

"Halacha Sources" Highlights - What Halachos Apply During the Days of the Omer?

The normal "question and answer" system is not being used this time. Instead, here is a brief discussion of the main sources of *Orach Chayim siman* 493 (organized according to its four *se'ifim*):

[1] Is it the **accepted minhag** to refrain from **marriage** during a specific **period** of the time from **Pesach until Shavuos**?

The Tur [*Rabbeinu* Yaakov ben Asher, ~1280 - ~1345] writes that this is indeed the *minhag* "in all places", and that "the reason is so as not to be overly joyous, since in that time the students of R' Akiva died." [See *Yevamos* 62b, points 3b-f.]

He brings from the *Ritz Gaius* [*Rabbeinu* Yitzchak ibn Gaius, eleventh century] that only *nisu'in* [i.e. full marriage] is included, since that is "the main joy", whereas merely becoming betrothed is *muttar*.

He brings further (also from the *Ritz Gayus*) that only "to begin with" do we tell someone not to complete his marriage then, but if in fact he did - we do not punish him.

The Tur then confirms that the *Gaonim* ruled in accordance with this.

The *Beis Yosef* writes that *Rabbeinu Yerucham* [1270 - ~1345] wrote the same as the above. He also brings the Avudraham [*Rabbeinu* Dovid Avudraham, 1260 - 1350], who says that the limiting of this time period (mentioned in [2b] below with respect to haircuts) applies to marriages as well. (The *Beis Yosef* says the Tur cannot not disagree with this - for the reason applies equally to both - he simply only considered it necessary to mention the point in connection with one of the two practices.)

Accordingly, the *Shulchan Aruch* confirms the *minhag*, as recorded by the Tur, and the *Rema* [R. Moshe Isserles, ~1525 - 1572, in his Ashkenazic "emendations"] confirms the limiting point from the Avudraham [based on the *Sefer HaMinhagim* (*Rabbeinu* Yitzchak of Tirna (Austria), ~1400), as the *Rema* himself cites in his *Darkei Moshe*].

The *Mishnah Berurah* adds that even the marriage of someone who does not yet have children is included, but a divorced couple remarrying is *not*. (Betrothals, which are likewise *muttar* as mentioned - lest another man "beat him to her" - may also be accompanied by a festive meal, but under *all* circumstances one may not *dance*.) He says that one may say the *bracha* of *Shehecheyanu*, if the occasion arises.

[2a] Is it the **accepted minhag** not to have a **haircut** during a specific **period** of the time from **Pesach until Shavuos**?

The Tur writes that this is the *minhag* "in some places", and the *Beis Yosef* writes that indeed this was "the widespread practice among us," which he likewise confirms in the *Shulchan Aruch*. (The *Mishnah*

Berurah adds that in this case, if someone transgresses this it is proper to punish or fine him, since what he did was not even a Mitzvah.)

[2b] Is there a *minhag* to **practice** the above "haircut avoiding" during the **period** from **Pesach until "Lag BaOmer"** (not through **Shavuos**)?

[2c] According to the above *minhag* (to **practice** the "haircut avoiding" during the **period** starting from **Pesach** but not **until Shavuos**), how does the **timing** surrounding "**Lag BaOmer**" work?

In *this* case, the Tur himself writes that "some do have haircuts from 'Lag BaOmer' and onwards, for they [i.e. the sources of this version] say that then [i.e. after 33 days] the students stopped dying."

To explain, the *Beis Yosef* cites the *Tashbatz*. [*Rabbeinu* Shimon ben Tzemach Duran, 1361-1444, responsum 178]:

The Ba'al HaMaor [*Rabbeinu Zerachyah HaLevi*, ~1126 - ~1186] wrote that he found, in an ancient Spanish text, that they died from Pesach until "pross haAtzeress" [i.e. the "pross" of Shavuos]. [This can be explained by the following (paraphrased from Bechoros 58a):] "What is a 'pross'? - a half! - [and so] what is this 'pross'? - not less than sixteen days, as we learned in a Baraisa: We ask about - and delve into [i.e. in lectures] - the Halachos of Pesach, [beginning] thirty days before Pesach [see our "Halacha Sources Highlight" at www.learnhalacha.com/PesachResearch.pdf] - so half of that is fifteen days before Shavuos." And *that* is "Lag BaOmer", for there are sixteen days from "Lag BaOmer" until Shavuos.

Now, [maintaining the relevant practices for] part of the thirty-fourth day is [considered] like [doing so for] its entirety - in line with [the well-known principle regarding] all the Halachos of mourning, as [we see] in the third chapter of Mo'ed Kattan [16b, 17b, 19b, 20b]; this leaves the fifteen days which are "pross haAtzeress", i.e. the half-of-thirty days in which "we ask about and delve into the Halachos of Shavuos" [see our "Highlight" *ibid.*]. According to this, the entire day of "Lag BaOmer" is assur (in the relevant practices), as well as part of the **day** of the thirty-fourth, since part of a **day** is [considered] like the whole. According to the position of the Ramban [*Rabbeinu Moshe ben Nachman* ("Nachmanides"), 1194 - ~1270], [however,] part of the **night** suffices (as he wrote in [his] work "*Toras HaAdam*").

[Finally,] we can permit [the relevant practices] on "Lag BaOmer" [itself] if it falls on a Friday, out of respect for Shabbos. [This is] similar to its being muttar to have a haircut on the eve of a Yom Tov [even] within the thirty days of mourning, out of respect for the Yom Tov; so the same applies to respect for Shabbos. Similarly, a mourner whose "eighth day" falls on a Shabbos [which is then in turn followed by a Yom Tov] may cut his hair on Friday even though had [the "eighth day"] been a weekday it would not have been muttar for him to cut his hair until seven days had **passed before** the Yom Tov [as discussed in Shulchan Aruch Y.D. 393:3]. (As for the references to "Lag BaOmer" as opposed to the thirty-fourth [which is the true end of the period; "Lag BaOmer" is referenced] because the thirty-fourth day is not complete.)

The *Beis Yosef* cites other sources as writing the same, and confirms it in the *Shulchan Aruch* (requiring part of the thirty-fourth **day**, in line with the first position [i.e. not the Ramban]).

The *Darkei Moshe* reports that "the widespread [*Ashkenazi*] *minhag*" is to have haircuts on "*Lag BaOmer*", and that this is confirmed by the Maharil [*Rabbeinu Yaakov HaLevi* (Siegel) Mullen, ~1360 - 1427], who notes [parallel to the above] that one may have haircuts only on that **day**. He adds that if "*Lag BaOmer*" is on Sunday, the Maharil writes that this does not make it *muttar* to have haircuts on Friday [out of respect for Shabbos - similar to the above], but the *Mahari Veil* [*Rabbeinu Yaakov Veil*, early 1400's] disagrees, and this is how the *Rema* in fact rules (after he also confirms his previous point).

The *Darkei Moshe* also brings from the Maharil and the *Sefer HaMinhagim* that "*Lag BaOmer*" is a day of some celebration, and that *Tachanun* is not said [even on the afternoon of the thirty-second day (*Mishnah Berurah*)], and he confirms this in the *Rema*.

The *Mishnah Berurah* adds that according to the *Beis Yosef* and *Shulchan Aruch's* version, there were very few deaths on the thirty-fourth day (and according the *Darkei Moshe* and *Rema's* - none). He also cites authorities who hold that one may have a haircut even on the night of "*Lag BaOmer*", but not a wedding (unless "*Lag BaOmer*" is Friday and the daytime presents difficulties).

[2d] Does the honor of a **circumcision** override the *minhag* not to have a **haircut** during the **period** of time from **Pesach until Shavuos**?

The *Darkei Moshe* cites from the *Hagahos Sefer HaMinhagim* [glosses by the *Sefer HaMinhagim's* contemporaries] that once there was to be a circumcision during this period, and a certain [reliable] *Rav* was to be the "*Ba'al Bris*" [i.e. the "*sandak*" or the one to perform the circumcision (*Mishnah Berurah*)], and he cut his beard in his usual manner the evening beforehand (just before going to the synagogue) and told the baby's father to have a haircut as well. The *Rema* confirms that indeed, the circumcision's honor permits haircuts for these people.

The *Mishnah Berurah* adds that if the circumcision is to be on Shabbos, the above haircuts may be done even on Friday **morning**.

[3a] Is there an alternate *minhag* [to the above 2b] to **practice** the "**haircut** avoiding" during the **period** from **Pesach until Shavuos** differently, with special regard to *Rosh Chodesh* (of the month of Iyar)?

The *Beis Yosef* quotes an alternate *minhag*, from an early authority writing in the name of the Tosafos, as follows:

The meaning of the term "thirty-three to the omer" is not like the common practice [i.e. observing the practice continuously from Pesach until "Lag BaOmer"]. Rather, [it refers to] thirty-three days [which

remain], after eliminating the seven days of Pesach, seven Shabbos days, and two days of Rosh Chodesh, which are [a total of] sixteen days on which mourning is not practiced, [so that] of the forty-nine days [of the omer] thirty-three remain.

The *Beis Yosef* points out [again] that this *minhag* has not been accepted. However, he uses these words to explain the following: Some people (he writes) have haircuts on *Rosh Chodesh Iyar*, "since *Rosh Chodesh* is similar to a *Yom Tov* and mourning should not be practiced then." The *Beis Yosef* says this must be a mistake, since it is against the *minhag* of "most of the world", and the mistake may stem from applying the above words - inappropriately - as follows: "Since they saw that it says mourning is not practiced [on the] two days of *Rosh Chodesh*, they [too] considered those days *muttar*." The *Beis Yosef* concludes by pointing out that for "us", "all of the [first] thirty-three days it's *assur* to have a haircut - even on *Rosh Chodesh*."

The *Darkei Moshe* writes that the Maharil brings a *minhag* to allow haircuts **throughout Nissan**, until *Rosh Chodesh Iyar*. The *Darkei Moshe* himself explains that according to **that minhag**, one may not have a haircut even after "*Lag BaOmer*", and therefore there are still thirty-two days (since they count *Rosh Chodesh Iyar* and *Sivan* [which makes one day in the month of Nissan, twenty-nine in the month of Iyar, and (apparently) the first three in the month of Sivan], but they *may* have a haircut on "*Lag BaOmer*" itself). The only version that may *not* be practiced, he concludes, would be to combine *both* leniencies [i.e. both until *Rosh Chodesh Iyar* **and** after "*Lag BaOmer*"].

This, of course, still leaves no room for having haircuts on *Rosh Chodesh Iyar*. The language of the *Rema* in confirming the above, however, does not spell out whether *Rosh Chodesh Iyar* itself is included in the days of mourning according to this *minhag* (which, he writes, is observed in "many areas"), leaving room to interpret "until *Rosh Chodesh Iyar*" as *not inclusive*, with those missing two days to be replaced by the fourth and fifth of Sivan. (The *Mishnah Berurah* seems to consider this the simple explanation of the *Rema*, just that the *Darkei Moshe's* version is "the *minhag* in our area"; see there for slight variations - and see the *Bi'ur Halacha* for further variations throughout the *siman*.)

The *Mishnah Berurah* adds that even for those who practice the first version (i.e. through "*Lag BaOmer*"), if Shabbos and *Rosh Chodesh* coincide, then one may have a haircut on Friday in its honor (or a wedding if the meal will be on Shabbos).

[3b] Is there a principle that a **city** may not **divide**, with some people practicing one version of the above *minhag*, and other people the other version?

The *Darkei Moshe* writes this may not be done, because of "*Lo Sisgodedu*" ("You shall not have bunches and bunches" observing differing Halachic practices) [which is established as being *assur* in *Yevamos* 13b-14a]. He confirms this in the *Rema*, as well.

[4] Is there a *minhag* to refrain from *melacha* during a specific **period** of the time from **Pesach until Shavuos**?

The Tur writes that he found a source which brings such a *minhag* concerning "from sundown until the morning", citing two reasons:

(1) *The students of R' Akiva died shortly before sundown, and they were buried after sundown, and the people were [therefore] idle from [their regular] melacha [in accordance with Mo'ed Kattan 27b (Gra), discussed in Shulchan Aruch Y.D. 343:1 & 361:2]. [The Tur here reads: "Therefore, it was decreed not to be joyous in that period." Apparently, his source mentioned that point here.] Women, accordingly, have the minhag not to do melacha from sundown [on]. [This seems difficult: the reason given ought to apply to men more than to women.]*

(2) *The counting of the omer is done after sundown [as discussed in the previous siman]. It is written (Vayikra 23:15) "They [i.e. the counted weeks] shall be seven complete 'shabbasos'," using a language suggesting "sh'vos" [like the "resting (from melacha)" of "Shabbos"] and the "seven 'shabbasos' of years" (Vayikra 25:8) which refers to years of Shemittah [the Sabbatical year]. This teaches that our counting is like [that of] the Rabbinical court [which performed that counting of Shemittah years]: just as the Shemittah year is assur in melacha, so too, the time of the counting of the omer (which means after sundown) is assur in melacha.*

The *Beis Yosef* notes that *Rabbeinu Yerucham* wrote the same, in the name of *Rav Hai Gaon*.

Accordingly, the *Shulchan Aruch* rules: **Women have the *minhag* not to do *melacha*, from Pesach until Shavuos, from sundown on.**

The *Mishnah Berurah* says that this *minhag* applies equally to men. [Note: In fact, *Rabbeinu Yerucham* does not distinguish between men and women. The *Kitzur Shulchan Aruch* (R. Shlomo Gantzfried, ~1804 - ~1885, 120:10) also equates the two.] He also adds that according to reason (2) of the Tur, *melacha* becomes *muttar* as soon as one has in fact counted the *omer*.

(A supplementary question: The *Bi'ur Halacha* says concerning haircuts, that any circumstances which would make it *muttar* to have a haircut during *Chol HaMo'ed* would certainly do the same during the period of the counting of the *omer*, for it is definitely not *more* stringent. **We can ask:** Should that logic apply to *melacha* as well?)

[Finally: The "*Halacha-Yomi*" translation of the *Kitzur Shulchan Aruch* (Project Genesis, © 2002, see <http://www.torah.org/learning/halacha/classes/class120-10.html>) comments on this *se'if*: "People who's [sic] family does not have this custom, are not required to conduct themselves in this manner." I do not know of a source for this.]

For supplementary study (Tashbatz 1:178):

ולא נתפרש בגמרא מהו זה הזלזול שנהגו זה בזה ומה צורך יש לפרש זה אלא מפני ששנינו (אבות פ"ב מ"ח) יהא כבוד חבירך חביב עליך כשלך ושנינו עוד (שם פ"ד מ"ג) וכבוד חבירך כמורא רבך ומורא רבך כמורא שמים והם לא נהגו כן ונענשו ומתו לפי שהיו גורמין לתורה שתחלל על ידן שהבריות אומרים אוי לו למי שלמד תורה וכו' כדאיתא בפרק בתרא דיומא (פ.). ובב"ר בפרשת ויוסף אברהם אמרו שהיתה עיניהם צרה זה בזה.

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