

## "Halacha Sources" Highlights - "The three weeks" as a period for mourning

**Question: Is the *Rema* the earliest source for the *minhagim* of mourning during "the three weeks"?**

The answer needs to be divided into three parts:

- (1) the *concept* of the period of "the three weeks" as a time for practices of mourning,
- (2) the *public acceptance* (i.e. at least community-wide) of practices of mourning during the three weeks (i.e. not holding weddings and not cutting hair),
- (3) the special issues of music and dancing.

### Part 1: The *Concept* of the Period of "The Three Weeks" (as a time for practices of mourning)

The *Yerushalmi* says (*Ta'anis* 23a):

*R' Avuna said: [The pasuk (Yirmiyah 1:11)] "I see a staff of [an] almond [tree]" is symbolic [of the following]: Just as [we find concerning] the almond tree - twenty one days [pass] from [the time] when it produces its bud until [the time] when it completes its fruits, so too, twenty one days [passed] from the day that the city was breached until the day when the Beis [HaMikdash] was destroyed.*

The Ra'aviah [*Rabbeinu* Eliezer ben *Rabbeinu* Yoel HaLevi, Germany (& France), ~1140 - ~1220] brings the above [in his Halachos of fast days, *siman* 886], and comments: "[Accordingly,] during all of these days, it is appropriate not to [express] joy."

However, *in practice*, the Ra'aviah brings the following: "Some '*perushim*' [i.e. people who practice especial piety] fast [every day] from the seventeenth of [the month of] Tammuz until the ninth of [the month of] Av, and some [merely] 'afflict themselves' [i.e. abstain] from meat and wine."

The Tur [*Rabbeinu* Yaakov ben Asher, Spain, ~1280 - ~1345] quotes all this [in his *Arba'ah Turim*, volume *Orach Chayim*, *siman* 551], and adds an alternate explanation for "the three weeks": "parallel to the three weeks that Daniel fasted." (see *Daniel* 10:3) (The *Beis Yosef* [R. Yosef Karo, Spain and Israel, 1488 - 1575] says [in his commentary to the Tur, *ibid.*] that the *Hagahos Maimonios* [*Rabbeinu* Meir HaKohen, Germany, late 1200's] brings this explanation in the name of "*Rabbeinu* Sa'adiah" [one of the *Gaonim*] (and that the *Hagahos Maimonios* brings the previous material as well).

The Tur adds that "the *minhag* of *Ashkenaz*" is that "the *yechidim*" [i.e. the most unique individuals] abstain from meat and wine during "the three weeks".

The *Shulchan Aruch* [551:9, 16] brings the two above-mentioned *minhagim*, each as that of "some".

The *Beis Yosef* [*ibid.*] quotes a third explanation for "the three weeks" (but *specifically* for abstaining from *meat and wine* then), in the name of the *Kol Bo* [~1300]: "Because at that time the '*Tamid*' [offering] - and also the wine libation - ceased." (see *Ta'anis* 26b and *Bava Basra* 60b)

There is also an additional possible source (for specifically this *minhag*), which is the *Yerushalmi* (*Pesachim* 25b and *Ta'anis* 6a) which endorses a minhag of certain women. According to the version of the *Machzor Vitry* [compendium on prayers and Halacha (*siman* 263) understood to have been compiled by students of Rashi -- France 1040 - 1105] (and that of the *Kol Bo* 62), the *minhag* mentioned was to abstain from wine during "the three weeks".

## Part 2: The **Public Acceptance** (at least community wide) of practices of mourning (not holding weddings and not cutting hair)

The *Sefer HaMinhagim* [*Rabbeinu* Yitzchak of Tirna (Austria), ~1400, *minhagim* of Tammuz] says that the [Ashkenazi] *minhag* is not to cut hair during "the three weeks", and not to hold weddings then.

The Rema [R. Moshe Isserles, Poland, ~1525 - 1572] quotes this [both in his commentary to the Tur, and in his emendations to the *Shulchan Aruch*, *se'ifim* 2 and 4]. Later authorities note that it continues to be the accepted Ashkenazi *minhag*. There are conflicting sources [discussed in *Kaf HaChayim* 551 and *Yabia Omer* O.C. 6:43] as to the acceptance of the same by *Sefardim* as well.

(The *Yabia Omer* [ibid.] says that *Rabbeinu Meir HaMe'ili* [an authority early enough to be quoted by the *Kol Bo* -- see the *Beis Yosef* to *Yoreh Dei'ah* 28:7] also says this is the *minhag*. However, note that the Tur [as cited above] does *not* quote such a *minhag*.)

## Part 3: The Special Issues of Music and Dancing

The *Magen Avraham* [R. Avraham HaLevi (Avli) Gombiner, Poland, ~1637 - 1683, *siman* 551 n10] says that dancing is *assur* during "the three weeks". There are two ways to explain this: for *Ashkenazim*, or even for *Sefardim*. To elaborate:

The version of the *Eliyahu Rabbah* [R. Eliyahu Shapiro, Poland, 1660 - 1712] for the above *Magen Avraham* is that it's "the *minhag*". This seems to indicate that his interpretation is that the *Magen Avraham* is saying that dancing should be comparable to holding weddings (in our context). If so, this should apply only for *Ashkenazim* (or *Sefardim* who subsequently accepted the Ashkenazi *minhag*, as above).

On the other hand, some *Sefardi* authorities [e.g. *Kaf HaChayim* and *Yabia Omer*, ibid.] cite this *Magen Avraham* (without qualification), indicating that dancing is independently *assur*. How can this be explained?

It seems that it can be compared to the words of some later authorities [*Yechaveh Da'as* 6:34, *Igros Moshe* O.C. 1:166 and 4:21:4] concerning music. Music is technically *assur* at all times, as a *year-round* commemoration of the destruction of the *Beis HaMikdash* [see O.C. 560:3]. These later authorities hold that there is grounds to permit it in general practice [this is of course not actually our subject here], but that at least during "the three weeks" one must be stringent.

Perhaps the above *Sefardi* authorities understand the *Magen Avraham* similarly; i.e. that he is saying that dancing might be compared to music, but at the very *least* one must be stringent during "the three weeks".

\*\*\*

© 2009 by Rabbi Dovid Lipman (feel free to contact by e-mail at [feedback@learnhalacha.com](mailto:feedback@learnhalacha.com)). "*Halacha Sources*" *Highlights* is part of the *Halacha Sources* project (for more information "About the Project", see [www.learnhalacha.com/about.php](http://www.learnhalacha.com/about.php)). To receive these "Highlights" by e-mail (as each is posted), send an e-mail to [halachafriends@learnhalacha.com](mailto:halachafriends@learnhalacha.com), with "subscribe" as the text or the subject line.