


# HALOCHOSCOPE



**This week's question:**

**May one attend a lunch meeting at a non-kosher restaurant. The observant Jew will not eat at all, but is meeting with non-observant Jews who intend to eat there?**

**The issues:**

**A) *Maris ayin*, avoiding the appearance of impropriety**

**B) *Lifnei ivair*, complicity when aiding others in sin; *chanufah*, condoning a sin**

**C) *Tochacha* long term; befriending the non-observant to eventually win them over**

**A) *Maris ayin***

The person entering the restaurant clearly has no intention of eating there. The onlookers might think that there is nothing wrong with going in to eat there. Or they might think that the person entering the establishment intends to violate something. The Rabbis sometimes forbid an activity that is perfectly permissible, due to appearances.

There are two issues of *maris ayin*: *chashad* and *shema yilmedu*. First, one is concerned about arousing suspicion. Assuming that others will know that the food is forbidden, they will not learn from the activities of the person seen going into the restaurant that perhaps the food is permissible. They will, instead, suspect him or her of doing something wrong. They should give him the benefit of the doubt, but people are human. (As an aside, leading others to violate the *mitzvah* to give the benefit of the doubt also implicates him, through *lifnei ivair*, see below.) He did nothing wrong, but arousing suspicion is also forbidden. The Torah demands that one should be “innocent in the eyes of Hashem and Israel.” While this is not a Scriptural *mitzvah* in its own right, it reflects the principle behind the Rabbinical decrees against *maris ayin*. The Talmud records instances of people reacting in the most terrible ways on discovering that they were suspected of transgressions they did not violate. In addition, *chashad* causes *chilul Hashem*, desecration of the divine Name, when others suspect people of violating His *mitzvos*.

Sometimes the Rabbis instituted a specific prohibition due to the logical implications of an action leading to *chashad*. In such cases, the action itself does not appear wrong to the onlooker, if he knows what is happening. However, it is such that it could be confused with another activity that is known to be wrong. In such cases, there is a laxity called *maida yadia*, well-known. If the true activity is well-known, nobody should be suspicious of it and confuse it. Therefore, there is no *maris ayin*. This is sometimes extended to include a situation where the forbidden-type action is so obviously forbidden that an onlooker witnessing a learned person doing a look-alike action will automatically assume that he is not doing the 'real thing.'

*Shema yilmedu* means that people could learn the wrong thing from observing one's actions. Onlookers might not distinguish between this permissible activity and a forbid-

den similar activity. They will conclude that the look-alike activity is being performed, and must be permitted. If others are already engaged in the forbidden activity, the onlookers have plenty of other role models from whom to learn the wrong thing. Therefore, the person doing the permissible activity need not be concerned that he is responsible for introducing others to a forbidden activity as though it is permitted. There is a caveat here. Certain people do not serve as automatic role models, but others do. If many non-observant Jews violate something, this does not give unlearned people an excuse to conclude that it is permitted. They will correctly assume that it is really forbidden but that the non-observant do not care about it. An onlooker with a conscience or a concern that the activity is wrong, will refrain. If he sees an observant Jew doing what he thinks is a look-alike forbidden activity, he might wrongly conclude that it is permitted. Thus, this dispensation cannot be applied universally. This bears on our question.

In addition, onlookers are aware of laxities based on circumstances. While they might not know specific circumstances, in some cases, they might jump to their own conclusions. They might presume that there must be some circumstances when it would be permitted. For example, they might think that certain foods may be consumed in a non-kosher restaurant, or that for business or social reasons, one may eat there. This is particularly problematic when dealing with non-observant Jews themselves. They might be considered *shogegim*, unintentional sinners, based on a view that takes the Torah lightly. They might think that certain things are not really forbidden, but are practiced as stringencies. They will further conclude that these can sometimes be waived.

A question arises whether one needs to be concerned for those who anyhow do not observe. *Chashad* is always a concern, but *shema yilmedu* might not be a concern. Since they will not rely on a conclusion to further their own behavior, the person need not be concerned about it. On the other hand, they are never too far from repentance. Furthermore, they might 'teach' their newfound knowledge to others who would really like to be more observant. Is the observant person responsible for this indirect 'learning'?

We have discussed the issue from the perspective of an onlooker. There is also a perspective of the actor. This is called *mechzi*, it seems like. Sometimes, something is Rabbinically forbidden due to its similarity to something else. In such cases, it is possible that the actor knows the difference, but the issue is with the onlookers. It is also possible that the actor does not see the difference clearly. The result might be exactly the same, and the activity might be similar. The only difference would be a technicality, that is not easily understood. [See e.g. Chulin 41b Avoda Zara 21a, Poskim. Tur BY Sh Ar OC 243 YD 87:4, commentaries. Avnei Nezer YD 180. Igros Moshe OC:IV:82 EH:II:12.]

### **B) Lifnei ivair**

The Torah forbids placing a stumbling block before the blind. This is interpreted three ways as a Scriptural *mitzvah*, with one Rabbinical extension of them. Scripturally, one may not be the accessory to enable another to sin. For example, a *nazir* has banned himself from wine. One may not pass him wine to drink. Second, one may not do something that will cause another person to sin in reaction. For example, one may not discipline an older child. He will react disrespectfully to his parent. Third, one may not offer someone advice against his own best interests. He is 'blind' in the matter, and one may

not cause him to 'stumble'. In all cases, the helper or advisor has done no wrong directly himself. The other person might have violated or acted on the advice. The helper/advisor is not financially liable, nor obliged to atone for the consequences. Nonetheless, the Torah holds him partially ethically liable for the other person's actions. Rabbinically, this extends to forbid helping another in the process of sinning. Thus, even if the other could have sinned without the help, the helper is *mesayaia* or *mechazaik*, supporting the sinner.

There is an opinion that the lesser rule of *mesayaia* does not apply to a *mumar*, habitual and conscious violator. This description of a non-observant Jew is fraught with difficulties nowadays. Most of the non-observant Jews do not even realize how non-observant they are. They are under the impression that their 'version' of Judaism is a valid alternative, and many of them consider themselves 'religious' but not Orthodox. Thus, they are not considered *mumar*, because their sinning is *shogeg*, unintended. Therefore, even those who relax *mesayaia* for a true *mumar* would forbid it here. In addition, it is unclear whether the consensus would rely on those opinions.

Our case raises an interesting point. In one respect, the non-observant Jew will not be eating non-kosher food as a direct result of the activity of the observant Jew. He will order his own food and eat it. On the other hand, if the observant Jew refuses to attend the lunch meeting in the non-kosher restaurant, it is possible that the non-observant Jews will not eat forbidden food, at least, this one time. On the other hand, the observant Jew never called the meeting, and certainly not at that establishment. Should he or she say something? Even if nothing is said, should he refrain from attending?

*Chanufah* is morally so evil, that its violators are considered one of the four types that are rejected from Hashem's presence. Some consider it a Scriptural *mitzvah*, derived from the prohibition against shielding a murderer. The reason it is considered so evil is because people perpetuate the evil that was already perpetrated, and make it hard for the world to see wrong from right. One may not condone a sin, even if the situation makes it hard to admonish the sinner. Rather, one should remain silent. However, in many situations, silence is interpreted as a passive approval. In such cases, there is no choice but to voice one's disapproval. Hopefully, one should manage to word it in a way that is not counterproductive. [See e.g. Psachim 40b Gitin 61a Avoda Zara 65b Nidah 61b Tosefta Makos 3, Poskim. Tur Sh Ar OC 266 (MA8) 301:8 303:2 YD 151:3 etc., commentaries. Chofetz Chaim, Psicha, Lavin 16, commentary.]

### **C) *Tochacha* long term**

When dealing with a sinner, habitual or one-time, one must admonish. This is a Scriptural *mitzvah*. Nonetheless, the Talmud says that one must always use two hands for this – the left hand to push away and the right hand to draw near. Pushing away means that one should not turn a blind eye to the violation, and there should be consequences. These include criticism, that might need to be harsh and rejecting, including excommunication. On the other hand, one must make an effort at the very same time to encourage the sinner to repent. This will require opening one's arms and welcoming him afterwards. This is all part of the Scriptural *mitzvah* of *tochacha*, admonishing a sinner.

If one comes across a person in the midst of transgressing, there is a positive *mitzvah*, *hochaiach tochiach*, you shall surely admonish your fellow. This applies even if the

same sinner has been admonished many times before, even in the midst of this same activity. Accordingly, the observant Jew is obliged to say something to the non-observant Jews, if he is present when they are actively engaged in eating the non-kosher food. By the same reasoning, it is even more important to stop them before they begin, if he knows it will be committed. This obligation applies to all bystanders, and regardless of whether the violators are aware of their transgression.

There are limitations to the *tochacha* obligation. If the person will not listen anyhow, it depends on the severity of the violation. If it is indirectly Scriptural, or Rabbinical, one should rather not admonish. *Mutav sheyiheyu shogegin*, rather let them violate it unintentionally, rather than brazenly and intentionally. Since they probably do not know of the violation, they will be considered *shogegin*. If they are informed, and then choose to continue with their behavior, it will be *maizid*, intentional. If it is an openly Scriptural *mitzvah*, one admonishes anyhow, to fulfill his personal obligation. Due to explicit nature of the law, it is assumed that they know about it already. In the case of non-observant Jews, this poses a problem. Some of them are wise enough to know about the explicit *mitzvos*, but believe that they are not bound by them. Their brand teaches that these do not apply. Others are truly unaware. Yet others are knowledgeable carefree violators. Therefore, good judgment is required here.

One need not admonish one who by nature does not accept it. It is sometimes a *mitzvah* to remain silent. According to many poskim, one need not admonish a *mumar*, who shows contempt for the Torah. The Torah uses the term, *amisecha*, your friend, interpreted as *am she'itecha*, the people who are with you in their Torah observance.

In accordance with the earlier dictum, part of *tochacha* is to draw the violator closer to Torah observance. No-one is abandoned. Therefore, if one is able to deal carefully with a violator in the longer term, he might be able to fulfill his obligation and also bring the non-observant to observance. This might require maintaining an open friendship. In such cases, one would not wish to miss an opportunity to meet. However, there are rules about how to draw close with the right hand. One may not place himself in a situation in which he compromises his own observance. The Talmud debates whether it is preferable for a more observant person to violate a minor matter in order to save a less observant person from a more major matter. There are even instances of *avairah lishmah*, a transgression for altruistic reasons. Nonetheless, in our case, agreeing to the meeting could mean that one becomes a passive accessory to the sin. This is in addition to the issue of *maris ayin*. [See Parshas Kedoshim 19:14 17. Shabbos 4a 54b-55a 69a Eruvin 32b Beitza 30a Yevamos 65b Sotah 47a Kidushin 32a Baba Metziah 31a Sanhedrin 107b, Poskim. Tur Sh Ar OC 608:2 YD 240:11 20 242:14 22 243:7 245:9 334:42 48, commentaries.]

In conclusion, the observant Jew should not agree to the meeting in the non-kosher establishment. Rather, an attractive alternative should be arranged.

**Sponsored by Dr. and Mrs. Dovid Wayne in memory of his mother, Chava bas Yaakov a"h,**

**whose yahrzeit is the 11<sup>th</sup> of Iyyar. ׀**

© Rabbi Shimon Silver, April 2013.

Subscriptions and Sponsorships available. (412) 421-0508. [halochoscope@hotmail.com](mailto:halochoscope@hotmail.com)