

On Fences and the “Right to Die”

R. Mois Navon

Beit HaKenneset HaSefaradi BeRimon – Ki Teitzei 5779

“I will take my life today around noon. It is time. Dementia is taking its toll and I have nearly lost myself. I have nearly lost me.”

“אקח את חיי היום בסביבות 12 בצהריים. הגיע הזמן. דמנציה גובה את אותותיה וכמעט איבדתי את עצמי. כמעט איבדתי את האני”.

These are the opening words of a suicide note (michtav hitabdut) which took the world by storm. The letter, spread of 5 internet pages, was written by an elderly woman who began to realize she was losing her mental capacity (yecholet sichlit) – forgetting daily tasks, and then conversations, and finally, people. She decided that it would be the exercise of better judgement (shikul daat) to end her life before she deteriorated to the point (mitdarderet lematzav) where she was no longer the person she knew herself to be.

One can certainly identify with her well-considered deliberation and final decision. It is a decision that has become known by the slogan “right to die.” הזכות למות

What does Judaism have to say about this?

We can get a hint from the parsha that teaches the mitzvah to put up a fence.

פִּי תִבְנֶה בַּיַּת חֵדֶשׁ וְעִשִּׂיתָ מַעֲקֶה לְגַגְךָ וְלֹא תִשִּׂים דְּמַיִם בְּבֵיתְךָ כִּי יִפֹּל הַזֶּפֶל מִמֶּנּוּ.

What does a MAAKEH have to do with the “right to die” you might ask?

The answer is: Values. The Value of Life.

The Rambam explains that the Mitzvah of Maakeh INCLUDES anything that will lead to danger – like an open pit. This is also brought as Halacha in Shul”A. And Sefer HaHinuch explains that the only reason roof (gag) was singled out was because “b’hoveh dibeir hakatuv” – the Torah just gave the most usual case.

רמב”ם הלכות רוצח ושמירת הנפש פרק יא

הלכה א - מצות עשה לעשות אדם מעקה לגגו שני + דברים כ”ב ח”ו ועשית מעקה לגגך, ...
הלכה ד - אחד הגג ואחד כל דבר שיש בו סכנה וראוי שיכשל בו אדם וימות כגון שהיתה לו באר או בור בחצירו בין שיש בהן מים בין שאין בהן מים חייב לעשות להן חוליה גבוהה עשרה טפחים או לעשות לה כסוי כדי שלא יפול בה אדם וימות. וכן כל מכשול שיש בו סכנת נפשות מצות עשה להסירו ולהשמר ממנו ולהזהר בדבר יפה יפה שני + דברים ד’ ט”ו + השמר לך ושמור נפשך, ואם לא הסיר, והניח המכשולות המביאין לידי סכנה, ביטל מצות עשה ועבר על לא תשים דמים.

What we see from these laws is a love of life, an ethic to preserve life in any and all ways.

The reason Judaism seeks to preserve life so much is because it sees life – the life of every individual – as infinite, of infinite value. And it is this ethic that is also behind the absolute prohibition to take one’s own life – even when circumstances (like losing one’s mental capacities – ibud yecholet sichlit) – might seem to argue for suicide.

The reason is that, while we can certainly sympathize with the wishes to die – certainly of someone who sees their mental or physical capacity (yecholet sichlit o fizit) deteriorate, this would mean that life is not of infinite value, that we somehow can judge the intrinsic value of life. (Note: there is a big difference between the VALUE of life, and the QUALITY of life – while we can estimate differences in quality of life, we have no right, indeed no way, to estimate the value of a life).

And herein lies the problem. Once we begin to judge life, so we begin to evaluate everyone, we begin to evaluate everyone's value to society. And from here, the "right to die" (zechut la'mut) moves very quickly to the "obligation to die" (hovah la'mut).

This is not theoretical.

R. Yitzhak Breitowitz, a expert in Medical Halacha, brings a couple of telling real life examples:

R. Breitowitz: <https://www.jewishvirtuallibrary.org/physician-assisted-suicide-a-halachic-approach>

Indeed, several years ago, former Governor (moshel) 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.

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.

Certainly this is not a world we want to live in. This is a world that has lost faith. This is a world that has assumed to know everything.

I am not saying that there is never a circumstance where suicide might be considered – there are cases like Shaul HaMelech, Masada (see my shiur [Suicide.pdf](#)). Those cases, however, are one's which have an external motive, avoiding sin or national disgrace; they are not judging the value of the individual's life. And indeed, the halacha pesuka today, as brought by R. Breitowitz and others (see, for ex. [R. Avraham Sheinberg](#), esp. ch. 3) is that suicide is not an option in these cases of deteriorating health.

Ultimately, we must have faith that the Creator who gave us the infinite gift of life has a reason for all we endure in this world, and thus, we leave it to him take back the soul he granted us.

The fences we are commanded to put up around our roofs are also to be put up around sick beds (mitot holim v'ersei davay), for as difficult as it is to suffer the deterioration of mental and physical health, it is more difficult to contemplate a world that kills it's elderly, its sick, its weak, its unwanted – against their will.

May God heal the sick, have mercy on those who are beyond healing.
יהי רצון שהקב"ה ירפא את החולים, וירחם על אלו שמעבר לריפוי.