

***I*s a Patient with a Severe Contagious Disease Allowed to Board an Aircraft (Or Travel to Another Country) Where He May Infect Others?**

To the honorable Rabbi Yitzchak Zilberstein:

The topic concerns the “Mexican swine flu virus”, known as virus H1N1.

The *halachic* question was sent to me by Rabbi Doctor Akiva Tatz from London.

One person who lives where there is an epidemic of “Mexican influenza” wishes to flee the city to another place where there are no cases of this type of influenza. However, it is possible that this person was already infected but does not yet manifest clinical symptoms so it is possible that he may infect people in the other city. On the other hand, if he stays in his city he may contract it.

The question is whether or not it is permissible for him to flee to another city in order to save himself from catching this type of influenza, although it may be at the cost of him infecting other people in the second city.

I would be pleased to hear what the Torah view is in this situation.

With sincere greetings, I am Doctor Tzvi Desatnik, ophthalmologist and eye surgeon in Bnei Brak.

∴ ANSWER

Before I answer the question in this case, I wish to discuss a similar situation concerning an infected patient boarding an airplane.

∴ QUESTION AND CASE REPORT

A physician in another country (outside of Israel) is treating a patient who is infected with a fatal form of influenza and the patient wants to

flee from there in order to come to Israel and to receive excellent care. Is the physician obligated to inform the airport authorities that the patient should not be allowed to board the plane so that he not infect the other passengers because it is known that the air in an airplane is recirculated and it is nearly certain that he will infect others?

~: ANSWER

Rambam, in his Code of Jewish Law (*Mishneh Torah, Hilchot Rotzeach Ushemirat Hanefesh* 1:14) rules that if one person is able to save another and does not save him, he transgresses the biblical commandment "And you shall not stand idly by the blood of your fellow man" (*Leviticus* 19:16)... If one hears heathens or informers plotting evil against another person or laying a trap for him but does not call it to the attention of that person and let him know, he transgresses the biblical precept "And you shall not stand idly by the blood of your fellow man". (End of quote from *Rambam*.)

According to this ruling, it would seem that the physician is obligated to inform the airport authorities about his patient and also to inform the passengers so that they should not fly on that aircraft. But if the physician remains silent, he transgresses the biblical injunction: "And you shall not stand idly by the blood of your fellow man".

~: QUESTION

Is the patient allowed to board the airplane if he might infect the other passengers?

~: ANSWER

In the Talmud (Tractate *Pesachim* 25b) the story is related of a man who came before *Rava* and said to him: The governor of my town has ordered me: "Go and kill so-and-so. If you refuse, I will kill you." Is he allowed to kill so-and-so to save his own life? *Rava* answered him: Let the governor kill you rather than that you should commit murder. How do you know that your blood is redder [more valuable] than his? Maybe his blood is redder [more valuable] than yours?

Rashi there explains that he only came to ask *Rava* because he knew that no *mitzvah* stands in the way of saving a life that is in danger (*pikuach nefesh*). And you thought that even the prohibition of murder can be waived to save your own life. Murder does not compare to all other transgressions because in any event, one life will be lost and the Torah does not permit you to set aside the prohibition of murder because the life of every Israelite is precious. Here a transgression will be perpetrated and a life lost. Who says that your life is more valuable in the eyes of the Holy One, blessed be He, than the life of the other person? Maybe his life is more valuable in the eyes of the Lord than yours? From this discussion in the Talmud, we can conclude that when it comes to killing someone, the principle of “Your life takes precedence” does not apply and it is forbidden to spill the blood of another Jew to save yourself. And just like the life of every Jew is precious in the eyes of the Lord, Creator of the Universe, so, too, the life of your friend is precious in the eyes of Heaven and you have no right to claim precedence over the life of your friend in order to save yourself.

All the above Talmudic discussion applies if the Governor tells Reuven to kill Shimon directly (“with his hands”). But, in our case, it is different because the infected patient would not be actively and directly killing other people, but only indirectly and therefore it may be permissible to board the plane and to flee the city in spite of the possibility of him infecting other passengers.