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Free Will vs.Determinism in Bioethics

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Item Type	Article
Authors	Steinberg, Avraham
Publisher	A Division of American-Israeli Cooperative Enterprise
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Download date	2026-11-16 10:02:20
Link to Item	http://hdl.handle.net/20.500.12424/183032

Free Will *vs*. Determinism in Bioethics:
Comparative Philosophical and Jewish Perspectives

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Abstract

The philosophical debate whether human actions are predetermined or whether they are the result of free choice dates back to ancient times and has not yet been resolved. A different philosophical controversy relates to the right of an individual to free will and autonomy. Important issues in medicine are dependent on the approach to these dilemmas.

The purpose of this article is to analyze the conflicting approaches between free will and determinism; the Jewish viewpoint concerning these theories; and their practical application to current medical issues.

Introduction

Free will is one of the most important philosophical principles pertaining to bioethical dilemmas. Self-determination, free choice, personal liberty and freedom are interchangeable terms, although on pure philosophical grounds there are fine differences between them. The antagonistic philosophical approaches are determinism and fatalism, once again interchangeable terms despite some differences. Closely related antagonistic terms are autonomy versus paternalism.

Free will is dependent on two components:

a) the actual **ability** to choose, in a fully autonomous manner, one's will and/or actions;
b) the moral **right** to act upon the chosen autonomous will.

The purpose of this article is to analyze the conflicting approaches between free will and determinism; the Jewish viewpoint regarding these theories; and their practical application to current medical issues.

Philosophical Aspects

The philosophical debate whether human actions are predetermined or whether they are the result of free choice dates back to ancient times, crosses cultures and has not yet been resolved. This is a primary ethical dilemma in the sense that the controversy arises out of factual or scientific substance. Therefore, the proposed solutions, and hence the recommended actions, ought to be the responsibility of moralists rather than scientists.

Absolute determinism is the general view that all events, including human actions, are produced by prior conditions, which make those events and actions inevitable. The predetermined influences can be either internal biological and psychological drives, or scientific-environmental rules, or metaphysical-divine forces. By contrast, the notion of absolute freedom of the mind assumes that man is able to reach decisions while completely independent of either natural or metaphysical controlling forces.

Alternate positions on the relationship between free will and determinism, concerning the actual **ability** to make autonomous decisions, recurred and evolved throughout the history of philosophy and science. The most extreme proponents of a fatalistic theory were certain religious sects of Islam, Persians and the Jewish Essenes. Determinism in various forms has been strongly promoted by different philosophers such as the Stoicians, Spinoza, Kant and Schopenhauer. In psychiatry, both psychoanalysis and behaviorism are classic deterministic doctrines. It has been asserted time and again that psychic determinism is one of the essential assumptions of psychoanalysis in general.[1,2,3] [For further detailed discussion see reference [4]].

A different philosophical evolution took place regarding the **right** of an individual to free will and autonomy. The principle of autonomy has been promoted and advanced to one of the most important and overriding moral principles in Western culture. Self-determination manifests the value placed on each person to be a subject, not an object. Thus, when conflicts of values arise in a

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1. Thompson C. *Psychoanalysis: Evaluation and Development*. New York, 1950, p.56.
2. Arlow J, Brenner C. *Psychoanalytis Concepts and the Structural Theory*. International Universities Press, Unc., New-York, 1964, p.7.
3. Holzman P. *Psychoanalysis and Psychotherapy*. New-York, 1970, p.28.
4. Erde EL (1978). "Free will and determinism." In: Reich W (ed.) *Encyclopedia of Bioethics,* New-York: Free Press, pp. 500-507.

particular situation, this principle takes precedence over almost all other moral values.

The strong philosophical and societal emphasis on human rights was established in the Declaration of Independence of the United States of America (1776), and the Declaration of Human and Civil Rights by the French General Assembly (1789). This was further elaborated upon in the Universal Declaration of Human Rights, adapted by the United Nations in 1948.

There is no doubt these efforts are praiseworthy, and the relevance of self-determination in health-care decisions seems undeniable. However, a zealous and unconciliatory interpretation of rights in general, and self-determination in particular, may contribute to the serious educational gap in neglecting to promote the requirements for duty and responsibility. These demands are indispensable for the personal refinement of oneself's moral and spiritual life. Moreover, an extreme conception of autonomy, advocating the refusal of any commands by others, leads to the defense of anarchism,[5] making any government illegitimate, and also rendering such values as loyalty, objectivity, commitment, and love inconsistent with being autonomous.[6] Most current secular ethicists, however, admit that the principle of autonomy should be a relative one. The questions are: How much, When, and by Whom should it be restricted?

Jewish Aspects

Amongst the ancient Jews three sects were segregated on the basis of fundamental theological disagreements: the Essenes were extreme proponents for an absolute fatalistic theory. Acceptance of this position precludes the very basic right and need for seeking medical help; the Sadduceans believed in absolute free will with no divine providence, thus ascribing every action to mere chance; the Pharisees accepted a theory that combines human free choice together with divine providence, which is a form of determinism. According to this theory, God determines the rules and actions in the universe and supervises human deeds, but there exists a definite and extensive range of human freedom of mind. This approach is

5. Wolff RP (1970). *In Defense of Anarchism*. New-York: Harper & Row, p.14.
6. Dworkin G (1982). Autonomy and informed consent. In: President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Making Health Care Decisions*, Vol. III, Washington, DC, pp. 63-81.

beautifully and concisely summarized by the Sages: "All is foreseen, but the choice is given."[7] This idea was further elaborated upon by the Jewish sages in the Talmud,[8] and extended in depth by the Medieval Jewish philosophers and legalists. The vast majority of them expressed their profound belief in the free will of man, considering this to be an essential prerequisite for moral conduct according to Judaism. Maimonides, for instance, stated that every person can choose to be good or evil, with no divine predeterminism. If it were not so, he stated, the entire Torah would be purposeless, with no justification to punish the wicked or reward the righteous. However, Maimonides and other Jewish scholars, realized the inherent religious conflict between human freedom and God's knowledge and providence. Various ways to reconcile between these ideas were proposed, and several attempts were undertaken to assess the quantitative input of each of them into a given action or behavior. These deliberations, however, are beyond the scope of this article [for further details see reference 9, pp.71-73].

The Jewish point of view can be summarized in the following way: free will need not be interpreted as absolute libertarianism, whereas determinism need not be comprehended in an absolute fashion. So that human behavior and actions are not **either** free **or** determined; rather they are **both** free **and** determined, in a relative admixture. Thus, Judaism acknowledges the **ability** of freedom of the mind. The approval of medicine in normative Jewish law is based on the rejection of absolute determinism. According to the Talmud and its main interpretor,[10] the engagement in medical practice is permissible, disclaiming the notion that by doing so one is abrogating God's deeds.

The right to execute autonomous decisions, however, has several restrictions and limitations.

Indeed, one of the most significant differences between current secular and Jewish medical ethics concerns the principle of autonomy. Current general medical ethics has overwhelmingly shifted the focus of decision-making from the physician to the patient, thus

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7. Mishna *Avot* 3:15.
8. Urbach EE(1976). *The Sages – Their concepts and Beliefs* (Hebrew), Jerusalem: Magnes, pp. 227-253.
9. Steinberg A (1988). *Encyclopedia Hilchatit-Refuit*. Vol. I, Jerusalem.
10. *Baba Kama* 85a, and *Rashi* there.

ascribing the primacy of autonomy in the physician-patient relationship to the patient. The principle of autonomy has become absolute, taking precedence over all other values such as life and beneficence.

It is pertinent to cite some of the critique of this approach by Pellegrino and Thomasma.[11] They suggest that the practical question in clinical decisions is not whether or not we have a right to autonomy; we most certainly do. Rather, the question focuses on the proper exercise of autonomy. Do we have a right to exercise autonomy when the decision we wish to make is not morally good? Are we free to make morally wrong decisions? Have we lost a common consensus on morals to such a degree that there is no longer any community of values? Are there any other values in common other than autonomy? By promoting autonomy to the extreme overriding power, are we not promoting a degradation of moral life and principles? Does this approach not educate to amoral or even immoral life? Can a society survive such radical pluralism in which there are no longer any shared values?

Engelhardt[12] argues that full freedom and autonomy must be guaranteed, even if these appear wrongheaded or downright offensive and evil to others, in order to maintain a peaceable society. The right of autonomy in this libertarian view takes precedence over the good. This retreat to private morality eventually leads to a moral atomism in which each individual's moral beliefs and actions – unless they disturb the peaceable community – are unassailable. Moral debate thus becomes futile, since each person is his/her own arbiter of right and good. The traditional notion of ethics as reasoned public discourse in search of the common good is discarded.

Pellegrino and Thomasma[11] argue that the approach of Engelhardt is wrong, and autonomy cannot and should not overrule all other values. In their view, an ethic based on beneficence more fully embraces the nuances of the patient's best interests.

Judaism ascribes to a higher order of moral conduct, which obligates the individual and society. Autonomy as a concept of respect for others is highly valued and demanded. However,

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11. Pellegrino E, Thomasma DC. *For the Patient's Good*. Oxford University Press, New-York, 1988.
12. Engelhardt HT. *The Foundations of Bioethics*. Oxford University Press, New-York, 1986.

autonomous decisions that do not comply with the required moral standard are overridden by higher moral values, as determined by the halacha and a value system which governs the life of each individual, patient and physician alike.

Judaism restricts the notion of autonomy to actions that are morally indifferent. Where conflicting values arise each individual is bound to act in order to achieve self-fulfillment. Thus, everyone is duty-bound to act according to that standard and to relinquish his temporary wishes. Therefore, in medical situations that involve ethical conflicts, the solution is based on the appropriate Jewish law which governs both the physician and the patient. This approach can be termed a **Moral-Religious Paternalism** as oppossed to the Hippocratic **Individual-Personal Paternalism** of the physician.

The enhancement of individual freedom to the point of destroying moral values in medicine cannot be considered as the best resolution to complex ethical dilemmas in medicine. There need be a set of common and shared values which both the patient and the physician will obey, and this is what Judaism offers those who follow this way of life. Thus, the right of free will is waived when in conflict with certain other values. Judaism places great importance on self-fulfillment and refinement in the spirit of moral and religious commandments. Therefore, values directed to achieve this goal are superior to the principle of autonomy when in conflict. On the other hand, the basic principle of self-determination, and particularly the moral and religious demand to respect other human beings, is highly advanced in Jewish thought. This was stated in several epigrams: Do not do unto others what is hated upon yourself;[13] Respect your fellowman as you would have him respect you.[14] According to one of the talmudic sages, the biblical verse: Love thy neighbor as thyself – is the essence of the whole Torah.[15]

Medical Applications

The differences between the Jewish and the current secular ethical thinking concerning the principle of autonomy may be well illustrated in practical medical issues.

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13. *Shabbath* 31a.
14. Mishna *Avot* 2:10.
15. Jerusalem Talmud, *Nedarim* 9,4.

Numerous situations in medical practice involve the consideration of autonomy. Following are a few examples to illustrate these dilemmas.

Suicide: there is a moral conflict between the principle of autonomy and the value of life in the case of suicide. In some cultures suicide has been considered a legitimate and even honorable and noble act. According to some secular philosophers the principle of autonomy should be interpreted in an extreme and categorical form, hence overriding even the value of life. Others regard suicide, prima facie, as a non-competent decision, thus being in no conflict with the principle of autonomy.[16] By contrast, Judaism teaches us that the value of human life is supreme and takes precedence over virtually all other consideration, including self-determination. According to Jewish law and philosophy, man's life is not his to dispose of at will. The Almighty entrusted the human body to man in order for him to preserve it in good shape; man is not the master of his body to harm or destroy it. Based on theological and moral considerations, suicide is regarded as one of the gravest of sins. The cardinal principle of respect for persons' wishes is rightfully due only to those who have self-respect for the preservation of life. Thus, autonomy is completely and unhesitantly waived when it leads to harm, destruction, and violation of the value of life.[16]

Informed Consent: there are two modes of the patient-physician relationship. The traditional view is a paternalistic approach, according to which the physician is the dominant and authoritarian figure in the relationship, with both the right and the responsibility to make decisions in the medical best interest of the patient.

By contrast, the patient's autonomy approach assigns patients with full responsibility for and control over all decisions about their own care. This concept is rooted in the fundamental recognition that competent adults are autonomous agents who have the right to actively participate in decision-making processes concerning health

16. Steinberg A (1987). "A comparative moral approach to suicide – a Jewish perspective." *Israel Journal of Medical Science* 23:850-852.

care interventions on the basis of their own personal goals.[17] This fundamental comprehension was already proclaimed by Judge Cardozo in 1914: "Every human being of adult years and sound mind has a right to determine what shall be done with his own body; and a surgeon who performs an operation without his patient's consent commits an assault for which he is liable in damages."[17]

Nonetheless, despite the importance of self-determination, its exercise is sometimes impermissible and at other times impossible. Wishes expressed by patients that are contrary to the interests of others should be rejected. For instance, autonomous decisions that may harm others are absolutely unacceptable; patients' request that would compromise the provider's professional or moral standards need not be carried out by him; in order to effectively execute the right of self-determination a person must posses adequate mental, emotional and legal capacities. Hence any action – legal or religious – of a feeble-minded or a psychiatrically sick person is invalid. Families, health care institutions, professionals and spiritual leaders should work together to make health care decisions for patients who lack decision-making capacity.

Providing exclusive decision-making authority to one side of the relationship in all circumstances is not accepted by Judaism. On the one hand, the patient has a great degree of autonomy in deciding how, when or by whom to be treated. On the other hand, however, there are situations in which a paternalist approach is preferred in the best interest of the patient. The exact measure of each approach should be determined and adjusted in each individual case, based on relevant medical, moral and religious aspects.

Current secular ethicists strongly advocate the notion of fully informed consent and complete truth-telling to all patients, ignoring possible ill-effects of indiscriminate disclosure of information. This approach is based on a radical rejection of any paternalism, while absolutizing the principle of autonomy. By contrast, Judaism places a higher value on life and beneficence. Therefore, a careful and individualized balance between autonomy and beneficence is demanded. The physician is required to consider heedfully the

17. President's Commission for the Study of Ethical Problems in Medicine and Bioethical and Behavioral Research (1982). *Making Health Care Decisions*, Vol. I, Washington, DC, pp.2-3 and p.20.

proper timing, amount and mode of the disclosure of information. In the final analysis, he should favor the good of each individual patient to the general and indiscriminate principle of autonomy.

Refusal of Treatment: the obligation to save the life of an endangered person is well established in Jewish law. Acceptance of a life-saving therapeutic procedure of proven efficacy is an unqualified moral and religious imperative. This is the responsibility both of the patient himself and of the care-provider. Therefore, refusal of an efficient life-saving treatment, even by a competent patient, is invalid, and such medical treatment should be enforced.[18] This approach is very different from the Anglo-American law, that interprets the principle of self-determination in a way that each man may, if he be of sound mind, expressively prohibit the performance of life-saving surgery. [6 (pp.64-65)]

However, if the proposed therapy is of unproven value, or if it is an experimental procedure, or if it is intended only to improve the quality of life rather than save life – the patient may legitimately refuse treatment, thus executing his right to self-determination. A terminally-ill patient, particularly when in pain and agony, is entitled to refuse futile treatments, that are intended merely to postpone the moment of death. This is based on the theological view that God granted the physician the permission to heal; withholding futile treatment is likened to the removal of a factor that only prevents the person from dying.[19,20] Nonetheless, oxygen, food and fluid can never be withdrawn, even if an autonomous wish of the patient is expressed to do so. These factors constitute basic human needs, the removal of which may be regarded as murder.[19,20]

Homosexuality: hedonism and the acceptance of the overriding power of autonomy have turned homosexuality into a legitimate "alternative life-style." This promiscuity and change in attitude has had an enormous ill-effect in our era of AIDS. By contrast, Judaism views homosexuality as a crime, and demands the eradication of

18. Rabbi Jacob Emden, *Mor U'ketziah, Orach Chaim*, 328.
19. Rabbi Shlomo Z. Auerbach (1981). "The treatment of the dying patient." *Halacha U'Refuah*, Vol. II, p. 131.
20. Rabbi Moshe Feinstein (1985). Responsa *Igrot Moshe, Choshen Mishpat*, Vol. II, No. 73-75.

this tendency. Thus the current campaign against AIDS through methods of "safe sex," which preserves and actually promotes sexual deviations is in sharp contrast to the Jewish approach, according to which there is a great need for an educational campaign against immoral life.

These few illustrations point out the differences between a rights ethic and an ethical theory that demands compliance with higher moral standards. A rights ethic is a minimalist ethic, based on only one common value, namely the protection of individual liberties, sanctioning any wish and conduct, as long as it does not disturb the peaceable community. This approach disregards any other societal shared values. Jewish ethics ascribes to moral-religious norms and requirements, commonly shared by all observant Jews, patients and physicians alike.

In order to achieve the desired goal of proper conduct in medico-ethical problems, the Jewish model calls into operation a third party – the rabbi. Thus, optimally, a triad of patient-physician-rabbi is formed: The physician has the obligation to treat the patient and to offer him the best medical advice; the rabbi is there to advise on the best solution to ethical problems that may arise; and the patient has the autonomy to choose his advisors and to decide on matter which do not involve either medical or ethical expertise. In the final analysis, this triad should reach the best solution to any complex medical and ethical issue concerning any individual case on its own merits and in its specific circumstances. The most qualified person makes the decisions relevant to his expertise, namely any factual issue is resolved by the physician, who is most qualified for such matters; any ethical dilemma that arises in the treatment of a patient must be resolved according to the fundamental moral-religious principles as interpreted by the rabbi, who is the most qualified person where these matters are concerned. Thus a great measure of the patient's autonomous decision is in fact abdicated to those who are best qualified to make the decision.

Source: ***ASSIA – Jewish Medical Ethics****,*
Vol. II, No. 1, January 1991, pp. 17-20

Source: The Schlesinger Institute for Jewish Medical Ethics