למודי משה

כי תבא - גליון פ׳

וראו כל עמי הארץ כי שם ד' נקרא עליך ויראו ממך – "And all the nations of the world will see that the name of Hashem is called upon them, and they will fear you" (*Devorim* 28:10).

Insights into Halachah

Taking down mezuzos when moving to a new house

The Ben Ish Chai wrote many seforim, including a sefer on Chumash. In his sefer on Chumash He takes a halachic topic related to the weekly parsha and speaks at length about its halachos (similar to what I try and do!). This week's sedra he dedicates to Hilchos Mezuzah. What's the connection between mezuzah and this week's sedra?

In this week's *sedra* we have the *pasuk*: וראו ממך The Gemara in *Megillah* (16b) understands the concept of ישם ד' נקרא עליך ויראו ממך and they will fear you". The Gemara in *Megillah* (16b) understands the concept of cישם ד' נקרא עליך סישם ד' נקרא עליך ויראו ממך. The Gemara in *Megillah* (16b) understands the concept of concept of concept of *c* שם ד' נקרא עליך *rosh* and that when the goyim see the *tefillin shel rosh* they will be afraid of you. Why will they be afraid of the *tefillin shel rosh*? Because the *tefillin shel rosh* contains two out of the three letters of Hashem's name '----, it contains a *shin* and a *daled*. If the *tefillin shel rosh* which contains two out of three letters the above, how much more so a *mezuzah* which contains all three letters of Hashem's name.

Another reason to talk about mezuzos is, the halachah is that one is supposed to check his mezuzos twice in seven years and many people do this before Rosh Hashanah.

To make the topic of *mezuzah* even more relevant to this time of year, we can add, that the halachah is that one is supposed to check his *mezuzos* twice in seven years, how does one keep track? Some people check their *mezuzos* before Rosh Hashanah of a leap year, as there is at least two leap years every seven years. Being that we are close to Rosh Hashanah, and it's Rosh Hashanah of a leap year it's a very appropriate week to talk about *mezuzos*.

The Gemara in Bava Metsia (102a)

If the house is being rented to a *goy*, one is allowed to take down the *mezuzos* as who knows what the *goy* will do with them. If however, the next tenant is a Jew, one should leave the *mezuzos* up. We see from the above Gemara, not only is it forbidden to take down the *mezuzos*, but there is a great *sakonah* involved as well and if one isn't careful with the above he may *chas vesholam* end up being punished and have to bury his wife and children. It would seem an open and shut case, that one isn't allowed to take down his *mezuzos* when moving to a new house.

Why shouldn't one take down his mezuzos?

Tosfos in Bava Metsia asks: Shmuel says, if one gets a new pair of *tzitzis* or a new *tallis* he is allowed to take the *tzitzis* strings from the old pair and put it on the new one (מטילין מבגד לבגד), asks Tosfos, why can't one do the same thing with a *mezuzah* and take it down from his old house and put it on the new one?

Tosfos answers: לפי שמזיקין באין בבית שאין מזוזה וכשנוטלה כאילו מזיק אותן שידורו בבית – "If one leaves a house without *mezuzos,* the house is subject to all sorts of *mazikim* [demons] and by taking them down you are leaving the new tenant who is moving in unprotected, and it's like you are directly hurting the new tenant."

The Smag (Choshen Mishpot 314) brings this Tosfos down l'halachah and says that if one takes down his mezuzos when leaving his house, he is directly injuring the new tenant who is moving in, therefore, one isn't allowed to do it.

Tosfos in Shabbos (22a) asks the same question and offers two answers, the second answer is the same as *Tosfos* in *Bava Metsia*, however, the first answer is different. *Tosfos* in his first answer says: אה הבדעתו להניח בבית אחר – "Perhaps he never had in mind to put them up on another house." *Tosfos* is answering, that the reason it's forbidden to take down *mezuzos*, is because when one leaves his house and takes down the *mezuzos* he might leave them in a draw and never hang them up again, in the case of the *tzitzis* however, he is taking off the strings and putting them directly on a new garment. Since one is still using the *tzitzis* there is no problem to take them off, by the *mezuzah* however, since it's being taken down and not being use it's a *bizoyan*, therefore, one isn't allowed to.

According to the first answer of *Tosfos* in *Bava Metsia*, it would seem that if one takes down his *mezuzos* and hangs them up straight away in his new house there would be no problem.

The *Ritva* in *Bava Metsia* also asks the above question and says an interesting distinction between the two cases. He says: שאני הכא דכיון דחלה קדושת "Taking down *mezuzos* is different, as when one puts up a *mezuzah* the Shechinah rests upon the house and by taking down the *mezuzos* one causes the Shechinah to depart, therefore, one shouldn't do it." *Tzitzis* are *tashmishay* mitzvah [an item used to perform a mitzvah] however, they have no *kedusha*, one is allowed to go into a *beis hakisay* wearing *tzitzis*, a *tallis* is a garment set aside for *tefillah* and so we take it off, but *tzitzis* we don't, since they have no *kedusha* there is nothing wrong with taking off the strings. A *mezuzah* however, is a *cheftza* [item] of *kedusha* and it

brings down the Shechinah and causes it to rest on the house, therefore, one has to be more careful before taking it down, as when one takes it down, he causes the Shechinah to leave the house.

The Shulchan Aruch (Yoreh Deah 291) paskens: – "One who rents a house off his friend is obligated to fix *mezuzos* and to make sure there is a good place to put them, and when he leaves he shouldn't take them with him." The Shulchan Aruch paskens like the Gemara in Bava Metsia that one isn't allowed to take down his *mezuzos*.

The Shulchan Aruch continues: אם שכר הבית מעובד כוכבים או ששכרו לעובד כוכבים נוטלה ויצא – "If one rented a house from a goy or a goy is taking over, he can take them down."

The *Rema* adds, that if the *goy* requests that you keep them up, you're not allowed to and you should take them down. If however, taking them down will create *aivah* [ill will] and will create problems between the Jews and non-Jews then you can leave them up. However, generally one shouldn't leave *tashmishay kedusha* with a *goy*.

The Pischei Teshuvah's exception

The *Pischei Teshuvah* brings a case when you are allowed to take down the *mezuzah*. He says, if one is moving to a place where he won't be able to find any *mezuzos* in his new location, he is allowed to take his *mezuzos* with him. He brings that Rav Hai Gaon and Rav Acha Gaon both say that if one takes down *mezuzos* and immediately hangs them up again in a new house there is no problem (*Tosfos* in Shabbos). We don't *pasken* like that, but *b'shas* hadechak [in a time of pressing need], then we can rely on the Gaonim.

The *Pischei Teshuvah* brings, that even if the new tenant says that he will put up new *mezuzos* straight away and so the house will always be protected, we don't allow the original tenant to take down his *mezuzos* as there is a *lo plug* [we don't differentiate].

If the original tenant is worried about the money, the new tenant has to pay

The Rema brings down: אם מקפיד על מעותיה השני צריך לשלם לו – "If the original tenant is worried about the money, the new tenant has to pay for it."

What if the new tenant says, "I refuse to pay"?

What's the halachah if the new tenant says, "the halachah is that one isn't allowed to take down his *mezuzos* and so whether I pay or not you can't take them down, therefore, I refuse to pay"?

The Chelkas Yaakov (Yoreh Deah 160) was asked this very shailah, about what to do if the new tenant refuses to pay.

The Chelkas Yaakov brings the Ritva in Bava Metsia who says, that if the new tenant doesn't pay, the original tenant is allowed to simply take them and go. True the din is that the original tenant isn't allowed to take them down, but both of them are mechayav to keep Shulchan Aruch and the new tenant refuses to pay, therefore the original tenant is allowed to take them down.

He then brings *Tosfos* in Shabbos and the Gaonim, who say that if one hangs up the *mezuzos* again straight away there is no problem to take them down. We saw from the *Pischei Teshuvos* that at a time of need one is allowed to rely on *Tosfos*, and there is a rule in halachah that a big loss is tantamount to a time of need. Therefore, the *Chelkas Yaakov* concludes, that joining together the *Ritva* in *Bava Metsia* that says if the new tenant refuses to pay the original tenant is allowed to take them down, and the Gaonim who allow one to take down his *mezuzos* if he will hang them up again straight away, and that it's a time of need, one can be *meikel* and he can take down the *mezuzos*.

The *Chelkas Yaakov* then adds, why can't you take them down? Because you shouldn't leave him unprotected. He says, if the new tenant refuses to pay he is a *gazlan* [thief], and [thief]

The Chelkas Yaakov mentions another thing that the original tenant can do if the new tenant refuses to pay. He says, if the original tenant wants to take down his mezuzos, he can replace his mezuzos with cheap less mehudar mezuzos and he won't lose out too much money.

R' Moshe Feinstein has a similar *Teshuvah* (Yoreh Deah, 4:42). R' Moshe was asked a *shailah* by R' Moshe Margolin, who was moving house and the *mezuzos* he had on his old house were very *choviv* [beloved] to him. Some were written by an expert *sofar* who no longer wrote *mezuzos* and some were written by his son in law, and he didn't want to leave his *mezuzos* behind. After first asking the above *shailah* to R' Henkin, he then asked R' Moshe if there was any *heter* to take them with.

R' Margolin wanted to suggest, just like the *Pischei Teshuvos* brings down, that if one is moving to a place where he won't be able to find *mezuzos* he can take his old *mezuzos* with him, so too here, since he won't be able to find such *mezuzos* in the place he is moving to, perhaps he is allowed to take them with.

R' Moshe Feinstein responds that it's not the same, in the Pischei Teshuvos case, he will be stuck without mezuzos, here, he will have mezuzos, it's just they won't be as precious to him as his hold ones.

R' Moshe then suggests that perhaps there is another *heter*. He suggests that to R' Margolin these *mezuzos* are priceless and the new tenant won't be able to pay for them, since he won't be able to pay it's like the case of a tenant who refuses to pay, and in such a case the original tenant is allowed to take his *mezuzos* with him. R' Moshe, however, rejects this *heter* as well.

R' Moshe concludes that R' Margolin can rely on the *psak* he got from R' Henkin. R' Henkin (who was asked first) *paskened* that R' Margolin was allowed to take down the *mezuzos*. He reasoned, that in America the law is, that when someone leaves an apartment, it needs to be repainted before a new tenant moves in. When the painters come in to paint the apartment, they remove the *mezuzos* from the door to be able to paint the doorpost properly.

If the painters remove the *mezuzos* the chances are they will be left in a draw somewhere and may never be found again, therefore, there is a *heter* to take the *mezuzos* down and keep them.

The Minchas Asher also deals with the above shailah and he says, if the new tenant is a non-observant Jew and he doesn't know much about mezuzos and you tell him that he has to pay £1000 for mezuzos and he says "you're crazy there's no why I'm paying so much for a few little pieces of parchment", since the mezuzos protect him and it helps him you should leave them up. If however, the new incoming tenant is a *frum* Jew and he knows *Shulchan* Aruch and he refuses to pay, then you are allowed to take them down. The Minchas Asher adds, if he refuses to pay, it's not you taking them down, it's him taking them down by refusing to pay.

Conclusion

In normal circumstances if one is moving to a new house he shouldn't take his old *mezuzos* with him, and one should be very careful about the above halachah as not only is it the halachah, there is *sakonah* involved as well. If the new tenant is a *frum* Yid and he refuses to pay, then there may be what to rely on to take them down, however, if both tenants keep *Shulchan Aruch*, the *mezuzos* should be kept up and the new tenant should pay for them.

Divrei Torah for the Shabbos Table

1) We mentioned above that in this week's *sedra* we have the *pasuk*: ישם די נקרא עליך ויראו ממך – "And all the nations of the world will see that the name of Hashem is called upon you, and they will fear you", and that the Gemara in *Megillah* (16a) learns from this *pasuk* that when the *goyim* see the *tefillin shel rosh* they will be afraid of us.

If one looks at the Gemara, the Gemara uses a slightly interesting *loshan*, the Gemara says: – ותניא רבי אליעזר הגדול אומר אלו תפלין שבראש – "R' Eliezer HaGadol taught, (that the *pasuk* הארץ כי שם ד׳ נקרא עליך ויראו ממך) refers to the *tefillin* in our heads". Why does the Gemsra refer to *tefillin* as being in our heads instead of the seemingly more accurate description of being on our heads?

The Vilna Gaon was once lodging at an inn when he heard loud cries and screams for help coming from the innkeeper's room. Although the Gaon was in the middle of davening *Shacharis*, he quickly ran to the aid of a fellow Jew. He threw open the innkeeper's door and discovered a non-Jew mercilessly beating him. The attacker looked up at the door, and upon seeing the Gaon wearing his *tallis* and *tefillin*, was overcome with terror and promptly fainted.

After recovering from the shock of the incident, the innkeeper expressed his tremendous gratitude to the Vilna Gaon for coming to his rescue. He added that while he was certainly appreciative, he was also curious about the Gaon's "secret weapon" which had inspired such fear in the heart of his attacker. The Gaon replied by citing the aforementioned Gemara and explained that the sight of him adorned in his *tefillin* had caused the non-Jew to faint. The innkeeper respectfully asked for clarification, as he himself had been wearing his *tallis* and *tefillin* prior to the attack, but they had clearly proven ineffective.

The Vilna Gaon pointed out that the Gemara uses a peculiar expression. It doesn't understand the *pasuk* as referring to the *tefillin* which are on one's head but rather to the *tefillin* which are in one's head. He explained that merely placing the *tefillin* on one's body is insufficient. A person must contemplate the message of the portions contained therein until they are internalized. While the innkeeper had not yet done so, the Gaon was clearly on such a level. When the attacker perceived his spiritual loftiness, he was overcome with terror to the point of fainting – exactly as promised by the Gemara (it's all about what's in the head and not what's on the head!).

2) This week's *sedra* begins with the mitzvah of *bikkurim* (26:1-11), which requires a farmer to bring the first ripened fruits of the *shivas haminim* as an expression of gratitude to Hashem for giving him a successful harvest. Rav Yisroel Reisman points out that while the *parsha* begins with the first mitzvah that a farmer does with his produce, it is followed by the final mitzvah that he performs with his crops, which is known as *viduy ma'asros* (26:12-15). Following the three-year cycle of *terumas* and *ma'asros* that a farmer is obligated to separate from his crops, this mitzvah entails him reciting a passage in which he declares that he has properly observed the *dinim* involved in *terumas* and *ma'asros* properly, the passage ends "I have done all that You commanded me."

However, there is a significant contrast between these two *mitzvos*. The Mishnah in *Bikkurim* (3:3) teaches that as the farmers approached Yerushalayim with their *bikkurim*, they were greeted by a flute playing in their honour and dignitaries coming out to welcome them. As they traversed the streets of the city, the local artisans stopped working in order to stand up and greet them. However, while a great fuss was made to honour those who were engaged in the mitzvah of bringing *bikkurim*, no parallel requirement exists for those who were reciting *viduy ma'asros*, nor for those who came to Yerushalayim to do other *mitzvos*. What is so unique about the mitzvah of *bikkurim* that warrants such special treatment?

Rav Reisman explains that *Chazal* understood the importance of beginnings and the need for new endeavours to start out with excitement. Even though these feelings may not last forever, they set the appropriate tone and create enthusiasm for a project that will enable it to prosper and flourish. Because *bikkurim* is the first mitzvah that a farmer performs with his new produce, it calls for a celebratory environment that will inspire him to continue down this path even after he returns home. This cycle is completed three years later when he recites the *viduy ma'asros* declaration in the privacy of his own home, without any pomp and fanfare.

Rav Reisman adds that this message is particularly appropriate for this time of year, as we prepare for Rosh Hashanah. The lesson of *bikkurim* is that the outcome of a new undertaking is heavily influenced by the passion and zeal with which it is begun. Even though this excitement does not last forever, it provides the spark and energy that enable it to be successful. As we work to make meaningful *kabbolas* (resolutions) to help ourselves become better Jews and better people, we must begin our years by imbuing our "*bikkurim*" with enthusiasm and fervour so that we too can look back at the end of the year and declare, "I have done all that You commanded me."

3) In these week's *sedra* there are two *mitzvos* that involve making a speech. One of them is *mikra bikkurim*, the declaration a person makes upon bringing his first fruits to the *Beis HaMikdosh*. In addition to the mitzvah of bringing *bikkurim*, in most situations there is a second mitzvah of reading the *pasukim* found in our *parsha* beginning with the words: אוני ה׳ אלקיך - "Then you shall call out and say before Hashem your G-d..." (*Devorim* 26:5-11).

The one bringing *bikkurim* says a brief synopsis of the history of the Jewish people. We had to go down to Mitzrayim. The Ribbono Shel Olam took us. He brought us to this place, a land flowing with milk and honey. And now, behold, I have brought the first fruit of the ground that You have given me etc. In short, we extol the praises of all the things Hashem has done for us, and we acknowledge our privilege of now being able to bring the first fruits of our wonderful land as a gift offering to the Kohen.

In connection with this *mikra bikkurim* declaration, the Torah writes: אוענית ואמרת ואנית. Rashi says that this particular expression indicates that the declaration should be made בקול רם – "in a loud voice". The declaration shouldn't be said the way one davens *shemonah esrei,* rather they should be said out loud.

There is a second mitzvah in this week's *sedra* to do with speech, known as *viduy maasros*. At the end of each of the three-year mini cycles that take place during the first six years of the seven-year *shemittah* cycle, a farmer makes a declaration testifying to his observance of separating and properly distributing *terumah* and *ma'aser* to the Kohanim, the Leviyim, and the poor during the past three-year cycle.

However, the Torah does not specify that viduy ma'asros must be said in a loud voice. Why is it that mikra bikkurim must be said a loud voice" and viduy ma'asros is apparently said silently?

The obvious answer is, that the declaration of *viduy ma'asros* extols the praises of the Ribbono Shel Olam. The Jewish farmer is not praising himself about how he kept all the *halachos* of *terumas* and *ma'asros* properly he is recounting what the Ribbon Shel Olam has done for him. At such a time it is appropriate that everyone should hear what is being said. *Viduy ma'asros*, on the other hand, is what I have done. I have done everything Hashem has told me to do. When I am saying what I did right, it is not appropriate to give a *klap* in the *Beis Medrash* and say "I have been on time for *Shacharis* every day for the last seventeen years..." We do not do that. We do not publicly pat ourselves on the back.

This is the simple answer to our question. However, I saw a very interesting insight from Rav Shlomo Kluger, who compares the above to another area in halachah.

The halacha is that *shemonah esrei* should be said silently, however, there is one exception to this rule. It says in *Shulchan Aruch* that on Yomim Noraim, a person can say the silent *shemonah esrei* louder than he recites it the whole year. One shouldn't get carried away and sing the silent *shemonah esrei* as if he is the *chazzan* and disturb people davening next to him, but he can say it louder than normal. Why?

The Nosay Keilim give various reason. One reason given is, that on Yomim Noraim everyone davens out of a machzor. During the year, people sometimes daven by heart. When Reuven is davening by heart and Shimon suddenly says something out loud, it can cause Reuven to become derailed and lose his mental place in davening. When everyone is reading out of a Machzor on Rosh Hashanah and Yom Kippur, it is much less likely for a person to get mixed up.

However, says Rav Shlomo Kluger, there may be another reason as well: Just like we say that *mikra bikkurim* is said out loud because we speak there about the praises of the Ribbono Shel Olam, this too can explain the *Shulchan Aruch's* distinction between Yomim Noraim davening and the normal daily davening. The hallmark of the Yomim Noraim davening is: מלוך על כל העולם כולו בכבודך – "Rule of the entire world with your glory". It is all about the Kingship of the Ribbono Shel Olam. We acknowledge the Sovereignty of the Ribbono Shel Olam. It is about Him, it is not about me.

During the year, the overriding themes of *shemoneh esrei* are "Ribbon Shel Olam I need sustenance, I need cures, I need this, I need that." It is all about "me". When it is all about "you", you do that quietly. But Yomim Noraim, we are asking the Ribbon Shel Olam to become King of the world. It is all about Him. That is the equivalent of *mikra bikkurim* where we apply the principle of אונית ואמרת וואמר.

4a) This week's *sedra* is known as the *parsha* of *tochocha* [rebuke], but before discussing the unspeakable punishments that befall those who don't keep the Torah, the Torah lists a number of *berachos* that are promised to those who keep Torah and *mitzvos*. In introducing these *berachos* the Torah uses an unusual expression: און עליך כל הברכות האלה **והשיגך** כי תשמע בקול ד׳ אלקיך (Devorim 28:2). The expression – "and they shall catch you" implies that the person is running away from them. Why would somebody run away from Hashem's blessings, such that they need to overtake him?

The conventional explanation given is that many times, Hashem showers us with blessings, but from our narrow perspective, we are unable to recognize them as such and attempt to run away from them, until they ultimately catch up to us and we recognize that what we initially viewed as undesirable was in reality a *berachah* in disguise.

While this is certainly a true and valid interpretation, Rav Shlomo Yosef Zevin cites a novel explanation from the Kotzker Rebbe, who cryptically remarked that the *Raavad's* disagreements with the opinions of the Rambam in Mishnah Torah are referred to as השגות. By describing these blessings using the similar term והשיגך, the Torah is telling us that they will present questions and difficulties. What does this mean?

Rav Zevin explains that when a person finds himself in difficult circumstances, such as a painful illness or challenging financial straits, he has a mitigating excuse if he is unable to properly dedicate himself to Torah and *mitzvos*. However, when a person who is blessed with success and bounty struggles to make it to his regular *minyan* or *shiur*, he has no defence. When life is going well, a person should naturally feel a desire to show his gratitude to Hashem by strengthening his mitzvah observance. Therefore, when somebody is blessed with *simchos*, wealth, and good health, yet fails to express his appreciation, there is a puzzling question, no less mystifying than the השנות raised by the *Raavad*. How can somebody take Hashem's blessings and not use them to come closer to Him?

Living today in a generation that enjoys unprecedented material prosperity, we must take this lesson to heart and ensure that our good fortune does not come to us in the form of והשיגך – perplexing difficulties – but rather as means that enable and inspire us to redouble our commitment to learning Torah and doing *mitzvos.* (R' Ozer Alport).

4b) Rav Tzadok HaKohen of Lublin writes in the name of the Rebbe Reb Bunim of Peshischa that the expression ובאו עליך כל הברכות האלה **והשיגך** - "and the blessings will come upon you *v'heeseegoocha*" means that the blessings should reach you where you are. This means that the blessings should not change you. The *berachos* that you receive will reach you "where you are" and you will not become a different person because of them.

All too often, we see that when someone comes into a lot of success and a lot of money, it changes him. He becomes a different person. Fame and fortune can do that. The promise is – according to Rav Tzadok — that the blessings should reach you and cause you to remain exactly where you were before they arrived.

According to the *pshat* of Rav Tzadok HaKohen we can understand another expression that is mentioned in this week's *sedra* 13 *pasukim* later. The *pasuk* says: – והיה אם לא תשמע בקול ה׳ אלקיך לשמר לעשות את כל מצותיו וחקתיו אשר אנכי מצוך היום ובאו עליך כל הקללות האלה והשיגוך - "And if you do not hearken to the voice of the Hashem your G-d to observe and keep all His commandments and statutes that I command you this day, then all these curses *v'heeseegoocha* [will overtake you]" (28:15).

According to the first two interpretations given above, v'heeeseegoocha does not seem to make sense in connection with the curses. However, according to Rav Tzadok's approach it makes sense. Just like good things sometimes change a person, so too bad things can change a person. If, unfortunately, a person needs to suffer curses, he should not need to change because of that either.

This *gilyon* was compiled by Moshe Harris. Please consult a Rov for any final rulings. For sponsorship, dedications, comments or to receive these pages weekly

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