

# HALOCHOSCOPE

**This week's question:**

**During the *Sefiras Ha'omer* period it is customary to refrain from taking haircuts or shaving. If one feels either uncomfortable or unkempt, may he shave certain areas? Is there a difference between feeling uncomfortable and looking unkempt?**

**The issues:**

- A) The customs during the *Sefiras HaOmer* period
  - B) The nature of this type of 'mourning'
  - C) Haircutting and shaving for a mourner or during this period
- A) The customs of mourning during the *Sefiras Ha'omer* period**

Between *Pesach* and *Shavuos*, twenty-four thousand disciples of Rabi Akiva died. Their deaths threatened the continuity of the transmission of the Oral Torah. To commemorate the calamity, we observe this period as a time of mourning. This was a time of Divine Judgment. Mourning is meant to arouse reflection on the loss and repentance.

Traditionally, the deaths 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, from the beginning until day thirty-three, or from *Rosh Chodesh Iyar* to close to the end, is debated. There are some other slight variations, and there is a practice among some sects to observe the entire period. In addition, some poskim suggest that for certain practices one should observe the entire period, but not for others.

Additional reasons for the restrictions are offered. The massacres by the crusaders took place, primarily, during this period. In addition, it is evident from some of the liturgical poems composed for the *Shabossos* of this period that other calamities befell us during this period. It is thus observed as a time of Judgment and repentance.

The term used by the poskim for the practices during this period is '*minhag*', or custom. '*Minhag*' is thought of as a 'stringent' custom-like observance, relative to 'real' *halacha*. Both presumptions are only partially true. '*Nohagin*' is used in two situations: where there are various ways to perform something, and it has become the norm to do it one way; where there are two *halachic* opinions. These might be ruling on a Scriptural situation. 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. The result is the *minhag*. This weighs more than the majority of recorded opinions as a deciding factor. Once a practice is adopted by the people, it can even possibly 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. This is a sub-division of the Scriptural *mitzvah*, *lo sisgodedu*, translated to mean 'do not break away from the greater group to make small groups'. This can also

lead to strife. Members of the majority feel that the minority has a low opinion of them.

Sometimes someone chooses to follow a certain *halachic* practice that is not required, but has basis. He 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 are initiated 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, at a time 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*. Perhaps, as time passed, people needed to reinforce the feelings of the losses. However, a written record dating from this period, a *Gaonic* responsum, refers to the practices having begun at the time the deaths occurred.

Initially there were two main practices: 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. Initially, it seems, the only practice adopted was to refrain from weddings. Refraining from haircuts came later. It is possible that the additional practices came as a result of further hardships and calamities. As a *minhag*, as opposed to a full forced Rabbinic ordinance, 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. [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] Minchas Yitzchok I:111. Yechaveh Da'as III:30.]

### **B) The nature of the 'mourning'**

The period is considered sad, due to the loss of the Torah scholars. While it appears to be a form of public mourning, only some practices have been adopted. This leads to some debate on the nature of the mourning. The basis for mourning the loss of a sage is the verse instructing the people to mourn the deaths of the sons of Aharon. It is called a conflagration to compare it to the burning of the temple, and calls for public mourning.

Mourning practices fall into various categories. All of them are linked to Scriptural references, though they are mainly Rabbinic in origin. They have logical meaning. The mourner is saddened by his loss, and wishes to reflect on his lot. The Torah gives guidelines on what is acceptable and required. The mourner feels a connection to the departed,

and that a part of himself (by relationship) has died. All Jews should feel this blood relationship to Torah scholars. Some practices are in honor of the departed. The mourner should not act as though everything is fine, when the departed soul is unable to enjoy himself. Some practices apply to others who are connected to the mourner, in honor of the mourner himself. This is indicated at the death of Nadav and Avihu. Since Aharon was berieved, the people, who are all connected to him, had to mourn in sympathy. Some practices are connected to the concept of Divine Judgment. The relatives of the departed are also being judged, and should act accordingly. Excessive joy is inappropriate. Mourning is Scripturally contrasted to a *chag*, holiday. Thus, it has some practices that apply on a *Yomtov*, including refraining from work. We refrain from pride and humble ourselves. In summary, mourning practices are due to grief, respect, humility and Judgment.

Refraining from haircutting and wearing freshly laundered clothes seem to be a grief based practice. The same would apply to the restrictions on joy through Torah study. The restrictions on certain foods at some times of mourning is clearly related to fasting and repentance due to Judgment. Refraining from holding weddings seems to be a practice based on respect. Taking time off work also seems to be in respect of the departed. Reciting *kadish* and studying in memory of the departed soul also fall into this category.

It seems that all types of mourning would be appropriate here. However, it appears that the Rabbis chose to commemorate the loss with specific practices, rather than to declare a mourning period. This is probably due to the festive nature of the period in Scriptural terms. In respect of the scholars who passed away, we do not hold weddings. To show our grief we do not cut hair. To recognize the Judgment, we do not engage in excessive joy. Some maintain that at this time it is important to engage in friendly acts. This would counteract the Judgment that was visited on the disciples of Rabi Akiva, for their lack of mutual respect. In addition, one should humble himself. Perhaps the lack of grooming with a haircut can be connected to this aspect as well.

The practices during *Sefiras HaOmer* seem not to be as stringent as regular mourning laws. One source actually says that this time period is a type of '*chol hamoed*' between *Pesach* and *Shavuot*. They are connected, and indeed are really a continuation. Thus, it would be problematic to consider this period a real mourning time. Clearly, the laws of *shiva*, the initial mourning time, do not apply. Some equate it with *shloshim*, the secondary mourning period, or the year when mourning a parent. It cannot be considered like a proper *shloshim*, for if that were the case, laundering and traveling for business, along with certain other stringencies would apply. Some consider it an *availus yeshana*, old mourning. This would have many leniencies. It seems to be considered more like a *yahrzeit* observance. This includes restrictions on weddings, (even for those not fasting) and customary practices of the year of mourning, but is not a real mourning period. The poskim debate whether restrictions on other parties apply, and whether they apply after the first *yahrzeit*. By appearances, this period seems to have been treated as a *yahrzeit* for the disciples of Rabi Akiva. Therefore, weddings were restricted first, and then haircutting. A *yahrzeit* is considered a day of Judgment for the relatives. [See Ramban Emor 23:36. Tur Sh Ar OC 493, commentaries. Yeshuos Yaakov 2. Yechaveh Daas III:30.]

### **C) Haircutting and shaving**

The restrictions on mourners relating to these activities are based on a Scriptural ref-

erence in connection with the deaths of Nadav and Avihu. Aharon and his sons were forbidden to grow their hair wild in mourning, but the people were permitted to. This implies that a mourner would routinely grow his hair wild. Some suggest that this is to contrast himself with a fully functional human, who is able to groom himself. The mourner acts as though he is partly dead. The customs during *Sefirah* could be understood as grief related or respect for the departed. If they are grief related, the idea is to feel uncomfortable. Discomfort would not be an excuse to groom. However, perhaps one could trim areas for tidiness, leaving the uncomfortable parts, for the sake of gentile colleagues. If they are respect related, the purpose would be to reduce grooming in a show of humility. While discomfort is not intended, tidiness would defeat the purpose. According to this, one could trim to avoid discomfort, but not to make himself presentable. Since we are unsure of the reason, one should not practice leniency in this matter. The poskim debate whether one may remove some hair from his mustache if it interferes with his ability to eat. Though other forms of interference are not mentioned, it would seem that one could also remove some other hair if it does interfere. One may also cut hair if there is a medical need for it. Some permit shaving or haircutting during the *Sefirah* period for *kavod Shabbos*, to honor *Shabbos*. The untidiness of this mourning does not override the requirement of tidiness for *Shabbos*.

A mourner may sometimes practice leniency. The situations include those who would be permitted to shave on *chol hamoed*. This includes those who could not shave before *Yomtov* due to circumstances beyond their control. If the hair becomes too heavy, or if the mourner must appear before government officials, he may usually cut his hair. If he was in the middle of a haircut when he was informed of the death, he may finish the haircut. He is not required to appear like a madman. Some of these could apply during *Sefiras HaOmer* as well. In our case, if the reason to trim fits one of these categories it is permitted. However, there are no general graduated levels of restriction. [See Moed Katan 14b etc., Poskim. Tur Sh Ar OC 493:2, YD 390, commentaries.]

**On the Parsha ...** *Do not eat 'on the blood'. Do not use omens. Do not base decisions on 'times'. Do not cut the 'payos'. Do not destroy the beard. Do not make incisions over a death ... [19:26-29] These are superstitions followed by the gentiles. Some connect the haircutting and shaving to grief. It is wrong to destroy that which Hashem has given us for its beauty. [See Ibn Ezra]* The gentile customs for grief are active self-infliction and causing ugliness. While our own practices include causing discomfort and not grooming, we do not cause it actively, but passively. Our mourning practices are not borne of superstition and focused on the self, but include an element of respect for the departed soul. Even the repentant practices are not for self-punishment, but for reflection. This is the way we are *kedoshim*.



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