YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Jewish History**

**Rav Aviad Tabory**

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Dedicated by Mr. and Mrs. Leon Brum for the Refua Sheleima of

Dana Petrover (Batsheva bat Gittel Aidel Leba)

and Marvin Rosenberg (Meir Chaim ben Tzipporah Miriam)

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In memory of six friends and family,
strong pillars of the Montreal Jewish community,
who have left us in the past 7 years.
All were אוהבי עם ישראל, אוהבי ארץ ישראל, אוהבי תורת ישראל.

Joseph (Yosie) Deitcher

Avrum (Avy) Drazin

Rabbi Joseph Drazin

Leibel Frisch

Israel (Mutch) Yampolsky

Dr. Mark Wainberg

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**Shiur #08:**

**The Black Death**

**1347-1351**

In the mid-14th century, an estimated 75-200 million people around the world died as a result of the Plague, which hit hardest in Europe from 1347 to 1351. Although exact numbers are not known, it is clear that this epidemic was of catastrophic proportions. In Europe alone, some estimate that over sixty percent of the population perished.

The origin of the epidemic was in Asia, but it spread quickly to Europe as well via Italy. Entire communities were destroyed as the sickness made its way from one country to another.

The disease, caused by the deadly bacterium *Yersinia pestis,* was most probably transferred by rodents.

The catastrophic number of people killed during these years affected the course of history.

The repercussions were felt in the fields of religion and social dynamics, as well as in the worlds of finance and the economy.

In the Jewish community, the consequences were severe.

There is a common theory that the Jews were less affected by the Plague due to their hygienic conduct; nevertheless, it is clear that thousands perished.[[1]](#footnote-1)

An additional threat to the community was the anti-Semitic response to the Plague. A popular “explanation” at the time was that the Jews poisoned the wells.[[2]](#footnote-2) This may have been the beginning of modern anti-Semitism, which developed more and more conspiracy theories that put the blame for the world’s troubles on the Jews. Within Europe, the spread of this canard led to horrific pogroms which destroyed entire Jewish communities.

On February 1349, in the city of Strasbourg, approximately 2,000 Jews were murdered. The same year, in August, the Jewish communities of [Mainz](https://en.wikipedia.org/wiki/Mainz) and [Cologne](https://en.wikipedia.org/wiki/Cologne) were destroyed completely.

By the year 1351, 60 major and 150 smaller Jewish communities had been annihilated.These horrific events led to an exodus of Jews from the western parts of Europe and a relocation to Poland and Eastern Europe.

There were other areas in which Jewish communities were affected by the Plague.

An entire generation of Torah scholars perished, along with their *yeshivot* and Torah centers. The challenge of rebuilding the world of Torah fell on the shoulders of a new generation, which did not see itself as worthy of being the spiritual successors to such august authorities.

One of these rabbis was the Maharil, Rav Ya’akov ben Moshe Levi Moelin (c. 1365 – 1427) whose book of Jewish custom, *Sefer Minhagei Maharil*, has become a prime source of Ashkenazic practice. During his generation, many customs were finally set down and published.[[3]](#footnote-3)

There is a claim that the years of the Black Death mark the transition period between the respective eras of the Rishonim and Acharonim. This is based on the dramatic historical events which impacted the community in so many ways that they influenced and even reoriented approaches within the Torah world.

The Black Death is just one of many plagues that hit the world with catastrophic results. Medicine and hygiene conditions were very poor at the time, and contagious sickness spread everywhere.

**Coming in contact with contagious patients**

A common question regarding contagious sicknesses is whether or not doctors are required to endanger themselves while treating patients.

A similar question is discussed regarding the mitzva of visiting the sick, *bikkur cholim*. In many cases visiting the sick at home or even visiting a hospital may result in picking up some virus or infection. When the condition is life-threatening, is one permitted to visit the sick and thus endanger oneself?

Let us elaborate on this.

The Torah commands the Jewish people to ensure their safety and health. “*Venishmartem me’od le-nafshoteikhem,”* “And you shall protect your lives exceedingly” (*Devarim* 4:15) is interpreted by the Rabbis to prohibit enter a situation in which there is danger to one’s life (*sakanat nefashot*).[[4]](#footnote-4) Furthermore, it is forbidden to endanger one’s life even to save others![[5]](#footnote-5)

However, travelling to work on the highway also poses a certain level of danger to life and limb, yet this is obviously allowed! Why?

The explanation is that the Rabbis permit entering situations that involve some minimal form of danger. This *heter* (dispensation or allowance) is based on the verse, "*Shomer peta’im Hashem*," "The Lord preserves the simple" *(*[*Tehillim*116:6](https://www.sefaria.org/Psalms.116.6?lang=he-en&utm_source=sef_linker))*.*[[6]](#footnote-6)

This principle pertains in situations in which the risk is minimal. Moreover, for one’s *parnasa* (livelihood), it is permitted to engage in higher-than-normal risks.[[7]](#footnote-7)

Based on these principles: we may conclude that 1) one may visit a friend if the danger of infection is minimal; and 2) a doctor is permitted to treat patients even when the risk is higher.

However, in the case of a contagious virus, is one permitted to visit the sick?[[8]](#footnote-8) It is important to note that there are many sicknesses which are contagious, like the common cold, but are not necessarily dangerous.

The Posekim refer to a responsum of Rav Moshe Isserles (Rema) addressing the following question:

Reuven rented his house to Shimon. After the agreement was signed, Shimon’s wife was diagnosed with a contagious illness. Reuven wants to back out of the agreement. Is he allowed to do so?

In his responsum, the Rema deals mostly with *Choshen Mishpat* matters, i.e. the monetary implications; however, towards the end, he questions whether this situation is considered *oness* (a situation which is out of one’s control). In his answer, he rules:

The claim that [that the woman] has a contagious sickness is nonsense. All sicknesses are in God’s hands. If Reuven’s claim is true, then all the laws of visiting the sick would be annulled, as we do not find any differentiation between contagious illnesses and noncontagious ones.

Still, the Rema does mention that leprosy is an exceptional sickness and one should keep a distance from those who are sick with it.

It seems that the Rema is not so concerned with contagious illnesses and does not think that the concern of *sakanat nefashot* should prevent people from fulfilling *bikkur cholim*.

Some Posekim question the Rema’s opinion based on his very own ruling regarding steps that one must take in the outbreak of a plague.[[9]](#footnote-9) In his ruling, he argues that one must leave the city immediately at the beginning of the outbreak of a plague.[[10]](#footnote-10) He adds that it is prohibited to rely on a miracle.[[11]](#footnote-11)

However, it seems that the Rema may be seen as consistent in his views. Above he mentions that when it comes to a dangerous sicknesses like leprosy, one must take great precautions and not come into contact with the patient. Similarly, he rules that at a time of grave danger like a plague outbreak, one must not endanger one’s life.

Rav Chayim Chizkiya Medini (Israel, 1834–1904), explains that there is a *machaloket* amongst the Posekim regarding our question.

On the one hand, Rav Chayim Benveniste (Turkey, 1603–1673), author of the *Knesset Ha-gedola*, maintains that the mitzva of *bikkur cholim* still applies even when the patient has a contagious illness.

On the other hand, Rav Yosef Molcho (Greece, 1692-1768) author of the *Shulchan Gavoah,* claims that it is forbidden to enter a doubtful situation of *sakanat nefashot*.[[12]](#footnote-12)

A middle opinion maybe be found in the works of Rav Chayim Palachi (Turkey, 1788– 1868), who writes that there is no obligation to put one’s life in danger while visiting the sick. This language indicates that it is still permitted![[13]](#footnote-13)

**Contemporary Posekim**

Both Rav Ovadya Yosef[[14]](#footnote-14) and Rav Shemuel Ha-Levi Wosner[[15]](#footnote-15) forbid visiting sick people who pose a threat to others.

Rav Eliezer Waldenberg was asked about a doctor’s responsibility to treat patients with a contagious illness. After quoting many of the above sources, he rules that if the illness poses a life-threatening danger to the people surrounding the patient, then it is forbidden to visit the patient. It is his understanding that the Rema rules similarly.[[16]](#footnote-16)

If this is the case, what is the *heter* for a doctor to treat such an individual? Rav Waldenberg raises three arguments which permit doctors to come in contact with patients who have infectious diseases:

1. There are many possible sources which teach us that a doctor is permitted/ obligated to heal others.[[17]](#footnote-17) The Gemara[[18]](#footnote-18) derives from the words of the Torah, "*Ve-rappo yerappei,"* “And he shall surely heal” (*Shemot*21:19), that doctors are permitted to heal the sick. This verse might also serve as a commandment too. Some highlight the repetitive language of the verse, as the phrase literally translates, “Heal he shall heal.” Rav Waldenberg suggests that the additional verb in the verse is added to include the *heter* to heal the contagious as well!
2. This is “the way of the world.” The world cannot survive if doctors refrain from treating certain patients.
3. As mentioned above, the Torah permits, for livelihood purposes, to engage in high-risk activity. This *heter* applies to doctors.

Rav Waldenberg adds that doctors who endanger their life must add a prayer, asking hashem forgiveness for putting themselves in danger.

As I began writing this article many of the sources, I looked up seemed foreign and unrelated to our times. However, as the days went by, the threat of plague has become real and imminent.

May we get through these difficult challenging times healthy both in soul and spirit.

May Hashem have mercy on his People and the entire world.

1. See Shlomo Eidelberg, *Bi-ntivei Ashkenaz* (New York: 2001), pp. 75-77. Eidelberg quotes opinions that argue against this theory as well. [↑](#footnote-ref-1)
2. See Mordechai Breuer, *Ha-mavet Ha-shachor Ve-sinat Yisrael: Sinat Yisrael Le-doroteha,* Merkaz Zalman Shazar, pp. 159-172. [↑](#footnote-ref-2)
3. See Yedidya Alter Dinri, *Chokhmei Ashkenaz Be-shilhei Yemei Ha-beinayim* (pp. 74-118), who proves that the generation of Posekim who followed the Black Death were original and creative in their style of ruling. [↑](#footnote-ref-3)
4. BT *Berakhot* 32b. [↑](#footnote-ref-4)
5. *Responsa Radbaz* 3:627. [↑](#footnote-ref-5)
6. See *Chelkat Ya’akov, CM* 31. [↑](#footnote-ref-6)
7. See *Noda Bi-Yehuda*, *YD*, 2nd ed., 10. [↑](#footnote-ref-7)
8. See Chief Rabbi of the Commonwealth Immanuel Jakobovits, *Jewish Medical Ethics.*  [↑](#footnote-ref-8)
9. See Yehoshua Weisinger, *Assia* 103-104 (Marcheshvan 2017), pp. 42-44. [↑](#footnote-ref-9)
10. It is interesting that the source of the Rema is a responsum of the Maharil, who was mentioned above. [↑](#footnote-ref-10)
11. *Shulchan Arukh YD* 116:5. [↑](#footnote-ref-11)
12. *Sedei Chemed, Ma’arekhet Bet*, 116. [↑](#footnote-ref-12)
13. *Nishmat Kol Chai,* Vol. 2, *CM* 49. [↑](#footnote-ref-13)
14. *Chazon Ovadya, Aveilut,* Vol. 1, p. 14. [↑](#footnote-ref-14)
15. *Shevet Ha-Levi* 8:251. [↑](#footnote-ref-15)
16. *Tzitz Eliezer*, 9:17, Chapter 5. [↑](#footnote-ref-16)
17. See *Shulchan Arukh, YD* 336:1, and Rambam, *Peirush Ha-Mishna*, *Nedarim* 4:4. [↑](#footnote-ref-17)
18. BT *Berakhot* 60a. [↑](#footnote-ref-18)