

Shabbat Yitro 5781- Jewish Ethics And Vaccine Distribution
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Shabbat Shalom!

*I am not throwin' away my shot
I am not throwin' away my shot
Hey yo, I'm just like my country
I'm young, scrappy and hungry
And I'm not throwin' away my shot*

So sings actor and playwright extraordinaire Lin-Manuel Miranda in his hit musical “Hamilton.” This song, “My Shot,” captures the bold ambitions of a young Alexander Hamilton. Hamilton's shot, his quest to leave a lasting mark in government, propelled his career. While Aaron Burr's shot, fired from a dueling pistol, ended Hamilton's life.

I am not throwin' away my shot.

These words ring piercingly true today. “The shot” is a Pfizer or Moderna Covid vaccine. “The shot” also describes our hungry ambitions to secure one of these precious finds for our parents, grandparents, and ourselves - simultaneously with hundreds of millions more. People around the country are scrapping for it, sometimes cutting corners and jumping the line.

I am not throwin' away my shot.

Today I will speak about Jewish ethics and the vaccine distribution. There are simply too many issues and nuances to cover them all today. It's made even more complicated by the fact that the landscape is changing at *warp speed*, pun intended!

Let's begin with four pieces that are clear.

First, Jewish law *requires* that each of us receive the vaccine, unless your doctor determines it's dangerous for you. Judaism prioritizes life, and vaccines save lives - ours and others'. I will not go further into this obligation today because Rabbi Schwab and I previously spoke at length about exactly this topic from the Bimah. We taught the Teshuva of renowned Conservative Jerusalem scholar Rabbi David Golinkin. A second Teshuva echoes this, this time from American Conservative Rabbi Micah Peltz. Read their responsa online for the full explanation, or see my previous weekly email Thursday Thought for a short version.

Second, Jewish law *forbids* jumping the line - which Peltz defines as using personal connections, influence, or financial means to receive the COVID-19 vaccine sooner than our allotted time. This should be obvious. If we were to go to Six Flags with our kids and *not* let them cut the line for a fun ride, *Kal Vahomer* - all the more so - we ourselves may not cut the line for a life-saving vaccine. That's basically stealing from someone else.

Third, if it were up to the rabbis, the following Jewish values would determine the vaccine's ethical distribution globally and nationally: "Treating people equally, favoring the worse off, maximizing total societal benefit, and promoting social usefulness." Obviously, the actual rollout sometimes strays *very far* from these ideals. Additionally, there is a Jewish legal principle called *Dina d'malkhuta dina*, which requires us to accept the distribution priorities made by governments.

Fourth, it is clear that the following people not only are allowed but *should* get the vaccine now: anyone 65 years or older, as well as people in phases 1a or 1b, like health care workers, first responders, and frontline essential workers. All of the above people should sign up for the vaccine. I know it is excruciatingly difficult to find an appointment, but you all have the green light. Go!

I am particularly interested in exploring two in-between cases, where it's debatable whether a particular person should get the shot now. For guidance, I posed these two cases to two rabbis. First was Rabbi Peltz, who authored this recent Teshuva. Incidentally, he was my Ramah counselor one summer. And second was Rabbi Elliot Dorff, renowned Conservative rabbi and co-chair of the Conservative Movement's Law Committee.

Here's the first hypothetical case: *All teachers can legally receive the vaccine. Let's say there's a teacher who teaches not every day but once every 10 days. Should he receive the vaccine along with the other teachers who teach more often, or should he wait?*

Both rabbis agreed that he should get the vaccine *now* because he is still a risk to himself and others. He should *not* wait for older teachers or all everyday teachers to get the shot first.

It is most helpful to explore these questions through the twin lenses of *L'Hathila* and *B'deiavad*. These are expressions from the Talmud that continue to be part of Jewish law and ethics today. *L'Hathila* means "ideally" or "in a perfect world." Whereas *B'deiavad* means "ex post facto," "after the fact," or "in an emergency." As a simple example, *L'Hathila*, we should all stand for the Amidah, the standing prayer. That's the

ideal. But *B'deiavad*, we may sit if standing hurts us. We always aim for the ideal, but sometimes the situation only allows for second-best.

L'Hathila, it is preferable that vaccines go first to those at greatest risk. Ideally, the every-other-week teacher would let the older teachers and everyday teachers go first because they are at greater risk because of their age or exposure to others. In a perfect world, every vaccine that is passed up would go to someone at higher risk. But that is not our world.

Two weeks ago the New York Times posted a terrific article written by Melinda Wenner Moyer. It's called "If You're Offered a Vaccine, Take It." It says, "Many vaccines are being distributed by institutions that can't transfer extra doses elsewhere or to specific populations, explained Kyle Ferguson, a medical ethicist at the Grossman School of Medicine. Put another way, it's entirely possible that the vaccination you decline will be given to someone at lower risk than you. Worse, it could get thrown away if it's not injected into someone's arm before it goes bad." Many bioethicists agree with her conclusion.

Because of how messy the reality is, *all* teachers should get the shots right away, even those who teach infrequently. Here is my takeaway for the rest of us who are not teachers: if our profession allows for us to get the vaccine, we should take it now even if we consider others to be a higher risk.

And here is the second hypothetical case I posed to the two rabbis: *Let's say a hospital system has enough vaccines for everyone who works there in Category 1a. Let's say they employ a web developer, who works from home and will not return to working at the hospital anytime soon. Even though she can pass as being a hospital worker on her paycheck and receive the vaccine legally, is it ethical for her to do so?*

To be clear, this is hypothetical. I don't know of any hospital system that does exactly this, but I chose this example to illustrate a broader point.

Rabbi Dorff responds: *"The hospital web developer should not take the vaccine now in Category 1a, hospital employee though she be. The point of the entire system is to vaccinate the most vulnerable first, and her job, age, and medical condition do not qualify for that designation. She is also effectively stealing a vaccination from those who need it more."*

Dorff's answer is what I expected the Jewish sources to say, *L'Hathila*. By contrast, Peltz's says the opposite - but it makes perfect sense in a *B'deiavad* reality. Here is his response:

"My understanding is that the CDC included all hospital workers in this 1A category and that it was left up to the states and hospital systems to determine whether they use it only for medical workers or also for support workers, who are not at high risk from their job. Something that I have found at my local hospital system is that they set out to only vaccinate their doctors and nurses who are treating patients but found that 40% (!) of their medical workers were not willing to get vaccinated. This left them with more vaccines than they thought they had. Add to this that they were not allowed to order more vaccines from the federal government until they got below a certain supply – so they started offering the vaccine to hospital workers more generally.

Additionally, this person giving up the vaccine, in a hospital setting, would not mean that someone with a higher risk would necessarily get it instead. All this is to say that, if guidelines from the government, state, and health systems allow for a web designer who is employed at the hospital to be offered the vaccine, I think she should take it.

He elaborates that if this person could wait a little and sign up through the general portal, that would be even better because those appointments might go to someone in a true high risk category. He concludes, "I realize that this might be splitting hairs, but a lot of this stuff is like that."

Here is my takeaway for us, some of whom can claim to be in line by virtue of our job but who can continue to work from home safely until everyone is vaccinated: *L'Hathila*, if we understand this specific shot will go to someone who needs it more than we do, we should wait until Allvax or our doctors contact us. But, *B'deiavad*, if it will not go to a higher-risk person, then we should get it now even if we are working from home.

It is grossly unfair that healthy 20-somethings working from home might get inoculated before their parents or even grandparents. But we have to do the best we can in this imperfect situation. Which is why those young people should take it. The Times article gets it right: "Even if you feel it's unethical that you have been offered a vaccine, that doesn't mean it's unethical for you to accept it. You're not going to fix the broken system by opting out of it. If anything, you might make the situation worse."

If you are like me, you feel a tension between the ideal and the current reality, *L'Hathila* and *B'deiavad*. I want to share two sources that capture these understandings. The first one comes from the Talmud (Sanhedrin 74a), and it concludes that your blood is not

redder than anyone else's. In other words, you are not more important or valuable than anyone else, which is why we all must wait for our turn in line, as frustrating as that is. Your blood is not redder. That's *L'Hathila*.

Here is another source from the Talmud (Bava Metzia 62a) that illustrates the *B'deiavad*.

"Two people were walking along a deserted path, and in the hand of one of them was a jug of water. If both of them drink, they will both die [before reaching another source of water]. If one drinks, he will reach an inhabited place [and survive]. [Who should get the water?] Ben Petora explained: 'It is best that both drink and both die, so that one will not see the death of his friend.' But then Rabbi Akiva taught: 'When the Torah teaches in Leviticus, "Let him live by your side" (Lev. 25:36) – this means your life comes before the life of your companion.' [And the water should go to the one already holding it]."

Your life comes first. If you are holding the water - or have your turn called for the vaccine - it is yours. Not because you are more valuable than the other person; his blood is equally red. It is yours because you are lucky. Your job or age just happens to be on the list. In the case of the water, saving one life is better than saving none. With the vaccines, as Rabbi Peltz says, "every person vaccinated against COVID-19 is a step in the right direction."

For all of us, this is a time of tension and anxiety. The lenses of *L'Hathila* and *B'deiavad* allow us to maintain our ideals and core values while preserving our own health in the real world. *L'Hathila* - ideally - everyone's blood is equally red, and we should do all we can to prioritize those who are at greater risk. We balance that with the *B'deiavad* - the imperfections of the real world - where we should all take the shot if we ourselves are offered. Uncomfortable as this tension may be, we, as ethical people, must look through both lenses.

May G-d keep us all safe and healthy until we are all fortunate to get the vaccine.

Shabbat Shalom!