The Conflict between Patient Autonomy and the Dying Patient Law in Israel

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The Dying Patient Law is very controversial in Israel; there are opinions that the reason for the Law was to prevent the court from making decisions on the subject of end of life according to democratic principles. I decided to do this study because I wanted to know if the legal principles of the Law are democratic as were the court rulings or they are only, or mostly, Jewish principles and meant to prevent a democratic ruling in the courts. The work is a review of the Law and the Dying Patient Committee discussions as well as the chairman’s writings on the Law, critique articles, and a review of democratic and bioethical principles. In this project, I have seen that the underlying basis of the Dying Patient Law is Jewish principles and not democratic principles, although Israel is a declared democratic state. This law illustrates the problem in Israel being both a democratic and a Jewish state. It raises the question: What can be done to resolve the conflict between the Jewish principles and democratic and/or bioethical principles?

Keywords: medical ethics, bioethics, dying patient, end-of-life, autonomy

1. Introduction

In a democratic state such as Israel, does a patient have the right to choose what treatment he wants to get, and does a physician have an obligation to listen to the patient? Israel is the state of the Jewish people and according to the Israeli Declaration of Independence, it is also a democratic state (Israel Ministry of Foreign Affairs website, 2013). Can there be a conflict between those two commitments in decision-making about end-of-life care?

In this paper, I will examine whether there are conflicts between the autonomy-based rights of the patient and Israeli law on end-of-life care, the Dying Patient Law, that was enacted in 2005. To do so, I first describe the main provisions of the Law and the prominent role of the concept of the sanctity of life in justifying those provisions. I then introduce key concepts from Jewish law that explains this prominent role for the concept of the sanctity of life. I then describe four ethical principles from the field of bioethics and also democratic values that relate to the law. Having laid this groundwork, I then characterize conflicts between the Law and the proposed bioethical principles and democratic values. I close with a consideration of how a recent legal case and recent critiques of the Law can be used to suggest ways in which these conflicts can be prevented or at least ameliorated.
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2. Main Provisions of Dying Patient Law

The Dying Patient Law was enacted in Israel in 2005. The purpose of the law is to regulate the care of terminally ill patients by legislating justified limits on the provision of medical care to dying patients according to the Jewish principles of Israel. The need for the legislation became apparent after many appeals were made to the courts by people who wanted to end their lives by having life-sustaining treatment either discontinued or not initiated (Bar-Ilan 2003).

The main reason for enacting the law was that every hospital acted differently toward dying patients; sometimes there was a variance between wards and sometimes even among physicians in the same ward (Steinberg 2002). Therefore, there was a need to create legislation that would ensure that all the physicians in Israel act according to a consistent policy and that the courts would have guidelines for ruling in such cases. That is because, until this legislation was enacted, each time the court heard a case on the subject, it ruled differently, according to the judge’s opinions and beliefs; this resulted in variations that produced unreliable guidance to physicians and patients alike.

This Dying Patient Law combines the principles of the Jewish state and those of the democratic state, the values of religion, and the value of individual autonomy. The drafters of the law sought to integrate Jewish values and the value of individual autonomy with other medical approaches.

In order to assess the points of disagreement between the Law and medical ethics, we will begin by reviewing the Law.

Purpose (Israeli Dying Patient Law, 2005):

(a) This Law regulates the medical treatment of the terminally ill patient, based on an appropriate balance between the value of the sanctity of life, the value of the individual’s autonomous will, and the importance of quality of life.

(b) This Law is based on the values of Israel as a Jewish and democratic state and on fundamental principles of morality, ethics, and religion.

Fundamental principle (ibid.):

(2) In prescribing the medical treatment of the terminally ill patient, his medical condition, his will, and the degree of his suffering are the exclusive considerations (ibid.).

At the beginning of the law, it is stated that the law aims to regulate the treatment of terminal patients and to achieve this by striking a balance between the value of sanctity of life, the value of the individual autonomous will, and the importance of quality of life (Article 1.a.). The Law is based on the values of the State of Israel as both a Jewish and democratic state, along with the fundamental principles of morality, ethics, and Judaism (Section 1.b.).

The law requires that, when determining medical treatment for the dying patient, the medical prognosis, the wishes of the patient and the degree of the patient’s suffering shall all be considered, and they are the only considerations to be taken into account (Section 3). In Section 8, which determines whether a patient is to be included in the definition of the dying patient, it is mentioned that the patient shall be included if his life expectancy, even when receiving medical treatment, does not exceed six months; or if vital systems in his body have failed and his life expectancy, even when receiving medical treatment, does not exceed two weeks. During the legislative process, the debate focused on those two criteria, which relate to the prognosis of life expectancy and not on the quality of life. This section applies, in fact, to those patients in the final stages of an incurable...
disease, such as cancer or muscular dystrophy. However, the law is not applicable to patients with chronic
diseases (such as dementia, Alzheimer’s disease, muscular dystrophy, etc.) who are not at an end-of-life stage.
These patients may experience significant physical or mental suffering. The law has created a situation that
allows only those who are aware of the fact that their lives will end in a short time to request not to receive
lifesaving medical treatment. The law does not allow people who might suffer for a long period the same option
of refusing treatment, which might lead to ending their life. In cases of diseases that can cause suffering for a
long term or that can affect the patient’s quality of life, it is not always possible to estimate the time of death of
the patient. Therefore, in accordance with this law, these patients are denied the option to shorten their life.

In section 4, the Law states the presumption that a person wishes to continue living, unless proven
otherwise. In other words, the law presupposes that all people would rather live longer than shorten their lives.
Here, the emphasis is placed on the values held by the Jewish rather than the democratic state. As recorded at
the beginning of the discussions held by National Committee of the Dying Patient Law (Israeli Dying Patient
Law, 2005), we learn that the members of the Committee presupposed the value of life, which is stated as a
characteristic of a Jewish state. Section 13 of the law should be seen as the direct continuation of this
assumption: The law allows the patient to receive extraordinary or even experimental treatments that may prove
not to be useful, if the patient wants to try to extend his life. During legislation committee discussions, the
committee members mentioned that the patient has the right to receive such medical treatment, because any
person would prefer to live.

Section 8 mentions the main criterion for determining the patient’s medical condition—time. The patient’s
life expectancy does not exceed six months. In cases where the patient’s body organs have ceased to function,
the life expectancy does not exceed two weeks.

The law distinguishes between two kinds of treatments, the first kind is a treatment that prolongs life
(supplants the function of vital organs, e.g., mechanical ventilation and renal dialysis) and the second one is
supportive treatments (bio psychosocial interventions aimed at the well-being of the patient and patient’s
family). Section 15 of the law mentions that the caregivers must try to convince the patient to receive fluids,
oxxygen, and food, as well as to receive conventional treatments necessary to treat other diseases or background
illnesses and palliative care. Those treatments are supportive treatment and not life-sustaining treatments. There
are diseases that can be lived with for many years, and the patient eventually will die from complications of
other diseases. For example, a patient can live for years with muscular dystrophy, but might die due to
complications of pneumonia. In this case, a patient cannot ask not to receive the pneumonia treatment because
it is a supportive treatment, even though he may want to end his life because of the muscular dystrophy. The
autonomy granted to the patient by the law is limited, because it does not allow him autonomy with respect to
treatment of all diseases, but only to the disease defined by law as a terminal disease. Moreover, the law
requires the provision of care for other needs insofar as possible but without coercion.

Article D of the Law describes prohibited actions. In the previous sections, the background for the Law
was explained, but no explanation was given for what is prohibited.

Section 17 states that, for a patient in the terminal stages of the disease, if he or she is incompetent, is
suffering significantly, and does not wish his or her life to be extended, supportive care should not be provided
to him, so as not to prolong his suffering against his will, as stated in section 16. However, fluids by mouth or
artificial feeding must be provided. That means that a patient with a terminal condition cannot refuse artificial
nutrition and hydration. Yet, the decision not to give a supporting treatment belongs to the physicians, if the physician thinks that the patient is suffering. The patient can only ask to refuse life-sustaining treatment.

Section 19 states that no action should be taken that can cause the death of the patient.³

Section 20 explicitly prohibits assisting the patient to commit suicide, even if he wishes to do so, including medically-assisted suicide. In the committee’s protocols, it is stated that active euthanasia and suicide assistance were prohibited because existing penal law considers these two actions to be murder. Moreover, in some cases, there is an obligation to prevent the patient’s suicide. We know that sometimes there is a change in the patient’s wishes; thus if another person decided on her behalf, it could be that this decision was based on her earlier decision and now what is being decided for her is no longer what she wishes.⁴ Thus, if anyone actively ended her life, there is a possibility that he would be doing this against her will. Medical assistance for suicide is prohibited; hence, the law prohibits a physician from prescribing drugs that may kill the patient, even if the patient asks for it persistently.⁵

The purpose of the law is to set limits on an individual’s autonomy over what can be done to one’s body and to affirm the value of life. The law emphasizes that the State of Israel does not support helping a person in any way to actively end his life. The state accepts the end of life only in the natural way, by not providing medical care and allowing nature to follow its course. The law also emphasizes the duty of the state to see to the patient’s quality of life—this section refers to palliative care; and the duty to try to save the life of a patient as long as he wants treatment—providing extraordinary medical treatment that can extend the patient’s life. The goal of this provision of law is to do whatever the patient asks to prolong his life, although it might harm his quality of life.

The treatment for terminal diseases may lead to a weakening of the immune system. This weakening may cause the patient to become infected with disease that could evolve into a life-threatening condition (e.g., flu evolving into pneumonia). In this case, the question arises: Should the life-threatening situation be treated or not? According to the law, the patient will be treated even if he requested not to prolong his life, because the situation endangering his life is not due to his terminal illness, and supportive treatments should still be provided in accordance with the law. This creates a new problem: Do we allow a person to die only from the terminal disease from which he suffers, or allow him to die from diseases caused by his terminal illness, although the patient wants to end his life because of his low quality of life? The law answers the first question in the affirmative, and the second in the negative.

In summary, the main components of this new law are the following:

1) The purpose of the law is to regulate clinical care of the terminally ill patient based on an appropriate balance between the value of the sanctity of life, the value of the individual’s autonomous will, and the importance of quality of life, with the value of the sanctity of life limiting the other considerations (The Israel Dying Patient Law).

2) The scope of the law applies only to a terminally ill patient. A terminally ill patient is a patient who suffers from an incurable illness, such that according to medical knowledge, his life expectancy isn’t more than six months even with continued treatment.

3) The core concepts in the Law, as summarized by the head of the Dying Patient Committee (Steinberg 2002), include:

(a) Sanctity of life: the way we act with regard to the person’s life, according to his normative point of view, that makes us give priority to saving human life from every danger that threatens it.
(b) Quality of life: all of the aspects of the life of the person which have an objective value for their existence or health, or have a subjective value according to the person’s beliefs.

(c) Prevention of significant pain: the sensory, emotional, negative experience, temporarily or long-lasting, has a physical characterization and physical cause that arouses in the person who is experiencing it the practical desire to end the experience as soon as possible, or to avoid it in any way possible. This also includes prevention of significant suffering, pain, or distresses, bodily or mental, such that a person prefers to be unconscious so as not to feel it any longer or so that a person makes a considerable effort in order to prevent it.

(d) Personal autonomy, dignity, and individual rights: Exercise of the individual’s ability to make a decision from among several options, on the basis of his perception and considerations of itself, as an expression of free will.

(4) What the Law permits and why:

The novel aspect of this law is that it permits a patient to ask to stop treatment or not to begin it when the treatment is such that, if it is not given, then the patient will die. The justification for this is based on the autonomy of the patient and preventing pain and allowing patients not to receive medical treatment if it will cause significant suffering that will harm the patient’s quality of life.

(5) What the Law prohibits and why:

The law prohibits a patient who has more than 6 months to live from stopping current treatment or refusing the initiation of treatment. The law prohibits stopping treatment except for intermittent or cyclical treatment. The justification for this prohibition relates to the value of life and the obligation to try to save both quality of life and life itself, as long as there is a chance to keep the patient from suffering.

(6) What the Law allows:

The Law allows a patient to stop a cyclical treatment as long as he has 6 months to live. Stopping the treatment in other cases will be considered as killing the patient.

3. Key Concepts from Jewish Law

The State of Israel is defined as a Jewish and democratic state in the Israeli Declaration of Independence (Israel Ministry of Foreign Affairs, 2013). The law of the land, therefore, is heavily influenced by religious law (Halacha).7 Halacha deals with the possibility of termination of life, although the fundamental principle in Halacha is that life is paramount and its sanctity is above most other moral considerations (Sinclair 2006). This explains the strong emphasis on the sanctity of life in the Law and the limits that this value places on other moral considerations, especially patient autonomy and quality of life.

The concept of sanctity of life originates in the Book of Genesis, which says, “in the image of God He created him” (Genesis 1, 27). This statement emphasizes the uniqueness of the person and his resemblance to God, hence the sanctity of human life.

The Halacha also discusses the issue of the dying patient. There are two types of dying patient according to the Halacha as discussed in the Talmud (Sinclair 2006, 150-64):

(1) Moribund

Moribund is the term used for a person on his deathbed and who is in the last hours, or even the last moments, of his life. According to the Talmudic concept, prognosis of recovery of the moribund is very unlikely, and most moribund persons will die within a short time. Nonetheless, a moribund person is considered to be alive and therefore it is forbidden to kill him (Sinclair 2006, 150-3).
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(2) Treifa (Predation)

“Treifa” is a Halachic term describing an animal or a human close to death due to a serious injury to one of their organs. The distinction between this definition, “treifa,” and “moribund” is that the moribund is dying because his time has come and not because of illness or injury to an organ (Sinclair 2006, 155-6).

In other words, the “treifa” (predation) is an animal or a beast that was bodily injured in a manner causing its death. According to the Talmud, the predation will not survive for twelve months after the injury, (Maimonides) but not every living creature with less than twelve months to live is defined as predation.

According to the Talmudic law (Sinclair 2006, 155), a person defined as “treifa” is not considered a whole person and thus someone killing him is exempt under the laws of man; in other words, a court will not punish him as a murderer under Talmudic law (though he is punished by the court invoking other laws). This rule implies perhaps a materialistic concept of the crime of murder, focusing on the physical harm to the victim’s body. According to this concept, murder is a form of injury and serious harm to a person’s body, causing his death. Therefore, someone killing a “treifa,” whose body is already damaged, is exempted under the human laws (but is guilty under the heavenly law and as stated, punished by the court).

Maimonides (Sinclair 2006, 157-9) describes in detail what is “human predation:” any person who, according to physicians’ opinion, will die in a short time because of a serious physical injury—is considered “treifa.” The implication is that the definition of a person as “treifa” varies from case to case and from time to time, according to medical knowledge at the specific time.

Another aspect of the question of “human predation,” according to the Talmud (Sinclair 2006, 156), is the matter of the twelve months—is it like in the case of animal predation, that human predation cannot live more than twelve months?

The Talmudic debate on the “moribund” is suggestive of the terminally ill patient whose prognosis is that he will die within two weeks (Sinclair 2006, 150-3). In both cases, the patient is in the final stages of his life. However, the “treifa” resembles the dying patient with half a year to live, in that both are not at risk of imminent death (within two weeks or even less). According to the Halacha (Sinclair 2006, 162-4), the difference between the dying patient and the treifa is that if someone kills the treifa, he is (technically) exempted from punishment, but terminating the life of a dying person is defined as murder.

Other differences mentioned in Halacha address the ways permitted to end life.

(1) Removing a “delaying factor”

One example given in the Talmud of removing a delaying factor in the end-of-life of a patient is of a woodcutter working near the patient’s house which prevents the patient from dying, because the soul of the patient can’t leave because of the noise that the woodcutter makes (Steinberg 2003, 165-6). In this case, the Halacha permits removal of the delaying factor and allows the patient to pass into the afterlife.

Another case relates to a grain of salt placed on the tongue of the dying patient to keep the patient’s soul in his body (This, at least, was the widely accepted opinion at the time: a grain of salt on the tongue can prolong live). However, the Halacha does not permit putting the grain of salt on the tongue of the patient (Sinclair 2006, 165-6). This case is similar to Israeli law which determines that, it is permitted to withhold means capable of contributing to the extension of life, similar to not using the grain of salt.

(2) Accelerating death

In a case where if the patient is moved, this will directly cause the death of the patient (ibid.), it is
forbidden by the Halacha. This act can be compared with giving a lethal injection to the patient, which is the direct cause of the death and it is strictly forbidden according to the Israeli law.

Ahuva Ticho’s paper (2006) presents the link between the Dying Patient Law and the Halacha. Ticho invokes the ruling by Rabbi Moses Isserles (referred to as “Rema”) in his commentary on The Code of Jewish Law according to which extending the patient’s “unnecessary suffering” should be prevented and similarly, “Do not yell at him when the soul leaves the body such that the soul will return and suffer ‘great pain’” (Yoreh Deah 339, 1). This quote shows that the religious law makes it permissible to not provide medical care, as in the cases of the woodcutter and the salt mentioned above.

4. Principles of Bioethics and Democratic Values

4.1. Principles of Bioethics

In the bioethics literature today, we have four basic principles of bioethics that are regarded as prima facie (subject to justified limits) principles rather than absolute (no limits).

4.1.1. Beneficence

“Beneficence,’ literally, intending or doing good” (Beauchamp and Childress 2009, 197) is one of the three fundamental principles governing research on human subjects formulated in the Belmont Report (1978) and one of the four basic principles of bioethics cited by Tom Beauchamp and James Childress in Principles of Biomedical Ethics. The term “beneficence” is often understood to cover acts of kindness or charity that go beyond strict obligation. In this document, beneficence is intended in a stronger sense, as an obligation. Two general rules have been formulated as complementary expressions of beneficence in this sense: (1) do no harm and (2) maximize possible benefits and minimize possible harms, which Beauchamp and Childress characterized (1) as non-maleficence. They define beneficence as follows: “Beneficence refers to an action done to benefit others… and the principle of beneficence refers to a moral obligation to act for the benefit of others… a principle of beneficence… establishes an obligation to help others further their important and legitimate interests” (Beauchamp and Childress 2009, 197). In the clinical setting, the ethical principle of beneficence obligates healthcare professionals to seek the greater balance of clinical goods over clinical harms in the outcomes of patient care.

We can see a disparity between the Dying Patient Law and the principle of beneficence. The Dying Patient Law is based on minimizing the harm to the patient from background illnesses, although it can mean prolonging the patient’s suffering or lowering his quality of life as a result of the main illness. However, it can be that minimizing harm to the patient might be to let him die, at least according to the patient’s belief. That means that prolonging the patient’s life can sometimes harm him more than letting him die.

4.1.2. Non-maleficence

Beauchamp and Childress define the “principle of non-maleficence” as “an obligation not to inflict harm on others… closely associated with the maxim Primum non nocere: ‘Above all [or first] do no harm’” (Beauchamp and Childress 2009, 149-55).

The Dying Patient Law allows the patient to receive every treatment that he wants; although his physician may think that the treatment will not help, as long as the treatment can’t harm the patient. According to the law, helping a patient die is doing something that will harm the patient. The law therefore aims to prevent this and to give the patient only treatments that will not harm him.
4.1.3. Respect for Autonomy

In Principles of Biomedical Ethics, Beauchamp and Childress state one version of the principle of respect for autonomy as follows: “Autonomous actions should not be subjected to constraints by others” (Beauchamp and Childress 2009, 99-111). An autonomous action is an action rationally undertaken by a person with capacity.

According to the above paragraph, if the person wants to end his life and nobody is pressuring him to do so, he has the right to end his life. According to this, he can ask a physician to prescribe him a deadly medication and as long as the patient is competent, then he can decide to end his life.

On the subject of euthanasia, we have several ways to think about autonomy. In recent papers (e.g., Sjo¨strand et al. 2013) on autonomy and euthanasia, researchers wrote not only about euthanasia and physician-assisted suicide as one way to listen to the patient; they wrote that by helping the patient to end his life, the right of autonomy is denied to the patient. Another reason against euthanasia is that autonomy is a “prudential value,” which may provide a reason why euthanasia and assisted suicide might be against the patient’s best interests.

Jenny Ko (2010) goes even further and claims that “allowing euthanasia does not mean that the patient is allowed to die at his or her own choosing; it means that the physician is allowed to cause the death of the patient.” That means that the autonomy mentioned in the case of euthanasia is not of the patient but of the physician.

The Dying Patient Law does not accept the idea that respect for autonomy means being under no constraint of duty to protect one’s own life. According to the Law, the autonomy of the patient is respected but only when he refuses medical treatment under the provisions of the law, which excluded cyclical treatment from its purview. This exclusion means that the autonomy of the patient to refuse treatment is limited. Put another way, the right to refuse treatment under this law is prima facie and not absolute.

The autonomy of the patient to decide what treatment he does not want to receive is also limited only to cyclical treatments.

4.1.4. Justice

The fourth principle demands that you must try to be as fair as possible when offering treatment to patients and allocating scarce medical resources (Beauchamp and Childress 2009, 241-4).

The principle of justice is expressed in the Dying Patient Law in the requirement that all patients receive the same treatment and have the same degree of autonomy in any case. The problem with the law is that justice is expressed according to Jewish principles rather than democratic or bioethical principles.

4.2. Democratic Values

4.2.1. Self-determination

Self-determination is a legal right of people to decide their own destiny in the international order (Cornell University Legal Information Institute). In our case, it means that the individual has the right to decide why and if he wants to end his life. It also means deciding what a dignified life means for him and not that the state will decide for him.

4.2.2. An Acceptable Quality of Life

According to the Israeli Law of Human Dignity and Liberty (section 2), “There shall be no violation of the life, body or dignity of any person as such.” I think that this is the closest thing to an explanation of acceptable
quality of life, which we can find in the Israeli law. Richard Doerflinger (Doerflinger), in an article written in a
religious context entitled “The Quality of Life: Who’s to Judge?” describes also the meaning of quality of life
in a democratic state, and brings different opinions on quality of life that expand the definition of “a life worth
living.”

Everyone should decide upon his or her quality of life, and the state or community cannot decide for him,
although there are researchers who think that quality of life can be an evaluation norm or a moral norm (Reich
1978). An evaluation norm is something that is related to the person’s abilities (e.g., the ability to choose) or to
the kind of life that he lives (e.g., life without pain), so that a life that has this ability or is that kind of a life is a
life worth living and should be lived. Moral norms are life with moral judgment. If society decides upon quality
of life according to those two options, then it is possible that people who suffer from chronic pain and people
who have mental retardation would be considered not to have a life worth living and because of this, should die.
I think that the democratic value of human autonomy and dignity grants every person the right to decide upon
his own quality of life.

The Declaration of the Establishment of the State of Israel, asserts that the state of Israel is a Jewish state;
the fact that it is a democratic state is only implicit (Gaiger 1999). Judge Chaim Cohen contended that the basis
of Israel is Jewish and the democratic values are those that supplement the Jewish values and do not contradict
them (MATAH 2013). Due to this, I think that in our case, the democratic values are not relevant because in
Israel, they come after the Jewish values and cannot contradict them, so that if according to Jewish values, the
person does not have autonomy in a certain area, then that is the law in Israel.

5. Conflicts between the Law and Bioethical Principles and Democratic Values

5.1. Conflict between Jewish Moral Theology and the Democratic Value of Personal Autonomy

I think that the main conflict between the principles of bioethics and the Israeli law is that the principles of
bioethics are based on human rights, including especially the right of the individual to decide what will happen
to him or her. By contrast, the Israeli law is based on the Jewish religion, which limits this right of the
individual. The reason that the law was based on Jewish principles is because Israel is a Jewish state. Although
Israel is also a democratic state, the values of Jewish moral theology take precedence over the prime facie right
of the person to choose what will happen to him in end-of-life care.

As Avraham Steinberg (2002) said in the committee and wrote in the report, Israel is a Jewish state and the
basis of the Law will be Jewish moral principles, one of which is the paramount value of human life.

5.2. Conflict between Jewish Moral Theology and Bioethical Principles

When addressing a medical ethical problem in a democratic state, we have the four principles of bioethics
to take into consideration. How do they conflict with the paramount value of human life?

5.2.1. Patient Beneficence vs. Value of Life

One of the purposes of medicine is to relieve suffering; this can be done by stopping medical treatment
when there is no cure and continued treatment nor does not relieve pain or improve quality of life. Beneficence
means taking actions that serve the best interests of patients, which might be stopping medical treatment for a
patient who suffers from disease-related and iatrogenic burden at the end of life. When we deal with patient
beneficence, we must ask: What are the goals of treatment (Jonsen, Siegler, and Winslade 2010)? If the medical
treatment will not help the patient, then it can be beneficent to the patient to stop the treatment. The conflict in
the Law is that even if the treatment will not help, the physician must keep giving it for the sole purpose of prolonging the patient’s life.

5.2.2. Patient Autonomy vs. Value of Life

The principle of respect for autonomy means that people have the right to decide what will happen to their bodies; in the informed consent process, this principle means that a competent adult can decide what will be done to him by physicians. According to the Jewish religion, the body belongs to God (Steinberg 2003). It follows that a person does not have the right to make a decision that will harm himself. A person is not free to damage a piece of equipment that belongs to another person. The conflict in this case is that in most of the times and in most of the cases according to the Law, the patient doesn’t have the autonomy to decide what will happen to his body.

5.2.3. Right for Self Determination vs. Value of Life

Self-determination is a legal right of people to decide their own destiny in their lives and societies. According to the Jewish religion, God decides what will happen in your life (Steinberg 1980, 22-25). This creates a conflict with democratic values. The state of Israel, in The Basic Law for Human Dignity (Israel Knesset website), gave the individual the right to decide what to do with his life, however, this Law limited this right when the person is dying.

5.2.4. Justice vs. Value of Life

According to the principle of justice, we should be able to justify our actions in every situation on the basis of fairness (Beauchamp and Childress 2009, 241-4). Fairness requires that all patients at the end of life be treated the same as long as they do not have relevant differences to his situation between one another (e.g., religion believes) (Beauchamp and Childress 2009, 248-53). When we go to the courts to get a ruling, the judge gives us the justification for the ruling according to the case in front of him. The value of life according to the Jewish religion is enough justification to bypass the will of the patient, as we see it in the Yael Shefer case, and was Justice Elon’s explanation for his ruling. The Law prevents the courts from ruling differently in each case as it arises.

When we deal with this problem, we can ask ourselves two questions: (1) Are there religious issues that might influence clinical decisions? (2) What are the legal issues that might affect clinical decisions (Jonsen, Siegler, and Winslade, 2010)? The problem with these two questions is that in Israel they put the state first and the Jewish religion before the rights of the patient. The Law is the same for secular Jewish, Muslim, or Christian; according to the Law, everyone is to be treated according to the belief of an Orthodox Jewish. Justice based on fairness as respect for autonomy is in conflict with the law because the Law rejects the religion of most of the patients in Israel.

6. Resolving and Ameliorating Conflicts between the Law and Bioethical Principles and Democratic Values

Until the Dying Patient law was passed in Israel, the Supreme Court in Israel ruled according to the principles of the democratic state as they understood them (Telgam 2003). The law changed this and gave the principles of the Jewish religion priority over the principles of the democratic state. As a consequence, there are people who criticized the law and said that, instead of going forward, the law takes us backward.

In this section, I will show the conflict according to the principles in the previous section and how the law took us backward and not forward. I will do so by considering legal cases and critiques of the law.
6.1. Patient Beneficence vs. Value of Life

Yael Shefer\textsuperscript{15} was three years old when she was diagnosed as suffering from Tay-Sachs disease. When her condition worsened, her mother petitioned for a declaratory judgment that, if her health deteriorates further and she needs respiratory support, no medical treatments shall be provided against the mother’s will. The mother wanted to end medical treatment for Yael because she didn’t want her daughter to suffer, and thought that in Yael’s condition, she could not live a life of dignity.

Justice Elon did not approve the petition of the mother, and therefore disconnecting the daughter from the respirator was not approved. The Justice reached this decision after a comparison between the Halacha and the values of a democratic state. In this case, the question was, what should have precedence: the value of life according to Jewish law or the beneficence of the patient and the child’s quality of life?

Justice Elon interpreted the word “dignity” according to Jewish law, in which the sanctity of life is a supreme value and should not be impaired under any circumstances. Thus, preserving the life of Yael Shefer does not harm her dignity; on the contrary, it preserves her life, protects her life, and thus protects her dignity. Dignity is understood in this case to mean keeping her comfortable and taking care of all her needs, including life-sustaining treatments according to Justice Elon. It is important to know that Tay-Sachs disease is incurable (US National Library of Medicine). Children with the disease will most likely die in the first several years of life. Keeping such children alive does not mean that treatment will improve their life, but merely prolong it.

In addition, Justice Elon presents the definition of the Basic Law of Israel as a “Jewish and democratic state,” whereby a Jewish state binds together the heritage of Israel, the Jewish law, and religious characteristics. By contrast, a democratic state is based on the majority rule and the protection of minority rights. His argument is that, if there is a conflict between these values, we have to embrace Jewish values, because in the Basic Law, Judaism is mentioned before democracy (Sinclair 2006, 372-434). Justice Elon said that, according to The Basic Law: Human Dignity and Liberty (Israeli Knesset website), we see that the Jewish values have priority over the democratic values (Sinclair 2006, 378). Hence, it can be safely assumed that, first and foremost, the State of Israel is a Jewish state and only after that a democratic state. The dispute that Justice Elon’s ruling raised surfaced again in the Committee drafting the dying patient law. At the beginning of its meetings, the committee mentioned the need to discern what value is the highest—the value of life according to the Jewish law or the autonomy according to the democratic state.

Justice Elon’s reply to the petition was given in 1993. Even then, more than a decade before the enactment of the dying patient law, Elon examined the main issues discussed in the law and saw a conflict that he decided to resolve in favor for the Jewish law. According to Elon ruling, the Jewish values were above the democratic values (Sinclair 2006, 183-4).

The main provision of the law is to define the principles of the Israeli state as a Jewish and democratic state in the context of end-of-life issues. The goal of the law is to apply the Jewish principles of the value of life in the way physician treats patient that are in their end-of-life stages. In this law, the committee decided that the state is first of all Jewish and only then democratic. The result should lead to less variation in court rulings in the future.

6.2. Patient Autonomy vs. Value of Life

Justice Telgam (Telgam 2003) wrote that one can see in the law a trend to prevent intervention of the courts in end-of-life care. Telgam wrote that the courts were not ruled by the religious law; they have
emphasized individual autonomy by allowing patients to end their lives when there were no chances of survival. This is despite the fact that, according to the Jewish principles, the life of a patient must be prolonged no matter what the chance of survival is (Steinberg 1980, 22-25).

Telgam indicates that most of the controversy is about medical treatment that won’t cure the patient in a terminal condition. In other words, if a patient with end-stage cancer comes in sick with pneumonia, the doctor still treats the pneumonia even if the patient does not want treatment for the pneumonia; because he does not want to prolong his life because of the end-stage cancer. There is also controversy regarding the provision of food, drink, and oxygen to the terminally ill, because, according to Telgam, in the committee it was argued that withholding these forms of treatment should be considered assisting a suicide, which is prohibited.

Moshe Telgam concludes his paper by praising the work of the committee, but also argues that it should enact into law only the part in consensus and refrain from approving the controversial part. Justice Telgam’s proposal can help by increasing the scope of individual autonomy. However, in his account, even an expanded individual autonomy remains primar facie and thus can justifiably be limited by the paramount value of human life.

6.3. Right for Self Determination vs. Value of Life

Haia Rodinsky-Drori examines the question (Rodinsky-Drori 2006) of whether the Dying Patient Law is contradictory to the Basic Law: Human Dignity and Liberty. In other words, is the Dying Patient Law consistent with the values of Israel as both a Jewish and democratic state?

In this paper, the author mentions four cases in which one could act differently based on the basic law, where the Basic Law: Human Dignity and Liberty protects the person’s life.

The first condition is “except as set by law.” In other words, the violation will be under an existing law which was enacted by the Knesset. The second condition is consistency: The violation will be consistent with the values of a Jewish and democratic state. According to past rulings, this does not hold because it violates the values of the Jewish state. The third condition addresses the purpose. In other words, the violation should be for a proper purpose. The fourth condition is the proportionality: The degree of damage shall not exceed what is necessary to save the patient life. The law requires verification of proportionality using three sub-tests: the test of rational connection or the test of adequacy; the test of the least harmful measure or the test of necessity; and the test of proportionate means or the test of proportionality in the narrow sense. The paper examines whether the dying patient law applies only when all three sub-tests are fulfilled.

In the rational connection test (or adequacy test), the position presented is that existence of a rational causal relation between the means, which is active end-of-life care, and the purpose, which is human dignity, is not necessarily required. One of the arguments presented is that the goal of the law, death with dignity, cannot be reached by active end-of-life care. The author herself takes a strict attitude by stating that the means must achieve the goal with absolute certainty. Unlike Justice Barak, who suggests that there is no need for absolute certainty, the author argues that the law is not the only option in achieving the goal of protecting the dignity of the person. However, there is a need to invest more in providing nursing care to the patient and talk to him about death and thus try to encourage him. In her opinion, the dying patient law can be applied in the larger sense, due to the need to address each case individually. She also believes that the Law will not stand the narrow proportionality test, because the choice is all or nothing—to kill the patient or to leave him alive.
The author points out in her article that the Law does not apply to Alzheimer’s and Parkinson’s disease patients or to patients defined as “vegetative.” This emphasis is important because, according to the Law, these people may suffer for years before they can be entitled to request to die, and whether they will be at all competent to request this.

The paper by Rodinsky-Drori shows that the Law is problematic and contradicts the Basic Law. Later, she continues to raise issues related to the Law, such as appointment of a physician in charge and the treatments offered. The solution offered by the author is to set up a special ethics court resembling the Labor Court, headed by a district judge or by a retired district judge and including expert consultants, such as doctors, nurses, religious, and academic persons who will decide in the cases brought before them. In my view, this approach is problematic, because even if special ethics courts were to be established for these cases, what would be the basis for their decision? Will be there any additional criteria regarding the permissibility of terminating end-of-life care, except for the dying patient law? Because according to her proposal, the basis of the ethics courts will still be the Dying Patient Law, such that their basis is precarious from the start. Thus, this thesis attempts to expand the criteria that, when met, a person should be allowed to end his life. In her article, the author actually tries to decide what is the most important value in a Jewish and democratic state, the sanctity of life or the autonomy of the individual. The author points out that the problem with the ethics committee under the dying patient law is that it leaves the decision of what to do and how to act in each case to the medical staff and based on the Jewish principles. She wants that authority taken from the medical staff and given to the special Ethics Court that decides each case individually. The result is to leave the potential for conflict between individual autonomy and the paramount value of human life unresolved.

6.4. Justice vs. Value of Life

Israel Doron and Carmel Shalev (Carmel and Doron 2011) published an article in which they examine whether the Dying Patient Law constitutes progress or regression according to the court ruling until the law. They argue that, because of the limited applicability of the provisions of the Law only to the “Dying Patient,” the legal issue becomes: What is the applicable law in Israel to euthanasia for those patients who are not “covered” by this Law? They bring up the Zadok case, concerning the right of the chronically ill and dementia patients, who are not defined as “dying patients” but who do not want their lives extended artificially.

In the Zadok case (2011 ruling), the Court decided that, if the patient’s condition is not temporary, then the doctor may assent to the patient’s request to withhold fluids or oxygen from her. The reason for the court ruling is that, because this is a permanent condition, the woman would have ended her natural life without this treatment and treatment does not even provide temporarily relief to the patient. According to the authors, the court confirmed in its ruling that elderly and chronically ill patients suffering from dementia due to Alzheimer’s disease or following a stroke may decide when to end their lives.

The authors emphasize that Section 16 of the Dying Patient Law states that it is not possible to honor the will of the patient to refrain from treatment unless it is a case of incurable disease, as opposed to ancillary treatment (Israel Dying Patient Law, 2005) and this only if the patient suffers significantly. Artificial feeding and intravenous giving of fluids are considered as ancillary treatment, and the physician is therefore prohibited from withholding them, even if the patient expressed in his advanced directive that he does not want them, unless the patient remains competent and gives other explicit directives during the event.
The authors conclude from the above that, according to the new Law, Mrs. Zadok, at least apparently, could not get a proper reply to her request. The author puts this note in front of the Law Committee:

Note: The members of the public committee dealt only with the patient defined in this Law as “dying.” This Law does not address other patients at the end of their lives who not fit the criteria proposed in this Law for the dying patient. This means this Law does not address patients defined as “vegetative,” ill with Alzheimer’s or Parkinson’s disease, etc., prior of reaching the condition defined for the dying patient. No conclusions can be drawn from this Law in respect to such patients.17 (Emphasis added)

Until now, it seems that the author is pointing to a regression regarding the law, because, until the enactment of the Dying Patient Law, it was possible to provide treatment to patients suffering from chronic illnesses, whose expected life expectancy exceeded six months. Furthermore, the law stated that the physician may refrain from providing ancillary treatment, a provision which does not currently exist. To conclude the discussion of the Dying Patient Law, the paper’s author presents a remark made in the Committee, stating that the Law does not apply to patients suffering from Alzheimer’s or Parkinson’s. According to this, the law is deficient, and, if this is the case, should courts accept this deficiency? According to Justice Telgam’s opinion, one of the objectives of the Law was to prevent the intervention of the courts in these cases, even though the more complex cases where the medical assessment is not unambiguous require the court’s decision.

The authors of the article propose to give the law a narrow interpretation insofar as it detracts from the rights of patients. In other words, it must be limited to cases of “dying patients” or patients in a “terminal stage.”

From those three articles, we can see that the major problem of the Law is its limitations on individual autonomy. The right of the patient to decide what he wants to do with his life at the end of life is prima facie and not absolute. Although the Law supposed to be democratic, it is more strongly shaped by Jewish values. We can read in the committee deliberations that there are two main reasons for the restrictions on personal autonomy:

1. The value of life is the most important value according to the Jewish religion. Israel is a Jewish state and most of the participants in the committee were religious.

2. The time restriction is to make sure that the person will have all the possible treatments that may save his life, to make sure that the patient knows what he is asking, and that he will have enough time to rethink his decision.

The purpose of the Law is to make sure that the courts keep the Jewish principles of the state, because until now the rulings were mainly made according to democratic values.

The contrast between this line of ethical reasoning and that which structures the new Law is sharp. Section 21 Article D states that it is forbidden to stop a continuous treatment (such as disconnecting a pacemaker). A continuous treatment is a treatment the termination of which would lead directly to the patient’s death. It is permissible to refrain from renewing a continuous medical treatment that was interrupted unintentionally or in a way not contrary to the directives of the law. It is also permissible to refrain from renewing cyclic medical treatment (such as dialysis) or a treatment that has been completed. Any additional treatment initiation is considered as a new medical decision. This is linked with the previous section of the law, according to which the action should not be the cause of death. In this section, one can see the balance which the legislator wanted to reach in this law, between the autonomy of the patient over his body and the value of life. In practice, the
patient is allowed to decide whether to continue the treatment or not. However, because of the sanctity of life, no action specifically stopping continuous treatment, an action that would cause the death of the patient, could be taken. This means that the patient has the right to choose to stop only specific treatments that the law allowed and only at certain times. This limitation on patient autonomy makes it clear that the primary emphasis in the law is on religious values and not on the value of individual autonomy. The Committee emphasizes in this section that the interruption of the cyclical and continuous treatment, after which the patient may decide that he does not want to continue the treatment, must be an unintentional interruption or an interruption not in conflict with any law (e.g., for medical necessity) and not an interruption due to electricity failure or the result of someone interrupting the treatment on purpose, and without medical considerations. The Committee wants to prevent such cases and therefore emphasizes that the treatment was stopped only by a medical necessity. For example, a person connected to the respirator recovers the capacity for independent breathing and is disconnected from the device. In this case, if the person later stops breathing, he can decide if he wants to be reconnected to the device or not. But in the case where a family member wishes to disconnect a patient from a mechanical ventilator, it is not permissible to implement this decision. In a position paper by the Ethics Board of the Israeli Medical Association (2005), a case is presented where indeed it would be possible to stop the continuous treatment: when artificial feeding is carried out on a patient in permanent vegetative state. The Ethics Board defines conditions that allow this to occur. However, the Ethics Board is mindful that it is possible to act in this manner, even though a patient in a permanent vegetative state can live for a long time as long as he is artificially provided with nutrition and hydration. Palliative care that includes nutrition and hydration should always be given, and no one can approve discontinuing them, according to the law, no matter what is the will of the patient. Such discontinuation of treatment violates the Dying Patient Law, given that they also indicate the patient is not feeling pain or suffering. What is similar to the Law here, is that in this case also there is medical supervision, and it is required that a neurology specialist, in addition to the attending physician, confirms the medical diagnosis. All of this is subject to the consent of the Institutional Ethics Committee.

The law tells the medical teams what treatments they need to give to all the patients.

Section 23 E of the Law specifies the palliative care that should be provided to the dying patient. The section states that the medical system should provide palliative care to the patient, even if he wants to end his life. In other words, the law calls for the provision of analgesics to the patient if needed for symptom relief, but not to cause his death, in order to improve the quality of his life until the moment of his death. According to the Committee, the purpose of this section is to create an obligation to provide palliative care, not just authorization. As in previous sections, this section indicates the pre-eminence that the Committee attributes to the value of life, which in this case has precedence over the autonomy of the individual; because a person is not allowed to accelerate his death by not receiving appropriate treatment intended to reduce his pain.

7. Conclusion

The purpose of the Israeli law is to set directives governing the boundary between the individual’s autonomy over his body and the value of life. The law emphasizes that the State of Israel does not support in any way helping a person to end his life and does not support letting a patient die while receiving continuous life-sustaining treatment. The State accepts the end of life only in the natural way—by not initiating such treatment or by not restarting it—and thus allows nature to follow its course in cases of terminal conditions. The Dying Patient Law also emphasizes the duty of the State to support the quality of life of the patient by
providing palliative care and the obligation to try to save the life of a patient as long as he wants treatment, by providing extraordinary medical treatment that can extend the patient’s life.

Based on the analysis provided here, it is clear that there cannot be a resolution of the conflict between the patient’s rights of autonomy and the paramount value of human life in the Israeli law on end-of-life care. In order to find a resolution, the Law would have to be changed such that the values of democracy become the basis of the law and therefore its primary emphasis.

In Israel, we have many faith communities. Even within the Jewish religion, we have more than one point of view. To respect this religious pluralism, we need to construct a new law that will recognize all of these values and not force one set of religious values on all of the people.

Justice Cohn wrote about the Israel state as Jewish and democratic (Cohn 2006, 392), and stated that we should not look upon Israel as either a Jewish state or a democratic state, but rather as a Jewish state that is democratic and as a democratic state that is Jewish, and therefore we should think of both of these values as complementing each other. It is therefore the responsibility of the interpreter of a law to make sure that the law corresponds with both democratic and Jewish principles. According to Cohn, a good interpreter will ignore all political influence and be completely objective (Cohn 2006, 393). Cohn thinks that in a Jewish and democratic state this will be done according to the will of majority and that they will not be influenced by religious considerations (Cohn 2006, 395), and the danger of the majority dictating to the minority will not exist because of the democratic principle of protecting the minorities. In this case, no laws can be changed according to the decisions of the majority; but a law that cannot be changed is not a democratic law (Cohn 2006, 396). Considering this idea of Justice Cohn, we may find some kind of resolution between the democratic state and the Jewish state, and there may be an understanding that the law must help the entire population of Israel and not only one group. However, if there is a conflict between the Jewish principles and democratic principles then the democratic principles should have priority.

There can be a conflict between the value of life according to the Jewish principles of the value of life and the democratic principle of the right to die (right for autonomy or right for self-determination), or the right to life from another point of view, according to democratic principles. The obligation that the state has to protect human life according to the law is the individual’s right to protect his own life (Cohn 2006, 409). A private right can be waived: The person entitled to protection can refuse the protection. Hence, if the sanctity of life is defined, first and foremost, as a democratic value, and a person can do what he wants with his rights, then from this standpoint, a person may refuse the right to protect his life because of his right and will to die (ibid.).

If we have this as a basis for the law, we can have a better law. We will use the time frame of six months and the need for capacity as described in the dying patient law. In the new law, we will grant the patient the right to waive his right to life and as a consequence of this to refuse medical treatment, fluids, and nutrition, according to democratic principles. If the patient does not ask to waive his right to life or does not have the capacity to do so, then the state will have the obligation to keep him alive, according to the Jewish principles. This can be in a case of terminal illness as described by the current dying patient law.

In this case of Alzheimer’s disease, we can rely on the right of self-determination in a democratic state. If the patient will decide that from the moment that he will not remember his family and friends his death will be better than his life, then if there will be a prognosis regarding the progress of cognitive deterioration, the patient could ask to waive his right to life six months before he reaches the stage that he won’t remember his family, friends, or himself.
In this proposal of the law, we still can see that there are conflicts between bioethical principles and the law that have been resolved.

1. Patient Beneficence

In the new law, the patient would have the option to decide what is best for him or her and as a consequence, what can be done to benefit him or her. The state will only decide what beneficence is for patients who don’t have capacity or who did not exercise the option to decide what they want, because of a medical situation that adversely affected their decision-making capacity.

2. Patient Autonomy

In the new law, the patient would have more autonomy over his body and more control over his right to die and his right to life, and the state’s obligation to him. The patient can waive his right to life and as a consequence of his autonomy over his body, can decide not to receive any medication, fluids, and nutrition.

3. Justice

In the new law, there would be more justice for all the people of different cultures and beliefs in Israel. The option to waive the right to life would prevent one religious group from imposing its beliefs and values on other groups, thus protecting different minorities’ rights.

To summarize, acceptable law guiding end-of-life care should be based on democratic values and Jewish values as equally important. When there is a conflict, democratic values should be given priority. Most of the time, there will not be any conflict, because the patient would have the right to decide if he wants to waive his right to life; it is only if he is unable to decide that the state will have the obligation to treat the patient as though he had requested protection over his life by the state.

Notes

1. The Israeli Dying Patient Law, 2005, <http://98.131.138.124/articles/JME/JMEM12/JMEM.12.2.asp>. “A responsible physician is authorized to determine that a patient is a terminally ill patient, if satisfied that the patient is suffering from an incurable medical problem and that his life expectancy, even if receiving medical treatment, will not exceed six months.”
2. The Israeli Dying Patient Law, 2005, <http://98.131.138.124/articles/JME/JMEM12/JMEM.12.2.asp>. “A responsible physician is authorized to determine that a terminally ill patient is an end-stage patient, if satisfied that he is in a medical condition in which a number of vital systems in his body have failed and his life expectancy, even if receiving medical treatment, will not exceed two weeks.”
3. Protocol No. 6, from the meeting of the joint Committee of Labor, Welfare and Health Committee and the Constitution, Law and Justice Committee on the subject of life extension, Tuesday, June 21, 2005 at 14:00. 2.
4. Protocol No. 6, from the meeting of the joint Committee of Labor, Welfare and Health Committee and the Constitution, Law and Justice Committee on the subject of life extension, Tuesday, June 7, 2005 at 14:00. 19-24.
5. Protocol No. 7, from the meeting of the joint Committee of Labor, Welfare and Health Committee and the Constitution, Law and Justice Committee on the subject of life extension, Tuesday, June 21, 2005 at 14:00. 9.
6. “Cyclical medical treatment”—any of the following: Medical treatment administered cyclically and with interruptions, where it is possible to clearly and practically distinguish between the end of one cycle of treatment and the beginning of the next cycle; Treatment that was planned in advance, using appropriate technological means, for being administered cyclically, even though in its essence, it was administered in a continuous and non-interrupted manner.
7. Halacha—is the collective body of Jewish religious laws, based on the Written and Oral Torah, including the 613 mitzvot, and later Talmudic and rabbinic law, as well as customs and traditions compiled today in the Shulchan Aruch, “The Code of Jewish Law.”
8. Predation—an animal that was injured after being attacked by another animal.
9. Article C, 15 (a): The caregivers of the terminally ill patient as stated in sub-section (a) will make a reasonable effort to persuade him to receive oxygen, nutrition and hydration, even by artificial means, and to receive routine treatments required for the treatment of simultaneous or background illnesses as well as palliative care. Article E: (a) The responsible physician will make sure that everything possible is done in order to alleviate the pain and suffering of a terminally ill patient, even if this involves a
reasonable risk of the patient’s death, including by means of medication, pain killers, or psychological methods, nursing, and environmental measures, and all in accordance with the appropriate principles of palliative care and in accordance with the conditions and arrangements prevailing from time to time in the Israeli health care system, and in accordance with the wish of the terminally ill patient, pursuant to the provisions of this Law and pursuant to the provisions of the Patient’s Rights Law. (b) The responsible physician will make sure that everything possible is done in order to alleviate the burden on the family members of a terminally ill patient and to ensure their well-being during the patient’s stay in the medical institution, all in accordance with the appropriate principles of social work and palliative care and in accordance with the conditions and arrangements prevailing from time to time in the Israeli health care system.

10. Article B, 13: Where a terminally ill patient who wishes to prolong his life and requests medical treatment that the responsible physician considers to be unjustified under the circumstances, his wish should be respected and the requested treatment should be provided in accordance with any other law and in accordance with the conditions and the arrangements prevailing from time to time in the Israeli medical system; the provisions of this section will not apply to medical treatment that in the opinion of the responsible physician is not expected to prolong the life of the patient, or liable to significantly harm the patient or someone else.

11. “Cyclical medical treatment”—any of the following:
1. Medical treatment administered cyclically and with interruptions, regarding which it is possible to clearly and practically distinguish between the end of one cycle of treatment and the beginning of the next cycle;
2. Treatment that was planned in advance, using appropriate technological means, for being administered cyclically, even though in its essence it was administered in a continuous and non-interrupted manner.

12. Article D, 21: Nothing in the provisions of this Law shall permit the withdrawal of the continuous treatment of a terminally ill patient that is liable to cause his death, irrespective of whether or not he is competent; however, it is permitted to refrain from the renewal of continuous treatment that was withdrawn unintentionally or not in contravention of the law, and it is also permitted to avoid the renewal of cyclic medical treatment, all subject to the provisions of Article C.

16. Ancillary treatment—medical treatment of the terminally ill patient, that is totally unrelated to his incurable condition, including routine treatments necessary for the treatment of simultaneous or background illnesses and palliative care, as well as nutrition and hydration even by artificial means.

17. Remarks to Section 3 of the proposed legislation of Steinberg Committee.
18. Protocol No. 7, from the meeting of the joint Committee of Labor, Welfare and Health Committee and the Constitution, Law and Justice Committee on the subject of life extension, Tuesday, June 21, 2005 at 14:00. 26.
19. Protocol No. 7, from the meeting of the joint Committee of Labor, Welfare and Health Committee and the Constitution, Law and Justice Committee on the subject of life extension, Tuesday, June 21, 2005 at 14:00. 27.

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