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**Response to Dr. Jotkowitz:**

I largely share Dr. Jotkowitz’s perspectives on the current state of Jewish bioethics and its challenges moving forward. To summarize, the characteristically conservative rabbinic tradition has proven remarkably adept in providing sophisticated legal responses to modern medical dilemmas. At the same time, Dr. Jotkowitz (and I) would like to see the relevance of this same tradition, and its literature, broadened to address several areas both inside and outside of Jewish bioethics, including: 1)modern circumstances with little obvious legal precedent; 2)the ethical dimension of care and policy, both in areas that are legally weighty (e.g., end-of-life decision-making) and those that are not (e.g., expectations for the physician-patient relationship); and 3)ethical inquiries that are not Jewish per se, but are open to diverse input. Dr. Jotkowitz mentions two further concerns which present particular challenges (though not exclusively) for the relevance of Jewish bioethics to secular bioethics: 1)Jewish ambivalence about autonomy as a dominant bioethical principle and 2)a lack of consensus within Jewish bioethics to the point of diluting the very concept.

I embrace both Dr. Jotkowitz’s intellectual vision and his concerns regarding its implementation. His pithy list belies deep insight into questions at both the axiological and methodological planes. That is, even if we can supply philosophical justification for Jewish law’s relevance for a non-Jewish audience, for example, the practical question of how to apply rabbinic literature to non-legal questions remains.

Without offering a definitive answer, I would like to suggest one direction that may make rabbinic texts more amenable to answering non-traditional questions and help overcome some of the obstacles that Dr. Jotkowitz notes. Within the world of traditional Talmudic interpretation, various modes of analysis exist, each with its own underlying assumptions of what the very goal of Talmud study should be. Multiple schools focus on studying the text in its own right, whether through resolving difficulties that arise (classically known as “*pilpul*”) or, more recently, by employing modern scholarly methods to try to read the text more closely to its original context. Another school, which focuses on deriving practical legal rulings by recruiting various proof-texts for or against a particular position, has been well represented in the world of Jewish bioethics, as it readily meets the need of providing a response to a particular question. The “Brisker” tradition, in contrast, which seeks neither resolution of the texts nor a practical directive but instead a conceptual framework for the principles that underlie the rabbinic teachings(1), has become a dominant force in traditional study halls but has yet to penetrate significantly into bioethical discussions. However, its potential for advancing the field of Jewish bioethics beyond its current boundaries, I believe, is tremendous.

Conceptual analysis does not seek, primarily, to arrive at a definitive legal conclusion. Rather, it aims to articulate the guiding principles that give structure to known rulings and can also account for anomalous teachings. As such, I think it may help address at least some of Dr. Jotkowitz’s points:

1. For those who study rabbinic texts with legal ends in mind, disagreement is an obstacle at best and paralyzing at worst. One engaged in conceptual analysis, in contrast, is unperturbed by dispute and is even propelled forward by it. He or she sees it as an opportunity to reveal underlying assumptions about the law, which ultimately tell us as much about points of agreement as it does about areas of controversy. With regard to abortion, for instance, a quick survey reveals that rabbinic positions cover the full gamut. A legalistic approach would help show the various proof-texts that support each opinion but could do little to help advance a collective Jewish perspective. Conceptual analysis, in contrast, helps isolate particular points of dispute (such as the specific moral status of a fetus at various stages of development, or the legal weight that different forms of maternal hardship should carry) from areas of broad consensus. Almost all rabbinic positions view a fetus as an entity with distinct moral standing, rather than as a mere biological extension of its mother. One could reasonably say that in the Jewish view, a fetus, specifically, and reproductive power, more generally, generate responsibilities more than mere privileges, and I think this message can be deeply informative to a bioethical discussion about abortion, internal disagreements notwithstanding. Moreover, defining areas of dispute in order to highlight broad overlap need not be limited to internal Jewish debates alone. A similar study of Jewish and secular perspectives on end-of-life care, I believe, would reveal sizable areas of consensus that go unappreciated in the face of conventional, mutual suspicion.
2. Because legalistic analysis works mostly from precedent, areas which are wholly novel (for example, defining parenthood in the context of modern reproductive technologies) present a unique problem. This method will sometimes either grope for proofs from less relevant or even Aggadic texts or simply throw up its hands and state that the rabbinic tradition has nothing to offer on this question. Conceptual analysis, in contrast, can pick up from where the legal method runs out of steam. As it does not necessarily seek specific rulings but more a delineation of concepts, it is more flexible both in terms of what material it can process and what output it would find significant. R. Ezra Bick, for instance, has suggested that definitions of parenthood might be formulated from rabbinic uses of paternity and maternity as metaphors in Aggada(2). Returning to the example of reproductive ethics, while 6th century rabbis did not speak about frozen embryos and stem cells, an analysis of their statements about respecting “seed” and early fetuses may yield an overall description of their approach towards reproductive potential.
3. Because the end result of Brisker learning is typically principles rather than decisions, it can similarly inform ethical topics, such as the physician-patient relationship, the nature and goals of health care, or even medical decision-making. While the laws that directly govern any of these areas are relatively sparse, the ethical literature that can shed light on them is quite rich, provided that appropriate tools for analysis are developed and employed. Sidlow-Katz, for instance, has argued that the laws of “bikkur holim” (“visiting the sick”) carry a poignant message about medical humanism(3). Other creative lines of inquiry may be able to give greater depth to Jewish perspectives on a range of ethical subjects.
4. Finally, if we embrace the ability of analytic methods to not only arrive at a practical conclusion but also to articulate the values that underlie the law, then our message can speak to audiences outside of our own narrow community(4). My mentor Rabbi Aharon Lichtenstein writes, “While the details of halakhic living and its formal regimen do not relate to the non-Jew, the ideals and values embedded within the halakha address themselves to mankind as a whole”(5). The onus, however, for proving that Judaism indeed possesses universal relevance lies with our own scholars. I believe that a conceptual approach to Talmud study can help them in this project.

With regard to autonomy, we find the opposite phenomenon: Despite widely divergent approaches to autonomy between Jewish and secular ethics at the fundamental level, multiple authors have argued that the distinctions nearly vanish in practice(6-8). Thus I am hopeful that this particular impediment to fruitful Jewish-secular dialogue can be successfully managed.

While I believe in the expansion and deepening of Jewish bioethics, I don’t want to belittle the enormity of the challenge. Brisker study provides a direction but doesn’t supply packaged, ready-to-go methods for the kind of adaptation that I envision. Developing research tools that are both methodologically sound and flexible to a different set of ends will require courage, rigor, innovation, and a deep respect for the ancient tradition that we both revere and rejoice in. Indeed, it is my faith in the eternal relevance of this tradition that compels me forward.

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