

HALOCHOSCOPE

This week's question:

Someone grew up without observing the *minhag* of *kaparos* on *Erev Yom Kippur*. He finds the ritual unusual, but would observe it anyhow if this was required. Is it acceptable for him to refrain from observing it, despite living in a community where it is widely observed? If the prevailing custom is to use a chicken, may he use money instead? If the prevailing custom is to use money, may one use a chicken? If the prevailing custom was to ignore this *minhag*, or to ban it, would those who practice it be in violation of anything?

The issues:

A) *Kaparos*

B) A *minhag makom*, local communal practice; violating a ban

A) *Kaparos*

The *kaparos* ritual is not found in the Talmudic texts or in concurrent quasi-Talmudic sources. There are various Talmudic passages that could be explained in the context of this ritual. Thus, it is entirely possible that a ritual similar to *kaparos* dates back to those times. The earliest actual mention of a ritual like *kaparos* on *Erev Yom Kippur* is recorded in various *sefarim* of the Rishonic period, citing sages of the Gaonic period in their responsa. At that time (the Rishonic period), the ritual was clearly observed in many Ashkenazic communities. It had also spread to some Sepharadic communities, but met with stiff resistance there. It might have gained its initial prevalence in Bavel, then spread to Europe through Rav Hai Gaon. [He traveled to Rome to teach the German scholars, including Rabeinu Gershom, for two years.] The ancient records vary slightly from one another and from the modern ritual. The modern day ritual seems to have been practiced at least for the past five hundred years. It gained widespread acceptance in Ashkenazic communities by then, and has since also been adopted by *kabalistically* inclined Sepharadic communities as well.

The basis of the ritual is that one can redeem his soul by paying a *pidyon nefesh*. The assumption is that if the person is liable for death, the death of his animal will atone for him. In order to designate the animal in his place, the ritual is performed. Specific verses and statements are made. The chicken is circled around the head of the penitent. Some symbolic gestures are done, carefully avoiding the appearance of a *korban* offering. [It is forbidden to offer a *korban* outside the temple.] The animal is slaughtered. The blood is covered, and in some rituals it is covered in a specific way. [This is a Scriptural *mitzvah* every time fowl are slaughtered. However, in this case, ordinary people are able to perform it. It is considered beneficial for the penitent to do it.] Nowadays, it is customary to give the meat to the poor. A Yerushalmi indicates that there were select elders who had the practice of giving chickens to the poor between *Rosh Hashanah* and *Yom Kippur*.

Due to the lack of real sources for the actual *minhag*, it is open to speculation. Many theories have been suggested, and indeed, are still suggested nowadays. The concept of an animal offering for a sin is of course Scriptural. However, the idea that the death of the animal symbolizes the transfer of the sins and the punishment is not connected directly to the offerings. True, even a meal offering is burned, but the main purpose of the offerings is to give the gift to Hashem. The concept of the fat and blood atoning for that of the penitent is tangential. A much closer connection is made to one of the *mitzvos* of *Yom Kippur*, the *seh la'azazel*, or 'scapegoat'. The goat was designated to carry the sins of Israel. Its death atoned for Israel. More importantly, the *akeida* of *Yitzchok Avinu* involved a direct transfer from Yitzchak to the ram. Traditionally, the *akeida* took place on *Yom Kippur*. In what is possibly the oldest recorded source for *kaparos*, the questioner asks why a chicken is used. The respondent, Rav Sasna Gaon, begins by saying that a chicken happens to be found in people's homes more than other animals. The rich used to use a ram, or anything with horns, to symbolize the *akeida*. Thus, the chicken is not specifically required. He continues to cite the sages of old, who maintained that though a ram is more expensive the chicken is the best choice. One Talmudic term for chicken, *gever*, is the same as a Scriptural word for man. In addition, there are Talmudic references to bad habits of roosters, eating and relationship wise. On the other hand, the rooster has positive qualities of courtesy.

The specific verses refer to two of those who are required to offer a thanksgiving offering.: an ill person and a prisoner, who cry out to Hashem and are delivered. The term '*nefesh tachas nefesh*' is Scriptural, literally meaning that one soul is taken for another. However, the Oral tradition is that this really refers to a money compensation.

Some cite a separate Gaonic tradition. *Parfisa* is mentioned by the Talmud as an item that is not forbidden to pick up on *Shabbos*. It is not attached to the ground, but has sprouts growing from it. One explanation is a palm leaf pouch with some manure and bean sprouts growing in it. One of these was made before *Rosh Hashanah* for each child in a home. On *Erev Rosh Hashanah* it was waved around the head of the child, with the basic *kaparos* language, and discarded in a river. According to this explanation, a custom that incorporated both *kaparos* and *tashlich* was already being practiced in Talmudic times. However, it was not done with an animal, nor on *Erev Yom Kippur*, and only as some sort of protection from childhood mortality. [We may speculate about the meaning of the bean sprouts. The Talmud connects beans to fertility. The concept of sprouts being discarded could be to symbolize their demise at an early stage of growth – in the place of the child. The Talmud happens to record a practice in one town of using chickens as a fertility symbol for a bride and groom.] Incidentally, both of these overly symbolic rituals have led to controversy. Money *kaparos* has a tenuous Talmudic source. One who donates a coin to *tzedakah* so that his son should live is considered righteous.

The concept of waving it around the head is also a concept mentioned by the Talmud. Certain medicinal charms were accepted. In one of them, a new pot was designated as a 'loan' from the river. It would then 'contain' the sickness. It was swung around the head seven times and then thrown into the river. The ritual part of the *mitzvah* of redeeming the first-born son also involves waving the money around the head of the baby. The

language of that ritual is also similar to that of *kaparos*.

Other ancient sources also cite *Erev Rosh Hashanah* as the time for *kaparos*. Some also indicate that it is done by the head of the household for the entire home, or by the *shliach tzibur* for the entire congregation. Thus, either the present day *minhag* is one of many that survived, or the *minhag* morphed into the current form over time.

The *minhag* is controversial. The fact that it is not mentioned by early poskim is cited as evidence that it was never an official sound institution. Rather, it arose as a populist *minhag*, raised certain questions, and was reconciled and defended in responsa. This alone means that it is definitely not binding. Furthermore, the concept of 'switching' the soul of the child for the chicken is questioned. As one commentator says "It is as though they take the sanctity of the child and give it to the chicken." (Like *pidyon haben*!) He laments the spread of the *minhag* to the point that it is written into the *machzorim*, and has achieved the status of the *viduy* confession. In this view, the ritual should be done only with the idea of the *akeida* in mind, to arouse awe and love for Hashem.

A far stronger protest is lodged alleging that the entire *minhag* is *darkei Emori*, a violation of the Scriptural *mitzvah* forbidding following the superstitions of the host nations. This complaint was lodged initially by Sepharadic poskim, who were also *kabalists*, when the *minhag* spread to their communities. They instituted the ban we mentioned earlier. Nonetheless, an entire chapter in Shulchan Aruch is devoted to *kaparos*. However, for the first few hundred years of its publication, the heading of this chapter mocked the *minhag* as *shtus*, foolish. This was later changed, based on speculation that it was never written this way by the *Mechaber* himself. Yet, the entire text of the chapter written by him simply states that one should not observe the *minhag*. It should be abolished. The *Rema*, writing for Ashkenazic communities, defends the source of the *minhag*.

This extreme debate has raised many questions. How could it be that something considered so ritually important one group is so utterly rejected, and indeed considered Scripturally forbidden by another? The use of the chicken seems to be part of the issue. The Navi mentions ancient idols, *sukos bnos* and *nergal*, which the Talmud says were images of a hen with chicks and a rooster. Indeed, many ancient religions used chickens and roosters in symbolism or rituals. Egypt used the egg, and Persia used the rooster. Rome used the chicken extensively as an oracle or for other superstitions. This carried through to their church. In their writings, their god spoke to his disciples through a rooster. In early years, the chicken was formally adopted as the church symbol, and a few hundred years later it was decreed that a chicken figure be placed at the top of every church. In Greek culture, a chicken was actually used in almost the same way that *kaparos* are done, to try to save the life of a child who was ill and near death. Thus, to suspect *darkei Emori* is very reasonable. Furthermore, the Talmud specifically forbids selling white hens to idolaters on the day of their holidays. [For this reason, one may not specify that he wants a white chicken for *kaparos*.]

Ironically, it is likely that the Jews in lands governed by the church actually had the symbol of the church in mind when they slaughtered the chicken! There is a quasi-Talmudic tradition that chickens were eaten in parts of the world on *Erev Yom Kippur* anyhow. In Europe, chicken as a food was rarer than it is today. People might have raised a

chicken just to eat it on *Erev Yom Kippur*. At some point, the ancient *kaparos* ritual might have been linked with the slaughtering of the chicken. It would have been tricky to slaughter a 'holy chicken' or an 'oracle' in this way on any other day of the year!

Unfortunately, due to the rush of everyone doing their *kaparos* at around the same time, the slaughterers are under pressure. Thus, at such a serious time in the year, so many people risk eating non-kosher chicken. Due to this, there was a move to abolish *kaparos*, or at least to reduce it. This attempt failed because the popular view was that *kaparos* is at least as important as *esrog*! Some spread it through a few days before *Yom Kippur*. Many people use money instead. [See Melachim II:17:30. Brochos 22a Eruvin 100b Yerushalmi Shekalim 5:4 Yuma (Rosh 23 Mordechai) 20b-21a 75b Kesubos 5a Psachim 8a Sanhedrin 63b Avoda Zara 13b Chulin 83a 110a, Poskim. Abudraham Yom Kippur. Tur Sh Ar OC 605, commentaries. Sidur Rashban II:29.]

B) Minhag makom

The *Rema* says: “This is the *minhag* in these countries, and one should not change.” This term is used when the Talmud or poskim require one to follow the local custom, rather than cause strife by changing. This based on the Scriptural *mitzvah*, *lo sisgodedu*, do make factions. It would seem that even someone who has trouble accepting the views of the proponents of the *minhag*, and even feels strongly like the opponents, must follow local custom. What about the bans? In reality, the bans were mostly enacted in specific communities. By the time these bans were enacted, no-one had the authority to impose his rulings on the entire nation. In addition, there were other poskim at the same time who upheld the *minhag*. Therefore, one need not fear that he is violating the bans.

However, one who actually agrees with the opponents has a problem. In his view there could be a Scriptural violation here. If the main issue relates to the chicken, he could use money. If the issue relates to the concept, exchanging the condemnation on the human to condemn the item, this applies to any type of exchange, including money. If the ritual has the appearance of a non-Jewish or pagan ritual, this applies to money too.

There were attempts to abolish the *minhag*, even in Europe. Clearly, other poskim did not agree with the *Rema*. The poskim give certain guidelines for *lo sisgodedu*. Usually, the issue applies to two situations. (i) There could be an unresolved debate. In one community, the *minhag* follows one view, and in another, the other view. (ii) Something is really permissible, but the locals think it is not. One must show respect for their practice in their presence. A *minhag she'aino chashuv*, not founded by the sages, is not binding. In the case of *kaparos*, this is debated, as mentioned. A *minhag* based on protecting *halacha* must be upheld. A *minhag* based on nice ideas, such as *Shabbos* delicacies, or the *simanim* on *Rosh Hashanah*, is not binding on the locals. *Kaparos* falls into the last category, especially since many poskim oppose it. [See Psachim 50a-51a 53a (Yerushalmi) Yevamos 13b-14b, Poskim. Tur Sh Ar YD 214, commentaries. Ar Hash 21-24.]

In conclusion, one is not bound by this *minhag*, if he has never adopted it before. He may adopt it in any way he sees fit. If one adopts it, he is not violating the ban.

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