

Moral HAZARD

The Safe Side: The Role of Risk Aversion In Torah Observance

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1. “THE SAFE SIDE”

At a Shabbat lunch I recently attended, a certain everyday practice became the topic of debate. It was called into question whether or not this practice could be performed without violating one of the thirty-nine *malachot* forbidden on Shabbat. The conversation, after a brief initial discussion regarding the details of the uncertainty, split into two distinct directions: about a third of the people present, those with the strongest background in Torah study, were interested in dissecting the nature of the relevant practice to better understand its proper status on Shabbat (not to determine *psak*, it seemed, but simply for the pleasure of the investigation); the rest of the group, however, were arguing for what they considered the more meritorious approach, namely, to discontinue the practice on Shabbat, asking, “Why not be on the safe side?”

It is, on the surface, a compelling argument. The development of Torah Judaism post-Sinai has consistently involved the application of safeguards and ‘fences’ to help ensure the proper adherence to Halacha (*gzeirot, takanot*, etc.). This group, arguing for the ‘safe side,’ sought to protect Halacha. But it struck me in that moment at the table that while attempting to reduce the risk of violating the Torah, they were, simultaneously, discouraging—in fact, themselves avoiding—Torah study. I wondered: has the (modern) predilection in Orthodoxy towards risk aversion had an

adverse effect on *talmud Torah*? As a society, by reliably defaulting, when in doubt, to the course of action that best avoids ‘sin’—that is, by accepting this approach as appropriate and commendable *lechatchilah* (initially)—have Torah-observant Jews eliminated a significant incentive for gaining knowledge? Why investigate the matter if I can, instead, achieve a certain branch of saintliness by sacrificing a momentary pleasure for the sake of the greater good? Furthermore, is there even validity to this attribution of saintliness-through-abstention from a strictly Halachic perspective?

The economic approach to risk notes that there is a cost to risk aversion: like Gretzky said, you miss all the shots you never take. In other words, if you don’t gamble, you can’t win. Now this form of encouragement may be appropriate when you are trying to convince a child to play sports or study for a test, but it’s probably not what you would say to someone who is contemplating trying cocaine. Similarly, it would be foolish to say to an observant Jew, “Hey, it might be kosher—why not take a chance?” It is difficult to perceive any benefit to risk when the worst-case scenario involves God’s wrath. But the truth is that risk aversion—even when dealing with religion or narcotics—always comes at a cost and it is important to recognize this cost. Before latching unequivocally onto ‘Safe Side Judaism,’ it must be understood that there is no, so to speak, ‘free’ form of risk aversion. For example, in the case discussed at the Shabbat lunch I attended, if we were to choose to discontinue the practice under analysis, we would inevitably reduce the pleasure of the day for certain people. As it is a mitzvah to enjoy Shabbat (*oneg Shabbat*), if there lacked a proper Halachic basis for our vigilance, we would be, in essence, failing to fulfill a positive commandment (*bitul eseh*) for no excusable reason.

This series will investigate the role of risk aversion in Halacha, using economic tools to better understand the benefits and costs involved in ‘staying on the safe side.’ At this point, it should at least be clear that ‘low risk’ and ‘free’ are not synonymous terms and that when one relies on extreme caution as his primary guiding force he

may be inadvertently violating Halacha, not to mention reducing Torah study and/or usurping his Rabbi or Beit Din.

Next time, the basic theory of risk and risk aversion in economics will be the focus.

Future source (for preparation, if desired):
Pirkei Avot 1:1

For more on Risk Aversion:
http://en.wikipedia.org/wiki/Risk_aversion

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