YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**PIKUACH NEFESH**

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**Shiur 38: Morale as a Halakhic Consideration (1) – Removing Fallen Soldiers from the Battlefield on Shabbat**

**Introduction**

As part of our discussion of the principle of "until it falls," we saw Rabbi Prof. Neria Gutel’s opinion that the allowance to eat prohibited foods during a war, which applies according to some opinions even in a case where the soldier has sufficient kosher food, is part of ensuring the soldiers’ peace of mind (see *shiur* no. 35). As I explained there, this is connected to the broad allowances applying in a time of war.

This consideration, the mental strength and morale of the soldiers, is a significant one that often arises in actual practice. Without a doubt, if a soldier lacks weapons or ammunition during wartime, it is permissible to desecrate Shabbat to bring him the necessary equipment. But what about "'spiritual" or "mental" ammunition? Is it permissible to desecrate Shabbat in order to speak with soldiers on the battlefield and strengthen their spirits before or after battle? Is it permissible to desecrate Shabbat in order to avoid exposure to difficult sights that could have a negative impact on the soldiers' fighting spirit?

Contemporary *Poskim* dealt with these questions, and not infrequently, they based their positions on the issue of "until it falls." That is to say, even if the mental need does not clearly fall into the category of *pikuach nefesh*, it is essential in the broader framework of the pursuit of victory, and therefore there is room to permit various actions aimed at strengthening the mental resilience and morale of the combatants during war.

This issue has been discussed primarily in two contexts: first, the removal of fallen soldiers from the battlefield on Shabbat; and second, the arrival of a lecturer or military rabbi to fighters on the front on Shabbat, to speak with them and provide encouragement. This *shiur*, as well as the *shiur* that follows it, will be devoted to clarifying these issues.

**Removing Fallen Soldiers on Shabbat – The Halakhic Background**

According to accepted *halakha*, it is permissible to desecrate Shabbat in order to save a human life, but it is prohibited to desecrate Shabbat in order to care for the deceased. The Gemara in *Shabbat* says as follows:

It was taught: Rabbi Shimon ben Gamliel said: For a day-old infant, Shabbat is desecrated; for David, King of Israel, dead, Shabbat must not be desecrated. For a day-old infant, Shabbat is desecrated; the Torah stated: Desecrate one Shabbat on his account so that he may keep many *Shabbatot*. For David, King of Israel, dead, Shabbat must not be desecrated; once a man dies, he is free from [all] obligations. This is what Rabbi Yochanan said: "Among the dead I am free" (*Tehillim* 88:6) – once a man is dead, he is free from religious duties. (*Shabbat* 151b)

The Gemara in tractate *Sanhedrin* (35a) adds that even the handling of a “*mitzva* corpse” – a person who died with no one to care for his burial, for which far-reaching allowances were generally issued – does not set aside the prohibitions of Shabbat.

The *Tosafot* in *Bava Kama* explain that the severe prohibition of Shabbat desecration does not stem exclusively from the honor due to Shabbat, but also from the honor due to the deceased himself:

By strict law, they should have permitted burying a corpse on Shabbat [= by way of a gentile], but [it is prohibited] because it is ugly and indecent and shameful to be buried on Shabbat, since it is done despite the prohibition of Shabbat, even if it is done by a gentile. (*Tosafot Bava Kama* 80b, s.v. *omer*)[[1]](#footnote-1)

In other words, it is preferable to the deceased that his handling should not set aside the prohibitions of Shabbat – even the Rabbinic prohibition of asking a gentile to perform a prohibited labor. We do, however, find certain actions that the Sages permitted on Shabbat in honor of the dead, e.g., moving a corpse "by way of a loaf of bread, or an infant" (see *Shabbat* 43a-44a), but the basic rule is that we do not desecrate Shabbat to care for the deceased, and certainly not with actions that are forbidden by Torah law.

**Rabbi Goren's Ruling – The Historical Sources**

During the War of Attrition, Rabbi Goren was asked about the permissibility of removing corpses on Shabbat from outposts located along the Suez Canal. There were many casualties in the strongholds on the bank of the canal, and since these were small and crowed areas, leaving the corpse where they fell for a full day would severely impact the morale of the fighters. Rabbi Goren established that this is permitted, for extenuating reasons:

Despite the clear Talmudic and historical law that the Shabbat must not be desecrated for the removal of corpses, as is explained in the Talmud and the *Shulchan Arukh*… since in the fighting conditions that exist today on the Suez front and in the Jordan Valley outposts, leaving the body of a fallen soldier in the place where he fell for an entire day would severely impair the fighting ability and morale of the soldiers,… we permit (I hope never to need the allowance) the removal of corpses by car on Shabbat to the nearest place for keeping bodies. (*Responsa Meishiv Milchama*, II, no. 117)

As is his manner in other responsa, Rabbi Goren enters into a historical discussion of the practices of the armies of Israel in ancient times. He writes as follows:

Proof for this can be brought from what is stated in *Yalkut Shimoni* (*Shemot* 227) on the verse "that God did not lead them by way of the land of the Pelishtim, although that was near" (*Shemot* 13:17): "So that they not see the bones of their brothers cast in Peleshet and go back [to Egypt]." This implies that leaving fallen fighters in the battlefield causes the morale of the soldiers to drop to such an extent that this is why God did not lead Israel by way of the land of the Pelishtim, lest they see the corpses of the children of Ephraim and return to Egypt…

This is also evident from the *Mekhilta*, *Parashat Beshalach*, *parasha* 2, on the verse, "Because there were no graves in Egypt" (*Shemot* 14:11): “‘In Egypt, we were distressed about the death of our brothers in the darkness. Our death in the wilderness is more difficult for us than the death of our brothers in the darkness. For our brothers were eulogized and buried, but as for us, our corpses will be cast in the drought by day and in the frost at night.’ Immediately, Moshe said to them: ‘Be not afraid.’” This implies that leaving the bodies of the fallen in the battlefield is reason for worry and great distress on the part of the living soldiers. Because of this concern, the people said to Moshe: "For it were better for us to serve the Egyptians, than that we should die in the wilderness." Thus, we see that this greatly impairs the fighting spirit of the soldiers. (*Responsa Meishiv Milchama*, ibid.)[[2]](#footnote-2)

Since we are dealing with proofs from the Bible, we should add a proof that was not mentioned by Rabbi Goren, from the description of the death of Asahel, brother of Yoav:

He refused to turn aside; therefore Avner with the hinder end of the spear smote him in the groin, that the spear came out behind him; and he fell down there, and died in the same place; and it came to pass, that as many as came to the place where Asahel fell down and died stood still. (II *Shmuel* 2:23)

And the *Metzudat Tzion* explains:

"They stood still" – they stood frightened and stopped their pursuit. (*Metzudat Tzion*, ad loc.)

Indeed, the difficult sight of Asahel, lying lifeless, sufficed to stop the advance of the soldiers.

It is important to emphasize that these sources do not create new *halakhot*, but merely establish the reality that the morale of the fighting forces is considered a matter of *pikuach nefesh.* This is how Rabbi Halperin explained the matter in his article:

In both wars – the War of Attrition and the Yom Kippur War – the existence of the allowance stemmed from the continuation of the war and the situation of *pikuach nefesh* that would have arisen had they prevented the removal [of the corpses]. The novelty in the ruling lay not in some halakhic novelty, but in the assessment of the situation, and in the acceptance of the assumption that damage to the morale of the combatants, due to the failure to remove their fallen comrades, impairs their operational capacity and therefore poses a risk to human life. The allowance stemmed directly from this assumption. (Rabbi Mordechai Halperin, *Refu'a Metzi'ut ve-Halakha*, chap. 11, "*Pinui Chalalei Milchama be-Shabbat*"[[3]](#footnote-3))

In other words, all these proofs do not relate to the foundation of the law that it is permissible to desecrate Shabbat for the sake of *pikuach nefesh*, which we have already discussed at length; rather, they help demonstrate the principle that the presence of the bodies of fallen comrades harms the morale of the combatants, and thus leads to a danger that falls into the category of *pikuach nefesh.*

Thus, Rabbi Goren issued a novel ruling in the laws governing the army, for which there are precedents in the armies of Israel in ancient times, and established that the fear of damaging soldiers’ morale is reason to permit desecration of Shabbat.

**Rabbi Gad Navon and Rabbi Avidan – "Until it Falls"**

Later in his responsum, Rabbi Goren discusses the question of whether the staff of the Military Rabbinate, after removing the bodies of fallen soldiers, are permitted to return to their base by vehicle. This question, regarding returning from activity on Shabbat, will be discussed, with God's help, later in the series, but for our purposes, Rabbi Goren suggests permitting their return based on the law of "until it falls." In other words, removal of the bodies itself is based on considerations of *pikuach nefesh* because of damage to morale; only regarding the return to the base does Rabbi Goren turn to the allowance of "until it falls."

The third chief rabbi of the IDF, Major General Rabbi Gad Navon, did not write extensively about *halakhot* governing the army. One of the few articles that he authored deals with removal of fallen soldiers from the battlefield on Shabbat. In this article, he bases the allowance on the law of "until it falls." He briefly reviews the positions of the *Rishonim* that we have already seen (in particular, *Responsa ha-Rivash*, no. 101), and then writes:

It is clear that we should not desecrate Shabbat in order to remove fallen soldiers, and if it is possible to refrain from carrying out the removal until the end of Shabbat, we are certainly obligated to do so. Moreover, it is our duty to know and to communicate that observing Shabbat during a time of war is a great tactic for success, and desecrating Shabbat when it is not necessary is itself a danger. Therefore, it is certain that we are commanded to explain this to the soldiers who are on the battlefield, and refrain from removing corpses on Shabbat.

But if it seems to the commanders in the field, or to the soldiers who are fighting or about to go into battle, that failure to remove the corpses will damage the morale of the soldiers, it seems to us that there is room to permit even Torah prohibitions in order to remove the corpses, for morale is certainly a central element both in deciding the entire battle, and in the individual soldier's ability to function properly. Therefore, it seems that the removal of fallen soldiers falls into the category of "all the needs of the war," as the Rivash wrote in his responsa. All of this is said within the framework of the general allowance to perform any ordinary weekday actions on Shabbat as well, based on the law of "until it falls." (Rabbi Gad Navon, "*Pinui Chalalim be-Shabbat*," in *Techumin*, vol. V)

Rabbi Avraham Moshe Avidan, another of the leading *poskim* in the military rabbinate, voiced a similar position in his article dealing with the parameters of "until it falls":

It is possible that even if removal of the corpses will only have an auxiliary effect, and not a decisive one, it is permitted to remove them from the battlefield, if the war will continue there. In any case, it seems that the question of the removal of fallen soldiers takes on a new dimension in light of this understanding, according to which it is permissible to desecrate Shabbat for anything that will assist the war effort, even if this assistance is not decisive. (*Shabbat u-Mo'ed be-Tzahal*, p. 17)

Thus, Rabbi Goren's successors in the military rabbinate based the allowance that he himself introduced – to remove fallen soldiers from the battlefield on Shabbat – on the law of "until it falls," which expands the parameters of the allowance during war to any necessary action, even if it does not directly save lives.

**The Opinion of Rabbi Shlomo Zalman Auerbach**

This halakhic ruling, which emerged from the *beit midrash* of the military rabbinate, also received the approval of Rabbi Shlomo Zalman Auerbach.

Rabbi Dr. Mordechai Halperin prepared a comprehensive summary article in which he reviewed the policy of the military rabbinate regarding removal of fallen soldiers from the battlefield on Shabbat during the War of Attrition, the Yom Kippur War, and Operation Peace for the Galilee.[[4]](#footnote-4) In his article, he mentions that both Rabbi Goren (in the Yom Kippur War) and Rabbi Gad Navon (in Operation Peace for the Galilee) were cautious about issuing sweeping allowances for the removal of fallen soldiers on Shabbat, despite their policy in principle. Nevertheless, in practice, the military rabbinical staff generally did remove corpses on Shabbat to prevent damage to the morale of the fighting forces.

Rabbi Halperin relates that after the Yom Kippur War, he presented the question to Rabbi Shlomo Zalman Auerbach, and he approved the allowance. Rabbi Avraham Moshe Avidan writes even more explicitly in the name of Rabbi Auerbach in his book, *Darkhei Chesed*, which deals with the treatment of fallen soldiers. After Rabbi Avidan repeats his above-mentioned position regarding "until it falls," he writes:

And I heard from Rabbi Sh. Z. Auerbach who proposed a great principle in this matter, namely, that just as the matter of removing fallen soldiers causes panic even on weekdays and we hasten to remove them to prevent a loss of spirit, it is permissible to remove them on Shabbat, for the degree of panic indicates the urgency and importance of the removal. (*Darkhei Chesed*, chap. 10, note 2)

This is also what Rabbi Yehoshua Ben Meir, who served as a military rabbi in the Yom Kippur War, reported in the name of Rabbi Auerbach, after consulting with him after the war:

Damage to the morale of the soldiers – who see that if they fall in battle, they will lie on the side and nobody will take care of them – is an important factor in the fighting spirit, and therefore constitutes a situation of *pikuach nefesh.*[[5]](#footnote-5)

With these words, Rabbi Auerbach adds an explanation for the damage to morale, clarifying that it is not only the difficult sight in itself that causes the damage, but also the soldier's fear that he too will suffer an injury and remain lying on the battlefield unattended to.[[6]](#footnote-6)

However, Rabbi Ben Meir also adds an important qualification that he received from Rabbi Auerbach:

In another conversation, many months later, Rabbi Auerbach warned me that they should not learn by analogy from what was stated above and say in his name that eating cold food on Shabbat also involves a problem for morale and *pikuach nefesh*, and therefore it is permissible to desecrate Shabbat and cook or heat food during a time of war. He explained that true fear of God is necessary to understand the difference between the issues, and it is clear that there is no allowance to desecrate Shabbat in order to heat up food or the like. (Ibid.)

We discussed the question of food and hot drinks for the soldiers in previous *shiurim*, as part of the allowance of "until it falls." Rabbi Auerbach clearly disagrees with this allowance, and in general, he does not explicitly relate to the issue of "until it falls." This notwithstanding, he clearly accepted the principle itself that damage to morale constitutes operational damage, and therefore he agrees with those who permit casualties to be cleared from the battlefield, even when that involves the transgression of Torah prohibitions.

**Additional Halakhic Considerations**

It is important to note that both Rabbi Goren and Rabbi Gad Navon based the allowance to evacuate fallen soldiers on additional halakhic considerations, not related to "until it falls":[[7]](#footnote-7)

a. Fear of abduction of bodies. Rabbi Goren gives expression to the fear of abduction of bodies or body parts by the enemy. Such an abduction is liable to affect the entire campaign, and therefore, in order to prevent such incidents, it is permitted to remove the bodies of fallen soldiers on Shabbat. Here, the allowance does not need the law of "until if falls," which permits actions that are only indirectly connected to the fighting, because we are dealing with a clear and direct operational need (in the wake of concern about future effects of the abduction of bodies), for which it is permitted to desecrate Shabbat as in any other situation of *pikuach nefesh.*

b. Identifying the body and permitting the soldier's widow to remarry. Rabbi Gad Navon incorporated into the discussion the concern that a delay in removing the bodies of fallen soldiers from the battlefield might lead to difficulties in identifying them and permitting their widows to remarry. Here too, the accepted law is that we do not desecrate Shabbat in order to permit widows to remarry; at most, there is room to permit Rabbinic prohibitions.[[8]](#footnote-8) But Rabbi Gad Navon expressed a concern that a widow might not withstand such a test and might come to live in sin with another man. In his opinion, we should do everything in our power to prevent such a situation.[[9]](#footnote-9)

Rabbi Ben Meir (who was cited above) also related to this issue, and suggested basing it on the principle we have already mentioned: If a soldier on the battlefield fears that he will not be treated properly and that his wife will be left an *aguna*, his ability to fight will be impaired, and this may lead to operational difficulties.

In addition to these two considerations, Rabbi Gad Navon sought to base the allowance on another halakhic issue – the concern for what the Gemara calls *yituvei da'ata*, "peace of mind," which permits desecrating Shabbat for a woman in labor even for matters that are not clearly necessary from a medical point of view. I will dedicate the next *shiur*, with God's help, to clarifying this issue.

**Taking Risks for the Purpose of Removing the Bodies of Fallen Soldiers**

Defining the removal of bodies from the battlefield as essential for maintaining morale and achieving victory also affects the allowance to take risks for this mission. Rabbi Ben Meir relates that at first Rabbi Auerbach told him that his questions about the issue are "the questions of an ignoramus," because if officers and soldiers put themselves into danger in order to evacuate bodies, it is clear that they see the matter as a military necessity, and thus it is certainly permitted on Shabbat.

Rabbi Yehuda Zoldan dealt extensively with this issue (in his book *Shevut Yehuda ve-Yisrael*, chap. 21[[10]](#footnote-10)), and following the practice of Rabbi Goren, suggested proof from Scripture that it is indeed permissible, in certain situations, to endanger human life in order to rescue bodies from the enemy. Rabbi Zoldan discusses in detail the rescue operation of the bodies of Shaul and his sons by the men of Yavesh Gilad (I *Shmuel* 31) and proves from the verses and from statements of *Chazal* that this operation involved risk to human life – but they took the risk because leaving the bodies in the hands of the Pelishtim would have brought about a blow to the honor and morale of the nation.

Over the course of his discussion, Rabbi Zoldan discusses the rulings of the rabbis who permitted the evacuation of bodies from the battlefield, as I outlined above, and tries to clarify the difference between consideration of the morale of the individual soldier vs. national morale as a political and systemic consideration. This topic, regarding "national resilience" and its halakhic significance, will also be discussed, with God's help, later in the series.

**Conclusion**

Rabbi Halperin’s review of the sources, in the article mentioned above, ends with Operation Peace of the Galilee. Unfortunately, in the decades that have passed since then, the military rabbinate has had to address this halakhic question of evacuating the bodies of fallen soldiers from the battlefield and various combat sectors on Shabbat.

To this very day, the policy of the military rabbinate is that this is permitted both in war and in the framework of ongoing security activities – if indeed it is an operational sector, such as the outposts in Judea and Samaria. In recent years, unfortunately, it has often happened that an IDF soldier was killed in a terrorist attack or in an operational activity in Judea and Samaria. Experience has shown clearly that the ability of a soldier’s comrades to conduct a pursuit of the terrorists, and to persevere in the operational activity assigned to them, is significantly impaired when his body lies alongside them in a small forward outpost. Therefore, as mentioned, the military rabbinate has permitted the removal of the dead on Shabbat to a rear base or to a hospital.

May these questions remain theoretical without practical relevance, or as Rabbi Goren formulated it: "I hope never to need the allowance."

(Translated by David Strauss)

1. This is also the opinion of the Ramban, who wrote: "It is because of the honor due to the dead, that it should not be said: 'Shabbat was desecrated for So-and-so in his death'" (*Torat Adam*, *Sha'ar ha-Sof*, *inyan mi she-meita mutal lefanav*). His words are cited in *Beit Yosef* (OC 526), in the name of the Ran, and are also brought as *halakha* by the *Mishna Berura* (ibid., no. 17). [↑](#footnote-ref-1)
2. Later, Rav Goren also discusses a possible proof from II *Maccabees* (chap. 12); see there. [↑](#footnote-ref-2)
3. Available on the Schlessinger Institute for the Study of Medicine According to the Torah website, [here](https://www.medethics.org.il/article/%D7%A1%D7%99%D7%9E%D7%9F-%D7%99%D7%90-%D7%A4%D7%99%D7%A0%D7%95%D7%99-%D7%97%D7%9C%D7%9C%D7%99-%D7%9E%D7%9C%D7%97%D7%9E%D7%94-%D7%91%D7%A9%D7%91%D7%AA/). [↑](#footnote-ref-3)
4. The article was published in *Techumin*, vol. XXII, and in greater detail in Rabbi Halperin's book, *Refu'a Metzi'ut ve-Halakha*, chap. 11. [↑](#footnote-ref-4)
5. Rabbi Yehoshua Ben Meir's letter to Rabbi Halperin was published as an appendix to chap. 11 in the book *Refu'a Metzi'ut ve-Halakha*. It was also published in *Kovetz ha-Tziyonut ha-Datit* (5762) as an independent article, "*Pinnui Chalalim be-Shabbat ve-Chag be-Milchement Yom ha-Kippurim*." [↑](#footnote-ref-5)
6. A similar consideration comes up with regard to another sensitive question related to the treatment of fallen soldiers, namely, whether it is permissible to desecrate Shabbat in order to inform the family of the deceased. This question requires a separate discussion, but as mentioned, one of the considerations in this matter is that a soldier's peace of mind is connected in part to his knowing that if, God forbid, he is injured, his family will receive a proper notification of what happened, and full guidance and support from the relevant institutions. [↑](#footnote-ref-6)
7. Alongside the allowances mentioned above, Rabbi Halperin in his article points to the other side of the coin, namely, excessive fear of harming the morale of the soldiers, and evacuating bodies at any cost based on considerations bordering on hysteria. Rabbi Halperin emphasizes the need to thoroughly investigate the facts and the situation on the ground, before a decision is made to desecrate Shabbat for the sake of removing a body. See there the various examples of false or exaggerated reports received over the course of the Yom Kippur War and during Operation Peace of the Galilee. [↑](#footnote-ref-7)
8. See, for example, *Responsa Shevut Ya'akov* (vol. I, no. 14), and the book *Darkhei Chesed* (chap. 10, sec. 5). [↑](#footnote-ref-8)
9. The Gemara ostensibly rejects the possibility of transgressing a minor prohibition in order to save another person from violating a more severe prohibition; we do not "tell a person to sin in order that your neighbor should gain thereby" (*Shabbat* 4a). But Rabbi Navon was aware of this, and demonstrated from the words of the *poskim* that in particularly serious cases, one should commit a minor sin in order save another person from transgressing a prohibition, and in his words: "Even though they said in the Gemara: 'We do not say to a person: Sin, in order that your neighbor may gain thereby,' nevertheless, we find that they permitted freeing a non-Jewish slave in order to fulfill the mitzvaof procreation, which is a great mitzva (though there are *Rishonim* who understand that this is not a full-fledged prohibition). The *Beit Yosef* brings support from this law that in a situation involving a great prohibition, as in the case of a young woman who will desecrate Shabbat all her life if we do not save her, it is considered a great prohibition even in relation to the prohibition of Shabbat. And it seems to us that in this case, where failure to remove [the body] will result in non-identification and hence a situation of a great stumbling block for those concerned, we can add this rationale as an argument for allowance." [↑](#footnote-ref-9)
10. Available on the Yeshiva website [here](https://www.yeshiva.org.il/midrash/35895). [↑](#footnote-ref-10)