

Selected Laws of Yom Kippur

הלכות יום כפור

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Tanach



Talmud (Chazal)



Rishonim



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Yom Kippur is often considered the holiest day of the year on the Jewish calendar. It is of course a day of *tefilla* (prayer) and asking for forgiveness from Hashem, but it is also a day characterized by fasting. Since the most important and severe mitzvah of Yom Kippur relates to not eating or drinking with the penalty of *kareit* (excision in the world-to-come), we will spend the bulk of this *shiur* focusing on the various halachot regarding the prohibition of eating.

THE MITZVAH TO EAT ON EREV YOM KIPPUR

Before we study some of the halachot of not eating on Yom Kippur, we will begin by examining the role of food on *Erev Yom Kippur* (Yom Kippur eve). It is striking to note that although eating on Yom Kippur is of course forbidden under strict penalty, Chazal declare in the **Gemara** in **Yoma** that that very same action of eating is actually a mitzvah on *Erev Yom Kippur*.



Masechet Yoma 81b

As Chiyya bar Rav of Difti taught: “And you shall afflict your souls on the ninth day of the month” (*Vayikra* 23:32).¹ **But does one afflict oneself on the ninth of Tishrei? Doesn't one afflict oneself on the tenth? Rather, the verse comes to tell you: Anyone who eats and drinks on the ninth, the verse ascribes him credit as though he fasted on both the ninth and the tenth.**

1. מסכת יומא פא:

דתני חייא בר רב מדפתי: ועניתם את נפשתיכם בתשעה, וכי בתשעה מתענין? והלא בעשור מתענין! אלא לומר לך: כל האוכל ושותה בתשיעי – מעלה עליו הכתוב כאילו התענה תשיעי ועשירי.

The Gemara though does not explain the reason for this mitzvah or the precise derivation of the idea. **Rashi** suggests that the juxtaposition of the term “you shall afflict yourselves [*v'initem*]” to the term “on the ninth [*b'tisha*]” indicates that one should eat on the ninth in preparation for the fast of the tenth, and one who does so is considered as if he fasted on the ninth as well (in a positive sense).

1. It should be noted that the full *pasuk* reads as follows: שבת שבתון הוא לכם ועניתם את נפשתיכם בתשעה לחדש בערב בערב מערב עד ערב. תשבתו שבתכם תשבתו שבתכם. “It is a complete day of rest for you, and you shall afflict yourselves. On the ninth of the month in the evening, from evening to evening, you shall observe your rest day.” As evident from the translation here, according to the standard reading of the *pasuk*, the word “on the ninth [*b'tisha*]” is not actually part of the same phrase as the words “and you shall afflict your souls [*v'initem et nafshoteichem*],” and the Gemara’s assumption upon which the question is based (that the *pasuk* is stating that one fast on the ninth) is unfounded. Nevertheless, it would seem that the point of the Gemara is that the Torah did not actually need to mention the ninth day at all; it could have stated that one should fast from evening to evening, and the meaning would have been obvious, as the day generally begins the night before in Judaism. [Addition of the English editors]

7 Rashi, *ibid.*

Anyone who eats and drinks, etc. – This is what the verse implies: Afflict yourselves on the ninth, meaning that you should prepare yourself on the ninth in order that you will be able to fast on the tenth. And the fact that the verse uses the language of affliction [*inui*] teaches you that [one who eats] is considered as if he fasted [*mitaneh*] on the ninth.

However, **Rabbeinu Yona** cites three different reasons for the obligation to eat on *Erev Yom Kippur*.² According to the second reason, cited in the next source, the nature of eating is entirely different.

7 Sha'arei Teshuva of Rabbeinu Yona 4:9

...Regarding other festivals we establish a meal for the joy of the mitzvah, as the reward for fulfilling the mitzvot with joy is very great and exalted, as it states, “Now, I have seen your people here, with joy they have donated to You” (*Divrei HaYamim* I 29:17), and it says: “[Curses will be upon you] since you did not serve Hashem your God with joy and goodness of heart” (*Devarim* 28:47). So because there is a fast on Yom Kippur, we are obligated [instead] to establish this meal for the joy of the mitzvah [instead] on the eve of Yom Kippur.

2. רש"י | שם

כל האוכל ושותה וכו' – והכי משמע קרא: ועניתם בתשעה כלומר התקן עצמך בתשעה שתוכל להתענות בעשרה, ומדאפקיה קרא בלשון עינוי, לומר לך: הרי הוא כאילו מתענה בתשעה.

3. ספר שערי תשובה לרבינו יונה | ד:ט

...כי בשאר ימים טובים אנחנו קובעים סעודה לשמחת המצוה, כי יגדל וישגא מאד שכר השמחה על המצוות, כמו שנאמר (דברי הימים א כט, יז): “ועתה עמך הנמצאו פה ראיתי בשמחה להתנדב לך”, ונאמר (דברים כח, מז): “תחת אשר לא עבדת את ה' אלקיך בשמחה ובטוב לבב”, ומפני שהצום ביום הכפורים, נתחייבו לקבוע סעודה על שמחת המצוה בערב יום הכפורים.

RABBI YONA BEN AVRAHAM GERONDI – RABBEINU YONA (1210–1264)

Rabbeinu Yona was the pupil of Rabbi Solomon of Montpellier, the leader of the opponents of the Rambam's philosophical works, and was one of the signers of the ban proclaimed in 1233 against the *Moreh Nevuchim* and the *Sefer ha-Madda* (first section of the *Mishneh Torah*). He is assumed to have been the instigator of the public burning of the Rambam's writings by order of the authorities in Paris in 1233, and the indignation that this aroused among all classes of Jews was directed mainly against him.

Subsequently, when twenty-four wagonloads of Talmud were burned in 1242 at the same location where the philosophical writings of the Rambam had been destroyed, Rabbeinu Yona realized the danger of appealing to Christian authorities on questions of Jewish doctrine, and publicly admitted that he had been wrong in all his acts against the works of the Rambam. As an act of repentance, he vowed to travel to Israel, prostrate himself on the Rambam's grave, and implore his pardon in the presence of ten men for seven consecutive days. He left France with that intention, but was detained, first in Barcelona and later in Toledo, Spain. He remained in Toledo and ultimately became one of the great Talmud teachers of his time.

In all his lectures he made a point of quoting from the Rambam, always mentioning his name with great reverence.

Rabbeinu Yona wrote many works of Talmudic commentary and halacha (most notably his commentary on *Masechet Berachot* printed together with the Rif and commentary on *Masechet Bava Batra* known as *Aliyot D'rabbeinu Yona*), but is most famous for his moral works that he wrote to atone for his earlier attacks on the Rambam and to emphasize his repentance. His *Iggeret*

2. The first reason given is that through eating a festive meal, one thereby demonstrates his joy at the forgiveness he is expected to receive for his sins on Yom Kippur, and also indicates to Hashem that he regrets sins he has committed. The third reason given is to strengthen ourselves in order to properly *daven* to Hashem and repent on Yom Kippur while fasting (which is somewhat similar to Rashi's reason). [Addition of the English editors]

HaTeshuva (Letter on Repentance), *Sha'arei Teshuva* (Gates of Repentance), and *Sefer HaYira* (Book of Reverence) remain popular works to this day.

Rabbeinu Yona explains here that in principle, we should be eating a special meal on Yom Kippur itself, since it is one of the *yamim tovim* (festivals), during which we eat a special *seuda* (festive meal) to express our joy for the mitzvot incumbent upon us that day. Since we cannot do that on Yom Kippur because of the fast, we eat the meal the day before to demonstrate our joy at being able to perform the special mitzvot of Yom Kippur, which of course includes fasting.

This obligation to eat is codified in the ***Shulchan Aruch***:

א. **Shulchan Aruch, Orach Chaim 604:1**

There is a mitzvah to eat on the eve of Yom Kippur and increase [the amount of food consumed] at the meal.

Rema: And it is forbidden to fast then, even for a fast due to a dream.³

4. **שולחן ערוך | או"ח תרד:א**

מצוה לאכול בערב יום כפור ולהרבות בסעודה.

הגה: ואסור להתענות בו אפילו תענית חלום.

Does this obligation to eat apply to women as well? **Rav Akiva Eiger** addresses this question⁴ and deliberates between the two sides: On one hand, he notes that this is a *mitzvat aseh shehazman gerama* (a time-bound mitzvah), from which women are generally exempt, but on the other hand, if it is connected to fasting on Yom Kippur, then if women are obligated to fast on Yom Kippur, perhaps they should be included in the mitzvah to eat on *Erev Yom Kippur* as well. He leaves the question unresolved.

א. **Responsa of Rabbi Akiva Eiger, Mahadura Kamma, Siman 16**

However I am confounded regarding whether healthy women are obligated to eat on the eve of Yom Kippur. For it is possible that they are exempt similar to all positive time-bound mitzvot (see the *Kesef Mishna, Hilchot Nedarim* chapter 3 where he is uncertain whether this exposition of “anyone who eats and drinks on the ninth, etc.” is a complete exposition [giving it the force of a biblical law] or just an *asmachata* [allusion], but either way it is time bound); or [perhaps it is] not [similar to other time-bound mitzvot], since it is derived from that which the verse uses the language of “the ninth in the evening”... to teach that it is as if one fasted on the ninth and tenth, implying that anyone who is obligated to fast on the tenth would also be obligated to fulfill the “affliction” of eating on the ninth. But this needs further investigation when time permits.

5. **שו"ת רבי עקיבא איגר | מהדורא קמא, סימן טז**

אבל אני נבוך בכל נשים הבריות אם חייבות לאכול בערב יום הכפורים, דאפשר הן פטורות כמו מכל מצות עשה שהזמן גרמא, [ועיי' בכסף משנה פרק ג' מהלכות נדרים דמסתפק אם הך דרשא דכל האוכל ושותה בתשיעי כו' דרשה גמורה, או הוא אסמכתא בעלמא, ובין כך וכך הוא זמן גרמא], או לא, כיון דקרא מפיק לה בלשון בתשעה לחודש בערב וכו' ולומר דהוי כאלו התענה תשיעי ועשירי ממילא כל שמחוייב בתענית עשירי מחוייב לקיים ועניתם כו' לאכול בתשיעי, וצריך עיון לעת הפנאי.

3. The Rema here refers to the concept of a *ta'anit chalom*, a fast taken on by one who had a disturbing dream and wishes to fast as part of his supplication to Hashem that the dream should not materialize in a manner that would affect him negatively. [Addition of the English editors]

4. The context of the *teshuva* is an inquiry about whether a sickly woman who experienced pain when eating (and received nutrition mainly through medicine) was obligated to eat on *Erev Yom Kippur*. He ruled unequivocally that she was exempt. However, Rav Eiger questioned whether even healthy women have an obligation to eat on *Erev Yom Kippur*.

The *Ketav Sofer*, who was the grandson of Rav Akiva Eiger, gave a conclusive answer to the quandary of his grandfather and ruled that women are definitely obligated to eat on *Erev Yom Kippur*.

N Responsa Ketav Sofer, Orach
Chaim 112

I revisited the issue and saw that women are obligated in this mitzvah for two reasons. First, [they are obligated] since this mitzvah is derived from the verse “the ninth of the month in the evening” – [which is interpreted as] “anyone who eats on the ninth is as if he afflicted himself on the ninth and tenth,” meaning anyone who is obligated in the fast of the tenth is obligated regarding the ninth, for one who eats is as if he fasted. This is similar to the *hekeish* (connection of the verses) of “*shamor* and *zachor*.”⁵

But more than this, one can say that we should follow the reasoning (of the mitzvah). For Rashi writes... “this is what the verse implies: Afflict yourselves on the ninth, meaning that you should prepare yourself on the ninth in order that you will be able to fast on the tenth. And the fact that the verse uses the language of affliction teaches you that [one who eats] is considered as if he fasted on the ninth.” And see the sweet words of the *Tur* who wrote in *siman* 604 that “this is due to the love of Hashem, may He be blessed, so that the fast will not harm us.” And it is almost impossible to explain this derivation of the verse that refers to one who eats using the language of “fasting [*inui*]” unless we use Rashi’s explanation as explained by the *Tur*. And since this is the reason, it is certainly logical that women are obligated, for do women not need strength to fast?... This is my humble opinion.^{6,7}

6. שו"ת כתב סופר | או"ח
קיב

שבתי וראיתי דמחוייבת אשה במצוה זו מתרי טעמי חדא כיון דנפקא לן מצוה זו מבתשעה לחודש בערב כל האוכל בתשיעי כאלו מתענה בתשיעי ועשירי כל שישנו בתענית דעשירי איתה באכילת תשיעי שהאוכל כמתענה יחשב, והוא כעין היקשא דזכור ושמור.

ועוד ביותר יש לומר זיל בתר טעמא, דכתב רש"י וזהו לשונו: כל האוכל ושותה וכו' והכי משמע קרא ועניתם בתשיעי כלומר התקן עצמך בתשיעי שתוכל להתענות בעשירי ומדאפקיה קרא בלשון עינוי לומר לך הרי הוא כאלו התענה בתשיעי עד כאן לשונו, ועיין מתק לשון הטור סי' תר"ד שכתב שהוא מאהבת השם יתברך שלא יזיק להם התענית עיין שם, וכמעט אי אפשר להעמיס הך דרשא דכל האוכל בלשון עינוי אלא על פי פירוש רש"י וטעמא וכמו שכתב הטור גם כן, וכיון דמשום הכי הוא בוודאי מסתבר דנשים מחוייבות גם כן, וכי נשי לא בעו כח?... כן נראה לפי עניות דעתי.

5. The *Ketav Sofer* refers to the Gemara (*Berachot* 20b) that links these two expressions referring to keeping Shabbat (from *Shemot* 20 and *Devarim* 5) to each other. One is understood as referring to the positive mitzvot of the day, and the other to the negative mitzvot. The Gemara declares that one who is obligated in the negative mitzvot (which includes women) is also obligated to fulfill the positive mitzvot (even though they are time bound). [Addition of the English editors]
6. It seems that many other *Acharonim* agree with this ruling as well, as noted in the footnote to the *Machon HaMa'or* edition of *Teshuvot Rabbi Akiva Eiger*. The same logic as given by the *Ketav Sofer* to require women to eat based on Rashi's reason for the mitzvah should apply as well to the reasons given by Rabbeinu Yona in *Sha'arei Teshuva*, as the idea of holding a *seuda* in honor of Yom Kippur certainly applies to women as well (as do the other reasons quoted in footnote 3 above). However, there may be a practical difference between the reasons with regard to who is permitted to eat on Yom Kippur due to serious illness. According to Rashi, if the reason for eating is to prepare for the fast, then one who is not fasting should be exempt. By contrast, if the reason for eating is to celebrate our forgiveness and for the mitzvot of Yom Kippur (as Rabbeinu Yona says), then these may indeed apply to one who is ill, and he should be included in the mitzvah. [Addition of the English editors]
7. The *poskim* also discuss other details of the mitzvah to eat, such as whether the mitzvah begins at night or only in the morning and whether it includes any type of food or only a full meal with bread. For a summary of these issues, see the *Piskei Teshuvot* to O.C. 604. [Addition of the English editors]

ASKING FORGIVENESS FROM OTHERS

Another important dimension of *Erev Yom Kippur* that is unrelated to food is the notion of asking others for forgiveness for wrongdoing. Although Yom Kippur is primarily a day dedicated to receiving atonement from Hashem for our sins, the **Mishna in Yoma** emphasizes that one must ask for forgiveness directly from other people whom one has wronged as well, in order to receive atonement for those sins, which is commonly done on the day prior to Yom Kippur.

ח Mishna, Yoma 8:9

[Yom Kippur atones for transgressions between a person and God, but] for a transgression against one's neighbor, Yom Kippur cannot atone, until he appeases his neighbor. R. Elazar ben Azaria expounds this [from the text]: "From all your sins before the Lord you shall be purified" – for transgressions between a person and God, Yom Kippur atones; for transgressions against one's neighbor, Yom Kippur cannot atone until he appeases his neighbor.

7. משנה | יומא ח:ט

עבירות שבין אדם לחבירו אין יום הכפורים מכפר עד שירצה חברו. את זו דרש רבי אלעזר בן עזריה (ויקרא ט"ז): "מכל חטאתיכם לפני ה' תטהרו", עבירות שבין אדם למקום יום הכפורים מכפר, עבירות שבין אדם לחבירו אין יום הכפורים מכפר עד שירצה את חברו.

If one owes money to another as a result of injuring him, the **Mishna** and **Gemara** in *Bava Kamma* state that one must both repay him as well as ask for forgiveness in order to receive atonement.

ח Masechet Bava Kamma 92a

MISHNA: Despite the fact that the assailant pays the victim, he is **not forgiven until he requests** forgiveness from the victim, **as it is stated** that God told Avimelech after he had taken Sarah from Avraham: "**Now therefore restore the wife** of the man; for he is a prophet, and he shall pray for you, and you shall live" (*Bereishit* 20:7), indicating that Avimelech required Avraham to pray for him, which presumably would only occur after Avraham forgave him. **And from where** is it derived **that if the victim does not forgive him that he is cruel? As it is stated:** "And Avraham prayed to God; and God healed Avimelech..." (*Bereishit* 20:17).

GEMARA: The Sages taught: All these sums that they said one is liable to pay are the **compensation for his humiliation**, for which there is a set amount. **But** for the victim's **pain** caused by the assailant, **even if** the assailant **brings all the rams of Nebaioth** (see *Isaiah* 60:7) **that are in the world** as offerings, his transgression is **not forgiven until he requests** forgiveness from the victim, **as it is stated:** "**Restore the wife of the man; for he is a prophet, and he shall pray for you**" (*Bereishit* 20:7).

8. מסכת בבא קמא צב.

משנה: אף על פי שהוא נותן לו, אין נמחל לו עד שיבקש ממנו, שנאמר (בראשית כ'): ועתה השב אשת וגו'. ומנין שאם לא מחל לו שהוא אכזרי? שנאמר (בראשית כ'): ויתפלל אברהם אל האלהים וירפא אלהים את אבימלך וגו' ...

גמרא: תנו רבנן: כל אלו שאמרו – דמי בושתי, אבל צערו – אפילו הביא כל אילי נביות שבעולם, אין נמחל לו עד שיבקש ממנו, שנאמר (בראשית כ'): השב אשת האיש כי נביא הוא ויתפלל בעדך.

The **Rambam** in the beginning of *Hilchot Teshuva* codifies the obligation to confess as an integral part of repentance, not only to Hashem, but also to others whom one injured or caused damage.



Rambam, Hilchot Teshuva 1:1

[Concerning] all commandments of the Torah, whether they be positive or negative, if a man violates any one of them, either intentionally or erroneously, when he repents and returns from his sinful way, he is obligated to confess before God, blessed is He, as it is stated: “When a man or woman shall commit [any sin], then they shall confess their sin which they have done” (*Bamidbar* 5:6–7), which is a confession of words. Such confession is a positive commandment... **Likewise, concerning one who injures his friend or causes him financial damage, although he makes restitution of what he owes him, he does not receive atonement unless he makes a verbal confession and repents by obligating himself never to repeat this again, as it is stated: “Any sin that man commits”** (*Bamidbar* 5:6).

9. רמב"ם | הל' תשובה א:א

כל מצות שבתורה בין עשה בין לא תעשה אם עבר אדם על אחת מהן בין בזדון בין בשגגה כשיעשה תשובה וישוב מחטאו חייב להתודות לפני האל ברוך הוא שנאמר איש או אשה כי יעשו וגו' והתודו את חטאתם אשר עשו זה וידוי דברים, וידוי זה מצות עשה... וכן החובל בחבירו והמזיק ממנו אף על פי ששילם לו מה שהוא חייב לו אינו מתכפר עד שיתודה וישוב מלעשות כזה לעולם שנאמר מכל חטאות האדם.

The **Kesef Mishneh** understands that the Rambam's source for the final ruling is the Mishna in *Bava Kamma* cited above. Hence, whether a person damages another's property or injures the person himself, even if he pays compensation for the damages, he does not receive atonement until he appeases the other individual.⁸



Kesef Mishneh, *ibid.*

Likewise, one who injures, etc. – [This is based on] the Mishna in *Bava Kamma* at the end of [the chapter known as] *Hachovel*: “Despite the fact that the assailant pays the victim, he is not forgiven until he requests forgiveness from the victim”...

10. כסף משנה | שם

וכן החובל כו' – משנה בבבא קמא סוף החובל (דף צ"ב.). אע"פ שנותן לו אינו נמחל לו עד שיבקש ממנו מחילה...

This understanding seems to be supported by another halacha in the second chapter where the **Rambam** appears to repeat this idea.

8. In contrast to the *Kesef Mishneh*, the *Mirkevet Hamishneh* claims that the Rambam here never refers to asking for forgiveness from the person. Rather, the Rambam's use of the language of *vidui* (confession) indicates that he means one must recite *vidui* before Hashem even regarding *mitzvot bein adam lechaveiro*.

**Rambam, Hilchot Teshuva 2:9**

Both repentance and the Day of Atonement atone only for sins committed between man and God, such as one who ate forbidden food, or had forbidden relations and the like. But sins between one person and another, such as if one injures his neighbor, curses his neighbor, or steals from him and the like, are never forgiven unless he makes restitution of what he owes and pacifies him. And, although he makes restitution of the monetary debt, he is obliged to pacify him and beg his forgiveness. Even if he offended his neighbor verbally, he is obliged to appease him and implore him till he is forgiven by him...

11. רמב"ם | הל' תשובה ב:ט

אין התשובה ולא יום הכפורים מכפרין אלא על עבירות שבין אדם למקום כגון מי שאכל דבר אסור או בעל בעילה אסורה וכיוצא בהן, אבל עבירות שבין אדם לחבירו כגון החובל את חבירו או המקלל חבירו או גוזלו וכיוצא בהן אינו נמחל לו לעולם עד שיתן לחבירו מה שהוא חייב לו וירצהו, אף על פי שהחזיר לו ממון שהוא חייב לו צריך לרצותו ולשאול ממנו שימחול לו, אפילו לא הקניט את חבירו אלא בדברים צריך לפייסו ולפגע בו עד שימחול לו...

However, the explanation of the *Kesef Mishneh* is difficult due to a different ruling of the Rambam: The **Rambam** explicitly states in **Hilchot Chovel Umazik** that if one damages another's property, as soon as one pays the damages, he receives atonement, as opposed to if he damages the person himself.

**Rambam, Hilchot Chovel Umazik 5:9**

A man who inflicts physical injury upon another is unlike one who damages another's property. As one who damages another's property receives atonement from him as soon as he has paid what he is required to pay. If, on the other hand, he injures another person, even though he has paid compensation for the five counts⁹ he does not obtain atonement. Even if he has offered up all the rams of Nebaioth, he does not obtain atonement and his sin is not forgiven unless he asks forgiveness from the injured person and he [the injured] pardons him.

12. רמב"ם | הל' חובל ומזיק**ה:ט**

אינו דומה מזיק חבירו בגופו למזיק ממונו, שהמזיק ממון חבירו כיון ששלם מה שהוא חייב לשלם נתכפר לו. אבל חובל בחבירו, אף על פי שנתן לו חמשה דברים אין מתכפר לו. ואפילו הקריב כל אילי נביות אין מתכפר לו ולא נמחל עונו עד שיבקש מן הנחבל וימחול לו.

In contrast to the *Kesef Mishneh*, the **Lechem Mishneh** distinguishes between two types of damaging of a person's assets. The first is where one steals from another: In this case, it is considered a more direct attack on the person, and the perpetrator must ask forgiveness from the person. However, where he only damaged another's property, he is exempt as soon as he pays compensation for the damage.

9. See *Bava Kamma* 83a where the Mishna and Gemara discuss the five types of damages for which one who physically injures another must pay. [Addition of the English editors]

⌘ Lechem Mishneh, *ibid.*

As one who damaged another's property, etc. – Even though in *Hilchot Teshuva* chapter 2 our teacher taught that one who steals from another only receives atonement if he beseeches him and appeases him, even if he has returned the stolen object; nevertheless, one can say that a robber is different since he derived benefit from that sin, and furthermore he caused much distress to the victim by taking it against his will. However, one who caused damage to a person's property, where he did not derive benefit from that action, but just caused damage, and the one who damaged did not derive benefit from it, the victim is not as distressed as the victim of a robbery. [Therefore,] since he paid the damage, that is sufficient, and that is why our teacher writes here that he receives atonement immediately, as opposed to the case of robbery, as I have written.¹⁰

13. לחם משנה | שם

שהמזיק ממון חבירו וכו' – אף על גב דבהל' תשובה פרק ב' כתב רבינו ז"ל דהגזול את חבירו אינו מתכפר לו אלא אם ירצה לנגזל ויפייס אותו אף על פי שהשיב לו הגזילה. יש לומר דשאני גזולן דנתנה מאותה עבירה ועוד שציער הרבה לנגזל שלקח ממנו בעל כרחו. אבל מזיק הממון שלא נתנה מהזיק ההוא אלא שהזיק לו ולמזיק לא באה הנאה ממנו, לא נצטער כל כך הניזק כמו הנגזל כיון ששלם לו הזיקו די, ולכך כתב רבינו ז"ל כאן שנתכפר לו מיד מה שאין כן בנגזל כדכתיבנא.

Regardless of how one interprets the Rambam, it is clear that one must ask forgiveness from another for sins that are in the category of *bein adam l'chaveiro*, between one and another, in order to achieve complete atonement. It should not be surprising, therefore, that the **Shulchan Aruch** and **Rema** discuss the details of this halacha about asking for forgiveness in the context of the laws of Yom Kippur, and as the Rema notes, the custom is to ask for forgiveness on *Erev Yom Kippur*.

⌘ Shulchan Aruch, Orach Chaim 606:1–2

1. Transgressions between people are not subject to atonement on Yom Kippur unless [the offender] appeases [the offended party]. Even if one wronged another with words alone, one must appease him. If [the offended party] is not appeased at first, one must return a second and a third time, taking along three people each time. If [the offended party] is not appeased after three visits, one is not required [to try any further]. (**Rema:** Afterwards, however, [the offender] should relate before ten people that he sought forgiveness.) If he [the offended party] is one's teacher, one must go to him several times until he is appeased.

14. שולחן ערוך | או"ח תרו:א–ב

א. עבירות שבין אדם לחבירו אין יום הכיפורים מכפר עד שיפייסנו, ואפילו לא הקניטו אלא בדברים צריך לפייסו ואם אינו מתפייס בראשונה יחזור וילך פעם שנייה ושלישית, ובכל פעם יקח עמו שלשה אנשים ואם אינו מתפייס בשלשה פעמים אינו זקוק לו (מיהו יאמר אחר כך לפני עשרה שבקש ממנו מחילה). ואם הוא רבו צריך לילך לו כמה פעמים עד שיתפייס.

10. Although the Rambam in *Hilchot Teshuva* 2:9 also mentioned cursing another or injuring him in addition to stealing, the *Lechem Mishneh* may say that cursing and causing bodily injury are also sufficiently damaging and distressing enough to warrant asking for forgiveness in order to receive atonement. However, the Rambam's ruling in *Hilchot Teshuva* 1:1 is difficult according to the *Lechem Mishneh*, as there "causing financial damage" is mentioned, which does not appear to be limited to a case of theft. See the commentaries quoted in the *Maft'e'ach* of the Frankel Rambam on this halacha. [Addition of the English editors]

Rema: One should not be cruel and withhold forgiveness, unless it is for the benefit of the one seeking forgiveness. If one was a victim of slander, one need not forgive.

2. If the person against whom he sinned has died, then he brings ten people with him to stand by his grave and he says: "I have sinned before the God of Israel and against so-and-so I have transgressed." (**Rema:** And it is customary to request forgiveness on the eve of Yom Kippur.)

הגה: והמוחל לא יהיה אכזרי מלמחול אם לא שמכוון לטובת המבקש מחילה, ואם הוציא עליו שם רע אינו צריך למחול לו.

ב. אם מת אשר חטא לו מביא עשרה בני אדם ומעמידם על קברו ואומר חטאתי לאלהי ישראל ולפלוגי זה שחטאתי לו (ונהגו לבקש מחילה בערב יום כפור).

The **Mishna Berura** elaborates on the importance of this obligation as it relates specifically to *Erev Yom Kippur*, even though it actually applies all year round.

א Mishna Berura 606:1

...Now even though every day of the year a person is obligated to appease someone whom he has wronged, nevertheless if he doesn't have time he will push it off to another day. But on *Erev Yom Kippur* he is obligated to rectify everything in order to purify himself of all his sins, as it says: "For on this day He shall effect atonement for you, etc., for all your sins"... how much more so if he has [transgressions] related to theft, misappropriation [*ona'a*], or any matters regarding money, he should try to address. [For this is a great indictment against a person, as the Sages say (*Kohelet Rabba* 1:13): Out of a basket full of sins, which sins accuse first? Theft accuses first.]

If a person has an outstanding claim against someone, that person must inform him [the one with the claim], even if he was entirely unaware of it, and in any event the matter must be resolved completely before the rabbi and religious authority, in truth and not with lies, asking what is the appropriate action. The general rule is that anything to do with money, a person cannot rely on his own opinion, for the evil inclination finds many leniencies.

15. משנה ברורה | תרו:א

...והנה אף על פי שגם בשאר ימות השנה מחוייב לפייס למי שפשע כנגדו, מכל מקום אם אין לו פנאי הוא ממתין לפייסו על יום אחר, אבל בערב יום הכפורים מחוייב לתקן הכל כדי שיטהר מכל עונותיו כדכתיב כי ביום הזה יכפר עליכם מכל חטאתיכם וגו', וכל שכן אם יש בידו מן הגזל ואונאה וכל דבר הנוגע בממון יראה לתקן. [דזהו המקטרג הגדול על האדם כמו שאמרו חז"ל סאה מלא עונות מי מקטרג גזל מקטרג בראש].

ואם יש לחבירו בידו ממון שיש לו תביעה עליהם יודיענו אף על פי שחבירו לא ידע מזה כלל, ועל כל פנים יסדר לפני הרב ומורה צדק הענין בשלימות ובאמת בלא שקר ולשאול האיך להתנהג. כללו של דבר כל דבר שבממון לא יסמוך על הוראתו כי היצר הרע יש לו התירים הרבה.

The **Bach** adds that one must specify the sin for which one is asking forgiveness and should not suffice with an ambiguous statement.

N Bach, *ibid.*

I found that one who asks forgiveness from another whom he wronged must state his wrongdoing explicitly when he asks forgiveness (*Derashot Maharash*). This is the accepted opinion, for that which is written in *siman* 607 that a person must specify his sins when he confesses before Hashem is also true in his confession in front of another, for regarding this matter there is no distinction between transgressions between man and God and those between man and man...¹¹

16. ב"ח | שם

מצאתי המבקש מחילה שפשע כנגדו צריך לפרש בשעת המחילה אותה פשיעה דרשות מהר"ש (סי' שלג). וכן עיקר דלמאי דכתבין לקמן בסימן תר"ז דצריך לפרט החטא בוידויו לפני המקום הוא הדין נמי בוידויו לפני חברו דבהא אין לחלק בין עבירות שבינו לבין המקום לבינו ובין חברו...

11. Rav Yisrael Salanter (cited in the *Piskei Teshuvot*, O.C. 606, #4) held that it is better not to specify the specific sin committed if doing so will cause the victim to be more upset than he was beforehand, even if physical or monetary damage was caused. [Addition of the English editors]

THE LAWS OF FASTING ON YOM KIPPUR

When the Torah describes the prohibitions of Yom Kippur, it does not delineate exactly what is included. Rather, it simply uses the term *inui*, or affliction.



Vayikra 23:27

But on the tenth day of this seventh month it is the day of Atonement. It shall be a holy convocation for you; you shall afflict yourselves...

17. ויקרא | כג:כז

אך בַּעֲשׂוֹר לַחֹדֶשׁ הַשְּׁבִיעִי הַזֶּה יוֹם הַכִּפּוּרִים הוּא מִקְרָא קֹדֶשׁ יְהִיֶה לָכֶם וְעִנִּיתֶם אֶת נַפְשֹׁתֵיכֶם...

The **Gemara (Yoma 74b)** teaches that the term "afflict oneself" refers to eating and drinking. In addition, the Gemara explains that *inui* includes not bathing, anointing oneself, wearing leather shoes, or having marital relations. The **Sefer HaChinuch** explains why fasting and affliction is necessary on a day designated for receiving atonement.



Sefer HaChinuch, Mitzvah 313

The root of this mitzvah is as follows: Due to God's immense kindness for his creations, He designated one day of the year to atone for his sins together with *teshuva* (repentance)... Therefore we are commanded to fast on this day since eating and drinking and the other pleasures to the senses will arouse our physical aspects to follow its desires and sin... Now it is not fit for a servant on the day of his judgment to come before his master with a darkened soul and mixed up due to food and drink... For one is only judged for one's actions at that time. Therefore, it is proper for one to uplift his soul and overcome his physicality on that important day in order that he is fitting and capable of receiving atonement, and it will not be withheld due to the mask of desires.

18. ספר החינוך | מצוה שי"ג

משרשי המצוה, שהיה מחסדי ה' על כל בריותיו לקבוע להם יום אחד בשנה לכפר על החטאים עם התשובה... ולכן נצטוינו להתענות בו, לפי שהמאכל והמשתה ויתר הנאות חוש המישוש, יעוררו החומר להמשך אחר התאוה והחטא... ואין ראוי לעבד ביום בואו לדין לפני אדוניו לבוא בנפש חשוכה ומעורבת מתוך המאכל והמשתה... שאין דנין את האדם אלא לפי מעשיו שבאותה שעה, על כן טוב לו להגביר נפשו החכמה ולהכניע החומר לפניו באותו היום הנכבד, למען תהיה ראויה ונכונה לקבל כפרתה, ולא ימנעה מסך התאוות.

As is well known, the prohibition against eating and drinking is considered the most severe of the five afflictions forbidden on Yom Kippur, as in contrast to the others, one receives *kareit* for violating it. Due to its importance, we will focus on selected aspects of this halacha for the remainder of the *shiur*.

The ***Shulchan Aruch*** summarizes the practical halacha concerning the Torah prohibition of eating on Yom Kippur as follows:

נ **Shulchan Aruch, Orach Chaim**
612:1, 5

1. One who eats the amount of a large date on Yom Kippur is liable [to *kareit*], and that [amount] is slightly less than the size of a *k'beitza* (egg), and this measurement is equivalent for all people, whether for a midget or for Og, king of Bashan [who was a giant].

5. The fact that a measurement is required is only for liability to *kareit* or a sin-offering, but a [Torah] prohibition exists for [consuming] any amount.

19. שולחן ערוך | או"ח
תריב:א, ה

א. האוכל ביום הכפורים ככותבת הגסה חייב, והוא פחות מכביצה מעט, ושיעור זה שוה לכל אדם, בין לננס בין לעוג מלך הבשן.
ה. הא דבעינן שיעור היינו לחיוב כרת או חטאת, אבל אסורא איכא בכל שהוא.

According to the *Shulchan Aruch*, eating food equivalent to the amount of a *kotevet* (a large date) on Yom Kippur renders one liable to *karet*, while the consumption of any amount of food violates a Torah prohibition (based on the well-known principle of *chatzi shiur assur min hatorah*, part of a forbidden measure is also biblically forbidden).

FASTING IN EXCEPTIONAL CASES

In general, the prohibition against eating on Yom Kippur is so severe that one may only eat if there is a potential danger to life. Although this principle seems rather straight-forward, in truth the question of who is considered to be in danger when fasting is somewhat complex, and there is significant discussion of this issue among the *poskim*. We will address three different cases of individuals who are potentially in this category.

Pregnant or Nursing Women

One common issue that arises on Yom Kippur is how pregnant and nursing women should observe the fast. On one hand, they certainly must take into consideration the fact that they are responsible for the wellbeing of another life (the fetus or newborn), but on the other hand, it seems a bit extreme to say that there is always a danger to life by fasting.

According to the **Gemara** in ***Pesachim***, a pregnant or nursing woman must fast normally on Yom Kippur (as well as on Tisha B'av).

Ⓜ Masechet Pesachim 54b

Rava taught: Pregnant women and nursing women fast and complete the fast on the Ninth of Av in the manner that they fast and complete the fast on Yom Kippur, and during twilight on the Ninth of Av it is prohibited to eat or drink.

20. מסכת פסחים נד:

דרש רבא: עוברות ומניקות מתענות ומשלימות בו, כדרך שמתענות ומשלימות ביום הכיפורים, ובין השמשות שלו אסור.

Apparently, Chazal felt that an otherwise healthy pregnant or nursing woman will not place herself or the baby in danger by fasting on Yom Kippur. However, the **Gemara** in Yoma provides certain limitations to this halacha in specific cases that were considered of potential danger to life.

Ⓜ Masechet Yoma 82a

MISHNA: Regarding a pregnant woman who smelled food and was overcome by a craving to eat it, **one feeds her until she recovers**. If a person is ill and requires food due to potential danger, **one feeds him according to the advice of medical experts**. **And if there are no experts there, one feeds him according to his own instructions, until he says that he has eaten enough**.

21. מסכת יומא פב.

משנה: עוברת שהריחה – מאכילין אותה עד שתשיב נפשה. חולה – מאכילין אותה על פי בקיאים, ואם אין שם בקיאים – מאכילין אותה על פי עצמו, עד שיאמר די.

GEMARA: The Sages taught in a *baraita*: A pregnant woman who smelled consecrated meat or pig meat and craved those specific foods, one inserts a thin reed into the juice of that item and places it on her mouth. If her mind become settled, it is well. And if not, one feeds her the gravy itself. If her mind becomes settled, it is well. And if not, one feeds her the fat itself, as there is nothing that stands in the way of saving a life except for the prohibitions against idol worship, and forbidden sexual relationships, and bloodshed.

גמרא: תנו רבנן: עוברת שהריחה בשר קודש או בשר חזיר – תוחבין לה כוש ברוטב, ומניחין לה על פיה. אם נתיישבה דעתה – מוטב, ואם לאו – מאכילין אותה רוטב עצמה, ואם נתיישבה דעתה – מוטב, ואם לאו – מאכילין אותה שומן עצמו, שאין לך דבר שעומד בפני פקוח נפש חוץ מעבודה זרה וגילוי עריות ושפיכות דמים.



Rashi, *ibid.*

A pregnant woman who smelled – The fetus smells the food and desires it. If the mother doesn't eat it, then they are both in danger.

22. רש"י | שם

עוברת שהריחה – העובר מריח ריח תבשיל והוא מתאוה לו, ואם אינה אוכלת – שניהן מסוכנין.

According to the Gemara (and Rashi's interpretation), a woman who has a severe craving for a specific food is considered to be in sufficient danger to warrant allowing eating on Yom Kippur.¹²

The *Shulchan Aruch* cites the basic halacha about pregnant and nursing women fasting mentioned in the passage in *Pesachim* as well as the leniencies mentioned in *Masechet Yoma*.



Shulchan Aruch, Orach Chaim 617:1–2

1. Pregnant and nursing woman must fast and complete the fast on Yom Kippur.
2. In the case of a pregnant woman who smelled (**Rema**: And her face changed due to it, even though she didn't say she needs it), we whisper in her ear that today is Yom Kippur. If her mind is settled with this reminder, it is well, but if not we feed her the food until she becomes settled.

23. שולחן ערוך | או"ח תרי"ז:א–ב

- א. עוברות ומניקות מתענות ומשלימות ביום הכיפורים.
- ב. עוברת שהריחה (ופניה משתנים, אע"פ שלא אמרה צריכה אני), לוחשין לה באזנה שיום הכיפורים הוא, אם נתקררה דעתה בזכרון זה – מוטב, ואם לאו מאכילין אותה עד שתתיישב דעתה.

The case described in the Mishna and *Shulchan Aruch* of a serious craving is not common nowadays. Nevertheless, we see from here that in the case of a specific danger, a pregnant woman would be permitted to eat. This principle is extremely relevant, as there are many instances where a doctor may be concerned that a specific complication with regard to the pregnancy may cause danger to the mother or fetus by fasting. This issue is discussed by **Rav Simcha Rabinowitz** in his popular *sefer*, *Piskei Teshuvot*.

12. It seems from Rashi that the leniency applies because of the potential danger to the mother. The Rosh (*Yoma* 8:13) notes that some *Rishonim* hold that if there is danger to the fetus alone, the mother would not be permitted to eat, but he disagrees and argues that it is permitted. He also claims that in actuality, there is no situation of danger to the fetus where the mother is not also in danger, and points to this comment of Rashi as proof.

**Piskei Teshuvot, Orach Chaim**

617, #1

Even in our times, where the generations have become weaker and fasting an entire day entails a certain element of risk of miscarriage or early birth, nevertheless pregnant women must fast, unless she already had two miscarriages due to the fast, or if a doctor suggests that it is forbidden for her to fast due to excessive weakness, bleeding or early contractions and the like [i.e., any other medical condition that could render fasting dangerous], which heighten the risk of miscarriage or premature births.

The status of a pregnant woman takes effect as soon as she knows she is pregnant even if forty days have not yet passed [from conception]. A pregnant woman who is prohibited to fast [due to the doctor's instructions] should clarify with a doctor whether it is sufficient to drink within the limitations of *shiurim* [less than the forbidden measurement], or whether she also needs to eat with *shiurim*, or whether she needs to eat and drink as usual.

24. פסקי תשובות | או"ח

תריז, ס"ק א

ואף בזמננו שנחלשו הדורות ותענית יום שלם יש בו סיכון מסוים להפלה או ללידה מוקדמת, אף על פי כן צריכות המעוברות לצום, אלא אם כן היו לה כבר שני מקרי הפלה עקב צום, או אם רופא ממליץ לאסור לה את הצום עקב חולשה יתירה, דימום או צירים מוקדמים וכיוצא בזה העלולים לגרום להפלה או לידה מוקדמת.

ודין מעוברת היא משעה שידועת מהריונה אפילו שעדיין לא עברו ארבעים יום להריונה. ומעוברת שאסרו לה לצום ביום הכיפורים צריכה להתיעץ עם רופא אם די לה שתיה בשיעורים או צריכה גם אכילה בשיעורים או שמא צריכה לאכול ולשתות כהרגלה.

The *Piskei Teshuvot* notes that specific cases such as complications in previous pregnancies, bleeding, or other medical conditions would all be valid reasons to consider her as being in potential danger if she would fast. However, all such cases should certainly be discussed with an OBGYN beforehand as well as with a rabbi to confirm that there is in fact need for leniency.¹³

With regard to nursing women, the issues that arise do not generally affect the mother as seriously (if she is healthy), but certainly could affect the baby, as if the mother does not have sufficient milk due to the fast, the baby would go hungry. The *Bi'ur Halacha* cites the *Be'er Heitev* (who cites the *Devar Shmuel*) who is lenient in such a case as well if the child's life will be put in danger due to the fast and no other options exist.

**Bi'ur Halacha, Siman 617**

Pregnant and nursing woman must fast and complete the fast – And if the nursing woman has a sick child who is in danger and the child doesn't want to nurse from anyone other than her, and fasting will present a danger to the child, she does not fast even on Yom Kippur (*Be'er Heitev* 618 citing the *Devar Shmuel*).

25. ביאור הלכה | סימן תריז

עוברות ומניקות מתענות ומשלימות – ואם יש להמניקה ילד חולה ומסוכן ואינו רוצה לינק כי אם ממנה, ואם תתענה סכנה הוא להילד, אינה מתענה אפילו ביום הכפורים.

According to the *Chazon Ish*, the leniency concerning nursing mothers is not one to be applied sparingly. Rather, in any case of uncertainty where the fast may cause the baby to suffer one may be lenient.

13. Even if a pregnant woman began to fast but at some point feels unusually dizzy or weak, contractions, or any other symptom, she should certainly eat and/or drink immediately (at least less than *shiurim*, and perhaps more if necessary). [Addition of the English editors]

Nowadays, another option exists that was not available in the time of the *Chafetz Chaim* (who suggested that the babies nurse from another nursing mother, which would not be done today). Today, a mother can give the baby formula with a bottle if the baby cannot nurse for some reason. Is it permitted for the mother to eat on Yom Kippur if the baby could simply be given formula instead? The *Piskei Teshuvot* addresses this issue (after first citing the *Chazon Ish* mentioned above).



Piskei Teshuvot, Orach Chaim

617, #2

The *Chazon Ish* writes that every baby is considered in danger regarding [not having enough] milk, and wherever there is a doubt lest it causes the baby stomach problems, constipation, diarrhea, or even a slight fever due to the change in his food intake, it is a doubt regarding a life threatening situation for which we desecrate the Shabbat. Therefore, here too regarding Yom Kippur, if due to the fast the mother's milk will be reduced or cease completely, such that the baby would have to take additional additives, it is permitted for a nursing woman to drink.

However, in practice one needs to consider this carefully, as nowadays there are various formulas whose nutritional value is very similar to the mother's milk. Therefore, one should not be lenient due to a concern of the milk stopping or a reduction of the quantity, and the baby becoming unsettled unless the baby is particularly sensitive and there is a concern that he won't be able to digest these supplements. One should know that according to the doctors, it is sufficient to drink [without eating] in order not to deplete one's supply of milk.¹⁴ If she is able to drink only *shiurim*, she shouldn't drink more, and she certainly should not go to shul if there is a possibility that this will bring her to a state where she must drink.

26. פסקי תשובות | או"ח

תריז, ס"ק ב

בחזון איש (או"ח נט:ג-ד) כתב שסתם תינוק מסוכן הוא אצל חלב, וכל שיש ספק שמא יגרם לתינוק קלקול מעיים כעצירות או שלשול או חום כלשהו על ידי שינוי בדרך הזנתו הרי הוא ספק פיקוח נפש ומחללים על זה את השבת, ולפי זה הוא הדין לענין יום הכפורים אם על ידי הצום יתמעט החלב או יפסק לגמרי והתינוק יצטרך לשנות את הרגלי הזנתו ולהשתמש בתחליפים יהיה מותר למינקת לשתות.

אמנם למעשה יש להתישב בדבר, כי לאחרונה קיימים תחליפים שונים שערכם התזונתי דומה מאד לחלב אם, ולכן אין להקל משום חשש הפסקת החלב או צמצום תפוקתו ואי שביעת התינוק אלא כשהתינוק רגיש וקיים חשש שלא יעכל שום תחליף לחלב אמו. ויש לדעת כי על פי דעת רופאים די בשתייה כדי שלא יצמצם תפוקת החלב, ואם די לה בשיעורים לא תשתה יותר מכך, ובודאי שאסור לה ללכת לבית הכנסת אם קיים חשש שבגלל זה תבוא למצב שתצטרך לשתות.

14. Experience nowadays has indeed shown that if the mother prepares herself properly by drinking large quantities of fluids prior to the fast and making sure to be in an air-conditioned environment if it is hot or dry, she will generally not have a problem nursing normally for the duration of the fast. It is also recommended for her to eat summer fruits, such as grapes, and express milk beforehand if possible. Nevertheless, when in doubt, it is always advisable to discuss all of the situations mentioned here concerning nursing, pregnancy, and illness with one's rabbi and physician. [Addition of the English editors]

Yoledet

Although as we have seen one who is pregnant must fast normally in the absence of complications, all agree that a woman who is a *yoledet*, a woman who has just given birth, is permitted to eat as she is considered to be in danger, as recorded by the **Shulchan Aruch**. The *Shulchan Aruch* also discusses the extent of time within which she is subject to this leniency.

נ Shulchan Aruch, Orach Chaim 617:4

A *yoledet* within three days should not fast at all.¹⁵ Between three and seven days, if she says that she needs to [eat], we feed her. After that, she is similar to any regular person. These days are not counted from time to time [i.e., twenty-four hour periods], such as if she gave birth on the seventh of Tishrei at night, we do not feed her on Yom Kippur unless she says she needs it, even though three days have not passed until the eve of Yom Kippur, for since she has entered into the fourth day since her birth [during Yom Kippur], she is in the category of after three days.

27. שולחן ערוך | או"ח תרי"ד:

יולדת, תוך שלשה ימים לא תתענה כלל. משלשה עד שבעה – אם אמרה צריכה אני – מאכילין אותה, מכאן ואילך – הרי היא ככל אדם. וימים אלו אין מונין אותם מעת לעת, כגון אם ילדה בשבעה בתשרי בערב, אין מאכילין אותה ביום הכפורים אם לא אמרה צריכה אני, אף על פי שלא שלמו לה שלשה ימים עד יום כפור בערב, משום דכיון שנכנס יום רביעי ללידתה מקרי לאחר שלשה.

According to the *Shulchan Aruch*, we do not count the three days based on the precise time of the birth, but rather based on the day itself. Therefore, the day of the birth is considered the first day, and if Yom Kippur is the fourth day (even if less than seventy-two hours have passed since the birth), the *yoledet* must fast (unless she insists she must eat). The **Mishna Berura** though notes that some disagree and hold that one may calculate the three days as a precise seventy-two hour period. Therefore, a *yoledet* may eat until exactly seventy-two hours have passed, which would permit her to eat on part of Yom Kippur if the time limit expires in the middle of the day.

נ Mishna Berura 617:13

These days are not counted from time to time [i.e., twenty-four hour periods] – See *siman* 330 in the *Mishna Berura* that a number of *poskim* hold that these days are counted from time to time [i.e., precisely], and that one should be lenient in practice. Similarly I found in the *Yeshuot Yaakov* that one who is lenient regarding this life threatening matter to consider the seven days from time to time also has not lost anything.

28. משנה ברורה | תרי"ג:

אין מונין אותם מעת לעת – עיין לעיל סימן ש"ל במשנה ברורה סעיף קטן י דכמה פוסקים סוברין דימים אלו במעלת לעת שיערו אותם ושיש להקל למעשה וכן מצאתי בישועות יעקב דהמיקל בספק נפשות לחשוב השבעה ימים מעלת לעת לא הפסיד.

The **Mishna Berura** also notes that during the three days, she should not fast even if she wishes to do so, though some suggest that she eat less than the *shiur*.

15. The *Bi'ur Halacha* quotes the *Sedei Chemed* that according to a number of *Acharonim*, a woman who has a miscarriage is also given the status of a *yoledet* with regard to fasting on Yom Kippur.

Ⓝ Mishna Berura 617:10

Should not fast at all – Even if she says that she doesn't need to eat, we still feed her and tell her to eat. However, in such cases we should feed her less than the [forbidden] measurement each time, but if she didn't say that she doesn't need, we feed her normally and there is no need to distinguish and give less than the measurement. But there are those that are stringent and here too require giving her less than the measurement.

29. משנה ברורה | שם

לא תתענה כלל – אפילו אמרה איני צריכה לאכול – מאכילין אותה ואומרים לה אכלי, אכן מכל מקום יש להאכילה אז פחות פחות מכשיעור, אבל בלא אמרה איני צריכה – מאכילין אותה כדרכה ואינה צריכה לחלק בפחות מכשיעור, ויש מחמירין שגם בזה צריך להאכילה פחות פחות מכשיעור.

The *Piskei Teshuvot* clarifies that the three-day period begins only after the birth, and notes that the accepted halacha is to follow the *Mishna Berura* that we calculate the three days based on a seventy-two-hour period in most cases.

Ⓢ Piskei Teshuvot, Orach Chaim 617, #3

One should know that although she is considered a *yoledet* as soon as these signs (such as bleeding, etc.) occur,¹⁶ nevertheless she only starts counting the three days and seven days after the birth.

The conclusion of the *Mishna Berura* is that one may be lenient to count these days (three and seven) as full days, i.e., seventy-two hours from the time of the birth [and may eat until that time, after which eating is forbidden]. On the notes on the *Mishna Berura* it is written that if the seventy-two hour period ends a few hours into Yom Kippur, she isn't allowed to eat during the beginning of the fast [as one would during the first three days] as in general we don't concern ourselves for hunger for such a short time. But there are those who argue that the basic law is that she is permitted to eat during those hours, and after that if she and her friends say that she doesn't need to eat, she is obligated to fast. For the Torah gave these measurements to the Sages and they decided that until this time she is permitted to eat and after this time she is prohibited to eat.

This is all in a regular birth. However, a birth through a Caesarian section defines her as a regular sick person and she must eat according to the determination of the doctors [if needed] even after seven days, and definitely after three days.

30. פסקי תשובות | או"ח תריז, ס"ק ג

ודע כי אף שנקראת יולדת לענין שלא תתענה משעה שמתחילים אצלה הסימנים הנזכר לעיל, מכל מקום השלשה ימים והשבעה ימים אין מונין אלא משעת גמר הלידה.

ומסקנת המשנה ברורה (סעיף קטן י"ג) שיש להקל לחשב ימים אלו – ג' וז' – ביממות, דהיינו 72 שעות מגמר הלידה, ובהגה"ה על גליון המשנ"ב שאם השלושה יממות נגמרים שעות אחדות לאחר כניסת יום הכפורים אין להתיר לה לאכול מדין תוך ג' ימים כיון שכרגיל אין חוששים לרעבון שעה מועטת, ויש חולקים וסוברים שמעיקר הדין מותר לה לאכול ולשתות בשעות אלו, ואילו אחרי שעות אלו אם היא וחברותיה אומרות שאינה צריכה – חייבת לצום, כי מסרה התורה שיעורים אלו לחכמים והם קבעו עד כאן היתר ומכאן איסור.

וכל זה ביולדת בלידה רגילה, אבל היולדת בניתוח קיסרי דינה כחולה דעלמא ויש לה לאכול כפי הוראת הרופאים גם לאחר ז' ימים וכל שכן לאחר ג' ימים.

16. This refers to the halacha discussed in the next paragraph that a woman in labor may already eat prior to the birth.

At what stage of labor is a woman considered to be *yoledet*? Although we saw that the counting of three days during which the mother may not fast begins only following the birth, the **Mishna Berura** states that a woman in active labor is already considered a *yoledet* based on principles delineated in *Hilchot Shabbat* concerning when she may violate Shabbat. Therefore, such a woman may still eat on Yom Kippur.

Ⓝ Mishna Berura 617:9

A Yoledet – Even if she hasn't yet given birth, but has started having contractions [she still has this status], as described in *siman* 330:3, where she is considered a *yoledet* with regard to desecrating Shabbat, and similarly regarding fasting.

31. משנה ברורה | תריז"ט

יולדת וכו' – ואפילו אם לא ילדה עדיין, רק אחזו לה חבלי לידה, וכפי המבואר לעיל בסימן ש"ל ס"ג, דנקראת יולדת לענין לחלל עליה את השבת, והוא הדין דנקראת גם יולדת לענין זה שלא תתענה.

The *Mishna Berura* here refers us to *Hilchot Shabbat*, where the *Shulchan Aruch* offers three possible ways of assessing when a woman in labor has the status of a *yoledet*, at which point one may desecrate Shabbat for her and allow her to eat on Yom Kippur.

Ⓝ Shulchan Aruch, Orach Chaim 330:3

A woman falls into the category of *yoledet* with regard to desecrating the Shabbat on her behalf when she sits on the birthing stool, when bleeding starts, or when her friends hold her up by her arms as she is too weak to walk. When one of these scenarios occur, we desecrate the Shabbat for her.¹⁷

32. שולחן ערוך | או"ח של:ג

נקראת יולדת לחלל עליה שבת משתשב על המשבר או משעה שהדם שותת ויורד או משעה שחברותיה נושאות אותה בזרועותיה שאין בה כח להלך, כיון שנראה א' מאלו – מחללין עליה את השבת.

The Status of One who is Seriously Ill on Yom Kippur

One who is ill to the extent that his life is in danger is also certainly permitted, and obligated, to eat on Yom Kippur. How do we determine whether he is dangerously ill? According to the **Gemara** in *Yoma*, we evaluate his condition using the assessment of experts, which usually means doctors. If no doctor is available, we trust the person himself to inform us if he feels he needs to eat.

Ⓝ Masechet Yoma 82a

With regard to a **sick person, we feed him based on the opinion of experts. If there are no experts present, we feed him according to his own opinion, until he says stop.**

33. מסכת יומא פב.

חולה – מאכילין אותו על פי בקיאים, ואם אין שם בקיאים – מאכילין אותו על פי עצמו, עד שיאמר די.

17. The *Mishna Berura* adds that there are also certain actions that may be performed (even though they desecrate the Shabbat) before a woman has reached these stages outlined by the *Shulchan Aruch*, such as calling a midwife to come assist her, as if she waits too long, it may be too late. Today, this might include calling a taxi/ambulance or driving to the hospital in preparation for the delivery.

The **Shulchan Aruch** rules in accordance with the Gemara that in most cases, we rely on the assessment of the doctors. Only if the doctors feel the patient need not eat but the patient insists that he does would we give him food anyway and ignore the doctors' recommendation.

⌘ Shulchan Aruch, Orach Chaim 618:1

Concerning a sick person who needs to eat, if there is an expert doctor present, even if he is a non-Jew, who says "if he doesn't eat it is possible that his sickness might worsen and he will be endangered," we feed him based on his [suggestion], and certainly [if he says] he [the patient] might die. Even if the sick person says "I don't need," we listen to the doctor. If the sick person says that he needs to eat, even if one hundred doctors say that he doesn't, we listen to the sick person.

34. שולחן ערוך | או"ח תריח:א

חולה שצריך לאכול, אם יש שם רופא בקי, אפילו הוא עובד כוכבים, שאומר: אם לא יאכלו אותו אפשר שיכבד עליו החולי ויסתכן, מאכילין אותו על פיו, ואין צריך לומר שמא ימות. אפילו אם החולה אומר: איני צריך, שומעים לרופא, ואם החולה אומר: צריך אני, אפילו מאה רופאים אומרים: אינו צריך, שומעים לחולה

The **Mishna Berura** explains that in such a case, we assume that the one who is ill knows himself well and if he requests to eat with the full knowledge that it is Yom Kippur, he is permitted to do so. But if he insists on fasting when he should eat, the halacha is that he is not allowed to, since he may not intentionally risk his life.

⌘ Mishna Berura 618:5

We listen to the sick person – That is when the sick person says that he feels inside of him a need to eat, and if he doesn't, the sickness might worsen, provided we first remind him that it is Yom Kippur, for he may have forgotten. But after we have reminded him that it is Yom Kippur, and he still asks to eat, we do not need to be too particular with him, for "the heart knows the sorrow of the body," and we do not assume that people are wicked. The *poskim* have written that if a sick person wants to be stringent when he shouldn't, about him the verse states, "your blood I will demand" (see *Bereishit* 9:5). The *poskim* further write that if one feeds him, no atonement is needed for this, for the Merciful One exempted one in extenuating circumstances, how much more where he only ate half a measurement, plus atonement is only mentioned regarding who did so unintentionally.

35. משנה ברורה | תריח:א

שומעים לחולה – היינו כשהחולה אומר שמרגיש בנפשו שצריך לאכול שאם לא יאכל שמא יכבד עליו החולי, ובלבד שמזכירין לו תחלה שהיום הוא יום כפור, דשמא שכח, אבל אחר שהודיעוהו שהיום יום כפור והוא שואל לאכול אינו צריך לדקדק עליו יותר דלב יודע מרת נפשו ואחזוקי אינשי ברשיעא לא מחזקינן. כתבו הפוסקים, אם החולה רוצה להחמיר אחר שצריך לכך, עליו נאמר אך את דמכם לנפשותיכם אדרוש. עוד כתבו, דבמקום שמאכילין אותו אין צריך כפרה על זה, דאונס רחמנא פטריה, כל שכן שלא היה רק כחצי שיעור, וכפרה לא נאמר רק על השוגג.

One who must consult with a doctor prior to or on Yom Kippur considering whether a certain condition is considered dangerous would likely prefer to consult with an orthodox Jewish doctor who can appreciate the complexity of the question. But this is not always possible. Is it permitted to rely on the recommendation of a non-Jewish or non-religious doctor? On one hand, they are considered professionals who can generally be trusted, but on the other hand perhaps they do not truly appreciate the severity of eating on Yom Kippur. The *Bi'ur Halacha* discusses this question and concludes that a rabbinic authority should decide in every case whether to rely on the specific doctor or not.

א

Biur Halacha 618:1

...Also regarding Jewish doctors, many of whom are suspected of transgressing Torah violations and desecrating the Shabbat and they also do not fast due to their rejection of Judaism, much further analysis is needed as to whether one may rely on them. In truth, the matter depends on the assessment of the rabbinic authority deciding the matter, as the *sefer Mateh Efrayim* wrote (618:2): “The matter depends on the assessment of the rabbinic authority, and their expertise and depth of knowledge of this issue.”¹⁸

36. ביאור הלכה | תריח:א

...גם לענין רופאי ישראל שהרבה מהם חשודים לעבור על דברי תורה ולחלל שבת וגם הם אינם מתענים מצד אפקירותא, צריך עיון רב אם יש לסמוך עליהם. ובאמת הדבר תלוי לפי ראות עיני המורה את הענין, וכמו שכתב בספר מטה אפרים סימן תרי"ח אות ב' וזהו לשונו, והדבר תלוי בראות עיני המורה ובבקיאותם בעיונם בענין הזה, עיין שם.

18. The approach often followed nowadays is that it is preferable to consult with a religious doctor if one is available, but when this is not possible or difficult for any reason, one may rely on the recommendation of any qualified doctor on the matter. However, one should make sure to explain to them that on one hand, one is forbidden to eat on Yom Kippur unless potential danger to life could result (even indirectly) from not eating, while on the other hand, that one must eat if there is any chance of danger involved. [Addition of the English editors]

EATING LESS THAN “SHIURIM”

We have seen that it is certainly permitted to eat on Yom Kippur in any case of illness that could lead to potential danger to life if one does not eat. Nevertheless, due to the severity of the act of eating, it is generally recommended to eat less than the amount for which one would be liable to *kareit* in a case where it is forbidden, thus reducing the level of the prohibition violated. This is evident from the ruling of the **Shulchan Aruch** below.

Ⓝ Shulchan Aruch, Orach Chaim 618:7–8

7. When one feeds a pregnant woman or a sick person, we start by feeding them small amounts in order that it doesn't add up to the measurement [for which one is liable to *kareit*]. Therefore, we feed him two-thirds of a regular sized egg, and we wait the amount of time it takes to eat four eggs. Regarding drinking, we check with the sick person himself how much liquid is held in his mouth when he moves it to one cheek.

8. We let him drink less than that measurement, and wait the time it takes to eat four eggs between each drink, or at least an interval of drinking a *revi'it* between each drink. If they assess that these measurements are not sufficient for him, or if the sick person tells us so, or if we have a doubt, we feed and give him to drink as much as he needs (immediately).

37. שולחן ערוך | או"ח תריח:ז-ח

ז. כשמאכילין את העוברות או את החולה, מאכילין אותם מעט מעט כדי שלא יצטרף לשיעור, הלכך מאכילין אותו כשני שלישי ביצה בינונית, וישהו כדי אכילת ד' ביצים. והשתיה, יבדקו בחולה עצמו כמה היא כדי שיסלקנו לצד אחד ויראה כמלא לוגמיו.

ח וישקוהו פחות מאותו שיעור, וישהו בין שתיה לשתיה כדי אכילת ארבע ביצים, ולפחות ישהו בין שתיה לשתיה כדי שיעור שתיית רביעית. ואם אמדוהו שאין השיעורים הללו מספיקים לו, או שהחולה אומר כן, או שנסתפקו בדבר, מאכילים ומשקים אותו כל צרכו (מיד).

According to the *Shulchan Aruch*, with regard to solid foods, if possible one should eat no more than two-thirds of an average egg at a time, to ensure that one does not eat more than the amount that causes liability for *kareit*, which was noted above (source 19) is slightly less than a *k'beitza*. In addition, one should ideally wait the amount of time it takes to eat four eggs, as this is the standard measurement of *k'dei achilat peras*,¹⁹ during which any food eaten is combined together to cause liability. The *Mishna Berura* notes that when necessary, one may reduce this amount of time to that needed to eat three eggs.

19. This concept is already mentioned in the Gemara in various contexts, and refers to the amount of time necessary in order to eat a half-loaf of bread. However, *Rishonim* dispute the volume of the half-loaf referred to here, and as mentioned, more recent *Acharonim* also dispute the amount of time of *k'dei achilat peras*. [Addition of the English editors]

Ⓝ Mishna Berura 618:20

The time it takes to eat four eggs – If it is difficult for him to wait this amount of time, he should at least wait the time needed to eat three eggs, as according to some *poskim* this is also considered a break, and they don't join together.

38. משנה ברורה | תריח:כ

כדי אכילת ארבעה ביצים – ואם קשה לו להמתין שיעור זה – ימתין על כל פנים כדי שיעור אכילת ג' ביצים, דלכמה פוסקים בשיעור זה הוא גם כן הפסק ולא מצטרפי להדדי.

When it comes to drinking, the *Shulchan Aruch* stated that the maximum amount one may drink when necessary is less than a *melo lugmav*, a cheekful, or the total amount of liquid that fits in one cheek. In addition, the *Shulchan Aruch* notes that the recommended interval between drinks is the same as solids, a *k'dei achilat peras* (four eggs). But for liquids, some hold that the measurement is determined based on a different system, and even the amount of time it takes to drink a *revi'it* is sufficient.

The *Mishna Berura* clarifies a number of points concerning this halacha: A) The measurement of a *melo lugmav* is determine separately for each individual based on how big their cheek is; B) One should measure this amount before Yom Kippur if possible; C) One need not wait in between eating and drinking.

Ⓝ Mishna Berura 618:21

We check with the sick person himself – In other words, regarding drinking a cheekful, one measures by the sick person himself, and not by the general populace, as explained in *siman* 612. The *Acharonim* write that the sick person should measure this on *Erev Yom Kippur*, i.e., he should place the liquid into his mouth and spit it out into a cup [and measure the amount of a cheekful]. Similarly, one must look at a watch to measure on the eve of Yom Kippur how many minutes it takes for him to eat four eggs, and this is the time that he should wait between eating sessions and between drinking sessions. And see the *Chatam Sofer* (6:16) who states that the interval between eating sessions should be nine minutes, which is the time of *kdei achilat pras* [eating half a loaf of bread]. But know that between eating and drinking, one need not wait at all, for eating and drinking do not join together.

39. משנה ברורה | תריח:כא

יבדקו בחולה עצמו – רצה לומר דלענין שתיית מלא לוגמיו צריך לשער בדידיה ולא בדעלמא, כדלעיל בסימן תרי"ב. וכתבו האחרונים, יש להחולה לבדוק זה מערב יום כפור, דהיינו שיכניס לתוך פיו משקין ויפליטם לתוך כלי וכן ישער מערב יום הכפורים ויביט על המורה שעות (זייגער) כמה מינוטין הוא שוהא בשיעור אכילת ד' ביצים, וכשיעור הזה ישהא ביום הכפורים בין אכילה לאכילה וכן בין שתיה לשתייה, וכדלקמיה [ועיין בתשובת חתם סופר ח"ו ס"ז שכתב שההפסק בין אכילה לאכילה יהיה כשיעור ט' מינוטין, שזה שיעור כדי אכילת פרס]. ודע, שבין אכילה לשתייה אינו צריך לשהות כלל, וכדלעיל בסימן תרי"ב, דאכילה ושתייה אין מצטרפין.

In order to be able to apply these halachot properly, we need to know how to convert these measurements into modern measurements that we are familiar with. How many grams or ounces is two thirds of an egg or a cheekful, and how many minutes is *k'dei achilat peras* or a *revi'it*?

In the following paragraphs, the **Piskei Teshuvot** summarizes the practical applications of these measurements. He first notes that a volume of 30 cc is generally accepted as the measurement equivalent to two-thirds of an average egg (an egg is usually measured at approximately 45–50 cc), and that we generally follow the volume for these halachic measurements rather than weight.



Piskei Teshuvot, Orach Chaim 618, #8

And according to contemporary measurements, this is 30 cc [approximately 1 ounce]. And there are some foods whose weight is light, and 30 grams is a lot more than 30 cc (such as tort, bread, and challa). Therefore, one should be careful to measure based on volume (30 cc) and not based on weight.^{20,21}

40. פסקי תשובות | או"ח תריח, ס"ק ח

ולפי מדות זמננו שיעורו 30 סמ"ק, ויש מאכלים שמשקלם קל ובשלושים גרם מהם יש הרבה יותר משלושים סמ"ק (כגון עוגת טורט, לחם וחלה), ולכן יש לזהר מאד ולמדוד לפי נפח (30 סמ"ק) ולא לפי משקל.

The **Piskei Teshuvot** also explains how one can measure the size of the food that is permitted to eat before Yom Kippur begins, when one is not under pressure.



Piskei Teshuvot, ibid.

A person should not rely on his estimation [on Yom Kippur] concerning the amount of food [he is permitted to eat]. Rather, he should measure before Yom Kippur in a cup of 30 cc water (since water has the same volume and weight) and mark the height on a cup. He then spills out the water, and the food that he wishes to eat on Yom Kippur he should fill in the cup up to the line, and this is the amount that he is permitted to eat at one time.

41. פסקי תשובות | שם

ואל יסמוך אדם על אומד דעתו בשיעור כמות האוכל, אלא ימדוד מערב יום הכפורים בכוס 30 גרם מים (כי מים משקלו ונפחו אחד הם) ויסמן גובה המים בכוס, וישפוך המים, והמאכל שרוצה לאכול ביום הכפורים ימלא בכוס זה עד הסימון, וזה השיעור שמותר לאכול ביום הכפורים באכילה אחת.

With regard to liquids, the **Piskei Teshuvot** states that although the amount depends on the size of the person, an average person can hold up to 40 g of liquid in a cheekful, while one who is small in stature can hold as little as 32 g. Therefore, one should test the measurement before Yom Kippur, similar to what was suggested for solids.

20. This issue is discussed at length in the *Shulchan Aruch* (O.C. 486:1), the *Mishna Berura* there, and the *Piskei Teshuvot* there. [Addition of the English editors]

21. If this amount does not suffice, some authorities allow eating up to 32 cc, 38 cc, or even up to 48 cc (Rav Moshe Harari, *Mikra'ei Kodosh-Yom HaKippurim*, p.124, based on Rav Chaim Naeh. [Addition of the English editors])



Piskei Teshuvot, Orach Chaim 618, #9

The measurement based on a person of average build is 40 g of a liquid. And concerning one who has a small body, the amount is 32 g of liquid. And the bottom line is that every person can measure this himself by filling up one cheek with water and then spitting it out into a utensil with markings, and slightly less than the amount spit out is the measure of a cheekful.²²

Concerning the interval of time that one must wait in between eating or drinking, we saw that the *Mishna Berura* quoted the *Chatam Sofer* who measured the time of *k'dei achilat peras* as being nine minutes. Regarding this issue, the *Piskei Teshuvot* states that there are a number of more lenient opinions that can be followed in cases of need.



Piskei Teshuvot, Orach Chaim 618, #10

...But we find many other opinions that shorten the amount of time included in the measure of a *k'dei achilat peras*.²³ Therefore, if the doctor says that waiting for nine minutes between eating [i.e., between the end of the previous consumption and the beginning of the next consumption] will harm the sick person, he should ask him if waiting eight minutes will not cause any harm. If the doctor says that this too could cause harm, he should reduce the time by another minute, and so on, to the point of an interval of only two minutes between the end of one period of eating and the beginning of the next.²⁴

42. פסקי תשובות | או"ח תריח, ס"ק ט

ושיעורו לפי מדת אדם בינוני 40 גרם משקה, ואדם שמדת גופו קטנה שיעורו 32 גרם משקה, ולמעשה יכול כל אדם לשער זאת בעצמו על ידי שממלא אחת מלחיו במים ויפלטם לתוך כלי עם סימוני מדה, וקצת פחות מהכמות הנפלטת הוא שיעור כמלו לוגמיו.

43. פסקי תשובות | או"ח תריח, ס"ק י

...אמנם מצינו עוד הרבה שיטות המקצרים בערך זמן שיעור כדי אכילת פרס, ולכן כשהרופא אומר שיזיק לחולה 9 דקות המתנה בין אכילת השיעורים ישאלוהו אם בהפסקה של 8 דקות אין חשש היזק, ואם גם בכך אומר הרופא שקיים חשש, יפחיתו עוד דקה וכן הלאה, עד 2 דקות המתנה בין סוף אכילה לתחילת אכילה.

22. Some contemporary rabbis recommend using a small shot-glass (which measures approximately 1 ounce), as the amount that it holds is generally slightly less than the smallest possible measurement of a cheekful. [Addition of the English editors]
23. For a summary of some of those opinions, see footnote 53 in the *Piskei Teshuvot* there.
24. With regard to liquids, the *Piskei Teshuvot* notes that there is even more room for leniency if necessary, as the *Shulchan Aruch* ruled that when needed, one may wait only the amount of time it takes to drink a *revi'it*, which is quite short (a *revi'it* at maximum equals approximately 150 ml). [Addition of the English editors]

THE LAWS OF EATING AND DRINKING FOR CHILDREN ON YOM KIPPUR

Although children are certainly not obligated to fast for the entire day on Yom Kippur, as that would be dangerous, Chazal did enact a certain system for training older children to partially fast so that they would eventually be able to fast normally when they come of age. The **Mishna** and **Gemara** in **Yoma** describe some of the details of these rules as well as a dispute among *amora'im* as to what age a child should begin fasting.

ח Masechet Yoma 82a

MISHNA: Regarding children, one does not afflict them on Yom Kippur; however, one trains them one year before or two years before, so that they will be accustomed to fulfill mitzvot.

GEMARA: Since it stated two years before, is it necessary to say that one trains them one year before? Rav Chisda said: This is **not difficult**. This refers to a feeble child; that refers to a healthy child.

Rav Huna said: One trains a child of eight years and nine years to fast for several hours; at ten years and eleven years, they complete the fast by rabbinic law; at twelve years, with respect to girls, they complete the fast by Torah law. **And Rav Nachman said:** At nine and ten one trains them to fast for several hours; at eleven and twelve years they complete the fast by rabbinic law; at thirteen years they complete the fast by Torah law. This applies to boys. **And Rabbi Yochanan said:** There is no obligation with regard to children completing the fast by rabbinic law. Rather, at ten and eleven years, one trains them to fast for several hours; and at twelve years girls are obligated to complete their fast by Torah law.

44. מסכת יומא פב.

משנה: התינוקות אין מענין אותן ביום הכפורים, אבל מחנכין אותן לפני שנה ולפני שנתים, בשביל שיהיו רגילין במצות.

גמרא: השתא בפני שנים מחנכין להו, בפני שנה מבעיא? אמר רב חסדא: לא קשיא; הא בחולה, הא בבריא.

אמר רב הונא: בן שמונה ובן תשע – מחנכין אותו לשעות, בן עשר ובן אחת עשרה – משלימין מדרבנן, בן שתים עשרה – משלימין מדאורייתא בתינוקות. ורב נחמן אמר: בן תשע בן עשר – מחנכין אותן לשעות, בן אחת עשרה בן שתים עשרה – משלימין מדרבנן, בן שלש עשרה – משלימין מדאורייתא בתינוק. ורבי יוחנן אמר: השלמה דרבנן ליכא, בן עשר בן אחת עשרה – מחנכין אותו לשעות, בן שתים עשרה – משלימין מדאורייתא.

According to Rav Huna, a child at age eight or nine should begin to fast part of the day (and at age ten or eleven should fast the whole day *miderabanan*, on a rabbinic level), while according to Rav Nachman, the correct age is nine or ten (and fast a whole day at age eleven or twelve), while Rabbi Yochanan holds the correct age to begin is ten or eleven (and there is no age prior to *bar/bat mitzvah* at which a child must fast *miderabanan*).

The **Shulchan Aruch** codifies the halacha in accordance with the opinion of Rav Nachman, that a child who is nine or ten should fast for a few hours a day, while a child who is eleven (and twelve for a boy) should fast for the whole day *miderabanan*. The *Shulchan Aruch* also elaborates about some of the details of the issue.

נ Shulchan Aruch, Orach Chaim 616:2

Concerning a [healthy] minor who is nine full years or ten full years old, we train him to fast a certain amount of hours. How so? If he usually eats in the second hour of the day, we feed him in the third hour; if he usually eats in the third hour, we feed him in the fourth hour. We increase the hours of affliction according to the strength of the child.

Rema: And the same applies for a healthy girl.

A child who is eleven years old, whether boy or girl, must fast and complete the fast by rabbinic law, in order to train them [to fulfill] mitzvot.

Rema: There are those who hold that there is no obligation to complete the fast at all on a rabbinic level, and one may rely on them concerning a child who is undernourished and not strong enough to fast...

45. שולחן ערוך | או"ח תרטזב

קטן (הבריאה) בן ט' שנים שלימות וכן י' שנים שלימות, מחנכין אותו לשעות. כיצד, היה רגיל לאכול בב' שעות ביום – מאכילין אותו בשלשה, היה רגיל לאכול בג' – מאכילין אותו ברביעית, לפי כח הבן מוסיפין לענות אותו בשעות (והוא הדין לקטנה הבריאה).

בן י"א, בין זכר בין נקבה, מתעניין ומשלימין מדברי סופרים, כדי לחנכן במצות.

הגה: ויש אומרים שאינן צריכין להשלים מדרבנן כלל, ויש לסמוך עליהו בנער שהוא כחוש ואינו חזק להתענות...

There are many children who are less than age nine who wish to fast for part of Yom Kippur. Is it permitted to allow them to fast if they so desire? The **Shulchan Aruch** rules that one should not encourage them to fast, and the **Rema** adds that we should actually object to them fasting.

נ Ibid.

We do not afflict a minor who is younger than nine years old at all on Yom Kippur [*Mishna Berura*: Meaning even for a few hours], so that he should not be placed in danger.

Rema: Even if he wants to act stringently upon himself, we object.

46. שם

קטן שהוא פחות מבן תשע, אין מעניין אותו [משנה ברורה: היינו אפילו לחינוך שעות] ביום כפור, כדי שלא יבא לידי סכנה.

הגה: אפילו אם רוצה להחמיר על עצמו – מוחין בידו.

The **Piskei Teshuvot** notes though that the prevalent custom actually differs from the ruling of the Rema, and nowadays it is permitted to allow younger children to fast part of the day.



Piskei Teshuvot, Orach Chaim
616, #2

The prevalent custom is to train children even below the age of nine to fast for a few hours. And although the Rema writes that if the child wishes to act stringently we object, nevertheless the custom overrides this. However, this is specifically where the child wants to fast, but if the child wants to eat or drink, we should give him even on the night of Yom Kippur, and those who don't are mistaken...²⁵

47. פסקי תשובות | או"ח
תרטז, ס"ק ב

ומנהג העולם לחנך הילדים אף כשהם למטה מגיל תשע להתענות תענית שעות, ואף שהרמ"א כתב שאפילו אם רוצה הילד להחמיר מוחים בידו, מכל מקום המנהג מכריע. אולם זה דווקא כשרצון הילד להתענות, אבל אם רוצה ותאב לאכול או לשתות – צריכים ליתן לו אפילו בליל יום הכפורים, והמונעים מהם טעות הוא בידם...

FURTHER IYUN

For an analysis of how and when it is permitted to assist children in violating the restrictions of Yom Kippur and other prohibited actions in general, see page 383.

25. In the continuation of the piece, the *Piskei Teshuvot* states that even a child of nine or ten may be given a drink or food at any point on Yom Kippur if they are hungry and specifically ask for it, though he states that an eleven year old ideally should fast until midday.

SUMMARY OF SELECTED LAWS OF YOM KIPPUR

The Mitzvah to Eat on Erev Yom Kippur

1. **Yoma 81b/Shulchan Aruch** – There is a mitzvah to eat on *Erev Yom Kippur*. Multiple reasons are given for this mitzvah.
 - a. **Rashi** – The purpose is in order to prepare for the fast.
 - b. **Rabbeinu Yona** – This replaces the Yom Tov meal that we should have had on Yom Kippur.
2. **Rema** – It is also forbidden to fast on *Erev Yom Kippur*.
3. **Rabbi Akiva Eiger** – It is uncertain whether women are included in the mitzvah to eat on Erev Yom Kippur.
4. **Ketav Sofer** – The conclusion is that women are included.

Asking Forgiveness from Others

1. **Mishna Yoma 8:9** – Yom Kippur does not atone for sins between man and man until one appeases others whom he has hurt.
2. **Bava Kamma 92a/Rambam (Teshuva 1:1)** – If one injures another (Rambam: Or causes him financial damage), he must make a verbal confession in addition to the financial restitution in order to receive atonement.
3. **Kesef Mishneh** – The Rambam's expression "verbal confession" means that one must ask for atonement from the injured party even if one only injured his property.
4. **Rambam (Teshuva 2:9)** – One who injures another, curses him, or steals from him must ask forgiveness before he receives atonement from Hashem.
5. **Rambam (Chovel Umazik 5:9)** – One who damages another's property receives atonement as soon as he pays the compensation, which seems to contradict the other passages in the Rambam.
6. **Lechem Mishneh** – Asking forgiveness is necessary only if one steals from another, but for other financial damages, compensation is sufficient.
7. **Shulchan Aruch** – One should ask forgiveness from the offended party three times if they do not grant it after the first attempt. If the offended party is one's

teacher, one needs to ask forgiveness numerous times and it is not limited to the usual three times.

8. **Mishna Berura** – This obligation to ask forgiveness applies all year round but there is a special obligation to do so on *Erev Yom Kippur*.
9. **Bach** – One needs to specify the wrongdoing that he did.

The Laws of Fasting on Yom Kippur

1. The Torah states that *inui* is forbidden; Chazal explain that this includes the five restrictions of Yom Kippur, which include eating and drinking (and bathing, anointing, weather leather shoes, and marital relations).
2. **Sefer HaChinuch** – The reason for the restrictions is to ensure that we conduct ourselves in a manner appropriate for one who is being judged by his Master.
3. **Shulchan Aruch** – One is liable for *kareit* for eating food that is the size of a *kotevet* (large date) on Yom Kippur, but a Torah prohibition applies to consuming any amount.

Pregnant and Nursing Women

1. **Pesachim 54b/Shulchan Aruch** – They must fast as usual.
2. **Yoma 82a/Shulchan Aruch** – If a pregnant woman says she needs to eat, we permit her to do so.
3. **Piskei Teshuvot** – A pregnant woman should generally fast unless there is a specific complication, in which she should consult with a doctor (and rabbi) to determine how much she needs to eat and whether she should eat less than the “*shiurim*.”
4. **Bi'ur Halacha** – If a nursing woman has a sick child who doesn't want to nurse from other people, she doesn't need to fast.
5. **Chazon Ish** – For any uncertainty concerning nursing, one may be lenient.
6. **Piskei Teshuvot** – A mother who can give the baby formula should do so on Yom Kippur so that she does not need to eat.

Yoledet (Woman who Gave Birth)

1. **Shulchan Aruch** – A woman who gave birth within three days doesn't fast at all. These days are not seventy-two hours but calendar days.

2. **Mishna Berura** – One may be lenient to count them according to seventy-two hours (and eat on Yom Kippur until the seventy-two hours pass).
3. **Piskei Teshuvot** – The counting of the seventy-two hours for a *yoledet* begin from the actual time of birth. Some are stringent if the seventy-two hours end shortly after the beginning of the fast not to allow eating even at the start of Yom Kippur, but many are lenient.
4. **Mishna Berura** – Even if she says that she does not need to eat, she should eat less than the measurement.
5. **Shulchan Aruch** – A *yoledet* is defined as one who either: A) Cannot walk by herself B) Is on the birthing table, or C) Is already bleeding from the birth.

The Status of One who is Seriously Ill on Yom Kippur

1. **Shulchan Aruch**
 - a. If the doctor says he must eat, even if the patient disagrees we rule like the doctor.
 - b. If the patient says he needs to eat, even if the doctor disagrees we rule like the patient.
2. **Mishna Berura** – A sick person may not be stringent and fast when he is supposed to eat.
3. **Biur Halacha** – One should preferably consult with religious doctors if possible as it is uncertain whether non-religious doctors are trustworthy in this regard.

Eating Less than Shiurim

1. **Shulchan Aruch** – If possible, one who eats on Yom Kippur should eat small amounts, a little at a time. For a solid, this is less than $\frac{2}{3}$ of an egg, and for liquids, it is the amount of liquid one can hold in one cheek. If this is not sufficient, they may eat however much is necessary.
2. **Mishna Berura** – one should ideally wait an interval of nine minutes in between sessions of eating, but if needed one may wait less.
3. **Piskei Teshuvot**
 - a. **Solid Food** – One should eat no more than 30 cc. based on volume.
 - b. One should measure this amount before Yom Kippur by testing it out with a measuring cup.

- c. **Liquids** – A cheekful is 40 grams for an average person and 32 grams for one who is smaller.
- d. **Intervals** – Start with nine minutes; if that is not sufficient, reduce it to eight, then seven, etc.

The Laws of Eating and Drinking for Children on Yom Kippur

1. **Yoma 82a** – Children close to the age of Bat or Bar mitzvah must fast, but it is a *machloket* at precisely what age.
2. **Shulchan Aruch** – We start training children who are nine or ten years old and at eleven one must complete the fast on a rabbinic level.
3. **Rema** – The same is true for a girl.
4. **Rema** – We object to children less than nine who want to act strictly and partially fast.
5. **Piskei Teshuvot** – Nevertheless, the custom is to let minors fast for a few hours.

FURTHER IYUN

Enabling Children to Violate the Prohibitions of Yom Kippur

Rav Jeremy Koolyk (Participant, the Manhigut Toranit program)

A fundamental premise in Halacha is that the laws of the Torah are only binding upon adults but are not binding upon minors.¹ From the halachic perspective of a minor, there are absolutely no obligations to fulfill or restrictions from which to refrain.² Nevertheless, the halachic perspective of an adult vis-a-vis a minor is very different. In this article, we will explore an adult's obligations both regarding directly causing a minor to violate the Torah and allowing the minor to violate the Torah under the adult's supervision (without directly causing the violation). We will give specific attention to the case of an adult causing or allowing a minor to violate the restrictions of Yom Kippur.

Katan Ocheil Neveilot – Allowing and Directly Causing a Minor to Violate the Torah

The **Talmud (Yevamot 113b–114a)** relates the following story:

רב יצחק בר ביסנא אירכסו ליה מפתחי דבי מדרשא ברשות הרבים בשבתא, אתא לקמיה דרבי פדת, אמר ליה: זיל דבר טלי וטליא וליטיילו



התם, דאי משכחי להו מיייתי להו.

Rav Yitzchak son of Bisna lost the keys of the *beit medrash* in the public domain on Shabbat. He came before Rabbi Pedat, who said to him: Take a boy and a girl and let them play there [in the public domain], for if they find them [i.e. the keys] they will bring them [to you].

Although it would be a violation of Torah law for an adult to carry the keys from the public domain to the private domain (*hotza'a*, a forbidden *melacha* of Shabbat), Rabbi Pedat advised that children be brought to the area in which the keys were lost in the hopes that they would find the keys and bring them to the private domain. The Talmud infers from this ruling that Rabbi Pedat is of the opinion that “*katan ocheil neveilot ein beit din metzuvin l'haf-risho*,” “if a minor is eating *neveilot* (meat that was not properly slaughtered, i.e. non-kosher meat, thus violating a Torah prohibition), the *beit din*³ is not obligated to separate him from it.” Thus, it would be permitted for an adult to witness the children desecrating Shabbat and not intervene, as he has no obligation to

1. See Avot 5:21 and Bartenura there. A minor is defined, simply, as a male younger than thirteen or a female younger than twelve.

2. The above is true regarding the obligation to perform the mitzvah itself. Regarding the mitzvah of *chinuch*, educating a minor in the performance of mitzvot, see Rashi and Tosafot, Berachot 48a, on the line “*ad sheyochal kezayit dagan*” where there appears to be a dispute about whether that obligation is on the father or the child himself.

3. “*Beit din*” in this context is not meant to be taken literally, but instead refers to any adult. The Rambam, *Hilchot Ma'achalot Assurot* 17:28 and *Hilchot Aveil* 3:12, writes that although other adults are not obligated to separate the minor from a prohibition, the minor's father is nevertheless obligated to do so in accordance with the rabbinic requirement of *chinuch*. According to Tosafot (*Shabbat* 121a s.v. “*shema mina*”), however, the whole discussion is only regarding a child who has not reached the age of *chinuch*. Regarding a child who has reached that age, all adults would be required to stop him from violating a prohibition, and not just the father, as the Rambam holds.

prevent the children from violating Torah law. There is a dissenting view in the Talmud, which holds “*katan ocheil neveilot beit din metzuvin l'hafrisho*,” “if a minor is eating *neveilot*, *beit din* is required to separate him from it.”

The dispute, according to the Talmud, revolves around how to understand the verse that prohibits eating insects. The Torah (Vayikra 11:42) commands, “*lo tochelum*,” “you shall not eat them [insects],” and Chazal expound that the *pasuk* can also be understood to mean “*lo ta'achilum*,” “you shall not feed them [to minors].” The stringent opinion that holds “*beit din metzuvin l'hafrisho*” interprets the injunction of “*lo ta'achilum*” not only as a prohibition against actively feeding insects to minors, but also as an obligation to separate minors from eating insects even if they are eating them of their own accord. The lenient opinion, which holds “*ein beit din metzuvin l'hafrisho*,” understands that the injunction of “*lo ta'achilum*” is only a prohibition against engaging in “*sefiyah b'yadayim*,” directly feeding a minor, but if a minor happens upon an insect, there is no requirement to prevent him from eating it.⁴ The Talmud makes it clear that even the opinion that requires adults to separate minors from Torah prohibitions concedes that there is no requirement to separate a minor from a rabbinic prohibition. Based on the precedent of Rabbi Pedat and the surrounding discussion of the Talmud, the *Rishonim*⁵ rule in accordance with the lenient opinion, “*katan ocheil neveilot ein beit din metzuvin l'hafrisho*.”

Enabling a Minor to Violate the Yom Kippur Prohibitions

The day of Yom Kippur is characterized by five severe restrictions: Eating/drinking, bathing, applying oil to the body, wearing leather shoes, and marital relations. Like the rest of the mitzvot of the Torah, the laws of Yom Kippur are only obligatory for *gedolim*, adults, but are not obligatory for *ketanim*, minors.

The **Talmud (Yoma 78b)** states:

תנו רבנן: תינוקות מותרין בכלן, חוץ מנעי-
לת הסנדל. מאי שנא נעילת הסנדל – דאמרי:
אינשי עבדו ליה. הנך נמי, אמרי: אינשי עבדו
ליה. – רחיצה וסיכה – אימר מאתמול עבדי
ליה! ... והא מותרין לכתחלה קתני! אלא: הנך
דלאו רביתיהו – גזרו בהו רבנן, הנך דרביתיהו
הוא – לא גזרו בהו רבנן.

The Rabbis taught in a *baraita*: Minors are permitted in all [of the Yom Kippur restrictions] except for wearing leather shoes. Why is wearing leather shoes different? Because people will suspect that adults dressed them in the leather shoes. The other [restrictions], too, people will suspect that adults administered them [i.e. bathed or applied oil] to the minors!? Washing and applying oil [will not raise this suspicion] since people will reason that the minors were bathed or anointed from the day before Yom Kippur... But doesn't the *baraita* state that minors are totally permitted in these restrictions [i.e. it is even permitted for an adult to bathe or anoint the minor]? Rather, this [i.e. the restriction against wearing leather shoes], which is not essential to the growth of a child, the Rabbis decreed should be forbidden for a minor; these [i.e. bathing and anointing], which are

4. The Talmud (*Yevamot* 114a) identifies two other places in the Torah where the same dispute exists: The prohibition against eating blood and the prohibition against *kohanim* coming in contact with a dead body. See further in the Talmud (114a–114b) as to the necessity of three separate verses to teach the same rule. For the sake of simplicity, in this article we will refer to the prohibition of causing minors to violate prohibitions as “*lo ta'achilum*,” despite the other relevant biblical sources.

5. See Rambam, *Hilchot Shabbat* 12:7, *Hilchot Ma'achalot Assurot* 17:27, and *Hilchot Aveil* 3:12; Smag, *Lavin* 65 and 148; Ramban, *Vayikra* 21:1; *Shulchan Aruch*, O.C. 343:1.

essential to the growth of a child, the Rabbis did not decree a prohibition.

The Talmud initially assumed that minors are only permitted to engage in the Yom Kippur restrictions by themselves, but adults are not permitted to directly administer them to the minors. The Talmud rejects this initial assumption and comes to the conclusion that not only is it permitted for minors to engage in these activities themselves, but adults may even administer them to the minors. Thus, it is permitted for an adult to feed, bathe, or apply oil to a minor on Yom Kippur.

The conclusion of the Talmud in *Yoma* seems to run counter to the Talmud in *Yevamot*. In *Yevamot*, the Talmud concludes that even the lenient opinion, which maintains that an adult is permitted to allow a minor to engage in a Torah prohibition and has no obligation to separate the minor from that prohibition, agrees that one may not directly cause the minor to violate the prohibition (*sefiyah b'yadayim*). How, then, can the Talmud in *Yoma* conclude that it is permitted for an adult to feed, bathe, or apply oil to a child on Yom Kippur? Similarly, how can the Talmud imply that only a rabbinic decree stands in the way of an adult dressing a minor in leather shoes on Yom Kippur? Shouldn't an adult who facilitates any of these activities for a minor be in direct violation of *lo ta'achilum*?⁶

Enabling a Minor to Violate a Rabbinic Prohibition

One possible answer to these difficulties is that it is permitted for an adult to engage in *sefiya*

b'yadayim on Yom Kippur because the Yom Kippur restrictions are only rabbinic in origin. Of course, this answer relies on two major assumptions, both of which require analysis. First, it assumes that it is permissible for an adult to administer a rabbinic prohibition to a minor. Second, it assumes that the Yom Kippur restrictions are only prohibited by rabbinic law. Let us explore, in turn, each of these assumptions.

The **Talmud (*Yevamot 114a*)** states that even according to the stringent opinion that an adult must separate a minor from violating the Torah, that is true only regarding a biblical law, but an adult is not obligated to prevent a minor from violating a rabbinic prohibition. The **Rashba (*Yevamot 114a*)** posits that this same hierarchy, namely that rabbinic prohibitions are one level more lenient than biblical prohibitions, is also maintained according to the opinion accepted as the halacha, that adults are not obligated to prevent minors from violating even biblical prohibitions. Only directly causing a minor to violate a Torah prohibition is forbidden, but it is permissible to directly cause a minor to violate a rabbinic prohibition. Based on this logic, the Rashba rules⁷ that one may cause a minor to violate a rabbinic prohibition if doing so is for the benefit of the minor. The **Rambam (*Ma'achalot Assurot 17:27*)**, however, unequivocally disagrees:⁸

אבל להאכילו בידים אסור ואפילו דברים
שאיסורן מדברי סופרים...

But [for an adult] to directly feed a minor
[a forbidden food] is forbidden, and even

6. An analysis of Rashi's explanation of the Talmud in *Yoma* serves to sharpen the question. When the Talmud initially assumed that adults are not permitted to directly administer the Yom Kippur restrictions to minors, Rashi (s.v. "inshai") explains that this assumption is based on the prohibition of *lo ta'achilum* as recorded in the Talmud in *Yevamot*. Thus, when the Talmud reverses its initial assumption in its conclusion, it is unclear how it addressed the prohibition of *lo ta'achilum*, of which it was acutely aware initially, according to Rashi.

7. See, however, Shu"t HaRashba 1:92.

8. Rav Ovadiah Yosef (*Yabia Omer* YD 1:4:4) suggests that the dispute between the Rambam and the Rashba about whether or not an adult is permitted to administer a Rabbinic prohibition to a minor depends on the nature of Rabbinic prohibitions in general. All agree that Torah prohibitions are *Issurei Cheftza*, intrinsically, objectively forbidden. The Rambam believes that Rabbinic prohibitions are also *Issurei*

if [the food is only] forbidden on a rabbinic level...

Let us now turn to the second assumption, that the Yom Kippur restrictions are only forbidden by rabbinic decree (except for the consumption of food and drink). The Torah (*Vayikra* 16:29) commands that on Yom Kippur, “*te'anu et nafshoteichem*,” “you shall afflict your souls.” Beyond this general injunction, the Torah does not explicitly proscribe the five restrictions of the day. The **Talmud (Yoma Chapter 8)** extrapolates the five restrictions from various verses and establishes that the severe punishment of *kareit*, spiritual excision, which results from violating the commandment proscribing affliction (*Vayikra* 23:29), applies only to violating the prohibition against eating and drinking, but not to the other restrictions. Since the Torah's punishment of *kareit* applies to the restriction against eating and drinking, it is clear that at least this restriction is biblically prohibited. However, the *Rishonim* debate the status of the other four restrictions. Indeed, there are indications in the Talmud that the other four restrictions do not share the same origin as the restriction against eating and drinking. Without any biblical sources, the Talmud records several leniencies with regard to the other four restrictions: A king and a bride are permitted to wash their faces,⁹ a postpartum woman is

permitted to wear leather shoes,¹⁰ a person suffering from a scalp ailment is permitted to apply oil to the scalp,¹¹ and a person may wash an area of the body that has become soiled.¹²

On this basis, **Rabbeinu Tam**¹³ holds that the other four restrictions are only prohibited by rabbinic law. Despite the fact that they are derived from verses, those verses are mere *asmachtot*, scriptural hints that the Sages used to support their enactments. This explains why so many leniencies exist with regard to these four restrictions: The Sages who enacted these restrictions in the first place built in several leniencies in cases of extenuating circumstances. Were these restrictions to be of biblical origin, it would be impossible to make lenient exceptions even in extenuating circumstances (short of life-threatening cases) without a scriptural basis for them.

The **Rambam**,¹⁴ on the other hand, maintains that all five of the Yom Kippur restrictions are of biblical origin. The **Ran**¹⁵ explains the position of the Rambam: The five restrictions are all of biblical origin, but with regard to four of the restrictions, “*mesaran hakatuv lachachamim*,” the Torah empowered the Sages to define the exact parameters of those four restrictions. Hence, despite the fact that all of the restrictions are Biblical, the Sages were able to create leniencies in certain cases because the “reins,” so to speak, had been given to them to

Cheftza, and the prohibition against administering forbidden substances to minors should therefore apply to them as well. The Rashba, however, contends that Rabbinic prohibitions are only *Issurei Gavra*, prohibitions on the person, not *Issurei Cheftza*, prohibitions on the object. In other words, the Rabbis do not have the power to turn an object that is intrinsically permitted according to Torah law into something that is intrinsically forbidden. They can only forbid a person from engaging with that object. Thus, it follows that there can be no prohibition for an adult to administer a Rabbinic prohibition to a minor because Rabbinic prohibitions are intrinsically permitted and are only forbidden regarding the person. Since the person in question is a minor, who is not obligated in Mitzvot, it would not make sense to prohibit the adult from administering the Rabbinic prohibition to him.

9. *Yoma* 73b

10. *Yoma* 73b

11. *Yoma* 77b

12. *Yoma* 77b

13. *Tosafot, Yoma* 77a s.v. “*ditnan*”

14. *Hilchot Shevitat Asor* 1:5

15. 1a in Rif's pagination, “*Yom Hakippurim*”

define the restrictions as they saw fit.

Although the Ran here elucidates the opinion of the Rambam, he ultimately agrees with Rabbeinu Tam in order to explain how adults are able to feed, bathe, and apply oil to minors. The Ran claims that one can understand this only if one assumes, like Rabbeinu Tam, that the four restrictions are of rabbinic origin. As per the position of the Rashba above, the Ran holds that an adult is permitted to directly cause a minor to violate a rabbinic prohibition. Thus, it is permitted for an adult to enable a child to violate the Yom Kippur restrictions since the adult is merely causing a rabbinic violation by the child.¹⁶

Giving Kiddush Wine to a Minor

As highlighted above, the Rambam cannot accept the previous explanation, namely that an adult can enable a minor to violate the Yom Kippur restrictions because they are only rabbinically prohibited, because he rejects both assumptions which that explanation presupposes. The Rambam holds both that the Yom Kippur restrictions are biblically prohibited and that it is forbidden to administer even a rabbinic prohibition to a minor. Thus, we must look elsewhere to find a viable explanation of the Talmud in *Yoma* according to the Rambam. By analyzing the solution to another quandary involving the prohibition of *lo ta'achilum*, we can discover how the Rambam understood the Talmud in *Yoma*.

The **Talmud (Pesachim 100b–101a)** describes the practice of making *kiddush* in shul on Friday night. According to the opinion

accepted as halacha (Shmuel), “*ein kiddush ela b'makom seuda*,” one can only fulfill the obligation of *kiddush* in the place where one will eat his Shabbat meal. The purpose of making *kiddush* in the shul, therefore, was not to fulfill the obligation for those dining at home, but rather for guests boarding in the shul itself, who would eat their Shabbat meal there as well. Although our modern day guest arrangements have changed such that guests rarely eat and sleep in the shul, the practice of making *kiddush* in the shul has persisted in many communities in the Diaspora for reasons beyond the purview of this article. This gives rise to the following dilemma: Since no one will be dining in the place that *kiddush* is made, it is considered “*kiddush shelo b'makom seuda*,” *kiddush* recited not in the place of the Shabbat meal, which is not a valid *kiddush*. Thus, the person who drinks the wine has, in effect, drunk wine before hearing a valid *kiddush*, which is prohibited.¹⁷ Because of this, the **Tur** and **Shulchan Aruch** (O.C. 269:1) write that the person who recites the *kiddush* should not drink the wine himself, but rather should offer it to a minor. Ostensibly, the solution of the *Tur* and *Shulchan Aruch* does not seem to help the situation: While it is true that the adult who recited *kiddush* avoids the prohibition against eating or drinking before *kiddush*, in doing so, however, he violates the prohibition of *lo ta'achilum* by feeding the minor before *kiddush*. Thus, the solution seems to merely substitute one problem with another!¹⁸

Rav Shneur Zalman of Liadi (Shulchan Aruch HaRav 269:3) answers that it is

16. Note that even Rabbeinu Tam agrees that the prohibition against eating and drinking on Yom Kippur is of biblical origin. Thus, this logic only explains why an adult may bathe or apply oil to a minor, but not why the adult may feed the minor. The allowance to feed minors may be based on a different principle: Since it would be dangerous for a small child to fast, feeding the child is considered *pikuach nefesh* (saving a life), which is grounds to violate most Torah prohibitions (*Yoma* 85a–85b). See the extreme conclusion of the *Minchat Chinuch* (313) based on this logic. See also Rav Tzvi Pesach Frank (*Mikra'ei Kodesh, Yamim Noraim* 43) for a further analysis.

17. *Pesachim* 106b, *Shulchan Aruch* O.C. 271:4

18. Note that the *Shulchan Aruch* cannot employ the Rashba's logic and claim that it is permissible for the adult to give the wine to the minor since drinking before *kiddush* is only a rabbinic prohibition, as the *Shulchan Aruch* itself rules (O.C. 343:1) in accordance with

necessary to distinguish between two types of prohibitions. Some prohibitions are intrinsically forbidden while others are only incidentally forbidden. Meat that has not been slaughtered properly and insects are examples of intrinsically forbidden prohibitions, since they are forbidden to be consumed under all circumstances. Wine prior to *kiddush*, on the other hand, is only incidentally forbidden because under most circumstances wine is a perfectly permissible beverage and only becomes forbidden under very specific sets of circumstances. Because the prohibition of *lo ta'achilum* is derived from a verse that prohibits insects, an intrinsic prohibition, it only forbids administering intrinsic prohibitions to minors, while an item that is fundamentally permitted but circumstantially forbidden may be administered to a minor and does not come under the purview of *lo ta'achilum*. Thus, it is perfectly permissible to give the *kiddush* wine to a minor even though he has not yet heard a valid *kiddush*. This, continues Rav Shneur Zalman of Liadi, is also the rationale behind the ruling of the Talmud in *Yoma* that adults may administer the Yom Kippur restrictions to minors. Because eating, bathing, and applying oil are fundamentally permissible activities and are only incidentally prohibited because of the time (Yom Kippur), the prohibition of *lo ta'achilum* does not apply to them. This explanation is also echoed by the *Pri Chadash* (O.C. 611).

The *Hagahot Maimoniot*¹⁹ offers a different way to distinguish between various prohibitions in order to solve the *kiddush* conundrum. The *Hagahot Maimoniot* distinguishes between *issurei lav*, standard negative prohibitions formulated negatively by the Torah as “do not,” and *issurei asei*, unique negative prohibitions that

are actually formulated positively by the Torah as “do.” The overwhelming majority of prohibitions in the Torah fall under the first category; these include, for example, “*lo tirtzach*,” “do not murder,” “*lo tignovu*,” “do not steal,” etc. Some prohibitions, however, are not stated explicitly as prohibitions, but are rather implied by a positive statement of the Torah. For example, regarding Egyptians and Edomites, the Torah commands (*Devarim* 23:9): “*Banim asher yivaldu lahem dor shelishi yavo lahem bekhel Hashem*,” “children that will be born to them in the third generation shall enter the congregation of Hashem.” There is certainly no positive obligation to marry third-generation Egyptians and Edomites. Rather, this positively formulated verse (“shall enter the congregation of Hashem”) is actually communicating a prohibition against marrying first or second generation Egyptians and Edomites. The *Hagahot Maimoniot* claims that because the prohibition against adults administering forbidden items to minors is derived from the negative prohibition “*lo tochelum*,” it only applies to prohibitions that are similar to “*lo tochelum*,” namely *issurei lav*. It is permitted, however, to cause a minor to violate *issurei asei*. Since the prohibition against eating or drinking before *kiddush* does not stem from an *issur lav*, but rather from the positive commandment of *kiddush* (“*zachor et yom hashabbat lekadesho*”), it is permissible for an adult to give the *kiddush* wine to a minor before he has heard a valid *kiddush*.

The *Beit HaLevi*²⁰ writes that the Rambam's interpretation of the Talmud in *Yoma* can be understood based on the premise of the *Hagahot Maimoniot*. Since the prohibitions of Yom Kippur are not derived from a negative commandment but rather from the positive formulation,

the Rambam that it is forbidden to administer even Rabbinic prohibitions to a minor.

19. Rambam, *Hilchot Shabbat* 29:40

20. *Shut Beit Halevi* 1:15

“*v’initem et nafshoteichem*,” they are categorized as *issurei asei*. Thus, it is permissible for an adult to cause minors to violate the Yom Kippur restrictions just as an adult may feed a minor wine prior to *kiddush*. The prohibition of *lo ta’achilum* simply does not forbid adults from causing minors to violate *issurei asei*.

We have seen three approaches to explain how the Talmud in *Yoma* permits an adult to feed, bathe, and apply oil to minors on Yom Kippur despite the general prohibition of *lo ta’achilum*. According to the Rashba and Ran, administering a rabbinic prohibition to a minor (for his benefit) is permitted. Under the assumption that the Yom Kippur restrictions are only prohibited by rabbinic law, it is logical that an adult may cause a minor’s violation of these restrictions. We have also seen two approaches offered by the *Acharonim* for the Rambam, who could not accept the aforementioned approach. Both of these approaches distinguish between types of prohibitions to which *lo ta’achilum* applies and types of prohibitions to which it does not: *Lo ta’achilum* applies either only to inherent prohibitions as opposed to circumstantial prohibitions or only to *issurei lav* as opposed to *issurei asei*.