

## MEDICAL PROCEDURE IN THE HEAT OF EMOTION:

THE POSITIONS OF MILITARY RABBINATE PERSONNEL ON  
POSTHUMOUS SPERM RETRIEVAL (PSR) FOLLOWING THE OCTOBER 7,  
2023 ATTACK*Introduction*

The advances of medical science in recent decades have enabled the disjunction of the linkage between the production of reproductive cells, the fertilization of an egg by sperm, and pregnancy, and to perform these processes later or after the death of the man or woman.<sup>1</sup> In this article, I will focus on Posthumous sperm retrieval (PSR), when in the first hours after death; under optimal conditions, sperm can be aspirated, and in the next time set (up to 36 hours postmortem), a surgical procedure of sperm retrieval can be performed.

From a bioethical perspective, the ancient Jewish injunction "procreate and multiply" (Genesis 1:28), coupled with the near-annihilation of the Jewish people in the Holocaust and the demographic challenge facing Israel as a Jewish state has intensified the existence of a Pro-Natalism paradigm in Israel.<sup>2</sup> This paradigm has many aspects, including the perception that default is procreation, funding advanced fertility treatments, and more. It should be emphasized that Israel is at the permissive end of the spectrum in this regard. At the same time, countries like Germany, Sweden, and others do not recognize any biologic testamentary that include orders about sperm or egg donation etc. In contrast, England, Belgium, and other countries permit such action only when there is a testamentary disposition.<sup>3</sup>

Performing this procedure raises complex ethical issues when the deceased did not put any instructions on this subject. In the research literature, it has been argued that the right to procreate includes the right not to become a parent and that there is no empirical evidence that most men wish their Sperm to be used

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<sup>1</sup> Y. Shiloni-Dolev, D. Hakar and H. Boaz, 'The Dead Man's Will – Three Israeli Case Studies', *Israeli Sociology* 16(1) (2014), 31–45. Alongside this progress, it should be noted that there are many gaps in the medical literature regarding the performance of this procedure in the context of sperm longevity, unintentional changes in the genetic material of the sperm cells, the quality of the Sperm harvested, and its implantation chances after death, and more. Some of these issues are also relevant to the identification process of the victims of the Sura military camp, and I will address them in my remarks.

<sup>2</sup> A. Donath, "Cracked Frontalism: Narratives of Fertility and Infertility in Israel," *Israeli Sociology* 11(2), 417–439.

<sup>3</sup> Y. Shiloni-Dovel and C. T. Trigger, 'Between the Will of the Dead and the Will of the Living: The Use of Sperm for Procreation After Death, Patriarchy, Frontalism and the Myth of the Continuity of the Seed,' *Iyunai Mishpat* 39 (2016), 681–682.

after their death.<sup>4</sup> Thus, for example, studies were conducted among male cancer patients, soldiers, and civilians following the Hamas attack on October 7.<sup>5</sup> Ruth Landau coined the term "planned orphanhood" about the situation of begetting from the dead while she also opposing the situation of anonymous sperm donation in which the biological father is both absent and unknown.<sup>6</sup>

As to Israeli Law, in 2003, the General Attorney Elyakim Rubinstein published for the first time guidelines dealing with the taking of Sperm and its use after the death of the person.<sup>7</sup> In 2016, the Supreme Court ruled that the Sperm of a deceased person may be used only in two situations: if the deceased left clear instructions or if his regular partner requests to use the Sperm for her fertilization.<sup>8</sup> The Court sought to base its decision on the explicit or presumed wishes of the deceased as to the performance of this procedure on his body after death.<sup>9</sup> The legal perspective focused primarily on the presumed

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<sup>4</sup> Shiloni-Dolev, Cold and Boaz, Dead Wish, 43. Thus, for example, Michael Fu'a argued in a petition he filed against the procedure of offering the families of the fallen this option (see the transcript of the High Court of Justice case 1893/24 Michael Foa and others v. the Attorney General (July 18, 2024), 10 (<https://bfamily.org.il/media/2045/shimush-bazeraz-hanfeter-protokol-1893-24.pdf> ).

<sup>5</sup> In a study of 450 single male cancer patients, over 80% demanded that no use be made of their Sperm after they died for future treatment purposes due to chemotherapy (Shufaro, Y. & al (2024). Single men's attitudes towards posthumous use of their Sperm cryopreserved due to illness in Israel, *Andrology* 12,2. 380-384). In a 2024 study of 600 men, of whom 300 had participated in the Iron Dome War, regarding the performance of a sperm retrieval procedure without prior consent, 37% of men in committed relationships opposed the procedure, and 49% supported it. Regarding a request by parents without a partner, 47% of men opposed it, and 38% supported it. The study found that the percentage of agreement among religious men was significantly lower than among traditional and secular men. Among the main reasons for rejecting this procedure without prior consent were the performance of the procedure without the consent of the deceased, the creation of planned orphanhood, the need for the partner to continue with her life, and "a child is not a monument to the memory of the fallen spouse" (Savitsky & AL (2025). Israeli men's attitudes toward posthumous reproduction and prior consent amid ongoing armed conflict. *Andrology* 13(4), 1-10).

<sup>6</sup> Ruth Lando, "Planned Orphanhood," *Dilemmas in Medical Ethics* (ed. Rafael Cohen-Almagor), Tel Aviv 2002, 203-220.

<sup>7</sup> The Attorney General's Guidance 'Taking Sperm after Death and its Use' (210/07/2003). It should be noted that on 19/9/2022, the Knesset passed in the first reading the Law on the Use of a Deceased's Sperm for Procreation 2022.

<sup>8</sup> In RFA 7141/15 Anonymous v. Anonymous (published in Nevo 22.12.2016), and see also CA 217/17 Anonymous v. Anonymous (published in Nevo 2.4.2017), CA 3949/20 Anonymous v. Assaf Harofeh Hospital, Male Fertility (published in Nevo 6.7.2020) and more.

<sup>9</sup> For a discussion of this issue, see Y. Margalit, "Dead to Revive – On the Desirable Normative Boundaries of Making Use of the Deceased's Will to Procreate after Death," *Law and Business* 223 (2021); N. Yaakobi Gan-Or and S. Lifshitz, "On Life and Death: Toward a New Model for Regulating the Use of the Deceased's Sperm for Procreation," *Law and Business* 2025 (in print).

wishes of the man in question to have children and also dealt with how to act in cases where there is a dispute on this issue between the deceased's parents and his partner. It should be noted that in 2023, Court in Israel recognized a girl born from the Sperm of a fallen soldier eleven years after his death as an IDF orphan.<sup>10</sup>

Several bills have been introduced to regulate the matter over the years. The most recent is the Proposed Law on the Use of the Sperm of a Deceased Person for Procreation, 2023. This bill was passed in the Knesset in a preliminary Voting in May 2023.<sup>11</sup>

As to Jewish Law, in a question posed to Rabbi Zalman Nehemiah Goldberg on 9/12/1998, Rabbi Goldberg answered:

Of course, this is forbidden without the deceased's consent. However, if there is explicit consent or even a clear inference that this is his wish, then there is no prohibition. According to halacha, a reason is required to prohibit; without such a reason, the natural state is permissible. This is also relevant because the Torah highly values the human desire to leave a name and a memory in the world, as can be learned from the parashah of *Yibum*.<sup>12</sup>

Rabbi Prof. Abraham Steinberg expressed similar sentiments:

However, now it seems to me more likely to say that, nevertheless, Posthumous sperm retrieval is analogous to biopsy, in particular, that the way to take Sperm from a dead person after hours of his death is by biopsy of the testicle from which the Sperm is extracted. Furthermore, according to the views of the first authorities, degradation is not defined as such unless it is done for degradation or without benefit. However, if it is done for a necessary purpose, such as for the honor of the dead, or his benefit, to prevent loss of money, or to preserve life, it is not called desecration. Moreover, here, in the case of Posthumous sperm retrieval to leave a name for the dead, there

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<sup>10</sup> AMH (Rishon LeZion) 51124-10-17 Plaintiff (Minor) v. The Remuneration Officer - Ministry of Defense - Rehabilitation Division (*Nevo* 24.4.2023).

<sup>11</sup> See the discussion of this bill proposal in the context of the power given to the deceased's parents vis-a-vis his spouse at Y. Margalit, "A Seed of Hope or a Seed of Anarchy", *Blog ICON-S-IL* 16.9.2024 (<https://israelconstitutionalism.wordpress.com/2024/09/16/16092024/> ).

<sup>12</sup> Rabbi Zelman Nehemiah Goldberg, "On Egg Donation, Surrogacy, Cryopreservation of Sperm and Sperm Donation from the Dead," *ASIA* 65-66 (1999), 47.. See also Rabbi Dr. Mordechai Halperin, 'Posthumous Insemination – Prohibition and Permission,' *ASIA* 77-78 (2006), 113-123; *ibid.*, 'Gemilut Chasadim with the Dead and the Performance of the Mitzvah of Procreation by Artificial Insemination after Death,' *Beit Hillel* 8 (2002), 54-60. For a dissenting view, see Rabbi Yigal Shapren, 'Paternity after Death', *TCHUMIN* 20 (2000), 347-352.

is no more incredible honor to the dead, and he certainly benefits from having a name and a legacy in the land.<sup>13</sup>

As can be seen from Rabbi Goldberg and Professor Steinberg's words, the consent of the deceased is necessary for performing this procedure. Once this consent is obtained, this procedure should be viewed as part of the deceased's honor and even as a possible implementation of the laws of levirate marriage to establish a "seed for your brother" (Genesis 38:8). Thus, the question of whether there is a desecration of the dead is relegated to a secondary place. It should be added that these speakers do not address one of the central questions that arose after the Hamas attack on October 7, namely the need to desecrate Shabbat in order to perform this procedure.

A position paper issued by the Pu`a Institute (Fertility according to Halacha) addresses the performance of this procedure in the swords of iron war.<sup>14</sup> According to this document, the taking of Sperm from a bachelor, who did not explicitly address it in his life, is a violation of the dead honor, while as to a married man, it is possible to learn about his presumed will from his wife. This position paper also emphasizes that in this case, one should consult a halachic authority on the matter and complete the mourning process before using the deceased's Sperm.

Until the Hamas attack of 10/07, the legal procedure in the State of Israel was that a family wishing to carry out this procedure would apply to the Court for permission. In the swords of iron war, the Ministry of Health issued a special order that this request is exempt from this permission in the first stage but requiring a court application for the use of the Sperm.<sup>15</sup> The Ministry of Health has established a command center by Prof. Tali Eldar-Geva to deal with the matter. Therefore, the Ministry of Health has created the possibility of using this Sperm but has not addressed in depth the ethical, legal, and halachic aspects of using the Sperm of the fallen.<sup>16</sup>

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<sup>13</sup> Rabbi Prof. Abraham Steinberg, "Defining a Father: Implications of Modern Science", ASIA 101–102 (2016), 96.

<sup>14</sup> PUAH Institute, Position Paper – Taking Sperm from a Fallen or Deceased Soldier in the swords of iron war 5/12/2023 (<https://puah.org.il/nitalat-zeraa-michalal-o-nifter/> ).

<sup>15</sup> It should be noted that an appeal was filed with the Supreme Court against these temporary orders of the Ministry of Health (HCJ 1893/24 Michael Pua, Chairman of Choosers in the Family v. the Attorney General (Nevo 21.7.2024).

<sup>16</sup> Ido Efrati, "The State Encourages Parents to Preserve the Sperm of Their Fallen Sons and Deferred the Ethical and Legal Consequences," Haaretz, November 6, 2023 ([https://www.haaretz.co.il/news/politics/2023-11-06/ty-article-magazine\\_premium/0000018b-9f97-db71-a7df-ffd30ea0000](https://www.haaretz.co.il/news/politics/2023-11-06/ty-article-magazine_premium/0000018b-9f97-db71-a7df-ffd30ea0000) ).

As for the soldiers, Officers from the IDF Personnel Division (AKA) presented the issue to the deceased's family and signed them on the relevant document if they were interested. It should be emphasized that the policy of the AKA was only to inform the families of the existence of this procedure without taking a position on the matter. The conjunction of announcing the tragedy to the family with the short time set for the retrieval does not allow the presentation of the full range of considerations on the subject to the family. It makes it difficult for them to make a well-considered decision.

According to the IDF's Rabbinical Corps, as of 4/4/2024, over 160 sperm retrievals have been performed on soldiers and over 10 on civilians, all from among the 600 fallen. Of the fallen, about 100 were requested by parents and the rest by spouses.

Rescue of seed and retrieval of seed are medical procedures performed by doctors, but the authority for collecting and identifying casualties in the IDF is that of the IDF rabbinate. The issue of the IDF rabbinate's attitude to the performance of these procedures following the establishment of the IDF's *Ma'anach* (A center for the collection of data on casualties and identifications) in 2006 arose even prior to the Hamas attack of 10/07. Following Operation *Oferet Yezuka* in Gaza (2008–2009), Rabbi Col. Eyal Karim (then head of the Halachic Department of the IDF) approached Rabbi Dr. Mordechai Halperin with a request for a presentation of the medical background and the halachic attitude to the performance of this procedure in the IDF's *Ma'anach*.

In his response, Rabbi Halperin writes:

In the first six hours after death, Sperm can be extracted by inserting a needle into the seminal ducts. This is a procedure which, if done with sensitivity and respect, does not constitute desecration of the dead, according to the ruling of Rabbi Moshe Feinstein, zt"l, on biopsy of the dead. If more time has elapsed since the death, castration and extraction of spermatozoa from the testicles is required, and this is an operation that is undoubtedly degrading. However, it is permitted if done according to the deceased's wishes. In my opinion, the main problem is the matter raised under the jurisdiction of the IDF

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It should be noted that to the best of my knowledge, the question of using eggs after the death of women has not arisen during this war. However, in the rulings of the courts, this issue has already been expressed, and see, for example, CA (Center) 8293-09-20 M.R. v. Rabin Medical Center (published in Nevo 4/7/2022).

rabbinate, whether it is proper that the IDF rabbinate undertake this activity. I am in doubt but tend to answer in the negative.<sup>17</sup>

As can be seen from Rabbi Halperin's words, he regards this action as permissible from a halachic standpoint, emphasizing that there is a distinction to be made between the first period and the period thereafter, when the surgical procedure is performed. Regarding the place of performance, Rabbi Halperin thinks this procedure should be carried out in another medical facility rather than in the IDF's *Ma'anach*, which the IDF's Rabbinical Corps runs.

In early November 2023, I began a comprehensive study of the entire activity of the men and women of the IDF Rabbinate served during swords of iron war, with this article presenting a segment of it focusing on the halakhic and military significance of Posthumous sperm retrieval (PSR) for IDF fallen. The research was conducted as a qualitative study because this is the most effective method to reveal meanings and interpretations that are attributed to reality by human beings and from the assumption that "words are more than a means of communication, words are a tool for constructing reality" (Shakedi, 2003, 16). The research focuses on this procedure's halakhic, emotional, and military aspects, in the participants' perceive.

The research presented here is within the framework of "grounded theory" developed in the U.S. in the 1960s and focuses on theoretical explanations of personal and social phenomena based on analysis of field data (Glaser & Strauss 1967). The theory to be presented in this article is the perception of the IDF rabbinate personnel of the performance of PSR, both in the context of providing halakhic answers to bereaved families and in the performance of superficial examinations of casualties to examine the possibility of performing this procedure, on weekdays and Shabbat. The data that constitute the research's basis are the stories the IDF rabbinate personnel talked about their activities during the war. These stories are the center of the research, and their analysis allows us to appreciate the perceptions and feelings of the Rabbinate regarding this complex halachic and emotional issue.

The first stage of the research was conducting personal and open interviews with the members of the IDF Rabbinate. The interview produces an objective historical document, also the product of a social interaction between the interviewer and the

<sup>17</sup><https://www.medethics.org.il/ask/%D7%A7%D7%A6%D7%99%D7%A8%D7%AA%D7%96%D7%A8%D7%A2%D7%9E%D7%97%D7%9C%D7%9C%D7%99%D7%9E%D7%9C%D7%97%D7%9E%D7%94/>. Accessed Aug. 5, 2025.

interviewee (Kojman, 2022, 126). A story is always built from an interaction with an audience and incorporates memories with present perceptions (Gonzales, 2022, 13). Since, in many cases, it is difficult for a person to share his trauma story with others, his ability to construct a narrative for the traumatic event is impaired (Tobolmeshi and Patten, 2019, 239). This characteristic is particularly relevant to the stories of the IDF rabbinate personnel who dealt with the dead and were exposed to particularly gruesome sights in the swords of iron war. The interviews with soldiers from the mortuary, search, and recovery units were conducted in relatively isolated locations to create an intimate atmosphere (Gonzales, 2022, 18) that would allow for personal disclosure and, in some cases, a return to the events they had experienced and an attempt to describe them.

The data analysis in the study was conducted in an analytic process with intuitive or heuristic elements aimed at imparting meaning, interpretation, and generalization to the phenomenon under study. The units of analysis in this study were statements, which are "one sentence or a few sentences expressing a single central idea" (Alpert, 2016, 365). These statements were grouped into various themes. Quotations expressing these themes were brought by the contextual relevance in which they were uttered, and sometimes, several statements were grouped under themes from different domains. The participants' statements were brought in complete and "thick" descriptions. These themes are the basis for formulating a theory about the meaning of the attitude to the performance of Posthumous sperm retrieval (PSR) procedure after the Hamas attack on 10/07.

The research is based on interviews with some thirty participants who described incidents of performing autopsies as a preliminary step to performing PSR and providing halakhic answers to bereaved families on this issue. For ethical research reasons, I have used pseudonyms to name the participants in the study: military rabbi, rabbinate soldier and rabbinate officer. In addition, I have obscured in the stories any detail that might assist in identifying the dead.

Some three decades ago, Ya`akov Sussman pointed out that despite research in the field of halakhic studies, there were still many lacunae in this area (Sussman 1989), and since then, many studies have been written in this field (see, e.g., Gilat 1992; Sagi 1996; Pickard 2012). Moreover, if the historical-dogmatic methodology (Engelhardt, 1976-1977, 43-44 etc.) was prevalent in the study of *halakha* in the past, other research methods have been added over the years. Thus, for example, the philosophy of *halakha* has focused on the Talmudic material

in which the post uses and what are his alternatives, what are his justifications for using this material, in what manner the post conveys his halakhic decision, and more (Rosnek, 2009).

From the late 1920s onward, a method of legal scholarship known as "legal realism" developed among American legal scholars (Schauer 2011). It emphasizes the importance of understanding the actual operation of Law on society through various methods, such as economic analysis of Law, Law and space, etc. This field of inquiry sees the act of adjudication, rather than the act of legislation, as the heart of legal activity. By adjudication, the judge connects the social reality to the body of legal knowledge and has a tangible impact on the social reality.

In the study of halakhic literature, this methodology has been employed in the writings of Adiel Shremer (Shremer 2019). According to Schmerer, the thinking of halachic authorities in their deliberations on halachic matters is focused on the impact of their rulings on the Jewish way of life and the religious standards of their community. The focus of his scholarly interest is the Halachah as it is manifested in actual rulings (for example, in the context of analyses of halachic responsa as complete units from the responsa literature).

In this article, I will attempt to combine two methodologies of research: the qualitative research methodology of the social sciences, which attempts to learn about the perception of reality through interviews with members of the IDF rabbinate, and the halakhic realism, which attempts to learn about the actual halakhic practice in the field of Posthumous sperm retrieval (PSR), through the perceptions of the IDF rabbinate personal. I will define this research method as "Halacha in practice" because it seeks to understand halacha and its halachic and social implications as they are practiced in society.

In this article, I will present two main arguments. The main argument is that "planned orphanhood" and desecration of the dead are the main considerations for denying PSR, in the view of the Rabbinate. Another argument is that according to Rabbinate perceived, the decision to perform this procedure is an emotional decision, but they also think emotionally when they deny or have negative attitude toward PSR.

PSR procedure has been studied primarily in medical, ethical, and legal aspects. This article examines this issue from the perspective of military rabbis and identification and burial personnel in the military Rabbinate. This perspective encompasses halachic aspects, both in the context of halachic

responses to bereaved families and in the context of the desecration of the dead, both the deceased himself and other dead` deceased at the Sura camp in the first days following 10/07/2023. It should be emphasized that the procedure of sperm extraction is possible only in the first hours after death. Therefore, the main discussion here is about the procedure of PSR and that in all the cases mentioned here, the deceased did not leave instructions for the performance of this action after their death.

*"I don't have the courage to tell the family what to do"*

The Hamas attack of 10/07 caused the death of a soldier in the unit of Rabbi Matityahu for the first time in many years. This participant decided on his own initiative to be part of the team that went to inform the families of their son's death, and thus encountered for the first time the possibility that was offered to the family of sperm retrieval:

I entered a family in the early morning hours, and the face of the fellow I was with in [...] before my eyes. [...] Discreet questions also arise. For example, they ask about Posthumous sperm retrieval. This is one of the questions that AKA asks [...] I was consulted halachically on Posthumous sperm retrieval. I learned two things: You are there for the family with no judgment because immediately, halachic issues arise in a religious family, and a non-religious family, you have to say the right words in a challenging situation. I said I would look into it, and I went and did the research [...] The family sometimes sees you as an oracle, and you have to know how to handle that; in the end, the family will understand that Posthumous sperm retrieval is irrelevant.

This participant described a problematic situation in the family home (and similar situations in the general study), in which he joined a team that announced the death of a soldier. This participant, who saw himself primarily as a combat solider who was also a rabbi in the unit (in keeping with the perception in the IDF rabbinate during the tenure of the Chief Rabbi Ronzki), was required to adapt himself to a case-by-case response to questions that required knowledge and bore a heavy emotional load, in keeping with the nature of families that he did not know, and to provide an answer to the issue of PSR that he had only just become acquainted with in this situation and in a state where the deceased had not left instructions on the matter. This participant reported that a clarification he had made with the IDF rabbinical corps that had handled the body revealed that

the body's condition did not allow this procedure. This was at a time when officers from AKA had offered this option to the family. Rabbi Matityahu was required to choose his words with care by the family and to mediate to them the situation of the corpse, which precluded this procedure altogether, without reference to the halachic aspects involved.

Another participant is officer Amram, how served is Sura cam. Amram was asked to give his opinion to the family of a deceased soldier about PSR:

"I cannot stand before a bereaved family and say no, and rightly so. There is no courage to say it to a bereaved family. You do it as a kind of future solace to a bereaved family. I would say yes to them because I want to give them continuity. I want every Jew that was killed there to be another Jew and to give comfort to the family."

This participant thought this medical procedure should not be performed but did not elaborate in the interview on his reasons. However, he understood that this procedure was a kind of consolation to the family for the tragedy that had befallen them and saw in this consolation a small act that could be done for the family. It was clear that this argument was not decisive to his opinion, and so he appended to it a general argument of adding more Jews to the Jewish nation as a sort of substitute for the Jews who were murdered in the Hamas attack of 10/07.

A similar predicament was expressed by Chaplain Raz, serving in a burial unit of the IDF:

As for the Posthumous sperm retrieval, there is a feeling that my hands are tied, for I am not allowed to speak to anyone. I want people to know what this medical procedure means; it is a significant choice for a family. There is an impairment in the family's ability to choose what to do.

This participant felt that in the conversation conducted by the AKA officers with the family, the entire medical and psychological ramifications of this surgical procedure were not spelled out.<sup>18</sup> Moreover, he noted that this was presented to the family as a kind of consolation. He also noted that he could not tell the family how the operation was performed. This is an attempt to shield the family from information that might add to their huge pain. The rabbinate officer Avishai said: "It is clear to

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<sup>18</sup> Even at the Knesset Health Committee (1/1/2024), the participants were surprised to hear that PSR is not sperm extraction, but a surgical procedure performed on the deceased (Protocol, 29–30).

me that one does not explain to the family that this is a surgery of sorts."

Another participant, Rabbinat Officer Omeri, serving in one of the IDF's burial units, relates:

I always felt that in our bailiwick, less exposure the deaths were better, and if sperm retrieval was needed, I preferred it to be done in a sterile manner there. I am somewhat ambivalent about this subject; someone told me of a family who was not fully briefed and later regretted it. I am not in those minds on a personal level, but I do not fully understand the issue of doing it straight without a request from the family. I find it difficult to express an opinion on this because it is an emotional family matter; who am I to say anything about it?

To this participant, the very cursory examination of the corpse to determine whether sperm retrieval is possible constitutes a violation of the dignity of the deceased. Therefore, he believes that this procedure should not be undertaken at all. However, even those, this participant understands that the latter prevails in the balance of considerations between the objective provision of information for the family and the choice of a decision-making process from an emotional place. It should be noted that this participant erroneously believed that this procedure could be performed without prior family consent.

As can be seen from this section, participants in the study found themselves in situations where they were asked to tell the dead` families what they thought about the performance of this medical procedure. However, they did not want to tell the family what the medical significance of this action was about the fallen in order not to add to their pain. The primary consideration that stood before the participants in deciding to perform the procedure was the question of the desecration of the dead and the violation of his dignity. The perception that the decision to perform this procedure was motivated by emotional considerations will be discussed in the next section.

*"We are a nation of emotions"*

One of the themes that emerged from the participants' comments in the context of sperm retrieval was the decision-making process, in their opinion, being driven by emotional considerations. The military rabbi Elieor, serving as a unit rabbi, relates:

I had dealt with a deceased soldier. The family was religious. It was clear to me that they did not want it. I had finished preparing him for removal to Sura camp. I got order to stop that AKA would offer the family to do sperm retrieval, and I understood that every soldier was being delayed his burial for this. It was a double delay of the dead, both in the burial and in doing this thing [...]. I felt that there was an exploitation of the family that did not understand the implications and thought from the heart rather than the head, which became the default option.

According to Jewish Law, the dead are to be buried as soon as possible (*Halant ha`met*). This participant understands that the very suggestion to the family of performing a PSR delays the burial of the soldiers. Rabbi Elior argues that this is a violation of the dignity of the dead and think that the proposal of this procedure to the family causes the family to consider the option from an emotional perspective and accept the proposal rather than from a rational perspective, which this participant believes will lead to the rejection of the proposal. likewise, the IDF rabbi Eran related to the aspect of the desecration of the dead and said: "To delay burial for doing sperm harvesting was an extreme event."

Military rabbi Shoham argues that your proposal to the family at a time of great stress makes the decision-making process emotionally laden:

There was a family who was offered it but did not want it. They consulted me to get my understanding that it was superfluous. [...] There are permissible ways of doing it, but to do it in a blanket fashion and offer it to a family amid their emotional turmoil. Some families say to do it just in case.

This participant also addresses the issue of respect for the dead and argues that this action is a serious violation of the dead's dignity. Therefore, he says, even if there are halakhic permissibility for this action, it should be offered to the family when they can make an informed decision. It is important to emphasize that, as I have pointed out in the introduction, there is a narrow window of time in which this procedure can be performed, and this period of time does not coincide with the family's difficult situation after being informed of the death of their son.

The military rabbis Elior and Shoham opine that, as a rule, this procedure should not be performed. Hence, they identify the second position as motivated by emotions, not rational considerations. It is important to emphasize that these

participants do not address the issue of the presumed wishes of the deceased, who did not express his opinion. From broad consideration, it might be suggested that this issue be raised with the soldiers upon their recruitment into the IDF, and only if the soldier signs the appropriate forms might this procedure be carried out without placing the family in this conflict.

However, in a discussion held by the Knesset Health Committee on the use of the Sperm of a deceased (19/12/2023), Eran Yosef, a representative of the Legal Department of the Ministry of Defense, opposed the possibility of providing written information on this subject to every recruit to the IDF.<sup>19</sup>

The need to moderate the emotions was also expressed by the military rabbi Hagai, who was active in the communities next Gaza strip after the Hamas attack of 10/07:

Even the policeman [...] said they could not produce sperm, but they had to calm the country. We are a nation of emotion, and when you press emotion, it overrides the mind, which is why it also causes sperm retrieval. Suddenly, one had to open the bags completely to reap the seeds. This is an escalation.

This participant claimed that in many cases, there was no medical possibility of performing a sperm retrieval procedure, but in any case, attempts were made to do so; when he said that this was not only due to the emotional turmoil of the family but to the emotional turmoil in which the entire nation was in the aftermath of the Hamas attack on 10/07. This participant also viewed this procedure negatively in light of the desecration of the dead (see below, section 5.2) and saw it as a capitulation to emotion that sought to perform this procedure without regard to other considerations that he perceived to be rational. As I have noted above, this procedure has been widely reported in the media,<sup>20</sup> Moreover, this may have led to the arrest of the military rabbi Hagai, who was apparently under the

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<sup>19</sup> It should be noted that in a 2024 study of 600 men, of whom 300 participated in the swords of iron war, regarding the performance of PSR without prior consent, 71% of the men believed that it was mandatory to ask the soldiers before their regular service and 78% believed that it was mandatory to ask the men before each reserve duty about their attitude towards the performance of the procedure in the event of death during service. One of the arguments raised by the opponents of the interrogation was: "Questions related to death can cause fear and harm the morale of the soldiers" (Savitsky and AL 2025).

<sup>20</sup> See, e.g., Bini Ashkenazi, "Race Against Time: Massive Efforts to Extract Sperm from the Corpse of Shay-Li Atari's Husband," *Walla* 11/10/2023 (<https://news.walla.co.il/item/3615344> ); Dudi Patimer, "The Sons' Testament: The Mothers Who Decided to Extract Sperm from Their Sons Who Were Murdered at 'Nova,'" *Maariv* 24/12/2023 (<https://www.maariv.co.il/news/israel/article-1062026> ).

impression that the desire to carry out this procedure in any case, was due to the emotional turmoil of the entire nation.

*"To have an orphaned child seems to me to be a bit far-fetched"*

As I have noted above, in the research literature, questions have arisen concerning the clarification of the presumed will of the rock to become a father, alongside the right of a person not to become a father. The study participants did not address this issue but focused on the problems they perceive in bringing an orphaned child into the world. A chaplain of the Rabbinical Corps, Matanya, who serves as a commander in one of the Rabbinical Corps units, says:

One Friday night, we had a Shabbat dinner, fish, songs, and then a phone call that we had to go to the dead to check on his condition because the family might want to sperm retrieval. This was the first time I had heard of this. It was surreal that the concept of it from a corpse to having a fatherless child seemed surreal to me; why have a fatherless child? I went, opened it, saw that all was well, and returned to the Shabbat meal to eat chicken. Then, another phone call checked the other space, and we stopped to eat the chicken after it continued eating.

This participant describes a situation on Shabbat in a unit of the IDF Rabbinate. Since, according to halacha, a corpse is not to be moved on Shabbat from a secure location on the base, the same base also houses Matanya and his soldiers, and he is asked during the Shabbat meat meal to check the status of the body for doing sperm retrieval. As can be seen, this participant described a situation of no boundaries between the eating of meat at the Shabbat meal and the examination of the flesh of the corpse.

It should be noted that one of the halachic rules is the prohibition against eating in the vicinity of the deceased. It is important to emphasize that in this unit of the IDF rabbinate, there is a clear physical separation between the storage area for the dead and the place where the soldiers ate. However, this physical separation did not prevent the mixing that the IDF rabbi's officer Matanya describes in the time dimension between the Shabbat meal and the need to examine the body of the dead soldier.

In the general study, many participants described a complex attitude toward eating meat concurrently or after handling corpses. In contrast, after examining the cavity, this participant did not see a problem continuing with the Shabbat meal.

This participant did not address the issue of respect for the dead but argued that this procedure was problematic in his eyes because a child might be born from this sperm, an orphan. The IDF rabbinic officer Avishai addressed the planned orphanhood issue in a general context: "The State of Israel does not understand what hole it is digging for itself in the matter of sperm harvesting."

Similar thoughts had also military rabbi Yonatan, saying:

The sperm retrieval is the main talk between us because it is constantly being asked about. It occupies us a lot [...] Almost every Shabbat, they are transporting corpses for this. I think we have gotten confused. You are raising a generation of orphans. A religious family very much requested a Shabbat removal for sperm retrieval. Where is the dignity of the dead? Time has passed. I did not understand where this was coming from. This was a child who would grow up without a father.

In contrast to the words of the military rabbi Matityahu, who met the possibility of performing sperm retrieval in the first days after the Hamas attack on 10/07, Rabbi Yonatan describes the situation in the Shura camp and in the various units of the Rabbinate where this issue was at the center of the unit's discourse. Alongside the affront to the dignity of the deceased, according to this participant perceived, he also emphasized that this procedure might result in the birth of an orphaned child. This participant also mentioned the issue of whether it is permissible to transport the corpus on Shabbat to perform PSR. However, as can be seen from his words, the issue of orphanhood was, in his eyes, the main issue to be discussed in this matter. It should be noted that in a question raised on the IDF Rabbinical Corps hotline regarding PSR, it was stated that the Rabbinate's position was that burial could be delayed for sperm retrieval.

Another participant who addressed this issue was the military rabbi Yair, who dealt with civilian casualties:

On [...] I received a task of sperm retrieval. A body in such a state cannot be aspirated; she was also unidentified. [...] I, as a person who knows what it is important to honor the dead, and especially to bring a child into the world who is an orphan, is one of the hardest things for me and others. It was simply disgusting.

This participant, like the chaplain Menachem, was assigned the task of examining a corpse to determine whether PSR could be performed. This participant objected to this procedure because it would bring orphaned children into the world, and he

characterized his examination as "disgusting," which I will address below.

Another participant who addressed the issue of planned orphans but also addressed the question of the deceased's presumed wishes was the military rabbi Shoham:

This issue is very painful to me because the AKA offers it to everyone, and they drive the families crazy. It is complicated to use it, and it is a desecration of the dead. Another child without a father. Moreover, who will be the mother if he is not married? I do understand a situation where a woman wants a child from him, but parents are something else. This is a matter with which I am very familiar. The family does not see it as a problematic act.

This participant noted that this procedure is offered to the family without understanding the complexity that may arise in a dispute between the parents and the deceased's partner. As mentioned, criticism was also voiced against the bill on this subject that was approved in a preliminary reading in the Knesset in May 2023. This participant was the only one of the research participants who raised this point.

Another approach and unique reflected in the words of the IDF chaplain Amnon:

One of the touching things about sperm retrieval is that progeny can be raised in its sperm. This means that there is a horizon for this dead soldier. It is not just that it has been honored, It is a thousandth of a consolation, but at least there is consolation here.

This participant did not deal directly with the bodies but served in the IDF rabbinical corps command post that also handled such requests. According to Amnon, these requests were an opportunity to provide some measure of consolation to the families of the dead soldiers, and he was happy to make every effort on his part to expedite and speed up the requests to enable this type of consolation to the families. As noted, the IDF chaplaincy officer Amram also saw in the possibility of giving the family a chance for continuity a kind of argument justifying the performance PSR despite the difficulties he thought were involved in its performance: "Because I want to give them continuity."

As can be seen in this section, many of the participants in the study regarded the consideration of not bringing into the world orphaned children as a central consideration. They regarded this as a decisive consideration against PSR, while

considerations deriving from the presumed wishes of the deceased did not occupy any place in their considerations.

*Honoring the Dead: "You are supposedly insulting everyone's honor"*

One of the fundamental halachic concepts in treating the dead is the concept of Honoring the dead ("Kavod Ha-Met"). In jurisprudence, there is a distinction between norms of the type of rule and norms of the type of Standart (Kennedy 1976). If we apply this distinction to "honoring the dead," we find that among the rules are prohibitions against eating and speaking of secular matters in the presence of the dead (*Shulchan Aruch, Orach Chayim* 25:1; *Yoreh Deah* 341:1), transporting the corpse on Shabbat in specific ways (*Shulchan Aruch, Orach Chayim* 311), purification rites for the corpse, etc. Over these hangs the standard of the importance of "honoring the dead."

While in routine situations, most modes of action were regulated by rules, in wartime situations and especially after the Hamas attack of 10/07, many questions arose that were not covered by a clear normative rule, and the standard of "honoring the dead" took center stage. Many rabbinic soldiers and officers needed to examine their activities in light of this standard and set rule for themselves or their troops accordingly. I will address this in a separate article.

As I have noted above, a medical procedure of sperm retrieval, as opposed to sperm aspiration, involves the desecration of the corpse. This raises the question of whether this procedure should be considered a desecration of the dead and thus be barred. In the context of the discussion before us, the dead's honor is expressed in two aspects: the desecration of the honor of other dead, which I shall discuss in this section, and the desecration of the dead's honor (see below). Rabbi Reuven, who dealt with the dead in the Gaza Strip, describes a first-type desecration:

"There was a soldier whose family wanted to do a sperm retrieval. They searched for him in the Shura camp all day. They opened bag after bag, and then, by the number of bracelets, it was determined that he was on the side of the civilians. It was lucky that they had written on the outside of the bag the name of the hospital, and they were able, with all the pressure, to do a sperm retrieval."

Following the family's request to perform this procedure for many hours, the rabbinic personal opened many bags of the dead to locate the specific deceased. This was because the scope

of the dead and their condition did not allow at that time a systematic and orderly identification of all of them. At a certain point, it became clear that this deceased had been mistakenly taken to the area where civilians who had been murdered were being treated. Since the body bag bore the name of the hospital from which it had come, it could be identified quickly, and thus, this procedure could be performed. However, to perform preliminary inspection, many body bags were opened to identify this soldier, while one of the rules about the honoring of the dead is to cover him and minimize his exposure.

In another case, the Rabbinate personal was asked to locate a corpse to do PSR in a refrigerated container, and so the military rabbi Natanel relates:

Suddenly, there was an order that there was someone whose wife had demanded that he be made to sperm retrieval. There was a court order [...] It was tough for us. From the outset, there was no chance because for it to succeed, there had to be optimal time conditions [...]. There is a whole container full of people from the area, and you have to open all bags to see if there are any identifying marks. You are supposedly violating the dignity of all by rummaging through them; maybe it is not him, and in the end, it was too late [...]. I told myself that the judge was not on the scene; he had no idea what it meant or the chances. You have to be in touch with reality. You are hurting A for the sake of B.

In this case, the request was initiated by the dead` woman, who came to the Shura camp rather than by the possibility presented to the family in their home by AKA officers. This participant noted that although it was known in which container this corps was to be sought, the rabbinate personnel were asked to search for this casualty in the container in which many bodies were placed in a disordered manner. Some of them were not fully covered, so the very act of walking in the container was disrespectful to the dead. This participant knew that the condition of the bodies in this container would not allow sperm retrieval, and it was particularly frustrating that the attempt to locate the body of one casualty was demeaning to the honor of all the casualties. In his opinion, if the judge who gave the order in (before the entry into force of the Ministry of Health's emergency order, which does not require a court order for the performance of PSR) had been aware of the reality in the Shura camp, the judge would not have ordered the performance of this action which is futile and which violates the dignity of the other deceased.

The military rabbi Hagai, who also dealt with the bodies of soldiers, related that the examination of the state of the dead for sperm retrieval disrupted the order of treatment of the other dead:

Suddenly, we were asked to find two bodies urgently that needed sperm retrieval, and so they were rushed. We were in a large setup that depended on each other, and if a stone fell, everything would fall. I knew it would shut down all our work if they did not release it.

According to this participant, a request to perform PSR requires the preemption of these bodies to other bodies. Since this is a chain of identification processes, the other identification processes must be halted, and the identification of these bodies must be focused upon. This participant argued that this was unfair and may have thought that this was a form of desecration of the dead in that this request altered the order of treatment of the dead in their removal for burial.

The rabbinic soldier Shneor relates another case in which he was asked to locate a corpse for sperm retrieval:

On the day [...], a senior officer suddenly arrives with the unit's rabbi, and they are looking for the body of [...]. It turned out that his body was not recorded in the computerized documentation and not in the hundreds of bodies around us. He was married, and his wife wanted the option of sperm retrieval. He showed us pictures of himself, and we began to search manually, opening sack after sack and looking for the shoes. We went through perhaps seventy bodies and found nothing. They said let us check the faces. The other fellow opened dozens of bodies and compared them with the pictures he had received and some in terrible conditions. I was stunned by his self-sacrifice, and suddenly, it was him. I felt it was a personal providence; he wanted to repay me for what I had done for him [...] He had a kind of aura. There are times when bodies are present, and you feel a kind of aura.

The conditions of the search for the body were characteristic of the situation at the Shura camp after the Hamas attack of 10/07. In this case, the rabbinic personnel were trying to uncover the shoes of the deceased in order to identify the dead person they were searching for with a minimum of desecration of the other dead. This attempt failed, and the IDF rabbinic personnel then tried to locate the body using a photograph they had received (a sort of identification by personal acquaintance). This participant was amazed at the self-sacrifice displayed by the unit's rabbi in going through and opening many body bags and

comparing the faces of the corpses, despite their deplorable condition, to the photograph he had received in the absence of formal identification. Finally, the body was found, and according to this participant, it had a kind of special aura about it. This participant interpreted the aura as a kind of satisfaction on the part of the corpse that it had been found and that the procedure might be carried out. He even saw it as a kind of confirmation on the part of the deceased for the procedure. It should be added that many of the participants in the study referred to the facial expressions of the deceased as indicative of their mental state and constructed a kind of life story from them. This phenomenon will be reviewed in a separate study.

The complexity of locating bodies for sperm retrieval, in the reality that prevailed at the Shura camp on 10/07, is also reflected in the words of the IDF rabbinical officer Yehonatan:

One day, a Knesset member came to Shura with [...] who brought signatures to do Sperm retrieval for bodies we have not yet identified with and do not know where they are. How can you say you do not know? The Ministry of Health says it has no chance from a health protocol point of view. The military Rabbinate involved the police, and the decision was to enter the container and go through sack by sack to say that the state was doing everything for them. It was clear that this was irrelevant, but from the fact that there had been a case a few years ago, it had succeeded in every case. The decision was correct because, in the case of a catastrophe, you do everything for the family. So long as it does not impinge upon others.

In this case, the issue was the retrieval of Sperm from citizens, with responsibility for the treatment of murdered citizens of the police and the Ministry of Health. This participant relates that the military Rabbinate knew that the condition of the bodies brought from that place next to Gaza strip did not permit the retrieval of Sperm, but the primary test was carried out anyway. This participant argued that the search for the body of the deceased did not impinge upon the dignity of the other victims and thought that the relatives of the death should be given the impression that everything was being done for them, even in cases where it was hopeless.

As can be seen in this section, the state of the bodies in the Shura camp in the first days after the Hamas attack did not allow for a detailed examination of the dead for the possibility of sperm retrieval, and this examination was entailed in the desecration of other bodies. The study participants saw this as another reason not to perform this procedure on the dead.

*"To go the dead to check its condition"*

A second aspect of disrespect, in the view of the participants, in honor of the dead, was the performance of a cursory examination of the possibility of sperm retrieval. Military Rabbi Elisha refers to the performance of this procedure on the eve of Shabbat:

At Kabbalat Shabbat, I made Kiddush and received a phone call to check the refrigerator to see if it was possible to do a sperm retrieval. I did not know what that was, so I asked for an explanation. I was told to check his groin area. I returned, and then I was told to do it to two others. I returned to the commander and told him. It is no appetite-stimulant to rummage there. And then he moved to the hospital [...] for sperm retrieval.

Like other participants in the study, this participant, despite being a member of the IDF Rabbinical Corps, had never heard of PSR and therefore asked to be appraised of what it was. Elisha relates that the performance of this operation during the Sabbath eve meal caused a breach in the partition between the world of the living and the world of the dead and notes that several casualties were evacuated from the Rabbinical Unit during the Sabbath for this purpose. As I mentioned above, even the IDF chaplain Matanya related to a similar incident in which, on a Friday, he interrupted his Sabbath meal with his soldiers and went to check on the condition of the dead for a PSR procedure.

The military rabbi Shlomo described a situation in which he was asked to locate a body in a container, and so said:

We often open bags, and there are no markings, as said. There are places where we did it for sperm retrieval. We were supposed to identify only men and whoever had a definite identification to transfer quickly to a hospital so that they could do sperm retrieval. I was told that there are [...] bodies in the container and suddenly discovered more. We take them out. Realizing that there was disorder, they then discovered that these were women. We had not dealt with them because it was less urgent, given the attempt to salvage something.

This participant describes the challenge of locating a dead body to perform sperm retrieval as "a rescue." According to rabbi Shlomo, the effort to locate this corpse involved an initial distinction between male and female bodies. However, the

conditions where the bodies arrived did not initially allow this distinction. So, this participant found himself opening sacks containing murdered female soldiers to locate men. This participant also describes a race against time to locate the relevant male corpse amidst a morass of bodies. Unlike other participants in this chapter, this participant did not view this action as a desecration of the dead but rather as a "rescue." This participant did not explain whether he meant the saving of Sperm from the corpse of the deceased and the possibility of bringing a child into the world from this Sperm or a kind of consolation for the family in knowing that all that could be done to provide them with some solace for the disaster that had befallen them.

Military rabbi Yair was given from his commander a similar assignment:

On [...] I received a sperm retrieval task. A body in such a state cannot be aspirated; she was not identified. A court gave order to search for the body. It was in one of the hardest containers that had children in it. We opened and took out a body, a body, and the situation was unpleasant, and to go through all the men, they were in a very unpleasant, disgusting situation. Again, we searched according to the identification marks we were given [...], which is how we identified a few more people. I had a feeling of revulsion because I knew it was impossible, and the doctor said there was no chance and it would be traumatic and disrespect the dead for nothing [...]. As a person who knows what the meaning of Holiness is, and especially to bring a child into the world who is an orphan. It is one of the hardest things for me and others. It was just disgusting.

This participant, who had handled hundreds of corpses, throughout the interview referred to the handling of corpses as a sacred act and a privilege for him. In this context, he noted the difficulty of locating a particular corpse in a container that included different corpses, including children. The emotional difficulty of handling dead children was one of the significant difficulties of the IDF rabbinate in this war. Since this participant was responsible for this container, he knew that the condition of the male would not allow sperm retrieval procedure. He said that one of the doctors at Shura camp had also claimed that this was medically impossible, yet he was ordered to perform the preliminary examination.

It should be emphasized that one of the rules of honoring the dead is to keep the dead fully covered and only expose his corpse for identification or preparation for burial. The need to expose

the lower half of the corpse for this examination created a sense of revulsion in this participant.

To summarize this section, it should be noted that in contrast to the other participants in this study, who were only required to check whether the physical condition of the deceased allowed to do PSR, the military rabbi Shoham saw how this procedure was carried out in a hospital: "Once I was in a hospital and I saw how it was done and I was shocked. If one wants to see what it is to desecrate the dead, this is the example". This participant had observed the treatment of many casualties after the Hamas attack of 10/07 under challenging situations but claimed that performing this act to dead was a desecration for him and saw this as a decisive consideration not to perform it.

*"We are carrying out orders that the Chief Military Rabbi has halachically screened"*

As I have indicated in the introduction, there are differing views in the fields of ethics, Law, and halacha as to the propriety of the relatively new medical procedure of PSR. As I have shown in the preceding chapters, most of the participants in this study who addressed this issue encountered it for the first time only in the context of their activities in the IDF rabbinate in this war and, in some cases, in situations where they were required to act on this issue immediately, both in the context of examining the bodies condition and in preparing bodies for transportation to perform this procedure on Shabbat and in giving halakhic opinions to bereaved families on this issue. As religious soldiers, the question arose whether the order to assist in the preliminary examination of the possibility of PSR was according to halacha.

The rabbinical officer Nir, serving in a burial unit of the IDF military rabbinate, comments on this aspect and says: "The Chief Military Rabbi determines the halachic approach, and as long as he has not said that it is forbidden, I do not need to go beyond the call of duty and say things that are not within the scope of my authority." This participant claimed that he had received no order prohibiting the evacuation of a corpse on Shabbat for PSR, and therefore, from his perspective, there was no halachic prohibition. Since, in many cases, silence cannot be taken as proof of a person's opinion, the question arises whether this participant indeed thought that the Chief Rabbi's silence taught his halakhic consent to the performance of this procedure on Shabbat and was motivated by other considerations, or whether this claim was made by him only

from lip service. It should be emphasized that I am not referring to the opinion of the Chief Military Rabbi, whose views on this matter, have not been explicitly expressed, but to how the participants understood his opinion.

Military rabbi Rafael, who dealt with the dead at the Shura camp, referred to the halachic complexity inherent in performing this procedure:

Sperm retrieval was a hard nut to crack. Most of the soldiers came from a mindset that we were following orders filtered through the Chief Military Rabbi, and some military rabbis were very upset by this and were demanding answers [...] I received permission to do a test that was not on Shabbat. The pain in the stomach was enormous; the guys were at the height of the pain, and the Rabbinate was in pain. On the other hand, it is a state law, and we have to abide by it. The idea was that it was halachically complex; in the meantime, we had to figure out how to deal with it on Shabbat. Someone said he was not prepared to perform any sperm retrieval operation.

According to this participant, there are two halachic difficulties in performing this procedure: a superficial examination of the status of the corpse in days of the week and on Shabbat, and the preparation of the corpse for its transport on Shabbat to the hospital for the performance of PSR. Rabbi Raphael relates that most of the soldiers in the unit understood, as a unit of the Rabbinate, that the Chief Military Rabbi had approved any order they received; alongside them, the military rabbis in Shura camp who dealt with the dead did not accept this assumption but sought explicit permission from the Chief Military Rabbi to perform this procedure. This participant reports that he received explicit permission for a cursory examination of corpses for this procedure, but not on Shabbat. Hence, the issue of Shabbat treatment was not systematically addressed. He also reports cases where soldiers refused to carry out any directive about PSR.

Matanya, the Rabbinate officer, addressed the halachic aspect of this procedure and said: "I am a soldier in the Rabbinical Corps, and my commander is a rabbi. I do not ask the rabbi whether what he says is according to halacha. If it is false, God will settle accounts with him later." To this participant's mind, accepting a halachic ruling from a rabbi and acting upon it absolves him of divine punishment if this ruling is incorrect.

Other participants in the study also addressed the question of the Rabbinate's silence on this subject. Rabbi Menachem, a veteran military chaplain, also addressed this issue, saying:

Making sperm retrieval from casualties was an issue. Someone should check how much of this has been carried out and ethically whether it is right for a child to be born an orphan. I think there is much work to be done on this. We, as military rabbis, are not saying our viewpoint.

In the opinion of this participant, the main factor that promoted the implementation of PSR was AKA, and he said that this was done without a thorough examination of all the aspects of the issue. Other participants in the study and the media discourse also raised this argument. Rabbi Menachem explained that the silence of the Military Rabbinate does not imply consent but rather a deliberate decision not to confront the officers in AKA contingent on this issue. It should be noted that in a question that arose on the army rabbinate's open line ("Hakav ha Patuah") regarding the issue of sperm retrieval, the army's position was stated as follows: "We do not encourage, nor do we discourage." Even the military rabbi Shoham claimed that "this issue is very painful to me that AKA` officers offer it to everyone, and they are driving the families crazy".

The request for examination of the dead to perform PSR aroused a storm of protest among members of another unit of the Rabbinate, and so relates the military rabbi Aaron, who served as a rabbi in one of the Rabbinate units dealing with the treatment of the corpse:

On one Shabbat [...] the soldiers there were very agitated, jumping on me as if I knew all the answers. It was not an easy Shabbat, with several deeds. The issue of sperm retrieval was first activated there. It shook up all the soldiers. For the Military Rabbinate, it was not simple at all. Not only was it done, it was done on Shabbat. It suddenly throws you back with a jolt to a family that wants to cling to eternity and perhaps to immortalize and incarnate. In reality, it did not quite happen, and as a result, the whole work procedure of treating corpus on Shabbat had to be rearranged.

This participant describes the emotional turmoil in which the soldiers were required to assist in the preparations for this procedure on Shabbat concurrently with the complex and challenging treatment of the dead; on the other hand, they understand that the performance of PSR is a kind of solace and hope for the family of the deceased. In this case, the main discussion was around the unit's activity on Shabbat to test the corpse before PSR procedure, and so he continues and relates:

On the Shabbat, an ambulance came to take the dead for sperm retrieval, and they say that it is "Ad Rideta", but I know that it

has nothing to do with it. I spoke with them about the halachic issues involved and began to inquire about the army's position on this operation on Shabbat. The Military Rabbinate disapproved of it on Shabbat, only in a civilian ambulance. On the other hand, the ambulance also works with the army. I told the soldiers that the army works by procedures, and the AKA officer works also by procedures, and she updates the family. I said she did not want to hurt them but offered consolation to the family. I calmed my soldiers a little. The Chief Rabbinate is opposed, but one cannot judge a person in grief who would not say yes in such a situation. I tried to devise a procedure for working according to halakha on Sabbath.

This participant attempted to mediate the military order to the soldiers. In and of himself, he thought this order was incorrect concerning the deceased and concerning the activity on Shabbat. He even related that people from the Rabbinate had tried to say that this dispensation was subsumed within the general halachic dispensation of "Ad Rideta" (a dispensation invoked to carry out military operations on the Sabbath), and he vehemently rejected this halachic possibility. This participant, a rabbi of a unit of the Rabbinate engaged in the treatment of casualties, sought to create a specific halachic ruling that would enable assistance to do PSR on Shabbat, given the medical time set of opportunity that did not allow postponement of the procedure until after Shabbat, and on the other hand he sought to create relevant Shabbat halachic permissiveness for the performance of PSR.

Rabbi Elior related a halachic question he had received from another military rabbi on this subject:

A rabbi approached me about the issue of sperm retrieval. I say there is a halachic problem and a family that asks you, tell them there is a halachic problem and refer them to a rabbi. The sensitivity concerns the "progress". They are different forces that working in Israel and we prefer not to confront them.

This participant claimed that the factor that motivates the proposal to do PSR to the family is, in his words, "progress" and that the military Rabbinate is not interested in entering a public controversy with these forces.

In the discourse of the Israeli Charedi-Zionist community, the term "progress" is used to refer to a liberal worldview that promotes gender equality, tolerance of same-sex couples, the abandonment of Torah values, the importance of the Land of Israel, etc. The use of the term "progress" is meant to create the impression that this is a single body that initiates and is

responsible for implementing these worldviews in various aspects. To Rabbi Elior's mind, "progress" is the driving force behind the activities of AKA in this matter. However, it seems this is more a matter of personal worldview than information based on reality. A separate study is required to examine the historical evolution of the procedures in the AKA that led to the proposal of this procedure to the families, as well as events related to the activities of the AKA personnel vis-a-vis the families in this terrible situation.

As I have noted above, Israel is at the permissive end of the spectrum about the performance of making PSR procedure even in comparison to other countries that are liberal in many other areas, so it seems that the central perception that encourages these procedures is not the "progress" approach, as defined by this participant, but rather a pro-natalist approach that exists in Israel and amplifies the importance of fecundity as a way of dealing with the security and demographic threats that the country faces.

This participant claimed that the IDF Rabbinate had begun drafting a directive for bereaved families on the subject but that, in his view, this initiative had been stymied. Also, a former IDF Rabbinate officer, Yehonatan, who served in the IDF Rabbinate headquarters, said: "The state has not decided on this. People with an agenda are running this. The Rabbinate tried to give an answer to the families and to write a letter to the families [...]" The reason for this is the understanding that writing these guidelines would create controversy in Israeli society; therefore, the IDF rabbinate preferred not to publish them. The sense of the impossibility of expressing oneself on this subject is also reflected in the Sabbath and Yom Tov treatment of casualties written by one of the Rabbinate's units on 8/11/2024: "When there is a demand by the family for PSE, the Rabbinate has no power to stand against this demand, and therefore one should act as follows..." (Section 7). The reference in this case is to Section 1 of the procedure dealing with the manner of transporting a corpse on Shabbat.

From reading of the military rabbis' statements, one can get the impression that the halachic have negative position about PSR, and it seems that this is also due to the perception that the people promoting the performance of this procedure are antithetical to the values of Torah-observant people ("progress"). This contrasts the views of Rabbi Goldberg and Rabbis Steinberg and Halperin (cited in Chapter 1), who argued that given the deceased's wishes, this procedure should not be categorically precluded and should even be seen as part of the deceased's honor.

Rabbi Jonathan addressed this aspect as a fundamental halachic question and said:

[...] This child will grow up without a father. I think that great rabbis ("Gdolei Ha-dor") should decide on such issues. Everyone should know his place; this is a matter of halachic rulings for the generation and guidelines for the public.

This participant also saw the planned orphanhood as a disqualifying consideration. Likewise, Rabbi Jonathan argued that the adjudication of these issues should not be left to the Chief Military Rabbi of the IDF but to the preeminent halachic authorities of the Jewish people, and they are the ones who should chart the halachic course in this matter. It is important to emphasize that after the Hamas attack of 10/07, the voices of the foremost halachic authorities on this issue were not heard, either in the affirmative or in the negative.

*"The Image of the Military Rabbinate"*

As I noted in the previous chapter, the IDF rabbinate adopted a policy of obfuscation. He did not clearly instruct his personnel on how to deal with this procedure on weekdays and Shabbat. This made it difficult for the IDF rabbinate personnel to maintain a uniform approach to the issue. Another aspect that the participants in the study pointed out was the performance of this procedure in the military facility for the identification and treatment of the dead – Shura camp. The military rabbi Avishai, who served as one of the staff officers of the rabbinate, says:

What will this do to the image of the IDF rabbinate if there is a doctor here and autopsies are done? [...] I look at it in the context of the sanctity of the dead, transport on Shabbat, the image of the IDF rabbinate. I am interested in remaining in the consensus even vis-a-vis the ultra-Orthodox public.

As I have noted above, there is a short time set in which this procedure can be performed, and it can, therefore, be suggested that it be performed in Shura camp. This participant argues that this procedure should be ruled out in the camp because, in his opinion, it will damage the image of the IDF rabbinate in the eyes of the ultra-Orthodox public and undermine its halakhic legitimacy. This participant defines this procedure as "autopsies." This procedure is indeed a surgical procedure performed on the body of the deceased. However, it seems that this participant believes that this procedure may be perceived in Haredi society as part of the issue of organ transplants or the

investigation of causes of death, which has a broad negative consensus in Haredi society.<sup>21</sup>

It should be noted that during swords of iron war, the IDF rabbinate sought legitimacy for its activities in the areas of Shabbat observance and the treatment of the dead from ultra-Orthodox Rabbis with the aim of operating within the broadest possible halachic consensus in these areas. It can be surmised that the silence in this area stemmed from this desire, on the one hand, and from the desire not to get embroiled in a confrontation with AKA. As I noted in Chapter 1, Rabbi Dr. Mordechai Halperin recommended that this procedure not be performed in a military rabbinate facility.

As I noted in the introduction, this medical procedure has existed for several decades, but clinical research on its efficacy is still ongoing. Officer Amram addresses this aspect in the context of the effect of the IDF's procedures for identifying casualties on the possibility of carrying out this procedure effectively:

I was asked to write a paper on sperm retrieval. I wrote a paper on the data in the process [...] coordination and cooperation with the Medical Corps. Instead of saying to me well done, without reference to the data and the problems. They asked me how dare I write a paper [...]. A C.T. scan is of very high intensity, and, for example, in a cavity with a detached organ, one can discern whether it is from a blast or a shrapnel.

This participant does not address ethical, legal, or halachic issues but medical issues. He says many gaps have also not been adequately addressed while doing PSR. It seems that his words should be understood as part of a criticism of the haste in which this procedure was offered to families without thoroughly examining the identification procedure conducted at Shura camp and its impact on this procedure. This participant argued that, from a medical standpoint, the IDF rabbinate does not express a clear professional position vis-a-vis other factors, including the IDF Medical Corps, which is active in this field.

Rabbi Noch, who served as a unit rabbi in the Gaza Strip, recounts a situation that occurred in this regard during Shabbat in the context of the systemic stance of the IDF rabbinate:

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<sup>21</sup> See, e.g., A. Hacohen, "Law and Medicine in a 'Jewish and Democratic State': Between the Anatomy of Law and the Pathology of Religion and State Relations," *Sharei Mishpat* 2 (2000), 189–222; R. Roth, "The Shame of the Bodies – Shaming and Dignity in the Struggle over Autopsies in Israel", *Mishpat u'Mishamim* 23 (2021), 227–281.

We had a soldier who was killed on Friday, and on Saturday, the army came to take him to the hospital to do a sperm retrieval, and there were several problems with this. They did not inform us that they had taken him, and we did not know where he was. Also, from a halachic standpoint, on Shabbat, it is forbidden, and also on a weekday. This is a glitch that we do not control. The Rabbinate should take responsibility for this issue, especially for Shabbat. They do not talk about it; they are afraid to deal with it. However, at least on Shabbat, we should not have to deal with it.

According to this participant, in this case, the Rabbinate's authority was not apprised of the taking of the corpse, and this resulted in several moments of concern over a serious mishap of a missing body. The reason for this lack of coordination is not apparent, and it is possible to speculate that this lack of coordination arose from the understanding of the power of medical corps and that the military Rabbinate would not cooperate in executing this transport on Shabbat. Also, a participant believed that the military Rabbinate prohibits performing this action on Shabbat and in general but is afraid to express their opinion on this issue. To his mind, while it might be understandable, in the context of the military, to refrain from taking a stand on the issue, in the case of the Chief Rabbi of the IDF, to his mind, it should be said explicitly as part of the authority of the IDF's Chief Rabbi on matters of Shabbat observance. It seems that even Rabbi Noch also thought that the IDF's Chief Rabbi was avoiding taking a clear stand on the issue for fear of entering a public controversy.

### *Conclusion*

One of the most challenging events for any person is receiving notification of the death of a family member, especially a young soldier in his military service. Following the Hamas attack of 10/07 and Hezbollah's joining in this war, a practice developed in the IDF's AKA to offer the families of the dead the option of performing a procedure of sperm retrieval to bring children into the world from the Sperm of the dead in the future. This issue has been addressed in Israel's legal literature and court decisions. There are even some references in halachic literature. However, there is a lack of comprehensive and systematic halachic writing on this subject, which includes all the aspects of this procedure, such as desecrating Shabbat to perform it, "planned orphanhood," continuity for the deceased, etc.

The IDF rabbinate was forced to deal with this issue after the 10/07 attack, both in the form of queries from the families of the dead to them as unit rabbis and during the treatment of the bodies. Most of the participants addressed this issue from the perspective of desecration of the dead, in the context of the chaos that prevailed at the Shura camp, as desecration of the honor of other deceased who were in the refrigerated containers. In the context of the rejection of the concept of "planned orphanhood," some of them defined the handling of this matter as "disgusting." Only a few of the participants indicated that bringing comfort to the family and providing continuity for the deceased were significant considerations in their eyes in permitting this procedure halachically.

Most participants believed that the Halachah disallows this action but did not receive clear instructions from the military Rabbinate. Some of the participants chose to interpret the silence of the Rabbinate as tacit consent to this action; some saw it as a surrender of the Rabbinate's principles in the face of powerful forces in Israeli public life, which they claimed had promoted this action, in contravention of halachic rulings. In practice, the majority of participants in the study assisted in the requisite tests for PSR, both out of a tacit understanding that this was the halachic practice of the IDF's Rabbinical Corps and out of a desire not to add to the pain of the families of the dead.

It should be noted that while in the legal arena, the central issue is the understanding of the presumed will of the deceased, most of the research participants assumed that the deceased's will was that this action is not done to his body. The two primary considerations mentioned by the participants were the rejection of the idea of bringing orphaned children into the world and the desecration of the dead that they believed to be involved. The consideration of a small measure of consolation for the families was a consideration not to say to the family the genuine opinion of the military rabbi. In contrast, the consideration of the continuity of the deceased was almost absent from the participants' remarks.

The study participants repeatedly emphasized that the decision to perform sperm retrieval on IDF casualties was, in their view, a decision driven by the emotional state of the families and the emotional turmoil of Israeli society following the 10/07 attack. It seems that many of the study participants also examined this procedure negatively from an emotional perspective and did not bring to bear the full range of halakhic, ethical, and emotional considerations in performing this procedure.