

HALOCHOSCOPE

This week's question:

A woman gave birth within the past two years. She was nursing the baby, but has stopped. She has a job proposal that could be very taxing. This could mean that she will not be able to complete the fast of the 17th of *Tamuz*. May she accept the job?

The issues:

- A) *Shiva Asar beTamuz*, the fast of the 17th of *Tamuz***
- B) *Ubrah*, *yoledess*, *umaineless*, women who are exempted from fasting due to pregnancy and childbirth**
- C) *Maivi atzmo lidei oness*, one who causes himself to be exempt through circumstances beyond control**

A) *Shiva Asar beTamuz*

The Seventeenth of *Tamuz* is best known as the beginning of the period of the Three Weeks. This is observed annually as a mourning period commemorating the destruction of the *Bais Hamikdash*. In its own right, this date is a fast day, also associated with the destruction. Indeed, it was a calamitous day for our people almost from the very inception of Israel as a nation. Five calamities befell our people on this day: This was the day that the Children of Israel worshiped the golden calf in the Wilderness. On that day, the first set of *Luchos*, tablets, were smashed.

For hundreds of years, the *korban tamid*, daily offering had been offered uninterrupted. [On the day that Yehoshua besieged Yericho, they did not offer the *tamid*, but they resumed the next day.] During the rule of Menasheh, king of Judea, the *tamid* offering was interrupted. This took place on the 17th of *Tamuz*. Some say this interruption took place during the siege of Yerushalayim by Nevuchanezar. The supply of sheep ran out. Some say this interruption took place under Chashmonai rule. During the civil war between the two sons of Yanai, Hurkanos and Aristobulos, the outside camp provided sheep for the *tamid*, until one day, the 17th of *Tamuz*, when they provided a pig!

Apostomus, a Greek official, conducted a public burning of the Torah, also on this day, the 17th of *Tamuz*. This occurred during the Greek occupation.

Menashe, and possibly Apostomos as well, erected an idol in the *Bais Hamikdash* on the 17th of *Tamuz*.

During the Roman siege of Yerushalayim, right before the *churban*, the walls were breached on the 17th of *Tamuz*. During the siege by the Babylonians, the walls were also breached in *Tamuz*. However, that was not on the 17th, but on the 9th. Nonetheless, the month of *Tamuz* is considered preordained for such ominous events. The *Navi* mentions four fasts, all commemorating the *churban*. They are called by the number of the month in which they occur, to commemorate the events that occurred during that month. They

are the fast of the fourth month – *Tamuz*, the fast of the fifth month – *Av*, the fast of the seventh month – *Tishrei* (*Tzom Gedalia*) and the fast of the tenth month – *Taivais* (the 10th). Thus, these were commemorated as a fast day after the destruction of the first *Bais Hamikdash*. When the temple was rebuilt, these days were no longer observed automatically as fast days. On the contrary, the *Navi* says that they will be celebrated.

Nonetheless, the terminology of the verse in the *Navi* is ambiguous. These days are called fast days, that would be celebrated with joy. The Talmud says that in peaceful times, the fast would be suspended. In troubled times the fast would be observed. The exception to this is *Tisha b'Av*, which is the day of the actual *churban*. This was instituted as a full fast after the second *churban*. Our times are considered neither troubled, since we are not going through a *churban*, nor peaceful, due to the ongoing absence of the Divine resting place at the *Bais Hamikdash*. In these times, the fasts may be adopted, somewhat voluntarily, by consensus of the Jewish people. Nowadays, the consensus has been that they are institutionalized, but with a more limited level of stringency. As an institution that originally depended on the voluntary adoption of the people, it is considered somewhat like a *neder*, ban or vow. This allows leniencies based on what may be assumed to have been the mentality at the time it was adopted. There is also a Prophetic *mitzvah* to fast when trouble threatens the people. The purpose of this is *teshuvah*, repentance, at those times, and at the times of year when troubles occurred historically. It is assumed that these other fasts are a way to fulfill this *mitzvah*. [See Rosh Hashanah 18b Taanis 26a-b 28b, Poskim. Tur Sh Ar OC 549-550, commentaries.]

B) Pregnant and nursing mothers

A *choleh*, sick person, is exempt from fasting. There are varying levels of illness and varying levels of fasts. *Yom Kippur* is a Scripturally mandated fast. The other fasts were initially Prophetically mandated, which places them on a quasi-Scriptural level when compared to Rabbinical ordinances. However, as explained in the previous section, this was later Prophetically suspended. Nowadays, the other fasts are considered Rabbinically mandated. Of those, *Tisha b'Av* is considered the most stringent. Since it commemorates the day of the *churban*, all the stringencies of *Yom Kippur* apply, but on a Rabbinical level. The other three fasts are not observed on the same level. Eating and drinking are forbidden, but the other forms of self-affliction are not observed.

A dangerously ill person may not further endanger his life. Only three *mitzvos* override a threat to life: idolatry, adultery and bloodshed. To avoid committing any of these one must, if necessary give up his life. *Kiddush Hashem* sanctifying the Name of G-d, also requires the ultimate sacrifice. The details of this *mitzvah* are beyond the scope of this discussion. Thus, to avoid violating *Yom Kippur*, it is not necessary to risk one's life. A pregnant woman can sometimes be in a state of craving that is very dangerous. If all other methods to calm the craving fail, she may eat.

A lesser level of illness might make a person so weak that if he is denied nutrition, he will become more seriously ill. In such instances, a doctor and a *Rav* will determine whether he needs to eat on *Yom Kippur*. Depending on the circumstances, the patient's feelings and opinions will also be taken into consideration. Similar consideration must be given to healthy people who become weakened and ill or dehydrated.

A woman who gives birth is considered ill by definition. For the first three days, or 72 hours, she is considered dangerously ill. Until seven full days have passed after the birth, she is considered ill to a lesser degree. If she feels weak and needs to eat, her feelings are considered enough to permit it. For the remainder of the thirty days after birth, she is still considered frail. However, on *Yom Kippur*, she must fast anyhow, unless she becomes ill enough to be exempt.

Thus far, we have discussed the Scriptural level of stringency. For *Tisha b'Av*, the same basic rules apply, with one or two leniencies. On *Yom Kippur*, if one needs to eat for basic hydration and nutrition, but not due to imminent danger to life, there is a procedure to follow. Scripturally, one is liable for punishment for violating a *mitzvah*. This punishment does not apply to eating on *Yom Kippur* unless a minimum amount is consumed. This is enough to settle the hungry, the size of a juicy date, eaten within a specific time period. Consuming less than this is forbidden, but not punishable. The Talmud debates whether it is forbidden Scripturally or Rabbinically. In any event, the ill person should eat small amounts spread apart enough to avoid the punishable level. On *Tisha b'Av*, any amount is not punishable, since it is not a Scriptural fast. Therefore, he may eat normally. Furthermore, an expert medical opinion is not necessary. According to most poskim, a woman within thirty days of childbirth is exempt from fasting *Tisha b'Av*.

The other three fasts are less stringent. They do not begin in the evening, but at dawn. Some leniencies are applied to pregnant and nursing mothers as well. This is due, in part, to the initial consensus to adopt them nowadays. It is assumed that the intent was never to pose hardship on pregnant and nursing mothers. Therefore, if they are able to, they should fast. If they are unable to, they should eat. Three considerations apply. First, while nursing, the mother is in a weakened state herself. Second, the baby is at risk if the mother is either weak or has not eaten or drunk enough to provide milk. Third, the mother is always considered traumatized after childbirth. This trauma can last up to two years, or 24 months from the birth. Therefore, if a mother feels pain, she may eat. Even with no pain, she was really excluded from the initial adoption. Many try to fast anyhow.

The first two considerations must be taken into account by a mother. The second one, which puts the baby at risk, applies even if the mother feels strong enough to fast. Only if there is another way to provide for the baby, may she act stringently herself. Babies are always, by definition, treated as *cholim*. The third consideration is the subject of Talmudic debate in a separate context. Some say that only if she is nursing does her body take so long to recover from the trauma. Once she stops nursing, her body is no longer weakened. In this view, the trauma itself is not the issue. Rather, it is the fact that she is nursing that affects her system, both hormonally and physically. The other view maintains that the main issue is the trauma. This causes her physical and hormonal changes that weaken her system. The debate does not pertain directly to fasting, but to other *halachic* issues. In those issues, we follow the view that whether or not she continues nursing, her body is traumatized for 24 months.

The poskim debate whether we may apply this ruling to fasting as well. While there are stringent rulings, all agree that if the mother feels weak, she may consider herself ill. For the three fasts in question, any ill person need not fast. For these matters, illness in-

cludes any systemic illness, infection, fever, or physical pain affecting the entire body. The lowest level of illness is *ke'aiv ainayim*, localized eye pain, often defined as migraine. Some say this is not enough to exempt one from fasting the three fasts, but is enough to exempt one from *Taanis Ester*, fasted before *Purim*. [See Yuma 73b-74b 79a-81a 82a-83a Nidah 9a, Poskim. Tur BY Sh Ar OC 550:1(Daas Torah) 554:5-6 617 618 YD 189:33, commentaries. Chut Shani, Shabbos 4 p. 260.]

C) *Maivi atzmo lidei oness*

Generally, a violation is either *maizid*, intentional, or *shogeg*, unintended or mistaken. For either of these one held liable. One is not held liable for his actions if he is a victim of circumstances beyond his control. This is known as *oness*. For example, if one is forced to violate a *mitzvah*, he cannot be punished. Force of circumstance need not be due to a threat. It can be due to some other circumstance, such as unexpected emergencies and the like. Most are of the opinion that the *oness* is not even obliged to try to fulfill the *mitzvah*. The reason a *choleh* is exempt from fasting is due to *oness*.

The poskim debate the status of one who brought the *oness* upon himself. That is, he would not be an *anuss*, victim of circumstance, had he not voluntarily got into the situation. The best known case (though not all agree to call it thus) is when hot water prepared for a *bris* on *Shabbos* is spilled before the circumcision takes place. If the baby is then circumcised, he will need hot water. At that point, it will be *pikuach nefesh*, life-threatening danger, and there will be no choice but to violate *Shabbos* to heat the water. However, maybe one should not perform the *bris milah*, to avoid getting into an *oness* situation. There are various other debates on this matter, spread out through the *halachic* texts.

In our situation, if the person gets weakened because of his work, he will be *anuss*. He will be allowed to break his fast. However, maybe he should not have gotten into this situation in the first place. Maybe he is liable in this case, or at least, to prevent it. A person is not obliged to give up his job in order to fast. He need not even take off work. However, the question is whether this really qualifies as *oness*. Our case is more lenient. In addition to the fact that she is *anussah*, this mother is within 24 months of childbirth. Furthermore, the entire fast is not Scriptural. [See Shabbos 19a 134b Kesubos 3a etc., Poskim. Igros Moshe OCI:4-7. Chelkas Yaakov I:OC:17. Moadim Uzmanim I:35.]

In conclusion, she may take the job. She should try fasting until she feels too weak.

On the parsha .. “I said I would honor you very much, but behold G-d has withheld honor from you!” [24:11] Balak was cynically and sarcastically attributing Bilam's failure to 'G-d'. Why did Balak need to 'blame it on G-d'? Bilam had complained all along that he was not in control of his words! From the perspective of Balak, Bilam should rather have not come, than to come willingly, knowing he would then be *anuss*. By coming in the first place, willingly, Bilam was responsible for the later involuntary blessings, though compelled by G-d.

Sponsored by Robin Knee in memory of her mother, Michla bas Meir a”h, whose

***yahrzeit* was on the 10th of Tamuz. ☞**

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