


HALOCHOSCOPE



This week's question:

When a woman marries, she assumes her husband's customs. Is there any way that a woman may stipulate that she does not need to follow her husband's customs?

The issues:

A) What determines one's *minhagim*, customs?

B) A wife following her husband's *minhagim*

A) *Minhagim*

The main source for the concept of *minhag* is the ruling that one who relocates to a new community must follow the *minhag hamakom*, custom of that community. In a *halachic* dispute, one community follows one view, while the other follows the other view. One must always follow the rulings of the *Rav* or *bais din* of his community. This is based on a Scriptural teaching, *lo sisgodedu*. This forbids making incisions in one's skin in grief. The same words are broken down into *lo saasu agudos*, do not make fractious groups. The essence of the two meanings is the same: do not divide something that is meant to be whole, whether the skin or the Jewish community. There might be two *batei din* in the same town, each of which rules for its adherents. One must 'belong' to one of them, and not jump from one to another as he pleases, for convenience.

A visitor must follow the stringencies of his own community, while respecting those of the host community. This will avoid *machlokes*, arguments. Were he to follow only his own *minhagim*, the hosts would accuse him of trying to claim superiority. Usually, he must follow stringencies of both communities, unless conspicuously following his own *minhag* will cause friction in the host community. In those situations, he must accommodate the hosts. If one relocates to a new community, he follows all of their *minhagim*, lenient or strict. If one relocates temporarily, with the intention of returning to his former community, he has the status of a visitor.

A community might undertake a practice based on local concerns. For example, a local type of food might resemble something else. A local event might have led to a decree, that was then perpetuated for later generations. A community might also have undertaken an erroneous practice. If this violates *halacha* in a lenient way, it should be stopped. If it tends to stringency, outsiders should not practice leniency in their presence.

If the entire community adopted a *chumra*, extra-*halachic* stringency, it is binding on later generations, in the spirit of *al titosh toras imecha*, do not betray the teachings of your mother. The Talmud describes various practices that were undertaken by a family, specifically, the family of the *nasi*, the prince, or leader of the *Eretz Yisroel* community.

A *minhag* can also be a personally adopted practice. This could be a *chumra*. This might comply with a minority view that was never totally overruled, or with a minor con-

cern which is never really settled. The practitioner has decided that he is a *baal nefesh*, on a spiritual level that he should undertake it. It might be needed because he found himself undisciplined in a certain area. Therefore, he undertook to do something that will aid him in his self-discipline. A *chumra* is often a binding *neder*, personal vow or oath.

Both personal practices and communal *minhagim* might also be a laudable practice that has little to do with *halacha*. For example, pouring a fifth cup of wine and opening the door on *Pesach* night is not a *halachic* requirement. The purpose of these *minhagim* is to show faith and trust in the future final redemption. Sometimes, a practice has symbolic significance, such as the foods eaten on *Rosh Hashanah* as good omens. Such practices are not binding, since they were never adopted for *halachic* reasons.

An individual might start the practice of saying a certain amount of *Tehilim* daily. A personal *hanhagah tovah*, laudable practice, becomes binding after three times. To avoid this, one should verbalize his intent to begin this *bli neder*, without adopting it as a *neder* or *shvua*. This also takes into account the risk that the one undertaking the new practice might not really be up to it. He might slacken off later, which is worse than not having begun in the first place. Three other considerations must be included in the decision. Firstly, it is important that one does not practice stringency for show, known as *yuhara*. This is an abominable trait that must be avoided at all costs, including, if necessary, pretending to act leniently to help humble oneself. Second, one must be wary that the new *minhag* does not lead to strife. Third, any stringency can cause leniency in another area. For example, by taking extra time over a *chumra*, one will have less time for other *mitzvos*. If he thinks that there will be no other specific *mitzvah* that loses out, he should bear in mind that he could always have studied a little more Torah during that time. His *chumra* might lead to *bitul Torah*. Once one takes all these factors into consideration, the *chumra* will be undertaken with due caution and it will be more meaningful. [See Parshas Re'ay 14:1, Gur Aryeh. Shabbos 18a Beitzah 21b Psachim 50a-52a Yevamos 14a etc. Poskim. Tur Sh Ar OC 468:3-4 496:3 YD 214:1-2, commentaries.]

B) Following the husband's minhagim

When a woman marries, it is normal for the couple to live in one of their respective communities. Generally, the wife will follow the husband to wherever he chooses to live. Most of the time, he will stay put and she will move to his community. This leaves little question as to which *minhagim* are followed. Since the wife has formally married, it is assumed that she has the intent to remain in the new location. Therefore, she is now a resident of the new community. If, however, the husband relocates to his wife's community, the possibility remains that he might intend to stay temporarily.

This is discussed by the poskim in various other contexts. For example, a person leaving *Eretz Yisroel* to the Diaspora is considered a temporary visitor by some poskim, even if he has no declared intention to return, and certainly if he left a wife behind. If he marries *Chutz Laaretz*, some of these poskim concede that he has put down roots. If he leaves with his wife from *Eretz Yisroel*, they also consider it a permanent move. This is because his wife had the right to object to the move, and because if he left with his family, he is presumed to have decided to move away for good. [If he expressed openly his desire to return, this would not apply.] Thus, a husband may or may not be considered a

permanent new resident of his wife's community unless he specified otherwise. Some make this contingent on the support that the newlyweds receive. If they are supported by the family of the wife, moving to her community creates residential status rather than guests. Generally, the wife seems to be considered more bound to her husband's decision.

If they live in a community that has two *minhagim*, such as the town that has two or more *batei din*, and they come from separate communities, they cannot continue following their respective *minhagim*. This will mean that they could be eating two types of food at the same table. This is a sure cause for strife. For example, *Sepharadim* eat rice on *Pe-sach*, while *Askenazim* do not. The poskim say that the wife is automatically considered part of her husband's community. She adopts his community's leniencies as well.

The basis for this is a concept used by the Talmud: *ishto kegufo*, his wife is like part of him. In circumstances where a woman's testimony would work, it does not work regarding her own husband. It is the same as his testifying for himself. The concept is used regarding a wife's offerings. It also applies to certain laxities with regard to the propriety of blessings in certain circumstances, and to embarrassment. This idea is expanded with regard to his asking for annulment of her vows from a *bais din*, relieving her of the obligation to appear in person. The fact that a husband takes over a father's role in voiding certain types of a woman's vows also shows that she has now moved into his 'domain'.

This term is also used about a marriage. It takes effect at the moment the girl moves from the father's domain into that of the husband. It also affects her *mitzvah* to honor her father. When she marries, she undertakes obligations to her husband. If these prevent her from honoring her father, her husband comes first. However, this last idea is questioned, based on the same obligations of her husband. When he marries he also undertakes certain obligations to his wife. In fact, the husband undertakes more obligation to his wife than she does to him. Furthermore, the wife's obligations are Rabbinically ordained. Some of the husband's are Scriptural. The real difference between the woman's obligation to honor her parents before or after marriage are in the distance. Since she is married and lives in her husband's home, she has less opportunity to honor her parents. The purpose of marriage is to move in with one's spouse. It is usually the wife moving in with the husband. Because the major obligation is the husband's to support his wife and family, he is considered the master of the home and his *minhag* takes precedence. [This view actually raises interesting questions when the wife is the breadwinner.] Some add the verse, 'let the female encircle the male', meaning that she will defer to him. Some say that a woman is permitted to continue her stringent practices, while others disagree. In any event, this must be tempered with the concern for *shalom bayis*, domestic harmony.

The poskim say that a woman is not obliged to undertake her husband's personal *chumros*. In matters that pertain to her personal conduct, she may follow the basic *halacha*. However, some suggest that it is proper for a woman to respect her husband's wishes, particularly if he shows that he is upset with her following leniency. Nonetheless, the husband should be admonished and told that he is placing an undue burden on his wife, if she does not wish to follow his *chumros*. This amounts to *ona'as ishto*, exploiting her feelings. In matters that pertain to him, or to both, he has a right to demand that she allows him to follow his *minhag*, even if it involves her changing to accommodate him.

A certain type of food might be avoided by one spouse's family. In the home, let us assume that they agree to avoid it. Is the husband's *minhag* binding on his wife outside the home? Can she stipulate before marriage not to adopt this *minhag*?

A family *minhag* is not considered a *chumra* of the entire community. It started with one ancestor choosing to follow it. This does not fall into the category of *al titosh toras imecha*. Therefore, his descendants are not bound by it. If a son or descendant followed this practice once, he showed that he agreed to undertake it, and he is bound by it. However, girls always hope to marry, and therefore, even if they follow the practice at home, they need not continue once they marry a man who does not follow it. Conversely, when they marry a man who observes it, they need not undertake it, as it constitutes a personal *chumra*. [However, the matter must be investigated, for it might actually be a *minhag* of a small community from where the family originates.] Accordingly, when her personal practice does not affect her future husband, a woman may stipulate before marriage that she does not undertake this *chumra* personally. She will observe it for *shalom bayis* in the home, but reserves the right to practice leniency outside the home. [See refs to section A. Brochos 24a Kesubos 66a Kidushin 30b Baba Metzia 59a Menachos 93b Bechoros 35b. Rambam, Ishus 15:19. Tur Sh Ar YD 240:17 CM 228:3, commentaries. Tashbatz III:179. Igros Moshe OC:I:158 EH:I:59 II:12 IV:32:10. Yabia Omer OC V:37. Minchas Yitzchok IV:83. Pri Chadash Kutres Haminhagim (OC:496) 7. Rav Pealim II:YD:23.]

In conclusion, a wife must follow her husband's communal *minhag makom*. She is not bound by a personal or family *chumra*. She may stipulate that she does not accept it personally, and will practice leniency outside the home. If her lack of adherence will affect the husband, she should adopt it. If it will not affect him, but he demands her adherence, she should follow it, but he should be advised that his demand is unreasonable.

On the Parsha ... *Did I not work for you for Rachel? Why did you swindle me? .. This is not done in our place, to give the younger daughter before the elder .. [29:25-26] What kind of answer did Lavan give? Was it not an agreed condition of the work? Why does the minhag hamakom affect this? Lavan claimed that the residents of the town did not permit him to follow through with his agreement. [Or Hachaim, see Sforno] Why would the residents stop Lavan from fulfilling his agreement? Furthermore, let us assume that the ideas presented here are based on some kind of halachic rules that were followed by Yaakov and Lavan's families. In regard to marriage, there seems to be a consensus that one follows the husband's minhag. Perhaps the answer here is twofold. Firstly, the ruling that favors the husband is based on another ruling that the husband can compel the wife to follow him to his town. In this case, Yaakov had relocated to Charan until he would be summoned back by his mother. Lavan claimed that this made Yaakov a local resident, bound by their wishes. Yaakov claimed that he had always intended to return home. Second, Lavan claimed that he was supporting Yaakov in his home. Therefore, Yaakov should be bound to follow the minhagim of his wife and father-in-law. Yaakov claimed that he had worked for his pay and was not being supported gratis.*

Sponsored by Noah Bass in memory of his father, Mordechai ben Noach z"l, whose

yahrzeit was the 3rd of Kislev. ׀

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