


HALOCHOSCOPE



kiruv. It is clear that one may violate *Shabbos* to save or prevent danger to life. From where is this dispensation derived? One of the suggestions is: better violate one *Shabbos* to save someone who will observe many *Shabbosos*! This seems to say that it is worth violating *Shabbos* in the short term to gain a long term observance. However, the Talmud uses this to explain a known rule, that *pikuach nefesh* trumps *Shabbos*. This is not even the preferred suggestion. In the end, the usual reason one may violate any *mitzvah* for *pikuach nefesh*, that 'you shall live by them' and not die, is the preferred explanation. True, the idea is cited elsewhere in the Talmud, also in regard to *pikuach nefesh*, and does seem to be a *halachic* ideal. However, we cannot extend it to without a true *halachic* precedent, even to prevent later *chilul Shabbos* on the same day! [See *Shabbos* 151b Yuma 85b, Poskim. Tur Sh Ar OC 328-329, commentaries.]

(E) Difference between *Shabbos*, *Yomtov*, second day, and *Rosh Hashanah*

In our case, there is a small space for some laxity. The *minyan* is being held on the second day of *Rosh Hashanah*, a Sunday. There is a difference in severity between *Shabbos* and *Yomtov*, in terms of the punishment. Violating *Shabbos* carries the death penalty. Violating *Yomtov* carries the penalty of lashes, a painful but non-life-threatening experience. This is indeed cited by the Talmud to explain certain logical processes. When combined with other factors, it can sometimes help to mitigate, and even permit, certain activities that would be forbidden on a *Shabbos*.

The second day of *Yomtov* in the diaspora is not considered Scriptural. It was initially instituted when the Sanhedrin consecrated the new month based on eyewitness reports of the new moon. They then sent messengers to the Jewish communities informing them of the dates. The *Yomim Tovim* were fixed accordingly. These communities were too distant to find out n time for *Yomtov*, so they kept two days due to doubt. Nowadays, we use a standardized calendar, and there is no doubt. The diaspora still observes the second day, as a *minhag* instituted by the Rabbis. This is Rabbinical. Accordingly, certain leniencies are applied in some situations. At the same time, certain added restrictions apply, so that people do not treat it too lightly. The same is true of *Yomtov* in general.

Rosh Hashanah has two days even in *Eretz Yisroel*. It is on the day of *Rosh Chodesh*. In order to observe it, one would need to have witnesses testify on that very day. One time the witnesses came very late in the day, disrupting the temple services, that had been performed thinking it was not a *Yomtov*. Therefore, it was decided to make two days of *Rosh Hashanah* always. The Talmud debates whether there are differences between the two days. We follow the view that while it is clearly Rabbinical, in this case the two days are treated basically equally. [See *Eruvin* 39a-40a *Psachim* 52a, Poskim. Tur Sh Ar OC 496:1-2 513:5 515:1 600:1 601:2, commentaries.]

In conclusion, the *minyan* may be announced, especially after the congregants have already arrived. However, one may not openly invite a *mechalel Shabbos* to come, knowing that he will have to violate *Yomtov* to get *there*. **כתיבה והתימה טובה**



Sponsored in memory of Freida Unger, Rivka bas Yisroel a"h, whose *yahrzeit* is on the 2nd day of

Rosh Hashanah.

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This week's question:

May one host a 'beginner's *minyan*' on the second day of *Rosh Hashanah*? Many of those who attend will be *mechalel Yomtov*, by driving, to be able to come.

The question requires some explanation.

- The functionaries at this *minyan* will be observant Jews. They will not be enough to make a *minyan*. The *minyan* will be completed by *mechalelei Yomtov*. The first question is whether the observant Jews fulfill their own obligation in this *minyan*.
- The *minyan* need not be advertised ahead of time, but can be announced in *shul*. The congregants will all have arrived on their own initiative, and will be offered this option while there. However, to make it more effective, it will be advertised beforehand. Are the hosts actively inviting people who will be *mechalel Yomtov* to respond. Some could easily walk, but some will see the advertisement and travel. Does this mean that the hosts are asking Jews to be *mechalel Yomtov*? May it be announced?
- On the other hand, no-one is being asked directly to come. Therefore, the hosts have not actually told anyone to be *mechalel Yomtov*.
- Those who are already being *mechalel Yomtov* of their own accord will not do so any more due to this event. If anything, this will help to prevent them from additional *chilul Yomtov*. The hope is that they will be entertained until the end of *Yomtov* for meals and other activity. Nonetheless, this specific act of *chilul Yomtov* came as a result of the advertisement. Does the later prevention justify the earlier 'entrapment'?
- It is hoped that by gaining the attention of these Jews, one will be able to interest them in becoming observant. This opportunity to attract them is only available on this day. They are anyhow looking for some sort of service, and it is hoped that they will choose this service being catered specially for them. They will not come on an ordinary weekday, and might not come any other day in the year. Does the concept of *kiruv* here contradict the *mitzvah* of *kiruv*, and is it therefore forbidden?

PLEASE NOTE: This discussion is to provide talking points. For a ruling, ask a Rav.

The issues:

- A *minyan* counting *mechalelei Yomtov*
- Hochaiach tochiach*, admonishing sinners, and *araivus*, communal responsibility
- Lifnei ivair*, misleading others to sin
- Violating *Shabbos* short-term to observe it in the long term
- Difference between *Shabbos*, *Yomtov*, second day *Yomtov*, and *Rosh Hashanah*

A) A *minyan* counting *mechalelei Yomtov*

Parts of the services, known as *davar shebikedusha* requires the participation of ten adult Jewish males. In addition, *tefillah betzibur*, communal prayer, is exponentially more enhanced than private prayer. Therefore, there is an obligation of sorts to make an effort to participate with a *minyan*. Only those strictly obliged may be counted towards

the *minyan*. Thus, minors and women, who are not obliged do not count towards the *minyan*. In addition, certain other people are disqualified. These include, primarily, those who are incompetent by *halachic* guidelines. One shunned by a formal ban of excommunication due to a violation of communal rules is ineligible to be counted. If he was banished due to a monetary matter, many maintain that he may be counted. If he violated a *mitzvah*, but was not banished, he may be counted. This applies even if the *mitzvah* violation carries the death penalty. He still has *kedushas Yisroel*, the sanctity of a Jew. However, if his violation was to spite, rather than due to temptation, he may not be counted.

Any Jew is *muchzak bekashrus*, presumed observant, and is qualified to perform on behalf others or to testify as a kosher witness. A known violator is not kosher as a witness, but is still kosher for a *minyan*. However, our situation raises the issue of *abaryan* or *mumar*, a known habitual violator. Violations can be *shogaig*, unintentional, *maizid*, intentional but not necessarily habitual, or a *mumar*, literally, exchanged – having exchanged his religion. *Mumar lechol hatorah*, violator of the entire Torah, *leavoda zara*, idolater, *lechalel shabbos befarhesia*, public desecrator of *Shabbos*, or one who professes not to believe in the words of the sages, is equated with a gentile regarding certain *halachos*. Many uneducated Jews nowadays are considered *tinokos shenishbu*, captive from childhood, rather than *mumar*. Their violations are considered *shogaig*. They think *Shabbos* is 'nice'. There is also a view that public desecration of *Shabbos* was once considered the worst violation. It meant that the perpetrator was inevitably involved in violating everything else. Nowadays, unfortunately, it is the first thing people violate.

In addition, there is reason to assume that on *Rosh Hashanah* anyone coming to *shul* has *teshuva* in mind. Certainly the ignorant will hopefully be inspired at this time. [They might actually be better than anyone else in this respect.] Some maintain that one who comes to *shul* to *daven*, by definition, professes some belief and penitence – at that moment. In conclusion, if the attendees at this *minyan* have never been educated on the severity of publicly desecrating *Shabbos*, they are not invalidated for the *minyan*. [See Brochos 7b-8a 47b-48a Shabbos 68b Eruvin 69a-b Megilah 23b Sanhedrin 27a 44a Chulin 5a, Poskim. Rambam, P'er Hador 71. Tur Sh Ar OC 55:esp. 1 11, 69: 90: 189:MA 1. 385. YD 2:2-5 119 124 159 251, EH 123:2 141:33, commentaries. Divrei Binyomin #5. Tzitz Eliezer VIII:17-20. Igros Moshe OC I:33 II:40 III:19.]

B) Hochaich tochiach; Araivus

The basic obligation of '*kiruv*' is fulfillment of the *mitzvah* of *tochacha*, admonishment, in a positive manner. It also includes *araivus*, communal responsibility. This permits one to help another with his *mitzvah* fulfillment. It also applies communal punishment for an individual's sin. The community is expected to prevent the individual from sinning. Thus, one should not stand idly by while other Jews sin. One must also return one's 'lost soul', in the way one returns his 'lost body' when healing him physically.

Tochacha can be made in various ways, but the basic idea is to cause the violator to repent. Though it is a personal obligation on the bystander, it may not result in the violator doing anything worse than he is already doing. It must be done with enough care to save the violator from embarrassment. If the violation is in public, one should immediately admonish, to prevent *chilul Hashem*. Otherwise, one should do it privately. This *mitzvah* applies to *amisecha*, those of our brethren who are with us in the observance of

mitzvos. The aforementioned *mumar* or heretic is not included, and there is no obligation to admonish him. Assuming that most non-observant Jews nowadays are *shogegin*, there is a requirement to teach them about the *mitzvos*. Clearly, especially in this case, the requirement is to do it a positive way, so that it has the desired effect.

C) Lifnei ivair

Sometimes, the suggestion is made that in order to bring back Jews to *mitzvah*-observance, it might be permissible to have them violate *Shabbos*. That is, one would let them travel on *Shabbos* by car, a Scriptural violation for the drivers. This way, they can spend part of *Shabbos* in the company of observant Jews, and learn about *Shabbos*. On *Yomtov*, while one may use existing fire for cooking and other *Yomtov* purposes, kindling is forbidden. Many other *melachos* can be involved in driving, and it is clearly forbidden. If one is trying to fulfill the *mitzvah* of *tochacha*, asking the person to violate a *mitzvah* while doing so defeats the purpose. In addition, it is counterproductive, raising questions in the eyes of the beginner. When he learns about the *mitzvah*, he might even harbor a grudge against those who caused him to sin.

In addition to contradicting the *mitzvah* he is trying to fulfill, he violates *lifnei ivair*. In recent weeks we have discussed this in detail. To summarize, it is Scripturally forbidden to help another sin. If the help is not essential, but helpful, it is forbidden Rabbinally. In our case, by inviting the person to come to *shul*, in the knowledge that he will probably drive himself, one is not actually helping him to sin. One certainly has a hand in his violation, assuming that he would not have violated otherwise. Nonetheless, it is likely that the person would have violated this particular violation of driving without this invitation. In addition, one never actually told the person to drive, or that it was permissible. There is a possibility that he will be staying locally, or that he will be driven there by a non-Jewish driver. This mitigates but does not remove the issue. [Depending on the distance, issues of *techumin*, overstepping *Shabbos* boundaries, also arise.] Still, one may not pretend that there will be no violation, if it seems obvious. While there is a *mitzvah* to judge another favorably, one may not be blind to reality.

In the words of one contemporary posek, inviting another to sin in this way involves a separate issue of *maisiss*, missionary. The standard Scriptural form of this is when one entices his fellow to worship idols. However, it extends to other violations, without the severe punishment. If the attendees can walk, but will likely drive, one does not violate *maisiss*, but it touches on the usual *lifnei ivair* issues. Therefore, one may not invite these people directly. A general announcement might not raise these issues. It is certainly in order to invite those who have already come to separate from the general congregation and join a beginner's *minyan*. In addition, if nothing can be done to prevent people who travel anyhow, it would seem that announcing it so that they can also join is no worse than the usual announcements. One would not gain by trying to discourage them, and is therefore not in violation of *hochaich tochiach*. [See Kedoshim 19:14 17 Re'ay 13:7. Shabbos 3a 54b-55a 69a Psachim 22b 40b Yevamos 65b Kidushin 32a Bava Metzia 31a 75a Avoda Zara 6a-b 12a 14a 21a 65b, Poskim. Tur Sh Ar OC 159:1-2 608:2 YD 151:9 159:2 160:1, commentaries. Chazon Ish YD 2:17. Igros Moshe OC I:99.]

(D) Violating Shabbos in the short term to conserve it long term

There is a dictum in the Talmud that is sometimes cited to permit *chilul Shabbos* for