

May I Go Home Now? – Part I

One of the most frequently discussed topics in medical Halacha is “*Hitiru Sofan miShum Techilasan*” (“they permitted the end due to the beginning”). Doctors, nurses, and medical personnel encounter many scenarios that raise complex questions regarding traveling to and from a hospital on Shabbos. For instance:

- 1) If a doctor’s hospital shift begins on Friday night, is he obligated to arrive before Shabbos?
- 2) If a nurse is driven by a non-Jew to her shift in the hospital, may she carry non-essential possessions?
- 3) If somebody went to save a life, may he return to a different area even though it is not where he lives?
- 4) If a husband accompanies his wife to the hospital to give birth, may he return home afterward or must he remain there until after Shabbos?

To address these and other questions, we must examine a complex *Sugya* that is explained by the *Mefarshim* in different ways. We have discussed it in part in the past¹, but in this series of essays we will explore it in greater detail. We will begin with an overview of the *Sugya* and the rulings of the Poskim, and conclude with a practical Halachic guide.

The Mishna in *Maseches Eruvin* (44b) states:

If a person left [the Techum] permissibly and was told that the matter had already occurred – he has 2,000 Amos in every direction. If he was within the Techum – it is as if he has not left. All who leave to save may return to their place.

Rashi explains: “*If someone left permissibly*” – for example, to testify about the new moon, to save [someone] from an army or a river, or a midwife who comes for a birth.

In other words, if a person left the *Techum* for the sake of *Pikuach Nefesh*, he has 2,000 *Amos* in each direction from his final location. In general, an individual may only walk 2,000 *Amos* from the city limits, but no further (*mid’Oraisa* it is only forbidden to walk twelve *Mil*). If a person ends up outside the *Techum*, he may not walk more than four *Amos*. However, the *Chachamim* permitted rescuers who had left permissibly to

¹ See *Balak* 5780

walk 2,000 *Amos* in each direction after their mission or task is complete, regardless of how far they had traveled from their original location.

It is clear from the Mishna that the *Chachamim* did not allow them to walk further than 2,000 *Amos* even though it would only constitute an *Isur d'Rabbanan*. However, the Mishna's final case seems to indicate otherwise, as the Gemara notes:

"All who leave to save may return to their place." Even more [than 2,000 Amos]? But you said in the beginning [of the Mishna] 2,000 Amos and no further!²

(The *Gemara's* question is that the *Seifa* indicates that rescuers may return to their place with no limitations. This seems to contradict the *Reisha* which only allows them to walk 2,000 *Amos*.)

Rav Yehuda said in the name of Rav: They may return to their place with their weapons.

(According to Rav, the rescuers may indeed only walk up to 2,000 *Amos*. The *Seifa* merely teaches that they need not rid themselves of their weapons after they have saved the people; rather, they may also carry them within the 2,000 *Amos* even though this constitutes *Chilul Shabbos*. The Gemara later explains the reason for this.)

What is the question – perhaps going to save is different?

(The *Gemara* refutes the original question. We can answer simply that the *Reisha* refers to a person who left to testify about the moon or to save a person from death. In such cases, they may not return since they don't need to do so. Whereas the *Seifa* refers to people who leave to rescue others from attacking enemies. They may return to their place despite the distance since there is concern that the enemy will pursue them.)

The Gemara explains that the question from the *Seifa* was actually asked regarding a different Mishna in *Rosh Hashana* (23b):

Originally they would not move from there the entire day (witnesses who came to testify about the new moon could not move more than four Amos from where they gave testimony, just like one who leaves his Techum). Rabban Gamliel haZaken enacted that they have 2,000 Amos in every direction. Not only did they say this for these people but even a midwife who comes for a birth or a person who comes to save [others] from an army or a river or a ruin or a fire – they are like the people of the city and they have 2,000 Amos in every direction.

² The *Gemara's* question is that the *Seifa* indicates that rescuers may return to their place with no limitations. This seems to contradict the *Reisha* which only allows them to walk 2,000 *Amos*.

In other words, even soldiers do not have more than 2,000 *Amos*. This seems to contradict the *Seifa* of our Mishna. The Gemara offers two answers:

- 1) Rav [Yehuda] said [in the name of Rav]: They may return to their place with their weapons, as it is taught: Originally, they would place their weapons in a house next to the wall. One time the enemy realized [that they did not carry their weapons back] and pursued them. They entered [the house] to take their weapons and the enemy entered after them. They pushed each other and killed more of each other than the enemy killed. At that time, they instituted that they should return to their place with their weapons.
- 2) Rav Nachman bar Yitzchak said: It is not a question – here we refer to a case when Yisrael defeated the nations and there we refer to a case when the nations defeated themselves³.

According to the first answer, the soldiers may even transgress an *Isur d'Oraisa* of carrying in *Reshus haRabim* due to *Sakanas Nefashos*. Thus, they need not rid themselves of their weapons even if the war is over since the danger remains, as in the episode related by the *B'raisa*.

According to the second answer, each Mishna refers to a different case (and, thus, there is no contradiction). The Mishna in *Rosh Hashana* permitting people to walk 2,000 *Amos* refers to a case in which Yisrael defeated the enemy nations where there is no concern that the enemy would pursue them. However, the Mishna in *Eruvin* refers to a case in which the nations defeated Yisrael; hence we are concerned that the enemy may return and fight again. This is why they may return to their city regardless of the distance.

The *Rosh* rules (*Eruvin* 4:5):

Rabbeinu Meir zt"l states that the Halacha follows both the answer of Rav Nachman bar Yitzchak since he is a later Amora and Rav Yehuda since a *B'raisa* supports him.

When the *Rosh* states that the Halacha follows both answers, he implies that the *Amoraim* do not argue regarding the Halacha itself; the *Machlokes* is merely how to understand the case of the Mishna. Meaning, everyone agrees that if Yisrael defeated the nations the soldiers may not walk further than 2,000 *Amos*. Likewise, they agree that the soldiers may always carry their weapons with them.

Thus, if Yisrael defeated the nations the soldiers may only walk 2,000 *Amos*. They may carry their weapons, despite this involving an *Isur d'Oraisa*, though they may not walk a distance that would constitute even an *Isur d'Rabbanan* (i.e., greater than

³ [Editor's note: This is a euphemism for the defeat of the Jews.]

2,000 *Amos* but less than 12 *Mil*). If the nations defeated Yisrael, they may travel whatever distance is necessary to fortify themselves or flee, and they may certainly carry their weapons with them.

The *Bach* and *Prisha* (*O.C.* 407) follow the *Rosh's* conclusion. However, the *Rambam* states in *Hilchos Shabbos* (27:17):

All who leave to save Jewish lives from the idolaters or a river or ruin have 2,000 Amos in each direction from the place in which they performed the rescue. But if the idolaters were in power and they were afraid to remain in the place in which they performed the rescue, they may return to their place on Shabbos with their weapons.

The *Rambam* implies that they may only carry their weapons with them in one case – where the nations defeated Yisrael. His logic appears to be that if Yisrael were victorious, there is no reason for them to carry their weapons.

In other words, according to the *Rambam*, we do not combine the two answers of the Gemara. Only when the nations defeated Yisrael could they return with their weapons since they remain in danger from further attacks. Of the two answers in the Gemara, the *Rambam* rules like Rav Nachman bar Yitzchak.

This is how the *Keren Orah* explains the respective approaches of the *Rosh* and *Rambam*.

This *Machlokes Rishonim* is just the beginning of an in-depth discussion of the *Rambam's* view. In the next essay, we will discuss this further.