
PART III: PUTTING ONESELF IN *PIKU'ACH NEFESH* SITUATIONS

This section addresses steps that one should take in order to avoid a entering a life-threatening situation, which would necessitate desecrating *Shabbat*.

Background

The Gemara (*Shabbat* 19a) prohibits embarking on a boat that will travel through *Shabbat* if the trip begins within three days of *Shabbat*.¹ However, the Gemara limits this restriction to trips taken for one's own needs (*devar hareshut*), whereas one may set out for the sake of a *mitzvah* even in the latter half of a week.² The *Shulchan Aruch* codifies the Gemara's rulings (*Orach Chaim* 248:1). The Steipler Rav (*Kehilot Yaakov, Shabbat* 14) writes that the Gemara's prohibition is merely a rabbinic enactment. The *Shulchan Aruch Harav* (248:7) appears to agree with his view,³ and Rav Moshe Feinstein (*Teshuvot Igrat Moshe, Orach Chaim* 1:127) asserts that most authorities indeed consider this prohibition to be rabbinic.⁴

1. The *Mishnah Berurah* (248:4) cites a dispute regarding whether this prohibition applies on Wednesday, or whether the phrase "within three days" includes *Shabbat* itself as one day.

2. The *Shulchan Aruch* (*Orach Chaim* 248:4) mentions a trip to Israel as an example of a trip for the sake of a *mitzvah*. See *Mishnah Berurah* 248:28 and *Teshuvot Chelkat Yaakov* (1:81) regarding whether this includes a temporary visit to Israel.

3. Rav Yisrael Rozen (*Techumin* 16:42) infers this position from the *Shulchan Aruch Harav's* words.

4. Rav Eliezer Waldenberg (*Teshuvot Tzitz Eliezer* 12:43:4) cites many authorities who indicate that this prohibition is merely a rabbinic enactment. See, however, *B'ikvei Hatzon* (p. 153), where Rav Hershel Schachter offers an explanation for why he believes it to be a Biblical prohibition.

The *Rishonim* offer a number of explanations for the prohibition against beginning a trip too close to *Shabbat*.⁵ The Rif (*Shabbat* 7b, in pages of Rif) explains that people generally need three days until they adjust to sea travel. Hence, one who embarks within three days of *Shabbat* will probably experience an unpleasant *Shabbat* due to seasickness. The Rabbis thus prohibited such trips in order to ensure that people properly enjoy *Shabbat* (*oneg Shabbat*).

The *Baal Hama'or* (*Shabbat* 7a, in pages of Rif) claims that the three days immediately before *Shabbat* are considered “prior to *Shabbat*,” so one who embarks on a voyage within that period intentionally enters a situation that will require violating *Shabbat* in case of *piku'ach nefesh* (saving a life).⁶ The *Shulchan Aruch* (*Orach Chaim* 248:2 and 248:4) appears to codify both explanations.

Defining “For the Sake of a Mitzvah”

The Gemara permits embarking on a trip during the latter half of a week “for the sake of a *mitzvah*.” Rabbeinu Tam (cited approvingly by the *Tur*, O.C. 248) interprets this concept in an extraordinarily lenient manner. He argues that traveling for business purposes or to visit a friend is considered a *mitzvah*, while only a purely recreational trip would constitute a *devar reshut* (trip for one’s own needs). The Rama (248:4) accepts Rabbeinu Tam’s view.

Belated Circumcisions

When a *brit milah* (circumcision) takes place later than the eighth day of a boy’s life (such as with a baby who could not tolerate a *brit* on the eighth day due to health reasons, or a non-Jew who wishes to convert),⁷

5. In this chapter, we discuss only the two explanation that appear in the *Shulchan Aruch*. For a summary and analysis of these and other opinions, see Ritva (*Shabbat* 19a s.v. *Tanu Rabanan*).

6. Travel was dangerous at that time, so it was likely that the crew would need to perform forbidden activities on *Shabbat* in order to insure the passengers’ safety.

7. Of course, none of these concerns applies when circumcising a baby on the eighth day of his life, as circumcision on the eighth day overrides *Shabbat*. The Gemara discusses the laws of a circumcision on *Shabbat* at great length in the nineteenth chapter of *Masechet Shabbat*.

the *Tashbetz* (1:21) forbids performing it on a Thursday. He notes that on the third day after a *brit* (including the day of the *brit*), the baby is presumed to be in tremendous pain (see *Bereishit* 34:25 and Rashbam *ad loc.*). Thus, a baby who underwent a *brit milah* on Thursday may require medical treatment that will entail transgressing *Shabbat* (see *Shabbat* 86a). According to the *Taz* (*Yoreh Deah* 262:3), this problem exists when circumcising on Friday, too, as the baby suffers pain every day through the third day.⁸ The *Shach* (*Yoreh Deah* 266:18) notes that some Rishonim do indeed assume that the baby suffers through the third day, but the *Tashbetz* explicitly permits circumcising on Friday even when it is not the eighth day.⁹

The *Shach* himself rejects even the *Tashbetz*'s position. He asserts that circumcising constitutes a *mitzvah*, so one may perform it even when it will later require violating *Shabbat* to save a life, just as one may embark on a trip for the sake of a *mitzvah* even during the latter half of the week. The *Chacham Tzvi* (*Teshuvot Nosafot* 14) and *Mishnah Berurah* (331:33) rule in accordance with the *Shach*. The *Chacham Tzvi*'s son, Rav Yaakov Emden (*Sh'eilat Yaavetz* 2:95), distinguishes between the late circumcision of a Jewish boy and the circumcision of a non-Jew who wishes to convert. A *mitzvah* already exists to circumcise the Jewish child, so Rav Emden agrees with the *Shach* that the *brit* should not be delayed. By contrast, the potential convert does not delay any *mitzvah* by pushing off his *brit milah*, for he is not bound by *mitzvot* prior to the conversion process.¹⁰

8. The *Taz* indicates concern for the baby's pain and suffering per se, not for the desecration of *Shabbat* that it might necessitate. Apparently, he understands the problem of circumcising close to *Shabbat* in the same manner that the Rif explains the prohibition against traveling before *Shabbat*—concern for causing unnecessary discomfort during *Shabbat* (see *Teshuvot Tzitz Eliezer* 12:43).

9. See, however, *Teshuvot Yabia Omer*, Y.D. 5:23.

10. For more on this topic, see *Pitchei Teshuvah* (Y.D. 266:15) and *Teshuvot Tzitz Eliezer* (12:43). In practice, the *Magen Avraham* (331:9) notes that nowadays we rarely need to violate *Shabbat* in order to save a circumcised baby, so circumcising on Thursday should undoubtedly be permitted. Indeed, common practice among Ashkenazic Jews is to circumcise on Thursday and Friday under all circumstances, but Rav Ovadia Yosef (*Teshuvot Yabia Omer*, Y.D. 5:23) rules that Sephardic Jews should not perform a belated circumcision on Thursday or Friday unless their community has a custom to do so. Rav Shmuel Khoshkerman reports that the accepted custom of all Sephardic Jews is to prohibit belated circumcisions on Thursday and Friday.

Elective Surgery Prior to *Shabbat*

Rav J. David Bleich (*Contemporary Halakhic Problems* 2:19–20) cites the opinions of Rav Moshe Feinstein (*Hapardes, Tamuz* 5738) and the Lubavitcher Rebbe (*Hapardes, Tishrei* 5739), who both rule (based on the aforementioned sources) that one should avoid undergoing elective surgery during the three days before *Shabbat*. The Rif's reason applies in this situation, since people generally experience considerable pain for at least several days following surgery. The *Ba'al Hama'or*'s concern also arises, as post-operative care frequently requires acts that violate *Shabbat*.

Rav Yehoshua Neuwirth (*Shemirat Shabbat Kehilchatah* 32:33) rules that one should attempt to schedule elective surgery on Sunday, Monday, or Tuesday, provided that it is possible. However, he cites Rav Shlomo Zalman Auerbach (note 97) as ruling that if a more qualified surgeon is available during the second half of the week, then one may undergo the surgery on those days.

Rav Eliezer Waldenberg (*Teshuvot Tzitz Eliezer* 12:43) adopts a different approach. In general, he believes that Halachah permits non-emergency surgery only if failure to perform it will eventually endanger the patient.¹¹ Therefore, he argues that elective surgery can be defined as an action done for the sake of a *mitzvah*, since any elective surgery that serves only a frivolous purpose is forbidden. Moreover, Rav Waldenberg asserts that it is nearly impossible for a hospital to arrange for elective surgeries to take place only on Sundays, Mondays, and Tuesdays. Such a policy could lead to the lack of availability of hospital beds, as one cannot accurately predict the number of arrivals in an emergency room. Indeed, he notes that Shaarei Zedek Hospital in

11. Rav Waldenberg (*Teshuvot Tzitz Eliezer* 11:41) prohibits cosmetic surgery unless it provides tangible health benefits, but not everyone shares his opinion. See *Teshuvot Igrot Moshe (Choshen Mishpat* 2:66), *Teshuvot Minchat Yitzchak* (6:105:2), *Teshuvot Chelkat Yaakov* (3:11), and Rav J. David Bleich's *Judaism and Healing* (pp. 126–128). One wonders whether Rav Moshe and the Lubavitcher Rebbe would have prohibited surgery during the end of the week if they permitted only those surgical procedures that protect a patient from eventual danger. One similarly wonders how Rav Waldenberg would have ruled regarding elective surgery during the latter half of the week if he believed that one could undergo surgery even when it does not eliminate any dangers to one's health.

Jerusalem (which functions according to Halachah) allows surgery on Thursday and Friday even if it can be safely postponed until the following Sunday or Monday.¹²

Conclusion

Generally speaking, one may not deliberately create a situation that will necessitate desecrating *Shabbat* in order to save a life. One may do so, however, for the sake of a *mitzvah*, so practical cases must be presented to a competent rabbi in order to determine whether they contain an element that might constitute a *mitzvah* for these purposes.

12. Interestingly, see *Kovetz Teshuvot* (43), where Rav Yosef Shalom Eliashiv rules that a woman is not obligated to go out of her way to be near a hospital for *Shabbat* during her ninth month of pregnancy (despite concern that she might go into labor and need to violate *Shabbat*), although he adds that doing so would be praiseworthy.