

Mishpatim 5784: Medical Treatment on Shabbat

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מגונה

On Mondays and Wednesdays I teach a course at Stern College, Medical Treatment on Shabbat. Each semester I begin by quoting the following passage from the Talmud Yerushalmi about overriding Shabbat to save lives:¹ “One who is energetic is praiseworthy. One who is consulted is מגונה, disgraceful. And one who asks questions is a shedder of blood.”

It's obvious that one who saves lives energetically deserves praise. And it's true that one who stops to ask questions might unintentionally allow someone to die, Gd forbid. But why is the rabbi who is consulted about whether to override Shabbat considered “disgraceful”? The Mishneh Berurah² explains that rabbis are responsible לדרוש בפרקא, to speak publicly, explaining what to do in the event of health emergencies on Shabbat.

I picked this Shabbat to speak about this because our parshah includes in it the words ורפא ירפא, “and he shall surely heal,” which is the halachic basis for practicing medicine.³

והי בהם

A gemara tells the story of a group of tannaim who were travelling together. Some of the biggest names were present, including Rabbi Akiva, Rabbi Yishmael, Rabbi Elazar ben Azaryah. And a student asked them: I know that we override Shabbat to save a life, but what is the halachic rationale for that?

First Rabbi Yishmael answered, and then each of the tannaim offered a different answer, each apparently unsatisfied with his predecessors, until Rabbi Shimon ben Menasya presented the last argument in the group: “הלל שבת אחת כדי שישמור שבתות הרבה. Override one Shabbat, in the hope that the patient will observe many Shabbatot.” This is basic math: sacrifice one Shabbat, gain many.

Fast forward to the next generation, and an amora, Shemuel, rejected all of the approaches of the tannaim, and put forth a different idea. In Parshat Acharei Mot Hashem instructs, “Guard My statutes and laws, which a person will practice והי בהם – and live by them.” Shemuel comments: ואלא שימות בהם, Live by the mitzvot, and don't die for them.

Rabbi Shimon ben Menasya and Shemuel are both correct. We invoke each of their approaches – “Trade one Shabbat for many Shabbatot,⁴” and “Live by the mitzvot and don't die for them,” in halachah. But the gemara declares that Shemuel's idea, “והי בהם Live by the mitzvot,” is a superior argument.⁵

I think that by choosing Shemuel's approach, this gemara is pointing to a great truth:

- The argument of “Trade one Shabbat for many Shabbatot” doesn't really prioritize human life, it prioritizes Shabbat. It teaches: Your life is valuable because as long as you live you can observe Shabbat, so abandon this Shabbat in order to gain many Shabbatot. That's not the winning argument.
- The winning argument is והי בהם, that Hashem prioritizes human life. Hashem gave us the mitzvot, but Hashem values our lives more.

This is how we know to override Shabbat. More broadly, this is how we know how much Hashem cares about us. The Torah is the blueprint for the universe,⁶ but the Architect drafted the blueprint in order to build us. And that's why we override Shabbat to save lives.

Implementation

¹ Yoma 8:5

² Mishneh Berurah 328:6

³ Bava Kama 85b

⁴ See Shabbat 151b as a concept, Magen Avraham 306:29 re saving ruchniyut and Minchat Asher II 134 on OCD treatment

⁵ The argument of “Trade one Shabbat for many Shabbatot” only teaches me to override Shabbat where I know with certainty that I am saving a life. How do I know to go further and override Shabbat even in a case of doubt, on the chance that I might be saving a life? That only comes from saying, “Live by the mitzvot, and don't risk death for them.”

⁶ Yirmiyahu 33:25, Bereishit Rabbah 1:1

It would be unrealistic to try to squeeze all of the laws of medicine on Shabbat into a derashah. But I want to highlight six points, each one very briefly:

- 1) First: The telephone number for Hatzolah is 718-230-1000
- 2) The next three points relate to sudden emergencies:
 - a. First: If we think someone is in danger, we override Shabbat ourselves, and we don't outsource it to a child or a non-Jew. Even if we have a child or a non-Jew available, we do it ourselves.⁷
 - b. Second: If we aren't sure there is danger, but we think there might be, we override Shabbat.
 - i. Common Example of possible danger: Someone falls down the steps, hits their head, and loses consciousness.
 - ii. Another example: A broken bone, where the bone protrudes from the skin, or it's a longer bone and the two ends are not in line.⁸
 - iii. Rabbi Shlomo Zalman Auerbach gave a simple rule defining what is a danger to life for this purpose: Any situation that most people would desperately avoid as a danger to life,⁹ that's when we override Shabbat.
 - c. Third: If someone needs to go to the hospital, we send someone with them to calm them and to make sure they are looked after.¹⁰ If that person cannot go in the same vehicle as the patient, they should go separately.¹¹
- 3) The fifth point relates to planning in advance, such as when a woman's due date is around Shabbat:
 - a. In halachic terminology, Shabbat is דְּחִיָּה. In practice, that means that when we have the luxury of arranging things beforehand, we plan in a way that reduces any overriding of Shabbat.
 - b. So if someone knows they might need to travel to the hospital on Shabbat, they should prepare their vehicle in advance. This includes:¹²
 - i. Arranging a non-Jewish driver, and if possible, giving all necessary instructions, and arranging any payment, all before Shabbat.
 - ii. If one must use one's own car, then prepare the car in advance -
 1. Make sure the car isn't blocked by other cars
 2. Remove unnecessary items
 3. Place in the car any documents needed for identification or operation of the vehicle
 4. Turn off the radio and A/C. Disable any light bulb that goes on when you open the door, if that wouldn't slow things down when you actually need the car on Shabbat
- 4) Finally: There is a rabbinic prohibition against using medicine on Shabbat, lest one grind ingredients. Even though we don't grind up herbs to make Tylenol today, the decree remains, for reasons beyond the scope of this derashah. However:
 - a. Medicine is 100% allowed for someone whose life is in danger.
 - b. Medicine is 100% allowed for someone who is bedridden due to illness, or whose whole body is in pain. Examples include someone with a flu, migraine, elevated fever, or moderate-to-severe anxiety. This also includes children age 6 and below, and in certain cases it may include older children as well.
 - c. Medicine is also allowed to prevent someone from becoming bedridden or having their whole body in pain; for example, someone who feels a migraine coming on may take medication to prevent it from getting worse.
 - d. Also: If someone starts a course of medicine before Shabbat and pausing it would undermine their treatment, they may continue it on Shabbat.
 - e. Last one may mix medicine into food before Shabbat and consume it on Shabbat.

There is a lot more to say, obviously. I'd be happy to discuss further, and I hope to send a link for this derashah after Shabbat so that people will have this in writing. This is how we fulfill the וְחַי בְּהֵם imperative, because Hashem values our lives even more than Shabbat.

War and וְחַי בְּהֵם

⁷ Orach Chaim 328:12, Taz Orach Chaim 328:5, Mishneh Berurah 328:37, Aruch HaShulchan Orach Chaim 328:7, Nishmat Avraham Orach Chaim 328 Hakdamah (ב) and 328 (39), <https://medicalhalacha.org/2021/01/07/traveling-to-and-from-the-hospital-on-shabbos/>

⁸ <https://medicalhalacha.org/2021/08/16/casting-fractures-on-shabbos/>

⁹ Minchat Shlomo 2-3:37, citing Shu"t Rabbi Akiva Eiger 1:60

¹⁰ Nishmat Avraham Orach Chaim 330 (6), <https://ph.yhb.org.il/en/01-27-08/>

¹¹ Nishmat Avraham ibid.

¹² <https://outorah.org/p/64276/>

One of my students at Stern asked a question in the beginning of the semester: If Halachah values our lives so much, how can a soldier go to war, entering danger? We expect that some chayalim will die – a pain we have experienced repeatedly since Shemini Atzeret!

The Minchat Chinuch¹³ asked that question, as did Rav Kook.¹⁴ The Minchat Chinuch answered that the necessity of war overrides concern for our lives. Rav Kook argued similarly that the needs of the community outweigh the needs of the individual chayal.¹⁵ To word things a little differently: War is a fulfillment of וְחַי בָּהֶם, the community ensuring it will continue to exist.

May we merit to learn the laws of וְחַי בָּהֶם, of saving individual lives on Shabbat. If danger arises, Gd forbid, and we need to implement these laws to save the lives that Hashem values so much, may we do so correctly. And may Klal Yisrael fulfill the communal וְחַי בָּהֶם in this time of war, so that the Jewish people will again be able to live safely, by the mitzvot, in our land.

¹³ Minchat Chinuch 425:3

¹⁴ Mishpat Kohen 143

¹⁵ And see Tzitz Eliezer 12:57