

## OVERVIEW of the Daf

### 1) Haircutting (cont.)

The Gemara concludes its inquiry as to whether a metzora and one who was excommunicated are prohibited to cut their hair.

A Baraisa is cited that states that a metzora and one who was excommunicated are prohibited to cut their hair.

### 2) Wrapping the head

A mourner is obligated to wrap his head. Whether one who is excommunicated is obligated to wrap his head is unresolved, and a metzora is obligated to wrap his head.

### 3) Tefillin

A mourner may not wear tefillin. Whether one who is excommunicated wears tefillin is unresolved, and whether a metzora wears tefillin is also not resolved.

### 4) Greetings

A mourner may not greet others. Whether one who is excommunicated is permitted to greet others is unresolved, and a metzora is prohibited from greeting others.

### 5) Torah study

A mourner and one who was excommunicated may not study Torah but a metzora is permitted to study Torah.

### 6) Laundering

A mourner, metzora and one who was excommunicated each may not launder his clothing.

### 7) Tearing one's garment

A mourner and metzora each must tear his garments and it remains unresolved whether one who was excommunicated must tear his garments.

### 8) Overturning the bed

A mourner must overturn his bed and it remains unresolved whether a metzora and one who was excommunicated must overturn their bed.

### 9) Doing work

A mourner is prohibited to work, one who was excommunicated may work. It remains unresolved whether a metzora is permitted to work.

### 10) Bathing

A mourner may not bathe. It remains unresolved whether a metzora and one who was excommunicated may bathe.

### 11) Wearing shoes

A mourner may not wear shoes. It is unresolved whether a metzora and one who was excommunicated may wear shoes.

### 12) Marital relations

A mourner and metzora are prohibited from engaging in marital relations. It remains unresolved whether one who was excommunicated may engage in marital relations.

### 13) Sending a Korban

A mourner and metzora may not send a Korban, and it remains unresolved whether one who was excommunicated may send a Korban. ■

## Distinctive INSIGHT

### Stoning the coffin of one who died while banned

מנודה שמת בית דין סוקלין את ארונו

Rambam (Hilchos Talmud Torah 7:4) writes: "If a person dies while under a ban (חרם), the local court sends an emissary who places a stone on the coffin. This serves to indicate that the person who died was separate and removed from the community."

Sefer העמק ברכה explains that Rambam understands the placement of a stone on the coffin as part of the process of banishment. Now that the person has died, we have no choice other than to come close to his body and care for his burial needs. Therefore, it is at this moment that we place a stone on the coffin to proclaim that this person died in a state of being distanced.

In Massechta Smachos (5:11) this procedure is described a bit differently. There, the emissary of the court places a stone on the coffin in order to fulfill the law of stoning (סקילה). This seems to be indicated in the Mordechai (to our Gemara), where he explains that a person who dies while under a ban has the status of one who was executed by beis din, and no mourning is observed for him.

Ritva writes that the stoning of the coffin is done to disgrace the one who died, because he disregarded the ban of beis din. This explanation is cited by Beis Yosef in Yoreh De'ah 334.

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## REVIEW and Remember

1. What is the source that a mourner may not study Torah?  
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2. How do we know that a mourner may not launder his garments?  
\_\_\_\_\_
3. What is the precedent that work is prohibited for a mourner?  
\_\_\_\_\_
4. Why were Bnei Yisroel considered excommunicated during their travels in the desert?  
\_\_\_\_\_

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In memory of their aunt  
מרת שושנה בת ר' שמשון, ע"ה  
Mrs. Rose Gale O.B.M.

# HALACHAH Highlight

## Selling one's business for shiva

אבל אסור בעשיית מלאכה

A mourner is prohibited from performing melachah

The Chasam Sofer<sup>1</sup> was asked about the ruling of another Rov. Someone was an onen and was instructed to sell his store to one of his friends for shiva, so that business would function during shiva. After shiva, he was to repurchase the business from his friend. Chasam Sofer responded that he was familiar with a similar case in which two partners shared a business and when the relative of one of them become deathly ill (גוסס) he instructed an agent to dissolve the partnership. In doing so the other partner was permitted to continue working as long as the mourning partner did not receive any of the profits from the business for the week of shiva. The two cases, notes the Chasam Sofer, are not parallel. In the latter case there are two reasons to rule leniently that do not apply to the question at hand. Firstly, the transaction took place while the relative was still alive so the dissolution of the partnership was completely permitted. Furthermore, the person running the business during the week of shiva was the other partner, so it does not give an appearance of impropriety. In the question at hand there were two reasons to prohibit the sale. Firstly, when people see the stranger in the store they will not be aware it was sold, and they would assume that he is working for the owner who is observing shiva. Furthermore, even if people will know that the business was sold, it is still improper since people will find it troubling that an onen is not even permitted to answer amen and yet he is permitted to sell his business.

In the final analysis he justifies the practice based on the

(Insight. Continued from page 1)

The Rishonim write that the relatives of a person who died while in חרם do not observe mourning for him, and they do not rend their clothes. The community stands in a row as the mourners exit the cemetery to console them, for this is for the honor of the survivors, and there is no reason to diminish the honor due to the living. These restrictions only apply to one who was placed in banishment due to insolence towards Torah scholars (אפקרותא). However, if a person was placed in חרם due to financial considerations, with his death all aspects of the ban are suspended. The coffin is not stoned, and he is to be eulogized and mourned fully.

If the mourner himself is in a state of banishment, he is denied any honors of consolation which are normally accorded to the survivors, but the one who died is given full honors of burial. ■

following reasoning. Most people cannot afford to close their business for the week of shiva. Combining a number of different leniencies (e.g. the mourner has no other means of earning a living, the caravan with whom he does business is leaving town, etc.), we allow the business to open after three days of shiva. Therefore, selling the business during the period when he is an onen has an advantage since there are a number of authorities<sup>2</sup> who maintain that the restrictions of mourning do not apply while one is an onen. Although Shulchan Aruch<sup>3</sup> does not seem to follow this position, nonetheless, when compared to the alternative, i.e. the mourner will work after the third day of shiva, it is considered the lesser of two evils and consequently the practice could be followed. ■

1. שו"ת חת"ס יו"ד ח"ב סי' שכ"ד.
2. עי טור יו"ד סי' שמ"א משי"ב על מחלוקת זו.
3. שו"ע יו"ד סי' שמ"א סעי' ה'.

## STORIES Off the Daf

### Shechting for Oneg Shabbos

"אבל אסור בעשיית מלאכה..."

Someone once wrote to the Munkatche Rebbe, zt"l, "In Darkei Teshuvah 1:172, you cited the Kisei Eliyahu who holds that a mourner may shecht for Shabbos because this is a mitzvah d'rabim of oneg Shabbos. This seems very difficult—people can fulfill the commandment of oneg Shabbos through foods other than meat. Why do we permit the mourner to do melachah for

this?"

The Rebbe answered, "Rambam on Moed Katan 15b writes that the remez that a mourner is prohibited from doing melachah appears in the verse: 'I have turned your holidays into mourning.' Just as a festival lasts for seven days, so too does mourning last for seven days. Obviously, the reason why a mourner is prohibited from doing melachah is not to enhance his pleasure as it would be on the chag—rather, the verse shows us that any labor permitted during a festival should also be permitted for a mourner. The Terumas Hadeshen (153) questions the mourner's ability to

shecht only because it could serve as a distraction from mourning. (Bartenura says this in a different context brought in the Magen Avraham 554:23.) This is why the Kisei Eliyahu permits a mourner to shecht for oneg Shabbos. This is a mitzvah d'rabim and the prohibition is not clear even if people could fulfill the mitzvah by eating other foods. We don't find anywhere that a mourner should refrain from doing mitzvos other than Talmud Torah even though doing mitzvos could prove distracting. I brought the Kisei Eliyahu since his reasoning is so understandable and straightforward!" ■