

HALOCHOSCOPE TOI

As a follow up to last week's question, the following issue was raised: May a Jew use the services of a hospital run by a gentile religious or missionary group?

The issues:

(A) *Pikuach Nefesh*, suspension of restrictions when life or health is endangered

(B) The three cardinal sins

(C) Healing ~~with the aid of one of these violations~~

(A) *Pikuach Nefesh*

Preserving life is both a positive and a negative Mitzvah forbidding one to stand idly by while a life is in danger. The Positive Mitzvah is derived from the Mitzvah to return a lost article to its owner. A grammatical analysis of the terminology used by the Torah reveals a deliberate second meaning, "you shall return him to himself ..." If he is losing his life one must return it to him, i.e., save him. The negative commandment is specific, "do stand by [while] your fellows blood [is spilled, or spills]. Some Poskim maintain that one must even place his own life in moderate danger to save the life of another person in more severe danger. One is even obliged to spend money to hire help to save a life.

These Mitzvos are all the more relevant to saving and preserving one's own life. One must view it as though his life does not belong to him but that he is responsible for it and liable for its loss. The two things that are considered in the control of man are the fear of G-d, i.e., freewill to do good or bad, and one's preventable health risks. In addition, there are the Mitzvos that relate to prevention of harm on one's property, and the general Mitzvah to guard one's health.

The second issue of *Pikuach Nefesh* is the one usually connected to the Halachic term. Usually, one is expected to forgo inconveniences to fulfil a Mitzvah. In life-threatening situations one should rather violate the Mitzvah than put his life in danger. This is not simply a matter of priority of one Mitzvah over another, though it includes that concept. Tat would require deciding which of the Mitzvos is more serious, which opportunity came first, whether there is time to delay one while performing the other, etc. In this case, the actual Mitzvah being violated is put on hold for reasons other than the other Mitzvah to preserve life.

The term *Pikuach Nefesh* comes from an example cited by the Talmud. If a wall collapses burying someone alive, he may be dug out. The situation is that he might still be living, but might die if he is not dug out immediately. Therefore, if this should happen on Shabbos, Melachos may be done to save him. One may be *Mepakeiach Hagal*, check through the rubble, to see if a *Nefesh*, living person, is under it. This involves *Chofair*, digging, a sub-category of *Choresch* the Melacha forbidding ploughing. Hence the term *Pikuach*, checking out a *Nefesh*. Some translate the word *Pikuach* to mean “releasing.”

We have alluded to the question of priority of Mitzvos. If the second Mitzvah were to coexist with the Mitzvah to preserve life, but be on hold, the rules of priority would apply as mentioned. This would mean that the other Mitzvah, for example *Chilul Shabbos*, would be *Dechuya*, pushed aside for the time being. Thus, according to some Poskim the Torah indeed singles out life saving as a special Mitzvah. It does not suspend the Torah to save a life, but puts this Mitzvah before any other Mitzvah. A second view maintains that independent of the fact that it is a Mitzvah, *Pikuach Nefesh* is a concept in the entire Torah. The Torah suspends everything to save a life. This is known as *Hutra*, the potential violation is dispensed with for the sake of *Pikuach Nefesh*.

The source for *Pikuach Nefesh* overriding other Mitzvos is derived from terminology used by the Torah to describe all Mitzvos, and the terminology used in the exceptions to be discussed in the next section. The Torah states “you shall *live* by the Mitzvos,” implying that you shall not *die* as a result of observing them. In a separate passage, the Torah says that one must give up his life in sanctification of Hashem’s name. This implies that if this is not the object of the loss of his life, but “merely” another Mitzvah, he may not give up his life.

Accordingly, when faced with a conflict between performance of any Mitzvah and saving a life, one violates the Mitzvah to save life. One may ingest medications made from anything forbidden to benefit from in its normal manner of use if his life is in danger. There are exceptions to this, when one may only ingest them or use them in an abnormal fashion, even where life is in danger. For non-life-threatening sickness, they may be ingested only abnormally. If an alternative permissible cure exists, one must wait for it to become available, unless there is an imminent danger. This is in keeping with the idea of *Dechuya*. Some Poskim maintain that items forbidden Rabbinically may be used in their normal fashion for regular sickness. [See Acharei Mos 18:5, Va’eschanan 4:9, 15, 6:5, Ki-Seitzei 22:8. Brochos 33b, Psachim 25a, Yuma 83a-85b, Sanhedrin 73a-74a, Poskim. Tur (Bais Yosef, Bach)

Shulchan Aruch Orach Chaim 328-329, Yoreh Deah 116, 155:3, Choshen Mishpat 426-427, commentaries. Halochose I:20 II:40 V:9.]

(B) *The three cardinal sins*

Three Mitzvos are so serious that one must rather give up his life than violate them. They are the prohibitions forbidding idolatry, adultery and murder. Idolatry is detailed in the Torah. One must be willing to show his love for the One G-d even if it means giving up his life for it. There are two implications of these exclusions. If one is about to violate one of them, it is permissible for a bystander to put him to death on the spot to “save” him from the violation. [There must be no alternative way to save him. If an alternative exists, killing him is considered murder.] This is derived from the prohibition of adultery, which is paralleled by the Torah to murder. Second, if one’s own life is threatened, he must choose death rather than violate. This is derived from murder by logical reasoning. Why should one put his own life before the life of the person whom he is about to kill to save his own life? As the Talmud puts it, “What makes you think that your blood is redder?” Having paralleled the two, adultery is then derived from murder.

While other Mitzvos may be violated to save one’s life, there is an exception. When a gentile forces a Jew to violate the Mitzvah on principle, to force him to give up on his religion, he may never give in. This applies if the Jew is forced to violate in public, i.e., before a quorum of ten Jews. In private, one may violate it, but if he chooses to die he is not held liable. The Talmud singles out as an example a mere *Minhag*, custom, of Jews, to wear different shoes or shoelaces than those worn by gentiles. If the Jew is forced to remove his distinctive identity as a Jew, he should rather give up his life. Some say that this is so that gentiles do not get into the habit of taking advantage of Jews. Others maintain that the gentile views this as abandoning Judaism. Thus, it is like idolatry. If a gentile demands the violation for personal reasons, one is not obliged to give up his life. This is not like being forced to give up Judaism. However, if the particular violation has been decreed by the governing body, it is considered as though the gentiles are forcing the Jews to do it on principle. Therefore, even if a gentile demands it for personal reasons, one may not violate it. [See Sanhedrin 74a-b, Poskim. Tur Sh.Ar. Y.D. 157, commentaries.]

(C) *Healing oneself with the aid of Avoda Zara*

Since it is forbidden to violate these three sins to save one’s life, if one’s health is in danger he may not use a cure that involves violating these Mitzvos. It is forbidden to satisfy even a small temptation without actually violating anything, if it

will be used to heal. In essence, one may not gain life by these means. Therefore, one may not use a cure made from items that are forbidden because of *Avoda Zara*. One may not be cured by a priest who will whisper an incantation using the name of his idol or religion. [These incantations may or may not have any power, but they are forbidden nonetheless.] If a gentile prescribes a medicine specifying a tree from which it must be made, if there are grounds to believe that it is an *Avoda Zara* or if the gentile mentions the fact, it may not be used. It is implied that he means to use the *Avoda Zara* to treat the sickness.

It must be borne in mind that healing truly only comes from Hashem. He will invest such powers in *Avoda Zara* just as He allows miracles to be performed through them, to allow freewill and the possibility of being misled by them. Apparently, some priests were known to practice occult. They would prick wax models of people in certain parts of their bodies, causing them to become sick there. They would then advertise their healing abilities. When the targeted patient came, they would place one hand on the sick part of the body, while the other hand (held behind the back) would crush the wax model. All the time the priest would mumble prayers to his god, "healing" the patient. The next step would be an invitation to convert.

A separate issue involves allowing oneself to be treated by an unscrupulous gentile who might be suspected of murder or other forms of taking advantage of his patients. However, this does not apply if he is a professional doctor, or if he is being paid for his services. In these instances he is not considered suspect because if anything should go wrong he would jeopardize his reputation.

However, the Talmud specifically permits being cured by an idolator if he does it as a professional doctor and makes no mention of his gods. The Poskim still forbid being attended by the priests if they insist on feeding the patients non-kosher food, even as a cure (if a kosher alternative is available) or on other violations of Mitzvos. This is the same as a gentile insisting on principle that a Jew violate a Mitzvah. Accordingly, unless the medical facility administered by the religious group makes such stipulations, one may be treated there and by their staff. [See Psachim 25a {Tosafos} (Sotah 22a, Rashi) Sanhedrin 74a-75a, *Avoda Zara* 26a-28a, Poskim. Tur Sh. Ar Y.D. 155:1 (Pischei Teshuva 1, Darkei Teshuva 7-8.) 156-157, commentaries. Sefer Chasidim 1159.]