

HALOCHOSCOPE ^{TOI}

The Talmud considers one who eats in the “Shuk”, an open street-market, an invalid witness. He has no shame, and is suspected of lying for material gain. Clearly this practice is considered shameful, and wrong. Does eating inside a bus-stop shelter violate the Talmudic dictum against eating in the street?

The issues:

(A) Invalidating witnesses

(B) The different interpretations of “eating in the Shuk”

(A) *Invalidating witnesses*

Testimony given in Jewish law requires valid witnesses. This applies to civil cases, criminal cases, legal actions, such as effectuating status changes, such as marriage, transactions, such as loans or acquisitions, including signing documents, and to matters concerning Halachic status, such as *Kashrus*.

Ideally, one must have first hand knowledge of anything that he plans to act upon. This includes any court action that will carry a penalty, or any information that one will rely on in personal or other matters. In cases where the information is not known first hand, one could consider the matter in doubt. To resolve the doubt one relies on witnesses. The Torah considers this the safest way to resolve any doubt. In addition, validating legal action requires officiating witnesses. They both a guarantee that in the future the action can be verified, and that it is binding at the time it takes place. Thus, witnesses are used for information or for endorsement of a legal act.

A witness is invalid if he is either ineligible or disqualified. Ineligible witnesses include relatives of the parties included in the litigation or the legal action, or anyone who is directly or indirectly affected by it. Also certain groups of people may not act as witnesses for legal actions, including gentiles, Canaanite servants, women and children, kings, high-priests, mentally incompetents, blind and deaf people. In many instances, some of these may be relied on for information in non-legal situations, and where they are not called upon to officiate.

The Torah disqualifies a sinner as a witness. This includes the issue of trustworthiness, where a witness who is known to violate Mitzvos is suspected of

lying, for material gain or for other ulterior motives. This also includes unworthiness. I.e., since he is a *Rasha*, sinner, he is simply disqualified in the same way an ineligible witness is considered ineligible. On the simple level, this is due to his neglect of his own actions and their consequences, including those that affect his own spiritual welfare and that of others, he may not be given the high level of trust and honor to officiate or give information that will be used for legal purposes. This *Rasha* need not be a criminal. If he violates any precept he is considered a *Rasha*. There are, however, certain distinctions drawn between a criminal (*Rasha Dechamas*) and a violator. In addition, two witnesses are always required. More are also allowed to testify or officiate. If one of the witnesses is found to be invalid, the entire case is in jeopardy. There are also rules governing the ways that witnesses are found to be unreliable, lying, contradictory, or conspiring.

Regarding information, the law divides the issues into two types. The first type is information used in legal procedure. The second is used for other Halachic informational purposes. For the first type a qualified and eligible witness is required. For the second type any trustworthy person may be relied on. A single witness is also usually sufficient for this. This, in turn, is divided into two areas. In cases where the issue is obviously being investigated, or overseen and supervised, a partial witness and some of the other ineligible witnesses are not relied on. However, if the information is gleaned in an indirect fashion, such as a gentile who tells a story about having seen a dead body, not realizing that his information will be used to let the widow remarry, his word is often relied on even though he is not eligible.

Disqualified witnesses fall into four basic categories. A witness is Scripturally considered disqualified if he is known to have intentionally violated a Scriptural Mitzvah that carries the penalty of lashes. If the violation was for convenience, there is a simple suspicion that he will also violate the Mitzvah not to bear false testimony for convenience, such as for payment. If it was to spite, the Talmud debates whether the single violation of that Mitzvah is sufficient proof that he will also violate the Mitzvah forbidding false testimony, or whether he is nonetheless a *Rasha* anyhow. If the violation was in secret, there is less issue of sinfulness, since he would not want to be caught violating. Second, one who is involved in criminal acts of thievery or illegally holding other people's money. Third, one who violates a Rabbinic ordinance, or who gambles for his livelihood, thus looking for easy money, is Rabbinically disqualified. Fourth, one who does not study Torah, Mishneh, or preoccupy himself with a livelihood. He is considered a good for nothing, an *Am Haaretz*. Included in this category is one who is considered a *Mevuzeh*, one

who is not concerned with his self-respect, is disqualified, apparently Rabbinically. There is a view that disqualifies *Mevuzim* Scripturally. This seems to be based on the reason for this disqualification. If one says that the basic reason the Torah disqualifies sinners is their lack of concern for themselves, and therefore the lack of concern for others. This is sufficient to disqualify anyone who displays lack of concern for himself, in matters of shame and self-respect. [See Parshas Mishpatim 23:1, commentaries. Rosh Hashana 22a Sanhedrin 24b-29a Kidushin 40b, Poskim. Chinuch Mitzvah 75. Tur, Shulchan Aruch Choshen Mishpat 34, commentaries.]

(B) *Ochel Bashuk*

Our question centers on the fourth category. The Talmud lists a number of these types, including one who strips his clothes when doing dirty work in public and one who eats in the *Shuk*. The sources for this disqualification are two Talmudic dicta, one in the Bavli and the other in the Yerushalmi. One dictum compares one who eats in the *Shuk* to a dog, and goes on to disqualify him as witness. The other states that it is not complimentary behavior for a *Talmid Chacham*, a Torah scholar. This implies that it is not wrong for others. In reconciling these statements, the Poskim define the term *Ochel Bashuk*. One view says that the Talmid Chacham should not even eat his own food in public, while an ordinary citizen who eats his own food is not condemned. The dog takes food from others and eats in the street. Though if it were a sizeable amount the person who took the food would be stealing, the Talmud refers to taking a minor amount, or to sampling food from merchants with no intent to buy. The first of these is shamelessly snatching food, the second is trying to get food an easy way. [This does not apply to merchants who specially try to advertise with samples. They know that the sampler has no intention to buy, but hope he will change his mind. However, repeatedly taking samples is surely not acceptable. Some say that one should not walk around at a smorgasbord sampling everything.] This explains the term "*Shuk*" a street vendor market, and the comparison to a dog, who eats in different places. A second view maintains that the issue is eating a proper meal in public, while the Talmid Chacham is condemned for snacking. Some commentaries add that the meal must be a bread meal, including *Birchas Hamazon* recited in public. It seems a main concern is the Brocha in public, even if one ate in private. Others refer to one who grabs and eats on the run, like a glutton. Some commentaries deduce from the term "*Haochel*" that we refer to one who habitually does this, rather than to one who did it once. Some Poskim add the word *Holech Veochel*, one who walks around eating. According to some

Poskim this means that one who does not walk around, but fixes himself a spot, is still a qualified witness, though this is moderately embarrassing as well. A Talmid Chacham should not do this either. [See Kidushin 40b, Poskim. Tur, Sh. Ar. C.M. 34:18, commentaries.]

If a witness who does this is disqualified, the practice must be wrong in the first place. If it were a true violation the Talmud would not disqualify on the grounds of shamelessness, but on more substantial grounds of being a Rasha. Presumably, the objection is that it does not fit guidelines of *Tznius*, modesty.

Our questioner wishes to know if he may eat in a partly private public place. According to those who maintain that the Talmud refers to eating a normal meal in the street, which areas can be designated as the street? Evidently, this view does not require the meal to be eaten in the market. The term Shuk must refer to a place where many other people are congregated. Eating at large gatherings is permitted. Similarly, eating at a restaurant which has tables set up on the sidewalk could be considered respectable. The same would be true of a designated picnic area. It would even be acceptable to eat with others while sitting on a park bench, and there are often litter bins nearby with the understanding that they will be needed. The objection seems to be to eating in a place where others do not eat. If the main objection is to walking around, sitting at a bus stop would not be included, though a Talmid Chacham would be advised to refrain from it. If one considers a bus shelter secluded, due to its walls and roof, this might be less objectionable. However, it would appear that eating a sandwich or the like, even in the shelter of a bus stop, would not be recommended. While many people eat snacks, specifically right out of the bag, at such places, as the nearby litter bins attest, they do not eat a meal. The time it normally takes to finish would rule out the short time (hopefully) waiting for the bus.

Thus, acceptable practices govern this situation. Snacking would be acceptable, according to all views. A Talmid Chacham should not do this either, whether it involves eating out of a bag or drinking a coffee from a disposable cup. Perhaps eating something very discreetly would not be considered unbecoming. Eating a more substantial meal would be restricted. In a proper waiting room, one may eat a proper meal. Often people wait a long time ahead in these places, sometimes counting on this time for their meals.