YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

**Rav Aviad Tabory**

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**Yom Kippur War, Part II**

[Last week](https://etzion.org.il/en/shiur-08-6-october-1973-yom-kippur-war-part-i), we mentioned that the Yom Kippur War found the IDF and the Israeli people completely unprepared. The chaos was felt on every level, both on the battlefield as well as in the combat support units.

The IDF’s Chief Rabbinate was suddenly challenged with the tragic and gruesome task of dealing with the deaths of thousands of soldiers. This job had different components, including gathering the bodies, identifying them and burying them, as well as delivering the terrible news to families.

As a result of the complexity involved, many halakhic questions arose regarding carrying out these tasks on Shabbat and *yom tov*.

**Dealing with bodies on Shabbat and *yom tov***

A dead body may not be moved on Shabbat or *yom tov*, as it is *muktzeh*. The Gemara proclaims:

Even when David, the King of Israel, dies, one cannot break Shabbat for him.[[1]](#footnote-1)

Rav Yosef Karo permits asking non-Jews to take care of dead bodies on *yom tov* but prohibits it on Shabbat and Yom Kippur.[[2]](#footnote-2) The explanation is that the prohibition to deal with the burial of the dead on Shabbat and Yom Kippur (which are more halakhically restrictive than *yom tov*) is because it is considered disrespectful to the dead to have Shabbat desecrated because of them.[[3]](#footnote-3)

In the *Book of Maccabees*, it is mentioned that even during war, this law was strictly enforced:

After the battle, Judas led his men to the town of Adullam. It was the day before the Sabbath, so they purified themselves according to Jewish custom and then observed the holy day. By the following day (after Shabbat) it was urgent that they gather up the bodies of the men who had been killed in battle and bury them in their family tombs.[[4]](#footnote-4)

Even taking care of a *meit mitzva* (a body that is found for which there is no infrastructure for proper burial) does not permit violating Shabbat (*chillul Shabbat*).[[5]](#footnote-5)

There are circumstances, though, where exceptions exist to this rule. A body may be removed to a safe area if leaving it out conflicts with *kevod ha-beriyot* (human dignity). If, for example, the body is in danger of being destroyed by fire or if it smells very bad, one is permitted to move it on Shabbat. This *heter* (allowance) is limited to violating an *issur de-rabbanan* (rabbinical prohibition) only.[[6]](#footnote-6)

Obviously, in cases of great need, when *pikuach nefesh* (saving lives) conflicts with the prohibition of not dealing with bodies, Shabbat must be violated. A good example of this is mentioned by Rav Avraham Avidan, Deputy Chief Rabbi of the IDF, who argues that on Shabbat during wartime, bodies may be removed from vehicles that are needed for fighting.[[7]](#footnote-7)

During the War of Attrition (1969-1970), many Israeli soldiers were killed in bunkers scattered along the banks of the Suez Canal. Rav Shelomo Goren, Chief Rabbi of the IDF, was asked if the bodies could be moved on Shabbat. In a letter sent to Rav Halpern, an IDF chaplain then and today a renowned expert in the field of medical ethics, he wrote:

Although the *halakha* is clear that bodies cannot be moved on Shabbat, in circumstances where keeping the dead in the army post will hurt the morale of the other soldiers and thus have an ill effect on the motivation to fight the enemy, we permit [soldiers] to move the dead to the closest area. In cases where it is dangerous, the task may be done using vehicles.[[8]](#footnote-8)

Rav Avidan explains that this *pesak* of Rav Goren is part of the unique *heter* given by the Torah for fighting on Shabbat.[[9]](#footnote-9)

**Fighting a war on Shabbat and Yom Kippur**

It is a well-known law that when a life is in danger, it is a mitzva and obligation to violate Shabbat. This profound law is based on the *pasuk* in *Vayikra* (18:5) "*Vachai bahem,”* “[Observe my ordinances and laws, that man shall do them] and live by them.”

The Gemara[[10]](#footnote-10) learns from these words that the obligation to preserve human life overrides the obligation to observe other *mitzvot*.  If the only way to preserve life is to transgress a religious prohibition, the preservation of life takes precedence.

From where do we learn that it is permissible to fight on Shabbat? Some argue that this is based on "*vachai bahem.*" Other Posekim explain that there is a separate source in the Torah for fighting on Shabbat.[[11]](#footnote-11) The Torah states:

When you besiege a city for many days to wage war against it to capture it …you shall build a siege against the city that makes war with you, **until its submission** (*ad ridtah*).[[12]](#footnote-12)

The Gemara[[13]](#footnote-13) understands that this *pasuk* teaches us that it is permissible to fight on Shabbat. The question is the following: what does this *pasuk* add to the regular *hete*r to violate Shabbat in life-threatening situations?

The answer is that the Torah is not limiting the *heter* to fighting only in life-threatening situations; rather it enlarges the *heter* of fighting to include all military goals. This means that it is permitted to violate Shabbat in wartime for any situations that would be necessary in order to reach total victory and accomplish the goals of the war.

Accordingly, insuring a high level of morale amongst the fighters must be taken as a profound consideration that may overcome other *halakhot*.

A similar law, which unfortunately came up in the Yom Kippur War as well as in other wars, is whether it is permitted to endanger the lives of soldiers while searching for their fallen friends. At first glance, it seems simple that it would be prohibited due the laws of *pikuach nefesh*, yet the custom of the IDF is to permit in certain situations to do so.[[14]](#footnote-14)

Here again the logic is that in wartime, soldiers are affected by the way the army treats their comrades in arms. Assuring soldiers that their country will do everything possible to bring their bodies to burial is essential to the morale of the soldiers, and their level of motivation can affect the outcome in combat.

The question, of course, is the following: how can one assess the damaging effect to the soldiers’ morale when they view corpses in their vicinity? At what point may this justify violating Shabbat?

Rav Shelomo Zalman Auerbach explains that the criteria for permitting *chillul Shabbat* should be based on parallel cases, which, if they were to occur on regular weekdays, would require immediate evacuation.[[15]](#footnote-15)

In an article on our topic, Rav Goren adds another reason to permit the removal of bodies on Shabbat. Since Arab armies use our soldiers’ bodies as a way of pressuring us in negotiations and even making demands to exchange their live soldiers for our fallen, retrieving our dead and preventing the enemy from taking them is considered halakhically part of the war effort and therefore justifies *chillul* *Shabbat*.

Rav Mordechai Halpern was an IDF chaplain during the Yom Kippur War, down in the Sinai Peninsula. In an article he published about his experiences, he describes his dilemmas regarding our question.[[16]](#footnote-16)

On Simchat Torah, he was asked to remove bodies from an army post which was recaptured by Israeli forces. He gave his permission for two reasons; firstly, because on *yom tov* the level of prohibitions involved are only rabbinical, and secondly, relying on Rav Goren’s *pesak*, on the basis that the negative impact on the morale of the living soldiers would be dangerous. Although the report about the dead soldiers proved to be false, Rav Halpern was convinced that the ruling was justified.

On the following Shabbat, *Shabbat Bereishit*, while stationed down south, the chaplaincy received reports about dozens of dead Israeli soldiers lying by the side of the road while their comrades were fighting the enemy.

At first, the rabbis were skeptical due the prior false report received on Simchat Torah; however, as soon as they independently verified the report, the same *pesak* was given and the chaplaincy sent soldiers on Shabbat to evacuate the bodies during the battle.[[17]](#footnote-17)

Rav Halpern mentions that after the war, he discussed the case with RavShelomo Zalman Auerbach and Rav Yisrael Gustman, two prominent Posekim, both of whom agreed with his *pesak.*

Rav Yehoshua Ben-Meir, founding Rosh Yeshiva of Yeshivat Hesder Shevut Yisrael, was an army chaplain in the Golan Heights during the war. In a letter to his colleague, Rav Halperin, he described his experiences.[[18]](#footnote-18)

He was also asked to evacuate bodies that were scattered around the battlefield on the first day of Sukkot. He describes his dilemma, as the standing orders of the IDF Rabbinate were not to remove bodies on Shabbat or *yom tov*.

His *heter,* he explained, was based both on the fact that some of the bodies were lying in tanks, thus preventing the vehicles from being used, and because of the impact on the soldiers’ spirits. When his team questioned his authority, he replied that as of now he believed that this was the correct *pesak* but assured them that after the war he would consult with his *rav*, RavShelomo Zalman Auerbach.

After the ceasefire came into effect, Rav Ben-Meir met with Rav Auerbach. He presented all his dilemmas to the Rav. Regarding his *pesak* to allow driving on *yom tov* to evacuate bodies, the Rav responded:

You are asking the question of an *am-ha’aretz* (a simpleton). You put yourself and your soldiers into danger by entering a battlefield for the evacuation of bodies. If you saw it fit to endanger your lives, surely it is permitted to break Shabbat and *yom tov*.

At this point, Rav Halpern asked: “Was I allowed to endanger their lives under the circumstance?” The Rav replied that he believed it was allowed. He then quoted Rav Goren who permitted, during the War of Attrition, sending soldiers to the front in order to make IDF kitchens kosher for Pesach. He (Rav Auerbach) justified this *pesak* arguing that the boost to IDF morale, as crucial a part of military effort as any, may permit *chillul Shabbat.*

Finally, Rav Halpern asked the Rav if, for identification purposes, it is permitted to write on Shabbat, taking in account *hatarat agunot*, the need to release women whose husbands had been lost.

Rav Auerbach realized that this issue would become a raw nerve for the Israeli public and claimed that he saw logic in allowing violating Shabbat for this purpose, again explaining the effect of such a *pesak* on soldiers’ morale.

Rav Halpern pressed on. “Does the Rav permit writing *be-shinui* with the left hand (an act that would be violating Shabbat on a rabbinical level)?”

The great Posek replied: “Who am I to give such a *pesak*? After the war, we must gather all the rabbis and decide together.”

Rav Halpern was troubled, “But until then, Rebbe, what do we do?”

“Until then” he explained “we go by the rule: *kol ha-sho’el, harei zeh shofekh damim (*all those who ask are murderers),” implying that it is permitted until decided otherwise.

Let us end with the words of the Prophet Yeshayahu (25:8):

He has concealed death forever, and the Lord God shall wipe the tears off every face, and the shame of His people He shall remove from upon the entire earth, for the Lord has spoken.

1. *Shabbat* 151b. [↑](#footnote-ref-1)
2. *Shulchan Arukh, OC* 426:3. [↑](#footnote-ref-2)
3. Ad loc. *Mishna Berura* 17. [↑](#footnote-ref-3)
4. *II Maccabees* 12. [↑](#footnote-ref-4)
5. See *Sanhedrin* 35b. [↑](#footnote-ref-5)
6. See *Shulchan Arukh, OC* 311:1-2 [↑](#footnote-ref-6)
7. Based on his experiences, Rav Avidan wrote a detailed book on the laws of burial named *Darkhei Chessed*. See there 10:2 (p. 125). [↑](#footnote-ref-7)
8. See *Meshiv Milchama*, Vol. II, pp. 217-220. [↑](#footnote-ref-8)
9. *Shabbat U-mo’ed Be-Tzahal*, p.17. A similar idea is expressed by Rav Gad Navon, *Techumin,* Vol. 5, pp. 55-57. [↑](#footnote-ref-9)
10. *Yoma* 85b. [↑](#footnote-ref-10)
11. See Rav Goren, *Meshiv Milchama*, and Rav Neria, *Milchamot Shabbat*. [↑](#footnote-ref-11)
12. *Devarim* 20:20. [↑](#footnote-ref-12)
13. *Shabbat* 19a. [↑](#footnote-ref-13)
14. See: Rav Yitzchak Kofman, *Ha-tzava Ke-halakha*, pp. 194-195; and Rav Yehuda Zuldan, *Shevut Yehuda Ve-Yisrael,* pp. 345-358. [↑](#footnote-ref-14)
15. Rav Avidan in his name; see *Darkhei Chessed* 10:2. [↑](#footnote-ref-15)
16. *Techumin*, Vol 22, pp. 104-115 [↑](#footnote-ref-16)
17. In his article Rav Halpern mentions in an afterthought how on that Shabbat he met Rav Goren, who at the time was already Ashkenazi Chief Rabbi of Israel. The fact that the Chief Rabbi of Israel travelled down to the front during wartime to join the soldiers is a testimony to the spectacular personality of Rav Goren. [↑](#footnote-ref-17)
18. Available at: <http://www.daat.ac.il/daat/tsava/maamar/benmeir-1.htm> [↑](#footnote-ref-18)