Preface Playing Music and Listening to Music During *Ben Hametzarim*

Day 10

Listening to music throughout the year:

Before we discuss the halakhic background regarding listening to music during *ben hametzarim*, we must discuss the issue of listening to music all year long. The Talmud teaches (*Gittin* 7a): The rabbis asked Mor Ukba bar Hama what the source is for the prohibition of playing music. He replied that we learn it from the verse (*Hoshe'a* 9:1): "Yisrael, do not rejoice in the manner of the other nations." The Talmud then asks why he did not bring a more straightforward verse like (*Yeshayahu* 24:9): "They may not drink wine with musical accompaniment." It answers that the verse in *Yeshayahu* is referring to playing musical instruments and one might think that singing is permissible. The verse from *Hoshe'a* teaches that even singing without music is forbidden. The plain understanding of this Talmudic passage is that it is forbidden to play music or even to sing throughout the year.

Singing in praise of God:

Our Sages did not forbid us from singing praises to God. Rabbenu Yitzhak Alfasi wrote (*Berakhot* 21b): "When our Sages forbade singing songs, they were referring to songs such as one might sing in honor of a friend's handsome appearance or to express their mutual friendship. No one is restricted, however, from singing praises to God and recounting His kindness to His people. The universal custom is to sing such songs at weddings and other celebrations, and to sing them with skill and high emotion. No rabbinical authority ever protested such a practice."

The Rambam (*Hilkhot Ta'aniyot* 5:4) wrote as well: "It is a well-established custom among all Jewish people to recite songs of praise to God even at parties with alcoholic beverages." This is likewise the ruling of the *sefer Ha'eshkol* (page 23) in the name of Rav Hai Ga'on, the *sefer Me'orot* (*Berakhot* 31a, page 101), the Ramban (*Torat Ha'adam*, page 89a), Rabbenu Aharon Halevi (*Berakhot* page 84), Rabbenu Nissim (*Gittin* 7a), the Ritba (*Gittin* 7a) and Rabbenu Yeruham (page 186c).

Playing musical instruments and listening to them:

The Rambam (ibid.) wrote: "When the *Bet Hamikdash* was destroyed, our Sages instituted a rule that it is forbidden to play musical instruments or to sing songs for the sake of gaiety and it is likewise forbidden to listen to music or singing in deference to the destruction of the *Bet Hamikdash*. Jewish people have the custom, however, of singing songs in praise of God even when partying and drinking wine." The *Shulhan Arukh* (560:3) cited this as the halakha. It appears from this that although it is permissible to sing praises to God, it is forbidden to do so with musical accompaniment. The *Orhot Hayim* (*Hilkhot Tish'a Be'Av, Siman* 14) ruled likewise that it is forbidden to sing praises to God with musical accompaniment, based on the verse of the Prophet "Yisrael, do not rejoice in the manner of the other nations." This makes it difficult to understand the fact that almost everyone today listens freely to music and singing.

It may be that today people rely on the opinion of Rabbenu Menahem Hame'iri (*Gittin* 7a) that our Sages prohibited listening to music when it is just for fun and enjoyment and not for the sake of any mitzvah. When someone sings praises to God, however, it is permissible even at weddings or other celebrations as long as the standards of modesty are enforced. It is apparent from the verses cited in the Talmud that listening to music is forbidden only when one listens simply for his own pleasure and enjoyment in an immodest manner. That is what the verse says – not to celebrate in the manner of non-Jews.

Although it appears clear from Rabbenu Menahem Hame'iri that it is permissible to have musical accompaniment when singing praises to God, it is definitely clear that the Rambam and *Shulhan Arukh* permitted plain singing only, without music.

Maran the Rishon Letziyon (responsa *Yehave Da'at* Vol. I, #45) cited responsa *Kape Aharon* Epstein (#52) who explained that those who are lenient about listening to music rely on the ruling of Rama, based on Rabbenu Yaakov, author of *Arba'a Turim* (*Siman* 560), that music is forbidden only for someone who listens to it regularly every morning and evening in the manner of royalty. This is likewise the opinion of Rashi, Tosafot, Rabbenu Asher and other *Rishonim*. Maran cited the responsa *Helkat Yaakov* (#62:2) who suggested that if one listens to recorded music or to the radio and one cannot see the players, it is permissible since our Sages referred to live music when they instituted this prohibition and these forms of music did not exist. Although one could argue that had our Sages known of recorded music they would have forbade it as well, the fact remains that they did not know of it and therefore did not prohibit it.

Be that as it may, it remains forbidden according to the *Shulhan Arukh* to play musical instruments or to listen to live music any time of the year unless it is for

the sake of celebrating a mitzvah. The *Or Letziyon* (Vol. III, page 277) commented that although the common custom is to be lenient about listening to musical instruments all year long, the truth is that one should refrain from it, following the ruling of the *Shulhan Arukh*. One may be lenient, he added, for children or for young women.

Musical instruments at weddings or other mitzvah celebrations:

All the *Poskim* agreed that it is permissible to play music while singing praises to God at a wedding since it is the celebration of a mitzvah in addition to the fact that it is a mitzvah to gladden the newlywed couple. This is the ruling of Tosafot, Tosafot of Rabbenu Asher and the commentary of Rabbenu Nissim (all found in *Gittin* 7a) and other *Rishonim* as well. The same rule applies for any mitzvah celebration such as a circumcision, a *pidyon haben* or the completion of a tractate of the Talmud. Rabbenu Menahem Hame'iri wrote: "If it is for the sake of a mitzvah, it is permitted." The *Kaf Hahayim* Sofer (560:34) likewise commented that the common custom is to be lenient in this matter. The responsa *Igrot Moshe* Feinstein (*O.H.* #166) ruled that it is permissible to play music at any mitzvah celebration. The responsa *Shevut Yaakov* (Vol. I, #25) added that it is permissible to play music during *Hol Hamo'ed* and other *Aharonim* made the same observation. In the Land of Yisrael, the widespread custom is to play musical instruments during the celebration of *Simhat Bet Hasho'eva* in the synagogue, as testified by responsa *Vayikra Avraham* (page 123a). Harav Avraham Antebbi (*sefer Hokhma Umussar*, page 321) testified that this was the custom in Aleppo as well. Furthermore, Harav Aharon Halevi (responsa *Zekan Aharon* #213) ruled that it is permissible to play musical instruments on Purim, since it is a day designating for feasting and merry-making. See more in responsa *Yehave Da'at* (Vol. I, #45) and *Hazon Ovadya* (page 434).

Over a hundred years ago, some of the leading rabbis in the Old City of Yerushalayim instituted a ban on playing musical instruments at weddings in the city, permitting the use of a drum alone. The *sefer Ot Hayim Veshalom* of Munkatch (#265;29) explained the background of this ban. A terrible epidemic struck Yerushalayim in the year 5625/1865, and many of the Jews of the city succumbed to the illness, including some great Torah scholars. One of the rabbis asked that it be revealed to him in a dream what sin had brought this terrible misfortune upon the community. The answer he received was that the people did not accord the Western Wall the respect due to it. The rabbis of Yerushalayim then called a conference during which they banned the use of musical instruments in weddings. This ban was affirmed by Harav Yaakov Etlinger, Harav Yitzhak Elhanan Spector and others.

The responsa *Tzitz Eliezer* (Vol. XV, #33) claimed that this ban did not include recorded music. The *sefer Bet Hatanim* (page 100) cited Harav Yosef Shalom

Elyashiv as saying that this ban applies only to the Old City of Yerushalayim and not its new neighborhoods. In any case, only the Ashkenazic Jews accepted this ban and observe it. Sefardic Jews did not accept this ban at all, and they may play musical instruments at a wedding wherever it is held. This is the ruling of the *Or Letziyon* (Vol. III, page 278) and the *sefer Bet Hatanim*.

Dancing during *ben hametzarim*:

In the above section, it was explained that the custom of Sefardic Jews is to permit weddings after 17 Tammuz until *Rosh Hodesh* Av, while Ashkenazic Jews refrain from holding weddings throughout *ben hametzarim*. Both Sefardic Jews and Ashkenazic Jews refrain from dancing and playing music throughout *ben hametzarim*, however. Dancing and playing music is forbidden because the nation of Yisrael is in mourning over the destruction of the *Bet Hamikdash*, which began on 17 Tammuz with the breaching of the walls of Yerushalayim and culminated on Tish'a Be'Av when the *Bet Hamikdash* was set on fire. Sefardic Jews allow music and dancing only at a wedding or at a celebration of the marriage during the first seven days to celebrate the couple's embarking upon fulfilling the all-important mitzvah of bearing children.

The prohibition against dancing during *ben hametzarim* is cited by the *Magen Avraham* (551:10) and in turn by Harav Hayim Palachi (*Mo'ed Lekhol Hai* 9:18), the *Ben Ish Hai* (*parashat Devarim*, halakha 5) and the *Kaf Hahayim* Sofer (551:39). The custom in the Land of Yisrael, as explained above, is to sit on the floor each afternoon of *ben hametzarim* and to cry and mourn over all that took place in our history during this period. How is it possible that people could perform dances and celebrations during these tragic days? Such behavior would demonstrate a lack of any sensitivity for the nation's suffering. Our Sages warned (*Ta'anit* 30b) that anyone who does not mourn over Yerushalayim will not have the merit to see it in its future joy.

Listening to music during *ben hametzarim*:

The *Aharonim* equated the issue of listening to music during *ben hametzarim* to the issue of dancing, and ruled that it is forbidden since our Sages instructed us to minimize activities that contribute to joy and celebrating. The *Poskim* instructed us to refrain from reciting the blessing of *shehecheyanu* for this reason, and if so we certainly must refrain from listening to music. Harav Aharon Epstein (responsa *Kape Aharon* (#52) and Harav Moshe Feinstein (responsa *Igrot Moshe* Vol. VI, *O.H.* #21:4) both ruled that it is forbidden to listen to music during *ben hametzarim*. See also responsa *Minhat Yitzhak* Vol. I (#111) and responsa *Tzitz Eliezer* (Vol. XV, #33:2).

Maintaining standards of modesty at dances:

It must be made clear that dancing is permitted only if the Torah's standard of modesty and sanctity is maintained. This means that the men dance by