

though this is not mentioned as a dispensation. [See See Taanis 26a, Poskim. Tur Sh Ar OC 131:1 4-7 551:1 559:8-9 568:2 YD 393:3, commentaries. Refs next section.]

D) Defining haircutting

Haircutting is one of the restrictions on an *avail*, as a show of mourning. Accordingly, it would seem to be restricted during *Bain Hametzarim* due to the public mourning for the destruction. However, there are really three causes for the practices. The Talmud says that as *Av* begins one reduces joy. An *avail* also reduces joy, but this seems to be a separate institution. Furthermore, the institutions of fasting and of refraining from meat and wine are not directly related to standard *availus* practices. Some practices can be compared to *Taanis Tzibur*, public fast-day, practices. These are based on being *menudin un-ezufim*, somewhat excommunicated by Hashem. This could be the basis for restricting haircutting. Yet, a *menudeh* is also forbidden to wear shoes. This was not adopted for the entire Nine Days or the week of *Tisha b'Av*. Thus, some practices are *availus*, some are *menudeh*, and some are a reduction of joy. Some are *halacha* and some are *minhag*.

Haircutting is restricted for an *avail*, both during *shiva* and *shloshim*. *Shloshim* is suspended on the advent of a *Yomtov*. If the final day of *Shloshim* arrives on *Yomtov*, everything is permitted in honor of *Yomtov*. If the *Shloshim* ends on *Shabbos*, the poskim discuss whether the *avail* may take a haircut on the preceding day. Bathing and laundering are permitted. Haircutting is forbidden. The former are *minhagim*, while the latter is based on the Scriptural laws of a nazirite. Thus, we see that a *minhag* is treated with more leniency. Haircutting in the week of *Tisha b'Av* is forbidden *halachically* by the Talmud, based on a *passuk*. Can *bris milah*, a *mitzvah* need, override this? Is it like a *Yomtov*, or like *Erev Shabbos Shloshim*?

If the Talmud means to forbid it as *availus*, one should be restricted from haircutting before the day of the *bris milah*. If it is a *menudeh* law or *minhag*, or if it is only restricted due to *minhag*, it could be overridden even on the preceding day. Thus, the issue hinges on the nature of the restriction and on the status of the extension of the restriction to a week in which *Tisha b'Av* falls on *Shabbos*.

Thus the poskim debate the permissibility of a haircut, whether during the Nine Days and week of *Tisha b'Av* on the actual day of the *bris milah*, or on *Erev Shabbos* when the *bris milah* will take place on *Shabbos* or on *Tisha b'Av* Sunday. Some poskim permit it outright, while others suggest that one should first gain a *hataras nedarim*, annulling the 'vow' of the *minhag*. Some poskim forbid it totally. Since it is a matter of debate, one may apply the rule that one tends to leniency. [See Refs to other sections. Sh Sr YD 400:2 Rema, commentaries. Panim Meiores III:37. Noda Biyehuda OC:I:28. Chasam Sofer OC:158. Or Neelam 10. Binyan Tzion 31.]

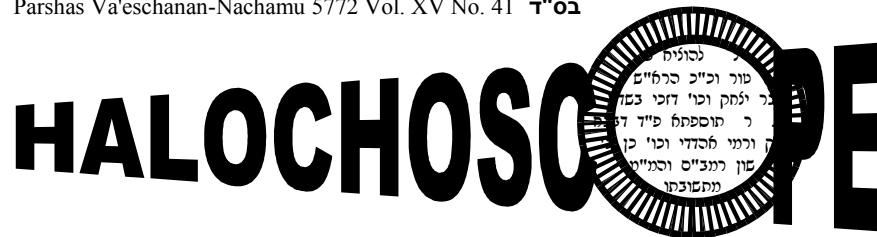
In conclusion, one may practice leniency and take a haircut *Erev Shabbos*.

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a"h bas R Shimon (Krasner) shlit'a, wife of R. Yossel shlit'a, who passed away on the 5th of Av. ה

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This week's question:

May the father of a baby who will have his *bris milah* on *Shabbos Tisha b'Av* take a haircut on *Erev Shabbos*?

The issues:

- A) The period of *Bain Hametzarim*
- B) *Shavua shechal bo*, the week of *Tisha b'Av*, when it falls on *Shabbos* or Sunday
- C) *Shabbos* clothing, and *Shabbos Chazon*; The festive nature of *bris milah*
- D) Defining the custom to refrain from haircutting

A) The mourning period of The Three Weeks and The Nine Days

The three week period from the Seventeenth of *Tamuz* to the Ninth of *Av* is observed as a period of mourning for the destruction of both of the temples in *Yerushalayim*. It is commonly referred to as *bain hametzarim*, between the straits (the two fast days commemorating the Romans' breaching the walls, and *Tisha b'Av*, when the *Bais Hamikdash* was actually destroyed) after the verse in *Eicha* saying that the Jews' pursuers caught up with them between these straits, with nowhere to escape to. Historically, the Seventeenth of *Tamuz* commemorates the day the Jewish people worshiped the golden calf. *Tisha b'Av* was the day the spies returned from their tour of *Eretz Yisroel*, brought back their evil reports, and 'that night ordained for future trouble', the Jews wept, thus denying faith in the promise about the Land. More unfortunate events took place on these days in subsequent times, right up to our own times.

While *Tisha b'Av* is observed with full mourning practices, there is a gradual build up. On *Tisha b'Av*, apart from fasting and sitting on the ground, other mourning practices include refraining from wearing leather shoes and from washing any part of the body. Torah study, which causes joy, is limited to sad passages. On *Erev Tisha b'Av*, when eating the last meal before the fast, one may not eat more than one cooked food, or eat meat or drink wine, and one eats alone. During the week of *Tisha b'Av* it is forbidden to wash clothing, to wear freshly washed clothing and to take a haircut. From *Rosh Chodesh Av* and on (nine days) joy is minimized. Weddings are not held and fancy building and tree-planting is forbidden. The Talmud refers to a custom (though apparently this was not forbidden outright) to refrain from weaving. Court cases with gentiles should not be scheduled during this ominous period. These are the restrictions mentioned by the Talmud.

Throughout the generations Jewish communities adopted more restrictions, or extended these restrictions backwards, some of them to the Seventeenth of *Tamuz*. These have the status of *minhagim* that are binding on members of those communities. The practice that concerns us here is not to take haircuts, which *Ashkenazic* Jews practice for the entire three weeks. *Sepharadic* communities follow the basic practice as outlined by

the Talmud, refraining from haircutting during the week of *Tisha b'Av*.

The Talmud breaks the period of the Nine Days into the entire month, the week of *Tisha b'Av*, the eve of the fast, and the fast day itself. This is based on a *passuk* that seems to list these separate periods. The fast day is the most stringent. The eve of the fast has certain restrictions, mostly associated with the final meal eaten right before the onset of the fast. The entire month is debated by the Talmud. We follow the view that this term refers to the first Nine Days, including *Tisha b'Av*. It is during this period that the Talmud restricts joy, commercial activity and litigation with non-Jews.

B) *Shavua shechal bo Tisha b'Av* – when the fast is on Sunday

It is during the week of *Tisha b'Av* that the Talmud restricts haircutting and laundering. The Talmud allows preparations for *Shabbos*, though this dispensation is difficult to apply in our modern day culture. [In former times, it was compulsory to make *Shabbos* preparations according to a standard procedure. This included certain activities, such as laundering, that had to be done on Thursdays, based on a Rabbinical institution. Laxity would constitute a desecration of the honor of *Shabbos*. Some also maintain that this refers specifically to *Tisha b'Av* that falls on Friday, which only happened when *Rosh Chodesh* was consecrated through eyewitnesses.] In our times and in *Ashkenazic* communities, the added restrictions for this week would include nail-cutting. This is not mentioned explicitly by earlier poskim. Since mourners are restricted from this, some later authorities suggest that we should apply this restriction to the Three Weeks or to the Nine Days. Many maintain that for *Shabbos*, one should cut his nails anyhow. Thus, the only time this newer custom applies is during the few days preceding the fast itself. Just as the Talmud debates the 'month', the 'week' is also debated. Some say that the days after the fast are also included, until *Shabbos*. We follow the lenient view.

The question arises, what happens when *Tisha b'Av* falls on a Sunday? Moreover, what happens when it falls on *Shabbos*, and is pushed off to Sunday? Since we follow the view that the 'month' only includes the period preceding the fast, the same rule applies to the 'week'. It includes only the days preceding the fast. In these cases, there are no days preceding the fast! The *Bavli* omits mention of the case of *Shabbos*, prompting some to say that the *Bavli* agrees with a *Yerushalmi*. The *Yerushalmi* first says that in both of these instances there are no restrictions for the 'week' at all. Then the *Yerushalmi* debates the week following *Tisha b'Av* (see above). In one view, the restrictions apply. The lenient view must reconcile the concept of a 'complete week' somehow. Accordingly, this view is understood to apply the complete week of restrictions in the event that *Tisha b'Av* falls on *Shabbos*. Then, the entire preceding week is restricted. While the conclusive ruling follows the first, lenient view, permitting the entire week, a custom is cited to restrict it. This is a precautionary measure, to prevent confusion with a year in which *Tisha b'Av* falls on a weekday. This custom, however, is not accepted by all poskim.

This debate is the basis for our question. The strict Talmudic *halacha* restricting haircutting only applies to the week of *Tisha b'Av*. In our case, there is really no week of *Tisha b'Av*. Therefore, the haircutting restriction is no more than a later custom. It could be overridden by the needs of a *mitzvah*, as we shall discuss. However, the stringent view would apply it to our case. To resolve this, three concepts may be cited. The poskim

point out that on this *Shabbos* we follow the custom that one conducts himself with full *oneg*, joy. They say that it is inconceivable that in light of this ruling one would need to restrict laundering and haircutting preparations beforehand. The prevailing custom to restrict them must be no more than a *minhag*. In addition, the Talmud (*Bavli*) itself allows preparations on Thursday and even on Friday, when *Tisha b'Av* falls on Friday. All the more so when it falls on *Shabbos*. Finally, the Talmud compares *Yom Kippur* to *Tisha b'Av* in terms of resolving cases of doubt. While *Yom Kippur* is considered Scriptural, *Tisha b'Av* is Prophetic or quasi-Rabbinical. Therefore, one tends to leniency.

Thus, it turns out that there is a difference between haircutting in a regular year, during the week of *Tisha b'Av*, and in a year when it falls on *Shabbos* or Sunday. In a regular year, haircutting is forbidden based on *halacha*. This is based on interpreting a *passuk* in Navi and a Talmudic ruling. When it falls on *Shabbos* or Sunday, some maintain that we follow the opinion that there is no week of *Tisha b'Av*. Even if we do not usually follow this view, many of those practicing stringency do so due to a post-Talmudic custom. [See Taanis 29b-30a Yerushalmi 4:6, Yerushalmi Psachim 4:1, Poskim. Tur Sh Ar OC 551:1-4 17, commentaries. Sh'uT Zera Emess III:58.]

C) *Shabbos clothing and Shabbos Chazon; festivity of bris milah*

The poskim cite a *minhag* to dress down on *Shabbos Chazon*. One wears weekday garments and one token outer *Shabbos* garment. [Nowadays, this custom has all but been abandoned, since it led to a laxity in honor and observance of *Shabbos*. In former times, when *Shabbos* was more widely observed, this was less of an issue.] The basis for this custom is that during the week one should certainly not dress in a festive manner.

The exception to this ruling is a *mohel* and *sandek*, the one who has the honor of holding the baby for the *bris milah*. The father of the baby certainly shows festivity, since he is really the one doing the *mitzvah*. The *mohel* is his agent for the action part. The basis for this is that the day of the *bris milah* is like a *Yomtov*. *Yomtov* is accorded more honor than *Shabbos* in this respect. Thus, while for *Shabbos* there is a custom to dress down, one may not do so for *Yomtov*.

The concept of a private festival occurs when an individual offers a thanksgiving offering. That entire day is considered a *Yomtov* for him, with certain rules. These include a restriction on fasting. The Talmud cites a list of private *Yomim Tovim* observed by families who made an offering of wood for the *mizbaich*. On these days, that entire family had to refrain from fasting and from eulogizing. Similarly, on the day that one celebrates his wedding, and according to custom, for the entire week, one does not show open signs of sadness. The same is true of one who makes a *bris milah*. There is some discussion on the real cause for festivities. Some say that it is the *mitzvah* itself, while others say that it is the obligation to celebrate with a *seudas mitzvah*. Thus, there are those who distinguish between a *bris* on the eighth day, when the obligation to celebrate with a festive meal is considered somewhat Scriptural, and a delayed *bris milah* (based, in part, on *pesukim* about Avraham).

Based on this, when a *bris* takes place on *Tisha b'Av* or a fast, certain differences apply to the *baalei simcha*. The poskim say that during the Nine Days, they may wear *Shabbos* clothing. Based on this, the question arises whether they may also take a haircut,