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On The Halakhic Thought Of Rabbi Joseph B. Soloveitchik: The Norms And Nature Of Mourning

I

A not insignificant body of analysis, interpretation, and commentary has already been devoted to the writing and thought of Rabbi J. B. Soloveitchik. Attention has been directed to the Rav's homiletic work as well as his topical writings, to be sure; much has been written about the Rav's view of man and of the people Israel. Nor have his discussions of the nature and ends of halakha, his descriptions of the halakhic process and of how one "does" halakha, been ignored either. We now have the beginnings of a serious discussion of the Rav's halakhic ideology, his conception of the relationship of halakhic thought to the world of physical and social phenomena, and of the relationship of halakhic conceptualization to the raw halakhic information available to the thinker.[1] Moreover, it is Rabbi Soloveitchik's description of the halakhic process, his ideology of halakha, if you will, which has stimulated the most trenchant criticism of his work, particularly as regards his denial of the historic character of the halakhic process and his pursuit of analogies drawn from the abstract world of mathematics—rather than from the human sciences—to describe the nature and goals of halakha. This, of course, is how it should be, for halakha was at the very center of the Rav's life and work.

Nonetheless, little has been done, I believe, in actual treatment of the Rav's specific halakhic studies. These, ostensibly, ought be the best exemplars of the claims made in more general terms in the programmatic essays, in terms of both content and method. My rather modest

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intention, then, is to present Rabbi Soloveitchik's thinking on a specific topic, indeed to do not much more than provide a summary of his analysis and conclusions. Naturally, I will also say something about the methodological structure of the enterprise; and I will also try to provide some interpretation of the discussion, to make connections and to render the implicit, explicit. But I will hardly attempt to generalize about the Rav's halakhic method from the case at hand, except insofar as he himself does so. Nor will I attempt to suggest if and how this method departs from—or simply adopts—the method of other halakhists, or to comment on the relationship of the Rav's substantive conclusions with those of others.[2]

The *shiurim* I shall discuss proceed in the traditional mode. The Rav first assembles a list of textual anomalies and contradictions, and then proceeds to solve the series of problems by presenting an overall thesis—analytical, of course, rather than textual or historical—which accounts for the earlier, puzzling phenomena. But if the structure is traditional, the exposition is not: the *shiurim* are expansive, not terse, in the classic style of halakhic writings. Nor is the reader left to form his own judgments; various rhetorical devices are used, points are elaborated, and one senses an attempt to convince. Perhaps the *shiurim* retain some characteristics of oral presentations, though they are also worked literary artifices.

Be this as it may, the literary structure of these essays is traditional. Rabbi Soloveitchik begins with the problematic texts, and then moves to the resolution and synthesis. This strategy indicates, at a most basic level, that the text or behavioral norm is primary—it is the given ground of all theory and discussion. Beginning with the problems is also fair to the listener, who can challenge any solution along the way, or provide his own alternatives: he can be an active partner, not only a passive audience. My presentation of the Rav's work, however, will lean towards the more common style of academic work, as I shall focus quite quickly on the broad theses, though some of the textual material will be provided as well—as proof, if not as matrix. Why? In part, because I wish to make these materials accessible to those unaccustomed to the traditional style. But more broadly, because I wish to present the Rav's halakhic thought as a substantive, coherent statement about significant topics—not merely a series of glittering solutions to possibly disconnected halakhic puzzles. So it is important to note that R. Soloveitchik himself re-works the conclusions of the Talmudic *shiurim* here considered into statements of halakhic phenomenology which are relatively detached from textual issues.[3]

I shall deal with Rabbi Soloveitchik's discussion of mourning. This

is a topic to which he returns on a number of occasions, but I shall focus on the two major essays found in *Shiurim leZekher Abba Mari, Z"l.*[4]

II

The first of our two essays deals with the obligation that priests render themselves impure on the death of any of the seven closest relatives, despite the general ban on priestly impurity. This imperative, R. Soloveitchik argues, is critically different from the apparently similar requirement that both priest and Nazirite—who is also required to avoid impurity—render themselves impure when they encounter an abandoned corpse (*met mitsvah*). This impurity for the *met mitsvah* is functional; that is, it is a function of the obligation to bury this corpse, an act which entails contact and hence impurity. The impurity commanded the priest for his relative, on the other hand, is substantive. In rendering himself impure for his closest relatives, the priest performs an act of ritual mourning. It is not, contrary to what one might assume, a function of the obligation to bury these relatives.[5]

This incisive distinction derives, first, from a close reading of the relevant texts. R. Soloveitchik notes that Maimonides, when describing the impurity commanded the priest/Nazirite for the abandoned corpse, always explicitly mentions its functional quality, saying that the priest/Nazirite become impure so as to bury the corpse. This proviso is missing in descriptions of priestly impurity for relatives, and the Rav argues that this omission is pointed and deliberate. This distinction also serves to explain a number of halakhic anomalies.

First: one is required to bury even the heretic. But the priestly relative must not incur impurity on his death. All this dovetails with a third halakhic phenomenon, namely, that the death of the heretic does not entail mourning by his relatives. Thus, we see that impurity is a correlate of mourning, not burial. It is substantive rather than functional. My second example is more rewarding. The female priest is not required to render herself impure even though she is required to mourn. This is decidely awkward for the Rav's thesis, as impurity now does not seem to be an aspect of mourning at all. R. Soloveitchik proceeds, however, to utilize just this situation to confirm and indeed deepen his thesis. For Maimonides himself explains that the female priest's exemption from the obligation of impurity is entailed by the fact that she—as distinct from the male priest—is generally not commanded to remain pure.

R. Soloveitchik infers from this that impurity is an aspect of mourning only when it violates the priestly status; otherwise, as in the case of the female priest, it is not an act of mourning and is not required. So it is not impurity per se which is desired or which consitututes mourning, but rather the violation of priestly status which impurity accomplishes: this violation is the act of mourning.

Our distinction between the two imperatives of impurity leads to one final, most generative conclusion. R. Soloveitchik claims that since the impurity of the Nazirite is functional and goal-oriented, it is mandated whenever it is necessary for the burial of the abandoned corpse; the Nazirite is expected to incur impurity through contact with sources of impurity other than the corpse itself if these must be moved, say, so as to bury the *met mitsvah*. For the priest, on the other hand, the mandated impurity is not functional at all, but substantive; it is an act of mourning to be performed only in connection with the body of his deceased relative.[6] This conclusion leads to the solution of problems which R. Soloveitchik placed at the very head of his essay, but I shall not pursue this intricate discussion here.

A major substantive implication of the Rav's discussion, one to which he is committed as part of his overall construction of mourning, is that contrary to the usual claim, mourning begins at the moment of death itself, not with the burial. It is only by assuming that mourning begins with death that the Rav can interpret priestly impurity as an aspect of mourning, for it is contracted before burial. Or, put differently: the successful analysis of priestly impurity as an act of mourning demonstrates that mourning begins before burial. Now, we shall return to a fuller discussion of this perspective, but suffice it to say that it promises to illumine, both phenomenologically and psychologically, the normative experience of mourning.

What we have seen up to this point also enables us—indeed, it requires us—to probe the Rav's discussion from a methodological point of view. It should be apparent that the Rav has done more than distinguish between texts or practices only so as to iron out the apparent contradictions and anomalies they present. Rather, he has provided a distinction which attempts something much deeper. In essence, he has posed the question of the basic meaning and purpose of the halakhic norms at issue. The heart of R. Soloveitchik's distinction between the impurity commanded the priest/Nazirite and the priestly relative does not lie in the description of how each behaves but rather in the exploration of why each behaves as he does, or the meaning of this behavior within the normative structure—for it is this meaning which controls

and determines the behavior itself, though the details of the how support and express the grand theory of the why. In one case, as we have seen, we are dealing with a functional norm which serves to expedite burial; in the other, we are dealing with a performative aspect of mourning itself.

Now, this normative discourse is also very suggestive as a mode of both structuring and understanding human experience as it confronts death. It might imply, for example, that mourning requires loss of status as well as desanctification. Loss of status, in turn, might express self-abnegation in recognition of human impotence and mortality; desanctification, by preventing the priest's presence in the Temple, might express the mourner's removal from the presence of God, with all that that implies in turn. It should be clear that R. Soloveitchik does not himself make these interpretative suggestions in our essay (though he does elsewhere explore the halakhic aspects of the parallel notions that joy is a correlate of the presence of God just as grief is a correlate of His absence). His explicit topic here is the nature of priestly impurity. This is explored in terms of the halakhic rubric of mourning in a discussion which resolves numerous anomalies, thus transforming them into proofs of the thesis itself.

III

The essay published in the second volume of *Shiurim leZekher Abba Mari, Z"l*, directly confronts the performative norms of mourning as well as its essential internal correlates and manifestations, and represents the Rav's fullest discussion of *aveilut*. This discussion confronts a number of issues, including the obligation (or ban) of mourning on Sabbath and Festivals; the similarity and dissimilarity of mourning for the dead and the mourning-ritual adopted by the leper; the mourning-ritual of priests; and the differentiation of mourning behavior along its chronological axis. Now, in order to produce a coherent and co-ordinated understanding of these aspects of the mourning-performance, the Rav finds it necessary to present an analysis of mourning itself. Indeed, this very distinction between mourning-behavior and its grounding, and the concomitant demonstration that both behavior and internalization function normatively, would seem to be the matrix from which the rest of the analysis flows. These essays indicate that both performance and internalization are halakhic components of mourning. To be more specific: mourning requires both patterned ritual activity and individual-

ized emotional activity, that is to say: grief. Though one may be expressive of the other, both are equally halakhic. The internalized activity, in other words, is not the "aggadic" correlate of the performed ritual. Rather, ritual and emotion are both normative; indeed, the interplay of the two is a basic given of halakhic discussion and dynamic. This, of course, is a claim which the Rav makes frequently.[6a]

The normative interplay of behavior and internalization, ritual-mourning and grief, is most clearly apparent in the question of mourning ritual on Sabbath and Holidays. The halakhic situation posited here is that mourning is not practiced on Holidays, for the Talmud says, "The communal command to rejoice [or: The command to rejoice communally] overrules the individual's command to mourn [or: the command to mourn as an individual]." Now, mourning and holiday-ritual do not rule each other out as behavioral norms; it is possible to eat the holiday sacrifices while unshod and unshorn. The point, R. Soloveitchik argues, is that both mourning and holiday joy are internalized emotional states before they are performed rituals, and these emotional states are in total conflict. (The proofs for the internalization of holiday joy, a topic of great interest to R. Soloveitchik, will not occupy us here.) For this reason, then, private mourning can be observed on Sabbath, for it internalizes honor and dignity, not joy, and honor and dignity do not conflict emotionally with mourning.[7]

Rabbi Soloveitchik also correlates this discussion with the fact that a leper observes all the norms derived from the mourning-pattern, even on festivals. (The very imposition upon both the leper and the excommunicate of the norms of mourning offers, of course, an interesting insight into the common qualities of all three situations, and the Rav develops this very point.) Now, this situation is problematic in context, as the festival ought deflect the leper's "mourning" much as it does that of the bereaved. The Rav argues to the contrary that the leper's removal from the community—which the Torah insists upon independent of the rabbinic imposition of mourning-norms—prevents him from entering physically into the festival celebrations and, consequently, from fully participating in the "communal rejoicing" which deflects the "individual's mourning." This is not precisely another example of the interplay of performance and internalization, but it does demonstrate, again, the connection of mourning behavior with broader patterns of action in a context of values.

A further indication of the internalized nature of mourning is the exemption of the high-priest from mourning ritual (an exemption to which only Maimonides does not subscribe). Now, from the fact that he

performs the sacrificial Temple ritual even while in the mourning period of *aninut,* the Talmud infers that the high-priest is perennially in the state similar to that of all Jews during festivals. Rabbi Soloveitchik shows that, for Maimonides at least, the high-priest is perennially in the Temple, in some symbolic sense at least (the Rav's demonstration of this point is instructive from a methodological perspective: since Maimonides includes both the ban on all priests to tear their priestly clothes while in the Temple and that on the High Priest to tear his at any time in one and the same negative command, it is argued that they are one and the same ban, and the High Priest is simply considered as always being in the Temple. Maimonidean architectonics participates in the search for the essential.) The festival season and the Temple precincts are correlates, for both locate man in the presence of God, and it is this presence, the Rav claims, which rules out mourning. Indeed, he goes further and asserts (through further analysis of the festival rituals) that existential joy is indeed the response to being in God's presence, while mourning is the experience of His absence. The interplay of normative gesture and normative internalization could not be clearer.

Actually, the claim that grief itself possesses normative status ought come as no surprise. A significant component of the mourning process, after all, is *nihum aveilim* [consoling the bereaved]; indeed, the Talmud measures the bounds of mourning itself by the presence or absence of this phenomenon. *Nihum* presumes, clearly, that grief—to which consolation responds—is normatively present.[8]

If we now turn to the process and structure of the mourning ritual itself as the Rav understands them, we shall see that these dovetail with what we have said up to this point, though R. Soloveitchik does not explicitly draw the connections.

The Rav insists that though most mourning gestures are initiated only after burial, the state of mourning itself commences with the death of the mourned, for Maimonides at least. The major proof for this assertion lies in the fact that Maimonides demonstrates the Biblical status of mourning as a whole from the fact that priests are Biblically banned from participating in Temple worship while in *aninut*, the status of the mourning relative before burial. Now, this inference holds only if Maimonides understands *aninut* to be an aspect of mourning. Yet the period of *aninut* begins with death (as does the command that priests render themselves impure which, we recall, the Rav also takes to be an expression of mourning); and so, the Rav argues, mourning itself begins at the moment of death.

Burial, in this perspective, is merely a functional barrier. The be-

reaved, simply put, is not expected to engage in all the behavioral gestures of mourning while he is occupied with the task of burial: he is either preoccupied or free of all other positive normative obligations. (The Rav must argue, then, that even the negative gestures—not wearing shoes, for example—are not banned activities, *issurim*, but rather components of the positive structure called mourning.) After burial, however, all the obligations which death itself initiates, become operative. Thus, the Rav notes that these gestures are Torah norms after burial only on the day of death, for it is this latter situation which is generative and crucial. Even the psychological effects of burial as a moment of finality and recognition are not converted into halakhic currency (as they are by others); burial is functional and formal. Death itself contains the fullness of meaning that will be engaged by mourning.

The period from death to burial, then—that period for which the halakha has devised the category, *aninut*—is a situation in which there are no gestures of mourning even though the state of mourning fully exists. In other words, *aninut* renders actual, in "real time," what the Rav describes analytically when he claims that all mourning can be differentiated into performance and grieving internalization. The behavioral aspect cannot exist without an emotional basis (at least insofar as the seven days of mourning are concerned), but internalization is possible without performance—as *aninut* demonstrates. Indeed, the expression "*aninut*" will also be used as a general term to signify the internal aspect of mourning; the *Mishna* rules that the relatives of executed criminals do not perform the rituals of mourning, but they do grieve (*oninin*), for "grief is only of the heart" (*she-ein aninut ela ba-lev*).

It is true, of course, that *aninut* itself has behavioral content: it limits many forms of contact with the Temple and Temple-associated rituals. Indeed, this is the basic content of *aninut*. It seems, however, that the dividing line between Temple-ritual and internalization is thin, or permeable, inasmuch as the Temple concretizes man's standing in the presence of God—a motif which is primarily spiritual. Thus, it is altogether appropriate for the Rav to argue that despite the general assumption that mourning is only a rabbinic norm after the day of death itself, there is in fact a full seven-day Torah-mourning period, which is marked by the ban on mourners' presenting sacrifices to the Temple. This, I believe, is the correlate to *aninut*. What the Rav seems to be saying is that mourning as an internalized activity and norm is, of course, the basis for the behavioral patterns of the post-burial, first day of mourning, but that its independent phenomenological integrity is disclosed in both pre-burial *aninut* and post-burial distancing from the Temple.

The Rav returns to the nature of the *aninut* phase of mourning in a brief discussion of the suspension of normative duties during that period. Here, though, he does not see this suspension simply as a reflex of the task of burial which occupies the mourner; indeed, the radical quality of this situation, in which the mourner is not expected (or allowed) to fulfill any positive norm seems to call for more substantive justification. The Rav suggests that this suspension in fact reflects the existential situation of bereaved man facing death in its most intense and uncompromising brutality, a brutality which threatens to deprive the world of all meaning and, specifically, to dehumanize man himself: ". . . why lay claim to singularity and imago dei ? . . . why be committed, why carry the human-moral load? . . . Our commitment to God is rooted in the awareness of human dignity and sanctity. Once the perplexed, despairing individual begins to question whether or not such distinctiveness . . . exists, the whole commitment expires. Man who has faith in himself . . . was chosen and burdened with obligations and commandments. Despairing, skeptical man was not elected. How can man pray and address himself to God if he doubts his very humanity. . . ?"[9] Halakha, in this case, legitimates man's momentary inability to address God, for it recognizes the coherence of the human reaction to death. One is obliged to say *"barukh dayyan emet"* and bless God at the moment of death, but one is also unable to observe His commands. While this discussion of *aninut* is quite different than the one presented earlier on, both discussions focus on the internalized aspects of the mourning experience. From a more general methodological perspective, this interplay of halakhic norm and religious/existential reality is an excellent exemplar of Rabbi Soloveitchik's claim that halakha is the fundamental authenticator and vehicle of the Jewish world-view.

It should be noted that the Rav's assertion that mourning is both behavioral and internalized does not necessarily reflect a modernizing, Protestantizing bent, which would deny the validity or integrity of behavioral norms unaccompanied by internalization. Thus, despite the modern terminology, the halakhic analysis seems to be autonomous. For one thing, the presence of emotional components in mourning is stressed, as the Rav notes, in certain medieval thinkers—the Tosafists and R. Yehiel of Paris, for example; indeed, this internalization is a consistent motif in the latter's commentary to *Mo'ed Katan*.[10] The Rav also makes it clear that just as there are halakhic topics which fuse the behavioral and the internal—mourning and prayer, for example—so are there topics where this would not be true.[11] Going one step further, he argues that certain components of even the mourning process, such as

the thirty-day and year-long mourning periods, lack all internalization. Yet the behavioral-internalized model does seem to have an ideal quality, a halakhic-anthropological richness, for R. Soloveitchik. Indeed, it seems that for the Rav, internalization precedes the halakhic behavior discussed and serves as its basis. He does not describe a situation where behavior is expected to create the appropriate internalization.[12]

Let us conclude our summary at this point. Clearly, there is much that we have not done, both in terms of additional substantive matter and in terms of the analytic treatment involved. Nonetheless and in the light of the limited purpose we set ourselves, I believe we have given a fair summary of the Rav's thought on this topic as well as a fair taste of the method which has produced it.[13]

We have summarized and occasionally interpreted. We have not evaluated or attempted a critique. How, for example, does the Rav read texts? More specifically, how does his "creativity" sit with the textual evidence itself? Moreover, are there different ways of relating to the problems raised? These are not necessarily carping questions; understanding the "roads not taken" contributes constructively in understanding what was done. Nor have we asked whether there are other materials—uncited by the Rav—which support his analysis.

What I think has been made clear, though, is that Rabbi Soloveitchik mounts questions which penetrate to the heart of the topic discussed and molds the myriad particulars of halakhic discussion into a broad, synthetic structure. He deals with detail, of course—no authentic halakhic discussion could ever forego that—but details are not trivia. I recall that the Rav once dismissed a very popular volume of rabbinic studies as "a collection of halakhic eccentricities." The point about the Rav's own work, though, is not merely that he did not produce halakhic eccentricities. It is, rather, that the Rav thought there was no such thing as a halakhic eccentricity, if halakha is properly understood.

IV

Stepping back a bit from the dialectic swirl, a number of further comments can be made. First, as to the immediate discussion before us, which has frequently focused on the interplay of behavior and internalization. So far as I know, the Rav does not deal at length with the nature of mourning as an emotional, internalized state. In the halakhic writings, it is clear that mourning is opposed to festival joy, that it is a state of deep sorrow. He does not, however, offer a characterization of

this sorrow or describe its dynamics. The aggadic writings offer a somewhat richer picture. The Rav describes mourning as the inability ever to communicate with loved ones, the absolute sense of loss. He also discusses the sadness and guilt engendered by the realization that one can never set things right again, that the opportunity to renew a relationship and make it whole is now out of one's grasp forever. This, he writes, is what *Hazal* meant by saying that one mourns one's parents because one has lost the chance to "Honor thy father and thy mother": the Talmudic point is broadly experiential and relational, not narrowly normative. All in all, one does not mourn "the other" who has died; rather, one mourns what has died in oneself.[14]

In the discussion we have studied here, however, grief—the internalization of mourning—is treated as a norm, not as a natural emotion. Just as one is obliged to produce the ritual of mourning behavior, so is one obliged to produce its internalized infrastructure. We seem to be dealing, then, with the interplay of two norms—not with the interplay of norm and human nature. Yet this is undeniably an extreme formulation; it is unrealistic to overlook the basic grounding of mourning emotions in human nature (or the culture we know). Rather, Rabbi Soloveitchik posits the interplay of two norms, one of which is fully a normative construct, the other a norm which bases itself—as do other norms—on the foundation of human nature. (This specific issue leads to certain Maimonidean texts, but that is not our concern here.) The two perspectives on *aninut* given above—as the normative state of non-behavioral mourning and as the normative product of man's instinctive reaction to death—might serve as an analogy.

What, in toto, has the Rav given us here (and I refer to the discussion at hand)? I do not think that terminology like "philosophy of halakha" is very helpful or accurate. In the essays before us, the topic discussed is not "halakha" per se, but rather specific areas of halakhic practice, and it is these areas which are discussed, not the enterprise of halakha in its totality. The term "philosophy" is also not adequate, as it suggests a more systematic and all-embracing presentation than the Rav attempts.

So I think it will be useful to start with the claim that the Rav is presenting an interpretation, in the hermeneutic sense of the term, a sense well described by Charles Taylor: "Interpretation, in the sense relevant to hermeneutics, is an attempt to make clear, to make sense of, an object of study. This object must . . . be a text or a text-analogue [I shall later revert to the question of whether the Rav, in the essays before us, discusses texts or text-analogues], which in some way is confused,

incomplete, cloudy, seemingly contradictory—in some way or other, unclear. The interpretation aims to bring to light *an underlying coherence or sense* [italics GJB]. . . . What are the criteria of judgment in a hermeneutic science? . . . It makes sense of the original text: what is strange, mystifying, puzzling, contradictory is no longer so, is accounted for."[15] Naturally, as Taylor continues, such success presumes some commonly-held view as to what "coherence" and "sense" are, some common "language" spoken by participants in the enterprise. This stipulation, Taylor remarks, is but another way of noting the familar problem of the "hermeneutic circle." I think we can agree that the adjectives assembled by Taylor do, in any case, describe the goals of Rabbi Soloveitchik as he approaches halakhic materials; they certainly describe the state of mind created in his listeners.

Now, what is it that the Rav is making "coherent"? The immediate answer would apparently be: "his texts," which are rescued from their inner contradictions. The "objects of study" are the Talmudic text and the Maimonidean materials. In the process, these texts are not merely freed of their contradictions, but are shown to possess an inner conceptual structure, meaning, and depth. In one sense, this is patently the case: the materials discussed are all quotations from these and other textual sources. Yet I would argue that at least in the essays we have discussed, this answer is not sufficient, that more is at stake. Let us recall that halakhic texts are not philosophical disquisitions, but rather, discussions of normative patterns, that is to say, patterns of behavior. Indeed, they attempt, in large part, to structure behavior. We ought, then, to reformulate our earlier description of what the Rav is attempting. He is not only providing a coherent "text"; rather, he is attempting to "interpret" halakhic ritual behavior, to render this "text-analogue" coherent and meaningful. And so the Rav's discussion moves within the framework of a language which is "common" to both himself and his listeners in two senses. It is, of course, the common "language" of halakhic intellectual discourse within a given analytic conceptual millieu. But it is also the "language" of behavioral coherence within a given normative pattern. The Rav is engaged, in a sense, in the hermeneutic of halakhic behavior—a hermeneutic which draws upon halakhic concepts, values, and, in our case, psychological and emotional facts.

For an example, let us return to our earlier synopsis of the Rav's discussion of impurity: the priest's impurity for his relatives and the impurity of the priest/Nazirite for the abandoned corpse (*met mitsvah*). We recall that the Rav distinguished between the two, arguing that the former was a substantive act of mourning while the latter was instru-

mental to the responsibility for burial. We also pointed out that especially as regards the priest's impurity, the Rav was not only concerned with how the priest behaved but with why he behaved in that way, that is to say, with the meaning of his behavior: it was an act of mourning. We realize immediately, now, that the Rav's discussion was not only about texts, but about ritualized experience, the ritualized experience of mourning. The "language" of mourning, then, found new and richer expression through the Rav's hermeneutic of impurity than it had earlier possessed. And, having subsequently explored the Rav's argument for the internalized infrastructure of behavioral mourning, we would now assume that impurity—which implies a violation of sanctity and not merely a levitical state—was also related to that infrastructure, giving us further access to both the behavioral pattern and its internalized base. The claim that Rabbi Soloveitchik provides a hermeneutic of halakhic behavior is even more patent as regards his discussion of the interplay of mourning behavior and the emotions of mourning.

In the studies we have considered, then, the Rav is interested in texts which translate into experience. Perhaps the success of these studies lies in the dual coherence which is achieved. There is, first, the immanent normative coherence: rules and the supporting discussion are integrated with other rules; consistency is achieved; broad over-arching patterns of meaning emerge; straggling trees are shaped into a clearly discernible forest, and phenomena become a cosmos. Each individual detail gains depth, coherence, and conviction; each is rooted in a significant generalization. Second, there is the matter of experiential coherence, for behavior itself is interpreted. The behavior with which these studies deal may be purely ritualistic, constituted as it were by normative rules (as is the case with impurity). Or it may be behavior which, while governed by norms, is expressive at a more universal human level (as is the case with various normative gestures of mourning expressive of grief). In either case, one rises from a reading of these studies with the feeling that the Rav has made halakhic experience more humanly coherent; indeed, that human experience is deepened as it is shaped and molded by the normative performance.

If halakhic concepts and norms do shape and inform the gestures of mourning, if the interpreter of these gestures can successfully turn to this realm of meaning so as to understand the basis of halakhic behavior, it may be useful to descibe Rabbi Soloveitchik's efforts in terms similar to those in which Clifford Geertz describes what he calls "interpretive explanation": "Interpretive explanation . . . trains its attention on what institutions, actions, images, utterances, events, customs, . . .

mean to those whose institutions, actions, customs, . . . they are. As a result it issues . . . in constructions like Burkhardt's, Weber's, or Freud's: systematic unpackings of the conceptual world in which condottiere, Calvinists, or paranoids live."[16] The key terms and assumptions sound familiar. One deals with meaning as it is intrinsic to those whose culture is being interpreted. One looks for the "systematic unpacking of the conceptual world" which the participants of the given culture live in their behavior.

Having wandered this far into hermeneutic territory, it is difficult not to push on a bit further, though my comments will be introductory and even telegraphic. Here I will not restrict myself to the specific topic of mourning but will address the broader claims made in *Halakhic Man*. There, as is well known, R. Soloveitchik develops the idea that the halakhic personality perceives reality through the lenses of halakhic categories; the story of Reb Moshe's vision of sunset on *Yom Kippur* (. . . "This sunset differs from ordinary sunsets, for with it, forgiveness is bestowed upon us for our sins") is the famous instantiation of that assertion.[17] It is frequently said that R. Soloveitchik owes this understanding of halakha as an epistemological tool which enables man to approach and indeed grasp reality, to his Kantian training. Now, this may be true on a biographical level, given the fact that *Ish haHalakha* was published in 1944, and that *Halakhic Mind,* written about the same time, applies similar philosophical concepts to the physical world.

Yet it is difficult, speaking in the 1990's, not to be struck by the congruence of the perspective provided by *Halakhic Man* with other facets of the work of people like Berger, Geertz, Taylor, Walzer, and others. We may safely disregard the relativistic position of the proponents of "local knowledge" or "communitarianism," which is not relevant to the point I wish to make; indeed, it can even be claimed that their materials and analysis need not necessarily lead to this relativistic position.[18] What we ought pay attention to, I think, is the way norms are taken, in the body of this work, as tools for world-building and world-perceiving. Cultures and peoples, in this view, do not merely regulate their behavior, their interaction with an existing world, through normative patterns. In some sense, rather, reality itself is perceived and structured by the normative pattern; or to quote Geertz again, "They do not just regulate behavior, they construe it."[19] Though this may sound too extreme for Rabbi Soloveitchik's understanding of halakha, it does capture something of what is going on in *Halakhic Man*.

NOTES

1. L. Kaplan, "Rabbi Joseph B. Soloveitchik's Philosophy of Halakha," *Jewish Law Annual* 7 (1988), pp. 139-198.
2. Though see at nn. 5, 6, 8, 10, for comment on some details within the overall treatment.
3. Thus, compare the problem-oriented discussion in section 3, *infra*, with the synthetic discussion in *U-Vikkashtem miSham* (Jerusalem, 1979), pp. 209-212, n. 19.
4. *Shiurim leZekher Abba Mari, Z"l*, I (Jerusalem, 1983), pp. 40-49; II, (Jerusalem, 1985), pp. 182-196. A. Rosenack's interesting discussion of *aveilut* in the work of the Rav came to my attention after this essay had been prepared; see his *Hashpa'ot shel Modellim Filosofiyyim al haHashiva haTalmudit shel haRav . . . Soloveitchik* (Hebrew U., M. A. Thesis, 1994), pp. 104-116.
5. See R. Meir Simha of Dvinsk, *Or Same'ah* to *H. Avel* 3, 8. This understanding of mandated priestly impurity is extremely explicit in *Sefer ha-Mitsvot, Ase* 37 (which, surprisingly, the Rav does not cite), where such impurity is simply identified with the imperative of mourning and serves as its Scriptural base. In *H. Avel*, on the other hand, this nexus is somewhat weakened: the Scriptural status of the imperative of mourning is demonstrated through *Leviticus* 10:20 (see on), while priestly impurity serves more as argumentation (*H. Avel* 2, 6); this impurity, moreover, serves to underscore the importance that one "occupy oneself with (*she-yitasek*), and mourn for" the deceased, seemingly blurring the clear distinction between responsibility for burial and mourning. This blurring is even more accentuated in *H. Avel* 2, 7, where mandated impurity for a wife follows seamlessly after the impurity for other relatives, though she is explicitly described as *met mitsvah*—which implies that the impurity is functional, as we have seen—and the identical *la* (see n. 6) is used for her case as for the latter.
6. I have not found an explicit Talmudic or Maimonidean statement to the effect that the impurity of the priest for his relative must be occasioned through contact with the body of the deceased relative itself (and given Rabbi Soloveitchik's understanding of the meaning of this commanded impurity, the point could be moot), but the Talmudic anecdotes on this topic all concern impurity generated in that way. Apparently the terms *lo* and *la* in the second chapter of *H. Avel* are to be taken as signifiying "through him (or her)," not "for him (or her)." The discussion in *Semakhot* 3, 7, ed. Higger, p. 118 (codified in *H. Avel* 2, 8), as to whether this impurity must be contracted before burial or even afterwards (a most interesting debate in its own terms) must then be understood as implying the option that the burial-cavern would be re-opened so as to allow the priest to be contaminated, much as in the explicit anecdote following, where it is opened so that he may look at the deceased.

6a. See, *e.g.*, *Al haTeshuva* (Jerusalem, 1965), pp. 40-45, and elsewhere. Y. Gottlieb's useful paper, *"Al Gishato haHilkhatit shel haRav Y. D. Soloveitchik," Shana beShana* 5754, pp. 186-197, came to my attention after this paper was prepared.

7. The Rav apparently alternated between the idea that *kavod* (honor) and *oneg* (delight) of Sabbath possessed internalized correlates and the position that they were purely behavioral: see, as well, *U-Vikkashtem miSham*, n. 19 on p. 211; *Shiurim* I, pp. 63ff.
8. See, *e.g., Moed Katan* 22a; note as well S. Dickman, ed., R. Menahem Me'iri, *Bet haBehira* to *Berakhot*, 2nd ed. (Jerusalem 1965), p. 56, top (to *Berakhot* 16b). There are many other topics in classical halakha which involve the interplay of behavior and internalization, and yet others where this interplay is moot.
9. "The Halakhah of the First Day," J. Riemer, ed., *Jewish Reflections on Death and Dying* (New York, 1974), pp. 76-78. (It is not easy to find a Talmudic-rabbinic source for this explanation of our norm, though it may be possible: see *Tosafot Berakhot* 17b, *s.v. patur*, which applies, however, only to *keriat shema* and *tefillin*.) In essence, this is a psychologized variation of the argument already offered in *Halakhic Man*, trans. L. Kaplan (Philadelphia, 1983; first published in Hebrew in 1944), p. 31: "Authentic Judaism . . . sees in death a terrifying contradiction to the whole of religious life. . . . 'One whose dead [relative] lies before him is exempt . . . from all the precepts . . . in the Torah.' "
10. Among *ahronim*, see R. Isser Zalman Meltzer, *Even haAzel* to *H. Avel* 1,1-2.
11. See *Al haTeshuva*, p. 40, and n. 7 above.
12. See B. Anderson, *A Time to Mourn* (Penn State U. Press, 1991), pp. 1-18. The issue goes much deeper than the specific question of mourning-ritual, of course.
13. See n. 2 above.
14. See, *e.g., Al haTeshuva*, pp. 178-181.
15. C. Taylor, *Philosophy and the Human Sciences* (Cambridge U. Press, 1985), pp. 15-17. There is much sense, to be sure, in Hillary Putnam's objection: "I do not know just what 'coherence' is nor do I know where the criteria of 'coherence' are supposed to come from—do they too only have to 'cohere'? If so anyone can reasonably believe anything, provided he has just the right notion of 'coherence'" (*Realism With a Human Face* [Harvard U. Press, 1990] p. 157). But let us recall that the Rav is not concerned with convincing us of the reasonableness of halakha, but simply with interpreting it.
16. C. Geertz, *Local Knowledge* (New York, 1983), p. 22.
17. *Halakhic Man*, p. 38; see also pp. 20-24 for other instances. Clearly, though, the halakhic norm is not the exclusive mode by which reality is perceived, as the incident concerning R. Hayyim (p. 36) indicates.
18. See, for example, the comments of H. Nussbaum, "Non-Relative Virtue: An Aristotelian Approach," in H. Nussbaum, ed., *The Quality of Life* (Oxford U. Press, 1993), 260ff.
19. *Op. cit.*, p. 215. Note also Geertz' comment about the "imaginative, . . . constructive, . . . interpretive power . . . of culture." (Perhaps Cassirer is a kind of bridge between this hermeneutic school and Kant; the role of Cassirer has been discussed at length by Rosenak, I now note.) The analogy I am suggesting here has already been noted by Kaplan, *op. cit.*, p. 162.