

## CUTTING THE LINE TO RECEIVE THE COVID-19 VACCINE

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שליט"א Rabbi Rimon Shalom

I would like to ask the Rabbi's opinion about waiting one's turn in order to receive the COVID-19 vaccination. Is one obligated to wait for his governmentally-generated place in line to receive an appointment to get the vaccine or may one cut the line in order to receive it earlier? Would the rules be any different if the person seeking to cut the line was someone who suffered from an extremely debilitating Anxiety Disorder and/or health-related Obsessive Compulsive Disorder who is currently not functioning well due to the pandemic – whom, if s/he receives the vaccine earlier will likely cope better? Would the rules be any different for a Talmid Chacham? For an orphan or a widow? Would the location – a private doctor versus a public clinic – make any difference?

Thank you

Rabbi Yehonatan Schwartz

שליט"א Rabbi Schwartz Shalom

Within your question, there is a lot to respond and I will try instead to write in brief.

The Gemara (Sanhedrin 8a) states:

כקטן כגדל תשמעון. אמר ריש לקיש: שיהא חביב עליך דין של פרוטה, כדין של מאה מנה. למאי הלכתא: אילימא לעיוני ביה ומיפסקיה - פשיטא: - אלא: לאקדומיה.

*"You shall hear the small and the great alike" (Deuteronomy 1:17). Reish Lakish says: This teaches that the judgment of one peruta should be as dear, i.e., important, to you as the judgment of one hundred maneh, i.e., ten thousand dinars. The Gemara asks: With regard to what halakha is this said? If we say it is with regard to the need to study it carefully and to decide the case justly, it is obvious that even cases relating to small sums must be judged thoroughly. Rather, Reish Lakish was speaking with regard to giving it precedence: The small claims case may not be deferred in favor of the larger claim merely because the disputed sum is smaller.*

The Gemara tells us that in regard to court cases, the dayanim (judges) need to take the first cases first.

This is also the way the matter is decided in Shulchan Aruch (Choshen Mishpat 15:1)

צריך הדיין שיקדים לדון הדין שבא לפניו תחלה,

*The judge must allow the one who comes to Beit Din first, to have his case heard first.*

However, the Bach and the Sma (sif katan 1 and 5) explain that the intention is not that you are obligated to have the first in line go first. Rather, the issue here is when the court has already started to judge a case, we do not stop that case to begin a different one in the meantime.

But all of that which has been discussed so far is only in regard to the judges. From the perspective of the litigants, there is an obligation to follow set rules. The Gemara (Sanhedrin 32b) states:

כדתניא: צדק צדק תרדף - אחד לדין ואחד לפשרה. כיצד? שתי ספינות עוברות בנהר ופגעו זה בזה, אם עוברות שתיהן - שתיהן טובעות, בזה אחר זה - שתיהן עוברות. וכן שני גמלים שהיו עולים במעלות בית חורון ופגעו זה בזה, אם עלו שניהן - שניהן נופלים, בזה אחר זה - שניהן עולין. הא כיצד? טעונה ושאינה טעונה - תידחה שאינה טעונה מפני טעונה. קרובה ושאינה קרובה - תידחה קרובה מפני שאינה קרובה. היו שתיהן קרובות, שתיהן רחוקות - הטל פשרה ביניהן, ומעלות שכר זו לזו.

*As it is taught in a baraita: When the verse states: "Justice, justice, shall you follow," one mention of "justice" is stated with regard to judgment and one is stated with regard to compromise. How so? Where there are two boats traveling on the river and they encounter each other, if both of them attempt to pass, both of them sink, as the river is not wide enough for both to pass. If they pass one after the other, both of them pass. And similarly, where there are two camels who were ascending the ascent of Beit Choron, where there is a narrow steep path, and they encounter each other, if both of them attempt to ascend, both of them fall. If they ascend one after the other, both of them ascend. How does one decide which of them should go first? If there is one boat that is laden and one boat that is not laden, the needs of the one that is not laden should be overridden due to the needs of the one that is laden. If there is one boat that is close to its destination and one boat that is not close to its destination, the needs of the one that is close should be overridden due to the needs of the one that is not close. If both of them were close to their destinations, or both of them were far from their destinations, impose a compromise between them to decide which goes first, and the owners of the boats pay a fee to one other, i.e., the owners of the first boat compensate the owner of the boat that waits, for any loss incurred.*

According to the *baraita*, if there is a bigger danger to one of the people or a bigger challenge to one of the people, that person should take precedence. If everyone is on equal terms, "they should compromise" – in other words, they should create a lottery between them and see who should go first. If one goes first, that one pays the other for any loss that waiting might cost.

The Meiri notes that if everything is equal then we give preference to the person closest in line.

כיצד שתי ספינות עוברות בנהר ופגעו זו בזו אם עברו שתיהן בבת אחת טובעות בזו אחר זו שתיהן עוברות וכן שני גמלים שהיו עולים במעלת בית חורון ופגעו זה את זה עברו שניהם בצד אחד נופלים בזה אחר זה עוברים כיצד נעשה טעונה ושאינה טעונה תדחה שאינה טעונה מפני הטעונה קרובה לעירה ורחוקה מעירה תדחה הקרובה מפני הרחוקה שתיהן קרובות או רחוקות שתיהן טעונות או אין טעונות הטל פשרה ביניהם ומעלות שכר זו לזו וכן כל כיוצא בה כל שאנו רואים שיכול לסבול העכוב ביותר ידחה מפני חברו וכן בריא מפני חולה וכל כיוצא בזה אף לענין הדין אמרו שאם היו לפני הדיין הרבה בעלי דינין מקדימין יתום לאלמנה ואלמנה לתלמיד חכם ותלמיד חכם לעם הארץ ואשה קודמת לאיש מפני שבשטה מרובה ואם הכל שוה מקדימין לקודם:

*Where there are two boats traveling on the river and they encounter each other, if both of them attempt to pass, both of them sink, as the river is not wide enough for both to pass. If they pass one after the other, both of them pass. And similarly, where there are two camels who were ascending the ascent of Beit Choron, where there is a narrow steep path, and they encounter each other, if both of them attempt to ascend, both of them fall. If they ascend one after the other, both of them ascend. How does one decide which of them should go first? If there is one boat that is laden and one boat that is not laden, the needs of the one that is not laden should be overridden due to the needs of the one that is laden. If there is one boat that is close to its destination and one boat that is not close to its destination, the needs of the one that is close should be overridden due to the needs of the one that is not close. If both of them were close to their destinations, or both of them were far from their destinations, impose a compromise between them to decide which goes first, and the owners of the boats pay a fee to one other, i.e., the owners of the first boat compensate the owner of the boat that waits, for any loss incurred. The same applies to similar situations – whenever we see that one can handle the delay more than the other, that one should wait for the other. The same is true for one who is healthy waiting for one who is sick and similar situations. Even in regard to court cases we say that that if the Dayan has many cases we give precedence to the orphan and the widow before the Talmid Chacham and the Talmid Chacham before the Am Haaretz. We also give precedence for women before men since their embarrassment is greater. However, if all things are equal, we give precedence to the one who comes first.*

From the Meiri we learn two important rules:

1. He who suffers more should come first; and
2. when the conditions are equal we give precedence to the one earlier in the line.

And as we have seen, the source for this is the *passuk* “Justice, justice, shall you follow” which establishes that there is a right for a group to set social rules for itself in regard to precedence and since this is the agreement of the community, one may not break those rules.<sup>1</sup>

These rules are connected to issues like Jewish courts and wasting time (as in the case of the boats). What would the *halacha* be in regard to issues of health and saving lives?

There is a famous Gemara in Bava Metzia (62a) that states:

ורבי יוחנן, האי וחי אחיך עמך מאי עביד ליה? - מבעי ליה לכדתניא: שנים שהיו מהלכין בדרך, וביד אחד מהן קיתון של מים, אם שותין שניהם - מתים, ואם שותה אחד מהן - מגיע לישוב. דרש בן פטורא: מוטב שישתו שניהם וימותו, ואל יראה אחד מהם במיתתו של חברו. עד שבא רבי עקיבא ולימד: וחי אחיך עמך - חייך קודמים לחיי חבריך.

*The Gemara asks: And Rabbi Yochanan, what does he do with this verse: “And your brother shall live with you”? The Gemara answers: He requires the verse for that which is taught in a baraita: If two people were walking on a desolate path and there was a jug [kiton] of water in the possession of one of them, and the situation was such that if both drink from the jug, both will die, as there is not enough water, but if only one of them drinks, he will reach a settled area, there is a dispute as to the halakha. Ben Petora taught: It is preferable that both of them drink and die, and let neither one of them see the death of the other. This was the accepted opinion until Rabbi Akiva came and taught that the verse states: “And your brother shall live with you,” indicating that your life takes precedence over the life of the other.*

According to Rabbi Akiva according to whose ruling we follow (according to most *poskim*), the *halacha* is that “your life comes before that of your friend.” And if that is so, then perhaps in our case as well, when we speak about the promotion of life, each person must do everything in his/her power to save himself.

But that is not correct. We do say that “your life comes first” but only when the water belongs to YOU. This is not the case when the water (= vaccine) is in the hands of the government and its rules (whether decided on the basis of the line or the health need) and theroretically belongs to the other person and you are attempting to take it away from him.

On the other hand, in the case of the water, if one drinks the water, it does not help the other person at all. However in the case of the vaccine each person who receives the vaccine helps contain the spread. According to this argument if someone is in greater danger should receive precedence in receiving the vaccine (see what we have written earlier in regard to who comes first).

However, one should know that not all instances of “line cutting” are cases of stealing someone else’s turn. There are many factors that determine the rules of receiving the vaccine. Sometimes we speak about the number of available doses. But at other times we speak about people – all of whom will receive it – but they are pressured because they work in the healthcare industry. In these cases there is no question of line cutting on a personal level. This is the extra responsibility of the doctor and it is not taking away from everyone else.<sup>2</sup>

Another example: When we wait in line and there is an understanding that whomever comes first goes first, it is forbidden to cut the line. However, when there are two people with similar levels of danger and the line is running on a “first come first served” model, it seems that if one pressures to get an earlier spot in line this would not be called “line cutting”. This is because they have added other criteria in determining the order of the line.

Sometimes, someone is in a certain category of danger but for whatever reason the person has not received his turn and they are calling those who should definitely be after him on line. In this case, if he tries to get ahead in line, there is no damage as he is at greater risk than they are (as we explained in the name of the Meiri).

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1 We should also consider the issue of *ani hamihapeich b'charara* (a case where someone is already involved in acquiring something) where the Rishonim have a major debate as to whether it is applicable to a case of acquiring an object that was either lost or from *hefker*. Rashi maintains that even in these cases one cannot forge ahead and acquire the object before the other person is about to do so. Rabbeinu Tam maintains that it only apply to business acquisitions from another where the first person can argue “Why are you intervening and taking away MY deal? Go and make your own!” The Shulchan Aruch (Choshen Mishpat 237:1) quotes both of these reasons and the Rema rules like Rabbeinu Tam. Accordingly in our case, if the person passed in line would not be able to receive the vaccine elsewhere, the rule of *ani hamihapeich b'charara* would not apply and we would need to return to the issue of *tzedek tzedek tirdof* and social rules as described in the text.

2 Even where it look like there is a preference that may intrude on someone else’s turn, one could argue that it might still be up to the doctor to determine preference (assuming neither is deathly ill) based on a question of “value.” See the writings of Rabbi Yitzchak Zilberstein in “Halacha and Refuah III,” p. 91, and Rabbi Dr. Itamar Wahrhaftig in “Techumin XII,” p. 124.

**Therefore it appears**, when we speak of a person who should be receiving the vaccine based on his level of risk or his workplace or some other similar criteria, but it will take some time until he receives the actual vaccine due to the overwhelming pressure on the medical staff, it seems that he may try to cut the line. However, if the person is not in a category of people who are supposed to receive the vaccine now, he needs to wait until the time they call for the people in his grouping to receive the vaccine.

Now, even here there are certain cracks as a result of turns that fell through and it happens that a person who is ready to appear for the vaccine on a moment's notice would not be taking someone else's turn. Thus, one needs to be careful not to take someone's turn but there are also times where one can cut the line either for health reasons or because of open vaccines that would otherwise go to waste.<sup>3</sup> In these cases there is no damage to anyone else and the taking of the turn would not be forbidden.

Allow me to close with two stories:

About 11 years ago I received a phone call from one of the assistants of the late Rabbi Noach Weinberg ר"צ"ל (Rosh Yeshiva of Aish HaTorah). He told me that Rabbi Weinberg was in the hospital and wanted me to visit him. I had never met him before and was wondering why he wanted me to visit. So I immediately agreed and set out to the hospital. When I got there, I was received warmly by Rabbi Weinberg. A nurse came in and asked me if I could wait outside for a few moments as they were moving Rabbi Weinberg to a different room. After a few moments they invited me back inside. Rabbi Weinberg had been moved to a much nicer room with more space. I was happy for him. Suddenly he became agitated as he saw someone else's bed in the hall and he worried that his room was being switched with the other patient's. He only got calm when they assured him that the other patient had been transferred to a different ward and the room was indeed, free.

After things calmed down, Rabbi Weinberg apologized, "I'm sorry that I troubled you to come but I wanted to thank you for helping the people of Gush Katif. We were not able to do significant things but you have been our Shaliach." I was moved to hear those words and even more moved to realize that while in a bed in a hospital, Rabbi Noach Weinberg was thinking about the people of Gush Katif. "I will go with you to these places and we will try to speak about Gush Katif, We will try to convince others to join your efforts." His promises did not come to fruition as he died a few months later but it was uplifting to me to see that even in his hospital bed, Rabbi Weinberg was continuing with the same gusto and despite his challenges he was totally focused on his morals even if it came at his own expense.

One more COVID story: I have been brought many different ways to get the vaccine. I have refused. I am 53 years old and the decision of the department of health is to vaccinate those who are 60 and above. Last Thursday, my assistant Gilad told me that he sees that there are extra doses in Ashkelon and they are now vaccinating those 50 and above as they were worried that if they did not, the extras would be wasted. So I told him, "Let's go to Ashkelon." We went. As we got there, we were informed that seven minutes earlier they had changed the vaccination age to 55. Gilad told me that there were extra doses in Ofakim. We were getting ready to travel to the distant area of Ofakim when Gilad heard that there were extras in Kiryat Gat and they were vaccinating all age groups. We went to Kiryat Gat and after a short wait we were both vaccinated. I was very happy. I was happy that I was able to help stop the waste of a vaccine. I was happy to be vaccinated. I was happy that by being vaccinated I was helping to stop the spread of the pandemic. It is exciting to see that the State of Israel is vaccinating at a faster rate than any country in the world. And it is a great *zechut*, a great merit to be a part of the effort to eliminate this pandemic. I returned a few hours later and used the time to learn and to prepare answers to the many questions and I was happy that I didn't need to "cut the line" and actually saved a vaccination dose from going to waste.

We can all do our best to properly wear masks on our faces covering both nose and mouth, by following all of the COVID-19 rules and by taking the vaccine. And with Hashem's help, we will be able to see the entire Jewish people and the entire world healed from this horrible pandemic speedily.

May Hashem's blessings be upon you,

**Yosef Zvi Rimon**

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3 Some of the COVID-19 vaccines need to be stored at temperatures that are -70 degrees. Once they are defrosted, you must use them or they go to waste. Thus, when there are extra vials that have been defrosted, they try to give them to others. Usually, they try to set guidelines based on age. In these cases it is a *mitzva* to go get the vaccine as you are helping to fight the pandemic by being another vaccinated person as opposed to allowing another dose go to waste.