YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

**Rav Aviad Tabory**

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**Operation Defensive Shield,**

**Halakhic Challenges for the IDF**

The Second Intifada, which began at the end of September 2000, was a difficult period for the Israeli public, particularly on the home front. During these deadly months, over 1,100 Israelis were murdered and over 8,000 were injured. Many of these attacks were carried out by suicide bombers who blew themselves up on buses, in restaurants and in public areas.

Travel became a terrifying experience for Israelis at this time. Simple daily tasks like riding the bus to work became stressful, filled with anxiety and fear. Palestinian terrorists were responsible for the lynch of two Israeli soldiers in Ramallah, the suicide attack at the Dolphinarium in Tel Aviv where 21 young people were massacred and the attack at Sbarro restaurant in Jerusalem which killed 15, amongst them a family of five.

On 27 March 2002, the first night of Pesach, a Palestinian terrorist entered the Park Hotel in Netanya during the Seder and blew himself up. In the massacre, 30 were killed and 160 were injured, making it the deadliest terror attack ever to take place in Israel. So many deaths and injuries on a night celebrated by Jews as the holiday of freedom shocked Israel and the entire Jewish world.

That night, following the attack, the Israeli government decided to take control over the Palestinian cities which had been handed over to the Palestinian Authority under the Oslo Accords. In his address to the Knesset, Prime Minister Ariel Sharon stated the aims of this operation, named *Chomat Magen* (Defensive Shield):[[1]](#footnote-1)

The government of Israel has thus decided to instruct the I.D.F. and other security forces to embark on Operation Defensive Shield, which has one goal: uprooting the terrorist infrastructure which Arafat built to continue attacking us.

I.D.F. soldiers and officers have been given clear orders: to enter cities and villages which have become havens for terrorists; to catch and arrest terrorists and, primarily, their dispatchers and those who finance and support them; to confiscate weapons intended to be used against Israeli citizens; to expose and destroy terrorist facilities and explosives, laboratories, weapons production factories and secret installations. The orders are clear: target and paralyze anyone who takes up weapons and tries to oppose our troops, resists them or endanger them — and to avoid harming the civilian population.

On Friday morning, 29 March, Israel called up 20,000 reservists, the largest call-up since the First Lebanon War. During these highly emotional days, the IDF successfully took over the cities which were harboring terrorists and their activities. The goals of the operation were achieved, reducing terrorist attacks by 50 percent.

**My Experience**

On Erev Shabbat Chol Ha-mo’ed Pesach, my entire tank battalion was drafted, and I found myself together with my friends that Friday night preparing our tanks for battle. We received our *tzav shemoneh* (emergency call-up) on the week between *Parashat Tzav* and *Parashat Shemini*.

That night, I made Kiddush at the tank depot, on a bottle of wine I remembered to bring with me from home.

In today’s *shiur*, I will focus on the events that took place during the operation, and I will discuss halakhic challenges that occurred during these times. Most of the questions which we will discuss are unique to army life. This type of question is part of the new language of Halakha developed through the years since the establishment of the IDF. I believe Rav Goren describes it the best.

In his autobiography, Rav Goren, who was both Chief Rabbi of the IDF and later of the State of Israel, explains the challenges he faced with the establishment of the IDF and his appointment as its Chief Rabbi:

One thing that is important to realize is that the Torah's *halakha* and the *mitzvot* that are practiced today all have an unbroken tradition from the time of the Sanhedrin and the Second Temple, from the Men of the Great Assembly, the Tanaim and Amoraim, the Savoraim, the Geonim, the early and later halakhists, until modern times. All these laws and traditions are condensed into the *Shulchan Arukh*, which explains almost every detail, large or small, concerning the observance of Shabbat and the Holidays, how to *daven* and how to put on *tefillin*, how *tefillin* are made, and all the kosher food laws, etc.

On the other hand, we have no parallel tradition concerning life in a Jewish army. For two thousand years, we did not have our own army. We do not know which laws, among all the *mitzvot* in the *Shulchan Arukh*, are binding upon soldiers in the army. Does the army have a special *Shulchan Arukh*? Are there special dispensations? If so, what are these dispensations? There is no tradition in these matters and no writings concerning them. There did not exist a *Shulchan Arukh* for Jewish soldiers.

I knew that upon accepting the position as the chief rabbi of the army, I would have to create something out of nothing — I would have to write and compile a "military *Shulchan Arukh*" without having any traditions from which to compile such a guide. I would have to gather hints from here and there, a grain here and a grain there, from the Bible, from the Written Law and the Oral Law, from all sorts of sources and from the Midrash. I would have to gather one grain to the next and create a whole mass from which we could learn how to conduct ourselves, how to keep the Torah in the army, and what is the Torah's application in the army, during wartime and during peacetime. I would have to develop solutions for each issue that arose, because we had no unbroken tradition of a religious lifestyle in a military setting. There would be questions related to the *halakhot* of Shabbat, kashrut, and many other types of issues, and they would require halakhic rulings. This was a tremendous challenge.[[2]](#footnote-2)

**Practical Questions During Operation Defensive Shield**

During the operation, I was approached by my commanding officer, who asked me to give a *pesak* on each of two halakhic matters that came up. He explained to me that he was appointing me the unofficial chaplain of our platoon and whatever decision I made, he would follow. He then presented the questions.

Firstly, normal weekly tank maintenance is done on Thursdays; however, due to the usage of the platoon’s tanks throughout the week, this could only be done on the coming Shabbat. This maintenance includes tightening the screws of the wheels as well as oiling and cleaning the cannon and various other parts of the tank. Adjusting the sights of the cannon is also required. Are all of these actions permitted on Shabbat?[[3]](#footnote-3)

***Pikuach Nefesh* on Shabbat**

The obvious method to resolve this question is to determine whether these tasks may be classified as *pikuach nefesh,* life-saving activity, which should be permitted on Shabbat. The truth, however is a bit more complicated. Even if the situation is one of *pikuach nefesh*, the question remains whether it is better to perform these acts *be-shinui* (in an irregular manner) or not. It must be noted that the acts of maintenance included in our case would be not be performed in the heat of battle.

Let us take a moment to consider why, as mentioned in past *shiurim*, the Gemara permits violating Shabbat in life-threatening situations. The Gemara suggests possible sources and concludes that this is derived from the following verse:

Keep My laws and My statutes which a man will keep and live by them, I am God.[[4]](#footnote-4)

The Gemara derives from this verse:

God gives us His *mitzvot* to live by them, not to die by them.[[5]](#footnote-5)

The Rishonim argue about the extent of such a principle. A classic question when Halakha allows us to perform an act which is normally forbidden is whether the prohibition is *hutera* (allowed, i.e. suspended) or *dechuya* (pushed off, i.e. overridden). If the former is the case, there is no need to worry about the prohibition in the given circumstance; if the latter is the case, we must still minimize the violation.

Some understand that other prohibitions are merely suspended in the face of danger (*dechuya*), while in the case of Shabbat, they are waived completely (*hutera)*. Rabbeinu Asher quotes Rav Meir of Rothenberg, who claims that for a sick person all medical treatment which violates Shabbat is permissible and there is no reason to try to lessen the violation.[[6]](#footnote-6) This seems to indicate that any prohibition of Shabbat is *hutera* in cases of *pikuach nefesh.*

The Rambam lists the actions which may be done on Shabbat for a woman giving birth:

When a woman is in the process of childbirth, her life is considered in danger and the Sabbath laws may be violated on her behalf. A midwife may be called from a distant place, and the umbilical cord may be cut and tied.

If she requires a light when she cries out because of labor pains, a candle may be lit for her. [This leniency is granted] even if she is blind, because light has a calming influence even if she does not see.

However, the Rambam limits these actions. He claims that if possible, they should all be done *be-shinui:*

If she needs oil or the like, it may be brought for her**. If possible, the items that are brought should be brought in an uncharacteristic manner;** for example, a friend should bring a utensil tied in her hair. If this is not possible, it may be brought in the ordinary manner.[[7]](#footnote-7)

The above ruling would seem to indicate that the Rambam holds that Shabbat is *dechuya* in cases of *pikuach nefesh.* The idea of performing the violation of Shabbat in an irregular or backhanded way can only be understood if, under the circumstances, the prohibition to perform labor on Shabbat still exists.[[8]](#footnote-8) Performing labor on Shabbat *be-shinui* would be a rabbinical violation rather than a biblical violation.

Another source that backs up this theory is the Rambam’s choice of words when he permits performing labor on Shabbat in cases of *pikuach nefesh*:

The [laws of] the Sabbath **are pushed off** **in the face of a danger to life**, as are [the obligations of] the other commandments. Therefore, we may perform — according to the directives of a professional physician of that locale — everything that is necessary for the benefit of a sick person whose life is in danger.[[9]](#footnote-9)

The Rambam here uses the term *dechuya,* which implies that although saving a life takes priority, the prohibitions of Shabbat have not been lifted entirely.

Accordingly, Rav Yosef Karo understands that this is the *pesak* of the Rambam.[[10]](#footnote-10)

The *Maggid Mishneh* explains that the Rambam differentiates between a woman giving birth and critically ill people. He points out that the Rambam does not mention performing the violation of Shabbat for sick people *be-shinui*. He therefore holds that the Rambam’s *pesak* is that Shabbat is *hutera.*[[11]](#footnote-11)

Rav Moshe Isserles argues that if possible, one should perform the forbidden labor on Shabbat for a sick person *be-shinui.*[[12]](#footnote-12)

**Applying the Principles to Maintenance**

In a response to Rav Meir Lichtenstein (at the time a yeshiva student serving in the army) regarding turning on the engines of tanks in Lebanon due to freezing temperatures, Deputy Chief Rabbi of the IDF Rav Avraham Avidan argued that the custom is to follow the Rema; when possible, violating Shabbat should be done *be-shinui.*[[13]](#footnote-13)

Some of the actions mentioned above require violating Shabbat on a biblical level, which based on the above discussion would require us to perform the tasks *be-shinui* (if possible) or in other ways that would normally constitute a rabbinical violation.

Rav Shlomo Goren discuses oiling a gun on Shabbat and cleaning a cannon after it has been fired. His conclusion, after discussing the matter with “professionals,” is that it is possible to change the regular method of the cleaning process, reducing the level of the labor performed from a biblical prohibition to a rabbinical one. His advice is to pour the oil directly in the cannon and then to clean the barrel with the cleaning rod rather than pouring the oil on the cleaning rod directly, which would be a biblical violation of *melabein* (soaking).[[14]](#footnote-14)

I believe Rav Goren’s *pesak* is about a cannon that has been used enough times for soot to accumulate there. This wasn’t the situation in our case, and therefore due to the forbidden labor of *sechita* (squeezing), I thought we could skip this task this one time.

When it came to other actions like tightening the screws, I thought at the time that these were essential and therefore should be done the regular way.

I have mentioned in the past that Rav Goren believes that the *heter* of fighting a war on Shabbat is not based on *pikuach nefesh*, but rather the verse in *Devarim* 20:20.[[15]](#footnote-15) This source is parallel to the claim that in life-threating situations, a forbidden labor of Shabbat is *hutera*.

If we apply this ruling to our case, no *shinui* would be required. From my experience, this is one of the more difficult questions that faces the Israeli soldier: what is the halakhic status of a routine state of *pikuach nefesh* within the army?

Rav Goren discusses talking on the army radio on Shabbat.[[16]](#footnote-16) He suggests that although the usage of a radio for military purposes would be permitted on Shabbat based on the special *heter* of fighting on Shabbat, he still recommends that one should try to speak differently than the regular way one does on a weekday.[[17]](#footnote-17) His reasoning is that all our behavior and the way we act on Shabbat should differ from regular weekdays including the way we dress, eat and… speak.

Rav Yitzchak Kofman, author of a book about Halakha in the army, discuses similar cases to ours and he adds to our question the distinction that not all treatments that are done for the upkeep of the tank on a regular weekday have the same importance. He uses the halakhic terminology of *hiddur,* that which enhances the act, but is not essential to it. This type of maintenance is not allowed.[[18]](#footnote-18)

Based on all the above, it is my understanding that work on the tank which includes vital maintenance may be done on Shabbat; but if possible, it should be done *be-shinui*.

**Logistical Issues**

The second question was about the removal of all the equipment from a tank on Shabbat, including all the ammunition, explosives and guns. My officer explained to me that one of the tanks had to be transported Sunday morning, at first light. The unloading of all the tank’s equipment could only be done in daylight, due to the delicate articles that had to be unloaded; thus we could not perform the unloading on Motza’ei Shabbat.

In this case, the answer was much simpler. Had it been operationally necessary, unloading the tank would have obviously been permitted. However, from a few simple questions, I verified that there was no chance in the world that a tank-carrier driver was planning to arrive at first light. I thus convinced the officer that the task could be done Sunday morning. I mention this to make clear that when dealing with any halakhic questions in the army, one has to be aware of all the facts, and one has to have a thorough understanding of the reality before issuing a *pesak*.

The idea of today’s *shiur* is to deal with the micro, not the macro, of the halakhic issues in Israel’s history.

1. Delivered at Knesset on 8 April 2002, available at: <https://www.nytimes.com/2002/04/08/international/middleeast/text-of-speech-by-sharon-to-israeli-parliament.html>. [↑](#footnote-ref-1)
2. Rabbi Shlomo Goren, *With Might and Strength: An Autobiography*, trans. Miryam Blum (Jerusalem: Maggid Books, 2016), pp. 177-178. [↑](#footnote-ref-2)
3. In his book *Halakha Mi-mekorah: Tzava*, Rav Yosef Tzvi Rimon mentions a similar question that came up during the operation. In his case, the question was about repairing a tank that was out of commission. See Vol. 1, pp. 307-308. [↑](#footnote-ref-3)
4. *Vayikra* 18:5. [↑](#footnote-ref-4)
5. *Yoma* 85a-b. [↑](#footnote-ref-5)
6. Rosh, *Yoma* 8:14. [↑](#footnote-ref-6)
7. *Hilkhot Shabbat* 2:11*.* [↑](#footnote-ref-7)
8. See Rav Shemuel Ariel in *Techumin* 31, pp. 80-96, who discusses the law of *shinui* on Shabbat. [↑](#footnote-ref-8)
9. *Hilkhot Shabbat* 2:1. [↑](#footnote-ref-9)
10. *Kesef Mishneh,* ad loc. See Rav Ovadya Yosef, *Yechaveh Da’at*, Vol. 4, Chapter 30, in which he debates the Rambam’s *pesak.*  [↑](#footnote-ref-10)
11. *Maggid Mishneh, Hilkhot Shabbat* 2:11. [↑](#footnote-ref-11)
12. OC 328:12. [↑](#footnote-ref-12)
13. *Shabbat U-mo’ed Be-Tzahal*, p. 87. [↑](#footnote-ref-13)
14. *Meshiv Milchama,* Vol. 2, p.105. [↑](#footnote-ref-14)
15. *Meshiv Milchama,* Vol. 1, pp. 88-91. [↑](#footnote-ref-15)
16. *Meshiv Milchama,* Vol. 1, pp. 344-346. [↑](#footnote-ref-16)
17. Ad loc. p. 348. [↑](#footnote-ref-17)
18. *Ha-tzava Ka-halakha,* p. 219. [↑](#footnote-ref-18)