

HALOCHOSCOPE

This week's question:

Someone has a condition that requires his maintaining a certain level of hydration. If he drops below this level, he will need an emergency catheter. On *Yom Kippur*, he might lose fluids to the point that he will require the emergency catheter. May he, or is he required, to maintain hydration, and how should he do so?

The issues:

A) The *inuyim*, self-afflictions, on *Yom Kippur*

B) The amount of water forbidden

C) *Choleh*, an ill person, on *Yom Kippur*

A) The *inuyim* on *Yom Kippur*

The Torah does not specify what is forbidden on *Yom Kippur*, apart from the prohibition of *melacha*, constructive activity, and *shabason*, the *mitzvah* to 'rest'. The Torah does say that one must afflict himself. This is worded in the form of a positive *mitzvah*. Through the grammatical rules of *derush* the Talmud shows that it is really a negative *mitzvah*. Violating the *mitzvah* is punishable by *kareis*, excision, or being cut off from the spiritual roots of the Jewish people and from their special connection to Hashem. As a negative *mitzvah*, it can also be punishable in a *bais din* with *malkos*, lashes, if the perpetrator was given due warning. [In the absence of the Sanhedrin, Rabbinical high court, and true *semicha*, ordination, this does not apply nowadays.]

The Talmud discusses the meaning of *inuy*, self-affliction. The obvious meaning would be to actively afflict oneself by sitting in the heat or in the cold. [Beating the chest is symbolic, and has little to do with *inuy*.] However, the choice of language indicates a passive form of *inuy*. Furthermore, the context of the *mitzvah* indicates that the type of *inuy* carries a penalty in other situations. That is, it indicates refraining from an action that could otherwise be considered a violation of some other restriction. The Talmud further derives from the terminology '*veha'avadti es hanefesh*', [Hashem] will destroy the soul, of one who [violates *Yom Kippur* by] not practicing self-affliction, that the *inuy* has to do with what is needed to sustain life. Accordingly, the Talmud says that the *inuy* intended is to refrain from eating and drinking.

The Talmud adds another four *inuyim*: refraining from washing the skin, from rubbing and smearing the skin, from marital relations and from wearing shoes. Only eating and drinking can be considered *inuy* of *avaidas nefesh*. Therefore, they are the only *inuyim* that carry the penalty. Nonetheless, the others are punishable with a lower level of penalty, *makas mardus*, lashes given for rebelling against the rulings of the Rabbis.

There is a debate on where the additional *inuyim* are indicated by the Torah. There are two primary views on the sources: One view maintains that they are indicated by the use of the term *shvus*, usually denoting a cessation ruled by Rabbinical decree. Some say

that this means that they are only forbidden Rabbinically. Others maintain that they are forbidden in a Scriptural framework, but that the Torah left it to the Rabbis to make the determinations. The other view derives it from five mentions of the word *inuy*. One is used for eating and drinking, since both are considered the same *inuy*. Sources are then produced to show why these additional things are considered *inuy* and fit the category. Some of these additional sources are from other books of *Tanach*, leading some to say that they are not true Scriptural ideas, but linked by *asmachta*. [See Yuma 73b-74b 76a-77b, Poskim. Chinuch 313, Tur Sh Ar OC 611-615, commentaries.]

B) Amount forbidden to eat and drink

Many Scriptural food prohibitions are worded using the Hebrew term *achilah*, eating. The Talmud debates this term. We follow the view that to qualify as *achilah* for the usual rules, such as a punishment for intentional violation, or an offering for unintentional violation, one must consume the size of an olive. The Talmud then debates whether this means that one is not forbidden Scripturally to eat less than this amount, or whether it is forbidden, but not punishable. Assuming it is forbidden, the question is whether the smaller amount is forbidden in its own right, or as a part of the larger amount.

The amount usually forbidden need not be eaten in one mouthful. It must, however, be consumed within the time normally taken to consume a minimal amount of food. This is *kedai achilas prass*, enough time to eat a half a loaf of bread. The loaf referred to contains eight egg sizes, or sixteen olive sizes. This time seems vague, and dependent on the consumer. One can experiment on *Erev Yom Kippur*. This is required for those who anticipate needing to eat as explained in the next section. However, some poskim maintain that it is a uniform time, ranging from the most stringent of nine minutes, to a few minutes. If one ate an olive sized piece of the forbidden item, but took longer than this, he would not be liable. [For positive eating *mitzvos*, such as *matza* and *maror*, the nine minute opinion turns out more lenient, giving more time to fulfill the *mitzvah*.]

On *Yom Kippur* the Torah does not forbid 'eating' food. Rather, the Torah requires that one afflict himself in a way that causes *avaidas hanefesh*, understood to mean limiting food and drink intake. Thus, the amount indicated by the Torah in this case would be different. The minimum needed for *yishuv nefesh*, the opposite of *avaidas nefesh*, is forbidden. For solid food, this is the equivalent of a plump date including its pit. This is somewhat larger than the size of an olive, but smaller than an egg. Eating an amount smaller than this does not even produce any level of *yishuv nefesh*. It should not be forbidden at all, in its own right. It is forbidden anyhow, based on the idea of *chatzi-shiur*, a half amount, mentioned earlier. It is viewed as a part of the larger minimum amount. One has eaten part of something forbidden when in a larger amount. Therefore, he has violated the prohibition, but is not liable, since he did not settle his need for sustaining life.

For liquids, there seems to be a larger minimum necessary to be considered drinking. In the case of many *mitzvos*, this is a *revi'is*, about the size of three olives, or an egg and a half. In some cases, this is the majority of this amount. In some cases, the olive sized piece is converted to a liquid. In other situations, including the case of *Yom Kippur*, the amount is *melo lugmav*, the amount that fills the cheeks. One need not fill both cheeks, but should push the entire amount to one side, such that his cheek protrudes. This gives the impression of full cheeks. Really, this depends on the actual violator. If he has a

large capacity cheek, he is not liable until he drinks that amount. If he has small cheeks, he is liable for drinking less. This is based on the concept that for *yishuv nefesh* one requires this amount, and that it is dependent on his cheek size. Like eating, a smaller amount is still forbidden, but does not carry the penalty.

Like eating, one need not drink the entire cheek-full at once to be held liable. If he drinks it in two or more gulps, he can still be liable. The poskim debate the minimum time for this. One opinion gives this period as the time taken to drink a *revi'is*, including the time taken up by both gulps. The other view maintains that the minimum for drinking is the same as for eating, *kedai achilas prass*. Eating and drinking are considered part of the same *inuy*. However, the two do not combine to make up a minimum amount for liability. Thus, if one ate a little less than the equivalent of a plump date, and then drank a little less than his cheek-full, he would not be liable for the penalty.

Certain types of eating do not qualify as a violation. For example, one might eat foods unfit for consumption, or bitter or rotten foods, or he might overeat (such as right after he is full from his pre-fast meal). Nonetheless, this is forbidden Rabbinically, even when less than the minimum is eaten. [See Yuma 73b-74b 76a-b 79a-81b Nazir 4a Makos 17a Shavuos 21b 25a, Poskim. Tur Sh Ar OC 618, commentaries.]

C) Choleh on Yom Kippur

Most fasts are Rabbinically instituted, and a *choleh* is not obliged. For *Tisha B'av*, there are certain stringencies. *Yom Kippur*, is a Scripturally mandated fast. Therefore, special rules are required to exempt a *choleh*. Nonetheless, there are cases where a *choleh* does not fast in quite the same way that healthy people do. There are three basic levels of *choleh* with regard to allowing food or drink on *Yom Kippur*. If the person is in imminent life-threatening danger, his status is the same regarding *Yom Kippur* as it is regarding any *mitzvah* in the Torah, except for the three cardinal sins. Life-threatening danger overrides any other *mitzvah*. Just as one may violate any other *mitzvah* to save him, he may eat and drink. One may even slaughter, cook, carry or do any *melacha*, or violate anything, to save his life. If he is not in any imminent danger, but the lack of food or drink could lead to life-threatening danger, he is also considered in danger. However, as we shall explain, since it is only the food that is needed, we minimize the violation as much as possible. If there is no risk to his life, but his condition could worsen if he is not provided with food and drink, he may eat or drink. It is possible that when his condition worsens he will indeed become dangerously ill. Rather than wait to see, it is better to forestall the danger. Here, too, special consideration is given, but the violation is minimized as much as possible. If the *choleh* is in no danger, nor is there any reasonable possibility that he will deteriorate badly, he may not break his fast. This might require him to limit activity more than he would otherwise. For example, he might need to stay home or in bed. If, however, he is already bed-bound, or his condition is such that if he does not eat he will need to be sent to bed [not for rest, but because he will be too weak to stand or sit or because this will be dangerous for him], many would consider him in the category of one who could deteriorate to a state of danger.

To evaluate the *choleh*, various methods are acceptable. If the *choleh* himself feels so sick that he needs to eat, we rely on his own judgment, even over the opinion of a professional doctor. The *choleh* knows his own condition better. Food is placed before him,

and he is told “Today is *Yom Kippur*”. The hope is that if he is seized by temptation of the evil inclination, this will stop him. If he is truly sick, he will eat anyhow.

If a professional doctor claims that the *choleh* must eat, his opinion is accepted. In this case, if the *choleh* disagrees, we do not listen to him. Though he knows his own condition to feel unwell, even against a professional medical opinion, he is not relied on to feel well. The suspicion is that he is in the grip of *tunba*, a temporary loss of mind. This applies even if the patient is himself a professional doctor. If two doctors disagree about the evaluation, the patient should eat. In cases of doubt about danger to life, we tend to leniency – to save the life. The same is true if more doctors take sides. Some say that if one is a greater expert, his opinion is followed, and that as long as there is no majority, one tends to leniency. If there is a majority, it is followed. Others maintain that if there are many opinions, we always follow the lenient one. If it is between two doctors, and the patient sides with the stringent one, his feelings are accepted. [Since there is a professional medical opinion supporting him, he is trusted to say he is well].

If the doctor is in doubt, the patient is fed. If one doctor is in doubt and another gives a stringent opinion, the patient is still fed. The poskim debate whether this applies even when the patient is the stringent doctor. However, if there are more than two doctors, we follow those who are certain, even if they are stringent. If the doctor is unfamiliar with the condition, his opinion is no better than an amateur. If most people think he is in danger, or will be in danger if he deteriorates, he is fed.

When feeding a *choleh* whose life is not in imminent danger, one tries to minimize the violation. First, the patient is given smaller amounts than the minimum, then one waits for the minimum time to lapse, before feeding him another *chatzi shiur*, and so on. If this does not resolve the situation, he is fed normally. If the patient is evaluated to require food and drink, and he refuses, he is liable for anything that happens to him. If he dies, it is considered a suicide. If necessary, he should be force-fed. If he does eat, by force, due to his feeling ill, or due to his following the medical opinion, he does not require atonement. He is considered *oness*, an unwilling violator due to circumstances beyond his control. [See Yuma 82a-84b, Poskim. Tur Sh Ar OC 618, commentaries.]

In conclusion, in our case, a medical opinion should be sought. If the patient has had prior emergencies, his own feelings on *Yom Kippur* are sufficient to make an evaluation. If the emergency catheter is inserted, there are risks of it becoming septic. Presumably, the need for emergency action is also an indication of the seriousness of the condition. Therefore, the patient should maintain hydration by sipping small amounts spaced apart. He should measure his own *melo lugmav* before *Yom Kippur*, and mark it on a cup. He may drink a little less than this. Ideally, he should experiment beforehand to find his personal *kedai achilas prass*, four slices of bread. If he feels that this is too long, he should experiment with three slices. If this is still too long, he should at least try to wait the time it normally takes him to drink a *revi'is*.

Sponsored by Dennis Wayne in memory of his father, Meir ben Aharon Halevi z"l, whose

גמר וחתומה טובה. *yahrzeit* is on the 9th of Tishrei.

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