the patient's permission?
3. Should a patient suffering from severe brain damage, and having entered an irreversible comatose state, be maintained alive indefinitely by artificial means?
4. Is there ever justification for turning off a respirator, once such treatment has begun?

Problem 1 raises the issue of suicide in Jewish law. Do men have a "right to die" when and if they so choose, so long as they harm no one else while in the process of dying? The rabbinic response would be an unequivocal "no." Jewish teaching proscribes suicide in no uncertain terms. Not only is suicide proscribed, but even the right to injure one's self. The rabbis derived these teachings from Gen. 9:5 ("for your lifeblood I will surely require a reckoning"), from Deut. 30:19 ("therefore choose life"), and from elsewhere in Scripture. The underlying theory seems to be that man is created in God's image; to injure man, even one's self, is to diminish God's image. Moreover, since God provides man with body and soul, they are not man's possession to do with as he pleases. According to Jewish teaching, then, one is obligated to safeguard his personal well-being, to live, and to live well. While suicide in general was banned, the rabbis were sensitive to the complexities of life and made it virtually impossible for anyone to be considered a legal suicide. The rabbinic attitude is reflected in the following passages:

Semahoth 2:1

Rabbi Akiba ruled: Neither praise nor blame a suicide.

Semahoth 2:2

If one climbs the highest tree and falls to his death, or falls from the highest roof and dies, he is not considered a suicide. One is considered a suicide only if he declares: I shall climb a tree or go up on a roof and leap to my death, and then witnesses see him carry out his threat immediately after the declaration.

Occasionally, the rabbis condoned suicide. An aggadic passage in

the Talmud describes how 400 Jewish children drowned themselves at sea, rather than submit to rape at the hands of the Romans (b. *Gittin* 57b). Despite their mass suicide, all were assured a share in the world to come. For our purposes, it is crucial to determine whether or not the rabbis considered physical pain a sufficient justification for suicide. In the Babylonian Talmud we read as follows: (*Avodah Zarah* 18a)

The Romans found R. Hanina b. Tradyon sitting and occupying himself with the Torah, publicly gathering assemblies, and keeping a scroll of the Law in his bosom. Straightaway they took hold of him, wrapped him in the scroll of the Law, placed bundles of branches around him and set them on fire. They then brought tufts of wool, which they had soaked in water, and placed them over his heart so that he would not expire quickly. His daughter exclaimed, "Father, woe to me that I see you in this state!" He replied, "If it were I alone being burned it would be a hard thing to bear; now that I am burning together with the scroll of the Law, He who regards the plight of the Torah will also regard my plight." His disciples called out, "Rabbi, what do you see?" He answered them, "The parchments burn but the letters soar on high." "Open your mouth," they said, "so that the fire may enter into you." He replied, "Let Him who gave me my soul take it away, but one should not injure oneself." The executioner then said to him, "Rabbi, if I raise the flame and remove the tufts of wool from your heart, will you guarantee me a share in the world to come?" "Yes," he replied. "Swear to me," he urged. He swore to him. He thereupon raised the flame and removed the tufts of wool from his heart, and his soul departed speedily. The executioner then leaped into the fire. An oracle exclaimed: R. Hanina b. Tradyon and the executioner have been assigned a share in the world to come.

Clearly, R. Hanina b. Tradyon did not consider physical suffering a sufficient justification for suicide. Hanina's view was codified in the thirteenth century code of the Jewish pietists in Germany, called *Sefer Hasidim* (the Book of the Pious), where we read (ed. Wistinetzki, p. 100):

If a man suffers unbearable physical pain, and he knows that he is terminally ill, he may not commit suicide. We derive this ruling from the account of Rabbi Hanina b. Tradyon, who refused to open his mouth, lest he contribute toward his own death.

In sum, Jewish teaching proscribes suicide. Under extenuating circumstances it is sometimes condoned. Neither physical pain nor serious financial loss are considered sufficient justification for suicide in rabbinic

sources. It follows, then, that a patient may not hasten or induce his own death in order to relieve physical suffering or in order to reduce the financial burden on his family.

Problem 2 is easily resolved. From a biblical and rabbinic perspective, the prohibition against homicide applies despite the victim's consent. In general, human life is inviolate. In the rare instances where a life may be taken, such as capital punishment in biblical-rabbinic times, or self-defense to this very day, there must be sufficient warrant to take a life. Where there is sufficient warrant, the victim's consent or lack of it is irrelevant. Conversely, if there is not sufficient warrant, life may not be taken *even at the victim's request*. And so the following ruling in the thirteenth century *Book of the Pious* (ed. Wistinetzki, p. 100):

If a man suffers unbearable physical pain and informs another party that he is terminally ill, and requests the other party to perform an act of euthanasia in order to relieve him of his pain, the second party may not do so.

Similarly, Maimonides (in the twelfth century) and Joseph Karo (in the sixteenth century), in their respective codes, rule that "one who is near death is regarded as a living person in all respects. Whoever lays a hand on someone near death, and hastens his death, is guilty of shedding blood. To what may one who is near death be likened? To a flickering flame, which becomes extinguished as soon as one touches it" (*Yad, Sho'etim, Hilkhot Evel*, 4:5; *Yoreh De'ah*, 339:1). Thus, a physician may not hasten or induce the death of a patient, even at the patient's request.

Problems 3 and 4 address themselves to the Karen Ann Quinlan case, and are not easily resolved. A rabbinic consensus has yet to emerge, nor is one likely to emerge, indeed as no Protestant consensus has emerged. The stakes are much too high, and the issues much too complex, for a clear and simple resolution. Two approaches to the Quinlan case have been suggested in recent rabbinic discussion, and they merit mention here. The first approach, espoused by Rabbi J. David Bleich of Yeshiva University, views all humans as being either alive or dead. If not dead, runs the argument, every effort—however artificial—must be maintained in order to prolong life. Since Karen Ann Quinlan is alive physiologically by almost any definition of the term, her life must be sustained at all costs. The respirator should not have been turned off until such time that she was declared legally, which is to say *halakhically*, dead.

A careful examination of the classical Jewish sources suggests a second approach, which I shall espouse here. Classical Judaism recognizes at least three stages in the life cycle: life, dying, and death. While every effort must be made to prolong life, the rabbis saw no need to prolong needlessly the act of dying. The rabbis valued biological life,

but it was not always sacrosanct in their eyes. There was still another more important value, namely, the quality of life. And so they ruled that a Jew must lay down his life rather than take an innocent life, engage in a sexually immoral act, or engage in idolatrous worship. Their devalued regard for the biological life of those in whom death was imminent, or for those who could no longer function in any meaningful way, expressed itself in their reluctance to engage in any activity which would prolong the act of dying. Thus, under certain circumstances, the rabbis tolerated passive euthanasia, that is, they were willing to allow nature to take its course. Let us examine the rabbinic evidence:

a) *Yalqut* to Proverbs, § 943

It once happened that a woman who had aged considerably appeared before Rabbi José b. Halafta (a second century c.e. Tanna). She said: "Rabbi, I am much too old, life has become a burden for me. I can no longer taste either food or drink, and I wish to die." Rabbi José asked her: "To what do you ascribe your longevity?" She answered that it was her habit to pray in the synagogue every morning, and despite occasional more pressing needs, she had never missed a service. Rabbi José advised her to refrain from attending services for three consecutive days. She heeded his advice and on the third day she took ill and died.

I am not sure what the moral of this story is. Some will claim, no doubt, it teaches that if life becomes a burden, one should stay away from the synagogue. Others will see here a clear indication that those lax in synagogue attendance are, in fact, courting death. What is clear is Rabbi José's willingness to hasten biological death by means of inaction. He did not deem it a *mitzvah* to prolong life needlessly.

b) *Book of the Pious* (ed. Wistinetzki, p. 100)

One may not prolong the act of dying. If, for example, someone is dying, and nearby a woodcutter insists on chopping wood, thereby disturbing the dying person so that he cannot die, we remove the wood cutter from the vicinity of the dying person. Also, one may not place salt in the mouth of a dying person in order to prevent death from overtaking him.

These rulings from the *Book of the Pious* have been incorporated into the standard Jewish codes of law.

c) The rabbis did not hesitate to pray for death, when they felt it was warranted:

1. b. *Ketuboth* 104a

On the day that Rabbi Judah was to die the rabbis decreed a public

fast and offered prayers for heavenly mercy... Rabbi Judah's handmaid ascended the roof and prayed: "The immortals desire Rabbi Judah to join them and the mortals desire Rabbi Judah to remain with them; may it be the will of God that the mortals may overpower the immortals." When, however, she saw how often he resorted to the privy, painfully taking off his *tefillin* and putting them on again, she prayed: "May it be the will of the Almighty that the immortals may overpower the mortals." As the rabbis incessantly prayed for heavenly mercy she took up a jar and threw it down from the roof to the ground. The rabbis were distracted from their prayers and the soul of Rabbi Judah departed to its eternal rest.

2. b. *Baba Metzia* 84a

Rabbi Simeon b. Laqish died, and Rabbi Johanan was plunged into deep grief. Said the rabbis, "Who shall go to ease his mind? Let Rabbi Eleazar b. Pedath go, whose disquisitions are very subtle." So he went and sat before him; and on every dictum uttered by Rabbi Johanan he observed: "There is a *baraita* which supports you." "Are you the son of Laqisha?" retorted Rabbi Johanan, "When I stated a law, the son of Laqisha used to raise twenty-four objections, to which I gave twenty-four answers, which consequently led to a fuller comprehension of the law; while you say, 'A *baraita* has been taught which supports you.' Do you think I do not know that my dicta are right?" Thus he went on rending his garments and weeping, "Where are you, O son of Laqisha, where are you O son of Laqisha?" He cried until his mind was turned, whereupon the rabbis prayed for him and he died.

3. b. *Taanith* 23a

One day Honi was journeying on the road and he saw a man planting a carob tree; he asked him, "How long does it take for this tree to bear fruit?" The man replied, "seventy years." He then further asked him, "Are you certain that you will live another seventy years?" The man replied, "I found ready grown carob trees in the world; as my forefathers planted them for me so too I plant these for my children."

Honi sat down to have a meal and sleep overcame him. As he slept a rocky formation enclosed upon him which hid him from sight and he continued to sleep for seventy years. When he awoke he saw a man gathering the fruit of the carob tree and he asked him, "Are you the man who planted the tree?" The man replied, "I am his grandson." Thereupon he exclaimed, "It is clear that I have slept for seventy years." He then caught sight of his ass who had given birth to several generations of mules, and he returned home. He

inquired there, "Is the son of Honi still alive?" The people answered him, "His son is no more, but his grandson is still living." Thereupon he said to them, "I am Honi," but no one would believe him. He then repaired to the academy and he heard the scholars say, "The law is as clear to us as in the days of Honi," for whenever Honi came to the academy he would settle for the scholars any difficulty they had. Whereupon Honi called out, "I am he." But the scholars would not believe him nor did they render him the honor due to him. This hurt him greatly and he prayed for death and he died. Raba said, "Hence the saying: Either companionship or death."

From a rabbinic perspective, then, one could pray for divine intervention, one could in certain situations passively allow death to come, but one could not actively induce death. Under no circumstances would the rabbis allow the deliberate taking of innocent life.

The crucial issue in the Karen Ann Quinlan case, from a *halakhic* point of view, is her precise physiological, as well *halakhic* status. Clearly, she is not dead by even the most liberal definition of the term. Is she among the living, and to be accorded all the rights and privileges of any other ill patient, or is she moribund, i. e., one in whom death is imminent (and *halakhically* termed a *goses*)? According to some *halakhic* authorities, Karen Ann Quinlan is clearly to be numbered among the latter. She is qualitatively in a transition state between life and death, i. e., she is dying, and as such, those rabbinic authorities would rule that there is no moral or legal obligation to keep her alive artificially, since there is no possibility of restoring her to a non-moribund state. The physician's obligation is to heal, to restore to cognitive life, and not to prolong the act of dying. With regard to the moribund, many rabbinic authorities would allow the withdrawal of any and all devices prolonging death needlessly. While the physician and hospital staff would no longer be obligated to engage in therapeutic activity, they would be obligated to care for the patient, to make her end as comfortable as humanly possible.

Regarding problem 4, the initial justification for the use of a respirator was therapeutic. If this justification falls away, i. e., if the physicians determine that she cannot be restored to cognitive life, the respirator is, in fact, prolonging death. As just indicated, many rabbinic authorities would allow the withdrawal of any and all devices prolonging death needlessly. Three options present themselves at this point, with regard to the Quinlan case:

- a) withdrawal of antibiotic treatment
- b) pulling the plug
- c) withdrawal of nourishment

Assuming Karen Ann Quinlan is a *goses*, many rabbis would sanction all these options, if necessary, with a clear preference for the withdrawal of antibiotic treatment, since it involves no direct action (such as "pulling the plug"), and allows for nourishment to continue until the end, an obligation some rabbis would extend to all the terminally ill, however advanced their moribund state.

Lest anyone have qualms about the absolute biblical-rabbinic prohibition against active euthanasia, let me remind you, indeed as Paul Ramsey reminded me, of the judgment of Dr. Leo Alexander, a leading historian of Nazi medical crimes:

Whatever proportion these crimes finally assumed, it became evident to all who investigated them that they had started from small beginnings . . . It started with the acceptance of the attitude . . . that there is such a thing as life not worthy to be lived . . . its impetus was the attitude toward the non-rehabilitable sick.

It is sometimes exceedingly difficult to distinguish between active euthanasia as an act of mercy and a violation of basic human rights. So long as confusion will reign in the minds of some, Jews will be in no hurry to come down on the side of the act of mercy.*

* For further study, see:

- J. D. Bleich, "Karen Ann Quinlan: A Torah Perspective," *Jewish Life*, Winter, 1976, pp. 13-20.
- A. Cohen, "An Analysis on Whether 'Pulling the Plug' is Ever Permissible Under Jewish Law," *Young Israel Viewpoint*, November, 1976, pp. 5-15.
- I. Jakobovits, *Jewish Medical Ethics*. Second edition, New York, 1975, pp. 275-276 and notes.
- I. L. Liebes, "Medical Issues According to the *Halakhah*," *Perspective* 3, 1976, 50-60.
- S. Siegel, M. D. Tendler, and J. D. Bleich in *Sh'ma*, April 15, 1977, pp. 96-102.

An Addition for the J. P. S. *Notes on the New Translation of The Torah*

EDWARD R. LEVENSON
GRATZ COLLEGE

In the years 1780-1783, in Berlin, Moses Mendelssohn, the German-Jewish philosopher, literary critic, and advocate of Jewish emancipation, published his *Sefer Netivot Hashalom* (*SNH*), a landmark edition of the Pentateuch, containing his German translation in Hebrew transliteration, his Hebrew commentary (the *B'vur*—by which name *SNH* has, in general, metonymously been called), and a Masoretic compendium (the *Tiqun Sofrim*). The cultural monument of the Jewish Enlightenment period, *SNH* served the dual role of resuscitating the glorious tradition of Jewish Bible scholarship, dormant for hundreds of years, and of introducing European Jewry to a beautiful literary German. It has been described, accordingly, by the Israeli scholar M. Samet as "undoubtedly the most famous Pentateuch edition of the modern age."¹

SNH, however, has ceased to receive the attention such a classic deserves. As a result of its having become outdated by discoveries in comparative Semitic philology, interest in *SNH* on the part of the *maskilim*, who had been most attracted to it, declined towards the end of the nineteenth century; and, after having been reissued in numerous editions in such places as Vienna, Prague, and Vilna, as well as in Berlin, it went out of print.² Ultra-traditionalists to this day have regarded *SNH* as an object of taboo, owing to the printing of the German translation alongside the sacred Hebrew of the Torah, and owing to the mistaken belief that the work was originally put under the ban in the eighteenth century.³ There has never been an interest on the part of Orthodox printers to reproduce the *B'vur* in Rabbinic Bibles, despite the fact that Mendelssohn was known as a rabbi (Rabbi Moses ben Menahem, RaMBeMaN acronymically; Rabbi Moses of Dessau; or Rabbi Moses Dessau) and that his commentary draws heavily on the classical medieval commentators and is quite traditionalistic.

Individual intellectual historians in this century, such as Perez Sandler, Mordekai Eliav, and Alexander Altmann, have discussed the educational and cultural significance of *SNH*, describing its background and contents.⁴ Professor Altmann's recent definitive biography of Mendelssohn, in fact, with a section describing, on the basis of many newly-discovered sources, the historical development of *SNH*, the oppo-

GRATZ COLLEGE
ANNUAL
OF JEWISH STUDIES



VOLUME VI
PHILADELPHIA

תשל"ח - 1977