

Since January 2020, the world has experienced disease on an astronomical scale. At the front end of it all, taking the brunt of the hardship and trauma, are the medical professionals. These doctors and nurses work tirelessly to treat countless patients coming in with COVID, applying their vast training and knowledge to do everything they can to save these people. However, there is no proven treatment for COVID, and therefore, despite all their efforts, there is often nothing that can be done to save these patients. One of the most emotionally challenging moments a healthcare professional can experience is watching their patient suffer while they can do nothing to help them. However, soon after COVID began, it was discovered that a ventilator could greatly increase one's chances of survival. But, as the modern world had never experienced a pandemic of this degree, hospitals were ill-prepared to treat such a vast number of patients, and were quickly overwhelmed. Unfortunately, this led to the issue of ventilator triage.

The idea of triage is to assess which patients require the most immediate treatment, and to decide where the limited resources available should be allocated. Unfortunately, this means that not everyone can get the treatment they require, which inevitably results in the death of some of the patients. While this system is commonly practiced in the medical world, from a halachic standpoint it is extremely difficult to determine who gets to live and who dies. There are several sources throughout פה שבעל that discuss similar situations regarding which patients a doctor should try to save and which they should be left to die. However, in terms of paskening different scenarios regarding Covid-19 and ventilators, Rav Hershel Schachter, shlita, and Rav Asher Weiss, shlita, have written teshuvos addressing this extremely difficult topic.

The first source regarding this topic is a Mishnah in אהלות ז:ו that states *האשה שְׁהיא מְקַשָּׁה לִילֵד, מְסַתְּכִין אֶת הַנֶּלֶד בְּמַעֲיָהּ וּמוֹצִיָּאִין אוֹתוֹ אֲבָרִים אֲבָרִים, מִפְּנֵי שְׁסִיָּיָהּ קוֹדֵמִין לְחַיּוֹ. יֵצֵא רַבּוֹ, אִין נוֹגְעִין בּוֹ, שְׁאִין דּוֹחִין נֶפֶשׁ מִפְּנֵי הַנֶּפֶשׁ.* This mishnah discusses the case of a woman who is having trouble giving birth, so they cut up the child in her womb and bring it out limb by limb. However, if a majority of the child has already come out, they are not allowed to kill the child. This mishnah teaches that we are not allowed to kill one person to save the life of another. A similar source is a Gemara in פסחים כה: which reads *מֵאֵי חֲזִית דְּדָמָא דִּידָךְ סוּמְקָ טָפִי*

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דילמא דמא דהוא גברא סומק טפי - What do you see that causes you to think that your blood is redder? Maybe the blood of that person is redder. Meaning, one person has no right to murder someone else to save themselves. Both of these sources show that even if one's life is in jeopardy, one must not take someone else's life in order to save oneself.

However, despite the fact that one is not allowed to take another life in order to save himself, that does not mean that all human's lives are considered equal. In הוריות פרק ג פסוק ח/ז, the Mishnah

states: **האיש קודם לאשה ולהיות ולהשיב אבדה. והאשה קודמת לאיש לכסות, ולהוציא מביית השבי. בזמן ששניהם עומדים**
למלקלה, האיש קודם לאשה

כזה קודם ללוי, לוי לישראל, ישראל לממזר, וממזר לנתין, ונתין לגר, וגר לעבד משחרר. אימתי, בזמן שכלן שוין. אבל אם היה
ממזר פלמיד חכם וכהן גדול עם הארץ, ממזר פלמיד חכם קודם לכהן גדול עם הארץ

These Mishnayos set forth a list of who receives precedence to be saved before the others. A man before a woman, a Kohen before a Levi, a Levi before a Yisroel, a Yisroel before a mamzer, etc. The final statement the Mishna makes is that a תלמוד חכם surpasses everyone else, as Torah is the most important thing. This would suggest that we would be allowed to decide who to save based on their merits and status. However, Rav Moshe Feinstein zt'l says that nowadays we are no longer able to decide who is more important based on this mishnah, and therefore this Mishnah no longer applies. Rav Schachter agrees and writes in his teshuva that the majority of poskim do not pasken based on this mishnah.

In a teshuvah from the 1950s, shortly after Penicillin became available to the general public, but there was not yet enough for the entire population, Rav Moshe Feinstein zt'l writes of the concept of אין מעבירין על המצוות, that one must not bypass mitzvos. A common example is how a man puts on his tallis and tefillin; typically one should put on his tallis first, but if he accidentally takes out his tefillin first, he may not leave the tefillin, and he must put them on first. In light of this Halacha, Rav Moshe told Israeli Ashkenazic Chief Rabbi Yitzchak Herzog that doctors with a limited supply of Penicillin should provide the medicine to the first patients they encounter in the hospital.

Keeping in mind the basics of prioritization of human life in Halacha, it is now apt to look at several real-world scenarios. Regarding these situations, Rav Asher Weiss says that there are two key

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factors to consider in developing halachic medical triage guidelines, the degree of danger, and the likelihood of survival. Regarding the first factor, Halacha prioritizes the treatment of a gravely ill person over the treatment of someone in less immediate danger. Regarding the second factor, Halacha prioritizes the patient with a higher likelihood of survival. He also notes that age plays no factor in halachic decisions, so just because someone is older and presumably will not live as long as a younger person does not mean that their life carries any less value in halacha because only Hashem knows how long a person will live.

The first case Rav Schachter describes is the most straightforward case possible. Two people arrive at the hospital simultaneously, and both are in need of a ventilator. However, there is only one ventilator. In this case, the ventilator is given to the one with a higher chance of survival.

Another case Rav Schachter lays out is one that is much more complicated. A person with very little chance of survival arrives at the hospital where there is one available ventilator, but there are several people with a greater chance of survival expected to arrive soon. In this case it may seem obvious to follow the opinion of Rav Moshe Feinstein, אין מעבירין על המצוות, and give the ventilator to the patient who is there at that moment. However, says Rav Schachter, it's not that simple. Rav Schachter explains that if these patients with a higher chance of survival are going to arrive in the next 1-2 hours, it is considered as if they are already there. Therefore, Rav Schachter paskens that in such a case one should withhold the ventilator from the gravely ill patient in order to save it for a patient with a much greater chance of survival. A possible source for this psak is the Chazon Ish on אהליות כב:לב, where he rules that one may violate Shabbos not only if the dangerously Choleh is L'faneinu, but even if the illness is L'faneinu. This seems to suggest that the potential for a sick person holds the same status in Halacha as an actual Choleh.

Rav Schachter presents the final case in his teshuvah, where there is a patient already connected to a ventilator, and the doctors wish to share that ventilator with other patients. In this case, Rav Schachter permits the doctors to do this, even if it creates a higher chance of the death of the initial patient. However, this seems to be a contradiction to the case in the Gemara of two people walking in the desert, and there is only enough water for one to survive. In this case, Rabi Akiva famously paskens that one is

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not required to share his water, even if it means his companion will die. However, unlike the case of the Gemara, this case of the ventilator does not guarantee the death of the initial patient, it merely intensifies the chances of death. Rav Schachter applies the Ramban in this case which says that doctors can risk the life of one to save another. Rav Asher Weiss agrees with Rav Schachter in this case and notes that standard practice in Israeli Intensive Care Units is to remove less critical patients in order to make room for those in dire need of assistance, even if it means that the current patient could die.

Throughout the past few years, medical professionals have faced more impossible decisions than we could have ever imagined. These doctors and nurses have given their time, their endless devotion, and their own health to do everything in their power to help those in need. While the situation is grave, it is fortunate that we have such devoted people who stop at nothing to do the best they can. We are fortunate that even in the gravest of situations we have gedolim like Rav Schachter and Rav Asher Weiss to look to for guidance and hope in such dark times. It is only through Hashem that we have made it this far, and with the help of Hashem we will all come through this stronger and more prepared for whatever the future holds.

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