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## RECONCILING OPPOSITES: Uncommon Connections in the Halakha of Mourning

The classical Jewish mourning practices such as the rending of the garment, the prohibition against cutting the hair, and, of course, the seven day mourning period, are well known. But widespread as many mourning practices are, a glance beneath the surface reveals a body of law whose legal origins and derivations are subtle, suggestive, and even paradoxical.

A case in point is the normative *shiv'a* period. What are its origins and sources? Joseph mourns for his father for seven days (Gen. 50:10), but the Talmud does not view this as a specific biblical commandment, because it occurred before Sinai, and Joseph's mourning precedes, rather than follows, his father's burial.<sup>1</sup> The Babylonian Talmud points to the communal mourning for Aaron the *kohen* (Num. 20:29), indicating that only the first day is a Torah requirement<sup>2</sup>, while the Jerusalem Talmud states that the entire seven-day period is not a biblical commandment but was instituted as a *ta-qanah* by Moses himself.<sup>3</sup>

A specific biblical source for a seven-day mourning is cited in *Mo'ed Katan* (20a), but this, too, is not a clear directive but rather a juxtaposition of the terms "festival" and "mourning" in Amos 8:10: "*v'hafachti hageichem l'evel . . . v'samtiah k'avel yahid. . .*" "I will turn your festivals into mourning, and I will make it as a mourning for an only son." From this, the Talmud deduces that just as *hag*/festival continues for seven days (Lev. 23:7,8) so also does the mourning period continue for seven days. The equation of *hag* and *evel*, of festival and mourning, becomes the source of the seven-day *shiv'a*.

An additional connection between festival and mourning is found in *Mo'ed Katan* (14a and 17b). Here it is suggested that further parallels exist between the two; i.e., that most of the practices which are forbidden during the intermediate days of a festival—*hol ha-moed*—are also forbidden during mourning. In strictly legal terms, this is a clear analogy. But in conceptual terms, the idea of a parallel or identity between two such utter opposites is both perplexing and resonant.

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This article is an expansion of the first annual memorial lecture in memory of Joseph Miller, delivered in Woodmere, NY, November, 1989, and is written in his memory.

This is not an isolated instance. Halakha makes a number of odd analogies in the area of mourning. In several places, the Rabbis connect certain mourning practices with those related to marriage. J. *Ketubot* (1:1) states: "Just as one comforts a mourner for seven days so also does one make a (newly) married couple joyous for seven days after the wedding." Maimonides codifies this in his *Hilkhot Avelut* (1:1): ". . . and Moshe Rabeinu enacted for Israel seven days of mourning and seven days of feasting (for a newly married couple)." In *Pirke de-Rabi Eliezer* (No. 17), we find that King Solomon built two gates in the Temple, one for bridegrooms and one for excommunicants and mourners: "Jerusalemites would gather between the two gates and offer condolences to the mourners at one gate, and congratulations to the married couples at the other gate." And in *Ketuvot* (17a) we learn that "Torah study is interrupted both for a funeral and for a wedding." Further, regarding the practice of eating lentils, the normative food of mourning, it is evident that lentils were once used both for mourners and for marriage celebrants.<sup>4</sup> Both *birkhat hatanim*—the blessings recited at the marriage ceremony and after meals during the seven-day celebration—and *birkhat avelim*—the blessing recited in Talmudic times after the funeral and during the *shiv'a*—are said over wine only, in the presence of a minyan, and then only when *panim hadashot*—new faces—are present.<sup>5</sup> According to Rav Hanin (*Eruvin* 65a), one of the reasons for the creation of wine was so that mourners could be comforted, as indicated in Prov. 31:6, "Give strong drink to him who is ready to perish, and wine unto the bitter of soul."

Even more surprising is the fact that one of the primary legal concepts of the halakhic marriage ceremony, marriage by means of monetary consideration (*keseif*), derives from the fact that the Torah uses the identical terminology to describe both the "acquisition" of a bride and the acquisition by Abraham of the burial place for Sarah. The legal concept of *kiha kiha misdeh Efron* is so familiar to students of Talmud that few pause to reflect how odd it is that a marriage practice can be derived from an event so conceptually distant from marriage as is burial.<sup>6</sup>

A strange thread winds its way throughout the classical sources: feasting and lamenting, *hag* and *evel*, share much common and curious ground.

This intriguing equation of opposites continues on the level of mourning and sanctity. Thus, the requirement to remove one's shoes during mourning is paralleled by the requirement to remove shoes at a sacred site, beginning with Moses who was told, "Remove thy shoes, because the place on which you stand is holy." (Ex. 3:4).

An even more striking relationship between mourning and sanctity is found in the very basic mourning practices. The very law requiring mourning for the seven different relatives—father, mother, son, daughter, brother, sister, wife/husband—is derived from the *kohen*. It is precisely these seven for whom the *kohen* defiles himself by attending them at death. The

*kohen's* regulations are specifically defined in Lev. 21:2-3, from which is derived the requirement of a non-*kohen* to mourn for each of these seven. (See also Yevamot 22b concerning mourning for one's spouse.)

Almost every customary mourning practice, such as the prohibition against cutting one's hair and the requirement to rend one's garment, is obliquely derived from the Torah's directives to the *kohen*. For example, from the fact that the *kohanim* involved in the Temple service are forbidden to let their hair grow long when they are in mourning (Lev. 10:6), the Talmud deduces that any other mourner may not cut his hair. Only the Temple *kohen* is forbidden to let his hair grow long in mourning, because he is a *kohen*. Furthermore, the Torah forbids the *kohen* to rend his garments in mourning, implying quite clearly that every non-*kohen* does rend his garments at such an occasion.

An entire section of the Talmud (*Mo'ed Katan* 14a-16a) is devoted to such types of inverted derivations. The normative mourning practices for a non-*kohen* involving the donning of *tefillin* or the eating of one's own food on the first day of mourning, the prohibition regarding the wearing of shoes, the study of Torah, and *sh'ilat shalom* (giving greetings) are derived from the laws of the *kohen*. There are no biblical mourning laws directed specifically to the non-*kohen*. What the *kohen* is forbidden to practice in his mourning—because he is a *kohen*—the ordinary Jew must practice in his mourning—because he is not a *kohen*.

That mourning practices should be inversely derived from the *kohen* is especially intriguing because it is the *kohen* who by Jewish law is most removed from death, and is forbidden even to be within the precincts of the dead. And yet it is the same *kohen* whose non-practice of mourning is the source of our observance of mourning. (This echoes the paradox of *hag* and *evel*. Although, as we have seen, these two concepts are very much intertwined, *hag* and *evel* are so inimical that they cannot co-exist. The onset of a *hag* cancels mourning that has already commenced, and postpones mourning that would otherwise begin.)

## II

Since halakhic norms are not the result of a haphazard, disjointed process, but instead are manifestations of a coherent system with its own worldview, a probe beneath this perplexing surface will suggest a connecting link between these apparent opposites.

Perhaps, in this highlighting of opposites, halakhah is suggesting that the human attitude toward the ideas of *hag* and *evel* is fundamentally out of joint. The conventional view is that feasting and lamenting are ultimate opposites: death and tragedy are times of crisis, but festivals and joy are not times of crisis. The halakha may be saying that *hag* and *evel* are in fact par-

allels of crisis; that the moment of *hag* is as much a watershed event as is the moment of *evel*. *Haq*, like *evel*, calls for introspection, self-evaluation, contemplation. Just as the time of mourning brings on the instinctive human reaction to take stock, ask questions, and assess one's relationship with the Creator, so should it be at festive times. The essential commonality inherent in both joy and sadness is alluded to in the Mishna's declaration that "just as a person is obligated to bless [God] for the good, so must he bless for the evil." (M. *Berakhot* 9:1) And J. *Ketuvot* (1:) states that "Moses instituted the seven days of feasting (*mishteh*) [after a wedding], and the seven days of mourning."

The halakha seems to be suggesting that there is in fact an equivalence and a connection between joy and sadness, and that the authentic religious reaction at the festive moment is not dissimilar from the authentic religious reaction at the sad moment: not the tired, inevitable cliché, "What have I, who am such a good person, done to deserve this evil?" but the fresh and authentically religious response, "What have I, who am essentially undeserving, done to deserve this good?" In each situation, the Jew must cry out, "I am newly aware, O God, of Your presence, and I acknowledge Your paramount role in my life."

The ultimate purpose of the mitzvah of *hag* is to remind the celebrating Jew that there is a God Who must be acknowledged and praised. In truth, one does not comprehend the ultimate meaning of celebration any more than one comprehends the meaning of sadness. Death and tragedy inevitably bring in their wake an awareness of God's role in the universe. This is occasionally expressed in resentment or rebellion against the very idea of a just Creator, or in a deepened consciousness of one's utter dependence upon Him. In one form or another, questions dealing with God's existence and the individual's relationship to God rise to the surface almost naturally in the wake of disaster.

On the other hand, at a personal or religious festival, with the family at one's side, the moment glowing with candles and light, there is the distinct possibility that one will completely ignore God. For this is, after all, a *simcha*, and because one feels that he deserves a *simcha*, there are no searching, unsettling, or agonizing questions about bad things, good people, or the undeserved suffering of the righteous (and certainly none about the undeserved joy of the non-righteous). For we consider the moment of *hag*, and by extension any festive moment, to be our due and our right, and, unlike moments of sadness, they do not instinctively remind us, in positive or negative ways, of God's presence in the universe.

In sum, a crisis may cause us either to turn towards God or away from Him. In one way or another, God plays a key role in our reactions. We may cry out, "Why have you forsaken me?"; we may even turn away from Him—but in one form or another God is at the center of the storm. At moments of bliss, however, while there may be verbalized blessings of gratitude to

the Creator, it is only the rare and truly religious personality for whom God is at the center of celebration. For most, He remains offstage, in a sad manifestation of the fear of Moses that Israel in its prosperity may some day “forget” God (Dt. 8:11), thinking that “my power and my strength hath gotten me all this wealth” (Dt.8:17). (This is also the basis of the admonition in the second paragraph of Shma (Dt. 11:16): “Beware lest your heart be lured away (*pen yifte levavhem*) and you turn aside and serve other gods. . . .” which follows on the heels of the three previous verses which speak of the prosperity of Israel, on which Rashi comments: “Since you will eat and be satisfied, be especially careful (*tishmeru*) that you not buck, because a person rebels against the Holy One only when he is sated (*mitoch svi’a*), as in (Dt. 8:12 ff. . . .” This theme reverberates throughout Deuteronomy.)

This, then, is the connecting link between *hag* and *evel*: each demands acknowledgement of His presence and requires His participation. The transcending, luminous moment of the birth of a child, for example, is as much a testing ground for the lowly human being as is the transcending, shattering moment of death. Seven days of feasting after a wedding are as much a trial of faith (will I remember the Author of my joy?) as are the seven days of mourning. The risks of “*vayishman yeshurun vayiv’at*, (Jeshurun (Israel) grew fat and rebelled)” (Dt. 32:15), are ever present. Thus, says halakha, the idea of a seven day mourning period shall be derived from the seven day festival, to underscore the idea that these are not two discrete segments of life, but are in fact conceptually bound together.

In this regard, the salient insight of Radbaz (R. David Ibn Zimra, 1479-1573), on Maimonides, *Hilkhot Avelot* (1:1) is instructive. Explaining why Moses instituted both the seven-day feasting after a wedding and the seven-day mourning after death, as cited above, Radbaz states:

“. . . so that the days of mourning shall be like the days of joy; that is to say, that in the days of feasting he should keep in mind (*yiten el libo*) the day of death, as Solomon said (*Kohelet* 7:14): “On the day of goodness (*b’yom tova*) be in good spirits (*heyeh b’tov*) but on the day of evil, behold well (*b’yom ra’a r’eh*); God has made this in equal measure to the other.” (Cf. *Targum Yonatan ben Uziel* on this verse.)

This interaction between sadness and joy also supplies the link between the obligation to comfort the mourner for seven days after death, and the obligation to celebrate the couple for seven days after the wedding. This also sheds some light on the matter of interrupting Torah study for either a wedding or a funeral, as well as on the curious legal derivation of marital “acquisition” from the acquisition of a burial place. Further, this suggests why King Solomon had the two gates—one for consoling and one for congratulating—built in the Temple. He, too, was pointing to this concept: both mourner and celebrant, lamenter and feaster, must know at the

profoundest levels of their being that their respective weeping and laughter are separated only by a thin line. Each of these moments is a reminder of dependence on the Creator. The joy of the wedding and the despair of death, though opposites, are alike in their capacity to evoke in the human heart the realization that we are less than we thought possible (death/evel) and also more than we thought possible (joy/hag).

The seven days of the wedding celebration and the seven days of mourning both reflect another important seven: the number which represents creation. The seven day unit which is common both to death and marriage underscores the idea that we are required to experience both death and life for the full creation cycle. For it is through this unit that there is imprinted upon our being the consciousness of a Creator Who hovers over us in our seven-day sadness and our seven-day joy, just as He hovered over His universe during the first seven days of creation.<sup>7</sup>

### III

What lies behind the connection between mourning and sanctity, and specifically between mourning practices and the *kohen*?

Among the most striking of all the laws dealing with the *kohen* are the restrictions which remove him from the precincts of death, as an examination of Lev. 21 and 22 makes quite evident. These two chapters contain the bulk of the Torah's legislation related to the *kohen*, some fifty verses concerned with whom he may or may not marry; under which circumstances he may or may not offer the sacrifices; things which defile and disqualify him, and his restrictions during his defilement; who among his immediate family may partake of the sacrificial food; and his restrictions vis-a-vis the dead. It is noteworthy that, of all these, the very first laws concern the *kohen's* requirement to remove himself from the dead, followed by the very restrictive ways in which the *kohen* may or may not engage in mourning practices. The apparent reason for these severe constraints follows immediately:

They shall be holy unto the Lord, and shall not profane the name of the Lord, because the burnt offering of their God do they offer up, and they must be holy (Lev. 21:6).

That is, the *kohen* must remove himself almost totally from death because he represents the sanctity of God. In fact, according to rabbinic tradition, Levi son of Jacob was directed by his father in Egypt not to be among those who carry Jacob's bier. Levi, the progenitor of all *kohanim*, was destined some day to carry the Ark of the Lord, and therefore was enjoined from carrying the bier containing a corpse<sup>8</sup>. In addition, the High Priest, unlike the ordinary *kohen*, may not come in contact with, or be in the envi-

rons of, deceased members of his own family, not even his father or mother; nor may he follow the funeral cortege.

The inordinate amount of attention devoted to the removal of the *kohen* from the realm of death underscores the idea that the *kohen* is the earthly symbol of God Who is the God of Life. For example, He is explicitly referred to as *Elohim hayyim* five times in the Bible, and as *El hai* eight times. The oath most frequently used by man in the Torah—found thirty-six times—is that in which he swears by the “life of God.” God swears by His own life, so to speak, some seventeen times. And when, at the beginning of Genesis, God breathes into man, He gives man *nishmat hayyim*, the breath of life. The livingness of God, like His sanctity, is His primary characteristic. Life and sanctity are in fact identical. Clearly, God is Lord over the realm of the dead as well as the realm of the living, but His own Being is associated with *hayyim*. It follows, therefore, that His functionaries should be withdrawn from death.<sup>9</sup>

This withdrawal from the precincts of death is a subtle indication that death is an aspect of man’s existence which God, as it were, had hoped would not have been necessary, and which He considers not to be a permanent aspect of His creation. Death was not present in the original divine blueprint: it was man, in the exercise of his free choice, who brought upon himself banishment from the Garden and death upon the earth, a turn of events which God “regrets” (Gen. 6:6). In the eschatological plan, however, man will ultimately be found worthy of returning to the Garden where, finally, death will have no dominion. It is precisely for this reason, to help pave man’s way back to the Garden and to the realm of non-death, that man was given Torah and mitzvot. These become the stepping stones back to that ideal realm of eternal life which God had envisioned from the beginning of creation, but which man must now earn on his own.

The *kohen’s* radical removal from death can be viewed as a manifestation of this concept. As the representative of God’s livingness, of the *Elohim* Who is *hayyim*, the very removal of the *kohen* from death underscores God’s distance from death, and stresses an even more profound theme: God’s knowledge that man, exercising the same free choice which originally ensnared him, can ultimately free himself from the coils of death. The *kohen*, as the representative of the God of life, is the very embodiment of the ideal human being in the ideal human environment; i.e., he represents Adam in the Garden of Eden, before sin and death became realities. By requiring the withdrawal of the *kohen* from the realm of death, the Torah preserves the *kohen’s* primeval link with the first man, and presents the *kohen* as the embodiment of that ultimate moment when once again death shall have no dominion, and man returns to the preternatural, paradisiac state of deathlessness.

It is because of this that the normative mourning laws are derived from the *kohen*. For the mourning practices are the exquisite symbols of

man's mortality, and the *kohen* is the exquisite symbol of the God of life and of immortality and of a realm not subject to death. (That shoes are to be removed both during mourning and at sacred sites is thus not surprising, given this connection between death and the embodiment of sanctity). By connecting the rites of mourning to the *kohen*, halakha in effect breathes into mortality the breath of life. The linking of mourning practices to the *kohen* underscores the eschatological idea that man is not permanently banished from Eden; he can some day return to Eden and to the deathlessness which it represents.

And by making this connection in a negative, inverted way—what is prohibited to the *kohen* is demanded of the mourner—the halakha might be suggesting that death and mourning are negative images of reality, reversals of God's design, reversed blueprints which will some day be corrected and made straight. For God, the *Elohim hayyim*, desires life for all of His creatures. Death and mourning are not congruent with His ultimate plan, and when we are found worthy, the living God will obliterate death itself, in fulfillment of Isaiah 25:8: "Death will be swallowed up forever, and God will erase the tear from every face."

Thus, the very paradoxes and convolutions, the strange connections and the juxtaposing of opposites, suggest that halakha is articulating a subtle and profound statement about sadness and joy, mourning and sanctity, death and life.

## NOTES

1. *Tosefot, Mo'ed Katan* 20a, s.v. *mah hag shiv'a*.
2. *Zevahim* 100a; cf. Maimonides, *Mishneh Torah, Hil. Avelut* 1:1, who cites this as the halakha, as does Alfasi, *Mo'ed Katan* 3:13a, and *Ber. 2:9b-10a*; cf. also *Tur, Yoreh De'a*, 398:1, and 399:13; see also Rashi, *Nazir* 15b, s.v. *ela*; *Tosefot, Mo'ed Katan* 14b, s.v. *aseh*; and Maimonides, *Sefer Hamitsvot, Aseh* 37. Rashba and Raavad support the concept that the first day of mourning (which coincides with the day of death and of burial) is a Torah requirement, while Rosh, Ri, and Rabbenu Tam consider it rabbinic.
3. *J. Ketuvot* 1:1; cf. also Maimonides, *ibid.* Cf. also *Nazir* 15b. The *taqanot* initiated by Moses, as distinct from commandments which Moses enunciates in the name of God, do not have the status of a Biblical commandment. But see *Korban Ha-eda* commentary on this citation of *J. Ketuvot* 1:1.
4. Cf. Rashi to *Gen. 25:30*, s.v. *min ha-adom*, based on *Midrash Rabba* 63:14, and *Bava Batra* 16b; see also *Targum Yonatan ben Uziel* to verse 29 above. For a full listing of sources dealing with this mourning food, see *Rashi Hashalem* (Ariel, Jerusalem, 1988) vol. II, p. 17, f.n. 62.
5. Cf. *Mo'ed Katan* 27a; *Ketuvot* 8b; *Tur, Yoreh De'a*, 378-9.
6. *Kiddushin* 2a. Rabbi Simcha Krauss first pointed out this contrast to me.
7. That a week's wait is required before approaching the *berit milah* is suggestive.
8. Cf. *M. Sanhedrin* 2:1; *Lev. 21:11*.
9. For a fuller treatment of the connection between *kedusha/sanctity* and *hayyim/life*, see Emanuel Feldman, *Biblical and Post Biblical Defilement: Law as Theology* (N. Y., 1977).