

5 Elul 5774
August 30, 2014



Moed Katan Daf 19

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamah of

Tzvi Gershon Ben Yoel (Harvey Felsen) o"h

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

Making tefillin, mezuzos, and tzitzis

The braisa cites a dispute about making tefillin, mezuzos, and tzitzis on Chol Hamoed. Rabbi Meir says that one may write tefillin and mezuzos and spin strings for tzitzis for himself, or for others as a free favor. Rabbi Yehuda says he can avoid the Chol Hamoed prohibition by selling his personal ones, and then making new ones for himself. Rabbi Yossi says that one may write them for sale, to provide money for his household. Rav (or Rabba bar bar Chana) ruled like Rabbi Yossi for Rav Chananel.

The Mishna said that one may spin *techeles* – blue strings for tzitzis on his thigh. The Gemora cites a braisa in which Rabbi Eliezer says that one may spin it on his thigh, but not on a stone, as is normally done, while the Sages say that he may even spin in on a stone. Rabbi Yehuda cites Rabbi Eliezer saying that one may spin it on a stone, but not with the normal spindle, while the Sages allow even spinning with a spindle. Rav Yehuda cites Shmuel, and Rabbi Chiya bar Abba cites Rabbi Yochanan ruling like Rabbi Yehuda's version of the Sages, and like Rabbi Yossi's position about writing tefillin and mezuzos.

Yom Tov voiding mourning

The Mishna says that if one buried his close relative three days before Yom Tov, the shiva (seven-day mourning) period is voided by Yom Tov. If he is buried 8 days before Yom Tov, the shloshim (30 days) period is voided by Yom Tov. The Mishna explains that this is because the Sages said that Shabbos counts for shiva, but does not end it, while Yom Tov doesn't count, but ends the shiva. Rabbi Eliezer says that after the Bais Hamikdash was destroyed, Shavuos is like Shabbos, while Rabban Gamliel says that Rosh Hashana and Yom Kippur are considered Yomim Tovim. The Sages say that Shavuos is like a Yom Tov, while Rosh Hashana and Yom Kippur are like Shabbos.

Voiding the rules or days

Rav says that when the shloshim period is voided by Yom Tov, the rules are voided, but not the days. Rav Huna agrees, while Rav Sheshes says that the days are also voided.

The Gemora explains that if the days are not voided, he has permission to end shloshim before Yom Tov,



but if he didn't cut his hair before Yom Tov, he may not do so afterwards.

The Gemora cites a supporting braisa which says that if one buries his relative 8 days before Yom Tov, this voids the shloshim period, allowing him to cut his hair before Yom Tov. If he didn't do so before Yom Tov, he may not do so afterwards. Abba Shaul says that he may do so afterwards, as just as three days of shiva before Yom Tov voids the shiva period, so do 7 days of mourning before Yom Tov void the shloshim period.

The Gemora challenges the number 7 from the Mishna, which says that shloshim is voided only after 8 days, and answers that Abba Shaul says that part of a day counts as a full day, and the latter part of the seventh day can therefore count as the start of shloshim, after the first part ended shiva.

Abba Shaul vs. Sages

Rav Chisda quotes Ravina bar Shila ruling like Abba Shaul, and saying that the Sages agree with him when the 8th day falls on Shabbos which is the eve of Yom Tov that he may cut his hair on the preceding Friday, which is the 7th day.

The Gemora says that Rav's statement that a mourner may wash as soon as the consolers leave him on the 7th day is following Abba Shaul's position that part of the day is considered the full day.

Abaye rules like Abba Shaul on the seventh day, and says that the Sages agree with him on the 30th day. Rava rules like Abba Shaul on the 30th day, but not on

the 7th day. Nehardai rule like Abba Shaul on both days, since Shmuel says that we always follow the lenient opinion in matters of mourning.

30 days of mourning

The Gemora asks where we know 30 days of mourning, and answers that it is from the word *pera* – wild growth used in the context of mourning. When Hashem commanded Aharon and his remaining sons to not mourn, He said *al tifra'u* – *do not grow long [your hair]*, and the same word *pera* is used to describe the requirement of the nazir to grow his hair long. Just as the nazir must grow his hair for a minimum of 30 days, as Rav Masna says that an unspecified nazirite vow is for 30 days, so the normal mourning process requires growing hair for 30 days.

The Gemora explains that we know that an unspecified nazirite vow is 30 day from the verse which states *kadosh yih'yeh* – *he will be holy*, as the numeric value of *yih'yeh* is 30.

Washing on the third day

Rav Huna the son of Rav Yehoshua says that if the third day of mourning is the eve of Yom Tov, all agree that he may not wash until the evening. Rav Nechemia the son of Rav Yehoshua said that he found Rav Pappi and Rav Pappa sitting and ruling like Rav Huna the son of Rav Yehoshua. Some say that Rav Nechemia bar Yosef found Rav Pappi, Rav Pappa, and Rav Huna the son of Rabbi Yehoshua sitting and stating that all agree that he may not wash until the evening if the third day of mourning is the eve of Yom Tov.



Counting the holiday for shloshim

Abaye asked Rabbah whether the days of a holiday (Yom Tov and Chol Hamoed) count for the shloshim period for one who buried his relative during the holiday. He knew that they wouldn't count for shiva, as none of the shiva restrictions apply, but perhaps they would count for shloshim, as the prohibitions of cutting hair and laundry apply throughout the holiday. Rabbah answered they do not count.

The Gemora challenges this from a braisa which says that if one buried a relative 2 days before Yom Tov, he must count another 5 days of shiva after the holiday, during which others can do work for him, his slaves may work privately in his home, and people need not console him, since they did so during the holiday. The general rule is that the holiday stops the mourning process, but not the communal interaction with the mourner. If he buried his relative 3 days before the end of the holiday, he counts shiva afterwards, with people consoling him for the first 4 of those days, to complete 7 days of consolation. The braisa concludes by saying that the holiday counts.

The Gemora assumes that the last statement is referring to the second case of the braisa, which is inconsistent with Rabbah's answer, but deflects this by saying that it is referring to the first case, where the holiday does count since he began mourning beforehand.

The Gemora successfully challenges Rabbah from another braisa which says that the holiday counts for shloshim, illustrating this with a case of one who

buried a relative at the start of the holiday. In this case, he counts shiva after the holiday, during which others can do work for him, his slaves can privately work in his house, and he isn't consoled, since he was consoled during the holiday. The braisa concludes that the holiday counts, and this must mean it counts for shloshim, refuting Rabba.

When Ravin came, he quoted Rabbi Yochanan saying that even if he buried a relative during the holiday, the holiday counts for shloshim, and Rabbi Elazar ruled the same way to his son Rabbi Pdas.

INSIGHTS TO THE DAF

TEFILLIN ON CHOL HAMOED

There are three prevalent customs regarding wearing Tefillin during Chol Hamoed. Some do not wear Tefillin, others wear Tefillin and recite the Beracha (albeit quietly), and others compromise and wear Tefillin but do not recite the Beracha. Let us explain the basis for each of these practices.

Why We Should Not Wear Tefillin on Shabbos and Yom Tov

The Gemara (Menachos 36) presents a dispute whether one should wear Tefillin on Shabbos and Yom Tov. The accepted opinion is that we do not wear Tefillin on Shabbos and Yom Tov. The Gemara presents two Braisos that present reasons why we should not wear Tefillin on these days.

The first Braisa cites a Pasuk (Shemos 13:10), which states that one should wear Tefillin Miyamim.



Literally, this means “from among the days.” The Braisa explains that this means that on some days we wear Tefillin and on others we do not. Shabbos and Yom Tov are days that we do not wear Tefillin.

The second Braisa notes that the Torah in a number of places writes that Tefillin serve as an Oys, a sign. The Braisa explains that one wears Tefillin only on those days when one requires an Oys. One does not wear Tefillin on Shabbos and Yom Tov because Shabbos and Yom Tov constitute an Oys.

Next, we shall present the arguments regarding wearing Tefillin on Chol Hamoed. We shall focus on the arguments that Tosfos (Moed Katan 19a s.v. Rabi Yosi) presents.

The Argument for Not Wearing Tefillin on Chol Hamoed

The Behag (cited by Tosfos Moed Katan) rules that we are forbidden to wear Tefillin on Chol Hamoed. Many Rishonim agree with the Behag’s assertion. These Rishonim include the Rambam (as interpreted by the Kesef Mishna to Hilchos Yom Tov 7:13), the Rashba (Teshuvot 1:690), and the Ri (cited by the Haghos Maimoniot Hilchos Tefillin 4:9). These authorities believe that if Yom Tov is excluded from wearing Tefillin, Chol Hamoed should also be excluded from wearing Tefillin. They believe that Chol Hamoed constitutes a Yom Tov, and therefore constitutes an Oys.

The Acharonim further explains this opinion. There are four components of the Kedushas Hayom (the holiness of the day) of a Yom Tov. These are the

Korban Mussaf, the unique Mitzvos of the day (such as the Mitzva to eat in a Sukkah or to avoid Chametz), the obligation on individuals to bring the Korbanos for the Regel (Re’iya, Chagiga, Shalmei Simcha), and the prohibition to engage in Melacha (forbidden labor). All four components pertain to Chol Hamoed. Although certain Melacha is permitted on Chol Hamoed, fundamentally, the prohibition to perform Melacha applies to Chol Hamoed. However, the Gemara (Chagiga 18a) explains that the Torah permits us to engage in certain Melacha on Chol Hamoed. Hence, Chol Hamoed enjoys the full status of Yom Tov. It is said over in the name of Rav Chaim Soloveitchik that Chol Hamoed is as holy as any Yom Tov. There merely exists permission to engage in certain Melacha on Chol Hamoed.

The Argument for Wearing Tefillin on Chol Hamoed

Many Rishonim, on the other hand, believe that one must wear Tefillin on Chol Hamoed. These authorities include the Rosh (Hilchos Tefillin 16), Or Zarua (1:589), and the Maharam of Rothenberg (cited by the Mordechai). They argue that Chol Hamoed does not constitute an Oys, since we are permitted to perform certain Melacha on Chol Hamoed. This argument is particularly cogent according to the Rishonim who believe that on a Torah level all Melacha is permitted on Chol Hamoed and the restrictions that exist in regard to performing Melacha on Chol Hamoed were instituted by Chazal.

Moreover, they argue that the word in the Torah Miyamim excludes only Shabbos and Yom Tov where the prohibition to engage in Melacha profoundly distinguishes these days from all other days. A



ramification of the permission to perform certain labor on Chol Hamoed is that the difference between Chol Hamoed and other days is not pronounced.

These Rishonim cite as proof to their position the fact that the Gemara permits writing Tefillin on Chol Hamoed. They argue that Chazal would not have permitted writing Tefillin on Chol Hamoed had there been no use for the Tefillin on Chol Hamoed. The other group of Rishonim argues that this passage in the Gemara represents the rejected opinions that believe that one may wear Tefillin on Shabbos and Yom Tov.

The Compromise View — Tefillin and No Beracha

Both sides of the arguments presented by the Rishonim are compelling. Thus, we already find Rishonim that advocate adopting a compromise view — to wear Tefillin but to refrain from reciting the Beracha. The Tur (Orach Chaim 31) notes that there are a number of Rishonim who are uncertain whether one must wear Tefillin on Chol Hamoed and therefore advocate wearing Tefillin but refraining from reciting a Beracha. These authorities include the Ritva (Eruvin 96a), the Smak (153), and the Meiri (Moed Katan 18b). The advantage of this compromise is that one avoids violating very serious transgressions. Chazal write that not wearing Tefillin and reciting an unnecessary Beracha (see Berachos 33a and Shavuot 39a) are very serious violations of Torah Law. It is possible that the potential prohibition to refrain from wearing Tefillin on Chol Hamoed is more severe than a potential prohibition to wear Tefillin on Chol Hamoed.

The Bais Yosef (O.C. 31 s.v. V'cholo) notes that all Sephardic Jews refrain from wearing Tefillin on Chol Hamoed. He cites at length from the Midrash Hane'elam to Shir Hashirim that presents a Kabbalistic explanation for refraining from wearing Tefillin on Chol Hamoed. In fact, the Zohar strongly advocates refraining from wearing Tefillin on Chol Hamoed. We should note that many Kabbalistic themes have been incorporated into the Halachos of Tefillin. (For example, see Shulchan Aruch 25:2, 25:11, and 25:13.)

Accordingly, Rav Yosef Karo rules in the Shulchan Aruch (O.C.31:2) that it is forbidden to wear Tefillin on Chol Hamoed. The Rama, however, records that the universally accepted practice among Ashkenazic Jews is to wear Tefillin on Chol Hamoed and to recite the Berachos. The Rama adds, though, that the custom is to recite the Berachos on Tefillin quietly on Chol Hamoed. The Mishna Berura (31:8) writes that this is to avoid fighting since the issue of reciting the Berachos on Tefillin is embroiled in controversy. There might be Kabbalistic reasons for this practice as well.

The Taz (O.C. 31:2) encourages one to refrain from reciting the Berachos on Tefillin during Chol Hamoed in deference to the authorities who forbid wearing Tefillin on Chol Hamoed. The Vilna Gaon (Biur HaGra O.C. 31:2 s.v. V'yesh Omrim) rules in accordance with the Rishonim who believe that one should refrain from wearing Tefillin on Chol Hamoed.

The Mishna Berura (31:8) and the Aruch Hashulchan (O.C. 31:4) follow the recommendation of the Taz, to refrain from reciting the Berachos when wearing

Tefillin during Chol Hamoed. The Aruch Hashulchan concludes, however, that one should follow the practice of his ancestors in this regard.

Interestingly, both the Mishna Berura and the Aruch Hashulchan rule that there should not be disparate practices regarding this matter in one prayer hall. They write that such a disparity violates the prohibition of Lo Tisgodedu. This refers to the prohibition against allowing disparate ways of observing the Torah to coexist in one locale (see Yevamos 14a). Nevertheless, in many North American congregations on Chol Hamoed, some wear Tefillin and others do not wear Tefillin in one Minyan. Are all these congregations disregarding the Mishna Berura and the Aruch Hashulchan?

One might respond that they are not ignoring these eminent authorities. The Gemara (ibid.) states that the coexistence of Shnei Batei Din Be'ir Echad — two distinct communities maintaining disparate practices in one community — does not violate Lo Tisgodedu. Rav Moshe Feinstein (Teshuvos Igros Moshe O.C. 1:158 and 159) notes that in this country Jews have gathered from the various sections of Europe and continue the Halachic practices of their former communities. Subsequent generations continue the practices of their parents. Rav Moshe asserts that American Jewry constitutes “a massive Shnei Batei Din Be'ir Echad” and we do not violate Lo Tisgodedu. For example, the Rama (O.C. 493:3) writes that disparate observances of the Omer mourning period in a single community violate Lo Tisgodedu. Rav Moshe writes, though, that this does not apply in cities like Brooklyn and Manhattan where the

situation of Shnei Batei Din Be'ir Echad pertains. The same might apply to the dispute regarding Tefillin on Chol Hamoed. The Mishna Berura and Aruch Hashulchan addressed a situation in Europe, which radically differs from the situation in North America, as explained by Rav Moshe. However, it appears that one violates Lo Tisgodedu if he wears Tefillin in public in Israel on Chol Hamoed.

The Rishonim and Acharonim debate whether one should wear Tefillin on Chol Hamoed. This debate has not been resolved and the various practices regarding this issue persist. One should follow his father's practice in this regard, and if he cannot do that, he should consult a Rav for guidance on which practice to adopt. Either he might advise wearing Tefillin without reciting the Berachos or he might advise following the dominant practice in the local community.

DAILY MASHAL

The Aruch Hashulchan notes that “recently” a practice among some Ashkenazic Jews has developed to refrain from wearing Tefillin on Chol Hamoed. He is referring to the practice of Chassidim, which was also the practice at the famed Volozhiner Yeshiva. Reb Chaim Soloveitchik did not wear Tefillin on Chol Hamoed. In Eretz Yisrael, the ruling of the Vilna Gaon to refrain from wearing Tefillin on Chol Hamoed has been universally accepted. One who publicly dons Tefillin during Chol Hamoed in Eretz Yisrael is inviting a strong protest from his fellow worshippers.