

Fast Forward

On the Status of Minor Fasts

In the Talmudic discussion of the minor fast days (3rd of Tishre, 10th of Teveth, 17th of Tammuz), fourth century rabbis conclude that their observance depends on the state of affairs of the Jewish People¹:

בזמן שיש שלום - יהיו לשישון ולשמחה, יש שמד - צום, אין שמד ואין שלום, רצו - מתענין, רצו - אין מתענין

At times of peace – those days are days of joy and happiness. At times of persecution – they are fast days. If there is neither peace nor persecution – it is people's choice whether to fast or not to fast.

Several questions are raised by this statement:

1. What was the practice at the time the statement was made?
2. What is the definition of peace and persecution?
3. Who has the choice? Is it the choice of the community, of individuals, or the religious leadership?

Rabbenu Hannanel (980-1057) writes that his times fit the definition of neither peace nor persecution, and therefore, if people choose not to fast, they are allowed to do so².

It seems that he relegates the power of choice to individuals and does not require a decision by a central religious body. It is also clear that for he defines persecution as an extraordinary state of affairs, where the Jews are targeted and attacked, since he lived in a somewhat turbulent period.

R. Shelomo ben Adret, the Rashba (1235-1310), seems to agree. He writes that peace is when the Jews live in their land, and the lack of peace or persecution is when they are in exile but not particularly targeted. He adds that it makes sense to say that even though they were accustomed to fast in previous years, they are allowed to change their practice and stop fasting, if they wish to do so³.

In Mahazor Vitri, an anthology of the customs and laws of Rashi and his disciples, the following incident is mentioned (Ch. 336):

מעשה בא לפני ר"ת באשה יולדת ביום שמיני ללידתה. ששאלה אם תוכל לאכול בצום גדליה. והשיב הרב שמותר. ואף על פי... דמכאן ואילך אם אמרה צריכה אני אין מחללין עליה את השבת, וצום גדליה דברי קבלה, ודברי קבלה כדברי תורה אפילו הכי מותר. דאמרינן... אין שמד ואין שלום, רצו מתענין, רצו אין מתענין. ולכך התירה הרב לאכול

A woman who gave birth eight days before the Fast of Gedaliah (the 3rd of Tishre) asked Rabbenu Tam (1100-1171) whether she can eat during the fast day, and the rabbi answered positively. He explained that once three days passed since giving birth, the new mother has no privileges when it comes to biblical prohibitions. One would have thought that the 3rd of Tishre has the same status since it is mentioned in the Bible... but since we learned in the Talmud that people have the choice whether or not to fast, she is allowed to eat.

This story teaches us two important things:

1. Rabbenu Tam understood the choice as individual, and allowed the woman to eat even though others were fasting.
2. He considered his period to be a relatively quiet one, despite living through several crusades.

The question which we should ask now is why do we not consider the current situation, in which we have an independent country, as a time of peace, or at least as a time of neither peace nor persecution. How come we have not followed the rule of the Talmud and did not review the status of the fast days?

About a hundred years after the ruling of Rabbenu Tam, R. Menahem Ha'Meiri (1249-1310) writes⁴:

At times of peace, meaning that we are not subjugated to other nations, the minor fasts are not observed. Not only they are not mandatory but not even optional [i.e. it is forbidden to fast], since it is written that they will become days of joy and happiness. At times of neither peace nor persecution, when we are subjugated but there are no decrees against observing Judaism, fasting is optional.

Ha'Meiri takes the matter a step further and says that at times of peace we are not allowed to fast. According to his definition, we now live in peaceful times. Despite terrorism and antisemitism, one cannot deny that we have a sovereign state and we are not persecuted anywhere in the world.

Why then are we still fasting on those days?

Because there were several other poskim, who understood that the choice whether to fast or not is in the hands of the rabbinic leadership, and not the community or individuals. That

understanding, in turn, stemmed from the desire to have uniformity and avoid situations where people in the same community or town choose to behave differently on those fast days. The desire for uniformity also led to a reluctance to rely on the Talmudic rule, because that would have required rabbis to routinely assess the situation and decide whether this year the fast is mandatory, optional, or forbidden. It was much easier to choose the default option of “we always fast”.

One of these poskim is Rabbenu Asher who writes that the decision must be a collective one, and as long as the community fasts, one is not allowed to decide otherwise⁵.

Rabbenu Nissim of Gerona writes in the name of Nahmanides that if the majority of the nation decided not to fast, the Beth Din does not force them to fast. In our time (14th century), he says, they are all willing and accustomed to fast, and the individual cannot breach the law... he adds that Maimonides mentions nothing of the Talmudic rule.

While it is true that Maimonides does not directly mention the rule, he alludes to it in his introduction to the laws of the fast days⁶:

ויהיה זה זכרון למעשינו הרעים ומעשה אבותינו שהיה כמעשינו עתה עד שגרם להם ולנו אותן הצרות

[The fasting] should serve as a reminder that our evil deeds are like those of our forefathers, and they caused them and us the same troubles.

The phrasing of Maimonides insinuates that if we are not experiencing the same suffering as our forefathers, we should not observe the minor fasts. From our current perspective, seventy years after the horrible Holocaust, and knowing what we know of the frail and precarious existence of Jews in 2,000 years of diaspora, it is hard to understand why we still cling to those fast days, but let us return to the opinions which support fasting. R. Yomtov al-Sevilli, the Ritva (14th C), presents the rule with the addition of two words, “Beth Din”, which make a significant difference:

הדבר תלוי ברצון ישראל רצו ב"ד מתענין לא רצו אין מתענין כלל

It depends on the will of the people, if the Beth Din wants, they fast, and if not, they do not fast at all.

The ruling that has solidified the practice, however, was that of Rabbenu Yaakov in his Arba'a Turim⁷:

והאידנא רצו ונהגו להתענות לפיכך אסור לפרוץ גדר וכ"ש בדורותינו הלכך הכל חייבין להתענות מדברי קבלה ומתקנת נביאים

Now they want and are accustomed to fast, and one cannot breach the law, even more so in our generation, and therefore everyone must fast, in accordance with the tradition (קבלה) and with the words of the prophets.

The language is problematic as Rabbenu Yaakov starts by talking of “now” and then adds that the law applies even more in “our generation”. Also, the terms tradition and words of the prophets are synonymous. These repetitions are a result of quoting, not verbatim, a statement by Nahmanides.

In following generations, the words of Rabbenu Yaakov became binding, although there were attempts to reject them, such as the following by a disciple of R. Yehezkel Landa, the Noda BiYehuda. R. Elazar Falkeles (1754-1826) writes⁸:

ומה שאנו מתעניין אינו אלא מנהגא ודברי קבלה ותקנת נביאים אינו אלא ביש גזרה

The fast we keep today is only a custom [and not a binding law], and the words of the prophet apply only when we are persecuted.

However, R. Yisrael Lipshitz (1782-1860) writes in his commentary on the Mishnah⁹:

ובעת שנושנת המשנה בימי רבי הכי הוה, דאנטונינוס קיסר היה אוהב ישראל... מיהו הטור כתב, דהשתא קבלום ישראל עליהן חובה לכולהו עד שיבנה המקדש

It was only in the time the Mishnah was redacted by Rabbi Yehudah [that the rule of choosing to fast applies], since the emperor Anthony was friendly with the Jews, but Rabbenu Yaakov wrote that we have now accepted the fasts as mandatory until the Temple will be rebuilt.

There are two problems with this statement: Rabbenu Yaakov did not mention the rebuilding of the Temple as a condition for not fasting, and the “peaceful” period of Rabbi Yehudah and Anthony came immediately after the devastation of the Bar Kokhva rebellion. By that logic, we should not fast today since we are much farther removed from our turbulent past than Rabbi Yehudah was when he made the rule.

Conclusion:

In the current state of the Jewish people in Israel and abroad, the Talmudic rule demands that fasting on the minor fast days should be optional, and according to Ha’Meiri, fasting would even be forbidden, maybe because it shows lack of gratitude to God. For that reason, one who chooses not to fast on these days cannot be considered one who breaches the law, and can definitely rely on the ruling of Rashba. Hopefully, in the coming years, more and more individuals will choose to acknowledge the fact that we live in better times and develop a more positive worldview, and as a result maybe persuade the rabbinic leadership to reassess the situation and leave us with

only two fast days, Tisha Be'Av and Yom Kippur, thus making those two much more meaningful.

With prayers for peace and mutual respect and understanding,

R. Haim Ovadia

¹ Rosh HaShana 18:2.

² רבינו חננאל, ראש השנה, שם: אין גזרה ואין שלום כגון עתה בזמן הזה רצו מתענין רצו אין מתענין וכיון שאם רצו שלא להתענות בהן אין חובה עליהן

³ חידושי הרשב"א, שם: בזמן שיש שלום, שישראל שרויין על אדמתן. אין שמד ואין שלום. בשישראל בארץ האויב אלא שאין שמד רצו מתענין רצו אין מתענין. ומסתברא אף על פי שהורגלו להתענות לא רצו עכשו להתענות אין מתענין

⁴ בית הבחירה, שם: בזמן שיש שלום, רצונו לומר שאין יד האומות תקפה עלינו, אין מתענין בהם אפילו מתורת רשות, שהרי נאמר בהם יהיו לבית יהודה לששון ולשמחה. אין שלום ואין שמד, שיד האומות תקפה עלינו אלא שאין גוזרין עלינו גזרות לבטל את המצות, רצו מתענין רצו אין מתענין

⁵ תוספות הרא"ש, שם: פירוש רצו הצבור אבל היחיד אין לו לפרוש מן הצבור כל זמן שלא נמנו הצבור שלא להתענות

⁶ רמב"ם הלכות תעניות פרק ה, א

⁷ טור אורח חיים הלכות תשעה באב ושאר תעניות סימן תקנ

⁸ שו"ת תשובה מאהבה חלק א סימן לא

⁹ תפארת ישראל - יכין מסכת מגילה פרק א