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Dedicated in loving memory of
 Harav Yosef Grossman zt"l



KILLING FOR LIFE: IN PURSUIT OF THE RODEF

Adapted from a shiur by Rav Yosef Greenwald

The Great Kanto Earthquake struck Tokyo in 1923 and killed well over 100,000 people. Even today, it remains the worst natural disaster in the history of Japan. At the time, the Chafetz Chaim warned that it would be a tragic error to think that an event so geographically distant from the Jewish People had nothing to do with us. Everything Hashem does in the world is a message directed at Klal Yisrael, and we ignore such messages at our peril.

As the Covid-19 coronavirus wends its way across the globe, having been upgraded from outbreak to epidemic and now chasing pandemic status, we would be wise to ponder that message. The situation also gives rise to halachic dilemmas.

After the tragedy of 9/11, the question arose: If it had been known that the hijacked planes were being deployed as missiles to attack occupied buildings, should authorities have shot down the planes before they could reach their targets? Shouldn't we kill hundreds in order to save thousands?

A similar question could be posed here: If an infected individual is poised to spread the disease, may he be killed in order to protect the masses if he cannot otherwise be contained?

The Rambam in the fifth *perek* of *Hilchos Yesodei HaTorah* says that all the mitzvos are set aside in the case of danger to life because the Torah commands *vachai bahem*, one is to live by the mitzvos—and not die by them. But in the case of the *gimmel chamuros*, the three cardinal sins of idolatry, immorality, and murder, *yeihareig v'al ya'avor*, one must be killed rather than offend.

In the case of idolatry and immorality, this is demanded by the mitzvah of *kiddush Hashem*, sanctifying Hashem's name. Murder, however, must be avoided even on pain of death for a different reason entirely: *mai chazis*. "What makes you think your blood is redder than his, maybe his blood is redder than yours?" One who is ordered to murder another or be killed must desist from carrying out the order, because there is no way he can know that his life is more

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Summary of a shiur by Rav Yosef Greenwald

PARSHAS TERUMAH

The Rambam (*Hilchos Bais HaBechirah* 1:12) writes that the mitzvah of building the *Bais HaMikdash* applies only by day. He also rules that women are obligated in this mitzvah.

If the mitzvah only applies by day, it is a *mitzvas aseil shehazman grama*, a time-bound positive mitzvah, from which women are *patur*. So why are they *chayav* here?

The Bais Yitzchak (from *Turei Even, Chagiga* 16b) answers that the mere act of building does not comprise the mitzvah of *Binyan Bais Habechirah*. Rather, the mitzvah is to *have* a *Bais Hamikdash* by means of constructing one. Because the mitzvah is the end state, once the *Bais Hamikdash* is built, the mitzvah is fulfilled in perpetuity as long as the building stands. And because the mitzvah fulfillment is not limited to daytime, this is not reckoned a *zman grama*. The Maharach Ohr Zarua identifies a similar

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Q&A from the
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FROM THE BUSINESS HALACHA DIVISION, EXTENSION #3

Q: I found a substantial amount of cash in shul, wrapped in a rubber band. I put up signs announcing that I had found money, but no one came forward to claim it, and a long time has elapsed.

How long must I wait for a claimant, and what happens if none appears? (continued on back)

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valuable than that of his designated victim. Number is not a factor is this calculus: If an enemy surrounds a community and demands that one person be sent out to be killed or all will die, they may not comply. They may not reason that surely the lives of all are collectively of greater value than the life of the one sacrificial lamb they will select. It would appear, then, that the hijacked passengers may not be shot out of the sky in a bid to save the numerically superior assemblage in the target building. *Ain dochin nefesh mipnei nefesh*, we may not push aside one soul in favor of another. And the fact that the passengers will die shortly in any case is not a consideration, because the murder of a dying man is still murder.

There is only one case where one life may be destroyed to save another, and that is the *rodef* or pursuer. We derive this from the *ba bamachteres*, the case of the burglar in Parshas Mishpatim. It may be presumed that a burglar who is active at night plans to kill the homeowner should he encounter him. Therefore, the burglar's entry constitutes a threat to the life of the residents, and his pursuit of them may be terminated with deadly force. The logic of *mai chazis* doesn't apply, because he brought the situation upon himself (Sanhedrin 74).

A sick man who is approaching healthy peo-

ple and will infect them is clearly the cause of the threat and thus a *rodef*. But what if he's unaware he's ill?

In Sanhedrin 72 we learn that a fetus that threatens its mother's life is not a *rodef*, because *mishmaya ka radfi la*, they are pursuing her from Heaven. The fetus isn't pursuing its mother, a natural process is doing so. An abortion is performed to save the mother's life for a different reason, because the fetus is yet unborn and the mother is born, so the mother's life is of greater value. Once the baby's head emerges, his life and hers are equal, and because he is not a *rodef*, he cannot be killed to save her.

Clearly, a fetus endangering its mother bears no fault. But that is not offered by the Gemara as the reason not to reckon it a *rodef*. A faultless *rodef*, like the clueless coronavirus carrier, is still a *rodef*.

The man who would be selected to satisfy the enemy's bloodlust in our earlier case is not doing anything to anyone, so he is not a *rodef*. The passengers on the plane hurtling toward the building are threatening no one—only the hijacker flying the plane is doing that. So they're not *rodfim*, either. But it would appear to emerge from the *sugya* that the virus carrier, witting or unwitting, is.

May Hashem save us *mikol tzara v'tzuka umikol nega umachala*.

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idea in *bris milah*, where the Gemara (*Kiddushin* 29b) derives from a *pasuk*

that women are *patur*. Why is a *pasuk* necessary? Isn't *bris milah* a *mitzvas aseil shehazman grama*? He answers that the *ikar mitzvah* is for the child to be *mahul* forever, and that's not called *zman grama*. (Tosafos

there disagrees.)The Minchas Chinuch finds the same concept in *shemita*, where women are *chayav* even though it would appear to be *zman grama*, because the primary mitzvah is to have the land rest (*chovas karka*).

Another answer to our original question comes from Har HaMoriya: True, the mitzva is by day, but preparations and *tirdos* apply at night, too, so the mitzvah is not *zman grama*. The Tosfos Rid makes a similar point about *bris milah*.

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A: The specific description of the rubber band could serve as a *siman*, an identifying sign by which the owner could prove his claim. The amount of money found is also a *siman*. Because *simanim* were present, you were correct to announce the find, as you were not permitted to keep the money.

The Gemara states that if someone finds an object that the owner has not despaired of having returned to him, the finder has a mitzvah of *hashavas aveidah*, returning lost property. Once the finder becomes obligated to return the money, he is never allowed to keep it for himself and must hold it until it is claimed by the owner.

In this case, there is no reason to believe the owner despaired of being reunited with his money, as most frequenters of a shul are Jewish and the owner can reasonably assume the money will be returned to him. Hence, the finder has an obligation to return the money and cannot keep it.

However, the halacha is that if it is difficult for the finder to care for the object, he may replace it with a similar item, provided this causes no loss to the owner. In the case of cash, the owner obviously does not care which bills are returned to him. It is therefore permissible to deposit the money in a bank account for safekeeping until the owner is found, at which time cash will be withdrawn to return to him.

If the owner does not turn up, the money must be held *ad sheyavo Eliyahu*, until Eliyahu Hanavi arrives to herald the advent of Moshiach and informs us who is the rightful owner.



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