



Cholim & Bein haMetzarim

Beginning with *Shiva Asar b'Tamuz*, we observe many *Minhagim* as an expression of mourning for the Beis haMikdash throughout *Bein haMetzarim*. Some customs are observed for the entire period, others only to the "Nine Days" beginning on Rosh Chodesh Menachem Av, and some only during the week of Tisha b'Av. In this essay, we will discuss some of the laws pertaining to *Cholim* during this period.

1) Elective surgeries during *Bain haMetzarim*.

The Poskim rule that a person should avoid any risk of *Sakana* during these days. The *Shulchan Aruch* rules (550:18) that we do not engage in corporal punishment of students during this period. The *Chavos Yair* rules (*Mekor Chaim* 4) that a person should avoid bathing in a river lest he drown. R' Moshe Feinstein *zt"l* famously held that any entry to dangerous places should be avoided. This is also the opinion of the *Shevet haLevi* (*miBeis Levi*, *Bein haMetzarim* p11).

The *Kehilos Ya'akov* (*Orchos Rabbenu* 2 page 129) did not allow his children to visit the beach during this period. R' Chaim Kanievsky *zt"l* qualified that a person may go if it is necessary for his health and reported that the *Chazon Ish* went to the beach for his health, though not after Rosh Chodesh.¹ (Some Poskim are lenient and permit going to the sea or a pool provided one takes care not to endanger oneself – *Halichos Shlomo*, *Bein haMetzarim* 14:5).

Regarding elective surgical procedures, R' Ya'akov Kamenetsky *zt"l* (*Emes l'Ya'akov* 225 - "*miPi haSh'mua*") rules that a person should not schedule surgery during the Three Weeks if it is not urgent. The same is said in the name of R' Shmuel Wosner *zt"l* (*MiBeis Levi* *ibid.*).

2) Meat for *Cholim* during the 9 Days.

Our *Minhag* is to refrain from eating meat [and drinking wine] during the nine days between Rosh Chodesh and Tisha b'Av. However, some situations allow for meat consumption due to health concerns:

¹ According to the author of *Orchos Rabbenu*, it seemed to R' Chaim *zt"l* that he had heard from the *Chazon Ish* that it would have been permissible to bathe in the ocean even during the Nine Days (as it was for health reasons and not for pleasure) but he refrained because of a concern for *Chillul Hashem*.

The *Rema* rules (551:9) that one should conceal the *Shechita* knife from Rosh Chodesh Av since we may only slaughter for a Mitzvah such as for a *Choleh* or Bris Milah. In other words, a *Choleh* may eat meat during the 9 Days.

One might have assumed that the *Rema* refers to a *Choleh sheEin Bo Sakana* - one who is significantly unwell. Given that he is not required to fast on Tisha b'Av (O.C. 554), he should certainly be permitted to eat meat during the 9 Days. This is the implication of the *Magen Avraham* (554:9) who states that some *Yoldos* refrain from consuming meat and drinking wine from 7th Av. In other words, only *Cholim* may eat meat during these days. However, the *Mishna Berura* (61) rules otherwise:

"For a Choleh" – even a minor Choleh. Although the Magen Avraham in Siman 554:9 states that some Yoldos refrain from meat and wine from the 7th of Av, that refers to a situation where there is no illness.

It seems from the Poskim that a *Choleh* may eat meat even if it is not considered his "medication" because he must eat foods that strengthen and revitalize his body so that he can recover from his illness.

The *Mishna Berura* (64) explains that eating chicken is a less serious prohibition than eating meat during the 9 Days. This is based on the *Magen Avraham* (28) who offers two reasons for the distinction: 1) *Korbanos* are not brought from chickens. 2) The statement, "*There is only joy with meat*" specifically refers to meat and not poultry. For this reason, the *Or l'Tzion* rules (3:26:6) that a *Choleh* should eat chicken instead of meat if it will be sufficient.

HaGaon R' Asher Weiss Shlit"a discusses a person suffering from pharyngitis who knows that chicken soup will greatly alleviate his pain. Based on the aforementioned ruling of the *Mishna Berura*, R' Asher permits him to drink the soup, especially since the *Magen Avraham* states that chicken is a less stringent *Issur*. Moreover, in this case, the *Choleh* only drinks the broth without eating any chicken, which is the subject of a further leniency as ruled by the *Shulchan Aruch* (551:10): "*There is an opinion that those who do not eat meat in the aforementioned days are permitted [to eat] a dish in which meat was cooked.*"

The *Shulchan Aruch's* source is the *Kol Bo*. However, the *Mishna Berura* declares: "*Nowadays, the Minhag is to forbid even a meaty dish*", defined as one in which the meat has imparted a recognizable taste (*Sha'ar haTziyun* 68) and chicken soup certainly fulfills this condition. Nevertheless, a dish flavored with meat is certainly more lenient than meat itself.

Thus, we may conclude that a *Choleh* who feels the need to eat meat during the 9 Days is permitted to do so. If chicken [or other poultry] is sufficient, that is

preferable, and if a dish flavored with chicken but without actual chicken would suffice, he should eat that.

3) Meat for the lactose-intolerant during the 9 Days

Rav Asher was asked whether a person who is lactose-intolerant (and does not consume milk products throughout the year) is permitted to eat meat during the 9 Days given that he would otherwise find the situation exceedingly difficult.

Rav Asher permitted it based on the *Magen Avraham* (551:28) who rules that if a person cannot consume milk, he may eat chicken (since chicken is a more lenient *Issur*). As stated above, a meaty dish is a more lenient matter than meat itself.

Rav Asher adds:

Although one could claim that in our day where there is an abundance of food and alternatives for everything, perhaps we should not be lenient in this regard. It would seem that one should indeed attempt to meet his needs with various alternatives. But in a case of need where it is difficult [to go] without milk and meat, one may be lenient with meat dishes or chicken soup without [eating the] actual meat. And if necessary, one may even be lenient with chicken [itself]. For we should not make matters difficult for people by making assumptions that are not necessarily true; even in ancient times there was an abundance of various foods that contained neither meat nor milk. We have only the words of the Poskim who enlighten our eyes.

4) *Seuda Mafsekes* if one who will not fast on Tisha b'Av

A *Choleh sheEin Bo Sakana* is exempt from fasting on Tisha b'Av. *Rav Asher* discusses whether he must eat a *Seuda Mafsekes* – a question not discussed by the Poskim.

Utilizing various sources, he proves that the *Seuda Mafsekes* and its Minhagim are part of the *Avelus* and a preparation stage. Thus, even one who is not fasting must partake of it since the *Avelus* over the *Churban* is certainly relevant to him.

He adds that this is especially true in light of the *Chasam Sofer's* ruling (*Shu"t O.C.* 157) that a *Choleh* who must eat on Tisha b'Av may not eat more than necessary and may only consume precisely what he needs for strength. If he partakes of a *Seuda Mafsekes*, he will likely be capable of fasting several hours into the night, thus, it is only logical that he must do so to fortify himself.