

למודי משה

יתרו - גליון ק'

Insights into Halacha

Israeli Buses in Halachah

(The following has been adapted from a *halachah* write-up written by Rav Dovid Braizel, which I found in the *Kovets Beis Aaron Ve'Yisroel* which came out for Kislev-Teves 5782 and has been written primarily with Israeli buses in mind, the *halachos* in other places may vary.)

In this week's *sedra* we have the *Aseres HaDibros*, one of them is לא תגנב – "Do not steal". Rashi brings from the Gemara in *Sanhedrin*, that the commandment of לא תגנב, refers to the *issur* of kidnapping and not the *issur* of stealing money from others. The *Seforno* writes: על גנבת נפשות – "Even though the *pasuk* is primarily dealing with the *issur* of kidnapping, other forms of stealing are also included in the commandment of 'do not steal'". Therefore, this week we will discuss a topic that is related to the *issur* of stealing.

In Eretz Yisroel a large amount of the *frum* population travels daily by bus, whether it's old people, children, *yeshiva bochurim* or *kollel yungerleit*. Being that many are unaware of some very basic *halachos* involved in daily bus travel, I would like to dedicate this week's sheet to speak about some of the many questions that can arise.

When a person receives a service from someone, the person who benefits is obligated to pay the one who offered him the service the amount they agreed upon. For example, if someone orders a taxi to take him from A to B for a certain amount, it's obvious that even if they never spoke out clearly that he is happy to pay, he is obligated to pay the amount he was charged. This applies whether one is receiving a private service such as a private taxi, or one is receiving a public service such as traveling on a public bus. When one gets onto a public bus, he is boarding with the understanding that he is going to pay the price that has been fixed by the bus company.

Moreover, if one were to get on a bus and announce that he is not going to pay, the fact that he benefited from the bus and used it to get from A to B obligates him to pay for the service rendered. The *din* is, one who benefits from his friend's money or actions is obligated to pay him for the benefit he gained and a bus ride is no exception.

Travelling on a public bus without paying

Buses are privately owned by bus companies and the companies give no permission for one to travel on the bus without paying prior to the journey. Therefore, one who travels on a bus without paying is using someone else's property without permission. One who benefits from someone else's property without paying, transgresses on the *issur* of *gezeilah* [stealing].

If one does travel on a bus without paying, he has a *chiyuv hashovah* [obligation to return what he stole], and he has to pay the bus company for the ride. Even though normally one who steals an object from his friend and uses it doesn't have to pay for the usage (see *Bava Kamma* 96b) that's only when the *gazlan* [thief] has *kinyonay geneivah* and is held accountable for anything that happens to the object, here however, no *kinyonay geneivah* were done on the bus, and it's comparable to a case when one uses his friend's land, where we say that even though "*karka eino nigzeles*" [land can't be stolen], one still has to pay for the benefit he gained.

If a bus is full and has covered its expenses does one still have to pay?

Even if the bus is full, and everyone on the bus has paid and so the expenses have been covered, one is still not allowed to go travel on the bus without paying and one can't argue that he can travel for free because of "*zeh nehneh v'zeh lo chosar*" [this one gains and this one doesn't lose out].

The *din* is that in a case of "*zeh nehneh v'zeh lo chosar*" the owner is allowed to protest and say that even though by you benefiting he doesn't lose out anything, he still doesn't let you use his property (see *Rema* 363:6). Therefore, it's *poshut* [obvious] that one can't travel without paying for the bus even if the bus has its expenses covered, as the bus company is very particular that they don't let anyone travel without paying.

Traveling on a privately hired bus

Even though we said, if one travels on a public bus he has to pay, even if the company has already covered its expenses, this only applies to a public bus. If one hires a bus for private reasons, i.e. a *baal simcha* arranges a bus for people to travel back and forth to his *chasunah*, and someone wants to make use of the bus, but doesn't intend on going to the *chasunah* and sees that there is a spare seat, it would seem that as long as he knows that the one paying for the bus isn't *makpid* [particular] about him using it without paying, he can travel on it without paying.

The main reason we said above that one has to pay is because even though there is a concept of "*zeh nehneh v'zeh lo chosar*" if the owner is *makpid* one has to pay, here however, unless we know otherwise, since it doesn't cost the *baal simcha* any more money, presumably he isn't *makpid*.

Traveling without paying on a bus that's owned by a non-Jewish company

One who travels on a public bus that's owned by a non-Jewish company has no *heter* to travel without paying. There is an *issur* to steal from a *goy* just like there is from a Jew (see *Bava Kamma* 113 and *Shulchan Aruch* 348:2), therefore, one who travels on a bus even if owned by a non-Jewish company transgresses on "*lo sigzol*" [do not steal]. Although the halachah is, that if one has a debt that he owes to a *goy*, in a case where there is no *chillul Hashem* one doesn't have to pay, when traveling on a bus, since the bus company doesn't give one permission to travel without paying, the fact that he got on the bus without paying is *gezeileh*.

Even though in the above case one isn't actually stealing money directly from the *goy*, rather he is merely using something that belongs to a *goy* and is returning it after use, even still it's clear that there is an *issur* of *gezeileh*.

From the *poskim* it's clear that a *shoel sheloi midas* [borrowing something without permission] by a *goy* is *ossur*. The *Maharil* (*Hilchos HaGolah* 115) *paskens*, that it's forbidden to use a *keli* [utensil] which a *goy* gave as a *mashkon* [collateral] to a *Yisroel*. The *Magen Avraham* (472:2) brings the above and explains that the reason for the *issur* is: because a *shoel sheloi midas* is considered a *gazlan*. The above is also clear from another *Magen Avraham* (637:3). The *Magen Avraham paskens* that it's forbidden to build a *succah* in the *reshus harabim* [street] as one needs permission from all the *bonei reshus harabim*. Even though Jews may let, the *goyim* don't, as a result, it's considered stealing from a *goy*, as by building a *succah* there, one is stealing the land of a *goy*, and *gezel akum* [stealing from a *goy*] is *ossur* (see *Mishnah Berurah* 637:10). We see from here, that even if one doesn't actually take the *goy's* property into his property (as land can't be stolen) even still it's considered stealing.

The *Erech Shai* (*Choshen Mishpot* 369:1) brings down, that if a *goy* makes a bridge and only allows those who pay before using it to use it, it's forbidden for a Jew to use it without paying as it's *gezel akum*. If however, the Jew is given permission to use it and is told to pay afterwards, he can use it and he doesn't have to pay afterwards as *hafkoas halvoh* [avoiding paying up a debt that one owes to *goy*] is *mutar*.

In our case however, the bus companies don't let one get on the bus unless he pays at the beginning of the journey, as a result, if one does get on without paying he transgresses on "*lo sigzol*".

The *Shu"t Imrei Avrohom* (R' Avrohom Englard) in 61:7 brings, that there was a case in a certain town, that due to the severe poverty they were *matir* [allowed] themselves to travel on the train without paying and the *Kedushas Tziyon* was very upset about it. He said over *b'shem* [in the name of] his uncle the *Divrei Yechezkel* (Meshinov), that once a *chosid* came to him without paying for the journey, and he told him that he isn't going to see him until he buys himself a ticket.

What if one didn't pay?

If one didn't pay, is it considered *gezeilah* now if he doesn't pay or is it like a case of *hafkoas halvoh* [not paying up a loan]?

It would seem based on a *Shach* (348:3), that it's considered *gezeilah*. The *Shach* brings a *Yam Shel Shlomo* (*Bava Kamma* 10:20) who says that *hafkoas halvoh* is only permitted when one owes a *goy* money because of a tax or because of a loan, if however, one owes a *goy* money because the *goy* sold him something, and for example the Jew tricked him and underpaid then there is no *heter* of *hafkoas halvoh* and it's forbidden to steal.

It seems clear, that only in a case where a *goy* lent a Jew money and told him to pay back by a certain time and when the time comes the Jew avoids paying, then it's allowed, however, in a case of a sale where the seller only agrees to sell if he is paid immediately the full price it's considered *gezel akum* not to pay.

Back to our case, since the bus companies don't allow one to travel on the bus, unless he pays immediately at the beginning of the journey, if one doesn't pay he transgresses on "*lo sigzol*".

In a case where one steals from a *goy*, it's clear from the *Nesivos HaMishpot* (348:1) that there is a *chiyuv hashova* [to pay back] *mi'derabonon*. The *Koheles Yaakov* (*Even HoEzer* 28:1) however says, that there is a *chiyuv hashova mi'de'raisa*. Therefore, in the above case, if one travelled on a bus without paying, he has a *chiyuv* to pay as there is no *heter* of *hafkoas halvoh* and if he doesn't he transgresses on "*lo sigzol*" and still has a *chiyuv hashova*.

What's the *din* if a child travelled on a bus without paying?

In a case where a child travelled on a public bus and didn't pay what he was supposed to, it would seem that since the father gains from the fact that his child didn't pay, he has a *chiyuv* to pay. Even if the child is already *bar/bas mitzvah* but is still *somach al shulchon oviv* [relies on his/her parents], since the father gains it would seem that he has to pay.

Although normally if a child steals or causes damage he is exempt and even if the child gains the father is exempt as the father didn't take *hanoh beyodayim* [benefit with his own hands] and is comparable to *Tosfos* in *Bava Kamma* (101a) which says a *svora* [logic] that if the benefit doesn't come directly as a result of his action, he doesn't have to pay for it, the case of a bus is different.

There is a *din* of "*yored letoch sodeh shel chaveiro*" which means, if someone goes down to your field and does you a favour, you have to pay him for it. For example, the *Rema* (335:1) *paskens*, if someone teaches one's son Torah, the teacher is like a *yored* and the father has to pay him. Similarly, since the bus companies arrange buses for people to benefit from them, it's like the case of a *yored*, and it's like the bus company has done the father a favour, consequently he has a *chiyuv* to pay.

Traveling on a bus with the intention to pay double next time

The bus companies have a rule, that one has to pay for his journey immediately upon boarding the bus and one has no permission to pay double next time. As a result, it comes out that if one boards a bus without paying, even if he intends to pay double next time, he is using the property of someone else without paying and transgresses on the *issur* of "*lo sigzol*". Even if he knows that he will definitely pay next time, it's still forbidden, as the bus companies give no permission for one not to pay this time and pay double next time.

Since the bus companies have a rule that one isn't allowed to travel without paying, even if one intends to pay double next time, since the company is particular about this, even if he pays double next time it's still considered *gezeilah*. The main reason they don't let people pay next time is because many times people forget (the number of *shailos* asked about what to do if one forgot how much he owes, just goes to prove this point).

What's the *din* if one knows a 100% that he will remember, i.e., he writes it down?

Even though strictly speaking in such a case the bus company isn't *makpid* [particular], however, since it's difficult to differentiate between different people, they made a blanket rule and forbade outright travelling without paying. The bus company doesn't lose anything by making this rule, because if one doesn't have enough money on his *rav kav* (Israeli bus pass), he will find a way to pay, i.e., he will ask someone else to pay, or he will top up his *rav kav* and take the next bus, therefore, they are very particular about their rule. As a result, there is no *heter* to pay next time.

Moreover, in order to encourage the bus drivers to take more passengers, many companies have a deal with their drivers that they get a bonus for every additional passenger they take. Therefore, even if one would pay next time, he causes a loss to the driver, therefore, there is no room to be lenient and want can't just pay double next time.

[Even though sometimes making sure to pay is very difficult, especially now where the only way to pay is using a *rav kav*, and it's difficult to know if one has enough money on it or not, since the rule is that one can't travel without paying, even if one got on the bus and thought he had enough credit on his *rav kav* and he scanned it and realized he didn't, he is obligated to get off the bus, or to ask someone else to pay for him. He isn't allowed to stay on the bus without paying, even if he intends to pay double next time.]

If one took a bus a number of times without paying and he now wants to do *teshuvah*, but doesn't remember how many times he took the bus, how much does he have to pay?

When there is a monetary claim between two sides, if both sides are unsure (*shema*), for example, Reuven is unsure if he lent Shimon money, and Shimon is unsure if he borrowed off Reuven, Shimon is not obligated to pay as we apply the rule of *hamotzi macheveiro olav horayah*, meaning, if one wants to extract money from his friend, it's upon him to prove that his friend owes him the money. In a case however, when it's up to the borrower to know how much he owes and not the lender, the *din* is that if the borrower wants to fulfil his duties he should pay as much as he feels he needs to until he is no longer in doubt as to if he still owes his friend any money (see *Noda B'Yehudah*, *Yoreh Deah*, *Mahdurah Tinyona* 155). Accordingly, since the one who uses the bus without paying should have kept track of

it and not the bus company, in order for one to fulfill his duty, he has to pay as much as he feels the highest amount that he feels he may owe the bus company.

If one has a monthly/yearly pass but forgets to bring it on the bus, can he travel on the bus without paying?

We mentioned that the rule is, one isn't allowed to take a bus without paying, even if he intends to pay double next time. As a result, it comes out, that even if one has a monthly/yearly pass where he pays in advance a certain amount which allows him to travel as much as he wants without paying for the next month/year, since the rule is that every time one gets on a bus he has to scan his rav kav, even if he has a pass, if he doesn't scan his rav kav he doesn't have the entitlement to travel on the bus and he has to find someone to pay for him, if he can't, he has no right to travel.

Even though the main reason one has to scan his monthly/yearly pass is to merely prove that he has one and in our case the person knows that he has one and therefore it would seem he has the *zechus* to travel for free, even still, since the rule is one can't travel without scanning his rav kav, he can't travel on the bus unless he pays. Moreover, since the rule is that one can't travel without scanning his rav kav, in a case where one forgets his rav kav the bus company expects him to pay for his trip, therefore, if he travels without paying he is causing the company a loss.

[Even though the nowadays the Misrad HaTachbura (The Ministry of Transportation) has a deal with the bus companies that every time someone scans his rav kav the bus company gets paid, and a result if the person scans his rav kav twice in the future the bus company doesn't lose out, he might forget, therefore the bus company is very particular that he doesn't travel without paying]

What happens if the driver lets one travel and tells him to pay next time?

In a case where the driver is in charge of collecting the fares, and it's his responsibility to make sure everyone pays, if the driver sees one is trustworthy and lets him pay next time, then perhaps one can travel without paying. If however, the driver isn't in charge at all and there is a machine which everyone is supposed to scan their own rav kav on, the driver's decision is of no value, and since the companies rule is that one isn't allowed to travel without scanning his rav kav, he is obligated to pay.

Using someone else's bus pass

It's important to note, that the rule of the bus companies is, that only the one who the pass belongs to is allowed to use it. As a result, one isn't allowed to lend his bus pass to someone else, even if he wouldn't be using it himself that day, as he only has a *zechus* to use it for himself and not to lend it to someone else.

What's the *din* if one boards a bus heading to the wrong destination?

If one boards the bus intending to go to place A, however the bus is actually going to place B, and in the middle of his journey he realizes that he is on the wrong bus, he is still obligated to pay. If however, the mistake came about because of an error made by the bus company or the driver, for example the bus had the wrong number on it, then one is exempt from paying.

R' Yitzchok Zilberstein brings in his *sefer Chashukay Chemed (Beitzah 21)*, that his brother in law, R' Chaim Kanievsky told him, that he was once on his way home from Petach Tikvah to Bnei Brak and he fell asleep on the bus and when he woke up he found himself in Tel Aviv. He went to ask the Chazon Ish if he had to pay the extra fare for traveling from Bnei Brak to Tel Aviv (the price to go from Petach Tikvah to Tel Aviv used to be slightly more than going from Petach Tikvah to Bnei Brak). The Chazon Ish told him: "Because you fell asleep, the driver should lose out!".

Just like in the case where one falls asleep he has to pay, presumably the same thing is if one gets onto the wrong bus, even though he may not have benefited he still has a *chiyuv* to pay. If however, the mistake was caused by the bus company or the driver then one doesn't have to pay.

What's the *din* if the bus company didn't allow one to pay during the ride?

If one benefits from his friend, even if he is unable to pay at the time of the benefit, he is obligated to pay at a later date. If for example, a *mikveh* operates using an electric gate and the way to open it is by putting in some money, and one went to *mikveh* and it was broken so it was left opened, it's *poshut* [obvious] one has to pay another time.

In Eretz Yisroel however, the Misrad HaTachbura have made a rule that if the bus company doesn't provide a way for one to pay during his bus journey he has no obligation to pay up another time and he can travel for free.

The rule states: "In a case where a problem with the card machine arises in the middle of the journey, the driver is to continue along the bus route and continue to collect passengers as normal" (rule number 01.08.00.00 *sif* 6.1.2.9).

In a letter that Rav Dovid Braizel received from the Misrad HaTachbura in Tishrei 5779, in which he asked what to do if the bus company was using private buses and told people to get on and people will collect money during journey and in the end no one came on to collect the money, they replied: "In a situation where one wasn't charged during the journey, i.e., no one came to scan the rav kav's, there is no obligation to pay next time."

It's important to note, that even if the driver says that one should pay next time, since the bus runs in accordance with the rules set by the Misrad HaTachbura, and they say one doesn't have to pay, the *din* is one doesn't have to.

A number of different scenarios regarding one who was unable to pay

The reason behind the above rule is presumably, that the Misrad HaTachbura understand that it's very difficult for one to remember to pay next time, therefore, they fixed a rule that if one travels and wasn't able to pay, he has no *chiyuv* to pay next time. Based on the above, there is room to discuss numerous different scenarios that may arise:

(It's important to note, if one has a clear ruling from the Misrad HaTachbura as to what to do, he has to follow what they say.)

1) It's obvious, that if the machine near the driver doesn't work, however, other machines on the bus work, since one has the ability to pay, he has to pay on a machine that's working.

2) If one's rav kav is broken, it's obvious that he has no *zechus* to travel for free. Similarly, if the machine to top up one's rav kav on his street isn't working, he isn't exempt from paying. Similarly, based on what we discussed above, he can't travel and pay next time either.

3) If one boards the bus from the back door and he can't reach the driver because of the over crowdedness on the bus, if he is able to pass down his rav kav to the driver he should. If however, he is on a double bus for example, and he is scared his rav kav won't make it back to him, then it's similar to a case where there is no possibly to pay, and he is exempt, even next time. [It's obvious that if the bus gets emptier along the journey, he has to pay now].

(To determine if it really is to difficult to pay, or perhaps one just wants to save himself some money, a good way to check is to think what he would do if an inspector came on the bus.)

4) If the driver is in a rush and he tells everyone to pay next time, he has no *chiyuv* to pay next time, even though the driver has caused a loss to the company, it's the drivers fault not yours.

5) If the driver doesn't let you pay upon boarding and he says you should come and pay during the journey, one is obligated to pay later on during the journey. If in the middle of the journey he still doesn't let you pay, you should ask him if you can pay at the end, if he still doesn't let then you are exempt and you don't even need to pay next time.

6) If one boards the bus carrying lots of bags or children and is unable to pay straight away, and in the middle of the journey he attempts to pay and the driver doesn't let, he should try again at the end to pay, if at the end he also doesn't let then you are exempt. It's important to note however, if one got on the bus and put his bags/children down and he could go and pay and he doesn't, but rather waits until the middle of the journey, since it's his fault he has to pay next time.

7) If a bus company borrows some private buses (i.e. at busy times) and at the end of the journey the bus stops and someone gets on from the bus company to scan everyone's rav kav's. However, one got off the bus before the end of the journey, or he got on after they sent someone on the bus to scan the rav kav's, he has no *chiyuv* to pay next time. If however, one got off a stop earlier specifically to gain not having to pay, it's obvious that he is obligated to pay.

What if one paid too much for his journey?

If one got on the bus and asked the driver to scan his rav kav once, however he did it twice by mistake, or the passenger himself made a mistake and scanned it twice, he has a *zechus* to claim the money back. If the driver/company doesn't believe him and refuses to give him a refund, he has the *zechus* to take the money back by himself and he can travel next time for free, however, one has to be careful not to make a *chillul* Hashem.

[If one had a rav kav and it had for example a 100 shekel on it and it got lost, or broke, since the money on it doesn't belong to any specific bus company it would seem obvious, that one can't try and get his 100 shekel back by traveling on the bus without paying a few times.]

Children under five

According to the guidelines of the Misrad HaTachbura, a paying passenger has a *zechus* to bring with him one child under five. If one parent travels with two children under five, the parent has to pay the same price as one would for a child over five.

Since the rule is that a paying passenger is allowed to take a child under five with him, it would seem, if a child under five pays, he also has the *zechus* to bring a child under five with him, therefore, it would seem to come that if one is traveling with three children under five he only has to pay for one of them.

If one is traveling with two children under five and he wants ask another person traveling on the bus to take his child, I saw a *psak*, that one isn't allowed to get on a bus and plan that if they come and check he will give out his children to other passengers. If however, before getting on the bus one asks another passenger to take his child, then just like one can ask a passenger to carry a bag, he can ask a passenger to take his child.

If the parent is getting off a stop earlier than the child, presumably he doesn't have to now pay for his journey. Since at the beginning of the journey the adult was allowed to take the child free, it's logical that this *zechus* lasts until the child reaches his destination. If however, one is on the type of bus, where the fare changes according to how far one travels, and the adult paid amount X, the child is only allowed to travel as far as fare X allows.

[It's unclear what the *din* is if the child gets on a stop before the adult. Do we say that since the adult is soon getting on the bus the child is exempt, or do we say that since the adult isn't on the bus yet when the child boards he has to pay].

Sticking a dummy (pacifier) onto the side of a bus and sending it from Bnei Brak to Yerushalayim

The rule is, "a passenger is allowed to take with him a bag, suitcase, etc. as long as it doesn't disturb other passengers and isn't placed in the passageways. Similarly, one is allowed to take musical instruments, a chest etc. as long as it's height is less than a meter. If one takes anything bigger, if his journey is less than 9 shekel he has to pay the value of another ticket. If the journey is 9 shekel or more, he has to pay 50% of the fare, as long as it comes out that's it not less than 9 shekel."

It comes out, if one isn't traveling on the bus and when the driver opens the boot he puts something in and arranges with someone on the bus to take it off at a certain stop, he has to pay for it, as only one traveling on the bus is entitled to bring a suitcase with. If one asks someone on the bus who doesn't have his own luggage to bring it, presumably it's ok.

The question is, what's the *din* if a family from Yerushalayim goes to Bnei Brak for Shabbos, to spend Shabbos by their parents, and after Shabbos they return to Yerushalayim and when they get back they realize that they left their babies favourite dummy behind, and they don't have another one to give the child. The parents came up with a wonderful idea, they went to the bus stop and found the next bus going from Bnei Brak to Yerushalayim and stuck the dummy onto the side of the bus, are they *mechuyav* to pay?

It would seem that for such a thing the bus company doesn't charge, therefore, they wouldn't have to pay.

Maaver

One of the many wonderful things about traveling by bus in Yerushalayim is, that after you first scan your rav kav, for the next 90 minutes you can travel on as many intercity buses as you want and you don't need to pay again. (The joke even goes, that if you can return home from morning *sefer* using your *maaver*, it's time to start coming a bit earlier to *sefer*). Even though the second/third ride is free the bus company requires one to scan his rav kav every time he boards a bus, and if one doesn't he has no *zechus* to travel. As a result, if one planned on taking a second bus within 90 minutes, however, due to traffic the bus came late and it's now after 90 minutes, since the rule is that one has to scan his rav kav every time he boards a bus, if the second bus is delayed one still has to scan his rav kav, as a result he has to pay the full price.

Similarly, since the rule is, every time one boards a bus he has to scan his rav kav, one isn't allowed to wait half way into the journey to scan his rav kav in order to try and gain extra time.

The Chofetz Chaim often quotes a Gemara in Bava Basra (165a): הרע בלשון הרע סלקא דעתך אלא אבק לשון הרע, רוב בגזל ומיעוט בעריות והכל בלשון הרע בלשון הרע סלקא דעתך אלא אבק לשון הרע, may Hashem save us from any nisyonas of stealing.

Divrei Torah for the Shabbos Table

When busy with communal affairs, make sure not to forget the individuals

At the beginning of this week's sedra, the Torah says that Yisro took his daughter, Tziporah (the wife of Moshe) and their two sons. The Torah then repeats the names of their two sons (Gershom and Eliezer) and even repeats the reason why they were given those respective names (Shemos 18:2-4).

Rav Elyokim Schlesinger in his *sefer Beis Av* raises a very simple question. The names and the reasons for these names were "ancient history." We already know these facts. Why did Yisro feel compelled to repeat this information?

The Rav Schlesinger suggests the following interpretation. Yisro knew very well that Moshe Rabbeinu was about to become the leader of the Jewish people. As the leader of the Jewish people, Moshe's days and hours would be dedicated to the needs of the congregation. Yisro was gently and subtly trying to tell his son-in-law "Please do not forget about my grandchildren; please do not forget about your children."

Yisro was telling Moshe, “In spite of all the distractions and trials and tribulations that you will have in your role as the leader of the Jewish people, do not forget your own children.”

One can never minimize the importance of an individual — even relative to an entire community. As proof to this, Yisro cited the following: “If not for the fact that Hashem took interest in you as an individual, where would you be? “For I was merely a stranger in a foreign country” [the reason for Gershom’s name]. Furthermore, if not for the fact that Hashem concerned himself with the individual... “For the G-d of my father was my Helper” [the reason for Eliezer’s name], there would be no Moshe Rabbeinu.

Thus, in a gentle and subtle fashion, Yisro is trying to remind Moshe never to forget the individual.

The Brisker Rav used to say that before any individual can contemplate trying to have an impact and influence on others, the members of his own family must first be taken care of and be spiritually in line. *Kiruv*, like *tzedokah*, begins at home. When a person has internal problems in his own family, he cannot begin the task of straightening out the world.

[Rav Tzvi Kaplan *shlit’a* often says over, that they once asked the Brisker Rav why he wasn’t *zocha* to write *chiddushei* Torah on the entire *shas* like the Chazon Ish? The Brisker Rav answered, unlike the Chazon Ish he was blessed with children, therefore, he didn’t have time. His children sometimes came before writing *chiddushei* Torah. This fits well with the above.]

We learn this concept from Avrohom. In spite of the fact that he was busy being *mekarav* people, in spite of the fact that the doors on four sides of his tent were open to the world, he had to chase Yishmoel away from his household. Why? Because as Sorah argued, and as Hashem confirmed, Yishmoel posed a threat to the integrity of Avrohom’s own household. Yishmoel’s continued presence in that house could undermine Avrohom’s entire mission, and ability to influence his own family as well as others.

This too is what Yisro was hinting to Moshe: Do not forget the individuals — especially those of your own household — even relative to the needs of the community.

Why Moshe called the Torah “*chukei Elokim*”

When Moshe explained to his father-in-law what took up so much of his time, Moshe says: **כי יהיה להם דבר בא אלי ושפטתי בין איש ובין רעהו והודעתי את חקי האלקים** - “When they have a matter they come before me, and I adjudicate between a man and his fellow man and I make known to them the statutes of the Hashem and His laws” (*Shemos* 18:16). The *Netziv*, in the *Hemek Dovar*, explains why the Torah is referred to as **חקי האלקים** – “statutes of Hashem”. The *Netziv* says that the most appropriate word to describe all of Torah is the word “*chukim*” (חוקים). The *Netziv* sites as proof the *pasuk*: **אם בחקתי תלכו** - “If you will walk in my *chukos*” (*Vayikra* 26:3). In that *pasuk*, “*chukos*” refers to keeping the Torah. *Chukim* is the one word that encompasses all of Torah.

The connotation of the word ‘*chukim*’ is those *mitzvos* whose reason evades us. We usually relate the term to those commandments where we do not understand why they were given. The classic ‘*chok*’ is the *mitzvah* of the *porah adumoh*. *Shatnez* is another famous example. However, when one thinks of Torah as a whole, the vast majority of *mitzvos* are not *chukim*. The Medrash in *Bamidbar Rabbah* says that there are only really four *chukim* in the throughout the entire Torah.

If the *chukim* occupy such a relatively miniscule proportion of Torah, why is it appropriate to call Torah in general ‘*chukei Elokim*’? It would seem more appropriate to call the Torah ‘*mishpetei Elokim*’ or ‘*Eidosav shel Elokim*’. ‘*Chukei Elokim*’ is a terminology that applies to only a small minority of *mitzvos*.

R’ Yisrocher Frand suggests, that perhaps that which the *Netziv* had in mind can be derived from the following story involving Rabbi Meir Simcha of Dvinsk (the famous *Ohr Someach*).

Rav Meir Simcha, as was the custom of many Rabbonim in Europe, had a *gabbah* who was his personal assistant. The *gabbah* would execute whatever task or errand Rav Meir Simcha asked him to execute.

After a certain *shailah* came to the attention of Rav Meir Simcha, he instructed his *gabbah* regarding what to do. The *gabbah* objected to what he was being asked to do and told Rav Meir Simcha that he did not agree with the Rav regarding this issue. Rav Meir Simcha told him, “You never agree with what I have to say.” The *gabbah* was startled. The *gabbah* said, “What do you mean I never agree with what you have to say? This is the first time that I ever disagreed with you!”

Rav Meir Simcha explained what he meant. “Why is it” he asked, “that you never objected before? It is because every other time you agreed with me. Therefore, you did what I said because you felt I was right. The first time you did not agree with what I had to say, you told me so. That means that you never really agreed with me. The only reason you did what I said in the past was not because you nullified your will to what I have to say. You did it because you felt that it was the right thing to do. That is not the role of a *gabbah*. The role of a *gabbah* is not a sounding board who is supposed to give the Rav validation. The role of the *gabbah* is that I am the Rav, you are the *gabbah*. You do what I tell you to do.”

This is the same with Torah as well. True, the Torah contains a majority of *mishpotim* and *mitzvos* that we understand. However, that is almost beside the point. We are not supposed to do *mitzvos* because we happen to agree and think it is right and proper, ethical and moral. The reason we are supposed to do *mitzvos* is for one reason: Because it is “*Chukei Elokim*”, the will of Hashem. This is *daas elyon*, higher intelligence. Whether we understand the *mitzvos* or do not understand them is really beside the point.

We do not need to do it because we agree and think it is the right thing. Ultimately, we need to do it because the Ribbono Shel Olam said so. That is why the appropriate title to address and define what all Torah is about is “*Chukei Elokim*”. That is why observance of the Torah in general is expressed as: **אם בחקתי תלכו** - “If you will walk in my *chukim*” (*Vayikra* 26:3). In the final analysis, that is why we keep every *mitzvah*.

Just as Rav Meir Simcha told his *gabbah* about his job. Our job is not to agree to the reason behind Hashem’s *mitzvos*. Hashem does not need our approbations. We do it because He told us to do it.

One who keeps Shabbos properly won't even have to work in the week

One of the Aseres HaDibros is the commandment to keep Shabbos. The *pasuk* says: זכור את יום השבת לקדשו ששת ימים תעבד ועשית כל מלאכתך ויום השביעי שבת – לד' אלקיך לא תעשה כל מלאכה אתה ובנך ובתך עבדך ואמתך ובהמתך וגרך אשר בשעריך or the animal or convert that resided in your gates" (20:8-10). In the list of people who are prohibited from working on Shabbos, the Vilna Gaon notes that each of them begins with a connecting letter "ו" except for the servant. He therefore suggests a brilliant and original way of re-reading our *pasukim* based on a Gemara in *Berachos* (35b).

The Gemara teaches that when a Jew does Hashem's will, his work will be done for him by others, but when he transgresses Hashem's will, he will have to do his own work. We can now interpret as follows: a person who only remembers Shabbos in his mind (זכור את יום השבת לקדשו) but doesn't observe its laws in action will have to work hard, as the *pasuk* continues: ששת ימים תעבד ועשית כל מלאכתך – "six days he shall work and do all of his labor". On the other hand, if a person doesn't merely think about Shabbos but actually keeps its laws and makes it Holy (יום השביעי שבת לד' אלקיך), he and his family members won't even have to work during the week – לא תעשה כל מלאכה אתה ובנך ובתך – If so, one may ask, how will he possibly live and who will take care of him if he and his family never do any work? To allay that concern, the Torah replies that there will be others – such as servants and foreigners – to do his work for him, as the connecting "ו" is left out to indicate that this is a new list and a separate category – עבדך ואמתך ובהמתך וגרך אשר בשעריך.

Leiluy nishmas R' Meshulam David ben R' Yitzchok Zev Soloveitchik who's yartzheit is on 18th Shevat

Yisro's birchas hagomel

– ויחד יתרו על כל הטובה אשר עשה ה' לישראל אשר הצילו מיד מצרים ויאמר יתרו ברוך ה' אשר הציל אתכם מיד מצרים ומיד פרעה אשר הציל את העם מתחת יד מצרים – "And Yisro rejoiced over all the goodness that Hashem had done for Klal Yisroel, and over the fact that he saved them from the hands of the Mitzriyim. Yisro said 'Blessed is Hashem who saved you from the hands of the Mitzriyim and from the hands of Pharaoh, and from the burdens of Mitzrayim'" (*Shemos* 18:9-10).

The Brisker Rov explains that Yisro was saying *birchas hagomel*. The *Shulchan Aruch* (*Orach Chaim* 219:4) *paskens*, that if one's friend makes *birchas hagomel* and the one who had the salvation answers "amen" he fulfills his *chiyuv* to say *birchas hagomel*. The *Rema* explains, that it's not considered a *berachah levatolah* [blessing said in vain], as even though he wasn't obligated in the *berachah*, since he said it as a way of thanking Hashem for the goodness that he did to his friend it's not in vain. Yisro was excited about the good that Hashem had done for Klal Yisroel and so he said... אשר הציל אתכם מיד מצרים. ברוך ה' אשר הציל אתכם מיד מצרים, he said *hagomel* over the good that had happened to them.

The Yalkut Shimoni (268) states: גנאי הוא ולמשה ולאמר ברוך ה' – "It was a disgrace for Moshe and the rest of Klal Yisroel, that they never blessed Hashem until Yisro came along and said 'blessed is Hashem'". Asks R' Dovid Soloveitchik, surely Moshe and the rest of Klal Yisroel sang *shira*, so what exactly was the disgrace?

Based on the above R' Dovid suggests, that perhaps singing *shirah* and saying *birchas hagomel* are two different things, and there was a complaint against them on the fact that they never said *hagomel*. Perhaps even afterwards they were no longer able to say it, as once they answered "amen" to Yisro they had already fulfilled their obligation.

Based on the above, that Yisro said *birchas hagomel* over the salvation of Klal Yisroel and all the miracles Hashem performed for them, we can understand something that we say in *emes veyatsiv*. We say: ונתנו ידידים זמירות שירות ותשבחות וברכות והודאות למלך קל חי וקים – "and your beloved ones sang songs and praise and gave blessing and thanks to the Eternal and Everlasting King". The question is, the expression of זמירות שירות ותשבחות is understandable as it refers to the *shirah* that Klal Yisroel sang, but where do we find that they gave ברכות והודאות?

Based on the Brisker Rov, R' Dovid explains, that Yisro said *hagomel* on the miracle of *krias yam suf* and by Klal Yisroel answering "amen" to Yisro, it was as if they said it. *Hagomel* is a *birchas hodah* [thanksgiving blessing], therefore, when it says ברכות והודאות, it is referring to the *birchas hagomel* that was said.

Based on the above that Yisro said *birchas hagomel* on the miracles that happened to Klal Yisroel and that Klal Yisroel fulfilled their obligation by listening, we can explain the *loshan* of the *pasuk*, על כל הטובה, – "on all the good".

R' Dovid is in doubt as what the halachah is in a case where a certain miracle happened to two people, and one says *birchas hagomel* and is *moitzi* his friend. However, the one listening had other miracles occur to him that also required *birchas hagomel*, does he have to say *birchas hagomel* again or is it enough with the *hagomel* he heard from his friend. R' Dovid says, it would seem that he doesn't have to say it again and is in the end of the day it's like he said *hagomel*.

This explains R' Dovid is *pshat* in the *pasuk* על כל הטובה. Even though Yisro could have helped Klal Yisroel fulfil their obligation of *birchas hagomel* by merely mentioning one of the many miracles that Hashem performed for them, nonetheless he said *hagomel* on all the miracles that Hashem performed for Klal Yisroel.

This week is *gilyon* 100

שהחיינו וקיימנו והגיענו לזמן הזה

Thank you to all those who have helped me reach this milestone!

This *gilyon* was compiled by Moshe Harris. For any comments, dedications, donations, ideas for future week's or to subscribe email: limudaymoshe@gmail.com or call/text +447724840086 (UK) or 0585242543 (Eretz Yisrael).