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## EATING ON YOM KIPPUR – ON/OFF SWITCH, OR DIMMER?

Part 4 of the Long COVID and Yom Kippur Series

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People for whom fasting on Yom Kippur is dangerous are often told to drink or eat “shiurim”. The point of this ironically named strategy is to NOT eat the shiur that renders one liable for karet. (The shiurim for eating and drinking on Yom Kippur are defined as amounts consumed within a set time.)

Conventional analysis distinguishes between halakhot that are dechayah with regard to pikuach nefesh, and those that are hutrah. A dechayah halakhah may be violated only to the extent necessary to save a life, whereas a hutrah halakhah simply doesn’t apply in the context of lifesaving. So the requirement of “shiurim” apparently demonstrates that eating on Yom Kippur is dechayah rather than hutrah. A Soloveitchik tradition reports that Rav Chaim Brisker ruled hutrah and never recommended shiurim.

On this understanding, “shiurim” is always a strategy rather than a psak. The underlying psak for anyone told to eat “shiurim” is that they can and must eat the amount necessary to avoid any risk defined as pikuach nefesh.

Rav Shaul Dovid Botschko shlita suggests a way that “shiurim” can be understood as a psak, meaning that some people are permitted to eat less than a shiur (=chatzi shiur) even though their medical condition would not justify violating the karet prohibition, and even though we rule like Rav Yochanan that chatzi shiur is a Torah prohibition. This position seems explicit in Sefer HaChinukh (Emor #213):

with less than (these amounts) – there is no karet prohibition, rather this is like a chatzi shiur.

Therefore, someone who is ill, even though not in a complete danger/sakanah g’murah, if he is very weak – it is proper to feed him and give him to drink little by little.

So “complete danger” is needed to permit eating a full shiur, whereas an “incomplete danger” suffices to permit eating chatzi shiur. However, Minchat Chinukh (note 5) comments:

It seems from the words of the rabbi/author (of Sefer HaChinukh) that there is a distinction between the (full) shiur, which one feeds only in a context of danger,

and less than a shiur, which one feeds even in a context where there is no danger.

But the truth is that I have not seen this distinction made anywhere,

as certainly no Torah prohibition is permitted where there is no danger . . .

One can impose this meaning on the language of the rabbi/author, but his words are a little confused

Minchat Chinukh sees Sefer HaChinukh’s position as unprecedented. However, Rav Botschko points to Tosafot Shavuot 23b. The Talmud there wonders how a Mishnah can state that an oath not to eat forbidden foods is binding, when redundant oaths are not binding, and all oaths not to violate prohibitions are redundant, because all Jews are considered sworn to obey them since Sinai?!

Resh Lakish responds that the Mishnah is discussing a case of chatzi shiur, while Rav Yochanan offers a different solution. The Talmud’s explanation for why Rav Yochanan rejects Resh Lakish’s response solution seems very weak. Tosafot ask: Why didn’t the Talmud instead explain that Rav Yochanan’s rejection of Resh Lakish’s response stems from their disagreement about chatzi shiur, namely that Rav Yochanan holds that chatzi shiur is Biblically prohibited, and therefore oaths not to violate via chatzi shiur are redundant?! Tosafot answer:

since this is only a ‘mere prohibition’ – it is not considered sworn from Sinai . . .

Even though (the principle that “Torah prohibitions do not apply redundantly”, which can be understood as a special case of ‘sworn from Sinai’,) means that prohibitions phrased by the Torah as DON’Ts don’t apply when redundant with prohibitions phrased as DOs (which implies that even prohibitions phrased as Dos are ‘sworn from Sinai’) . . .

Nonetheless, chatzi shiur, which lacks even a DO, rather is just a mere prohibition/issur b’alma – is not considered ‘sworn from Sinai’.

I cannot at this point make sense of the position that some Torah prohibitions are not be ‘sworn from Sinai’. Nor do I have any idea where the boundary is between those prohibitions that are ‘sworn’ and those that are ‘not sworn’, nor how to tell which is which, except that those punished by karet are ‘sworn’. I don’t know why ‘not sworn’ Torah prohibitions may be violated at a standard lower than pikuach nefesh. Regardless, the existence of Tosafot’s position makes it likely that Chinukh should be taken at

face value as allowing a chatzi shiur at a lower standard than is necessary to permit a full shiur.

(Rav Botschko argues that because one may opt not to fulfill a DO if the cost would be greater than 10% of one's property, and one ought not to fulfill it at a cost of greater than 20%, Tosafot's standard for violating chatzi shiur must be lower than "health damage that you would pay 20% of your property to prevent". However, it seems to me that this depends on whether that principle applies to prohibitions derived from DOs. See e.g. Mishneh Berurah OC 656:9 for an indication that the relevant axis is passive vs. active rather than DO vs. DON'T.)

I have additional evidence for the existence of a position that the standard of "danger" necessary to permit a Torah prohibition varies with the severity of the prohibition.

Talmud Ketubot 62a relays a series of anecdotes:

Said Rav Anan bar Tachalifa:

I was standing before Mar Shmuel, and they brought him a mushroom stew, and had he not given me (some to eat) – I would have been endangered/istakani.

Said Rav Ashi:

I was standing before Rav Kehana, and they brought him turnip slices in vinegar, and had he not given me (some to eat) – I would have been endangered/ istakani . . .

The context of these stories is an obligation to allow waiters to serve themselves before serving foods that induce cravings. One might therefore dismiss the word "endangered" as hyperbole, especially as all the food involved was kosher. But the last story in the series undercuts any such dismissal:

Ameimar and Mar Zutra and Rav Ashi were sitting at the entrance to King Izgur's palace.

The king's seneschal passed by (carrying food for the king).

Rav Ashi saw Mar Zutra's face turn white. He took (some of the king's food) with his fingers and put it on (Mar Zutra's) mouth.

The (seneschal) said to Rav Ashi: You have destroyed the king's meal!?

The (guards) said to (Rav Ashi): Why did you do this?

He replied to them: A dish prepared like this is not fit for the king.

They said: Why?

He said: I saw "something else" (Rashi: meat from a leprous pig) in it.

They checked and did not find anything.

(Rav Ashi) took their fingers and put them on one piece. He said: Did you check this one?

(A miracle occurred for him) and they found it in that piece.

The Rabbis said to Rav Ashi: Why did you rely on a miracle?

He said to them: I saw a spirit of leprosy/ruach tzora'at spreading over (Mar Zutra).

Here the food is presumably not kosher, and yet Rav Ashi feeds it to Mar Zutra. So the "danger" involved must be great enough to permit violating a Torah prohibition. Is this sort of craving a threat to life in the sense of pikuach nefesh? More likely "danger/sakkanah" here means something short of a threat to life, and yet Rav Ashi fed Mar Zutra.

One might argue that these stories are aggada rather than halakah. But RIF and ROSH both cite Rav Anan bar Tachalifa!

One might still argue that they cite him specifically in the context of obligations toward waiters. But Korban Netanel and many other rishonim reject this:

RIF and ROSH cite this story to teach us that this situation is a sakkanah for him, and he is treated like a pregnant woman who has smelled (something that induces cravings), as (the obligation to feed those who smell crave-inducing food) applies not only to waiters but to anyone.

The remaining question is whether this sort of craving represents the standard for violating all Torah prohibitions, or only some. Rabbeinu Manoach, commenting on Rambam Hilkhos Shevitut Asor 12:2, cites R. Yitzchak b'R. Avraham citing the story of Rav Ashi and Mar Zutra, then comments,

There are those who say that they were lenient only with regard to a DON'T prohibition (not having a specific punishment) and (in such cases) the Sages equated the law of a pregnant woman who smelled (and developed a craving) with that of a healthy man who smelled (and developed a craving),

but that with regard to a karet prohibition, such as here – we only feed a pregnant woman who has cravings, because it is ordinary for her to be endangered when she smells a food but does not eat it, but a healthy man, if he smells on Yom Kippur – we don't feed him, as he is obligated to settle his mind.

It is good to be strict about this because of the tricksters.

This seems to be the position of Rambam . . .

Rabbeinu Manoach has no uniform standard for violating Torah prohibitions; rather, it depends on their severity. Minchat Chinukh's incredulity therefore seems overstated. The position that the standard for eating a chatzi shiur is lower than that for eating a full shiur cannot be summarily dismissed. One might even argue that the best way to read the story is that Rav Ashi fed Mar Zutra only a chatzi shiur.

Shabbat Shalom!

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