

## Halachos of the Three Weeks *Rabbi Aryeh Lebowitz*

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### I. Introduction.

Unfortunately, the Jewish calendar provides us with many periods of time where we recall tragic events in our history. The rabbis have instituted the practice to observe certain customs of mourning during the period of sefiras ha'omer, the three weeks, the nine days, the week of Tisha B'Av, and, of course, Tisha B'Av itself. Due to the many details and differences in halacha between these time periods, people are often confused about which halachos are observed during each period. In this essay, we will outline the halachos that pertain specifically to the three weeks. The reader should be aware that the halachos change drastically once the nine days begin, and this essay should not be used as a guide for the nine days.

### II. Haircutting and Shaving.

A. The basic halacha. The רמ"א (סימן תקנ"א סעיף ד') writes that one may not take a haircut from עשר בתמוז until חצות היום שבעה עשר. This is an Ashkenazic practice. Sefardic practice is to follow the ruling of the תשעה באב not to take haircuts only during the week of תשעה באב. Before discussing the details of this halacha, it is important to note that Rav Soloveitchik developed an idea that leads us to drastically different conclusions than many of the other poskim. Rav Soloveitchik believed that the period of the three weeks mirrors the period of twelve months of mourning one observes after the death of a parent, and our practice is to shave regularly (after initially allowing a few days of growth), one may do the same during the three weeks.<sup>1</sup> The discussion that follows assumes the approach of the majority of the poskim to be correct, but does not presume to cast any doubt on the halachic validity of Rav Soloveitchik's approach.

However, there are a number of exceptions to this rule:

1. Mustaches. The שו"ע (שם סעיף יג) rules that if a mustache is growing in a way that it inhibits eating, one may trim it.
2. Women of marriageable age. Rav Shlomo Zalman Auerbach allowed a woman who is of marriageable age to take a haircut during the three weeks (and even during the nine days) because many poskim rule that a woman may even take a haircut during the period

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<sup>1</sup> See Nefesh Harav page 191. For a more expansive explanation of this approach, see Out of the Whirlwind pages 9-30.

of mourning - so we may certainly rely on these poskim for a rabbinic prohibition such as haircutting during the three weeks (שלמי מועד פרק פט).

### 3. Trimming eyebrows.

a. Rav Moshe Feinstein. Rav Moshe זצ"ל was of the opinion that one cannot trim eyebrows during שלשים, and therefore may not do so during the three weeks either.

b. Rav Shlomo Zalman Auerbach. Rav Shlomo Zalman זצ"ל maintains that it is permissible to trim eyebrows (and eyelashes) during the three weeks. He felt that such hair removal is not considered to fall into the halachic category of "haircutting".

4. Taking a haircut for the purposes of a mitzvah. It is permissible to take a haircut for the purposes of a mitzvah. Therefore, a woman who has the custom to shave her head before going to the mikvah may do so. Also, somebody whose hair has grown to such an extent as to cause a חציצה for his תפילין may take a haircut to allow him to properly fulfill the mitzvah. However, Rav Shlomo Zalman Auerbach only permitted one to cut the hair in the area that the tefillin will rest on his head, but not the rest of his head, as that is not a true צורך מצוה (שלמי מועד פרק פט). It could be argued, however, that the issue of כבוד הבריות would permit one to violate the rabbinic prohibition of haircutting during the three weeks, specifically in an instance where it would look ridiculous to cut part of his hair and not all of it.

### 5. Exceptions specifically for women:

a. The משנה ברורה (תקנ"א: עט) rules that if a woman's hair is growing in such a way that it is difficult for her to keep it under her head covering, she may cut the hair during the three weeks.

b. Rav Moshe Feinstein allowed women to shave their legs during the three weeks. The logic for this ruling is that the growth of hair on women's legs is not only uncomfortable, but is also something that makes a woman appear unattractive to her husband (שלא תתגנה על בעלה).

c. Women may get their sheitels cut or styled during the three weeks, as this is not considered to be their hair, but their clothing.

6. Brissim. On the day of a baby's bris the שער הציון (תקנ"א:ד') cites the חתם סופר סימן קנה who says that the father, mohel and sandik may all take haircuts. Even if the bris falls on shabbos they may take haircuts on the Friday preceding the bris. The באר היטב (שם אות ג') however, derives

from the רמ"א's comment that they may wear nice clean clothing for the bris, that other prohibited activities such as haircutting remain forbidden.

### B. Cutting hair for work.

1. In an instance where not getting a haircut is likely to cost somebody money, Rav Moshe Feinstein (אגרו"מ או"ה ד' סימן קב) allows one to shave during the three weeks because the prohibition of haircuts during the three weeks is only a minhag. However, during the week of תשעה באב itself, when it is halachically prohibited to cut hair, one would not be permitted to do so even in the event of significant monetary loss.

2. In an instance where one is unlikely to lose any money by not shaving, but one is uncomfortable going into his place of work unshaven for fear that his co-workers may mock him, Rav Moshe Feinstein (אגרו"מ חו"מ חלק א' סימן צג) rules that one may not even shave during the three weeks.

C. Children getting haircuts. The (סימן תקנ"א:יד) שולחן ערוך rules that adults may not cut children's hair during this time period. The משנה ברורה (שם) cites two possible reasons for this prohibition: either because of the mitzvah of chinuch or the עגמת נפש caused by seeing the children in this state of mourning is recommended during this period.<sup>2</sup> The שער הציון (שם) points out that the practical halachic difference between these two considerations is whether a child under the age of six can get a haircut. Rav Moshe Feinstein (אגרו"מ יו"ד א' סימן רכד) and the (סימן תקנ"א אות לא) שולחן ערוך allow a child under the age of six to get a haircut.

### III. Getting married and participating in a wedding.

A. Weddings. The (תקנ"א:ב') שולחן ערוך rules that one may not get married during this period. However, there is a מחלוקת הפוסקים as to whether one may get married on the night of י"ז תמוז:

1. Rav Moshe Feinstein. Rav Moshe (שו"ת אגרו"מ או"ה חלק א' סימן קסה) rules that it is permissible to get married on the night of י"ז תמוז. He reasons

<sup>2</sup> The idea of chinuch normally does not apply to individual aveilus, but when dealing with the mourning over the destruction of the Beis Hamikdash the Aruch Hashulchan explains that it will enhance the children's yiras shamayim and general outlook when they are made to understand the significance of the חורבן.

that there is a מחלוקת בעל המאור ורמב"ן whether the fast day really starts at night (and you say עננו at ma'ariv). He believes that he has a strong proof from a גמרא פסחים דף ב: that the preceding night is not considered to be part of the fast at all. Considering that the issue of not getting married during the three weeks is only a מנהג, we may rely on the lenient opinion. Rav Moshe argues that researching the prevalent custom on this issue is useless because it is uncommon for י"ז תמוז to fall on Sunday. It remains unclear, though, why Rav Moshe assumes that this issue is only a question when י"ז תמוז falls on Sunday, as it would seem that the same issue would arise on any other day of the week. It is possible that Rav Moshe would only permit this when י"ז תמוז falls on Sunday, but when it falls on another day he would advise to make sure the חופה is done before sunset on the previous night. Indeed, שו"ת רבבות אפרים ח"א סימן שע"ה cites Rav Moshe who ruled that one should finish the chupah prior to sunset.

2. Rav Yosef Dov Halevi Soloveitchik. The Rav ruled, however, that it is not permissible to get married the night before י"ז תמוז because although the actual obligation to stop eating does not yet apply, the day is still considered to be a day of fasting. He cites as proof to this position the comment of the תורת השלמים (בהלכות גדה) that one should not eat meat or drink wine on the night preceding a fast day (נפש הרב עמוד). (שו"ת ציץ אליעזר חלק י' סימן כ"ו) Rabbi Eliezer Waldenberg (קצו) also disagrees with Rav Moshe on this issue. He points out that although one cannot ascertain a custom when it comes to getting married on this night because it is such an uncommon event, one can determine a custom for the other customs of mourning that we observe, such as not reciting a שהחינו. The חיד"א explicitly states that our custom is not to recite a שהחינו even on the night of י"ז תמוז, indicating that we begin the customs of mourning already the night before the fast.

B. Engagements. The שו"ע (תקנ"א:ב') rules that one may betroth a woman even on תשעה באב itself, lest somebody else beat him to it, and he loses the opportunity to marry this woman. However, the שו"ע rules that one should not have a festive meal celebrating the betrothal during the nine days. The משנה ברורה (שם:טז) rules that one may arrange a תנאים during this period as well. It seems obvious that one would also be permitted to get engaged during this period. The רמ"א comments that our custom is not to get married starting from י"ז תמוז but makes no mention of such a custom relating to festive meals celebrating engagements. The משנה ברורה (ס"ק יט ובשער הציון אות כו) rules that one may have a meal to celebrate an engagement during the three weeks.

IV. Listening to music and dancing. As we have discussed elsewhere (see *Listening to Music During Sefira* – bknw.org Torah Library), listening to music

is forbidden by the שולחן ערוך all year. While some poskim suggest that if we are lenient throughout the year we may be lenient during sefira as well, there is strong reason to argue that we should never be lenient during the three weeks. Fundamentally, the days of sefira represent a range of emotions. On the one hand they are a quasi-חול המועד between Pesach and Shavuot. On the other hand, it is the time that we commemorate the deaths of Rabbi Akiva's 24,000 students. However, the three weeks are fundamentally a time of churban. While we may choose to ignore the decrees of chazal meant to commemorate the churban during the time of ספירת העומר, it is reasonable to demand that we observe these decrees meticulously during the time of year that is aimed at commemorating the חורבן.

A. Live music versus recorded music. The overwhelming majority of the poskim assume that recorded music has the same status as live music and would therefore be forbidden during this period of mourning. Some even assume that recorded voices have the status of music, as the player is considered an instrument to make pleasant sounds like any other instrument. Rav Shlomo Zalman Auerbach expresses some reservation about listening to voices singing on a recording (שלמי מועד עמוד תעה מתשובת כת"י). We generally assume that a recorded voice has the status of a voice and is therefore permissible to listen to, while recorded music has the status of music and would therefore be forbidden to listen to.<sup>3</sup>

B. Exceptions. There are a number of exceptions to the halacha that one may not listen to music during sefira:

1. Rav Moshe Feinstein has been quoted as saying that background music in a video presentation or the like is not considered music, and is permissible.
2. Rav Moshe Feinstein (שו"ת אגרות משה או"ח חלק ג' סימן פז) rules that a musician or somebody who is studying to become a musician may play music during sefira in order to sharpen his skills. Presumably, Rav Moshe would have allowed a musician to practice during the three weeks as well. If, however, he is playing for his own enjoyment, Rav Moshe cautions, it would be forbidden to play music.
3. Rav Ovadiah Yosef (שו"ת יחווה דעת חלק ו' סימן לד) rules that one may listen to music and sing along with it at a סעודת מצוה.

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<sup>3</sup> For further elaboration of this topic, see *Listening to Music During Sefira* – bknw.org Torah Library.

V. Reciting שהחיינו. The (תקנ"א:י"ז) ערוך שולחן recommends that one refrain from reciting a שהחיינו on new clothing or fruits during this period. The מגן אברהם explains in ס"ק מ"ב that since this period is a time of פורענות it is inappropriate to thank Hashem for allowing us to reach this time. The יד אפרים explains that although a mourner may recite a שהחיינו, we may not do so during the three weeks because while a person may be in mourning, there is nothing about the time period that would dictate that one refrain from reciting a שהחיינו. This underscores the idea that the prohibition to recite a שהחיינו is not based on a prohibition of שמחה, but actually reflects the very nature of the day. During the nine days many other activities may be prohibited as a result of a prohibition to experience שמחה.

1. The following is a list of some of the more practical halachos relating to reciting a שהחיינו during the three weeks:

A. Reciting שהחיינו on שבת. There is a מחלוקת הפוסקים whether one may recite a שהחיינו on שבת. The מגן אברהם (ס"ק מב בשם האריז"ל) prohibits it, while the ספר חסידים (ומג"א עצמו ועוד פוסקים) are lenient. The ערוך השלחן (תקנ"א:לח) rules that during the three weeks one may recite a שהחיינו on שבת, but during the nine days one should not recite the שהחיינו on שבת.

B. Buying something new. Since it is prohibited to recite a שהחיינו one should refrain from any purchases that would require a שהחיינו (e.g. expensive clothing, cars etc.). Where the custom is to recite the bracha the first time the item is used, rather than at the time of purchase one may purchase the item during the three weeks. When purchasing a house it seems that one has the option of reciting the שהחיינו either at the time of the closing or the moving day. One of these days should be scheduled for a time outside of the three weeks to avoid an obligation in saying a שהחיינו during the three weeks. It should be noted though, that there is no prohibition to recite a הטוב והמטיב during the three weeks, and one may therefore make a purchase that will benefit a group of people (e.g. a family car - שו"ת אגרות משה או"ח ח"ג סימן פ'). Similarly, Rav Moshe rules that one may buy a new car or truck for business as this would be included in the category of ממעטין במשא ומתן which we are lenient with nowadays.

C. Children. A person should recite a שהחיינו upon the birth of a baby girl (בטעי גבריאל פרק יז אות יט) or for the פדיון הבן of his son (תקנ"א:יז) (שולחן ערוך).

## VI. Swimming.

It is widely assumed that one may not go swimming during the three weeks. Rav Moshe Shternbuch, however, points out that there was never a formal decree instituted against swimming during the three weeks, and we no

longer have the power to institute any such decree. Therefore, Rav Shternbuch concludes, one may go swimming during the three weeks. It is only prohibited to go swimming during the nine days. However, Rav Shternbuch advises, it is best to refrain from swimming in deep waters because this period of the year is one that has always been a dangerous period for the Jewish people, and refraining from any possibility of danger is recommended (Teshuvos V'Hanhagos II:263).

## VII. Conclusion.

As Rav Soloveitchik so eloquently explains, the period of the three weeks is designed to gradually bring the destruction of the Beis Hamikdash into the center of our consciousness. Proper observance of these halachos prepares us to take the next step and begin to experience a true sense of aveilus during the nine days and through Tisha B'Av. It is only through the meticulous observance of the halachos of mourning for the Beis Hamikdash, that we can reasonably hope to merit seeing the rebuilding of the Beis Hamikdash in our lifetime.