YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**PIKUACH NEFESH**

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**Shiur #18: Who Decides Halakhot Pertaining to the Army )2( – “Great and Mighty”**

**Introduction**

In the previous *shiur*, we discussed Rabbi Herzog's views on the role of the commanding officer in defining situations of *pikuach nefesh,* and from that we also considered the role of the military rabbi as a halakhic arbiter. As we saw, Rabbi Herzog emphasized the need for the rabbi to be part of the "command committee," that is to say, that the military rabbi should also be an officer, so that he can fully understand the operational reality of the situation.

For decades, the military rabbinate ordained military rabbis of impressive stature, who did their work with great dedication and professionalism, and played an important role in Israel's wars. When Rabbi Avichai (Avi) Rontzki assumed his position as Chief Rabbi of the IDF (which he held from 2006-2010), he wanted to raise the status of military rabbis as officers even more, and therefore worked vigorously with the officials in charge in the IDF to move the military rabbinic course to the IDF officers' school at Bahad I. Rabbi Rontzki invested a great deal of effort in this, and that effort bore fruit. Since then, military rabbis (and I am among them) wear the "MM (*mefaked ha-machlaka*) pin" on the collar of their uniforms like all the other officers in the IDF, graduates of the officers' training school.

This approach was part of Rabbi Rontzki's principled view about the character of the halakhic arbiter in military matters. Rabbi Rontzki, and later his successor, Rabbi Eyal Karim, wrote about this in detail. This *shiur* will address their positions, and thereby complete our discussion regarding who is authorized to define what constitutes a situation of *pikuach nefesh.*

***Chitzav shel Gibor* (“The Arrows of a Mighty Man”)**

Years before Rabbi Rontzki was appointed Chief Rabbi of the IDF, he published a series of books, entitled *Ke-Chitzim be-Yad Gibor* (*As Arrows in the Hand of a Mighty Man*), which contain answers to questions raised by soldiers and officers in the IDF. In his introduction to vol. 1, he writes as follows:

Usually, the halakhic arbiter faces two main problems: first, he must enjoy thorough mastery of all the sources, which requires both broad and in-depth knowledge; and, second, he must be familiar with the reality relating to the question being asked. After Israel was exiled from their land, the questions that came before the halakhic authorities mainly revolved around the affairs of the individual and the community, and the Torah authorities of each generation could base themselves on the answers given by the authorities who preceded them.

But with the establishment of our state and our army, many halakhic problems arose for which solutions cannot easily be found in the earlier texts – because questions of this kind were not posed to the authorities of the previous generations, for whom such matters were considered "laws for the time of the Messiah." Furthermore, even when the sources are known, the halakhic arbiter must get to the root of the case in question, so that the *halakha* will correspond to reality. And even here, there is a problem, for the rabbis from whose mouths we live are not sufficiently familiar with the military world, and there is reason to fear that the halakhic ruling will not fit the situation in which the questioner finds himself. It is important to understand that this is not merely a technical question, which after studying the issue one can gain familiarity and relate to it from a halakhic point of view, but rather it is a reality of life that is completely different from what we are familiar with in normal everyday life…

The uniqueness of the responsa in this book is that they were written based on many years of experience – in regular, permanent, and reserve service, most of them in field units as a soldier and as an officer at various different levels. It seems that standing in a place where Torah study and military command join together offers an opportunity to arrive at halakhic truth in a more correct manner. (*Responsa Ke-Chitzim be-Yad Gibor*, vol. 1, Introduction)

Rabbi Rontzki maintains that only those who fully live military reality, and are also capable of seeing things from a commander's point of view, will be able to reach true and accurate halakhic decisions.

Rabbi Prof. Nerya Gutel responded to these words of Rabbi Rontzki, expressing significant reservations, in an article entitled *Eizehu Gibor?,* "Who is a Mighty Man?":

The halakhic arbiters ruled to rely on "expert decisions" in military matters, and the professional opinion serves as a solid basis for the halakhic discussion. And it is well known… that this convention has been applied in practice for nearly fifty years.

Rabbi Avichai Rontzki's book, *Chitzim be-Yad Gibor*, proposes a new approach. The editors of the book, those who give their approbation, and even the author himself, explicitly declare that the uniqueness of the book lies in its author… This is therefore an ideal situation in which the *halakha*-military split is avoided, as far as the person [issuing the rulings] is concerned, for a "mighty man with arrows" has arisen in Israel, and the two are bound up together. He is the doctor who is the halakhic arbiter, he is the rabbi who is the technician, he is "Adino ha-Etzni."[[1]](#footnote-1)

And from this the question arises: Should we give preference to a ruling from the school of Rabbi Shlomo Zalman Auerbach (in *Ha-Tzava be-Halakha*), or Rabbi Shlomo Min Hahar (in *Dinei Tzava u-Milchama*), and the like; or should we prefer “the arrows of the mighty” in his new book? Do not think this a trivial matter, for they are very different – fundamentally and practically, in general and in the particulars… In the matter under discussion, a different approach is explicitly presented, according to which an officer with Torah knowledge is preferable to a halakhic arbiter who is familiar with security issues, and this is definitely a new position…

In short, the editors were indeed right and Rabbi Rontzki's book places a unique book on the shelf of the laws relating to the army that in large measure expresses a new approach. There will be those who will look upon this with favor, and others less so, but all will agree in light of what was stated above, that it certainly deserves an in-depth study by the sages, not only for its specific content, but also with respect to the principles that it outlines. (Rav Prof. Nerya Gutel, "*Eizehu Gibor*," in *Ha-Tzofeh* 5 Iyar, Yom Ha-Atzma'ut, 5756)[[2]](#footnote-2)

Rabbi Gutel cites the *halakha* we discussed in the previous two *shiurim*, and clarifies that the expert and the officer in charge are the ones authorized to determine the nature of the situation. But in his view, their entire role amounts to delivering an "opinion" to the rabbinic authority, and in the end it is the rabbi who issues the ruling. Indeed, as emphasized in the previous *shiurim*, there is a fine line between the questions that should be directed to the rabbi and the questions that should be directed to the expert, and it is not always possible to determine the appropriate recipient of a question. In Rabbi Gutel's opinion, Rabbi Rontzki exaggerated the importance of the role of the officer, in relation to that of the halakhic arbiter.

In response to Rabbi Gutel's article, Rabbi Shlomo Aviner – Rabbi Rontzki's teacher – published his own article under the title *Zehu Gibor* ("This is a Mighty Man"), in which he explains:

But as for the fundamental question of who is preferred, perhaps we should make the following distinction: If it is a matter of ruling on new general halakhic principles, surely the leading authorities of the generation are preferable, and what is more, it stands to reason that they alone are permitted to rule on the matter. But if it is a matter of using those general principles to rule in a specific complicated situation, the correct evaluation of which is of great importance, then a Torah scholar who lives that reality is preferable.

To what may this be compared? To the definition of great [financial] loss. Our authorities, with all their greatness, refrained from setting a monetary sum, but rather they established the rule: Everything is determined in accordance with the discretion of the ruling rabbi. And the same applies to the rule of "pressing circumstances." (Rabbi Shlomo Aviner, response to the previous article)[[3]](#footnote-3)

Rabbi Aviner makes a fundamental distinction between the halakhic principles and their practical implementation. There is no doubt that halakhic principles are determined only in the *beit midrash*, by halakhic authorities and based on halakhic texts. The very determination that "a sick person is fed [on Yom Kippur] according to the experts" is in itself an established *halakha* and an explicit *mishna* (*Yoma* 8:5), as we have already learned.

However, when these principles must be applied in a given situation, one must rely on the opinion of a professional who is involved in the situation. As briefly mentioned in the previous *shiur*, Rabbi Herzog was one of the authorities who laid the foundations for new approaches to the laws of *pikuach nefesh*, as they apply to the public at large and to the nation. But this is all true regarding the principles themselves – whereas the decisions whether or not to desecrate Shabbat for the sake of fortifying the city of Tiberias, or of defending the city of Jerusalem, Rabbi Herzog left to the relevant army commanders.

As Rabbi Gutel emphasizes, the innovation in Rabbi Rontzki's book lies in his combination and fusion of a rabbi and an officer. As we saw in the previous *shiur*, this was Rabbi Herzog's vision: a rabbi or halakhic arbiter serving as an integral part of the "military command post."

***Kishrei Milchama* (*Bonds of War*)**

A discussion similar to the one that developed around Rabbi Rontzki's book arose a few years later around a series of books entitled *Kishrei Milchama*, by Rabbi Eyal Karim. Like Rabbi Rontzki, Rabbi Karim wrote in the introduction to his book:

In recent years, there has been a significant increase in the number of religious soldiers and officers who serve in the IDF in general, and in the elite units in particular… But the great innovation lies in the fact that a new type of fighter, a new type of officer, has arisen in the IDF. No longer a "traditional soldier," not another "religious soldier," and not even another "observant officer." But a new breed of God-fearing fighters and officers, who are as meticulous about light *mitzvot* as they are about grave *mitzvot…* And the most important thing is: their great willingness to consult with Torah authorities in everything related to their service in the army… This reality obliges the rabbis, those who rule on *halakhot* relating to the army, to be aware of the depth of military life and the peak of the operational experience, so that it will be easier for them to reach the truth of the Torah. (*Responsa Kishrei Milchama*, I, Introduction)

There is no doubt that most halakhic arbitersand Torah authorities are not aware of the "peak of the operational experience." Even those who served in the IDF were usually not officers, and certainly not senior officers, and in Rabbi Karim's opinion it would be difficult for them to reach the truth of the Torah.

Here, too, Rabbi Prof. Nerya Gutel took issue with this approach, and in an article in which he reviews the merits and flaws of *Kishrei Milchama,* he explains:

This perspective leads us to the question of expertise. The author is described on the book's cover as having served in the past, and he even continues to serve in the reserves in command positions in important combat units… The author should not be suspected of arrogance, since this professional background gives the author – and rightfully so – confidence, and even determination, whenever he is required to deal with military reality, although perhaps in a somewhat exaggerated style. This is also the case with his statements regarding the rabbis: "The words of Rabbi Eliyahu and Rabbi Lior, with all respect to their Torah knowledge, require great examination." Rabbi Lior did not stand idly by and replied that his ruling as well is "based on the opinion of military personnel – battalion commanders and brigade commanders." Karim compliments him on this, that it is "an important thing in itself," though substantively, he remains firm in his opinion. (Rabbi Prof. Nerya Gutel, "*Kishrei Milchama*," in: *Alon Tzohar*, vol. 3, summer 5760)

The focus in that correspondence between Rabbi Karim and Rabbi Dov Lior is very reminiscent of Rabbi Gutel's comments regarding Rabbi Rontzki. It seems to me that this discussion is part of the attempt to understand, and mainly to implement, Rabbi Herzog's vision regarding precise halakhic rulings in military and security matters, based on a deep understanding of reality: Is this achieved by way of officers, or military rabbis who are also officers, or solely by following the leading Torah authorities of the generation, after consulting with this or that professional?

**The Military Rabbinate Across the Generations**

The importance of halakhic rulings coming from within the military system was already emphasized by the military rabbinate many years before Rabbi Rontzki and Rabbi Karim joined it. I would like to point out two representative examples of this.

Rabbi Avraham Avidan served for many years as a military rabbi and even as head of the Halakha department in the military rabbinate, and later taught at Yeshivat Sha'alvim. Unsurprisingly, he dedicates the first section of his book, *Shabbat u-Moed be-Tzahal*, to matters of *pikuach nefesh*, under the title "War on Shabbat and Yom Kippur." Throughout all of his essays there, Rabbi Avidan deals with broad principles related to communal *pikuach nefesh*, and as has already been explained, principles of this type must be clarified in the *beit midrash*.

His last essay there is short, and contains practical answers to soldiers who asked about what is and is not permitted in the framework of ongoing maintenance of tanks in the outposts in the South Lebanon sector. Rabbi Avidan answers them briefly, but emphasizes twice in passing:

This answer was issued in coordination with a qualified professional military officer. (*Shabbat u-Mo'ed be-Tzahal*, p. 87, note 1)

In other words, Rabbi Avidan understood that the implementation and application of the principles of *pikuach nefesh* in a given operational reality obligate him, in his capacity as a military rabbi, to coordinate fully with the professional body in charge of security in that sector.[[4]](#footnote-4)

The words of Rabbi Zekharya Ben Shlomo, who served for many years as a Torah instructor in the courses given to military rabbis, and himself authored the book *Hilkhot Tzava* (*Halakhot Pertaining to the Army*,first ed. 5746), are even more explicit. In the journal *Oz,* Rabbi Ben Shlomo reviewed several books dealing with the *halakhot* pertaining to the army, adding his own comments. At the beginning, he refers to the principles that underlie halakhic decision-making on military matters. He writes as follows:

It is clear that in rulings on matters of military and war, not only must the arbiter be a distinguished Torah scholar, but he must also be well familiar with military reality – and not only the facts themselves, but also the mindset in the army and in the unit, and the consequences that arise from it.

It seems from this that it can be argued that if we are faced with two options in a time of need – the first, to ask a Torah scholar who issues halakhic rulings, who is not a leading authority of the generation but is involved in military reality; and the other, to ask a *posek* who is considered among the leading authorities of the generation, but is not involved in the military reality, and there is reasonable concern that he will not properly understand the reality of the situation and the mindset of the soldiers in the field – then certainly the first option is preferable.

I know from my own experience that prominent Torah scholars, to whom I have on many occasions posed questions on army-related matters, have refrained from answering my questions on the explicit grounds that they are not well acquainted with the reality in question. (Rabbi Zekharya Ben Shlomo, *Sekirat Sifrei Halakha be-Inyanei Tzava* *u-Milchamot*, *He'arot ve-He'arot,* in *Oz*, vol. 1, 5754, pp. 321-322)

It is evident that Rabbi Ben Shlomo, too, seeks to precisely outline the figure of the halakhic arbiter in military matters, and to find the proper balance between the man of Halakha and the officer, who has the relevant expertise and whose opinion is the determining factor in the laws of *pikuach nefesh.*

**Conclusion: “Great and Mighty”**

We concluded the previous *shiur* with Rabbi Goren's words regarding Rabbi Herzog, and we will conclude the current *shiur* with a story told by Rabbi Karim, in the same introduction to *Kishrei Milchama*, about Rabbi Goren:

In the midst of the First Lebanon War, starting in the morning, the brigade commander, an artillery officer, and I stood on the roof of the command post east of the city of Beirut. All of that Friday, we were occupied with directing artillery fire on the terrorist organizations in the Beirut Stadium area. More than ten artillery battalions were assigned to the brigade, and we were forced to adjust the fire even after Shabbat had entered.

A little before sundown, I felt a touch on my shoulder. I looked behind me, and there standing before me was Rabbi Shlomo Goren *z”l*. He wanted to know: What are we doing here? I answered: We have been adjusting the artillery fire on Beirut since the morning. I added: What is his eminence doing here? He answered: I came to check the halakhic problems on the battlefield. I asked: How will the rabbi return home for Shabbat? He replied: The Chief of Staff and I are together in the same helicopter.

Friday afternoon, after sunset, while the leading authorities of the generation are checking the food on the hotplate, while they are checking whether the produce was tithed or an *eiruv* was made, he was checking something altogether different. He was checking the problems in the field. Indeed, he was not the leading authority of the generation, but he was the great one and the mighty one of the generation. (*Kishrei Milchama*, vol. 1, introductory essay – "*Kevod ha-Rabbanut ha-Tzeva'it*")

Rabbi Herzog wanted to find Torah scholars, qualified to issue halakhic rulings, who would decide halakhic questions in the field. Rabbi Goren took upon himself the task, and from then until today, the military rabbinate seeks to follow this path, to respond to the demand for halakhic rulings that are informed by the operational reality, and we pray that we will not stumble in matters of *halakha*.

(Translated by David Strauss)

1. [Editor’s note: See II *Shmuel* 23:8 with Radak.] [↑](#footnote-ref-1)
2. In his modesty, Rabbi Rontzki published Rabbi Gutel's article in the appendices to vol. 2 of *Ke-Chitzim be-Yad Gibor*. [↑](#footnote-ref-2)
3. Rabbi Aviner's essay was also published in Rabbi Rontzki's book. [↑](#footnote-ref-3)
4. Over the years, we in the military rabbinate have been priviledged to publish sets of *halakhot* for the different IDF forces; among other things, a set of guidelines for maintaining tanks on Shabbat during routine and emergency times. An updated version of this was published by the author of this article in 5776, and it is available on the military rabbinate website ([here](https://www.idf.il/%D7%90%D7%AA%D7%A8%D7%99%D7%9D/%D7%97%D7%99%D7%9C-%D7%94%D7%A8%D7%91%D7%A0%D7%95%D7%AA-%D7%94%D7%A6%D7%91%D7%90%D7%99%D7%AA/%D7%97%D7%99%D7%9C-%D7%94%D7%A9%D7%A8%D7%99%D7%95%D7%9F/%D7%98%D7%99%D7%A4%D7%95%D7%9C-%D7%91%D7%A9%D7%91%D7%AA/)). There too, beyond the discussion and the halakhic clarification, we conducted an in-depth consultation with the professional elements in the Armored Corps, and we even formulated together a "professional guideline" that regulates the issue under the orders of the Armored Corps. [↑](#footnote-ref-4)