YESHIVAT hAR eTZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**the laws of THE FESTIVALS**

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**Shiur #24: The Laws of Fasts**

**The Laws of *Tisha Be-av* (1)**

**Introduction**

 A few weeks ago, we introduced the four fast days mentioned by the prophet Zekharia (8:19), who described them as "the fast of the fourth, fifth, seventh, and tenth months." These four fasts commemorate the events leading to and following the destruction of the first Temple. As we noted, the *Tosefta* (*Sota* 6:10) records the events which occurred on these days, explaining that “the ‘fast of the fifth’ is *Tisha Be-av*, the day upon which the *Beit Ha-Mikdash* was burned…”

The *Mishna* (*Ta’anit* 26a) enumerates the other tragedies that transpired on this day of misfortune:

Five tragic events befell our fathers… on the Ninth of Av… On the Ninth of Av it was decreed that our fathers should not enter the Land, the Temple was destroyed the first and the second time, Beitar was captured, and the city [Jerusalem] was plowed up.

We noted a few weeks ago (<http://vbm-torah.org/archive/moadim69/21-69moed.htm>) that different themes may combine at times to comprise the nature of a single day. For example, Yom Kippur encompasses both the aspect of a *mo’ed,* a festival, and a *ta’anit tzibbur*, a communal fast day. Indeed, we questioned whether the afternoon Torah reading of Yom Kippur reflected the *ta’anit tzibbur* aspect of the day, in which case only one who is fasting should receive an *aliya*, or the *mo’ed* aspect of the day, in which case anyone may ascend to the Torah.

Similarly, it seems that different themes comprise the nature of *Tisha Be-av*.

On the one hand, as we discussed previously, the Talmud (*Rosh Ha-Shana* 18a) describes the severity of the fast of *Tisha Be-av*. Its strictness justified sending out messengers to notify those outside of Jerusalem regarding the day of the consecration of the new moon and the fast in its wake, as, unlike the other three communal fasts instituted after the destruction of the *Beit Ha-mikdash*, *Tisha Be-av* is always observed, as "multiple misfortunes befell us on that day."

Furthermore, unlike the other fast days, which are only observed “partially,” the fast of *Tisha Be-av* begins the night before, and one must abstain not only from eating, but from the other “afflictions,” i.e. washing and anointing, wearing shoes, and engaging in marital relations. In addition, the Torah portion of “*Parashat Va-Yechal*” (*Shemot* 32:11-14 and 34:1-10), which is read on the other fast days at *Mincha*, is read on *Tisha Be-av* as well. *Tisha Be-av,* therefore, represents the archetypical fast day.

On the other hand, *Tisha Be-av* is a day of mourning, of *aveilut yeshana* (*Yevamot* 43b), as the *beraita* cited by the Talmud (*Ta’anit* 30a) states: “All *mitzvot* which apply to a mourner during the seven days of mourning apply on *Tisha Be-av*.” We express this aspect of mourning throughout the day in our prayers and actions.

Over the next two *shiurim*, as we summarize the laws of *Tisha Be-av*, we will demonstrate how these two themes combine to create a new entity - *Tisha Be-av*.

***Erev Tisha Be-av - Se’udat Ha-Mafseket***

The Talmud teaches that one should partake of a *seuda mafseket*, a final meal, before *Tisha Be-av*. The *mishna* (*Ta’anit* 26b), for example, states: “On the eve of the Ninth of Av, one may not partake of a meal of two cooked foods, nor eat meat nor drink wine.” Furthermore, the *gemara* (*Ta’anit* 30a) recounts the practice of R. Yehuda ben Illa’i:

On the eve of the Ninth of Av, they brought to him dry bread with salt and he would take his seat between the [baking] oven and the [cooking] stove and eat, and he would drink with a pitcher full of water and he would appear as if a near relative were lying dead before him.

Similarly, the *Rambam* (*Hilkhot Ta’aniyot* 5:9) writes, “And he should eat it, and drink a pitcher of water, with worry, depression and weeping, as if a close relative is lying dead in from of him.”

 What may one eat at this meal? As we saw, the *mishna* prohibits eating meat and drinking wine at this meal, as these are important foods which arouse happiness. In addition, the *mishna* states that one should not eat two cooked foods. While the *Acharonim* discuss how to define “two cooked foods,” the *Shulchan Arukh* (552:6) simply writes that, when possible, one should eat dry bread with salt, along with water, for the *seuda ha-mafseket*. In addition, he (ibid. 5) reports that “it is customary to eat lentils mixed with boiled eggs, which are a food of mourners.”

The *Rama* adds that some eat hard-boiled eggs, which are also a food of mourners. Moreover, he writes that one should dip his bread into ashes, and, as the *Mishna Berura* (16) suggests based upon the practice of Rav as recorded by the *Yerushalmi* (*Ta’anit* 4:6), one should declare, “This is the *Tisha Be-av* meal.”

 Since this simple meal would probably not tide a person over until the next day, the *se’uda ha-mafseket* is usually preceded by another meal. The *Rama* (552:9) writes:

It is customary in these regions of Ashkenaz to eat a set meal before *Mincha*, and then afterwards to pray *Mincha* and then eat the *se’udat ha-mafseket*. They are accustomed to increase this meal, in order that the fast should not be harmful, since we cease to eat during the day, like Yom Kippur.

Interestingly, the *Magen Avraham* (11) suggests that the custom to eat a large meal before the *se’udat hamafseket* may be rooted in a different idea. He writes that since *Tisha Be-av*, during the time of the second Temple, was a day of celebration marked by a festive meal, the custom to partake of a set meal remains as a commemoration and hope for the future.

The *Magen Avraham* (10) also relates that some *Acharonim* (*Levush, Bach, Shelah*) disapprove of the custom recorded by the *Rama* and suggest eating this large meal, if necessary, before midday. The *Eliya Rabba* (12) cited by the *Mishna Berura* (22), however, writes that as long as one’s intention are “for the sake of Heaven,” he may partake of a larger meal after noon, but he should leave room for the *se’udat ha-mafseket*.

 The *Shulchan Arukh* (553:1) rules that one may eat or drink after the *se’udat ha-mafseket* until the onset of the fast, unless one explicitly accepts upon himself not to eat anymore. While the *Rama* adds that a mental acceptance does not constitute an acceptance, the *Mishna Berura* (2) writes that the *Bach* and *Gra* disagree; he therefore recommends stating explicitly that one intends to eat or drink until sunset.

The *Acharonim* mention a number of other customs associated with the *seuda ha-mafseket*.

First, one does not recite the *birkat ha-mazon* with a *zimun*. The *Hagahot Maimoniyot* (*Hilkhot Ta’aniyot* 5:7:30) writes:

Some of the great scholars of Ashkenaz… and R. Sherira Ga’on wrote as well, were accustomed not to recite the *zimun* with three during this meal; rather every individual should sit by himself, as it says, “Let him sit alone and keep silence” (*Eicha* 3:28). So, too, the *Ri* and *R. Meshulam* would recite the Grace after Meals by themselves even when sitting amongst a group of three [which would ordinarily mandate reciting the *zimun*]. It is proper for three people not to sit together in order that they should not become obligated in the *zimun*.

The *Shulchan Arukh* (552:8) rules accordingly, warning that three men should not sit together in order not to become obligated to recite the *zimun*. The *Mishna Berura* (19) adds that even if they did sit together, they should still not say the *zimun*.

Second, the *Terumat Ha-deshen* (1:151) writes that one should eat the *se’udat ha-mafseket* while sitting on the ground, although he does not need to remove his shoes. The *Shulchan Arukh* (552:7) records this custom as well. Those who have difficulty sitting on the floor may sit on a chair, although they should preferable change their location (*Kaf Ha-Chaim* 552:38).

When *Tisha Be-av* falls out on Sunday, the *se’uda ha-mafseket* is not held on *Shabbat*, and the restrictions mentioned above are not observed. One may eat meat and drink wine preceding the fast. However, one must stop eating before sunset (*Shulchan Arukh* and *Rama*, 552:10).

In addition to the laws of the *se’uda ha-mafseket*, the *Rama* (553:2) writes:

It is customary not to learn [Torah] on the day before *Tisha Be-av* after midday, and therefore when *Tisha Be-av* falls out on *Shabbat*, we do not say *Pirkei Avot*. Similarly, one should not take walks on *Erev Tisha Be-av*.

While the *Magen Avraham* (7) upholds this custom and suggests that one should only learn those passages that are permitted for study on *Tisha Be-av* (554:1), others (*Mishna Berura* 8 and the *Bi’ur Halacha* in the name of the *Maharshal* and *Gra*; *Arukh Ha-Shulchan* 553:4) challenge this custom, and even testify that they themselves (*Maharshal*, *Mishna Berura*) learn after midday before *Tisha Be-av*. Certainly when *Tisha Be-av* falls out on *Shabbat*, when one may even eat meat and drink wine, one who learns Torah until nightfall is in good company (*Taz* 553:2, *Mishna Berura* 10).

 Finally, just as one does not recite *Tachanun* on *Tisha Be-av* (*Shulchan Arukh* 559:1), as *Tisha Be-av* is called a *mo’ed* (*Eicha* 1:15), *Tachanun* is not recited at *Mincha* on *Erev Tisha Be-av* (ibid, 552:12).

**The Fast of *Tisha Be-av* and the Other Fasts**

As mentioned above, the fast of *Tisha Be-av* differs from the other three fast days. This is true quantitatively, regarding the length of the fast and the scope of its prohibitions, but also qualitatively. We noted that on the minor fast days, in contrast to *Yom Kippur*, *cholim* (the sick) are exempt from the fast. Therefore, not only does the *halakha* exempt a *choleh she-ein bo sakana*, a sick person who’s life is not in danger, from the fast, there is also no need to eat in small quantities, *chatzi shi’ur*, as one must preferably do on *Yom Kippur*. Moreover, we learned that a pregnant or nursing woman is also fundamentally exempt from fasting, even though some are still accustomed to fast.

On *Tisha Be-av*, however, only the sick are exempt. Pregnant and nursing women are obligated to fast, unless fasting poses a danger to the mother or fetus (*Shulchan Arukh* 554:5). The *Arukh Ha-shulchan* (554:7) writes that pregnant (and nursing) women who are weak, and fasting may lead to illness, even if not life threatening, are exempt from fasting on *Tisha Be-av*. Therefore, a pregnant woman suffering from nausea, anemia (low hemoglobin), high or low blood pressure, or infection need not fast. Furthermore, a pregnant woman who fears, justifiably, that fasting may cause a miscarriage, or even bleeding or early contractions, must certainly break her fast.

Fasting may be especially difficult for a nursing woman, as nursing causes a woman to lose fluids; by not drinking, she risks not producing enough milk for her child. R. Chaim Mordechai Margulies (1780 – 1820), in his commentary to the *Shulchan Arukh*, the *Sha’arei Teshuva* (554:6), writes that if fasting will affect the quality of the mother’s milk or diminish it, which may pose a threat to the child, the mother may eat. Similarly, the *Chazon Ish* (see *Piskei* *Teshuvot* 554:6) would instruct nursing mothers who feared that they would not be able to produce enough milk to break their fast.

We discussed the laws of a sick person and those who must take medication on fast days in a previous lecture (<http://vbm-torah.org/archive/moadim69/20-69moed.htm>).

**The Prohibitions of *Tisha Be-av***

**Bathing and Anointing**

Aside from eating and drinking, the *Talmud* (*Ta’anit* 30a) enumerates the other prohibitions of *Tisha Be-av*:

Our Rabbis have taught: All the restrictions that apply to the mourner apply on *Tisha Be-av*: eating, drinking, bathing, anointing, the wearing of shoes and marital relations, are forbidden thereon.

Although, as we mentioned above, this passage seems to equate the laws of *Tisha Be-av* with the laws of mourning, R. Soloveitchik noted that while a mourner may wash parts of his body in cold water, on *Tisha Be-av* one may not even immerse one’s finger into cold water (*Shulchan Arukh* 554:7). The prohibition of “*rechitza*” (bathing), therefore, is defined by the day’s being a communal fast day, and not just a day of mourning.

 Only washing for “pleasure” is prohibited; one may therefore wash his body if it is dirty (ibid. 9), after using the bathroom (*Kitzur* *Shulchan Arukh* 124:7), or for medicinal purposes (*Shulchan Arukh* 554:14). In the morning or upon waking, one may wash *netilat* *yadayim* as usual, pouring the water until the joints at the end of one’s fingers (*Shulchan Arukh* 554:10). One may wash in a similar fashion before prayer (*Mishna Berura* 21). While preparing food, one may also wet one’s hands (ibid. 19).

One who experiences extreme discomfort from lack of washing, known as an “*istenis*,” may wash his face (*Mishna Berura* 22).

 In a previous lecture (http://vbm-torah.org/archive/moadim69/20-69moed.htm), we discussed brushing teeth on a communal fast day. We concluded that on an ordinary fast day, one who experiences discomfort from not rinsing his mouth or brushing his teeth may do so. On *Tisha Be-av*, however, as well as on *Yom Kippur*, we noted that the *Posekim* are more stringent. R. Moshe Feinstein (see R. Shimon Eider’s *Halachos of the Three Weeks*, p. 19) even suggested that on *Tisha Be-av* washing out one’s mouth may be prohibited because of “*rechitza*” (bathing). The *Minchat Yitzchak* (4:109) also prohibits rinsing one’s mouth, but permits brushing teeth with “powder” in order to reduce discomfort. Furthermore, he believes that one may clean one’s mouth in order to pray with “cleanliness.” The *Mishna Berura* (567:11), however, writes that even on *Tisha Be-av*, one who experiences “great discomfort” may wash out his mouth.

 One may dry his hands on a towel and then use the damp towel to clean his eyes and face, as the towel isn’t wet enough to impart enough water to wet something else (*tofach al menat le-hatpiach) (Shulchan Arukh* 554:11). (If one must actually clean one’s eyes in the morning, it is permitted to do so normally, as it is no different than washing any other part of the body which has become soiled.) Furthermore, the *Rama* (ibid. 14) writes that one may pre-soak cloths before *Tisha Be-av*, remove them, and then use them to clean his face, hands, and feet. Even if one’s intention is for pleasure, this is permitted because he already squeezed the water out of the cloths.

 The *gemara* (above) also prohibits “anointing” for pleasure on *Tisha Be-av* (*Shulchan Arukh* 554:15). One may therefore not rub oil, cream, soap, or perfume into his skin. One may, however, rub oil on one’s skin for medicinal purposes, or use Vaseline for chapped lips or bug repellents or anti-itch sprays. Moreover, one may use deodorant on *Tisha Be-av* (*Bi’ur Halakha* 554 s.v. *sikha*), as one’s intention is to prevent or remove odor. We will discuss whether this same leniency applies to *Yom Kippur* in a future lecture.

**Wearing Leather Shoes on *Tisha Be-av***

In our upcoming lectures on *Yom Kippur* this fall, we will discuss whether the prohibition of “*ne’ilat ha-sandal*,” wearing shoes, applies only to leather shoes or to other comfortable materials as well.

Briefly, while some *Rishonim* (*Ba’al Ha-Maor* *Yoma* 2a s.v. *ve-sandal*, for example) rule that one may not even wear comfortable wooden shoes on *Tisha Be-av*, and some prohibit wooden shoes but permit shoes of other materials (*Rashi/Tosafot*), most *Rishonim* (*Rif,* *Yoma* 2a; *Ran* ibid.; *Rosh,* *Yoma* 8:7; *Tur* 614) rule that only leather shoes are prohibited. Furthermore, while the *Rambam* (*Hilkhot Shevitat Asor* 3:7) does not explicitly prohibit non-leather shoes on *Yom Kippur*, he explains the permissibility of wrapping a cloth around one’s feet, as ”the hardness of the ground reaches one’s feet and he feels [as if] he is barefoot.”

The *Shulchan Arukh* (554:16), ruling leniently, writes:

“The wearing of shoes” [which is prohibited] refers to [shoes of] leather. However, [shoes made of] a cloth, or wood, or cork, or rubber are permitted. Wooden shoes covered with leather are prohibited.

Some *Acharonim* (*Mishna Berura* 614:5 and *Arukh Ha-shulchan* 614:2-5, for example) suggest that one should be stringent and only wear shoes through which one can feel the ground. This debate may be especially important nowadays, when many people wear comfortable shoes made from synthetic materials.

**Marital Relations on *Tisha Be-av***

The *gemara* (above) prohibits marital relations on *Tisha Be-av*, just as they are prohibited for a mourner. R. Yosef Karo, in his *Beit Yosef* (554) and in the *Shulchan Arukh* (554:18), cites the *Hagahot Mordechai* (*Mo’ed Katan*), who rules that one should not even sleep in the same bed with one’s wife on the night of *Tisha Be-av*. The *Mishna Berura* (27) writes, based upon the *Magen Avraham*, that one should avoid all physical contact with one’s wife in the evening, as on *Yom Kippur*, although during the day it is permitted. Some (*Kitzur* *Shulchan Arukh* 124:12) prohibit physical contact during the day as well. The *Taz* (615:16) disagrees completely and permits physical contact even at night on *Tisha Be-av*, and during the day on *Yom Kippur*. Seemingly, all would agree that affectionate contact should be avoided during the entire day of *Tisha Be-av*.

Next week we will continue our study of the laws of *Tisha Be-av*.