Why Religious Discourse Has a Place in Medical Ethics: An Example from Jewish Medical Ethics

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Abstract

This article will lay out the different rhetorical strategies that exist in religious discourse on topics related to medical ethics. In demonstrating that religious ethicists use different rhetorical strategies, depending on their goals and audiences, this essay attempts to show how recognition of the different strategies is a first step to finding practical tools to assist in dialogue between individuals and groups in multicultural settings. By understanding how to account for these different rhetorical strategies when considering arguments from different religious groups and in negotiating norms and values in the public square, public discourse related to medical ethics can be enriched, and, importantly, ways to avoid or at least ameliorate ethical conflict or tension between people and groups in a multicultural environment may be found.

Religious arguments in multicultural environments have enormous potential to enrich the larger society, yet religious and secular ethicists frequently suffer from an inability to converse due to cultural and ethical differences as well as from a lack of receptivity on both sides to the arguments made by others. Increased division and fractious communication easily occur when differences are not heard. The problem of the lack of receptivity partially stems from the fact that religious ethicists use different rhetorical strategies and advance different positions, depending on the audiences whom they are addressing. The different strategies and positions are not due to duplicity on anyone’s part; rather, they result from the different ways that values and norms are prioritized for internal or multicultural audiences.

My argument for the importance of religious discourse in medical ethics, therefore, does not pertain to cultural humility as it relates to understanding the beliefs and values of a particular patient, nor is it an attempt to engage in interfaith dialogue or introduce theology into bioethics. Rather, my argument is methodological. Different cultural systems express their beliefs according to the value premises that undergird ethical arguments, and religious ethicists will utilize different rhetorical strategies based on their tradition and the audience they are trying to persuade. By understanding each of these strategies of ethical argumentation, public discourse related to medical ethics can be enriched, since, by knowing the motivation for positing different arguments, we can account for them when negotiating norms and values in the public square as part of a multicultural compromise. At the very least, we might be able to find certain ways to avoid or at least ameliorate ethical conflict or tension between people and groups in a multicultural environment.

I plan to demonstrate the value of religious discourse in medical ethics, first by explaining select strategies utilized by cultural-religious groups living in multicultural environments and, second, by showing how they can be utilized in public debates. Finally, I will explain how unveiling value premises held by different
groups can add to the public conversation about healthcare. While this approach can be utilized for any number of different cultural-religious groups, I will demonstrate its efficacy with examples from the Jewish tradition, and I propose that philosophers and ethicists in different traditions can and should provide examples from their own traditions. The reason for limiting my examples to the Jewish tradition is two-fold. First, as someone who is fully immersed in Jewish legal and ethical scholarship, I am able to understand the internal motivations behind using these strategies of argument and to appreciate the important implications of their use. Second, as a medical ethicist, I recognize the need for religious-cultural arguments to be presented in such a way that they can be accepted within public discourse. In other words, these assertions must be translated into a form that can be understood by other traditions.

The reason for this need for “translation” is that different religious or philosophical traditions are grounded in different value premises and exegetical priorities. Therefore, two moral arguments, each from a different religious-philosophical tradition, may be logically sound within their own frameworks yet unsound when seen within a different framework. The consequence of this reality is that rival arguments cannot challenge the logic of each other’s claims nor can anyone argue effectively against holding different first premises on which either argument’s conclusions rely, since no rational way of weighing first premises exist. When public discourse does not recognize or acknowledge this limitation, what results is an intellectualized “pep-rally” between rival claimants, each side asserting its premises as the correct ones to follow. In order to avoid relativism or perspectivism in public moral discourse, advocates within the public conversation who want to introduce ideas or methodologies from their respective traditions must be conversant in their tradition and the traditions of those with whom they seek to communicate. When people come together from different religious traditions in multicultural communities and each introduces ideas from particular traditions in a way that can be heard by others, the greater intellectual community can create a common space outside of each tradition, into which scholars from each group may bring tools and additional perspectives from their unique histories. As the space enlarges, the people who occupy this mutual arena develop their own tools, and the space becomes independent of the separate traditions. In this space, concepts are understood differently than from within the respective traditions; it is not that each tradition simply understands the concepts in a new way.

In this essay, I will not show how such a public space can be created, since the creation of such a space can only occur when scholars from different traditions actually engage in intercultural conversation for the purpose of finding concrete ways to live and converse together. This is as much a social and political endeavor as a moral one. Creating a common space for social discourse does not occur when an individual engages in comparative ethics or theology as an academic exercise. The purpose of this essay, then, is to show how scholars living in a multicultural community do not engage in ethics—especially in a public forum—from an objective standpoint that is independent from the norms and values of their respective traditions. Rather, as this essay attempts to make clear, the desire to live faithfully among others is an underlying motivation for how religious philosophers discuss ethics and for which rhetorical strategies religious philosophers will use and when. In other words, how they explain a norm or justify a value will depend on the audience being addressed and the point they are trying to make.

Before I provide examples of how philosophers in the Jewish tradition make medical ethics arguments, I want to first distinguish between Jewish medical law/medical halakha and Jewish medical ethics, as it pertains to this discussion. Medical halakha determines what a patient or a doctor who adheres to Jewish law
can or cannot do. It is a question of both jurisprudence and practical detail. Writings of medical halakha attempt to justify particular actions with a sense of immediate relevancy; that is, they exemplify what is acceptable or obligatory to do in a given case. They justify those actions within coherent jurisprudential explanations, but they do not seek to build a grand schema that puts those positions into a greater philosophical context. Jewish medical ethics, on the other hand, attempts to uncover or provide—depending on the strategy—the values communicated through practical halakhic decision-making. In other words, it is the result of philosophical engagement with medical halakha, where the ethicist recognizes the underlying assumption that halakha, as a normative system, will contain information about the world (facts) and obligations for how to interact in that world (norms). Jewish medical ethics can contribute to the broader questions of medicine and health care as they pertain to living in a multicultural environment when ethicists communicate those values in a language that is understood, not only by those who adhere to halakha but also by the broader public.

**STRATEGIES OF DISCOURSE**

Three major strategies that religious philosophers use when communicating an ethical stance are the pragmatic, the patriotic, and the personal. Use of each particular strategy will depend on the argument the philosopher is putting forth, the audience to whom he or she is speaking, and the people for whom the position applies.

**Pragmatic Jewish Medical Ethics**

The pragmatic strategy of communicating Jewish medical ethics attempts to use sources in the Jewish legal tradition to persuade society to allow for religious freedom. In this particular strategy, one recognizes that information and obligations can be interpreted in different ways, given the exegetical perspective with which one approaches the law. Therefore, the pragmatic Jewish medical ethicist will give ethical explanations of halakhic facts and norms, yet not with the intention to explain the law as part of a coherent philosophical perspective. Rather, the intention is to give reasons for why observance of halakha should be permitted in a multicultural society.

Since the purpose of a pragmatic strategy is to normalize Jewish law so that the broader multicultural society is motivated to allow Jews to live in conformity with their tradition, pragmatic Jewish medical ethicists are “giving reasons for commandments.” However, they are not “reasoning from the commandments.” Providing reasons for commandments imposes reasons onto halakha that the greater community can both express and understand from its own context. In other words, pragmatic ethicists give reasons from a perspective that is outside their internal tradition; that is, they use the values of the greater society to justify why the position is persuasive. Reasoning from the commandments, on the other hand, is to apply moral reasoning to halakha, using halakha as a data set to uncover moral values that serve as premises for halakhic norms. A Talmudic example of pragmatic Jewish ethical reasoning can be seen by the following anecdote:

A certain heathen asked Rabbi Yohanan ben Zakkai, “These rituals [of the red heifer] that you perform appear like witchcraft. You take a cow, burn it, pound it, and take its ashes. If one of you becomes impure from a dead body, you sprinkle upon him two or three drops, and say to him, ‘You are pure!’” Rabbi Yohanan answered him, “Have you ever . . . seen a person possessed by the demon of madness?” Said the heathen, “Yes.” “What do you do for him?” “We bring roots, and make them smoke under him, and sprinkle water upon the demon to exorcise it.” Said Rabbi Yohanan, “Let your ears hear what you utter with your mouth! The spirit of impurity is exactly like
this demon. . . . Water of purification is sprinkled upon the person made impure by contact with a corpse, and the spirit flees.” When the heathen had left, Rabbi Yohanan’s disciples asked him, “Our master! Him you dismissed with a flimsy excuse [Heb. kaneh], but what explanation do you offer us?” He said to them, “By your lives! It is not the corpse that makes one impure, nor the water that makes one pure. Rather, the Holy One, Blessed be He, declared, ‘A chukka I have enacted, a decree I have issued; you may not violate my decree,’ as it is written, ‘This is the law [Heb. chukka] of the Torah’ (Num. 19:2).”

Rabbi Yohanan used a pragmatic strategy to justify the practice of the red heifer because he was faced with a challenge to its legitimacy on the grounds that it was not rational. The heathen did not seek to understand why the ritual was established in the first place; therefore, no response that sought to justify the rationality of the ritual within the Jewish theological-philosophical framework would satisfy. In order to persuade the heathen not to take offense to the practice Rabbi Yohanan had to explain it in terms with which the heathen was both familiar and valued as legitimate.

A contemporary example is when Jewish ethicists defend circumcision against anti-circumcision groups by justifying the ritual because of its health benefits. The protest against circumcision is oftentimes on the grounds that circumcision is cruel to infants and that the state has a responsibility under parens patriae to protect children from the religious whims of their parents. Any response claiming that God commands such “cruelty” to children will either be incomprehensible or stoke the coals of criticism. However, a response that includes data that circumcision has health benefits, including decreased risks of urinary tract infections, sexually transmitted diseases in men, and penile cancer, would serve to justify the “instrumental cruelty” for the sake of beneficence. Of course, the reason for circumcision in the Jewish tradition is because God commanded such, but mentioning the health benefits allows for a pragmatic justification for its acceptance by those parts of society that might question it.

The cost of employing a pragmatic strategy is that halakha becomes limited in its authority of enforcement and in the realm of its relevance, since its legitimacy has become dependent on its acceptance by the majority. When the majority does not accept halakha’s legitimacy in a certain area of law, it will no longer have authority in that area. For example, since before the destruction of the Temple by the Romans and the loss of Jewish autonomy in the Land of Israel, Jewish law lost the authority to establish courts that preside over cases of criminal law. This means that from that time onward its adherents must rely on different legal systems, namely, those of the states in which they live, to set the agenda for criminal law. Similarly, for a more contemporary example, the cost of allowing Jews in the United States to settle disputes through their own system of adjudication, such as the Beth Din of America, was to limit the Beth Din of America’s authority by subordinating it to US civil law. As a court of arbitration, the Beth Din of America must conform to American civil law procedures. It also cannot rule in a way that is contrary to public policy or shows manifest disregard for US law; otherwise, its decisions will be vacated by the courts.

**Patriotic Jewish Medical Ethics**

The patriotic strategy of communicating Jewish medical ethics attempts to enter the public conversation to promote Jewish values that the religious philosopher believes are also shared by the greater public. In this strategy, one recognizes that the Jewish tradition is both particular to the Jewish people and is universal through the institution of the Noahide laws, so that certain values are meant to be promoted broadly.

The cost of employing a patriotic strategy is that halakha, in this case, also must be limited in its authority due to external considerations,
albeit for different reasons. Certain values have different practical ramifications, depending on whether they are embedded in a Jewish legal framework or a broader one that includes both Jews and non-Jews. The reason for the differences would be that the value must fit within a broader social view and cannot be appreciated independently of its relationship to other facts and norms within a system. Because Jewish law is particular to the historical development and theological goals of the Jewish people, values embedded within it will be related to each other through priorities that differ in both kind and order from those adopted in the Noahide system, which applies to humanity as a whole. For example, Jewish laws of lineage are strictly social in nature. Therefore, when a non-Jewish person converts to Judaism, halakhically, they are considered as not having any relatives. A consequence of this is that according to Torah law, if a brother and sister both convert, they may marry each other, since they are not considered to be related. However, the rabbinic position recognizes that this exception to the prohibition of incest occurs because the situation is so rare, and law, while a delimiting set of principles and regulations, does not account for every situation but rather provides a general set of norms that apply to the reasonable person in probable situations. Therefore, knowing that this exception might raise ethical concerns for the broader public, there is a rabbinic decree that two siblings who convert may not be married, for fear that people might say that “they came from a place of greater holiness to a place of lesser holiness.” When the rabbis instituted this decree, they did not subordinate their values to the values of the greater public; rather, they promoted Jewish social values and their application of them to a case where they were not explicitly mandated. In doing so, however, they looked to the outside world in their consideration of an internal affair.

The need to consider external viewpoints when employing a patriotic strategy also creates a difficulty in applying shared values that have conflicting ramifications when seen through both Jewish and Noahide law. This gives rise to situations in which, when addressing the general public, the patriotic Jewish ethicist could be forced to promote a position that is different from the one he or she would be obliged to affirm within an internal Jewish ethical discourse. For example, the jurisprudential analysis of abortion with respect to Noahide law is different from the one affirmed within Jewish law. To explain, the Talmud cites Rabbi Yishmael that a Noahide who aborts a fetus has the legal status of a murderer, and Maimonides codifies the law in accordance with the view of Rabbi Yishmael. Among the legal commentators, there is a debate as to whether making abortion a capital offense implies that a fetus is a person with rights under Noahide law or whether the offense relates not to the severity of the crime but rather to a policy of stringency with respect to punishment under Noahide law. The former position would disallow even therapeutic abortions. However, in halakha, there are times when therapeutic abortions are permitted. Given this jurisprudential difference, what policy should patriotic Jewish medical ethicists promote? If they were to promote a position that disallows even therapeutic abortions, they would be advocating a position that is in conflict with Jewish law and hinders a pragmatic strategy. If they were to promote a position that allows for therapeutic abortions, they would be advocating a position that they think is contrary to universal values, or at least norms, as prescribed by Noahide law. Of course, advocating a discriminatory policy that differentiates between Jews and non-Jews is not an option, since it contradicts the principle of substantive justice that is held so highly in our multicultural environment, which promotes equality and consistency of treatment for everyone, regardless of race or creed.

As this case demonstrates, a further consideration that must be taken with respect to promoting a patriotic strategy relates to whether Jewish law obligates Jews to promote universal
values as dictated by Noahide law, or whether Jewish law just requires Jews to adhere to such values when their application is in line with halakha. The relevance of this consideration does not concern the question whether to take a patriotic stance at all, but rather when—such as in the case of abortion—taking a patriotic stance would be pragmatically detrimental for the Jewish internal position. Within the Jewish legal tradition, there is a difference in one's obligation to enforce or impose Jewish law upon Jews and the lack of obligation to enforce or impose Noahide law upon non-Jews.\(^{17}\) However, it is nonetheless seen as meritorious to persuade non-Jews to follow Noahide law.\(^{18}\)

If promoting universal values is meritorious but not an obligation, then a patriotic Jewish ethicist can promote pragmatism at the legal level and persuasion at the level of civil society.

In the contemporary American debate over abortion, which is a good example of a topic where there is little if any common ground of discourse between opposing sides, the Jewish medical ethicist can provide a strategy for public policy that allows for compromise. While currently each side of this debate is starkly drawn, leaving little room for dialogue, a normative Jewish social position may be promoted that allows for nuance without imposing its own internal belief system. Instead of using legislation to enforce unilaterally one's position regarding the ethics of abortion, the debate over abortion should start with respecting the fact that both positions are firmly rooted in a moral or legal tradition, and each tradition starts with different and opposing value premises. If neither side can convince the other of its conclusions—because they start with different premises—then the positions of both sides should be respected as a pragmatic decision and legitimized by the law. In practice, the law should provide a safe means for women to make choices, yet communities should recognize that no person lives without influence from neighbors and friends. Those who want to reduce the number of abortions that occur in this country should look to inform individuals for whom they care and with whom they live rather than attempt to make changes by legislative fiat. In the multicultural society in which we live, policy choices and legislation should take into account what is possible to achieve, given any opposition between traditions, both in terms of respecting the traditions themselves and in finding a common ground where open dialogue can be persuasive, rather than relying on legislation that can be viewed as oppressive and ignored.

**Personal Jewish Medical Ethics**

The personal strategy of communicating Jewish medical ethics does not attempt to enter the public conversation in order to promote Jewish values in society directly, but rather seeks to reinforce those values in those who adhere to Jewish law. It seeks to find ways to meaningfully integrate those values into everyday life and not allow for observance of them to devolve into routine, unreflective habit. The value of this approach for the sake of advancing public discourse is to encourage Jewish ethicists to have a strong sense of cultural heritage and understanding of their tradition as well as to develop the depth and confidence needed to promote its values in the public sphere.

Jewish ethicists will rely on each of the above strategies, depending on context and the audience they are addressing. Therefore, it is important to understand each strategy and know when each is being used and, importantly, how each strategy relates to informing discussion in the public sphere. If one looks at all religious arguments as having the same strategy, then contradictory claims or reasons can come across as incoherent. However, if one knows which strategy is being used, then one can determine how relevant the argument is in terms of weighing the normative claim and the reasons given to justify it.

Moreover, when creating a common space for discourse, recognizing differences in
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CONTEXT AND COUNTERPOINT

Withholding and Withdrawing Care

Even though withholding and withdrawing care are still referred to as distinct concepts in conversations regarding end-of-life care, US law and the American Medical Association (AMA) Code of Ethics state that there is no ethical or legal difference between withdrawing and withholding a medical therapy, which includes, among others, mechanical ventilation, renal dialysis, chemotherapy, antibiotics, and artificial nutrition and hydration. The distinction between the concepts of withholding and withdrawing care originates in Catholic moral theology, and the underlying premise for the distinction is that there is a difference between actively doing something that facilitates death and passively allowing nature to take its course. Jewish medical ethics, on the other hand, like US law and secular ethics, does not distinguish between withholding and withdrawing care, except for certain circumstances outside the scope of this analysis, yet it arrives almost at the opposite conclusions than that of US law and medical ethics. Jewish medical ethics conceives withdrawing and withholding as morally objectionable in most cases where US law and secular medical ethics would not. However, understanding the Jewish medical ethics view can better clarify the US legal and the AMA’s positions than continuing only to contrast the position with one that makes a distinction between action and passivity.

The philosophical justification for not distinguishing between withholding and withdrawing in secular medical ethics and law is explained through the equivalence thesis:

1. If it would have been morally permissible to have withheld therapy (that was in fact already started), then it is now morally permissible to withdraw that therapy.
2. If, in the future, it would be morally permissible to withdraw a therapy (that has, in fact, not yet been started), then it is now morally permissible to withhold that therapy.

The first point assumes that ethical analysis begins at the current moment without any consideration with what has already occurred. The second point assumes that a potential future decision should retrofit into current decision-making. The equivalency thesis does not give moral weight to continuing the status quo if one is currently treating a person.

Jewish law does not make a distinction between passive and active in this case, as either can be an abrogation of one’s duty, though it does recognize gradations in causality. There is, however, a Jewish jurisprudential principle that advocates passivity when there is a conflict between two legal directives. This rabbinic concept allows one to override a Torah law passively when it is necessary to ensure broader Torah observance. For example, Jews do not blow the shofar when Rosh Hashanah is on the Sabbath for fear of carrying it in a public domain, which is a Torah prohibition. This principle does not simply promote passivity in contradistinction to action. In being passive, one is upholding a principle or a duty. Therefore, passivity, in this case, should be seen as actively refraining from performing an obligation in deference to another obligation. The consequences of passivity and activity are weighed against each other.

With respect to withholding and withdrawing
care, the moral question is not simply what would be the consequences of acting or not acting. Rather, the question begins with laying out what are the duties to treat, whether treatment would be efficacious or simply prolonging the process of dying, and how causative would one’s actions or inaction be in facilitating death given one’s duty. Unlike the equivalence thesis, this view is temporal in analysis, since it does give moral weight to continuing the status quo of currently treating a person.

The similarity between the secular and the Jewish approach is that moral obligation or accountability does not rest solely with the actions or passivity of the physician. Rather, in both frameworks, ethical deliberation begins with the question, “What is the relationship between physician and patient, and what obligations does that relationship entail?” In secular medical ethics, the physician’s obligations are contingent on the contractual nature of the patient-physician relationship; therefore, it is morally permissible to withhold or withdraw care both in the event that care is medically non-beneficial and in the event that the patient terminates the relationship. In the Jewish medical ethics framework, on the other hand, because physicians have an independent obligation to treat that is not contingent on a formal patient-physician relationship, withholding and withdrawing care in many cases is morally permissible when the duty to treat has been annulled for medical reasons only and not because the patient wants to terminate the patient-physician relationship. By attempting to show how the Jewish view provides context for the secular view of withholding and withdrawing, I am not advocating for paternalism or medical battery. Rather, I am trying to show how the secular view—that the ethics of withholding and withdrawing are determined in light of the patient-physician relationship rather than when explained solely by contrasting the equivalence thesis with a position that distinguishes between withholding and withdrawing.

Reproductive Autonomy versus the Traditionalist View

The World Health Organization defines reproductive rights as follows: “[R]eproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents.” In line with this definition, reproductive rights commonly include the right to legal and safe abortion; the right to birth control; freedom from coerced sterilization, abortion, and contraception; the right to access good quality reproductive healthcare; and the right to education and access, in order to make free and informed reproductive choices. As the examples attest (though the definition can be read otherwise), reproductive rights are traditionally seen as negative rights (that is, the right to have someone not interfere) and not as an entitlement right (the right for society to give a person the ability to have a child if he or she currently cannot). Similarly, US Supreme Court cases that established legal thinking about procreative liberty and autonomy seem to interpret reproductive rights as a right to be protected against interference. For example, *Griswold v. Connecticut* (1965) was a landmark case that affirmed the “right to marital privacy.” *Eisenstadt v. Baird* (1972) extended the right of marital privacy to unmarried people, permitting them to
use contraception on the same basis as married couples. Planned Parenthood of Southern Pennsylvania v. Casey (1992) upheld the constitutional right to have an abortion. Nevertheless, the question of whether reproductive rights should be considered as negative rights or entitlement rights creates diverging attitudes towards artificial reproductive technology.

One view that looks at reproductive rights as entitlements advocates unlimited procreative liberty. From this perspective, people should have the right to produce children in any manner that they see fit, have the right to produce the type of children that they want, and be able to create any type of family they want, as well as to expect that society has an obligation to provide them with means to be able to do so. The state’s concern with preserving a certain image of the family does not justify prohibition of non-coital, collaborative conception. This view is also rooted in the notion that individuals have a right to choose and live the kind of life that they find meaningful and fulfilling and that the purpose of society is to provide the ability for people to achieve it.

The traditionalist view, on the other hand, conceives of human procreation, though seemingly an exclusively private act, as having a profoundly public meaning. This view considers how procreation determines the relationship between one generation and the next; how it shapes identities, and creates attachments and responsibilities for the care and rearing of children (and the care of aging parents or other needy kin). Moreover, this view sees procreation as a way to accept, rather than reshape, engineer, or design the next generation. It emphasizes the idea that a child is not a possession to be created based on the parents’ wishes. Rather, parental love should be founded on a sense of “natural humility,” by which is meant restraining from changing the natural world to suit social desires. In this perspective, people are not entitled to reproduce and cannot demand society to assist them; rather, reproduction is a gift and a responsibility incumbent on people. However, others cannot take away that individual’s responsibility; doing so would be a violation of his or her negative liberty to be free from outside interference.

In the Jewish tradition, reproduction is considered a great commandment (mitzvah), not a right; yet, the community still has an interest in providing means to assist people with difficulty having children. Also, the Jewish tradition upholds that it is proper at times to manipulate nature for the betterment of humankind. However, the determination of what is “better” is not a matter of individual or even social choice but rather is based on the duties set forth by Jewish law. This view can be seen as a counterpart position for both those who uphold reproductive autonomy and those who propose traditionalism, because it shares values that are affirmed by each perspective. It shares the view with the traditionalists that life is sacred and should not be manipulated “willy-nilly.” With those who advocate for reproductive autonomy, it shares the value of human genetic improvement, even though it would define what is considered “better” in terms of its own internal framework. Introducing the Jewish view as another voice in public discourse on this topic can provide an avenue to begin creating a common space outside of the two opposing positions, since it can show how the values of each position can be appreciated so that there is mutual understanding for compromise.

CONCLUSION

In providing these examples, my goal is not to show how Jewish medical ethics compares to other forms of ethical decision-making in healthcare. Rather, my goal is to show how introducing voices into public discourse and knowing the strategies those voices use in promoting their positions might enable us to appreciate the complexity and nuance of multicultural compromise. To change public dialogue from being a cacophony of voices to one that allows for people to hear each other
and find a common language in which to communicate is a very different and much harder enterprise than simply giving other voices an opportunity to speak (though this, of course, is necessary). However, creating a common space is possible if we recognize its importance and understand how and why different voices promote their positions. Only when we recognize from where each of us is coming can we search together for solutions.

REFERENCES

1. The Jewish tradition recognizes and provides canonical support for differentiating between internal and external modes of communicating values that lie at the foundation of Jewish law. From an internal Jewish perspective, the sages proffer that there are seventy ways to understand the Torah (Numbers Rabbah 13:15.), which indicates that they recognize that concepts in the Torah can survive different paradigms and languages of explanation, and that there can be diversity within a unified people. From an external perspective, the sages state that every single word that God spoke was split into seventy languages, corresponding to each of the seventy nations of the world (BT Shabbat 88b; see also Exodus Rabbah 5:9). Multilingual communication is not for Israel's benefit in gaining a deeper understanding through linguistic distinctions, since that type of benefit is proffered by the first rabbinic source; rather, it is to provide a means for universal acceptance of certain values, albeit in a different mode than is found within the internal Jewish tradition. This dual notion is supported by the sages' explanation of the second time the Israelites received the Torah, which occurred during the last weeks of Moses' life and before their entrance into the Land of Israel. The verse that introduces Moses' repetition states, "On the other side of the Jordan in the land of Moab, Moses began explaining this Torah, saying ..." (Deut. 1:5). The sages understand the word "explain" to mean that Moses expounded the Torah in the seventy languages of the nations of the world (Midrash Tanhuma, Devarim 2; Genesis Rabbah 49:2). Moreover, after he finished explaining the Torah to the people, the Torah records Moses commanding the people to erect stones, coat them with plaster, and inscribe upon them all the words of this Torah, well clarified (Deut. 27:1–8).

Because the words "explain" and "clarified" are linguistically related in Hebrew, the sages understood that the inscription on the stones was also written in seventy languages (BT Sotah 32a). The giving of the Torah by Moses to the Israelites was modeled after the giving of the Torah on Mount Sinai. Translations of the Torah were given for the nations of the world so as to provide a means for them to learn the lessons the Torah provides.

2. Translation is not only a process of converting a word from one language to another; it can also mean converting something from one form of discourse to another.

3. For a more in-depth analysis of this claim, see Alasdair C. MacIntyre's *After Virtue: A Study in Moral Theory*. Bloomsbury Revelations (London: Bloomsbury, 2014).

4. Alasdair C. MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, IN: University of Notre Dame Press, 2008), defines the relativist challenge as a denial that rational debate between, and rational choice among, rival traditions is possible. Relativism exists because each tradition has its own internal characteristic modes of justification; therefore, no tradition can deny the legitimacy of another. The perspectivist claim, as perceived by MacIntyre, is that each rival tradition is a mutually exclusive way of understanding the same thing; therefore, the rival traditions are just complementary perspectives for one and the same truth.

5. Laws, as normative reasons for acting, must possess both explanatory and descriptive reasons as well as normative ones. This is because the normativity of a normative reason depends on a person recognizing the facts that the normative reason entails. Therefore, normative reasons must be able to describe the reality of a situation properly, to explain why the situation contains a normative aspect, and to explain why a particular response is appropriate.


8. BT Sanhedrin 41a; JT Sanhedrin 1:18a.


10. The Noahide laws are normative for non-Jews and were prescriptive for Jews before the giving of the
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Torah (BT Hullin 100b). The Noahide legal system consists of seven general instructions concerning adjudication, idolatry, blasphemy, sexual immorality, bloodshed, robbery, and the eating of a limb torn from a living animal (Tosefta, Avoda Zara 8:4–6; BT Sanhedrin 56a–b); and they are identified as being within the first commandment given to the first human being, “And Hashem Elohim commanded regarding the man saying, ‘Of every tree of the garden you may certainly eat.’ (Gen. 2:16).” Even though the laws were given to the first human being, they are still called the “Noahide laws,” since mankind is considered to be descended from Noah after the Flood. The general nature of the Noahide laws allows for the existence of differences in moral temperament across different societies, even if the broader ethical outlines are the same. Given a certain location, customs may develop that may be different from those in other places due to the constraints of geography, demography, and economy. With varying customs will come varying social perspectives and, hence, different nuances in moral temperament. The relationship between law and ethics is, therefore, easier to see through a more comprehensive legal system such as Jewish law than through a more general one.

12. BT Yevamot 22a; Shulhan Arukh, Yoreh Deah 269:1.
13. Sanhedrin 57b.
15. This is in accord with certain positions on abortion in both the Catholic and Natural Law traditions.
17. Tur, Yoreh Deah 158:1; Beit Yosef Yoreh Deah 158 s.v. rebenu umekol makom, Hoshen Mishpat 425; Bach on Tur, Yoreh Deah 158 s.v. umekol makom; Drisha on Tur, Yoreh Deah 158:1, Sema, Hoshen Mishpat 425:15–19; Darkhei Moshe He’Arukh Yoreh Deah 158 s.v. ain moredim; Shulhan Arukh, Yoreh Deah 158:1–2; Shach, Yoreh Deah 158:2; Taz, Yoreh Deah 158:1.
22. This can be seen by the statement of Rabbi Akiva, “God did not give the commandments because He wants them for His own need but in order to refine the Jewish people.” As King David says in Tehillim (18:31), “The saying of God is [for the purpose of] refinement.”