YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**PIKUACH NEFESH**

**Rav Avihud Schwartz**

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Dedicated in honor of the marriage of our son,
Aharon (YHE '19) to Ariella Berman
by Rav Yitzchak and Stefanie Etshalom

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**Shiur 20: Conduct on Weekdays as a Standard for *Pikuach Nefesh***

**Introduction**

In the [previous *shiur*](https://etzion.org.il/en/halakha/studies-halakha/safek-pikuach-nefesh), we dealt with the fundamental issue of defining the parameters of *pikuach nefesh* and uncertain *pikuach nefesh.* We concluded the *shiur* with the responsum of the *Tzitz Eliezer* (VIII, no. 15, chap. 7), who established (based on the writings of Rabbeinu Yerucham, the *Noda Bi-Yehuda*, the *Chatam Sofer*, and the *Chazon Ish*) that we must distinguish between *pikuach nefesh* in the present, regarding which even a remote doubt permits Shabbat desecration, and *pikuach nefesh* in the future, regarding which Shabbat desecration is permitted only in a case of likely danger.

As we noted at the end of that *shiur*, Rabbi Shlomo Zalman Auerbach took issue with this approach of the *Tzitz Eliezer.* He spells out his position in detail in a long responsum on the subject, and sets weekday activity as the determining factor in matters of *pikuach nefesh*. This *shiur* will address Rabbi Auerbach's position and the *Tzitz Eliezer's* response to his criticisms.

**The Position of Rabbi Shlomo Zalman Auerbach – The Way of the World and the Way of People**

Our discussion of the authority of professionals to determine *halakha* in military and security matters ([*shiur* #17](https://etzion.org.il/en/halakha/studies-halakha/commander-and-rav-1)) referenced the writings of Rabbi Yitzchak Isaak Herzog. He authored one of the first and most fundamental treatments of "communal *pikuach nefesh*," which discusses the activities of the police and internal security on Shabbat.[[1]](#footnote-1)

The responsum of Rabbi Auerbach that we will discuss here was written in response to that article by Rabbi Herzog, and examines practical applications of *halakha* in the context of the operation of police stations in city centers. In the course of his discussion, Rabbi Auerbach seeks to determine when a situation of *pikuach nefesh* that is not at the level of "a sick person before us," or "a danger before us," permits Shabbat desecration.

One of the central questions regarding rescue and security personnel is whether, after leaving for a mission, they are permitted to return to their station on Shabbat. I plan to devote a separate discussion to this question in the future, but for our present purposes, it is important to note that in the framework of clarifying this question, Rabbi Herzog was inclined to say that ruling leniently "so as not to be a cause of their stumbling in the future"[[2]](#footnote-2) (i.e., out of concern that if we do not permit them to return, we are liable to cause a danger in the future, because they will not want to go if they can’t return) stems from the conception of *pikuach nefesh* as being "permitted" (*hutra*) – as opposed to merely being "set aside" (*dechuya*).[[3]](#footnote-3) In other words, the assertion that we are already concerned now about some future danger, and that we permit certain activity in the present because of that future concern, is related to the fact that the allowance to desecrate Shabbat in a situation of *pikuach nefesh* falls into the category of "permitted."

Rabbi Auerbach is puzzled by this determination of Rabbi Herzog. According to him, there are three fundamental *halakhot* relating to *pikuach nefesh* that are also apparently based on a future concern, but without any connection to the notion of "permitted."

1. Actions taken for the sake of *pikuach nefesh* are performed “by the great men of Israel and their sages” (Rambam, *Hilkhot Shabbat* 2:3; we discussed this at length in [*shiur* #10](https://etzion.org.il/en/halakha/studies-halakha/pikuach-nefesh-by-a-nochri)). According to many *Rishonim*, this law stems from the concern that otherwise, people will hesitate in future situations of *pikuach nefesh*.

2. According to the *Maggid* *Mishneh* (*Hilkhot Shabbat* 2:14; we expanded on his position in [*shiur* #8](https://etzion.org.il/en/halakha/studies-halakha/chilul-shabbat-letzrachim-lo-chiyuniyim)), one is permitted to perform actions for a dangerously ill person that are not critical at this very moment, but that will help him in the future.

3. In certain situations, the Sages permitted prohibited acts for fear of being "a cause of their stumbling in the future" (see Mishna *Rosh ha-Shana* 1:6; 21b).

Although we saw in our earlier discussions that some connect the first two *halakhot* to the position that in a situation of *pikuach nefesh,* Shabbat desecration is "permitted" – according to Rabbi Auerbach, none of these three relate at all to the issue of "permitted" vs. "set aside."

And somehow I have not merited to properly understand why it is obvious to you that the reason of "causing their stumbling in the future" applies only if we say that [the Shabbat prohibitions are] permitted, but not if they are only set aside…

And as for the main argument, it seems to me that even those sages who maintain that *pikuach nefesh* only sets aside Shabbat, agree that we try not to have it done by a non-Jew or minor, because sometimes they are not available, and people will search for them, and for that reason come to danger – which is also a concern about the future.

And also that which the *Maggid Mishneh* and the *Shulchan Arukh* rule, that one is permitted to do for a dangerously ill person anything that is usually done for him on a weekday, even things that if withheld would not cause any danger – it also seems to me that even if we say [the Shabbat prohibitions] are only set aside, and not permitted, nevertheless, whenever we are dealing with a dangerously ill person, we are commanded to strengthen him and make him healthier in any way possible, so that he can quickly overcome the illness that is threatening him.

This is not connected at all to the uncertainty of the Rashba whether [the Shabbat prohibitions] are set aside or permitted – and not as I have seen in the *Acharonim*, who wrote otherwise. (*Responsa Minchat Shlomo*, 2nd series, no. 37)

Rabbi Auerbach's innovation is in joining together three different *halakhot*, all of which he sees as related to a concern of future danger, and as stated, his view is that they are allowed even if we say that the Shabbat prohibitions are only set aside and not permitted.

As stated, the *Tzitz Eliezer* does not dispute the fact that in certain situations, we are concerned about future *pikuach nefesh*. But in his opinion, in a situation of future *pikuach nefesh*, we do not concern ourselves with remote uncertainties. It is precisely about this that the question arises as to where we draw the line, and this is the main innovation of Rabbi Auerbach, later in his discussion:

As for the fundamental issue of what is considered an uncertain life-threatening situation, and what is not, and where do we draw the line, I too have great doubts about it. But based on logical reasoning, it seems to me that anything that most people run away from, like one who runs away from danger, is considered an uncertain life-threatening situation, to which we apply the rule of "'that he may live by them' – and not die by them." But if most people are not frightened and afraid, it is not considered a danger. (*Responsa Minchat Shlomo*, ibid.)

Rabbi Auerbach maintains that it is the commonplace conduct among people that determines what is considered a situation of *pikuach nefesh.* He offers three practical examples:

1. It is related about some of the Jewish people's leading halakhic authorities that during a cholera epidemic, they permitted even healthy people to eat on Yom Kippur, so as not to come to danger in the future.[[4]](#footnote-4) Rabbi Auerbach explains that while there was no present danger, the fear "lest evil adhere to him" permitted eating on Yom Kippur, because the matter was perceived as a danger in the eyes of the public.

2. In our discussion of postponing treatment to Motzaei Shabbat ([*shiur* #9](https://etzion.org.il/en/node/41161)), we addressed the issue of vaccination on Shabbat. Rabbi Auerbach's position in the same responsum, parts of which were cited in that *shiur*, is that the question depends on routine conduct: If "people do not ordinarily do it with urgency and haste," the vaccinations may not be carried out on Shabbat. But in a situation where, for one reason or another, people "are frightened and afraid to wait," this is a situation of *pikuach nefesh* and it is permissible to vaccinate even on Shabbat.

3. In light of all that has been said, Rabbi Auerbach states that the police and other rescue forces must persist in their work on Shabbat, just as they do on weekdays:

It seems, in my humble opinion, with respect to a first aid station in a large city, where we know from experience that every day there are cases that urgently require rescue services, it is permitted to desecrate Shabbat with the performance of labors that are forbidden by Torah law (when this cannot be done by way of a non-Jew) in order to be prepared for any trouble (may it not come) that typically comes…

And likewise, it seems, in my humble opinion, that in a big city with a large population, where we clearly know from experience that if the mobile police force is off duty on Shabbat, there is good reason to be concerned about blood feuds (even such as would appear will not end in loss of life, but if there is concern about blows with an iron pole to the arms, legs, or body cavity, and the like, according to the law, this is viewed as life-threatening), or thefts and robberies that are liable to endanger life, there is room to argue that a mobile police force is like a known treatment to save people from deadly threats. (*Responsa Minchat Shlomo*, ibid.)

In conclusion, there are various situations of future *pikuach nefesh* that permit desecration of Shabbat, and the principle regarding them is to conduct oneself in accordance with the way of the world and the way of people.

**The Critique of Rabbi Waldenberg – "The rule would vary according to circumstances"**

Rabbi Auerbach maintained that his understanding of the definition of future *pikuach nefesh* was different from that of Rabbi Waldenberg, in his responsum in *Tzitz Eliezer* that we discussed in the previous *shiur*. Rabbi Auerbach wrote a long series of criticisms on the work *Meshivat Nefesh* authored by Rabbi Waldenberg, including one on this issue. I do not have the full letter of Rabbi Auerbach, but the *Tzitz Eliezer* cites the section of it that is relevant to our discussion. He writes as follows:

Regarding the definition of when we follow the majority [of cases] in matters of *pikuach nefesh*, the esteemed Rav [Rabbi Auerbach] writes that the definition is whatever people are frightened and afraid of, on weekdays as well, because of danger… and you conclude by saying: “This definition seems very correct, and it is similar to what is stated in several places in the Talmud: ‘But today, when the many do this, “the Lord preserves the simple” (*Tehillim* 116:6).’’[[5]](#footnote-5) That is, since people are accustomed to it, it is not considered a danger. (*Responsa Tzitz Eliezer*, IX, no. 17, *Kuntrus Refu'a be-Shabbat*,[[6]](#footnote-6) chapter 2, par. 9)

Rabbi Auerbach is consistent regarding his fundamental position about the determining standard with respect to future *pikuach nefesh.* Rabbi Waldenberg cites in his name three additional examples of laws that follow from this principle:

1. If a wall or building is in danger of collapsing, it is permissible to be involved with its controlled demolition on Shabbat, because in the event of such a danger on weekdays, we rush to do it, even though it is a future danger.

2. If one suffers from a cold or fever, which on a weekday he would not ignore but rather would go to a doctor to be examined – it is permissible to do so on Shabbat as well.

3. In contrast to the two previous examples, there is no allowance to open medical schools on Shabbat, even though the study of medicine is for the sake of *pikuach nefesh*. Since study in such schools is not conducted as a matter of urgency, and there are free days and breaks on weekdays, there is no justification for desecrating Shabbat.

Rabbi Waldenberg strongly disagrees with Rabbi Auerbach's position:

In my humble opinion – my position is not like this. In my opinion, it is clear that in all such situations, we follow the majority, as I have well explained in my book [*Meshivat Nefesh]*, based on the view of the great *poskim.* If we follow the definition of the esteemed Rav [Rabbi Auerbach], there is no telling how far this allowance is liable to expand and spread, and we will come to a strange situation to the point that people will say that the saintly permitted the matter. For people's views on this are not the same. [I know of a famous authority who, for every small concern that he has, goes into a fright and immediately summons a professor – would we permit him to desecrate Shabbat for this?]

As we can see, there are many people, especially women, who are frightened by every little suspicion of illness, and in particular of some kind of cold or fever, and are concerned about any remote fear of danger, and will therefore come to learn to permit desecrating Shabbat for that, and this will create a situation of chaos, placing the Torah for each and every person in his hand, and allowing the law to vary according to the circumstances. (*Responsa Tzitz Eliezer*, ibid.)

Rabbi Waldenberg's main concern is the slippery slope and the idea that each person would decide what danger allows Shabbat desecration according to his own personal caution factor (and sometimes even the hysteria factor). According to Rabbi Waldenberg, this could lead to absurd conclusions; therefore, there must be a clear definition – according to which, when we are concerned about a future danger, we decide based on the majority, and concern ourselves only with common and likely dangers.

Later in his discussion, Rabbi Waldenberg asks: Would Rabbi Auerbach be willing to "go all the way" with his definitions? For example, if there were a medical school that was open day and night and they studied continuously, would it then be permissible to continue studying even on Shabbat? Rabbi Waldenberg is probably convinced that it is not, because after all, medical studies are only necessary for future *pikuach nefesh.*

Rabbi Waldenberg offers an interesting practical example for this discussion, regarding a laboratory that is diligently developing a new medicine for a disease. Is working there permitted on Shabbat? It is evident from his words that he would not permit this, but it is not at all simple; I once posed this very question to Rabbi Avigdor Nebenzahl, one of Rabbi Auerbach's most distinguished students, and he replied simply that if there were a laboratory that operated in shifts, without any break at all, in order to find a cure for a serious illness, it would indeed be permissible to keep it running on Shabbat as well.

This question arose as a practical matter when the developers of the vaccine against the coronavirus asked if they were allowed to continue their work on Shabbat. Rabbi Asher Weiss (*Minchat Asher Corona*, no. 56) wrestled with the question, and after engaging extensively with the writings of the *Noda Bi-Yehuda*, the *Chatam Sofer*, and the *Chazon Ish* about the study of anatomy and the advancement of medical science, he concluded that it was forbidden. In light of the aforementioned response of Rabbi Nebenzahl, however, it seems that there was indeed room to permit; the issue requires further study.

Let us return to the subject of our discussion. Rabbi Waldenberg seeks to attack the issue from the other side as well. That is to say, when people think a certain action is not dangerous, should it necessarily be forbidden on Shabbat?

If a certain person or a certain group of people foolishly maintain that one should not rush to save and provide help on weekdays to those in danger, should we rule for them that therefore on Shabbat as well, they are forbidden to desecrate Shabbat in order to quickly save them? …

And I ask you, today when doctors do not consider sucking the wound [after circumcision] an issue of danger, or they do not consider a woman within three days after giving birth as being dangerously ill, would we, for this reason, not permit sucking the wound on Shabbat? (*Responsa Tzitz Eliezer*, ibid.)

To summarize, Rabbi Waldenberg is convinced that a clearer definition is required for future *pikuach nefesh* and uncertain *pikuach nefesh*, but a general reliance on the way of the world and weekday conduct does not suffice.

**Negligence, Disdain, and Other Weekday Factors on Weekdays**

One of the most important books written on laws pertaining to the army and security matters is the book *Ha-Tzava ka-Halakha*, authored by Rav Yitzchak Koffman. Rabbi Koffman consulted extensively with Rabbi Auerbach and his disciples, and therefore he clearly adopted Rabbi Auerbach's position on our topic as well – that what permits Shabbat desecration is determined primarily by general conduct on weekdays (*Ha-Tzava ka-Halakha*, chap. 17, note 8, p. 150).

In addition to the words of Rabbi Auerbach that we have already cited, Rabbi Koffman brings (in a footnote) the words of the Chief Rabbi of Israel, Rabbi Isser Yehuda Unterman, in his book *Shevet mi-Yehuda* (5744, section 1; first chapter 19, 2, and second chapter 7, 2), where he also adopts the position that "something that the people of the world are accustomed to do" is the determining factor regarding *pikuach nefesh*.[[7]](#footnote-7)

Later in his discussion, Rabbi Koffman clarifies matters with the help of a practical example:

At the monitoring apparatus of an electronic border fence, a light lights up to notify that the fence has been touched. In the vast majority of cases, this is the result of wild animals and not terrorists. Is it permissible to desecrate Shabbat in order to investigate the site of the incident? The answer depends on the attitude of the sector commander to such incidents during the days of the week. If during the week, he would immediately make sure to send a force to the site of the incident, even if this disrupts his routine or that of his soldiers, this indicates that he regards the incident as a dangerous situation and thus he is permitted to desecrate Shabbat in such a case. However, if during the week he would postpone the investigation of the matter for reasons of convenience, e.g., the soldiers are sleeping or at a show, investigating the site of the incident does not set aside Shabbat. (*Ha-Tzava ka-Halakha*, chapter 16, par. 8, p. 151).[[8]](#footnote-8)

However, since Rabbi Koffman is very familiar with military reality, he adds a clear proviso to this ruling, which is of great relevance in actual practice:

If the sector commander tries to get the soldiers to go immediately to the scene of the incident, but the soldiers, out of laziness or disdain, delay their departure, then the opinion of the sector commander is the determining factor, since he is the "expert" on this matter. (*Ha-Tzava ka-Halakha*, ibid.)

Indeed, I too can attest from my own experience that many questions regarding Shabbat that come from observant soldiers and officers stem from this point of soldiers refraining from performing the very same actions on weekdays. In my humble opinion, Rabbi Koffman's words are accurate, and one must consider whether the action is not taken on weekdays because it is not essential, or as a result of disdain or negligence. Thus, for example, there are various practices, or safety guidelines, regarding which there is a great deal of cutting corners and avoidance during the week. But since we are dealing with mandatory military directives, the disdain shown during the week is not a consideration for prohibiting these actions on Shabbat.

Rabbi Koffman continues and explains:

There are situations in which certain actions were postponed during the week, but this does not prove that they are not permitted on Shabbat. If the action was postponed for operational reasons or due to a lack of manpower, and as soon as these reasons are gone, the sector commander tries to have the action carried out in timely fashion, it is permissible to carry it out on Shabbat…

There are situations where an action was postponed during the week, but there are other proofs that it is permitted on Shabbat. For example: If soldiers were brought from afar especially to perform this task, or if they canceled leaves to perform this action, this means that this action is permitted on Shabbat even though it could have been performed earlier. (*Ha-Tzava ka-Halakha*, chapter 16, pars. 14-15, pp. 156-157)

As mentioned, in my opinion, Rabbi Koffman's definition is accurate, and I would like to conclude with three examples that I have been asked about over the years:

1. Soldiers in a combat collection battalion on the Lebanese border asked about performing operational observation activity on Shabbat when a sports day had been held during the week. The soldiers claimed that the mission was postponed until Shabbat only because of that sports day.

Ostensibly, the mission was not urgent, as indicated by the fact that it was set aside for a sports day. However, I replied to the soldiers that it was permitted – because that is the way of an army, to have a sports day every few months. The observation missions are actually supposed to be carried out around the clock, but there is not enough personnel. Soldiers are occasionally required to go home, rest, and also have a sports day. This does not invalidate the necessity of the operation and the allowance to perform it on Shabbat.

2. In one of the settlements in Judea and Samaria, the sector commander asked to install "lighting mines" in places where the settlement is not fenced. A lighting mine is a device set in the ground that activates a strong light when someone approaches. A special team of the engineering corps is required to install such mines, but the team was available only on the weekend.

Here too, I replied that it is permitted, because those special engineering teams are busy with a wide variety of tasks. The fact that this task was postponed in the previous days does not necessarily mean that it is not important, but that the teams are busy and subject to many constraints; therefore, it is permissible to perform the task on Shabbat.

3. After Operation Protective Edge, and even before the new obstacle on the border of the Gaza Strip was inaugurated, the IDF worked to locate tunnel openings in Israeli territory. This was a long and Sisyphean task, carried out mainly by soldiers who were still in their training period, and their training began to be impaired. The question arose whether it would be permitted to train all week, and dedicate the weekends to tunnel-finding activities.

This question is more complicated than the previous ones, because it involves "exploiting" the fact that there is no training on Shabbat, in order to carry out a security activity that could have been performed during the week. Nevertheless, I was of the opinion that there is room to be lenient about this as well, because, on the one hand, uncovering tunnels is certainly a matter of *pikuach nefesh*, while, on the other hand, canceling or significantly diluting the training of fighting units is also a matter of *pikuach nefesh*.

**Conclusion**

Rabbi Waldenberg’s concern about "placing the Torah for each and every person in his hand" is a significant one. While there is no complete solution to this, an important partial solution is to place full responsibility on the "expert," that is, on the attending physician or the sector commander: With respect to him, his actions on a weekday certainly constitute an important and essential benchmark.

Of course, as with any other halakhic issue, here too there may be exceptional cases, and ultimately, each case has to be considered on its own merits.

In conclusion, it should be noted that there exists another issue that parallels the issue under discussion, namely: to what extent is a person permitted to endanger himself in order to perform a particular action. For example, some maintain that certain challenging activities are dangerous, while others see them as everyday behavior.

Rabbi Koffman clarifies in his book that the issues are parallel, and that the question of the extent to which a person is permitted to take risks (not in the context of war or saving others, where the definitions are surely different) also depends on the "way of the world" and the routine conduct of everyday life. This issue requires an extensive discussion, beginning already with the Talmudic passages dealing with "the Lord preserves the simple" (for example, *Yevamot* 72a) and continuing in the words of the *Rishonim* and *Acharonim*; this is not the forum in which to expand on the issue fully. For a summary discussion, see *Ha-Tzava ka-Halakha*, chapter 12, which deals with "Protecting the Body and the Soul," in the section, "Obstacles," beginning with par. 12 until the end of the chapter (pp. 118-129), and the abundant sources brought in the notes there.

In the next *shiur*, we will continue our study of the laws of *pikuach nefesh* with the issue of communal *pikuach nefesh.*

(Translated by David Strauss)

1. We will deal with the issue of communal *pikuach nefesh* starting in the next *shiur*. [↑](#footnote-ref-1)
2. The source of this idea is found in *Rosh ha-Shana* 21 and 23, and in *Eiruvin* 44. As stated above, we will deal with this issue at length in a future *shiur*. [↑](#footnote-ref-2)
3. See shiurim #s [5](https://etzion.org.il/en/node/40919), [6](https://etzion.org.il/en/node/40976), and [7](https://etzion.org.il/en/node/41029). [↑](#footnote-ref-3)
4. For a comprehensive summary of this issue, see *Minchat Asher Corona*, no. 6 and no. 79. [↑](#footnote-ref-4)
5. For example, *Yevamot* 72a. [↑](#footnote-ref-5)
6. *Kuntrus Refu'a be-Shabbat* is essentially a series of responses to, comments on, and discussions about the words of some of the leading halakhic authorities of the generation who wrote criticisms on *Kuntrus Meshivat Nefesh*. [↑](#footnote-ref-6)
7. It should be noted, however, that Rabbi Unterman is not speaking about *pikuach nefesh* setting aside the prohibitions of Shabbat, but about the question of what danger one is permitted to enter into; see the discussion of this issue at the end of this *shiur*. [↑](#footnote-ref-7)
8. It is precisely Rabbi Nebenzahl in his notes cited there (note 14a, pp. 151-152) who notes that even if there is an officer in that sector who "prefers a show to security," this does not necessarily mean that it is not a situation of *pikuach nefesh*, and it is possible that one should consult with a higher-ranking officer. This comment is in the style of Rabbi Waldenberg's reservations concerning the words of Rabbi Auerbach. [↑](#footnote-ref-8)