

Prevention in *Halakhah**

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Abstract

Preventive medicine is taking an increasingly central place in modern clinical practice, at least in primary care. What, if anything, does the Jewish rabbinic tradition have to say about keeping healthy? The delayed response of contemporary rabbis to the dangers of smoking, in particular, raises questions about the underlying principles that *Halakhah*** employs to approach health promotion. As is often the case in *Halakhah*, we may detect different streams of thought in the classical sources, which may be felt in the way contemporary issues are handled. Three approaches will be discussed. First, Maimonides, famous for the practical preventive approach in his medical writings, makes his philosophy clear both in his halakhic works and in his *Guide for the Perplexed*. For him, a healthy body is a prerequisite for a healthy soul. We must be free of physical suffering in order to be able to do the work of perfecting our souls. Second, the view that health is the reward for goodness and illness a punishment for sin as expounded or implied in the writings of Nahmanides, and of Ibn Ezra***: the way to good health is to lead a good life. Third, an early midrashic source picked up again much later by Rabbi Israel Meir Kagan (the *Hafetz Hayim*) gives the argument from custodianship – since the body is divine property we have a duty to look after it well. So for Maimonides there is a prior duty to keep healthy, while for Nahmanides the prior requirement is to repent of sin. For the *Hafetz Hayim*, keeping the body healthy is an independent duty in its own right. These then are the differences in basic approach that may affect the emphases that different rabbis today place on health maintenance and promotion.

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The ethics of preventive medicine is rarely discussed in current medical literature. It is simply assumed that prevention is better than cure, therefore preventive medicine is a good thing. There has been one major critic of this simple assumption, the late Peter Skrabanek [1], whose work has been followed, among others, by Joseph Herman from Israel [2]; and recently the subject has appeared in the context of community psychology [3]. In this paper I will examine the issue from the point of view of traditional rabbinic texts as well as a selection of contemporary rabbinic rulings [4].

Halakhah, the Jewish legal system, does not comprise all of the

Jewish heritage – there is much more to Judaism than texts and legal rulings – but it does provide a distillation of Jewish thought as it developed through the ages, grappling in different places and times with the need to provide guidance to a people who do not belong ethically to the immediate society within which they live. Both in modern Israel and in the contemporary Diaspora, Jews are still searching to articulate and re-articulate their ethical heritage in terms that respond to their current predicaments, dilemmas and concerns. So I will discuss here the question of whether *Halakhah* has anything to say about preventive medicine.

Halakhah generally distinguishes between active and passive behaviors and often gives different moral and legal values to them. Thus, in primary prevention, *Halakhah* might treat physical activity and healthy eating differently from avoiding smoking or excessive alcohol consumption. Similarly, direct and indirect activity are distinguished in *Halakhah*, and in secondary prevention this might be a basis for distinguishing between the direct activity of taking aspirin to prevent thrombus formation in cardiovascular disease, and the indirect activity of screening for asymptomatic cancers which might or might not be more amenable to treatment if detected at an early stage. As a general rule, risk levels are stratified in *Halakhah*, such that certain danger is treated differently from unlikely risk. These parameters are all relevant when it comes to considering a particular case, but that is assuming that *Halakhah* shows any interest in preventive medicine at all.

Halakhah and curative medicine

Before discussing the approaches to preventive medicine it is worth mentioning that regular curative medicine is certainly discussed and legislated for in *Halakhah*. Doctors are mentioned in the Bible (Genesis 50:2; Chronicles II 16:12), God is attributed with healing powers (Exodus 15:26), and the Talmud advises wise men not to live in towns without a doctor (BT Sanhedrin 17b). Maimonides' 12th century classic Code stresses that saving life takes precedence over the sanctity of the Sabbath, and that the most devout person present should be the one to desecrate the Sabbath in order to do so (*Hilkhot Shabbat*, chapter 2). Joseph Caro's 16th century pivotal Code of Jewish Law echoes the Talmudic dictum that to save life is mandatory under religious law (*Yoreh De'ah* 336:1). And so forth down to the present day. The principle is that life is supremely important, hermeneutically encapsulated by the biblical verse "you shall live by the [commandments]" (Leviticus 18:5).

* Presented at the 18th Israeli Medical Association World Fellowship International Conference

** The corpus of Jewish Law

*** Biblical commentary forming part of the Talmudic literature

Contemporary rabbinical attitudes [5]

It is in contrast to this clear-minded approach to curative medicine that we must consider the hesitancy of contemporary rabbinic rulings on preventive medicine. Both Rabbis Ovadiah Yosef and Moshe Feinstein, the leading Israeli and American authorities in the 20th century, merely advised against active smoking because it may be dangerous (Responsa *Yehaveh Da'at* 5:39, p 180; Responsa *Iggrot Moshe Hoshen Mishpat* 2:76). It is worth noting that smoking in the presence of objecting non-smokers is specifically forbidden, even though the scientific evidence for the harms of passive smoking is far weaker than that for active smoking. Their Jerusalem colleague, Rabbi Eliezer Waldenberg, is only slightly more emphatic, saying that there is a good case for forbidding smoking under *Halakhah* and even more so for forbidding starting smoking in the first place (Responsa *Tzitz Eli'ezer* 15:39) [6]. He too forbids categorically smoking in public places. In these sources we find an understanding for the difficulties of stopping smoking in the face of tobacco addiction, and sensitivity to the need to protect non-smokers from passive smoking, but surprisingly, neither rabbi is prepared to go the whole way and accept the clear dangers of smoking to the life of the smoker. There is hearsay evidence that in more recent years they became convinced of the overwhelming evidence of the dangers of active smoking and therefore hardened their positions, but this did not get into their authoritative writings [7]. The late Rabbi Shlomo Zalman Auerbach of Jerusalem has been quoted as thinking of health-related risk factors as a threat to the person as equivalent to the situation of an overloaded ship in danger of sinking at sea. Just as it is imperative to unload the extra ballast to save life, so would it be imperative to reduce the risk factors that threaten health (personal communication, A.S. Abraham at a public lecture in Nir Etzion, November 2006). Nonetheless, in his writings we find neither a categorical prohibition against smoking nor a positive requirement to promote personal health [8]. The willingness of the rabbis to protect the public also has its limits; Rabbi Joseph Shalom Eliashiv, the contemporary leading authority in Jerusalem, is not prepared to require the revelation of the names of prostitutes with sexually transmitted diseases in order to protect potential clients, since the latter are not deemed worthy of protection [9]. It was a full generation earlier that Rabbi Israel Meir Kagan (died 1933, known as the *Hafetz Hayim*) categorically prohibited smoking (*Likutei Amarim* 13), and this was well before the medical community provided the critical evidence on the harms of smoking. In our generation, the Sephardi Chief Rabbi of Tel Aviv Rabbi Hayim David HaLevi (died 1998) joined him in this position (Responsa *Asseh Lekhah Rav* Part 2:1). This is perhaps the exception that proves the rule.

Empirically, many rabbis who observe the letter of the law in every other respect are seen smoking in public, and most are rarely seen jogging around the neighborhood.

The hermeneutics of “look after yourselves carefully” (Deuteronomy 4:9,15)

In common parlance this biblical verse is still often quoted, such as by parents to encourage a child to keep safe. There seems

to be an intuition among Jews that has become embedded in idiom, that it is imperative not just to heal the sick but to maintain health and avoid danger or ill-health. It is interesting to look then at the hermeneutics of this biblical verse through the ages.

It is indeed used in the Talmud to express avoidance of physical danger (BT *Berakhot* 32b) and this usage is also hinted at elliptically in Joseph Caro's Code (*Yoreh De'ah* 116:5). However it has been repeatedly pointed out that the Talmudic tale that includes this usage puts it into the mouth of a pagan enemy of the Jews, and it should therefore not be used as a basis for Jewish thought or legislation [10]. The more obvious interpretation of the phrase leaves it in its original context, which is spiritual, not physical – look after your *soul* carefully, lest you forget the covenant with God at Sinai [11]. Nonetheless, almost all the rabbinic authorities cited here, and many others too, use it to bolster their exhortations on health promotion. However, it does not hold the force of law for them.

Self-inflicted damage

We have seen how the rabbinical rulings are more sensitive to harm caused to others than to self-harm. Avoiding putting others at risk, such as putting a parapet around the roof to prevent visitors falling (Deut. 22:8), is a clearly stated rule [12], but this does not necessarily include avoiding danger to ourselves. How far one is permitted to hurt, damage or expose oneself to danger has been debated since tannaitic times without any clear resolution [13]. In general, the Talmud sees some personal danger as reasonable, such as that encountered while earning a living (e.g., BT *Bava Qama* 81b). It is primarily Maimonides who expresses a clear obligation to care for one's own safety, and not only the safety of others, and in *Mishneh Torah* (the Code) he does invoke the phrase, “look after yourself carefully” as a straightforward law (*Hilkhot Rotze'ah uShemirat haNefesh* 11:4) [14]. It has been suggested that Maimonides justified this idiosyncratic legal use of the phrase by reference to the Talmudic prohibition of cursing oneself (BT *Shavuot* 36a) [15].

Preventive medicine as a means to an end

It is the approach of Maimonides that seems to be most consistent with modern ideas of preventive medicine, and it has often been quoted as such. Lest Maimonides the doctor be suspect of thinking differently from Maimonides the rabbi, we must note that his own justification for his radical position on preventive care is wholly theological. In the *Guide for the Perplexed* (3:27) he says:

The general object of the Law is twofold: the well-being of the soul, and the well-being of the body. ...Of these two objects, the one, the well-being of the soul...comes undoubtedly first in rank, but the other, the well-being of the body ... is anterior in nature and time. The latter object is required first; it is also treated [in the Law] most carefully and most minutely, because the well-being of the soul can only be obtained after

that of the body has been secured. ..the first perfection is that of the body, and the second perfection is that of the soul. ..when a person is in possession of the first perfection, then he may possibly acquire the second perfection, which is undoubtedly of a superior kind, and is alone the source of eternal life.

(Friedländer, translated 1904) [16]

Although frequently cited, this philosophy seems to have achieved little normative force in contemporary halakhic thought.

Health and illness as reward and punishment

How then do the other rabbinic authorities relate to health maintenance and disease prevention? Other than Maimonides, most rabbis were reluctant to put the full force of the Torah behind the imperative to protect or maintain health. The clearest exposition of this reluctance is found in Ibn Ezra (11th century), who does not even encourage curative medicine in the event of illness (short commentary to Exodus 21:19). For him, health is a reward from God for good behavior, and illness a punishment. The emphasis in life should be on the preservation of the health of the soul, not the body. Nahmanides (13th century) echoes this theme and envisages an ideal future world where there will be no recourse to doctors for cure, but only a return to God (e.g., commentary to Lev 26:11).

In a theological system the approach of reward and punishment is intelligible and coherent. This latent attitude may explain the passivity of many rabbis in the face of the contemporary public enthusiasm for active preventive medicine.

The custodian's duty

Nahmanides himself, however, adds another element and picks up a Talmudic thread that sees curative medicine in terms of returning to the patient the health that he has lost, much as if he had lost some of his property (*Torat haAdam*, On Danger). This reification of health as personal property leads others to consider that the ultimate owner of the body is not its inhabitant, but God, and as such we are required to look after it and guard it as a custodian does with property entrusted to his care. This theme is first found in a *midrash* where a person's duty to take care of his body was compared by Hillel to a royal servant's duty to look after the statues of the king (Lev R. Vilna ed. 34). Ibn Zimra (15–16th century) adopts this approach in explaining why suicide is forbidden (Radbaz on Maimonides' Code *Hilkhot Sanhedrin* 18:6). It is this idea that was applied by

the *Hafetz Hayim* directly to provide a categorical prohibition against smoking. Although Rabbi Eliezer Waldenberg and others also relate to this theme, they do so with far less normative force.

This equally theological approach, relating to the body as God's property entrusted to human custodianship, is identifiable among the few rabbis who do identify with modern preventive medicine, in particular the importance of not smoking cigarettes.

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Always aim at complete harmony of thought and word and deed. Always aim at purifying your thoughts and everything will be well

Mahatma Gandhi (1869-1948), Indian nationalist leader who achieved India's independence from Britain through civil disobedience