

HALOCHOSCOPE ^{TOI}

A child is enrolled in a program administered by gentiles. Cereal is provided for the children. Some have a reliable kosher supervision, others are probably not kosher. The child is unable to read the packages to see if they are kosher. May the child's parents rely on the assurances of the gentile staff that they will look for the kosher symbols before giving the cereal to the child? If the Jewish parents provide food for their child, may they rely on the gentile staff to give this food without exchanging it? If the staff return the food, may the parents assume that it was not tampered with?

The issues:

(A) *Katan Ochel Nevailos*, adults' duty to prevent a child transgressing

(B) Relying on a gentile in such matters

(A) *Katan Ochel Nevailos*

Until Bar or Bas Mitzvah children are exempt from Mitzvos. As a child grows up, he must be trained in the observance of the Torah and Mitzvos. Scripturally, a parent is obliged to teach Torah to his child. Also, children old enough and mature enough to understand the meaning of their vows must keep them.

There is also a Rabbinical Mitzvah of *Chinuch*. All children old enough to be trained must observe the Mitzvos. The Poskim debate whether this Mitzvah can apply to the minor child, or whether it can only apply to his adult parents. The issue is that if it is a Rabbinical obligation it is incumbent on any Jew based on the Scriptural obligation of *Lo Sasur*, the Mitzvah to adhere to the words of the Rabbis. If a minor is not obligated in Scriptural Mitzvos, he can not be obligated in any Rabbinical Mitzvah either. Therefore, it must be the Mitzvah of the parents to train their children.

Chinuch applies at a certain age. For positive Mitzvos this age depends on the difficulty of performing, and/or understanding the meaning of, each individual Mitzvah. For example, he should not be trained to recite Brochos if he will utter Hashem's Names in unholy places and contexts, and if he does not understand what he is doing. For negative Mitzvos, the age is when he is old enough to understand the meaning of "no" or "don't". Some Poskim maintain that this age is two or three years old. Some maintain that even before they are old enough for formal training, there is an obligation to be *Mechanech Bikedusha*, to train them in holiness. Thus even before they are old enough to comprehend the Mitzvos, training them in the performance of the acts, and preventing them from transgressing, is also part of the Mitzvah of Chinuch.

Other Scriptural Mitzvos with regard to children are really obligations on the

adults. The Talmud derives from a Passuk that one may not feed forbidden foods to a child. This means that one may not actually hand it to him directly. One may also not allow a minor *Kohain* become *Tamei Mais*, defiled by contact with a corpse. Adults are also obliged to stop a child from eating forbidden foods.

There are levels to this Mitzvah. When a child is too young for Chinuch on negative Mitzvos, one is not obliged to stop him from eating forbidden foods if he has them already. Likewise one need not stop him from violating any prohibition. However, it is forbidden to feed him forbidden foods directly. Many Poskim maintain that this is a Scriptural prohibition for adults. Let us presume that this is a child under three. When a child is old enough for Chinuch on negative Mitzvos, his parents are obliged to stop him from violating any Mitzvah. Preventing him from eating forbidden foods is considered a Scriptural obligation by many Poskim. Even stopping him from other violations is included in this, according to many Poskim. It is certainly required, at least Rabbinically. This includes preventing him from Rabbinical violations, especially if they are connected to Scriptural laws. Thus, a child who puts out a fire on Shabbos, must be stopped by his father. An onlooker need not stop him. Once the child is old enough to be taught Torah, this is known as *Higia Lechinuch*. He has reached the age of generic Chinuch. Any adult Jew who sees him violate a Mitzvah has an obligation to stop him. Many Poskim conclude that this only applies to Scriptural violations. [His parents are obviously obliged to prevent him from violating Rabbinical laws as well.]

The following issue is discussed by some Poskim. A child is considered retarded and can be helped through a program run by gentiles. However, unlike our case, he will most probably be fed non kosher food. It would appear that adults committing him to the program have the status of serving him the food directly. Even if he is considered so retarded that he is on a level lower than the minimum, this is forbidden. The case is divided into two situations. In the first the child is considered mentally disturbed to the point that he is considered a *Shoteh*, incompetent. His is exempt from all Mitzvos. As an adult he may not be fed with forbidden foods. There is some indication that the Mitzvah not to provide him directly with forbidden foods would normally apply to a child who will eventually grow up and be obliged to refrain from these foods. One may not get him used to eating them, because as he grows older he will want to satisfy his acquired tastes. Since a *Shoteh* will not be forbidden to eat these foods as an adult, maybe it is not forbidden to feed them to him as a child. This is rejected, because it is clear that, though this might be offered as one reason for the Mitzvah, it does not preclude a child who is unable to reach the level of obligation when older, such as a deaf mute.

The next level is a child who is not so retarded that he will not be helped. Though now he is not a *Bar Chiyuva*, he could become one if he follows this program. In this case, the argument is made that we often find that it is worth it for some Jews to violate a small Mitzvah in order to bring another Jew into the realm of Torah and Mitzvos.

Therefore, in this case one would be permitted to actually hand the food to the child, by way of giving him into the care of the gentiles.

If the child is not at the level of retardation to exempt him from obligations, but is moderately retarded, there is no cause to allow adults to feed him forbidden foods. He is, after all, already in the realm of Mitzvos. The improvement in his mental capacity or the embarrassment to himself or his family due to his present state, do not justify violating a Mitzvah. This child may not be handed food directly. However, the Jewish adults are not actually handing the food to the child. There are sources to show that if a Jew instructs a gentile to hand forbidden food to the child it is considered as though the child has taken the food for himself. Thus, if gentiles are instructed to feed the child at their discretion, it would come under the category of whether the child must be stopped by onlookers. The case under discussion was about an orphan. Since it would not be his parents hiring the gentiles to do the program, the guardians have no obligation to stop the child. They may indeed hire the gentile for his service and may disregard the forbidden food. However, at the age of thirteen the child must be removed from the gentiles' care.

Nonetheless, a caveat is added. Forbidden foods tend to block the heart, preventing one from rising to high levels of holiness. Therefore, though it is Halachically permitted, it is not recommended. [See Yevamos 114a-b Shabbos 121a, Poskim. Tur Shulchan Aruch Orach Chaim 243:1, commentaries. Teshuvos Chasam Sofer O.C. 83.]

(B) Relying on the gentile staff

In our case, the parents are involved. The child is not considered *Higia Lechinuch*. There is some question whether he is at the point of Chinuch on negative Mitzvos. Nobody may directly feed him forbidden foods. If he has reached the level of negative Mitzvos, his parents are obliged to prevent him from eating the forbidden foods.

Telling the gentile staff that the child may not eat forbidden food is insufficient. They are not well versed enough in the laws of Kashrus. Since it is not a matter of religious principle for them, they can not be expected to take it as seriously as a Jew should. They are also not considered reliable in most situations requiring testimony. They might violate instructions. A particular gentile might prove himself reliable in mundane matters, but this has no bearing on Halachic guidelines. The simple solution would be to supervise his eating. This need not be constant supervision. If the gentile is aware that the parent will make surprise visits to check up on him, we may assume that he will be afraid to violate his instructions. This is the same as supervision for this situation.

Sometimes, a gentile is relied on. The typical example of this is a judge or police officer. They are scrutinized by the general population. He wishes to maintain his reputation, and in many societies a corrupt judge can lose his job. This is also applied to members of professions which require trust. They would lose business if they violate trust. In particular, if their job is to be trusted with following instructions with regard to food, or with regard to providing for private religious needs, this would be the biggest incentive

for them to keep their word. However, there must also be a mechanism to follow up on their performance. This could be in the form of a written letter of commitment.

Failing these arrangements, the parents could send food with the child, expecting the gentiles to feed it to him. This raises a different issue. When sending kosher food with a gentile messenger, there is always the possibility that it was exchanged for non kosher food. The Talmud raises the possibility that meat left unattended might have been tampered with. If it has a marking that is recognized, it is permitted. If it has no marking, but is found in the same location where it was placed, or if the owner is sure that he recognizes it the Poskim debate its permissibility. Even if we would follow the lenient ruling here, it does not apply to a child's recognition. In addition, if the child in our case was given a clear marking to check for, it is unclear whether he could be relied on to follow through. It is unreasonable to expect the child to be shown that he must break a recognizable seal.

Apart from the issue of the meat left unattended, the issue arises with regard to other food as well, if it was actually left in the care of a gentile. When products that need supervision are transported by a gentile, the Jew receiving them must be able to tell that they were not switched. On some items the Rabbis instituted a requirement to place two unforgeable seals, and on others they require one seal. A clear marking would also help in this situation. The concern is that the gentile might have switched it. Therefore, there must be reason for him to do so. For example, if the package got lost or damaged, he would replace it. If he stands to gain nothing, monetarily or otherwise, he would not switch it to spite the sender. [In this regard an nonbelieving Jew is less trustworthy than a gentile. He would purposely wish to cause others to sin.] Therefore, in such cases, leniency is sometimes applied. Other leniencies include a professional delivery service, who would risk losing business, and one who must pass through public areas all along his way. These people have the fear incentive, and can be relied on not to switch things, with certain conditions.

In our case, the presence of other people might act as a deterrent to stop the gentile staff from switching it. They also have little to gain from switching it. The possibility might exist when the child cries because he sees the food that the other children eat and wants the same. It might also happen if the child's food is lost or otherwise not possible to be eaten. The staff might feel that they need to make sure that the child does not go hungry. One partial solution would be to insist that the containers with the food are returned when the child comes home. This way, the parents can make their own markings to determine whether the instructions were followed. [See Chulin 95a Avoda Zara 39a-b, Poskim. Tur Sh. Ar. Yoreh Deah 63, 118-119, commentaries.]