



CTOMC Int'l FLMILW

Conditions for a Heter - dispensation for the sanctity of life on Shabbat or a High Shabbat by a Beit Din

This discussion/opinion/ruling/psak is presented here as an official opinion of the Senior Elder FLMILW-CTOMC Int'l, to clarify questions surrounding Biblical relevance of saving/protecting life on Shabbat.

The first knee-jerk response is "of course it's ok to save a life on Shabbat", but for those who follow strict Biblical and even Talmudic/Oral traditions, it is a consideration. And as we are a mixed multitude of memberships, Jewish and non-Jewish ethnically these issues must be addressed.

So below you will see the halakhic psak, those from the Talmud/Oral Torah, from Torah, and from the Apostolic writings. Where we are REQUIRED to save life on Shabbat, and any other day.

So to that end this document is to be considered a Dispensation - Heter concerning the saving of life on Shabbat. Placed by my hand June 19, 2009/27 Sivan 5769.

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Dispensation - Heter

- Permission to dispense with or modify rules to relieve hardship. In rabbinic practice it is referred to as "giving a heter" (permission). It is generally limited to laws having only rabbinic validity or arising from custom. [*The Blackwell Dictionary of Judaica Edited by: Dan Cohn-Sherbok eISBN: 9780631187288 Print publication date: 1992*]
- an exemption from some rule or obligation

1. Pikuach nefesh (Hebrew: פיקוח נפש, "saving of human life") is the principle in Jewish Law that the saving of a human life is paramount, overriding virtually any other religious consideration. When the life of a specific human being is in danger, almost any negative commandment of the Torah may be broken, with just three exceptions.

1.1 Exception

An exception in which killing another person is permitted is the case of a rodef (aggressor), who may be killed in order to save the live of oneself or another. This permits self-defense and wartime killings in Judaism. Also, abortion is permitted in Jewish law if the unborn fetus is endangering the mother's life, because the fetus is considered to be a rodef. The "rodef" assertion is also used to permit the

separation of conjoined twins when it is likely or even certain that one will die as a result if the operation if this is necessary to save the other.

1.1.1 Defaming G-d's name

1.1.2 Murder

Any act that intentionally causes the death of another person (considered to be an act of murder), that injures a person so the potential for death from the injuries is high, or that otherwise creates a dangerous situation that will very likely put one or more lives at risk, is not permitted for the preservation of life. Forbidden examples are:

- Harvesting organs from the body of a person who is clearly alive
- Live organ donation, where the risk of death to the donor is extremely high. If the risk is low, the donation is permitted.
- Driving at a very high speed in order to reach a hospital if a crash with an innocent motorist is almost assured

1.2.3 Life for a life

While one is not permitted to automatically give up one's life in order to save the life of another (an act of suicide, forbidden in Jewish law), one may risk his/her life to save the life of another. Doing so is a great mitzvah.

One may not put another's life in danger, especially against that person's will, in order to save his/her own life or that of another.

Scholars have long questioned whether or not stealing is permitted in order to save a life. Most have concluded that stealing sustenance from a poor person is prohibited under life-threatening circumstances, since the life of a poor person who loses even a small portion of his/her sustenance is considered to be endangered. Also, operating a business or similar operation that intentionally robs or defrauds the poor of all or any part of their sustenance is strictly forbidden, even to save a life. Robbing or defrauding a large business, organization, or the government is forbidden if the poor will suffer as a result of the business, organization, or government losing these funds. If a business suffers the loss of money due to fraud or theft, it may pass the losses onto customers by raising its prices, and as a result, the poor may have to spend more. The government, if cheated, may raise taxes, even to the poor, or cut services from which the poor benefit.

Lashon hara is symbolically considered an act of murder, and therefore may not be spoken to save a life. However, most cases in which bad word must be spoken against a person in order to save a life are productive, and thereby do not constitute lashon hara.

Torturing or persecuting another person is forbidden, since a person who has undergone such trauma has been "murdered" for whom s/he is. An exception is one who is seemingly tortured by medical treatment performed to save his/her life.

[Wikipedia contributors, "Pikuach nefesh," Wikipedia, The Free Encyclopedia, http://en.wikipedia.org/w/index.php?title=Pikuach_nefesh&oldid=287588518 (accessed 1 Sivan 5769).]

"[the saving of a] 'Jewish' life is considered as if one saved the entire world," (Talmud Bavli Sanhedrin 37a)

The preservation of human life takes precedence over all the other commandments in Judaism. The Talmud emphasizes this principle by citing the verse from Leviticus [18:5]: "You shall therefore keep my statutes...which if a man do, he shall live by them." The rabbis add: "That he shall live by them, and not that he shall die by them." (Babylonian Talmud, Yoma 85b)

When life is involved, all Sabbath laws may be suspended to safeguard the health of the individual, the principle being pikuach nefesh doheh Shabbat--[rescuing a] life in danger takes precedence over the Sabbath.

One is not merely permitted--one is required to disregard a law that conflicts with life or health. "It is a religious precept to desecrate the Sabbath for any person afflicted with an illness that may prove dangerous; he who is zealous is praiseworthy while he who asks questions sheds blood." (Shulhan Arukh, Orah Hayyim 328:2)

This duty to ignore the law, if necessary, to safeguard health is also stressed in connection with fasting on Yom Kippur. A sick person is obliged to break the fast. Neither the patient nor those attending him need atone when performing such acts that are forbidden under normal circumstances.

In spite of the virtue of observing a fast, it is not virtuous to observe laws at the risk of one's life. Such conduct is regarded as foolish, even as sinful. The Sages described this stubbornness as a "piety of madness."

Pikuach nefesh was not only confined to serious crises in health. The victims of religious persecution who lived under constant threat of death were also guided by the principle of pikuach nefesh. They, too, were cautioned against sacrificing their lives in order to observe the Sabbath and festivals. There were exceptions, to be sure, when martyrdom was considered the greater virtue than surrendering one's principles. Generally, however, the Jew was encouraged to accept temporary indignity and choose life, to live in misery, rather than to die in glory.

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2. Acceptable situations: (extraordinary situations that may be granted by local Rabbis/Ro'eh's)

2.1 Travel to avoid violation of Laws of a Jurisdiction/County

{incarceration would cause multiple violations of Torah, could cause physical or spiritual harm to the individual}

2.2 Law Enforcement, Medical, Emergency Services Personnel (NO HETER needed)

The need for a heter is more for accountability than anything else, to remind the one in need of the fact that Shabbat is still Shabbat. And the importance of it is not diminished by the issuance or use of a heter. The heter in effect stands to remind the person that while they are not in violation of Torah by these actions they are not allowed to take liberties that would not be allowed on Shabbat outside of these exceptions.

When used with שכל ישר - Common Sense this should be no problem, but taking liberties would be sin.

Scripture resources:

Exodus 23:4-5 cjb

(4) "If you come upon your enemy's ox or donkey straying, you must return it to him.

(5) If you see the donkey which belongs to someone who hates you lying down helpless under its load, you are not to pass him by but to go and help him free it.

Deuteronomy 22:4 cjb

(4) "If you see your brother's donkey or ox collapsed on the road, you may not behave as if you hadn't seen it; you must help him get them up on their feet again.

Matthew 12:10-13 cjb

(10) A man there had a shriveled hand. Looking for a reason to accuse him of something, they asked him, "Is healing permitted on Shabbat?"

(11) But he answered, "If you have a sheep that falls in a pit on Shabbat, which of you won't take hold of it and lift it out?"

(12) How much more valuable is a man than a sheep! Therefore, what is permitted on Shabbat is to do good." Then to the man he said, "Hold out your hand." As he held it out, it

(13) became restored, as sound as the other one.

Mark 3:4 cjb

(4) Then to them he said, "What is permitted on Shabbat? Doing good or doing evil? Saving life or killing?" But they said nothing.

Mark 14:3-9 cjb

- (3) While he was in Beit-Anyah in the home of Shim'on (a man who had had tzara'at), and as he was eating, a woman came with an alabaster jar of perfume, pure oil of nard, very costly. She broke the jar and poured the perfume over Yeshua's head.
- (4) But some there angrily said to themselves, "Why this waste of perfume?"
- (5) It could have been sold for a year's wages and given to the poor!" And they scolded her.
- (6) But he said, "Let her be. Why are you bothering her? She has done a beautiful thing for me.
- (7) For you will always have the poor with you; and whenever you want to, you can help them. But you will not always have me.
- (8) What she could do, she did do -- in advance she poured perfume on my body to prepare it for burial.
- (9) Yes! I tell you that wherever in the whole world this Good News is proclaimed, what she has done will be told in her memory."

Luke 6:7-10 cjb

- (7) The Torah-teachers and P'rushim watched Yeshua carefully to see if he would heal on Shabbat, so that they could accuse him of something.
- (8) But he knew what they were thinking and said to the man with the shriveled hand, "Come up and stand where we can see you!" He got up and stood there.
- (9) Then Yeshua said to them, "I ask you now: what is permitted on Shabbat? Doing good or doing evil? Saving life or destroying it?"
- (10) Then, after looking around at all of them, he said to the man, "Hold out your hand." As he held it out, his hand was restored.

John 7:21-24 cjb

- (21) Yeshua answered them, "I did one thing; and because of this, all of you are amazed.
- (22) Moshe gave you b'rit-milah -- not that it came from Moshe but from the Patriarchs -- and you do a boy's b'rit-milah on Shabbat.
- (23) If a boy is circumcised on Shabbat so that the Torah of Moshe will not be broken, why are you angry with me because I made a man's whole body well on Shabbat?
- (24) Stop judging by surface appearances, and judge the right way!"

Citations used:

1. <http://jerusalemcouncil.org/beit-din/questions/is-it-lawful-to-save-the-life-of-a-gentile-on-sabbath/>
2. [The Blackwell Dictionary of Judaica Edited by: Dan Cohn-Sherbok eISBN: 9780631187288 Print publication date: 1992]
3. [Wikipedia contributors, "Pikuach nefesh," Wikipedia, The Free Encyclopedia, http://en.wikipedia.org/w/index.php?title=Pikuach_nefesh&oldid=287588518 (accessed 1 Sivan 5769).]
4. (Babylonian Talmud, Yoma 85b)
5. (Shulhan Arukh, Orach Hayyim 328:2)
6. [Simon Glustrom is rabbi emeritus of the Fairlawn Jewish Center in Fairlawn, New Jersey, and a past chairperson of the Rabbinical Assembly's Publications Committee. He is the author of *When Your Child Asks: A Handbook for Jewish Parents* (Bloch Publishing Co.) and *The Myth and Reality of Judaism: 82 Misconceptions Set Straight* (Behrman House).]
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