



Parshas Shoftim 5764

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*May one violate the Shabbos for someone who is ill?*

Since there are many types of illnesses and ailments we must first categorize them and then see whether the Shabbos may be violated for each category.

The first category belongs to the **critically ill**.

This includes a very large range of cases, beginning with the terminally ill (*Hashem Yishmor*) and concluding with injuries of various degrees that are life threatening. The Torah says as follows (*Vayikra* 18:5):  
וּשְׁמַרְתֶּם אֶת חֻקֵּי וְאֶת מִשְׁפָּטֵי אֲשֶׁר יַעֲשֶׂה אֲתָם  
הָאָדָם וְחַי בָּהֶם וְגו'. The *gemora* in *Yumab* 85b learns from this *possuk* that one is not to surrender one's life in face or on account of a mitzvah (unless it involves one of the 3 cardinal sins: idolatry, adultery and murder).<sup>1</sup>

Shabbos is not one of the cardinal sins and therefore Shabbos must not stand in the way of saving a Jewish life.

Accordingly, when faced with the choice of either not violating the Shabbos or saving a person's life, one must save the person's life.

*I understand this when dealing with an injury, assault attack etc. How does this relate to ill people?*

<sup>1</sup> One can understand the *possuk* as follows: *Hashem* commanded us to keep the mitzvos, as this *possuk* states, and one must **live** with these mitzvos – וְחַי בָּהֶם. If keeping one of the *mitzvos* will cause one to forfeit one's life, it will be contrary to the וְחַי בָּהֶם and one must not keep that particular mitzvah.

People lying in the ICU (intensive care unit) are critically ill to the point that their life is in danger. When treating these patients on Shabbos, one must not withhold any treatment that could or might have a positive effect on the patient. Even if the effect of the treatment would only be apparent after Shabbos, if it stabilizes his condition or improves it in any way, it must be done.

*Does it make a difference whether one violates an issur d'oraissa or d'rabanana?*

Not when treating the critically ill.

*May Shabbos be violated in the normal manner for an ill person?*

This is far more problematic, and although we will *be"H* attempt to lay down a few basic rules, one is obliged to learn these *halachos* thoroughly. As a matter of fact the *Shulchan Aruch* says the following:<sup>2</sup>

One who is faced with a life threatening situation has a mitzvah to violate the Shabbos, and whoever is quick in doing so is praiseworthy, and one who asks (a Rav) is like a murderer. The *Yerushalmi* adds<sup>3</sup> and the one who is asked is disgraceful.

The one who asks is like a murderer because if one is afraid to violate the Shabbos, when faced with a life threatening situation, before

<sup>2</sup> *Simon* 328:2.

<sup>3</sup> See *M"B* 6.

asking one's rav whether one is permitted to do certain actions, one will inevitably endanger that person more than necessary and thus bring about his demise. In such circumstances one must not ask any questions.

This does not mean that one is exempt from learning the *halachos* of how to treat an ill person on Shabbos, because if one is able to do it in the correct manner, as we will see that there are many details involved, one is obliged to do so.

The rav who is asked is disgraceful because he should have organized shiurim in *hilchos Shabbos* and thus teach his community the correct manner of action when dealing with *pikuach nefesh* – life threatening situations.<sup>4</sup>

*If everything may be done in a case of a pikuach nefesh, what is there to teach (or ask)?*

There are many details, as we will see. We must differentiate between the treating of patients who require immediate medical attention and others who do not require it immediately, and between direct and indirect treatment.

The *gemora*<sup>5</sup> says the following: *Pikuach nefesh* is not attended to by gentiles or children,<sup>6</sup> rather by the elders of Israel. Who are the “elders of Israel”?

From the *Rambam* we see that he understood it to mean the sages of Israel and not merely the adults, as he used the term גדולי ישראל והחכמים. The *Shulchan Aruch HaRav* 328:13 explains that when the sages attend to *pikuach nefesh* it serves as a lesson as to the correct attitude one is to have when

attending to *pikuach nefesh* and it shows the *halacha l'ma'aseh*.

The *Beis Yosef* understands that it means adults of Israel, i.e. males who are of *bar-mitzvah* age. Accordingly he rearranged the wording of this statement in the *Shulchan Aruch* and wrote ישראל גדולים ובני דעת, Jewish adults and of sound mind.

*Be”H* we will continue with this in the next shiur.

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### Vort on the Parsha

The *halacha* says that False Witnesses who are caught in the act (complying with certain conditions) are meted out the punishment they intended laying upon the person they falsely testified. However, when they falsely testified that an unintentional murder was committed, where the punishment is banishment to an עיר מקלט, the witnesses are not banished to the עיר מקלט, rather they are lashed instead.

The *sefer Ma'alos Hamidos* says that a liar and fraud has no room in society, as it says on the *posuke* (*Tebirim* 101:7) לא ישב בקרב ביתי עושה רמיה - a liar may not dwell in my house. The people living in the עיר מקלט do not want him!

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### Food For Thought

*Should one preferably have a gentile violate the Shabbos for an ill person?*

*Why should a child not be used when possible?*

*Are women different to men when dealing with pikuach nefesh?*

*What about violating the Shabbos b'shinui (in a backhanded manner) when possible?*

Answers coming next week.

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<sup>4</sup> The bottom line is that one must ask one's rav to organize shiurim in *hilchos Shabbos*.

<sup>5</sup> *B'raiso* in *Yumab* 84b.

<sup>6</sup> The version in the *gemora* says not by gentiles or *Kutiyim* and the *Vilna Ga'on* substitutes the word *Kutiyim* with the word **children**.

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**Note:** The purpose of this series is intended solely for the clarification of the topics discussed and not to render halachic decisions. It is intended to heighten everyone's awareness of important practical questions which do arise on this topic. One must consult with a proper halachic authority in order to receive p'sak.