YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**PIKUACH NEFESH**

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**Shiur #04: “Profane for His Sake One Shabbat, So That He May Keep Many *Shabbatot*”**

**I. Introduction**

In the previous *shiur*, we dealt with various sources offered by the Sages to explain from where we derive that *pikuach nefesh* sets aside the laws of Shabbat. As we saw, the Gemara (*Yoma* 85b) establishes that objections can be raised against each of the sources, with the exception of the one proposed by Shmuel: "'That he may live by them' – and not die by them," which the *Rishonim* also codified as binding Halakha.

Despite the rejection of the rest of the midrashic expositions, we find that one of them, offered by Rabbi Shimon ben Menasya, is in fact cited by the *Rishonim*, and laws were even derived from it.

Rabbi Shimon ben Menasya said: "And the children of Israel shall keep the Shabbat." The Torah said: Profane for his sake one Shabbat, so that he may keep many *Shabbatot*. (*Yoma* 65b)

Rashi explains:

"And the children of Israel shall keep the Shabbat" – in order to keep other *Shabbatot*, they must take care on this Shabbat to ensure the keeping of many *Shabbatot*. (Rashi, *Yoma* 85b)

In other words, care is required on Shabbat to allow the keeping of many *Shabbatot*; this is the allowance to profane Shabbat in a situation of *pikuach nefesh.*

As mentioned, this is one of the expositions that can be refuted – yet *Chazal* cite it elsewhere as straightforward and accepted. The Gemara in *Shabbat* establishes that one is forbidden to profane Shabbat in order to deal with a corpse; only the saving of a living person – even a one-day-old child – sets aside Shabbat. The Gemara explains this as follows:

For a day-old infant the Shabbat is desecrated; the Torah ordered: Profane for his sake one Shabbat, so that he may keep many *Shabbatot*. For David, King of Israel, dead, the Shabbat must not be desecrated. Once a person dies he is free from [all] obligations. This is what Rabbi Yochanan said: "Among the dead I am free" (*Tehillim* 88:6) – once a person dies, he is free from [all] obligations. (*Shabbat* 151b)

Even though we might have expected that the allowance to profane Shabbat in order to save a newborn baby would be based on Shmuel’s exposition of "that he may live by them," nevertheless, the Gemara offers the rationale of Rabbi Shimon ben Menasya, which clarifies the difference between saving the life of a living person and tending to the dead. The Rif (68b in the Alfasi) copies the Gemara word for word, even though he himself writes in *Yoma* (5a in the Alfasi) that the law is in accordance with Shmuel.

Another mention of Rabbi Shimon ben Menasya’s statement is found in the words of the Rambam, in the context of the *halakha* that a court can uproot a law from the Torah as a temporary ruling. He likens this to a life-saving operation that involves cutting off a single limb for the benefit of the entire body:

Just like a doctor may amputate a person's hand or foot so that the person as a whole will live; so, too, at times, the court may rule to temporarily violate some of the commandments so that they will later keep all of them. In this vein, the early Sages said: "Profane for his sake one Shabbat, so that he may keep many *Shabbatot*." (Rambam, *Hilkhot Mamrim* 2:4)

While the Rambam does not derive a *halakha* from Rabbi Shimon ben Menasya's exposition, but rather uses it to clarify his analogy and explain the matter at hand, it is still evident that he saw the concept of "profane for his sake one Shabbat, so that he may keep many *Shabbatot*" as an essential principle in the teachings of the "early Sages."

The *Rishonim* and *Acharonim* engaged in three important halakhic discussions connected to the exposition of Rabbi Shimon ben Menasya,[[1]](#footnote-1) which we will address in this *shiur.*

**II. Desecrating Shabbat in Order to Save a Fetus**

**The Rishonim explain why Shabbat may be desecrated to save a fetus**

The Gemara in the eighth chapter of tractate *Yoma* deals with the allowance granted to a pregnant woman to eat on Yom Kippur in a situation of *pikuach nefesh*. The Ramban writes in *Torat ha-Adam* that he was asked about the law in a case where it is clear that the life of the pregnant woman is not in danger, but the fetus is in real danger. Is this considered a matter of *pikuach nefesh* that permits desecrating Shabbat or eating on Yom Kippur?

The Ramban proves from the Mishna in tractate *Ohalot* (7:6) and other sources that a fetus is not considered a "life"; for this reason, when the fetus endangers the life of the mother, it is clear that we save the mother even at the fetus's expense, and this is not considered "setting aside one life for another life." Now, if a fetus is indeed not considered a "life," and therefore its mother's life is given priority, it would seem to be clear that a fetus does not enjoy the allowance of *pikuach nefesh*, "saving a life." The Ramban, however, rejects this conclusion:

In the *Halakhot Gedolot* as well, if we know about a pregnant woman that if she does not eat, she will miscarry, even though we say that an uncertainty exists regarding [the fetus] whether it will be viable or non-viable, she may be given to eat…

Even though we learned in the Mishna (*Ohalot* 7:6) that if a woman is having a difficult delivery, one cuts up the child in her womb and brings it forth member by member, which implies that from the outset the fetus is not included in the law of saving lives… even so, regarding the keeping of *mitzvot*, one profanes Shabbat for it: The Torah said: Profane for his sake one Shabbat, so that he may keep many *Shabbatot*. Therefore, even to save a fetus less than forty days old, which has no vitality at all, one profanes Shabbat, in accordance with the *Halakhot Gedolot.*

There are some who maintain that we do not profane Shabbat for a non-viable child… and in cases of uncertainty in life and death issues, we are lenient. (*Torat ha-Adam*, *Sha'ar ha-Meichush*, *inyan ha-sakana*)

The Ramban explains that according to the *Halakhot Gedolot*, the law of "that he may live by them" does not apply to a fetus, because a fetus is not considered a "life." In the end, however, the fetus will "keep many *Shabbatot*," and therefore one is permitted to save a fetus even at the cost of profaning Shabbat or eating on Yom Kippur. The Ramban emphasizes that there are different opinions on the matter, but he does not accept them as normative law, because "in cases of uncertainty in life and death issues, we are lenient."

The Rosh (*Yoma* 8,13) and the Ran (*Yoma* 3b in Alfasi) agree with the Ramban and state his position as the law, though the Rosh himself notes that in practice, it is clear that one is permitted to do anything to save the fetus, even according to those who disagree with the Ramban, because any danger to the fetus means there is also a danger to the mother – so in truth, all agree that we are dealing with a case of *pikuach nefesh*. In a later generation, Rabbi Yosef Karo (*Shulchan Arukh Orach Chaim* 617) does not specifically refer to profaning Shabbat or eating on Yom Kippur for the purpose of saving only a fetus, but he does bring the lenient ruling in his *Beit Yosef* (*Orach Chaim* 617).

**The discussion among *Acharonim* regarding an uncertain danger to the fetus**

The Netziv of Volozhin (*Ha'amek She'eila,* 116, letter 17; and in abridged form also in *Meromei Sadeh*, *Yoma* 82 and 85) has an interesting comment regarding the words of the Ramban. The Gemara emphasizes that the "refutation" of all the midrashic expositions except that of Shmuel is based on the fact that they are valid in cases of certain *pikuach nefesh*, but not for uncertain *pikuach nefesh.* If that is the case, argues the Netziv – if the only allowance to profane Shabbat to save a fetus is the exposition of Rabbi Shimon ben Menasya, and not the exposition of "that he may live by them" – then it can only be relied upon in a case of certain danger, but not in a case of uncertain danger!

Based on the halakhic considerations, the Netziv seems to be correct, but the rationale is difficult; moreover, we do not find such a distinction in the Ramban or in the *Rishonim* who cite him. It seems, however, that the *Admor Ha-Zaken*, Rabbi Shneur Zalman of Liadi, was sensitive to this question, for he wrote as follows:

In any case, here regarding saving the fetus we must examine whether Shabbat may be profaned based on an uncertainty, for it is stated in the Gemara in the last chapter of *Yoma* that it is precisely from "that he may live by them" that we know that we profane Shabbat for a doubtful danger; but from the fact that the Torah said: Profane for him one Shabbat, etc., we don't know the law in a case of doubtful danger; see there.

However, in the Ran in chapter *Yom ha-Kippurim*, it is explicitly stated that we profane Shabbat even for a fetus for this reason. It is possible that once the verse teaches us that we profane Shabbat based on an uncertainty in a case of *pikuach nefesh*, the same is true so that he keep many *Shabbatot*, which is as important as *pikuach nefesh*. However, it is difficult to say this for the Ran, for one is permitted to kill him. The matter requires further study. (*Shulchan Arukh ha-Rav*, *Orach Chaim* 306, *Kuntrus Acharon*)

It is true that Rabbi Shneur Zalman ends with "the matter requires further study," but his words are reasonable. He suggests that once the Torah introduced the principle of "that he may live by them," we no longer distinguish between certain *pikuach nefesh* and uncertain *pikuach nefesh*; if the exposition of Rabbi Shimon ben Menasya defines the saving of a fetus as *pikuach nefesh*, the same should apply in a case of uncertain danger.

**III. Shabbat Desecration for Non-Physical Rescue**

**The dispute among halakhic authorities regarding spiritual danger**

TheRashbain his responsa (part VII, no. 267) addresses a question about a sad and painful event: Someone heard on Shabbat that non-Jews had kidnapped his daughter, and it was clear to him that if he did not come to her aid and try to free her, she would abandon Judaism and adopt a new religion. Despite the tragedy, the Rashba was of the opinion that there is no allowance to desecrate Shabbat, since the danger was spiritual and she was in no physical danger for her life. The Rashba examines the matter in light of the issue of "sin so that your friend might benefit" (see, for example, *Shabbat* 4a), and concludes that we do not tell the father to sin by desecrating Shabbat in order to save his daughter.

The *Beit Yosef* cites the Rashba's responsum, and rejects it. Most of his arguments relate to the issue of "sin so that your friend might benefit" and the fact that in certain situations, it is preferable that a person transgress a minor transgression in order to save another person, and all the more so the members of his household, from far more serious transgressions. In the course of his discussion, the *Beit Yosef* adds:

And it seems permissible even to desecrate Shabbat in matters that are forbidden by the Torah, because in the context of preventing her from converting and thus profaning Shabbat her entire life, we say that it is a minor transgression. (*Orach Chaim* 306:14).

The *Magen Avraham* understands the *Beit Yosef* as alluding to our passage:

As it is better to profane one Shabbat so that she keep many *Shabbatot*. (*Magen Avraham*, ibid. no. 29)

Other *Acharonim* tried to base the allowance on other rationales,[[2]](#footnote-2) e.g., a concern that the girl who was kidnapped might give up her life so as not to convert, and thus her physical life is indeed in immediate danger. But the plain meaning of the words of the *Magen Avraham* is that the principle of "so that he may keep many *Shabbatot*" defines the non-observance of Shabbat for the rest of one's life as a situation of *pikuach nefesh.* Thus writes the *Chayei Adam*:[[3]](#footnote-3)

But if they plan to forcibly remove him from the people of Israel and convert him, every person is commanded to desecrate Shabbat, even by performing a labor that is prohibited by Torah law, in the attempt to save him, and even if he is doubtful about the efficacy of his efforts, as in the case of uncertain *pikuach nefesh*, for just as we profane the Shabbat for a sick person, for we say that is better to profane for his sake one Shabbat, so that he keep many *Shabbatot* – the same applies here. (*Chayei Adam* II, section68, par. 12)

Thus, the halakhic authorities have ruled that rescue from a spiritual danger is treated like *pikuach nefesh* for all purposes, based on the rationale of Rabbi Shimon ben Menasya.

In *Responsa Chatam Sofer*, a connection is drawn between this issue and another unfortunate question: The parents of a child with an intellectual disability wanted to send him to an institution that works with children like him, but it was not a Jewish institution, and it was clear that he would end up eating forbidden foods and profaning Shabbat. (Fortunately, this is not a common practical question nowadays, because there are many institutions of this type that are conducted in full accordance with Halakha.) The *Chatam Sofer* discusses at length the issue of "profane for his sake one Shabbat," but he concludes that it is forbidden, and that it is preferable that the child remain "mentally incapacitated all his life, and not be a wicked man before God for even a short time." *Responsa Beit Yitzchak* cites this responsum of the *Chatam Sofer* but disagrees with it; he establishes that it is permitted to send such a child, and even an adult, to an institution of this type, for the following reason:

Even though there is no danger to the body, but only danger to the mind, [it is permitted], for they said: Profane for his sake one Shabbat, so that he may keep many *Shabbatot*. And if he is mentally incapacitated, he does not keep Shabbat. (*Responsa Beit Yitzchak*, *Even ha-Ezer*, pt. 1, no 39, letter 6)

***Shevet Ha-Levi*: Mental incapacitation is treated like *pikuach nefesh***

This is also how the *Shevet ha-Levi* ruled, in two responsa. In the first responsum (part III, no. 37), Rav Wosner discusses the very principle of "profane for his sake one Shabbat," clarifying that "both of the principles are true" and that we derive laws both from the rationale of "that he may live by them" and from the rationale of "profane for his sake one Shabbat." He focuses on the examples we have already seen: the Ramban's position regarding a fetus and the *Magen Avraham's* position regarding religious persecution.

In light of the principle of "profaning for his sake one Shabbat, so that he may keep many *Shabbatot*," he asserts in a second responsum (part IV, no. 34) that medical treatment intended to save a person from mental incapacity is also permitted on Shabbat,[[4]](#footnote-4) even if it involves profaning Sabbat with things that are forbidden by the Torah:

As for the question concerning a great man who was liable to lose his clarity of mind and live like one who is mentally incapacitated and exempt from the commandments, and he can be saved if Shabbat is desecrated for his sake, are they obligated to save him? The basis of the uncertainty is that which [*Chazal*] said that is better to profane for his sake one Shabbat, so that he may keep many *Shabbatot*… We must discuss this question from two sides: first, because he might become mentally incapacitated, and second, because he will [then] be exempt from the commandments for the rest of his life.

It is obvious to me that to save a person from turning from a mentally fit person who is in control of himself to one who is mentally incapacitated and no longer in control of himself is full-fledged *pikuach nefesh…*

A second reason that it is permitted to profane Shabbat for his sake is so that he not become exempt from all of the Torah's commandments, based on the rationale in *Yoma* (88b) that it is preferable to profane for his sake one Shabbat, so that he may keep many *Shabbatot*. I have already written in *Shevet ha-Levi* part III, no. 37, that regarding the Halakha, both rationales are true: both the rationale of "that he may live by them – and not die by them," and the rationale of "so that he may keep many *Shabbatot*"… Even those who disagree about profaning Shabbat for fetuses, that is because they are not yet in the category of obligation, and he wants to bring them to obligation. This is not the case here, where he was already in the category of obligation, and so we must save him from cancellation of his commandments for the rest of his life.

As for the Halakha, it is obvious as I have written, that this falls into the category of *pikuach nefesh* and under the allowance of profaning Shabbat for the sake of observing the commandments all of his days. (*Responsa Shevet ha-Levi*, part IV, no. 34)

If "both rationales are true," Shabbat must certainly be profaned even in a case of mental (and not only physical) *pikuach nefesh* – both because of the midrashic exposition of "that he may live by them" and because of the exposition of "profane for his sake one Shabbat."

**IV. Desecrating Shabbat for One Who Will Only Live for a Short While**

The common denominator of the previous two examples – saving a fetus and spiritual danger – is that the words of Rabbi Shimon ben Menasya expand the concept of *pikuach nefesh* beyond the midrashic exposition of "that he may live by them," so that the allowance – and obligation – to profane Shabbat applies even in cases where "that he may live by them" does not apply.

On the other hand, the *Ohr ha-Chaim* on the Torah suggests a limitation to the laws of *pikuach nefesh* in light of that very rationale:

The reason is "to observe the Shabbat." That is to say, the reason that I permit you to profane Shabbat for his sake is "to observe the Shabbat throughout their generations." Profane for his sake one Shabbat, so that he may keep many *Shabbatot*.

When did I say this… Specifically to observe. That is, in the case of a person who is in the category of standing to observe. But a person who will certainly not rise or arrive at Shabbat to observe it, even if the medications will help him for hours or for days, one must not profane Shabbat for his sake. (*Ohr ha-Chaim Shemot* 31:16)

In other words, even though the exposition of "that he may live by them" should permit the desecration of Shabbat for the sake of saving a life even for a short time, the *Ohr ha-Chaim* suggests that in the wake of the rationale of "profane for his sake one Shabbat," this is forbidden, and the allowance is limited to one who will continue to live and "keep many *Shabbatot*."

Many *Acharonim* were puzzled by this novel idea of the *Ohr ha-Chaim*,[[5]](#footnote-5) because it seems to contradict a Gemara (*Yoma* 85a) that clearly establishes that we profane Shabbat even for a person who has only a short time to live. This *halakha* is brought by the Rambam (*Hilkhot Shabbat* 2:18) and the *Shulchan Arukh* (*Orach Chaim* 329:4), and the *Bi'ur Halakha* (*ad loc*.) even emphasizes:

Even though the rationale of "profane for his sake one Shabbat, so that he may keep many *Shabbatot*" does not apply here, because [we save him] not only for Shabbat, but also for other *mitzvot*, as the Meiri writes in *Yoma*: "Even though it is clear that he will not live even an hour, in that hour he can repent and confess [his sins]."

However, it seems that all this is just to give an explanation, but as for the law, it does not depend at all on the *mitzvot.* For the reason is not that we set aside one mitzva for many *mitzvot*, but rather that we set aside all the *mitzvot* for the life of a Jew, as Shmuel learns from "that he may live by them."

According to this, it is clear that we profane Shabbat even for a crushed child, who will not keep *Shabbatot*, and will not confess [his sins], and will not reach adulthood – nevertheless we profane Shabbat for him, and the same is true for a deaf person and a mentally incapacitated person, even though they are not bound by the *mitzvot*, nevertheless we profane Shabbat for them. (*Bi'ur Halakha* 329, 4)

What this means is that we can certainly expand the boundaries of *pikuach nefesh* in light of the exposition of Rabbi Shimon ben Menasya, but we cannot rely on this exposition to contradict an explicit Gemara. It seems that we must go back to the principle of "that he may live by them" (which we saw above, primarily in the words of Rashi, in the first *shiur*), and say that life in itself is more precious than anything else, so that even one who will not keep Shabbat or observe other *mitzvot*,and cannot even confess his sins, must be saved on Shabbat, even if he will live only for a short while.

(Translated by David Strauss)

1. Of course, in addition to the three central halakhic issues that we will examine in detail, there are other examples of use made of the exposition of Rabbi Shimon ben Menasya. Among others, Rabbi Asher Weiss (*Minchat Asher, Shemot* no. 60) refers to *Tosafot* (*Bava Metzia* 114b, s.v. *amar lei*), according to whom the prophet Eliyahu, who was a priest, could defile himself through contact with the deceased son of the Tzarfati woman, because it was a case of *pikuach nefesh* to revive him. The Netziv of Volozhin (*Ha'amek She'eila* 167, no. 17; and see more about this in the book, *Mishnat Pikuach Nefesh*, no. 11) explains that the law of "that you may live by them" certainly does not apply to a boy who has already died, and thus we are forced to explain that *Tosafot* defined the case as one of *pikuach nefesh* based on the principle of "profane for his sake one Shabbat, so that he may keep many *Shabbatot*" after he is brought back to life.

Another example appears in *Shita Mekubetzet* to *Nedarim* (31b), where it is explained that Moshe did not circumcise his son before leaving Midyan for Egypt because of concern about the danger involved. Even though the law of "that he may live by them" was not yet introduced before the Torah was given at Sinai, the rationale of "profane for his sake one Shabbat so that he may keep many *Shabbatot*" already existed. (Regarding this as well, see *Mishnat Pikuach Nefesh*, nos. 19-20.)

I found a third example in which this principle is used, not mentioned by Rabbi Asher Weiss, in *Responsa Chatam Sofer* (*Orach Chaim*, no. 83), where he explains the words of the *Tosafot* in *Shabbat* 69b, s.v. *oseh*. It is stated there that one who is lost in the desert and doesn't remember when Shabbat is may walk at full strength even on a day that could be Shabbat, because if he does not do so, he will never get out of the desert, or as the *Tosafot* put it, "for if not, he will never reach a settled area." The *Chatam Sofer* understands this allowance to be based on the principle "profane for his sake one Shabbat, so that he may keep many *Shabbatot*." I will mention the context of this responsum below.

In any case, we will focus on three distinct and practical halakhic issues connected to the exposition of Rabbi Shimon ben Menasya. [↑](#footnote-ref-1)
2. For a summary of the opinions on this matter, see Prof. Nachum Rakover, "*Chilul Shabbat le-Hatzala mi-Shemad*," in *Techumin*, vol. 17.

It should be noted that from the wording of the *Beit Yosef* and the *Magen Avraham*, one could understand that the allowance is not based on "profane for his sake one Shabbat, so that he may keep many *Shabbatot*," and that this principle is mentioned only to clarify that rescue from forced conversion is defined as a "great mitzva" that permits one person to sin for the sake of another. This is how their words were understood in *Responsa Iggerot Moshe* (*Orach Chaim*, part III, no. 69). Nevertheless, this understanding of the *Magen Avraham* is not necessary, and the *Chayei Adam* certainly did not understand him that way, as explained in the sources cited in the next note. [↑](#footnote-ref-2)
3. See also the novellae of Rabbi Akiva Eiger on the passage in *Yoma*, where he debates this idea with another halakhic authority of his generation. (The other authority is not mentioned by name, but the reference is to the author of *Beit Meir*, as explained in his book on *Shulchan Arukh Orach Chaym* 330. For a detailed discussion of their disagreement and its ramifications, see *Mishnat Pikuach Nefesh*, no. 15.) This idea is also mentioned by Rabbi Shlomo Ganzfried, author of the *Kitzur Shulchan Arukh*, in his novellae to the passage (*Penei Shlomo*, *Yoma* 85b). [↑](#footnote-ref-3)
4. The issue of the halakhic standing of mental (as opposed to physical) *pikuach nefesh* arose primarily in recent generations, and halakhic authorities have concluded that it is considered *pikuach nefesh* for all purposes. With God's help, we will discuss this issue at length later in the series. [↑](#footnote-ref-4)
5. See, for example, the words of the *Minchat Chinukh* in *Musach ha-Shabbat* (mitzva32, no. 39, s.v. *ve-hineh mechalelin*), who rejects the position of the *Or ha-Chayim.*

Rabbi Asher Weiss (*Micnhat Asher Weiss Shemot* 9) cites several Hasidic masters who tried to reconcile the words of the *Or ha-Chayim*, and emphasizes that in Hasidism it was customary to be meticulous about every word in the *Or ha-Chayim* commentary, which was understood to have been written with the Holy Spirit. At the same time it is clear that the *Or ha-Chayim* said what he said in a homiletic spirit and not as practical Halakha, as will be explained in the continuation of the *shiur*. [↑](#footnote-ref-5)