

## וּחַי בָּהֶם

### And You Shall Live Through Them

Acharei Mot-Kedoshim 5780

#### I.

As I have written many times over the last number of weeks, I could not be prouder of our community's adherence to the life saving measures associated with social distancing. Even as we continue to face staggering death tolls in our state, with four hundred and sixty deaths yesterday alone, the single most important reason that new hospitalizations are significantly reduced in area hospitals is because we have behaved responsibly.

However, some events in the broader Jewish community, clearly the minority, demand a clear and unequivocal restatement of foundational halakhic values.

#### II.

In the first of this week's two parshiyot, we read the verse "and you shall guard my statutes and my commandments, that a person shall observe and live through them, I am the Lord Your God (18:5)."

This phrase, that we are meant to live through the commandments, וּחַי בָּהֶם, became the pillar of a Jewish and halakhic philosophy of life. The Sages of the Talmud taught, וּחַי בָּהֶם וְלֹא שִׁמּוֹת בָּהֶם, performing any mitzvah must be a source of life, and not of death (Sanhedrin 74b).

While the Talmud (ibid) concedes that in the most extreme situations, one would be obligated to lay down one's life for a mitzvah, such as avoiding committing an idolatrous act, an act of sexual immorality, or actively killing another, or a time when the Jewish people are suffering extreme religious persecution, the overarching, general orientation of halakha is life affirming, וּחַי בָּהֶם וְלֹא שִׁמּוֹת בָּהֶם.

Indeed, the Talmud cited this verse as one of the reasons that saving lives overrides Shabbat, which is the equivalent of all of the other mitzvot in the Torah. Rambam, in his formulation of this halakha (Hilchot Shabbat 2:3), refers to one who would insist that

‘observance’ of Shabbat overrides saving lives as a heretic, and a distorter of the entire Torah, which promotes “compassion, kindness, and peace in the world.” Moreover, Rambam (ibid) demanded that these life saving acts be performed by the greatest halakhic authorities within the Jewish community, to ensure that everyone understood that this was the proper halakhic course of action, and not an expression of leniency or laxity with respect to observance of the Torah.

Far from being an isolated, offhand remark, this asserting is precisely what Rambam reaffirmed at the coda of Sefer Zmanim (Hilchot Megillah V’Chanukah 4:14), ‘the entire Torah was given to establish peace in the world, as it is written, ‘her ways are ways of pleasantness, and all of her pathways are peaceful.’

There can be no equivocation or confusion surrounding this point. However sacred the mitzvah of paying proper respect to those who have passed, **לְוִיַּת הַמֵּת**, generally is, it is categorically prohibited to do so in a manner that endangers human life. We do not need the government to tell us this, as the Torah already has told us this, **וְחַי בָּהֶם, וְלֹא שִׁמּוֹת בָּהֶם**.

No matter how significant davening with a minyan generally is, both as a spiritual value in its own right and one which catalyzes a person’s broader Avodat Hashem, one is categorically prohibited to do so if it endangers oneself or another person, and certainly, if it threatens the community at large. We do not need the government to tell us this, as the Torah has already told us this, **וְחַי בָּהֶם, וְלֹא שִׁמּוֹת בָּהֶם**.

As such, if, for whatever reason, the government would irresponsibly relax standards surrounding securing human life, and disregard the expert advice of virologists, epidemiologists, and infectious disease specialists, there could be no question that our halakhic responsibility would still maintain to follow the expert medical advice available to us in continuing to protect each and every member of our community.

### III.

There are those who misguidedly lament the fact that our community is performing fewer mitzvot today than we generally perform. In my opinion, this is wrong on account of the remarkable chessed that is taking place with respect to caring for the elderly and most vulnerable, the financial assistance programs that have started, including our very own interest free loan program which so many of you generously supported this week, and the increased

level of Torah learning and Tefillot that we, and many other shul communities, have been offering via Zoom.

Primarily, however, the attitude that we are somehow performing fewer mitzvot is deeply misguided and terribly misleading on account of the simple fact that literally every second that we socially distance is a fulfillment of the mitzvah of guarding one's own life, and securing the lives of those around us. I cannot think of a time when our community has performed more mitzvot than today.

And, lest one say that we do are not credited with fulfilling this mitzvah by being passive, by refraining from going out unnecessarily, or having social activities, this too is simply wrong: the Talmud (Makkot 22b-23a) explicitly tells us that the verse of VaChai BaHem indicates that refraining from transgressions is tantamount to actively performing mitzvot themselves.

#### IV.

In the second of the two *parshiyot* we would have read tomorrow in shul, the Torah tells us that we may not stand idly by the blood of our fellow, **לא תעמוד על דם רעך** (VaYikra 19:16). One might think that this mitzvah is measured by results alone. If we eventually get around to acting in a way that protects the lives of our fellow Jews, then we will not have violated this precept.

This, too, would be an egregious error. Rambam (Sefer HaMitzvot, Prohibition 297) writes that it is prohibited for us “to be derelict with respect to saving one life”, **הזהרנו מלהתרשל בהצלת נפש אחד**.” It is not merely the *result* which matters, but the alacrity, the care, the vigilance, with which one relates to this grave prohibition. As Rambam writes, the prohibition is one of **התרשלות**, laxity.

Analogously, Rambam, in the aforementioned halakha regarding even an uncertainty surrounding saving one life overriding Shabbat (Hilchot Shabbat 2:3), carefully calibrates his words to reflect the concept that it is not merely that one is permitted to ‘violate’ Shabbat, but rather, that one *must* do so, and do so *immediately*, **אסור להתמהמה בחילול שבת לחולה שיש בו סכנה**. Once again, the prohibition is not merely to refrain from doing everything possible to save the life, but the prohibition includes even *delaying* in acting in such a manner.

The Talmud Yerushalmi (Yoma 41b), utilizing words cited verbatim by the Shulchan Arukh (Orach Chaim 328:2), goes so far as to compare one who even asks a question regarding the halakha in this situation to one who sheds blood, and has deeply condemnatory words for a Rabbi who would allow this misconception to persist in his community, הנשאל מגונה, והשואל הרי זה שופך דמים.

Indeed, R. Moshe HaKohen of Luneil (Hasagot HaRamach Hilchot Shabbat 2:3) rules that the reason Rambam demanded that any erstwhile violations of Shabbat associated with saving lives not be performed by non-Jews, who are obviously not commanded to observe Shabbat, was a concern that this method would not provide sufficient alacrity in preserving lives, שאינם זרירים ואתי למפשע.

## V.

The holistic picture which emerges from these formulations is crystal clear. Our attitude towards preserving life must be immediate and reflexive, ingrained within us for moments such as the one in which we find ourselves. There can be no bending of the rules, nor stretching, nor pursuit of loopholes. Let us remember, for each and every life that we save, we are not merely reducing the horrific death toll of this virus by one, but saving an entire world, an *olam maleh* (Mishnah Sanhedrin 4:5).

Our community should certainly hold its head high, as each and everyone of you has lived up to the Torah's standards regarding the sacred mitzvah of preserving lives. I could not be prouder of the steadfastness which you have demonstrated. Years and decades from now, as Churchill once said, those who come after us will surely say, "this was their finest hour."