

HALOCHOSCOPE

This week's question:

During the Nine Days, between *Rosh Chdesh Av* and *Tisha Bav*, we do not eat meat. A nursing mother has a dispensation to eat meat if she needs it, or if her baby does not tolerate dairy. Is there a preference to eat poultry rather than beef or lamb?

The issues:

- A) *Bain Hametzarim*, the Three Weeks and the Nine Days
- B) Refraining from eating meat
- C) Dispensation for nursing mother
- D) Poultry as 'meat' in this context

A) *Bain Hametzarim*

The three week period from the Seventeenth of *Tamuz* to the Ninth of *Av* is observed as a period of mourning for the destruction of both of the temples in *Yerushalayim*. It is commonly referred to as *bain hametzarim*, between the straits (the two fast days commemorating the Romans' breaching the walls (17th *Tamuz*), and *Tisha b'Av*, when the *Bais Hamikdash* was actually destroyed) after the verse in *Eicha* saying that the Jews' pursuers caught up with them between these straits, with nowhere to escape to. Historically, the Seventeenth of *Tamuz* commemorates the day the Jewish people worshiped the golden calf. *Tisha b'Av* was the day the spies returned from their tour of *Eretz Yisroel*, brought back their evil reports, and 'that night ordained for future trouble', the Jews wept, thus denying faith in the promise about the Land. More unfortunate events took place on these days in subsequent times, right up to our own times.

While *Tisha b'Av* is observed with full mourning practices, there is a gradual build up. On *Tisha b'Av*, apart from fasting and sitting on the ground, other mourning practices include refraining from wearing leather shoes and from washing any part of the body. Torah study, which causes joy, is limited to sad passages. On *Erev Tisha b'Av*, when eating the last meal before the fast, one may not eat more than one cooked food, or eat meat or drink wine, and one eats alone. During the week of *Tisha b'Av* it is forbidden to wash clothing, to wear freshly washed clothing and to take a haircut. From *Rosh Chodesh Av* and on (nine days) joy is minimized. Weddings are not held and fancy building and tree-planting is forbidden. The Talmud refers to a custom (though apparently this was not forbidden outright) to refrain from weaving. Court cases with gentiles should not be scheduled during this ominous period. These are the restrictions mentioned by the Talmud.

These periods are all based on a verse, prophesying the punishment of *Yerushalayim*, cited by the Talmud: Hashem will cease the celebrations of its festival, its month and its '*Shabbos*', i.e., week. The 'festival' is *Rosh Chodesh Av*. Its 'month' is the rest of the month, or at least until *Tisha Bav*. Its 'week' is the week in which *Tisha Bav* falls. Months are associated with *mazal*, destiny, good or bad. *Av* is an ominous month. [Hence, when

Av begins, reduce joy!] A week can also have *mazal*, etc.

Throughout the generations Jewish communities adopted more restrictions, or extended these restrictions backwards, some of them to the Seventeenth of *Tamuz*. These have the status of *nedarim* that are binding on members of those communities. The ruling forbidding meat and wine at the final meal before the fast is extended as a practice to refrain from them for the entire Nine Days. [See Taanis 29b-30a, Yerushalmi Psachim 4:1, Poskim. Tur Sh. Ar. OC 551:3-8 17, commentaries.]

B) Refraining from eating meat

An *onain*, bereaved person who has not yet buried his deceased relative, is forbidden to eat meat and to drink wine. Other mourning practices, such as sitting low, do not apply until after the burial. Yet, after the burial, when the mourning actually begins, the *avail* may eat meat and drink wine. Evidently, the reason to refrain is not due to mourning. However, on *Erev Tisha Bav* it seems to be forbidden due to mourning. Accordingly, should not the *avail* be more restricted than the *onain*? At least let him be as restricted from meat and wine! If it is not a mourning issue, let it be permitted on *Erev Tisha Bav*!

Two answers are offered. The *onain's* prohibitions are not based on mourning, but to ensure his focus on the burial. Such foods are a distraction. The joy brought on by such foods is also a distraction. Furthermore, one tries to comfort an *avail*, to help him forget about his loss. The opposite is true on *Tisha Bav*, when one tries to remember the loss of the *Bais Hamikdash*. [The time for comfort is later.] Therefore, one tries especially to feed meat to an *avail*, whereas here one tries to restrict oneself.

The basis for the joy derived from eating meat and drinking wine (apart from the obvious) comes from the offerings in the *Bais Hamikdash*. *Simchas Yomtov* is the *mitzvah* to rejoice on a holiday. The only way to properly fulfill this is by eating meat of an offering. Wine is necessary, especially, according to some, after the Destruction. The *passuk* also singles out wine as a beverage that gladdens the heart. Thus, it is appropriate to refrain from these foods at a time of mourning for the *Bais Hamikdash*.

This leads to the other reason for the initial restriction. It commemorates the loss of the opportunity to offer these offerings. Wine was always offered with the daily communal offering. It is the 'drink' offered on the altar. For this reason, some have the additional practice to refrain from these foods as of the 17th of *Tamuz*. That was the day the uninterrupted *tamid*, daily offering, was finally interrupted. Nowadays, common practice forbids these foods from *Rosh Chodesh*. [See Brochos 17b Taanis 30a Moed Katan 23b, poskim. Tur Sh Ar OC 551:9-11 Levush 552:1-2, commentaries.]

C) Dispensation for nursing mother

The *minhag* extending the restrictions on meat and wine has the status of a *neder*, a ban that is undertaken or self-imposed. Though the *minhag* is itself on a level lower than a Rabbinical institution, a *neder* has certain Scriptural implications. One who breaks the *minhag* is roundly condemned. Apart from his departing from the rest of the community, he demonstrates complacency about the destruction of the *Bais Hamikdash*. On the other hand, as a *neder* that is undertaken willingly or self-imposed, it may be declared void where it was never meant to be applied. Those who undertook it never meant it to take effect in such instances or circumstances. Thus the *minhag* can be relaxed where the poskim feel that it was not meant to apply – the exceptions and dispensations.

Exceptions to the *minhag* include *seudas mitzvah*, a festive meal for a *mitzvah*, such as at a *bris milah*, circumcision. At a *seudas mitzvah* it is assumed that one should eat meat and drink wine in accordance with the prior requirements. The *minhag* would not have been undertaken to override this. Dispensations apply to a sick person, a nursing mother, and according to some, children. Sick or frail people can not be expected to suffer more because of this *minhag*. This applies to people with even minor complaints, so long as they are recognized forms of illness or weakness. The *poskim* invoke the Talmudic dictum, *chamira sakanta meisura*, danger is more stringently avoided than a prohibition. Furthermore, refraining from meat and wine is meritorious, because one does not need them, and eats them for pleasure. A weak person does need them. Practicing stringency when exempt means unnecessarily inflicting suffering on oneself. This is also considered sinful. In the case of a weak person, this means that refraining is forbidden.

Children are a matter of debate. Young children need the nutrition of the meat, and are in some respects like the sick. Furthermore, they are younger than the age of obligation in *mitzvos*. Boys aged twelve and girls aged eleven can both be held liable for a *ned-er* that they undertake. Younger than this age, the *poskim* discuss whether they should be imposed upon by a *minhag*. On the other hand the children need to be educated about the Destruction and how to practice the mourning for it. Nonetheless, there is a separate debate whether children are ever obligated in mourning practices. However, communal or national mourning might apply to all ages old enough to understand. Therefore, there are varying views on whether children refrain from meat and wine, and at what ages.

Nursing mothers are also discussed by the *poskim*. Within thirty days of childbirth a mother is considered exempt from the restrictions as a sick person. The *poskim* mention a meritorious practice of some new mothers to refrain from the Seventh of Av, when the enemies broke through into the *Bais Hamikdash*. After thirty days a mother is considered healthy. However, she needs to practice extra caution, since her nursing baby is dependent on her health. If refraining from meat will affect her health and strength, she will be neglecting her child indirectly. She might not have enough strength to nurse properly. Secondly, the quality of her milk will depend on what she eats. Thus her diet will directly affect the child. Thirdly, if her child has allergies or reactions to dairy or other non-meat products, she might need to eat meat for the sake of her breast-milk.

If at all possible, the patient should try avoiding the restricted foods from the Seventh of Av and on. Some *poskim* caution that indiscriminately applying the dispensation to all slightly ill people reduces the gravity of the *minhag*, and awareness of the *Churban*. Furthermore, nowadays there are many substitutes for the nutrition in meat and even for milk itself. Therefore, discretion should be used when applying the dispensation. [See OC 551:9-10, TZ 9 10 MA 27 31, commentaries, Shaarei Teshuva 28, 554:6, MA 9.]

D) Poultry

The reasons for the restriction should not apply to poultry or to foods cooked together with meat. Offerings could be brought from certain types of birds, both from the species of doves. For the most part, nowadays, people do not eat the meat of these birds on a regular basis. Chicken, duck, goose and turkey could not be used for the offerings. Apparently the meat of all birds does not bring 'joy' either. Nonetheless, the restriction is applied to them as well. Foods cooked with meat were originally not included. Since the

minhag has the status of *neder*, we rely on the conventional meaning of meat. This excludes foods cooked with it. In later times, the practice spread to include these.

Salted meat is included, based on the *neder* meaning. It cannot be used in offerings, but it is meat of species that are used. Poultry is more complicated. As mentioned, it is not even of the species that is used for offerings. The Talmud debates whether it is included in the definition of meat for a *neder*. We follow the view that includes it. In English as a language, this is hard to explain. Jews who follow the laws of *kashrus* automatically consider chicken and poultry 'meat'. They all require *shechita*, ritual slaughtering. The laws of *basar bechalav*, separating meat and dairy, apply to poultry, albeit Rabbini-cally. The reason for this is the very same idea. They are both considered 'meat'. Therefore, it is included in this *minhag* as well. However, when the *minhag* must be relaxed for the dairy-allergic or intolerant or the mildly ill, the poskim recommend allowing poultry before beef or lamb. It appears that the connection to the *Churban* plays a role.

Some poskim rule that any nursing mother may eat beef. This implies that there is no advantage to poultry over beef. A nursing mother might be considered more frail. Perhaps the risks to mother or child are taken more seriously. Maybe a nursing mother was never included in the *minhag* to begin with. They undertook it later, voluntarily, provided the baby can tolerate the dairy products and provided the mother feels strong enough. If the baby is intolerant of the dairy products, or if the mother feels weak, the new undertaking is not binding. She may go back to eating beef. One view mentions the nutrients in beef that might be needed for the baby, [who is not bound by the *minhag*!]

Others make the same ruling specifically for a healthy mother whose baby cannot tolerate milk products. One view suggests trying poultry, but permits beef. The explanation is that for health purposes the decree does not apply. [See Nedarim 54a-b, Poskim. Tur Sh Ar OC 551: 9 PMG MZ 11, Shaarei Teshuva 28, Ar Hash 26 Kaf Hachaim 137.]

In conclusion, based on the language of most poskim, there seems to be no advantage to eating poultry. One view recommends trying poultry first, but not taking chances with health. Accordingly, there is a minor advantage to poultry, but it depends on the confidence and comfort of the mother.

On the Parsha and that which came forth from your mouths you shall do ... [32:24] You undertook to stay on after the conquest, until the division of the Land. Moshe only asked that they join in the conquest, and then return home. [Rashi] So why indeed did Moshe tell them to fulfill their undertaking? In the Torah, the term 'do all that comes forth from his mouth' refers to fulfilling a vow or ban [30:3]. As a communal undertaking, the tribes of Gad and Reuven extended an existing mitzvah. What would be gained by staying for the seven years of division? The objection to their request was based on their demoralizing the rest of the nation. They realized that by their going back home before the rest of the nation had even been given their inheritance, they would also be demoralizing them somewhat. Therefore, they undertook to stay longer. Moshe told them that though they had not been asked for this, they were now liable to fulfill it. Perhaps he was warning individuals who would try to avoid the extra undertaking. They would not be permitted to break with the 'minhag' of their tribes.

Sponsored by your name here. 

© Rabbi Shimon Silver, July 2010.

Subscriptions and Sponsorships available. (412) 421-0508. halochoscope@hotmail.com