דינים הנוהגים החל מראש חודש אב

מט. משנכנס אב ממעטים בשמחה, ולכן ישראל שיש לו דין ומשפט עם נכרי, ישתדל לדחות משפטו עד לאחר ט' באב, מפני רוע המזל לישראל בימי פורענות אלו. [חזו"ע עמ' קסד. וראה מאור ישראל תענית כט ע"ב]. וטוב להחמיר היכא דאפשר להשתמט גם ביום העשירי שבו נשרף רוב ההיכל. [חזו"ע עמ' קסו בהערה]

נ. חולה שהוצרך לעבור ניתוח, והוא ניתוח שאפשר להקדימו לפני ראש חדש אב, או לאחרו לאחר ט' באב, עדיף וכדאי שיעשה כן. [הליכו"ע ח"ב עמ' קלד. חזו"ע עמ' קכח בהערה]

נא. כבר נתבאר לעיל הלכה כ"ח, שמראש חודש אב עד ט' באב אסור לערוך נישואין, וראש חודש עצמו מכלל האיסור. [וראה שם הדין לגבי בחור רווק שעדיין לא קיים פריה ורביה]. וכן נתבאר לעיל הלכה

The "Nine Days"

Day 14

Court cases during the month of Av

49) Once the month of Av begins, we decrease joyful activities. Furthermore, the *mazal* of Yisrael is weak during those days when so many tragedies occurred to our nation. Therefore, if a Jew and a non-Jew have a legal dispute, the Jew should try to avoid having their hearing in court scheduled until after Tish'a Be'Av. It is best, if possible, to postpone the hearing until after 10 Av, since that is the day that the *Bet Hamikdash* became consumed by the flames set to it on the previous afternoon.

Surgery during the month of Av

50) If someone needs to have surgery and it is not urgent to have it done immediately, one should try to schedule it to take place either before *Rosh Hodesh* Av or after Tish'a Be'Av.[86]

Weddings and engagements

51) It was explained above in halakha 28 that it is forbidden to celebrate a wedding during the nine days beginning with *Rosh Hodesh* Av, and that a special dispensation is available for a groom who has not yet fulfilled the mitzvah of bearing children. In halakha 29, it was explained that although a wedding is forbidden it is permissible to formalize an engagement

86. The *Ben Ish Hai* (*parashat Devarim* halakha 1) cited two opinions concerning postponing a court hearing because of the month of Av. One is that one should postpone it until after the entire month of Av and the other is that it is sufficient to postpone it until after Tish'a Be'Av. He decided in favor of the second opinion.

Maran the Rishon Letziyon (*Halikhot Olam* Vol. II, page 134) wrote that just as it is advisable to postpone a court hearing, it is likewise advisable to postpone surgery that is scheduled to take place during the first nine days of Av. One might argue that the inauspicious character of these days applies only when one is pitted against a non-Jew, but in the case of a surgery it does not matter. Nevertheless, Maran advised that if it is possible one should postpone it until after Tish'a Be'Av. He cited the responsa *Vayvarekh David* (*O.H.* #66) who offered the same advice. In *Hazon Ovadya* (page 128), he added that this is the opinion of the Lubavitcher Rebbe (*sefer Sha'are Halakha Uminhag* page 172) and Harav Yaakov Kaminetzki (*sefer Emet LeYa'akov*, footnote on page 225).

כ״ט, שמותר לעשות ״אירוסין״ בלא סעודה גם אחר ראש חודש אב, [ואפילו בתשעה באב עצמו], ושמותר לגמור השידוך בימים אלו.

נב. משנכנס אב צריך למעט במשא ומתן של שמחה, כגון צרכי חופה וכיו״ב, ולהמנע מלקנות תכשיטי כסף וזהב, ושלא לבנות בית חתנות לבנו, והוא הדין למי שבונה בית לנוי ולהרווחה. [הר״ן סופ״ק דתענית, והרב המגיד פ״ג מהל׳ תעניות ה״ח]. אבל הבונה לצורך מגורים לו ולמשפחתו ברוכת הילדים, ומרחיב את ביתו, מותר. [חז״ע עמ׳ קסז]

נג. אף שיש למעט במשא ומתן של שמחה, אמנם לצורך חופה של בחור שלא קיים פריה ורביה, ואין לו שהות להכין צרכי חופה לאחר ט׳ באב, מותר לקנות כל צרכי חופה לצורך חופתו, שהרי מן הדין אפילו נישואין מותר לו משום מצות פריה ורביה, וכל שכן שמותר להכין בגדים חדשים לצרכי חופתו. [וכ״כ בשו״ת מקור ישראל בורלא סוף סי׳ ה]. ורק אם אפשר להכין כל צרכי החופה לאחר ט׳ באב, יעשה כן. [מג״א סק״ח. וא״ר סק״ה. ומשנ״ב ס״ק מו]. ואם יש לחוש דשמא יתייקרו לאחר מכן, מותר לקנותם בימים אלו, מפני שהוא דבר האבד. [שו״ת חינוך בית יהודה חאו״ח סי׳ כ. וכ״כ בבא״ח פ׳ דברים אות ב, ועוד]. [חז״ע עמ׳ קסז בהערה]

during these days, even on Tish'a Be'Av itself, and that the groom may perform the act of *kiddushin* on any of these days, but without celebrating the occasion with a meal.

Purchasing and erecting things for weddings

52) Once the month of Av begins, we must decrease our involvement in joyful activities such as making wedding preparations. The families preparing for a wedding should refrain from purchasing expensive jewelry and from erecting a structure for the wedding celebration [as was once the common custom]. Likewise, one should refrain from erecting structures to be used for pleasure activities or decorative structures. It is permissible, however, to build an addition onto one's home to accommodate one's growing family.

If time is limited before the wedding

53) Despite these restrictions, if someone who has not yet fulfilled the mitzvah of bearing children needs to make preparations for his upcoming wedding and he will not have time for them after Tish'a Be'Av, he may purchase all his wedding needs during the Nine Days. This is because it is technically permissible for him to get married as well during these days. He may certainly have new clothes tailored for the wedding as well. If he can make all the necessary wedding preparations after Tish'a Be'Av, however, he should wait until then. If his purchases are likely to be more expensive if he waits until after Tish'a Be'Av, he may purchase them during the Nine Days while they are less expensive since our Sages did not enforce these restrictions in a case where a loss would be incurred.

נד. יש להמנע מלסייד [או לצבוע] או לצייר את ביתו בימים אלה. אבל מותר לצייר ולכייר בבנין של בית הכנסת, שמצוה לנאותו משום מצוה דרבים, ונאמר "זה אלי ואנוהו". [חזו"ע עמ' קסז, עמ' קסח בהערה. קול סיני עמ' קמד].

ופועל שאין לו מה שיאכל ומקצועו בציור וכיור, יש פוסקים שאסרו [הרב בית דוד סי' ש"כ, והובא בכף החיים ס"ק כח]. ויש פוסקים שכתבו שלמי שאין לו מה יאכל נראה פשוט שמותר. [שו"ת דברי מלכיאל ח"ו סי' ט סוף אות א. וכן בשו"ת משה האיש סי' כג אות ט]. [חזו"ע עמ' קסח בהערה].

וקבלן שקיבל עבודה של ציור וכיור מלפני ראש חדש אב, ואם לא יסיים מלאכתו בימים אלה יהיה צפוי להפסד ממון, יש מקום להתיר לו להמשיך בעבודתו. ומכל מקום יש לעשות שאלת חכם בכל מקרה, שלא לתת תורת כל אחד בידו. [קול סיני עמ' קמד. וראה ט"ז סי' תקנא סק"ב. ובא"ח פ' דברים אות ג]

נה. אם הקבלן לצייר את ביתו הוא גוי, אם יכול לפייסו בדבר מועט שימתין עד אחר ט' באב, יעשה כן, ואם לאו מותר להניחו לצייר את ביתו. [מג"א שם. וכ"כ בלקט יושר עמוד קז]. [חזו"ע עמ' קסח בהערה]

נו. מותר לקנות חומרי בנין ועצים וקורות, ולבנות בית מגורים למשפחתו, ובפרט בארץ ישראל, שיש מצוה גדולה בדבר ביישוב ארץ ישראל. וכל שכן שמצוה לבנות "מעקה" כדת בימים אלו, שיש בזה

Painting and decorating homes or synagogues

54) One should refrain from redecorating one's home during the Nine Days, and therefore one may not plaster and paint it. It is permissible to paint and decorate a synagogue since that is an act of a communal mitzvah and an expression of "This is my God and I will beautify Him" (*Shemot* 15:2).

Professional painter

Some *Poskim* ruled that even a professional painter who has no food to eat and wishes to work during the Nine days may not paint homes. Others ruled that it is self-evident that a person in this position may paint since this is his only profession.

If a painter was hired before *Rosh Hodesh* Av to paint an entire house, and the terms are that if he finishes the job late he will lose money, there is a basis to permit him to continue painting during the Nine Days. Since every individual case is different, one must ask a rabbi before applying this leniency in practice.

Non-Jewish painter

55) If someone had hired a non-Jew to paint a house and now it is approaching *Rosh Hodesh* Av, he should attempt to persuade the non-Jew to postpone his work until after Tish'a Be'Av even if he would have to pay him some minimal amount as compensation. If the non-Jew refuses to postpone his work, the Jew may allow him to continue working even during the Nine Days.

Purchasing building materials

56) It is permissible during the Nine Days to purchase building materials, planks and boards with which to build a home for one's family. This is especially so in the Land of Yisrael, since there is a great mitzvah to settle the Land. It is certainly permissible to build a fence around the roof of one's home, since this is a specific mitzvah of the Torah.

מצות עשה מן התורה. [חזו"ע עמ' קסח בהערה] וכן מותר בימים שאחר ראש חדש אב לקנות קורות עצים לרהיטים. ויש נוהגים להחמיר שלא לקנות עצים להסקה בימים אלו. [הליכות עולם ח"ב עמ' קמט]

נז. קבלני בנין שבונים דירות ושיכונים למטרות ריוח כספי, בכל זאת מותר להם לבנות גם אחר ראש חודש אב, מכיון שבזמנינו יש מצוקה בדירות ומחסור גדול, אין בנינם בכלל בנין הרווחה שנאסר בימים אלו, ומכל שכן אם התחילו לבנות הבנינים ההם קודם ראש חדש אב, שרשאים לגמור. ועוד שבארץ ישראל יש מצוה גדולה של יישוב ארץ ישראל. [חזו"ע עמ' קסט]

Purchasing wood for furniture

One may also purchase wood with which to fashion furniture during the Nine Days. Some people have the custom to refrain from purchasing firewood during this period.[87]

Building contractors in Israel

57) Building contractors as well may continue building homes and apartment buildings in the Land of Yisrael during the Nine Days even if their intention is for their own profits since there is a serious shortage of housing units these days and the act of making homes for Jews in the Land of Yisrael is a mitzvah of great merit.[88] The halakha restricted the erecting of structures to be used for pleasure activities or of decorative structures, but not homes needed for basic living purposes. It is certainly permitted for a contractor to continue buildings projects that he had begun before *Rosh Hodesh* Av.

87. The *Ben Ish Hai* (*parashat Devarim* halakha 17) cited the *Yosef Ometz* Yuzpa (#869) who wrote that he remembers from his youth that the custom was to refrain from purchasing wood after *Rosh Hodesh* Av. He explained that this was in identification with the fact that we can no longer collect wood to be burned on the holy Altar in the *Bet Hamikdash*. The *Ben Ish Hai* commented that this is a commendable custom and he recommended that everyone refrain from purchasing wood for fuel or for building, although if people insist on doing so it is not necessary to enforce this custom.

Maran the Rishon Letziyon (*Halikhot Olam* Vol. II, page 149) commented that this custom applies to purchasing wood for fuel only, but there is no custom to restrict the purchase of wood for building. In truth, the responsa *Zivhe Tzedek* (Vol. II, #31) suggested, in the name of some of the scholars in his yeshiva, another reason for this custom – we refrain from purchasing wood since we are mourning the destruction of the first *Bet Hamikdash*, which was a wooden building. According to this reason, the custom is to refrain from purchasing wood for building as well. Nevertheless, he commented that it is more likely that the other reason offered for this custom is the correct one.

Maran concluded that since the *Ben Ish Hai* cited the reason applying to firewood only, it is sufficient to refrain from purchasing wood for fuel. There is no necessity to refrain from purchasing wood for buildings or for furnishings, since this entire custom has no basis in the Talmud or the great *Poskim*. This is particularly true in those places where there was never an established custom to refrain from purchasing wood at all.

88. Maran the Rishon Letziyon (*Kol Sinai* page 144) wrote that it is permissible to continue to build after *Rosh Hodesh* Av "until the fast." It appears from this that they may not continue building on Tish'a Be'Av itself.

In *sefer Kol Sinai*, Maran explained that there is a housing shortage "because of the great influx of immigrants to the Land of Yisrael." These words do not appear in *Hazon Ovadya* since there are far fewer immigrants today than there were thirty-five years ago when the *Kol Sinai* was written. Nevertheless, it is still true that there is a housing shortage because of the many new couples setting up their own homes, which is constantly on the increase, with God's blessing. **(Rabbi Y.B.)**