

Shiur 1:

The Prohibition of Eating and Drinking on Yom Kippur; A Dangerously Ill Person; Eating and Drinking Less than a Shiur

- 1) The prohibition of eating or drinking on Yom Kippur
- 2) The *Shiur* for eating and drinking that warrants *Kareis*.
- 3) The distinction between other prohibitions involving eating and drinking and those of Yom Kippur.
- 4) Eating or drinking less than a *Shiur*
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The Prohibition of Eating or Drinking on Yom Kippur

One of the five *Inuyim* (acts of affliction) of Yom Kippur, is the abstention from eating and drinking. The source for the Mitzva of *Inuy* on Yom Kippur is the Pasuk in *Parshas Acharey Mos (Vayikra 16:29)*:

”וְהָיְתָה לָכֶם לְחֻקֵּי עוֹלָם בְּחֹדֶשׁ הַשְּׁבִיעִי בְּעֶשְׂרֵי לַחֹדֶשׁ תַּעֲנוּ אֶתְנַפְשֵׁיכֶם וְכָל־מְלַאכְהֶלֶל תַּעֲשׂוּ הָאָזְרָח וְהַגֵּר הַגֵּר בְּתוֹכְכֶם.”

“This shall remain for you an eternal decree: In the seventh month, on the tenth of the month, you shall afflict yourselves and you shall not do any work, neither the native nor the proselyte who dwells among you.”

Somebody who eats or drinks on Yom Kippur has ignored this positive Mitzva, has also violated a *Lav* – a negative precept¹, and is liable to *Kareis*, as the Torah (*Vayikra 23:29*) states:

”כִּי כָל־הַנֶּפֶשׁ אֲשֶׁר לֹא־תַעֲנֶנָּה בְּעֶצֶם הַיּוֹם הַזֶּה וְנִכְרְתָה מֵעַמִּיהָ.”

“For any soul who will not be afflicted on this very day will be cut off from its people.”

Aside from eating and drinking, there are also three further *Inuyim* that a person must undertake on Yom Kippur:

יּוֹם הַכִּיפּוּרִים אֲסוּר בְּאֵכִילָה וּבִשְׂתִיָּה וּבְרַחֲוִיצָה וּבִסִּיכָה וּבִגְעִילֵי תַּחְסָּדִל וּבִתְשׂוּמֵי הַמִּיטָה (משנה יומא

¹ There is no clear *Lav* mentioned in the Torah. The Gemara in *Yoma* (81a) discusses the source for this *Lav*.

“On Yom Kippur eating and drinking, washing oneself, anointing oneself, donning shoes and marital relations are forbidden.” (Mishna, Yoma 73b).

The Gemara (44a ibid.) explains that these three *Inuyim* do not carry the punishment of *Kareis* and the *Rishonim* disagree as to whether they are in fact forbidden *Min ha'Torah* or only *mi'Derabanan*².

The Shiur of Eating and Drinking on Yom Kippur that Warrants Kareis

The *Shiur* of food for which one would be liable to *Kareis* for eating on Yom Kippur is a “*Koseves ha'Gasa*” –the size of a large date. This *Shiur* is an *Halacha l'Moshe mi'Sinai* and quite unlike the *Shiur* of all other prohibitions of eating in the Torah which is a *Kezayis*.

The basis for this distinction is that the reason for the prohibition of eating on Yom Kippur is that eating prevents a person feeling *Inuy*. The volume of food that remove a person's *Inuy* is equivalent to a *Koseves ha'Gasa*, not a *Kezayis*³.

This volume is the same for all people, dwarf or giant alike, as every person feels relief when eating this amount, though perhaps only for a short time⁴.

Regarding the *Shiur* for drinking there is a dispute between *Beis Shamai* and *Beis Hilel*. According to *Beis Shamai* it is a *Reviyis*, according to *Beis Hilel* a “*Melo Lugmav*” (a cheek-full). The Halacha is in accordance with *Beis Hilel*.

A person who eats a volume of food equivalent to a *Koseves ha'Gasa* or drinks a cheek-full of liquid within “*Kedei Achilas Pras*” (the time it takes to eat a “*Pras*” of food – usually understood to be four minutes) is liable to *Kareis*.

Unlike the *Shiur* for eating which is universal, the *Shiur* for drinking depends on the size of a person's cheek.⁵

These laws are outlined by the Mishna in *Yoma* (73b):

² See *Tosfos* to *Yoma* 77a s.v. *Disnan* and *She'iltos*, *She'ilta* 167

³ *Yoma* 80a

⁴ *Yoma* 80b and *Meiri* ad. loc.

⁵ *Yoma* 80b, *Rambam* (*Hilchos Shevisas Asor* 2:1) and *Shulchan Aruch* (*O.C.* 612:9)

"האוכל ככותבת הגסה, כמוה וכגרעינתה, והשותה מלא לוגמיו - חייב. כל האוכלים מצטרפין לככותבת, וכל המשקין מצטרפין למלא לוגמיו. האוכל ושותה אין מצטרפין".

Somebody who eats (a volume of food equivalent to) a large date, equivalent to it and its pit, and somebody who drinks a cheek-full is liable. All foods join together to make up a (volume of a) date, and all liquids join together to make up a cheek-full. Somebody who eats and drinks – (the two) do not combine.

The Difference between other Prohibitions of Eating and Drinking and Those of Yom Kippur

Rav Elchanan Wasserman *zt"l Hy"d* (Kovetz *He'aros* 73:3-5 and *Kovetz Shiurim Pesachim* 197) discusses whether the idea of the prohibition of eating and drinking on Yom Kippur is that *the actual act of eating and drinking* are inherently forbidden, or that it is their outcome, namely *the eliminating of the Inuy* that is the problem. The practical difference between the two would manifest itself in a case of *an act of eating that does not remove Inuy* or in a case where *Inuy* is absolved without an act of eating having taken place - Would either of these two be prohibited?

The Gemara (*Yevamos* 102b) records a dispute between *Abaye* and *Rava* regarding the wearing of "*Anpilya*" (felt shoes) on Yom Kippur. According to *Abaye*, if the *Anpilya* contain small pieces of wool and soft skin, it is forbidden to don them on Yom Kippur because of the "*Ta'anug*" – pleasure that is felt when wearing them. *Rava* disagrees. He maintains that "pleasure" is not inherently forbidden on Yom Kippur. The *Chachamim* forbade the donning of "*Min'alim*" – actual (leather shoes) and *Anpilya* are not *Min'alim* – therefore they are permitted⁶.

Rav Elchanan explains that the basis of the dispute between *Abaye* and *Rava* is whether the prohibited acts of Yom Kippur are inherently problematic or whether it is only the outcome – namely the eliminating of the *Inuy* that is the issue. According to *Abaye*, any act that eliminates *Inuy* is prohibited, therefore, though *Anpilya* are not *Min'alim* in the strictest sense, they are still forbidden because of the *Ta'anug* (lack of *Inuy*) that they cause. However, *Rava* holds that the *Chachamim* only forbade specific acts, among them the donning of *Min'alim*. Therefore, since *Anpilya* are not *Min'alim*, it is permitted to wear them, though they bring pleasure and eliminate *Inuy*.

⁶ *Rava* also cites the case of *Rabbah bar Rav Huna* who would wrap a scarf around his foot on Yom Kippur and go out.

The *Acharonim* suggest that there is another case where these two differing perspectives of the prohibitions of Yom Kippur, would make a difference. The *Sha'agas Aryeh* (76) rules that while the Torah never prescribes *Malkus* (lashes) for prohibitions involving eating if a person ate in an unusual way⁷ (see *Pesachim* 24b), on Yom Kippur the law is different. For the prohibition of eating on Yom Kippur is not that “one may not eat” (in which case one would be exempt for doing an unusual “act of eating”), but that “one must afflict oneself”. Therefore, a person who eats in an unusual fashion on Yom Kippur, may well be liable to *Kareis* as he has acted in a way that contradicts the *Inuy*.

Many *Acharonim* dispute the *Sha'agas Aryeh's* ruling, maintaining that one would be exempt for eating in an unusual fashion, even on Yom Kippur – see footnote⁸.

Rav Elchanan maintains that the respective positions of the *Sha'agas Aryeh* and the other *Acharonim*, depend upon the two perspectives discussed above. For if the laws of Yom Kippur are simply that “it is forbidden to eliminate *Inuy*”, then the position of the *Sha'agas Aryeh* is correct, as even when consuming foods in an unusual fashion, *Inuy* is compromised. But if the prohibition to eat and drink on Yom Kippur is similar to all other prohibitions involving eating and drinking in the Torah where it is the “act of eating / drinking” that is forbidden, then for an unusual act of eating one will not be liable.

A similar argument is made regarding the law of *Chatzi Shiur* (half a *Shiur*). Famously, Rav Yochanan and Reish Lakish disagree in the Gemara as to whether a *Chatzi Shiur* of a forbidden item is prohibited *Min Ha'Torah* or only *mi'Derabanan*. Rav Moshe Shterbuch *Shlit"a* (*Mo'adim u'Zemanim* 6:27 s.v. v'*Lichora*) argues that if the prohibitions of Yom Kippur are purely that “it is forbidden to eliminate *Inuy*”, then eating a *Chatzi Shiur* (for example a half a *Koseves*) shouldn't make any difference at all, as only a full *Koseves* remove the *Inuy*. Eating any less than that shouldn't even be relevant to the prohibition at all. However, regarding other prohibitions in the Torah, even the smallest amount already enters the field of the prohibition, just that one isn't liable until one eats a *Shiur*.

Eating or Drinking Less than the *Shiur*

As mentioned earlier, the Gemara in *Yoma* (73b – 74a) cites a dispute between Rav Yochanan and Reish Lakish as to whether a *Chatzi Shiur* of a forbidden item is prohibited *Min Ha'Torah* or only *mi'Derabanan*. The Halacha is in accordance with Rav Yochanan that it is prohibited *Min Ha'Torah* as stated by the Rambam, *Hilchos Shevisas Asor* 2:3):

⁷ Such as if he ate raw *Cheilev* (forbidden fats).

⁸ The *Yeshuas Ya'akov* (O.C. 612:1) agrees to the *Sha'agas Aryeh*. The *Noda bi"Yehuda* (*Tinyana* 115), *Ksav Sofer* (O.C. 111, *Sho'el u'Meishiv Mahadura* 3, 1:402 and *Maharsham* 1:124), argue with him.

”אכל או שתה פחות משיעור זה - אינו חייב כרת, אף על פי שהוא אסור מן התורה בחצי שיעור, אין חייבין כרת אלא על כשיעור, והאוכל או השותה חצי שיעור מכין אותו מכת מרדות.”

Somebody who eats or drinks less than this amount – is not liable to Kareis, even though it is forbidden to eat a part of a Shiur by Torah law, one is not liable to Kareis unless one has a Shiur. Somebody who eats or drinks a part of a Shiur, we give him lashes for being rebellious.

According to the *Yerushalmi* (*Terumos* 6:1), even *Reish Lakish*, who holds that a *Chatzi Shiur* is only forbidden *mi'Derabanan* agrees that on Yom Kippur it is forbidden *Min Ha'Torah*.

The *Acharonim* offer several explanations of this assertion of the *Yerushalmi*. The *Gr"א* (in his commentary to the *Yerushalmi*) explains that according to the *Yerushalmi*, the law of not eating or drinking on Yom Kippur is simply that *it is forbidden to eliminate Inuy*. The *Yerushalmi* holds that *even a Chatzi Shiur somewhat compromises Inuy*, and is therefore forbidden *Min ha'Torah* according to everybody. However, regarding other prohibitions, it is the “*act of eating*” that is forbidden and eating a *Chatzi Shiur* is not considered an act of eating. Therefore, *Reish Lakish* holds that it is only forbidden *mi'Derabanan*.

Somebody who is Dangerously Ill

All of the sins in the Torah (aside from the three cardinal sins), are set aside in cases of *Pikuach Nefesh*. Therefore, if somebody is endangered by fasting, they are permitted to eat or drink on Yom Kippur as stated by the Gemara (*Yoma* 82a):

”עוברת שהריחה - מאכילין אותה עד שתשיב נפשה. חולה מאכילין אותו על פי בקיאי, ואם אין שם בקיאי - מאכילין אותו על פי עצמו, עד שיאמר די.”

A pregnant woman who smells food (on Yom Kippur), we feed her until her soul is restored. A sick person, we feed him based on (the advice of) experts, and if there are no experts in the vicinity – we feed him based on his own assessment, until he says “it is enough”.

This Halacha is cited by the *Rambam* (*Hilchos Shevisas Asor* 2:8-9) and *Shulchan Aruch* (*O.C.* 618).

However, while it is permitted to feed a person who is endangered, it is correct, in many circumstances, to give him a *Chatzi Shiur*. For even though the Halacha is that it is forbidden to eat a *Chatzi Shiur* on Yom Kippur, nevertheless, it does not carry the punishment of *Kareis*, just a *Lav*⁹ Therefore, in circumstances such as these where we need to be lenient, it is preferable to give him a *Chatzi Shiur* (within *Kedei Achllas Pras*) if that will be enough to sustain him.

The source of this Halacha is the *Ramban* in *Toras ha'Adam* (*Inyan ha'Sakanah* also cited by the *Rosh* to *Yoma* 8:13). He basis his ruling on the Gemara in *Krissus* (13a) that states that if a pregnant woman needs to eat non-Kosher food because her life is in danger, it is better that she eats it in several bites, each one less than a *Shiur*, than to eat the *Shiur* all at once.

The *Ramban* argues that the same should apply to a person who is dangerously ill on Yom Kippur –if it is possible to give him a *Chatzi Shiur* to avoid an act that warrants *Kareis*, one should do so.

Of course, as the *Ramban* himself clarifies, where it appears that the ill person needs to eat a whole *Shiur*, one should give it to him immediately and not to attempt to give him a *Chatzi Shiur*. The *Rosh* (ibid.) goes even further, arguing that one should only attempt to give him a *Chatzi Shiur* if a doctor attests that it will be enough for him and that he won't be endangered.

The *Shulchan Aruch* (O.C. 618:7-8) rules like the *Ramban* and the *Rosh*:

”כשמאכילין את העוברות או את החולה, מאכילין אותם מעט מעט כדי שלא יצטרף לשיעור. הלכך מאכילים אותו כשתי שלישי ביצה בינונית, וישהו כדי אכילת ארבעה ביצים. והשתיה, יבדקו בחולה עצמו כמה היא ”כדי שישלקנו לצד אחד ויראה כמלא לוגמיו. וישקוהו פחות מאותו שיעור, וישהו בין שתיה לשתיה כדי אכילת ארבעה ביצים, ולפחת ישהו בין שתיה לשתיה כדי שיעור שתיית רביעית. ואם אמדוהו שאין השיעורים הללו מספיקים לו, או שהחולה אמר כן, או שנסתפקו בדבר, מאכילים ומשקים אותו כל צרכו (מיד).”

When one gives pregnant women or sick people to eat (on Yom Kippur), one feeds them little by little so that (the amounts) do not add up to a Shiur. Therefore, one feeds them (a volume of food equivalent to) two thirds of a medium sized egg, waits the time it takes to eat four eggs.. and regarding drinking, one should check with the sick person himself how much (the Shiur) should be “that he will shift the liquid to one side (of his mouth) and it will appear that his cheek is full. Then one should give him less than that amount to drink and wait between one drink and the next the amount of time it takes to eat four eggs, or at least the amount of time

⁹ *Yoma* 73b, *Rambam Hilchos Shevisas Asor* 2:3 & *Shulchan Aruch* O.C. 612:5.

it takes to drink a Reviyis. But if they estimate that these amounts are not enough for him, or if the sick person himself claims as such, or if we are in doubt about the matter, one gives him to drink and eat, all that he needs (immediately).

On this topic Reb Chaim Brisker *zt"l* has a famous, novel ruling. He maintained that there is a difference in approach to a sick person who is currently in danger, than to one who is currently not in danger (but whom we are concerned that if he fasts, he will be endangered). According to Reb Chaim, the protocol outlined above, namely that we first look into the possibility that an ill person can eat only a *Chatzi Shiur*, only applies to a person who is not yet in danger. But if he is already dangerously ill we do not think twice, and feed him as much as he wishes to eat¹⁰.

This is not, the prevailing Minhag and most Poskim rule that we try and offer a *Chatzi Shiur* even to those who are already seriously ill, as is the simple understanding of the *Shulchan Aruch*.

The Brisker Rov *zt"l*¹¹ argued, that Reb Chaim's ruling is supported by a comment of the *Magid Mishna*. The Gemara states that "*a person who is dangerously ill – we work to do anything that he needs (even) on Shabbos*". The *Magid Mishna* adds that "**even if** the 'need' in question – **were we not to provide it, he would not be in danger** (we may nevertheless desecrate Shabbos in order to provide it)".

Eating is most certainly a need of a person who is ill. Therefore, in line with the *Magid Mishna's* ruling, one may feed a person who is dangerously ill as much as he wants (as eating is a 'need'), even if he could survive on a *Chatzi Shiur*.

For this reason, the Gemara only suggests that we give a *Chatzi Shiur* to a pregnant woman for she is not yet dangerously ill, only we are concerned that if she does not eat she may become endangered. In these circumstances, a *Chatzi Shiur* (if it is sufficient) is appropriate.

The Brisker Rov also maintained that the words of the *Shulchan Aruch* also imply that a *Chatzi Shiur* is only offered to a person *who is not yet in danger*:

"חולה שצריך לאכול ... אם לא יאכילו אותו אפשר שיכבד עליו החולי ויסתכן".

¹⁰ This ruling is recorded in the *Sefer ha'Mo'adim b'Halacha* p81 (by Rav Shlomo Zevin *zt"l*). He writes that when Reb Chaim gave this ruling for the town of Brisk, all of the Rabanim reacted with surprise, until Reb Chaim explained to them his reasoning. Reb Chaim also famously said that "*he was not being lenient in matters of Issurim, but being stringent in matters of Pikuach Nefesh*".

¹¹ Cited in *ha'Mo'adim b'Halacha* *ibid*.

*A sick person who needs to eat... if they don't feed him **it is possible that his illness will worsen and he will be endangered.***"

The words "and he will be endangered" clearly imply that we speak of a person who is not yet in a state of *Pikuach Nefesh*, just like a woman who is pregnant.

The *Bach*, *Taz* and *Magen Avraham* (618 *ibid.*) all write that *the custom is to place an entire Shiur before the sick person, Then one informs him that it is Yom Kippur and that if he is concerned for his life he should eat it all at once.*