

The Ethics of Using Medical Data From Nazi Experiments

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1. INTRODUCTION

Following World War II, leading Nazi doctors were brought to justice before the International Military Tribunal at Nuremberg. Twenty doctors were charged with War Crimes and Crimes Against Humanity. The Nuremberg trial of the doctors revealed evidence of sadistic human experiments conducted at the Dachau, Auschwitz, Buchenwald and Sachsenhausen concentration camps.

Since the Nuremberg trials, our society has had to confront the reality that the Nazi doctors were guilty of premeditated murder masqueraded as research. Professional modern medicine has had little difficulty condemning the Nazi doctors as evil men. But what is being said of the continued use of the Nazi doctors' medical research? Many scholars are now discovering in reputable medical literature multiple references to Nazi experiments, or republished works of former SS doctors. These studies and references frequently bear no disclaimer as to how the data was obtained. In recent years several scientists who have sought to use the Nazi research have attracted and stirred widespread soul-searching about the social responsibility and potential abuses of science.

These incidents prompt a number of questions for the scientific community. Is it ever appropriate to use data as morally repugnant as that which was extracted from victims of Nazism? If so, under what circumstances?

2. THE ETHICAL DILEMMA

This paper addresses the serious ethical problems of using tainted data from experiments on patients who were murdered and tortured by the Nazis in the name of "research." In particular this paper will address: the scientific validity of the experiments; the medical competence of the experimenters; the social utility in using the experimental data; case studies of proposed uses of the Nazi scientific data; the policy consideration involved when scientists use immorally obtained data; the condition and guidelines as to how and when the data is to be used; and the issue from the victims' perspective.

This project was undertaken with the utmost caution. The reader should be aware that the moral climate in the Jewish community is unforgiving to those who find any redeeming merit from the Nazi horrors. Anyone who dares suggest the historical lessons which can be learned from the Holocaust, or from the victims' suffering, risks being labeled a heretic or a sensationalist bent on distorting history for personal gain. Many in the community seriously fear that insights might replace condemnation of the Nazi evil.²

Furthermore, after reviewing the graphic descriptions of how the Nazis conducted the experiments, it became increasingly difficult to remain objective regarding its subsequent use. The difficulty of objectively analyzing the use of Nazi data was further complicated by the use of the amorphous term, "data." "Data" is merely an impersonal recordation of words and numbers. It seems unattached to the tortured or their pain. One cannot fully confront the

dilemma of using the results of Nazi experiments without sensitizing one's self to the images of the frozen, the injected, the inseminated, and the sterilized. The issue of whether to use the Nazi data is a smokescreen from the reality of human suffering. Instead of the word "data," I suggest that we replace it with an Auschwitz bar of soap. This horrible bar of soap is the remains of murdered Jews. The image sensitizes and personalizes our dilemma. Imagine the extreme feeling of discomfort, and the mortified look of horror upon discovering that one just showered with the remains of murdered Jews. The ghastly thought of the Nazis melting human beings (and perhaps even one's close relatives) together for a bar of soap precludes any consideration of its use. How could any civilized person divorce the horror from the carnage without numbing one's self to the screams of the tortured and ravaged faces of the Holocaust? Indeed, it is only with this enhanced sensitivity to the suffering that one can accurately deal with the Nazi "data."

Holocaust survivor Susan Vigorito found the use of the word "data" a sterile term. She was 3 ½ when she and her twin sister, Hannah, arrived at Auschwitz. They were housed for an entire year in Mengele's private lab in a wooden cage a yard and a half wide. Without anesthetic, Mengele would repeatedly scrape at the bone tissue of one of her legs. Her sister died from repeated injections to her spinal column. She claims that she is the real data, the living data of Dr. Mengele.

Any analysis that fails to see realistically the Nazi data as a blood soaked document fails to comprehend fully the magnitude of the issue.

These serious misgivings forced the author to reflect and confront some difficult personal issues. May this disclaimer serve as a personal guarantee that the purpose of presenting the Nazi data for consideration was not to dilute nor detract from the enormous and unspeakable suffering of those who perished in, and survived from the death camps. The purpose of this project was to learn more about rather than replace, the Nazi evil.

3. THE NAZI EXPERIMENTS

The Nazi physicians performed brutal medical experiments upon helpless concentration camp inmates. These acts of torture were characterized by several shocking features: (1) persons were forced to become subjects in very dangerous studies against their will; (2) nearly all subjects endured incredible suffering, mutilation, and indescribable pain; and (3) the experiments often were deliberately designed to terminate in a fatal outcome for their victims.

The Nazi experiments fell into three basic categories: (1) Medico-Military Research; (2) Miscellaneous, Ad Hoc Experiments; and (3) Racially Motivated Experiments.

a. MEDICO-MILITARY RESEARCH

Hitler's regime sponsored a series of inhumane experiments for alleged ideological, military and medical purposes. They were undertaken under Heinrich Himmler's direct orders to gain knowledge of certain wartime conditions faced by the German Luftwaffe. The Nazi doctors considered "military necessity" adequate justification for their heinous experiments. They justified their acts by saying that the prisoners were condemned to death anyway. Their experiments included:

i. Freezing Experiments

Prisoners were immersed into tanks of ice water for hours at a time, often shivering to death, to discover how long German pilots downed by enemy fire could survive the frozen waters of the North Sea. It was generally known at the time that human beings did not survive immersion in the North Sea for more than one to two hours.³

Doctor Sigmund Rascher attempted to duplicate these cold conditions at Dachau, and used about 300 prisoners in experiments recording their shock from the exposure to cold. About eighty to ninety of the subjects died as a result.⁴

Doctor Rascher once requested the transfer of his hypothermia lab from Dachau to Auschwitz, which had larger facilities, and where the frozen subjects might cause fewer disturbances. Apparently, Rascher's concentration was constantly interrupted when the hypothermia victims shrieked from pain while their extremities froze white.⁵

ii. High Altitude Experiments

In 1942, Doctor Rascher began hazardous high-altitude experiments at Dachau. His goal was to determine the best means of rescuing pilots from the perils of high altitude when they abandoned craft (with or without oxygen equipment) and were subjected to low atmospheric pressures.

Rascher used a decompression chamber to simulate high altitude conditions. He would often dissect several of the victims' brains, while they were still alive, to demonstrate that high altitude sickness was a result of the formation of tiny air bubbles in the blood vessels of the subarachnoid part of the brain. Of the 200 prisoners so tested, 80 died outright, and the remainder were executed.

iii. Sea Water Experiments

Tests on the potability of sea water were conducted at Dachau on 90 Gypsy prisoners by Doctor Hans Eppinger. The subjects were given unaltered sea water and sea water whose taste was camouflaged as their sole source of fluid. Eppinger's infamous "Berka" method was devised to test whether such liquids given as the only supply of fluid could cause severe physical disturbance or death within six to twelve days. The Gypsies became so profoundly dehydrated that they were seen licking the floors after they were mopped just to get a drop of water. [Eppinger killed himself on September 25, 1946, exactly one month before he was scheduled to testify in the Nuremberg trial. The New York Times obituary stated that he had committed suicide by poison]⁶.

iv. Sulfanilamide Experiments

The German Armed Forces suffered heavy casualties on the Russian Front in 1941 to 1943 because of gas gangrene. These casualties and other combat-related infections created an interest in a chemotherapeutic, rather than surgical treatment. The discovery of sulfanilamide offered the possibility of a new and revolutionary treatment of wound infections caused by the war. Wartime wounds were recreated and inflicted on healthy Jews designated to be treated by the new drug. [Wounds deliberately inflicted on the experimental subjects were infected with bacteria such as streptococcus, gas gangrene and tetanus. Circulation of blood was interrupted by tying off blood vessels at both ends of the wound to create a condition similar to that of a battlefield wound].

v. Tuberculosis Experiments

The Nazis conducted experiments to determine whether there were any natural immunities to Tuberculosis ("TB") and to develop a vaccination serum against TB. Doctor Heissmeyer sought to disprove the popular belief that TB was an infectious disease. Doctor Heissmeyer claimed that only an "exhaustive" organism was receptive to such infection, most of all the racially "inferior organism of the Jews."

Heissmeyer injected live tubercle bacilli into the subjects' lungs to immunize against TB. He also removed the lymph glands from the arms of twenty Jewish children. About 200 adult subjects perished, and twenty children were hanged at the Bullenhauser Dam in Heissmeyer's effort to hide the experiments from the approaching Allied Army.

b. MISCELLANEOUS, AD HOC EXPERIMENTS

The Nazis also conducted experiments which involved unspeakable varieties of torture that carried no pretense of scientific inquiry. They included poison and wound experiments:

i. Poison Experiments

A research team at Buchenwald developed a method of individual execution through the intravenous injections of phenol gasoline and cyanide on Russian prisoners. The experiments were designed to see how fast the subjects would die.

ii. Wound Experiments

When Himmler discovered that the cause of death of most SS soldiers on the battlefield was hemorrhage, he ordered Doctor Rascher to develop a blood coagulant to be administered to the German troops before they went off to war. Rascher tested his patented coagulant by observing the rate of blood drops that would ooze from freshly cut amputation stumps of living and conscious prisoners at the Dachau crematorium. Rascher would also shoot his Russian prisoners in the spleen whenever he needed extra blood to test. [At the Ravensbrueck Concentration Camp, the shoulders and legs of inmates were amputated in useless attempts to transplant the limbs onto other victims]⁷.

c. RACIALLY MOTIVATED EXPERIMENTS

The Nazi doctors also conducted experiments which were focused on anthropological, genetic, and racial goals. These experiments included:

i. Artificial Insemination Experiments

Himmler was impressed upon hearing that Doctor Carl Clauberg successfully treated a high-ranking SS officer's infertile wife. Himmler commissioned Clauberg to work in Auschwitz and established Auschwitz Block 10 as Clauberg's laboratory. Block 10 was made up of mostly married women between the ages of 20 and 40, preferably those who had not borne children.

There was a constant fear in Block 10 of being killed, sterilized, or inseminated by Clauberg. He would often tease the female prisoners that they would all undergo sexual intercourse with

a male prisoner chosen especially for this purpose. At least one of the Orthodox Jewish women who heard that Clauberg selected her to be a Block 10 prostitute decided to poison herself⁸.

After inseminating the women, Clauberg would often taunt the strapped-in women by stating that he had inseminated their wombs with animal sperm and that monsters were growing in their wombs. Ultimately, 300 women prisoners were experimented on in Cell Block 10.

ii. **Sterilization Experiments**

Himmler's real interest in Clauberg's Cell Block 10 was sterilization. He convinced Clauberg to begin experiments on reversing his infertility treatments and to discover ways to block the fallopian tubes. Clauberg redirected all of his energies toward the single goal of effective mass sterilization.

Thousands of inmates had their genitals mutilated in order to discover cheap methods of sterilization. The Nazis hoped that these methods could ultimately be applied to millions of "unwanted" prisoners. Women at Auschwitz were sterilized by injections of caustic substances into their cervix or uterus, producing horrible pain, inflamed ovaries, bursting spasms in the stomach, and bleeding. Young men had their testicles subjected to large doses of radiation and were subsequently castrated to ascertain the pathological change in their testes.⁹

iii. **Twin Experiments**

Experiments on twins were performed by the infamous Doctor Joseph Mengele at Auschwitz. Among Mengele's favorite experimental subjects were Jewish dwarves and identical twins. Mengele's obsession with the Nazi ideology of racial purity and Aryanism led him to believe that he could unlock the secrets of human reproduction and multiple births. His goal was to help the Aryan "master" race multiply in even greater numbers and eventually to repopulate the world with Germans. Of the 1,000 pairs of twins used, about 200 pairs survived.¹⁰

iv. **Jewish Skeleton Collection**

Doctor August Hirt, Professor of Anatomy at Strassburg University, wished to acquire a large collection of Jewish skulls and skeletons to form a museum dedicated to the extinct Jewish race. In 1943, 115 persons were gassed at the Natzweiler-Struhof Concentration Camp. The corpses were immediately transported to the Anatomy Pavilion of the Strassburg University Hospital.

Torture, Starvation, Cruelty, Murder . . . the list goes on. The death toll in the name of scientific research was horrific. In all of the experiments, the prisoners were forced to become subjects against their will. They nearly all endured suffering, mutilation and indescribable pain. In fact, the experiments were deliberately designed to end fatally.

4. **PROPOSED USE OF NAZI SCIENTIFIC DATA**

a. **POZOS' CHILLING DILEMMA**

Doctor Robert Pozos is the Director of the Hypothermia Laboratory at the University of Minnesota of Medicine at Duluth. His research is devoted to methods of rewarming frozen victims of cold. Much of what he and other hypothermia specialists know about rescuing frozen victims is the result of trial and error performed in hospital emergency rooms. Pozos believes that many of the existing rewarming techniques that have been used thus far lack a certain amount of critical scientific thinking.

Pozos points out that the major rewarming controversy has been between the use of passive external rewarming (which uses the patient's own body heat) and active external rewarming (which means the direct application of exogenous heat directly to the surface of the body). Hospitals have thus far microwaved frozen people, used warm blankets, induced warm fluids into body cavities (through the peritrium, rectum or urinary bladder), performed coronary bypass surgery, immersed the frozen bodies into hot bath tubs, and used body-to-body rewarming techniques.¹¹ Some victims were saved, some were lost. This might be due to the lack of legitimate information on the effects of cold on humans, since the existing data is limited to the effects of cold on animals. Animals and humans differ widely in their physiological response to cold. Accordingly, hypothermia research is uniquely dependent on human test subjects. Although Pozos has experimented on many volunteers at his hypothermia lab, he refused to allow the subject's temperature to drop more than 36 degrees. Pozos had to speculate what the effects would be on a human being at lower temperatures. The only ones that put humans through extensive hypothermia research (at lower temperatures) were the Nazis at Dachau.

The Nazis immersed their subjects into vats of ice water at sub-zero temperatures, or left them out to freeze in the winter cold. As the prisoners excreted mucus, fainted and slipped into unconsciousness, the Nazis meticulously recorded the changes in their body temperature, heart rate, muscle response, and urine.¹²

The Nazis attempted rewarming the frozen victims. Doctor Rascher did, in fact, discover an innovative "Rapid Active Rewarming" technique in resuscitating the frozen victims. This technique completely contradicted the popularly accepted method of slow passive rewarming. Rascher found his active rewarming in hot liquids to be the most efficient means of revival.¹³

The Nazi data on hypothermia experiments would apparently fill the gap in Pozos' research. Perhaps it contained the information necessary to rewarm effectively frozen victims whose body temperatures were below 36 degrees. Pozos obtained the long suppressed Alexander Report on the hypothermia experiments at Dachau. He planned to analyze for publication the Alexander Report, along with his evaluation, to show the possible applications of the Nazi experiments to modern hypothermia research. Of the Dachau data, Pozos said, "It could advance my work in that it takes human subjects farther than we're willing."¹⁴

Pozos' plan to republish the Nazi data in the New England Journal of Medicine was flatly vetoed by the Journal's editor, Doctor Arnold Relman.¹⁵ Relman's refusal to publish Nazi data along with Pozos' comments was understandable given the source of the Nazi data and the way it was obtained.

b. HAYWARD'S EQUALLY CHILLING DILEMMA

Doctor John Hayward is a Biology Professor at the Victoria University in Vancouver, Canada. Much of his hypothermia research involves the testing of cold water survival suits

that are worn while on fishing boats in Canada's frigid ocean waters. Hayward used Rascher's recorded cooling curve of the human body to infer how long the suits would protect people at near fatal temperatures. This information can be used by search-and-rescue teams to determine the likelihood that a capsized boater is still alive.

According to Kristine Moe's survey in the Hasting Center Report, Hayward justified using the Nazi hypothermia data in the following way:

"I don't want to have to use the Nazi data, but there is no other and will be no other in an ethical world. I've rationalized it a bit. But not to use it would be equally bad. I'm trying to make something constructive out of it. I use it with my guard up, but it's useful." [Emphasis Added]

Hayward continued to rely on the data even though the subjects were lean, malnourished, and emaciated prisoners, with little or close to no insulating body fat (and therefore unrepresentative of the general populace to be benefitted from the study). Hayward still trusted the data because the general linear shape of Doctor Rascher's cooling curve (as the prisoners neared death) appeared to be consistent with the cooling curve at warm temperatures.

Since a better knowledge of survival in cold water has direct and immediate practical benefits for education in cold water safety, and in the planning of naval rescue missions at sea, Pozos and Hayward see it criminal *not* to use the available data, no matter how tainted it may be.

c. **EPA BARRED THE USE OF NAZI DATA ON THE STUDY OF PHOSGENE**

In 1989, the Environmental Protection Agency ("EPA") considered air pollution regulations on "phosgene," a toxic gas used in the manufacture of pesticides and plastic. Approximately one billion pounds of phosgene is produced annually in the United States.¹⁶ Tragically, phosgene was used in chemical warfare in the Iran-Iraq War, and was anticipated to be used in Project Desert Storm.

As part of their research, the EPA scientists analyzed how different doses of phosgene affected the lungs, particularly of the people living around the manufacturing plants that process the gas. They found that except for local irritation to the skin, eyes and upper respiratory tract, the lungs could be considered the target organ of phosgene gas. Even at intermediate and low concentrations, phosgene destroys enzymes in the lungs. This causes fluid build up, and can lead to death by "drowning."¹⁷

Until then, the EPA scientists depended solely on animal experiments to predict the effect of the gas on humans. Human data would naturally be the ultimate preference to work from, but it was rarely available. To date, no information about intentional exposure in occupational settings exists for the EPA to analyze.¹⁸

Because of the lack of human data connected to the gas, scientists in the EPA's Assessment Branch suggested using the Nazi data on phosgene, since the Nazi experiments provided comparatively more data on humans, rather than the existing data derived from animal research.

An experimental study on the acute toxicity of phosgene on humans was performed during World War II. Fearful of a phosgene gas attack by the Allies in Africa, Heinrich Himmler ordered Doctor Bickenbach to experiment on humans in an effort to develop a means of protecting the Germans against phosgene poisoning. Fifty-two French prisoners were exposed to the toxic gas. Four of the prisoners died in the experiments conducted at Fort Ney, near Strassburg, France. The remaining weak and emaciated prisoners developed pulmonary edema from the exposure to the gas. Rumor had it, that Bickenbach herded the prisoners into an air tight testing chamber, broke open a vial of phosgene gas, and counted how long it took for the prisoners to die. This sordid report of the experiment was revealed during the War Crimes trial in France.

Serious concerns were raised by EPA scientists that the recorded data was flawed. They based their skepticism on the fact that Bickenbach's report failed to note how the pulmonary edema was measured, nor what the victim's sex or weight was.

But Todd Thorslund, a Vice President of ICF-Clement, an environmental consulting firm that used the Nazi data in preparing the draft study under contract with the EPA, staunchly defended the accuracy of the Nazi data. He observed that the poor health of the prisoners was not an important factor for consideration because the EPA was concerned about the health of sensitive populations, and that using the Nazi data would provide a conservative model. Also, the lack of information about the prisoner's sex and weight was similarly irrelevant because phosgene is so toxic that it is the dose in the air that make the difference.¹⁹

The Nazi phosgene data could have saved the lives of the residents who live near the manufacturing plant. It had the potential to save the lives of our American Troops stationed in the Persian Gulf, in the event of a chemical attack by Saddam Hussein. People's lives were severely threatened. Should the EPA have used the Nazi data or ignore it?

This issue touched off a fierce debate among agency scientists concerning the propriety of using data originally acquired by the Nazis. Upon learning of the draft study's references to the Nazi data, former EPA Chief Administrator Lee Thomas decided that the agency should not use the data. Thomas' decision came after he received a letter signed by twenty-two EPA scientists protesting the use of the Nazi data.²⁰

Thomas considered the use of the Nazi data to be at the very least "stupid" because it would open the EPA to criticism. Similar information could have been taken from other sources, like animal experiments and medical records of workers accidentally exposed to the gas.

To date, it is unclear whether the Nazi human data would have predicted a different dose-response effect compared to the animal research. Furthermore, it is equally unclear how EPA Chief Thomas could continue to allow the manufacture of the gas, thereby putting the residents at risk, without a complete and thorough analysis on the effects of the gas on humans. Thomas' decision seemed unfair to those who are currently being exposed to the gas. They would not appreciate the fact that the applicable data existed, but was not consulted.

Thomas' knee-jerk reaction to the prospects of the Nazi data's use is typical, but unprofessional, especially when human lives are at stake. The Nazi data could be critical to saving known victim's lives. If anything, Thomas' decision to reject using the Nazi data when human lives are in serious jeopardy was at the very least "stupid."

d. THE TWO BRAINS OF THE VOGT COLLECTION

The past three case examples demonstrate scenarios where Nazi data could be critical to saving victims' lives today. The brains of the Vogt Collection offer no immediate benefit to any ailing victims. The brains were not collected for transplant purposes, but for research and study. The potential to save lives from use of the study of the brains seems as tenuous as the Nazi data.

At the 1986 meeting of the American College of Neuropsychopharmacology, Doctor Berhard Bogerts presented his findings on schizophrenic brains based on the experiments of the Brain Collection at the Vogt Institute of the Brain Research in Dusseldorf, West Germany. Normal and schizophrenic brains were collected by the Vogts between the years 1928 and 1953.²¹

Bogerts indicated the year of each subject's death, and noted that two of the patients died during the dark Nazi era. It turned out that these two patients, Ernst and Klaus, were twin brothers who died after their transfer to the Wittenau Medical facility. Bogerts discovered that Ernst and Klaus may very well have been murdered through malnutrition and neglect by the Nazi doctors at Wittenau. Indeed, the use of twins in experiments and the mass murders of psychiatric patients during the Nazi regime were common. Bogerts raised obvious suspicions as to the brains' origins.

Two doctors from the Clinical Neurogenetics Department of the National Institute of Mental Health responded to the Vogt Brain controversy by warning Bogerts that moral and ethical shadows would be cast on the entire medical profession should the brains be accepted without a thorough inquiry and investigation into their origins. Until such investigation, the doctors suggested that Bogerts exclude the two specimens from his research.²²

They further recommended that medical curators, generally, investigate every specimen obtained during the Nazi years, and that any specimen that may have resulted from Nazi murder or torture be removed from the collection. Such a review would support the integrity of the collection. In the absence of such a review, the presence of the suspicious brains would render the entire collection questionable. This would invariably detract from the credibility of the medical profession.

The doctors' response was reassuring for many reasons. First and foremost, it showed that there are still members of the medical profession who place professional integrity above their personal ambitions. Second, their response echoed the basic premise of our analysis, that when the medical crisis is real and the benefit to society is great, the data should be used. When the medical problem is not pressing (schizophrenic brain research) and the benefit to society is relatively marginal, the need to preserve the integrity of the medical profession and the victims' memory outweighs the potential benefit to society.

5. ANALYSIS

a. IF THE EXPERIMENTS WERE CONDUCTED IN AN UNETHICAL MANNER, CAN THE RESULTS BE CONSIDERED SCIENTIFICALLY RELIABLE?

In recent years, there has been a sharp debate regarding the scientific validity of the experiments and whether data gathered from lethal experiments on unwilling subjects could be used in any way by the scientific community. To begin the analysis, one must address the Nazi experiments' scientific validity, and the medical competence of the experimenters.

i. Scientific Validity

Nazi Concentration Camp science is often branded as bad science. First, it is doubtful that physiological responses of the tortured and maimed victims represented the responses of the people for whom the experiments were meant to benefit. Second, additional doubts about the scientific integrity of the experiments surface when we consider the Nazi doctors' political aspirations and their enthusiasm for medical conclusions that proved Nazi racial theory. Finally, the fact that the Nazi experiments were not officially published nor replicated raises doubts about the data's scientific accuracy.

Doctor Jay Katz of the Yale University School of Law, who emphatically opposed the re-use of the Nazi data, suggests nonetheless that the experiments be republished in full detail so that no one may deny that they occurred. He would then condemn the data to oblivion. Dr. Katz dismissed the Nazi experiments with one phrase: "They're of no scientific value."²³

Katz's opinion brings to mind the words of Brigadier General Telford Taylor, Chief Counsel for the prosecution at Nuremberg, when he argued that the Nazi experiments were insufficient and unscientific, "a ghostly failure as well as a hideous crime . . . Those experiments revealed nothing which civilized medicine can use."²⁴ Arnold Relman, editor of the New England Journal of Medicine, similarly stated that the Nazi experiments were such a "gross violation of human standards that they are not to be trusted at all."

Doctor Leonard Hoenig, Assistant Professor of Medicine at the University of South Florida College of Medicine, categorized the Nazi experiments as "pseudo-science," since the Nazis blurred the distinction between science and sadism. The data was not recorded from scientific hypothesis and research, but rather, it was inspired and administered through racial ideologies of genocide. Doctor Hoenig maintained that nothing scientific could have resulted from sadism.

Allen Buchanan, Philosophy Professor at the University of Arizona, is also a member of the Human Subjects Review Committee at the University of Minnesota. He believes that bad ethics and bad science are inextricably linked together. He found that the human experiments that were ethically sound were also scientifically sound. Therefore, he concluded that since the Nazi experiments were unethical, they were, by equation, scientifically invalid.

Doctor Leo Alexander, a Major in the United States Army Medical Corps, and the psychiatric consultant to the Secretary of War and to the Chief Counsel for War Crimes at the Nuremberg Doctors' Trial, wrote a report evaluating the Nazi hypothermia experiments at Dachau. Reading his synopsis was as chilling as the subject at hand. Doctor Alexander was somewhat ambiguous as to the Nazi data's validity. On one hand, he stated that Doctor Rascher's hypothermia experiments "satisfied all of the criteria of accurate and objective observation and interpretation." He later concluded that parts of the Nazi data on hypothermia were not dependable because of inconsistencies found in Rascher's lab notes. According to Rascher's official report to Himmler, it took from 53 to 100 minutes to kill the frozen

prisoners. Alexander's inspection of Rascher's personal lab record revealed that it actually took from 80 minutes to five or six hours to kill the subjects.

Historians have suggested several reasons for Rascher's inconsistent hypothermia data. The most revealing theory was that Rascher was under strict orders, by Himmler himself, to produce hypothermia results, or else. Apparently, Rascher dressed up his findings to forestall confrontations with Himmler. Shortly before the German surrender, Himmler discovered Rascher's lies, and had Rascher and his wife (Himmler's mistress) murdered because of Rascher's deceptions.²⁵

The experts agree that the Nazi experiments lacked scientific integrity. The Nazis even perverted scientific terminology. Their experimental "control subjects" suffered the most and died. "Sample size" meant truck loads of Jews. "Significance" was an indication of misery, and "response rate" was a measure of torment. Behind the niceties of their learned discourse were the horrors of Nazi torture. Some have suggested against terming them "experiments," since they were really brutal beatings and mugging.

ii. Scientific Competence of the Nazi Doctors

The debate over the scientific validity of the Nazi experiments must include the scientific and medical competence of the Nazi doctors. Our general impression of a Nazi doctor conjures up an image of a deranged madman working in an isolated dungeon. In certain instances, the Dr. Frankenstein stereotype is an accurate one.

For example, consider Dr. Otto Prokop's critique of Doctor Heissmeyer and of his tuberculosis experiments. Dr. Prokop was Germany's Forensic authority, and his criticism illustrated Heissmeyer's limited medical competence:

"One characteristic feature of Heissmeyer's experiment is his extraordinary lack of concern, add this to his gross and total ignorance in the field of immunology, in particular bacteriology. He did not then, nor does he now, possess the necessary expertise demanded in a specialist TB diseases . . . He does not own any modern bacteriology textbook. He is also not familiar with the various work methods of bacteriology . . . According to his own admission, Heissmeyer was not concerned about curing the prisoners who were put at his disposal. Nor did he believe that his experiments would produce therapeutic results, and he actually counted on there being detrimental, indeed fatal, outcomes to the prisoners."²⁶

Author William Shirer reported that Nazi medical incompetence was not limited to a few isolated instances. Shirer felt that the Nazi Doctors were generally murderous "quacks," and were people of the "lowest medical standard."²⁷

Shirer's image of the Nazi Doctors as irrational psychopathic butchers, on the fringes of professional medicine, failed to appreciate that these doctors were actually among the top professionals in their fields. Their experimental results were presented in scientific journals and in prestigious conferences and academies. The following examples will serve to demonstrate the Nazi doctors' scientific and medical competence.

(1) At three conferences in the Fall of 1942, results of Rascher's hypothermia experiments, titled "The Medical Questions in Marine & Winter Emergencies," were presented to several hundred doctors including leading authorities and hospital directors.²⁸

(2) In May, 1943, the Military Medical Academy in Berlin was "honored" by sponsoring Nazi Doctors Karl Gebhart and Fritz Fischer on the effectiveness of the new drugs produced by the Bayer Pharmaceutical Group of the IG Farben Industry.²⁹ The two doctors reported the findings of SS Captain Doctor Helmuth Vetter's research conducted on 200 female prisoners of Auschwitz. The Doctors boasted as to how Vetter injected the women's lungs with gas/bacilli and streptococcus, and cause them to die from pulmonary edema. Their presentation was hosted at the Ravensbrueck Concentration Camp, which published and distributed their findings to the German Health Care Profession.

(3) Even Mengele (known as the Angel of Death) once boasted a respectable professional career. An article pertaining to Doctor Joseph Mengele's work at the Institute of Heredity & Racial Hygiene of the University of Frankfurt was listed in the 1938 edition of the prestigious Index Medicus.³⁰ Mengele's earlier work in oral embryology and in the developmental anomalies of cleft palate and harelip have been cited in several texts and articles on the subject. Additionally, in recognition of Mengele's work with his mentor Von Verschuer, the German Research Society provided a generous financial grant to Mengele, enabling him to continue his work on the study of inmates with eyes of different colors.

iii. **The Irrelevance of the Argument**

Ultimately, the arguments as to whether the experiments were scientific or not, or whether the doctors were medically competent or not, leaves one with the impression that had such experiments been "good" science and the doctors medical professionals, these facts would somehow change our impression of the doctors and their experiments. This is not true. The sadistic evil of the Nazi butchery is in no way lessened by its scientific value. Conferring medical or scientific validity on the Nazi murderers is not an option for consideration.

b. **BENEFITS TO SOCIETY**

Despite the arguments that the Nazi experiments were unscientific, the data does exist. Although the data is morally tainted and soaked with the blood of its victims, one cannot escape confronting the dreaded possibility that perhaps the doctors at Dachau actually learned something that today could help save lives or "benefit" society.

Author Kristine Moe suggested that by using the hypothermia experimental data, "good" would be derived from the evil:

"Nor, however, should we let the inhumanity of such experiments blind us to the possibility that some "good" may be salvaged from the ashes."³¹

What kind of "good" could be salvaged from the victims' ashes? What societal benefit, if any, could be so compelling to justify using the Nazi data? Arguably, when the wickedness of the experiment has been very great, then only a colossally important objective can justify its use. Those that wish to use the data have to satisfy the burden of proof, which becomes greater in proportion to the wickedness of the experiment.

It is easy to see the futility of advocating the data's use when the intended benefit to society is trivial and moderate. Conversely, if the intended benefit is to save lives, most would agree that the data should be used.

i. Using the Data to Save Lives - Transplanting a Murdered Heart

Consider the following hypothetical: suppose that a recipient and likely donor have been selected for a heart transplant operation. Usually, a donor is chosen among accident victims, close to death. Immediately after death, a donor's heart must be quickly removed because his heart must still be alive or at least capable of living again to save the recipient's life. Prior to death, a donor is in the halachic category of a terminally ill patient, and one must be very careful not to do anything that might hasten his death.

Given, then, that A is the donor, and that B is the worthy recipient, it would certainly be unethical to remove A's heart while he is still alive (thereby killing him) with the intent to transplant it into B's body. B's blood is not redder than A's, and both A and B deserve an equal chance to live. But what if a doctor disobeyed our warning, and removed A's heart anyway? Can he transplant A's murdered heart to save B's life? B still needs a new heart or he will die. The moral problem is: what do we do with A's murdered heart? Do we throw it away because it was immorally obtained? If so, must the needy recipient (B) suffer and die because of A's unfortunate death? If so, is it ethical to have B's death on our conscience? And what of the doctor? Suppose he transplanted A's murdered heart into B. Would the doctor be considered A's murderer or B's hero? Could he be both? Would B's renewed life suffer because of A's death?

This hypothetical provides us with the perfect scenario in which life can actually emerge from death, and good can emerge from evil. Medical statistics predict that a transplanted heart could increase the recipient's chances of living by up to 80%. The potential to save the recipient's life is almost guaranteed. The murdered heart (although tainted) *must* be transplanted to save the recipient's life. Withholding the murdered heart from the worthy recipient would be tantamount to murder. Our underlying rationale in using the heart is to focus prospectively on the present medical crisis. The recipient desperately needs a transplanted heart, or else he dies. This murdered heart will save his life.

Does the Nazi data share that same definite guarantee for saving human lives as does an available organ to a needy recipient? If it does, then one could theoretically agree that it should most definitely be used. Perhaps justice would ultimately be served if we were to allow life to emerge from the Nazi murders. Although the data's untested potential to save lives seems to be a bit more tenuous than that of the healthy heart, the potential to save a life might still be present. Therefore, the data should be used when lives are at stake.

ii. Does the Analysis End When Lives Are at Stake or Is There a Higher Ethical Concern?

For Jews, there are times when saving a life is not the ultimate good to be achieved. While it is true that saving a life overrides all other commandments, a Jew is commanded to sacrifice his life rather than transgress the three cardinal sins (idolatry, murder, and sexual immorality).³² In fact, if one had the opportunity to save a life through the use of idolatry, he would be forbidden to do so.³³

The Babylonian Talmud relates the incredible story of the late King of Israel, Hezekiah, to instruct us that a life might not be worth preserving, if that person's future plans with that life are repulsive to God.

There was a publication in existence titled, "*Sefer Harefuah*" (Heb. "The Book of Cures"). Many famous Rabbis ascribe the authorship to King Solomon. Maimonides states that the book contained remedies based on astrological phenomena and magical incantations, and prescriptions for the preparation of poisons and their antidotes. King Hezekiah hid the Book of Cures because people were cured so quickly and effortlessly that illness failed to promote a feeling of contrition, humility and recognition that God is the true healer of the sick. Furthermore, corrupt people used this information to kill their enemies by poisoning them.³⁴

What wouldn't doctors give to have Hezekiah's Book of Cures? King Hezekiah certainly knew of the Book's definite potential to save lives, especially his own.³⁵ He certainly understood the infinite value of life. Yet, he condemned the Book to oblivion and the Sages of Israel agreed with his decision. Hezekiah concluded that the lives that would have been saved, but for the idolatrous use of the book, were not worth preserving. They were better off dead than living under the destructive influence of idolatry.

Perhaps the same conclusion could be made with regard to the Nazi data? Perhaps certain illnesses were not meant to be cured, if the victim's cure was to be found through tampering with the results of wholesale slaughter and torture? Perhaps the modern-day frozen hypothermia victims that were unsuccessfully rewarmed by normal conventional methods were just not meant to survive? Such an important conclusion could only be made by a completely righteous individual such as King Hezekiah. Without such authority, the Book of Cures cannot be analogized to the Nazi data, and one would have to use the information to save lives.

It is the grey areas between life-shattering and mundane benefits that continue to puzzle experts. Would the benefits of saving a life be the only acceptable scenario to justify the data's use? Would benefits to the legal profession justify its use? Would the Supreme Court be justified in using Dr. Clauberg's findings on the development of the human fetus in determining the Roe v. Wade abortion decision? Would the court's opinion to use Nazi data benefit or harm the legal society?

c. **HALACHIC PRECEDENT FOR USING TAINTED DATA**

Historically, one can trace the treatment of this dilemma back to the Babylonian Talmud. The Babylonian Talmud was the written edition of the Oral Law (believed to have been transmitted by God to Moses on Mount Sinai, and was later transcribed to prevent its being forgotten). The Talmud originally explored the issue of human experiments. Let us look, then, at some Talmudic examples:

i. **Cleopatra's Experiments on Embryo Formation**

The Babylonian Talmud in Niddah (30b) relates the legal controversy between Rabbi Ishmael and the Rabbis concerning the amount of time it took a male and female embryo to formulate. R. Ishmael referred to Cleopatra's experimental data to prove his theory that a male fetus takes 40 days to fashion fully and a female fetus takes 80 days.

When Cleopatra's handmaids were sentenced to death under government order, she subjected them to insemination and subsequent operations. Upon opening their wombs, Cleopatra discovered that the male embryos were fully fashioned on the 41st day after conception and the female embryos were fully fashioned on the 81st day.

The Talmud questioned the scientific accuracy of Cleopatra's experiment. Assurances were made that the experiments were conducted and recorded in an accurate manner, because prior to the handmaid's insemination, they were forced to swallow a destructive serum designed to obliterate and scatter any existing semen in their wombs. This abortive precaution served as a guarantee against prior inseminations and embryo formations before the experiments began. Furthermore, a warden was appointed to carefully monitor the girls, to prevent them from being inseminated before the commencement of Cleopatra's experiment.

In attempting to discredit Cleopatra's experiment and results, the Rabbis argued that: "no one adduces proof from fools." This seems to mean that one should not trust the results of a murderous "quack" on the fringes of professional medicine. The Talmudic passage concluded in favor of Rabbi Ishmael's original premise, that boys formulate in 40 days and girls formulate in 80 days. However, no comment was made as to the propriety of quoting and relying on Cleopatra's unethical research. We are left to speculate.

ii. Rabbi Ishmael's Students Experiment on a Human

The Babylonian Talmud in Bechorot (45) related that the students of Rabbi Ishmael dissected the body of a prostitute who had been condemned to be burnt by the King. They examined her body and found a total of 252 joints and limbs. The students returned to R. Ishmael (who claimed that the human body contains 248 joints and limbs and told him of their experiment and conclusion, and challenged him for an explanation of the 6 limb discrepancy, which he provided.

R. Ishmael offered no comment as to the propriety of his student's experiment. Again, we are left to speculate.

iii. Rabbi Gamliel's Test to Determine Virginity

The Babylonian Talmud in Ketuboth (10b) related that a Groom came before Rabbi Gamliel stating that he had sexual intercourse with his newly-wedded bride, and did not find any traces of virginal blood (thereby accusing his bride of not being a virgin). R. Gamliel asked his attendant to bring to the court one virgin and one girl that was no longer a virgin. He had each girl sit on top of an open barrel of wine. When the girl who was not a virgin sat on the barrel, the smell of the wine was noticeable from her mouth. When the virgin sat on the barrel, the smell of the wine did not go through her body and did not emerge from her mouth.

R. Gamliel placed the bride in question on the barrel and the smell of wine was not noticeable from her mouth. R. Gamliel assured the Groom that his experiment conclusively proved that the bride was a virgin.

R. Gamliel was questioned for experimenting on the two handmaids. Perhaps he should have examined the bride from the very beginning. He answered that he had heard a tradition that the wine barrel experiment was a reliable test, but that he had never seen it done in practice. He felt that it would have been improper to test the effectiveness of the wine barrel experiment on a Jewish woman, so he experimented with the handmaid. Again, we are left to speculate.

It has been asserted that the Talmud's silence as to the propriety of quoting and relying on the data from the above-mentioned experiments suggests that the Talmud had no moral qualms

about using the data for the advancement of legal, medicinal and factual determinations. Some Talmudic experts have held that the Talmud's silence regarding the propriety of quoting these experiments shows that the Rabbis were only concerned with: the issue of embryo development, the number of limbs in a body, the determination of a woman's virginity, and not sufficiently concerned with the propriety of the experiment at that time to merit a comment. That is not to say that the Rabbis were not concerned at all about it. It just means that there were more pressing concerns that merited their comments on that day. It is therefore unclear whether the Talmud's use of these experiments justifies use of the Nazi data.

If the Nazi data could be used to benefit society it remains questionable whether it can be derived by analogy from the Talmudic account of these three experiments.

iv. **Rabbi Moshe Feinstein's Responsa**

In *Igres Moshe, Even Haezer*, Rabbi Moshe Feinstein ("Reb Moshe") was asked whether one can listen and give credit to the songs composed by a heretic (apikorus). In response, Reb Moshe distinguished between holy and non-holy matters. He held that holy objects such as Torah scrolls, Tfillin, and Mezuzos, etc., that were prepared by an apikorus cannot be used. The moral character and level of religious observance of the scribe is very relevant to the holy object's subsequent use (perhaps because of the many fundamental religious laws and prayers that are incorporated in the final product).

Songs, however, are devoid of any holiness and therefore can be listened to and enjoyed in lieu of its composer's beliefs. While it is not advisable to listen to the words of a wicked person, there is no halachic sanction against it. Reb Moshe compared the non-holiness of songs to other mundane objects such as machines, inventions *and medicines*. In such cases the religiosity and moral fiber of the composer, mechanic, inventor and scientist is completely irrelevant to the object's subsequent use. People have no religious expectations, nor do they seek any religious fulfillment from inanimate objects. Therefore, Reb Moshe allows their use, even though they were created by wicked men.

Therefore, there is a potential halachic basis to permit the use of: the German Mercedes Benz and Volkswagen automobiles, the "Dachau" rewarming techniques, the "Clauberg" fertility treatment, the "Heissmeyer" tuberculosis treatment, and even the "Mengele" data on genetics. Halachically, the data could be used in lieu of its abominable origins.

6. POLICY CONSIDERATIONS REGARDING THE SCIENTIFIC USE OF MORALLY TAINTED DATA

a. ABSOLUTE CENSORSHIP AND ITS DETERRENT EFFECT

One might argue that since footnotes are among the few rewards scientists get for their research and that citation or use of the Nazi data would constitute a scientific recognition of the Nazi doctors, sanctions against the citation of Nazi data would deter the doctors from abusive practices.³⁶

However, the individual deterrent effect of non-citation would at best be minimal, because the Nazi doctors who performed the experiments are either dead or are presumably too old to be practicing medicine. They cannot be deterred.

Perhaps the deterrent effect of non-citation would apply to other would-be-Mengeles of the world who are contemplating the re-creation of the Nazi experiments, or publishing their own collection of the Nazi medical horrors. Recall that King Hezekiah hid the Book of Cures to deter corrupt individuals from using the data to kill their enemies by poisoning.

It is still unclear whether the threat of non-citation would serve to deter future use of the data. Insofar as a scientist is motivated by the advancement of science and medicine, or of his own career, the threat of non-citation might have some deterrent effect regarding his future unethical research. But in the situations where experiments are performed because the scientist is being paid or ordered to administer them, the threat of non-citation will not deter them.

b. THE BEST OF BOTH WORLDS

Others argue that should scientists use the Nazi data, it would constitute some sort of ceremony of respect or scientific acceptability of the Nazi doctors, and of disrespect towards the victims' memory. But would use of the Nazi data necessarily imply both results? Perhaps a compromise position exists. It has been suggested that scientists be allowed to make full use of the Nazi data (to benefit medicine) and simultaneously denounce and condemn the Nazi doctors and their experiments (thereby preserving the victims' memory).³⁷ This compromise solution would serve to give those plagued by the dilemma the "best of both worlds."

Despite its attractions, this compromise seems to carry with it more than a touch of moral hypocrisy. When the medical profession uses Nazi data, or when a court of law uses tainted evidence, legitimacy is indirectly conferred upon the manner by which the data/evidence was acquired. The policy guidelines deploring the means used in acquiring the tainted evidence would be undercut by the mere fact of its use. This would not result in the best of both worlds.

c. BEECHER'S ANALOGY - THE EXCLUSIONARY RULE

Similarly, Dr. Henry Beecher, the late Harvard Medical School Professor, analogized the use of the Nazi data to the inadmissibility of unconstitutionally obtained evidence.³⁸ Dr. Beecher said that even though suppression of the data would constitute a loss to medicine in a specific localized sense:

*"this loss, it seems, would be less important than the far reaching moral loss to medicine if the data were to be published."*³⁹

Beecher's analogy is to be given serious consideration. Although use of the Nazi data might benefit some lives, a larger bioethical problem arises. By conferring a scientific martyrdom on the victims, it would tend to make them our retrospective guinea pigs, and we, their retrospective torturers.

d. SCIENTISTS NEED TO BE SENSITIVE TO THE VICTIMS' SUFFERING

As indicated earlier, one would squirm at the unpleasant thought of bathing with a bar of human soap from Auschwitz. Assume for argument's sake that one bathed with the soap and actually knew of its ugly origin. One's initial suspicion would be that the bather probably approved of the Nazi atrocity by mere virtue of the fact that he used the soap in his shower.

But suppose the bather clearly condemned the Nazi evil, and rationalized his actions in the following way: that this use of the Auschwitz bar of human soap did not harm the dead Jews nor did it reward the dead Nazis. It will not encourage further acts of Nazism, and in fact, the bather is convinced that the soap's use has no moral relevance for the future. Instead, the Auschwitz bar of soap is a perfectly good bar of soap for cleaning his body, so that there would not be any reason why he should not be allowed to use it. The bather's argument seems logically sound; however, something seems terribly wrong with his conscience. To say the least, he is insensitive and has extremely poor taste.

Ethical scientists and doctors cannot isolate the human agony from the bar of soap. In fact, it is repugnant to any civilized individual. No one will question the fact that the bather's skin was cleansed by the soap. However, it was the bather's conscience that was severely tarnished. This is not an acceptable ethic for our doctors. The medical profession should strive to maintain its integrity and the confidence of the public. It should not operate with tarnished reputations.

7. CONCLUSION

a. PROPOSED GUIDELINES IN USING THE NAZI DATA

Absolute censorship of the Nazi data does not seem proper, especially when the secrets of saving lives may lie solely in its contents. Society must decide on its use by correctly understanding the exact benefits to be gained. When the value of the Nazi data is of great value to humanity, then the morally appropriate policy would be to utilize the data, while explicitly condemning the atrocities. But the data should not be used just with a single disclaimer. To further justify its use, the scientific validity of the experiment must be clear; there must be no other alternative source from which to gain that information, and the capacity to save lives must be evident.

Once a decision to use the data has been made, experts suggest that it must not be included as ordinary scientific research, just to be cited and placed in a medical journal. I agree with author Robert J. Lifton who suggested that citation of the data must contain a thorough expose' of exactly what tortures and atrocities were committed for that experiment. Citations of the Nazi data must be accompanied with the author's condemnation of the data as a lesson in horror and as a moral aberration in medical science. The author who chooses to use the Nazi data must be prepared to expose the Nazi doctors' immoral experiments as medical evil, never to be repeated.

b. ERASING THE PAST: EUROPE'S AMNESIA ABOUT THE HOLOCAUST

More than 40 years have passed since Nuremberg. Despite the preservation of Auschwitz's barracks, railway tracks, barbed wire fences, and crematorium, there is a growing feeling that all remaining traces of the Nazis should not be obliterated. A widespread desire exists to suppress the nightmares of the Holocaust.⁴⁰

Within West Germany itself, there has been a disturbing climate of professional denial by its scientific medical community. The European medical profession's reluctant condemnation of the Nazi doctors and their experiments suggests that perhaps the horrors of Dachau and Auschwitz did not die on the gallows at Nuremberg, but continue to live to this very day.

Europe's embarrassing amnesia of the Nazi atrocities enabled the unrepentant Clauberg (upon his release from a Russian jail), to list on his professional business card his position at Auschwitz. Upon returning to West Germany, he held a press conference and boasted of his scientific work at Auschwitz. After survivor groups protested, Clauberg was finally arrested in 1955; however the German Chamber of Medicine refused to divest Clauberg of his license to practice medicine.

After the war, West Germany allowed Doctor Baron Otmar Von Verschuer to continue his professional career. Doctor Von Verschuer was the mentor, inspiration and sponsor of Mengele. After he executed his victims, Mengele would personally remove the victims' eyes, while they were still warm, and ship them to Von Verschuer to analyze.

Germany's efforts to erase its Nazi-medical past is most recently illustrated by the controversy surrounding a West German doctor, Harmut M. Hanauske-Abel. Dr. Hanauske-Abel wrote an honest expose on the German health industry's apathy and complicity during World War II. His expose was so unpopular in Germany that Dr. Hanauske-Abel was subsequently fired from his hospital position and lost his license to practice medicine in Germany. The same German Chamber of Medicine that staunchly upheld Von Verschuer's medical license rigorously canceled Hanauske-Abel's license. Today he is a clinician and research scientist at Boston Children's Hospital while his appeal for reinstatement awaits a review in the Supreme Court of Germany.⁴¹

The most shocking and appalling example of the non-repentant Germany was recently discovered by a West German television network (the "ARD") which broadcasted claims that tissue samples and skeletons from the corpses of victims of the Holocaust were being used for teaching purposes at the Tübingen and Heidelberg Medical Schools in West Germany.

The anatomy institute at Tübingen alone received 1,077 bodies from the execution site in Stuttgart between 1933 and 1945. Tübingen officials said that "had been lulled into a false sense of security" and believed that all remaining body parts from Nazi victims had been disposed of in a dignified manner.

Officials at Tübingen found four slides that had been prepared from two corpses of Nazi victims who were executed for political reasons. One was a woman of Polish extraction, the other a man presumed to be German. In Heidelberg, three slides (out of about 1,500 in the collection) were found dating back to 1941 and 1943. The names of the people from whose corpses they were taken were not listed on the slides, but the indication 'decapitatus' indicates that the people may have been victims of Nazi persecution.

The specimens were ultimately removed from the West German medical schools, buried in the State of Israel, and given appropriate commemorations, primarily due to the effective lobbying and negotiations of Doctor William Seideman of Ontario and Doctor Arthur Caplan of Minnesota.

Europe's collective memory is about to become history. Especially since most of the witnesses have died, and the Nazi saga becomes subject to greater distortions and reinterpretation. It is therefore incumbent on our society to confront the collective sets of conflicting memories *now*, before the events of this era and its implications fade.

8. **EPILOGUE**

a. **A FINAL WORD ABOUT THE VICTIM'S MEMORY**

It would only be appropriate to comment on the victims of the Nazi experiments. Would the victims have approved of our analysis and conclusions? Would they be consoled to learn that their deaths produced life, or would they be mortified to know that their suffering is being exploited by others?

The question is, unfortunately, an academic one, since the dead no longer have anyone to represent them. Several experts professed to speak on their behalf.

Efraim Zuroff, the Israeli Representative of the Simon Wiesenthal Center in Los Angeles, suggested that if Pozos, Hayward, Bogerts, the EPA and other researchers dedicated their research to the memory of the 6,000,000 Jewish victims of the Nazis, it would serve as a "nice" way of reminding people about the horrible experiments.⁴²

Others have suggested that the use of the data would serve as a lesson to the world, that the victims did not die futilely, and that a post mortem use of the data would retroactively give "purpose" to their otherwise meaningless deaths.

Doctor Howard Spiro, of the Department of Internal Medicine at Yale University, insists that no one honors the memory of the dead victims by learning from experiments carried out on them. Instead, we make the Nazis our retroactive partners in the victims' torture and death.⁴³

Lord Immanuel Jakobovits, Chief Rabbi of the British Commonwealth of Nations and the pioneer of Jewish Medical Ethics, said that using the Nazi data offers not a shred of meaning to the 6,000,000 deaths. In fact, use of the data would serve to dishonor them even more so.⁴⁴

One would hope that our society need not look to the Nazi data to find "purpose" in the victims' deaths. From the victims' ashes came moving testimonials of faith in God and man: of a Jewish mother being marched to her death, demanding a knife from a Nazi soldier with which to circumcise her newborn infant, that he might die a Jew; a non-believer dying a martyr's death on Yom Kippur for the sake of Jewish honor; Jews singing "*Ani Maamin*" (I believe) as they were being led to the gas chambers. These and many other acts of spiritual heroism remain the definitive legacy of genuine expressions of "*Kiddush Hashem*" (sanctification of God's name). Use of the Nazi data adds nothing to the victims' everlasting memory. Their beautiful legacy remains undimmed and undiminished.

Notes

1. Baruch C. Cohen's practice includes all aspects of creditors' and debtors' rights, corporate reorganizations, personal bankruptcies, and all types of bankruptcy litigation in state, federal and bankruptcy courts. Mr. Cohen is admitted to practice before all California state courts, the United States Court of Appeals - Ninth Judicial Circuit, the Bankruptcy Appellate Panel, the United States District Courts for the Central, Eastern, Northern and Southern Districts of California.
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9. R.J. Lifton, *Medicalized Killing in Auschwitz*, Psychiatry, 1982, Volume 45 pp. 283-297
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11. Pozos' Dilemma, CBS Radio Network, "Newsmark," Bill Lynch Reporting, June 17, 1988
12. L. Alexander, *The Treatment of Shock from Prolonged Exposure to Cold, Especially in Water*, Combined Intelligence Objectives Subcommittee, Item No. 24, File No. XXVI-37, pp 1-228, July, 1945
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17. J. Vandenberg, *Interim Phosgene Exposure & Risk Analysis*, Memorandum of the EPA, November 5, 1987
18. P. Shabecoff, *Head of the EPA Bars Nazi Data in Study on Gas*, New York Times, Wednesday, March 23, 1988
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21. The Brains of the Vogt Collection, Archives of General Psychiatry, August, 1988
22. Letter to the Editor, Elliot Gershon, MD & Margaret Hoehe, MD, Archives of General Psychology, Volume 45, No. 8
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25. W.E. Seidelman, *Mengele Medicus: Medicine's Nazi Heritage*, The Milbank Quarterly, Volume 66, number 2, 1988
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28. A. Mitscherlich & F. Mielke, *The Death Doctors, Doctors of Infamy*, London, Elek Books, 1962

29. R. Proctor, *Racial Hygiene: Medicine Under the Nazis*, Harvard University Press, 1988, p 221
30. J. Mengele, *Rassenmorphologische Untersuchung des Vorderen Unterkieferabschnittes bei vier rassischen Gruppen*, *Morphologisches Jahrbuch* 79:60-117
31. Oftentimes, good is not supposed to emerge from bad. The Book of Samuel (15:1) related the episode in which God commissioned King Saul to destroy the Amalekite nation, their King, Agag, and all of their property. Saul violated God's command and spared the best of the Amalekite sheep. The Prophet Samuel rebuked Saul and informed him of God's decision to reject Saul as King of Israel. Saul defended his actions by re-emphasizing that he spared the Amalekite sheep in order to sacrifice it upon the altar of God. Samuel countered: "Does the Lord find delight in burnt offerings and sacrifices, as he does in obedience to his word? Behold, to obey is better than sacrifice, and to hearken better than the fat of rams." God's message was clear. Not even the King of Israel had the right to select the good from the evil of Amalekite. How much more so then from the evil of Nazism.
32. Babylonian Talmud, *Tractate Sanhedrin*, (74a)
33. Babylonian Talmud, *Tractate Sanhedrin*, (74a)
34. Babylonian Talmud, *Tractate Pesachim*, (56a)
35. King Hezekiah was afflicted with a deadly illness (leprosy) as punishment for remaining unmarried; Babylonian Talmud, *Tractate Semachot*, (47a).
36. R. Martin, *Using Nazi Scientific Data*, *Dialogue XXV* (1986) 403-411
37. A. Schafer, *Using Nazi Data: The Case Against*, *Dialogue XXV* (1986) 413-419
38. The Exclusionary Rule in its pristine form stood for the proposition that evidence acquired by the police as a result of torture would be excluded from presentation at trial, no matter how critical to the case it may be.
39. H.K. Beecher, *Ethics & Clinical Research*, *New England Journal of Medicine*, June 16, 1966, pp 1354-1360
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41. H.M. Hanauski-Abel, *From Nazi Holocaust to Nuclear Holocaust: A Lesson to Learn?* *The Lancet*, August 2, 1988
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