Preface Eating Meat During the "Nine Days"

Day 16

The Talmud (*Ta'anit* 30a) teaches that it is forbidden to eat meat or to drink wine during the final meal before the fast of Tish'a Be'Av, but that until then it is permitted. Nevertheless, the Rambam wrote (*Hilkhot Ta'aniyot* 5:6) that the custom among the nation of Yisrael is to abstain from eating meat from after *Shabbat Hazon* until after the fast of Tish'a Be'Av. The *Orhot Hayim* wrote (*Hilkhot Tish'a Be'Av* #6): "Some people abstain from eating meat once the month of Av begins since the act of eating meat is considered an act of joy as the Talmud teaches (*Pesahim* 109a). Rabbenu Asher wrote that he knows of some valorous women who abstain from eating meat or drinking wine from 17 Tammuz until 10 Av. They say that this is the tradition they received from their mothers for many generations. The custom in Spain is to abstain from eating meat from *Rosh Hodesh* Av until 9 Av." Rabbenu Yaakov, author of the *Arba'a Turim*, testified that there are individuals in Germany who abstain from eating meat and drinking wine starting from 17 Tammuz, but that everyone else begins to abstain from *Rosh Hodesh* Av. They do not abstain from meat or wine on Shabbat, however.

Maran Harav Yosef Karo (*Bet Yosef*, *Siman* 551) cited a responsum of the Rashba stating: "Your forefathers have adopted the custom of abstaining from eating meat once the month of Av begins, even though the Talmud did not forbid it. In fact, the halakha technically permits us to eat meat and drink wine even on 8 Av until the final meal before beginning the fast. Nevertheless, anyone who eats meat in those communities where the custom is to abstain from it has committed a serious breach in our tradition, and 'one who breaches a fence will be bitten by a snake.'"

In summing this up, the *Shulhan Arukh* (551:9) wrote: "Some people have the custom of abstaining from eating meat and from drinking wine during the week of the fast of Tish'a Be'Av. Others begin to abstain from *Rosh Hodesh* until after the fast, and yet others abstain starting from 17 Tammuz. Anyone who eats meat in those communities where the custom is to abstain from it has committed a serious breach and will be bitten by a snake."

There are *Rishonim* who testified that their communities never adopted such a custom. For example, the *Maggid Mishne* wrote that "in these areas there is no such custom and the people abstain from eating meat on the day preceding

the fast only." Rabbenu Menahem Hame'iri wrote that the very pious refrain from eating meat throughout the last day before the fast of Tish'a Be'Av. Likewise, the *sefer Hame'orot* (*Ta'anit* 30a) cited the Rambam and commented that in his area only individuals observe this custom and that they are praiseworthy.

In our times it has become an almost universal custom to abstain from eating meat during the days after *Shabbat Hazon* until Tish'a Be'Av. See *Yehave Da'at* (Vol. I, #41). Harav Eliyahu of Vilna (glosses on the *Shulhan Arukh* 551:9) suggested that this practiced is based on the passage in the Talmud (*Bava Batra* 60b): Our Sages taught: "When the second *Bet Hamikdash* was destroyed, many people decided to permanently abstain from eating meat or drinking wine. Ribbi Yehoshua met these people and questioned their behavior. They replied, 'How can we eat meat at a time when no meat is offered on the holy Altar? How can we drink wine at a time when no wine is offered on the holy Altar?'

"Ribbi Yehoshua countered, 'According to your reasoning you should not drink water either since no water is offered anymore on the holy Altar.'

"When he saw that they had no answer for him, Ribbi Yehoshua told them, 'Listen, my children! We may not go ahead without any form of mourning now that this terrible tragedy has occurred. On the other hand, we cannot demand extreme mourning since it is forbidden to demand that the people do more than they are capable of doing.'"

Following this logic, it would be incorrect to abstain from eating meat all year long but it is fitting to abstain from eating meat during the nine days preceding the anniversary of the destruction of the *Bet Hamikdash*, since people are capable of such abstinence. This is a fitting source for the custom of abstaining from eating meat during this period.

דיני אכילת בשר ב"תשעת הימים"

סד. אף על פי שיש נוהגים להחמיר על עצמם שלא לאכול בשר ושלא לשתות יין החל מליל י"ז בתמוז עד אחר תשעה באב. מכל מקום המנהג הפשוט בירושלים ובארץ ישראל, שלא להמנע מאכילת בשר אלא מיום שאחר ראש חודש אב. ותלמיד חכם לא ינהוג בחומרא יתרה זו להמנע מאכילת בשר מיום י"ז בתמוז, מפני שממעט ממלאכת שמים. [חזו"ע קסט]

סד. מנהג הספרדים ועדות המזרח להקל באכילת בשר ביום ראש חדש. וכן מנהג ירושלים. [יחו"ד ח"א סימן מא. הליכו"ע ח"ב עמ' קמה. חזו"ע עמ' קסט]. ונראה שבמקום שלא נודע מנהגם, איך נהגו בראש חודש, יש להקל להם בראש חודש, הואיל ועיקר דבר זה אינו אלא מנהג. [וכ"כ בשו"ת שערי עזרה סי' כד סוד"ה ואנכי. חזו"ע עמ' קעב בהערה]

Eating Meat During the "Nine Days"

Abstaining from meat through *ben hametzarim*

64) There are some people who have the custom of abstaining from eating meat or drinking wine from the night of 17 Tammuz until after Tish'a Be'Av. Even so, the common custom in Yerushalayim and in the Land of Yisrael is to begin abstaining from meat after *Rosh Hodesh* only. A Torah scholar who spends all his time and energies studying Torah should not abstain from meat between 17 Tammuz and *Rosh Hodesh* Av, since he must maintain his strength at its maximum for his Torah studies.[90]

Eating meat on *Rosh Hodesh*

65) The custom of Sefardic Jews is to eat meat on the day of *Rosh Hodesh* Av and this is likewise the custom of the Jews of Yerushalayim.[91] In any location where the people do not know what the local tradition is regarding eating meat on this day, they may assume the lenient position and eat meat, since the entire issue is regarding a custom and not a halakhic prohibition.

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90. In contrast, the *Kaf Hahayim* Sofer (551:130) cited the *Seder Hayom* that it is fitting for a Torah scholar to abstain from eating meat during the inauspicious days starting from 17 Tammuz unless he has a weak constitution. In our times, however, people are generally weaker than they once were and therefore it is best that a Torah scholar not observe this stringency. The *Sha'are Teshuva* (551:16) ruled likewise that a Torah scholar must not observe this stringency. See *Hazon Ovadya* (footnote on page 172).

91. In *sefer Minhage Maharil* it is written that it is forbidden to eat meat on *Rosh Hodesh* Av as well. Likewise, Harav Shemuel Vital wrote in a footnote to *Sha'ar Hakavanot* that "My teacher abstained from eating meat even on the day of *Rosh Hodesh* Av. The *Seder Hayom* rationalized this custom, explaining that although during the rest of the year *Rosh Hodesh* is a quasi *Yom Tov* and a day of joy, *Rosh Hodesh* Av is unique since it is the anniversary of the death of Aharon, the brother of Moshe Rabbenu and it is the beginning of an inauspicious month for the nation of Yisrael. Based on these sources, the Ashkenazic *Poskim* ruled that one must abstain from eating meat beginning with the day of *Rosh Hodesh* Av. This is the common custom among Ashkenazic Jews, following the ruling of the *Haye Adam*, the *Derekh Hahayim* and the *Mishna Berura* (551:58).

Sefardic Jews have the custom to continue to eat meat on *Rosh Hodesh* Av. The *Shiyure Kenesset Hagedola* (551:27) commented that although Maharil ruled to abstain from eating meat on the day of *Rosh Hodesh* Av, the common custom in Constantinople is to eat meat and to

סו. אחינו יוצאי תימן שזכו לעלות לארצנו הקדושה, אע"פ שבכל ערי תימן היו נוהגים לאכול בשר בכל הימים האלה, חוץ מסעודה המפסקת שאסור מדין התלמוד, [וכמ"ש בספר ויצבור יוסף בר ח"ד עמ' קכג], מ"מ כיון שעלו לא"י על דעת להשתקע, צריכים לנהוג כמנהג ארץ ישראל, ולהמנע מאכילת בשר בתשעת הימים, כפי הדין שלא ישנה אדם מן המקום שהלך לשם. ולא יפרצו גדר המנהג. וכל שכן אלה שזכו להתגורר בירושלים, ועיניהם הרואות גוים מרקדים בהיכלו, כי גדל הכאב מאד. [חזו"ע עמ' קע בהערה]

סז. בשר שימורים שבקופסאות, וכן בשר מלוח [אפילו מזמן מרובה], הרי הם בכלל האיסור. [ראה ש"ע סימן תקנ"א סעיף י]. וכן בשר קפוא דינו כבשר טרי לענין זה. [קול סיני עמ' קמח]

סח. בשר עוף הרי הוא כבשר בהמה, ואין לאכול ממנו מיום שאחר ראש חדש אב עד תשעה באב. ומי שאי אפשר לו בלי בשר מטעמי בריאות, יאכל על כל פנים בשר עוף שלא היו מקריבים ממנו בבית המקדש, ועוד שאין שמחה אלא בבשר בהמה. [קול סיני עמ' קמח. וכ"כ חזו"ע עמ' קעב. וע"ע שם עמ' קעד בהערה ד"ה ופסק].

Day 17

Yemenite customs

66) In all the communities of Yemen, there was no custom to abstain from meat during these days at all except during the final meal before the fast of Tish'a Be'Av, when it is forbidden by our Sages in the Talmud. Nonetheless, once the Yemenite Jews have come and settled in the Land of Yisrael, they are obligated to adopt the customs practiced in the Land of Yisrael. Therefore, they must abstain from meat during the Nine Days [after *Rosh Hodesh* Av] and they must not breach the tradition of their new homeland. This is especially so for those who have settled in the city of Yerushalayim itself and witness daily how the non-Jews continue to desecrate the sanctity of the *Bet Hamikdash*. This sight is frighteningly painful.

Canned meats

67) During the period when we abstain from meat, we must abstain from canned meats and jerky as well. There is no difference between fresh meat and frozen meat, either.

Chicken and other fowl

68) Likewise, we must abstain from fowl as well as from beef and mutton during this period starting with 2 Av until after Tish'a Be'Av. If someone must eat meat for health reasons, he should limit himself to chicken, since chickens are not ever used as a *korban* in the *Bet Hamikdash*. Furthermore, only the act of eating beef or mutton is considered an expression of joyful activity.[92]

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drink wine on *Rosh Hodesh* Av, and to desist from them after *Rosh Hodesh*. Common sense dictates that one should not abstain from meat on *Rosh Hodesh*.

Harav Yitzhak Bueno ruled likewise in his unpublished *sefer Shulhan Melakhim*. Harav HIDA wrote (*More Ba'etzba* #233) that the custom is to eat meat in honor of *Rosh Hodesh*, and this is the ruling of responsa *Kol Eliyahu* (#45), *sefer Peri Ha'adama* (Vol. IV, page 8d), the *Ben Ish Hai* (*parashat Devarim* halakha 15) and the *Kaf Hahayim* Sofer (551:125 and 126). The responsa *Sha'are Azara* (page 24d) commented that in Damascus the custom was to permit meat and wine on *Rosh Hodesh* Av as is the custom in Constantinople. Harav Hayim Palachi commented (*sefer Mo'ed Lekhol Hai* #10:7), "Who is there that is greater than Yosef the tzaddik (referring to Harav HIDA) who testified that our custom is to eat meat on *Rosh Hodesh* Av.

92. The *Shulhan Arukh* (551:10) ruled that it is forbidden to eat fowl on these days as well as beef. The custom in Egypt was to permit fowl even during the Nine Days, as testified in *sefer Nehar Mitzrayim* (page 36a). Maran the Rishon Letziyon (*Hazon Ovadya*, footnote on page 174) cited the unpublished *sefer Shulhan Melakhim* who explained that if the community accepted the restriction of eating meat upon themselves but on condition that they