

HALOCHOSCOPE

Congregation Shaaray Tefillah, Pittsburgh, PA

The question:

May one cut the hair of a six-year-old boy during the Sefira period?

The issues to be discussed:

- (A) The practice of letting one's hair grow during the Sefira period.
- (B) What is a *Minhag*?
- (C) What is *Chinuch* - to educate a minor in mitzvos?
- (D) *Chinuch* and *Aveilus*.

(A) Letting the hair grow in Sefira

A great calamity befell the Jewish people during the Sefira period, when we count the days from Pesach to Shavuos. Twenty-four thousand Torah scholars suddenly died in one year over a thirty-three day period. [See Yevamos 62b.] We lament the loss of Torah scholars, which is likened to the destruction of the Bais Hamikdosh, by commemorating these days as a time of partial mourning. For this reason, we do not celebrate a wedding, listen to music or take a haircut during the Sefira period. These are some of the prohibitions that apply to an *Aveil*, someone mourning for a relative. [See Parshas Shemini 10,6, Emor 21,10, Rashi, Ibn Ezra, Ramban, Moed Katan 14b. Yevamos 62b.]

(B) Minhag

The terms *Mideoraisa* (of Scriptural origin) and *Miderabanan* (of Rabbinic origin) are well understood; however, the term *Minhag* has led to some confusion. Generally, *Minhag* is thought of as a custom with lenient implications relative to a Halacha. However, it can also have much stricter implications. There are a few ways that *Minhag* is applied in Halacha. The word "Nohagin", which means "the prevailing practice is...", when used in a Halachic work, usually means that there are two opinions in a matter, and no decisive conclusion has been made to follow one over the other; we follow the prevailing practice. In fact, this sense of *Minhag* is so strong in weighing the opinions that it is valid even against a majority of available documented opinions as a deciding factor. [See Shach Yoreh De'ah 65,7. See Yevamos 102a and Yerushalmi, there.]

Another use of *Minhag* is to denote something which is not practiced universally, but only in some places. Here one must follow the *Minhag Hamakom*, the practice in that place. This could involve a Scriptural obligation of "Lo Sisgodedu" [Parshas Kedoshim], which is interpreted as "do not break away from the greater group to make smaller groups". It is also not allowed because it can lead to arguments when, for example, members of the majority view feel that the minority

have a low opinion of them. [See Pesachim 51b Yevamos 13b and Poskim: Chulin 18b]

Another case of Minhag is: when someone chooses to follow a certain practice in Halacha, he has committed himself to the Minhag, and it might have the stringency of a *Neder* - a binding vow, which is a Scriptural commandment. Choosing a practice voluntarily can be because one feels that this is the true interpretation of the Halacha in question, or because one likes the idea of doing it this way. Sometimes a laudable voluntary practice is even binding on one's descendants, or at least on future residents in a town that started a praiseworthy practice. This is based on the verse "Do not forsake the Torah of your mother" [Mishlei 1]. [See Pesachim 50b Yoreh De'ah 214,2. Pischei Teshuva 5.]

Practices are sometimes initiated with absolutely no credible basis in Halacha, but are nonetheless not discouraged where this may lead to laxity in true Halacha. [See Pesachim 51a, Tosafos. Pri Chadash, Orach Chaim 468.]

Another type of Minhag is a practice initiated by the Rabbis which has a good reason, but is not a Halacha per se. Examples of these are the practices of cutting one's hair or not marrying during Sefira. The Gaonim (sages living from the end of the Talmudic Era until the time of Rashi) initiated these practices; it was universally accepted not to marry, while not having a haircut was initially only adopted by certain communities. Today, it has become universally accepted not to have haircuts as well. The actual difference between a Minhag and a full-force Rabbinic ordinance in Halachic terms is that a Minhag is accepted out of choice by the masses of Jewish people. For this reason, we find that the severity of the Minhag is sometimes lifted under certain special circumstances because "Ada'ata Dehachi Lo Kiblu" - they did not have this case in mind when they initiated the practice. When and how one can apply this leniency is a matter of great controversy. [See Tur Orach Chaim 493, Bach, Pri Chadash, 1-3, Teshuvos Me'il Tzedaka, 50. See Pri Chadash, Orach Chaim 496 for comprehensive discussion on the types of Minhag.]

(C) Chinuch

Scripturally, a child under bar- or bas-mitzvah age is not obligated in Mitzvos in his own right. Aside from teaching Torah to our children at a young age and the Mitzvah of Haggada on Pesach night, we generally do not find an obligation on a parent or adult to instruct a child in the observance of Mitzvos. We do find obligations on adults to prevent their children from eating forbidden foods or at least a prohibition against actually feeding forbidden food to them. This might be Scriptural in origin. [See Yevamos 114a-b. commentaries and Poskim.]

Rabbinically, we are obligated to teach our children about the Mitzvos as soon as they are able either to understand the particular Mitzvah or to perform the Mitzvah. Thus, for *Mitzvos Asei*, the positive commandments, the age of Chinuch varies according to the difficulty involved in each Asei, although six years old is often the age. In *Mitzvos Lo Sa'ase*, the negative commandments, it is one uniform age - as soon as the child comprehends the meaning of "No! Don't do that!" [See Succah 42a-b and many places in Talmud. Shul. Aruch O.C. 343, Mishneh Berurah 3 and other places. Shemiras Shabbos Kehilchasa on Chinuch, based on Tosafos, Shabbos 121a gives this age as two years old.] Whether it is an obligation on the child himself as well as the parent is also a matter of discussion. [See Tosafos, Berachos 48a, Megilah 19b, etc. Ran on Megillah 19b, Rabbi Akiva Eger, Shul Aruch O.C. 675,3. 689,2. Magen Avraham 3. Kuntres Divrei Sofrim 1,21]

There are two ways one can view the objective of Chinuch: To train the child to get into the habit of performing the Mitzvos, or to view the child as a small adult, and, therefore, obligate him in the performance of Mitzvos. [See Chagiga 2a. Rashi and Tosafos and Chagiga 6a, Tosafos. For an example of the difference, see Igros Moshe Yoreh De'ah Vol 1 No 137, Vol 2 No 104.]

Even before a child has formally reached Chinuch age, there is an opinion, that one is obligated "Lechancho Bikedusha" - to "dedicate" him into holiness as one dedicates the Holy Temple. This means that from a very young age, long before the child can understand the performance of the Mitzvos, one should get him to do them anyway. [See Bach O.C. 343.]

(D) Chinuch and Aveilus

Aveilus, mourning, is a Mitzvah like any other, Scriptural or Rabbinical. [See Tosafos Moed Katan 14b, Ramban Vayikra 10,6. Bach Y.D. 340.] Nonetheless, it is not necessarily included in the Mitzvah of Chinuch. The Talmud, regarding *Keriah*, rending one's garments, is very clear about excluding a minor. However, the Poskim explain this as referring to a child below the age of Chinuch. Aveilus is a positive commandment, and the age would be when the child can understand the idea of showing one's grief. One later opinion then extends this to all of the practices of mourning including not cutting the hair. The problem here is that, regarding haircutting, we seem to have an explicit exclusion for all minors in our earlier Poskim, who only disagree when a boy turns bar-mitzvah in the middle of Shiva - does he begin practicing Aveilus then, or do we say once he was not obligated at the beginning, he does not get the obligation later. While most later authorities rule that there is no Chinuch obligation on most of the Aveilus practices including haircutting, there are several approaches to reconcile the stringent opinion. One is to say that Chinuch does not apply to a child when he has no father, which is what the earlier Poskim were discussing. Therefore, when there is a father, there is Chinuch. Another approach is to exclude a minor only from those practices that conflict with his Mitzvah of learning Torah. [See Moed Katan 14b. Rosh Moed Katan Perek 3,96. Taz Y.D. 340,15, Nekudas Hakesef. Dagul Merevava and Shul. Aruch Y.D. 396,3. commentaries Pischei Teshuva,2 and 384,5.]

Regarding Sefira, we have no mention of Chinuch in Shulchan Aruch. However, regarding the Aveilus practiced in the Three Weeks before Tisha B'av, we do find that a child's hair should not be cut. Although we have mentioned that a child is usually excluded from the Aveilus, here it is *Aveilus Derabim* - public mourning, and, therefore, they are included. [See Shul. Aruch O.C. 551,14. Magen Avraham 38, Machatzis Hashekel, Mishneh Berurah 81, Igros Moshe Y.D. Vol 1 No 224.] One explanation for this exception is that Tisha B'av is not mourning for a bereavement, but for the destruction of the Bais Hamikdash, which is why it is repeated every year. In that case, there is an obvious Mitzvah to train the children to mourn for the Bais Hamikdash. [See Aruch Hashulchan O.C. 551]

In our case, although the Sefira is not as stringent as Tisha B'av since it is only a Minhag of the Gaonim, Chinuch is nonetheless very relevant. The omission of this Halacha is not so conspicuous as there is very little detail in Shulchan Aruch regarding Sefira compared to the Three Weeks. Chazal tell us that the loss of Torah Scholars is like the destruction of the House of Hashem. Furthermore, since keeping the Sefira is a Minhag, one should train a child in keeping Minhagim. Moreover, Minhag sometimes has the stringency of Neder and regarding Neder, the

age of majority is before bar-mitzvah. Also, the Aveilus of Sefira never involves Bitul Torah, missing out on Torah Study, certainly not in the practice of not cutting one's hair.

There is an opinion that during the Three Weeks one should not cut even very young children's hair to arouse the anguish of older people. This could be a reason why it is mentioned in regard to the Three Weeks, but omitted in regard to the Sefira; Chinuch was obvious and did not warrant a mention in either case, only below the age of Chinuch was mentioned regarding Tisah B'av. If this is true, then one need not refrain from having the hair of a very young child cut during Sefira, except Lechancho Bikedusha.

NOTE: Although those who are permitted to cut their hair on Chol Hamoed are also permitted to do so during Sefira, this rule does not apply to the dispensation regarding *Ketanim*, minors, on Chol Hamoed. [See Shul. Aruch 631,6 commentaries. 493, Pri Megadim, Biur Halacha, Igros Moshe O.C. Vol 2, No 96.]

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ANNOUNCEMENTS

SCHEDULE:

SHABBOS MINCHA	7:55 PM
SHACHARIS SUNDAY	8:00 AM
SHACHARIS MONDAY - FRIDAY	7:00 AM
MINCHA SUNDAY - THURSDAY	8:05 PM
CANDLE-LIGHTING EMOR	8:03 PM
MINCHA EREV SHABBOS EMOR	7:00 PM

SHIURIM:

GEMORO MAKOS	SUNDAY	7:15 AM
HALACHA B'YUN	MONDAY	9:00 PM
HILCHOS SHABBOS	SHABBOS	8:15 AM

Dr. Dennis Wayne invites everybody to Kidush in honor of the yortzite of his mother.

This issue of HALOCHOSCOPE has been sponsored by Dr. Wayne in memory of his mother, Chava bas Yaakov A"H, whose Yortzite is on the 11th of Iyar.

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Any and all comments and suggestions are welcome and can be addressed to :

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