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David Golinkin

**Does halakhah require vaccination against dangerous diseases such as measles, rubella, polio and Covid-19?**

*Approved on January 5, 2021, by a vote of 13-0-0. Voting in favor: Rabbis Aaron Alexander, Pamela Barmash, Nate Crane, Elliot Dorff, David Fine, Joshua Heller, Jan Kaufman, Daniel Nevins, Micah Peltz, Robert Scheinberg, Deborah Silver, Ariel Stofenmacher, and Iscah Waldman. Voting Against: none. Abstaining: none.*

**Question:**

(First asked before the Covid-19 pandemic) In recent years we have witnessed a growing phenomenon of Jews and non-Jews who refuse to receive common and accepted vaccines or to give their children vaccines against measles, rubella, polio and other contagious diseases. This question has become even more acute as we begin to vaccinate against the Covid-19 virus, which has already killed more than 1,760,000 people worldwide. Does halakhah require vaccinations? How does Jewish law relate to those who endanger the lives of others by refusing to be vaccinated – may they be prevented from entering schools, synagogues or public places?

**Responsum:**

**I) The Jewish attitude toward physicians and medicine**

In a previous responsum, I have already surveyed the Jewish attitude to medicine over the course of thousands of years, from the very negative to the very positive (Golinkin, 2011, pp. 287-298). But the main opinion which was and is accepted to this day is Maimonides' approach in his commentary on Mishnah *Nedarim* 4:4. We have learned there that if Reuven vowed not to receive benefit from Shimon, Shimon may nonetheless “heal him with lifesaving medicine”. As the Rambam explained (ed. Kafih, Jerusalem, 1965, p. 91):

And this is not forbidden to the patient himself **because it is a mitzvah, i.e., that the physician is obligated by law to heal the sick of Israel, and this is included in [the Sages'] commentary to the verse “and you shall restore it to him” (Deuteronomy 22:2) -- including his body** (see *Bava Kama* 81b; *Sanhedrin* 73a), that if he saw that he is lost and could save him, then he must save him with his body or his money or his knowledge (cf. Rambam, *Hilkhot Nedarim* 6:8; Commentary to the Mishnah *Pesahim* 4:10; Rambam, *Eight Chapters*, Chapter 5; *Shulhan Arukh Yoreh Deah* 221:4).

In other words, a doctor is obligated to heal and this is a mitzvah.

**II) General sources which require protecting the body/maintaining health**

This section is based on what I wrote in my responsum against smoking (Golinkin, 5752, pp. 38-44).

*The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah. This teshuvah was approved by the CJLS in a fast-track process intended to provide answers expeditiously.*

### 1. *Pikuah Nefesh* [saving a life] supersedes almost all the commandments in the Torah

As is well known, *pikuah nefesh* supersedes Shabbat (*Yoma* 85a-b and parallels), kashrut (Mishnah *Yoma* 8:4 = fol. 83a), Yom Kippur (*ibid.*, 8: 5 = fol. 82a), and all the commandments in the Torah except idol worship, incest, and bloodshed (*Ketubot* 19a; *Sanhedrin* 74a). The Amora Shmuel learned the above from the verse “ ‘and you shall keep My statutes and laws, which man shall do, **and live by them**’ (Leviticus 18:5) -- and not die by them”. And if a person is commanded to transgress all the mitzvot in the Torah to save **his friend’s life**, how much the more so is it a mitzvah is to get vaccinated in order to save **his own life!** In other words, if *pikuah nefesh* supersedes Shabbat, kashrut, Yom Kippur, and almost all the mitzvot in the Torah, how much the more so does it supersede the infinitesimal risk (see below) of getting vaccinated.

### 2. Whoever sustains one soul is considered as if he had sustained the entire world

We have learned in the Mishnah (*Sanhedrin* 4:6 = fol. 37a): “Therefore one man was created, to teach you that whoever destroys one soul is considered by Scripture as if he had destroyed the entire world, and whoever sustains one soul is considered as if he had sustained the entire world”. (This is the original wording according to the manuscripts and Genizah fragments.) The subject there is warning the witnesses in capital cases so that they will be careful to testify truthfully. And if a person is commanded to sustain the soul of his **friend**, how much the more so his **own soul!** After all, R. Akiva expounded (*Bava Metzia* 62a): “ ‘And your brother shall live **with you**’ (Leviticus 25:36) -- your life takes precedence over the life of your friend”.

### 3. The world and its fullness belongs to God; therefore a person is not allowed to harm his body

Rabbi Yisrael Meir Hakohen, the Hafetz Hayyim (1839-1933), wrote against smoking many years before it was proven that smoking is dangerous. Nevertheless, he heard that “some doctors have decreed that anyone who is weak must not accustom himself to [smoking], which weakens his powers and sometimes also harms his soul”. As a result, he protested to such weak people: “Who allowed you to develop this habit?” Although the Sages said that a person who harms himself even though he’s not allowed he is exempt, “but in any case they said that he is not allowed to harm himself. First, because ‘and you shall guard your souls very much’ (see below, paragraph 5) and furthermore, it’s logical, for the universe and its fullness belong to God and for His honor he created us... and how will the slave be allowed to do as he pleases, does he not belong to his Master? And if, due to smoking, his powers are weakened, he will certainly be prosecuted for it [in the Heavenly court], for he did it willingly and not by force!” (Hafetz Hayyim, *Likutei Amarim*, 1967, p. 62). Rabbi Nathan Drazin also emphasized this point by quoting the verse from Ezekiel (18:4): “Consider, all souls are Mine!” (*Judaism and Drugs*, second edition, New York, 1973, p. 75) and a similar idea is expressed by Rabbi Seymour Siegel, Rabbi Eliezer Waldenberg and others in connection with smoking. If so, we belong to God and we have no right to sabotage God’s creation.

Similarly, in our case, one who walks around without a vaccine during a measles or corona pandemic endangers himself for no reason, and has no right to sabotage God’s creation.

### 4. A healthy and whole body is the way of God

In the fourth chapter of *Hilkhot De'ot*, Maimonides includes a long list of things that a person should do in order to maintain his health. Most are taken from the Talmudic literature, but some of them stem, no doubt, from his experience as a physician (as stressed by Rabbi Hayyim David Halevi, *Aseh Lekha Rav*, Part 2, pp. 11-12). In halakhah 1, Maimonides explains the guiding principle in the chapter:

Since keeping the body healthy and whole is the way of God, for it is impossible to understand or know anything about the Creator if one is sick, **therefore one must distance oneself from things that destroy the body and accustom oneself to things which heal [the body]. And these are :** A person should never eat except when he is hungry, and should not drink except when he is thirsty, and he should not hold in his urine even one moment, but when he needs to urinate or to defecate, he should do so immediately.

It might be argued that Maimonides meant only the specific things he listed, but Rabbi Yosef Caro, and especially Rabbi Moshe Isserles, the Rema (*Yoreh Deah* 116:5) expanded the list to “all things that lead to danger” and “everything similar” (cf. Bush, pp. 191-192).

### 5. “And you shall guard your souls very much”

It is said in the book of Deuteronomy (4:9) “**But guard yourself and guard your soul very much**” and a few verses later (4:15): “**and you shall guard your souls very much**”. According to the simple meaning, these verses warn against forgetting the Torah (v. 9) and against idol worship (v. 15, as emphasized by the Maharsha to *Berakhot* 32b s.v. *ketiv*), but the Sages wove them into an Aggadic passage which deals with physical danger to say: A Jew must guard his physical health (see *Berakhot* 32b at bottom). Maimonides also saw in these verses a warning against physical dangers. After warning a person to make a cover for his pit and the like he goes on to say (*Hilkhot Rotzeah* 11:4): “**And so too every stumbling block which is liable to kill, it’s a positive commandment to remove it and to guard against it and to be very, very careful, as it is said, “But guard yourself and guard your soul”**”. This ruling of Maimonides was also quoted by the *Shulhan Arukh* (*Hoshen Mishpat* 427:8). Finally, the Sages learned from verse 9 a negative commandment (Mishnah *Shevuot* 4:13 = fol. 35a), that a person who curses himself or his friend with one of God’s appellations transgresses a negative commandment, and the Talmud explains (*Shevuot* 36a): “Himself, as it is written ‘But guard yourself and guard your soul very much’ “, and this was codified by the Rambam (*Hilkhot Sanhedrin* 26:3). And if one who curses himself violates the commandment to “guard yourself”, a person who harms his own body, how much the more so!

Some have learned from the above verses that the obligation of maintaining one’s health is a Biblical obligation (see *Pe’er Tahat Efer*, Jerusalem, 1989, p. 57b). However, it seems more likely from *Berakhot* 32b that this is an *asmakhta b’alma* [a Biblical proof text, after the fact]. However, it should be emphasized that the *Aharonim* [later rabbis, after 1570] and the Jewish people saw in these verses a general warning to beware of physical dangers (see the Sema to *Hoshen Mishpat* 427, subparagraph 12; *Torah Temimah* to Deut. 4:9, note 16; and *Sefer Assia*, Vol. 5, p. 238, note 7). If so, even if technically a Jew who has refused to be vaccinated does not violate a Biblical commandment, he certainly violates the above verses according to the accepted interpretation for many generations.

## 6. Many things have been forbidden by the Sages because they entail *sakkanat nefashot* [danger to life]

In the Laws of a Murderer, Maimonides ruled (11:5): “The Sages forbade many things because they entail danger to life, and whoever transgresses them and says: ‘I am endangering myself...’ or ‘I don’t care’, is given lashes of rebellion [as set by the rabbinic court]”. Among other things, a person is not allowed to put his mouth on a flowing pipe [of water coming out of the ground] or to drink at night from the rivers and lakes lest he swallow a leech, to drink uncovered water lest a snake drank from them, and the like (Halakhah 6). Similarly, a person is not allowed to put coins into his mouth lest they have on them the dry saliva of people suffering from boils or of lepers (*ibid.*, 12:4). And it’s forbidden for a person to pass under a shaky wall or on a rickety bridge or to enter a ruin (*ibid.*, 12:6).

Seemingly, it could be argued that the Sages forbade only these things and that we should not add new prohibitions. However, the *poskim* emphasize that these are only **examples** of dangers and not a complete list. The Rambam himself adds to the Halakhah 6: “**And so too any similar dangers**, one may not pass by (another reading: stand) in their place”. Rabbi Yosef Caro also emphasizes this by adding two words to the words of Maimonides in Halakhah 5: “Whoever transgresses these things **and similar things... and whoever is careful about these things will receive a good blessing**” (*Hoshen Mishpat* 427:10, the last paragraph in the *Shulhan Arukh!*) And so rules the Rema: “And all these things are because of danger ... and it’s forbidden to rely on a miracle or to endanger his soul **in all similar situations**” (*Yoreh Deah* 116:5 at end). Finally, *Sefer Hahinukh* also states the prohibition in a very general way: “And many things [the Sages] z”l forbade in order to guard against damages... **and therefore it’s appropriate that he should pay attention to all the things which may cause him harm...** (No. 546 = ed. Chavel, No. 538).

In other words, regarding our topic, anyone who refuses to get a vaccination and says “I am endangering myself and what do I care what others think”, “deserves lashes of rebellion”, and whoever is careful about this, “will receive a good blessing”.

## 7. Even if nine were not vaccinated and did not die, the tenth must get vaccinated

There are those opposed to vaccines, claiming that there is no need to get vaccinated because many have not been vaccinated all their lives yet died at a ripe old age and therefore there is no definite danger. This is not correct. After all, we have learned in a *Baraita* (*Avodah Zarah* 30b) in connection with uncovered water mentioned above: “A barrel that was uncovered, **even though nine drank from it and did not die, a tenth should not drink from it**. A story transpired that nine drank from it nine and did not die and the tenth drank and died...”. The Rambam codified this *Baraita* (*Hilkhhot Rotzeah* 11:14) and the Tur ruled: “Even if others drank from them and were not harmed, one may not drink from them” (*Yoreh Deah* 116, at the beginning).

Therefore, even if there are nine who have not been vaccinated and have not died, the tenth must be vaccinated because of possible danger.

## 8. Danger is more serious than a prohibition

The claim that not getting vaccinated is not a definite danger is also pushed aside by the Talmudic principle (*Hullin* 10a): “Danger is more serious than a prohibition”. In other words, if there is doubtful impurity in a public place, it’s considered “pure”, but

if water was left uncovered at night and a snake might have drunk from it, do not drink it. The Tur codified this rule in *Yoreh Deah* 116, while the Rema writes (*Yoreh Deah* 116:5): “**And so too should he beware of all things that lead to danger, because danger is more serious than a prohibition** and one should be more careful about doubtful danger than a doubtful prohibition”.

There is no doubt that not getting a vaccination is at least a doubtful danger because there is a high probability that that person endangers his health, and therefore one must receive a vaccination according to the principle that “danger is more serious than a prohibition”.

### 9. “One does not rely on miracles”

There are people -- Jews and non-Jews -- who believe that God will protect them and not let them get sick. Regarding this, the Talmud has already stated “**A miracle does not happen every day**” (*Megillah* 7b; *Pesahim* 50b). And so it is related in *Kiddushin* (39b) about a man who climbed a ladder in order to fulfill the mitzvah of *shiluah haken* (sending away the mother bird before taking the nestlings; Deut. 22) and upon his descent, he fell. Among other things, they suggest that the ladder was shaky, and thus its damage is established and well-known, “**and wherever the damage is established, one does not rely on miracles**”. Similarly, in our case, the damage from measles or polio or Covid-19 is established and well-known and one does not rely on miracles. As Rabbi Yannai ruled: “A person should never stand in a place of danger saying that they will perform a miracle for him, lest they do not perform a miracle for him” (*Shabbat* 32a and *Ta'anit* 20b). A similar teaching is found in the Zohar (to Genesis 111b), while the Rema rules (*Yoreh Deah* 116:5 at the end): “And all these things, they are [forbidden] because of danger, and a person who guards his soul should distance himself from them **and it is forbidden to rely on a miracle** or to endanger his soul in all similar situations”. Therefore, it’s forbidden to rely on miracles and one must be vaccinated as soon as possible.

### 10. Jewish law forbids suicide

We have learned in *Genesis Rabbah* (34:13, ed. Theodor-Albeck, p. 324; and cf. *Bava Kamma* 91b): “ ‘But for your own life-blood, I will require a reckoning’ (Genesis 9:5), **this comes to include a person who chokes himself**”. On this basis, Maimonides ruled (*Hilkhot Rotzeah* 2:2) **that a person who kills himself is culpable for the sin of killing and will be punished by Heaven**. Therefore, suicide is forbidden according to Jewish law. Furthermore, *Sefer Hassidim* uses the above verse from Genesis to teach that all those who died **because they risked their lives “will be punished in the Heavenly court for causing death to themselves.”** As an example, he includes “**if he walked in a dangerous place such as on ice and fell and died or [in] a shaky ruin**” (*Sefer Hassidim*, ed. Margalioth, paragraph 675 = ed. Wistinetzky, paragraph 163, and cf. *ibid.*, paragraph 1956). **Thus, according to Sefer Hassidim, even self-endangerment leading to death is considered suicide.** Therefore, anyone who refuses to be vaccinated and dies will be punished in the Heavenly court for causing death to himself.

### III) One must obey the advice of doctors

As Rabbi Alfred Cohen emphasized (pp. 85-89), many *poskim* have ruled that one must obey the advice of doctors. And so ruled Rabbi Ovadia Yosef (*Yehaveh Da'at*, vol. 1,

No. 61), on the basis of many sources, as is his custom. Since almost all the doctors in the world instruct us to get vaccinated, one must obey them and get vaccinated.

#### IV) The medical facts – “proven medicine”

In general, almost all doctors in the world instruct us to get vaccinated against measles and other common infectious diseases because they are a *refuah bedukah*, “a proven medicine”, which saves the lives of millions of people around the world every year. (Re. this term, cf. Rabbi Ya’akov Emden, *Mor Uketzia, Orah Hayyim* 328, ed. Machon Yerushalayim, p. 363)

However, many people feel that the new COVID-19 vaccines developed by Pfizer-BioNTech and Moderna and given Emergency Use Authorization (EUA) by the FDA on December 11 and 18, 2020 are not “a proven medicine”. Thus, according to recent polls in the U.S., only 61% of Americans are “likely” to take a COVID-19 vaccine, while in Israel only 63% plan to get vaccinated. Other than crazy rumors that the Pfizer COVID-19 vaccine causes infertility or that it affects a person’s DNA, many seem to be afraid of the Pfizer and Moderna vaccines because they use mRNA technology instead of the traditional methods of antigen proteins or attenuated virus. However, as one can learn from the medical articles listed below, mRNA vaccines are actually much safer than traditional vaccines, since one cannot catch COVID-19 from such a vaccine since it’s not constructed from an active pathogen. In addition, RNA vaccines can be produced faster, more cheaply and in a more standardized fashion. Furthermore, these vaccines are “proven medicine” compared to Dr. Jenner’s vaccine which did not undergo the vigorous testing done today – and was nonetheless supported by many *poskim* -- and compared to regular flu vaccines which are given every year. Flu vaccines are only 40-60% effective vs. the Pfizer and Moderna vaccines which are 94-95% effective on adults and children age 16 and above. Thus, for example, in Phase 3, Pfizer tested its vaccine on 43,448 participants of different racial and ethnic groups. Half received the vaccine and half received a saline placebo, with a 95% success rate after two doses. This is why the vaccine has received the EUA (Emergency Use Authorization) of the FDA. Vaccines can receive the EUA from the FDA if they are only 50% effective, while the Pfizer and Moderna vaccines are 94-95% effective (Peltz, pp. 2-3).

Here is a partial list of medical facts about other vaccinations collected by Rabbis Washofsky, Prouser and Bleich, based on extensive medical literature:

**Smallpox:** Until Dr. Edward Jenner invented the vaccine in 1796, about 400,000 people died every year in Europe from smallpox. Thanks to the efforts of the World Health Organization, this deadly disease disappeared from the world in 1980.

**Polio:** Until the invention of the vaccine by Dr. Jonas Salk in 1955, there were up to 18,000 cases in the United States each year; today, there are 5-15 cases per year, mostly in people who have not been vaccinated.

**Diphtheria:** This was once a common disease with a mortality rate of 5-10%; today, there are less than 100 cases per year in the United States.

**Measles:** Before the 1960s, there were more than 500,000 cases per year in the United States and 6.6% of children who contracted measles during an epidemic died; today the number of patients has dropped by 99%. Those who have not been vaccinated are 35 times more likely to contract measles than those who are (Prouser, p. 10).

**Rubella:** In the 1965-1964 epidemic, 11,000 fetuses died in utero or by miscarriage and 20,000 infants born to mothers who had contracted rubella were born with blindness, heart disease and/or mental retardation. Today, the danger has almost completely disappeared thanks to the rubella vaccine (Washofsky, pp. 109-110; Bleich, p. 450).

**According to a 1992 medical report, the measles vaccine prevented 3.2 million deaths worldwide per year, and the polio vaccine prevented 450,000 cases worldwide per year** (Prouser, p. 5).

## V) The dangers of vaccines and opposition to vaccines

The Ramban, who was a physician, wrote in *Torat Ha'adam* in the 13th century regarding medicines: “what heals one person kills another” (ed. Chavel, p. 43). This is true, but today we have the scientific tools and medical statistics from around the world in order to know the mortality rate of each drug and vaccine.

Those who oppose vaccines claim they are “dangerous”. Indeed, Jeremy Brown reports that in France today 40% believe vaccines are unsafe, as well as 25% in Greece and Ukraine. But this is a false claim. Indeed, there are a very small number who die as a result of vaccines. For example, regarding the whooping cough (pertussis) vaccine, there is a 1 in 100,000 chance of contracting encephalopathy and a 1 in 300,000 chance of irreversible neurological damage. On the other hand, the rate of death from whooping cough in an unvaccinated child is 10 times that of a vaccinated child (Washofsky, pp. 111-112).

Indeed, according to a study published in 2007, the death rate from the smallpox vaccine is 0.7 per 100,000 people as compared to 10 out of 100,000 people who take aspirin every day to prevent heart attacks or 10 out of 100,000 people who drive cars (Cohen and Neumann).

In 1998, a group of 12 doctors published an article in the respected medical journal *The Lancet* in which they claimed that the measles vaccine (MMR) causes autism. That study caused a great uproar and many parents, especially in England, stopped vaccinating their children and the rate of measles infection in England rose dramatically. However, in 2005, 10 of the 12 physicians who had signed that study retracted their support for the article. It turned out that the lead researcher had falsified results, he then lost his license as a physician, and *The Lancet* finally printed a retraction in 2010 (Bleich, pp. 464-463; Bush, pp. 186-185).

Furthermore, more than twenty studies have been conducted seeking a link between the MMR vaccine and autism, including a study of over one million children. **There is absolutely no evidence that this vaccine is linked to autism** (Glatt, p. 57; cf. Prouser, pp. 6-8).

Indeed, regarding another medical issue, the Hida, Rabbi Hayyim Yosef David Azulai, has already ruled (Eretz Yisrael and Italy, 1724-1806; *Responsa Hayyim Sha'al*, Part II, No. 25): “We do not take into consideration a tiny minority”. Rabbi Avraham Nanzig, whom we shall quote below, wrote in 1785 that we do not take into consideration one in a thousand who died from the smallpox inoculation. “We do not

eliminate such a great benefit for the sake of such a tiny minority.” (*Aleh Terufah*, London, 1785, fol. 6b, quoted by Prouser, p. 13)

Similarly, Rabbi Herschel Schachter said that if the side effect of a vaccine is around one in a million, the concept of “his opinion is annulled by every person” should be adopted, so that a person should not be afraid of the vaccine (Glatt, pp. 65-66).

## VI) *Poskim* who support or even require vaccinations, in chronological order

Dr. Edward Jenner invented the smallpox vaccine in 1796. Since then, and even a little before that, most of the *poskim* who have dealt with this topic have supported that vaccine – and, later on, other vaccines – on the basis of some of the sources cited above, and some have even required vaccinations. I will present these *poskim* in chronological order, along with brief remarks regarding their views:

1. Avraham ben Shlomo Nansich or Nantzig, published a pamphlet entitled *Aleh Trufah*, London 1785. He was a *talmid hakham* but, apparently, not a rabbi. Two of his children died of smallpox. He passionately supported “variolation” or “inoculation”, a method which existed before Jenner's safer vaccine, in which pus is taken from a smallpox patient's wound and placed under the skin of a healthy person (see detailed summaries in Prouser, pp. 12-13; Eisenstein, p. 77; Brown; and he is mentioned by many of the rabbis listed in the Bibliography below). He saw in this method of inoculation the fulfillment of the above mitzvah of “And you shall guard your souls very much”.
2. Rabbi Yishmael Hacoen of Modena (1723-1811; *Zera Emet*, Part II, Livorno, 1796, *Yoreh De'ah*, No. 32; cf. Zimmels, p. 108) also dealt with the question of the “inoculation of the varioli”. Rabbi Bleich (p. 454) maintains that Rabbi Yishmael supported Dr. Jenner's vaccination, but it's clear from studying his responsum that he was still debating the older method of “inoculation”. On the one hand, he justified at the end of his first letter the custom of those places that do so, although there is the possibility that one in a thousand of them will die, “and especially since we have never heard or seen any of them die of this disease, according to the testimony of the doctors who testify according to the wisdom of their art, and even if we hear of someone who died from this treatment, in any case it's a tiny minority and we do not take this into consideration”. But at the end of his second letter, after the justification of the custom, he adds: “But in any case, for those who are afraid to rule [about this]... ‘sit and do nothing is better’ [i.e., it is preferable not to give a ruling], and silence is better as long as he is able to evade, to say neither prohibited nor permitted, as I answered whoever asked me about this, that I don't want to [rule] in a case of doubtful danger of death”. In other words, Rabbi Yishmael justified the practice of those who did inoculation, but when someone asked him whether to do so, he avoided answering. However, it should be emphasized that this whole discussion dealt with the older method of “inoculation”, and not with Dr. Jenner's much safer method of vaccination.
3. *Kuntress Hanhagot Yesharot* (Jerusalem, 1997, pp. 5-6, quoted by Prouser, p. 14), attributes the following ruling to Rabbi Nahman of Breslav (1772-1811):

And Rabbeinu z”l said **that they must set up *paken* for every baby before a quarter of a year, because if not, he’s like a shedder of blood**, and even if they live far from the city, he must travel there, even when the cold is great, etc.

*Paken* in Yiddish means pox, smallpox and the Hebrew phrase “to set up *paken*” is a translation from the Yiddish “*shtellen paken*”, to vaccinate against smallpox (Bochner and Beinfeld, *Comprehensive Yiddish-English Dictionary*, Indiana, 2013, p. 485). In other words, every parent must vaccinate his or her child up to the age of three months, even in winter and even if he lives far from the city and, if not, he is like one who sheds blood.

4. Rabbi Eleazar Fleckeles (Prague, 1754-1826) dealt with our topic together with his son-in-law, Rabbi Itzak Spitz of Breznitz in 1805 (*Teshuvah Mei’ahavah*, Kashoi, 1912, Nos. 134-135; cf. Zimmels, pp. 109-110). His son-in-law was asked by the community of Tashkin: if the non-Jewish doctor only comes to the city for one day on Shabbat in order to give *impfen* (vaccine or inoculation, in German and Yiddish), is it allowed to bring the baby to him for vaccination on Shabbat? Rabbi Spitz wrote that it’s only a rabbinic prohibition since they only make a small incision in the skin without shedding blood, so it’s permissible to tell the non-Jewish doctor to give the baby a vaccine because “the Sages did not decree against a double *shevut* [=telling a non-Jew to do a rabbinic prohibition on Shabbat] in cases of danger”. He writes that it’s preferable to do the vaccination on a weekday, but if it’s only possible on Shabbat, then the parents must do the vaccination on Shabbat, and it’s better not to assist the doctor, but if necessary, this should not be an obstacle “lest he delay and the blood of his sons is on his head”. Rabbi Fleckeles assumes that the doctor who comes to perform vaccinations is an expert who received permission from the chief doctor in the big city of Prague, the capital. He then he agrees almost verbatim with what his son-in-law suggested. In other words, they both agreed that Jews must vaccinate their children and even allowed the vaccination to be done by a non-Jewish doctor on Shabbat.
5. According to a report by R. Yehudah Leib Jeiteles (*Benei Hane’urim*, Prague, 1821, p. 72, quoted by Bleich, p. 454, note 17), Rabbi Mordechai Banet (Moravia, 1753-1829) supported the campaign of his father Dr. Jonas Jeiteles to vaccinate the Jews of Prague against smallpox. However, this does not appear in the writings of Rabbi Banet.
6. Rabbi Yisrael Lifshitz (Danzig, 1782-1860) permitted the smallpox vaccine in his commentary *Tiferet Yisrael* to Mishnah *Seder Moed*, published for the first time in 1844. We have learned in Mishnah *Yoma* 8:7 that if a person was buried under a house which collapsed on Shabbat or Yom Kippur, if they found him alive, they dig him out of the ruins. In the *Yachin* section (paragraph 41), Rabbi Lifshitz writes: “Even if he will only live for a short time, we are concerned for a short time”. In other words, we dig him out from under a pile of stones even though he will only live for a short time. In the *Boaz* section (paragraph 3), he adds: “And from this it seems to me permissible to make a pox inoculation, even though one in a thousand dies from the inoculation, in any case, if he develops natural smallpox, the danger is nearer, and therefore he may place himself in a distant danger to save himself from imminent danger.” He then proceeds to

prove his point from other sources. In other words, it is better to take a small risk by receiving the vaccine in order to avoid a much greater danger -- smallpox. And if he ruled in this fashion in his day when he thought that one in a thousand of those vaccinated die, how much the more so today when the death rate is one in 100,000.

Furthermore, in his commentary to *Avot* 3:12 (*Boaz* section, paragraph 1), Rabbi Lifshitz praises the *Hassidei Umot Ha'olam* [=the pious among the nations of the world]: “and some of them who did the most good to all the people on earth, like the Hassid [=pious] Jenner who invented the *pakenimpfung* [=smallpox vaccination], through which tens of thousands of people are saved from disease and death and disfigurement...”.

7. In 1896, a Jew named Henry Levy was arrested in London for refusing to vaccinate his son on the grounds that it was against his religion. The prosecutor, who was Jewish, turned to Rabbi Hermann Adler, the Chief Rabbi of Great Britain, who replied that this man “was not justified in making the statements contained in the letter; that the most competent medical authorities were agreed as to [the] vaccination being a prophylactic against smallpox, and added that its use was in perfect consonance with the letter and spirit of Judaism” (Bush, p. 186, based on the book *יהי אור*, published in London in 1897; cf. Eisenstein, p. 77).
8. Rabbi David Zvi Hoffmann (Berlin, 1843-1921), a well-known *posek* and the leader neo-Orthodoxy in Germany, did not deal directly with our topic. He ruled in his responsa (*Melamed Leho'il*, Part II, Berlin, 1927, No. 104), following R. Ya'akov Reisher (*Shevut Ya'akov*, Part III, No. 75), that if a child needs an operation and at least two-thirds of the doctors in the city agree that the surgery is necessary “**then surely the opinion of his father and mother does not make a difference**, for it says in *Yoreh Deah* 336 that a doctor is obligated to heal [as we saw in the above passage from Maimonides] and if he prevents himself from healing, then he is shedding blood. **And we have not found in the entire Torah that a father and mother have permission to endanger the lives of their children and prevent the doctor from healing them.** This is the law of the Torah”. In our case, almost all doctors in the world agree that children must be vaccinated and that this saves millions of lives every year. Therefore, one can assume that in the opinion of Rabbi David Zvi Hoffmann, children must be vaccinated according to the law of the Torah even if the parents object (Prouser, p. 24).
9. Rabbi Yitzhak Isaac Halevi Herzog (1888-1959), the first Ashkenazic Chief Rabbi of the State of Israel, discussed our topic tangentially in a responsum regarding the construction of a security fence on Shabbat during the War of Independence (*Heikhal Yitzchak, Orah Hayyim*, No. 31 = *Pesakim Uketavim, Orah Hayyim*, No. 45). He wrote there: “And I say that it depends on the expert doctors; if they say that [the plague] may spread and the population must be vaccinated by injections, even if this entails Biblically prohibited labor, if it was not done on Friday, it is permissible on Shabbat”.
10. The ultra-Orthodox *posek*, Rabbi Yosef Shalom Elyashiv (1910-2012; Lithuania and Jerusalem), discussed our topic twice. The first halakhic ruling is

quoted in an English book on Jewish medical ethics by Akiva Tatz from 2010, so it is very difficult to be precise in the halakhic terminology. Rabbi Elyashiv told the author orally that “parents should accede to immunization despite their concerns... his reason was that since immunization of children is normal practice throughout the world, one should follow that normative course. In fact, Rabbi Elyashiv went so far as to assert that failure to immunize would amount to negligence. Refusing childhood immunizations on the basis of unsubstantiated fears of vaccine side-effects is irresponsible and out of order halakhically. The danger of precipitating epidemics of measles, poliomyelitis and other diseases with potentially devastating complications is far more real than the dangers attributed to vaccines on the basis of anecdotal claims. Until objective evidence to the contrary accrues, the halakhically correct approach is to do what is normal. In addition, a legitimate government’s legislation concerning standards of medical conduct adds weight to their halakhic acceptability. (Quoted from Glatt, p. 70 = Bush, p. 199, note 41; cf. brief references by Bleich, p. 465; Grossman 2020, note 13).

In another ruling, in Hebrew, Rabbi Elyashiv ruled: "If most of the children in the class are vaccinated against a virus, and there are individual children whose parents have not vaccinated them, and there are parents in the class who are afraid of this, they can demand that the individuals act according to the majority and not turn into *mazikim* [=those who inflict damage]" (Bush, p. 200, note 47).

11. Rabbi Eliezer Waldenberg, a well-known expert in Jewish medical ethics (Jerusalem, 1915-2006), did not deal with our topic directly. He was asked in 2001 by the Director of the Ophthalmology Department at Bikur Holim Hospital in Jerusalem: Since 86% of all yeshivah students suffer from myopia and, as a result, a certain percentage go blind in one or both eyes, should we: require their parents to refer their children for supervision and treatment; require the institutions to refer all students for treatment; and require the public institutions to help prevent the development of this disease? Rabbi Waldenberg answered in the affirmative in a very decisive fashion to all three questions. He relied on the Rambam’s commentary to Mishnah *Nedarim* and on Rabbi Ya’akov Emden quoted above. He emphasized the commandments of “and you shall restore it to him” (Deuteronomy 22:2); “You shall not stand idly by the blood of your fellow” (Leviticus 19:16); "Love your neighbor as yourself" (*ibid.*, 18); and “You must not ignore” (Deuteronomy 22:3). (*Tzitz Eliezer*, Part 15, No. 40; quoted briefly by DiPoce and Buchbinder, pp. 97-98; Prouser, pp. 20, 23)
12. Rabbi Yitzchak Zilberstein, an expert in Jewish medical ethics (Bnei Brak, born 1934), dealt with our topic in a Hebrew letter published in English in 2015 (Zilberstein). He ruled that a Jew must vaccinate himself based on *Tiferet Yisrael* quoted above, *Minhat Shlomo*, and the *Hazon Ish*; the rabbi/posek of a school “has full rights to deny entry to those [unvaccinated] children into the school until they receive the vaccinations”; “senior citizens who the doctors have determined will be endangered if they do not take an annual flu shot, have a mitzvah to be vaccinated, and this will be a fulfilment of the requirement to guard one’s health [i.e., Deut. 4:9 and 15 quoted above]”.

13. “Agudath Israel of America” submitted an *amicus curiae* brief to the Supreme Court of the United States in 1996, arguing that: “Society has the right to compel citizens to submit to vaccination... [and] to insist that a child receive life-sustaining treatment even over the religiously motivated opposition of his parents” (Prouser, p. 15).
14. Rabbi Hershel Schachter (U.S., born 1941; Rosh Yeshivah at Yeshiva University) ruled “that where vaccines are mandated by the state, such as in the case of immunizations before entering school, one would be obligated to be immunized based on the concept of “*Dina d’Malchuta Dina*” [the law of the land is the law] (DiPoce and Buchbinder, p. 99; subsequently quoted by Glatt, p. 71).
15. The Conservative *posek*, Rabbi Elliott Dorf (U.S., born 1943) wrote in his book on Judaism's approach to medical ethics in 1998 (Dorf, p. 253) that “it would be a violation of Jewish law... for a Jew to refuse to be inoculated against a disease, at least where the inoculation has a proven track record of effectiveness. Jews, on the contrary, have a positive duty [a mitzvah? DG] to have themselves and their children inoculated against all diseases where that preventive measure is effective and available”.
16. The Reform *posek* Rabbi Mark Washofsky (U.S., born 1952) ruled in an official ruling of the Responsa Committee of the CCAR in 1999 that immunization is “proven” medicine [in the words of Rabbi Ya’akov Emden quoted above], and is therefore “part and parcel of the traditional obligation to practice and to avail ourselves of medical treatment”; Jewish tradition would not object to compulsory immunization; and “a congregation is entitled... to adopt a rule that requires immunization of students before their admission to religious school” (Washofsky, p. 115).
17. The Conservative *posek* Rabbi Joseph Prouser (U.S., born ca. 1960) ruled in 2005, with the consent of almost all members of the Rabbinical Assembly’s Committee on Jewish Law and Standards, that parents must vaccinate their children against infectious diseases unless a specific child has a medical problem preventing it; that failure to immunize children against vaccine-preventable disease is a serious compound violation of Jewish law; that Jewish day schools must require vaccination of all children against infectious diseases unless it endangers the life of a specific child; and that unvaccinated children should be denied admission to Jewish day schools (Prouser, p. 29).
18. Rabbi Shlomo Brody, an Orthodox rabbi, wrote in 2014 that “we must support the call of Israel’s chief rabbis, who have declared that Jewish law mandates that all children be vaccinated in accordance with Health Ministry regulations (Brody).
19. The Orthodox Union (OU) and the Rabbinical Council of America ruled on December 15, 2020 that “the Torah obligation to preserve our lives and the lives of others requires us to vaccinate for COVID-19 as soon as a vaccine becomes available” (OU/RCA).

20. Finally, two prominent modern Orthodox rabbis were so amazed by the fact that modern medicine has discovered a vaccine for Covid-19 in less than a year that they decided to recite a blessing in December 2020 before being injected. Rabbi Prof. Daniel Sperber recited a *Yehi Ratzon* from the Talmud (*Berakhot* 60a at bottom) before the injection and *Sheheyenu* after the injection, while Rabbi Avi Weiss recited the *Asher Yatzar* blessing (*Berakhot* 60b, usually recited after going to the bathroom) before the injection.

## VII) “God protects the simple”

Some of the rabbis who dealt with our topic debated the verse “*shomer peta'im Hashem*” – “God protects the simple” (Psalms 116:6), which appears as a halakhic concept in five passages in the Talmud. The Talmud means that there are certain behaviors that are dangerous, but since many have trodden that path and ignored the danger, “God protects the simple” and will protect them from danger. They summarize *Aharonim*, recent rabbis, who interpreted this concept in different ways and it's clear that there is no single acceptable way to interpret this concept (see DiPoce and Buchbinder, pp. 93-96; Cohen, pp. 105-110; Bleich, pp. 457-463). Therefore, I would like to repeat here what I wrote in my responsum against smoking (Golinkin, 5752, pp. 46-47) with slight modifications. Most of what I wrote then about a Jew who smokes also applies to a Jew who refuses to be vaccinated:

Rabbi Feinstein, Rabbi Bleich and others who refrained from banning smoking relied mainly on the Talmudic principle that “God protects the simple” (Psalms 116:6). These are the sources: According to the Amora Shmuel (*Shabbat* 129b), it's appropriate to let blood on Friday. The Gemara asks: But this is astrologically dangerous on a Friday at even hours! And it replies: Because many have trodden that path and “God protects the simple”. According to *Yevamot* 72a, it's dangerous to let blood on a cloudy day or on a day when a southerly wind is blowing, but now that many have trodden that path, “God protects the simple”. According to *Niddah* 31a, it's dangerous to have sexual relations on the ninetieth day of pregnancy, but Abaye allows it since “God protects the simple”. According to R. Eliezer (*Avodah Zarah* 30b), it's permissible to eat figs and grapes at night without fear of a snake's venom since “God protects the simple”. Finally, in *Yevamot* 12b (and many parallels) there is a disagreement between R. Meir and the Sages. According to Rabbi Meir, three types of women may use a *mokh* [= a method of contraception]. "But the Sages say: all of them may have normal sexual relations and Heaven will have mercy on them, as it is said “God protects the simple”.

On the basis of this principle, Rabbi Moshe Feinstein wrote in his first responsum about smoking (*Igrot Moshe, Yoreh De'ah*, Part II, No. 49): “Regarding smoking cigarettes, of course since one may get sick from this, it's appropriate to avoid this, but to say that it's forbidden because of *sakanta* [i.e., “danger is more serious than a prohibition” discussed above], since many have trodden that path it already says in the Gemara “God protects the simple” in *Shabbat* 129 and *Niddah* 31....”. However, many rabbis have already rejected this reasoning in five different ways:

A. Rabbi Eliezer Waldenberg (*Tzitz Eliezer*, Part 15, No. 39, p. 101) and Rabbi Neventzal (*Sefer Assia*, Vol. 5, p. 261) state that the Gemara only said this principle in a case where the danger has not been proven and the facts have not shown the opposite. But it's not appropriate to say "God protects the simple" where we ourselves can see that God does **not** want to protect. "Therefore, it's absurd to turn a blind eye to all this [= the scientific research about smoking] and to scoff and say that even in such a case "God protects the simple" (*Tzitz Eliezer, ibid.*).

B. The principle of "God protects the simple" applies when the public is really made up of "simple people" who do not know the scientific facts, but today every smoker has heard and read dozens of times that smoking is dangerous and, if he ignores it, he is not "simple" and God does not protect him (Prof. Moses Aberbach, *Tradition* 10/3 [Spring 1969], pp. 56-57; and cf. *Terumat Hadeshen* quoted in *Pe'er Tahat Efer*, Jerusalem. 5749, pp. 78, 79). So too regarding vaccinations; every adult has heard or read that vaccinations save lives.

C. When the Sages were **certain** that there was danger, they decreed against drinking from a water pipe and exposed water, as we saw above, and did not use the principle of "God protects the simple". This principle is only used in cases of doubt. Smoking is a **certain** danger and therefore the rule does not apply (Prof. Aberbach, p. 57; and cf. Rabbi David Feldman, *Marital Relations, Birth Control and Abortion in Jewish Law*, third edition, New York, 1974, pp. 201-203 for a similar explanation regarding the *mokh*).

D. Rabbi Hayyim David Halevi (*Aseh Lekha Rav*, Part 9, pp. 54-55) explains that the rule that "God protects the simple" only applies in the event that the danger is "a hidden matter, incomprehensible by logic ... But in a case where the damage is apparent and understood according to [the laws of] nature and is also entirely visible to the naked eye, how can one say that 'God protects the simple' and allow it?!" So too regarding contagious viruses. Everyone can see with his own eyes that anyone who walks around without a mask or refuses to be vaccinated endangers his own life.

E. Rabbi Hayyim Yosef David Azulai, the Hida, mentioned above, wrote that the principle of "God protects the simple" should not be relied on regarding things that were not explicitly mentioned in the Talmud or the Rishonim (*Responsa Hayyim Sha'al*, No. 59, quoted in *Pe'er Tahat Efer*, p. 82). If so, it should not be relied on in our case as well.

### **VIII) Is it permissible to force people to be vaccinated or to vaccinate their children?**

We have already seen that quite a few rabbis think that it's permissible to force people to be vaccinated or to vaccinate their children. There is, however, a group of *poskim* today who say that vaccines are desirable and recommended, but it's not possible to force a Jew to get vaccinated and it's not possible to force a parent to vaccinate his children, and if the parent refuses, the child is still allowed to enter school. According to Rabbi Asher Bush (p. 198), this is the opinion of Rabbi Shlomo Zalman Auerbach

and Rabbi Yehoshua Neuwirth in Israel, as well as of Rabbis Herschel Schachter, Mordechai Willig, and J. David Bleich in the U.S. This was also the ruling of the Reform *posek*, Rabbi Walter Jacob, in 1992 (Jacob). Here, for example, are the words of Dr. Avraham Sofer Avraham (Avraham, p. 360):

There is no doubt that the series of vaccines that are commonly given to a baby prevents diseases from it and the population, but there are parents who are afraid of the very small risk involved. Rabbi Yehoshua Yeshaya Neuwirth Shlita told me that due to this fear, it's not possible to halakhically decide for [= force?] parents that they must vaccinate their children, even though it's obligatory to try to influence them greatly in order to convince them. And this is the law re. giving a vaccine against a viral disease of the liver or against smallpox if necessary. (But cf. DiPoce and Buchbinder, pp. 96-97 who translate another quote of Rabbi Neuwirth with a more positive approach to vaccines).

Furthermore, Rabbi Bush summarizes (pp. 205-211) a controversy regarding the MMR vaccine that occurred in the ultra-Orthodox town of Lakewood, New Jersey between the years 2009-2012. Many of the rabbis there supported vaccines and encouraged the Jewish day schools to prevent unvaccinated children from entering the school. However, the Dayyan Rabbi Shmuel Meir Katz, following Rabbi Shmuel Kamenetzky, wrote that every individual is entitled according to halakhah to choose whether to vaccinate his children or not, and schools do not have the right to deny a child acceptance to the school on the grounds that he or she has not received the MMR vaccine. They even wrote that it is against "*Da'as Torah*" to force someone to vaccinate their children if civil law does not require it.

The same ambivalent attitude to vaccinations appears in the joint press release of the Orthodox Union (OU) and the Rabbinical Council of America (RCA) of November 2018. On the one hand, they "strongly urge all parents to vaccinate their healthy children on the timetable recommended by their pediatrician... There are halakhic obligations to care for one's own health as well as to take measures to prevent harm and illness to others... Therefore, the consensus of major *poskim* (halachic decisors) supports the vaccination of children to protect them from disease, to eradicate illness from the larger community through so-called herd immunity, and thus to protect others who may be vulnerable".

However, the final sentence serves to cancel out all that preceded it: "While the health of children is an important consideration, everyone should consult with his or her religious, medical and legal advisors in determining what actions to take" (cf. Brown who emphasizes the contradiction in this statement).

1. With all due respect, this approach is surprising and, in my opinion, completely incorrect. We have already seen above the views of Rabbis David Zvi Hoffmann and Eliezer Waldenberg in similar cases. A parent has no halakhic right to endanger his children. Furthermore, no one has the halakhic right to endanger the public in general or the student public in particular as we shall see below.

2. As Rabbi Washofsky emphasized (pp. 114-115), according to the Talmud (*Bava Batra* 8b) and many *poskim*, the "*Kahal*" [the Jewish community] has the right to enact *takkanot hakahal* [communal enactments or regulations]. Indeed, I emphasized in

another context that the State of Israel is a modern version of the “*Kahal*” (Golinkin, 2000, pp. 90-91). Therefore, a synagogue or a school or the State of Israel may enact a *Takkanah* or a regulation that an unvaccinated child is not allowed to enter a school.

3. Rabbi Alfred Cohen (pp. 101-102) writes that in the opinion of most *poskim* it’s permissible to prevent a pregnant woman from eating things which harm her fetus. And if it’s permissible to prevent a Jew from harming a fetus, which is not yet a *nefesh* [soul] according to Jewish law (see Mishnah *Oholot* 7:6), how much the more so is it possible to prevent one Jew from harming another by not wearing a mask or not being vaccinated.

4. I have already ruled in my responsum against smoking (Golinkin, 5752, pp. 48-49) and in my responsum against the phosphate quarry near the city of Arad (Golinkin, 2011, pp. 346-348) that it’s forbidden to smoke in a public place or build a phosphate mine near a city so as not to harm other people, based on the concept of “*geirei dilei*”, or “his arrows” (see there). In the case of a highly contagious disease such as measles or Covid-19, a person's breath is similar to an arrow which is capable of killing others, as we saw at U.S. election rallies and large Israeli weddings in 2020. Therefore, a Jew must wear a mask and must be vaccinated so as not to harm others. As Tosafot emphasized (*Bava Kamma* 23a, s.v. *ulehayev*): “**A person should be more careful not to harm others than not to be harmed**”.

5. Rabbi Mordechai Halperin, a well-known expert in Jewish medical ethics, went even further. He wrote in an email in February 2012 **that one can look at an individual who refuses to be vaccinated during an epidemic as a *rotzeah bigrama*, an indirect killer who is liable to punishment by the laws of Heaven** (Glatt, p. 69, note 27).

### **IX) Summary and practical halakhah**

In conclusion, since the discovery of the smallpox vaccine by Dr. Edward Jenner in 1796 it has been proven beyond a shadow of a doubt that vaccines against infectious diseases save the lives of millions of people every year while only a very small percent experience complications or die. Therefore, there is a halakhic obligation for Jews to vaccinate themselves and their children, unless their doctors determine that it’s dangerous for that specific person to be vaccinated due to a pre-existing condition. Similarly, it’s halakhically permissible for a school or a synagogue anywhere in the world or the government of the State of Israel to enact a *takkanah* or regulation that one must receive a vaccination and to prevent an unvaccinated person from entering a synagogue, a school, or a shopping mall.

May God help the doctors finish developing, testing and disseminating the vaccines against Covid-19 as soon as possible in order to save humanity from this terrible plague.

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13 Tevet 5781

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