ו. אונן פטור ממצות ציצית, כשם שפטור מכל המצוות. ומכל מקום מותר לו ללבוש בבוקר הטלית קטן שלו [מנחת שלמה ח״א סי׳ צא אות כה ס״ק ג], ובלא ברכה. [הלכה ברורה עמ׳ שסג]

Day 79

Onen

6) An *onen* is exempt from the mitzvah of tzitzit just as he is exempt from all other mitzvot.[231] Even so, it is permissible for him to wear his *tallit katan*[232] without reciting the blessing for it.

sheep's wool. According to Rambam and the *Shulḥan Arukh*, the Torah mitzvah of tzitzit applies only to wool or linen garments; the obligation to attach tzitzit to garments made of other textiles is only an institution of our Sages. Although Rama ruled that garments of all natural textiles are obligated by the Torah to have tzitzit attached, the *Mishna Berura* ruled that one should be stringent and make sure to wear a woolen tallit, since this debate concerns a Torah mitzvah. In fact, Rav Feinstein himself recommended this, as mentioned above in *Siman* 10. The fact is that the great majority of Ashkenazic yeshivah students wear a cotton *tallit katan*. This practice results in the sorry fact that until they get married they almost never fulfill the Torah mitzvah of tzitzit according to Rambam and the *Shulḥan Arukh*.

Therefore, the custom of the German Jews is superior to that of other Ashkenazic Jews. Without question, Sefardic yeshivah students must not forsake their custom to wear a *tallit gadol* every day even if they attend an Ashkenazic yeshivah. This is the ruling of the *Yalkut Yosef* (*Shabbat* page 850), the responsa *Yitzḥak Yeranen* (Vol. I, #14), the responsa *Binyan Av* (Vol. II, #7:1) and the responsa *Si'aḥ Kohen* (Vol. III, page 40).

Nevertheless, the responsa *Vayashov Hayam* (Vol. I, page 104) ruled that it is preferable that Sefardic students attending Ashkenazic yeshivot wear their hats during *shaḥarit* instead of covering their heads with the tallit. This is for the sake of conformity and respecting the decorum dictated in the yeshivah.

231. An *onen* attaching tzitzit to a garment

It is possible that if an *onen* attached tzitzit to a garment they are not kosher since he was exempt from the mitzvah at that time. The responsa *Torah Lishmah* (#6) deals with a case of someone who pronounced a *neder* making it temporarily forbidden for him or anyone else to wear his garment, and he then attached tzitzit to it during the time it was forbidden. He ruled that the tzitzit are invalid because of the principle of *ta'ase velo min he'asui*. This is because during the period that it was forbidden to wear the garment it was exempt from the mitzvah of tzitzit.

According to Maran the Rishon Letziyon, however, the tzitzit are kosher. The principle of *ta'ase velo min he'asui* is not an issue since the garment automatically becomes obligated in tzitzit when the time passes. This will be explained below in the footnote to *Siman* 18:9. The case of an *onen*, however, is more serious since the person is exempt from tzitzit and from all mitzvot at this time and this status changes only after the body is buried. Therefore, it is likely that the tzitzit that he attached are invalid.

The responsa *Maḥane Ḥayim* (Vol. III, #4) commented that if the *onen* attached tzitzit to his own tallit it is invalid but if he attaches tzitzit to someone else's garment it is kosher. Other *Aḥaronim* ruled that the tzitzit are kosher in every case. They explained that an *onen* is considered obligated in all mitzvot but that he is blocked from fulfilling them because of his temporary status. For this reason, the halakha is that if an *onen* writes the passages for tefillin, the parchments are kosher. Even while he is an *onen*, he is considered a person who is obligated to fulfill the mitzvah of tefillin, as Maran the Rishon Letziyon explained in *Ḥazon Ovadya Avelut* (Vol. II, page 140). The same should apply to tzitzit attached to a garment by an *onen*.

232. Harav Shelomo Zalman Auerbach (responsa *Minḥat Shelomo* Vol. I, #91:25) discussed whether or not an *onen* may put on his *tallit katan* in the morning. There is no option of putting it on while intending not to fulfill the mitzvah of tzitzit, since the *Mishna Berura* (*Bi'ur Halakha*) in *Siman* 60 ruled that if someone has such intentions it would be considered as if he was wearing a four-cornered garment without tzitzit. See above in *Siman* 8:3 for a discussion about this ruling.

Rav Auerbach suggested that perhaps according to the *Mordekhi* an *onen* is permitted to wear a four-cornered garment without tzitzit. His conclusion is that the *onen* may wear his *tallit katan* since he always includes one among the clothes he wears every day. Since it is part of his daily wardrobe, wearing it should not be considered an affront to the honor of his departed relative.

ז. אבל אף על פי שפטור מהתפילין ביום הראשון לאבלותו (ראה חזו"ע אבלות ח"ב עמ' ר"ס), מכל מקום חייב בציצית, ומתעטף בטלית גדול.

Mourners

7) Although a mourner is exempt from the mitzvah of tefillin on the first day of his mourning [after the funeral], he is obligated to fulfill the mitzvah of tzitzit. Therefore, he should put on his *tallit gadol* for prayers even on that day.

Preface The Time of the Mitzvah of Tzitzit/ Night Garments

Regarding the mitzvah of tzitzit, the Torah states (*Bemidbar* 15:39), "וּרְאִיתֶם אוֹתוֹ – You shall see it." Our Sages (*Menahot* 43a) derived from this expression the halakha that a garment made to be worn only during the night hours is exempt from the mitzvah of tzitzit. The *Rishonim* debated the meaning of this passage, as follows:

Rambam (*Hilkhot Tzitzit* 3:7 and 8) taught that the mitzvah of tzitzit applies only during the day, when it is possible to see the tzitzit. In the darkness of night, people cannot see the garments they are wearing or the tzitzit that are attached to the garments. Therefore, if someone wears a four-cornered garment during the day he must have tzitzit attached to it, but if he wears it at night the tzitzit are unnecessary. It does not matter whether the garment is meant to be worn during the day or during the night; during the day all four-cornered garments need tzitzit and during the night they are exempt from the mitzvah.

Rabbenu Asher (*Hilkhot Tzitzit* 1) interpreted the Talmud's teaching as follows: If someone wishes to wear a garment meant to be worn during the day, he must have tzitzit attached to it, whether he wears it during the day or during the night. If it is a garment meant to be worn only during the night, it is exempt from the mitzvah even if it is worn during the day.

Both Rambam and Rabbenu Asher agreed that if someone wears nightclothes during the night he is exempt from the mitzvah of tzitzit. But if someone wears nightclothes during the day, Rambam ruled that he must have tzitzit attached to it, while Rabbenu Asher ruled that he is exempt. If someone wears a daytime garment during the night, Rambam ruled that he is exempt whereas Rabbenu Asher ruled that he is obligated to have tzitzit attached to it.

In Practice

Maran ruled (*Bet Yosef* 18) that in practice we follow the rulings of Rambam since he is the greater authority on Talmudic law, and especially in this case since Rashi concurred with Rambam's interpretation. Furthermore, the

principle of *safek berakhot lehakel* dictates that we must not recite the blessing for tzitzit during the night, even for a daytime garment.

The Rama (*Darkhe Moshe* 18:1) agreed that the principle of *safek berakhot lehakel* must be followed, but he disagreed with the notion that Rambam is a greater authority than Rabbenu Asher. Rabbenu Asher was a foremost Talmudic authority, and many leading *Rishonim* concurred with his interpretation. Furthermore, Rabbenu Asher lived after Rashi and Rambam, giving his rulings more strength [since he was aware of their opinion and still chose to differ with it]. In conclusion, one must not recite a blessing over nightclothes with tzitzit attached, even when wearing them during the day, even though Rambam ruled that a blessing is necessary.

In the *Shulḥan Arukh* (18:1), Maran cited both opinions without making a definite ruling. Nevertheless, it appears that he supports Rabbenu Asher's ruling since he cites it last. On the other hand, since he cited both opinions by name, there is reason to say he supports Rambam ruling and that for this reason he cited it first, whereas he cited Rabbenu Asher's opinion only in deference to his honor. Most likely, Maran did not decide between the two opinions, and we must follow the stringencies of both.

The *Ben Ish Ḥai* (*parashat Lekh Lekha* halakha 16) assumed likewise that Maran offered no definite ruling. The *Kaf Haḥayim* Sofer (18:9) challenged this, since Maran definitely ruled according to Rambam in the *Bet Yosef*. Rav Yosef Ḥayim, however, was fully aware of this. As he explained in *Mikabtze'el* (*parashat Lekh Lekha* halakha 23), Maran apparently changed his mind when he wrote the *Shulḥan Arukh* and backed down from ruling definitely according to Rambam.

At any rate, in practice we follow the stringencies of both opinions. Thus, whether wearing a daytime garment during the night or wearing a nighttime garment during the day, we must be stringent and have tzitzit attached to it, but we do not recite the blessing in either case.