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

ואבקה שנעשית ממרק עוף בשרי, ושופכים עליה מים חמים, ונעשית למרק, נראה שיש להקל בה בימים אלו. [חזו"ע עמ' קעד בהערה]

סט. הנוהגים שלא לאכול בשר בימים אלו, מן הדין מותרים בתבשיל שנתבשל בו בשר. ומכל מקום נהגו להחמיר בו. [קול סיני עמ' קמח. חזו"ע עמ' קעב]. אבל תבשיל שנתבשל בקדרה של בשר בת יומא, ואין בשר בתבשיל עצמו, מותר. ואפילו לכתחילה מותר לבשל בקדרת בשר בת יומא ולאכול מהתבשיל. [קול סיני עמ' קמט. וע"ע חזו"ע עמ' קעב]

ע. מותר לאכול דגים בימים אלו, שאינם בכלל איסור זה. ואף על פי שהמנהג להחמיר בסעודה מפסקת אף בדגים, מכל מקום בשאר הימים אין בהם איסור. [קול סיני עמ' קמח בהערה]. וכן מותר לאכול בשר

Bouillon cubes Technically, it is permissible to eat soup made from bouillon cubes or bouillon powder during these days even though it is forbidden to eat meat.

Foods cooked with meat **69)** Even those who practice the custom of abstaining from meat during these days may nevertheless eat a food that was cooked together with meat. Nevertheless, the common custom is to abstain from these foods as well.[93]

Foods cooked in meaty utensils It is certainly permissible, however, to eat foods that were cooked in pots that had been used previously to cook meat, even if that was within the last twenty-four hours.[94] It is likewise permissible to use such a pot to cook food to be eaten during the Nine Days.

Fish **70)** It is permissible to eat fish during the Nine Days; fish is not included in the practice of abstaining from meat. Although there is a custom to abstain from eating

may eat fowl, then it never became forbidden for them to eat fowl. This concept is clearly stated in the *Bet Yosef*. He also demonstrated that the *Arba'a Turim* (*Siman* 552) and other *Rishonim* ruled that one may eat fowl even during the final meal before the fast of Tish'a Be'Av. Therefore, Maran ruled that if someone must have meat foods, it is better that he eat fowl and abstain from beef and mutton, since there are leniencies for eating fowl. He ruled also that even though we abstain from eating fowl, we may eat soup made with chicken boullion.

93. Maran the Rishon Letziyon (*Hazon Ovadya*, page 172) qualified this halakha, explaining that if fatty meat is used in the food, then all the food is considered to be like meat itself and it would be forbidden to eat any of the food just like meat is forbidden during the Nine Days. This ruling is based on the *Magen Avraham* (551:29), and the *Matte Yehuda* Ayash (page 277b) concurred with it.

If the meat has no fat, the *Shulhan Arukh* (551:10) ruled that the food cooked with it is permitted. The *Orhot Hayim* (*Hilkhot Tish'a Be'Av* #4) permitted it as well, explaining that the purpose of abstaining from eating meat is in order to afflict oneself, and this is accomplished by abstaining from the meat itself. He proved this halakha based on the passage in *Nedarim* 52a, "If someone utters a vow forbidding himself to eat meat, he may nevertheless eat meaty broth." The *Magen Avraham* commented that although this is technically true, the custom in our times is to abstain from foods cooked with meat. The *Kaf Hahayim* Sofer (551:142) cited many *Aharonim* who concurred with the *Magen Avraham*. Maran concluded (*Hazon Ovadya* (footnote on page 173) that no one may stray from this stringency.

94. Maran the Rishon Letziyon (*Hazon Ovadya*, footnote on page 173) explained that this might happen if someone cooked meat for a mitzvah celebration during the Nine Days. It can also take place on 2 Av, if a pot was used to cook meat on *Rosh Hodesh* Av. **(Rabbi Y.B.)**

סינטטי [העשוי מסויה ושאר רכיבים טבעיים, כגון שניצל, נקניקיות וקציצות סינטטיים וכיו"ב], **אף שמראהו וטעמו כבשר, כיון שאינו בכלל הגזירה, ואין אנו גוזרים גזירות מדעתנו.** [ראה חזו"ע עמ' רנו. ובאור לציון ח"ג עמ' רמב, ובהערה בעמ' רמג]

עא. מי שבירך על חתיכת בשר, ושוב נזכר שבימים אלו אין לאכול בשר, יטעם מעט מן הבשר, כדי שלא תהיה ברכתו לבטלה, שאין בטעימה כזאת לא משום שמחה ולא משום ביטול המנהג. [חזו"ע עמ' קפח].

עב. מותר לישראל בעל מסעדה כשרה למהדרין לספק מאכלי בשר ללקוחותיו גם אחר ראש חודש אב, ובפרט אם יש מקום לתלות שהלקוח אינו בקו הבריאות. ואם אפשר להגיש בשר עוף, עדיף יותר מאשר להגיש בשר בהמה, כמו שאמרו [חגיגה דף ח ע"א] שאין שמחה אלא בבשר בהמה, וכמבואר באחרונים. [יחו"ד ח"ג סי' לח. חזו"ע עמ' רג].

fish during the final meal before the fast of Tish'a Be'Av, there is no custom to abstain from fish during any other meals.[95]

Soy products that resemble meat

It is likewise permissible to eat any meat substitutes such as soya products or others made to imitate the taste and texture of meat. These are marketed in the shape of frankfurters, hamburgers and fried fillet of chicken. The custom of abstaining from meat was not instituted to include these foods, and we cannot impose new stringencies based on our own logic.[96]

Recited a blessing over meat during Nine Days

71) If someone recited a blessing over a piece of meat during the Nine Days and then he realized that he may not eat meat, he should nevertheless taste a bit of the meat to avoid the sin of reciting a blessing in vain. Eating a tiny bit of meat is not an act that brings one joy, and therefore it is not considered an infringement on the national custom.[97]

Serving meat in restaurants

72) A kosher restaurant may continue to offer meat on the menu even after *Rosh Hodesh* Av, especially if the proprietor has reason to believe that the client ordering meat needs it for his health. The *Aharonim* added that if it is possible to offer only chicken and turkey and not beef or mutton, that is preferable, since our Sages taught (*Hagiga* 8a) that only beef or mutton brings joy to the person eating it.

95. Maran the Rishon Letziyon (*Kol Sinai*, footnote on page 148) explained that the entire concept of abstaining from meat is because meat can no longer be offered to God on the holy Altar. Ribbi Yehoshua ruled that we cannot have a rule to abstain from meat all year long since the general population cannot be expected to live up to such ascetic behavior (see the preface to this section in the name of Harav Eliyahu of Vilna). We can be expected to do so for a number of days each year, however. Since fish are never offered to God on the holy Altar, the entire concept of abstaining from eating fish has no basis. One may eat fish, technically, even during the final meal before the fast of Tish'a Be'Av. (See *Bet Yosef*, *Siman* 552:2). Our custom, however, is to abstain from fish during that final meal but not any more than that. See the *Shulhan Gavo'ah* (552:5) and the *Kaf Hahayim* Sofer (551:165).

96. This paragraph was composed by Rabbi Yisrael Bitan. Maran the Rishon Letziyon (*Hazon Ovadya* page 256) ruled that it is permissible to eat soy foods made to look and taste like meat during the final meal before the fast of Tish'a Be'Av. If so, it is certainly permissible throughout the Nine Days. See also *Or Letziyon* (Vol. III, page 242).

97. This is the ruling of the *Sede Hemed* (treatise on *Ben Hametzarim* 1:5), citing responsa *Piske Rikanti Ha'aharonim* (#15). He brought support for this ruling

והנכון שבעל המסעדה יתלה מודעה רבה שכתוב בה: "מנהג כל ישראל להמנע בימים אלו מאכילת בשר בכל תשעת הימים, ורק לחולה או לחלש מותר". ואז השומע ישמע והחדל יחדל. [חזו"ע עמ' רז בהערה]. וראה לעיל סימן תק"נ סעיף כ"ד.

שתיית יין ב"תשעת הימים"

עג. יש נוהגים שלא לשתות יין בשבוע שחל בו תשעה באב, ויש שמוסיפים מיום ראש חודש עד התענית. [ש"ע סימן תקנ"א סעיף ט-י]. ומכל מקום שכר או בירה ושאר משקאות חריפים מותרים. [קול סיני עמ' קנ] אמנם בכמה קהילות ספרד נהגו להקל בשתיית יין אף בשבוע שחל בו ט' באב, וכן הוא מנהג ירושלים ת"ו להקל. [קול סיני שם. וחזו"ע עמ' קעד בהערה]. ובשאר מקומות מחמירים בשתיית יין כמ"ש מרן בשלחן ערוך.

It is best that the restaurant proprietor hang up a large sign reading, "The custom of all Jews is to abstain from eating meat during the Nine Days. It is permitted only to those who are ill or very weak." Then, the customers can make their own decision about what to order. See above, *Siman* 550:24.

Day 18

Drinking Wine During the "Nine Days"

Custom to abstain from wine

73) Some people have a custom to abstain from drinking wine during the week of Tish'a Be'Av. Others abstain from drinking wine throughout the Nine Days starting from *Rosh Hodesh*. Nevertheless, there is no custom to abstain from other alcoholic beverages.[98]

In many Sefardic communities, there is no custom to abstain from drinking wine even during the week of Tish'a Be'Av. The custom in Yerushalayim is to permit drinking wine throughout this period. In other communities the common custom of Sefardic Jews is to refrain from wine as recorded in the *Shulhan Arukh*.[99]

from the exchange between Harav Yaakov Ben Na'im and the author of *Kenesset Hagedola*, recorded in responsa *Kenesset Hagedola* (#31), regarding someone who recited the blessing of *bore peri hagefen* over a fruit during *ben hametzarim* and then realized that this is a new fruit for him and that one may not recite the blessing of *shehecheyanu* during this period. They ruled that he should go ahead and recite the blessing of *shehecheyanu* and eat the fruit. (This ruling is cited above in halakha 21.) We see from this that a custom cannot override the transgression of reciting a blessing in vain. If so, the same rule would apply in this case and if someone recited a blessing over a piece of meat he must eat a bit of it to avoid the transgression of reciting a blessing in vain. Maran the Rishon Letziyon (*Hazon Ovadya*, page 188) cited a second rationale in the name of the responsa *Shevet Halevi* (Vol. IX, #131; Vol. X, #81:9) that eating a tiny bit of meat is not a joyful act and therefore it does not at all infringe upon the national custom.

98. Maran the Rishon Letziyon (*Kol Sinai* page 150) proved that other alcoholic beverages are permitted by citing the debate of the *Aharonim* about drinking alcoholic beverages during the final meal before the fast of Tish'a Be'Av. Obviously then, these beverages are permitted before that final meal. The *Or Letziyon* (Vol. III, page 247) ruled that although other alcoholic beverages are permitted, cognac is prohibited since it is made from wine. **(Rabbi Y.B.)**

99. The *Peri Ha'adama* (Vol. IV, page 8d) cited Harav Yitzhak Bueno in his unpublished *sefer Shulhan Melakhim* that the custom of Yerushalayim is not to refrain from