



HALACHA WEEKLY

Parshas Vayigash

December 14, 2018 Vol. I, Issue 2

Eating and Drinking Before Dawn on a Fast Day

Rabbi Mordechai Fleisher, Senior Educator

In the coming week, we will observe *Asara B'Teves*, the Fast of the Tenth of Teves. Because sunrise is quite late during this time of year, it is not unusual for people to arise early before this fast to have a cup of coffee and perhaps even some breakfast. In this article, we will explore the permissibility of doing so.

The Gemara (Ta'anis 12a) records a dispute between Rabbi and Rabbi Elazar bar Shimon. Rabbi states that one may eat before a fast day until dawn, while Rabbi Elazar bar Shimon says that one may eat and drink until the rooster crows. The halacha follows Rabbi.

The Gemara then discusses conditions under which one may eat prior to dawn. Abaye states that one may eat and drink the night prior to a fast only as long as one has not finished his meal. The Gemara modifies this to mean that as long as the "table was not removed" – for in those times, a tray-type table was brought for the meal and removed at its conclusion – one may still eat. Practically, this means so long as one has not completed the meal, or the food remains before him, he may still eat.

A second version of this halacha brought by the Gemara has Rava stating that one may eat so long as one has not gone to sleep. Dozing (where one would respond upon being called but is not completely cognizant), says the Gemara, is not considered sleep for this purpose.

There is discussion among the Rishonim (medieval authorities) regarding which of the two versions is followed for practical halacha. Most authorities rule in accordance with the second version that says one may not eat after going to sleep. There is further discussion as to whether the second version includes the first version, as well. That is, does the second

version agree that one must both clear the table and sleep for the fast to begin, or is sleep itself sufficient. The difference between the two rulings would be where one fell asleep in middle of a meal – he has slept, but the meal has not ended.

The Mechaber (Orach Chaim 564:1) rules that any fast that does not begin at night starts at dawn. One may eat until dawn, says the Mechaber provided one has not slept. Thus, the Mechaber rules stringently that completing one's meal is not a factor.

However, numerous Acharonim (later authorities), including the Magen Avraham, the Taz, and the Ma'amar Mordechai, rule leniently and say that if one is in middle of a meal and fell asleep, he may still eat and drink upon awakening before dawn. The Mishna Berurah (ibid.:3) rules that one may be lenient, but says that one who is stringent is called *kadosh* (holy).

Thus far, it seems that one ought to have a problem waking early before a fast to eat and drink, considering that he has already slept. However, Tosafos (Ta'anis 12b s.v. *nim*), as well as other Rishonim, cite a Talmud Yerushalmi (Ta'anis 1:4) that one may stipulate, before going to sleep, that he intends to eat and drink upon awakening. The Mechaber rules in accordance with this Yerushalmi. Rabbi Ben Tzion Abba Shaul (Teshuvos Ohr Letzion Vol. 3, 31:2) says that this stipulation should be verbalized, not merely thought. Even if one already recited the *hamapil* prayer, after which one is not supposed to speak, Rabbi Abba Shaul permits one to verbalize this stipulation.

A number of Rishonim (Mordechai Ta'anis 626, Ohr Zarua [2:406], others) rule that one needn't make this stipulation for drinking. The reason for this is that while one generally does not plan on eating further during the night once he goes to sleep, we can assume one's default mindset is that he may still drink if he wakes up during the night, as one often wakes

up in middle of the night thirsty. The Bais Yosef applies this to all drinks, but there are some who limit this leniency to water only. The Rema (Orach Chaim 564:1) rules in accordance with this leniency for drinking and draws no distinction between water and other liquids.

The medieval authority Rabbeinu Asher (known as the Rosh), however, disagrees with this leniency (Responsa 27:7, Ta'anis 1:14). The Mechaber (ibid.), by omitting this leniency for drinking, takes the Rosh's position that one must make a stipulation for drinking, as well.

The Mishna Berurah (ibid.:6) cites Acharonim who say that one should ideally make a stipulation for drinking, in accordance with the Rosh and the Mechaber. Nonetheless, *ex post facto*, one may drink despite the lack of a stipulation. Furthermore, continues the Mishna Berurah, if one is accustomed to waking during the night and drinking, no stipulation is necessary.

If one made a stipulation only for drinking, eating would be forbidden. However, one who stipulated that he wishes to eat upon awakening may also drink according to all opinions (see Tosafos Chaim on Chayei Adam 132:18).

The Teshuvos Hakehasi (Orach Chaim 180:1) says that one who failed to make the stipulation but ate anyway before dawn is not considered to have broken his fast. Consequently, he may still recite *aneinu*, serve as the *shliach tzibbur*, receive an *aliya*, and read from the Torah on the fast day (whereas one who is not fasting may not do so).

When does dawn occur according to halacha? There are a number of opinions in this matter. Among them, some say that it is 72 minutes before sunrise, while others say it varies with location and time of year.

¹ There may be room for leniency regarding eating larger amounts of *pas haba'ah bikisnin*. In a case of need, a halachic authority should be consulted.

² Interestingly, the Sha'ar Hatzion quotes the Elya Rabbah as saying that a *ba'al nefesh* (spiritually advanced individual) ought to be stringent. However, the Elya

One should consult with a halachic authority for a final ruling.

There is another limitation to eating before dawn. This halacha is relevant on all days, not just on a fast day. It is forbidden to begin a "meal" thirty minutes before dawn, since it is within thirty minutes of the time for the *shacharis* prayers. What is considered a "meal" for halachic purposes? An egg-size volume of bread or *pas haba'ah bikisnin* (bread-type products such as crackers and cake; a full discussion of this is well beyond the scope of this article) would be problematic. Thus, one may eat as much fruit, vegetable, meat, and fish items as he desires within this thirty-minute window, but many bread-type items would be problematic. (See Mishna Berurah 89:27, 232:34-35, 639:16)¹

It is noteworthy that while this discussion is under the assumption that a *ta'anis tzibbur*, with the exception of Tisha B'Av, begins at dawn and not at sunset of the previous day, there is room to be stringent in this matter. The Mechaber (Orach Chaim 550:2) does indeed rule that the fast does not begin the night before. The Elyah Rabbah (550:2) cites the Shelah that one who feels physically strong enough to fast the night before as well ought to do so. This ruling is cited by the Sha'ar Hatzion (564:9).²

In addition, the Elya Rabbah (563:1) states that although one may not be fasting the night before, one should not eat excessively. Rabbi Chaim Kanievsky shlita (Toras Hamo'adim 550:14) is quoted as ruling that since the Mishna Berurah makes no mention of this ruling, one needn't observe this stringency.

In conclusion, one may arise early before dawn on a fast day and eat and drink, but must observe the various conditions discussed herein to ensure the halachic criteria are met.

Rabbah says only that one who feels physically capable of doing so ought to fast the night, as well. The Elya Rabbah does cite the Shelah as saying that a *ba'al nefesh* should observe the other four areas of affliction normally observed only on Yom Kippur and Tisha B'Av on other public fasts, as well.