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Review Essay

INSIGHTS INTO MOURNING

A Review of Dr. Joel B. Wolowelsky's "The Mind of the Mourner: Individual and Community in Jewish Mourning" OU Press: New York, 2010

Shortly after making *Aliya* in 1974, I initiated a study group of 6-8 friends in *hilkhot avelut* (the laws of mourning). Many of my colleagues and acquaintances challenged the propriety of doing so. After all, they argued, this subject matter should be better tackled on a need to know basis. I countered by noting that when a death does occur, there are so many practical and halakhic issues to resolve, and it's too late to learn all that is needed. In addition, as part of a community, it is necessary for both the layman and scholar to know how to interact with mourners, how to console others in event of tragedy, and how to advise them in their time of need. Indeed, *avelut* is no different than other areas of Jewish knowledge – pleasant or not – which one is obligated to study and master – *Torah hi ve-lilmod ani tsarikh*.¹ What's more, how Jews act in times of tragedy and crisis reveals much about Jewish values and ideals – and much about Judaism's perception of the meaning and importance of life.

Experience has unfortunately affirmed the correctness of my position. By the age of fifty-three, I had sat *shivah* three times – for my parents and

¹ *Berakhot* 62b; *Megilla* 28a. A similar position is expressed by several poskim: R. Joseph B. Soloveitchik, *Shi'urei ha-Rav al Hilkhos Avelut ve-Tisha be-Av*, Introduction by R. Eliakim Koenigsberg, p. 5; R. Shlomo Aviner, *Kuntres Ner leMe'ah*, Part 4, sec. 64, available online at www.ateret.org.il/UserFiles/File/HaRavAviner121.pdf. R. Aviner cites R. Hershel Schachter to the effect that this was also the opinion of R. Joseph B. Soloveitchik; R. Gavriel Zinner, Introduction to *Nitei Gavriel - Hilkhos Avelut*. Rabbis Soloveitchik, Aviner, and Zinner cite R. Judah the Hassid, *Sefer Hasidim*, sec. 161.

tragically for a twenty-four year-old son. As in other realms of halakhic Jewish life, preparedness is crucial to functioning properly. Nevertheless, despite the preparation, one often forgets some of the halakhic details. Thankfully, there are many excellent *avelut* manuals available to guide the mourner in his/her observance. As a community Rabbi, I always keep an eye out for new books to recommend to colleagues and congregants to supply the needed practical guidance.

One unique volume on mourning has recently appeared, penned by the prolific Dr. Joel B. Wolowelsky and entitled, *The Mind of the Mourner: Individual and Community in Jewish Mourning*. The influence of the thought of the “Rav,” R. Joseph B. Soloveitchik, is very much felt in this volume, but it certainly does not limit the scope of this multifaceted work.

“*The Mind of the Mourner*” (henceforth, *The Mind*) is unique for a variety of reasons. Firstly, though a book on *avelut*, it is not intended to be a detailed halakhic guide to the laws of mourning – though the latter are presented in a lucid but cursory *en passant* form as a basis for discussion. Rather, this volume is meant to be a thinking modern man’s guide to the emotional, psychological and philosophical concepts of *avelut*. Its goal is to place the many details of *hilkhot avelut* into a coherent framework; to teach us where the *halakha* is trying to lead us; and what insights it is trying to impart. It is in this aspect that the contribution of R. Soloveitchik - one of the preeminent modern Jewish thinkers and halakhacists of the second half of the twentieth century - is most relevant.

But to this reviewer’s mind, the true contribution of this volume is in its attempt to tackle head-on several tough issues which other works in this field often let slide. We should note that because of the unfortunate absence of an index or a detailed Table of Contents (including subheaders), the presence of these important topics may well go unnoticed by one just flipping the pages. Thus, while discussing the origins of the mourner’s recitation of the *Kaddish*, the author takes an unannounced aside to deal with the grounds for allowing women to recite *Kaddish* as well (*The Mind*, pp. 32-34). This issue is more extensively treated by the author elsewhere,² but it is a shame that the presentation in this volume is not more complete.

A true tour de force is Wolowelsky’s presentation of what *not* to say in a house of mourning (*The Mind*, pp. 41-54), and particularly in the

² Joel B. Wolowelsky, *Women, Jewish Law and Modernity* (Hoboken, NJ: Ktav, 1997), pp. 89-94.

case of the tragic loss of a child (*The Mind*, pp. 55-60). Having lost a son to cancer, I remember remarking to my family during *shivah* how well-meaning intelligent people often say such unthinking, hurtful words of supposed comfort. "All your prayers were not for naught. They did not go unanswered" – they would say innocently. But, the facts were obviously to the contrary – and they had no intellectually satisfying answer. For my part, I would rather live with a good question than a bad answer. (This, to my mind, is the true message of the Book of Job.) I refuse to believe in a push-button God, who is bound by our actions and desires. The Almighty undoubtedly hears our prayers, but, for reasons known only to Him, He sometimes says "No!" Indeed, "No!" is also an answer – as parents know only too well. Dr. Wolowelsky correctly notes, that oftentimes the proper response to overwhelming tragedy is silence – as scripture teaches: "*va-Yidom Aharon*" (And Aharon was silent [at the death of his two sons]; Leviticus 10:3). If you can't say something intelligent, it might be prudent to say nothing. A caring presence during the mourner's time of need is often sufficient.

The third issue of interest is the propriety of mourning an adoptive parent (*The Mind*, pp. 75-84). This is an area which has come to the fore in the more modern period, where adoption has become more supervised and widespread. The author argues that in the mourning of such parents, the guiding principle should be *hakarat ha-tov* (thankfulness), and the adopted child, though perhaps not obligated, should be encouraged (with minor changes) to mourn as fully as a natural child. This is all the more true if the adoptive parent was responsible for the child's Torah learning and spiritual growth – the adoptive parent then becomes the child's *rebbe*, worthy of special respect. In this section, there is no discussion of mourning for an adopted sibling – in which the principle of *hakarat ha-tov* and spiritual tutoring would seem to be absent, though kinship and loss may be strongly felt.

Perhaps the toughest – and to my mind, the most controversial – issue discussed by Dr. Wolowelsky is the question of mourning an abusive parent. The waters here are very much uncharted and the author deserves much kudos for bringing the issue to the fore. Clearly, there are degrees of abuse, ranging from harsh language up to repeated sexual assault. The author in this volume argues that even in the latter case of sexual abuse the child should be encouraged to mourn the parent. This is basically because of a debt of gratitude and, hence, respect that the child owes the parent for bringing him/her into this world. But there are important psychological reasons as well, which the author delineates. That being

said, it is made clear that if the mourning practice would be detrimental to the emotional or psychological well-being of the abused child, this mourning may be forgone.

The many lines of reasoning - halakhic, philosophical and psychological - used by the author to buttress his position are beautifully interwoven and multifaceted. I have spoken to many psychologists who agree that “closure” is a central issue – as Wolowelsky argues. But this requires a case-by-case determination.

I would, however, like to focus in on two of the halakhic arguments presented by the author, with which I take issue.

(1) Based on *Massekhet Semakot* (2:10), Maimonides (M.T., *Hilkhot Avel*, 1:10) and R. Joseph Caro (*Shulhan Arukh*, *YD*, 345:5) rule that one who deviates from the practices of the community (“*ha-poresh mi-darkei tsibbur*”) is not to be mourned.³ The category of *poresh mi-darkei tsibbur* is understood by the commentators to include those who regularly violate halakha. Indeed, Rema (*YD*, sec. 340:5) reiterates that one who “regularly violates Jewish law is not mourned.” Nevertheless, normative practice nowadays is to mourn all, irrespective of their level of religious observance. This rule should be extended to the abuser as well.

It would seem, however, to this reviewer, that the comparison is questionable if not improper. It is one thing to allow the community to honor an individual who may not be truly deserving; sadly, we do this all the time! It is totally a different matter to demand from the severely abused to pay homage to their unrepentant abuser – parent or not.⁴ Judaism

³ In actuality, *Massekhet Semakot* writes that “their brethren and relatives should wear white and ... rejoice.” Maimonides modifies this slightly by writing “their brethren and *other* relatives....” It would seem clear that Maimonides added the word “other” specifically to include *all* relatives, including parents and offspring, in the prohibition of mourning – contrary to Dr. Wolowelsky’s suggestion (*The Mind*, top of p. 92). In addition, the term “bretheren” may refer to friends and distant relatives; see, for example: Genesis 13:8 and 19:6; Exodus 2:11; Judges 19:23.

⁴ Regarding *hazara bi-teshuva*, R. Dovid Cohen (Congregation Gvul Yaavetz, Brooklyn) maintains the following. A person who behaved in a manner that made him a *rasha* cannot simply say to *bet din*: “I did *teshuvah*, so now you are obliged to accept me as a witness.” Similarly, a parent who was deemed a *rasha* cannot merely say to his child “I did *teshuvah*, so now you are obligated to treat me with respect.” In both cases the person has to demonstrate, to the *bet din* or to the child, over time and in a consistent and convincing manner, that he has sincerely repented. See: R. Dovid Cohen cited by Benzion Sorotzkin, “Honoring Parents Who Are Abusive,” Parts 1-3, The International Network of Orthodox Mental Health Professionals - *NEFESH News* (2004), note 10 therein; available online at: http://www.drсорotzkin.com/honoring_abusive_parents.html.

disapproves of revenge, but it does not require or even advise turning the other cheek. Furthermore, the reason given for not generally invoking the category *poresh mi-darkei tsibbur* is because most non-observant Jews are *tinokot she-nishbu* - uneducated in, and insensitive to the significance of religious practice.⁵ On the contrary, the majority secular Jewish society as a whole often belittles the importance of *kiyyum ha-mitsvot*. By contrast, sexual abuse of one's progeny is acknowledged by all as a heinous transgression of universal morality. An individual guilty of such a crime is certainly way beyond the pale, and certainly falls into the category of those who "deviate from the practices of the community." To our mind, the author's suggestion, that the actions included in this category must be "done deliberately to outrage the community" (*The Mind*, p. 87), is creative - but without basis and support.

(2) The author cites R. Shabbetai haKohen (*YD*, 240:18, no. 20) who maintains that while one is not obligated to honor an evil parent, one may not cause them anguish. This is indeed an important argument when discussing the parameters of counseling an abused individual while the parent is still alive. These parameters are indeed discussed by the author and other scholars at length.⁶ However, once the unrepentant sexually abusive parent has passed away, I find it hard to accept the suggestion that this could be an argument against abstaining from mourning him/her. In addition, airing serious abuse, rather than sweeping it under the carpet, will undoubtedly have a beneficial effect on the psychological well-being of the religious community as a whole;⁷ the abused would be more willing to come forward for treatment and the abuser more rapidly exposed. Hence, such an act is certainly permitted, since it is *le-to'elet* (beneficial) and therapeutic.⁸

As noted above, the question of mourning an abusive parent is a truly complex issue – and unfortunately not one discussed at any length in published responsa. Much of the literature that is available are conference reports of the questions asked by religious psychologists from leading *posekim* – but not the responsa of the *posekim* themselves. Surveying the recent rabbinic literature has revealed two responsa not mentioned by

⁵ See, *inter alia*, R. Isaac Yosef, *Yalkut Yosef, Hilkhot Bikur Holim ve-Avelut*, sec. 16.

⁶ (a) Seymour Hoffman, "Psychotherapy and Honoring Parents," *Israel Journal of Psychiatry & Related Sciences*, 38:2 (2001), 123-126. (b) Seymour Hoffman, "Hala-cha and Psychological Treatment Dilemmas and Conflicts," *ASSIA – Jewish Medical Ethics*, 4:2 (2004), pp. 36-38; available online at: <http://www.medethics.org.il/articles/JME/JMEB1/JMEB1.23.asp>; (c) Benzion Sorotzkin, *supra* note 4.

⁷ See Benzion Sorotzkin, *supra* note 4 – Addendum to part 1, citing R. Dovid Cohen.

⁸ See the discussion in the references cited in note 6, *supra*.

the author, one by Rabbi Joseph Alnekaveh⁹ and another published by *Makhon Erets Hemda*.¹⁰ Considering the complexity of this issue, it is perhaps not surprising that they come to opposing positions on whether the abused child should be encouraged to publicly mourn the abusing parent.

Wolowelsky concludes his volume on mourning with a chapter on national mourning, in particular *Tisha be-Av* and *Yom ha-Sho'a*. The author presents the pros and cons of establishing a special day of mourning for the Holocaust, independent of *Tisha be-Av*. He also does a nice job of summarizing the views of Rabbis Yitzhak Hutner and Eliezer Berkovitz on the message of the *Sho'a*. Additional discussion of R. Hutner's position has recently appeared.¹¹

In summary, I believe this book to be worthwhile for both the Torah student and the thinking layman. It will guide the modern reader in his/her attempt to comprehend the message and meaning of *hilkhot avelut*. But most of all, I hope that it will catalyze a halakhic discussion of some of those unpleasant and complex issues that religious society often tries to sweep aside.¹²

⁹ R. Joseph Alnekaveh, *Kaddish al Av Akhzar*, *Makor Rishon*, Dec, 29, 2009, p. 10 – encourages mourning practices in the case of a very abusive father (abuse not stipulated).

¹⁰ *Responsa be-Mareh ha-Bazak*, VII, sec. 83, pp. 247-249 – the sexually abused daughter may refrain from mourning

¹¹ Lawrence J. Kaplan, "A Righteous Judgment on a Righteous People: Rav Yitzhak Hutner's Implicit Theology of the Holocaust," *Hakirah*, 10 (Summer 2010), pp. 101-115.

¹² An article has just appeared touching on the mourning of abusive parents. See: R. Mark Dratch, "Honoring Abusive Parents," *Hakira* 12 (Fall 2011), pp. 105-119.