


HALOCHOSCOPE



This week's question:

A twelve year old boy has begun practicing fasting. He is a *bechor*, firstborn son. His father is not a firstborn. On *Erev Pesach* it is customary for *bechorim* to fast, or to attend a *siyum*, celebrating the conclusion of studying a tractate of Talmud. If a child is under *bar mitzvah*, he is not obliged to fast. His father fasts in his stead, or attends a *siyum*. If this boy fasts, or attends a *siyum*, does this excuse his father from fasting?

The issues:

A) The pre-*bar-* or *bas-mitzvah* practice fasts

B) *Taanis bechorim*; *Siyum bechorim*

C) Applying these to our case

A) *Practice fasting before coming of age*

A minor has insufficient *daas*, mature understanding of his actions and obligations, to be obliged in *mitzvos*. The source for the ages of twelve for a girl and thirteen for a boy being the age of majority is that at this age they are seen to have acquired *daas*. This coincides with physical development and maturity. Some consider them interdependent. Others maintain that the two are independent. One is considered an *ish*, man or adult, by reaching a level of physical maturity. This is required regardless of one's intellectual level. In addition, to be responsible for one's actions, one must have *daas*. It so happens that, in general, these are both achieved when one reaches the age of majority.

A lower level of *daas* helps obligate the child in *chinuch*, training in *mitzvah* performance. Some consider this the parents' obligation, but others maintain that the Rabbis obligate the child himself. [There is discussion on how this obligation is imposed. Rabbinical authority is somewhat rooted in the Scriptural obligation to follow their rulings. If the child is not obligated in any Scriptural *mitzvah*, how could he be obliged to heed the words of the Rabbis?!] Some adult *mitzvos* depend on the participation of children, such as teaching Torah or the *Hagadah*. Nonetheless, the lower level of *daas* cannot be equated with the adult's level of responsibility to discharge duties imposed by the Torah.

The exception to this is the *mitzvah* to keep one's vows and bans. If a person undertakes a personal obligation, he is bound by it unless he formally absolves himself. The simplest absolution is to demonstrate that he did not have full awareness when making his undertaking. This is because a personal vow is dependent on the mind of the one uttering it. Having uttered it, he is bound by a Scriptural *mitzvah*. The Torah considers a twelve year old boy or an eleven year old girl capable of the *daas* to undertake a vow, or *neder*. Thus they are bound by their *nedarim*, provided they can show that they had the requisite level of *daas*. The minors are tested to see whether they are *mufla samuch la'ish*, understand *nedarim*. If they are found to have sufficient *daas*, their utterance is ef-

fective. The Talmud debates whether this provision is Scriptural or Rabbinical.

A father can adopt a *nezirus* for his minor son. Thus he imposes a ban on wine products, defilement by corpses and haircutting on his son. The Talmud debates whether this is Scriptural or Rabbinical, based on *chinuch*. We follow the stringent view, but apply it primarily to minors below age twelve and only to *nezirus*.

Fasting is harmful for children under the age of nine years. As they grow past this age, they should be trained to fast a few hours on *Yom Kippur*, increasing incrementally. At the age of eleven for girls, and twelve for boys, they should fast all day. The Talmud debates the severity of this obligation. One view considers it Scriptural, the other, a strong form of Rabbinical *chinuch*. [The consensus is to alleviate the severity of the fast for weak minors. Many maintain that most minors are considered weak nowadays.]

Based on these concepts, there is a *minhag* to practice some fasts before coming of age. A *minhag* has the status of a *neder*. A personal *minhag* is established by conducting oneself in this way three times without saying '*bli neder ushevua*', and for certain *mitzvah*-type obligations it can take effect after doing it one time. Assuming *minhagim* work as *nedarim*, senior minors should be able to adopt *minhagim* like adults. This particular *minhag* has little or no recorded source. However, it is quite widespread, which might give it status of a communal *minhag*. An example of a *neder* that is binding on a community is a communal fast. Perhaps this *minhag* was adopted as a voluntary practice.

Another issue to consider: fasting is a penitential practice. Children have no *mitzvah* obligation in their own right, and no reason to repent. Fasting can be a mourning practice. There is much debate about the level of mourning practiced by minors, if any. [See Pesachim 50a etc Yuma 82a Nazir 28b-29b Nidah 45b-46b, Poskim. Tur Sh Ar OC 571:2 MA 3 616:2 YD 203 211 214 233, commentaries. Nitei Gavriel Bar Mitzvah 27:2, note.]

B) Taanis Bechorim; Siyum Bechorim

The *Yerushalmi* suggests that *Rebi* [Yehuda Hanasi] fasted on *Erev Pesach* because he was a *bechor*. Yet his father was also a *bechor*, but did not fast. In one view, the *Yerushalmi* suggested the possibility of this fast, but that it was not accepted. Thus, there could be reason for a *minhag* but it is insufficient. In another view, the *Yerushalmi* means to say that there was a practice, but it was not adopted widely and *Rebi* would never have followed it. Accordingly, even pious individuals did not practice this *minhag*.

A second ancient source rules that *Nissan* is a month of rejoicing and not fasting, with the exception of *taanis bechorim*. To override the institution banning fasting on the day one offers a *korban* (the *korban pesach*), the *minhag* must have been a *takanah kedumah*, ancient, predating and well founded institution. From references in the poskim, we can learn that about five hundred years ago this practice was observed in some parts of Germany, but nowhere in France. A few generations later it had spread. The poskim of the time no longer discuss the observance or lack thereof by different communities.

[Some say that we reenact the first day that Esther and the Jews of *Shushan* fasted. The next two days were *Yomtov*. While they had to fast, we cannot violate our *Yomtov*.]

The reason commonly offered for the *minhag* is the sparing of the Jewish first-born from *makas bechoros*. If the first-born Egyptians were the pagan priests, and the Jews

also served idols, the Hebrew *bechorim* all deserved to die as well. ['Jewish' temples hired priests from the ranks of their own first-born.] Fasting commemorates the way the Jewish first-born deflected the decree. The Egyptians were punished because they refused to subordinate themselves to Hashem. They challenged Him after every plague. To be protected from the final plague, the Jewish firstborn subordinated themselves. Fasting demonstrates subordination. Though they might not have been worthy of the miracle, fasting shows that they are not the same as the Egyptians. *Makas bechoros* occurred on *Pesach*, when fasting is prohibited, so it is commemorated on *Erev Pesach*.

Some forbid fasting past midday, due to the festive nature of a day of *korban*, as all Jews bring the *korban Pesach* on this day. The Talmud records days that certain families brought *korbanos*, when fasting was forbidden. [Even nowadays, on a day that one would normally have been offering a *korban*, one does not say *tachanun*.] One should also not begin a *Yomtov* famished. Therefore, one must eat at some point. Fasting half a day is a *taanis shaos*, partial fast. It also distinguishes this fast from the gentile practice to fast on the eve of their holidays. Emulating idolaters would involve violating the *mitzvah* of *chukas hagoy*. These views are utilized to allow dispensations for the weak and feeble. In addition, the essential deferment seems to allow some laxity.

One fasting for personal reasons may sometimes break his fast to participate in a *seudas mitzvah*, *mitzvah* meal. The most obvious of these is a *bris milah*. Certainly when it occurs on the correct day, the eighth day of the boy's life, it allows the immediate family to eat (except on *Yom Kippur* and on *Tisha b'Av* when it is not deferred). The poskim discuss this with regard to *taanis bechorim*, and many only permit immediate family members to eat. A *siyum* celebration on completing a section of study is considered *seudas mitzvah*. It is better when celebrated with others who did not participate in the study. In fact, the Talmudic source for it indicates that it is party hosted by others in honor of the scholar completing his study. The joy at the completion encourages others to raise their ambitions. The poskim restricting the celebrants at a *bris milah* take this *taanis* seriously. However it has become a time-honored tradition to save a *siyum* for *Erev Pesach* to spare *bechorim* from fasting the rest of the day. Some suggest it was introduced to satisfy those who object to the entire institution of a fast on this day. Others criticize the practice. It gives the perception of a loophole. One suggested defense is that since the initial practice was a *minhag*, the *siyum* is acceptable as a counter prevailing *minhag*.

An unusual detail of this fast is, if the *bechor* is too young to fast, his parent fasts for him. The parents of the first-born in Egypt were also being punished. Hashem told *Par'oh*, 'Yisroel is My firstborn son, I shall kill **your** firstborn son.' Children do not fast. Their fathers fast until the child grows up and appreciate it. [See *Pesachim* 108a, *Yerushalmi* 10:1, *Sofrim* 21:3. *Tur Sh. Ar.* OC 470, commentaries. *Maadanei Shmuel* 113:20-22. *Mishne Lemelech*, *Klei Hamikdash* 9-10. *Yabia Omer* OC I:26-27.]

C) Applying this to our case

In our case, the father has been fasting or attending a *siyum* to avoid fasting for his minor son. Now his son has begun practicing other fasts. Should the son fast, or attend a *siyum* to avoid it? If he does so, does the father need to fast as well?

This fast is somewhat connected to repentance. A minor has no requirement to repent. Their fathers fast because they were also under a threat of punishment. However, they only fast when their sons are minors. Evidently, it is not fully considered their own fast, but rather a way of redeeming the fast of their children. From language used by the poskim, it appears that this fast is like a voluntarily adopted *neder*. It is not imposed on the community, especially since only the firstborn fast. Furthermore, its greater purpose seems to be for protection. The same *kitrugim*, adversarial forces that came forth in Egypt, could resurface at this time of year. Fasting helps show one's devotion to Hashem. One gives up of himself 'to Hashem'. This is similar to any vow, such as *tzedakah*, undertaken in time of trouble. Protection is needed for very young first-born, and is provided by their fathers' fast. How does eating at a *siyum* help protect oneself or one's son?

Attending a *seudas mitzvah*, one dedicates his eating to a *mitzvah* celebration. Traditionally, if one attends the *seudah* of a *bris milah*, he is forgiven all of his sins. [It is widely believed that eating at the *seuda* of a *pidyon haben* is equal to eighty-four fasts of repentance. Our fast or *seuda* can be connected to *pidyon haben*.] The *siyum* on *Erev Pesach* is not an excuse to avoid the fast, but a substitute for the fast. This helps explain why one need not repay the fast on another day, which is often required if one participates in a *seudas mitzvah* on a standard type of (repentance or mourning) fast.

A twelve year old can adopt a legitimate fast, though he is not obliged in penitence or mourning. It is obviously a vow undertaken to protect from trouble. If he himself fasts, he should not need the protection of his father. Thus, if he began fasting himself, he fasts on *Erev Pesach*. He may consider it contingent on his not being able to participate in a *seudas mitzvah*. His participation in a *siyum* should protect him in place of the fast. [See Vayaitzai 28:20 Vayishlach 35:3, commentaries. PDRE 29. Sh Ar OC 470:2 (Yeshuos Yaakov, Kaf Hachaim, etc.) 571:MA 3, commentaries. Sh'uT Riva OC 38. Taamei Haminhagim 933-934. Sdei Chemed, Samech 54. Likutei Pinchas, YD:305:10:52.]

In conclusion, if the twelve year old fasts or attends a *siyum*, his father is exempt.

On the Parsha ... And live by [the mitzvos] .. [18:5] The life of a person by the mitzvos depends on his approach. Those who have ulterior motives will be rewarded in this world. Those who serve out of fear will be rewarded in the next world. Those who serve with love will be rewarded in both worlds .. [Ramban] In general, negative and restricting *mitzvos* represent serving with fear, while positive *mitzvos* show love. Perhaps this is the difference between fasting or celebrating a *seudas mitzvah*. Fasting and restricting one's pleasures is a form of serving out of fear. Eating because of a *mitzvah* is a form of serving Hashem out of love. Celebrating with a *seudas mitzvah* is thus on a higher spiritual level than fasting. In *Mitzrayim*, it is fair to say that the Jewish people were protected from *makas bechoros*, in part by their partaking of the *Pesach*, *Matzo* and *Maror*. They did this with love. The *korban pesach* could only be slaughtered for those who were obligated, yet it could include one's children. Perhaps one could say that to serve with love by eating for a *mitzvah*, children can also have a level of *daas*.

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