YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**20th Century Teshuvot**

**By Rav Gidon Rothstein**

**Shiur #12: R. Herzog on Fighting Wars on Shabbat**

On the face of it, the idea that *pikuach nefesh* is *docheh Shabbat* – that saving lives pushes aside our obligation to observe the strictures of Shabbat – sounds simple. The complexity becomes apparent in many cases, however, including when R. Herzog responds to a series of questions from the head of an Orthodox youth group about how Orthodox soldiers should conduct themselves with regard to Shabbat. The *teshuva* is found in *Shu”t Heichal Yitzchak Orach Chaim* 37, dated 25 Adar Sheni, 5708 (April 8, 1948, before the State was declared).

R. Herzog’s answers show how far the question of interpretation goes when it comes to determining whether a situation involves saving lives. Anyone who disagrees with his underlying determinations would conclude that he had permitted unnecessary *chillul Shabbat*, Sabbath desecration.

**Trusting Nonobservant Commanders**

The questioner asked whether Orthodox soldiers could volunteer for a mission taking place on Shabbat, and R. Herzog begins his response with the assumption of trust in a commander’s determination of the necessity of a course of action. Without that trust, any army would fall apart; each individual would evaluate the issues himself, military discipline would collapse, and the whole endeavor would fail.

[I suggest that his point applies more broadly. We can see the difficulties society faces today, when faith in experts of all kinds is at its ebb and we are all certain we know the best way to handle political, societal, and relational issues facing us.]

Later in the responsum, R. Herzog adds that the Orthodox soldiers must bring their Shabbat concerns to their commanders’ attention and insist that the commanders factor those concerns into their decisions; they must commit to schedule an action for Shabbat only when they are sure it could not have been done before or after. But once that has been made clear, the soldiers have to follow orders that come out on Shabbat without question, lest they undermine necessary military discipline.

**A Note on Mutual Respect in an Army with Religious and Nonreligious Soldiers**

R. Herzog was writing early in the endeavor of a Jewish military, but raised an ongoing issue that requires sensitivity and mutual respect. When some soldiers care about *halakha* and some do not, each sides must accommodate the other. The observant soldiers need to be clear that they can and will participate in whatever must be done, because that’s part of saving lives and/or of fighting Jewish wars – we’ll see that below – but they also need to be able to trust that the nonobservant commanders will take their Sabbath observance into account and will only ask them to go against the usual bounds of Shabbat when there’s a military need.

Throughout the history of *Tzahal*, I think this has been a continuing dance. The army is sometimes very understanding of its religious soldiers, more accommodating than we might have expected, while other cases display an unfortunate lack of sensitivity to Orthodox concerns.

Each part of this dance gives fodder to those on either side who prefer to castigate the other side. Those unmoved by religious observance will object to any special treatment of Orthodox soldiers as unfairly preferential, while those Orthodox Jews who deny the value of participation in the military will seize on any missteps by the nonreligious command structure as proof that observant Jews should never have joined the army at all.

R. Herzog lays out an attractive middle ground, which is part of what drew me to this responsum.

**Volunteering to Violate Shabbat**

The commander must also be sure he needs the number of soldiers he calls for. Once that is clear, R. Herzog holds that the Orthodox soldier can *volunteer* (not just obey an order) to participate in the mission, particularly since it is a Jewish army.

In a non-Jewish army (remember that in R. Herzog’s time, many Jews were drafted into, or volunteered for, non-Jewish armies – Russian, Polish, or German), the Jew serves and sometimes violates Shabbat, but primarily to save his own life – as once he is in the army, the actions the Jew takes on Shabbat are self-preservation.

The Jews’ involvement in those non-Jewish armies mostly for personal self-preservation leaves no room to volunteer, especially since *halakha* prohibits non-Jews from keeping Shabbat (whether ours or some other day they decide to turn into a Sabbath). Given the many non-Jewish soldiers in those armies who can volunteer for the Shabbat missions, a Jew has no excuse to choose a Shabbat mission to be the one for which he volunteers.

In a Jewish army, however, the issue is saving other Jewish lives too, as well as protecting the land of Israel (he will discuss the war’s status as a *milchemet mitzva* in a moment). When it comes to saving lives, Rambam already ruled (in accordance with *Yoma* 83) that such acts are so valuable, they should be performed by the leaders of the community, as leaving them to less respected members of society could send the wrong message and lead people to think we should avoid violating Shabbat – which is incorrect, when lives are at stake.

**Preemptive Attacks**

Attacking a presumptive enemy on Shabbat involves another level of uncertainty, since there is no immediate danger. Nonetheless, if the experts decide this attack will save Jewish settlements (and lives), that is also *pikuach nefesh*. [We who live seven decades later already take this for granted, but for R. Herzog, the idea that an attack now, when nothing is directly happening, can count as *pikuach nefesh* because it is the only or best way to protect Jews for the future, was new and somewhat revolutionary.]

He supports his conclusion by reminding us that the conflict was initiated by the Arabs, so these actions are considered to be *hatzalat Yisrael miyad tzar*, saving Jews from a threatening enemy. [Sadly, in our times, too many forget this key point: the Arab-Israeli conflict started with the Arabs, and continues to be instigated by them. Many, many attempts at peace, initiated or joined by Israel, that would involve great sacrifices on the Jewish side, have been rebuffed, returning us each time to a state of conflicts, attacks, and random killings.]

When we expand the question to include attacks that are not defensive, the picture shifts. [Later, R. Herzog notes that to some extent, *any* attack on the enemy saves lives, since it weakens the enemy’s position. We’ll discuss that a bit more there.] We can most broadly allow such military maneuvers on Shabbat if we consider the idea of wars waged by the Jewish nation as a whole.

**Wars of the Jewish People**

We have spoken until now as if our sole halakhicjustification is the specific saving of lives – which might mean we can only attack in a case where the action will save lives now. But the Jewish nation also wages wars to advance the political/military causes of the nation; for example, *halakha* allows laying siege to non-Jewish cities three days before Shabbat and then continuing that siege on Shabbat, without specific reference to *pikuach nefesh,* saving lives. This is true even for *milchamot reshut*, wars of choice – wars that are not *necessary* but that our leaders have decided will be *beneficial*. [See Rambam *Laws of Kings* 6:11.] It is therefore also true for *milchamot mitzva*, necessary wars, such as saving Jews from looming enemies – again without specific reference to immediate lifesaving.

R. Herzog is confident that his current war counts as a *milchemet mitzva*, despite the usual requirement of a Jewish king to declare it. He relies on R. Kook (*Mishpat Kohen* 144:14), who assumed the Jewish people, in whole or in majority, wield the same authority as a Jewish king regarding declarations of war.

[I stress that this important idea of R. Kook’s might seem hashkafic, a matter of Jewish thought, but R. Herzog applies it halakhically: the consensus of the Jewish people can effectively certify a war as a *milchemet mitzva*, with all the rights thereof].

He then cites an idea we saw in R. Uziel’s writing *(shiur* #10)*,* that *mori ve-rabi* R. Lichtenstein *zt”l* stressed several times: the Gemara counts the Jews of the Land of Israel as the sole community of the Jewish people. If the majority of Jews *in Israel* make a decision, *halakha* counts that as *the Jewish people* making that decision. Add in R. Kook’s idea, and the majority of Jews *in Israel* can declare a war to be a *milchemet mitzva*.

R. Herzog recognizes that some will not accept R. Kook’s view, but he assumes they would concede that attacks to weaken the enemy also count as saving lives. True, the Gemara [*Sota* 44b]speaks of attacks to thin non-Jews’ ranks as being elective wars, but that’s only where the non-Jews are currently quiet and give no indication of an imminent threat, so that the planned attack serves only to prevent future problems.

Where the non-Jews have already attacked, and give reason to believe they intend to attack whenever they see an opening, our preemptive attacks count as defensive (and thus, lifesaving) even where no specific Jew’s life or town is being protected in the moment.

**Patrols and Record-Keeping**

Moving down the ladder of obviousness, the questioner wanted to know whether observant Jews could patrol in a car on Shabbat. ([R. Herzog](https://outorah.org/p/38980/) elsewhere discussed a similar question regarding the advantages of patrolling on foot or horseback.) He also asked whether the observant Jew could record information on Shabbat, such as intelligence about enemy positions or movements or the more mundane details of an army camp’s life.

In both cases, R. Herzog allows whatever is necessary, although he makes it clear that he is more convinced of the need to patrol in cars. He does not understand what it means to log enemy information, but allows it if needed, if they feel they cannot remember the crucial details until after Shabbat. Those who must write such reports on Shabbat should do so as briefly as possible, with their weaker hand [so the violation of Shabbat will be Rabbinic, rather than a Torah-level violation].

He also says they should use modern Hebrew script rather than *ketav Ashurit*, the block writing we use for Torah scrolls. [R. Herzog does not explain his reasoning for this. I think it’s because there’s halakhicevidence that the Biblical prohibition of writing on Shabbat applied to only that type of writing.] Those who cannot write in such script should use Latin or German letters [a remarkable line, making clear that in 1948, there were Jews who knew how to write only block Hebrew, not script, but would certainly know how to write in Latin or German letters!].

**Flashlights at Roadblocks**

R. Herzog assures the questioner that roadblocks qualify as a lifesaving need. This, again, is not necessarily obvious, since the vast majority of the time at a roadblock, nothing significant will happen; it’s the *having* of the roadblock that improves security and saves lives, which can be difficult to appreciate to the extent of allowing Jewish soldiers to man such a roadblock on Shabbat.

As for the flashlights the patrols would use (to flash in cars, looking for bombs or weapons, I think), he had already addressed the issue ten years earlier, during a time of rioting. His view was that they should turn the flashlights on before Shabbat, and cover them with a black bag to be removed when they want the light. (He does not say why, but I think part of the protocol was to surprise drivers with the flashlight.) If that’s impossible, he advises them to have two people turn the flashlight on and off together, as two people performing a Shabbat-prohibited action that could have been done by one person reduces the violation to a Rabbinic one, which is easier to push aside in a potentially lifesaving situation.

**Jewish Wars Are God’s Wars**

For closing words of encouragement, R. Herzog quotes *Laws of Kings* 7:15, where Rambam speaks about the necessity of putting aside all distractions (such as thoughts of family) while engaged in battle and entering battle with confidence, relying on Hashem, who will reward that trust with victory and success.

R. Herzog is sure that Rambam would apply these words to all wars fought by the Jewish people, including elective ones. That’s because the Jews, Torah, and Hashem are all linked; what advances the cause of the Jewish nation (including expanding their borders and increasing their security) equally advances the recognition of Hashem’s Oneness, bringing us closer to the time when the entire world will come to accept that truth.

We might think monotheism has spread plenty, that Jewish victory over Christians or Muslims does nothing to advance that cause, but R. Herzog disagrees. First, the supposed monotheists other than Jews have not absorbed the ethical elements that belief in God should bring [a mouthful upon which I will not elaborate, although I agree fully]. More, Christians still adhere to belief in the Trinity; R. Herzog does not believe that turns them into halakhicidolaters, but it does not qualify as monotheistic. The Jewish people would have work to do even if just to move the world from belief in the Trinity to belief in the One True God.

Muslims purport to be monotheists, except that they deny that Torah still obligates us, and certainly deny the Oral Law. Until one agrees that God gave the Torah, communicated with prophets, and is the Source of the Oral Law, says R. Herzog, he or she is not a monotheist in the sense that matters to us [another too-little recognized mouthful].

This brings us back to the key point: wars that improve the standing of the Jewish people in the world also serve to better spread belief in Hashem.

**Jews Aren’t All Monotheists**

R. Herzog is aware that this argument seems to founder on the fact that not all *Jews*, even in Israel, connect to Torah and Hashem as they should. There, however, we have a promise (according to Rambam’s view in *Laws of Repentance* 7:5) that the Jewish people will eventually repent and merit the full redemption. He is certain that establishing a Jewish State in Israel, a place of refuge for all Jews, will foster the end of the exile, after which the redemption will come. [Note that he’s already clear that the ingathering of the exiles will come before the actual redemption, a claim that has been shown more and more true in the seventy years since, as Jews trickle and stream back home.]

Fighting for the Jewish State is fighting for the end of exile, for the time of repentance of the entire Jewish people, bringing closer the universal recognition of the truths of Hashem’s Oneness. That is certainly allowed on Shabbat, in the ways R. Herzog has laid out.