



Fasting AMA (Against Medical Advice)

"You shall not tremble before any man, for judgment is God's." (Devarim 1:17)

This *Posuk* obligates the *Dayanim* of *Beis Din* not to fear the litigants that stand before them, even if they are powerful or dangerous people. Presumably, this would refer only to ignoring the possibility that a disgruntled litigant would retaliate and harm the *Dayanim* professionally or besmirch their reputation, but would not apply if their lives were threatened. However, the *Sifri* seems to imply otherwise:

Perhaps you will say, "I am fearful of so-and-so, lest he kill my son, burn down my haystack, or cut down my plants" – the Torah therefore states, "You shall not tremble before any man".

The *Shevus Ya'akov* (143) maintains that the *Sifri* does not mean that a *Dayan* must risk his life in order to issue a truthful ruling, as *Pikuach Nefesh* overrides any *Mitzva* in the Torah. Rather, it means that a *Dayan* must accept that he may be harmed financially by ruling against a powerful litigant (since one is obligated to spend all of his money in order to avoid transgressing a Torah prohibition). When the *Sifri* mentions a *Dayan's* fear of "lest he kill my son", it refers to a case where one of the litigants has threatened to kill the *Dayan's* son, but is highly unlikely to do so (given that Jewish people are not murderers). In that case, he is commanded to ignore the threat. However, where there is a genuine mortal threat, he is certainly not expected to put his life – or the life of others – at risk.

However, *Rabbenu Yona* (*Shaarei Teshuva* 3:33) appears to rule otherwise:

We are commanded to believe that no harm will befall us by issuing a truthful judgment and by not showing favor to one of the sides. Our Sages have said (Pesachim 8b), "Emissaries of a Mitzva will not be harmed, neither on their way to perform the Mitzva, nor on their return journey". This is the explanation of (the concluding words of the Posuk) "For judgment is God's", meaning that no harm will result from rendering an honest verdict.

According to *Rabbenu Yona*, there is a Divine promise that no harm will befall a *Dayan* who faithfully carries out his professional responsibilities. He should believe



that if he does his part and judges the case according to Torah law then Hashem will protect him. In fact, *Rabbenu Yona* even implies that a *Dayan* should ignore a genuine threat to his life. This assertion is discussed by the *Sefer Chavatzeles haSharon* who offers the following explanation based on a ruling of the *Chazon Ish* (O.C. 59:4):

The *Rema* (328:17) rules that one may instruct a non-Jew to cook on Shabbos for the sake of a child who doesn't have food to eat because the state of a child is similar to that of a "*Choleh she'Ein Bo Sakana*" – a sick person who is not in any danger. Though instructing a non-Jew to perform a *Melacha* is a "*Shevus*" (an *Issur d'Rabbanan*), this is waived for a *Choleh she'Ein Bo Sakana*. The *Chazon Ish* adds:

It appears that we are discussing a case where the child will be hungry for a brief period, which certainly does not constitute a danger, but it is nevertheless permitted to violate a Shevus. However, an extended period of hunger is genuine Pikuach Nefesh. Today, when there are many diseases that afflict infants, if there is any possibility that [a period of hunger] will cause intestinal distress, such as diarrhea, constipation, abdominal pain, or fever, then it should be viewed as a case of possible Pikuach Nefesh, [since] intestinal distress can lead to disease, and every disease may be a matter of Pikuach Nefesh.

Perhaps the Shulchan Aruch¹ was discussing a case where there was food available for the child to eat but he needed food that would be more nourishing for him. It is even permitted to violate a Shevus for that. But today, even an absence of food that would be better for the child might cause a child to have a problem with its digestive system. If it is known through experience or medical advice that [a lack of proper food] will cause intestinal distress, it is considered a matter of possible Pikuach Nefesh and one should not rebuke a person who acts leniently. On the other hand, one should not rebuke a parent who trusts in Hashem and prepares his child's food in a way that does not require cooking on Shabbos, [even though it may not be the ideal diet for the child] as long as the child has already been accustomed to eating those foods.

In these comments, the *Chazon Ish* outlines several important principles in the *Halachos* of *Pikuach Nefesh* on Shabbos:

¹ The *Rema* was referring to the case of the *Shulchan Aruch* when he permitted violating only a *Shevus* and did not consider it to be *Pikuach Nefesh* that would allow the violation of an *Issur d'Oraisa*.



1. An inability to provide the proper dietary and nutritional needs of infants and children is considered a *Safek Sakana*, and one may be *Mechalel Shabbos* if necessary to meet these needs.
2. This is not only the case when there is no food at all, but even when the available food may cause them diarrhea, constipation, abdominal pain, or fever. One may be *Mechalel Shabbos* in order to provide food that will not harm them.
3. Moreover, the *Rema's* ruling that a person may violate a *Shevus* to provide food to a child even applies when food is already available but one wishes to provide him with food that would be more nourishing for him.

Finally, the *Chazon Ish* discusses the case where food is available to feed a child, but his parents know (either from previous experience or based upon medical advice), that it is likely to cause him intestinal distress or other illness. This would be considered a matter of *Pikuach Nefesh*, and they are entitled to desecrate Shabbos to provide other food that will not harm him.

The *Chazon Ish* also legitimizes a contrary approach – that of trusting in Hashem and refraining from providing the child with food that necessitates desecration of Shabbos (assuming that he is accustomed to eating the food that is available). Though, in general, one may not act stringently in situations of *Pikuach Nefesh* and is obligated to desecrate Shabbos, there are scenarios that qualify as *Pikuach Nefesh* yet the level of danger is low enough that we do not disregard the opinion of a person who desires to put his trust in Hashem and avoid *Chilul Shabbos*.

Perhaps we may view the ruling of *Rabbenu Yona* regarding a *Dayan* whose life is threatened in the same light. How did *Rabbenu Yona* know that the Torah means to promise Divine protection to a *Dayan* from the malevolent plans of an enraged litigant? In light of the novel ruling of the *Chazon Ish*, we may suggest that since the Torah commands a *Dayan* to judge a case truthfully and not to fear the litigants, and by doing so he intends to fulfill the will of Hashem², he may ignore the danger and trust in Hashem.

However, this would only be true if the danger is similar to the case of the *Chazon Ish*, where it is possible to consider it a matter of *Pikuach Nefesh*, but also to

²As the *Gemara* in *Maseches Shabbos* (10a) states: Any judge who judges a true judgment truthfully is [considered] as if he became a partner with HaKadosh Baruch Hu in the creation of the world.



trust that the merit of the Mitzva will protect from danger. Where there is a clear and present danger, it is **forbidden** to be stringent, for one may not rely on miracles.

This discussion is particularly relevant to the question of whether the elderly or sick may fast on Tisha b'Av or Yom Kippur. In many cases, these individuals have observed these fasts for their entire lives and are loathe to not do so again despite their physician(s) and Rabbi advising that they are exempt or even forbidden from fasting. May they observe the fast and trust in Hashem to protect them from harm?

In many cases, doing so would be forbidden. A person who fasts in contravention of medical advice and Halachic *Psak* has obviously not fulfilled a Mitzva, but has also violated the precept of "*Ach Es Dimchem l'Nafshoseichem Edrosh*"³, and no Divine assistance would be forthcoming. The doctor and rabbi should explain to the patient that his obligation is to guard his health and not to place himself in danger.

However, in borderline cases, there may be room for latitude. If the patient strongly desires to fast despite his medical condition, and after careful review fasting would not carry undue risk, it may be permissible to allow him to rely upon his trust in Hashem and observe the fast.

It should be noted that informing a person that he is forbidden to fast may be greatly upsetting and even cause psychological harm. Doctors and Poskim should approach these discussions with great sensitivity and empathy.

³ "But for your own blood I will require a reckoning" (*Bereishis* 9:5) – *Rashi* explains this to refer to one who spills his own blood.