

May I Go Home Now? – Part 3

The previous two essays in this series have detailed the Halachos for medical personnel who wish to return home on Shabbos following a life-saving act. We concluded that while some Poskim forbid violating *Issurim d'Oraisa* to return, if it is clear that this restriction would cause them to refrain from performing future acts of lifesaving on Shabbos, they would be permitted to return home even if that would require the violation of *Issurim d'Oraisa*.

This is also the view of *haGaon* Rav Asher Weiss *shlit"a* (*Shu"t Minchas Asher* 2:40:6):

It is logical [to assume] that the matter depends on the situation in each generation. In our time, it is clear that if rescue volunteers were required to remain many hours away from their homes in unsuitable conditions and to leave their families alone on Shabbos and Yom Tov, they would certainly not volunteer and we would cause a stumbling block for the future.

Rav Asher writes that a *Talmid Chacham* told him an anecdote of a religious doctor who would sometimes travel by car on Shabbos to treat *Cholim* who were in danger and return to her house on foot. The *Brisker Rav* demanded that she return specifically in her car and forbade her from walking home. As Rav Asher explains, her decision whether or not to travel for the sake of the *Cholim* “*would be influenced by the knowledge of the difficulty and bother of returning from afar by foot. She must, therefore, return by car due to Pikuach Nefesh....*”

The remainder of this essay will discuss exceptions to these rules.

First, there is a crucial difference between a person whose job is to save lives and someone who happens to be called upon in an emergency. For example, if a person rushes his dangerously ill neighbor to the hospital on Shabbos and is stuck in the hospital with a long day ahead of him, may he return home on Shabbos?

In light of the principles previously discussed, it is clear that he may not violate any *Issurim d'Oraisa* to return home. In fact, it is far from clear that he may violate even an *Issur d'Rabbanan* since, according to most opinions, the *Heter of Hitiru Sofan* only permits walking 2000 *Amos* but no further, even though doing so is only an *Issur d'Rabbanan*.

We saw the *Chasam Sofer* permits *Issurim d'Rabbanan* (such as enlisting a non-Jew to drive a person home) in these cases. However, his *Heter* was issued for medical

professionals, not the general population. Most laypeople are unlikely to be called upon a second time to save a life, therefore, there should be no reason to permit them to transgress an *Issur* to return home. By contrast, medical personnel or Hatzalah volunteers are often required to leave their homes on Shabbos to save lives. Therefore, we may assume that if we do not permit them to return home, they might refrain from responding on future Shabbosos (or their families might prevent them from answering rescue calls).

The Halacha is even stricter for those who leave home to save or protect the lives of relatives, such as a husband who takes his wife to hospital to give birth. Though he left for *Pikuach Nefesh*, he may not return home as the notion of *Hitiru Sofan* certainly does not apply to him. He would perform the same act in the future without hesitation. (There is no concern that the inconvenience of remaining in the hospital will prevent him from acting similarly in the future. When a person acts in his own interests, he accepts the necessity to wait in the hospital until after Shabbos with equanimity, unlike one who is assisting strangers.)

The source for this is a ruling of the *Chasam Sofer* (C.M. 194) regarding a Jewish doctor who was summoned to save the lives of non-Jews on Shabbos. The *Chasam Sofer* permitted him to violate *Issurim d'Rabbanan* to do so because of *Eiva* (enmity of non-Jews toward Jews). As we have discussed several times in the past, one may transgress *Issurim d'Rabbanan* if there is no alternative to prevent *Eiva*, thus, this doctor was permitted to treat the non-Jews on Shabbos else they would hate the Jews for only treating other Jews on Shabbos. However, the *Chasam Sofer* added that he was not permitted to violate *Issurim* to return home:

It seems to me that, at any rate, he is forbidden to return to his place after he has treated the non-Jew. His case is unlike the case of those who go to save people from an enemy's forces who may return to their place, since [in that case] they permitted Sofan miShum Techilasan – [the concern that] rescuers will not go, which will endanger Jews. But in this case, even though there is a potential Sakana if he will not go to treat [patients], one may still not permit him to return miShum Techilasan, since he is also in danger in this case [because of the Eiva that he will incur if he refuses to treat non-Jews]. In fact, he is the one who is primarily in danger. Therefore, we are not concerned that if he is not allowed to return he will not go in the future since he will worry about himself. However, those who go to save from enemy forces, are [only] going to save others. In that case, there is a concern.

In other words, since he went out to save lives because of *Eiva*, there is no concern that he will refrain from doing so in the future since the primary risk of *Sakana* is his own life.

The *Chasam Sofer's* ruling seems difficult to understand, for two reasons:

- 1) Presumably, soldiers who go out to rescue people (the original case of *Hitiru Sofan*) are also going to save themselves. It is unlikely that the Gemara only refers to professional soldiers who are going to save residents of another city but who are in no danger themselves. According to the *Chasam Sofer*, why are they not permitted to return home? They will certainly not refrain from acting similarly in the future given that they are in danger themselves. This question is asked by Rav Shlomo Zalman Auerbach *zt"l* (*Minchas Shlomo*, 1:8).
- 2) How can the *Chasam Sofer* assert that the doctor will not refrain from going out on another occasion because *Eiva* will put him at direct risk? Perhaps he will be called for a situation where there is no concern of *Eiva*, and he will be disinclined to respond because we did not permit him to return home on the previous occasion.

The first question is difficult to answer and Rav Shlomo Zalman leaves it unanswered.

The second question can be resolved. We do not invoke *Hitiru Sofan* because a person will recall a previous unpleasant experience but due to a concern that he will refrain from responding to this emergency if he knows that he will not be allowed to return. The issue is his *anticipation* of the consequences of his actions. Therefore, when a person leaves his home for a personal or familial emergency, we are not worried that he would refrain merely because he will not be allowed to return home and will have to remain there for the entire Shabbos. This is why he may not return.

In light of the above, a person who leaves to save himself or a family member would not be allowed to return home on Shabbos. However, the *Orchos Shabbos* points out (2:20:86) that the *Tashbetz* (1:21) appears to state otherwise. He discusses a person who is traveling with a group in the desert. After they depart, he may continue to travel with them even on Shabbos since it would be dangerous for him to remain alone. (This arrangement is subject to certain conditions.) When they stop, he has 2000 *Amos* in each direction (since he left the *Techum*), just like one who goes out to save lives. This Halacha is codified by the *Shulchan Aruch* (248:4, see the *Mishna Berura* there) and it seems to prove that even when a person leaves the *Techum* to save himself, the *Heter* of *Hitiru Sofan* applies.

At the end of the previous essay we cited Rav Shmuel Vosner *zt"l* (*Shevet haLevi*, 6:26) and Rav Nissim Karelitz *zt"l* (*Chut Shani, Shabbos* 4:90) who rule that a person who is often called out on Shabbos to treat patients should arrange for a non-Jew to take him home, meaning, he may only transgress *Issurim d'Rabbanan*. However, it is unclear whether doctors who work shifts in a hospital are included in the *Heter* of *Hitiru*

Sofan. In fact, *haGaon Rav Asher Weiss Shlit"á* (*Minchas Asher*, 2:42) is unsure whether a doctor who has scheduled duties is permitted to return home, even if it is only through *Issurim d'Rabbanan*. There are two reasons for his *Safek*:

- 1) It is not at all clear that if we were to forbid him from returning home he would refuse to work on Shabbos. It seems likely that most doctors would agree to work despite the necessity of remaining in the hospital until after Shabbos.
- 2) Even if religious doctors would refuse to work on Shabbos (due to the requirement to remain in the hospital until the end of Shabbos), no *Sakana* would result since there are enough doctors in the hospital without them. Particularly in the case of a doctor who works in a hospital where the majority are non-Jews, it is not clear that we can permit him to return home.

Nevertheless, *l'Halacha Rav Asher* permits doctors to enlist a non-Jew to take them home, as the *Gedolei Poskim* have ruled.