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JEWES AND JUDAISM ON DEATH

Death is the last great taboo of the Western Hemisphere. Like sex, it has recently capitulated to the new atmosphere of openness which pervades society. Unlike sex, however, the new approach to death is not so new.

The positive approach to death as a movement became necessary as soon as the deeper implications of the avoidance response began to surface. The failure of many moderns —not only Jews— to cope with death and suffering, gave stimulus to research and theory about healthy ways of preparing for and coping with death. An outstanding contributor to this field is Elisabeth Kübler-Ross, though she is by no means alone.

In fact, Kübler-Ross, quite appropriately, has written the foreword to Reimer's book, *Jewish Reflections on Death*.^{*} In her short observations, she praises the book and also indirectly and unintentionally challenges the Jewish community.

I have always wondered why the Jews as a people have not written more on death and dying. Who, better than they, could contribute to our understanding of the need to face the reality of our own finiteness? (p. 2)

In fact, classical Jewish literature, from the Bible through the Talmud and later writings, takes a consistently positive approach to the fact of death and the experience of mourning. There is no shortage of such writings, only a shortage of readers.

Realistically, it is futile to wait for the larger community to read the Codes, even translations. In the interim, many a family

^{*} *Jewish Reflections on Death*, edited by Jack Reimer (New York, Schocken Books, 1974).

will be unable to deal with tragedy, a failure which often can be traced to one's ignorance of Jewish tradition.

In this context, literature on the Jewish attitude and approach to death which is accessible and intelligible is sorely needed. *Jewish Reflections on Death* is a welcome addition to the modern literature on the subject. It is not nearly as comprehensive as Lamm's *The Jewish Way in Death and Mourning*, but then the editor's intentions were more general and philosophical-psychological.

Reimer's introduction to the book is a pertinent essay which briefly describes the modern situation concerning death and the contributions Judaism can make. He states:

If Judaism is a tradition that possesses any insights and perspectives on this, then surely we wish to know what they are, for this is the place where we all stand in darkness and crave for light (p. 8).

The book, then, hopes to offer the insights of Judaism on many aspects of death. But what we are offered, in fact, are "Jewish" reflections on death. What makes them Jewish?

. . . they are all by people who have come out of the Jewish tradition, who have been shaped *at least in part by it* (italics mine), and who strive to understand and transmit it (p. 13).

"At least in part" is a key phrase. It is the distinction between the reflections of "Judaism" on death and "Jewish" reflections on death. They are Jewish in that they are by Jews, but they are not necessarily reflective of Judaism. It is vital to keep this distinction in mind, for there are opinions and assertions in the book which, though evoked by Jews, are surely not consistent with normative Judaism.

The book is divided into sections along dimensional lines. It begins with excerpts from *Shulhan Arukh* on the laws pertaining to sickness, death, and mourning. These are followed by various examples of how Hasidic saints confronted death. This projects a leap from the real to the ideal. Heschel's point that for the pious it is a privilege to die is reinforced. The ideal may be restricted to saints, but the positive attitude implicit in the ideal is universal.

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Moreover, Judaism has never taken a restrictive approach to saintliness. Anyone can and should strive for the ideal.

The four major sections of the book are concerned with

1. Modern Dilemmas and Responses;
2. Halakhah and Its Insights;
3. Ultimate Questions;
4. Personal Encounters.

As in any selection from the literature, there are good and better pieces. In this book, some of the best are by authors writing articles specifically for the book, or at least heretofore unpublished. The very moving account by Deborah Lipstadt, "The Lord Was His," and the insightful article by Audrey Gordon, "The Psychological Wisdom of the Law," rank in this category.

It is difficult to review a book which is basically a collection of articles. The editor is not responsible for the contents of the articles, gleaned as they are in most instances from previously published material. The editor is responsible, however, for categorization and introduction of sections. In this Reimer has done a more than adequate job. The editor is also responsible for the actual selection. In this, there is certainly room to quibble. The selections come from works published in Jewish journals or in books by Jewish authors. This overlooks some pertinent materials in other journals. One example is the article on viewing the remains, which was originally published in the *Journal of Religion and Health* in 1966. It would have been quite pertinent as a Jewish reflection. It would also have been useful to include the valuable insights of Holocaust survivors other than Elie Wiesel. Viktor Frankl has much to say on death which relates not only to the Holocaust but also to classical Jewish tradition.

On balance, it must be said that the book makes available in a single volume a wide range of views on the many aspects of death. It is at points even instructive. It is most effective, however, in its espousal of the need for Jews to leave ethical wills. Not only is the writing of ethical wills strongly recommended, but also the book provides an excellent example of such a will. No one can write an ethical will who has not confronted the reality

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of life and the fact of death. Orientation towards ethical wills enhances both living and dying.

It is hoped that a future edition will incorporate material that was not presented, including material both philosophical and psychological dealing with sudden, untimely death. Except for one personal encounter, the book speaks about death in general.

Having reflected on the book in general, it would now be appropriate to examine some of its important observations in the light of Jewish tradition and this reviewer's bias.

First, some statements which are not consistent with Jewish law should be clarified. One is the following:

Even after the *shivah* is over, the garments may never be completely mended but must show the external scar of the internally healing wound (p. 99).

In fact, this statement is correct only insofar as garments rent for parents are concerned. Garments rent for the other five relatives may indeed be completely mended after thirty days.

Another error establishes the amount a garment is torn in the act of *keriah* as "one inch" (p. 54). In fact, this is a poor translation of the term "*tefah*" used in the *Shulhan Arukh*. A *tefah* is closer to 3½ inches. The book is not a halakhic treatise, but statements made in passing are assumed by readers to be correct.

There are two topics which are sources of controversy. One centers on the meaning of death, the other on the role of psychology in theology. They deserve some attention as they have profound implications for life in general and Judaism in particular.

Though the book takes a positive and affirmative attitude toward death, there are points of wavering. Morgenthau warns of the despair that must result when a society which espouses immortality through future generations must face the terrifying thought that such a future may be obliterated by a nuclear holocaust. When Morgenthau wrote this in 1961 he remarked that humankind is fortunate in that it is not yet aware of this problem. It is now sixteen years later, and we are all too aware of this condition.

Morgenthau questions the meaningfulness of hundreds of mil-

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lions dying in nuclear disaster. In fact, he asserts that there can be no meaning to this, as there can be no meaning to the murder of the six million (p. 44). The analogy is suspect. A sudden bomb or missile leaves little room for preparation or heroism, for transcending death through defiant affirmation. Many Jews were unaware that their baths were death houses, as indeed many drivers are unaware that their cars may be death traps. A depressing aspect of any sudden death is that it denies the individual the opportunity to prepare for the event.

But there were also many Jews who were aware of their fate, and who died either in active or passive heroism. Their stories are slowly but surely being told. They are not restricted, as may be implied from Kaplan (p. 129), to the brave people of the Warsaw ghetto; rather, they involve a great multitude whose courage and fortitude are ennobling. These people, as Kaplan points out, chose how to die, and thus gave meaning to their lives and their deaths. Morgenthau treats the six million as a statistic. Six million, however, is one person in six million different contexts, each with a meaning and challenge of its own. To say that we do not know why God allowed the tragedy of the holocaust to unfold is to say, in effect, that we do not know the ways of God, for weal and for woe. The ultimate meaning of the event escapes verbalization, but this should not be equated with its non-existence. Nor should the inability to find the meaning of this tragedy erase the particles of meaning which were actualized by many of the victims and survivors.

The question of meaning extends to the conflict over euthanasia. Mercy-killing is a device by which unnecessary suffering is eliminated through "pulling the plug." Kaplan's statement that pain is a degradation of the human spirit (p. 128) surely seems to invite euthanasia. But is it the Jewish view that pain is a degradation of the human spirit? There are many statements in the Talmud concerning pain and affliction, venturing even to the point of disliking the pain and its rewards, but that it should be termed a degradation of the human spirit is a distortion of Judaism. More humane though harder to swallow is Frankl's assertion that "Only the hammer blows of fate, in the white heat of suffering, does life gain shape and form." (*The Doctor and the*

Soul, New York, Bantam Books, 1967, p. 89.) It is natural to try to avoid pain, and hard to accept pain when it intrudes; but viewing it as degradation capitulates to a pleasure principle. Frankl would urge using the pain experience as a thrust to meaning. His approach is not only more healthy but also more Jewish.

Silver, in his article "The Right to Die?" speaks about the need to balance the obligation to preserve life with the obligation to mitigate pain. He cites the case of one sentenced to die by the courts, who was given drugs to deaden sensation in the moment of death. But this cannot be effectively used as an analogy, as the drugs administered did not hasten death and surely did not cause it.

Silver indulges in faulty and circular reasoning in dealing with the agonizing problem of euthanasia. Using the Biblical metaphor identifying death with the departure of the soul, he goes on to state that he always defined soul as "personality, control, individuality, capacity, awareness" (p. 123). One who lacks these elements is, for Silver, dead. We should redefine death as brain death or irreversible coma. This definition will make it easier to pull the plug and alleviate the guilt of family members. Silver seems to fall into a trap of retroactive rationalization. Change the definition of death to agree with your conception of death and then all problems magically disappear! As if people die by definition!

Silver further forces the argument by rejecting the notion that we have no right to interfere in God's plan. Going to a doctor is itself interference, as is surgery and medical treatment. Since we interfere in this way, we should also be able to interfere in the other direction. This argument is patently specious. Jewish tradition transmits the responsibility to preserve life. Doctors are so charged and are permitted to heal, to preserve, but never to destroy. The individual must not commit suicide or destroy health, the doctor must not commit medicide or destroy health. To preserve health is a positive act, one which is the fulfillment of the will of God in the highest sense. To call it intervention is a distortion.

Silver attempts to buffer his point with a closing story from the Talmud about R. Joshua's last moments. His students prayed

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for his recovery, which prevented his passing, but a pious maid interrupted them and told them they were only prolonging R. Joshua's agony. The Talmud praises her action. Silver leaves the reader with the implicit carryover of this episode into the modern plug-pulling situation, which too is only a prolongation of agony. Again, the relationship is, to say the least, flawed. The maid argued that no human being should prevent God from carrying out the destined fate. This is the lesson of the Talmud. Concerning euthanasia, it would militate in the opposite direction of that which Silver would want us to believe. The issue of euthanasia is too complex to be clouded by insubstantial argument.

Here, too, the issue has an eloquent side to it which is more congenial and affirmative.

Must we not ask ourselves now whether we are ever entitled to deprive an incurably ill patient of the chance to "die his death," the chance to fill his existence with meaning down to its last moment, even though the only realm of action open to him is the realizing of attitudinal values — the only variable the question of what attitude the patient, the "sufferer," takes toward his suffering when it reaches its climax and conclusion? The way he dies, insofar as it is really *his* death, is an integral part of his life; it rounds that life out to a meaningful totality. (Frankl, *The Doctor and the Soul*, p. 37.)

Frankl's views on euthanasia are not presented in the book, but, in fairness, Silver's opinion is countered by Greenberg's "The Right to Kill?" He argues against euthanasia, albeit in a subjective vein. A future volume should deal with the problem from the wealth of Jewish sources on the matter and the many responsible, objective presentations on the subject which have appeared in recent years. Here the difference between "Jewish" and "Judaism" is keenly felt.

Another area of controversy which evolves from the book, though it is quite subtle and escapes the reader's attention, is the matter of psychologizing religion.

Emanuel Feldman, in a searching and well-documented presentation, "Death as Estrangement: The Halakhah of Mourning," laments the trend of turning the mourning rites into a superficial textbook on group therapy. There are psychological benefits in the law, but

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it does an injustice to the halakhic view of man to assume that its depths have been plumbed simply because we are able to discover in it facets which are congruent with current intellectual vogues.

Perhaps the search for a rationale ought to be put aside. Instead of viewing the mourning legislation as simply a set of laws among laws, it might prove more fruitful to view it as an expression of a profound religious *Weltanschauung* (p. 85).

Feldman develops a unique thesis. The law asks the mourner to behave as if he himself were dead. His *is-ness* as a person is taken away, his identity is melted, and thus are marital relations prohibited in the seven-day mourning period. Feldman goes through all the major observances with this theory. The mourner is depersonalized, and therefore cannot work. Diminished identity makes sitting on a chair or couch prohibited. The first meal after burial cannot be prepared by the mourner as the mourner has no relation to the self and symbolically has no food. Having lost the sense of "I," the mourner cannot extend greetings to people. In short:

The mourning Halakhah prescribes a process of depersonalization and estrangement which is consistent with the estranging quality of death. Just as the dead are cut off from dynamic communion with God and community, so is the mourner required to behave in a similar manner — since he, alone among the living, has most intimately experienced the estrangement of death. In his conduct he refrains from participating in those aspects of life which express a relationship and connection with God, or fellowman, or with himself as being (p. 91).

Having prefaced his thesis with a caution against the psychologizing trend, Feldman, in effect, proceeds to create a philosophy of mourning which is almost antithetical to psychology. To his credit, he copiously combs the intricacies of the law, which, in his view, urges the mourner to behave as a dead person. If I read this correctly, the law actually is putting the mourner down. The mourner is given a prescription for depersonalization and estrangement. If Feldman is correct, why is the community obliged to visit the mourner during *shivah*? Why is the depersonalized individual the subject of more attention now than before? If the mourner is to be estranged from God, why does the period im-

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mediately following burial bring with it the obligation to recite *Kaddish*? Why is the mourner's house transformed into a sanctuary?

The same particulars marshalled by Feldman to prove his case can be used to prove another thesis, that the law responds to the way it conceives the mourner should and would naturally feel in the time of mourning. The mourner is exempt from commandments in the *onan* period following death not because of estrangement but because of preoccupation. The mourner does not prepare the first meal because the trivia of life such as food seem so distant and irrelevant. The community must be involved as a sign of concern for the mourner's welfare. The mourner sits low because low is the way the mourner feels. Work is proscribed so that a period of time radically separated from everyday pursuits can be set aside to cry, bemoan, reflect, and resolve. This is not done by a non-person.

Immediately preceding Feldman's piece is a short article by Rabbi Joseph B. Soloveitchik. Rabbi Soloveitchik sees the laws of *shivah* as inducing not only a mood for grieving, but also a mood for repenting. The *shivah* prohibitions are like the prohibitions of *Yom Kippur*, as is seen in the requirements to avoid washing, cosmetics, shoes, and marital relations. The mourner is placed into a setting for repentance. This setting is needed to confront squarely the guilt which normally arises at death. The questioning of the past, the frustration at not having shared enough time with the deceased, the rude awakening to all that the deceased was—all too neglected in life—these are feelings which gnaw at the mourner and literally beg for a reflective period to adequately work out these feelings. This is *shivah*.

Rabbi Soloveitchik also delves into the meaning of the *aninut* period following death in which the mourner is exempted from all commandments. Let Rabbi Soloveitchik's own eloquent words explain the theology of *aninut*.

The Halakhah has displayed great compassion with perplexed, suffering man firmly held in the clutches of his arch enemy, death. The Halakhah has never tried to gloss over the sorrowful, ugly spectacle of dying man. In spite of the fact that the Halakhah has indomitable faith in eternal life, in immortality, and in a continued transcendental ex-

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istence for all human beings, it did understand, like a loving, sympathetic mother, man's fright and confusion when confronted with death. Therefore the Halakhah has tolerated those "crazy," torturing thoughts and doubts. It did not command the mourner to disown them because they contradict the basic halakhic doctrine of man's election as the king of the universe. It permitted the mourner to have his way for a while and has ruled that the latter be relieved of all *mitsvot* (p. 77).

In the mourning phase of *avelut* the halakhah commands the mourner to start the slow process of picking up the pieces. But even here the commandment is to guide the mourner, to program a period in which expiation can unfold. The halakhah offers the framework of therapy in which the mourner is the main actor, the house the prime setting, and the greater community the concerned audience.

As Rabbi Soloveitchik argues, the halakhah, however momentarily, capitulates to a state of being, only to intervene to engender a new, more positive state of being. The halakhah suspends itself in recognition of the assumed psychological state of the mourner. Can there be a greater affirmation of the importance of psychology in Jewish law?

If there exists a tendency to impute psychological wisdom to Jewish law, it must be seen in a much wider perspective. What is psychology if not the concern with the mental states and processes of the individual? And is not Judaism concerned with offering the theological framework into which, as it conceives, the Jew should be molded? If Judaism is a Divine fiat written for humans, then it follows that such a doctrine should incorporate the workings of the human mind in all the multi-faceted situations that may unfold. It is surely not necessary for Judaism to coincide with current psychological fads, and this may be what Feldman cautions against. But it certainly is wrong to divorce psychological concerns from Judaism. It is precisely this concern, in ultimate terms, which makes the Jewish approach to life and death a supreme model.