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Jewish Ethical Themes That Should Inform the National Healthcare Discussion: A Prolegomenon

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Abstract Despite the passage of H.R. 3590 in the 111th Congress, the national healthcare debate in the United States continues, with repeal or modification of the Patient Protection and Affordable Care Act under ongoing consideration. Reference is often made to morality or ethics, but typically in general terms only. This paper elucidates themes from one system of moral theology, namely Jewish healthcare ethics, that would valuably inform this debate. Themes include "covenant," "holiness," "justice," "mercy," "for the sake of peace," "to save a life," "peoplehood," "repair of the world," "repentance," and "jubilee." Policy-related, economic, political, and moral challenges to acting on these principles are discussed.

Keywords Healthcare · Bioethics · Policy · Religion · Judaism

The United States recently endured over a year of debate on healthcare reform, culminating in passage of H.R. 3590 and signing of P.L. 111–148 (Patient Protection and Affordable Care Act 2010), amended by H.R. 4872 and P.L. 111–152 (Health Care and Education Reconciliation Act 2010). Numerous secular and religious institutions and organizations, from across the political and religious spectrum, weighed in on putative underlying moral and bioethical issues that argue for or against one or another features of what eventually become these two Public Laws. Note that the title of this paper contains the phrase "should inform," not "should have informed." As is becoming clearer each day of the 112th Congress, the national discussion is not over, but has just begun. This statement is not made because of the uncertain status of the Act, in the light of the recently passed H.R. 2 (Repealing the Job-Killing Health Care Law Act 2011) and the various court challenges, such as the 11th Circuit Court of Appeals' recent ruling that selected features of the Acts are unconstitutional (United States Court of Appeals for the Eleventh Circuit 2011). Nor is it intended to convey a value judgment about the vagaries of Congressional opinion or

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about the worthiness of the law itself, which remains contentious. Rather, the intent is simply to acknowledge that the situation remains fluid and to provide a concise summary overview of key themes from one particular bioethical tradition that would valuably contribute to public and legislative discourse as the process continues forward. With the possibility of repeal looming, or at least a recasting of debate, it is timely and necessary that such discussion be engaged with a depthfulness mostly lacking during the initial iteration of the healthcare reform debate a couple of years ago.

Systems of values or implied morality, of various flavors and with various ethical programs—utilitarian, communitarian, deontological, libertarian, and so on (see Beauchamp and Childress 2009)—underlie implicit stances taken in support of or against particular social legislation, at least presumably. One hopes that the expressed pro and con stances regarding the Democrats' H.R. 3590 and the several alternatives proposed at the time by Republicans (e.g., H.R. 2520, H.R. 3218, H.R. 3400, H.R. 3970, S. 1099) were not solely products of political calculus, although that may be optimistic. Regardless, this paper is a modest effort to contribute to this discussion by elucidating fundamental themes from the Jewish tradition of medical ethics that would valuably contribute to national decision-making regarding our collective healthcare future. This includes (a) summary of existing Jewish health policy statements from various sources, (b) review of important biblical and rabbinic concepts that bear on this issue, and (c) identification of the kinds of policy-related, economic, political, and moral challenges that are likely to be confronted (and that already have been faced, in part) as Washington insiders attempt to slog through issues that arise in the ongoing healthcare debate. This discussion is offered as a modest remedy to counter the risk that the same principles that did not feed the contentious public discourse on H.R. 3590 will also not feed the ongoing dialogue surrounding P.L. 111–148's and P.L. 111–152's repeal or modification.

Jewish Health Policy Statements

According to tradition, the Jewish canon begins with Moses at Mt. Sinai. It consists of a written *Torah* (Hebrew bible) and an orally transmitted counterpart, consisting of the *Mishnah*, a philosophical legal code redacted in roughly the second century C.E.; its gloss, known as the *Tosefta*; and two sets of rabbinic commentaries, known collectively as the *Gemara*, one from the academies of the Holy Land, originating in about the fourth century, the other from the academies in Babylonia, emerging over the next century. The *Mishnah* and *Gemara* together constitute the *Talmud*, the former version of which is known as the *Yerushalmi*, the latter as the *Bavli*. Additionally, generations of rabbinic commentaries on the *Torah*, including both *halakhic* (legal) and *aggadic* (philosophical, ethical, and historical) work, were produced, known as the *Midrash*. Subsequently, commentaries and glosses on much of this work continued to be produced, and legal codes were derived, such as the *Shulchan Aruch*. These latter works codified *halakhah* (Jewish law) for subsequent generations of Jews, providing guidelines for personal and communal behavior. The codes, in turn, spawned their own commentaries, as well as a body of writings known as *t'shuvot*, or the *responsa* literature—rabbinic rulings on diverse matters that continue to the present day. The rabbis, collectively throughout these centuries of writings, have given considerable attention to the ethics of conduct, especially business and professional conduct, and, within that, especially the obligations of Jews regarding health, medicine, and healthcare.

The rabbis teach that two fundamental principles underlie *halakhic* understanding of our duties regarding medicine and public health: a professional duty to heal and a communal

duty to prevent illness. According to Lord Immanuel Jakobovits, the late Chief Rabbi of the British Commonwealth and a pioneering bioethicist, Jewish law endorses "the unqualified statement that the physician's right to heal is a religious duty and that he who shirks this responsibility is regarded as shedding blood" (Jakobovits 1959, p. 7). Further, "Prophylactic hygiene [is] raised to the level of a legal, national and collective institution …. Considered in this perspective, the prevention of disease becomes the major preoccupation of Hebrew medicine" (Jakobovits 1959, pp. xxi–xxii).

These principles underlie myriad bioethical and health policy statements issued in recent years by the various Jewish movements (i.e., denominations), by Jewish organizations and institutions, by rabbinic authorities, and by academic scholars in biomedical ethics. These include official statements from the major Jewish movements (United Synagogue of Conservative Judaism 1993; Rabbinical Council of America 1999; Union for Reform Judaism 2007; Agudath Israel of America 2009; Walling et al. 2010), health policy white papers or advocacy statements from major Jewish institutions or organizations (Jewish Council for Public Affairs 2003; American Jewish Congress 2009; National Council of Jewish Women 2009; Jewish Federations of North America 2011; B'nai B'rith International n.d.), and books and monographs on Jewish medical ethics from *poskim* (rabbinic decisors) across movements (Jakobovits 1959; Rosner and Tendler 1980; Freehof 1981; Feinstein 1985; Jacob 1987; UAHC Committee on Bio-Ethics 1994; Plaut and Washofsky 1997; Dorff 1998; Golinkin 2000; Reconstructionist Rabbinical College 2002) and from medical or secular academic sources (Bleich 1981, 1998; Feldman 1986; Zohar 1997; Freedman 1999; Zoloth 1999; Rosner and Bleich 2000; Rosner 2001, 2007; Steinberg 2003). Important professional symposia (Medicine, Money and Morals 2005) and special issues of rabbinic (*Conservative Judaism* 1999; *The Reconstructionist* 1999) and healthcare (*Bulletin of the Park Ridge Center* 2000) journals also have weighed in on this subject.

Concisely summarizing this diverse work is not easy, but one can glean a few points of consensus from the Jewish bioethical tradition on healthcare. First, there is an obligation to vulnerable populations. No explicit positive right to receive healthcare is articulated in Judaism, at least in such terms, but rather explicit obligations to heal and to prevent disease, as noted. Second, society must be mindful and attentive to concerns regarding social justice, however it may be operationalized (e.g., as distributive, egalitarian, utilitarian, or communitarian models of justice). Third, society must endeavor to provide healthcare that is accessible to and affordable for all. Fourth, preserving human life is among the highest ideals.

Yet reading through this work one is left with the sense that something important is missing. Most rabbinic writing on bioethics, including those works just cited, focuses on clinical decision-making and discrete medical issues—for example, abortion, stem cell research, euthanasia, test-tube babies, autopsy, transplantation, and so on. Much less focus, if any, is given to public health issues, such as the nuts and bolts of a putative communal responsibility to provide (preventive) healthcare for the population. Much of the scant Jewish bioethical writing on this topic has come mostly from non-rabbinic sources (e.g., Zoloth 1999). Rabbi Elliot Dorff, a leading contemporary *posek* (sing. of *poskim*) in the Conservative movement, underscores this point, noting that while "we do have the clear duty to try to heal, and this duty devolves upon both the physician and society…. Jewish sources on distributing and paying for health care are understandably sparse" (Dorff 1998, p. 281).

The present discussion modestly efforts to construct a contemporary Jewish response to this lacuna. The aim is to produce a concise statement regarding what Judaism has to say

about our collective ethical responsibilities when it comes to national healthcare policy in the United States. This statement, it is hoped, is sensitive to and consistent with the historic communitarian and social justice emphases of the public health field—distinctives, incidentally, that mirror Jewish moral-theological emphases of historic longstanding.

A Jewish Theological Lens

Any Jewish discussion or deliberation—whether private study or public meeting—typically begins with some "learning," or text study. The present discussion focuses on two texts, one from the *Torah* and one from the rabbinic literature.

In *Sefer D'varim* (the Book of Deuteronomy), the text lays out the famous *shema* prayer, the basic statement of Jewish faith (Deuteronomy 6:4ff.). It includes a paragraph known as the *v'ahavta*, in which Moses describes in detail how it is that we are to "love the Lord thy God." The bible gives us a three-part formula: We are instructed to do so "*b'chol l'vav'cha*" ("with all your heart"), "*uv'chol naf'sh'cha*" ("and with all your soul"), "*uv'chol meodecha*" ("and with all your might"). In other words, we fulfill our obligations toward God through use of our soul (which the rabbis understood as meaning the mind—one's cognitive and intellectual faculties), our heart (that is, through worship and through loving feelings and attitudes), and our might (interpreted as through one's actions, one's labor, and, derived from this, one's money).

The rabbis expounded on this in a *Mishnah* tractate known as *Avot*, in two places. In *M. Avot* 1:2, Shimon the Righteous is quoted as saying that "upon three things the world stands" (*al shloshah d'varim ha olam omeid*), just like a three-legged stool: *al hatorah* ("upon learning"), *v'al haavodah* ("and upon worship"), *v'al g'milut chasadim* ("and upon acts of lovingkindness"). In *M. Avot* 1:18, his grandson, Rabban Shimon ben Gamliel, is quoted using the same words ("upon three things the world stands"), but this time it is a different set of three things: *al hadin* ("upon justice"), *v'al haemet* ("and upon truth"), *v'al hashalom* ("and upon peace"). How could this be? How could two esteemed rabbinic sages state that the world is sustained by exactly three things, but then come up with two different lists of three things? Which is it: learning, service to God, and acts of lovingkindness, or justice, truth, and peace?

Actually, these two takes on the three-legged stool on which the world stands are easily reconcilable, if understood as respective interpretations of the instructions given in the Bible in the *v'ahavta* paragraph of the *shema*. These passages from *Avot* explain precisely how we are to love God, along with the consequences if we are successful. They are the respective instructions for and end results of living in accord with Moses' charge to "love the Lord thy God." We are to love God with all our soul (mind) by way of learning, which will lead us to truth; we are to love God with all our heart through worship and other acts of service, which will lead to peace; and we are to love God with all our might, through acts of love and kindness to others, which will produce justice. The rabbis elsewhere explained that *torah* (learning) is the greatest *mitzvah* of all, not because learning is more important than doing but specifically because learning leads to action (*M. Pe'ah* 1:1). The premium here, as throughout Jewish teachings, is on action, on doing, on actively participating in the affairs of the world in order to serve the cause of justice and bring about the world's redemption.

This *d'rash* (commentary) can be summarized, briefly, as follows: (a) we are to love God, (b) we do this through our actions toward others, and (c) our actions matter—this is the way that we attain truth, peace, and justice. These conclusions thus beg the question:

just what are the ideas and concepts that should inform our actions? This information is required for a coherent roadmap for meeting our obligations toward others, whether regarding healthcare or any other topic of social or public policy.

Salient *Torah* and Rabbinic Themes

Existing Jewish bioethical writing on healthcare has emphasized one or another key concepts or themes. These include thoughtful discussions of justice (Mackler 1991), *tikkun olam* ("repair of the world") (Zohar 1998), the sanctity of human life (Jakobovits 1983), and a putative societal obligation to fund medical care (Novak 2003). The aim here is to consider these and several other principles in order to construct a uniquely Jewish perspective on this issue. The following ten concepts, derived from *Torah* and the rabbis' reading of it, are offered as a start at defining a Jewish ethical perspective on healthcare. These concepts include "covenant," "holiness," "justice," "mercy," "for the sake of peace," "to save a life," "peoplehood," "repair of the world," "repentance," and "jubilee." While these concepts are explicated according to their origination as directives to the Jewish people, they encompass principles that are broadly relevant to the national healthcare discussion in the United States and can be applied more widely. It is in that spirit that these concepts are outlined—as a uniquely Jewish prolegomenon to a larger and more focused discussion that is long overdue.

B'rit ("covenant"): Implicit in the Jewish covenant or contract with God is a set of social obligations that define and govern responsible human conduct. Rabbi Jonathan Sacks, Lord Jakobovits' successor as British Chief Rabbi, referred to this as a "covenantal morality" (Sacks 2000), defined as "an affirmation of mutual obligations on the part of God and humankind" (Levin 2010, p. 16). These obligations concern our vertical relationship (*bein adam lamakom*, "between man and God") and our horizontal relationship (*bein adam l'chaveiro*, "between man and his fellow man"), and are bidirectional and mutual. Through accepting the yoke of the *Torah*, observing the body of positive and negative *mitzvot* (commandments) that concern the details of life, and living in accord with the collective wisdom of our *chazal* (rabbinic sages) and the subsequent *halakhic* codes and *t'shuvot*, religious Jews are immersed in a deep tradition of guidance that communicates what is owed to others and how to go about fulfilling these obligations. To summarize, our obligations to God translate into obligations to our fellow humans.

K'dusah ("holiness"): According to the great Jewish mystics, the mission statement of Judaism, if you will, is to "redeem the sparks," to help to unlock the innate holiness inside all manifestation, fashioned as it was by a holy God. Reality or metaphor, this is a charming and inspiring take on what we are expected to do while we are here sharing space with other bits of this manifested world. Jewish tradition would say that this redemptive work is achieved by striving to follow the path of *mitzvot* and acting in accordance with eternal moral and ethical principles in our dealings with fellow beings. Every person, after all, is a reflection of God's *k'dushah*, something too easily forgotten. This is why we are implored to love others like we love ourselves—all others, regardless of nationality, social class, ethnicity, or religion—because we are indeed one, we are all "sparks" of the same source of being. To summarize, respecting the needs of others honors their innate holiness and reverences the God of us all.

Tzedek ("justice"): This word is related to the Hebrew word *tz'dakah*, a familiar term among Jews that in the vernacular is used for "charity," but that actually means "justice"—a useful meditation in its own right. Other terms for justice include *din* and *mishpat*, but

they do not imply quite the same thing as *tzedek*. This word is found in the phrase *r'difat tzedek v'shalom* ("pursuit of justice and peace"), a Jewish legal theme, and in the biblical maxim, "Justice, justice (*tzedek, tzedek*) shall you pursue, that you may live …." (Deuteronomy 16:20). To summarize, we are obliged to ensure that people who are not as advantaged as us do not suffer as a result of a lack of something essential to their well-being. To be clear, this does not imply a particular political agenda—a lead role for government or for us as voluntary actors or something entirely different—but, simply, that the obligation unequivocally exists, however individuals or societies choose to move forward with it.

Chesed ("mercy"): This word is also sometimes translated as "love" or "lovingkindness" (as in the rabbinic *g'milut chasadim*, described earlier). The rabbinic sages and mystics explained that justice must be tempered and balanced by mercy. Too much of one without the other is neither just nor merciful. For the healthcare discussion, this comes into play in two ways. First, we must be merciful to those among us who are in need, including people and families newly among us. The *Torah* reminds us, "You are to love the stranger in your midst, because you were strangers once" (Deuteronomy 10:19). Second, legislators and policymakers must be civil in their debates and dealings with each other and make certain to listen compassionately, not to proceed forward in a mad dash to pass legislation motivated solely by a tacit presumption that only their way is just. The majority party in the 111th Congress was guilty of that in passing H.R. 3590; the majority party in the 112th Congress has been guilty of the same regarding its repeal. To summarize, we must be merciful to the less fortunate, as we have been in their shoes, and we must also act compassionately toward others if we are to work together effectively to address the needs of the disadvantaged and oppressed.

Mip'nei darkhei shalom ("for the sake of peace"): This ennobling phrase appears throughout the *Talmud* and *Midrash*. For example, the rabbis teach, "All that is written in the Torah was written for the sake of peace" (*Tanḥuma Shoftim* 18). Our actions "for the sake of peace" take precedence over allegiance to any secular ideology. This speaks to the importance and necessity of genuine concern for the well-being of others not to be trumped by the pride, ego, or ideological purity often exhibited by politicians and opinion leaders. It is easy to get lost in the details of debate and the day-to-day machinations of legislative intrigue, and thus lose sight of the ultimate goal, which is to help relieve the suffering of our fellow human beings. To do this, we may have to set aside some of the baggage, intellectual or otherwise, that we are invested in. To summarize, for the sake of peace, we are to forego focusing solely on ourselves, on our immediate welfare or reputation, on "being right," and instead attend to "doing right."

Pikuach nefesh ("to save a life"): According to well-known rabbinic teaching, "to save a life" supercedes all the other six-hundred-plus *mitzvot* except three (those forbidding idolatry, adulterous behavior, and murder). To illustrate with an extreme and fanciful example: if lost and starving to death in the desert, even a religious Jew who dutifully observes *kashrut* (Jewish dietary laws) would be obliged to kill and eat a pig, if he or she were fortunate enough to find one wandering by. Preserving human life takes precedence over exacting orthopraxy, even for the most devout and observant Jew. The biblical admonishment that comes to mind here is "…neither shalt thou stand idly by the blood of thy neighbor" (Leviticus 19:16). This is an influential and guiding principle for Jewish bioethics, with both clinical and public health application. It encompasses the duty to heal, as Jakobovits noted. To summarize, when a life is on the line, little else matters—certainly not one's political ideology, financial well-being, or ritual piety. "Shedding blood" is a terrible *aveirah* ("transgression," "sin"), and its guilt can accrue not only to individuals but

collectively, as well, if a people—or a nation—refuses to do what is required to rescue a person or persons, or class of persons, in dire need.

K'lal ("peoplehood"): As Jews, we see ourselves as a community, as a people—not as a conglomeration of separate, disconnected individuals linked only by a voluntary social contract. Jews thus operate according to a communal perspective regarding: (a) identity (who we are), (b) redemption/salvation (why we are here), and (c) obligations to others (what we are to do). There are very special responsibilities given to us that are ours to fulfill. According to the *Mishnah*, "[Rabbi Tarfon] would also say: It is not incumbent upon you to finish the task, but neither are you free to absolve yourself from it" (*M. Avot* 2:16). These are special obligations that were agreed to when our ancestors affirmed their covenant with God, and they define the true meaning of "chosenness" that characterizes the Jewish people: that we were chosen for a specific task and that we chose to accept. There are things that we are appointed to do, as a whole people, and so the continued presence of an identified need in our midst reminds us that there remains work to do. To summarize, a central task for us is to labor together to repair the world, to fix the broken, to heal the sick—to be God's active agents in this vital and sacred work.

Tikkun olam ("repair of the world"): This idea of repairing or perfecting the world implies healing and restoration, the kind of work that can only be fulfilled in a communal context. *Tikkun olam* is an especially popular concept among Jewish liberals and progressives and within the Jewish Renewal movement. A notable example is *Tikkun*, the Jewish political magazine edited by Rabbi Michael Lerner. Indeed, this concept is so often identified with Jewish progressives that it is typically forgotten that it is, or at least should be, an essential and defining concept for all Jews—a clarion call to the greater purpose of life. It is regrettable that this idea would be disparaged by any Jewish person—*tikkun olam* represents no less than the social dimension (or some would say sociopolitical dimension) of our divine charge as a people. To summarize, the ongoing presence of the poor or needy among us is a sign of the world's brokenness and of our failure to take seriously God's charge to us to, "Learn to do good, devote yourselves to justice" (Isaiah 1:17).

T'shuvah ("repentance"): This word also means "return," as in turning back from transgression or aligning oneself with moral and ethical precepts, such as might be derived from *halakhah*. A legal decision in the Jewish *responsa* literature is also known as a *t'shuvah* (pl. *t'shuvot*). As noted in the description of *k'lal*, above, the ongoing healthcare crisis in the United States could be viewed as a crisis in moral commitment, perhaps as a marker of our collective apostasy. If we truly wish to be obedient to God or to "higher" or more eternal values—and, truth be told, so many legislators and policymakers profess to this—then there is a moral program before us that requires our immediate attention. One hopes that these professions of uncompromising commitment to godly or moral values made by politicians and government leaders are not lip service or pandering, but their collective track record as a professional class is not encouraging on this issue. As a professional class of academics, bioethicists, or medical or public health professionals, at least we should aspire to a higher standard. To summarize, how we address this issue (healthcare) speaks to how we, communally, recognize our pressing need to return to obedience to God or fidelity to our highest values, however each of us cares to conceptualize this charge.

Jovel ("jubilee"): At heart, this references a communal obligation to restore things to God's original, created order. All things belong to God—moreso, they are made up of and infused by godliness—and are only on loan to us for a season. After a time, everything of this world must be restored to God, including our bodies, which are recycled into dust. This may be an inspiring or a depressing theme, depending upon one's perspective! It is also

evocative of several themes already described: (a) the presence of a moral gold standard, (b) our covenantal obligations to the poor, (c) pursuit of "justice, justice" superseding most else, and (d) the communal dimension of personhood. To summarize, if some people's essential healthcare needs are not being met, through no fault of their own or even otherwise, then God requires of us, voluntarily at least, a redistributive justice bolder than any secular government would dare to legislate. Whether we are speaking of federal government involvement or private- or philanthropic-sector involvement or something else entirely is not the issue here. But, however we choose as individuals, as communities, or as a nation to work that out, a Jewish understanding is that we most certainly are obliged to act, without reservation.

Lech L'cha: How Do We "Go Forth"?

> "The Lord said to Abram, 'Go forth from your native land and from your father's house to the land that I will show you. I will make of you a great nation, and I will bless you; I will make your name great, and you shall be a blessing. I will bless those who bless you and curse him that curses you; and all the families of the earth shall bless themselves by you.' Abram went forth (*Vayelech Avram*) as the Lord had commanded him …." (Genesis 12:1–4).

When God established His *b'rit* with Abram, Abram sealed it by going forth—he became an actor in the world, an agent of God's intentions for humankind. That, then, is what we are to do. This discussion is not just an academic exercise; the *Torah* teaches that we are to put these ideas into practice.

In going forth, we can expect to encounter certain barriers, some more resistant than others, depending upon the intransigence or pliability of the major players. Four nested challenges can be identified, involving policy-related issues, economic and political considerations, and matters of morality. The intention here is not to propose specific solutions —to quote a well-known public figure, that charge is above the present author's pay grade —but rather simply to identify issues that Jewish ethical teachings direct us to confront.

First, there are *policy-related challenges*. Couched in conventional bioethical terms, the challenge here is how to meet obligations of justice and beneficence without violating principles of non-maleficence and autonomy. This is meant not solely in a clinical or individual context, but in the communal context of population health. That is, how do we improve access to healthcare for underserved or vulnerable populations without threatening that of everyone else? How do we foster social justice for historically oppressed people without sacrificing it for others? How do we provide care for less advantaged people without creating permanent entitlements that put others at financial risk? The rabbis, for example, taught that there is a limit to charity, to giving—namely the point at which we put our own family/house at risk and in need of charity ourselves (*Y. Pe'ah* 1:1). The calculus involved in answering such questions is complex, and the temptation, on both sides of the aisle, may be to ignore them and press ahead anyway.

Second, these challenges, in turn, produce considerable *economic challenges*. In the debate and lead-up to passage of H.R. 3590, the discourse on healthcare reform on Capitol Hill and in the mass media was obnoxiously polarized. Opponents of the bill, on the political right, stereotyped supporters as conscious agents of a nefarious plot to overthrow our liberties; ostensible economic considerations in favor of the bill were not treated seriously. Likewise, the reaction to this narrative, from the political left, was itself

stereotype-driven, presuming that opposition was invariably driven by overt hostility to the needs of the uninsured. An earnest critique of P.L. 111–148 and P.L. 111–152, however, can be offered from the right on economic grounds, such as from the perspective of the classical-liberal Austrian school or the neoclassical Chicago school. These include among them economists concerned that the plan supported by the current administration will only exacerbate a bad situation because it is based on faulty economic principles. Such concerns include, for example, the inefficiencies of central planning and command economies, abrogation of the market's discovery process, the inevitability of shortages and rationing, and the possibility of a most-favored status for political allies, such as through the granting of waivers. Disregarding the possibility of market-based solutions, this perspective holds, will hinder eradication of systemic poverty which is instrumental to improving population health. True or false, such a critique is over the proper role of the State, not over the imperative to reach out to the underserved.

The present article is not the place to debate these ideas. Moreover, it is not being suggested that this critique is entirely on-base, nor that all conservative opponents of the current administration's efforts have been motivated by genuine concerns such as these. For some opponents, regrettably, their opposition is over the substance of the moral program to help the structurally underserved. Yet, rather than facing the possibility that some of this economic critique may have a point, it is much easier to stereotype and demonize all of the legislation's opposition, a strategy that, besides being uncivil, is not conducive to the kind of sophisticated economic deliberation that this issue requires and that was not forthcoming from 2009 to 2011. The resulting resonance of these two types of concerns, pragmatic and ideological, no matter the validity of either type of concern, thus presents additional barriers to constructive change.

Third, these challenges, in turn, produce *political challenges*. Notwithstanding the arguments that can be marshaled for healthcare reform, moral or ethical or otherwise, there are distinct and visible threats to effectively addressing these issues in the current political environment. These include woeful polarization of discourse; an instransigent Congress which refused to read its own legislation; an ideological House leadership unwilling to negotiate; a disengaged White House so eager to sign a bill, any bill, into public law that it compromised on issues that undercut its own supporters in Congress; a news blackout on earnest minority-party proposals; and decision-making based on nonce political calculus rather than on careful policy deliberation, economic realities, or moral principles. These are not looming threats; they already impacted on the healthcare debate in the 111th Congress. There is little evidence that this situation has changed much with the 112th Congress; the players have simply reversed roles. There is thus a plentiful supply of blame to be shared by both major parties. Without a change of course, this drama is likely to be reenacted and exacerbated in the 113th Congress.

Fourth, these challenges, in turn, produce *moral challenges*. How these will be addressed and whether they will be addressed at all depend in part on whether there is success in negotiating the policy-related, economic, and political challenges that will continue to arise. Otherwise, we will continue to lament the continued estrangement of bioethics and public health (Rubin 2010) and "the mystery of the missing moral momentum" related to healthcare reform (Brown 1998). For religiously committed Jews, however, there is no mystery and the outline of the moral program is clear. To summarize what has been stated up to now, there is an identifiable Jewish consensus on certain basic points regarding the healthcare reform discussion. Do moral values and principles influence health policy? Yes. Should they? Yes. Are we obliged to work for constructive social change? Yes. According to only certain ideological perspectives? No. Are we in breach of

our covenantal obligations if we eschew this responsibility? Yes. Should concern for justice, mercy, saving life, and preserving peace take precedence over political calculation and expediency? Yes. But just because these things should happen does not mean that they will. The danger is that these issues will continue not to be engaged and that not only will this discourse suffer, but the lives of many Americans will be threatened as a result.

The take-home point here is straightforward: regardless of one's political or economic preferences, or one's level of *halakhic* observance, the rabbis would be near unanimous in support of an obligation to provide for the healthcare of those unable to afford it or provide it on their own. The *mitzvah* of preserving a life (*pikuach nefesh*) is paramount. This is a red-letter moral issue for Judaism. It is hard to imagine any organized Jewish religious entity—denominational, communal, or rabbinic—that would sanction a purely laissez-faire or social Darwinist or Randian approach or something similar, to consider examples from one of the far ends of the spectrum of political economy, albeit one that is not likely to be popular within public health circles. Such a view might even be considered a *chillul Hashem* (desecration of the Lord's name) in some quarters. A libertarian or minimal-state or classical-liberal perspective on political economy may have much to recommend it as a general approach to federal governing, according to many people, a minority of Jews included. But when it comes specifically to healthcare access, public health preparedness, and primary prevention, such a perspective would likely have close to zero traction among observant Jews, regardless of denominational affiliation or political preference. The commandments regarding "saving a life" and "shedding blood," alone, would seem to be unequivocal. The concepts reviewed in this paper make clear that the health of populations is a communal responsibility and that when any of us suffer we are all suffering and we all must join together to marshal an effective response.

In closing, Rabbi Dorff emphasizes this point clearly:

> The Jewish demand that everyone have access to health care does not necessarily mandate a particular form of delivery, such as socialized medicine: any delivery system that does the job will meet these Jewish standards…. However, the fact that more than forty million Americans have no health insurance whatsoever is, from a Jewish point of view, an intolerable dereliction of society's moral duty…. While the specific form of health care system may vary, Jewish ethics definitely demands that American Jews work to ensure that the United States, as a society, provides health care to everyone in some way (Dorff 1998, pp. 307–309).

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