

Halakhic Guide for the Laws of the Three Weeks

The three weeks of mourning, also known as בין המצרים ('between the straits' or 'dire straits'), begin on the 17th of Tammuz, the day on which the walls of Jerusalem were breached in the time of the Second Temple, and end on the 9th of Av, on which the First and Second Temples were destroyed. The midrash (Eicha Rabbah 1:29) coined the name בין המצרים in reference to Eicha 1:3: "All her pursuers overtook her between the straits."

Based on the Mishnah and the Gemara (m. Taanit 4:7; b. Taanit 29a30–b), the laws of mourning only apply on the week of Tisha B'Av (or, according to another position, from Rosh Hodesh Av). The expansion of some of these laws to the Three Weeks was a development of later generations. This later development resulted in a significant division between various customs, and a varied approach by modern-day poskim to a variety of situations (such as the question of leniency regarding children).

In general terms, the laws of mourning may be divided into three:

- a. **General Laws of Mourning** (similar to mourning the death of a close family member). These include avoiding haircuts and laundry. According to the Mishnah (m. Taanit 4:7) this level of mourning begins on the week of Tisha B'Av. The Gemara (29b) cites R. Meir's position which prohibits laundering from Rosh Hodesh Av (based on the verse "And I will end all her rejoicing: Her festivals, *new moons*, and sabbaths" (Hos. 2:13).
- b. **Avoiding Excessive Rejoicing.** The Mishnah states, "When Av enters, we reduce joy" (m. Taanit 4:6), and the Gemara in Yevamot (43a) cites the Baraita: "before this time [the week of Tisha B'Av] the nation diminishes business interactions, such as negotiation, and building or planting. And couples are betrothed, but not married, and the betrothal is not celebrated with a feast."
- c. **Specific Mourning for the Annulment of Sacrificial Offerings.** According to the Mishnah, one may not eat meat or drink wine in the final meal before the Tisha B'Av fast, contrary to mourning the death of a close family member, where meat and wine are not prohibited. This is a special law expressing grief over the annulment of sacrifices and wine libations. The Gemara (b. Bava Batra 60b) states that in the generation after the First Temple was destroyed some vowed not to eat meat or drink wine all year round, until R. Yehoshua commented that in the same vein they should avoid drinking water, which was brought as a libation during *Simchat Beit Hasho'evah* on Sukkot. Recent generations expanded the prohibition on meat and wine to Rosh Hodesh Av, or the week of Tisha B'Av, according to different customs.

As previously stated, some of the laws of mourning have been expanded in recent generations according to various customs. The following is a summary of the laws and customs during the Three Weeks preceding and leading up to Tisha B'Av according to the customs of various communities.

Laws of Mourning from the 17th of Tammuz

1. Haircut

According to Ashkenazi custom (Rema 551:4) and some Moroccan customs (Kitzur Shulhan Arukh Toledano II 387:8; Shemesh u-Magen III Orah Haim 54),

one may not get a haircut or shave from the 17th of Tammuz. The ruling of the Shulhan Arukh is only intended for the week of Tisha B'Av (551:12-15). According to the Shulhan Arukh, one who completed shiva for a close family member during the week of Tisha B'Av may shave his hair with a blade but not with scissors.

Children and Haircuts

The Shulhan Arukh (551:14) mentions a prohibition to cut the hair of children under Bat/Bar Mitzvah as well. The Rema seems to agree with the Shulhan Arukh that this prohibition only applies to the week of Tisha B'Av (or from Rosh Hodesh), and the Mishnah Berurah (82) based on the Hayei Adam states that children's hair can be cut until the week of Tisha B'Av, as per Sephardic custom. However, the Arukh Shulhan (31) writes that according to Ashkenazi custom the prohibition on cutting hair for children also applies from the 17th of Tammuz. He cites the position of the Magen Avraham (38) according to which mourning customs apply to children as well as adults when the mourning is communal (as in the case of mourning for the Temple). Therefore, according to Ashkenazi custom children should have their hair cut before the 17th of Tammuz, and only cut their hair during the three weeks when there is a dire need (such as irritatingly long hair in the heat, or lice, etc.).

2. Engagement, Betrothal, and Marriage

Based on the Rema (551:2), the custom among Ashkenazi, Yemenite, and some Sephardic contingents is not to hold weddings during the three weeks (in modern-day Israel the Rabbinat does not permit weddings at all during this time). However, betrothals are permitted, 'lest another will precede him' (and betroth the woman of his choice). This reason is even valid on Tisha B'Av (Shulhan Arukh, *ibid.*). The 'betrothal' discussed in halakhah refers to an official and public expression of the decision to get married (the poskim refer to this act as '*shiddukhin*').

3. Parties and Celebrations

Parties are prohibited during the Three Weeks.

4. Music, Playing Musical Instruments, and Signing

The Mishnah (m. Sotah 9:11) states: "From the time when the Sanhedrin ceased, song also ceased from the feasting houses, as it is stated: "With song they shall not drink wine" (Is. 24:9). The Shulhan Arukh (560:3) rules against song accompanied by music all year round, apart from song praising God, which is permitted. The Rema adds that a wedding is another exception. In practice, most communities (apart from the Yemenite custom and *minhag Yerushalayim*) allow music all year round, but not during the Three Weeks (Magen Avraham 558:1). Various exceptions were deliberated among modern-day poskim:

- *Seudat Mitzvah*. A Bar Mitzvah, Brit Millah, Siyum (Kaf ha-Haim 551:40 cites a debate in the Achronim regarding the reason for the permissibility). R. Ovadia, (Yehave Daat 6:34) permits music in a *seudat mitzvah*, but adds that one should make a *siyum* at a Bar Mitzvah to ensure its definition as a *seudat mitzvah*.
- Music that is not exuberant. Background music, soft music, and certainly mournful music (b. Shabbat 151a) are not prohibited.
- Singing without instruments is generally permitted, as long as the singing is not explicitly joyous (R. Ovadia, *ibid.*). Tzitz Eliezer (15:33) prohibited listening to a vocalist performance.
- Professional singing as a livelihood is permitted, as well as practicing (R. Ovadia, *ibid.*; Tzitz Eliezer 16:19).
- Indirect music (not live music) heard through an electronic device: R. Moshe Feinstein (Igrot Moshe, Yoreh De'ah II 137) and R. Ovadia (*ibid.*) prohibit listening to music indirectly. R. Kapah permits indirect music (Resp. R. Moshe

- Zuriel, 47).
- The Tzitz Eliezer (16:19) permits listening to music for the purpose of enhancing Torah and *yirat shamayim*.
- People who have an emotional need to listen to music consistently (Rambam, *Shmona Perakim*, 5; R. Zalman Nehemiah Goldberg, *Binyan Ariel*, Orah Haim, 63; 65).

5. Shehecheyanu

The Shulhan Arukh (551:17) adopts the Ashkenazi custom (cited in the Maharil) to avoid saying *shehecheyanu* from the 17th of Tammuz onward. However, he mitigates this ruling by explaining that if a mitzvah is at hand – such as *Pidyon ha-ben* – of course the mitzvah should be performed along with the *shehecheyanu* blessing. Avoiding *shehecheyanu* indicates that one should not purchase new items upon which the blessing would be made. The Magen Avraham (42) notes that there is no reason to avoid the blessing from the perspective of mourning customs, but rather because these are days of national calamity and grief; this is also the reason for the abovementioned custom to reduce business interactions. One may purchase underwear and other basic necessities that do not lead to excessive joy. If there is a sale that will be discontinued after Tisha B'Av, one may purchase items due to the possibility of financial loss (although it would be better if the sale was completed after Tisha B'Av). So too, an item on which one recites *ha-tov ve-hameitiv* may be purchased during this time period.

The poskim are in agreement that one may recite *shehecheyanu* on Shabbat. The Taz (17) considers a new fruit which will no longer be available after Tisha B'Av as similar to a mitzvah at hand. The Mishnah Berurah (101) mitigates this allowance, and only permits eating a new fruit if it will not last until Shabbat; otherwise it should be saved for Shabbat, when one may recite *shehecheyanu*. The Rema permits fruit that will be unavailable after Tisha B'Av. The Magen Avraham (44) also mitigates this allowance, which in his opinion too is only relevant if the fruit will not last until Shabbat.

6. Caution from Dangerous Situations

Following the midrash, the Shulhan Arukh (551:18) states that this time period is a time of danger, and that one should be cautious not to travel alone when the *ketev meriri* demon lurks. The Arukh ha-Shulhan explains that this refers to solitary roads – for example one should not go alone to the desert. However, sports and exercise intended for physical and emotional health, such as going to the beach or a pool with a lifeguard, or taking a hike in a traveled road, is permitted. (See below, sec. 8, about exercise on the Nine Days)

Children

The Three Weeks tend to coincide with summer vacation, when camps are in session. The reason to avoid dangerous activities during the Three Weeks is the concern for safety; as long as extra care is taken to be cautious, safe activities or activities with proper precaution are allowed.

Rosh Hodesh Av / The Week of Tisha B'Av

Every single one of the following details is debated based on different customs. Ashkenazi customs tends to be more stringent, based on R. Meir, who applies mourning customs from Rosh Hodesh Av (the Nine Days), while Sephardic custom generally follows Raban Gamliel, who only applied mourning customs on the week of Tisha B'Av (starting only from the Sunday prior to Tisha B'Av). It is customary to educate even young children to maintain these customs, to provide them with an opportunity to participate in mourning for the destruction of the Temple (see below specific provisions for children).

1. Laundry

In Talmudic times there was a significant distinction between washing with water, laundering, and ironing. The Gemara (b. Taanit 29b) rules that laundering clothes is permitted while ironing is prohibited during the Nine Days, and also distinguishes between regular clothing – which should not be laundered, and linens. However, today it is customary to prohibit laundry altogether, and also to avoid wearing freshly laundered clothing even if laundered before the Nine Days. When there is a need, and no unlaundered clothes are available, the custom is to place the laundered clothes on the floor so that they are considered unlaundered. Moreover, the act of laundering clothes is prohibited, even if one does not intend to wear the garments until after Tisha B'Av (551:3), since this is a distraction from mourning. The Shulhan Arukh (551:15) adds that one who completed *shiva* for a close family member on the Nine Days is permitted to launder with water but not with soap, or detergent.

According to the Rema (1) this prohibition is valid even on Shabbat; therefore on *Shabbat Hazon* – the Shabbat preceding Tisha B'Av – one may not wear Shabbat clothing (with the exception of a Brit Millah, in which the mohel and the father may wear festive clothing). However, the Vilna Gaon (ibid.) nullified this custom. Furthermore, the Hassidic minhag was never to apply mourning rituals in public on Shabbat, and this became the accepted Ashkenazi custom. According to Arukh ha-Shulhan the custom is qualitative: when the style of Shabbat clothes is entirely different in appearance, wearing weekday clothing is considered mourning publicly; however, one should not wear Shabbat clothes on Shabbat Hazon when there is no difference in appearance, but only in quality.

Laundry for Children

Baby clothes, which are soiled frequently, can be laundered as usual (Rema 551:14).

2. Sewing and Knitting

New clothing and shoes should not be sewed, knitted, or cobbled, even for use after Tisha B'Av. However, if sewing is a livelihood, or done for the benefit of a non-Jew, this is permissible (Shulhan Arukh 551:7; Rema ibid.).

3. Construction and Renovations

The Gemara (b. Taanit 14b) states that one may not build a structure for a wedding on a fast day, and the Shulhan Arukh (551:2) adapts this to the laws of mourning from Rosh Hodesh. This implies that construction on a regular house is not prohibited; however, according to Rambam (Taaniyot 3:8) and the Shulhan Arukh, even "a building of modeling and painting" is prohibited – therefore, renovations for the purpose of aesthetic design, such as painting a house, is prohibited.

4. Bathing and Washing Hair

According to the Mishnah bathing is only prohibited on Tisha B'Av; however, the Shulhan Arukh (551:16) cites two customs that expand this prohibition: (1) from Rosh Hodesh Av; and (b) from the week of Tisha B'Av.

The Rema comments (based on the Maharil) that some are stringent even before Shabbat Hazon, and permit only to wash face, hands, and feet, with cold water, although those who are accustomed to washing their hair in hot water regularly may do so. Since today personal hygiene is entirely different, and since every house has a shower and people tend to shower daily, one is permitted to shower in order to wash off sweat, but only using cold water. The Mishnah Berurah (88) allows the weak and sickly to wash with hot water for medical purposes. Of course, bathing in hot water is permitted for the purpose of going to the mikveh, and a woman who is scheduled to go to the mikveh the night following Tisha B'Av should wash with hot water on erev Tisha B'Av.

Bathing Children

Based on the above, certainly children, who are frequently soiled, can be washed regularly. However, there is a difference between small children who can be washed regularly (preferably in lukewarm water), and children who can understand the public mourning and meaning of the destruction, and have reached an age where they can be educated to participate with the community. Of course children who are over Bat/Bar Mitzvah age should be treated like adults in this matter. However, children who are sensitive to cold water can be included in the Mishnah Berura's category of 'weak and sickly.'

5. Meat and Wine

The Rambam (Taaniyot 5:6-7) cites the custom to avoid meat and wine from the week of Tisha B'Av; however, the primary rule is that meat and wine should be avoided at the final meal before the fast (as per the Gemara and the Yemenite custom). The Shulhan Arukh (551:9) lists three different customs regarding the avoidance of meat and wine: a. from the 17th of Tammuz; b. From Rosh Hodesh Av; c. The week of Tisha B'Av. However, meat and wine are permitted at a *seudat mitzvah* such as a Brit Millah, a *siyum*, etc. This is only a valid provision when the joy extends directly from the mitzvah, and one should not find extraneous excuses to consume meat and wine. Nonetheless, this leniency is commonly used in camps to allow children to eat meat; moreover, Chabad hold *siyum* feasts deliberately due to the belief that we are closer to the final redemption.

One whose diet requires meat for health purposes may eat meat on the days before Tisha B'Av (this includes postpartum women).

The basic Halacha is to permit vegetables that were cooked with meat (Shulhan Arukh 151:11); however, the Ahronim were stringent with regard to a dish cooked with meat (Mishnah Berurah 63); they were lenient with leftovers from Shabbat.

Children

The Mishnah Berurah (70) is stringent regarding children eating meat, or even a dish cooked with meat. However, in *Halakhot u-minhagei bein ha-metzarim* (p. 73), R. Elyashiv is cited allowing meat until the age of 9, and R. Ovadia allows meat until the age of 12.

6. Havdalah

According to the Sephardic minhag, the person who recites Havdalah should drink the wine, which is permitted for the purpose of a mitzvah. Ashkenazi custom is to allow a young child to drink instead. If there is no child present, the person making Havdalah may drink the wine (Shulhan Arukh and Rema 551:10). Some make Havdalah on beer or other drinks that are not wine instead, relying on the position that *Shekhar medinah* is permitted for Havdalah.

7. Marriage

According to the Sephardic custom no weddings are held either from Rosh Hodesh Av, or from the week of Tisha B'Av (Shulhan Arukh 551:2).

8. Avoiding Monetary Negotiations with Non-Jews

Negotiations and legal proceedings with non-Jews should be avoided if possible since this is considered a time of 'poor fortune' for Israel (Shulhan Arukh 551:1).

9. Exercise

One who engages regularly in physical activity for exercise (even if the activity is considered pleasurable) may continue to exercise in the days leading up to Tisha B'Av.

Children

Children should not be allowed to engage in prohibited leisure activities such as swimming (even more so than adults who may swim for exercise and physical fitness). Young children who need refreshing activities may swim privately in a home pool.

The Last Meal before the Fast (Seuda Mafseket)

The meal before the fast should not be social – one should avoid sitting with a group. The Yemenites avoid wine and meat at this meal, and one should not eat two cooked dishes. The meal is eaten with a somber sense of mourning, and it is customary to eat eggs dipped in ashes. Leather shoes should be removed by sunset, before the fast begins (Shulhan Arukh 552).

This year Tisha B'Av begins on a Saturday night; therefore wine and meat are permitted at the meal before the fast begins, with no restrictions at all, "like the feast of Solomon in his time" (Tosefta Taanit 3:13), since no mourning customs are practiced on Shabbat (Shulhan Arukh 552:10). The Mishnah Berurah (23) cites a debate between Magen Avraham and Bekhor Shor, regarding whether it is prohibited to eat socially with company. The Mishnah Berurah notes that clearly it is permitted to eat with one's family, since public mourning only begins after Shabbat; however, no food or drink should be consumed after sunset since this is not a sign of mourning. Leather shoes should be removed after Shabbat (after the detection of three stars, or according to the time Shabbat ends on the calendar). After this point public displays of mourning apply: one sits only on a low stool, and avoids socialization. According to *minhag Yerushalayim* one may remain in Shabbat clothing when the fast begins, and some change into weekday clothing as soon as Shabbat is over

The 9th of Av

The fast of Tisha B'Av spans a full 24 hour day, which includes five prohibitions: eating, drinking, washing/anointing, wearing shoes, and intimacy. A halakhic authority should be consulted in situations of sickness, and pregnant or nursing women (who are concerned about milk production).

On the 9th of Av we read the book of Eicha (Lamentations), and add liturgical poems called *qinot* to the prayer service. It is prohibited to learn Torah on Tisha B'Av, but one may study the Talmudic stories of the destruction of the Temple (*Aggadot ha-Hurban*) and other texts about the destruction and exile. People should not greet their friends sociably, and the general conduct should be mournful and somber

The 10th of Av

Masekhet Taanit explains that the Second Temple continued to burn until midday of the 10th of Av; therefore, all mourning customs of the Nine Days should continue to be observed until midday, including bathing, laundry, and eating meat and wine.

May we see the Beit ha-Mikdash rebuilt hastily in our time, Amen!