YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**PIKUACH NEFESH**

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**Shiur #50:
Returning from Operational and Rescue Activities on Shabbat (1):
The Halakhic Sources**

**Presentation of the Halakhic Question**

The first subject we will address, and to which we will dedicate this and the next two *shiurim*, is the permissibility of returning from an operational or rescue activity on Shabbat. This is one of the most practical and complex questions for security and medical teams.

Security and medical teams are frequently called upon to engage in rescue operations over the course of Shabbat. This happens both with and without planning: there may be operational activity or a hospital shift scheduled for Shabbat or which began on Friday and continued into Shabbat, and the issue can also arise in a more haphazard and random manner, such when a senior officer was called from home to join his unit due to an operational event, or an on-call doctor was summoned to the hospital due to a complex emergency.

Traveling to the scene of the event is certainly permissible, since it is for the purpose of saving lives. In such a case, it is incumbent upon the medical or security person to reach the place to which he is summoned as quickly as possible, as *Chazal* stress: "The one who is quick is praiseworthy, the one who is asked is blameworthy, and the one who asks is a spiller of blood" (*Yerushalmi*, *Yoma* 8:5).

Often, however, the security or medical person also wants to return home after completing the necessary task. This is the problem: this trip – from the rescue area to the person's home – is not a life-saving trip, and not at all necessary for the sake of *pikuach nefesh.* At first glance, it seems obvious that this should be forbidden.

And yet: as the number of calls increases, so too do the absences from home and family over the course of Shabbat become more and more challenging and complex, and therefore many want to return home on Shabbat. Not once or twice, but many times, such call-ups and summonses have caused officers and security personnel to terminate their service, when home and family could not be sustained in the face of their frequent absences. Security personnel are often absent from their homes during the week, and the additional absence on Shabbat, following a call-up to the unit, was not infrequently "the straw that broke the camel's back."

**Anecdotes**

Over the years, I have been asked tens, and perhaps even hundreds, of questions in this area. A number of *shiurim* could be devoted just to the various and sundry questions posed by physicians and nurses, officers in the field and in combat units in rear echelon positions (such as operators of unmanned aerial vehicles or advanced intelligence systems), members of the Shin Bet and other security services, and so on.

Since it would be tedious to enumerate all the examples, I will limit the discussion to three brief anecdotes:

a. When Rabbi Avichai Rontzki *z"l* began to serve as Chief Rabbi of the IDF, he instituted a "Halakhic Forum" whose purpose was to bring halakhic questions that arose in the IDF to leading *poskim*. The forum met every few months in the home of Rabbi Avigdor Nebenzahl, *shlita*; Rabbi Zalman Nechemya Goldberg *zt"l* and Rabbi Dov Lior, *shlita*, joined as well. It was my privilege to serve as the "judges’ scribe" of this forum, presenting the questions to the rabbis and putting their answers in writing.

On one occasion, I left Rabbi Nebenzahl’s home together with Rabbi Rontzki, and as we stood in one of the alleys of the Old City of Jerusalem I asked him: "The honorable Chief Rabbi, my task is to record the questions and summarize the answers. In the previous forum, and in the one before that, you asked the rabbis for their opinion regarding returning from operational activity on Shabbat. The questions, and the answers, are already recorded. Why, then, do you keep asking the same question over and over again?!" Rabbi Rontzki looked at me and replied: "The question is so troubling to the Shabbat-observant officers in the IDF on a daily basis, and with such complexity, that I simply cannot restrain myself from asking the rabbis again whether there might be ways to find a way to be lenient regarding this matter."

b. In one case – without mentioning names or places – a physician was debating whether to make her rounds in the hospital as usual on Shabbat morning, in which case the question of returning home after the rounds would arise, or whether to postpone her rounds until the afternoon, so the return home would be after Shabbat. We discussed this several times, and after much deliberation, she decided to postpone the rounds and come towards the end of Shabbat. On the first Shabbat of this decision, there was an emergency in the ward, and an emergency resuscitation was required. This very doctor performed the resuscitation with her own hands until the other teams arrived, and the patient was saved. We saw this as a sort of “sign” that she had made the right decision.

c. In the lead-up to Pesach 5778, Palestinian terrorists began holding "return marches" on the Gaza border. These marches went on for months and involved violent clashes at the security fence. The marches took place on Fridays, beginning with leaving the mosques after Friday prayers and continuing until nightfall, after Shabbat had begun.

During this period, it was decided that "all the number 1's are at the fence," meaning that the brigade commander, the battalion commander, and the company commander, or their replacements, were obligated to be in the sector during the march and until the end of the incidents at the fence. Officers who were not Shabbat-observant drove home after the events, several hours after Shabbat had begun. But Shabbat-observant commanders were faced with the situation that every Shabbat they were required to remain on post with the onset of Shabbat, and they were uncertain as to whether they could return to their homes over the course of Shabbat.

On one of my visits to the sector at that time, I heard a deputy battalion commander in the Golani Brigade say the following: "A company commander who is away from home on Shabbat for months on end will not be able to continue in the reserves. The IDF will know how to win the fence riots even if the commander is not in the sector, but if such a commander does not remain in a command position as a career officer, the IDF will not know how to win." This assertion once again clarified the need to examine whether there is a way to permit commanders to return to their homes at the end of their operational activity.

The truth is that the question is not a new one; already in the Mishna we find a reference to this very issue. In this *shiur*, we will examine the relevant sources in the words of *Chazal*, and in the following *shiurim*, we will survey the various approaches of the *poskim* in their practical halakhic rulings.

**The Passage in *Eiruvin* – "All who go out to save [may] return to their place"**

As is well known, a person is forbidden to go beyond the *techum* (a distance of 2,000 cubits) on Shabbat or Yom Tov. Nevertheless, a medical or security worker is sometimes summoned to a place that is further away, and he is of course permitted to go there. Regarding such a case, a *mishna* in *Eiruvin* says as follows:

If one went out beyond the *techum* permissibly, and was then told that the act had already been performed, he has two thousand cubits in any direction [in which he may move]. If he was within the *techum*, he is regarded as if he had not gone out. All who go out to save [may] return to their [original] place. (*Eiruvin* 4:3; 44b)[[1]](#footnote-1)

If the person who went to save a life does not go beyond the *techum*, he is obviously permitted to return to his home, since there is no prohibition involved. But the *mishna* adds two novel statements that seem to be at odds with each other. First, the *mishna* states that even one who goes past the limit is permitted to walk two thousand cubits from the place where he finished his mission. By strict law, one who goes out beyond the *techum* is not permitted to walk beyond his own *four* cubits, but for one who went out with permission – and Rashi (ad loc.) explains that this is a case where he went out for the sake of saving a life – the Rabbis were lenient and permitted him to walk two thousand cubits in any direction from where he is.

The latter clause of the *mishna* seems to indicate an even broader novelty, as it states categorically that anyone who goes out to save a life is permitted to return to his original place; the implication is that he may walk home even if the distance is much greater than two thousand cubits.

The Gemara (*Eiruvin* 45a) notes this contradiction and offers two resolutions. The first is that in fact, even according to the latter clause, there is no allowance to walk more than 2,000 cubits; the more sweeping formulation actually comes to teach that not only are the combatants themselves permitted to return home, but that they are even permitted to bring their military equipment home with them. The Gemara does not clarify whether this allowance to carry weapons and equipment permits the transgression of a Torah prohibition (carrying four cubits in the public domain) or only that of a Rabbinic prohibition (carrying in a *karmelit* or moving something that is *muktzeh*). But either way, we are talking about an allowance based on a concern for *pikuach nefesh*: if the weapons are left in the field, a tactical mishap[[2]](#footnote-2) may occur in the event of renewed battle. They did not permit walking more than two thousand cubits, but within those two thousand cubits, weapons may be carried, because of *pikuach nefesh*.

According to the second explanation, the latter clause indeed grants an allowance that is broader than that of the first clause, but only in a case where the Jewish army was, God forbid, defeated in battle. In such a situation, the soldiers are obligated to flee from the scene of danger as quickly and as far as possible, and therefore they are permitted to return to their original places. On the other hand, if the warriors are victorious, they are not permitted to walk more than two thousand cubits.

The Rosh (in his rulings on *Eiruvin*,4:5) writes that both of the Gemara's resolutions are accepted as the normative *halakha*.[[3]](#footnote-3) For our purposes, the common denominator of the two resolutions is that the ruling introduced in the latter clause is a simple application of the *halakhot* of *pikuach nefesh*. It is obvious that when it is dangerous to remain in a battle zone, or when the weapons are required for returning to battle readiness, Shabbat may be violated.

Even at the outset of the discussion there, the Gemara suggests that "to save a life is different." Rashi and the Ritva explain that the allowance granted to those who go out to save lives, in times of emergency and war, is broader than the allowance granted in other permissible situations of going beyond the *techum*, such as traveling to testify about sighting the new moon (which will be discussed below). Rashi explains:

But one who comes to rescue from enemies – one must be concerned that the enemies may pursue him, and therefore he may walk further and enter the city. (Rashi, *Eiruvin* 45a)

In other words, even within the framework of this suggestion of the Gemara, all that is said is that when there is a concern of mortal danger, it is permitted to return to the city in order to be protected from the danger.

So too in today's military reality, soldiers are often permitted to return to their base after the conclusion of operational activity – because they have to return to battle readiness and prepare for further activities, or because it is dangerous to remain until after Shabbat in the place where they carried out the operation. In such cases, returning to their base is permitted without question, based on the laws of *pikuach nefesh*.

Yet, even though the Gemara's resolutions set the ruling of the *mishna*'s latter clause in a life-threatening situation, the ruling of the former clause remains in its place. That is to say, the Sages relaxed the rules for those going out to save lives, allowing them to walk two thousand cubits in any direction, even when there is no danger involved and even though any other person who went past the *techum* is then forbidden to walk more than four cubits. To elucidate and clarify this leniency further, we must turn to the parallel discussion in tractate *Rosh Hashana*.

**"You will cause them to stumble in the future" – Sanctification of the Month as a Model**

The *mishnayot* of tractate *Rosh Hashana* (1:4-7; 21b-22a) teach us that it is permitted to violate Shabbat in order to go up to Yerushalayim and testify about the new moon. The *mishna* states explicitly that when the Temple stood, this allowance was in force all twelve months of the year and included doing everything necessary to reach Yerushalayim as quickly and safely as possible: one was permitted to ride on a donkey, to carry provisions and weapons for protection on the road, etc. This allowance is reminiscent of the allowance to violate Shabbat to do whatever is needed for *pikuach nefesh.*

In this context, the Mishna relates the following story:

It once happened that more than forty pairs [of witnesses] were on their way [to Jerusalem] and Rabbi Akiva detained them in Lod. Rabban Gamliel sent [this message] to him: If you prevent the multitude [from coming to give evidence], you will cause them to stumble in the future. (Mishna *Rosh Hashana* 1:6; 21b)

According to Rabbi Akiva, despite the allowance to violate Shabbat for the purpose of sanctifying the month, there is no allowance to do so in an excessive and obviously unnecessary manner. Therefore, when Rabbi Akiva realized the moon was "clearly visible" and inferred that several witnesses must have already arrived in Yerushalayim, he ruled that there is no allowance to continue violating Shabbat with the journey of so many excess witnesses. Rabban Gamliel disagreed with Rabbi Akiva and explained: It is indeed possible to assume with certainty that witnesses have already arrived in Yerushalayim, but if you detain the witnesses in Lod and deprive them of the privilege and excitement of arrival in Yerushalayim, they will refrain from going in the future to testify about the new moon. Therefore, in view of the future concern lest they fail to testify, they are permitted now as well to violate Shabbat and continue the journey to give their testimony.

Rabban Gamliel's position was part of a fundamental policy of giving the witnesses a good and meaningful feeling. In this context, the Mishna describes how festive banquets would be held for them "so that they would be accustomed to come" (*Rosh Hashana* 2:5; 23b), and they would also investigate and examine each group of witnesses, even if the month had already been sanctified, "so they would not be disappointed, so that they would be accustomed to come" (ibid.,2:6; 23b).

From the Gemara there, it emerges that the *halakha* was established in accordance with the opinion of Rabban Gamliel, and according to one opinion in the Gemara, Rabbi Akiva never disagreed with him; rather, it was actually someone else who delayed the witnesses in Lod, and he was even punished for that decision. The *Chatam Sofer* emphasizes that Rabban Gamliel's leniency is a sweeping and all-encompassing leniency, and included even full-fledged Torah prohibitions:

It would be forced to say that they had in their hands neither sticks nor provisions, and that their violation of Shabbat involved only the Rabbinic laws of *techum*… This is a forced understanding![[4]](#footnote-4) But the truth points the way… Just as the testimony itself about the new moon sets aside Shabbat, as do the sacrifices, for the verse states: "their appointed time," as is explained in the Gemara there – so too the concern about causing the witnesses to stumble in the future sets aside Shabbat. (*Responsa Chatam Sofer*, *Orach Chaim*, vol. 1, no. 203)

Thus, we have learned that in order to ensure the proper sanctification of future months, it was permitted to violate Shabbat – even Torah prohibitions – already in the present.

**"They gave you that which is yours"**

However, the continuation of the discussion in tractate *Rosh Hashana* indicates that the allowance is more limited than the way the *Chatam Sofer* presents it. A *mishna* there mentions once again the allowance of returning home, which we saw in tractate *Eiruvin* (*Eiruvin* 4:3; 44b):

Originally, they would not leave there the whole day, but Rabban Gamliel the Elder introduced a rule that they could go two thousand cubits in any direction. And these were not the only ones [to whom this concession was made]; rather, even a wise [midwife] who has come [from a distance] to help in childbirth, or one who came to rescue from a fire or from bandits or from a [flooding] river or from a building that collapsed – all these are [on the same footing] as the residents of the town, and they have two thousand cubits in any direction [in which they may move]. (*Rosh Hashana* 2:5; 23b)

This *mishna*, which is also cited in the passage in *Eiruvin*, discusses both those who traveled to testify about the new moon and those who went for reasons of *pikuach nefesh*, but it only permits walking two thousand cubits in any direction. The Ritva there explains:

Since they came with permission, they made it as if they had established their place of rest there, and they gave you that which is [already] yours, because the prohibition of Shabbat limits is only by Rabbinic decree. (*Chidushei ha-Ritva*, ad loc., s.v. *hitkin*)

The Ritva explicitly states that it is specifically Rabbinic prohibitions that are permitted in order to be lenient with those who went out to save lives. The phrase "they gave you that which is [already] yours" can be explained in two ways: It may be that the meaning is similar to that of phrase "they said and they said," i.e., since the entire prohibition of Shabbat limits (certainly within the limit of two thousand cubits) is Rabbinic, the Sages chose to be lenient about it for those engaged in saving lives. If so, there might be room to relax other Rabbinic prohibitions as well. Alternatively, it may be explained that since the prohibition of going past the *techum* is exclusively dependent on a person's location, one who changed his location over the course of Shabbat has changed his Shabbat limit as well, and "they gave him that which is his" – this is his new Shabbat limit.[[5]](#footnote-5) Thus, not even Rabbinic prohibitions were relaxed after one went out to save a life; the only special allowance is to walk two thousand cubits in every direction.

**"They permitted their completion for the sake of their beginning"**

A conclusion similar to that of the Ritva may be drawn from the *Tosafot*. The *Tosafot* in *Eiruvin* (44b, s.v. *kol ha-yotzin*) and in *Rosh Hashana* (23b, s.v. *she-yiheyu*) noted that this *halakha*, according to which leniencies were granted to those who went out to save lives so as to prevent future issues, is in keeping with a principle established by *Chazal* in *Beitza* (11b): "They permitted their completion [of a task whose permissibility is in question] for the sake of their beginning [to support necessary acts]." There, the discussion is about various actions the Sages permitted on Yom Tov, even though they themselves are not necessary for food preparation, because forbidding them would impact the possibility of preparing food. The *Tosafot* maintain that the list mentioned in the Gemara in *Beitza* is not a "closed" list; there are also allowances in other cases,[[6]](#footnote-6) including the allowance to walk two thousand cubits in any direction or that "all who go out to save [may] return to their [original] place."[[7]](#footnote-7) The *Tosafot* in *Eiruvin* (ibid.; and similarly the Rashba in *Beitza* 11a, s.v. *bi-pelugta*) even explain that the reason the example is not mentioned in the same passage in *Beitza* is that ”this is not a novelty," i.e., there is no novelty in the fact that they permitted various leniencies for those going out to save lives, "their completion for the sake of their beginning."

However, in his explanation of the principle that "they permitted their completion for the sake of their beginning," the *Bach* writes:

Permitting their completion for the sake of their beginning applies only in the case of a Rabbinic prohibition. (*Bach*, *Orach Chaim* 497, 11)

The *Bach's* ruling was codified in the *Magen Avraham* (ibid., no. 18), and based on it we come to a conclusion similar to that of the Ritva: if the allowances granted to those who go out to save lives are based on the principle of "permitting the completion for the sake of the beginning," as suggested by the *Tosafot*, these allowances are limited to the transgression of Rabbinic prohibitions.

**Summation**

It is explicit in the *mishnayot* of *Eiruvin* and *Rosh Hashana* that our Sages sought to ease the burden of those who go out to save lives, and to allow them freer movement even after they have completed their mission.

When they are in danger where they are, it is clear that they are permitted to violate Shabbat for the sake of *pikuach nefesh*. Likewise, if they must return in order to restore their readiness and be available for other life-threatening emergencies, this is permitted (e.g., soldiers who are required to re-deploy for further action, or an ambulance driver who, after being called out on Shabbat, needs to return in order to be available for another call).

When there is no imminent *danger*, but there is concern that they may be lax in their duties in the future – and at the same time, there is a desire to encourage and spur them on to their good deeds – then "the completion is permitted for the sake of the beginning," so as not to cause them to stumble in the future. The plain sense of the Talmudic discussion in *Rosh Hashana* is that the allowance not to cause them to stumble in the future is a blanket allowance, including even Torah prohibitions, but the Ritva and the *Tosafot* maintain that only Rabbinic prohibitions may be transgressed in such cases.

In the next *shiur*, we will turn to the words of the *poskim* of our generation on the subject of returning from a lifesaving mission. We will see that they too differ as to whether even Torah prohibitions were permitted to those who went out to save lives, or only Rabbinic prohibitions.

(Translated by David Strauss; edited by Sarah Rudolph)

1. Against the background of this *mishna*, the Gemara goes on to discuss the issue of a border town, a topic we studied in detail in previous *shiurim.*  [↑](#footnote-ref-1)
2. This issue is a paradigmatic example of the importance of "safety procedures" which are a matter of life and death and therefore permit violation of Shabbat, a topic we discussed in *shiur* no. 45. [↑](#footnote-ref-2)
3. In the context of the laws of *techum* (*Mishneh Torah*, *Hilkhot Shabbat* 27:17; and from there, *Shulchan Arukh Orach Chaim* 407:3), the Rambam rules in accordance with the Gemara's second resolutiom – that the allowance to return to their original places exists only if there is a danger in remaining in the battlefield. Nevertheless, in the laws of *pikuach nefesh* (*Hilkhot Shabbat* 2:23), he simply states that "after they have saved their brothers, they may return home with their weapons on Shabbat, so that they not stumble in the future," without distinguishing between different situations. The commentators discuss the relationship between these two rulings; see, for example, *Ma'aseh Roke'ach* on the *halakha* in chapter 2. In our next *shiur*, we will see Rabbi Moshe Feinstein’s view of the relationship between these two rulings. [↑](#footnote-ref-3)
4. It should be noted that the *Arukh la-Ner* explains the entire passage in accordance with this understanding, which the *Chatam Sofer* characterized as a forced interpretation; see there. [↑](#footnote-ref-4)
5. An interesting ramification of this approach is found in the novel halakhic ruling of Rabbi Sh. Z. Auerbach concerning one who goes out for a matter of *pikuach nefesh* and wants to carry equipment that is not essential for his activity (e.g., a soldier going out to an operation outside the *techum* who wants to take a *siddur* or a *chumash*). The prohibition of Shabbat limits applies not only to the person himself, but also to his personal effects and possessions. Hence, even if a person himself is permitted to go beyond the *techum* for the sake of *pikuach nefesh*, it is by no means clear that he is permitted to carry personal gear! However, in light of the words of *Chazal* (*Beitza* 37a) that "cattle and utensils are [restricted to the same limits] as the feet of the owners," Rabbi Auerbach explains that if a person's *techum* changed for reasons of *pikuach nefesh*, then his utensils' *techum* likewise changed, and in effect a new limit was established for him – at the place to which he had gone for the sake of *pikuach nefesh.* Therefore, wherever he himself is permitted to go, so he is permitted to take his things there.

A ruling similar to that of Rabbi Auerbach is found in *Responsa Minchat Yitzchak* (vol. 9, no. 37), but the *Iggerot Moshe* (*Orach Chaim*, vol. 5, no. 26) disagrees. This, however, is not the forum in which to expand on this issue. [↑](#footnote-ref-5)
6. See also *Beit Yosef* (*Orach Chaim* 518) and *Mishna Berura* (518, 6). [↑](#footnote-ref-6)
7. The Gra (on *Shulchan Arukh*, *Yoreh De'a* 266, 3) raises doubts about the *Tosafot* and rules that the allowances of "their completion for the sake of their beginning" relate exclusively to the joy of Yom Tov, but not to other halakhic issues. [↑](#footnote-ref-7)