

Terror Triage: Should Injured Terrorists Be Patched or Dispatched?

Adapted from the writings of Dayan Yitzhak Grossman

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Four days after Hamas's Shmini Atzeres massacre, Ynet reported:

Following Ynet's report that terrorists are hospitalized in public hospitals alongside Israelis wounded in the war, Health Minister Moshe Arbel on Wednesday evening told Prime Minister Binyamin Netanyahu that he had ordered a halt to the treatment of Hamas terrorists in public hospitals...

In a letter to Netanyahu, Arbel wrote: "Since the beginning of the fighting, the issue of treating the damned and despicable Hamas terrorists in the public hospitals has caused tremendous difficulty for the health system.

"In these difficult times, the health care system should focus fully on treating the victims of the criminal massacre and the IDF soldiers, and on preparing for what is to come. The task of securing and treating the cursed and despicable terrorists within the public health system significantly harms these efforts. And therefore, under my guidance, the public health system will not treat them."

Arbel added that: "The handling of the matter should be entrusted to the IDF or Israel Prison Service, and of course the Ministry of Health is ready and willing to assist these bodies as much as necessary. I will ask for your immediate guidance to implement this instruction among all the aforementioned bodies." [1]

About a week later, the JNS reported:

Hadassah Ein Kerem Hospital in Jerusalem said on Tuesday that it was refusing to treat a Hamas terrorist, according to Hebrew media reports.

The hospital stated that security officials had attempted to admit the terrorist during the night, but that he was refused entry and thrown out of the building.

"At Hadassah, terrorists from the Iron Swords (the name of the Israel Defense Forces operation against Hamas in Gaza) war are not treated," the hospital said in a statement... [2]

In this article, we survey the positions of several prominent *gedolei* Torah and *poskim* on the subject of the provision of medical treatment to terrorists. [3]

In 5776 (2015), following a declaration by the Israeli Medical Association that precedence in the treatment of individuals injured in a terrorist attack should follow the severity of their injuries, even when that involves treating the severely injured Arab terrorist perpetrator ahead of his less severely injured Jewish victim, officials of United Hatzalah consulted R' Chaim Kanievsky on the matter:

UH: When they arrive to rescue those lying on the floor, terrorists as well as Jews, from the perspective of Jewish values, men who arrive to save lives, whom should they approach first, the one who is more

severely wounded or the one who is Jewish?

RCK: Certainly the Jew.

UH: Do they need to check who the wounded individual is, the terrorist or the victim?

RCK: Yes.

UH: To check this and then to provide treatment accordingly?

RCK: Yes.

UH: And if they determine that this is a terrorist, who wanted to attack, then they should not treat him at that moment?

RCK: The terrorist should be killed.

UH: And if he is wounded at this stage?

RCK: As long as it is not clear to you, save him. If it is clear to you that this is a terrorist, do not save him.

UH: In the most recent attack, it was not clear who was lying on the floor, the terrorist or the victim.

RCK: If there is doubt, we are compelled to save, until it becomes clear.[4]

From the above dialogue, it is not entirely clear whether R' Chaim was merely asserting a rule of precedence, issuing a directive that terrorists should not be treated at all, or issuing a recommendation to actively execute them. (This is true as well of some of the comments on this topic by other authorities that we cite below.) Recently, however, United Hatzalah founder Eli Beer quoted R' Chaim as explicitly ruling that the terrorist should be killed outright. It is not entirely clear whether he is relating his version of the aforementioned conversation or is recounting a different conversation that he had with R' Chaim):

United Hatzolah founder Eli Beer shared a fascinating conversation he had with Rav Chaim Kanievsky regarding his ethical obligation to treat or not to treat a terrorist.

Beer first stressed that during the current hostilities, his group has not provided medical treatment to a single terrorist, nor have they transported one to a hospital.

He then recalled a question he posed to Rav Chaim Kanievsky: In a hypothetical scenario where a terrorist stabbed a Jew and was then shot, and the terrorist is in a more serious condition than the Jew, who should he treat first? Emergency response ethics call for a more seriously injured individual to be treated ahead of a less seriously injured one, but what do you in a case where one of the injured is a terrorist?

Rav Chaim's response was nothing short of incredible.

"You have a *chiyuv* to go first to the terrorist, shoot him in the head, and then treat the Jew," Beer recalled Rav Chaim as saying.

"He has a *din* of a *rodeif*," he quoted Rav Chaim as saying—even if the terrorist is no longer able to hurt anyone.[5]

Back in 5776, R' Shlomo Aviner as well scathingly rejected the view that a more-severely wounded terrorist should be treated prior to a less-severely injured victim:

Regarding this it is said, "The wisdom of its wise men will be lost,"[6] because a terrorist is guilty of a capital offense. Moreover...he has the law of a pursuer (*rodeif*), and it is a mitzvah for anyone to kill him...

Rav Aviner proceeds to explain that a terrorist is considered a *rodeif* despite the fact that he is not at the moment capable of causing harm, for two reasons:

1. The terrorist is likely to attack Jews in the future. "From a statistical perspective, fifty percent of freed terrorists are again involved in murder."
2. The Torah's punishments are rooted in deterrence. If a terrorist knows that if he attacks people he is a dead man, he will be deterred, whereas if he knows that he may only be injured, in which case he will be treated for his injuries and considered a national hero, "the force of deterrence is weakened." (Whatever the merit of this argument, it is unclear why this should place the terrorist into the halachic category of *rodeif*.)

Rav Aviner does, however, add the following caveat to his position:

There are indeed particular circumstances in which we do treat a wounded terrorist...but it is obvious that this is not to be done at the expense of an innocent wounded victim. How can the treatment of a murderer take precedence over the treatment of a victim?![7]

R' Shmuel Eliyahu has espoused a similar view, in response to a Magen David Adom volunteer who asked him whether she should follow the organization's directives to prioritize the treatment of terrorists over victims:

It does not matter what Magen David Adom says, you should do what needs to be done, and the key principle is to treat a wounded Jew before any terrorist. You should treat the wounded Jew even if the terrorist will die. They desperately wish to ascend to Heaven as martyrs—why should we withhold from them that which they so badly desire! There is no mitzvah whatsoever to save these murderers. Also remember that they are extremely ungrateful and are capable of murdering those who treat them. Therefore, even if there is no wounded Jew, do not treat them until the bomb disposal unit arrives and finds that there are no explosive belts or other knives upon them, so that they do not attack you, *chas veshalom*. And in general, remember that there is no mitzvah to save these murderers; there is the possibility that they will be freed and murder other Jews.[8]

About a year ago, Rav Eliyahu explicitly ruled that medical personnel are obligated to "cause terrorists to die":

A terrorist deserves death. This is not my personal opinion, but the opinion of the Torah, and universally accepted...Therefore, there is an obligation to cause every terrorist to die when he commits an attack. This is an obligation upon the soldiers, this is an obligation upon the physicians, and this is an obligation upon the nurses. Of course, this must be done within the framework of the law, but the law is flexible...It is an obligation upon every soldier and upon every citizen to make sure that a terrorist does not emerge alive from the incident. How? Find the paragraph in the law...[9]

One rabbinic authority who has ruled (in the context of the current war against Hamas) that medical treatment must be provided to terrorists is R' Yosef Sprung, the *rav* of Shaare Zedek Hospital and a protege of R' Asher Weiss.[10] In a letter to the hospital's medical staff, Rav Sprung writes:

There is no doubt that we are talking about a surreal and crazy situation. When the blood is still boiling and the heart is broken, the staff must grant lifesaving treatment to the most egregious enemy. My heart is broken with you.

(However,) we must remember to always stick to the instructions of the holy Torah, which is the only thing that guides our way in life at all times, as hard and painful as it may be.

Rav Sprung explains that "keeping these cursed ones alive" is a matter of *pikuach nefesh*, for two important reasons: the possibility of exchanging them for Jewish hostages and the necessity of securing international support for the war. He concludes that these reasons are not emotionally satisfying, and that we hope that these "human animals" will be transferred from civilian medical facilities to military ones,

but as long as this is still the situation, we must grind our teeth and do what is incumbent upon us.[11]

[1] Adir Yanko. Health minister tells Netanyahu: Public health system won't treat terrorists. Ynet. <https://www.ynetnews.com/article/r1ft24411t>.

[2] Israeli hospital refuses to treat Hamas terrorist. JNS. Oct. 17, 2023. <https://www.jns.org/israeli-hospital-refuses-to-treat-hamas-terrorist/>. Some of the Hebrew accounts: Srugim, Haaretz. Cf. here, here, here, here, and here.

[3] The one detailed survey of this topic that I have seen is by R' Shlomo M. Brody, Should Israeli Hospitals Treat Hamas Terrorists? Jewish Law Explains, The Jerusalem Post, which mentions a number of the sources cited in this article, and contains additional analysis of the issues raised in this article as well as other issues.

Regarding the provision of medical care to Jewish (as opposed to Arab) sinners and criminals (as opposed to terrorists), see R' Yitzchok Zilberstein, *Shiurei Torah Lerofim cheilek 4 siman 272* pp. 431-39.

[4] Avi Greentzeig and Eli Shlesinger. *Tzfu Behora'ah: "Im Zeh Mechabel, Al Tatzilu."* Bechadrei Charedim. 19 Teves 5776/Dec. 31, 2015.

<https://www.bhol.co.il/news/195808>. Cf. here.

[5] INCREDIBLE: Hear What Rav Chaim Kanievsky *zt"l* Told United Hatzolah Founder Eli Beer About Treating Terrorists. The Yeshiva World. Oct. 16, 2023.

<https://www.theyeshivaworld.com/news/israel-news/2232151/incredible-hear-what-rav-chaim-kanievsky-ztl-told-united-hatzolah-founder-eli-beer-about-treating-terrorists.html>. Cf. here.

We have previously discussed the legitimacy of the targeted killing of terrorists not engaged in terrorism at the moment in *Marked Men: Are Targeted Killings of Terrorists Justified?* Bais HaVaad Halacha Journal, Sept. 10, 2020, and see *Shooting to Kill vs. Shooting to Stop: "Excessive Force" against Knife-Wielding Palestinians*. Bais HaVaad Halacha Journal.

Oct. 2015.

[6]Yeshayah 29:14.

[7]Facebook. Dec. 17, 2015. A similar interview with Rav Aviner appears here, and cf. here.

[8]Facebook. Oct. 28, 2015. Cf. here and here

[9]Eliyahu Galil. HaRav Eliyahu: "*Tipul Bimchablim Bevais Cholim Yisraeli?! Lechaseil Otam.*" Yisrael Hayom. May 19, 2022.

<https://www.israelhayom.co.il/judaism/judaism-news/article/11089093>.

[10]R' Shlomo Brody (*ibid.*) actually attributes to Rav Weiss the comments that this article attributes to Rav Sprung; our attribution, however, is based on the source cited in the following note, whereas Rav Brody does not provide any source for his attribution.

[11]Hakol Hayehudi. X (Twitter) (cited here).