

Insights into Halacha

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Smoking and Halacha

The question of how smoking is viewed through the lens of halacha is not a new one. In fact, there is abundant halachic literature dating back to seventeenth and eighteenth centuries related to the permissibility of smoking. Far from discussing the health issues later associated with this habit, the poskim of the time actually address whether or not one may smoke on Tish'a b'Av or other fast days and whether non-kosher ingredients contained in a cigarette are of halachic concern. There is even discussion whether or not smoking requires a bracha beforehand! But the main area where we find smoking discussed is by the Halachot of Yom Tov, where poskim debate whether smoking on Yom Tov is permitted, prohibited, or actually fulfilling a Mitzva.

Smoking L'Kavod Yom Tov?

It is well known that on Yom Tov, as opposed to Shabbat, we are allowed to use a fire, provided that it is only lit by transferring from a pre-existing flame, and not by creating a new flame. The Gemara (Beitza 22b-23a) discusses whether placing incense on

coals, and its by-product, the smoke it causes, are permitted on Yom Tov, due to the kindling and extinguishing issues involved. Many Acharonim drew a parallel from the Gemara's scenario to what must have been a burning issue of the day, and still is: smoking cigarettes on Yom Tov.

The Magen Avraham, as well as the Elya Rabba, Korban Nesanel, Chavos Yair, and Chayei Adam, all maintain that smoking is not a DAVAR SHESHAVEH L'CHOL NEFESH, something that is equally enjoyed by all - a necessary provision to allow dispensation for a Melacha on Yom Tov. Therefore, they all rule that smoking on Yom Tov is prohibited.

However, several other poskim, including the Darchei No'am, and the Chida, disagree with their assessment, asserting that smoking does indeed fit this criterion, for several reasons:

They deem smoking to be in the category of OCHEL NEFESH, (generally used to describe acts related to food preparation) which is permitted on Yom Tov regardless of whether or not it is enjoyed by all.

This is actually understandable, as the poskim of the time referred to smoking as SH'TIYAT TUTIN, drinking tobacco. See, for example, what the Ben Ish Chai writes regarding the rights of Talmidei Chachamim to smoke in shul,

as he considered it drinking. This also explains why many ruled against smoking on ordinary fast days, even though nowadays it would seem implausible to consider smoking an actual act of eating or drinking.

Since the vast majority of people enjoy smoking, it is still considered a DAVAR SHESHAVEH L'CHOL NEFESH.

The famed P'nei Yehoshua, Rav Yaakov Yehoshua Falk zt"l, Rav Yaakov Emden zt"l, and Rav Yonason Eibeshutz zt"l, all raise an additional point to allow smoking on Yom Tov. Astonishingly, they extol the health benefits of smoking! They write that smoking aids digestion, whets the appetite, and improves the body's general wellbeing. Therefore, they conclude, that even if some do not actually enjoy smoking, it is nevertheless still considered SHAVEH L'CHOL NEFESH. Rav Yaakov Emden adds that his father, the renowned Chacham Tzvi, restarted smoking on Yom Tov, because otherwise he felt that was not properly fulfilling the Mitzva of Oneg Yom Tov! This is quite understandable, as many Rabbanim of the time viewed smoking in a positive light, and quote the Talmidim of the Baal Shem Tov as even comparing smoking to the Ketoret!

Although many poskim argued on each of these points, including the Beit Meir and Zera Emet, other later

authorities, including the Pri Megadim, Ben Ish Chai, and Aruch HaShulchan, concurred wholeheartedly. In fact, the Mishna Berura cites a summary of this discussion with no clear-cut psak, and concludes simply that 'one may not object to those who smoke on Yom Tov', with a provision to be careful regarding extinguishing the cigarette.

Smoking Stats

However, in the words of Rav Moshe Sternbuch shlit"a and Rav Asher Weiss shlit"a, nowadays the real question is not whether or not smoking is permitted on Yom Tov; it is whether or not smoking is permitted at all!

In 1964, the United States Surgeon General released his initial report stating the health risks associated with smoking. Since then, there have been thousands of scientific studies and reports detailing the hazards of smoking. The Center for Disease Control estimates that one out of every five deaths in America each year (approximately 1300 each day!) is caused by smoking. Other reports estimate that 15% of smokers eventually die of lung cancer. Compounded with the elevated risk of emphysema, stroke, coronary disease, and circulatory disorders, studies indicate that smokers face a much higher mortality rate, an almost 67% chance of dying due to an illness

directly attributed to their smoking.

Now that we are aware of the true “health benefits” of smoking, the question is whether or not there remains a HETTER to engage in this socially acceptable self-destructive behavior.

The Gadol Hador, Rav Moshe Feinstein zt”l, in a brief, albeit pivotal t’shuva dated several months after the Surgeon General’s initial report, wrote that although it is certainly appropriate to abstain from smoking, nevertheless, one cannot say that smoking is outright asur, as there are many people that smoke. Therefore, smokers fit into the category of SHOMER P'SA'IM HASHEM, Hashem watches over fools.” Rav Moshe adds that especially since many Gedolim smoked, it is impossible to say that such an act is truly forbidden.

This fact is very important. It is well known that Rav Moshe strongly ruled against prohibiting any action that could possibly cast aspersions on previous generations.

This responsum seems to be the primary justification for many a smoker.

A Changing Reality

Several other contemporary authorities wrote similarly to Rav Moshe’s understanding and consequent hetter, explaining that although it

may not be proper to smoke, it still is not truly prohibited by halacha. Yet, subsequently, and as the knowledge of the health risks associated with smoking became more widespread and universally acknowledged, and the number of smokers starting dropping, many of these poskim changed their psak to reflect the emerging reality, using extremely harsh terms to decry smoking, with many authorities outright forbidding it.

The first written responsum outright prohibiting smoking nowadays due to medical concerns was in Shu”t Asei Lecha Rav (vol. 2: 1; see also vol. 6: 58, where he prohibits purchasing cigarettes for others, even parents!) by Rav Chaim Dovid HaLevi, Chief Rabbi of Tel Aviv, in the 1970s. As the knowledge of the health risks associated with smoking became more widespread and universally acknowledged, and the number of smokers starting dropping, many more poskim began ruling stringently as well.

These contemporary authorities include Rav Yosef Shalom Elyashiv zt”l, the Tzitz Eliezer zt”l, Rav Ben Tzion Abba Shaul zt”l, and Rav Ovadia Yosef zt”l, who, contrary to their earlier psakim, in their later rulings all came out strongly against smoking. Other poskim, including Rav Aharon Kotler zt”l, Rav Shlomo Zalman Auerbach zt”l, the Debreciner Rav

zt”l, Rav Shmuel Halevi Wosner zt”l, Rav Menashe Klein zt”l, the Rivevos Efraim zt”l, Rav Chaim Kanievsky zt”l, Rav Moshe Sternbuch shlit”a, Rav Shmuel Kamenetsky shlit”a, and Rav Asher Weiss shlit”a, wrote unequivocally about the dangers of smoking and how it is not permitted, with some even referring to smoking as “suicidal”.

In fact, many Gedolim, including Rav Yosef Shalom Elyashiv zt”l, Rav Aharon Yehuda Leib Steinman zt”l, Rav Michel Yehuda Lefkowitz zt”l, Rav Moshe Shmuel Shapiro zt”l, Rav Shmuel Auerbach zt”l, and Rav Nissim Karelitz zt”l, in Av of 2004 signed a Kol Koreh against smoking, even imploring those who do smoke to do everything in their power to stop.

Of Addiction and Anecdotes

Although it is known that many Gedolim smoked (and do smoke), it is highly probable that they started before the risks were known, and now simply cannot quit, due to their nicotine addiction. If they would be able to do so, they certainly would. In fact, it is exactly the battle against addiction required to quit smoking that Rav Eliyahu Eliezer Dessler zt”l embodied in his classic *Michtav MeiEliyahu* to define the battles against the Yetzer HaRa, and it took someone of his incredible stature several years to finally be able to quit.

Anecdotally, it is told that Rav Yaakov Kamenetsky zt”l, as well as this author’s Rosh Yeshiva, Rav Leib Bakst zt”l of Detroit, quit ‘cold turkey’ after doctors personally explained the health risks of smoking to them. The same is told of the great late Ponovezher Rosh Yeshiva, Rav Elazar Menachem Mann Shach zt”l, as well as the previous Gerrer Rebbe zt”l, Lord Rabbi Immanuel Jacobovitz zt”l, and Rabbi Moshe Sherer zt”l. Even mv”r Rav Yaakov Blau zt”l (of the Eidah Hachareidis), a tremendous Gaon and quintessential old time Yerushalmi (heavy smoker), and the Dejer Rebbe of Miami, Rav Yehuda Paneth zt”l, both attempted to cut down in their later years. Additionally, it is related that Dayan Yisrael Yaakov Fischer zt”l, who permitted smoking year round (including Yom Tov), at the end of his life, when he was dying of lung cancer, gathered ten men together to publicize in his name that smoking is truly unequivocally assur and he wanted to be MEZAKEH THE RABBIM with this psak.

Of SAKANA and HEIZIK

In fact, even Rav Moshe himself, in subsequent teshuvos dated 1981, took a much stronger stance against smoking due to the health risks involved. Although he still would not call smoking outright assur, he nonetheless rules that due to the dangers of second-hand smoke, it is

forbidden to smoke where it will bother others (a psak later echoed by many other authorities) including Batei Midrash and shuls, and concludes with an exhortation that everyone, especially Bnei Torah, should not begin to smoke due to the CHASHASH SAKANA, adding that it is assur to 'get addicted'.

Several years ago, his son, Rav Dovid Feinstein zt"l, was quoted as saying that with the current knowledge of the harm smoking causes, it is pashut that had his father, Rav Moshe, still been alive today, he would have prohibited smoking outright, as his dispensation was only based on the 'fact' that smoking endangered only a small percentage of smokers. Indeed, in a newly discovered and recently published teshuva of Rav Moshe's, dated Elul 5732, he himself wrote that his famous lenient psak was based on the facts as they were known at the time. He added that if the METZIUS would change and the percentages of those proven harmed by smoking would increase, then certainly it would be prohibited to smoke, at least the amount the doctors considered harmful to one's health.

This would certainly seem to hold true according to how most poskim, including the Divrei Malkiel, Rav Chaim Ozer Grodzenski, and the Tzitz Eliezer understand the hetter of SHOMER P'SA'IM HASHEM. Rav

Chaim Ozer explains that one may only rely on said hetter when there is no clear and present danger, when the sakana is only a CHASHASH RACHOK... a minimal suspicion. The Divrei Malkiel gives an example of a boat journey, that although there is always the danger of a boat capsizing as opposed to one staying on dry land, nevertheless, it permitted, as it is a MIKREH RACHOK. The Tzitz Eliezer adds that conversely, since smoking is deemed enough of a health risk that in every civilized country cigarettes are exclusively sold with a warning printed on the package that it damages health, smoking can no longer be classified under SHOMER P'SA'IM HASHEM. Accordingly, in our day and age, one would definitely not be able to rely on this hetter to smoke.

Additionally, according to the T'rumat HaDeshen's interpretation, SHOMER P'SA'IM HASHEM only applies to one performing an action that carries a mere CHASHASH SAKANA (and not a full-fledged one), and even that dispensation would not apply to one who knows better, and realizes the risks inherent in his actions. Consequently, smoking nowadays would undoubtedly not be included in this lenient classification.

Furthermore, even according to Rav Elchonon Wasserman HY"D's understanding of this Klal, it seems

tenuous at best to smoke. He explains that the *hetter* means that one does not have to refrain from regular daily living, i.e. performing everyday activities, (“*minhag derech erez*”, in his own words), as then he is considered guarded from Heaven. However, when referring to an action that is within his ability to refrain from, he is no longer numbered among the ‘guarded fools’. Moreover, if one does not take the necessary precautions, he is *MIT-CHAYEIV B’NAFSHO* and loses all Heavenly protection. Since smoking’s true health risks have become increasingly manifest, and is now a practice indulged in by far fewer than even several decades previous, it seems highly doubtful that Rav Elchonon would consider smoking “*minhag derech erez*” nowadays to allow a dispensation.

Over a hundred years ago, the Chofetz Chaim expressed his dismay that ‘weak’ people smoked, even though the doctors of the time clearly informed them of the grave health risks involved. He strongly condemned smoking where it was found to be injurious to health.

Additionally, the Rambam wrote that one should distance himself from any activity that can cause his body harm; one who does not, but rather places himself in *SAKANA* deserves *MAKOT MARDUT*. This is seconded by the

Sefer Hachinuch and *Shulchan Aruch*, and referred to as transgressing an *Issur d’Oraysa* by the *Levush* and *Chida*, and even outright “*apikorsus*” by the *Be’er HaGolah*. Furthermore, while addressing the requirement of avoiding dangerous activities due to the Talmudic dictum of *CHAMIRA SAKANTA MEI-ISURA*, (matters of danger are to be treated more stringently than prohibitions; *Gemara Chullin 10a*), both the *Tur* and *Rama* stress that we should be further concerned with a possible danger (*safek*) above and beyond a possible prohibition. All of the above would certainly apply to smoking.

Although with many apparently suffering from “ostrich syndrome”, and others claiming to follow the *P’nei Yehoshua* since he predated the Surgeon General by several centuries, nowadays, with medical science conclusively proving the dangers of smoking, and with so many prominent authorities having issued rulings forbidding it, one who embarks on a smoking ‘career’ does not seem to actually have the staunch halachic backing he might assume he does. *V’NISHMARTEM M’OD L’NAFSHO-TEICHEM* does not apply exclusively to others.

This article is not meant to be a comprehensive guide; it is merely a brief summary of the main halachic issues involved with smoking.

Disclaimer: These are just a few basic guidelines and overview of the Halacha discussed in this article. This is by no means a complete comprehensive authoritative guide, but rather a brief summary to raise awareness of the issue. One should not compare similar cases in order to rules in any real case, but should refer his questions to a competent Halachic authority.

For any questions, comments or for the full Mareh Mekomot & sources, please email the author: yspitz@ohr.edu

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Rabbi Yehuda Spitz's English halacha sefer, "Food: A Halachic Analysis" (Mosaica/Feldheim) containing over 500 pages featuring over 30 comprehensive chapters discussing the myriad halachic issues pertaining to food, is now available online and in bookstores everywhere."

Editor's notes:

Rabbi Spitz's footnotes to his halachic articles are usually extensive and enlightening. I would say that is so more than usual for this article on Smoking. Recommended to use the link on philotorah.co - find the article there and check out the many footnotes.

As is usual for PhiloTorah, I include only a few pieces of the footnotes, which are in light blue, italics, thinner font.

I would like to add another idea to Rabbi Spitz's article on Smoking - The Chilul HaShem factor. One of the definition of Chilul HaShem (desecration of G-d's Name) is doing (in public) that which lowers the esteem of Torah in the eyes of the beholder. When an obviously religious person smokes in public, a not uncommon reaction of a "regular" Jew who sees this is - How can this be? Is this what the Torah teaches? Is this how a religious Jew should behave? CHILUL HASHEM!