

HALOCHOSCOPE

This week's question:

Between *Pesach* and *Shavuos* we observe mourning practices for thirty-three days. There are varying *minhagim*, customs, on how to choose thirty-three days out of the forty-nine total. Some have the *minhag* to shave on days when *tachanun* is not recited. There is a consensus to permit haircutting on *Lag ba'Omer*. If *Lag ba'Omer* falls on Sunday, some poskim permit it on *Erev Shabbos*. *Rosh Chodesh Iyyar* falls on Sunday. May one who has the *minhag* to take a haircut on that day also take one on *Erev Shabbos*?

The issues [based partly on Halochoscope XIII:28]:

- A) The mourning practices during this period
- B) The various *minhagim* to calculate the thirty-three days
- C) Shaving Erev Shabbos

A) Mourning practices of *sefirah*

Between *Pesach* and *Shavuos*, twenty-four thousand disciples of Rabi Akiva died, threatening the transmission of the Oral Torah. Massacres by the crusaders took place during this period. It is evident from liturgical poems composed for the *Shabbosos* of this period that other calamities befell us at this time. To commemorate this Divine judgment, we observe mourning during this period, to reflect on the loss and to repent.

The term used by the poskim for the practices during this period is '*minhag*', or custom. '*Minhag*' is usually used in two situations: (i) where there are various ways to perform something, and it has become the norm to do it one way; and (ii) where there are two *halachic* opinions. The prevailing practice favors one view. It represents the decisions of the main bodies of Rabbinic leadership, followed by many communities. With no decisive conclusion, each community chose its path – its *minhag*. This weighs more than the majority of *recorded* opinions as a deciding factor. A practice adopted by the people can affect the decision in *halacha*, if it depends on a 'norm'. *Minhag hamakom* refers to something followed in certain locations. Anyone in the location is compelled to follow their *minhag*, despite his own preferences or *minhag* from back home.

Sometimes someone chooses to follow a certain *halachic* practice that is not required, but has basis. His commitment has the stringency of a *neder*, oath or vow, with Scriptural force. Some practices become binding on descendants, or on future residents of a community. This is based on the verse '*do not forsake the Torah of your mother!*' (*Mishlei 1*.) Some practices evolve with no credible basis in *halacha*. They are nonetheless not discouraged where that might lead to laxity in true *halacha*.

Another kind of *minhag* is instituted by Rabbinical authorities with a good reason, but is not considered fully *halacha*. It might be to commemorate something, or to prevent something after an incident. An example of this type of *minhag* is the mourning practice

during *Sefira*. There is no Talmudic record of these practices. There is also no evidence that they were not practiced. This leads to the belief that either they were taken for granted as *minhagim* at the time, but were never considered *halachically* binding, or that they were only initiated later. It is assumed that they were formally adopted during the *Gaonic* period, when an institution could still be adopted by the entire Jewish People. They all subscribed to the rulings of a single supreme Rabbinic authority. This was the period between the end of the recording of the Talmud and the times of the writing of the great commentaries, such as *Rashi*. However, a written record dating from this period, a *Gaonic* responsum, refers to the practices having begun at the time the deaths occurred.

Two mourning practices were adopted: not to marry, which was universally accepted; and not to have haircuts, which was initially only adopted by certain communities, but has become universally accepted. There is evidence that refraining from haircuts came later. It is possible that additional practices came as a result of further hardships and calamities. As a *minhag*, it was accepted out of choice. In one respect, it has the force of a ban or oath, which has Scriptural ramifications. In other respects, having been accepted voluntarily by the masses of Jews, it is relaxed under certain circumstances. The rule of *ada'ata dehachi lo kiblu*, they never meant to adopt it with this in mind, is invoked. When and how this leniency is applied is a matter of great controversy.

The period is one of public mourning. Loss of Torah scholars is compared to the burning of the Temple. Actual mourning includes Rabbinically ordained practices or restrictions with Scriptural links. They represent sadness and grief, respect, judgment, repentance and humbling oneself, sympathy, and work restrictions due to a type of commemorative *chag*. They reflect one's connections to the departed person, his eternal soul and to the mourners. In our case, only some practices were adopted, with varying degrees of observance. Some maintain that the period is Scripturally festive, so it could not be declared a mourning period. Some liken it to *shloshim* or a *yahrzeit*, or an *availus yeshana*, old mourning, all of which have a lower level of observance. To honor the memories we restrict weddings, and to show grief we restrict haircutting. We permit laundering and business travel. [See Psachim 50b, 51a-b, Yevamos 13b, 62b, 102a, Yerushalmi, Chulin 18b, Poskim. Shach YD 65:7. Magen Avraham OC 690:22. Eshel Avraham OC 58:1(b). Tur Sh. Ar. YD 214:2, Pischei Teshuva 2. Pri Chadash OC 468. 493, commentaries. [Ar. Hash. Chok Yaakov, Yeshuos Yaakov] Minchas Yitzchok I:111. Yechaveh Da'as III:30.]

B) Varying minhagim

The deaths of these scholars occurred for thirty-three days, though the exact days are a matter of debate. One need observe no more than thirty-three days. How these days are counted is debated. There are other variations, and there is a practice among some sects to observe the entire period. The main *minhagim* are: the first thirty-three days, ending on *Lag Ba'omer* [within this *minhag* there are varying practices with regard to the night, day 33 and day 34.]; beginning on the 2nd of *Iyyar* until *Erev Shavuot* [the crusades calamities occurred after *Lag Ba'omer*!]; all days during this period when *tachanun* is recited.

The basis for the varying *minhagim* is also debated. There seem to be two main theories. One view maintains that the *minhagim* follow the opinions on when the deaths occurred. Thus, some feel that the deaths occurred from the beginning until the thirty-third

day. The status of day thirty-three is also debated. Others maintain that the deaths did not occur on certain days, but on the remaining thirty-three days. The other view maintains that regardless of when the actual deaths occurred, one chooses thirty-three days to observe mourning, based on the status of the period. According to the second view, some variations are equally commemorative, though they differ in their dating. Accordingly, one may change from one to another without facing the possibility of changing a *minhag*. [See Tur Sh Ar OC 593:2-3, commentaries. Igros Moshe OC I:159 II:95.]

C) Haircutting Erev Shabbos

Kavod Shabbos, honoring *Shabbos* by preparing oneself, is considered a Prophetic *mitzvah*. It is based on the *passuk* (Yeshaya 58:13) *vechibadeto ...*, you shall honor [the day of *Shabbos*] ... Personal grooming, including a haircut, is included in this *mitzvah*.

According to some, haircuts were always permitted on *Erev Shabbos* during *Sefira*. The rationale for this *minhag* is that haircutting was always considered a weakly adopted restriction. Even if it is considered a regular *minhag*, prominent poskim maintain that *kavod Shabbos* should always come first. There is a source that maintains that those who shave, must shave for *Shabbos* during this period. If they shave for business, (i.e. in honor of business associates) they should certainly shave for Hashem.

The poskim debate taking a haircut *lekavod Shabbos* when *Lag ba'Omer* falls on a Sunday. Some say that *Shabbos* is surely greater than the *Yomtov* aspect of *Lag ba'Omer*. Others say that the purpose is not to show more honor for *Lag ba'Omer* than for *Shabbos*. By haircutting after *Shabbos* one lowers the honor of *Shabbos*. This leniency applies to those who observe the three main types of *minhag* mentioned in section B. The view that forbids it is based on the quota – the minimum period of thirty-three days will not be observed. This is compared to an *avail* whose *shloshim* ends on Sunday. He may not prepare for *Shabbos* in violation of his *availus*.

The range of opinions in this debate is based on the force of the *minhag*. All agree that refraining from haircutting during this period is a *minhag*. The questions are: on the origin of the *minhag*; whether the *minhag* can overpower the preexisting Prophetic *mitzvah* of *kavod Shabbos*; whether any *minhag's* force is based on real Scriptural references or *asmachta*, links to Scripture; the nature of the *minhag*. Some say that it is primarily due to the judgment-time aspect, and secondarily due to mourning; on the level of stringency adopted initially. The most stringent maintain that the entire practice is modeled on regular *availus*. The quota is thirty-three days. *Lag ba'Omer* itself is treated like a *Yomtov*, that suspends *availus* practices. The most lenient view considers it a voluntarily adopted practice to show awe for the time of judgment, that cannot override *Erev Shabbos* at all. The middle views consider it a less binding *minhag*. Some maintain that it can still override *Erev Shabbos* unless there is an additional reason to relax it. Others maintain that it does not override *Erev Shabbos* unless it will remain inconspicuous.

Those who observe the first thirty-three days do not wed on *Rosh Chodesh Iyyar*. If it falls on *Shabbos*, some permit it. Weddings are not held on *Shabbos* itself, but on *Erev Shabbos*. Therefore, this refers to wedding on the first day of *Rosh Chodesh*, which is *Erev Shabbos*. The rationale is that the double joy of *Shabbos* and *Rosh Chodesh* overwhelms the *availus yeshana*. Thus, some people take haircuts on this *Erev Shabbos*.

The same debate arises with regard to *Rosh Chodesh Sivan* on Sunday, for those still observe mourning. Some restrict it here because this *minhag* requires the first two days of *Sivan* in addition to both days of *Rosh Chodesh Iyyar*. Others maintain that the double joy permits it. Similarly, if the first of the three days of *Hagbalah* preceding *Shavuot* is Sunday, which is the first day that they would cut their hair, some say that they may do so on *Erev Shabbos*. Others contend that here, too, they will not have filled the quota.

[Incidentally, some refrain from haircuts on *Rosh Chodesh*. A quasi-kabalistic source considers it a minor *Yomtov*. Many maintain that an *avail* whose first opportunity is on *Rosh Chodesh* is excluded from this. Others even suspend it a day early (Thursday) due to this, similar to when the *shloshim* is over on *Shabbos* itself. Some apply this to *Rosh Chodesh Iyyar* or *Sivan* on *Erev Shabbos*, according to the lenient views.]

In our question, one follows the *minhag* to take haircuts on days with no *tachanun*, including both days *Rosh Chodesh Iyyar*. Since he plans to haircut on Sunday, should he do so on *Erev Shabbos*? Some forbid it even according to the lenient view. Some suggest that since the entire leniency is disputed, one may not add to it. Others maintain that there seems to be no reason to forbid it according to the lenient view. *Kavod Shabbos* overrides the quota. Taking a haircut after *Shabbos* for any reason will show disrespect to *Shabbos*. This case is also different from *Rosh Chodesh Sivan* on a Sunday, when the person can easily cut his hair a few days later, when the mourning period quota is filled. In our case, after *Rosh Chodesh* there will be no opportunity until *Lag ba'Omer*. [On the other hand, if he waits until Monday, the lack of *kavod Shabbos* will be less conspicuous.] [See Maharil p. 21. Bach, Rema, Sh Ar OC 260:1 493:2 3, PrCh 3, PrMG EA 5, Chasam Sofer, Chochmas Shlomo, commentaries. Sh'Ut Chasam Sofer OC 158. Peulas Tzadik II:76. Olas Yitzchak OC:125. Rivevos Efraim I:238. Bain Pesach Lishevuos p. 249. Chaye Halevi OC:22. Hil Chag Bechag 14. Hil Pesach R Eider XXIX:B:8 9, footnotes.]

In conclusion, many cite the stringent view on this. However, if the person truly feels that he is compromising *kavod Shabbos* by waiting until right afterwards to cut his hair, he may do so before *Shabbos*. Alternatively, he could take his haircut on the second day of *Rosh Chodesh*, Monday. By waiting until later in the day, he will be further avoiding the appearance of showing a lack of *kavod Shabbos*.

On the Parsha ... Moshe said to Aharon and ... “As for you, do not let your hair grow ...” [10:6] Here we are taught that an *avail* may not take a haircut. “But you [kohanim] may not confound the joy of Hashem!” [Rashi] This is *asmachta*, a link, but not a Scriptural mourning practice.[Ramban] Why does the Torah assume that Aharon would follow a Rabbinically ordained mourning practice in the *Bais Hamikdash*? Rabbinical practices do not apply in the *Mikdash*, especially when they contradict a Scriptural law such as not serving with long hair! It seems that the concept of letting hair grow is adopted out of grief, even without being required. This very feeling of grief is being forbidden here. It was a day of joy and celebration, the *Chanukas Hamizbaiach*. On days like minor *Yomim Tovim*, the feeling of grief is suspended!

Sponsored by Richard and Marsha Walters in memory of his mother, Clara bas Reuven a”h,

whose *yahrzeit* is on the 6th of Iyyar. ׀

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