

## About Time: How Ought We Value a Little Bit of Life?

Adapted from the writings of Dayan Yitzhak Grossman

December 26, 2024

AP News reports:

Rescue crews pulled two women from rubble several hours after a Russian missile struck a medical clinic in southern Ukraine, killing nine people and wounding 22 others, authorities said Wednesday. The women called rescue services to say they were buried by debris for seven hours after the attack late Tuesday in Zaporizhzhia, Ukraine's Emergency Services said, as deadly Russian strikes on civilian areas continue in the almost three-year war.[1]

In this article, we consider the Gemara's classic discussion of rescuing a person buried under a pile of rubble.

The Mishnah says:

A person upon whom a building collapsed on Shabbos, and it is uncertain whether he is there or not, whether he is alive or dead, whether he is an idolater or a Jew, they clear away the heap to rescue him. If they find him alive, they continue to clear away, but if he is dead, they leave him.[2]

The Gemara comments:

If they find him alive, it is obvious that they must continue! (So why did the Mishnah find it necessary to say this?)

It is necessary only to teach that we must continue to clear the rubble even for the sake of a momentary extension of life.[3]

The Gemara is apparently asserting that even the preservation of only *chayei sha'ah* is grounds to desecrate Shabbos. But elsewhere the Gemara declares that we are not concerned with preservation of *chayei sha'ah*:

Rabbah said in the name of R' Yochanan, and some say it was Rav Chisda who said it in the name of R' Yochanan: When a patient will possibly live and possibly die if left untreated, we may not accept treatment from pagan medical practitioners (as we are concerned that they will kill him). But if he will surely die if left untreated, we may accept treatment from them.

Can it be that if the patient will surely die he may be treated by a pagan practitioner? But there is momentary life remaining (which will be put at risk)!

We do not concern ourselves with momentary life (when there is a possibility of a long-term extension of life).

And from where do you learn to say that we do not concern ourselves with momentary life in such a case? For it is written: "If we propose to enter the city, there is famine in the city and we will die there." (And if we remain here we will die, so let us take our chances with the Aramean camp.) But there is momentary life (that they put at risk by throwing themselves upon the mercy of the Arameans)! Rather, is it not the answer that we do not concern ourselves with momentary life (when there is a possibility of a long-term extension of life)?[4]

Tosfos harmonizes these two passages as follows:

We can say that both here and there we do what is better for him: Over there (where we desecrate Shabbos to clear the heap), if we will not be concerned (for *chayei sha'ah*) he will die, and over here, if we will be concerned and he will not be treated by an idolater, he will certainly die, so both here and there we avoid the certainty (of death) to do that which will yield a possibility (of life).[5]

While the exact intent of Tosfos is not entirely clear, R' Shlomo Kluger and R' Moshe Feinstein are both puzzled by the notion that there is any contradiction between the two passages: The latter Gemara is only saying that a chance of long-term life (*chayei olam*) overrides the concern for *chayei sha'ah*—not that we are unconcerned about *chayei sha'ah*. [6] This interpretation of the latter Gemara was already articulated by the Ramban:

We do not concern ourselves with momentary life—i.e., we are not concerned with the possibility of momentary life in the face of the possibility that he will live much longer.[7]

This basic approach to reconciling the two Gemaras is the foundation of a seminal ruling of the Shvus Yaakov (R' Yaakov Reischer). He was asked about the permissibility of a certain risky medical procedure for a patient whose physicians unanimously agreed that he would die within a day or two without the procedure. If the procedure was successful, it might save his life, but if it was unsuccessful, it might kill him within an hour or two. The Shvus Yaakov initially argues that the procedure is prohibited, because even *chayei sha'ah* is of paramount value, as is evident from the Gemara that says we desecrate Shabbos to preserve *chayei sha'ah*. But he ultimately permits it based on the other Gemara, as explained by Tosfos and the Ramban, that says we are not concerned for *chayei sha'ah* in the face of a chance of *chayei olam*. Still, he warns that one must be very careful before allowing such a procedure, and it must be recommended by a preponderance of physicians, at least two to one[8]—“for we must be concerned about *kalei hada'as* (frivolous people)”—and approved by the scholar of the city.[9]

Many subsequent authorities adopt the same basic permissive stance toward risky medical procedures for someone who will otherwise certainly die.[10] R' Dovid Zvi Hoffmann adds that since such a procedure is permitted, it should be performed upon a child even over the objections of his parents, “because we do not find anywhere in the entire Torah that a father and mother have the right to endanger the life of their children and to prevent a physician from healing them.”[11] R' Chaim Ozer Grodzinski adds that such a procedure is permitted regardless of whether the *chayei sha'ah* being risked is a day or two or several months.[12]

R' Moshe Feinstein rules that such a procedure is permitted even if there is only a remote chance (*safeik rachok*) that it will cure the patient, and if it fails to cure him he will die earlier.[13] But R' Moshe Sternbuch espouses a more nuanced position. He initially distinguished among three cases:

1. If physicians believe that the chance of the patient living are greater than that of him dying, a *rav* should rule that he is obligated to undergo the

- procedure.
2. If physicians believe that the chances of life and death are equal, a *rav* should recommend the procedure, but the patient's family has the right to refuse it.
  3. If physicians believe that the chance of success is less than fifty percent, a *rav* need not offer any recommendation or express an opinion on the procedure. Rather, he should tell the family that he is not a doctor and that Hashem should give them the wisdom to choose the best course. The family is permitted to consent to the procedure.[14]

In a subsequent *teshuvah*, however, he qualifies his stance in the third case, explaining that because the preservation of life is a mitzvah, it follows that as long as the procedure is routine and does not entail prolonged, severe suffering, it should be done, and a *rav* should recommend it. He writes that his initial guidance that a *rav* need not recommend the procedure is limited to where it does involve severe suffering. In that case, the patient is not obligated to undergo it, and we are not obligated to recommend that he do so, but he is permitted to undergo it if he wishes.[15]

[1]Illia Novikov. 2 Ukrainian women are pulled alive from rubble hours after Russian missile strike. AP News.

<https://apnews.com/article/russia-ukraine-war-missile-strike-zaporizhzhia-ba02d01051b57d10a6fd9b54e1be89>.

[2]Yoma 83a.

[3]Ibid. 85a.

[4]Avodah Zarah 27b.

[5]Tosfos ibid. s.v. *Lechayei sha'ah*.

[6]Avodas Avodah to Tosfos ibid.; Shu"t Igros Moshe Y.D. *cheilek 3 siman 36 s.v. Vehinei haTosfos hikshu*. Cf. Avodah Berurah (Avodah Zarah) (Second Edition: Yerushalayim 5781) p. 232.

[7]Toras Ha'adam, *Sha'ar Hasakanah*.

[8]See Sefer Hachaim *siman 339 perek 8*; Orchos Chaim (Kahana) *siman 328 se'if 10 os 9*.

[9]Shu"t Shvus Yaakov *cheilek 3 siman 75* (cited in Pis'chei Teshuvah Y.D. *siman 339 s.k. 1*).

[10]Bais Meir Y.D. beginning of *siman 339* (s.v. *Se'if 1 BaShach s.k. 1*); Chochmas Adam, *Hilchos Avodas Kochavim klal 88 Binas Adam 73 (93)*; Gilyon Maharsha Y.D. beginning of *siman 155*; Shu"t Binyan Tzion *siman 111*; Orchos Chaim ibid.; Shu"t Tzitz Eliezer *cheilek 4 siman 13 osios 5-8*; Cf. Tzitz Eliezer *cheilek 17 siman 72 osios 4-6*.

[11]Shu"t Melamed Leho'il *cheilek 2 siman 104*.

[12]Shu"t Achiezer *cheilek 2 siman 16 os 6*. For further discussion of the definition of *chayei sha'ah*, see Chochmas Shlomo Y.D. (Machon Yerushalayim Edition) beginning of *siman 155* (cited in Darchei Teshuvah ibid. *os 6*); Shu"t Igros Moshe Y.D. *cheilek 3 siman 36 s.v. Uvidvar peirush chayei sha'ah*; Shu"t Tzitz Eliezer *cheilek 17 siman 72 os 14 s.v. Od nir'ah likbo'a*; Shu"t Teshuvos Vehanhagos *cheilek 1 siman 863*; Shu"t Minchas Asher *cheilek 1 siman 115 os 2*; Nishmas Avraham (Second Expanded Edition) Y.D. p. 80.

[13]Shu"t Igros Moshe Y.D. *cheilek 2 siman 58*.

[14]Teshuvos Vehanhagos *ibid*.

[15]*Ibid. cheilek 3 siman 362*. Cf. Shu"t Yabia Omer *cheilek 4 E.H. end of siman 1*.