



Mental Illness as *Mitzta'er*

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שאלה

I am a rabbi of a large (400+ families), suburban shul. Because of my training, I am aware that there is a percentage of people in all communities who are dealing with a range of mental health issues, often unknown to anyone else in the community. I have made real efforts to make people feel comfortable approaching me about these issues if they are in need of halakhic or religious guidance, and a number have done so. Some of the people who have approached me suffer from Depression, PTSD, borderline personality disorder, other underlying conditions that may cause panic attacks, and even self-harm, such as cutting, scratching, hair-plucking, etc. In many of these cases, people have reported that if they are able to distract or soothe themselves with some interrupting behavior, they can, occasionally, prevent the panic attack or self-harm.

These interrupting behaviors are not always appropriate on Shabbat. Many involve electricity. Some, particularly in the case of self-harm, involve strenuous exercise. On rare occasions, they may even involve a מלאכה דאורייתא, like writing or sewing.

These people are intelligent and clearly are בני דעת. By and large, they live totally capable and self-sufficient lives. Yet, sometimes, they desperately need these interventions. Those who engage in cutting with and other forms of self-harm, tell me that they occasionally feel like they're going to die. However, in my discussions with their mental health professionals, I have come to the conclusion that none of them are presently in any immediate life threatening danger. I suspect that פקוח נפש is off the table.

What is the halakhic status of people like this, in terms of the degree of leniency I can take when they ask permission to do these acts on Shabbat? How should I treat the behaviors they use to distract and soothe themselves when they are experiencing panic attacks or the urge to self-harm?

תשובה

פקוח נפש **and** שוטה

We agree with your assessment that the people who are approaching you are in the halakhic category of בני דעת. As we have written elsewhere,¹ the consensus of the פוסקים is that the category of שוטה refers to psychotic disorders that prevent a person from perceiving reality.² People in the midst of psychotic episodes truly have no דעת. They cannot trust their senses, and are unable to distinguish between reality and fantasy. This is not the case for people with the kinds of diagnoses you are describing. Even if they behave in highly eccentric ways (self-harming for instance, or behaving as though their life is in danger), their cognitive perception is reliable. It is a feeling or mood that makes them act in this way, as opposed to a hallucinatory episode.³

¹ See Fried and Resnikoff, ע"ד מי שחולה בחולי השטיון, unpublished, 2021

² See the chapter on the topic by our teacher Rav Yonatan Rosensweig, the first in his monumental volume נפשי בשאלתי.

³ One piece of evidence for this, gleaned in our conversations with mental health professionals, is that many people who self-harm *don't want* to do it. They feel awful and they want to feel better. Their

Regarding פקוד נפש, our research, limited to questions about self-harm, has revealed much the same result as you report with one caveat. Although it is true that people who self-harm are typically not in immediate danger, self-harm is one of the best predictors for suicide attempts and completed suicides.⁴ This being the case, we will not jump immediately to פקוד נפש, but we do feel that ספק פקוד נפש should be kept on the table, at least for the people who self-harm. (It goes without saying that anyone with a suicidal level of depression would be treated as a case of פקוד נפש, but it sounds from your question like none of the people you are dealing with are on that level.)

Halakhic Categories: מצטער and חולה

Considering that we have temporarily taken danger to life (סכנת נפשות) off the table, what category is appropriate for people who suffer from mental illnesses that express themselves in brief, sharp, attacks like panic attacks or self-harm?

In determining the halakhic status of mental illness in his book *Nafshi BiShe'elati*, מו"ר Rabbi Yonatan Rosensweig takes an approach that is reflective of the conventional halakhic understanding of צער. We will present the baseline framing in the Gemara and Shulchan Arukh before going on to explicate Rav Rosensweig's specific contributions.

Suffering and Sickness

The following two sections are dedicated to describing the dominant halakhic position regarding צער. This can be summarized as folding the case of צער into the case of חולי. That is, different kinds of suffering are treated halakhically as types of sickness (נפל למשכב, מיוחד, etc.). Rav Rosensweig's approach to mental illness is essentially an expansion of this dominant thread.

The rules of illness are spelled out in the Gemara and שו"ע⁵. The Gemara writes, שבת קכ"ט ע"א, כדבר עולא בריה דרב עילאי דאמר כל צרכי חולה נעשין ע"י ארמאי בשבת וכדבר המנוא דאמר רב המנוא דבר

experience is that cutting makes them feel better. Despite this, they hold out as long as they can. Finally they cut, and then feel remorse for having given in.

⁴ Our teacher Rabbi Dov Linzer asks the following question on this assertion, does this mean that a person who actually self harms is more likely to attempt suicide than a person who desires to self harm but manages to prevent themselves from doing it? Or does it mean that people with the impulse to self harm (irrespective of whether they actually follow through with it) are more likely to attempt suicide? It is difficult to determine the answer to this because of the impossibility of running a controlled study. However, Dr. Amy Kranzler, assistant professor of psychology and behavioral science at Einstein Medical School, notes, "One of the leading theories for why self-injury leads to increased risk for suicide is the idea of 'acquired capability'. What this refers to is that most of us have an instinctual desire to avoid pain and it is difficult for us to inflict pain on ourselves. However, over time, we can "acquire" the capability to harm ourselves by gradually harming ourselves in increasing levels of severity. The thought is that initially mild self injury builds capability for more severe self injury, which leads to capability to attempt suicide. This is part of one of the leading theories of suicide risk. (Private communication, Sep. 23, 2023)" This would suggest that continued cutting puts a person in greater danger of suicide than a person who is able to refrain from cutting.

⁵ או"ח שכ"ח סי"ז

Non- life- threatening illness may be dealt with by way of instruction to a non-Jew. שאין בו סכנה אומר לנכרי ועושה

Similarly, the Gemara in Ketubot (60a) says: תניא רבי מרינוס אומר גונח יונק חלב בשבת מאי טעמא 'יונק מפרק כלאחר יד ובמקום צערא לא גזרו רבנן אמר רב יוסף הלכה כרבי מרינוס (גונח) and requires milk. It concludes that they may suck the milk directly from the udder of the goat. Since this is an unusual manner of milking (כלאחר יד) it is permitted in the presence of צער. According to most poskim, milking on Shabbat is a מלאכה דאורייתא.⁷ It therefore follows from this Gemara, that one may do a מלאכה דאורייתא by way of צער for the sake of alleviating צער.

in the case of גונח (permitted with a שינוי) seems close to what we see in the previous source regarding חולה. A שינוי is not so far from having a non-Jew do the act. Both are forbidden and are different from the way we might perform the act on a weekday (היכר). Already in the Rishonim, we see the beginning of a movement to simplify the association by folding צער into the category of חולה.

The key association between צער and חולי comes from the Ramban.⁸ In ספר תורת האדם⁹ he writes, מיחוש שאדם חולה ממנו ונופל למשכב ואין בו סכנה התירו בו שבות שאין בו מעשה דהיינו אמירה לגוי. ובמקום צערא לא גזרו רבנן מפני שהן נעשין בשינוי שלא כדרך... וכן התירו בו שבות דמלאכה הנעשית בשינוי.¹⁰ In other words, suffering has the same rules as sickness. If it is so bad as to be debilitating, even if it isn't life threatening, we treat it as though it were sickness and permit צער by way of a non-Jew or by way of שינוי.¹¹

⁶ The Gemara and Rishonim cite conditions, none of which are specific enough to us to tell us how much pain the suffering person experiences. We can only understand the degree of pain based on the halakhic permission that accompanies the condition. This will present challenges in the continuation.

⁷ There are a minority of poskim who consider milking to be דרבנן and thus only permit a דרבנן in an unusual manner. See above, footnote 10, for the sources.

⁸ Rabbeinu Tam, as quoted in the Tosafot (Ketubot, 60a, s.v. גונח) is actually the one to start this process. In comparing this passage with a contradictory one in Yevamot (114a) he writes, התם מיירי בצער. של רעב והכא בצער של חולי שהוא קרוב לסכנה. Rabbeinu Tam assumes a connection here between suffering and sickness. The kind of צער that can permit מלאכה with a שינוי is צער as a result of illness, not natural and predictable suffering like hunger. Rabbeinu Tam's phrase קרוב לסכנה is not picked up by most Rishonim and Achronim. Interestingly, the Ramban in ס"א ע"א seems to say something similar. In ספר מלחמות כת' ס"א ע"א, תורת האדם, of course he says something very different.

⁹ מה' שעוועל, שער המיחוש, עמ' כ"א

¹⁰ The ר"ן on the ע"א שבת ס"א ע"א cites the Ramban as saying that צער is only sufficient to deflect a דרבנן. It seems, however, that he didn't see the Ramban's full language, indeed, where the Ramban writes שש"כ שבות הנעשה בשינוי, the ר"ן writes, התירו בו שבות דמלאכה הנעשית בשינוי op. cit.

¹¹ Rabbi Dov Linzer, has suggested that both the language of Rabbeinu Tam and the Ramban (as well as the Tur, Shulchan Arukh, and Rema in the continuation) are noting an analogy between צער and חולי, not an equation. That is, צער does not constitute an illness. Rather, the experience of צער is treated halakhically the same way we treat illness. This is not certain in our opinion. Rabbeinu Tam's use of the phrase צער של חולי, and the Ramban's reference to מיחוש שאדם חולה ממנו, might be interpreted as a complete equation between them. Rabbi Linzer's assertion is most likely correct, however, and this leaves the space we will need to search for an independent category of מצטער.

Psak of the Shulchan Arukh

Shulchan Arukh (O.C. 328:17) rules like Ramban that for a חולה שאין בו סכנה (in the absence of איסור בשינוי או שינוי) one may either do אמירה לנכרי or שינוי.¹² Though the permission to do an איסור בשינוי for a חולה שאין בו סכנה is derived from the Ramban equating the categories of חולה and צער, the Mechaber does not explicitly mention צער in this סעיף. The Rema, however, makes the equation explicit, noting או שיש לו מיוחד שמצטער וחלה ממנו כל גופו שאז אף על פי שהולך כנופל למשכב דמי.¹³ The Rema adds two important points here. The first is the addition of צער as we said. The second is the nuance that it is not necessary for the person to need to lie down in order for the צער to count as חולה שאין בו סכנה, it is sufficient for them to simply feel the pain in their entire body.¹⁴

Shulchan Arukh equates חולה and צער at a lower level as well. In סימן שז סעיף ה, he permits איסור דרבנן for someone who is מקצת חולי and immediately proceeds to give an example of asking a non-Jew to bring water through a חצר שלא עירבו for someone who is מצטער. Similarly in 328:31, he quotes the case of the broken fingernail, permitting a דרבנן בשינוי for someone experiencing צער, presumably at a lower level than מצטער כל גופו.¹⁵

Rav Rosensweig's Expansion of Shulchan Arukh's Psak

We have seen to this point that the dominant approach in the Halakha is to consider צער and חולי as a single category. The Shulchan Arukh paskens this implicitly, and the Rema makes it explicit. Rav Rosensweig, in seeking halakhic categories for mental illnesses, follows this paradigm with a significant creative expansion. Essentially, he draws parallels between physical and mental illness based not on the subjective experiences of suffering, but rather on the outcomes of the physical and mental conditions.

Rav Rosensweig looks at three different categories of danger/illness that allow for overriding Shabbat: מיוחד בעלמא, mere discomfort; חולה כל הגוף / חולה שאין בו סכנה, an illness that affects the entire body; and סכנת אבר, risk of limb. He then draws analogies between those and different cases of mental illness. We now turn to examine these one by one.¹⁶

Trivial Discomfort (מיוחד)

¹² The language of Shulchan Arukh suggests that he is only permitting a דרבנן בשינוי (see Mishnah Berura (ס"ק נ"ד). This likely reflects that he only saw the Ramban as quoted in the Tur and did not see the Torat Ha'adam inside, where the Ramban explicitly permits even a דאורייתא בשינוי. Most acharonim (other than the Mishnah Berura) are lenient on the basis of the language in the Torat Ha'adam. See above, fn. 10.

¹³ In סעיף לג, the Mechaber quotes the case of גונח and there explicitly permits חולי בשינוי for the sake of צער as well. He quotes Rabeinu Tam's limitation of this to צער של חולי as opposed to צער של רעב as a יש אומר, and Mishnah Berura (108) assumes this is how we rule. The Mishna Berurah further assumes that no one actually disagrees with Rabbeinu Tam, though this is subject to debate.

¹⁴ There is a machloket as to whether the pain must be felt in the entire body or whether intense pain in one part of the body is sufficient. See below fn. 20.

¹⁵ We remind the reader that there is a מחלוקת אחרונים whether extreme צער in one limb is equivalent to חולה כל הגוף. See fn. 7.

¹⁶ Because of the structure of this teshuva, we address the different cases of חולי in reverse order from that adopted by Rav Rosensweig himself.

Regarding *מִיחוּשׁ*, Rav Rosensweig writes, (=*בעל מִיחוּשׁ*) *מי שיש לו צער מועט (=בעל מִיחוּשׁ)*, *מצטער שווה לצער מועט*. *הוא מי שחוליו הנפשי כמעט אינו משפיע או מקשה על יכולתו לתפקד באופן רגיל יחסית בשגרת חיו*.¹⁷

Physically this refers to people who experience discomfort which does not impede on their ability to function normally (slight headaches, stomach aches, etc.). This equivalency seems apt. It is a truism in the mental health community that an idiosyncrasy¹⁸ that does not meaningfully affect one's ability to function, is not considered mental illness. Thus, mental complaints that can be easily ignored or overcome greatly resemble minor physical discomforts.

חולה שאין בו סכנה

Rav Rosensweig continues his halakhic analogy between physical and mental illness by looking at the case of someone who has a full-body illness but is not in any life-threatening danger. He writes, חולה שאין בו סכנה שווה לצער. מי שהגדרתו ההלכתית היא זו, הוא מי שחוליו הנפשי משפיע בצורה משמעותית על יכולת התפקוד שלו בענייני החיים המרכזיים והחשובים בחייו, ומקשה עליו את יישומם, ואף על פי כן אין הוא משבית לחלוטין את יכולתו לעסוק בהם.¹⁹ People who suffer from mental disturbance such that their lives are significantly affected, but not disabled, fall into the category of non-permanent debilitating illness.

The physical parallel to this is someone who is so ill that they need to lie down (נפל למשכב). Alternatively, someone who is in such pain that it affects their entire body²⁰, despite the fact that they are able to walk and, possibly, function to some extent, also falls into this category.²¹ Just as a person with a stomach bug, a migraine headache, or significant back pain is greatly limited in their experience of Shabbat,²² so someone suffering from mid-level depression, PTSD, or occasional panic attacks may be similarly limited. Therefore, just as we are permitted to ask non-Jews to do even Torah prohibitions (לאוין דאורייתא) for the purpose of the sick person's recovery or comfort, or do them ourselves in an unusual manner (כלאחר יד),²³ we should be able to do the same for a person suffering from mental illness. From a halakhic perspective this analogy is precise. From an experiential perspective, it is possible that a mental disturbance may feel different, from a physical malady.

סכנת אבר

¹⁷ *Nafshi Bish'elati* p. 40.

¹⁸ Even psychotic idiosyncrasies like believing one is the messiah, etc. only require care when they impede a person's ability to function. Halakhically, we may hold differently. Rav Moshe Feinstein, for example, would categorize this person to be a שוטה.

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²⁰ It is a debate in the acharonim whether כל גופו is דווקא, or whether a localized, but extremely intense, צער can be halachically equivalent to כל גופו. See שמירת שבת כהלכתה, chapter 34, fn. 4. We are inclined to agree with the latter approach.

²¹ At least according to the רמ"א (see שו"ע שכ"ח סי"ז).

²² Once again we use Shabbat as our test case simply because our actual case (ט"ו) is couched as a *hilkhot Shabbat* question.

²³ See שו"ע שם. Although it appears in the שו"ע here that we can only prohibit rabbinic prohibitions בשינוי, most Achronim agree that this is true even of איסורים דאורייתא (see עמ' תקנ"ה הע' י"ח (שש"כ הוצ' ג' עמ' תקנ"ה הע' י"ח)). See also Rav Rosensweig's analysis (נספח ו פרק ה) pp. 389-392 for cases where דרבנן's may even be done without a שינוי.

The final category we'll address (actually the first in Rav Rosensweigs classification) is his most creative. He writes, "סכנת איבר שווה לצער גדול. מי שהגדרתו ההלכתית היא זו, הוא מי שחוליו משפיע עליו" ²⁴. Just as a person who loses a limb is prevented from engaging in their life as fully as they could when their body was whole, so a person who suffers intense mental illness, may be cut off from central aspects of their life (employment, recreation, romantic attachment, etc.). This parallel then carries over into the halakhic *מיקא מינה*. Just as a person who is at risk of losing a limb is permitted to violate *Shabbat* ²⁵ on *איסורי דרבנן* without requiring a *שינוי*, a person whose mental illness cuts them off from central parts of their life unless they engage in certain acts (which might violate *Shabbat*) is so permitted.

Given the apparently thoroughgoing equation in Shulchan Arukh between the cases of *חולי* and *צער*, it makes sense that Rav Rosensweig worked within this categorization, creating a third and highest level of *צער*, halachically equivalent to *סכנת אבר*, that would permit all *איסורים דרבנן* even without a *שינוי*.

The trouble with this approach is that there is not a perfect parallel between the outcomes of a person in danger of losing a limb and a person whose mental illness prevents them from participating in central parts of their lives. In the first case, the immediate action to save the limb is a one-time dispensation without which the person will suffer permanent loss. This may not be the case for a person whose mental illness, even if left untreated on *Shabbat*, may prevent them from participating in central areas of their life on *Shabbat* itself, but who will be able to resume full functionality after *Shabbat*. Their potential loss is not permanent. If they have no method that permits them to return to their lives, then what purpose does allowing them to violate *Shabbat* serve?

It may be the case that the expansion of this person's experience is a cumulative process, and that stopping the process every *Shabbat* might cause a delay or even a regression in their gradually improving mental health. If this is so, however, then we must limit the case of *סכנת אבר* in mental illness to people whose improvement will be indefinitely delayed or permanently set back by the weekly break in their routine. People who continue to improve, but more gradually than they otherwise might, constitute a gray area.

Finally, this analogy, in many cases, may leave a significant gap between the language of the halakha and the lived experience of the person keeping it. We acknowledge that this is not unknown in halakha. However, the desire to keep the halakhic language as close as possible to lived experience is not a trivial motivation, both for the sake of the halakha itself, as well as for the people keeping it.

Application to the *שאלה*

²⁴ הר"ר יונתן רוזנצוויג, נפשי בשאלתי, עמ' 38

²⁵ שו"ע או"ח שכ"ח סי"ז. It is convenient for us to consider the analogy from the point of view of *hilkhot Shabbat* even though there are many other halakhic implications. The reason is simply that our *shailah* is a *hilkhot Shabbat shailah*.

Having examined the strengths and weaknesses of Rav Rosensweig's categories, we now move to examining their applicability to our case. The obvious place to situate people described in the *shailah*, people who are able to function largely with occasional interruptions of sharp distress, would be the second category חולה שאין בו סכנה.

There are three difficulties with this determination. On the one hand,, a person suffering from the kinds of mental anguish described in the *shaila* can often function more successfully than a typical חולה כל הגוף. On the other hand, their experience of suffering may be much greater than a typical case of physical צער גדול and may warrant more significant קולות than this category provides.

Because Rav Rosensweig focuses on the outcome of the illness, rather than the severity of the suffering (which, we acknowledge, is difficult to measure), a person suffering extreme anguish and possibly needing more significant accommodations, remains in a less severe category. This is our primary motivation to consider mental illness using suffering, מצטער, as our operative category rather than mapping it onto physical illness.

To summarize, we have seen that the Shulchan Arukh based on the Ramban largely folds the category of צער into the category of חולי. This exists at the level of נופל למשכב as well as at the level of מיחוש. Based on this, Rav Rosensweig's assumption of a third category of צער, equivalent to סכנת אבר, makes sense. We will see in the continuation, however, that there is evidence that some rishonim and achronim preserve an independent category of צער without folding it into סכנת אבר. This independent category may be fruitful in dealing with the kinds of mental illness brought in the שאלה.

מצטער

Before we dive into the source material, we will frame the discussion by noting the benefits of the מצטער category, if we can successfully establish it. Rav Rosensweig writes, חייית החולי של החולה במחלת נפש (שאינן בו סכנה) היא עצם הצער. This is an important observation in terms of the lived experience of people suffering from mental illness. The experience of someone with depression, for example, may not be one of clinical illness, but more of general bad feeling or mood. Thus a halakhic category that recognizes this suffering and doesn't put it in unfamiliar or awkward terms will resonate more with the person following the halakha and confirm for them that the Torah reflects their experience.

The flip-side of this is true as well. Our teacher Rabbi Dov Linzer has noted that it is important, for the halakha's sake, that it be perceived as naturally fitting the case in question rather than being unnaturally stretched. Thus there are benefits to identifying a person suffering from mental illness as מצטער, even if there are no significant מיונות. It is possible, however, that the category of מצטער does, in fact have legal distinctions from חולי in terms of membership in the category and scope of the היתרים or איסורים that it presents.

מצטער as a Category in Hilkhot Shabbat

We find three discussions of *צער* with regard to הלכות שבת in the Halachic literature, two explicitly in the Gemara, and one in the Rishonim. The first is the case of גונח that we mentioned above (Ketubot 60a). The other two are presented below:

1) The Gemara in Shabbat (94b) says:

תניא ר"ש בן אלעזר אומר צפורן שפירש רובה וציצין שפרשו רובן ביד מותר בכלי חייב חטאת מי איכא מידי דבכלי חייב חטאת וביד מותר לכתחלה? הכי קאמר פירשו רובן ביד מותר בכלי פטור אבל אסור לא פירשו רובן ביד פטור אבל אסור בכלי חייב חטאת. אמר רב יהודה הלכה כרבי שמעון בן אלעזר. אמר רבה בר בר חנה אמר רבי יוחנן והוא שפרשו כלפי מעלה ומצערות אותו:

The conclusion of the sugya is that a person who is experiencing *צער* may remove their fingernail on Shabbat only if it is by hand and mostly off already. This suggests that *צער* is not sufficient to permit a מלאכה דאורייתא with a שינוי. In the case where the fingernail has not already mostly come off, cutting it with a tool would be חייב חטאת. Therefore, doing it with a שינוי would still only be אסור אבל פטור. Only when a majority of the fingernail is already detached, where cutting it with a tool would be אסור אבל פטור, is cutting it with a שינוי permitted in the case of *צער*.²⁶ Therefore, as opposed to the first Gemara, the conclusion here would be that only a דרבנן בשינוי is מותר for a case of *צער*.²⁷

2) The Gemara in Shabbat (107a) says: אמר שמואל כל פטורי דשבת פטור אבל אסור לבר מהני תלת דפטור ומותר... המפיס מורסא בשבת אם לעשות לה פה חייב אם להוציא ממנה לחה פטור וממאי תלת דפטור ומותר. דפטור ומותר דתנן מחט של יד ליטול בה את הקוקץ Shabbat, as long as one is not intending to make an opening. The Gemara does not explicitly mention *צער* as a factor here, and indeed the Rambam (Hilchot Shabbat 10:17) and משנה מגיד (ad loc.) explain the sugya without reference to *צער*. Rashi (s.v. פטור) and Tosafot (s.v. וממאי), however, explain that draining the boil should otherwise have been אסור דרבנן and is permitted in this case only because of *צער*.

One could have read Rashi and Tosafot's permission as limited to this specific case. Tosafot, however (Shabbat 135a s.v. מפני) extrapolate a general principle from this case to permit a woman to express milk on Shabbat in a case of *צער*, which they say is דרבנן because of מלאכה שאינה צריכה לגופה. This would be the widest permission we find a ראשון

²⁶ The *עמוד לגזל כגזל* is לא פריש רובו and פריש רובו מ"ב ש"ק צ"ו argues that the difference between פריש רובו and פריש רובו is an additional סניף to allow the מלאכה by way of a שינוי. The *ע"ש שם ס"ק מ"א* on the other hand, argues that the question is actually whether there is a lot of pain (פריש רובו) or not. We tend towards the מ"ב's interpretation because it is hard to see how, according to the *ע"ש*, the degree of pain would make the non-altered act a דאורייתא or a דרבנן, as פריש רובו and פריש רובו clearly do.

²⁷ One can resolve the apparent contradiction between these two Gemaras, either by positing different degrees of *צער*, or by suggesting that חולב in the first sugya is actually also only a דרבנן. See *ר"ן עה"י יב'* ד"ה גרסין בכתובות. ס"א

granting in a case of *צער*, as *מלאכה שאינה צריכה לגופה* is generally considered the strictest of the *שבותין*,²⁸ and even that, the *Tosafot* permit here.²⁹

Overall, we've seen a spectrum of positions in *הלכות שבת* where *צער* is discussed. The case of *גונח* (Ketubot 60a) suggests that *צער* permits certain kinds of *דרבנן*'s, in particular, those with a *שינוי*. The case of *ציפורן* (Shabbat 94b) suggests that only things that are already a *דרבנן* are permitted with a *שינוי* because of *צער*. Finally, the case of a boil tells us (at least according to the *תוספות*) that a *מלאכה שאינה צריכה לגופה* is permitted, even without a *שינוי*, in cases of *צער*. The question remains, what kinds of things count as *צער* and how do they relate to illness?

צער as an Independent Category

The one *Rishon*³⁰ who explicitly separates the categories of *צער* and *חולי* is the *Shibolei Haleket* (123). Dealing with a question of *אמירה לנכרי* he writes: *אמרו חכמים גונח יונק חלב בשבת דהוה ליה*: *מפרק כלאחר יד ובמקום צערא לא גזור רבנן הא למדת שאפי' במקום צערא לא התירו אלא כלאחר יד*. In the case of *גונח*, he claims, *Chazal* permit only *שינוי* for *צער*, but not *אמירה לנכרי*, which would be permitted only for a *חולה* (this last point is not explicit). Thus, his separation of the categories of *צער* and *חולי* turns out to be a *חומרא*.

This is clearly against the *Ramban* quoted by *Shulchan Arukh*, and as such, is definitely *לא כהלכה* for us. *Shibolei HaLeket* concludes the piece, however, by discussing a different case: *מה שנוהגת להתיז מן החלב על נשיפת רוח רעה אסור שהרי אין בו סכנה וצערא יתירא נמי ליכא הלכך אסור*. The *רוח רעה* here is presumably some kind of mild mental illness, though it is hard to know precisely. The *שיבולי הלקט* forbids the folk remedy of squirting breastmilk on someone who suffers from this affliction on *Shabbat* because there is neither *סכנה* nor *צערא יתירא*. This leaves open the possibility that if there were *צערא יתירא*, he would permit it.

The most straightforward read of this piece is that *Shibolei HaLeket* isn't being *מחדש* any new categories. On the contrary, *צערא יתירא* seems like a throwaway line. He means merely the same level of *צער* as *גונח*, and he understands the *רוח רעה* in question to be less of a *צער* than this. Were it to rise to the same level as *גונח* it would be permitted because it is considered *חולב* *בשינוי*, just as in the case of *גונח*. This could be because he considers hand-expressing milk to always be a *שינוי* (since the normal way is for the baby to suck)³¹ or because he thinks *חולך*

²⁸ Explicit in *שם* תוס' *השם*. The *Beit Meir*, 328:37 (cited in *שו"ת שבט הלוי* 3:36) has been read to say that it is *דווקא מלאכה שאינה צריכה לגופה*, and not other *שבותין*, which is an extremely counterintuitive read, as the *Shevet HaLevi* points out. A close read of the *Beit Meir*, however, suggests that this may not be his point at all.

²⁹ *אורח חיים* מהר"ח א"ח סי' קצ"ט argues that the expansions that are permitted are all cases where the pain-causing object is being removed. In cases where you are not directly alleviating the *צער* (i.e. stoking a stove to warm up a room that is painfully cold), you are not permitted to violate *Shabbat*. Even to ask a non-Jew to do it is forbidden. The *Magen Avraham* that we will see in the continuation implicitly rejects this position.

³⁰ In addition to the *שיבולי הלקט*, *תנ"י* *הגהות* סי' תנ"י writes that he might permit *איסורים דרבנן* to relieve *צער* (as opposed to merely *אמירה*, which is what we allow for a *חולה*). However he brackets this statement with the phrase *לולי יתמחו עלי*. Despite this, we will see that the *גר"א* א"ח רע"ו and the *ל"ד* treat this position seriously.

³¹ *שער הציון* ש"ח ס"ק פ"ט cites the *שם* נ"ט as reading the *שיבולי הלקט* similarly to what we've suggested here.

is always considered a *שינוי* in *מלאכת דש*. Indeed, the Rema does not seem to think there is any great *חידוש* with regard to *צער* in this *Shibolei Haleket*. When he quotes the *דין* in *סימן שכח*, he says merely that it is *אסור* because there is no *סכנה* and does not even make mention of *צער*.

Magen Avraham's Expansive Read of Shibolei HaLeket

The Magen Avraham (328:41), however, introduces a *חידוש*. He writes, *וצערא יתירא נמי ליכא שם*. In addition to quoting the *Shibolei Haleket*'s last line and making the inference explicit that in cases of *צערא יתירא* this remedy would be *מותר*, he attributes the reason for the *מלאכה* in this case being *derabbanan* to *לגופה צריכה שאינה* rather than *שינוי*. In doing so, he must be understanding the *Shibolei Haleket* as being *מחדש* a new category of *צערא יתירא*, which is *מותר* all *איסורים דרבנן* (since, as we've mentioned, *מלשאצ"ל* is the most strict of the *שבותין*). This is as opposed to ordinary *צער*, which is only *מותר* things that are done *בשינוי*. This Magen Avraham (if he is right) would allow us to permit *איסורים דרבנן* without a *שינוי* based purely on the level of *צער* without trying to somehow functionally define it as *סכנת אבר*.^{32,33}

The Arukh Hashulchan (328:45) expresses great astonishment at this Magen Avraham. After quoting the Magen Avraham above, he writes *ותמיהני הא לדעת הרמב"ם חייב במלאכה שאינה צריכה*. If the *Shibolei Haleket* were the Magen Avraham's only source, we would say the Arukh Hashulchan certainly has the stronger read of the *Shibolei Haleket*.³⁴ However, The Magen Avraham expresses this same idea elsewhere and makes it clear that while he sees the *Shibolei Haleket* as consistent with it, the *Shibolei Haleket* is not his primary source.

In 330:8, Shulchan Arukh permits a woman who is experiencing *צער* to express milk by hand so long as it is *הולך לאיבוד*. One could have connected this to the case of *גונה* and justified it in terms of *שינוי*, following our normal rules for *צער*.³⁵ Magen Avraham (17), based on the *ב"י*,³⁶

³² Rav Ovadia Yosef (Yabia Omer 5:OC 32: 1) argues, against this *מ"א*, that spraying milk over a person with *רוח רעה* is not a *לגופה צריכה שאינה* at all. On the contrary, we want the milk as a remedy for the *רוח*! He bolsters this claim with a citation from the *ישועות יעקב* who says the same thing. The *תוספת שבת*, cited above, says this as well.

³³ This approach begs the question of whether one needs an external yardstick to determine whether the *צער* in question is sufficiently severe to warrant abrogating *איסורים דרבנן*, or whether self reporting is sufficient. On one hand, we believe that we are not dealing with *רשיעי*, and therefore, self reporting should be a reasonable option (along the lines of *צריך אני* in cases of fasting on Yom Kippur). This assertion is more complicated than it appears. Studies have shown

(<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8285731/>) that both over and under reporting pain on a numerical scale are common because of external factors. This being the case, it seems unlikely to us that over reporting would be a hazard, but someone who needs the *קולא* and isn't getting it, is also a problem. Perhaps some combination of external standards (cutting, panic attacks, etc.) could be combined with self-reporting. On the other hand, allowing people to decide this for themselves seems like throwing the doors of *שבות* wide open. If we are willing to rely on self-reporting, it must be emphasized that evaluating the level of *צער* is absolutely necessary and it is not the case the mental illness writ large is *דוחה שבותים*.

³⁴ It is worth noting that Mishnah Berura (113) quotes this Magen Avraham uncritically.

³⁵ See Tosefet Shabbat 330:18 who, in fact, explains it this way.

³⁶ In addition to associating this *פסק* with the *Tosafot* (which we consider the more intuitive read), the *ב"י* alternatively suggests that this is permitted because of the justification of the *משנה* on *מגיד מורה*.

however, writes דהוי מלאכה שאצ"ל דפטור and Mishnah Berura (32) elaborates ומשום צערא ל"ג כמו מפס מורסא. One could have read the comparison to מפס מורסא very narrowly in that both cases *literally* involve the draining of a fluid from the body. However, from the Mishnah Berura's elaboration, it is clear that he understands the Magen Avraham to be ruling like the Tosafot on Shabbat 135a (that we cited earlier) who extrapolates from מפס מורסא a general היתר to violate all איסורים in a case of צער even including לגופה צריכה שאינה צריכה לגופה.

The Pri Megadim (Eshel Avraham 328:41) connects these two Magen Avrahams and says that the real source for the Magen Avraham is this Tosafot, rather than the Shibolei Haleket. Interestingly, the Arukh Hashulchan, who expressed strident opposition to the Magen Avraham in 328, seems to agree with the Magen Avraham here (330:14). He writes, וכן היא בעצמה יכולה להוציא בידה החלב המצער אותה ואע"ג דחולב חייב משום מפרק זהו כשהחלב אינו הולך לאיבוד אבל כשהולך לאיבוד אינו אלא איסור דרבנן ומשום צערא לא גזרו וכל שכן לרוב הפוסקים דמלאכה שאינה צריכה לגופה פטור כמו במפס מורסא דלא גזרו משום צערא.³⁷

If the Tosafot are the Magen Avraham's real source, this constitutes much stronger support for ruling like his position. The Pri Megadim (שם), however, notes (without resolving) the incongruity of ruling that the צער of מפס מורסא is מתיר any דרבנן while the צער of גונח is only מתיר things done with a שינוי.³⁸ It is not immediately obvious why מפס מורסא would be considered a greater level of צער nor do we have any guidance for how to determine if our particular case is more similar to מפס or more similar to גונח. This uncertainty will leave gray areas. However, based on our consultations with mental health professionals, it is reasonable to argue that a person who feels the urge to cut themselves, or is experiencing a panic attack or severe PTSD is in considerable psychic pain, enough to reach the standard of מפס מורסא in most cases. Thus, despite the uncertainty of the level of צער, we feel that the people mentioned in the שאלה reach, in most cases, the necessary standard.³⁹

To summarize: In the matter of spraying breastmilk over a person suffering from mild mental illness (נשיפת רוח רעה), the Magen Avraham introduces a חידוש that in cases of יתירא, this would be permitted, even without a שינוי. This is backed both by the questionable reading of the

³⁷ Rav Ovadiah Yosef זצ"ל notes this contradiction in ס"א ל"ב ס"א without reconciling it.

³⁸ A comment of the Pri Megadim (Eshel Avraham 328:14) suggests that, in fact, the Pri Megadim himself rejects the Magen Avraham's understanding of מפס מורסא. There, he lists מפס מורסא as one of the proofs that you can do an איסור with a שינוי for the sake of צער. This would make the case of מפס מורסא equivalent to the case of גונח, and avoid the problem he raises with the Magen Avraham's understanding. Though he does not elaborate on what he thinks the שינוי is, the Biur Halacha (328:28 s.v. כדי) suggests that he is understanding that when מפס מורסא is done המכה פי הרהיב, it is done with a כלי, whereas when it is done ליהיב, it is done by hand.

³⁹ The Shevet HaLevi (3:36:28) addresses the contradiction between the Mechaber's psak on מפס in seif 28 and his position on סכנה שאין בו סכנה in seif 17. In 28 the Mechaber paskens that draining a boil is מותר without a שינוי while, in 17, we've seen that he requires a שינוי for anything less than סכנת אבר. He notes that the contradiction is particularly sharp because of the strictness of צריכה לגופה compared to other איסורי דרבנן. Ultimately he concludes, ולכאורה נראה במפס מורסא דהי' להם טעם להתיר יותר כיון דצער, זה שכיח טובא. It is possible to interpret that the urge to cut should be considered שכיח טובא for an individual, even if it is not so שכיח in the larger population, and thus should fall under the היתר of מפס מורסא. More likely, the Shevet HaLevi rejects the Magen Avraham entirely.

Shibolei HaLeket as well as the far more reliable position of the Tosafot regarding מורסא. This position, though questioned by the ערוך השולחן, is paskened explicitly by the Mishneh Berurah. Using צערא יתירא as the functional halakhic category, gives rise to gray areas, since it may be hard to tell whether the psychic pain someone is feeling is more similar to גונח (requires שינוי) or מפיס מורסא (does not require a שינוי). However, it is our opinion that the cases mentioned in the *shailah*, panic attacks and self-harm, easily reach the threshold of מפיס מורסא without having to rule in more nuanced areas.

שיטת הגר"א

One Acharon who is not troubled by this uncertainty is the Gr"a (OC 276:5 s.v. בארצות). In a discussion of the custom in cold countries to have a non-Jew stoke the fire, he writes,

ואפי' במקום צערא לבד כמ"ש שם ק"ז א' וע"ש בתוס' ד"ה וממאי ובפ"ה דכתובות ס' א' תניא ר' מרינוס כו' וע"ש בתו' ד"ה גונח יונק כו' ועיין בהגמ"ר פ"ק דשבת ס"י ק"ו שהאריך בראיות הרבה ממ"ש בפ"ז דפסחים הכל חולין כו' ומפ"ד דיבמות אבא שאול כו' ומקמי לה בצער של רעב ובפ"ב דיו"ט למכחל עינא מנכרי ופ"ג דשבת מכבין גחלים של מתכת כו' האי קוץ בר"ה כו' ופ"ג דיומא מטילין עששיות של ברזל כו' ועל כולן יש להשיב עליהן אבל ראיא ממה שהתירו למפיס מורסא וליטול את הקוץ:

The Gr"a here gives a relatively comprehensive survey of the discussion of צער in the Gemara. He notes that each case could be potentially treated as unique with its own independent variables. However, in his conclusion, he states, ועל כולן יש להשיב עליהן אבל ראיא ממה שהתירו. למפיס מורסא וליטול את הקוץ. In other words, מפיס מורסא is the lens through which we should see all cases of צער. Therefore, all איסורים דרבנן up to and including לגופה צריכה are permitted in cases of sufficient צער. The perceived limitations in the other cases are, in fact, incidental conditions that make each case a דרבנן. This indicates that the Gr"a disagrees with the assertion of the Ramban and Shulchan Arukh that a שינוי in the case of צער is absolutely necessary. Therefore, the גר"א is not stuck with the vagaries of the Magen Avraham in trying to decide whether a particular צער is more like גונח or מפיס מורסא.

We are inclined to rejoice upon this Gr"a רב כמוצא שלל רב. However, we must note that the Gr"a on the Shulchan Arukh regarding sickness (328:17) and pain (328:33) seems to agree with the principle set forth by the Ramban and the Mechaber that איסורים דרבנן must be done either by a non-Jew or, in the most extreme case, with a שינוי. Thus it appears that we have an internal contradiction in the Gr"a himself.^{40 41}

⁴⁰ In 328:17 ולחלל ד"ה the גר"א writes, אבאר תחלה סברא השלישית שהיא עיקר שכ"פ רוב הפוסקים וש"ע, referring to the position of the Ramban. It is a remote possibility that by referencing רוב הפוסקים וש"ע, the גר"א is actually removing himself from the group. However, his initial statement, עיקר שהיא seems to indicate that he agrees with the מחבר here. Rabbi Resnikoff has suggested that the distinction may be between acts that cure the actual malady (רפואה) vs. acts that simply relieve pain (להוציא ליחה). However, Rabbi Fried has pointed out that this only permits cases of שממנים שחיקת and the גר"א in רע"ו has a much wider היתר.

⁴¹ Rav Rosensweig notes that it is possible that a shinui is something that simply acts as a reminder not to go over the line, and that really מעיקר הדין there is no issue with omitting a shinui. So the Gr"a could agree that lekatchila you need a shinui like the Shulchan Aruch, and simultaneously say that, where necessary, one can give up the shinui. This reasoning is discussed in his book (ch. 2, ftnt. 27; appendix 6, pp. 381-382, 397-398) without reference to the Gr"a. It is possible that this explains the position of the ח"י

We have seen that the Magen Avraham relies on the Shibolei HaLeket and the Tosafot to establish the position that *איסורים דרבנן*, even at the level of *מלאכה שאצ"ל*, can be permitted without a *שינוי* when the level of *צער* reaches the standard of *יתירא*, which is identical to the standard of *מפס מורסא*. The Gr"a as well, in one place, indicates that he, as well, is willing to rely on *מפס מורסא* as the operative case that defines all *צער*. Thus he might permit *איסורים דרבנן* without a *שינוי* even in the case of *גונה*! However, we've seen that the Gr"a, elsewhere, seems to support the position of the Mechaber that for most cases a *שינוי* is required.

We have also noted, that as uncertain as the standard of pain is for *מפס מורסא*, we are comfortable saying that many instantiations of mental illness indicate sufficient pain to meet the standard of the Magen Avraham here. Thus, we assert that the psychic pain that would cause someone to self-harm is sufficient to allow *מלאכות שאצ"ל* according to the Magen Avraham. Panic attacks and severe PTSD have a similar status. Ultimately, we will urge people in these situations to use a *שינוי*, in order to have a stronger base than the Magen Avraham alone. However, when *שינוי* is not possible, we believe that *בשעת הדחק עליו לסמוך המ"א*. Shinui is also helpful when possible in that it allows people to feel less like they are violating shabbat. The question now becomes, is there any precedent to expanding the paradigm of *צער מפס מורסא* to other cases of *צער*?

Precedents for Expanding מפס מורסא

Strong precedents of poskim who expand *מפס מורסא* to other cases of *צער* are not forthcoming. On the contrary, the Chavos Yair (164) is asked about whether *מפס מורסא* could be used to permit killing fleas since *צער לא גזור רבנן*. He responds, "אין לדמות צער לצער", that is one kind of suffering cannot be compared to another to allow a widespread *היתר* by analogy. Furthermore, he writes, *הן אמת שבימות הקיץ והחום הם לצער גדול ומעכבים השינה מ"מ חלילה להקל*, מפני כך אפילו במלילה. ושקול צער זה נגד שכר גדול שיקבל בשלחו אותם חפשי כבא דבר עבירה לידו ונתאפק שנותנים לו שכר כעושה מצוה. That is, even if the *צער* feels significant, one must take into account the reward they will receive by practicing restraint.

Rabbi Betzalel Stern addresses this Chavos Yair in Betzel HaChochma (3:88). After considering the arguments there, he notes that the Tosafot that we saw above (Shabbat 135a) cannot be reconciled with this position. The Chavos Yair might take refuge by saying that he paskens like the Ramban, regarding *צער* (i.e. demands a *שינוי*) and that the Shulchan Arukh in 330:8 (where it appears that the Tosafot are validated) paskens like the second alternative in the ב"י there (see footnote 33). It is equally possible that the Chavos Yair, an early Acharon himself, still feels comfortable disagreeing with the Shulchan Arukh. In any case, the comment of the Betzel HaChochma could be interpreted as a defense of the position of the Tosafot and the Magen Avraham that we've seen.

Rav Shlomo Zalman Auerbach (Minchat Shlomo 1:7) also obliquely approves of the expansion of *מפס מורסא* to other cases of *צער*. However, it is unclear what he would say in the case of

אדם (Shabbat 69:12) we reference in the continuation as well. (We wonder what the necessary condition would be to allow us to forego the *היכר*-nature of the shinui.)

mental illness. At the end of a long teshuva about פיקוח נפש on Shabbat, he addresses the question of whether one could violate a מלאכה שאינה צריכה לגופה to avoid הפסד מרובה, given that a person would feel a great deal of צער from experiencing such a large financial loss. He compares it to מפסד מרובה של ממון מע"ג שהכאב והצער הוא, but ultimately concludes, גדול פי כמה והיה מסכים שיקטעו לו ידו אם ע"י זה ינצל רכושו ואפי"ה אסור, והיינו משום דצער הגוף ממש שאני⁴² וכנהי תלת דפטור ומותר צידת צבי ונחש ומפסד מרסא. One may infer from here that in a case of genuine צער הגוף, Rav Shlomo Zalman would indeed permit violating a מלאכה שאינה צריכה לגופה, not limited to the three specific cases in the Gemara.

But is mental illness more comparable to צער הגוף or to the feeling one has when one suffers a significant loss? Despite the possibility that Rav Shlomo Zalman might include affective disorders like depression or anxiety in the second category, we feel that because the impetus of mental illness is internal, Rav Shlomo Zalman would likely include even affective disorders in the realm of צער הגוף, not to mention more visceral צער like the urge to self harm.⁴³

In any case, Our inference from Minchat Shlomo, however, is at odds with the Shulchan Shlomo (328:50), where Rav Shlomo Zalman is quoted as saying that מפסד מרסא should be treated as a מיוחד דין that we should not generalize from to permit a מלאכה שאינה צריכה לגופה in other cases of צער. Since this is an explicit statement (despite being second hand) against our reasoning, we cannot rely on Rav Shlomo Zalman to permit the expansion of מפסד מרסא.

Rav Moshe Feinstein (YD 1:103) provides an indirect support for the Magen Avraham's פסק. He is asked whether a woman with a piece of cloth or cotton in her ear for medical purposes may walk outside on Shabbat in a space without an ערוב. The questioner notes that because of מפסד מרסא, we should say במקום צערא לא גזור רבנן and thus, permit the woman to carry since the act is כלאחר יד.⁴⁴ Rav Moshe does not fundamentally object to the reference to מפסד מרסא. He simply notes that in our case, she does not need to go outside in order for the cloth to relieve her צער. For this reason, there is no great need for her to go outside on Shabbat. The היתר of מפסד מרסא is one in which the act that is being permitted actually relieves the צער in question. That is being accomplished here without the need for היתרים. It may be that Rav Moshe chose not to address the extension of מפסד מרסא in a fundamental way because he had an easy distinction in front of him between that case and the case in question. However, based on his language here, it does seem that he is not perturbed by the extension of מפסד מרסא beyond the simple scope of a blister or a swollen breast.

⁴² This is a quote from the אגור הל' יו"ט סי' תרכ"ח. It is picked up by the ציץ אליעזר ח"א סי' כ' פ"ה אות ג discussing the same matter as Rav Shlomo Zalman here—i.e. הפסד מרסא in cases of מלאכה שאינה צריכה לגופה. ממון.

⁴³ It is reasonable to assume however, that Rav Shlomo Zalman would not consider "normal" mental anguish, like grief, disappointment or loss to be equivalent to צער הגוף as they generally have external causes. Furthermore, experiences that are a part of normal life are by definition not צערא יתירא and therefore, do not fall under the paradigm of the מ"א.

⁴⁴ It is significant to note that, since the act is כלאחר יד, it is unnecessary to go all the way to מפסד מרסא. The rules of גונה would have been sufficient. However, this is undoubtedly the כדרכו way of carrying a dressing in one's ear and thus, may require the greater strength of מפסד מרסא after all.

The Divrei Yatziv (Likutim veHashmatot 34) discusses a case of allowing someone in unspecified pain, to wash their whole body on Shabbat in hot water that was heated before Shabbat. He cites the Gr"a and the Mordechai (see fn. 28) as ruling that all איסורים דרבנן are permitted for צער. This is not the only basis for his ultimate lenient psak, but it is a סניף להקל. This is the only recent posek we've found so far who expands מפּי מורסא to all cases of צער in a מלאכה שאינה צריכה לגופה situation. It should be noted that his case is not a case of גזירת הבלנים, it is a גזירת שבות, which is a less strict שבות.

Based on the above, it DOES appear that there are poskim who support the Magen Avraham and the Gr"a. The only one who explicitly paskens למעשה like them is Rav Halberstam in Divre Yatziv. Even so, we believe that there is room to argue that Rav Moshe approves of this position as well. Rav Shlomo Zalman seems to accept it in one place, but speaks explicitly against it in another. We now leave the question of what constitutes a מצטרף, and instead turn to the Hilkhot Shabbat implications for the soothing or interrupting behaviors that our שאלה addresses.

Relationship between צער and Activities to Relieve מלאכה שאצ"ל

It is relatively simple to argue that sewing (or any other מלאכה) for the sake of alleviating a צער is a מלאכה שאינה צריכה לגופה. The Gemara on Shabbat 105b contrasts the Mishnah, which says חייב is קורע בחמתו with פטור is קורע בחמתו. It concludes that the Mishnah is authored by רבי שמעון, who holds that מלאכה שאינה צריכה לגופה is פטור, while the ברייתא is authored by רבי יהודה, who holds that מלאכה שאינה צריכה לגופה is חייב.⁴⁵ We see, nevertheless, that anything done for the sake of alleviating emotional anguish⁴⁶ is considered מלאכה שאינה צריכה לגופה.⁴⁷

Thus, if we were to rule like the Magen Avraham and Mishna Berurah, cited above, any melacha that needs to be done as a coping mechanism to alleviate צער would automatically be מותר as it is a מלאכה שאינה צריכה לגופה. Although the Magen Avraham is an important סניף להקל, given the difficulties we've discussed above (ערוך השולחן and others) and particularly the

⁴⁵ In order for tearing clothes to be fully חייב, even for רבי יהודה, the Gemara also has to establish that this is considered מתקן and not מקלקל, which it does by asserting that עבד נחת רוח ליצרו is considered מתקן. The machloket between Tosafot (s.v. לא צריכא) and Rambam (Hilchot Shabbat 8:8; see also מגיד שם) here regarding when exactly עבד נחת רוח ליצרו is considered מתקן is not relevant to our case as nothing is being destroyed by the מלאכה in question.

⁴⁶ In the Gemara, it is the act of tearing that alleviates the emotional anguish, not the resultant torn garment. It might be worth distinguishing this from a case where what gives relief is the actual created thing - sewing a nice pattern, for instance. There, the immediate goal of the act of sewing is to create the pattern, but it serves the larger goal of alleviating pain. This is different from a case where a person doesn't care what they are sewing, it is just the act of sewing that is alleviating the pain. We question, however, whether this distinction is relevant since even in the case of creative activities, we can assume that there would be no urge to do them on shabbat were it not for the צער motivating the person. Furthermore, we wonder whether such a case even exists, where only specific creative acts would relieve the צער. Based on this מהלך, however, it seems reasonable to suggest that a person who needs to violate shabbos for reasons of צער, should desist from deliberate creative acts.

⁴⁷ We choose not to address the question of whether the cutting itself should be considered a מלאכה שאינה צריכה לגופה. We are addressing the question of violating Shabbat to alleviate the צער of mental illness, and any permission we grant is not based on a calculation of whether the treatment is a greater or lesser חילול שבת than the cutting itself.

uncertainty in any particular case whether it reaches the necessary level of *צער*, we would prefer for this to not be the only basis for our היתר.

We would rather look for ways to introduce a שינוי in line with the more conventional wisdom about *צער*. Perhaps the person can put stitches on an old rag that is going to be thrown out after Shabbat anyway, so that the stitches aren't really accomplishing anything. This would serve as a היכר, both halachically and experientially, that we still do things on Shabbat differently than how they are done the rest of the week. If there is truly no שינוי that would be effective from a psychological perspective, the חיי אדם (Shabbat 69:12), regarding חולה שאין בו סכנה, writes, ואם לא, א"א על ידי שינוי ולא על ידי נכרי מותר לעשות כדרכו.⁴⁸ To one who would suggest that the חיי אדם didn't intend this to be inclusive of all איסורים דרבנן, even מלאכה שאינה צריכה לגופה, we still have the Magen Avraham who would permit it outright. However, we would much rather go the route of the חיי אדם initially and use the Magen Avraham as a last resort when all attempts to introduce a שינוי have been exhausted. As stated above, שינוי is also a helpful tool psychologically to religious people who bridle at violating shabbat for any cause.

Conversations with mental health professionals have indicated that there is rarely an obsessive component to the activity chosen to distract or soothe. Thus a שינוי should be possible. Since exercise is such a common and useful way of dealing with the urge to cut,⁴⁹ one expert⁵⁰ suggests that a person who needs to run, should run in their shabbos clothes. We suspect that similar accommodations should not be difficult in other cases.

Extreme צער

צער מפיס מורסא is not the only case where צער appears as an independent category. The Gemara (Ketubot 33b) writes אילמלי נגדו לחנניה מישאל ועזריה פלחו לצלמא. In other words, torture may be even worse than death. The gemara goes on to make a distinction between קצבה לה and קצבה. The הכאה שיש לה קצבה and the הכאה שאין לה קצבה. That is only torture with no foreseeable end is considered worse than death.

Rabbeinu Tam, in the Tosfot (ad loc.) insists at some length that this statement about חנניה, מישאל ועזריה is not a היתר to worship idols when threatened by torture. Rather, he argues, bowing to the idol in this case would have been a lesser איסור. This position is adopted by רוב הפוסקים in both the Rishonim and Achronim.⁵¹

However, R. Eliezer, cited in Shita Mekubetzet,⁵² asserts that this statement is a blanket היתר even to worship idols when threatened with unending torture. The Tzitz Eliezer (10:25:17)

⁴⁸ See the extensive treatment of this חיי אדם in Rav Rosensweig's נפשי בשאלתי p. 391-392.

⁴⁹ There is a question whether activities that bring one to a sweat are אסור because they are considered acts of גזירה משום שחיקת סממנים or whether they are אסור because of רפואה and therefore included in the עובדא דחול and טירחא יתירא. If the former approach is correct, they should automatically be permitted once we classify someone as חולה שאין בו סכנה or מצטער כל הגוף. If the latter approach is correct, a שינוי should suffice to make it not בחול עושה בחול.

⁵⁰ Dr. Ahuva Krantzler, 7/19/23

⁵¹ תוס' שם ד"ה אילמלי, רא"ה שם ד"ה אלמלא, ים של שלמה ב"ק פ"ח סי' נ"ט see

⁵² Potentially ראו?

argues that even those who disagree with R. Eliezer would agree that lesser איסורים are permitted by the threat of torture.⁵³ In other words, though torture is not *worse* than death, it is, at least, equal to it halakhically. This position echoes that of מהר"י ברונא who writes (236), הרי פסקו תוספות בהדיא בפ' הנזקין היכא דאיכא סכנת נפשות פודין אפילו יותר מכדי דמיהן, והכא איכא סכנת נפשות שמגזמים לכופ' על הון עתיק ולהמיר הנער לדתם והאשה זקנה היא ובוודאי איכא למיחש לעניין דגרע ממיתה, שם מגזמים לכופ' על הון עתיק ולהמיר הנער לדתם והאשה זקנה היא ובוודאי איכא למיחש לעניין דגרע ממיתה, permits paying inflated ransoms for hostages who are under threat of torture, as we would for those under threat of death. Even though מהר"י ברונא is only permitting a דבנן, his rhetoric makes clear that he considers threat of torture to be halakhically equivalent to סכנת נפשות.

If we attempt to apply this to our case, we must address three significant questions. a) Do the urge to cut, panic attacks, and severe PTSD constitute torture? b) Do they represent הכאה שאין לה קצבה? c) Is there indeed a דאורייתא that needs to be permitted in order to relieve the pain that a person with mental anguish experiences?

We are forced to leave the question of whether these mental illnesses constitute torture to the self evaluation of the person in question. In order to rely on this self-evaluation, it is incumbent on the פוסק to instruct them precisely and explicitly. Obviously, it would be inappropriate for the פוסק to interrogate a person at the height of their distress. However, at the moment of giving the פסק, the פוסק should make very clear that only if a person feels that the pain they are enduring is *unbearable*, might they consider this avenue. Alternatively, it may be necessary for a person to decide that the pain they are suffering is so intense that they'd rather be dead than continue to suffer it. We are not in agreement as to which standard to hold.⁵⁴

Regarding the question of קצבה, our mental health consultants have described the experience of someone who cuts as follows: Negative feelings and despair build up. They get greater and greater as long as the person resists the urge to cut. Finally they cut and feel relief from their negative feelings and despair. Then, they regret having cut, feel bad about themselves, and the cycle begins again. This build-up of psychic pain sounds to us like לה קצבה. It will continue indefinitely until relieved. Our goal is to relieve it in a way that will not perpetuate the cycle.

As opposed to cutting, it seems to us that panic attacks would not constitute לה קצבה. Despite the intensity of the distress in the moment, we believe that most people who suffer from panic attacks know that the attack will eventually end. Thus, panic attacks do not come under the heading of torture as bad as death. We do not have enough experience with PTSD to know whether there are cases where the distress continues indefinitely.

⁵³ Rav Dr. Yosef Marcus says the same thing is Techumin 26, "האם רשאי אדם לבזות עצמו".

⁵⁴ Asking the person to evaluate whether they feel so bad at the moment that they would rather be dead presumably confirms whether we've reached the "as bad or worse than death" status or not. Rabbi Resnikoff objects to this evaluation on the grounds that pain may be so intense that it would have equivalent halakhic status to סכנת נפשות without an intellectual perception that one would rather be dead than suffer such pain. He prefers the language of "unbearable", Rabbi Fried prefers the "rather be dead" standard.

Are there *מלאכות דאורייתא* whose permission would be useful in cases of mental illness? This is a significant question. If we argue (as we will in the continuation) that an act that is undertaken for the purpose of relieving *צער* constitutes a *לגופה* *צריכה* *שאינה* *מלאכה*, the Magen Avraham and the Tosafot above will accomplish our needs without relying on *ועזריה* *מישאל* *ועזריה*. It may be that there are few cases where the *היתר* *ועזריה* *מישאל*, *ועזריה* needs to be used. However, we see from their case the sensitivity of *חז"ל* to extreme pain, and it may be helpful as a *סניף* in some cases.

We have heard that Rav Neventsai, at one point, considered saying that *צער* is equivalent to *נפש* *פקוח* to possibly allow *איסורים דאורייתא* in extreme cases. Rav Asher Weiss has also been cited to us as possibly agreeing that when a person is writhing in pain, that may be the equivalent of *צריך אני*⁵⁵ to permit a person in extreme distress to violate *איסורים דאורייתא*. This last approach seems particularly apt in the case of a person who is fighting mental illness.

We have seen that the various rishonim permit even *איסורים דאורייתא* in cases of extreme, unending pain. We have also seen that amongst the cases of mental illness mentioned above (cutting, panic attacks, and severe PTSD), some seem to fit the standard presented here, and some do not. We finally noted that it is unlikely in our case that the need will arise to rely on so extreme a *היתר*. There is one further discussion, specifically regarding PTSD and panic attacks, that must be addressed here. This is the possible danger incurred by sudden sharp attacks of distress.

PTSD and Panic Attacks: Extreme Fear= נפש פקוח

We have not had significant mental health consultation on these cases and, therefore, can only speak from our laymen's understanding of these disorders. We understand the *צער* that comes from both of these maladies can be sudden and very sharp. In the case of PTSD, we understand that there may be some episode of re-experiencing their initial trauma because of a trigger whereas in panic attacks, there is a sudden sharp fear that causes a person to feel like they are in serious danger. We will not attempt to address all cases of PTSD or panic attacks. Rather, we would like to introduce an interesting and radical potential *קולא* for people who have sudden attacks of deep distress.

The Gemara (Yoma 82b) brings a braita about immediate danger. It says:

ת"ר מפקחין פקוח נפש בשבת והזריז ה"ז משובח ואין צריך ליטול רשות מב"ד הא כיצד ראה תינוק שנפל לים פורש מצודה ומעלה והזריז ה"ז משובח ואין צריך ליטול רשות מב"ד ואע"ג דקא צייד כוורי ראה תינוק שנפל לבור עוקר חוליא ומעלה והזריז ה"ז משובח ואין צריך ליטול רשות מב"ד אע"ג דמתקן דרגא ראה שנעלה דלת בפני תינוק שוברה ומוציאו והזריז ה"ז משובח ואין צריך ליטול רשות מב"ד

The braita notes that in these cases, there is no time to go get permission, one must judge the situation and act. Regarding the case of a child locked in a room, the gemara notes, *נעלה דלת*. That is, in the case of a child locked in a room, even

⁵⁵ ע"י שו"ע או"ח תרי"ח ס"א.

though we could try to calm them by passing them treats through cracks in the door until Beit Din gives permission, this is not necessary. Rather, הזריז ה"ז משובח.

The danger to a small child who is locked on the other side of a door from their adults is serious, but it doesn't seem as immediate as someone who falls into a cistern, etc. The commentators here limit this case to a child who would panic upon being separated from their adults. The Shevet HaLevi (8:75), however, goes one step further. He writes, למדנו מהלכה זאת כי הבעתה גדולה ספק פקוח הוא ופשיטא דזה גם בגדולים ומצינו כמה עובדות בחזל כי התרגשות פתאומי גרם למיתה נהי דמציאות זה שננעל דלת לפניו לא שיך בגדולים דאינם נבעתים מזה אבל פשיטא דנבעת ממש במציאות אחר אפילו גדול.

Here the Shevet HaLevi introduces a tremendous chiddush. He argues, based on what seem to be aggadic cases, that a sudden shock is actually a case of pikuach nefesh, apparently even for healthy people (and obviously people with heart disease, etc.). We question whether the cases in Chazal of people dying of shock really represent a medical reality today. In any case, ראוי רב חילול and people suffering for sudden sharp shocks for which only a חילול will suffice (driving to their therapist's office, writing in their journal with a pen, or other things to calm them) may be permitted to do what is necessary according to Rav Vosner (and certainly דרבנן).

We did hear from one mental health professional⁵⁶ that panic attacks, at least, may come with some build up, rather than a sudden rush of fear. This case is also addressed in the same Shevet HaLevi. Regarding the case of a child who is locked in a room, Rashi (Gemara ad loc., s.v. ננעלה) writes ננעלה דלת והתינוק נבעת. In other words, when the door is locked, the child immediately goes into distress. This explains why it is necessary to break down the door without trying to calm the child with treats. The Rambam, on the other hand, writes, שמה ייבעת התינוק, וימות. That is, even though the child is calm right now, it is immediately necessary to open the door, before the panic sets in. Rav Vosner writes, פשוט דנחוש לדעת הרמב"ם. This means that when a person feels a panic attack or an episode of PTSD coming on (and possibly even the urge to cut would fall into this category), it is possible that Rav Vosner would rule that they are already in the status of pikuach nefesh and can use any means necessary to calm themselves.

We hesitate to use this as a blanket קולא because pikuach nefesh, necessary as it is, really represents the end of Shabbat. We would recommend that any responsible person reading this material consider that every case should be judged with the input of the person suffering and their medical/mental health providers to determine when it is necessary to resort to pikuach nefesh, and when to refrain. We state this, in particular, because we question whether a shock of the sort Rav Vosner references could really kill a healthy person.

Another important source that could be relevant to the discussion of PTSD and פיקוח נפש is the Mishnah/Gemara (Shabbat 29b-30a) dealing with extinguishing a flame for the sake of a רוח מלאכה שאינה רעה. The Gemara resolves that it is permitted, even according to the opinion that

⁵⁶ Dr. Jack Gorman, 7/19/23

(פירוש המשניות פרק ב משנה ה) Rambam describes the *רוח רעה* as a known medical condition where a person goes into a crazed state when they see light and will run out of the house and engage in behavior that could potentially endanger their lives. This may be analogous to someone with severe PTSD experiencing one of their triggers. Again, if someone is known to have severe PTSD, their mental health professionals should be consulted in advance to ascertain whether their behavior may endanger their life when in a triggered state, and if so, should be treated accordingly.

Conclusion

Our conclusion, therefore, is as much as possible to attempt to do necessary interrupting or soothing activities with a *שינוי* in order to be in line with the general halakhic consensus. Simultaneously we emphasize that the status of people suffering from mental illness is not a *חולה שאין בו סכנה*, but rather a *מצטער* with *יתירא*. Thus, in cases where a *שינוי* is not possible, such a person may rely on the Magen Avraham, the Gr"a, and the Mishna Berura who all permit *איסורים דרבנן* without a *שינוי* for *צער*.

We noted, at the beginning of this piece, that although many of these people seem perfectly functional outside the occasional attacks of their mental illness, *פקוח נפש* should not be taken completely off the table.

Return to *פקוח נפש*

We have mentioned that self-harm is one of the best predictors of suicide attempts and completed suicides. We are undecided, however, how much weight this fact should bear when paskening for a particular behavior on shabbos. None of the experts we consulted with felt that a person who is actively cutting needs to be immediately hospitalized. It is, of course, crucial that the rabbi be in conversation with their congregant's mental health provider in this case. Such conversations may be able to clarify how much danger exists at any specific moment. Similarly, they may clarify whether using a *שינוי* on Shabbat rather than doing their usual interrupting behavior as normal will harm this person's ongoing treatment. If there is no harm in the *שינוי*, and any act that is undertaken with the purpose of relieving *צער* is, indeed, considered to be a *צריכה לגופה*, it seems unlikely that we would encounter a need to activate *פקוח נפש* for a person who cuts.

Summary of Conclusions

- There is significant benefit to considering a person suffering from moderate to severe mental illness on Shabbat as a *מצטער* experiencing *יתירא* rather than a *חולה* type of.
- Despite this, whenever possible, any attempt at soothing the distress of the mental illness that violate Shabbat should be accompanied by a *שינוי* as dictated by the rules of a *חולה שאין בו סכנה*. This should suffice for most cases.
- When a *שינוי* is not possible, we can rely on the *מגן אברהם*, *חיי אדם*, and *משנה ברורה* to permit violating *איסורים דרבנן* without a *שינוי*.

- In cases of extreme צער, where no end is anticipated without some action being taken, there is precedent to permit even איסורים דאורייתא without a שינוי.
- In cases where the צער comes in the form of a sudden, sharp attack (as in some cases of PTSD and panic attacks), even to a healthy person, there is precedent to allow איסורים דאורייתא without a שינוי.
- The necessity to rely on the last two conclusions is rare and halakhic authorities should do what they can to rely on the first three conclusions before falling back on פקוח נפש.