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The Medical Cosmology of Halakha: The Expert, the Physician, and the Sick Person on Shabbat in the *Shulchan Aruch*

Zackary Berger (Johns Hopkins School of Medicine & Johns Hopkins Berman Institute of Bioethics)

ABSTRACT

One of the best-known principles of halakha is that Shabbat is violated to save a life. Who does this saving and how do we know that a life is in danger? What categories of illness violate Shabbat and who decides? A historical-sociological analysis of the roles played by Jew, non-Jew, and physician according to the approach of "medical cosmology" can help us understand the differences in the approach of the Shulchan Aruch compared to later decisors (e.g., the Mishnah Berurah). Such differences illuminate how premodern medical triage coexisted with a different halakhic understanding than that of the biomedical age.

One of the best known principles of halakha is that Shabbat is violated to save a life: "even Shabbat regulations, despite their testimony to the doctrine of divine creation, are suspended when a life is in danger."[1] Who does this saving and how do we know that a life is in danger? What categories of illness violate Shabbat and who decides? Examining halakhic cases may help us understand the system's underlying principles.[2] Section 328 of the *Shulchan Aruch* (SA), Rules of the Sick on Shabbat, considers which sicknesses, in which circumstances, meet this definition.

A traditional halakhic analysis would conduct a close reading of textual variations to understand how the legal principle was originally formulated in the Talmud, then follow its variations through the codes, perhaps with some view to how individual *poskim* (halakhic decisors) interpreted the halakha and a discussion of those *poskim's* own personal philosophies and societal context.[3] While the *Shulchan Aruch* is of course a child with a pedigree, we consider here its text as a synchronic unit to understand how its organization and taxonomy reflect an underlying categorization.

What organizing principles might motivate the definitions that must underlie such a principle? What contextual circumstances help determine whether a life is in danger for these purposes, how the live is to be saved, and by whom? We will take a medical sociological approach to this question,[4] and hopefully illuminate the elements that, below ground, hold up the edifice of this halakhic structure. At the same time, appreciation of the social structures that are part and parcel of medicine and health as seen by halakha might also make possible a more embodied appreciation of medical sociology—that is, how the body and its dysfunction is interpreted and viewed by those social structures. These elements will comprise healing roles—ways in which illness is approached—and illness types, as well as categories of persons relevant to halakha (basically, Jews and non-Jews). For example, in Section 328 of the *Shulchan Aruch*, we read, "An internal wound does not need approval [by an expert prior to Shabbat desecration], for even if there are not experts present and the sick person says nothing, we do everything for him that would normally be done on a weekday. But if it is possible

to wait for this particular illness and desecration is not necessary, it is forbidden to desecrate for him even though it is an internal wound."[5]

I acknowledge that as in many rabbinic texts, the categorizations and settings are not the taxonomies solely of the *Shulchan Aruch* itself. That is, even a synchronic understanding of the text should also understand that such categorizations have changed over time—indeed, were likely changing at the time of the text's composition. However, we extract these categorizations in static fashion in order to make sense of the view of illness and its treatment in terms of the *Shulchan Aruch*.

With a view to such categorizations, I constructed a taxonomy (Table 1) of the ways in which healing role and type of illness are related in the laws of Shabbat and illness, concentrating not on the details of intervention but on the identification of illness and the type of healer who is named in association with it. The goal is to identify structures in the concepts that underlie the halakhot and to generate hypotheses regarding how these structures might operate.

I hypothesized, before constructing this taxonomy, that a *rofeh* (physician), due to greater expertise, would be more often adduced as the healer for various Shabbat-relevant illnesses, and the opinion of the sick individuals themselves, or expert nonphysician healers, would be less relevant. In contradistinction to this hypothesis, however, we see in Table 1 several boundaries in the *Shulchan Aruch* between varieties of healing: layperson knowledge, expertise (of the *mumcheh*), and specialized expertise such as a physician's. For example, the layperson is entrusted to determine that an internal wound is life threatening (as noted earlier, SA 328:4). These boundaries include area of the body: sensitive limbs (e.g., hands and eyes) and viscera (the *chalal*) are given pride of place; life-endangering illness; and physicians' procedural expertise also mark boundaries between permitted treatments on Shabbat. Thus,

TABLE 1. Healing roles and types of illness: desecrating shabbat to save a life according to the shulchan aruch

Healing Roles	Type of Illness				
	Sensitive limbs	*Viscera*	*Animal wounds*	*Life-endangering illness*	*Aches and pains*
Nonexpert or not specified	Wound on the back of the hand or of the foot Wound in anus Pain/discharge in eye	Every internal sore	Swallowing a leech Mad dog bite Fatal earth-creeper bite	Wound done by iron High fever or chills Furuncle or abscess Outside wound	General pains
Non-jew	Endangered body part	Every internal sore (including tooth extraction)			
Non-jew vs. Jew	In general, if a disease is life threatening, Jew preferred to non-Jew				
expert				Noninternal wound Outside wound	
Physician				Outside wound	
Sick person				Noninternal wounds	

Based on *Shulchan Aruch Orach Chaim* 328, Rules of the Sick on Shabbat.

not only illness and type of healer matters in categorizing the halakhic view of illness on Shabbat, but other categories as well. How are we to understand the importance of these categories? What larger story do they tell?

MEDICAL COSMOLOGY AND THE *SHULCHAN ARUCH*

In order to understand how these taxonomies might reflect a broader implicit view of illness and healing, I refer to a classic paper in medical history and sociology, "The Disappearance of the Sick Man from Medical Cosmology, 1770–1870."[6] The author there defines the term "medical cosmology" as "metaphysical attempts to circumscribe and define systematically the essential nature of the universe of medical discourse as a whole." That is, much as cosmology as a broad intellectual endeavor aims to depict the structure of the visible universe, medical cosmology does so in reference to the entire observable universe of medicine. Jewson traces the ways in which production and producers of medical knowledge shifted the subject of knowledge about disease from the sick man to the organ and, finally, to the cell (Diagram 1). While the *Shulchan Aruch* was composed before the period treated in Jewson's article, his methodology can still be applied, as has been done by a number of authors in understanding how the patient is constructed in the premodern era.[7] Much as modern sociologists of health understand how the structure of medicine and its institutions presuppose a particular view of the sick person, the "medical cosmologist" engages in a similar activity, understanding a premodern architecture of such institutions.[8]

Jewson's concept of the "production of medical knowledge" is thus relevant to the era of the *Shulchan Aruch*, but in a different way. Rather than an institutional infrastructure of such knowledge (e.g., hospitals, laboratories, doctors' surgeries), the halakhic text can be seen to represent how the severity of disease and the role of healers are "known" in the context of Shabbat. Seen in this way, the relevant social institution of health, as seen in the *Shulchan Aruch*, is Shabbat itself.

The *Shulchan Aruch* is not concerned with the production of knowledge. Rather than an explanation of how the types of illness are determined or distinguished, the text lists them, trusting the reader to know how they are defined—concerned instead with the presentation, or perhaps the construction, of knowledge in halakhic terms. Rather than systematizing presentation of illness in terms of treatment or diagnosis, the classification here is heterogeneous, focusing on experiences common to everyday life afflicted by acute illness (insect bite, wounds, other trauma) and therapeutics, not on diagnoses.

DIAGRAM 1 Three modes of production of medical knowledge

	Patron	Occupational role of medical investigator	Source of patronage	Perception of sick-man	Occupational Task of medical investigator	Conceptualization of illness
Bedside medicine	Patient	Practitioner	Private fees	Person	Prognosis and therapy	Total psychosomatic disturbance
Hospital medicine	State; hospital	Clinician	Professional career structure	Case	Diagnosis and classification	Organic lesion
Laboratory medicine	State; academy	Scientist	Scientific career structure	Cell complex	Analysis and explanation	Biochemical process

In this regard, how should we understand the "conceptualization of illness" in this portion of the *Shulchan Aruch*? It is one not mentioned by Jewson—neither a total psychosomatic disturbance, nor an organic lesion, nor a biochemical process (all of which would, of course, be anachronistic in the time of the *Shulchan Aruch*). It is not a complete disruption of the organism but rather a disruption sufficient to put the person in danger. The text is dealing here with acute illness, a disruption to be addressed in the moment. This is a prognosis of likelihood; illnesses are considered here only to the extent that they will likely become severe enough in their effects so that "saving a life on Shabbat" is necessary. (This prognostical understanding of the *Shulchan Aruch* does not accord with the interpretation of some traditional halakhic interpreters of the text or expounders of its bioethical relevance.[9] I believe this is to be explained, as noted above, in their diachronic methodology: the definitions of illness in the *Shulchan Aruch* are derived from certain distinctions in the Talmud about wounds that are, or not, susceptible to human healing (versus Divine miracle). However, as a text of medical cosmology, in which a certain view of the sick is laid out for discussion and interpretation, I believe it can also be understood synchronically.

This might seem obvious: of course, the *Shulchan Aruch* is dealing with prognoses, because these are the halachot of *pikuach nefesh* (saving a life) on Shabbat. Our question, however, is how *pikuach nefesh* is to be defined. It could have been approached diagnostically or through discussion of cases and worldly experience with illness (there are frequent such descriptions of exemplar cases in the *Shulchan Aruch*, e.g., in which persons carry objects or travel on beasts of burden, and what happens to them as Shabbat arrives). Instead, a prognostic emphasis is evident.

A COSMOLOGY OF TRIAGE

Given the prognostic information presented in the halakhic texts, it is clear that this section of the *Shulchan Aruch* does not present a conceptualization of medicine (or health care knowledge) at all. This is not a medical cosmology governed by a particular kind of production of medical knowledge but rather by witnesses and participants. Only those present at the time of the acute illness will know what sort of threat to the patient is present. In contradistinction to Jewson's model of "bedside medicine," this is better termed "home medicine," for which the primary question is: how acute is this illness and what should be done about it?

For that reason, there is no overarching system but rather differing, incommensurable categories of objects in the *Shulchan Aruch*'s classification. Nor is there much detailed discussion of lasting consequences of these acute symptoms, because the focus is on what needs to be done in the moment. As anyone experienced in acute illness knows, the emphasis on triage may deemphasize diagnosis once it becomes clear that the patient's life is not in danger.

What are the roles of the various actors in this halakhic drama—the Jew, the non-Jew, and the doctor? Part of the answer has to do with what actions are available at the time of the acute illness. The doctor is able to triage and treat. A non-Jew might be available in the way that an expert is not. But there is more than just action. In the halakhic sphere, different actors are entrusted with a halakhic gaze of greater or lesser import. The presence of the Jew, non-Jew, doctor, or expert has a different effect.

In the halachic medical cosmology as applied to Shabbat, the Jewish gaze is the one that must make the determination and triage (after all, that is the audience of the *Shulchan Aruch*). The presence of the non-Jew (who is able to intervene on Shabbat in the way that the Jew cannot) helps make the illness susceptible to treatment

or intervention. First, however, the illness must be subject to triage, either by a physician, an expert, or a mere sick person (the latter, in this case, a Jew). All classes of participants must be considered to comprise a complete picture of this premodern medical halakhic cosmology. Additional parallel texts would provide a fuller picture regarding when or whether these categories are fungible, whether a lay healer can perform the functions of a doctor, and whether a non-Jew can be considered as a Jew in certain cases of triage.

DEVELOPMENT IN LATER TEXTS

The history of medicine, especially in the modern age, moves from the patient at the center to a pathophysiological understanding of illness for which a biomedical approach implemented by the physician is seen as potentially effective in a way that premodern approaches were not.[10] Thus, in later texts, it is not surprising that the physician's authority is mentioned in certain categories of illness where it did not appear earlier. For instance, Table 2 shows that in the *Mishnah Berurah*, a twentieth-century text (composed squarely in the period in which a rich development of pathophysiological understanding of medicine with attendant institutions was regnant in Europe and elsewhere[11]), the expert's and the physician's involvement are cited in all life-threatening illnesses. In a source-based halakhic analysis, legitimately, the focus would be on the provenance of that difference. Here, though, we are interested in what the presence of the expert and physician in that category (different from the *Shulchan Aruch*, in which the physician or expert's opinion is not

TABLE 2. Healing roles and types of illness: desecrating Shabbat to save a life according to the Mishnah Berurah

Healing roles	Type of illness				
	Sensitive limbs	*Viscera*	*Animal wounds*	*Life-endangering illness*	*Aches and pains*
Nonexpert or not specified	Wound on the back of the hand or of the foot Wound in anus Pain/discharge in eye	Every internal sore, **including gums and scurvy, even if expert and physician disagree**	Swallowing a leech Mad dog bite Fatal earth-creeper bite	[Wound done by iron High fever or chills Furuncle or abscess Outside wound]	General pains
Jew	**[in general, forbidden acts to be done only if a non-Jew not available and there is risk of worsening; non-Jew preferred if the act is deoraita]**				
Non-jew	Endangered body part	Every internal sore (including tooth extraction)			
Expert				**All life-endangering diseases** Noninternal wound Outside wound	
Physician				**All life-endangering diseases** Outside wound	
Sick person				Noninternal wounds	

Based on *Mishnah Berurah Orach Chaim* 328, Rules of the Sick on Shabbat.

required for every illness considered in the context of Shabbat) might mean for the medical cosmology reflected in the text. It seems possible that the medical knowledge represented by the physician or the expert is seen in this later text to be more necessary for healing.

A text slightly earlier than the *Mishnah Berurah* but also composed in the modern era, the *Kitzur Shulchan Aruch* (1874) helps provide a further hypothesis regarding the spread of the notion that severe illness requires action on Shabbat. We do not dispute the halakhic correctness of the position, but the emphasis placed on this single judgment without the detail of the *Shulchan Aruch* or *Mishnah Berurah* provides a new, more homogeneous medical cosmology with a prominent center.

The *Kitzur Shulchan Aruch* (Box 1)[12] states at surprising length—compared to the *Shulchan Aruch* itself and the *Mishnah Berurah*, which serves as commentary on the *Shulchan Aruch*—the necessity of saving a life on Shabbat. Many differences obtain here between the *Kitzur* and the *Shulchan Aruch*, including the eliding of the distinction between a Jew and non-Jew. Most striking, however, is the final statement in the excerpt: "And even if he does not say so definitely, but merely that it appears to him thus, he is believed, and Shabbat is broken for that reason, since when there is a case of doubtful endangerment of a life, one should be lenient [regarding Shabbat prohibitions]…."

From a cosmology of triage, we have arrived at something else. Given the comparative lack of detail about categories, it is difficult to say for certain what gestalt of medical care, or approach to illness, is represented in the *Kitzur*. It is not out of the question, however, to speculate that the reason *pikuach nefesh* is emphasized rhetorically in the *Kitzur* is that medical knowledge, infrastructure, professionalism, and involvement in daily life

BOX 1. The Necessity of Saving a Life on Shabbat

Shulchan Aruch:

Everyone who actively goes about breaking the laws of Shabbat in a dangerous situation is praiseworthy, even if he completes some other action in achieving it, for example, cast a net to save a child who fell into the river and at the same time caught some fish, and suchlike things.

Kitzur Shulchan Aruch:

Shabbat is set aside for saving a life like all other mitzvot in the Torah, so someone of proper religious status who is dangerously ill, [or] even if he is someone who occasionally breaks a halakhah due to force of appetite, or is a one-day-old child, one is commanded to break Shabbat for him; if the sick person does not want this, he is forced to agree to it; and a person who chooses not to be treated because of some prohibition is idiotically pious; and of him it is said, "I will demand the blood of your souls". Everyone who actively goes about breaking the laws of Shabbat in a dangerous situation is praiseworthy. Even if a non-Jew is available we make an effort to do it by means of a Jew, because everyone who breaks Shabbat for a dangerously ill person, even if he is not needed, is rewarded.…And even in the case of doubt whether a life is being saved, one is commanded in that case to break the laws of Shabbat, and to perform all manner of deoraita prohibitions, because nothing stands in the way of saving a life, for it is written that one should live by them, that is to say live and not die, apart from *avodah zarah* and shedding blood and forbidden sex for which one should be killed rather than perform…

Any person who says, "I recognize that this sick person is dangerously ill," if there is no expert physician there to contradict him, he is believed and for him Shabbat is broken. And even if he does not say so definitely, but merely that it appears to him thus, he is believed and Shabbat is broken for that reason, since when there is a case of doubtful endangerment of a life, one should be lenient [regarding Shabbat prohibitions]….

From *Shulchan Aruch*, Section 328 and *Kitzur Shulchan Aruch* 92 (translations by Zachary Berger).

was more prevalent and influential, as well as more recognized as a separate category, in the Hungary of 1874 than in the Safed of 1563. There are many other differences in textual style, halakhic philosophy, authorship, organization, and provenance that might make such a simple speculation difficult in comparing these two texts, of course. A potential route to ground such a hypothesis would be to trace the development of the medical cosmology in commentators on the *Shulchan Aruch* from the premodern era to the modern day. While this is outside the scope of this essay, we note that in commenting on the *Shulchan Aruch*, section 328, the eighteenth-century scholar Abraham Gombiner—in his commentary *Magen Avraham*—indicates, with respect to whether an external wound should be treated on the Shabbat [section 10],[13] that we listen to a physician who says to treat even if another does not. To the contrary, in the *Shulchan Aruch*, the indication is that, in such a setting of disagreement, there are those who say not to listen to the physician ("because even a lay person is something of an expert").

These texts in the *Kitzur* and the *Magen Avraham* are consistent with a contemporary notion that illness can, in general, be treated and triage is less important than prompt treatment. Thus, illness on Shabbat is not subject to as strict a categorization; rather, there is a vehement encouragement to intervene as soon as possible, with the promise of eschatological merit. Again, supplementary halakhic texts from a contemporary milieu would help flesh out and support this hypothesis. One question to consider is how to explain the differences between the nearly contemporaneous *Kitzur Shulchan Aruch* and the *Mishnah Berurah* noted above. One relevant historical consideration might include the circumstances of the composition of the *Kitzur* as a novel halakhic compendium seeking to strengthen halakhic observance in a modern milieu.[14]

FRAGMENTED BIOMEDICINE AND THE SICK ON SHABBAT

The laws of the sick on Shabbat in the *Shulchan Aruch* sit uneasily in the context of modern health care, a medical cosmology that could be called Fragmented Biomedicine. As we have hypothesized, the *Shulchan Aruch* considered synchronically is chiefly concerned with triage of a limited number of life- and health-threatening conditions. In contradistinction, our contemporary biomedicine considers its realm to be the entire body but does not direct its gaze in a consistent or overarching way at the entire whole of health.

Fragmented Biomedicine involves a sophisticated system of knowledge generation, production, defense, and dissemination that is under the control of physicians, payors, and jurisdictions. Physicians are incentivized to produce biomedical knowledge over which they have control. Payors of medical costs consider biomedical justifications that are stated and supported by physicians.

Perhaps most relevant to the modern situations analogous to those in the *Shulchan Aruch* are modern diagnoses. Diagnoses are supported by an entire infrastructure of knowledge and incentives. No layperson diagnosis is admitted into the biomedical canon of knowledge unless it is dignified with a biomedical diagnosis. It has often been said that doctor and patient inhabit different worlds and that the biomedical knowledge of the former explicitly does not adopt or allow the worldview of the latter.[15] Aligning these diagnoses with triage is a complicated matter even in the contemporaneous setting of urgent or emergency care, which might—in its life- and limb-threatening circumstance—be considered most analogous to the health circumstances discussed in the *Shulchan Aruch*. That is to say, it is often not clear which acute health circumstances found in the modern cosmology of biomedical knowledge are analogous with which triaged prognoses in the *Shulchan*

Aruch. Is necrotizing fasciitis —a life-threatening limb wound due to so-called "flesh-eating bacteria"—an "external" or "internal" wound? Are wounds to the eye to be considered in a separate category?

The difficulty in making sense of the laws of *pikuach nefesh* in a contemporary biomedical environment might be owed at least in part to the different role played by triage in the *Shulchan Aruch* versus contemporary health care. Triage now is inseparable from diagnosis; prognosis and diagnosis are interdependent in a way that was probably not the case in premodern medicine, in which the former was the more prominent element of practice and diagnostic techniques and testing were lacking. It is perhaps this intuitive understanding of the difference in the health care milieu in modern times as opposed to the premodern era that leads many halakhic decisors and analyzers to adopt the direction of the *Kitzur* and grant modern medical professionals almost carte blanche in deciding what threatens life and limb, without (as in other halakhic circumstances) trying to analogize cases to those in the codes.

However, such analogizing could still be pursued by undertaking something we have not done here: a detailed comparison of roles in the health care world between those in the *Shulchan Aruch* and those in our day. The technological armamentarium of Fragmented Biomedicine might mandate a different understanding of the relevant halakhot, whether dependent on a classification of the individuals present (who is an educated layperson today? Who is an expert?) or a revised understanding of what treatment may be possible.

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