

To Fast at Home or To Eat in Shul?

In a previous essay¹, we discussed the question of a *Choleh* who is restricted to fasting once in ten days. Should he fast on Yom Kippur or *Tzom Gedalia*? That discussion focused on the important Halachic question of whether it is incumbent upon a person to prevent himself from entering a situation of *Ones* that would exempt him from a future Mitzva.

This essay will discuss the notion of intentionally creating a situation that would lead to a *Petur* from an obligatory Mitzva. This has wide-ranging Halachic implications, as we will see. We will explore cases where a person is (or will be) *Chayav* to perform a Mitzva and is considering performing an action that would cause him to enter a state of *Pikuach Nefesh* that would exempt him from fulfilling that Mitzva. Is there any justification to permit him to act at the expense of the Mitzva?

This may seem somewhat abstract and irrelevant, but it has practical ramifications. For example, a person in poor health is *Chayav* to fast on Yom Kippur – provided that there is no danger to his life – since Yom Kippur is a *Mitzva d'Oraisa*. He must also do everything in his power beforehand to prevent a state of *Pikuach Nefesh* that would exempt him from fasting. This is clear from the *Chasam Sofer* (6:23) and from the *Shemiras Shabbos Kehilchasa* (1, 39:30):

A weak person, for whom it is difficult to fast and to attend Shul, should fast and lie in bed as he has no permission to eat or drink even Shiurim, even if he does so so that he will have the strength to go to Shul. By remaining home in his bed, he is fulfilling a Mitzva as this will enable him to fast according to Halacha.

Rav Shlomo Zalman Auerbach zt"l (ibid. footnote 97) extends this Halacha to include a person who is permitted to eat or drink Shiurim on the fast. If, by remaining in his house, he will reduce the intake of Shiurim necessary, he must do so even at the expense of going to Shul. The reason for this Halacha is obvious. The primary Mitzva of Yom Kippur is that of afflicting oneself through, though not limited to, fasting. In contrast, Davening with a Minyan, significant though it may be, is not a Mitzva d'Oraisa. Therefore, a person must remain home and not attend Shul if this will enable him to fast.

Nevertheless, it is apparent that despite the obvious nature of this Halacha, people are determined to attend a *Shul* to *Daven* with a *Minyan*. They do so irrespective of the probability that this will intensify the difficulty of their fast due to the effort

¹ "Mitzvos in the Future", *Nitzovim* 5782

expended to walk to *Shul* and the fact that the *Shul* will be crowded. We thus come to our question: which circumstances permit a person to perform an action through which he will be *Mevatel* a Mitzva?

Let us examine the *Sugya*:

The Gemara in *Maseches Shabbos* (19a) quotes a *B'raisa*:

One may not set out by boat fewer than three days before Shabbos. When does this apply? For a voluntary matter, but for a Mitzva it is permissible.

The Gemara discusses a case of a person who must travel by boat, but the journey will extend into Shabbos (and will involve *Chillul Shabbos*). The *B'raisa* teaches us that he may board the boat provided that it is more than three days before Shabbos, even though he is fully cognizant of the fact that *Chillul Shabbos* will be necessary.

The *Rishonim* disagree over the explanation of this Gemara; we will focus on the opinions that relate to the Halachic discussion.

The *Rif's* opinion is that the *Issur* to board the boat within three days preceding Shabbos acts as a safeguard for *Oneg Shabbos*. He explains that a person feels the travails of a journey for three days from its outset.² Hence, if he were to travel within three days of Shabbos he would be unable to fulfill the Mitzva of *Oneg Shabbos*. Therefore, the *Chachamim* only permitted him to travel if he departs before the three days so that he would be able to fulfill the Mitzva with *Yishuv haDa'as*.

The *Ramban's* opinion (quoted by the *Ran* and other *Rishonim*) is that the *B'raisa* refers to a boat manned by non-Jewish sailors and the Halachic concern is benefiting from *Melacha* performed by a *Nochri*. According to the *Ramban*, the first days of the week are not attributed to the following Shabbos and a person need not take into account that he is entering into a situation that will require him to depend upon the *Melacha* of a *Nochri*. Within the three days before Shabbos, he is required to be concerned about that situation; it is therefore forbidden for him to board the boat.

In contrast, the *Ba'al haMa'or* holds that the *B'raisa* is discussing a case where the sailors are Jews, and they are permitted to perform *Melacha* on Shabbos due to *Pikuach Nefesh*. Though they will be performing *Melachos d'Oraisa*, the traveler need not be concerned about relying on the *Heter* of *Pikuach Nefesh* since he is boarding the boat before the three-day window. Within three days of Shabbos, however, he may not willingly enter into a situation of *Pikuach Nefesh* in which he will be dependent upon *Melachos* performed by Jewish sailors.

² [Editor's note: In other words, a seafarer becomes acclimated to sea travel after three days and will not suffer from seasickness on Shabbos.]

The Gemara qualifies that if he is traveling for a Mitzva he may even depart within the three days before Shabbos. How can we explain this qualification?

According to the *Rif's* approach that the concern is *Bitul Oneg Shabbos*, this Halacha is understandable. It is logical that if he is traveling for one Mitzva, he will be *Patur* from another Mitzva (in this case, *Oneg Shabbos*). According to the *Ramban's* approach that the concern is benefiting from the *Melacha* of a *Nochri*, we can similarly explain that since he is traveling for a Mitzva, this overrides the prohibition of an *Issur d'Rabbanan* (benefiting from the *Melacha* of a *Nochri* is an *Issur d'Rabbanan*). But according to the *Ba'al haMaor's* approach that the concern is *Chillul Shabbos* by Jews, why should the Mitzva override that concern?

In fact, the *Rif* questions the *Ba'al haMaor's* approach with the assertion that often the *Chachamim* upheld their decrees even at the expense of a *Mitzva d'Oraisa*. Certainly, they would not waive their decree in a case where a person is merely **traveling** to perform a Mitzva.

We must say that the *Ba'al haMa'or* understands that the issue here is *Zilzul Shabbos* (denigrating Shabbos). The Jewish sailors will indeed be permitted to perform *Melachos* due to *Pikuach Nefesh*. However, if the traveler willingly puts himself into this situation, that is a deficiency of *Kavod Shabbos* on his part. This issue – which is only *d'Rabbanan* – is waived if he is traveling for a Mitzva.

The Gemara (*ibid.*) records a *Machlokes Tana'im* about a person who is permitted to travel before Shabbos for a Mitzva. They disagree as to whether he must stipulate with the sailors to refrain from *Chillul Shabbos* during the journey. The *Tur* rules that he is not required to do so but the *Shulchan Aruch* (following the *Rambam*), rules that he must. The *Mishna Berura* clarifies that although it is a Mitzva to stipulate, it is not *Me'akev*. This is the conclusion of most *Acharonim*, though the *Magen Avraham* seems to state otherwise.

One proof is adduced from the *Shach* (Y.D. 266) who rules that one may perform a *Bris Mila sheLo b'Zmana* (which does not override Shabbos) on a Thursday despite the resultant *Chillul Shabbos* that will be necessary for the baby. The *Shach* compares this case to a person who travels by boat before Shabbos for a Mitzva.

Given that it is impossible to prevent *Chillul Shabbos* in the case of the *Bris Mila* (as it is essential for the baby's health), the obligation to prevent *Chillul Shabbos* must not be *Me'akev*. The *Shach's* comparison of the two cases implies that failing to stipulate with the sailors on the boat does not prohibit him from traveling with them.

However, the *Mishna Berura* (*Se'if 4*) asserts that in a situation where it is absolutely clear that danger will exist on the journey, the Mitzva to prevent *Chillul Shabbos* is *Me'akev*. Accordingly, a person who wants to take a course of action that will *definitely* lead to a situation of *Sakana* is forbidden from doing so if it will cause *Bitul*

Mitzva or *Chillul Shabbos* (unless the action is urgent). For example, it is forbidden to schedule [an elective] surgery close to Shabbos that will perforce lead to *Chillul Shabbos*. But, if it is merely a *doubt* as to whether *Chillul Shabbos* will be necessary, it may indeed be scheduled close to Shabbos as the operation is considered a *Mitzva* (of maintaining good health).

These Halachos pertain only to actions performed before Shabbos, as the Gemara implies. There is seemingly no *Heter* to perform an action leading to *Chillul Shabbos* on Shabbos itself. However, this may not be absolute.

The *Acharonim* conclude (based on the *Ba'al haMa'or*) that the *Issur* to enter into a state of *Sakana*, thereby causing *Bitul Mitzva*, is only *mid'Rabbanan*. If the *Issur* were *mid'Oraisa*, there would be no *Heter* to travel for a *Mitzva*.

However, the *Ba'al haMa'or* himself implies that this conclusion is incorrect. There is a well-known *Machlokes* regarding a *Bris Mila* that was due to be performed on Shabbos, but the hot water that had been prepared spilled and would not be available to wash the baby. Some *Rishonim* hold that the *Bris* should be performed on Shabbos nevertheless. Since the baby will be in a state of *Pikuach Nefesh* following the *Bris*, the water may be heated on Shabbos to wash him. The *Ba'al haMa'or* argues that the *Bris* should not be performed on Shabbos since one may not deliberately create a state of *Pikuach Nefesh* when *Chillul Shabbos* will result. We see that the *Ba'al haMa'or* holds that this *Issur* is *mid'Oraisa* – if it was only *mid'Rabbanan* it would not override the *Mitzva d'Oraisa* of *Mila b'Zmana*.

Some *Mefarshim* resolve the contradiction in the *Ba'al haMa'or* by differentiating between *Bris Mila* and traveling on a boat. Since the *Mitzva* of *Mila* is performed *on* Shabbos itself, when the *Chiyuv* to keep Shabbos is active, an action that will cause *Chillul Shabbos* would be considered an *Issur d'Oraisa*. The action of boarding the boat, however, is performed *before* Shabbos when no *Chiyuv* exists to observe Shabbos. Therefore, this only constitutes an *Issur d'Rabbanan*.

However, many *Acharonim*, such as R' Elchanan Wasserman *Hy"d* (in *Kovetz He'aros*) and Rav Shlomo Zalman Auerbach *zt"l*, dispute this assertion and hold that there is no difference between an action performed before Shabbos and one performed on Shabbos itself in this regard.

Returning to our case, if a person knows that by walking to *Shul* on Yom Kippur he will *definitely* require food or drink, it is *Asur* for him to do so even though walking could legitimately be called a *Mitzva*. But, in the more common scenario, where it is unclear that the walk or the crowded *Shul* will cause him to break his fast, perhaps this would not constitute an *Issur Gamur*.

The source for this is the *Mishna Berura* who cites a *Machlokes* as to whether the *Heter* to board a boat for a *Mitzva* extends to departing on Shabbos itself. The *Magen*

Avraham holds that to depart on Shabbos is forbidden since the person will be unable to stipulate with the sailors to prevent *Chillul Shabbos*. Other Poskim disagree.

However, even according to the *Magen Avraham*, it is permissible to board the boat even on Shabbos in a case where it is only doubtful if *Chillul Shabbos* will be necessary, even though he will not be able to stipulate with the sailors. (The objective of stipulating with the sailors is to prevent a *certainty* of *Chillul Shabbos*. We cannot say that the objective is to completely rule out the possibility of *Chillul Shabbos* because then there would be no *Issur* at all. Therefore, a case of doubt is akin to a stipulation and would be permissible even according to the *Magen Avraham*.)

The same is true in our case. Although by walking to *Shul* the person may no longer be capable of fasting, he does not commit an *Issur* since he is performing a Mitzva and it is not certain that he will be unable to continue fasting.

We must emphasize that, practically speaking, a *Choleh* should remain in his house as per the ruling of the *Chasam Sofer* and *Shemiras Shabbos Kehilchasa* mentioned above.³ This essay is a purely academic discussion of the *Issur* committed by one who stubbornly goes to *Shul* and forces a situation that requires him to break his fast.

³ We should also emphasize that *haGaon Rav Asher Weiss Shlit"a* commented that it is difficult to derive practical *Halacha* from the case of boarding a boat (*Minchas Asher, Shemos* 38).