

Rabbinic Literature on Contagion and Disease, and How It Relates to Covid-19

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A few months ago, this article would have contained a review of distant and inapplicable sources. Suddenly Covid-19 turned our lives upside down, and overnight, theoretical discussions from centuries ago became our practical discourse.¹ Rav Yaakov ben Yitzchak Tzahalon's² vivid portrayal of abounding fear during the 1656 plague in the Kingdom of Naples is remarkably similar to our emotions during the present Corona virus pandemic.³ His description of delivering a Shabbos *derashah* from his window to people standing apart on the street, echoes the balcony *minyanim* many experienced in Israel while social distancing from each other.⁴

The range of topics engendered by contagion in rabbinic literature from all four sections of the *Shulchan Aruch* is breathtaking. The words of Rav Meir Vaknin⁵ set the tone for our study.

A plague of cholera broke out in Teveriya in 1913, may it be rebuilt...and many inhabitants fled from the city to the villages around...and with G-d's compassion I did not want to leave, rather

¹ Special thanks to Rabbi Dr. Edward Reichman for his long-term friendship and advice in preparing this article, and to my wife, Shari Dash Greenspan, for her indispensable editorial advice and constant support.

This article was written in the early stages of the epidemic and statements regarding specific locations and conditions reflect facts then on the ground.

² Italy (1630–1693), doctor and rabbi.

³ ספר אוצר החיים כא: ונציה 1683.

⁴ Fusco I. The plague of 1656–58 in the Kingdom of Naples: Diffusion and Mortality [in Italian]. *Popolazione e Storia*. 2009; 1:115. It is estimated that Naples lost 50% of its population during this plague.

⁵ Israel 1885–1975, *Av Beis Din* and Sephardic Rabbi of Tiberias, Israel.

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I fulfilled the words of *Chazal* “if there is a plague in the city then draw in your legs” and I established in my house and courtyard “*daled amos* of halachah.”⁶

Medical History

In the Jewish cemetery in Calcutta, India, twenty to thirty small headstones mark graves of children who succumbed to a cholera epidemic in the 20th century, in a short span of time. It is practically unheard of today for thirty children in one community to die by plague. Seeing these graves emphasized something I’ve believed for a long time, but that most people may take for granted—that we are living through the greatest period of medical advancement in history. Few individuals remember the childhood diseases like polio, mumps, and tuberculosis that killed and maimed millions in our grandparents’ time.

For the past few decades, since the discovery of penicillin in 1928, infections have been conquerable. Vaccines have eradicated most common diseases, at least in the Western world. But prior to vaccines, smallpox killed a staggering 300 million people in the 20th century,⁷ and malaria killed 405,000 in 2018 alone.^{8 9} A mere century ago, plagues were common and deadly, and humankind was at the mercy of nature.

⁶ רב מאיר ועקנין, שו"ת ויאמר מאיר, סימן א.

⁷ <https://www.nationalgeographic.com/science/health-and-human-body/human-diseases/smallpox/>.

⁸ Estimates say that more people have died of malaria than all wars in history combined. The mighty mosquito carrying a microscopic parasite shaped world history by stopping Genghis Kahn from conquering Europe and preventing Alexander the Great from uniting the Western and Eastern kingdoms. This same malaria was once treated with Chloroquine which is the hoped-for savior from Coronavirus. Unfortunately, it has outsmarted us and the parasite is now immune to it.

⁹ An animal infection is usually not infective to humans. However, zoonotic infections—in which genetic makeup mutates to allow the virus to jump species—are on the rise, and Covid-19 is an example. Population explosion and habitation expansion brings humans into close contact with animals with which we never previously interacted. New diseases along the lines of Corona, which apparently jumped from a bat to humans, will become more common as animal habitat decreases and exposure to wild species increases. Millions of air travelers daily have the ability to transfer disease across the globe in hours. Endemic diseases on a continent with local immunity could wipe out entire populations on another. Pandemics of previously unknown viruses like AIDS and Ebola are both examples of a jump from primates to humans which occurred during our lifetime. Luckily, AIDS was blood-borne and not easily

Throughout history, our rabbis were asked remarkably consistent and similar questions during plagues, and some queries sound surprisingly contemporary despite having been asked centuries ago.

Prior to the acceptance in the 1880s of germ transfer as the source of disease, the common conjecture was the miasma theory, that “bad air” or “night air” somehow transmitted disease. In the language of responsa, miasma was “*ipush ha'avir*.” The miasma theory had halachic ramifications, as clearly demonstrated in the words of Rav Yaakov ben Yitzchak Tzahalon of Italy in the 17th century:

...when the doctor would visit the sick, he would hold a large, burning, tar torch day or night to heal the air, so the doctor should not be harmed when he went into the sick person's house, from the air of the house.¹⁰

Others doubted whether physicians were correct about bad air being the source of cholera:

...and now nobody fasts during the plague [cholera] since if one does not eat, he catches it from the air... should we rely upon the doctors who say this comes from the air... or possibly they are making it up.... And can we rely upon them now? ...as they try to make Israel err and fall doing prohibitions.¹¹

Risk vs. Benefit of the Individual

Smallpox, one of nature's most horrible infectious diseases, ravaged London, peaking in the late 18th century after 1780.¹² Smallpox manifests as pustules on the skin which slowly coalesce until, in severe cases, the outer layer of skin comes away from the body. It is intensely painful, and kills up to 30% of its victims. If you survived “the pox,” you were left terribly disfigured for the rest of your life. One of the most amazing public medical achievements was the complete eradication of this scourge from the world in the 1970s by total vaccination.¹³

transmitted to people who were in monogamous relationships and not IV-drug users. Ebola is amazingly contagious and extremely virulent, killing up to 90% of those infected. It was only luck that the Ebola outbreak of 2014 was contained in Africa. Imagine if it had reached NYC with its population of 8 million people.

¹⁰ ספר אוצר החיים, יעקב צהלון, סוף פרק ב.

¹¹ שו"ת מאמר מרדכי, מרדכי זאב איטינגה ס"ז.

¹² <https://www.biorxiv.org/content/10.1101/771220v1.full.pdf>.

¹³ See Laurie Garret, *The Coming Plague* (Penguin Publishers, 1995) p. 45.

Prior to 1796 when the first vaccine was created,¹⁴ a process called “inoculation” was used to fight disease. A small amount of pus taken from the pox of a person with a mild case of smallpox was scratched onto the skin of a healthy person until the skin bled. A localized inflammation occurred at the site with a mild version of the disease. A small percentage of people died from being inoculated, but the mortality rate from inoculation was significantly lower than the 30% death rate of smallpox,¹⁵ and the permanent damage and suffering caused by smallpox was greatly minimized by inoculation.

Avraham ben Shlomo Hamburg¹⁶ describes in a small booklet the tragic loss of his two children to smallpox, and asks if it is permissible to inoculate someone despite the danger inherent in the procedure. Using knowledge and the *piipul* of halachic language, he makes a cogent and strong case *for* inoculation in the form of an inquiry, giving the *poskim* the perception that they are deciding the question despite being led to the answer.

A small question from a man poor in knowledge of the Torah, who wants to know about the treatment of inoculation... for that which does not distinguish between old or young and it is the sickness of bubbles that is called Paken in German and smallpox in English... and should a person live, it leaves bitter marks burnt on the face... and sometimes the skin of his face falls off... and we should not discuss at length the suffering involved...

The doctors of our day have found a comprehensive treatment almost without danger and they proudly claim that only one in a thousand die from it... Is it permissible for a Jewish man to use this treatment that apparently has a small risk to remove the big risk that comes in its time... He who has not caught the disease yet is considered to be certainly sick... and the use of this wonderful treatment preempts the treatment to the sickness, without which he is in great danger if the wicked guest visits. Therefore, he who tries the treatment while healthy, will not be considered sinning by Hashem rather the *חזקת* is the mitzvah of “Beware for yourself; and guard your soul” (and it leaves no mark on the arm or thigh.)¹⁷

¹⁴ London, by Dr. Edward Jenner (1749–1823), to prevent smallpox.

¹⁵ Philadelphia, Benjamin Franklin (1706–1790) reports in his autobiography that he lost a non-inoculated son to smallpox, and that 2 out of 72 inoculated people died from their inoculation.

¹⁶ London, late 18th century.

¹⁷ ספר עלה תרופה ו

Interestingly, Avraham Ben Shlomo clearly felt that the mere possibility of contracting smallpox was reason enough to categorize it as *pikuach nefesh*. It was a clear and present danger. As such, he opened an avenue for Halachah to relate to the potential of smallpox as life-threatening.

Yet, can one put oneself in danger? From the reading of the Rambam¹⁸, it is clear that actively putting oneself in a life-threatening situation is forbidden.

Similarly, it is a positive mitzvah to remove any obstacle that could pose a danger to life, and to be very careful regarding these matters, as Deuteronomy 4:9 states: “Beware for yourself; and guard your soul.” If a person leaves a dangerous obstacle and does not remove it, he negates the observance of a positive commandment and violates the negative commandment “Do not cause blood to be spilled.”¹⁹

This would seem to prohibit performing an inoculation on a healthy patient. Yet, in discussing the obligation to pay a worker in a timely manner, the Torah states, “he is poor, and for that, he risks his life.” Rashi explains, “for the sake of his hire he exposes his life even to death; he climbs a steep staircase or hangs on a high tree to do his work.”²⁰ This supports the passage in the Talmud that enumerates who is obligated to say *Bircas HaGomel* for surviving a life-threatening event: “Four must give praise: those that take a sea voyage, those that go into the desert, one who was sick and was healed, and an incarcerated person who was released.”²¹

Avraham Ben Shlomo, in his *Sefer Aleh Trufah*, differentiates between someone on a sea voyage or desert caravan versus someone who was sick or released from jail. The latter two did not choose their life-threatening experiences, while the former two did choose to put themselves in harm’s way for income or *l’shem mitzvah*. Strengthening this idea, while the *beraisa* says one must set sail at least three days before Shabbos lest one transgress Shabbos, it goes on to say that for the sake of a mitzvah, one may even set sail on Erev Shabbos. It is interesting to note that the permissibility of sailing is taken as a given.²² And indeed, the Rambam did allow exposure to danger for reasons of livelihood or mitzvah, as shown in his description of his brother David’s death at sea.

¹⁸ Spain, Morocco, and Egypt (1135–1204); philosopher, *posek*, and doctor.

¹⁹ רמב"ם הלכות רוצה ושמירת הנפש 5:11.

²⁰ דברים כד:טו.

²¹ מסכת ברכות דף נ"ד, עמוד ב.

²² שבת יט.

²³ It is clear that a person IS permitted to put himself into a certain amount of risk, for certain reasons.

Just how much risk is considered permissible? People die in car accidents every day. Should driving a car be considered too risky? Is professional skydiving or scuba diving too risky? Can a *frum* doctor choose to work at an Ebola outbreak where a small but significant number of health workers could catch the virus and die?²⁴ One thing is clear: a certain amount of risk is tolerated by Halachah. In fact, every society expects that certain members will expose themselves to greater risk than others. Firefighters and police officers have a higher chance of getting killed on the job than judges or teachers. Would Halachah say that a Jew should not take a job with more risk? Certainly not.

In fact, a basic dichotomy exists between the needs of the individual and that of society. The story of Choni Hamaagil is instructive regarding societal priorities.

One day, Choni was journeying on the road and saw a man planting a carob tree. He asked, "How long does it take [for this tree] to bear fruit?" The man replied: "Seventy years." Choni then further asked him: "Are you certain that you will live another seventy years?" The man replied: "I found [already grown] carob trees in the world; as my forefathers planted those for me so I too plant these for my children."²⁵ Sometimes individuals do things for society that do not directly help them as individuals.

²³ In a letter dated 1185 found in the Cairo Genizah by Goiten, Maimonides describes a dangerous business journey taken by his brother David which ended tragically with the vessel sinking and David's death. "*The worst disaster that struck me of late, worse than anything I had ever experienced from the time I was born until this day, was the demise of that upright man (may the memory of the righteous be a blessing), who drowned in the Indian Ocean while in possession of much money belonging to me, to him and to others, leaving a young daughter and his widow in my care. For about a year from the day the evil tidings reached me, I remained prostrate in bed with a severe inflammation, fever, and mental confusion, and well-nigh perished. From then until this day, that is about eight years, I have been in a state of disconsolate mourning. How can I be consoled? For he was my son; he grew up upon my knees; he was my brother, my pupil. It was he who did business in the marketplace, earning a livelihood, while I dwelled in security.*" Nowhere does the Rambam suggest that it was forbidden for David to have traveled. (But see *Moreh Nevuchim* 3:12 where Rambam decries taking dangerous sea journeys to acquire wealth.)

²⁴ Rosner, Ebola: May a Doctor Endanger Himself by Treating Patients?, *Headlines 2*, Halachic debates of current events OU Press, 2014.

²⁵ תענית כג.

Similarly, sometimes a society chooses to invest in gardens or playgrounds at the expense of hospitals or medicines. But why should a society spend money on public gardening, playgrounds, or sports stadiums when that money could be spent on hospital care and medicines?²⁶ Bringing it closer to home, why should people give money to build a more beautiful shul or a fancy *beis midrash* if that money could feed hungry families?

Clearly, the meta-needs of a healthy society may be at loggerheads with the needs of the individual. In the words of Rav Asher Weiss²⁷:

Society has many needs, so when you are dealing with the micro, *pikuach nefesh* pushes all aside, but not when we're dealing with the macro, the needs of society.²⁸

An individual must do everything he can to save himself; however, society as a whole has different priorities.

Avraham Ben Shlomo suggests that, on the macro level, all medical treatment carries risk. In his time the standard of care came with certain risks, and yet those treatments were accepted by the rabbis. Using an analogy that seems almost comical from today's medical perspective, he says:

This is similar to bloodletting or giving purgative drugs... and we have seen some people faint during the bloodletting and we have heard of an extremely strange [rare] situation where a person died from bloodletting.... **are we, because of this, going to stop bloodletting or drinking purgatives?**²⁹

Avraham Ben Shlomo concludes that potentially dangerous preemptive medical treatment is permissible, cleverly basing his decision on the permissibility of dangerous travel for business purposes:

Therefore, if a person can place his body in a situation of a slight chance of danger for the sake of money, certainly we should allow him to put his body in danger so that his body will be healthy, so that he can continue with his devotion to the Creator.³⁰

²⁶ Personal discussion with Rabbi Dr. Moshe Dovid Tendler.

²⁷ Israel (1953–present), *Av Beis Din*.

²⁸ למרץ שיעור של הרב אשר וייס, 9, 2020
<https://www.youtube.com/watch?v=HJxE1nmrvDU&feature=youtu.be>.

²⁹ ספר עלה תרופה ו

³⁰ ספר עלה תרופה ז

On the *mishnah* in *Yoma* discussing the actions one is obligated to take to save a life on Shabbos,³¹ the *Tiferes Yisrael* comments:

And from this, it seems to me that it is permissible to perform a smallpox inoculation, even though one out of a thousand dies as a result of the inoculation. Despite that, if [smallpox] enters his body naturally, the danger is greater, and therefore he is permitted to place himself in a situation of a small chance of danger in order to save himself from a more likely danger.

The Hebrew expresses it elegantly:

לכן רשאי להכניס את עצמו לסכנה רחוקה כדי להציל את עצמו מסכנה קרובה.

Communal Obligation vs. Individual Risk

In the spread of disease, social distancing protects the individual from exposure, as well as protecting others from the individual. How does this apply to questions of public communal obligations vs. individual risk? We saw that a person is permitted to expose himself to a certain amount of risk. But when *poskim* decide that potential risk to others is sufficient to prohibit public gatherings, can an individual disagree? And more importantly, to what extent did and do *poskim* rely upon doctors in their decision process? If a *posek* decides a medical issue without medical advice, must he be listened to and can he be trusted? Finally, how does *psak* by *gedolim* who are *not* guided by medical knowledge affect the public respect of the halachic process? These questions are extremely relevant in light of the initially disproportionate Covid-19 infection rates in the *chareidi* community, when some segments of the population flouted the medical and governmental regulations.^{32 33}

³¹ יומא ח:ז.

³² The first case of Coronavirus in NY appeared on March 1, 2020. There was a disproportionate death toll in Orthodox and particularly chassidic communities as compared to the general population in the greater NY area and Lakewood, which was clearly connected to their initial lack of both social distancing and following public health advice. Despite the high death toll seven weeks into the contagion, it was shocking to see the continued difficulty people had with the halachic demand to follow medical advice. The following article describes yeshivos in Brooklyn going underground and into locked buildings so the health authorities would not be able to arrest them for congregating. <https://nypost.com/2020/04/21/brooklyn-yeshivas-moving-underground-to-avoid-lockdown-rules/>.

Reading between the lines of some of the *teshuvos*, we see that people struggled to follow the permissive rulings of the rabbis which required them to be lenient with certain mitzvos during times of contagion. Looking at this with a positive spin, one could say that *Am Yisrael* is so emotionally connected to its practices, that it is willing to do anything to keep the mitzvos, even against the advice of *Chazal*. However, the halachic process has clear definitions of practice, and an individual's emotions do not and should not play a role in that process.

The *teshuvos* during cholera epidemics provide an insight into managing communal obligation vs. individual risk. Cholera is caused by ingestion of the *Vibrio cholerae* bacteria via food and water sources contaminated by human feces. Cholera causes terrible pain and cramps, tremendous fluid loss, and can result in death within hours of symptoms onset. There have been seven cholera pandemics since 1817. In the 1849 cholera epidemic, over one million people died in Russia alone.³⁴

Faced with the question of social distancing versus davening with a *minyán* during the cholera epidemic of 1831, Rabbi Akiva Eiger³⁵ suggested the following:

It is possible to pray in small groups, each time a small number of people of about 15, and they should start at sunrise, and afterward another [small group], and specific people should be designated for specific groups and specific times, and the same for Minchah... and one should be careful that people will not push themselves in numbers above those arranged.

As we have seen during Covid-19, people do not always listen nor use common sense despite both medical and rabbinic exhortations. So too, in 1831, we see that Rabbi Eiger adds the unusual suggestion:

... and possibly by stationing a policeman at the door to direct this and to not let others enter until the group is finished. Present this to the magistrate and tell them [the Jews] that the request for this

³³ In June 2020, the Israeli Ministry of Health statistics showed that the rate of infection in five *chareidi* towns was double the national rate. See <https://publichealth.doctorsonly.co.il/2020/06/198171/>.

³⁴ Cholera is still a devastating disease. A cholera epidemic began after the 2010 earthquake in Haiti due to fecal matter in a river which was a source of drinking water. Within a year, more than 500,000 people had contracted cholera, and close to 7000 died.

³⁵ Slovakia (1731–1837), Talmudic scholar and influential *posek*.

behavior is from me, and that if they refuse to behave as such, it would be best to approach the local government.³⁶

During this same cholera epidemic, the Chasam Sofer³⁷ relates to the statement of an expert doctor who said it is potentially fatal for a person to leave his house and fast on a fast day:

“The language of the question with which the doctors warned about leaving one’s house on a fast day, indicates that by staying inside, the fast does not do damage to them. If so, they should pray inside and alone (not with a *minyan*) and not read the Torah.” And if the doctors feel the fast itself is dangerous, then, “the doctors should estimate the minimum amount of drinking a person can do to avoid even the doubt of danger, and that amount of coffee, tea, or soup” can be drunk according to specific halachic guidelines.³⁸

An interesting aside is how cholera affected the practice of the Mourner’s Kaddish. The accepted Ashkenazi custom was that one mourner would recite the Kaddish in the synagogue for everyone, rotating mourners each *tefillah*. However, during the epidemic of 1831, there were so many mourners that many did not get the opportunity to say the Kaddish. Rabbi Akiva Eiger decided:

In the month of Av, in the year 5591, a plague of cholera began here and many mourners came to say Kaddish. I instituted the custom that the mourners should say Kaddish together, and that was done for an entire year. After almost a year, on the first of Av in the year 5592, the plague diminished, and I instructed that the Kaddish should not be said in unison except for once a day at the end of Shacharis, when the Kaddish would be recited by all the mourners together but no others. In this way, it will be impossible that a mourner will not have the chance to recite a Kaddish at least once daily. This is the manner in which it will remain for the future.”³⁹

In the same year, Rav Mordechai Etinga⁴⁰ discussed fasting on Tishah B’Av, saying:

³⁶ אגרות רבי עקיבא איגרת עא.

³⁷ Slovakia, Moses Schreiber (1762–1839), known by the name of his most famous book of responsa, *Chasam Sofer*.

³⁸ שו"ת חתם סופר ו:כג.

³⁹ פסקים ותקנות רבי עקיבא איגר דף סג-סד, בהוצאה 1971.

⁴⁰ Poland (1773–1852), Chassid Chabad and Rav of Kahal Chassidim in Vilna.

Regarding the question you asked about the fast of Tishah B'Av, that due to our sins the horrible pestilence of cholera appeared in our city... I remember in 1831 I was asked...and I permitted it [eating on the fast day] here in our city, and... the lenient will not lose [anything by being lenient].⁴¹

Perhaps the most exceptional case of rabbinic decision based upon doctors' advice is the story told of Rabbi Yisrael Salanter⁴² during the 1878 cholera epidemic. "...and all the doctors in the city [Vilna], both Jewish and non-Jewish, were completely in agreement that it was forbidden to fast on Yom Kippur that year." Clearly this was an unprecedented announcement, and many people harbored great hesitation about following the ruling, as it was obviously anathema for any Jew to consider eating on Yom Kippur.

After Shacharis [on Yom Kippur], the famous Gaon Rabbi Yisrael Salanter ascended the *bimah* with two well-known *poskim* in Vilna, and he emotionally announced in the name of Hashem and with permission of the Torah which is an adornment to all of the mitzvos, one profound and basic mitzvah, that of "you should live by them and not die by them," and we permit eating today. And in order for his decision to be followed, he took a Kiddush cup and said Kiddush, and he and the other two *poskim* drank from it in front of all of the community and also ate sweet baked goods."⁴³ Some question the veracity of the event.⁴⁴

Disease Transmission

In the 1976 Ebola epidemic in the Congo, the main amplifier of viral spread was subpar medical treatment in a clinic.⁴⁵ Poor medical technique and lack of sterilization passed the virus from patient to patient, and the infected people then went home to pass it on to their families. Similar spread of disease has occurred, and still occurs, during

⁴¹ שו"ת מאמר מרדכי, מרדכי אטינגה ס"ז.

⁴² Lithuania (1809–1883), father of the Musar movement and Rosh Yeshivah.

⁴³ רב ברוך אפשטיין, ספר מקור ברוך, חלק ב, דף 1102.

⁴⁴ Ira Taub, "The Rabbi Who Ate on Yom Kippur: Israel Salanter and the Cholera Epidemic of 1848," in Jonathan Wiesen (ed.), *And You Shall Surely Heal: The Albert Einstein College of Medicine Synagogue Compendium of Torah and Medicine* (Ktav Pub. House, 2009) p. 295.

⁴⁵ Many studies and WHO conclusion; see Laurie Garret, *The Coming Plague*, (Penguin Publishers, 1995).

circumcision.^{46 47} The history of and halachic response to *metzitzah b'peh* is instructive here as an example of the complex and often inconsistent approach that *poskim* have taken to contagion issues.

As early as 1811, Dr. Yohan Rust attributes cases of syphilis in post-circumcision boys to *metzitzah b'peh*:⁴⁸

In the Krakow Jewish ghetto, several newborn infants had ulcerations on their male members. I was called in for a consultation. I examined... members of the household but was unable to find a satisfactory explanation for this phenomenon. The disease continued to spread, almost every newborn Jewish infant developed syphilitic chancres. So it was that I demanded to be present at the next circumcision procedure. I now saw that after the procedure was completed, a man sucked out the blood by applying his lips to the wound. I examined said individual immediately, and discovered that the entire interior of his mouth was covered in venereal ulcerations.⁴⁹

This issue was not limited to a particular *mohel*; it was common enough that medical texts in Lvov, Warsaw, and Vilna mentioned syphilis and other diseases in the same context.⁵⁰ Nor was the United States immune to post-circumcision infection. A cluster of post-circumcision syphilitic ulcers appeared in NYC in 1873.⁵¹ It was not yet understood at that time that syphilis was caused by bacteria. It was, however, recognized that syphilis was transmitted sexually. The New York City Board of Health initiated a study to determine the source of this cluster of syphilis in infant boys. Dr. Taylor determined that “*After circumcision by a Hebrew named H—, the four infants were attacked by phagedenic*

⁴⁶ Neonatal genital herpes simplex virus type 1 infection after Jewish ritual circumcision: modern medicine and religious tradition, *Pediatrics*. 2004 Aug;114.

⁴⁷ Susan Blank, et al., “Neonatal Herpes Simplex Virus Infection Following Jewish Ritual Circumcisions That Included Direct Orogenital Suction, New York City, 2000–2011,” *Morbidity and Mortality Weekly Report*, 61, 22 (2012), 405–9.

⁴⁸ For a comprehensive discussion on this topic, see Shlomo Sprecher, “*Mezizah be-Peh—Therapeutic Touch or Hippocratic Vestige?*” *Hakirah* volume 3, summer 2006.

⁴⁹ Annette Weissenrieder, Gregor Etzelmuller, *Religion and Illness*, 2016 pp. 225–226.

⁵⁰ *Ibid.*

⁵¹ R.W. Taylor, “On the Question of the Transmission of Syphilitic Contagion in the Rite of Circumcision,” *New York Medical Journal* (1873).

ulceration of the penis, and by lesions of the skin and lymphatic ganglia." This resulted in the death of three of the four.⁵² While Taylor could not prove that the *mohel* had syphilis, he understood that this was probable. The *Jewish Messenger* newspaper issued a scathing article demanding rabbinic oversight and the improvement of the moral character of religious providers, lambasting the fact that "*men of dubious character dare to officiate at the solemn, important, and ancient ceremonial which has tended to preserve the purity of the race.*"⁵³

Throughout the ages and during this present Covid-19 pandemic, religious response is dependent on the *posek's* secular exposure, knowledge, and trust in medicine. In 1892, a letter was published in *Machzikei Hadas*, a weekly religious newspaper published by Rav Shimon Sofer⁵⁴, the son of the Chasam Sofer. This letter defended *metzitzah b'peh*. The writer emotionally and naively ranted: "*Just as all know that Dreyfus is clean, and that he was unfairly judged, so too they should know that metzitzah is clean and unfairly judged.*"⁵⁵ This starkly contrasts the earlier reasoned and balanced response of the Chasam Sofer. When asked about a *mohel* whose circumcisions resulted in "leprosy," referring to an unidentified skin inflammation, the Chasam Sofer had said:

Therefore, we know that since this [method of causing blood to flow] is for healing, we are not particular about which remedy we use in its place, and the same thing applies to suction—even if oral suction had been mentioned in the Mishnah, we would be able to change it to another method which accomplishes the same thing, so long as we heed qualified physicians who will attest that in truth a sponge accomplishes the same thing as oral suction. More than this we needn't be concerned with, in my opinion. God should heal you and make you feel good!⁵⁶

So, the problem of disease transmission after circumcision was solved towards the end of the 19th century by the introduction of a glass tube or suction cup to extract blood. However, despite clear scientific proof that *metzitzah b'peh* can transmit disease and even cause death, the

⁵² Ibid.

⁵³ Isaacs Samuel Myer, "Religious Supervision," *The Jewish Messenger*, 27 June 1873.

⁵⁴ Slovakia (1762–1839?), became Chief Rabbi of Krakow, Poland.

⁵⁵ מהזיקי הדת.

⁵⁶ Published in 1845, כרכי יצחק, כרך א.

glass tube has still not been universally accepted by *poskim*, even in our time.⁵⁷

Halachic Lockdown

The first thing anyone thinks about in a situation of pestilence is, *How can I save myself and my loved ones?* Indeed, in 2020, New Yorkers fled Covid-19 hotspots early on, only to be turned around at armed roadblocks at other state borders.⁵⁸ However, mentions of contagion in the Talmud indicate that one should hunker down: “*Our Rabbis taught: When there is an epidemic in the town, keep your feet inside your house [lock yourself in your home],*”⁵⁹ and “*...In times of heavenly anger, Rava would close his windows.*”⁶⁰

The simple reading of this source seems counterintuitive. During an epidemic, you want to distance yourself from the infective agent. Rava closing his windows makes a certain amount of sense to keep an infectious agent out of the house. But, many factors affect transmission, and each disease is different. Do you want to prevent sick patients from sharing the pathogen with those outside the room? If so, shut the

⁵⁷ The editor of this journal asked me to note that those who refuse to use the tube present arguments for their stand, although we do not agree that they are valid and don't accept their premises. He pointed out: “You have stated that risk can be taken for [proper] cause. So why do you make it sound as if there is no argument to the contrary? Some argue that the tube is not clearly valid. Plus, there are always Kabbalistic-type reasons given once a practice has become standard.” And thus asked me to elaborate on why their stand is not acceptable.

We have seen that a person is permitted to take some level of risk for certain types of actions. Examples include traveling overseas for business, becoming a doctor, and getting (or giving a child) a vaccine. However, it is well established that normative Halachah trumps Kabbalah. And even if one chooses *Nistar* over *Nigleh* in Halachah, the case of *metzitzah b'peh* is an exception. The Gemara (*Shabbos* 136:2) says that *metzitzah* is performed in order to prevent *sakanah*, life-threatening danger to the child. The unanimous medical opinion today is that *metzitzah b'peh* represents a *danger*. Therefore, no rationale should allow it.

Regarding the editor's point that some do not accept the tube as a valid method of *metzitzah*, please see the Sprecher article referenced in footnote 48.

⁵⁸ <https://nymag.com/intelligencer/2020/03/ri-coronavirus-order-now-targets-all-out-of-state-travelers.html>.

⁵⁹ בבא קמא ט:.

⁶⁰ Ibid.

windows.⁶¹ Do you want to prevent vectors that carry the disease, for example mosquitos, from entering the room? Then shut the windows. But if your goal is to dilute the bacteria or viruses that have built up in a closed environment, then open the windows.⁶² In the early 17th century, Rav Daniel Estrosa⁶³ (who himself died of plague in a 1653 epidemic) suggested hermetic closure:

As we have heard, one needs complete closure. There should be no opening, even a small hole. Rather one must fill all the holes and cracks until even air won't enter.⁶⁴

As a corollary to closing all avenues of infectious contact, there are halachic discussions concerning infectious waste. The knowledge that clothing can harbor infection was employed as biological warfare when blankets contaminated with smallpox were used to kill Native Americans who had no immunity.⁶⁵ Disposable gowns are now the norm, and there are very strict disposal requirements for infectious waste.⁶⁶

An interesting question regarding *tefillin* as a potential focus of infection was asked of Rabbi Dov Berish Weidenfeld⁶⁷ in the mid-20th century.

Regarding a man with a communicable disease who is commanded by the doctor to be in complete isolation in a special building, nobody is allowed to visit him, and the doctors command that after

⁶¹ As an example, smallpox is so infectious that in a 1961 outbreak in Germany, a single patient infected 17 others a great distance from the patient's room. D.A. Henderson, a giant in public health and the man responsible for the WHO smallpox eradication effort, wrote a paper detailing the case. The patient was instructed to keep his windows shut, and only masked medical professionals entered the room, quickly shutting the door behind them. Investigations later discovered that the patient had kept the bedside window open a crack. To prove that this was the cause of the transmission, a smoke machine was placed near the cracked window and the cloud was seen to flow up the side of the building, enter windows on the next floor, as well as creep under the door to infect people on the other side of his floor. See Laurie Garret, *The Coming Plague* (Penguin Publishers, 1995).

⁶² Instructions of the Israeli Health ministry for Covid-19 https://www.health.gov.il/Subjects/disease/corona/Documents/coronavirus_med_guidelines.pdf.

⁶³ Salonika (circa 1582–1653).

⁶⁴ שו"ת מגן גיבורים סי' ה.

⁶⁵ https://en.wikipedia.org/wiki/Siege_of_Fort_Pitt.

⁶⁶ <https://www.cdc.gov/niosh/docs/2004-101/chklists/n41was~1.htm>.

⁶⁷ Poland and later Israel (1881–1965).

he returns to health, all his possessions and clothing that went into the room with him must be burnt. His relatives want to know if they can give him *tefillin* to wear during his sickness, after which—based upon the aforementioned law—they will be burnt.⁶⁸

Rav Moshe Feinstein⁶⁹ was asked the same question in 1944:

I was asked by Rav Hutner⁷⁰ regarding a sick person with a communicable disease who needs to go to the hospital that does not allow anything to leave, rather they burn everything, and if he brings *tefillin* there, they will also burn the *tefillin*.⁷¹

In both cases, the *poskim* ruled that it was forbidden to give the patient the *tefillin* to wear during his illness.

Returning to *Chazal's* stance on staying at home during a contagion to distance oneself from the epicenter of a plague, the Maharsha⁷² clarifies:

...what he means to say is not that you should not escape the plague, because clearly if there is a plague, it is good to flee for his life. Rather this is what he means: as long as he has not fled, he should stay in his house and not go out into the streets.⁷³

This presages the repeated admonitions of health officials in recent months.⁷⁴

And indeed the Maharil⁷⁵, who lived during the Black Plague in the mid-14th century, says:

It is not appropriate to stand in one place, and is better to flee. I have seen many great sages who have fled to another place.”⁷⁶

⁶⁸ שו"ת דובב משרים חלק א, סי' צט.

⁶⁹ Belarus and New York (1895–1986), de facto *posek* for United States, Rosh Yeshivah and author of the extensive responsa *Iggerot Moshe*.

⁷⁰ Poland and America (1906–1980), Rosh Yeshivah of Yeshivas Chaim Berlin in NY. Befriended both Rabbi Joseph B. Soloveitchik and Rav Menachem Mendel Schneerson while still in Europe.

⁷¹ אגרות משה או"ח חלק א:ד.

⁷² Rav Shmuel Eidels, Poland (1555–1631), Halachist and Talmudist.

⁷³ חידושי המהרש"א בבא קמא ס.

⁷⁴ <https://www.nhsinform.scot/illnesses-and-conditions/infections-and-poisoning/coronavirus-covid-19/coronavirus-covid-19-shielding>.

⁷⁵ Germany (1365–1427), Yaakov ben Moshe Levi Moelin, Codifier of German *minbag* and Halachah, his *Sefer HaMaharil*, also known as *Sefer HaMinbagim*, was used by the Rama as a basis for his gloss on the *Shulchan Aruch*.

⁷⁶ שו"ת המהרי"ל נ.

Echoing that thought, the Rama⁷⁷ suggests:

One should flee the city in times of plague. It is prohibited to rely upon a miracle or to endanger yourself.⁷⁸

In fact, the Rama himself fled Krakow in 1556 because of the plague, and hunkered down with his family under grim conditions in a small village. He wrote his book *Mechir HaYayin* while in the village, as a gift for his father-in-law to whom he was unable to send *mishloach manos*.

I, Moshe Isserles of Krakow, was in the diaspora after being exiled from our city in 1556 due to bad air... in a place with no figs or grapes. There was barely water to drink other than by scheming, in a city that by the sweat of its brows eats bread. There is no tree to find shade. We could not celebrate Purim with drink and happiness. In order to remove the despair and groans, I said I will stand and be happy in my works... and I took under my tongue milk and honey, and gave myself to studying the meanings of the *megillah*.⁷⁹

As expected, Jews risked being robbed or abused while fleeing to local villages, and faced uncertainty about how they would sustain themselves and maintain their community. The following matrimonial question relates to fleeing danger: “*There was a case where the woman engaged to Reuven was raped by gentiles when she fled to their village during a plague. And they raped her for one night, and her fiancé claims that his shevuah is not valid, and he is exempt from marrying her, and [is] permitted to [marry] others.*”⁸⁰

Another question relating to fleeing to gentile villages arose. Was it permissible to bring a Torah to a locale with possible danger? Answers varied. “*The custom in Edirne is to bring a sefer Torah to the villages during a plague... and in Salonika, they have the custom not to remove the Torah from its place.*”⁸¹ It is interesting to note, as an aside, that plagues were common enough that “customs” arose. The Chacham Bashi, Rabbi Eliyahu Mizrachi,⁸² wrote in the 16th century: “*I told those who fled the city to villages*

⁷⁷ Rav Moshe Isserlis, Poland (1530–1572), known for his Ashkenazic gloss on the *Shulchan Aruch*.

⁷⁸ יו"ד קטו:ה.

⁷⁹ הקדמה לספר מחיר היין.

⁸⁰ ספר שם יוסף ה' אישות פרק יא שלוניקי 1769.

⁸¹ שולחן גבוה או"ח תקפ"ד ו'.

⁸² Turkey (1445-1525), Chief Rabbi of the Ottoman Empire from 1495 onward. Known for his book on Rashi on the Torah. *Posek*, mathematician, and astronomer.

that only have non-Jews, where it was impossible to bring a Torah, that they should read from a Chumash and make a berachah at the beginning and end, like with a kosher Torah.”⁸³ During Covid-19, some communities faced a similar situation. Some rabbanim including Rav Moshe Heinemann ruled that if there was no Torah in the outdoor *minyanim* (of maximum 10 people), the *parashah* should be read from a Chumash.⁸⁴

Financial Ramifications

As today, entire economies were turned upside down during a plague, and all business stopped. Questions of contracts being broken by those having to flee, or contracts breached due to quarantine, are classic *Choshen Mishpat* issues.

The *Shulchan Aruch* in assessing responsibilities for broken contracts uses the concept of *makas medinah*, which refers to an entire area devastated by some event affecting everyone equally. The Rama notes, regarding a rental contract or sharecropper contract that was only partially fulfilled due to a regional disaster: “*It is the same law in any similar case, that if there is complete loss and it is a national calamity, you can reduce the rent,*”⁸⁵ during the time that the contract was not able to be fulfilled. Basically, when faced with and due to a completely unexpected, widespread catastrophe, the owner or employer bears the brunt of the loss, not the lessee or worker.

Relevant to the question of teachers’ salaries paid by the Ministry of Education in Israel during Covid-19, we find a *teshuvah* by Rabbi Meir Katzenellenbogen⁸⁶, the Maharam me-Padua. He was asked: “*Regarding a teacher whose student fled during the time of anger when the plague began in Venice... does the student need to pay the full salary, or can he deduct the days that were not used?*”⁸⁷ His reasoning is interesting. If the student’s family fled during a *makas medinah* in which the entire area was under threat, then it would be a clear case of widespread, unexpected duress, and the student would be obligated to pay the teacher. So the Maharam me-Padua asks: “*Did all the residents flee Venice and cancel their studies? If only individuals fled, then we do not consider it a makas medinah, because a makas medinah is something that affects*

⁸³ שו"ת הראם סי' י.

⁸⁴ Rav Heinemann expresses this sentiment in his videoconference on the coronavirus at www.vimeo.com/399141271 at the 9-minute marker.

⁸⁵ שו"ע חו"מ שכא:א רמ"א.

⁸⁶ Italy (1482–1565).

⁸⁷ שו"ת מהר"ם פדואה סי' פו.

*everyone equally, such as, if the ruler directed that all studies be cancelled.*⁸⁸ Since it was not a *makas medinah*, but rather a personal choice of the student to flee, the Maharam concluded that the student was not obligated to pay the teacher's salary. It was just the bad luck of the teacher to have had a student who fled. Following this reasoning, when the Israeli Ministry of Health closed *all* schools during Covid-19, the state was obligated to pay teachers' salaries in full, because of *makas medinah*.

Extreme Stress and the Halachic Process

Few events cause such extreme mental anguish on an entire population as contagion and all of its sequelae. Can the psychological effects of acute distress and trauma be considered a factor in *psak*? Regarding going to war, the Torah says: "*The man who is fearful should return to his home lest he cause the hearts of his brothers to fear like his.*"⁸⁹ The simple understanding is clear—that fear is a factor to be taken into account when preparing an army for war.

In 1198, the Rambam wrote a medical work called "Regimen of Health" for his patient, Egyptian sultan Afdal Nur al-Din Ali, who suffered from depression accompanied by physical symptoms. Maimonides teaches that physical health is dependent on mental well-being and rest. In "Regimen of Health," he says:

It is known... that passions of the psyche produce changes in the body that are great, evident, and manifest to all. On this account... the movements of the psyche... should be kept in balance... and no other regimen should be given precedence.⁹⁰

He suggests that anguish, sorrow, sadness, or grief stem mostly from one of two things, either thinking about bad events from the past like financial loss or the loss of a beloved one, or from fear that something may happen in the future like an injury or disease. Psychological stressors affect health; therefore, they are factors in the halachic process.

Fear is mentioned several times in the halachic literature of plague. Strong leadership can help alleviate fear and Rav Chaim Pelagi,⁹¹ who lived during the cholera epidemic, suggested:

⁸⁸ Ibid.

⁸⁹ דברים כ:ה.

⁹⁰ Maimonides letter, "Regimen of Health"

⁹¹ Turkey (1787–1868), Chief Rabbi of Ismir, *Av Beis Din*, prolific author on Talmud, Halachah, Kabbalah, Musar, and responsa, writing close to 80 books.

It is the way of humility, example, and good leadership, that he who is the head of a community when a plague comes to the city, should not leave the city at first when the news comes, as it puts awe and fear into the inhabitants.⁹²

Rav Yosef Shaul Nathanson⁹³ says regarding mourning practices:

We have seen that in times of plague, may God protect us, when many people are mourners, one should not practice mourning [sit *shivah*] because there can be *aveilus* only if there are people who [visit to] console, and at that time, no one visits because of fear.”⁹⁴ What is meant by “because of fear”? Some say it refers to the fear that the plague could be passed among those that congregate to visit the mourner. Others⁹⁵ say it refers to the fear that through *shivah* visits, people would become aware of just how many other people have died, which would increase general fear and anxiety among the community.

Another case where fear factored into the *psak* concerns *Kiddush Levanah*. *Kiddush Levanah* was seen as a good omen and a potential healing event. The *berachah* on *Kiddush Levanah* must be said before the 15th of the month. If recited after the 15th, the *berachah* is said without *Shem u'Malchus*.⁹⁶ During the cholera epidemic in the early 19th century, the people

shook and were fearful because the moon was covered [obscured by clouds]. And on the night of the 15th ...it became partially visible and many people began to say the prayer. But they did not succeed because clouds covered the moon before they could recite the blessing [*b'Shem u'Malchus*]. And the people were very distraught, as it was a sign to them. And it is known that the doctors are concerned that during the days of disease in general, and during this plague in particular, people should not be sad and should have no fears... therefore to calm the hearts of the anxious, it was decided that they should wait until the night of the 16th. And it was clear in the heavens, and hundreds made the blessing, and the people were very happy... possibly accepting that the face [of

⁹² פני היים ר"פ נה.

⁹³ Ukraine (1810–1875), considered a *posek hador*, known for his halachic work *Shoel U'Meishiv*.

⁹⁴ שו"ת שואל ומשיב מהד"ק חלק א סי' עה.

⁹⁵ I read this opinion during my research for this paper, but cannot now locate the source.

⁹⁶ באר הלכה או"ח תכ"ג.

the moon] is truly a cure for disease, since it is like accepting the face of the *Shechinah*... and during the time of a plague, sadness is dangerous for them.⁹⁷

Among the superstitious customs practiced by some European Jews in the attempt to stop a plague was a **שווארץ חתונה** —a “black wedding.”

“When there was a plague in the city, they would make a wedding between two poor orphans in the cemetery, or they would bury worn *sefarim* or God’s name in the cemetery, and they would go festively in large numbers.” The idea was that fulfilling such mitzvos would bring “long life... and all of the people would come to make the bride and groom happy, and they would forget their fears and groans due to the great danger at that time, and the fear of death would not be foremost in their minds.”⁹⁸

The psychological aspect of raising the community’s spirits and banishing evil by hosting a life-affirming event in a cemetery was enticing. This superstitious custom even had some halachic ramifications. The Maharsham of Berezin was asked about a black wedding in which the groom was a Kohen, but the enclosure around the new cemetery in which the wedding was to take place had not fully been constructed. Could the Kohen enter the area? After an extensive evaluation, the Maharsham permits it, to “quiet the distress of the public who believe in it.”⁹⁹ The *rav* understood the need to bring comfort to Israel, even regarding superstitious customs.

Might otherwise unacceptable halachic behaviors become acceptable due to the high emotional stress of weathering an epidemic? The Great Plague of Milan (1629–1631) killed about 50% of the population of Milan and almost 25% of the population of northern Italy, where one million lives were lost.¹⁰⁰ In his autobiography, Rav Yehudah Aryeh of Modena¹⁰¹ discusses the emotional distress during this plague, and

⁹⁷ שו"ת חתם סופר או"ח סי' קב.

⁹⁸ ספר כל מנהגי ישורון פרק מב.

⁹⁹ שו"ת המהרש"ם חלק ד:מ.

¹⁰⁰ Hays, J. N. (2005). Epidemics and pandemics and their impacts on human history. Santa Barbara, California: ABC-CLIO. p. 103.

¹⁰¹ Venice (1571–1648), a polymath who pursued all manner of occupations including preacher, teacher of Jews and Christians, reader of prayers, interpreter, writer, proofreader, bookseller, broker, merchant, rabbi, musician, matchmaker, and manufacturer of amulets. Among his works is *Chayei Yehuda*, the unusual autobiography detailing his gambling compulsion and emotional life experiences.

confesses to relapsing into a gambling addiction which he had resisted for many years.

...[my nature] forced me all my life to persist in the folly of games of chance.... Had it [gambling] not stunned me and thrown me to the ground so many times, I would have been content all my life.... On the 17th of Tammuz... the spirit of foolishness seized me and I resumed playing games of chance.¹⁰²

We find a most interesting and psychologically empathetic *teshuvah* on gaming by Rav Chaim Pelagi of Turkey that is surprisingly understanding of human nature:

I decree that any man who is called by the term wise man [*talmid chacham*] should never play dice or any game, any time. Not on Purim nor Chol HaMoed nor at weddings, and not in the small villages, never and no place at all. Except—if he is sick or a sickness abounds in his city, like the sickness of cholera and the like, may it stay away from us. If he is very fearful and his heart is worried about it, and by playing he will find calm and it will distract him from fear, specifically this is permitted to do.¹⁰³

The Black Death

Bubonic plague, also known as The Black Death, is spread to humans by fleas that have ingested the blood of rodents, infected with the bacterium *Yersinia pestis*. Bubonic plague cut a highway of death across Asia, arriving in Europe in 1347 in ships that crossed the Black Sea.¹⁰⁴

¹⁰² Leon Modena's *Life of Judah*, autobiography, Princeton University Press 1998 pp. 134–139.

¹⁰³ ספר היים סי, כז.

¹⁰⁴ An interesting aside is the story in I Samuel of the Philistines being smitten by a plague after capturing the Ark. The symptoms were “*afolim*” (vocalized as “*tchorim*”) which in modern Hebrew means hemorrhoids. Whatever the translation, the disease which killed the Philistines was not hemorrhoids. The *Aron Kodesh* sat in a field in Ekron and the plague-smitten Philistines decided to return it to the Jews in hopes of stopping the plague. To boost their luck, they added a guilt offering of sorts with the hope that it would appease G-d. That offering was five golden “*tchorim*,” i.e., replicas of the swellings, and five golden mice, “*achbarim*.” The language in I Samuel 6:5 is: “*You should make images of your tchorim and images of your mice which are decimating the land, and give them to the God of Israel in honor, and maybe He will lighten His hand from you, your gods, and your land.*” The classic symptom of the bubonic plague was buboes, apple-sized swellings of the lymph nodes, in the groin or underarms. Fossilized *Xenopsylla cheopsis*, the flea vector of bubonic plague, were found in excavations in

Infected rats brought the plague onto the ships in Asia, sickening sailors with eponymous buboes—apple-sized black swellings in the groin and axilla. When boats with dead or dying sailors docked in Europe, the infected rats went ashore, spreading the plague. Nearly one third of Europe, between 75 and 200 million people, perished in the 14th century. When it was recognized that the Black Death was arriving on boats, all vessels were required to remain in harbor for forty days before docking to be sure those aboard were all healthy, hence the term quarantine.¹⁰⁵ ('Quarante' is Italian for 'forty.')

The extent of the devastation from bubonic plague was appalling, described here by Agnolo di Tura, a non-Jewish Italian in Sienna, Italy:

Father abandoned child, wife [abandoned] husband, one brother [abandoned] another, for this illness seemed to strike through the breath and sight. And so they died. And none could be found to bury the dead for money or friendship. Members of a household brought their dead to a ditch as best they could, without priest, without divine offices... great pits were dug and piled deep with the multitude of dead. And they died by the hundreds, both day and night... And as soon as those ditches were filled, more were dug... And I, Agnolo di Tura... buried my five children with my own hands. And there were also those who were so sparsely covered with earth that the dogs dragged them forth and devoured many bodies throughout the city. There was no one who wept for any death, for all awaited death. And so many died, that all believed it was the end of the world.¹⁰⁶

Rabbeinu Nissim of Girona¹⁰⁷, the Ran, in 14th-century Spain, describes the second outbreak of the bubonic plague, which was particularly brutal to children. It killed so quickly that a person could

Amarna, Egypt. Amarna, a new capital built by the pharaoh Akhenaten, was inhabited for only 14 years before being abandoned in 1332 BC. This dating means that the flea was in Egypt before the events surrounding the return of the Ark by the Philistines. Archeological evidence in Israeli caves shows that the black rat existed in the Near East before then as well. While we have no way to definitively identify the disease, the vectors of bubonic plague were in place to punish the Philistines.

¹⁰⁵ The Origin of Quarantine, Makowiac, Clinical Infectious Disease, Vol 35 issue 9 November 2002

¹⁰⁶ P. M. Rogers, *Aspects of Western Civilization*, Prentice Hall, 2000, pp. 353–65. I was not able to verify this but took it from https://en.wikipedia.org/wiki/Black_Death.

¹⁰⁷ Spain (1320–1376), great Talmudist, physician, and astronomer.

seem healthy in the morning and be dead by night. The return of the plague in 1361 caused dread and consternation, and the Ran tells us: *“and we also have heard particularly distressing rumors that it is happening in lands not very far away, what happened in our places, and which we saw with our eyes.”*¹⁰⁸

Within two years, bubonic plague was decimating Europe, as a 1349 tombstone for Asher ben Yosef in Toledo, Spain, eloquently describes:

This stone is a memorial / That a later generation may know
That underneath it lies hidden a pleasant bud / A cherished child
Perfect in knowledge / A reader of the Bible
A student of Mishnah and Gemara / He had learned from his father
What his father learned from his teachers / The statutes of God and his laws
Though only fifteen years in age / He was like a man of eighty in knowledge
More blessed than all sons: Asher — may he rest in Paradise /
The son of Joseph ben Turiel — may God comfort him /
He died of the plague, in the month of Tammuz, in the year 1349 /
But a few days before his death / He established his home /
But yester night the joyous voice of the bride and groom /
Was turned to the voice of wailing /
And the father is left, sad and aching /
May the God of heaven / Grant him comfort /
And send another child / To restore his soul.

האבן הזאת לזכרון / למען ידעו דור אחרון
כי נגנז תחתיה פרח נעים / ילד שעשועים
תמים דעים / היה קורא בתורה
ושונה במשנה ובגמרא
למד מאביו מה שלמד מרביתו
את חקי הא-להים ואת תורותיו
והיה בן ט"ו שנים / ובדעת כבן שמונים
ברוך מבנים אשר נ"ע
בר' יוסף בן טוריא אל האל ינחמהו
נפטר במגפה בחדש תמוז שנת ק"ט
וימים אחדים לפני מותו / בנה ביתו
ואמש נהפך קול חתן וקול כלה / קול יללה
וישב אב נכאב ונדאב / א-להי מרומים
ישלם לו נחומים / ולשובב נפשים / זרע אנשים¹⁰⁹

¹⁰⁸ דרשות הר"ן דרשה עשירי.

¹⁰⁹ As quoted in the Museum Bet Hatfutzot blog <https://tinyurl.com/y6owfuch>.

Anti-Semitism

Every contagion correlates with xenophobic persecution, and Jews were particularly targeted by a wave of terrible anti-Semitism and pogroms across Europe during the Black Plague. Non-Jews claimed that Jews poisoned the wells, which caused the plague. This claim was reinforced by confession by torture of Jews, and became a clarion call for carnage.

In the minds of the Christians, the Jews suffered less than their non-Jewish neighbors. While there is no proof, it is possible that because Jews tended to have better personal hygiene, they were less affected by plague. The norm at the time was yearly baths, but Jews bathed weekly: “*What is honoring (the Sabbath) that the rabbis discussed? That it is a mitzvah for a person to wash his face, hands, and legs before the Sabbath*”¹¹⁰ In addition, Jews washed hands before bread and after coming out of the bathroom, as well as going to the *mikveh*. The Black Plague usually intensified in the spring, which coincided with Pesach and the scrupulous cleaning it entailed. Immaculate houses meant no food for rodents, removing the vector for disease transmission.

Mass killings of Jews took place in Basel, Frankfurt, Strasbourg, Rome, and hundreds of other towns. Many tens of thousands were killed, and shuls and houses burned with Jews inside. Elegies for Jews murdered during the Black Plague were written, and until the standardization of the Siddur, could be found in local prayer books.¹¹¹ ¹¹² The severity of the killing was such that Pope Clement the VI issued a papal bull called *Quamvis perfidiam* in 1348. *Quamvis perfidiam*, translated as “despite the perfidy [of the Jews],” ruled that it is forbidden to harm Jews due to the rumor that they poisoned the wells. However, this bull was issued in vain.

Some estimate that more Jews were killed during this short period of time than during the entire period of the Crusades. Many Jews converted, and the massacres left countless orphans, widows, and *agunos*. Entire communities were destroyed, sometimes without a single survivor.

In 1349, the entire Jewish community of Basel was put on an island and burned. The 2000 Jews of Strasbourg were burned to death on a

¹¹⁰ רמב"ם הל' שבת, 30:2

¹¹¹ Strategies, Dispositions, and Resources of Social Resilience: A Dialogue between Medieval Studies and Sociology, Martin Endress, Lukas Clemens, Benjamin Rampp (eds.). Springer Nature, 24 Apr 2020, pp 188–191.

¹¹² ספר דמעות.

Shabbos in February 1359. Bavaria lost 80 Jewish communities. These are just a few examples. So many fled eastward that:

The Jewish nation uprooted their domain where they had lived for 1600 years, and established themselves in Poland... when they were exiled, they kept the German language, the language of their soul-haters. This language was kept alive by the German exiles in the eastern countries, and became a Jewish language [Yiddish]¹¹³

The persecutions of the Black Death caused the birth of Polish Jewry, and were the impetus for Yiddish becoming the lingua franca of Jewish Europe.

An entire literature of community-specific elegies arose which were read on the anniversaries of the original tragedies.

They robbed their houses in full view and took all the possessions of an overflowing abode.
Held by earthworks and pinned by mines, they were slaughtered there like a herd of goats.
Comfort your nation fulfill your guarantee, to the Temple your footstool may they be redeemed¹¹⁴

Overall societal effects of the plague included loss of guidance from the older generations (many of whom perished) and unbridled freedom for survivors. Robbery, immorality, and a sense of disdain for religion arose. Contempt for inefficient and corrupt governance mirrors our modern calls for scrutiny of governmental faults and unpreparedness. “*The failure of old authorities gave room for new and self-constituted [rulers] to establish themselves.*”¹¹⁵

The implications for societal upheaval were felt throughout the Jewish world. The Maharil lived during the multiple recurrences of plague in the 14th century, and the concurrent carnage of Jewish communities. Therefore, many of his *teshuvos* deal with orphans, *agunos*, forced converts, and other topics prevalent in post-massacre eras. The above-mentioned disdain for authority is perhaps reflected in a *teshuvah* of the Maharil regarding *shochtim* who felt that they did not need to have their knives checked by the *rav*, a claim that was seen as a slap in the face

¹¹³ ברנפלד, ספר 1923. All of the statistics mentioned in this paragraph are from 1923 ברנפלד, ספר 1923. הדמעות, ברלין.

¹¹⁴ Ibid.—from a Calabrian Siddur manuscript.

¹¹⁵ *American Journal of Sociology* Vol. 25 no. 5 1921 pp. 565–572.

to religious leadership. The Maharil starts by quoting *Sefer HaAgudah* by Rav Alexander Zuslin HaKohen¹¹⁶:

It appears to me that due to our great sins, there isn't a *talmid chacham* nowadays who even knows the single chapter of *Maseches Kallah*.

To this, the Maharil adds:

This author was [alive] before the evil decrees [the post-plague destruction of Jewish communities]. Then there were brilliant leaders, [but] now this orphaned generation lacks those who can distinguish between their right and left hands. For them, the fingernails and idle discussions of earlier generations are more important than the halachic novellae and Torah of the latter [generations]. No one in this generation can doubt this.¹¹⁷

As I write these lines during Covid-19, the anti-Semitic incidences worldwide have risen drastically and increase daily.¹¹⁸

Between Man and Woman

Among the myriad of questions in the area of *Even HaEzer*, several are particularly interesting. The following case shows that plagues were so common that they became a condition in the *kesubah* due to the father's

¹¹⁶ Germany (died 1349). Parenthetically, Rav Alexander Zuslin HaKohen was born in the soon-to-be-destroyed Jewish community of Erfurt, and wrote an elegy for the destruction of that city by post-plague pogroms.

¹¹⁷ שו"ת המהר"ל סו.

¹¹⁸ Every epidemic caused a surge of anti-Semitism. Cholera in the late 19th century was associated with dirt, and among headlines in the *Toronto Evening News* in the fall of 1892 were "Those Jews Coming to Canada," "Keep Away From Us," "The Plague's Path," "Watch Jewish Immigrants." Our present Covid-19 pandemic is no exception. Conspiracy theorists claim that Jews made and/or spread the virus, that the Jews are behind it, that Israel created the virus as a money maker. Anti-Semites hope that the virus will infect Jews, naming it the "holocough," a play on the word Holocaust. Classic anti-Semitic right-wingers have joined with extreme left-wing de-legitimizers of Israel, sharing their conspiracies and content on online forums. Irrespective of whether Jews are dying more or less from Covid-19 than non-Jews, anti-Semitism reared its head. (As I write this early in the epidemic the State of Israel had among the lowest worldwide death rates due to early implementation of social distancing and quarantine, but Jewish death rates from Coronavirus outside of Israel were significantly higher than non-Jewish death rates.)

concern for his daughter's comfort and safety. Rav Moshe Mitrani¹¹⁹ writes:

“They showed me a *kesubah* that, among the various conditions, was a condition that if, *chas veshalom*, there is a plague in the city, he [the groom] must move her from city to city [referring to more developed cities] until they reach the far border of Eretz Yisrael. The groom says the meaning is [straightforward,] that he should make her flee the plague, and the custom is to flee from village to village. And the father-in-law says the reason that he made the condition, which is not usually one of the conditions in a *kesubah*, ...[is] so she should not have to go from [small] village to village, because that is difficult for a woman and is demeaning.” The answer given was: “and it seems to me that the husband has to help her flee from city to city, to Tiberias or Jenin and from there to Shechem, if needed, and from there to Azza which is the end of Eretz Yisrael.”¹²⁰

This *teshuvah* shows that plagues were such a part of life, that clauses relating to plague in a *kesubah* raised no eyebrows.

The halachah stipulates: “*A woman who married two men, each of whom dies, should not marry a third, as she has a chazakah that her husbands die.*”¹²¹ The halachic term for such a woman is a *katlanis*, meaning a “black widow” in colloquial English. The Radbaz¹²² in Egypt was asked about a woman whose two husbands both died during plagues, and whether she was considered a *katlanis*.

I see that if both of her husbands certainly died from plague... she is not a *katlanis* and can marry a third. However, if a third dies she has a strong *chazakah*, and she should not marry a fourth... I saw a woman in Yerushalayim whose three husbands died, and she married a fourth, and I said to him then, prepare your *tachrichim*, and not two months went by until he died.¹²³

¹¹⁹ Salonika and Israel (1500–1580).

¹²⁰ שו"ת המבי"ט חלק ג סימן רי"א.

¹²¹ שו"ע אהע"ז ט:א.

¹²² Rabbi David Ibn Zimrah, Spain and Egypt (1479–1573), Chief Rabbi of Egypt.

¹²³ שו"ת הרדב"ז חלק ב תרפב.

Prayers

Almost every community composed prayers to ask G-d to stop the plague, and the incantation of *Pitum HaKetores* was adopted by Jewish communities as a good-luck charm to stop plagues, because the plague on the children of Israel in the desert stopped when Aaron the High Priest brought incense.¹²⁴ The reason is found in the Zohar:

“It is written, ‘Take the pan and place fire on it over the altar, and place incense.’ It is written, ‘For wrath is gone out from the Lord; the plague has begun.’ It is so because there is no shattering to that side except through incense, for there is nothing more favorable to the Creator than incense, which can cancel charms and bad things from Him. The smell and the smoke of incense with which people make charms, cancels that deed; it is especially so with incense.”¹²⁵ “Now due to our sins this army [plague] has exiled us, and it is worthy to put all of one’s energy into this and to write the *ketores* on kosher parchment in the *Asburis* script, and to read it in the morning and evening with great intent. And I guarantee it [will work].”¹²⁶

Post-Plague Exultation and Return to Israel

There are numerous examples of the expressions of joy that followed an epidemic. The end of the Black Plague in Venice was a cause for rejoicing:

And after nine months, the Holy One, blessed be He, remembered His people, and in the merit of their forefathers, the plague finished and we lived. And the gates to the synagogues were opened and we returned to them to pray and to give praise to the almighty G-d... and as a good sign, a woman with the plague gave birth to a boy, and he is alive until today.”¹²⁷

As a result of Covid-19, the Jewish Agency expects a wave of *aliyah*, and the Ministry of Absorption estimates that no less than 60,000 expat Israelis have contacted them about returning to Israel. Plagues sparked immigration to Israel in the past, as well. The smallpox epidemic in late 18th-century Morocco most probably spurred the following comment by

¹²⁴ <https://thelehrhaus.com/timely-thoughts/incensed-by-coronavirus-prayer-and-ketoret-in-times-of-epidemic/>.

¹²⁵ זוהר ויקהל תס"ז.

¹²⁶ רב אהרון ברכיה מודינא , מעבר יבוק עתר ענן הקטורת פרק ב.

¹²⁷ 1683 ספר אוצר החיים כא; ונציה.

Rav Shaul Abitbul¹²⁸: “After the time of the plague... there sparked a spirit amongst many people to sell their possessions and make aliyah to Eretz Yisrael.”¹²⁹

A prayer written for the plague in early 18th-century Italy reflects a universalism uncommon in Jewish prayer:

The Lord of Jacob should listen and pay attention to our requests which we pour before you from the depths of our hearts, of the fear of death which has fallen upon us as a result of wicked rumors of the great plague that has landed, and spread out upon the city of Messina and Calabria (Italy)... and may all the families of the Earth be blessed, including Your seed [the Children of Israel]. And through Your seed **may all the nations of the world be blessed** and shine Your light upon Your people. Save us according to Your compassion, look upon us from Your holy dwelling, and bless Your world for the sake of Your great and powerful Name.¹³⁰

Then and Now

So how might *gedolim* from the past have *paskened* on Covid-19?

From an Israeli perspective at least, Rav Meir Vaknin¹³¹ would have argued against all the yeshivah students who fled to the US rather than staying put in Israel, and he would have been right. The death toll was so much greater abroad.

The behavior of some segments of the *chareidi* community would have been anathema to Rabbi Akiva Eiger¹³² because of their gathering in large groups for funerals and underground davening or yeshivos. He would have reported them to the local law enforcement. In fact, he would have ruled that any governmental decision holds the weight of Halachah due to *dina demalchuta dina*: “anybody who breaks with the instructions endangers others and has the law of a rodef... and it is a mitzvah to inform the authorities about him before he infects others.”¹³³

Rav Chaim Pelagi might have accepted behaviors involving less than desirable social environments, that otherwise would be completely forbidden. Might the large increase of *chareidi* internet usage in Israel which brought succor and health information find acceptance in his

¹²⁸ Morocco (1739–1809).

¹²⁹ שו"ת אבני שיש חלק א פא.

¹³⁰ JTS library call number B. (NS) PP380.

¹³¹ See footnote 5.

¹³² See footnote 36.

¹³³ Rav Efraim Zalmanovitch, Rav of Mazkeret Batia, <https://www.arimnews.co.il/opinions/33542>.

eyes?¹³⁴ Would it have been permissible to bring Sifrei Torah to temporary corona hotels if the conditions were poor? Well, if you were from Salonika, the answer would be no.¹³⁵

One thing is apparent: Almost all questions arising from pandemic have been dealt with by *poskim* of previous generations.

As our 21st-century plague has made clear, despite our interconnected modern world, no nation is guaranteed sanctuary. The response of *Chazal* must reflect scientific and medical knowledge as well as governmental decisions. Ignoring these is hubris which has no place in Halachah.

The last paragraph of the *Shulchan Aruch* concerns the laws of avoiding danger.

He who says “I will put myself in mortal danger,” “I don’t care what others say,” or “I do not care,” should be whipped until contrition. He who is careful with personal danger should be blessed.¹³⁶

Writing on this point in the *Mechaber*, the *Be’er HaGolah*¹³⁷ states:

The rationale of the Torah on protecting life is because the Holy One blessed be He created the world in compassion, to enhance the creations, to recognize His greatness, and to fulfill His works by doing His mitzvos and His Torah... and he who puts his life in danger is as if he despises the will of his Creator, and despises both His works and the rewards, and there is no greater apostate than that.¹³⁸

In times of plague, following our sages *as well as* accepted medical opinion reflects love of God, and not doing so is apostasy. ❧

¹³⁴ See footnote 103.

¹³⁵ See footnote 81.

¹³⁶ חושן משפט תכז:י

¹³⁷ Prague (1526–1609), The Maharal Mi-Prague, Rav Judah Lowe ben Bezalel.

¹³⁸ באר הגולה ו, חושן משפט תכז