

Dialogue on Suicide and Abortion

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I

In his article "Reform Judaism, Bioethics, and Abortion" (*Journal*, Winter 1990), Alvin J. Reines advances an idea that is either meaningless, or else raises very serious moral questions, depending upon how one views his premise. His statement that suicide would be considered a moral act by (or for) a Reform Jew if it was committed "voluntary[ly], deliberately, and while of sound mind, is self-contradictory, as those three conditions will co-exist in a suicide only under extremely rare circumstances. The voluntary and deliberate act of taking one's own life is almost impossible when one is of sound mind.

The very act of suicide is normally considered sufficient evidence of at least temporary insanity. The conditions that prompt this loss of rationality are highly variable. In some, the extreme pain of an illness, or the loss of voluntary movement or a pathological fear of reduce capacity may cause one to lose touch with reality long enough to commit suicide. Judaism has long recognized suicide as an essentially aberrant act, which is the reason that, while Jewish law proscribes funeral rites for a suicide and mandates a segregated burial place, these restrictions are observed only for a suicide who was *sane* when the act was committed, and then makes the definition of sanity in such cases an extremely strict one. Thus, most suicides are presumed to have been insane when they killed themselves, and therefore receive a normal burial.

Perhaps the only valid, modern-day example of a person who commits suicide deliberately, voluntarily, and while of sound mind is that of a captured agent in wartime who takes poison in order to avoid questioning. In such a case, the act is certainly moral, as it is taken in order to avoid revealing information, and thus is intended to save lives. The spy gives up his or her own life in order to save many more.

Reines' assertion that Reform Jews own themselves, and, in essence, are in no way beholden to God for their own existence, is theologically over-broad. He is establishing a canonical norm which not all Reform Jews are likely to find acceptable. While it may be true that there are some Reform rabbis who have gone so far as to proclaim themselves to be atheists, it is equally true that there are others who believe in exactly the sort of theistic God Reines would have us think exists only for the Orthodox. There are many more whose God-concept lies somewhere between these two extremes. And what is true for Reform rabbis is equally true for Reform laity.

If Reform Judaism is, indeed, a polydoxy, then Reines' assertion that his pronouncements are based on Reform principles is sound, from *his* viewpoint. But conflicting views are also valid, or else Reines' polydoxy is transformed into an orthodoxy.

Reines may hold that suicide is a moral act. I disagree. Further, I suggest that his conditions for a "moral" suicide are unlikely to be encountered in the real world. If suicide is, as I believe, *prima facie* evidence of at least temporary insanity, we are unlikely to ever encounter a sane suicide.

Likewise, viewing suicide as an inherently irrational act, I cannot accept that it would be proper to ask another for help in committing suicide. Nor would it be proper to give such assistance. Reines holds that laws that prohibit a person from aiding in a suicide are predicated on the idea that the state "owns" its citizens. I would suggest that they are based at least equally on the premise that one is quite properly forbidden to kill another human being without that person's full consent, and that the one asking to be killed lacks the capacity to give such consent.

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II

I appreciate Dr. Reines' exploration of bioethical issues based on a Reform Jewish philosophy. As I understand him, the ultimate ethical principles at work is a kind of utilitarian self-interest, the exercise of which morally stops where another person's autonomy begins. While this neatly answers the disturbing questions Reines presents, for me it raises other disturbing questions that I would like him to address.

1. What motivates self-interest? Is it just an intrinsic part of our nature? If so, what makes its claim on us superior to other aspects of our nature? For example, what motivates the suspension of self-interest in lieu of other-interest?
2. What motivates the suspension of interest for self in lieu of the interest of non-"other," i.e., (a) for the environment of the future and (b) for non-human life?
3. Specifically with regard to 2(b) above: Is a mother free of moral responsibility for damage she knowingly does to her fetus (*vez.*; to her "self") during pregnancy to be suffered by the child from birth onwards?

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III

As always, I read Professor Reines' latest contribution with interest. Although impressed by his lucid style and careful logic, I admit to being both startled and frightened by the implications of his conclusions. Assuming for the moment the correctness of Reines' premises and arguments, a number of "situational" questions may arise in my mind:

- a) If a doctor does not share the patient's morality, would Reines argue that it is still moral for the patient to transfer and the doctor to accept and execute the patient's "moral right" to suicide?
- b) Does a prospective suicide with, for example, minor age children, still enjoy total and absolute autonomy (Reines' view) or can such children claim a kind of possessory interest in the parent's autonomy such as would limit the morality of suicide?

One additional question also arises, which goes to the fundamental assumptions on which Reines builds his arguments: Is it correct to say that Reform Judaism has elevated the principle of personal autonomy to the level of ultimate primacy that Reines has claimed for it? Or is it, perhaps, more correct to say that Reform Judaism represents an attempt to achieve some sort of (nebulous?) balance between the rights of the individual and the needs of the community? It seems to me that the latter may be nearer the truth. If so, then there may be a fatal flaw in Reines' ensuing arguments.

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Alvin Reines Replies

I am grateful to Yaakov McDaniel, Scott B. Saulson, and Michael Datz as well as to the editor, Lawrence A. Englander, for the opportunity to amplify the views presented in my article, "Reform Judaism, Bioethics, and Abortion." My comments here are based on that article, and I refer the reader to it, and particularly to the references in the footnotes, for the full argumentation that supports the points I can only briefly discuss here. Please bear in mind, as I state in my article, that the term "Reform Judaism" refers to a religion that is a polydoxy. I will respond first to the letters of McDaniel, Saulson, and Datz and then turn to questions the editor asked me to consider.

A

I believe McDaniel misunderstood several basic points that I made in my article. The most important of these is the reason that the act of suicide is moral from the point of view of Reform Judaism. The reason that voluntary, deliberate, sound-mind suicide is moral in Reform Judaism is that the Reform community as a whole does not possess a credible, infallible revelation from a creator, theistic deity in which said deity states that he has authority over the human person superior to her/his authority over her/himself, which includes ultimate ownership of the "life" of the person, and that the human person, consequently, has no right to destroy that which the deity owns. If there is no objective, credible revelation from the creator, theistic deity that the deity is the only evidence for the notion of deity's ultimate ownership of the human person - then who is the human person's ultimate owner? The answer I have given is that it is the person her/himself (see the reference in the article to my book *Polydoxy: Explorations in a Philosophy of Liberal Religion* for the argumentation on this point). If the individual person is then the ultimate owner of her/himself, which entails ultimate ownership of her/his "life," then the person has a moral right to do with it as she/he chooses (provided, of course, that one does not violate the Freedom Covenant by infringing upon the autonomy of others). Hence a Reform Jew (or any other person from the Reform Jewish perspective) has a moral right to commit suicide.

The issue whether there is a moral right to commit suicide, consequently, has nothing to do with whether or not a theistic, creator deity exists. *It turns on whether there is a credible, infallible, revelation from a creator, theistic deity that declares ultimate ownership over the human being's "life," and that it is a violation of divine sovereignty for the human, therefore, to destroy what is not hers/his by the act of suicide.* Since the Reform Jewish community as a whole possesses no such revelation, the Reform Jew is her/his own ultimate owner, which gives her/him the moral right to

commit suicide.

Thus Reform Judaism gives to its members an ultimate right to autonomy, that is, Reform is a polydoxy. Included in the autonomy of the Reform Jew is the freedom to transfer to some other entity all or part of her/his self-authority. Consequently, a Reform Jew who, for example, believes that she/he receives private, personal revelations from a creator, theistic God can transfer to this deity authority over her/himself. From the viewpoint of the Reform community as a whole such a Reform Jew retains an ultimate right to self-authority, although the individual Reformer understands a creator, theistic deity to be her/his ultimate authority. If such a Reform Jew receives from the deity to whom she/he has transferred authority over her/himself a revelation that declares the Reformer's "life" belongs to the deity and forbids suicide, then, if the Reformer commits suicide, it would be an immoral act for her/him even though it would be amoral act from the standpoint of the Reform community as a whole.

Although I prefer to restrict myself to substantive issues, I must point out that McDaniel's statements are at times plainly illogical and cannot, therefore, be dealt with. Thus he states: "[Reines'] statement that suicide would be considered a moral act by (or for) a Reform Jew if it was committed 'voluntarily, deliberately, and while of sound-mind,' is a self contradictory, as those three conditions will co-exist in a suicide only under extremely rare circumstances." How can a statement be self-contradictory if it is internally self-consistent? Even more, not only is my statement not voluntary, deliberate, sound-mind suicides by the author's own admission. Other inconsistencies that appear in McDaniel's letter seem to arise from a profound desire to declare all suicides *ipso facto* the acts of unsound minds but which declaration he cannot bring himself to make. (I am intrigued by McDaniel's statement that "the only valid modern-day example [of a moral act of suicide] is that of a captured agent in wartime...[since] it is intended to save lives." How does McDaniel know that such a suicide alone is a moral act? Has he received a revelation to this effect? Are there no other suicides that save other person's lives, or can serve to symbolize some great cause?) Regardless of McDaniel's vacillation regarding the existence of voluntary, deliberate, sound-minded suicides, such established systems (among many others) as Rabbinic Judaism, Roman Catholicism, the common law, as well as English and American statutory law, all recognize their occurrence. In a culture such as that of the Japanese, suicide can be not only voluntary, deliberate, and sound-minded, but noble and honorable as well.

B

The following are my responses to Saulson's questions.

1. Saulson's inference that the ultimate ethical principle of Reform Judaism (as a polydoxy) is utilitarian self-interest is incorrect. The principle underlying the autonomy of a polydox philosophy of Reform Judaism is the recognition that humans possess a right to ultimate authority over themselves unless it can be demonstrated that a creator, theistic deity possesses such a right. Hence the fundamental ethical principle of Reform Judaism is summarized by the Freedom Covenant: each Reform Jew affirms the right to ultimate authority of all other Reform Jews in return for their affirmation of her/his own, that is to say every Reformer's freedom ends where the other Reformer's freedom begins (cf. my *Polydoxy: Explorations in a Philosophy of Liberal Religion*, p. 25, *et al.*). Clearly, this broad framework is not meant to resolve all the details of self-interest and other-interest conflicts. Reform Jews are well-served to refer to ethical philosophies compatible with the Freedom Covenant that establishes their autonomy. Among such philosophies are intuitionist ethics, existentialist ethics, and emotivist ethics. One must bear in mind always, however, that the autonomy Reform grants lays upon us the heavy burden of ultimately making our ethical decisions alone with only finite and fallible minds as our instruments, and the Freedom Covenant as our guide.
2. Saulson's third question has nothing to do with abortion, the subject that I addressed in my article. For one thing, a Reform Jew has the choice of deciding whether her fetus is part of herself or a person. If she decides the fetus is part of herself she is morally free to have an abortion; if she decides the fetus is a person, then presumably she would choose not to have an abortion since it is murder to kill a person. Assuming then that we are speaking of a Reform Jew who believes her fetus is not a person but a part of herself, there is no suffering by a "child from birth onwards" if she has an abortion, since the pregnancy was terminated and no child ever existed.
3. The third question, even though it does not concern abortion, does raise an interesting issue. As I would phrase it, the question is this: What is the moral culpability of a person who performs an act that harms no present living person but which almost of a certainty will harm a person or persons who exist in the future? As Saulson points out, environmental problems immediately come to mind. What is the moral culpability of those who so poison the environment that persons who exist 200 years from now will lead lives profoundly diminished in meaningfulness? My answer to this question is that

the Freedom Covenant extends to persons who are presently alive as well as to those who will live in the future. Actions that take away the freedom of persons to lead a meaningful existence by destroying the essential conditions necessary for human meaningfulness is, I believe, a violation of the Freedom Covenant.

The killing of non-human animals constitutes a separate subject and requires its own discussion.

C

My responses to Datz's questions are the following.

1. As stated in my article, a Reform Jew's right to authority extends only to self-authority or autonomy. A Reform Jew has no authority over other persons. This relationship between the individual Reformer and other persons is epitomized by the Freedom Covenant stated earlier. No patient, therefore, can transfer to a doctor, who refuses to accept it, her/his moral right to suicide since she/he has no authority to compel the doctor's acceptance. If a doctor does not believe that her/his patient has a moral right to suicide, then the doctor cannot accept a request from a patient to execute her/his suicide since the doctor does not believe the patient possesses the right in the first place and certainly, therefore, cannot transfer a right she/he does not possess. (It must be borne in mind that Reform Jews, although possessing the ultimate right to decide for themselves that suicide is moral, also are given by autonomy bestowed upon them by the Freedom Covenant the right to decide - for whatever personal reasons - that suicide for themselves individually is immoral.)
2. The Freedom Covenant gives a person ultimate self-authority and, therefore, an ultimate moral right to commit suicide. The ultimate self-authority granted by the Freedom Covenant grants a person, in addition, the right to enter into sub-covenants, that is, covenants that are made within the framework of the Freedom Covenant and are subordinate to it. In a sub-covenant, a person gives to another person or persons rights and accepts duties that the Freedom Covenant itself does not require of the parties to the sub-covenants. Instances of sub-covenants are marital relationships and rabbi-congregation relationships. I will take it to be the case (and I believe this is so) that the act of parenting gives rise to a sub-covenant in which the parent accepts the duty to provide emotional, physical, and financial care for a minor child. Now, once a person has used the ultimate right to self-authority conferred upon her/him by the Freedom Covenant to enter into a sub-covenant that limits her/his rights granted by the

Freedom Covenant, then the person is morally bound to obey the sub-covenant for she/he has chosen to exercise her/his right to ultimate autonomy in this manner. Let us now assume a case where a Reform Jew is a parent and her/his suicide will deprave her/his minor child of the care that she/he as the parent has sub-covenanted. Would such a suicide be moral? The answer I give is "No." The reason, however, is not that Reform Jews do not possess an ultimate moral right to suicide - they do. The reason is that the parent has entered into a sub-covenant to provide care for her/his child and the suicide would remove the possibility of fulfilling this commitment. My answer presupposes a situation where the parent's suicide would be the essential cause of the parent's failing to honor the sub-covenant promising care for minor child. If, however, the parent prior to the suicide has already been prevented by circumstances beyond her/his control from fulfilling the provisions of her/his parental sub-covenant with respect to her/his minor child, the parental sub-covenant is void, and the parent again has her/his ultimate moral right to commit suicide. The following article from the *Cincinnati Post* (April 28, 1990) provides an illustration. (The minor children here evidently gave their consent to voiding the sub-covenant, but it would have been voided by circumstances regardless, as I state above.)

PHILADELPHIA - A paralyzed woman who convinced a judge she wanted to be allowed to die was taken off a respirator Friday and died within an hour.

Thelma Stussy, 51, was disconnected from the machine at 4:20 p.m. and died between 5:05 and 5:10 p.m., her husband, Albert, said Friday night. He and their teen-age son and daughter were with her at Neumann Medical Center.

"We made sure she knew we loved her," Albert Stussy said. "She was sedated very well with Valium. They gave her a shot every 10 minutes and made sure she wasn't in any pain."

Mrs. Stussy, who suffered from the fatal Lou Gehrig's disease, was paralyzed from the neck down and was in constant pain. She could not speak, but communicated by blinking to answer "yes" and moving her head slightly from side to side to answer "no."

In an emotional bedside hearing Wednesday, Mrs. Stussy blinked once to tell Common Pleas Court Judge Nicholas M. D'Alessandro that she wanted to be taken off the respirator. In a two-page ruling issued the next day, the judge granted her wish.

3. Datz's third question not only fails to indicate a flaw in my delineation of Reform Judaism, it contributes to the confirmation of my view's validity. The reason is that the language Datz employs to raise his supposed objection and present his suggested

alternative to my view is empty of meaning, and the objection and suggestion, therefore, without substance. What precisely does it mean to say that I have "elevated the principle of personal autonomy to the level of ultimate primacy"? What is the meaning of the statement, "Reform Judaism represents an attempt to achieve some sort of (nebulous?) balance between the rights of the individual and the needs of the community"? Such vague language can provide no principles by which a Reform Jew can make concrete moral decisions, and certainly is of no philosophic and theological value. Hence, inasmuch as Datz's attempt to refute and provide an alternative to my view of Reform Judaism leads to words without meaning, the validity of this view has thus been further confirmed.

D

Our editor asks these questions of me:

Assuming that one agrees with your conclusion that it is a matter of personal free choice whether to commit suicide or obtain an abortion, what are the criteria that one may employ in making such a decision? Does Jewish tradition, as you regard it, help to identify these criteria?

1. In general, the answer to the first question is that the method by which the apprehension of criteria for the decision to commit suicide or undergo an abortion is for the person coerced to examine the variety of philosophic and theological positions that have been advanced pro and con. In my view, none of these positions can be supported by objectively compelling proofs. Let me illustrate this point with the question of what is the definition of a "person," that is, what are the properties or characteristics an entity must possess in order to possess the status of "person"? There simply is no answer to this question that is not subjective and arbitrary. Yet it is at the core of the problem of abortion as well as of numerous bioethical dilemmas. All that a person can do is examine the various definitions of "person" that have been given and then make a decision that seems correct and comfortable on the basis of one's reason and emotions. Freedom simply places upon us the burden of making decisions at times that are based upon no more than our subjective, limited faculties.

Similarly, the decision to commit suicide is of necessity subjective and personal. My own view is that before committing suicide one should be aware of precisely why one is doing so. In other words, one should study very carefully (probably in consultation with knowledgeable and objective others) the reason(s) for the action. Having done so, and still

convinced that one wishes to commit suicide, the person can exercise the moral right she/he has at all times, the taking of one's own life.

A specific example of a reason that I personally consider clear justification for taking one's life is this: The absolute conviction on the part of a person that her/his life is, and will until death, be asoterial, that is, annihilated of all meaningfulness owing to physical pain and anguish.

2. By the "Jewish tradition" in this question, I understand all thinkers of the Jewish past who have had opinions on the subjects of suicide and abortion. Let me preface my answer with the statement that I believe, as I stated above, that one is well-advised to examine all philosophic and theological positions that have been advanced on the subjects of suicide and abortion. Unfortunately, I find that Reform Jews who possess ethical autonomy have little in common regarding suicide and abortion with the generality of past Jewish thinkers inasmuch as they subscribed to authoritarian ethical systems. We Reform Jews have much that is new morally to contribute to the world of Jewish religions into which we have brought a Judaism of individual autonomy.

Alvin J. Reines