

THE EVOLUTION OF SELECTED MOURNING  
CUSTOMS FROM PHARISAIC TIMES  
TO THE MIDDLE AGES

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## ACKNOWLEDGMENTS

During the past four years in Rabbinical school I have been inundated with enormous amounts of information dealing with the history, culture, traditions and laws of our people. One of the areas that impressed me most was the entire field of practical halacha, and more specifically, the laws and rituals of mourning. What do I, as average Jew, do when someone dies? What rituals must I keep and what are the legal bases for these rituals are questions that fascinated me. Experience has also taught me that when dealing with death, many families want to do what the law states, even when their own practice prior to the death has not been in accordance with Jewish law.

In my study of the basic codes of Judaism, I was thoroughly stimulated by the teachings of Dr. Julius Kravetz, to whom I kept directing my endless enquiries regarding customs that had fallen into disuse. I was always plagued by wanting to find out "why". To him I am indebted for starting me on my search.

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## INTRODUCTION

The purpose of this thesis is to trace the development of several customs connected with the mourning period immediately following a death. There are often problems that arise from quoting texts from different sources and attempting to make critical analyses based on their contents. Therefore, unless otherwise indicated, there is a basic assumption that underlies this work: that the halacha as represented by the sources follows a pattern of logical development and that succeeding generations built upon the previous foundation--either adding a layer of custom and practical usage, or changing what was already the established practice to suit the need of their day. I am operating then, under the notion that there was no formal closing of the Talmud, making it a united, edited and finished work, but rather a collection of halachic material from

different time periods in which the original layer may be difficult to discern. I am operating also on the assumption that the original Tosefta is not a work coterminous to the Mishnah, but rather a perush to it, that somehow was written and arranged by those who had the teachings of the Mishnah at their disposal.<sup>1</sup> The Tosefta that we have today, however, cannot be seen in this light because it shows variant traditions. These available sources must be carefully analyzed. Therefore, when we want to know how things developed during Tannaitic times, we must look to the Mishnah and the Tosefta as principal sources. For the Amoraic period we have as evidence the Palestinian and Babylonian Talmuds; and for the Gaonic period we have the following major sources: Responsa, Halachot Gedolot, She'eltot, Massechet Semachot.<sup>2</sup> Sometimes it is necessary to carry the research beyond the scope of the Gaonic era to the beginnings of Western Jewish centers--primarily Spain; in this time

period, the two major sources used are Sha'arey Simchah by Ibn Ghayyat and Torat Ha'adam by Moses ben Nachman.

Over the centuries the Rabbis have evolved a pattern of practices and rites concerned with every aspect of death and burial. One pervasive and overriding principle to these customs and laws is simplicity and moderation. Moreover, the Rabbis were concerned with the realities of life; they were sensitive to what constitutes a burden and to what must be done for appearances. They were concerned with preserving the community structure, cognizant of the fact that this structure aids in enabling the mourner better to confront bereavement. But with regard to strict halachic observance, where it may lead to serious consequences for the mourner, one principle seems to stand out with respect to the laws of mourning: in certain cases, in order to avoid hardship for the family, the Rabbis took the position of leniency.

This principle seems to be operating in many instances where customs were allowed to be practiced contrary to the letter of the law or were abandoned completely.

The present work, then, is designed to focus on the halachic development of several customs that for one reason or another are not generally practiced in our own day. An attempt is made to find the earliest references to these customs, often Biblical, and then trace the various recensions in the literature analyzing and reconstructing, where possible, the reasons for change.

## CHAPTER I

### BRIEF SURVEY OF MOURNING CUSTOMS

To facilitate the discussion which follows, it will be helpful to have an overall picture of what generally transpired after the death of an individual, bearing in mind that differences in practice were common and that not all the following customs were prevalent in every time and place. From the moment that one learns of the death of a relative, one enters the period of aninut--that is, the period between death and burial.<sup>1</sup> The onen is not required to recite the shema and put on tefillin, but if the period of aninut falls on the Sabbath, all the mitzvot that are normally carried out apply except for the obligations of Torah study and receiving an aliyah to the Torah.

In the house before the funeral or at the cemetery before the interment, the custom of keriah is performed by the rending of garments, the tear to extend to at least one hand-breadth. It is made on the left side (near the heart) for parents, and on the right side for other relatives. A blessing is said during the keriah-- בא'יך אמתה דיין האמת "Blessed are Thou, O Lord our God, King of the Universe, the true Judge".

In the burial itself we encounter several customs: the first is the mitzvah of escorting the dead. It is considered a transgression to see a funeral pass by and not to escort it. At the hall where the service takes place, psalms are recited along with tsidduk hadin, a prayer that originated in Talmudic times and was completed by the Gaonim. The coffin is then brought to the grave, where it was the custom to stop seven times and make lamentations over the dead

called ma'amad umoshav. The customary halts are not made at the cemetery on days when tsidduk hadin is not recited.

After the coffin is lifted into the grave, it is a mitzvah to fill the grave. Several spadefuls of earth are dropped into it.<sup>2</sup> After a spade is used by one person, it is not to be passed to another, but must be replaced on the ground and picked up from there.

When the grave is filled, the mourners and all those present at the funeral wash their hands and return in a procession to the hall where Psalms and, later, the kaddish are recited. Afterwards, two or three rows are formed between which the mourners pass, and those present say words of comfort to the mourners. Originally, the mourners used to stand still while the people passed by, but the procedure was changed so that mourners pass and the public remains standing. This custom is known as omedin bashurah.

Another custom done at this time is called atifat narosh or muffling the head, whereby the mourner is required to wear a special head covering to separate him from the community and identify him as an avel (a mourner--denoting after burial--as opposed to an onen--before burial). Thus, this custom is seen usually in connection with the custom of standing in rows and can take place as soon as the tomb is sealed.

The shivah is a unique institution in Jewish law, shivah denoting the period of seven days that the bereaved family gathers together. During this period they are prohibited from cutting the hair and shaving, working or conducting business, bathing, and cohabitation. There are many customs to be observed during the shivah period. The first involves the meal of consolation, the seudat havra'ah, which, according to Talmudic practice, was prepared by friends of the family of the deceased and was to be ready when they returned from the grave. Thus, friends and neighbors were given the opportunity to express their sympathy.



Traditionally, certain symbolic foods were usually on the menu, although that has changed from Talmudic times. Where once, strong drink was used to console the bereaved, later times emphasized round objects--eggs, lentils, and rolls of bread. Salt is omitted at this meal because it is a reminder of a sacrificial altar and a mourner may not offer a sacrifice.<sup>3</sup>

Another custom that occurs after burial at the beginning of shivah is that of overturning the couches or inverting the bed, called kofin et hamittah. In earlier times people normally sat on couches or low stools, and, during the mourning period, they were required to sit on the ground and overturn their couches and beds. Nowadays, we merely sit on low stools. At the same time, when the mourner returns to the house where he will remain during shivah, he takes off his leather shoes, as he is forbidden from wearing leather footwear and must wear slippers of cloth, or rubber, except when leaving the house.

Finally, there are customs and laws concerning appropriate liturgy surrounding the death of an individual and carrying through to the mourning period. There are things the mourner does not recite: pitum kaketoret is omitted, as well as the tachanun, and the Priestly Benediction to name a few. There is a substitution for the blessing for Jerusalem that occurs in the birkat hamazon as well as other changes. And there is an elaborate set of customs and regulations regarding the birkat avelim or Mourners' Benediction that can be traced from Tannaitic times.

Not all of these customs fall within the scope of this paper. But the following five will be traced in detail here: The foods of mourning, the use of wine in the mourner's house, covering the head, standing in a row, and overturning the bed.

## CHAPTER II

### FOODS OF MOURNING

In many cultures, the circle is used as a symbol of mourning.<sup>1</sup> It can be a symbol of the life cycle or of the world in general.<sup>2</sup> It is not a mere coincidence that the circle as a symbol of mourning appears in Jewish literature, but an example of the influence of surrounding cultures in Jewish law and lore<sup>3</sup>. From early times we see symbolism in the use of the circle in mourning rites in the foods that were brought to the house of a mourner. There was a general tendency to bring foods that were round. Tradition traces the first reported use of circular food in mourning to the Patriarchal narrative of Jacob.<sup>4</sup> When Abraham died, Jacob made a broth of lentils to comfort his father, Issac.

וַיֵּצֵד יַעֲקֹב בִּזְיֹד וְיִבְרָא עֶשֶׂר מִן הַשְּׂדֵה וַהֲרֹא עֵינָי.

Lentils, then, is the first round food mentioned in

our sources related to mourning. The use of round food, the lentil, continued into Amoraic times. The Babli, for example, discusses the issue and analyzes it further by giving two interpretations.<sup>5</sup> First, it says that just as the lentil has no mouth (i.e. no opening), so the mourner has no mouth for speech, the implication being he should not question his fate. The second interpretation of the use of the lentil says that just as the lentil is round, so mourning travels like a wheel, coming upon the inhabitants of the world.<sup>6</sup>

ותנא אותו היום נפטר אברהם אבינו ועשה יעקב  
אבינו תבטיל של עדשים לנחם את יצחק אבינו  
ומ"ם של עדשים אמרי במערבא משמיה דרבה במרי  
מה עדשה זו אין לה פה אף אבל אין לו פה דבר  
אחר מא עדשה זו מגולגלת אף אבילות מגלגלת  
דמחזרת על באי העולם מאי בניהו איכא  
בניהו לנחומי בביעי.

Rashi explains a difficulty in the text above concerning the use of the word בביעי.<sup>7</sup> The text means that we can use lentils as food in comforting mourners but there is a difficulty that

arises regarding the use of eggs as well. Rashi interprets the text to mean that eggs, like lentils, have no opening but are not perfectly round either. They are considered oval. Our tradition accepts the use of eggs in the same way that it accepts the lentils; neither is perfectly round, but neither has a cleft (opening). We may discern here yet another interpretation to the fact that one brings round foods to the house of mourning. Round foods--lentils and eggs--have no mouth; nor do mourners who are forbidden to greet people.<sup>8</sup>

Even the Gaonim were well acquainted with this custom. Massechet Semachot gives us the following evidence:<sup>9</sup>

הכל מעלין לבית האבל גלוסקאות, בשר, ודגים;  
 ובהבר עיר- קיטנית ודגים. ורבו שמעון בן  
 גמליאל אומר: במקום שבהגו אפילו מעשה קדירה.

Here we have an injunction that one can bring those foods in accordance with the custom of a particular place. According to Dov Zlotnick, the word kadera, meaning cooked grits, is important;<sup>10</sup>

it signifies that one does not have to bring simple foods alone; more elaborate food is also acceptable, that is, foods that require more preparation. In fact, if Massechet Semachot is correct, the permissibility of elaborate meals where local custom considers them fitting dates as far back as Shimon ben Gamaliel II in the middle of the second century.<sup>11</sup>

Of course there were conflicting traditions that were followed by the people during the second century. Despite the attempts of Rabbis to standardize Jewish ritual, there were those who persisted in carrying on their own customs for generations. In this light we must analyze the evidence regarding the circle as a symbol of mourning to be used in the foods brought to the seudat havra'ah. Our sources indicate that using these circular foods was not a universally accepted custom by any means. In fact, we have parallel traditions as follows. In some places mourners ate meat and drank wine<sup>12</sup> and in others these two things specifically were

not allowed,<sup>13</sup> while in other places they fasted altogether.<sup>14</sup> But due to the fact that circular foods have been mentioned in several Rabbinic sources and in both Talmuds, there is reason to speculate that perhaps the Rabbis recognized the symbolism inherent in circular foods and wanted to institutionalize the practice of bringing them to a mourner's house, although this practice never attained the status of law and remained a matter of custom. It is understandable then, why some of the sources use the midrashic method to extend the use of round foods from the lentil mentioned in the Biblical text to other round foods.<sup>15</sup> According to Goodenough, the Baba Batra text indicates that both the egg and the lentil qualify as food appropriate to be brought to mourners for these two foods are similar in their roundness.<sup>16</sup> The text in Massechet Semachot reinforces this tradition but extends it also to include cakes, meat, and fish--and even cooked grits if it is the local custom. The implication, here, according to

Goodenough, is that the bread, (rolls) meat, and fish are to be oval-shaped. The oval form is apparently to make the bread like an egg. He explains the development of a secondary tradition that later scholars rebuked, a custom that had developed very early and was apparently widely practiced, whereby mourners provided their own food. As Josephus himself testifies:

Now the necessity which Archelaus was under of taking a journey to Rome was the occasion of new disturbances; for when he had mourned for his father seven days, and had given a very expensive funeral feast to the multitude--which custom is the occasion of poverty to many of the Jews, because they are forced to feast the multitude; if anyone omits it, <sup>he</sup> is not esteemed a holy person... 17

Not only did they provide their own food according to Josephus, but they often provided a feast that was likely to cause hardship for families who were not in the upper level of society. And the mitzvah of providing this feast was given religious sanction, so that those who deviated from the norm were likely to be viewed as failing to discharge their obligations; in short, unholy.



The literature from the Tannaitic period refutes Josephus' claim that Jews made elaborate mourning feasts and that it was the mourner who provided the repast. On the contrary, the Mishnah already notes the change away from the mourners themselves providing the meal, although indirectly. In the statement in Moed Katan<sup>18</sup> the verb is in the hiphil, מוֹרִיךְ, implying that others provide the meal.<sup>19</sup> Likewise, the Babli maintains first that the meal was provided by others,<sup>20</sup> and secondly, that changes had been instituted out of deference to the poor.<sup>21</sup> We do not have at our disposal enough information to deduce whether what Josephus reports was in fact the custom generally accepted by Jews. We may only conjecture that a significant change took place between the time of Josephus, approximately 90 C.E., and the completion of our Mishnah, circa, 200 C.E., wherein Jews were no longer required to have a mourner's feast, but could have their relatives provide a meal for them upon their return from the

cemetery. This ritual may have been changed because the Rabbis feared that the Jews were adopting Greek rituals and forgetting their own, and so they instituted a law requiring the ritual to be different from the Greek banquet, the perideipnon.

Regarding the second point, however, that custom may have been changed out of deference to the poor, we do have some more specific information in our sources. A baraita relates:<sup>22</sup>

תנו רבנן בראשונה היו מוליכין בבית האבל  
 עשירים בקלתות של כסף ושל זהב ועניים בסלי  
 בצרים של ערבה קלופה והיו עניים מתביישים.  
 התקיבו שיהיו הכל מביאין בסלי בצרים של ערבה  
 קלופה מפני כבודן של עניים. תנו רבנן בראשונה  
 היו משקין בבית האבל עשירים בזכוכית לבנה ועניים  
 בזכוכית צבועה והיו עניים מתביישים התקיבו שיהיו  
 הכל משקין בזכוכית צבועה מפני כבודן של עניים.

The custom used to be to bring food to the house of mourning in baskets: the rich in baskets of gold and silver, and the poor in baskets of peeled willow twigs. This custom delineating rich from poor naturally offended the latter; therefore, the

Rabbis ordained that everyone should bring the food in baskets made of peeled willow twigs. Likewise the vessels from which they drank in the house of mourning differed, white glass for the rich and colored glass for the poor. The Rabbis instituted that colored glass would be used for everyone.<sup>23</sup>

We have evidence from Greek sources too, that describe elaborate funeral banquets amongst the Greeks and other pagan peoples.<sup>24</sup> The Greeks had such a repast, the perideipnon, to which the mourners returned after the burial of a relative. Essential food included various kinds of seeds such as beans and lentils as well as eggs.<sup>25</sup> The Greek feast may or may not be the same as that which Josephus described. It was quite probable that various factions operated within the Jewish community; there were those who supported Hellenism, Greek culture and way of life, and those who opposed it. Therefore, customs were by no means monolithic. In fact, we have evidence from Jewish sources that Hellenistic customs

found their way into Jewish religious rites.

Goodenough quotes a line from Tobit that says:

"Pour out thy bread and thy wine on the tomb of the just, and give not to sinners."<sup>26</sup> This custom of scattering bread and wine was apparently borrowed from the Greeks. And just to show that an anti-Hellenist tradition also existed we have the statement in one of the Jewish writings of the period,

The Book of Jubilees as follows:

They offer their sacrifices to the dead  
And they worship evil spirits,  
And they eat over the graves,  
And all their works are vanity and nothingness.<sup>27</sup>

This statement denounces any sacrificing to the dead at their graves and any eating at the gravesite.

Goodenough further interprets two passages in Ben Sirach; one seemingly allows the practice of sacrificing at the grave, while the other denounces it. He does not quote the passages themselves, nor does he say which editions they are from. Two versions however, support his claim. They are as follows:<sup>28</sup>

Goodspeed EditionNew English Bible

"A present please every man alive." "Every living man  
appreciates generosity"

"And in the case of the dead,  
do not withhold your kindness" "Do not withhold your kindness  
even when a man is dead."

The "present" and the "generosity" for the dead are  
synonymous with a sacrifice to them. But later (30:18),  
we find the following:

Goodspeed EditionNew English Bible

"Good things spread out before  
a mouth that is closed

"Good things spread before  
a man without appetite

Are like piles of food  
laid on a grave."

Are like offerings of food  
placed on a tomb."

Here we have the word "offerings" with reference to  
food on a grave and the author denounces this practice.  
Thus it may be stated that two main traditions existed  
in Palestine--one displaying several similarities to  
Greek customs, the other rebuking them.

While it is possible from Josephus' account  
to conjecture that the Jews borrowed their elaborate  
mourning feast from the Greeks, it is also quite  
possible that the Greeks borrowed symbolism from  
the Jews, The use of round foods--especially lentils

has its precedent in the Bible. There were midrashim written by Rabbis in Tannaitic as well as Amoraic times that explain this symbolism.<sup>29</sup> This custom seems to have ancient roots and we have evidence that it was still practiced in Josephus' time. Furthermore, if it is mentioned by the Tannaim and later by the Amoraim, it is an indication, then, of a fairly well established practice.

Finally, there are two reasons why the custom of the elaborate funeral meal as reported by Josephus might have been discouraged by the Rabbis. First, there was the fear that the Jewish feast bore too much of a similarity to the Greek perideipnon and the Rabbis wanted to stop the Jews from Hellenizing. Second, by reaffirming the acceptability of our tradition of simplicity and by giving these foods religious sanctity, the Rabbis would be easing the conditions for the poor. But they would also not offend the well-to-do if they sanctioned local custom over strict interpretation of the law.

### CHAPTER III

#### WINE IN THE HOUSE OF A MOURNER

One of the most difficult customs to comprehend is the use of wine in the house of mourning. Wine has symbolic meaning in Jewish rituals, and is used in different ways and at different times. In Jewish marriage, for example, both erusin and nisuin are celebrated by separate cups of wine. So too, do we use wine in other life cycle and various festival rituals : in the kiddush on holidays, and the Sabbath; in the brit milah service, and also in the Passover Seder.<sup>1</sup> Now we find that we have recorded traditions of using wine in the house of a mourner which have not passed down to us today. For example, our sources throughout the centuries reveal that wine was often placed over the eyelids of a dead body after the eyes were shut.<sup>2</sup> The Talmud records another tradition, attributed to Rabban Shimon ben Gamaliel, to the effect that:

If one desires that a dead man's eyes should close, let him blow wine into his nostrils and apply oil between his two eyelids and hold his two big toes...<sup>3</sup>

Tradition also notes, however, that abstention from wine (as well as meat) is required in the interim between death and burial, unless this occurs on the Sabbath.<sup>4</sup> Here we are concerned, however, not with the period of aninut, but with the period of the shivah, that is, from the time of burial. Of course, when we cite a Biblical passage, it will not tell us whether it is referring to aninut or avelut, for the Bible does not distinguish between these two periods. The customs traced here regarding the use of wine presume rabbinic institutions, and are primarily of Rabbinic origin, although they may have Biblical antecedents.

Daniel mourned by abstaining from meat and wine.<sup>5</sup> But in the Book of Samuel, mourners were comforted by offering bread and wine.<sup>6</sup> In Jeremiah



we first find the term kos tanchumim, cup of consolation. We are told that a cup of consolation was used then, but that Jeremiah was forbidden to partake of the funeral customs because of the emergencies of the times.<sup>7</sup> In Proverbs we are acquainted with the use of wine to heal the soul, and this passage will be cited frequently by the Rabbis in their explanations of the use of wine in the house of a mourner.<sup>8</sup> It is as follows:

חנן-סכר לארובד ויין למרי בפס: יסחה  
ויסכה דיןר ועמלו לא יזכר-עוד:

It seems that wine was well known for drowning the sorrows, probably entering our formal customs during the centuries of Greek influence in Palestine. There is no known origin for the sudden use of wine in many religious practices as there appears to be no adequate basis from the Bible.<sup>9</sup>

In Pliny's Natural History, we are told that

wine is a tonic to the stomach and a sharpener of the appetite; it dulls sorrows and anxiety...In order to induce sleep, however, and to banish worries, wine was taken so long ago as we see from Homer's Helena, who served wine before food. So too, it passed into a proverb that 'wine befogs the wits'.<sup>10</sup>

Wine is associated with sorrow in a later Palestinian work, Pirke de Rabbi Eliezar, which has the statement,<sup>11</sup>

לאבליים: מנחמים בלחם וביין שנאמר  
(משלי לא ו') ויין למרי נפש.

Here again wine is identified with mourning rites. The Rabbis recognized the medicinal qualities of wine and its usage was carried over to Babylonia. The Babli records a statement by R. Hanin where he states that wine was created for the sole purpose of comforting mourners.<sup>12</sup>

We have recorded in our tradition, a custom involving ten cups of wine to be drunk in the house of a mourner. Where this custom comes from must remain a matter of conjecture. Our problem is further complicated by the fact that we have various recensions of the tradition recorded in different works at different times. The five major statements of the custom are the Yerushalmi, the Babli, Massechet Semachot, She'eltot and Sha'arey Simcha. It is virtually impossible to reconstruct exactly what

the cups of wine stood for. The chart on page 28, however, presents the major differences in the various texts.<sup>13</sup>

It can readily be seen that basically, the Yerushalmi and Semachot versions agree and the Babli, She'eltot and Sha'arey Simchah agree.<sup>14</sup> The numbers are identical in the two groups with the same divisions occurring before, during, and after the meal. But there are a number of interesting differences to be noted.

First, between the Yerushalmi and Semachot versions, we have one difference in the three cups after the meal. In the Yerushalmi, one cup corresponds to the birkat hamazon.<sup>15</sup>

Secondly, regarding the Yerushalmi and Semachot texts we notice that concerning the three added cups there is a difference only in an inversion of order. This occurrence may be due to various manuscript editions.

# THE CUSTOM OF DRINKING TEN CUPS OF WINE IN THE HOUSE OF A MOURNER

## COMPARISON OF SOURCES

<u>YERUSHALMI</u>	<u>BABLI</u>	<u>SEMACHOT</u>	<u>SHE'ELTOT</u>	<u>SHA'AREY SIMCHAH</u>
2 <u>before meal</u>	3 <u>before meal</u>	2 <u>before meal</u> . (no explanation)	3 <u>before meal</u> . to open small bowels	3 <u>before meal</u> to open small bowels
5 <u>during meal</u>	3 <u>during meal</u> to dissolve food in bowels	5 <u>during meal</u> (no explanation)	3 <u>during meal</u> to dissolve food in bowels	3 <u>during meal</u> to dissolve food in bowels
3 <u>after meal</u> --grace after meals --acts of kindness --comfort mourners	4 <u>after meal</u> corresponding to blessings: "who feedeth" <u>hazzan</u> "the land"  "who rebuildeth Jerusalem" "who is good and doeth good"	3 <u>after meal</u> --mourners blessing --to comfort mourners --acts of kindness	4 <u>after meal</u> -- <u>hazzan</u> (birkat hamazon) --blessing of the lord --who buildeth Jerusalem --who is good and doeth good	4 <u>after meal</u> -- <u>hazzan</u> (birkat hamazon) --blessing of the land --who buildeth Jerusalem --who is good and doeth good
added: 3 <u>1--hazzan</u>  1--head of synagogue 1--Rabban Gamaliel	added: 4 1--officers of town 1--leaders of town 1--Temple 1--Rabban Gamaliel	added: 3 1--head of synagogue 1-- <u>hazzan</u>  1--Rabban Gamaliel	added: 4 1--officers of town 1--leaders of town(\$) 1--Temple 1--Rabban Gamaliel (explanation given)	added: 4 1--officers of town 1--leaders of town(\$) 1--Temple 1--Rabban Gamaliel
<u>restored to 10</u>	<u>restored to 10</u>	<u>restored to 10</u>	<u>restored to 10</u>	<u>restored to 10</u>

Thirdly, the Babli, She'eltot, and Sha'arey Simchah are basically the same with one addition in the She'eltot version that appears nowhere else.<sup>16</sup>

There is an attempt here to explain why the cups were added for the various people. Regarding the officers and leaders of the town, the text tells us a cup should be added in order to thank them for their help in aiding the mourners in making the arrangements. But why then, do we pay honor to Rabban Shimon ben Gamaliel, our text asks. The answer is: to teach us that burying the dead was once so difficult and expensive that many chose not to do it at all and ran from their obligations until Rabban Gamaliel took it upon himself to set an example for the people by insisting on simplicity in all matters related to burial. He insisted on inexpensive shrouds for himself to set the precedent. Rav Papa then condoned even canvas garments costing only a zuz as permissible. We today can remember and honor Rabban Gamaliel for what he did to simplify

burial obligations, by instituting a cup of wine to be drunk in the house of a mourner to the memory of Rabban Gamaliel.<sup>17</sup>

Fourthly, it is interesting to note that in the first group (Yerushalmi and Semachot versions) there is no attempt to explain what the wine is to accomplish for the mourner, while in the second group (Babli, She'eltot and Sha'arey Simchah) we have the same explanations repeated. The three cups before the meal are to open the small bowels, while the three during the meal are to dissolve the food in the bowels. At the same time, the sources do not feel it necessary to explain the four cups after the meal, perhaps because their connection to the four blessings in the birkat hamazon was obvious, and needed no further explanation.

Rashi supplies some novel data regarding the use of three cups before the meal.<sup>18</sup> He says it was the custom to serve hors d'œuvres such as stuffed pastries and doughnuts at that time.

These were accompanied by the three cups of wine. Furthermore, he says that the town officer must by given recognition by drinking a cup of wine in his honor because he tends to the needs of the dead. Similarly, one must honor the parnass as he spends his money freely for the burial needs of the poor. Regarding the cup in remembrance of the Temple, he tells us that on any occasion where Jews mourn over a loss, it is also fitting to mourn over the destruction of the Temple. The sources attributed to Rashi's disciples (Machzor Vitry, Sefer Hapardes, and Siddur Rashi) do not mention the use of wine in mourning.<sup>19</sup> Thus it may be surmised that Rashi is explaining the Talmudic practice based upon his understanding of what Babylonian customs must have been. His comments should in no way be taken as a reflection of actual conditions in his time.

In conclusion, we may summarize the above information as follows. We have at hand five recensions of an ancient tradition, probably

originating in early Tannaitic times. The custom existed of drinking ten cups in the house of a mourner after the burial; it was followed both in Palestine and Babylonia and was carried through to the twelfth century. It was apparently deemed important to honor community leaders at this gathering, although that meant adding three or four additional cups to the ten already mentioned. Apparently, adding more cups of wine created problems for it transformed what was intended as a sad occasion into a festive one, whose accompanying drunkenness was deemed to be inappropriate to the house of mourning. The very existence of the cups indicates, however, that one was not to be gloomy either. Wine was acknowledged as an aid in drowning one's sorrows.<sup>20</sup> It is significant to state that we can trace this custom through the Gaonic period and even into the eleventh century. But we have a problem that must be mentioned. Nachmanides work Torah Ha'adam is an extensive work on the customs



and laws of mourning. He cites every custom that the earlier sources mention, giving every relevant halachic citation known to him. But, he has no reference whatsoever to the use of wine in the house of a mourner. The only reference to wine in mourning was with regard to an onen.<sup>21</sup> Yet Maimonides does deal briefly with this issue.<sup>22</sup> He tells us that no more than ten cups may be drunk in the house of a mourner, three before the meal, three during the meal and four after the meal. The fact that Maimonides mentions this custom and Nachmanides does not may be significant. We know that Maimonides' work deals with all traditional laws and customs, even those no longer in use. Nachmanides, on the other hand, deals only with those laws and customs still being practiced in his day. Perhaps this is an indication that by the twelfth century the practice had fallen into disuse.<sup>23</sup>

## CHAPTER IV

### COVERING THE HEAD

One of the customs mentioned in the literature is referred to as atifat rosh or chafui rosh, muffling or covering the head. We do not know very much about this practice from the extant sources, but we do have enough information to state that it was a custom that was rooted in Scripture, with many Biblical references associating it with mourning rites. We know, too, that if the literature of succeeding generations consistently mentions the existence of this custom, the probability increases that it was widely accepted and still practiced.

There are five references in Scripture to the practice of covering the head. The first occurs in II Samuel where we find that covering the head is associated with mourning.<sup>1</sup> Here the term used is chafui rosh. Rashi explains the word "chafui" as a covering in the manner of mourners.<sup>2</sup>

Metsudat David<sup>3</sup> and Metsudat Zion<sup>4</sup>, similarly, describe the term. The second reference is in the Book of Jeremiah.<sup>5</sup> The Kingdom of Judah was in mourning and all the people covered their heads. Metsudat David, here, too points out that that passage also refers to a custom done by a mourner.<sup>6</sup> The third reference occurs in Ezekiel.<sup>7</sup> He is told not to observe any rites of mourning which include the following: binding the head, not wearing shoes, covering the lips, and not eating the food of another. Rashi explains here, too, that the covering of the head is a sign of mourning.<sup>8</sup> The fourth example is from the Prophet Micah.<sup>9</sup> We have a repetition of the above information that is corroborated by the commentator RaDaK.<sup>10</sup> And, finally, in the Book of Esther, we have two references to this custom where Haman hastened to his house mourning, having his head covered.<sup>11</sup> Thus, the Bible recognizes a custom of covering the head, even down to the lips, to be associated with mourning.

But we are told nothing more. When, where, and how this was done is a matter of interpretation in later sources. The Targum Onkelos for example gives us an insight into why this practice was done.<sup>12</sup>

The following is a passage from Leviticus:<sup>13</sup>

והצדוק אשר-בו הנגע בגדיו יהיו פרמים  
וראשו יהיה פרוע ועל-שפם יעטה וטמא  
טמא יקרא.

The text refers to a leper who is considered unclean; he must rend his clothes, let his hair grow long and put a covering on his upper lip. The same phrase occurs here as in Ezekiel; where, in the former, it referred to mourning; in the later it refers to one who is unclean and who must be marked and separated from the community. But the Targum interprets this passage differently; it translates the Hebrew into the following:

וסגירא דביה מכתשא לבושוהי יהון מבזעין  
ורישיה יהי פריע ועל שפם כאבילא יתעטף  
ולא תסתאבון ולא תסתאבון יקרי.

There is an addition to this translation that is not in the original--the words "k'aveila"--

" like a mourner ".<sup>14</sup> The insight from the Targum may be deduced thus: the mourner wore a covering on the head over the face to the lip. The custom dated from antiquity and was carried through to the second century. More description was apparently not necessary; the words "like a mourner" in the Targum to describe the covering worn by a leper sufficed, for that allusion was an identifiable part of the people's experience, whereas what a leper wore was not. We learn one additional piece of information from this source. It may be that a mourner covered his head for the same reason that a leper was enjoined to do so, in order to separate himself-- or to be separated from-- the community for a specified length of time.

This tradition was carried into the Babylonian and the Palestinian Talmuds.<sup>15</sup> The sugya in the latter is too concise to be clear. The text reads as follows:

פריעת ראש נעילת סנדל ושרת.

The parallel Babli text, however, expands the discussion by saying that the term priat rosh refers to uncovering the head on the Sabbath out of deference to the community, an obligation, according to Samuel; but an option according to Rav (whose opinion accords with the anonymous opinion given in the Yerushalmi). Although the normative halacha developed according to Samuel's ruling, it is probable that the Rabbis' dissent was representative of a similar variation in common custom at large. Samuel explains the custom further, thus: any muffling of the face in a manner unlike that of the Ishmaelites is not a proper covering for a mourner. The acceptance of this practice was demonstrated by R. Nachman who, while in mourning, covered himself up in his mantle right up to the side of the beard, leaving only the nose and eyes exposed. The implication

in the text based on what was learned above is that the mouth should be covered because a mourner is to keep silent.<sup>16</sup>

The Amoraim, then, practiced the custom of covering the face in the manner recorded of the Biblical Ishmaelites, often leaving only the nose and eyes exposed; the custom was followed both in Palestine and Babylonia, although we have no evidence that everyone concurred in Samuel's opinion making it obligatory. If the law of priat rosh--uncovering the head--did not have to be followed on the Sabbath, the Rabbis may also have tended toward leniency in the chafui rosh--the covering of the head. We have evidence that such leniency was the case, generally, concerning mourning customs.<sup>17</sup>

Evidence from the Gaonic period can be derived from Massechet Semachot, which deals with the matter of when to cover and uncover the head.<sup>18</sup> The following passage gives us a more complete description of the custom:

נסתם הגולל, מכסה את ראשו. בא  
 לעמוד בשורה, מגלה את ראשו  
 ופטורין. יצא חוץ לשורה, מכסה  
 את ראשו, נכנס לתוך ביתו ובאר  
 אחרים לנחמו, מגלה ראשו ופטורין.

Here, unlike the Amoraic sources quoted above we are told expressly when the head was to be covered--after the tomb is sealed. When the mourner takes his place in the mourners' row, he should uncover his head and dismiss the public. But when he leaves the line, he must cover his head again. If, after he enters his home, people arrive to comfort him, he should uncover his head and dismiss the public. The first time the mourner covers his head, then, is after the tomb is sealed and he stands in a designated row.<sup>19</sup>

The general principle operating here is that in front of the public, when people come to give comfort and consolation, the mourner uncovers his head. At other times he remains covered. The



exception that Semachot cites is with regard to the Babli custom concerning the Sabbath.<sup>20</sup> On the Sabbath it has been taught that one does not observe the public rituals of mourning, but only within one's heart.<sup>21</sup> On the Sabbath one suspends all the obligations of the shivah period, but returns to them after havdalah. Similarly, with regard to covering the head, the mourner suspends this regulation out of respect for the laws of the community. Whereas in the Babli, this custom was not absolutely obligatory, in Massechet Semachot almost five hundred years later it was.<sup>22</sup>

Another Gaonic work adds a specific detail heretofore unrecorded. In the Otzar Hagaonim the custom of covering the head appears in connection with three others: standing in a row (previously mentioned), the first standing and sitting (ma'amad umoshav), and Mourners' Blessing (birkat avelim).<sup>23</sup> The mourner covers his head immediately after the casket is put in the ground, before the first ma'amad, but after

the Mourners' Blessing. The order is then: standing in row, saying a blessing, wrapping the head, standing and sitting. What may be deduced here, is that the wrapping or covering of the head marks the formal beginning of the mourning period, differentiating it from aninut, because saying a blessing still is part of the burial service when the mourner is not yet an avel, but an onen.

Also, in the Otzar Hagaonim the following appears:<sup>24</sup>

מנודה מהוא בעטיפת הראש אמ' רב יוסף  
ת"ש והן מתעטפין ויושבין וכ"ו א"ל  
אביי דלמא מנודה לשמים שאני דחמיר  
מנודה מהוא בעטיפת הראש. רב האי ז"ל  
מחייבו בעטיפת הראש משום דדברי אביי  
דחיתא בעלמא נינהו.

וצריך אתה (לדעת) שמנודה לבית דין חייב  
בעטיפת הראש כמצורע כדכת' ועל שפס יעשה,  
וכאבל דאסור בנעילת הסנדל ובתשמיש המטה  
ולגלה שערו ולרחץ בגדיו כמו שאמרה המשנה  
והמנודה שהתירו לו חכמ' ואמ' נמי שיהו  
מתעטפין ויושבין כמנודה עד שירחמו עליהם  
מן השמים.

The custom appears here in a different context. One who was in the process of being excommunicated or ostracized by the community, who was under review by the Bet Din, had to cover his head. This law is similar to the law in Leviticus requiring a leper to do the same, as a sign that one is marked or designated to be separated from the community.<sup>25</sup> The one under a ban is restricted, just as a mourner is, but the tendency of the Rabbis was to be lenient. Thus we see a recurring practice in the literature regarding mourning regulations as well as other similar situations requiring the separation of the individual from the rest of the group; the Rabbis take polar positions, some preferring to be lenient in their ruling, while others are stringent.<sup>26</sup>

In another Gaonic work, Halachot Gedolot, there is one brief reference to this custom in connection with the custom of overturning the beds:<sup>27</sup>

תנו רבנן אבל כל שבעת הימים  
חייב בכפיית המטה ובכסוי הראש.

It quotes a baraita: "A mourner is required to overturn the bed and cover his head all the seven days of mourning". While the text continues at length to explain the details (how, why, when, and where) of inverting the bed, it makes no further reference whatsoever to covering the head. There are two possibilities for this omission. Either this custom was still practiced, and well enough known to render further explanation superfluous; or the custom if it existed at all, was not practiced much and could be mentioned briefly without explanation. Due to the fact that, as we shall see, we have later sources that deal with this issue, I favor the second possibility.

Maimonides' Mishnah Torah also mentions the custom of covering the head; a mourner is obligated to cover his head from the top to his mouth.<sup>28</sup> A rather complete summary also appears in Nachmanides' Torah Ha'adam, a work which generally deals with those laws still in use;

it was intended to be a guide for the layman of all the available material on the subject.<sup>29</sup> Both authorities knew at first hand a tradition which had been influenced by the similar custom of Moslems to wear coverings of this sort. Ibn Ghayyat also lived in Spain amongst Moslems and he, too, refers to this custom.<sup>30</sup> Likewise, he summarized all the available Amoraic and Gaonic material on the subject. He adds one point, however: that priat harosh, the unveiling of the head on the Sabbath, and atifat rosh, covering the head, are not obligatory. It is up to the mourner to make the decision.

Thus it seems that the injunction for a mourner to cover his head, referring to a Biblical practice began during the time of the Amoraim. The custom involved putting a scarf-like garment over the head, concealing the mouth in the manner of the Arabs. One final source adds information to the practical application of this custom, showing how a law can be reinterpreted, as Ibn Ghayyat stated--from being

obligatory to being voluntary--and finally to being allowed to fall into disuse. In Sefer Mitzvot Gadol by Moses of Coucy we find the following,<sup>31</sup>

אבל חייב בעטיפת הראש מדקאמר ליה  
 רחמנא ליחזקאל לא תעשה על שפס מכלל דכולי  
 עלמא מחייב. והסודר המכסה בו את ראשו  
 עושה בו מקצתו מעט על פניו שנא' ועל שפס  
 יעשה והתרגום אונקלוס כתב' לא יתעטף וכן  
 ראיתי בספרד נוהגים כן אבל במלכ' יהאינו  
 לא נהגו מפני שמביא לידי שחוק גדול  
 מהגוי' שוחקין עלינו.

He states from personal observation that the Jews of Spain were still following this practice, but that it had already been discontinued in France.<sup>32</sup> Thus, those countries with a Moslem past, where this kind of headdress would not attract undue attention, seem to have continued the custom, whereas in non-Moslem countries, where this type of headdress was unknown and where it might consequently have resulted in scorn, or even hostility against the Jews, the custom ceased. We have indication, then, that from about the middle

of the twelfth century in Northern Europe, where there were no Moslems or Arabs, this custom had been discontinued. This was allowed according to Jewish law, as H.J. Zimmels mentions, Ashkenazic Rabbis could set aside a Talmudic law under certain circumstances, if there was a strong possibility that the carrying out of this obligation could cause derision among the Christian community.<sup>33</sup> Thus the custom of atifat rosh fell into disuse.

## CHAPTER V

## STANDING IN ROWS

There is a custom recorded in the literature called "standing in rows" that was part of the elaborate funeral procession. Although we have sources from the time of the Mishnah to twelfth century Spain indicating that this custom was in current use, it is difficult to discern any evolution of halachic practice during that time. The sources deal with different aspects of the custom and rarely comment on a previous statement. Some of the aspects dealt with are the following: standing in rows and saying the shema, the row and arrangement thereof, and the row and questions of eligibility. Each aspect will be dealt with separately. Finally, it must be stated that with regard to the descriptions of this custom in the literature, there was little that could be termed "contradictory" information. It might be important,



then, to speculate on why this custom was neither disputed, changed radically, nor allowed to fall into disuse, until our own day.

First to be dealt with is an overall survey of the custom of standing in rows, what it is and what it entails. The Mishnah tells us that this custom of forming rows is for the purpose of receiving comfort from others. The procedure described here refers to the High Priest. When he comforts other mourners, the custom is for all the people to pass by, one after the other, and when he receives comfort from others all the people say to him, 'May we make expiation for Thee' and he replies, 'Bless ye, blessed of Heaven.'<sup>1</sup> Thus, a practice is established whereby the public can openly pay their respect and tribute to the mourners. From this mishnah, however, we do not know whether this custom applies also to everyone who is not a High Priest. The Babli solves that problem by discussing the issue

as follows. It restates the Mishnah and adds a baraita-- the mourners and the public stand to the left of the High Priest. From this baraita, quoted by R. Papa, we can deduce two important facts: that the mourners stand while the people pass by, and that and that the mourners are placed to the left of the comforters. The Babli continues to discuss the development and subsequent change of one part of the procedure. Formerly the mourners used to stand still while the people passed by. But there were two families in Jerusalem who contended with one another, each maintaining, 'We shall pass first'. So the Rabbis established a rule that the public should remain standing and the mourners pass by.<sup>2</sup> Rammi bar Abba says that R. Jose restored the earlier custom in Sepphoris, whereby mourners stood while the public filed past. The Palestinian Talmud substantiates this fact.<sup>3</sup> Now the question must be raised, what transpired when the public passed by the mourners? According to the

Babli, the people simply said, "Be comforted."<sup>4</sup> We have established a custom from the Mishnah, carried on both in Palestine and Babylonia where the public participated in a formal ritual of consoling the mourners by passing by and saying words of comfort. R. Manashia b. Awath, in fact, is quoted in the same sugya as holding that whether the mourners or public pass by is immaterial.<sup>5</sup>

In Massechet Semachot<sup>6</sup> the custom of forming a line is quoted by Rabbi Simeon ben Eliezar, a Fifth generation Tanna.<sup>7</sup> He tells us about the custom in reference to Rabban Gamaliel.

קבר שאול היה לו לרובן גמליאל ביבנה,  
שהיו מכניסין את המת לתוכה ונועלין  
את הדלת לפניו. ובאין ועומדין בשורה  
ומנחמין ופושטין הרבים ואחר כך  
מעלין אותו לידושלים.

The procedure quoted here is different from what we saw above. First of all, Rabban Gamaliel was put into a temporary tomb in Yavne into which they would bring the corpse and lock the door. Then, after forming into a line and comforting the mourners, they

would dismiss the public. Later, they would carry the body up to Jerusalem. The custom of forming into a line for the purpose of comforting the mourners was part of the ritual from the time of Rabban Gamaliel according to this source. In fact, every part of the burial procession was highly ritualized by that time-- with the mourners' row being only one part of the entire procession.<sup>8</sup>

The Gaonim also were concerned with the question of the meaning of the term "mourners' row".<sup>9</sup> Hai Gaon tells us that it was the custom in Babylonia that immediately following burial the mourners and comforters would repair to a weepers' field for the purpose of paying final respects before taking leave of the dead.<sup>10</sup> For the eulogy they would form into several rows, one behind the other, with closest relatives and friends in the first row, and lesser acquaintances in the second and third row. In another Gaonic responsum there is a complete reiteration of Hai Gaon's description above.<sup>11</sup> The two citations,

word for word, attest to the fact that this custom existed, but do not tell us more than what we already know about its practice. Further, we have a statement in the She'eltot attributed to Achai Gaon of Shabcha<sup>12</sup> that restates the passages from the Palestinian<sup>13</sup> and Babylonian<sup>14</sup> Talmuds concerning the change in procedure due to the two families who quarreled about passing first. This statement, unlike previous ones, does not tell us that the Rabbis reversed the procedure to the older practice due to an enactment in Sepphoris.

Ibn Ghayyat in Sha'arey Simchah has one brief reference to this custom in connection with the Mourners' Blessing.<sup>15</sup> He tells only that the Mourners' Blessing was said in the synagogue while the formal comforting of the mourners took place in the rows immediately following burial. He says that this procedure is the one described by Rav Natronai. There was no disagreement amongst our Gaonic sources regarding the existence of this custom and the

basic procedure; all are congruent with the text of the Talmud-- both Palestinian and Babylonian versions.

Rashi,<sup>16</sup> however, adds an interpretation to the custom of standing in rows, that the other sources only allude to.<sup>17</sup> His interpretation is as follows:

לשורה: שהיו מנחמין את האבל  
הרקף שורה סביבותיו בשוכם מן  
הקבר.

And further:

בשורה: כשהיו חוזרין מן הקבר  
היו עושין שורה סביב האבל.

His interpretation is based on the addition of one word in different forms--saviv, meaning surrounding or around. He says that they used to comfort the mourner by forming a circle around him upon their return from interment. What is significant here is that Maimonides used the same interpretation as Rashi in his description of the custom.<sup>18</sup>

כיצד מנחמין את האבלים. אחר  
שקוברין את המת מתקבצין האבל  
ועומדין בצד בית הקברות. וכל המלוין  
את המת עומדין סביב להן שורה לפני  
שורה וכ"ו.

"How do we comfort mourners? After burial, all the people gather at the side of the cemetery, and all those who accompanied the body stand around the mourners in rows one behind the other."<sup>19</sup> This interpretation follows Rashi and indicates accepted practice. The picture we have of the mourners' row from our sources is closer to a mourners' circle. The rows according to the above interpretations were more like concentric circles than straight lines. As we have seen, the symbolic use of a circle is not at all strange in mourning rites.<sup>20</sup> But the Talmud text itself does not use this terminology at all; it is the commentators to the texts that interpret the rows as circles, perhaps basing their interpretation on established symbolism where it was not apparently intended for this particular ritual by the Amoraim. It is also possible that the sages themselves instituted the circle as the proper position because, as we have seen, the circle has neither a beginning nor an end. It would have been appropriate for them

to do so when they reverted to the older practice of having the comforters walk by in line, in order to avoid the kind of quarrel mentioned above regarding which family shall go first.

Further in the Mishnah Torah Maimonides describes the procedure and reiterates a detail lost in the literature since the Babli: that the mourners stand to the left of the comforters.<sup>21</sup> The comforters then pass by the mourners one by one and say words of comfort. Then the mourners return home.

Only one source gives us a complete description of the entire procedure by quoting all of the relevant material, Nachmanides' Torat Ha'adam.<sup>22</sup> He tells us that after interment the mourners repair to a special area of the cemetery for the family where they gather to the side. The comforters arrange themselves in rows, the row nearest the mourner for the family and close friends, the second row for friends and acquaintances, and so forth. As the ceremony proceeded, words of comfort and consolation



were recited, as were words referring to the resurrection of the dead.<sup>23</sup> Then the departing words (maftir) were recited.<sup>24</sup> Then, where it was the custom, the sheliach tsibbur led the people in the seven "standings and sittings" and the last time they stand they pass in lines to the left of the mourners saying words of comfort and go to an adjacent area of the cemetery for the eulogy.<sup>25</sup> From there the procession continues to the public square of the town for the Mourners' Benediction. From this source we see a highly ritualized, formal procedure that seems to have maintained itself throughout the centuries almost in its present form. We can only conjecture, however, as to what transpired from twelfth century Spain down to our own day that forced or permitted this ritual into becoming obsolete, for that is beyond the scope of this work. Suffice it to say that our evidence attests to the existence of a more stylized funeral procession than we follow today and that the procession remained almost unchanged for more than one thousand years.

Although the general procedure for standing in rows has been discussed, there are still questions to be answered. First, when do you form rows, and when do you not form them. The Mishnah informs us that during a feast the next of kin may stand in a row and offer consolation, but that the Mourners' Benediction is not recited, and formal dismissal takes place from the row.<sup>26</sup> The Babli tells us that if a coffin is passing on its way from place to place, the people who are in the street at the time stand in a row on account of the deceased and say the Mourners' Benediction, and offer condolence to the mourners.<sup>27</sup>

The second issue answers the question, "for whom do you form rows". The Mishnah tells us that one does not accept condolence and form rows for a slave.<sup>28</sup> We infer this from the passage because Rabban Gamaliel did accept condolence when his slave, Tabi died. He replied to his students on the matter, "My slave Tabi was not like other

slaves". Both the Babli<sup>29</sup> and Torat Ha'adam<sup>30</sup> state this is an exception to the rule. Concerning someone put to death, no rows are to be made, nor are other public rituals observed, but only mourning within one's heart according to the Mishnah.<sup>31</sup> Similarly for an infant under thirty days of age, one does not line up nor recite the Mourners' Blessing.<sup>32</sup> Three sources deal with the case of a suicide.<sup>33</sup> A general principle is stated in the Massechet Semachot: there should be no keriah, no eulogy, and no baring of shoulders, but people should line up for him and the Mourners' Benediction should be recited, out of respect for the living. The general rule is: the public should participate in whatsoever is done out of respect for the living, and should not participate in those rituals done out of respect for the dead. The assumption here is that forming into rows and lining up is a custom done out of respect for the living. Halachot Gedolot corroborates this information. Similarly, Torat

Ha'adam deals with this issue, adding one more case, that of an excommunicant who dies. For him, Nachmanides states that rows would not be formed, nor the Mourners' Benediction recited. Even what is done out of respect for the living would not be done in this case. He adds, however, the fact that he does know whether the custom exists whereby an excommunicant who dies is treated as a suicide (and therefore, people would form rows and say the blessing), for the sake of the living. In fact, in later times, this last point became the normative halacha appearing in both the Tur and the Shulchan Aruch.<sup>34</sup>

The next issue involves someone who is already in mourning for a relative. If someone else in town dies, does he go to the cemetery to stand in the row out of obligation to the community? The Babli states that during the first three days of mourning, a mourner should not go to a place of mourning.<sup>35</sup> After that time, if he does go, he takes his place

among those to be comforted and not among the comforters. Massechet Semachot interprets differently.<sup>36</sup> If another person dies in the same town, the mourner should not join the funeral procession during the first or second day of his own mourning. On the third day, however, he may join it and stand in the mourners row to be comforted, but not to comfort others. But if he is needed, that is, in a case where there are not enough pallbearers, he may join the procession even on the first day. The Gaonim responded as follows: They follow the custom that during all the seven days of shivah, if a close friend or acquaintance of a mourner dies, the mourner accompanies the procession and then returns to his own house of mourning.<sup>37</sup> The Mishnah Torah follows the Babli tradition, as the accepted halacha and makes no mention of any other variations.<sup>38</sup>

The next issue pertains to the question of the rows themselves. Is there a minimum or maximum number required for each row? The Mishnah tells us

that if there are fewer than ten present they may not say the Mourners' Consolation.<sup>39</sup> Bartinoro explains that this refers to the rows where the public offers consolation; there, a row must not contain fewer than ten. The Babli substantiates the Mishnah and clarifies it, by telling us that a row must consist of not less than ten people, excluding the mourner.<sup>40</sup> Torat Ha'adam and the Mishnah Torah reiterate the above information; a row must consist of ten people and the mourners are not counted in the minyan.<sup>41</sup>

The final issue concerns standing in the row and saying the shema. When do you say the shema, if at all, before reaching the row or while standing in it? The Mishnah states that when they have buried the dead and returned, they can say the shema if they can begin it and complete it before reaching the row.<sup>42</sup> But if they cannot finish it, they do not begin it. Only those in the inner line are exempt from reciting the shema. The Tosefta reiterates the above and adds: Rabbi Yehudah says if there is only one row,

then those who have come to pay respects out of honor to the community are required to say the shema, while those who have come in behalf of the mourner himself are exempt.<sup>43</sup> The Palestinian Talmud substantiates both the Mishnah and the addition from the Tosefta.<sup>44</sup> The Babylonian Talmud, however, interprets the Mishnah text differently.<sup>45</sup> According to the Mishnah, one should begin to recite the shema if there is sufficient time to complete it before reaching the row; but the Babli holds that one should not begin if he cannot complete it. They base their opinion on the following position: When they have buried the body and returned, if they are able to begin and complete even one section or verse or section to be completed, they should not begin it.<sup>46</sup> Secondly, with regard to exemption from the shema, the text reads:

The row which can see inside is exempt but one which cannot see inside is not exempt. R. Judah said, 'those who come on account of the mourners are exempt, but those who come<sup>47</sup> for their own purposes are not exempt.'

The commentators--Rashi and Tosafot--focus on the phrase "see inside" interpreting it literally, to mean that those who can see the mourner, if they stand several deep, are exempt (meaning really only the first row), while all others are required to say the shema. Thus, we can deduce the following: if they have time to begin the shema and complete it before reaching the row, they do so. The Babli modifies it by saying that only one section or verse need be completed before reaching one row. If a section or verse cannot be completed, the shema will be said later. Those in the first row are exempt from saying the shema, that is, those who can see the faces of the mourners, while those in the other rows are not exempt.

Lieberman in his notes to Tosefta Ki-fshuta points out that the phrase בפנים is an addition to the text of the Tosefta. The correct manuscript reads:



שורה הפנימית הרואה את  
הפנים פטורין, ושונה רואה  
את הפנים חייבין.

The inner row that sees the faces is exempt, while those in rows that do not see the faces are obligated to say the shema. He cites an explanation from

Sefer Hazikaron as follows:<sup>48</sup>

ת"ר בתוספתא  
ובאבל רבתי:

קברו את המת ועמדו בשורה שורה  
הרואה את הפנים פטורה, ושאינה רואה  
את הפנים חייבת, פי' פנים של אבלים.

The interpretation is that the inner row that sees the faces of the mourners is exempt. Lieberman sees this phrase-- "sees the faces" as a technical phrase, used in much of the literature of Eretz Israel. It is used in the sense of showing one's face to the mourner to indicate one is taking part in the trouble of another. This term, then, can be used symbolically to mean acknowledging to the mourner that one joins with him in his sorrow. The comforter does this by showing his face to the mourner. Showing one's face

has two aspects to it. One is, as reported above, to join with the mourner in his sorrow; the second is to pay public tribute to the community or to discharge one's public obligations. Thus the Tosefta text refers to both of these, indicated by the terms לשם אהל and לשם כבוד .

In conclusion, we see that the custom of standing in rows dates from early Tannaitic times; it appears consistently in the literature from the time of the Mishnah through the twelfth century and was followed in both Palestine and Babylonia.<sup>49</sup> The custom required that each row consist of not less than ten people excluding the mourners. For a suicide or excommunicant one does line up, but not for slaves, or for infants under thirty days of age. And finally, with regard to the saying of the shema while standing in rows, those in the first row are exempt, having come to pay condolences for the mourner himself, while those in other rows are

obligated to say the shema, having come to pay  
tribute out of obligation to the community.

## CHAPTER VI

## INVERTING THE BED

There is recorded in our tradition a mourning rite called kofin et hamittah-- overturning the bed -- that is first recorded in the Mishnah. Involved in this custom is a set of complicated regulations devised through the centuries telling the mourner when and how to overturn the bed. The general custom became emended frequently by clarifications and extensions, and later, by limitations to the rule. This custom, last in our series of mourning rites to be discussed, is important in following our thread of halachic development from the Mishnah to the beginnings of Western civilization in Spain and Europe. Here, as in the custom of atifat harosh, the Rabbis were faced with a difficult situation, in that passage of time had rendered the observance of an ancient Palestinian ritual difficult. We have evidence that shows us how a law became inoperative after a thousand

years because the Jews feared the consequences of its observance. The general custom can be stated simply, but attention must also be given to the sources' handling of the various aspects of the custom. Each aspect will be dealt with separately as each source throughout the ages has selected different aspects with which to deal.

We know that in Mishnaic times the custom of overturning the couches was followed because it is dealt with in terms of a king's funeral and with regard to a funeral that occurs during a festival. But it is not until the compilation of the Palestinian Talmud<sup>1</sup> that we have a clear picture of what the law required.<sup>2</sup> Here, too, however, it is not stated in general terms, but rather, deals with the issue of overturning the beds during a feast or on the Sabbath as well as with the problem of what constitutes a bed that must be overturned. But it gives us the first insight into why this ritual was done.<sup>3</sup>

מפני מה הוא יושן במיטה כפורה שירה  
נוער בלילה ונזכר שהוא אבל.

According to this statement, beds were overturned to make the mourner remember his sorrow.

The Babli gives us several general statements on overturning the bed.<sup>4</sup> First, we have an example of the use of aggada to support a halacha.

A mourner is bound to overturn his couch because Bar Kappara taught that God says 'I have set the likeness of mine image on them and through their sins have I upset it; let your couches be overturned on account thereof.'<sup>5</sup>

Thus, overturing the couches is seen as an action that eradicates sins. Further the Babli teaches that a mourner does not discharge his duty to the dead by sitting on a bed, chair, or on a stool for urns, or even by going to the extreme and sleeping on the bare ground.<sup>6</sup> Here overturning the beds is more than just a sign of mourning; it signifies an obligation to the dead that must be met. The Babli further qualifies the custom of overturning the couches by stating:

one who goes to the house of a mourner, if he is on familiar terms with him, may provide the repast for him to be taken on overturned couches, but if not, he provides the<sup>7</sup> repast for him on couches in the erect position.

Then the text continues by giving an example of one who was not on familiar terms with another, in which the mourner consequently suffered a misfortune, as the visitor sat low and the mourner sat on the couch in its erect position. Here the qualification regarding the familiarity of the visitor is new, and therefore, necessitates looking to the commentaries for further explanation. Neither Rashi nor Tosafot deal with this issue. In Torat Ha'adam there occurs the preceeding statement from the Babli, that explains its meaning as above.<sup>8</sup> Nachmanides adds that R. Yitzhak ben Ghayyat interprets the ruling differently. Everyone sits on erect couches to pay honor to the visitors.<sup>9</sup>

General statements likewise appear in Massechet Semachot. In defining what constitutes overturning the bed the following appears: "a man may invert his bed over two benches, or over four stones, even if it is then piled with five mattresses, even four cubits off the ground, just so long as its legs are upside down."<sup>10</sup> Overturning the bed means

turning its legs upside down, even if mattresses and benches are piled on top.

The Mishnah Torah also makes a general statement requiring a mourner to overturn the bed but adds a further qualification: that this ruling applies only to the first day of mourning.<sup>11</sup> On the rest of the days of mourning (the shivah period), the mourner may sit on a bed mat or on the ground. Where the other sources-- both Talmuds and Halachot Gedolot --state that overturning the bed is a requirement all the days of mourning.

There is also a differentiation made amongst the sources concerning whether you actually have to sleep on the bed that was turned over or not. According to the Babli, the normative halachic ruling is that as long as one overturns the bed, he may actually sleep on the ground or on a bed mat.<sup>12</sup> R. Yochanan gives the dissenting view that even if the bed is overturned, but the mourner sleeps on the ground, he has not fulfilled his obligation; the obligation involves sleeping on the bed as well.



This view is also followed by Maimonides.<sup>13</sup> The Rabbis in both Talmuds <sup>14</sup> take the view that what is important in the custom of overturning the bed is that the mourner sleep in a manner other than that to which he is accustomed.<sup>15</sup>

Now that the general custom has been discussed, we know that the practice existed of overturning the beds in the house of a mourner. But we do not know yet when this inverting of the beds was to take place. According to the Yerushalmi<sup>16</sup> there is a disagreement between R. Eliezar and R. Joshua.<sup>17</sup> The former says you overturn the bed from the moment the corpse is taken from the house, while the latter says you overturn them from the moment that the tomb is sealed. The disagreement was settled by order of R. Eliezar concerning the death of Rabban Gamaliel, where they turned the beds as soon as he was taken out the door. Thus the beds are overturned as soon as the corpse is taken from the house. The Babli<sup>18</sup> follows the Yerushalmi in this ruling, but it refers to Gamaliel the Elder

and not Gamaliel.<sup>19</sup> Massechet Semachot, however, is worded differently, although the ruling is the same.<sup>20</sup> Zlotnick says that the passage refers to the beginning of mourning.<sup>21</sup> By comparing different manuscripts of Massechet Semachot he says that the original statement of R. Joshua may have been: "One need not invert the bed until the tomb is sealed", indicating that sealing the tomb officially marks the beginning of avelut. Although this fact is true, the law here follows R. Eliezar, the proof being the incident recorded regarding the practice at the death of Rabban Gamaliel the Elder. In Otzar Hagaonim, however, the halacha follows R. Joshua in that mourning begins when the tomb is sealed, and all of the obligations of a mourner officially begin at the outset of mourning.<sup>22</sup> This view is also followed by Nachmanides.<sup>23</sup>

The second issue concerns which beds to overturn. The sources generally agree that not only the mourner's bed is turned, but also all the beds in the house.<sup>24</sup> Even if the mourner has ten beds which he presumably occupies at one time or other,

he overturns them all. And if there are five brothers, one of whom died, they all overturn their beds if they sleep in their own homes. Massechet Semachot presents a slightly different picture.<sup>25</sup> In the case of five brothers who used to eat at their father's table and lost their father, if all of them were in the habit of going to their own homes to sleep, the beds in each home must be inverted; otherwise, only the beds in the house they used must be inverted.

Any bed not used for sleeping need not be inverted.<sup>26</sup> This bed may be one that is specially set aside for vestments, like a couch or ottoman used for clothes or coverlets. Similarly, cots or benches not used for sleeping, but rather as receptacles for keeping utensils and vessels out of the way, do not have to be overturned. Also, if there are guest rooms in the house, the beds contained therein need not be overturned; nor is it necessary for a guest in one's house to sleep on an overturned bed.<sup>27</sup>

Three sources discuss the use of a technical word that was relevant to the times with regard to this custom.<sup>28</sup> The word is dargesh and means a type of cot or collapsible couch made of skin that was fastened to a frame with leather thongs.<sup>29</sup> The general ruling regarding a dargesh is that it need not be inverted. According to Rabbi Simeon ben Eliezar, one should lower its thongs and leave it just as it is.<sup>30</sup> In the Babli the dargesh is much discussed.<sup>31</sup> The entire sugya focuses on the question of how this cot is constructed. The passage in Massechet Semachot quoted in the name of Rabban Shimon ben Eliezar is quoted here in the name of Rabbi Shimon ben Gamaliel. The sugya implies that the dargesh was of Palestinian origin and was no longer in use in Babylonia. In Moed Katan, the Rabbis conjecture that the dargesh is a "couch of fortune".<sup>32</sup> They use the Mishnah as a proof text, wherein it is taught that when making the funeral meal for a king, the people sit on the ground and he sits on a dargesh.<sup>33</sup> According to the

Rabbis, the dargesh cannot be a couch of fortune,  
but only a couch other than the ordinary for the king.

The last issue concerns overturning the beds  
on holidays and the Sabbath. The Mishnah tells us  
that during a feast one eats with the couches set  
up in the usual fashion.<sup>34</sup> The Tosefta adds to this  
information.<sup>35</sup>

מי שקיים כפית המטה שלשה ימים  
קודם לרגל לא יכפה אחר הרגל, ר'  
ליעזר בן יעקב אומ' אפי' יום אחד,  
ר' לעזר בר' שמעון או' בית שמי או'  
שלשה ימים, ובית הלל אומ' אפי' שעה אחת.  
ובערב שבת זוקף את מטתו ובמוצאי שבת כופה,  
אפי' לא נשתייר לו אלא יום אחד בלבד. אבל  
אין רשיי להתאבל בתוך המועד אבל נוהג  
בצנעה בתוך ביתו.

If one has overturned the bed for three days prior to  
a festival, he does not have to overturn it again after  
the festival according to R. Eliezar. One does not  
overturn the couches on holidays and the Shabbat. There  
is a disagreement amongst the Rabbis concerning  
overturning the bed after the festival. There are  
three opinions given, none of which is accepted.

This information is corroborated in the Babli and Massechet Semachot.<sup>36</sup> Regarding the Sabbath, the law stands that the beds are set upright on Erev Shabbat and overturned again on Motsei Shabbat.<sup>37</sup>

The Rabbis were concerned that the issue of overturning the beds was a complicated one, especially with regard to festivals celebrated for two days. Thus they issued statements attempting to clarify what might have been a serious problem for the average Jew. The following information appears in two

Sources:

A bed must remain inverted, at times for six days, at times for five, at times for four, at times for three, neither more nor less. How so? If the death took place at twilight, the bed must be inverted for six days. At twilight of Sabbath eve--five days. If that Sabbath is followed by a festival, four days, and if that Sabbath is followed by the two festival days of New Year--three days.<sup>38</sup>

If the death took place at twilight and there was still enough time to invert the bed before nightfall, that short time is counted as a whole day. But at twilight on Sabbath eve the case is different.

Although a funeral may be rushed at this time, the beds may no longer be inverted. But the day is still counted in the shivah; therefore five more days remain for overturning the bed. Concerning the last point, if the Sabbath is followed by a Festival, an assumption must be made. Naturally we assume that the death occurred at twilight of that Sabbath eve, but more importantly we assume that this section is in accordance with the view that the festival cancels mourning only if the death takes place three days before the festival.<sup>39</sup>

There is one basic difference between the Palestinians' and Babylonians' interpretation of overturning the bed on a festival.<sup>40</sup> Both were concerned with cutting short the mourning period but differed with regard to time. The Palestinians insisted that the mourning period could be cut short only if the death occurred three days before the festival, while the Babylonians said that the interval could be as short as an hour. The parallel

text in the Tosefta is interesting for it reads "even a day".<sup>41</sup> According to Dov Zlotnick, however, there is, in effect, no difference between the reading in the Tosefta and the Babli because operating here is the principle that part of a day is counted as a whole day.<sup>42</sup>

In trying to find all the available sources on this custom, one attempts to discover one or two that might indicate why this custom is no longer practiced. The Yerushalmi gives us an insight into this problem.<sup>43</sup> We know that a mourner is required to invert his bed during shivah, but what happens if he is a guest at an inn for some time during this period? The following appears:<sup>44</sup>

תני הדבר בפונדק אין מחייבין  
אותו לכפות ולא יהוון אמרין  
חרש הוא:

One who is staying at an inn during shivah is not required to invert the bed lest he be accused of sorcery. As a result of this danger, it is possible that the law remained, although was not enforced;



nor did the Rabbis teach it to the people; thus it was likely that it fell into disuse from that time--circa 450 C.E. A thousand years later in the Diaspora Rabbis were concerned with the ever-present danger of a false accusation due to practices which might be deemed "strange". In the Tosafot the following appears:<sup>45</sup>

רמה שאין נוהגין עתה לעשות  
...בפיית המטה סמכיןן אהא דאמרינן  
בירושלמי אכסנאי אינו חייב בכפיית  
המטה ולא לימרון חרש הוא פי' מכשף  
וכמו כן אנו בין הנכריים.

Thus it seems that the Ashkenazic Rabbis in the Diaspora were acquainted with the problem of keeping old customs that might cause problems for the Jewish community--in this case, bring on a false accusation of sorcery. They chose to solve the problem by allowing the law to fall into disuse. Today we remember this custom by sitting on low stools, but do not overturn the beds.

In conclusion, we have an elaborate set of rules dating from the Mishnah dealing with the custom of inverting the bed. The custom was known in both Palestine and Babylonia, but was probably practiced only in Palestine in early Tannaitic times. By the time the Babli was codified, we have reasons to believe that the custom was allowed to fall into disuse gradually over the centuries with no explicit comment until the disciples of Rashi in the twelfth century.<sup>46</sup>

## NOTES

## INTRODUCTION

<sup>1</sup>Cf. Zechariah Frankel, Darkei Hamishnah (Tel Aviv: Sinai Publishing Co., 1959), pp.322-325.

<sup>2</sup>There is problem with the dating of Massechet Semachot. Scholars differ on whether it is a Gaonic or Tannaitic work. Dov Zlotick, for example, says it is late Tannaitic (third century), while others have dated it in the Gaonic period. For the purpose of this thesis, the assumption is made that it is a Gaonic compilation and recension of what may have been material from the Tannaim.

## CHAPTER I

<sup>1</sup>All of the laws that pertain to aninut are followed for one of these seven relatives only: father, mother, husband, wife, son, daughter, brother, sister.

<sup>2</sup>According to various sources there can be three or five spadesful. Cf. H.Rabinowicz, A Guide to Life (New York: Ktav Publishing House, Inc., 1964), p.50.

<sup>3</sup>The symbolism in Jewish ritual refers to bread dipped in salt; according to Rabinowicz, A Guide to Life (p.59) it is usual to dip bread in salt because the table is compared to a sacrificial altar, and the Bible says of sacrifice: "And every meal offering of thine shalt thou season with salt"(Lev: 2:13). As a mourner is prohibited from offering a sacrifice, there can be no salt on his table.

## CHAPTER II

<sup>1</sup>E.R. Goodenough, Jewish Symbols in the Greco-Roman Period, (New York: Princeton University Press, 1953-1968), vol.6, pp. 163-173.

<sup>2</sup>Ibid.

<sup>3</sup>Cf. Goodenough, Jewish Symbols, Vol 6, pp. 166-170, and S. Lieberman, Greek in Jewish Palestine (New York: The Jewish Theological Seminary of America, 1942), pp. 103-105.

<sup>4</sup>Gen. 25:29.

<sup>5</sup>B. Baba Batra 16b.

<sup>6</sup>Massechet Semachot, trans, and ed. Dov Zlotnick (New Haven and London: Yale University Press, 1966), p. 168. (Hereafter referred to as M.S.).

<sup>7</sup>B. Baba Batra 16b.

<sup>8</sup>This law occurs in M.S. 6:2 as well as in Y. Berachot 3:1.

<sup>9</sup>M.S. 14:13.

<sup>10</sup>M.S. p. 168.

<sup>11</sup>Approximately 165 C.E.

<sup>12</sup>Y. Berachot 3:1.

<sup>13</sup>II Sam 3:35 and elsewhere.

<sup>14</sup>Moses ben Nachman, Torat Ha'adam, ed. R. Haim Dov Shaaval (Jerusalem: Mossad Harav Kook, 1964), pp. 145-163.

<sup>15</sup>Cf. Rashi and Tosafot B. Baba Batra 16b.

<sup>16</sup>Goodenough, Jewish Symbols, vol 6, p. 166.

<sup>17</sup>The Life and Works of Flavius Josephus, trans. and ed. William Whiston (New York: Holt, Rinehart and Winston, 1960) Wars, Book II, ch. 1.

<sup>18</sup>B. Moed Katan 3:7.

<sup>19</sup>Although this statement refers to the meal given to the mourners when mourning occurs on a festival, it is generalized to include other days as well.

ת"ר ההולך לבית האבל אם היה לבו גס בו יברוהו על 20  
על מטות כפירות וכ"ו.

We are concerned here not with the matter of the "beds" as will be seen later, but rather with the matter of the repast. The text reads then, "One who goes to the house of a mourner, if he is on familiar terms with him, may provide the repast for him to be taken on overturned couches." The word יברוהו in the hiphil, indicates others provide for the mourner.

<sup>21</sup>B. Moed Katan 27a.

<sup>22</sup>Ibid.

<sup>23</sup>There is an interesting aspect to the practice of making a takkanah for everyone lest the rich offend the poor by doing something in a manner that the poor cannot. Regarding the use of colored and white glass the Tosefta adds (Nid. 9:17):

חזרו להיות מוציאין בין בצבועה בין בלבנה.  
indicating that they then reverted to bringing drink in colored or white glass vessels; thus the takkanah was no longer obeyed according to this text. But yet in Amoraic times, we have only the takkanah in the literature and not the statement in the Tosefta, the emphasis being on not offending the poor.

<sup>24</sup>Goodenough, Jewish Symbols, vol.6, pp. 163-173.

<sup>25</sup>It is possible, here, that the Jews were influenced by the Greek funeral banquet.

<sup>26</sup>Goodenough, Jewish Symbols, p. 170 from Tobit 4:17.

<sup>27</sup>The Book of Jubilees, trans. and ed. R.H. Charles (London: Adam and Charles Black, 1902) 22:17, pp. 140-141; See also Deut. 26:14, Ps. 106:28, Ecclesiasticus 30: 18-19.

<sup>28</sup>The Apocrypha, trans, E.J. Goodspeed (New York: Alfred A. Knopf, Inc. and Random House, Inc. 1959) Ecclesiasticus 7:33; The New English Bible With the Apocrypha (New York: Oxford University Press, 1971) Ecclesiasticus 7:33.

<sup>29</sup>In Rabinowicz, A Guide to Life (p.59), there is a reference to the use of lentils from Gen. R. 63:14. This midrash further explains the symbolism in the use of round foods in the house of a mourner; it is as follows:

ויעקב נתן לעסור לחם ונזיד עדשים— מה עדשה זו עשויה כגלגל, כך העולם עשוי כגלגל; מה עדשה זו אין לה פה, כך אבל אסור לו לדבר; מה עדשה זו ישבה אבל ויש בה שמחה, כך אבל— שמח אבינו אברהם, שמחה— שבטל יעקב את הבכורה.

### CHAPTER III

<sup>1</sup>The North African Jews, for example, still practice a ritual of dipping the finger in the Kiddush cup and passing a drop of wine over the eyelids for haydalah. I learned this from living with a Moroccan family in Israel.

<sup>2</sup>Shulchan Aruch, Y.D., Sec. 338.

<sup>3</sup>B. Shabbat 151b.

<sup>4</sup>Y. Berachot 3:1 and elsewhere.

<sup>5</sup>Dan. 10:23, but the Rabbis use this text in connection with prohibiting its use during aninut.

<sup>6</sup>II Sam 3:35.

<sup>7</sup> כי כה אמר יהוה אל-תבוא בית מרדך ואל-תלך לספוד ואל-  
בתוד להם כי אספתי את כלומי מאת העם הזה באם-יהוה את  
החסד ואת הרחמים: ומתו גדלים וקטנים בארץ הזאת לא יקברו  
ולא-יספדו להם ולא יתגודד ולא יקרה להם: ולא-יפסדו להם על-  
אבל לבחמם על-סת ולא-יסקו אותם כוס תנחומים על-אביו ועל-  
אמו: ובית-סעודה לא-תבוא לשבח אותם לאכול ולשתות.  
Jer. 16:5-8.

<sup>8</sup>Prov. 31:6-7.

<sup>9</sup>The exact time that wine entered Jewish rituals is unknown. Samuel Sandmel in The First Christian Century in Judaism and Christianity (New York: Oxford University Press, 1969), pp.16-19, cannot confirm or deny Goodenough's theory that the Jews borrowed the use of wine in religious rituals from the Greeks, based upon known sources. But he does state the fact that Jews have borrowed selectively from other peoples, and terms this borrowing "selective syncretism"; he, therefore, regards such selective syncretism as a broad possibility in the Greco-Roman period.



Further, he says (Ibid. n. 32, p.47), "The Rabbinic Literature does not initiate the ceremonial use of wine, but treats it, rather, as though its use is already the ordinary, accepted procedure, even part of the post-prandial grace." For Goodenough's position see references provided by Sandmel.

<sup>10</sup>The notes in M.S. by Dov. Zlotnick referred me to this source, which is quoted directly from Book 23, sec. 38, 439 and Sec. 41, 443.

<sup>11</sup>Ch. 17, p.40: א"ר חנין לא נברא יין אלא לבחם אבלים ולשלם: סכר לרשעים שנא' חנו סכר לארובד וגו'.

<sup>12</sup>B. Eruvin 65a.

<sup>13</sup>Y. Berachot 3:1, B. Ketubot 8b, M.S. 14:14, She'eltot 15:101-102, and Sha'arey Simcha p. 65.

<sup>14</sup>According to the evidence presented in the chart, it is clear that M.S. follows the Palestinian tradition and not the Babylonian. As it is only one piece of evidence, it would be erroneous to surmise that M.S. is generally a Palestinian rather than a Babylonian work, though, it may be.

<sup>15</sup>The topic of birkat avelim is a large one beyond the scope of this thesis. See, however, responsa quoted by Lewin, Otzar Hageonim Ketubot, #105-111, and Lewin's footnotes there. From these responsa we can see that even as late as Gaonic times the connection between a cup of wine and a blessing for mourners was, at least in some communities, still intact.

<sup>16</sup>Cf. Lewin, Otzar Hagaonim, Ketubot #16. The question appears:

בשלמא חזני העיר ופרבסי העיר משום דמחזקי  
במילתא דאבליים אלא רבן גמליאל מאי היא.

The responsum gives the same reason as She'eltot for honoring the officers and leaders of the town, but then asks the question, "why do we honor Rabban Gamaliel?" The text in She'eltot gives us that answer.

<sup>17</sup>A section called "A Commentary by Rabenu Hananel" appears in Otzar Hagaonim, Ketubot p.6. Here we find the statement:

ועשרה כוסות וכ"ו ומעשה דרבן גמליאל שניהג קלות ראש  
בעצמו וצוה להקבר בכלי פשתן ואחרין בהגור אפ' בצדדא בת זוזא כולן  
פשוטות הן.

The comment attributed to Rabenu Hananel corroborates the information we have in the She'eltot version.

<sup>18</sup>Rashi to B. Ketubot 8b.

<sup>19</sup>Machzor Vitry, ed. Shimon Halevy Ish Horowitz (Berlin: Mekize Nirdamim, 1889); Sefer Hapardes, ed. A.H. Horowitz (Warsaw: 1870); Siddur Rashi, ed. Yaakov Freiman (Berlin: Mekize Nirdamim, 1911).

<sup>20</sup>In addition to the Biblical passages regarding the use of wine, we have the following from Midrash Sechel Tov, ed. Shlomo Bachar (Berlin: 1900/01), Vayehi: 334 - a late midrash of the twelfth century:

ולא מסקין לאבל אלא  
חמרא ושיכרא, דכתיב תבו סכר לאובד ויין למרי בפס סתה וישכח רישו  
ועמלו (ולא) יזכור עוד.

This text carries through the use of wine and strong drink to drown the sorrows.

<sup>21</sup>Nachmanides, Torat Ha'adam, p.69.

<sup>22</sup> אין שותין בבית האבל יתר על עשרה כוסות לכל אחד ואחד

שלישה קודם אכילה ושלשה בתוך אכילה וארבעה לאחר אכילה ולא יוסיף  
Mishnah Torah, Hilchot Avel, 13:8. סמא ישתכר.

<sup>23</sup>For the purpose of presenting the custom in its entirety, mention must be made of an interesting variation of this custom from the Karaites, although beyond the scope of this work. From a Karaite source, Eshkol Hakofer of R. Yehudah Hadassi, (Guslav: 1836), p. 101a, we are told a cup of wine was used as a cup of consolation to be given with a blessing to comfort the mourners. Perhaps we may deduce that the Karaites were then following the literal tradition provided by the Biblical sources; they make no mention of ten cups of wine and, perhaps, rejected the more liberal Rabbinic interpretation of the Scriptural references.

#### CHAPTER IV

<sup>1</sup>ודוד עלה במעלה הזיתים עלה ובוכה וראש לו חפוי והוא  
הולך יחף וכל-העם אשר אתו חפוי ראשו ועלו עלה ובכה.  
II Sam. 15:30.

<sup>2</sup>חפוי: מכורך כדרך האבלים.  
Rashi to II Sam. 15:30.

<sup>3</sup>חפוי: מכוסה בנגד והוא דרך צער.  
Metsudat David to II Sam. 15:30.

<sup>4</sup>חפוי: מכוסה.  
Metsudat Zion to II Sam. 15:30.

<sup>5</sup> ואדיריהם שלחו צעוריהם למים באו על-גבים לא-מצאו  
מים סבו כליהם ריקם בסו והכלמו וחפו ראסם וכ"ו.

Jer. 14:3-4.

<sup>6</sup> ...וכסו ראסם דרך צער ואבל וכ"ו.

Metsudat David to Jer. 14:3.

<sup>7</sup> דם מתים אבל לא-תעטה פארך חבוט עליך ונעליך תשים  
ברגליך ולא תעטה על-שפם ולחם אנשים לא תאכל.

Ezek. 24:17.

<sup>8</sup> ...ויעטף בסודרו בעטיפת השפם עם הראש שהוא סימן  
לאבילות וגו'.

Rashi to Ezek. 24:17.

<sup>9</sup> ...ועטו על-שפם כלם כי אין מענה אלהים.

Micah 3:7.

<sup>10</sup> סיהיו כאבלים עוטים על שפם וגו'.

RaDaK to Micah 3:7.

<sup>11</sup> וישב מרדכי אל סער המלך והמי בדחף אל-ביתו אבל  
יחפוי ראש: ...ופני המן חפוי.

Est. 6:12 and 7:8.

<sup>12</sup> According to E.J. this is a second century work written by a proselyte that is often confused with a Greek translation of the same period. Most of our extant passages, however, when analyzed

for style and language, seem to be Palestinian, from the first half of the second century.

<sup>13</sup>Lev. 13:45.

<sup>14</sup>Kittel notes no variant manuscript version containing this word; thus its addition can be presumed to originate with the Targum. Biblia Hebraica, notes to Lev. 13:45.

<sup>15</sup>B. Moed Katan 24a; Y. Moed Katan 3:5.

<sup>16</sup>B. Moed Katan 15a.

<sup>17</sup>Cf. Nachmanides, Torat Ha'adam, pp. 145-163.

<sup>18</sup>M.S. 10:9.

<sup>19</sup>This custom is explained in detail in chapter V of this work.

<sup>20</sup> לילי שבת בין השמשות  
מגלה ראשו; במוצאי שבת חוזר ומכסה אותו.

M.S. 10:10.

<sup>21</sup>B. Moed Katan 24a.

<sup>22</sup>This may add evidence to the fact that the final redaction of M.S. took place in the eighth century, or, after the Babli. The Babli text (Moed Katan 24a) is attributed to Rab and Samuel, who lived in the third century.

<sup>23</sup>Otzar Hagaonim, Ketubot #16.

<sup>24</sup>Otzar Hagaonim, Mashkin

<sup>25</sup>Lev. 13:45.

<sup>26</sup>On this issue in the Mishnah, Moed Katan 1:5 the following appears with regard to examining the signs for leprosy: רבי מאיר אומר, רואין את הנגעים בתחלה להקל, אבל לא להתמיר. וחכמים אומרים לא להקל ולא להתמיר. R. Meir says that if in examining one for signs there is a great possibility that it will lead to a ruling in his favor (that one is not a leper and will not have to be separated), then he should be examined (as he will be able to enjoy the festival). But if the person is strongly suspected of having the disease, wait until after the feast to examine him. One should always try to allow someone to celebrate a feast so as not to impair his joy on a holiday. But the Rabbis say that during mid-festival no one should be examined, neither with leniency nor stringency in mind. Rabenu Hananel remarked on this:

ולקולא עבדינן ולא מחייביןן למנודה בעטיפת הראש דהא איבעיא ולא איפשיטא

Otzar Hagaonim, Mashkin #16. Thus with regard to covering the head, at least for one under a ban, the Rabbis were likely to be lenient, and not make it obligatory, as it might lead to more difficulties for the person involved.

<sup>27</sup>Halachot Gedolot, Hilchot Avel, p.438; see also chapter VI of this work.

<sup>28</sup>Mishnah Torah, Hilchot Avel, 5:19; Maimonides  
also cites the translation and emendation given above  
by Onkelos.

<sup>29</sup> אבל חייב בעטיפת הראש מדקאמר ליה דחמבא ליחזקאל ולא  
תעטה על שפם, מכלל דכולי עלמא מחייבי. אמר שמואל כל עטיפה שאינה  
כעטיפת ישמעאלים אינה עטיפה. עד כמה מחוי רב עד גבי דיקנא. פירוש  
עטיפת הראש כיסוי הראש, דמאן דאזיל בלא עטיפה בשבת קרינן פריעת  
הראש. והתם אמרינן ומכסה ראשו כאבל שנאמר אבל וחפוי ראש. ומדכתיב  
על שפם. למדו שצריך להתעטף ראש זוקף עד גבי דיקנא הוא שער שעל  
הלסתות. ועטיפה זו למעלה מן החוטם, וישמעאלים בראין עדיין שמחזירין  
קצה הצנפת על פיהם ועל ראש החוטם שלהם, וקורין אותו לתאם. ועיקרה  
דכתיב ולא תעטה על שפם. ובירושלמי לא תעטה על שפם, מכאן שצריך לכסות  
פניו. וליכסיביה מלרע, דלא ליהוון אמרן פומיה הוא חשיט. ואמר רב  
מתחיה עטיפת הראש בטלית או בסודר שפיר דמי דאביי אשכחיה לרב יוסף  
דקא אזיל ואתי בביתיה בשבת ופריס ליה סודרא אריטיה אמר ליה לא סבר  
לה מר אין אבלות בשבת אמר ליה הכי אמר רבי יוחנן דברים שבצינעא  
בזהג.

Nachmanides, Torat Ha'adam, pp. 182-83.

A term appears here that requires further explanation.

The words עד גבי דיקנא, according to Rashi (Moed Katan  
24a) means a garment worn covering from the cheeks to the  
mouth. Thus a mourner was to be draped completely.

<sup>30</sup>Sha'arey Simchah, Hilchot Avel, pp.80-81.

<sup>31</sup>SeMaG, Book 2, p.121a.

<sup>32</sup>Absence of the custom is further confirmed  
by the various halachic compendia of the school of Rashi.

<sup>33</sup>H.J. Zimmels, Ashkenazim and Sephardim  
(London, 1958), pp. 217-222.

## CHAPTER V

<sup>1</sup>M. Sanhedrin 2:1.

<sup>2</sup>B. Sanhedrin 19a.

<sup>3</sup>Y. Berachot 3:2.

<sup>4</sup>B. Sanhedrin 19a.

<sup>5</sup>Ibid.

<sup>6</sup>M.S. 10:8.

<sup>7</sup>Circa 165-200 C.E.

<sup>8</sup>"In the Mishnah and Semachot, we read that after standing in the mourners' row and comforting the mourners, the public was given leave to go in accordance with what appears to be established custom. In a parallel passage to Semachot, the Talmud informs us that Rabbi Akiba dismissed the public after the funeral oration: 'Return to your homes in peace'. From non-Rabbinic sources it becomes clear that formal dismissal was part of the protocol of the ancient world, the assemblage being formally sent to their homes at the close of the Greek funeral speech: 'And do you, having spent your grief and done your part as law and custom require, disperse to your own homes.'" (Demosthenes, Funeral Speech) quoted by Dov Zlotnick, ed., M.S. Intro., p.19.



<sup>9</sup>Otzar Hagaonim, Ketubot #8.

<sup>10</sup>The Babli, Moed Katan 5b, gives us an explanation of the weepers' field. R. Joshua b. Abba explained in the name of Ulla that it is a field where they bid farewell to the dead. The commentaries add that it is the broad-place or forum provided for that purpose in the cemetery.

<sup>11</sup>Otzar Hagaonim, Sanhedrin #20.

<sup>12</sup>She'eltot, Chayay Sarah, p.120.

<sup>13</sup>P. Berachot 3:2.

<sup>14</sup>B. Sanhedrin 19a.

<sup>15</sup>Sha'arey Simchah, p.85.

<sup>16</sup>B. Moed Katan 27a and elsewhere; M.S. ch.11.

<sup>17</sup>M.S. and the Babli.

<sup>18</sup>Mishnah Torah, Hilchot Avel, 13:2.

<sup>19</sup>Translation mine.

<sup>20</sup>See chapter I.

<sup>21</sup>Mishnah Torah, Hilchot Avel, 13:2.

<sup>22</sup>Torat Ha'adam, pp. 148, 153.

<sup>23</sup>For example:

האל הגדול ברוב גדלו אדיר וחזק ברוב כוחו וכו'.

Torat Ha'adam, p. 153.

<sup>24</sup> בעלמא דעתיד לחדתא וכו'.

<sup>25</sup>See chapter I.

<sup>26</sup>Moed Katan 3:7.

<sup>27</sup>B. Moed Katan 25a.

<sup>28</sup>Berachot 2:7.

<sup>29</sup>B. Berachot 17b.

<sup>30</sup>Torat Ha'adam, p.156.

<sup>31</sup>Sanhedrin 6:6.

<sup>32</sup>M.S. 3:2.

<sup>33</sup>M.S. 2:1, Halachot Gedolot, p.445 and  
Torat Ha'adam, p.156.

- <sup>34</sup>Shulchan Aruch, Y.D., 397.
- <sup>35</sup>B. Moed Katan 21b.
- <sup>36</sup>M.S. 6:4.
- <sup>37</sup>Otzar Hagaonim, Mashkin #21.
- <sup>38</sup>Mishnah Torah, Hilchot Avel, 7:5.
- <sup>39</sup>Megilla 4:3.
- <sup>40</sup>B. Ketubot 8b and B. Sanhedrin 19a.
- <sup>41</sup>Torat Ha'adam, p.153; Mishnah Torah, Hilchot Avel, 13:1.
- <sup>42</sup>Berachot 3:2.
- <sup>43</sup>Tosefta, Berachot 3:11.
- <sup>44</sup>Y. Berachot 3:2 and Y. Sanhedrin 2:2.
- <sup>45</sup>B. Berachot 19 a-b.
- <sup>46</sup>Paraphrased from the Babli text, Soncino edition.
- <sup>47</sup>B. Berachot 19a.
- <sup>48</sup>Rashi and Tosafot to B. Berachot 19a.

<sup>49</sup>Tosefta Ki-fshuta, Berachot, pp.18-19.

<sup>50</sup>Sefer Hazikaron, p.42.

<sup>51</sup>It appears later in both the Tur and the Shulchan Aruch, although that is beyond the scope of this work. Cf. Hilchot Avel #376.

#### CHAPTER VI

<sup>1</sup>Y. Berachot 3:1.

<sup>2</sup>The Tosefta also deals with this custom but only with regard to overturning the bed on a festival as will be seen further on.

<sup>3</sup>Y. Berachot 3:1.

<sup>4</sup>B. Moed Katan 15a-b.

<sup>5</sup>Ibid.

<sup>6</sup>B. Moed Katan 21a.

<sup>7</sup>B. Moed Katan 26b.

<sup>8</sup>Torat Ha'adam, p.187.

<sup>9</sup>I checked the reference to Ibn Ghayyat in the

text of Sha'arey Simchah and could not find it at all; I also found that the editor of my edition of Torat Ha'adam, Haim Dov Shaa'val, did not footnote this citation by Nachmanides (as he did for the others), indicating that he, too, apparently could not find it in what has been preserved today from the original Sha'arey Simchah. Another anomaly also exists: Nachmanides previously spelled the name Ghayyat as follows:

גיאט , but here, he refers to גיאאט . We must assume he means Ibn Ghayyat, the author of Sha'arey Simchah, as we have no knowledge of another. Here, too, our editor makes no comment on this portion of the text.

<sup>10</sup>M.S. 6:1 and 11:15.

<sup>11</sup>Mishnah Torah, Hilchot Avel, 4:9.

<sup>12</sup>B. Moed Katan 21a and elsewhere.

<sup>13</sup>Mishnah Torah, Hilchot Avel, 5:18.

<sup>14</sup>Y. Moed Katan 3:5 and B. Moed Katan 21a.

<sup>15</sup>RaDBaZ to Mishnah Torah, Hilchot Avel, 4:9, says you have to overturn the beds during shivah, but only have to sit on the overturned bed on the first day . He makes a differentiation between the first day of mourning and the rest of the days; the first day represents the actual time of consolation, with the seudat havra'ah, and therefore requires a setting apart from the other days by instituting certain slight changes in practice, that is, by having some things required on the first day and not on the rest.

<sup>16</sup>Y. Moed Katan 3:5.

<sup>17</sup>Second generation Tannaim, circa 80-120 C.E.

<sup>18</sup>B. Moed Katan 27a.

<sup>19</sup>This change had to be omitted in the account in the Yerushalmi. The Gamaliel referred to in the Yerushalmi could only have been Rabban Gamaliel II of Yavne who was R. Eliezar's brother-in-law and not Gamaliel the Elder who preceeded R. Eliezar and R. Joshua.

<sup>20</sup>M.S. 11:19.

<sup>21</sup>Notes to M.S., pp.157-58.

<sup>22</sup>Otzar Hagaonim, Mashkin #27.

<sup>23</sup>Torat Ha'adam, pp.145-163,183-187.

<sup>24</sup>Cf. B. Moed Katan 27a; Otzar Hagaonim, Mashkin #27; Halachot Gedolot, Hilchot Avel, pp.438-39; Mishnah Torah, Hilchot Avel, 5:18; Torat Ha'adam, pp.145-163.

<sup>25</sup>M.S. 11:11-12.

<sup>26</sup>M.S. ch.11, B. Moed Katan 27a, Torat Ha'adam, pp.183-87 and elsewhere. But a statement occurs in Otzar Hagaonim, Mashkin #27 thus:

והלכתא אבל חייב בכפיייה המטה ולא מטתו בלנד הוא כופה אלא כל מטות  
שיש לו בתוך ביתו בין מטה שאוכל עליה ובין מטה שישן עליה ובין מטה  
של כלים כלן חייב לכפות.

This is the only source that disagrees with the general

principle stated above. Cf. Sha'arey Zedek, p.196b, sec.a.

<sup>27</sup>Torat Ha'adam, pp. 183-87.

<sup>28</sup>Y. Moed Katan 3:5, Berachot 3:1; B. Moed Katan 27a, Sanhedrin 20a, and Torat Ha'adam, pp. 183-87.

<sup>29</sup>Jastrow interprets as follows: 1) the footstool in front of a high bed, and 2) state bed with its footstool. According to Ned. 7:5, if one vows abstinence from 'bed', he is allowed the use of the footstool. Cf. B. Sanhedrin 20a, Moed Katan 27a, Y. Berachot 2:5 and elsewhere.

<sup>30</sup>A fifth generation Tanna; cf. M.S. 11:10.

<sup>31</sup>B. Sanhedrin 20a.

<sup>32</sup>B. Moed Katan 27a.

<sup>33</sup>Sanhedrin 2:3.

<sup>34</sup>Moed Katan 3:7. In Taanit 4:7 R. Judah says that on the Ninth of Av one must turn over his couch and sleep on the ground as a sign of mourning. But the sages did not agree with him.

<sup>35</sup>Tosefta, Moed 2:9.

<sup>36</sup>B. Moed Katan 20a; M.S. 7:2.

<sup>37</sup>Tosefta, Moed 2:9; M.S. 10:10; Mishnah Torah,

Hilchot Avel, 10:2.

<sup>38</sup>M.S. 11:18; this information also appears in  
Y. Moed Katan 3:5.

<sup>39</sup>Cf. M.S., notes by Dov Zlotnick, p.157.

<sup>40</sup>Cf. Y. Moed Katan 3:5 and B. Moed Katan 20a-b.

<sup>41</sup>Tosefta, Moed 2:9.

<sup>42</sup>M.S., notes by Dov Zlotnick, p.157.

<sup>43</sup>Y. Moed Katan 3:5.

<sup>44</sup>Ibid.

<sup>45</sup>Tosafot to B. Moed Katan 21a.

<sup>46</sup>Cf. Machzor Vitry, p.239.



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This Bibliography is divided into two parts: (a) primary sources, and (b) secondary sources. Part A is further divided chronologically. Part B follows alphabetical order. In some cases, introductions and other material added to a primary text by later editors has been quoted in this work. In such cases duplicate bibliographical references will be found in both part A and part B.

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