



CELIAC DISEASE, MATZAH AND PATIENT AUTONOMY

When Pesach comes around, the frenzy to ensure everything is prepared kicks into high gear. Homes are cleaned, kitchens are kashered, and matzah, maror and wine are stocked. Yet for a growing number of Jewish community members, fulfilling the mitzvah of eating matzah is difficult. Celiac disease — defined as an immune reaction to the gluten protein found in wheat, barley, and rye — affects at least 1% of all Americans (and possibly more).¹ Today, however, there are numerous options for fulfilling the mitzvah of eating matzah, such as oat or spelt (for those who can better tolerate spelt) matzah. In this article, I would like to address the issue of whether a Celiac patient may choose, against medical advice,² to eat regular wheat matzah in order to fulfill the mitzvah.³ This article will attempt to highlight the issue

with regards to the role of the patient's autonomy — or ability to make their own decisions — when it differs from medical advice.⁴

Choice as it pertains to the halakhically observant patient is not quite as simple as it seems. While it is true that anyone can technically choose a course of action in their life, those choices do not always meet the standard that the halakha expects. The Mishna (*Yoma* 82a) describes a case of a pregnant woman observing the fast of Yom Kippur. She feels the need to eat and the Mishna rules that we will allow her to eat if the experts agree that she should break her fast. The Gemara there analyzes under what circumstances we would be willing to trust the advice of experts against the patient's expressed wishes and feelings. Rabbi Yannai offers one interpretation of the Mishna that

assumes we trust the patient when the patient tells us she needs to eat because a patient “knows his own bitter soul,” or interpreted by the Rishonim as the patient is the best judge of his or her own desperate situation. However, in cases where the physician requires the patient to break her fast and the patient refuses, R' Yannai changes his opinion. R' Yannai assumes that the patient is unable to accurately assess her needs in that moment due to the disease and therefore we accept the recommendation of the physician over the patient.⁵ The second opinion offered by the Gemara is that of Mar Bar Rav Ashi, who suggests that when the patient requests food we will believe her against any number of experts because we trust in the patient's self-assessment. However, even according to Mar Bar Rav Ashi, if the patient refuses the food

against medical advice, we will follow the expert even in a one-on-one dispute.

The novelty in Mar bar Rav Ashi's opinion is that in a case of one patient demanding treatment against at least two physicians insisting it is not necessary, we will act in accordance with the stated needs of the patient himself. R' Yannai, however, will always follow the physicians against the patient alone as long as there are at least two physicians rejecting the patient's assertion.

Of course, a significant part of the reason for the machlokes is that we have two major concerns stacked against each other. On the one hand, eating on Yom Kippur is a violation of a *kares* prohibition, while on the other hand, not eating may result in a loss of life. The central question the Gemara is addressing is who ultimately should make the call in regards to the potential violation of eating on Yom Kippur? Yet no place is that more clearly seen than in the Gemara Yerushalmi in its explanation of a similar case. The Yerushalmi (*Yoma* 8:4) describes the scenario where in general, the agreement is with the Bavli that we trust whichever opinion errs on the side of eating in order to ensure that the person has a positive health outcome. However, in a situation where the patient says he is able to fast and the physician is unsure — even there, the Gemara insists we follow the rule of *safek nefashos lekula* (we err on the side of caution in life-threatening situations) and allow the patient to eat.

While it is clear from the Yerushalmi that the case is where the patient's choices are to eat or fast and risk a potential for death, it is not at all clear that the Bavli agrees to that framing. The Rosh (*Yoma* 8:13) suggests that the entire lens of the discussion is not one where the question is of potential death because if that were the case there

is no question at all — of course the patient needs to eat because there is an actual risk of losing a life! Rather, he insists that the question the Gemara is interested in is where fasting will result in falling ill and once a patient falls ill there are no guarantees about health outcomes at that point. In other words, the question that R' Yannai and Mar Bar Rav Ashi disagree on is whether the patient's potential illness is sufficient to violate Yom Kippur, even though fasting will not directly lead to a concern of death.

The *Shulchan Aruch* (618:1) rules in accordance with the standard understanding of the Gemara that we err on the side of ensuring that the patient in question breaks his fast even against multiple physicians who believe the patient may continue to fast. Included in his position is the perspective of the *Tur* and others, that we are interested in ensuring that the patient in question will not fall ill and potentially be in a life-threatening medical situation. The analysis becomes more complicated when considering the comment that the *Magen Avraham* adds to the analysis. He comments on the ruling in accordance with the opinion of Mar Bar Rav Ashi that even against many physicians we trust the patient's demand to eat — and even when the physicians claim that eating will itself be detrimental.

The scenario described by the *Shulchan Aruch*, where the danger for the patient is real but not immediately life-threatening, means that we will ignore medical advice given that there is an equally likely chance that the patient understands his own needs better than the likelihood of the experts. Yet when we add the assertion of the *Magen Avraham*, that changes the analysis because it is no longer a question of two groups of people both uncertain about the future outcome of the patient and

attempting to make the best decision possible. Rather, it becomes a test of internal decision-making authority — and the *Magen Avraham* is of the opinion that because the Gemara ultimately trusts the patient it does not matter if the physicians think the patient is wrong.

The obvious difficulty with this approach is pointed out by both Rabbi Akiva Eiger (*Ibid*) and the *Aruch HaShulchan* (618:5,6). Both are bothered that we would ever trust the patient's insistence that he needs food against the expertise of the physicians that the very food he asked for will cause damage. R' Eiger suggests that fundamentally there is a difference between food and medicine. Medicine that only ever has remedial benefits is the sole domain of the experts (and in today's world that means trained professionals). Food, on the other hand, is what we all eat and therefore in the case of the individual who needs to break his fast on Yom Kippur may be trusted to insist that he needs this food. Therefore in this case we would allow the person in question to eat the food on Yom Kippur. The *Aruch HaShulchan* poses a different solution, which is that we only trust the person against the physician in cases where the person is feeling faint but not yet sick to the point of bedrest or confined to the hospital.

Regardless of this particular difficulty, the *Machatzis HaShekel* points out that the inherent uncertainty of future outcomes is the ultimate reason why we defer to the particulars of the patient. He points out that even when the physician thinks that there is no particular reason to break the fast, we trust the patient because there is a concern right now where he will be ill from lack of eating. Therefore, argues the *Machatzis HaShekel*, certainly when the patient claims he needs food we will believe him, because the present

concern overrides our concern of the future illness that animates the physician's claim that the food will be harmful.

When considering the case of eating matzah to fulfill the mitzvah against the medical advice provided by professionals, the case is an inversion of what the Gemara is considering. In our case of eating matzah while suffering from Celiac disease we have similar variables. We have a patient who wants to eat a specific food and feels he needs it, and a physician — many of them — who advise that eating the matzah in this case will actually cause harm to the patient. If we were to accept the reasoning of Rabbi Eiger, that when it comes to food we will accept the patient's insistence, we could make a reasonable argument that despite the lack of a clearly pressing medical concern to allow him to eat the food, we can take the patient at his word that eating the matzah will be beneficial and would be permitted.

Of course, the argument could equally be made that in cases of inherent risk to a person, as long as he is both willing and the risk falls within acceptable limits — he may engage in that particular action. This principle, *shomer pesaim Hashem*, that allows us to take certain regular risks, is not generally applied to medical scenarios — as the *Aruch HaShulchan* among others — point out. Yet when it comes to refusing to obey the best medical advice it becomes more than a question of risk alone and equally an issue of the right of the patient to make his own decisions regarding his care. Food, as established earlier, can be viewed as something that does not fall under the normal rubric of medical decision making and can therefore enable a patient to ignore the advice of their medical advisors.

In the case of the celiac, it is obvious that there are different approaches when it comes to what is the best course of action for each patient. In recent years, research has been published regarding sudden onset celiac disease, which can result in severe life-threatening complications that need urgent intervention.⁶ While the chances of such an event are extremely low, they are certainly possible. Ignoring medical advice is not usually permitted by the halacha, yet in certain circumstances there may be rights to patient autonomy even in the face of likely injury to health. It also stands to reason that if there is any uncertainty from the perspective of the medical team, then we certainly can trust in the patient's stated desire to eat the matzah to fulfill his obligation.

Ultimately, principles of patient autonomy in halacha are complex and require reapplication to every case — each to its own specific details. Yet in certain areas where the halacha both recognizes personal interest and desire as well as the expertise of professionals, there are pockets where one can outweigh the other. When it comes to medical decisions, one should always consult with one's personal physician and *posek*. May every individual faced with such difficult choices be given the strength to continue to fulfill the mitzvos that Hashem has commanded us in continued good health.

Endnotes

1. Lebowhl, Benjamin. "Epidemiology, Presentation, and Diagnosis of Celiac Disease." *Gastroenterology*, vol. 160, no. 1, 2021, pp. 63–75.

2. The patient in question is not under the impression that the physician is incorrect about the medical facts — specifically that ingesting the gluten will cause some amount of damage. Rather the patient is apathetic

towards any potential harm out of a desire to fulfill the mitzvah.

3. While the question of obligation to fulfill a mitzvah if it can cause medical damage is certainly relevant, it has been addressed at length elsewhere. See for example, *Responsa Minchas Asher* Vol. 1 No. 42,43; *Chazon Ovadiah* Vol. 1 No. 4, Vol. 2 No. 33. Additionally, many of the responsa discuss whether there is blanket exemption from performing mitzvos that cause pain or suffering to the actor, see *Responsa Binyan Shlomo* No. 47 and *Responsa Besamim Rosh* No. 94. This article will not specifically address that perspective.

4. It is likely that the specifics of each particular patient and their specific set of circumstances will determine the outcome on an individual basis. However, for illustration purposes we will isolate the question as one where we treat Celiac disease as non-fatal in the short term. Although acute onset celiac disease is extremely rare, there have been documented cases. See Guarino, Matteo et al. "Life-threatening onset of coeliac disease: a case report and literature review." *BMJ open gastroenterology* vol. 7,1 (2020).

5. Note that R' Yannai does not rely on the expertise of the physician as the reason for accepting his recommendation rather on the fact that we can't rely on the patient in this case. This approach is vital to understand implied autonomy as will be discussed.

6. Guarino, Matteo et al. "Life-threatening onset of coeliac disease: a case report and literature review." *BMJ open gastroenterology* vol. 7,1 (2020): e000406. doi:10.1136/bmjgast-2020-000406