

## Communications

*Tradition welcomes and encourages letters to the editor. Letters, which should be brief and to the point, should not ordinarily exceed 1000 words. They should be e-mailed to tradition-letters@rabbis.org. Letters may be edited.*

### MUSIC DURING SEFIRAH AND THE THREE WEEKS

TO THE EDITOR:

Rabbi Moshe Bleich's essay on listening to music during the *sefirah* and Three Weeks period (*Tradition* 41:1, Spring 2008) was a fascinating and thorough overview of most of the written halakhic literature on the topic. At the same time, the presentation was marred by the glaring omission of the well-known halakhic position of *Maran Ha-Rav*, R. Joseph B. Soloveitchik *zt"l* on this topic. The Rav, as most readers of *Tradition* are aware (and as has been published in the summaries of his Torah on *aveilut*), maintained, *le-halakha u-le-ma'aseh*, that neither *Hazal* nor the *rishonim* (in their extensions of the prohibitions related to these periods) ever created new categories of *aveilut* for the Three Weeks or the *sefirah* period. The Rav argued vigorously that *Hazal* and the *rishonim* applied the existing paradigms of personal *aveilut*—i.e., *shivah*, *sheloshim* and the twelve months of mourning—in fashioning the communal and national models of mourning. Thus, based on his analysis of the halakhot of *sefirah* and the Three Weeks, the Rav maintained that only the laws of the twelve month period relating to shaving and other prohibitions apply to these time periods (see for example *Shiurei ha-Rav* (OU, 1999) edited by R. Elyakim Konigsberg, from the *shiur* notes of R. Hershel Schachter, *Inyanei Tisha Be-Av*, pg. 20-21).

In that context, the Rav further noted that the prohibition of the twelve month period is not one of “engaging in joy”, or “listening to music” qua music, but rather it is formulated in the technical category of *simbat me-re'itut*—enjoyment of a joyous party or gathering. Activities, such as listening to music in a private setting like one's home or car, or going to the movies with one's spouse, do not fall under that rubric and thus are not forbidden per se. Conversely, activities that fall under the rubric of a gathering of people for a joyous occasion, even if devoid of music, would fall under the restrictive rubric. These positions were well-known to all who traveled in YU and Modern Orthodox circles in the 1950's-1990's and were confirmed to me by a number of prominent students of the Rav from over the various decades.

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R. Bleich's conclusion, therefore, that "the consensus of halakhic opinion is that taped music is forbidden during *sefirah* and the Three Weeks," is far too broad and requires serious qualification. The Rav himself did not publish many of his halakhic rulings during his lifetime, but certain positions were well-known throughout Modern-Orthodox circles through dissemination by thousands of his students (and today by his student's students) who served and serve as rabbis and teachers throughout the country. The area of *aveilut*, both personal and national, is one of the areas that the Rav devoted great time and effort to in expounding upon publicly and in which his *piskei halakha* were consistent throughout his teaching career.

(Rabbi) Nathaniel Helfgot  
New York, NY

### MOSHE BLEICH RESPONDS:

My thanks to R. Helfgot for informing me of the oral tradition attributed to R. Yosef Dov Halevi Soloveitchik *zt"l*. R. Soloveitchik's theoretical constructs and paradigms with regard to *Hilkhot Aveilut* are well known and have been documented by R. Konigsberg and R. Hershel Schachter (as cited by R. Helfgot). Both report R. Soloveitchik's opinion to the effect that an individual is permitted to shave during *sefirah* and the Three Weeks until *Rosh Hodesh Av*, since, in his opinion, these periods have the status of the mourning period of *yud-beit hodesh*. However, to the best of my knowledge—and apparently R. Helfgot's as well—any opinion R. Soloveitchik may have expressed with regard to music has not been documented in writing in any source.

Apparently, the opinion presented by R. Helfgot is unknown to others as well. R. Ahron Kahn, in his seminal article on music, "Music in Halakhic Perspective," *Journal of Halacha and Contemporary Society*, XIV (Fall 1987), reports the oral ruling of R. Soloveitchik in concurrence with the view that the general prohibition of music applies only to music that is performed for pleasure, but not to music that is performed for other purposes. Yet, when R. Kahn discusses the prohibition to listen to music during *sefirah* and the three weeks, he fails to cite a dissenting opinion attributable to R. Soloveitchik. It certainly seems that, even among the disciples of R. Soloveitchik, the oral tradition reported by R. Helfgot is not universally known and/or accepted.

R. Helfgot informs us that in R. Soloveitchik's view, the mourning

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of *sefirah* and the Three Weeks is identical with that of the *yud-beit hodesh* and hence two novel results arise. Quite apart from the supposed leniency with regard to listening to music in private, a significant stringency with regard to *sefirah* emerges from that ruling, viz., that a *simbat me-re'iut* is prohibited during *sefirah* just as it is forbidden during *yud-beit hodesh*. Again, that fact seems not to be known and/or accepted by the many organizations in what R. Helfgot describes as the Modern Orthodox community that designedly schedule communal dinners during *sefirah* when prospective attendees will not be deterred by conflicting wedding invitations.

In any event, R. Soloveitchik's opinion as cited by R. Helfgot is directly contradicted by *Magen Avraham* 493:1, who rules that, although during *sefirah* a *seudat eirusin* is permitted [unlike in the Nine Days, during which period *Magen Avraham* 651:10 prohibits a *seudat eirusin*] nonetheless, dancing (*rikkudim u-meholot*) is prohibited. According to R. Helfgot's report, R. Soloveitchik stated that only a *seudat me-re'iut* is prohibited during the twelve-month mourning period and dancing and/or music plays no role in determining whether an activity is a *seudat me-re'iut*. *Magen Avraham's* ruling is certainly in opposition to that view.

The leniency attributed to R. Soloveitchik regarding *yud-beit hodesh* is also contradicted by a large number of latter-day authorities. As reported by R. Helfgot, R. Soloveitchik maintained that although listening to music in a public gathering is prohibited, as evidenced by the fact that a mourner may not go to a *beit simha*, nevertheless, it is permissible for an individual to listen to music in a private setting. However, *Maharam Schick*, *Yoreh De'ah*, no. 368, clearly maintains that a mourner may not listen to music even in a private setting. Accordingly, R. Feivel Cohen, in his *Badei ha-Shulhan* (*Yoreh De'ah*, *Hilkhos Aveilut* 391:2, *Bi'urim*, s.v. *be-shum seudah*), rules that during the twelve-month mourning period, listening to music in a private setting is prohibited.

As noted by R. Schachter, both in the introduction to his *Ereets ha-Tsvi* and *Be-Ikvei ha-Tson*, no. 37, oral reports are frequently inaccurate, incomplete and/or presented out of context. R. Soloveitchik's thesis to the effect that strictures of *aveilut* during *sefirah* and the Three Weeks as formulated by *Hazal* and *rishonim* follow the general laws of mourning does not preclude the possibility that at a later time the Jewish community at large adopted further restrictions which may not fit into the general prohibition of *aveilut*. As noted in my article, *Shulhan Arukh* is silent with regard to a prohibition of music in *sefirah* and the three

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weeks. As has been stated already by the *Minhat Yitshak*, the *Magen Avraham* may well have maintained that although music was not included in the original prohibition, the prohibition was accepted at a later period.

If indeed R. Soloveitchik stated that there is no prohibition to listen to music during *sefirah*, he did not necessarily mean that it is permitted to do so. He may have meant there is no halakhic source or paradigm prohibiting music, but it may yet be prohibited by virtue of *minhag*. It should be noted that R. Soloveitchik often questioned the basis for customs, but that does not necessarily mean that he did not follow them in practice. See, for example, R. Schachter's statement (*Be-Ikvei ha-Tson* 14:4) with regard to the early acceptance of Yom Kippur in R. Soloveitchik's own community.

The foregoing notwithstanding, if it was indeed the intent of R. Soloveitchik to permit music during *sefirah* and the Three Weeks in practice, that view is contradicted by the *Magen Avraham* and the plethora of decisors who authoritatively cite him. Accordingly, this writer stands by his contention that "the consensus of halakhic opinion" is that during *sefirah* and the Three Weeks, music is prohibited. That statement is entirely accurate and does not require qualification. Nevertheless, the view presented by R. Helfgot apparently has gained wide currency in some circles. R. Helfgot deserves thanks for bringing it to the attention of the readers of *Tradition, le-hagdil Torah u-le-ha'adivah*.