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The Development of the Jewish Laws of Mourning

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Thesis Submitted in Partial Fulfillment of
Requirements for Ordination

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INTRODUCTION

Judaism is a religion which touches virtually every aspect of life. Experiencing the pain of a loved one's death is also part of life, and there is abundant rabbinic consideration to the way in which a Jew should deal with death. It is with that interest that I began researching the topic of mourning in Judaism.

This study focuses specifically on the development of the prohibitions that the rabbis enact for a mourner during shiva. Each of the prohibitions is traced from its Biblical roots, which are indicated in the Talmud, through the Talmud, Mishneh Torah, and Shulkhan Aruch.

The first chapter identifies some of the Biblical mourners and describes Biblical mourning practices.

Chapter II traces the development of the prohibitions of a mourner.

The rabbis prohibit mourning in certain cases. This includes the death of a very young infant, one who separates himself from the community, and one who commits suicide. Chapter III traces the development of these prohibitions through the sources.

The Meal of Consolation (Seudat Havraah) is rooted in the rabbinic injunction against a mourner eating of his own food on the first day of mourning. Chapter IV, follows the development of the origins of this injunction through the sources. There is also a discussion of the origin of the food that is served and the development of that custom.

The prohibitions included in this study do not reflect all mourning prohibitions. Further, as this is primarily a halachic study, it is important to be mindful that while there are references to aggadah, many of the important contributions of aggadah are not reflected. Similarly, because of the vast nature of the halacha on this topic, the reader should be aware that among those prohibitions discussed, not every law is included.

In fact, the more I researched the Talmudic origins of these prohibitions and read the rabbinic debates, the more I came to appreciate the need for the codes. Conversely, given the direct nature of the codes and the omission of those Talmudic discourses which gave insight into their thinking, I came to understand why the codes were not universally accepted.

One of the most interesting aspects of my research was finding that many of the mourning prohibitions and practices have not changed significantly from rabbinic times.

One need not be familiar with traditional mourning practices to benefit from this study. However, for those who are familiar with the traditional practices but not with their development through the sources, this study may be of particular interest.

Finally, I have taken the liberty of making observations throughout the text. Occasionally I share my surprise at, and often my respect for, what I believe are rabbinic insights. One might expect that prohibitions would make life more difficult for the mourner. It is my conviction that a primary motivation for the enactment of these prohibitions was the desire to give shape to a time in one's life when one often feels lost. And, that the concern of the rabbis was primarily to make the mourning process more humane and ultimately more meaningful.

Chapter I

MOURNING AND THE BIBLE

INTRODUCTION

The Bible does not prescribe mourning practices, rather, it describes the practices of Biblical characters who mourn, and equally important, the practices from which they refrained.

A. BIBLICAL MOURNERS

The first mention of mourning in the Bible is that of Abraham on the death of Sarah. In this case, the mourning begins at her death (not following her burial), and neither the practice nor the length of mourning is described.¹

Jacob mourns what he thought was the loss of his son Joseph. His method includes rending his clothes and putting sackcloth on his loins.²

The first mention of a specific mourning period is Joseph's seven day mourning for his father.³ In this case Joseph is joined along with the officials of Pharaoh and all of Joseph's household.

There appears to be a Biblical basis for at least one day of mourning under specific circumstances. Following the death of Nadab and Abihu, Aaron's sons refuse to eat the sin offerings. When questioned by Moses, Aaron replied, "Had I eaten the sin offering today, would the Lord have approved?"⁴ It is this Biblical verse that Maimonides cites as a basis for at least one day of mourning, the day of death.

Mourning practices were not confined to members of the family of the deceased:

Samuel died, and all Israel gathered and made lament for him.⁵

Similarly, the death of Moses is denoted by the weeping of the Israelites for thirty days, which are referred to as a "period of wailing and mourning..."⁶

There is also individual mourning for collective destruction. Nehemiah, upon learning of the destruction of Jerusalem's walls and the destruction of her gates,

"...wept and was in mourning for days, fasting and praying to the God of Heaven."⁷

And when the Israelites are defeated in battle by the people of Ai, Joshua rends his clothing and the elders of Israel do the same.⁸

B. BIBLICAL PRACTICES

Those practices which the Bible does describe are inconsistent. For example, when Jacob mourns for his son, his observance includes rending clothing and wearing sackcloth. But he forbids his children from comforting him, preferring instead to die a mourner.⁹

The Bible reflects common mourning practices following the death of Nadab and Abihu who are consumed by a fire from God. Moses then instructs Aaron and his remaining sons:

Do not bear your heads and do not rend your clothes, lest you die and anger strike the whole community.¹⁰

No doubt Moses would not have forbidden these practices unless they were commonly observed by mourners.

Job mourns for his children by tearing his robe, cutting his hair, and lying on the ground in worship.¹¹ Job is joined by his friends who also tear their garments and throw dust on their heads. They are with him seven days and seven nights. And they do not speak with him on account of his suffering.¹²

The Bible prohibits making gashes in one's flesh or marking the body for the dead.¹³ Also there is a prohibition against shaving the front of one's head.¹⁴ These

prohibitions no doubt reflect common practices among non-Israelites. For example, rending of garments may be a substitute for the then common practice of cutting one's body in the event of a death.¹⁵

A common Biblical mourning practice is fasting.

David took hold of his clothes and rent them, and so did all the men with him. They lamented and wept, and fasted until evening for Saul and his son Jonathan...¹⁶

When the men of Jabesh-Gilead learn of Saul's death and bury the bones, they fast for seven days.¹⁷

And Daniel, in his vision, mourns for three weeks and does not eat tasty food, meat, or wine.¹⁸ Abstaining from meat and wine are prohibitions which are prescribed for aninut -- the period between death and burial, which is a separate category of Jewish ritual.

The distinction between aninut and avelut is rabbinic and not Biblical.

In Daniel, one also finds the practice of refraining from anointing oneself.¹⁹ And Isaiah speaks of giving the mourners in Zion, "The festive ointment instead of mourning."²⁰

C. THE ORIGINS OF MOURNING

While mourning practices are widespread in the Bible, there is some debate regarding their origin. The Torah clearly removes the priestly ban on contact with the dead (see below). That this is a positive commandment is interpreted by some as a Biblical injunction to mourn.²¹

The passage cited regarding Aaron's sons, "Had I eaten the sin offering today, would the Lord have approved?", is also Biblical evidence for mourning observance for at least one day (note, sin offering today.) Again, however, the Bible may be referring to a period of aninut.

On first reading, the seven day period which Joseph observes for ~~his father~~ might appear as a Biblical basis for the shiva. However, this rejected by Maimonides because it occurred prior to the giving of the Torah. And with the giving of the Torah, Law was reinterpreted.²²

In other words, the Bible was simply describing the practices of its day.

A look at the Shulkhan Aruch adds further light on the question of the Biblical origin of mourning:

...if it is the day of death and burial,
they are Biblical, and the remainder of the

days are rabbinic (in origin). In the seven dead that are explained in the Torah, that a Kohen may defile themselves... But they (the dead) were added to the Torah... Even on the first day, they are rabbinic. There are those who say even mourning on the first day of the death and burial is rabbinic in every case of the dead.²³

Regarding the Biblical instruction, the priest is not to defile himself:

for any dead person among his kin, except for his relatives that are closest to him: his mother, his father, his son, his daughter, and his brother; also for his virgin sister...²⁴

There is a Talmudic debate regarding the Biblical meaning of b'amav, his kin, and whether it includes a husband and a wife. It appears that it is only by the authority of the rabbis that a wife is bound to mourn for her husband.²⁵

Finally, given the lack of clarity on the origins and the practices of mourning, one would expect to find some ambivalence regarding the legislation of comforting of mourners. And, indeed, while the following verse shows a preference, one might argue that it is hardly a command. As Ecclesiastes put it:

It is better to go to a house of mourning than a house of feasting; for that is the end of every man, and a living one should take it to heart.²⁶

CHAPTER II

PROHIBITIONS FOR MOURNERS

INTRODUCTION

The rabbis found a Biblical basis to support the prohibitions they enacted for a mourner. The purpose of this chapter is to trace the development of the following prohibitions from the Bible through the Talmud, Mishneh Torah, and Shulkhan Aruch. The prohibitions are: cutting of hair, sexual relations, work, study of Torah, extending greetings, washing clothes, bathing and anointing, wearing shoes, sitting on the bed, and removing the headdress.

A. CUTTING OF HAIR

TALMUD

The prohibition of cutting hair is based on the Levitical passage where Aaron's sons are told not to bare their heads.¹ The Talmud deduces that since the son's of Aaron are prohibited, then everyone else in mourning is not permitted to cut their hair.²

However, the Talmud goes beyond hair on the head. For example, Shmuel and Pipchas argue about the cutting of nails. This debate leads to another regarding the cutting

of facial hair. They appear to rule that one is permitted to cut mustache hair if it is causing inconvenience (presumably in eating).³

In Semachot, one who makes his living cutting hair is permitted to cut his client's hair privately in the event that one of the Festivals is near, out of respect for the public.⁴ However, he is forbidden to cut hair on his head or above his lip or on any part of his body. A woman however, is permitted to "remove hair" after the shiva.⁵

Should the mourner suffer one bereavement after another he is permitted to cut his hair with another utensil (not scissors).⁶

MISHNEH TORAH

Regarding cutting of the hair, Maimonides includes the prohibition against cutting any hair on the body. There is also the prohibition against cutting hair or nails (with an instrument). However, one can bite off his nails or use one nail to remove another.⁷

This prohibition against cutting hair is carried through the sloshim, except in the case of parents for whom the mourner waits until his friends advise him to cut it.⁸

SHULKHAN ARUCH

The Shulkhan Aruch notes the prohibition against cutting of the hair, but the Gloss adds some insight into the length of time one should observe the prohibition.

Moses Isserles, in his Gloss, specifies the time in which friends should rebuke the mourner (to get him to cut his hair). He writes that although there is a debate, the custom is to wait three months. And in the place where the custom not to cut one's hair for a father or mother (who died) for twelve months, we only do it earlier if his hair is heavy or if he walks (mixes with) gentiles.³

This final note by Moses Isserles is particularly important especially given our world today. Contact with gentiles is accepted practice among most Jews. And, even among those Jews who would prefer not to mix, they certainly have few second thoughts about doing business with non-Jews.

Therefore, it is important to know of the option of cutting one's hair in the event that it removes you completely from the business or social world.

Perhaps even more significantly, this serves as an example of a willingness to be lenient in matters which would make life more bearable for the mourner. Isserles realizes that the prohibition against cutting hair would effectively

remove the mourner from the general (gentile) society. To have let stand a more stringent position regarding cutting the hair might be regarded as unreasonable.

B. SEXUAL RELATIONS

TALMUD

David consoled his wife Batsheva;
he went into her and lay with her¹⁰

Based on this Biblical incident, the rabbis legislate against sexual relations while mourning. They deduce this from the assumption that prior to this, while David was mourning the loss of his son, he had refrained from sexual relations.¹¹

In Ketubot, in a discussion of the responsibilities of a menstruant wife, it is decided that she is permitted to do all her duties for her husband except pouring wine for him or things which involve physically touching him. However, if she is in mourning, her husband has no right to ask her to put on makeup. And while she is mourning and her bed is lowered, he also has his bed lowered.¹²

In other words, when she is in mourning, he is allowed to be near her at night.

However, when he is mourning for a parent, he separates himself from her and sleeps with men while she sleeps with women.¹³

MISHNEH TORAH

Regarding sexual relations, Maimonides helps to explain the rabbis' use of the Biblical verse of David comforting Batsheva. He writes that before then he was forbidden to comfort her or to have sexual relations with her. Also, if a man is in mourning, he should not marry. Similarly, he should not marry a woman in mourning.¹⁴

Maimonides notes that a mourner can be alone with his wife, however he is forbidden to have sexual relations.¹⁵

SHULKHAN ARUCH

The Shulkhan Aruch reiterates:

One in mourning is not permitted sexual intercourse, but in other ways touching is permissible, even mixing the cup, arranging the bed, and washing (his) face, hands, and feet -- in the midst of her mourning or his mourning. She is permitted to eat with him on a dish, permitted to sleep with him, he in his clothing and she in her clothing. However, since we say "go go around Nazarite," there is a strict position not to sleep with her in the same bed at all.¹⁶

Upon reading both the Mishneh Torah and Shulkhan Aruch, the separation of the couple at bedtime is not surprising. Nevertheless, note the lenient view of the rabbis allowing husband and wife even to be alone together. One might be

under the impression that under the circumstances, the rabbis would have gone out of their way to separate the couple lest they begin physical contact. However, the Gloss to the Shulkhan Aruch adds an important note which is clearly a "fence":

...with regard to hugging and kissing
there is a strict view¹⁷

C. WORK

TALMUD

The rabbis base the injunction against working on the following verse where God is rebuking the immoral acts of Israel in Amos:

I will turn your festivals into mourning.¹⁸

The rabbis make the following analogy. Since one is not permitted to work on a festival, one is not permitted to work during mourning.¹⁹

But there are circumstances in which the mourner is permitted to work during shiva. A Mishna indicates that a mourner or one in a stage of aninut who had turned his olives (in a press) or his workers disappointed him, he can put up the first beam (press the olives once) and leave it until after the Festival according to R. Yehuda. R. Yosi adds that he can draw off the oil and finish the process...²⁰

After a discussion between R. Shisha and R. Ashi where the two debate the connection between the mourner and the Festival week, R. Ashi indicates that even though the

prohibition against work is based on the Bible, the rabbis still permit it if there is a loss.²¹

Lest this more lenient position be abused, the rabbis make it clear that in the case of a field that can be seeded in a later season, even if it is sowed with another crop, we wait until the later season.²² The rabbis are saying that if it is possible to postpone or avoid the work, one should avoid it.

The Gemara states that if a Festival is upcoming, and a mourner is a skilled worker who works in a position such as a hair-dresser, or bath attendant, and there is no one else who could do the work, he is permitted to continue his work.²³ It is important to note that these are public positions, and if the duties were not fulfilled it would have impact on the entire community.

In other words, while work during shiva is permissible, it is only permitted under rather specific situations where either significant loss is involved or the mourner is the only one in the community available to perform the task prior to a Festival.

In Semachot, we are told that not only is the mourner forbidden to do work, but others are not to work for him, including his children, his servants, and his animals.²⁴

However, in the event that the mourner works with perishable items, others may do some work for him. This includes harvesting and operating the wine-press (if the olives have been "turned"). And, as noted above, R. Yosi takes an even more lenient position allowing the mourner himself to complete the job of pressing while in mourning.²⁵

MISHNEH TORAH

Maimonides indicates that the prohibition against work is also based on Amos 8:10. He notes that in addition to the prohibition against working, if the mourner is a salesman, he is prohibited from traveling from one place to another for the purpose of selling.²⁶

Maimonides also codifies the prohibition against a poor mourner working during the first three days even if he is sustained by charity. From then on he can work privately in his home.²⁷

SHULKHAN ARUCH

The Shulkhan Aruch repeats the prohibitions against working in the Talmud and Mishneh Torah but adds the following regarding a poor person who must work after three days of mourning:

But the Sages say, 'on his neighbors they should have needs as his.'²⁸

In other words, it is the responsibility of the community to support those who would have to work during the time of mourning. If the community is comprised of those who do not support the poor, then they should have the curse of poverty.

Based upon the teachings of R. Shisha, the Shulchan Aruch indicates that even if business will be lost, the mourner, or his family, or servants are not permitted to work.²⁹

The Shulchan Aruch notes that the mourner is not permitted to do his work, nor can others do his work for him -- even a gentile -- unless it would be lost business. In the case of lost business, the mourner can ask others to do the work for him.³⁰

The Gloss takes a more lenient position:

There are those who say if he is not able to do work through others and business will be lost, the mourner is permitted to do the work by himself, and after the first three days, we are lenient, and even within the three days, if it involves a great loss.³¹

Note, that Simeon b. Gamliel in Moed Katan 11b indicated that such skilled work was permissible, providing it was

Aruch appears to take a more lenient position than Maimonides because Caro includes the possibility of doing work privately.³⁴

A final note regarding working during the shiva. Some contemporary Jews have concluded that because the rabbis permitted a mourner to return to work during shiva, it is acceptable practice today. I think it is important to emphasize that while one was permitted to return to work after the third day it was only under extreme circumstances. Moreover, it was considered a blight on the community if one of the reasons for returning to work was poverty.

D. THE STUDY OF TORAH

TALMUD

The rabbis prohibit the study of Torah based on the Biblical verse in Ezekiel where God decrees that the evil will be punished:

Cry softly, observe no mourning
for the dead.²⁵ (This is also
translated as, "Sigh in silence.")

In other words, in a normal mourning situation, we would not cry softly. In this situation we are not to speak any differently.

To put it differently, mourners are to refrain from things that bring them joy, and the study of Torah brings joy. As we read in Psalms (and in the Gates of Prayer):

The precepts of the Lord are correct,
making happy the heart;
The commandments of the Lord are clear
bringing light to the eyes;²⁶

Therefore, the rabbis forbid the mourner to engage in the words of Torah.²⁷

It is of interest to note how serious a prohibition this was. A Talmudic debate ensues regarding whether or not one

who is separated (herem) from the community can teach Torah. They decree that he cannot teach or be taught, but that he may continue to study as long as he does so alone -- as it is a responsibility to pass the Torah on to subsequent generations.³⁸

Even one under a ban is permitted (perhaps obligated) to study Torah. Yet the mourner is not permitted.

The Talmud indicates that the restriction includes: Torah, Prophets, Writings, Mishna, Midrash, Gemara, Halachot, and Aggadot.³⁹

The rabbis clearly wanted the mourner to refrain from the most joyous thing he could do, even if not in the midst of others.

There is a poignant and personally important exception to this ruling. The rabbis rule that if the people need him (the mourner) to teach or make rulings, he does not have to abstain from Torah study.⁴⁰ The Talmud appears to leave the choice in the hands of the mourner.

In one case, a son of R. Yehuda bar Illia died and he entered the school. R. Hanina ben Akiva also entered and sat at his side and served as his spokesman to an interpreter, as R. Yehuda bar Illia whispered to him.⁴¹

It is possible that a modern posek might rule that this applies to virtually all teachers and rabbis working professionally today as they are constantly needed in their communities. Therefore, ironically, a contemporary rabbi (who is in mourning) might be the exception to those who have the option of going back to work immediately after a funeral -- since not even the three day restriction applies to Torah study.

In Semachot, we learn that if a sage or a student is mourning, others will discuss the laws of mourning with him. If they make a mistake, he can refute them quietly, but he does not ask questions.⁴²

MISHNEH TORAH

Maimonides confirms the basis for the prohibition of Torah study in Ezekiel. He also reiterates the Talmudic definition of Torah to include the Torah, Prophets, Writings, Mishna, Midrash, and Halakhah. However, unlike the Talmud, Maimonides does not include the Aggadah in his list of prohibitions.⁴³

Maimonides codifies the example of the Talmudic whispering scholars mentioned above. First Maimonides allows a mourner who is needed to teach Torah to do so. However, he may only do so if he does not have an interpreter standing (by him).

Rather, he whispers to another at his side who speaks to the interpreter at his side and this interpreter in turn speaks to the people.⁴⁴

This has implications for contemporary rabbis as they do not have such interpreters and therefore one might argue that they would not be permitted to teach Torah.

SHULKHAN ARUCH

In the Shulkhan Aruch we read the following:

All seven days a mourner is not permitted to read Torah, Prophets, Writings, Mishnah Gemara, Halachot, and Aggadot.⁴⁵

The Shulkhan Aruch then reiterates the position that if the public needs him he may study, but that he not stand (directly next to) an interpreter, instead there should be another person in between.⁴⁶

Until now, the Shulkhan Aruch appears to simply repeat prior decisions. However, the Gloss' notes diverge:

One may expound by himself (in other words, without an interpreter, directly to the public). One may make decisions if an individual asks him, if there is no one else rather than him (to do so), and they (the people) need him. But he is not permitted to teach halacha to his students. This is the custom, even though there are those who are lenient.⁴⁷

This Gloss leads to the following observation. Where the Talmud, Maimonides, and Joseph Caro make no exception for direct teaching, even for one who is permitted to do so because of the needs of the public, Isserles does. To offer a possible explanation, perhaps it reflects differing needs of the Jews of their day or of their location.

In the days of the rabbis, when Jewish life had specific centers of learning, it was likely that the needs of the community could be met by several sages and several interpreters. So, if one sage was in mourning there would be several others to render decisions in his absence. But as Jewish life spread out over the centuries there were fewer experts in each city, leaving no one to make such decisions or to be interpreters.

E. EXTENDING GREETINGS

TALMUD

The prohibition against extending greetings is based on the same verse in the Bible as the prohibition against Torah study, "Cry Softly, observe no mourning for the dead (Sigh in silence...)." ⁴⁸

In a general Talmudic decree, the rabbis say that a mourner is not permitted to "ask for peace" (extend a greeting). ⁴⁹ However, elsewhere in the Talmud they make a differentiation between the first three days of mourning and the rest of the days:

...a mourner during the first three days of mourning is not permitted to inquire about peace (offer a greeting); from the third day until the seventh he can respond (to an inquiry) but may not inquire (about another), from then on he inquires and responds in his usual way. ⁵⁰

There is some debate as to the meaning of the above. The Talmud speaks of a case where R. Akiva speaks publically to those who have come to comfort him on the loss of his two sons. When they were leaving R. Akiva said, "Our brothers of the House of Israel hear, even though my two sons were bridegrooms, I am comforted." ⁵¹

R. Akiva appears to contradict the baraita which teaches against offering a greeting during the first three days. But the rabbis rule that this is a case of honoring the public, and therefore permissible.⁵²

It is of interest that this incident is repeated in Semachot in great detail. R. Akiva is told that his son R. Simeon is ill but does not suspend Torah study. Instead, R. Akiva sends messengers back and forth to inquire about his son. Only after the fourth messenger reports back to R. Akiva that his son has died does R. Akiva suspend his study saying:

Until now we had the duty to study the Torah; but from now on we have the duty to occupy ourselves with honoring the dead.⁵³

It is in this context that R. Akiva then speaks to the public at the cemetery. But he speaks to them as a teacher of Torah, explaining that he knows that they are with him to fulfill the commandment (the funerary commandment) and that he is comforted knowing that his son will be in the World to Come since he was righteous.⁵⁴

R. Akiva states that good things come through good men. Even if Moses and Aaron had not risen, Israel would have been worthy of redemption from Egypt.⁵⁵

In other words, R. Akiva is not extending a greeting, rather he is teaching words of Torah and therefore not transgressing the prohibition against extending greetings.

The Talmud further states that there are contradictions between the baraita regarding whether or not a mourner is obliged to inquire about others within a thirty day or one year period and whether or not others should inquire about him. ⁵⁶

MISHNEH TORAH

Maimonides repeats the prohibition against the mourner responding to those who inquire about him, noting that during the first three days of shiva he should inform them that he is mourning. He also writes that after the third day until the seventh day, the mourner may respond to the greetings of others. From the seventh day through the thirtieth day, he may greet others but others should not greet him. ⁵⁷

Maimonides further postulates an even more strict position:

If a mourner is forbidden to inquire about others, all the more so that he would be forbidden (to speak) many words (talk too much) and to laugh, as it is written "in silence." ⁵⁸

And Maimonides goes even further saying that a mourner should not hold a baby in his arms because it can lead to laughter. And he should not enter a place of joy or a banquet.⁵⁹

SHULKHAN ARUCH

The Shulkhan Aruch repeats the prohibitions of extending greetings to the mourner, noting the proper response from the mourner should he be approached (informing them he is mourning). It also includes the distinction between the first three days and the duration of the week as well as the thirty day and twelve month period.⁶⁰

The Gloss reinforces Maimonides kal v'homer regarding the prohibition against speaking too much in view of the greeting prohibition.

The Gloss also notes:

There is a lenient view regarding extending greetings to the mourner after thirty days (for a parent) -- and there is no basis for them (to do this). If (unless) they make a division by saying this is our custom, and it is not the same as extending a greeting in their days.⁶¹

In other words, Isserles is saying that the lenient position is justified by making a distinction between what the Talmud

considers a greeting and what is considered a greeting during Isserles' time.

For example, the Beer Hetev explains that the prohibition against extending greetings refers only to "Shalom Aleichem", not to conventional greetings such as "Good morning" or "Good day".⁶²

However, the custom among some very observant Jews today is not to shake hands with mourners.⁶³ So, while the Gloss and the Beer Hetev allow for a more lenient position, there are clearly those who look upon any greeting as prohibited.

I am convinced that there are several reasons for this prohibition. One who would not extend greetings, would not be expected to put on the "happy face" that some often feel they are expected to do in times of pain. Also, one in mourning would focus more on himself than on others as a result of not extending greetings.

F. WASHING CLOTHES

TALMUD

The Talmud refers to the following Biblical verse in support of the prohibition of washing clothes:⁶⁴

"So Joab sent to Tekoa and brought a wise woman from there. He said to her, 'Pretend you are in mourning; put on clothes of a mourner and do not anoint yourself with oil; and act like a woman who is mourning a long time for the dead.'⁶⁵

The Talmud debates whether or not this prohibition includes pressed clothes and/or new clothes. Rabbi taking the position that the rabbis were referring only to new clothes (implying that pressed clothes were permissible), and R. Eleizer b. Shimon saying that the prohibition included only new clothes that were white and made of linen.⁶⁶

Both positions were reflected in practice. While in mourning, Abaye wore a surbala, which reflected the wishes of Rabbi. A surbala was a cloak worn by scholars "to which seals (knots) were attached."⁶⁷ Raba, however, wore a red Roman garment during mourning, in accordance with the teachings of R. Eliezer b. Shimon. R. Eliezer b. Shimon prohibited only new white linen clothing.⁶⁸

In the event that the mourner suffers one bereavement after another, he is permitted to wash his clothes in cold water, as long as he does not wash them in urine (a cleansing agent).⁶⁹

MISHNEH TORAH

Maimonides cites II Samuel 14.2 as the source for the prohibitions against washing clothes, bathing and anointing oneself. Maimonides notes that there is a connection between bathing and anointing. Since a person bathes prior to anointing, they should not anoint themselves. This is based on Ruth 3:3.⁷⁰

And wash (yourself), and anoint (yourself),
and put your clothes on yourself, and go down
to the threshing floor... (Ruth 3.3)

SHULKHAN ARUCH

A mourner is not permitted to wash his clothes all during the week of shiva, even in cold water. After the week, he is permitted. As he is not permitted to wash his clothing, similarly, he is not permitted to wear clean clothing which was washed before.⁷¹

The Gloss clarifies that the custom is that only after another person wears them is mourner permitted may put them

on. And if that other person wears the garment only one hour, it is sufficient for the mourner to wear it.⁷²

The Shulkhan Aruch details that one is also not to wash bedding materials and towels, except during Hol ha Moed.⁷³ The Shulkhan Aruch recognizes the needs of minor children and notes that in their case, it is permissible to wash their clothes in the event of their parents' death.⁷⁴

The Shulkhan Aruch codifies the debate which took place between Rabbi and R. Eliezer b. Shimon regarding new clothes and new white linen clothes during the sheloshim:

It is forbidden to wear during the shiva new dyed clothes or old clothes from under the press.⁷⁵

Since the above refers only to the shiva period, one can extrapolate that for the remainder of the sheloshim, one is permitted to wear new clothes, with the exception of new, white, linen clothes. This concurs with the view of R. Eliezer b. Shimon.

Here are some final observations regarding mourners and clothing. In the general population, there is clearly an association today with death and the wearing of black clothing. This also held true for Jews for many centuries as it was the custom for Jewish mourners to wear black during the sheloshim. As Tzvi Rabinowicz writes:

Simeon the Just predicted his approaching death. When he was asked how he knew this, he replied: "On every Day of Atonement an old man, dressed in white...would join me entering the Holy of Holies...But today I was joined by an old man dressed in black."⁷⁶

Rabbi Rabinowicz cites several other examples reflecting the common practice of Jews wearing black clothing, including the example of the black mourning cloaks which were worn by the Jews of London throughout the week of shiva -- as late as the nineteenth century.⁷⁷

However, the practice has changed dramatically among Orthodox Jews today who consider the wearing of black clothes, and even the wearing of a black arm band, as chukkat ha-goy.⁷⁸

Finally, it is permissible to wear a clean shirt on Shabbat. However, the custom is that one does not change underwear unless they are not clean. So, while publically the mourner joins in the Shabbat spirit, privately he continues to mourn.⁷⁹

G. BATHING AND ANOINTING

TALMUD

II Samuel 14:2 also serves as the basis for the Talmudic injunction against anointing:

...And do not anoint yourself with oil. (II Sam 14:2)

The Talmud further notes that bathing is done along with anointing, henceforth the connection and prohibition against bathing.⁶⁰

One of the most interesting objections raised to the prohibition against bathing occurs in Ta'anit 13b.

The rabbis, in a clear attempt to encourage marriage, prohibit a single woman (of marriage age) from looking badly during the days of mourning for her father. If she does not bathe, she will look bad. A debate follows regarding whether or not the prohibition refers to cold water or warm water washing.⁶¹

Raba says that a mourner may not bathe in cold water during shiva. The question is raised that during shiva one is permitted to eat meat and drink wine while forbidden to

bathe. This appears to be rather incongruous. The explanation is that meat and wine make the grief easier.⁸²

However, one is still left with the problem of the woman of eligible age who has not bathed -- to which is added the question of a girl not of marriageable age. Should she also become a "dirty" woman?

One answer posited is that the prohibition refers only to wearing make-up during mourning. However, this appears to be rejected.⁸³

The halacha is that a mourner is not permitted to wash all of his body in cold or warm water during shiva. However his face, his hands, and his feet, he is forbidden to wash in warm but permitted to wash in cold. He is not permitted to anoint himself, unless it is to remove dirt.⁸⁴

MISHNEH TORAH

Maimonides includes the prohibitions against washing, bathing, and anointing all in the same paragraph, noting that the basis for this prohibition is II Samuel 14:2.

He confirms that "anointing implies bathing, because the former is preceeded by the latter." This is from Ruth 3:3, "...wash yourself, and anoint yourself."⁸⁵

SHULKHAN ARUCH

The Shulchan Aruch codifies the injunction against bathing the entire body but permits cold water washing of the hands and feet.⁸⁶ The Gloss notes that while the law forbids observing this only during the shiva, the custom has been to prohibit all washing for the thirty days.⁸⁷

The Shulchan Aruch also offers an explanation regarding the anointing prohibition. When addressing the question of "What kind of anointing?", it explains that all anointing is forbidden -- if the intention (of the mourner) is to bring pleasure.⁸⁸

This question of the "intention of pleasure," could be one of the greater considerations in all of the mourning prohibitions. One can see that the prohibitions are overwhelmingly directed at those things which bring one pleasure.

The Shulchan Aruch indicates that the exceptions to the rule against bathing include a woman in mourning who gave birth, or a delicate person.⁸⁹ A menstruating woman whose time for mikveh arises during the days of mourning, is permitted to bathe following the seventh day. (even though the custom is to wait thirty days).⁹⁰

The Shulkhan Aruch clarifies that a woman should not wear make-up during the mourning period as these things are considered like bathing. However, if the woman is married, she abstains from this only during shiva, lest she become unattractive to her husband. ²¹

Regarding the single woman of marriage age, she is permitted to wear makeup but not permitted to bathe all of her body in warm water. The young woman is not permitted even to wear make-up. ²²

H. WEARING SHOES

TALMUD

The word of God came to Ezekiel:

Cry softly; observe not mourning for the dead
Put on your head ornament, and sandals put on your
feet...²³

From this Biblical passage, the rabbis base the prohibition
of wearing shoes while in mourning.²⁴

However, there are exceptions to this prohibition. For
example, while the mourner is traveling on the road, he is
permitted to wear shoes, as long as he removes them upon
entering the city.²⁵

MISHNEH TORAH

Maimonides writes:

From where is it learned that a mourner is
not permitted to put on sandals? Behold it
was said to Ezekiel, 'And your sandals put on
your feet.' From this rule we learn that for
all people (mourners) it is not permitted.
If he comes on the road, he walks with shoes,
and when he enters the city, he removes his
shoes.²⁶

SHULKHAN ARUCH

While Maimonides codifies the prohibition against wearing shoes, by the time of the Shulchan Aruch the practice appears to be more specific.

Here we find the prohibition refers only to shoes that are made of leather. Shoes made of other fibers are permissible.⁹⁷

The restriction is also relaxed in the case of a woman who has been confined for childbirth, because of the difficulty to her.⁹⁸ Also, if there is a possibility that one could be hurt by scorpions or thorns, one is permitted to wear shoes.⁹⁹

The Shulchan Aruch notes the permissibility of wearing shoes while walking on the road as long as they are removed upon entering the city. However, Caro cites an opinion which allows the mourner to leave his shoes on until he enters his home in the event that the majority living in a city are non-Jews.¹⁰⁰

This is an important exception as it reflects the adaptation of Jews to living in non-Jewish environments. One might surmise that the Jews did not want to appear too odd to gentiles. In other words, the gentile became the "reference

group" for certain Jewish practices. The same concern was likely the consideration in waiving the prohibition of overturning the bed. (For an extended discussion see entry, "Sitting on the Bed.")

Wearing leather is associated with comfort and wealth. That is among the reasons Jews have not worn leather shoes on Yom Kippur. Like Yom Kippur, mourning is a time of "personal mortification and disregard of vanity and comfort, in order to better concentrate on the deeper meaning of life."¹⁰¹

Today, many Jews in mourning will walk with stocking feet or slippers while in their homes. As the mourners are the only ones in that state, it does identify them to others. It is also a constant reminder to the mourners themselves that from their head to their feet, they are grieving.

I. SITTING ON THE BED

TALMUD

The prohibition against sitting on the bed is grounded in the Billical verse in Samuel:

And the king rose and rent his clothing
and lay down on the ground.¹⁰²

The rabbis debate whether or not this is to be followed literally by mourners. They raise the following question. In the case of Job, he stood and rent his garment. Does this mean that one needs to stand when rending? Perhaps the fact that Job was standing was incidental. In this case, the rabbis believe that the fact Job was standing is prescriptive and they rule that one does stand when rending the garment.¹⁰³

Similarly, when David sat on the ground in Samuel, the rabbis note that this was not an extra unrelated act. R. Yohanan ruled that even if one sat on a chair, a bench, or slept on the ground, he has not fulfilled the requirement until he overturns his bed.¹⁰⁴

The rabbis raise the question as to when the mourner should overturn the bed. R. Eliezer said that this is done when the deceased is removed from the house. R. Joshua rules

that one does not overturn the bed until the stone that was rolled in to close the tomb was put in place.¹⁰⁵

The rabbis teach that one must turn over all the beds in the house.¹⁰⁶ They do not offer any explanation for this, but one may surmise that by overturning all the beds, the mourner would not be tempted to sleep in another bed in the house that had been left unturned. Also, other family members would share in the grieving process out of respect.

In the event that one is not sleeping in his own home, he need only overturn the bed that will be slept in and need not overturn his usual bed. Further, the bed is overturned six, five, four, or three times depending on when the death occurred.¹⁰⁷

MISHNEH TORAH

Maimonides notes that the mourner must keep the bed overturned for the full shiva, and this refers to all the beds in the house. Further, it is not enough to overturn the bed, but one must sleep in the bed as well.¹⁰⁸

It is of interest that Maimonides does not step into the dispute as to when one overturns the bed (either when the body is removed from the house, or when the stone is placed on the grave).

SHULKHAN ARUCH

There are two comments in the Shulkhan Aruch regarding overturning the bed, both of which are of particular interest.

A mourner is required to overturn his bed. When the time arrives to sleep, he can sit on the overturned bed. But during the day he is not permitted to sit on the bed but rather on the ground. And those who come to comfort him are not to sit except on the ground.¹⁰⁹

In other words, the purpose of overturning the beds was as a result of the prohibition against sitting on them.

However, Caro notes that now it is not the custom to overturn the bed as the gentiles will say that it is witchcraft. And our beds today are not like beds of theirs (in years past), in order that (it is obvious) they have been overturned.¹¹⁰ In other words, since the beds used in Caro's time were very different then the beds used in the rabbis day, and overturning beds in the time of the Shulkhan Aruch made no difference in the way one slept, there was no reason to overturn the beds.

This is important. By Caro's time we see the Jews not wanting to do something which would be looked upon by

gentiles as witchcraft. Like other liberalizations of mourning prohibitions, it reflects the Jewish desire to be reasonably accepted by the non-Jewish world. It also gives more credence to the argument that some of the motivation for the rabbi's prohibitions was the removal of pleasure. If overturning the beds no longer had an unpleasant effect (because of the way they were made) then there is no reason to do so.

Today, the practice of overturning beds has been abandoned and replaced with sitting on low stools.¹¹¹ This is likely the origin of the term "sitting shiva." We sit close to the ground, usually on a stool or even a pillow. The point is that our physical position reflects or encourages our emotions. We are literally brought down, both physically and psychologically.

Maurice Lamm points out that while the mourner need not sit during shiva, when he does sit he should do so at a height lower than normal. And he need not get up for any visitor.¹¹²

J. REMOVING THE HEADDRESS

The prohibition against removing the headdress is grounded in the Biblical injunction that God commanded Ezekiel:

...do not cover your upper lip...¹¹³

The JPS Tanakh translation of this is, "...do not cover over your upper lip..."¹¹⁴ From this verse, the Talmud understands that everyone else is obligated to do so. In other words, if one's upper lip was covered it was a sign they were a mourner.

Semachot informs us that the mourner should muffle his head when the grave is covered with the stone. However, if he attends to another funeral while at the cemetery, he removes his headdress and takes his place in the mourner's row. When he leaves, he then muffles his head again.¹¹⁵

MISHNEH TORAH

Maimonides, in addition to codifying the prohibition against removing the headdress, explains that the headdress is a scarf with which the mourner covers his mouth. He bases this on the Levitical verse, "...and he shall cover his upper lip."¹¹⁶ Leviticus is referring here to a leper who is to rend his clothing, leave his head bare, and cover his

upper lip. Maimonides also cites Onkelos in reference to Leviticus, "As a mourner he shall wrap himself."¹¹⁷

SHULKHAN ARUCH

While the Shulkhan Aruch includes only one entry regarding this prohibition, along with the Gloss it goes far to explain what was prescribed:

A mourner is required to cover his head-- required to cover his head in a tallit (might be generic for a cloth) or a wrap, so that it folds on his mouth and on the head of his nose.¹¹⁸

Here, the Shulkhan Aruch explains with some detail the practice more specifically than the Talmud. Based on the above verse in Semachot, the Shulkhan Aruch notes that he covers his head all day, but not when mourners come to greet him, out of respect to them.¹¹⁹

The Gloss adds the most interesting note:

There are those who say that in these countries there is no custom of muffling (the head). This is the common custom, and one does not accept the more strict position to change in that which was not the custom of our fathers.¹²⁰

The Gloss is making two very important general points. The first is that what the Talmud states may not always be reflected in practice. More importantly, it is the adopted

practice which influences the halacha. The halacha changes as a result of practice. This is similar to the midrash, lo bashamayim he insofar as the law is influenced by the people.

Isserles' statement can also be interpreted as a general principle that to become more observant in a particular practice than one's ancestors is not always desirable. Therefore, a return to Talmudic dicta, under certain circumstances, should not necessarily be the goal.

However, the reason that a practice was changed or abandoned would be crucial. It is not fair to merely state that at a specific time, practice "X" was altered or abandoned, and therefore there is no need to continue or even give serious consideration to such a practice today. It is important for serious Jews to ask about the circumstances which caused the abandonment or alteration of a given practice. In some cases, those circumstances might be similar to the contemporary world, and therefore there would be justification in the continued abandonment of the observance.

Conversely, should circumstances have changed since the time of the cessation of a practice or a ruling, then it is incumbent upon Jews today to reconsider each particular practice in light of the contemporary world. In some cases

this might lead to a reinstatement of practices that have not been followed since Talmudic times. For example, if the reason for abandonment of a practice during the 15th Century was concern for how that practice would appear to the gentile, and that concern would not apply today, one might reinstate the practice.

For an application of the above, one can look to the Gloss' comment that in certain countries the practice of muffling the head had been abandoned.

The Tosafot to Moed Katan 21a shed some light as to the reason for this. Because this practice leads to mockery among the gentiles, it is to be avoided. Such a criterion goes a long way to give us insight into the desire of Jews to be accepted in the non-Jewish world.

The question for contemporary Jews is, would such a practice lead to mockery today? What are the consequences of such mockery? Would it pose a greater threat to Jews in the Soviet Union than in the United States? Should there be different laws governing Jews in different countries given the concern for mockery among gentiles? Jewish/gentile relations are not the same in every State.

Therefore, it would be incumbent on serious contemporary Jews to consider the reasoning of Tosafot in relation to the

world today and then decide about the reinstatement of any given practice.

Chapter III

FOR WHOM DO WE NOT MOURN?

INTRODUCTION

In addition to the behavioral prohibitions during mourning, the rabbis prohibit mourning for certain individuals under specific circumstances.

Included in this list are: an infant who dies before reaching his thirtieth day, one who separates oneself from the community, and one who commits suicide.

A. AN INFANT LESS THAN THIRTY DAYS OLD

A nefel is a non-viable or premature birth. The rabbis determine that an infant who lives thirty days is not considered a nefel. Their reasoning is based on the Biblical verse:

"Take as their redemption price, from the age of one month..."²

Conversely, we can deduce, that a child living less than thirty days, is considered a nefel. In other words, one must live thirty days to be considered a viable human being.

Using as a basis this Biblical view of a redemption price from the age of one month, the rabbis conclude that an infant who dies before the thirtieth day was to be treated differently. Therefore, they legislate that for such an infant, we do not stand in a mourner's line (to offer condolences to the bereaved), nor do we recite the mourner's prayer (Birkat Avelim).³

Further evidence of the status of this infant is that he is buried in a coffin only if he reaches his thirtieth day.⁴

The Mishneh Torah and Shulkhan Aruch reiterate the rabbinic injunction that such an infant is to be carried to the grave in someone's arms and that we do not stand in the mourner's line or recite the mourner's prayer.⁵

However, in the Mishneh Torah, Maimonides notes that if there is certainty that the birth was as a result of a nine month pregnancy, mourning rites are observed.⁶

The Shulkhan Aruch states that we do not mourn for an infant of less than thirty days, even if its hair and nails are developed. From after the thirtieth day, we do mourn for it unless we are certain that it was born after eight months of pregnancy (prematurely). But if we know that it was a full term pregnancy, since the husband (had intercourse) and left

(her), and the birth was after nine complete months -- even if the child died on the first day, we mourn for him.⁷

The distinction then, has nothing to do with the development of the child, only the length of its life.

However, what about the case where one is not certain of the length of the pregnancy, as in the situation where a divorce and remarriage took place?

Moses Isserles in his Gloss notes that if there is a question of the term of the pregnancy, as a result of a divorced woman who has remarried and is not certain which of her husbands impregnated her (and therefore unsure of the term of the pregnancy) -- in this case both husbands mourn for the infant.⁸

In a case where there is an acknowledged possibility that we may be mourning for an infant who was not full term and died before the thirtieth day, we can say that it is better to risk mourning for an infant who should not be mourned rather than not mourn for an infant for whom we are required to mourn.

In reflecting on the rabbinic prohibition against mourning a young infant, one might conclude that the rabbis were insensitive to the needs of the parents. This seemed

particularly odd considering the deep sensitivity they displayed regarding suicide.

Yet, considering the high infant mortality rate of their day, perhaps the rabbis were being particularly sensitive. Had full burial and subsequent mourning rituals been legislated in the case of a young infant, the average Jewish couple may have spent a great deal of time grieving -- a pattern which, no doubt, would not have served the couple nor the Jewish people well.

Having written this, I am perplexed at the comments of two contemporary books on the subject of the death of such an infant.

In the very popular, The Jewish Way in Death and Mourning, Maurice Lamm writes the following:

A life duration of more than 30 days establishes the human being as a viable person. If a child dies before that time he is considered not to have lived at all, and no mourning practices are observed, even though the child may have been normal, but was killed accidentally.²

The exception of the nine month pregnancy is not referred to here. However, Rabbi Lamm does refer the reader to a later paragraph in his book which emphasizes the importance of consoling such mourners even though "...the deceased may not

be specifically honored and should receive no public recognition..." In fact, he notes that these mourners require our attention "perhaps more than any others."¹⁰

And, in the recently published A Guide to Life, Tzvi Rabinowicz writes:

The rites of keriah do not apply when the deceased is an infant less than thirty days old.¹¹

Rabbi Rabinowicz cites Yoreh Deah 340.30 as the source for this injunction. However, he does not cite the entire passage which reads:

For a child that we do not know with certainty the fullness of his months (length of pregnancy), and died within thirty days, or on the thirtieth day, we do not rend for him.¹²

The first half of the passage is obviously critical. It is not uncommon today for an infant who has died before his thirtieth day to have been born as a result of a full term pregnancy. However, if a parent had read only the above paragraphs in Lamm and Rabinowicz, he would not know that such a child is given full mourning rites. And, for this author, the decision is still not clear if the child is mourned.

Finally, it would be sensible that if a premature baby dies before its thirtieth day and no mourning rites are observed, the same would hold true for a miscarriage. Regarding this, Maimonides notes that the miscarriage and the premature infant less than thirty days old are in the same category and no mourning is observed.¹³

B. THOSE WHO SEPARATE THEMSELVES FROM THE COMMUNITY

The words of Semachot regarding one who separates from the community are very clear. We are not to be concerned about their funerary rites in any respect. Rather, we are to rejoice in their demise.¹⁴

Maimonides defines specifically those who are considered to have separated themselves:

All who separate themselves from the ways of the community -- the people who push off the yoke of the commandments, and do not join 'Klal Yisrael' in doing the commandments, observing the Festivals sitting in the Synagogue, or the house of study. Rather, they acted as if they were free men (did what they wanted). This also applies to apostates, other sinners. For all of them we do not mourn. Rather, when they die, their brothers and relatives wear white clothes and wrap themselves in white clothes, and eat, and drink, and celebrate, because haters of God (have died).¹⁵

The prohibition is based on Psalm 39:

"Lord, those who hate you -- I hate,
and hate those that rise up against you.
I hate them with great hate, I count them
as my enemies."¹⁶

The Gloss to the Shulkhan Aruch further defines those who have separated themselves from the community. It is to include those who have not paid their taxes from cattle and crops. However in this case, we mourn for them but the

remainder of the people of the city need not stop working on their account.¹⁷

If the criteria used today to determine for whom we mourn was observance of mitzvot as it was in rabbinic times, few Jews would be "eligible". For Maimonides, casting off the "yoke of commandments" was a way of removing oneself from Klal Yisrael. In the time of Maimonides, this was a way of separating from the community.

However, in contemporary times, the majority of Jews do not accept the "yoke of the commandments", and non observance may not have the same implication. In fact, ironically, some Jews consider observing the commandments to be removing themselves from Klal Yisrael.

This is predicated on defining Klal Yisrael as what the majority of Jews do or do not do.

What of a Jew who is completely uninvolved in any aspect of Judaism or Jewish life today? As a good portion of Jews fall into this category, is one to assume the rabbis would have been willing to omit them from regular funerary practices?

One explanation for the rabbinic legislation against mourning for one who has separated himself from the community -- is to prevent them from doing so.

There are few (perhaps no) public statements which are more powerful than the withholding of mourning. And while there would be those who would completely break with the community and therefore not have an interest in community approval, for the majority it would be very difficult to live knowing that upon death no proper funerary and mourning rites would be observed. Such would be the case for those who would break from community practices. No doubt the rabbis were using their authority to influence compliance with Jewish practice in the hopes of preventing the contemporary Jewish situation of great latitude in observance and concomitant assimilation.

In a very different way, the question is further complicated by the application of this law. For example, what of a robber who has by his action disassociated himself from the community. Does one mourn for him?

To this one can turn to the Shulkhan Aruch for some guidance. Sifthe Kohen notes that if the robber dies a natural death and repented, we observing mourning rites.¹⁰

Presumably, we can extrapolate from this that anyone who has broken from the practices of the community may receive full funerary rites in the event they make teshuva. That being the case, only an unrepentant apostate would not be given full funerary rites.

In fact, even if one publically breaks from Jewish practices, he is granted some of the funerary rites such as taharah and takrikhin. However, shiva is not observed. In other words, unless one formally breaks from Judaism, even an "arrogant sinner" is granted some rites.¹²

C. SUICIDE

In researching this thesis, an area of increasing interest was suicide. This is a particularly complicated matter, to which many volumes have been devoted, and I suggest to the reader that while this issue has been covered in some detail -- a full assessment of suicide and mourning requires additional study.

"There is no extensive analysis of the laws of mourning with regard to a suicide found in rabbinic literature." These are the words which appear in the Bibliographical Essay which prefaces the recently published volume, Suicide in Rabbinic Literature.²⁰

Consider a few Biblical examples of suicide. Samson is among the most well-known suicides. In Judges 16:30, after he is duped by Delilah, his strength gone and his eyes gouged, he intentionally brings the building down upon himself and the other Philistines. He clearly states his willingness to die saying, "Let me die with the Philistines."

Equally as well known is the instance of King Saul, also in reaction to the Philistines. Following the death of Saul's three sons in battle, Saul was severely wounded. Saul asked

his arms-bearer to kill him, and when his wishes were refused, "Saul took his sword and fell on it."²¹

While the Bible does not directly prohibit suicide, the rabbis base the prohibition against suicide on the following Biblical verse:

And surely your blood of your lives I will require...²²

Tractate Semachot notes the following with respect to suicide: One is not to observe any rites for one who committed suicide. The Hebrew term which Semachot uses for this suicide is hamabed et atzmo v'daat, one who takes his life knowingly. In this case, we say, "Alas for a lost life, Alas for a lost life." R. Akiva says that we should not mourn for him and we should neither speak well or badly about him.²³

Semachot continues that one is not to rend clothing, or deliver a eulogy. But, one does stand in the mourner's row, and recite the mourner's benediction.²⁴

Semachot puts it in the following way: We occupy ourselves with regard to things which show respect to the living, but that which does not show respect for the living we do not do.²⁵

In the Mishneh Torah, Maimonides also notes that funerary rites are not performed for a suicide, he is not mourned, nor eulogized. Maimonides also defines suicide as hamabed atzmo l'daat. But one does stand in the mourner's line and does everything that is for the honor of the living.²⁶

In other words, the concept of kevod ha met, which is so prevalent throughout rabbinic thought, does not apply in the case of a willful suicide.

Semachot defines suicide not as one who climbs to the top of a tree or is on a roof and falls to his death.²⁷ Rather, it is one who calls out:

"Look, I am going to the top of the roof or the top of the tree, and I will throw myself down that I may die."²⁸

Further, Semachot states that when people see him go to the top of the tree or roof, and then he falls to his death -- such a person is presumed to have committed suicide.²⁹

And if a person is found strangled and hanging from a tree, or lying dead on a sword, we do not assume he has committed suicide. Rather, we consider that he has taken his life unknowingly. The Hebrew term is shelo l'daat, which literally translates "without knowledge".³⁰

This last paragraph is vitally important as it presumes a non-suicide when the above conditions are not met and no witnesses are present. The assumption is that there is no suicide unless there is proof to the contrary. In spite of the fact that circumstances and evidence might suggest a suicide.

What follows in Semachot are two examples of child suicide. In the first, the son of Gorgias runs from school. When his father points to his ear (a sign of punishment), the child casts himself into a pit. R. Tarfon rules that no rites (funerary) are to be denied him.²¹

Similarly, when a child violates the Shabbat and in/fear of punishment throws himself into a pit, R. Akiva also rules that nothing is to be denied him.²²

There is a debate in rabbinic literature regarding why these children are given full funerary rites. It centers on whether or not it is because they are minors, or because the fear of punishment rendered them not responsible. The key is that psychological factors were a major consideration. Regarding these examples, Sidney Goldstein writes:

This early association of suicide with irrational behavior is most significant and has greatly influenced the views of many authorities in dealing with cases of suicide.²³

Consider the differences between Semachot and Maimonides. In Semachot, in defining a willful suicide, a person must openly state his intent.

Look, I am going to the top of the tree, or to the top of the roof, and I will throw myself down to die. When people saw him go to the top of a tree or roof and he fell and died, he is presumed to have committed suicide.³⁴

Only when there are witnesses who hear this intentional and stated action, is the person considered a suicide. If there are no witnesses then suicide is not assumed.

In Suicide in Rabbinic Literature, Goldstein points out that the following passage in Semachot can shed further light on the way in which Maimonides differs:

If a person is found strangled and hanging from a tree, or slain impaled on a sword, he is presumed to have taken his life unwittingly, and (as to) anyone who takes his life unwittingly, no (burial or mourning rites) are denied him.³⁵

Goldstein notes that the phrase harai hu b'hezkat me'abed azmo shelo mida'at, which he translates "he is presumed to have taken his life unwittingly," is significant because there is an assumption that the person did indeed take his own life.³⁶ In other words, there is no question of suicide, or even of intent. Nevertheless, funerary rites are not denied.

The distinction may not be between one who commits suicide and one who does not, but between one who commits suicide knowingly or unknowingly. This is the distinction between l'daat and shelo l'daat.

Consider how the Mishneh Torah differs. When defining a suicide, Maimonides writes that the person who is found hanging on the tree, or slain by the sword is considered harei hu b'hezkat kol hamatayim.²⁷ In other words, his status is like that of anyone who died. Unlike Semachot which makes a distinction between one who takes his own life and others, Maimonides does not consider such a death to be in a separate category.²⁸

So, in Semachot, because there are cases in which one could take one's own life and still be given all rites, the reason for the death becomes crucial. In effect, Semachot has created a category for "legitimate" suicide.

Maimonides, on the other hand, does not ever see a suicide as receiving full funerary rites, but Maimonides is more lenient regarding the definition of a suicide.

There are cases in the Talmud where actively taking one's life is proper, if not mandated. For example:

On one occasion four hundred boys and girls were carried off for immoral purposes. They

understood what they were wanted for and said to themselves, "If we drown in the sea we shall attain life in the world to come." The oldest among them expounded on the verse "The Lord said, I will retrieve from Bashan, I will retrieve from the depths of the sea..." "I will retrieve again from Bashan" -- from between the lion's teeth. "I will bring again from the depths of the sea" -- those who drown in the sea.³⁹

The girls then jump into the sea and the boys follow. The Talmud then quotes Psalm 44:

It is for your sake that we are slain all day long, that we are regarded as sheep to be slaughtered.⁴⁰

The Talmud debates whether or not that verse was created for the above purpose. R. Judah claims it refers to "the woman and her seven sons," each of whom die rather than serve idols. R. Joshua b. Levi suggests that the verse refers to circumcision and Reish Lakish says it applies to students of Torah who "demonstrate the rules of shechitah on themselves."⁴¹

But there is no debate regarding the behavior of the children who threw themselves into the sea. The Talmud, by noting that final verse from the Psalmist, is legitimating this mass suicide. The general rule that can be learned from this is stated in the following Tosafot to Avodah Zarah:

Rabbenu Tam says that when there is fear that gentiles would try to force Jews to commit a sin through unbearable torture, it

is a commandment to take one's life as
in Gittin 57b (underline mine).⁴²

First, note that Rabbeinu Tam recognizes the children's action as actively taking their lives. He terms this taking of life as l'abed b'atzmo, which cannot be defined as willful suicide. Nevertheless, this taking of life is a mitzvah.

The Shulkhan Aruch notes that the suicide is not to be attended to, not to be mourned for, no eulogy is to be made, garments should not be rent, and the shoulder not bared. However, one stands in a line (mourner's line) and says the mourner's prayer, and does everything that shows honor to the living.⁴³

The Shulkhan Aruch defines suicide:

Who is considered me'abed atzmo l'daat? For example, as it is said, behold he goes up to the top of the roof, and they say him go up immediately in anger, or that he was emotional (she hayah miyatzer), and he fell and died, behold, this (person) is considered a suicide. But if they see him strangled or hung from a tree, or he is dead, or fallen on his sword, he is considered like any other person who died, and we do not deny anything.⁴⁴

Here, the Shulkhan Aruch accepts Maimonides' view, and does not refer to such a person in a separate category.

The following question regarding suicide might be raised. If there is a reasonable possibility that one might die from a given act, and knowing this commits the act, would this be considered a suicide? For example, if one commits an illegal act that is punishable by death, or if one risks life by being racing cars and death results, is this a suicide?

In response to this question, consider the Gloss to Yoreh Deah 345:2. In this case, one who is a thief and is to be executed by state law is still entitled to mourning rituals, if there is no danger from the state for doing so. He is not considered a willful suicide.

But one could argue that in committing such a crime and risking the punishment of death, that this is a suicide -- albeit, not a "willful" suicide. This is similar to the case suggested above, of an amateur race car driver.

Sifthe Kohen confronts this problem directly. While thievery may be a capital crime, the thief -- although aware of the possibility, may not expect to be caught.⁴⁵

Essentially, one returns to the question of intent and finds in this gloss of Sifthe Kohen, another example of the desire to define suicide, willful or not, in a limited way.

In fact, the Talmud speaks of an evil government which has issued a decree forbidding the practice or study of Torah. When R. Akiva is found bringing people together to study Torah he is asked if he is afraid.

R. Akiva replies with the story of a fox who walks along a river and sees fish swimming all over the place to escape the nets of the men. When he invites the fish to the dry land they reply, "If we are afraid in the element in which we live, all the more so in the one in which we will die."⁴⁶

R. Akiva then makes the following analogy. If fear is the condition in which to study Torah, which is "our life and the length of our days," how much the worse we will be if we neglect it.⁴⁷

Returning to the issue of the minor, the Shulkhan Aruch makes a fascinating analogy:

A minor who knowingly takes his life is reckoned as if it (the suicide) was not done knowingly. And also an adult who knowingly kills himself, and he was compelled like Saul the King, they do not withhold anything from him.⁴⁸

Several very important decisions are reflected in this late code. Regarding children, even in the case of a clearly willful suicide (the Shulkhan Aruch says above hame'abed atzmo l'daat), no funerary practices are denied. This is

based on the cases in Semachot outlined earlier when a child casts himself into a pit in fear of punishment.⁴⁹

One may surmise then, that under no circumstances will a child suicide be withheld any funerary rites.

More importantly, the death of King Saul -- a death that is acknowledged as l'daat, is legitimate. Indeed, it is the paradigm for justifiable suicide.

This would appear to contradict Semachot as well as an earlier entry in the Shulkhan Aruch. Recall in Semachot that should someone be found hanging from a tree or fallen on a sword, "he is presumed not to have committed willful suicide (and that is why) no (funerary rites) are withheld."⁵⁰ In the example in Semachot, in order to be deemed a suicide, a man must first call out that he is going to the tree or roof, proclaim his intentions to throw himself off, and do so in front of witnesses. This is a suicide for whom we do not observe rites.⁵¹

Earlier the Shulkhan Aruch states that "One who commits suicide is not attended to and we do not mourn him..."⁵²

But the Shulkhan Aruch, acknowledges that Saul's suicide was done "knowingly" and still no rites are withheld. For the Shulkhan Aruch, the issue is not the question of

"knowingly", but legitimacy. There are circumstances when one can knowingly or willfully take one's life and still be fully mourned.

The term "suicide" is somewhat misleading. For when the Talmud, Maimonides, and the Shulkhan Aruch define it, they always return to the example of the man who ascends to the roof and proclaims his intentions. But noting that Saul's death is also referred to as a "suicide" in the Shulkhan Aruch, and is legitimated by full funerary rites, one may deduce that "suicide" is not the sole criterion.

Further leniency is suggested in the relatively recently published Sefer Yesodei Smochos, by Aaron Felder. Felder notes that shiva is not observed for an apostate, an intentional sinner, or an obvious suicide.. However, he adds that "in the case of suicide, shiva may be observed if the family would not be embarrassed to do so."⁵³

This leniency does not extend to Yizkor. In this case, "suicides and other known sinners should be mentioned separately."⁵⁴

There is the concept of taking one's life for the sake of kiddush Hashem. Noted above is the passage from Gittin where four hundred children threw themselves into the sea, (Git. 57b) as well as the Toasfot to Avodah Zarah

regarding the mitzvah of taking one's life rather than transgress a religious teaching. We are commanded to give our lives rather than commit the sin of idolatry, murder, or specific sexual sins.

Some final words about suicide. J. David Bleich writes:

Jewish teaching with regard to suicide is rooted in the concept that man does not enjoy proprietary rights with regard to his body or his life...Accordingly, man's life is not his to dispose of at his will.... In some respects suicide is an even graver sin than murder.... (as) the suicide...precludes the possibility of repentance.⁵⁵

Dr. Bleich continues, "Although in theory Jewish law treats suicides very harshly, in practice these provisions are seldom applied."⁵⁶ He refers to the examples in Semachot to legitimate this view.

Dr. Bleich similarly refers to Teshuvot Chatam Sofer, Yoreh Deah 326 where the honor of the family of a suicide must be considered. It is unjust to have the innocent suffer. So, even in the case where one knows with certainty that the dead would fall into the category of suicide, if circumstances exist that can lead people to believe that it was not a suicide, "the deceased should not be treated as a suicide."⁵⁷

So, in spite of the fact that Jewish law deems that a suicide be buried "quietly in a corner of the cemetery... (and) no funeral service, and no formal mourning is allowed", suicides are almost universally given full burial and mourning rites.⁵⁰

The method in which the rabbis dealt with suicide gives us insight into a general pattern of thinking. They clearly wanted to do everything they could to emphasize the gravity of this sin. However, they also understood that those who would suffer as a result of the prohibitions for mourning a suicide would be the family -- the last who should suffer more.

This is particularly important for those who might criticize the rabbis as unsympathetic. For that which appears to be unduly harsh at first glance, may in practice be a demonstration of great sensitivity.

Chapter IV.

THE MEAL OF CONSOLATION (SEUDAT HAVRAAH)

INTRODUCTION

The positive commandment for a community to provide the first meal following the burial emerges from the prohibition directed toward a mourner against eating his own food on the first day of mourning.

Virtually without exception, even Jews who are far removed from their Judaism and rather ignorant of funerary practices, have attended a Seudat Havraah. Many know of the customs but few know of its origin and development.

A. ORIGIN

Special consideration was given to the mourner for the first meal following the burial. There appears to be both a practical as well as philosophical aspect to this meal of consolation.

The rabbis enact an injunction that a mourner is not to eat his own food on the first day of mourning.¹ This has come to refer to the meal following the burial. They base this enactment on the Biblical verse in Ezekiel:

Moan softly; observe no mourning for the dead: Put on your turban and put your sandals on your feet; and do not cover your upper lip, and do not eat the bread of comforters.²

Similarly, Jeremiah warns against mourning "... in this place..." by indicating that we should not eat with the mourner or offer him a cup of consolation if his father or mother dies.³

Maimonides further clarifies this injunction to ensure that it is clear that it is permissible for the mourner to eat his own food during the remainder of the mourning period.⁴

The Shulkhan Aruch, notes that the responsibility of providing the meal rests upon the community:

A religious duty rests upon his neighbors to provide food for him of their own in order that he should not eat of his own.⁵

However, in the Tur Zahav, David b. Samuel ha Levi notes that in the event the mourner is the only Jew in the city, or if the community does not furnish him with the meal, he is allowed to eat his own food.⁶

There was no doubt a practical element in the rabbinic legislation for the community meal. Having just come from the period of anninut, and having attended to the funeral

responsibilities, the bereaved would have had little time to be concerned with food.

Also, requiring the community to provide this meal has other positive consequences. It helps to ensure that the bereaved need not eat alone, but have both the physical and psychological support of the community during this difficult period. And, it would foster commitment to the community. Today, some Jews become (or remain) involved in their community or synagogues so that in times of difficulty they will have community support.

B. THE FOOD

The concept of hiddur mitzvah takes on a beautiful and somewhat unexpected meaning here. The Talmud explains that it was the custom to bring food to the rich who were mourning "in silver and gold baskets." While for the poor, the food was brought in baskets made of twigs. Similarly, drinks were brought for the rich in "white glass vessels and the poor in colored glasses."⁷

What follows this is a Talmudic discussion reflecting a depth of rabbinic sensitivity to the poor. The rabbis consider that food brought in beautiful vessels to the rich and not to the poor would make the poor feel a sense of shame. So, all food should be brought in baskets of twigs.⁸

And the rabbis carry on this Talmudic discussion to include the injunction for a plain bier "out of consideration for the poor."⁹

While the contemporary custom of serving round food (such as eggs or lentils) is perhaps the most popular and well-known Talmudic tradition, there are other customs as well. In fact, initially the rabbis decreed that ten cups of wine be served at this first meal. They based this on the Biblical verse in Proverbs:

Give strong drink to the unfortunate
And wine to the embittered soul¹⁰

Further, according to Rabbi Chanan, wine itself was created for only the purpose of comforting the bereaved.¹¹

Even though this tradition evolved considerably, the rabbis do appear to indicate that the Meal of Consolation should include meat and wine:

... (it) is like meat and wine, at all times, he drinks and he eats, on this day we give it to him.¹²

Maimonides indicates that while it is permissible to drink wine, it should be limited to ten cups (lest people get drunk): three before the meal, three during the meal and, four after.¹³

While in the stage of aninut, one abstains from wine and meat. Although it is customary to drink wine at the Meal of Consolation, the issue of eating meat remained under Talmudic debate.

The Shulkhan Aruch indicates that since the body is buried, the mourner is permitted to eat meat and drink wine during the meal -- in order to break up the food in the intestines.¹⁴

However, where it is the custom to have wine and tasty food, this is served. But they still provide lentils and/or eggs to remember that they are in a state of mourning.¹⁵

(Initially, I found the note regarding the need to remember one's state of mourning somewhat odd. Is it conceivable that following a funeral we would be in anything less than a somber mood? Then I recalled the non-Jewish funeral of a friend's mother. Following the burial, I was invited to the home, where there was drink, but no food. Subsequently, and no doubt related, the mood was festive -- to my mind almost disrespectful of the dead.)

Clearly then, the rabbis wanted to do physical things that would create the desired atmosphere, and that included round food. In fact, in order to sustain the seriousness of the Meal of Consolation, the rabbis limit the number of those accompanying the mourner:

Do not eat with the mourner if there are too many men, if they would have to divide themselves in two places.¹⁶

Why? Because this would appear to be a social gathering.¹⁷

The rabbis' concern was so great that even the appearance of anything less than somber was to be avoided.

The "round food" tradition is rabbinic and often includes lentils. In Genesis 25:30, a famished Esau approaches Jacob asking for some "red stuff" (stew of some sort). Rashi explains that the stew is made of red lentils.

Rashi continues that on that day Abraham died (before his time) so that he would not see the evil development of his grandson Esau ... So, Jacob was boiling lentils to provide the first meal for the mourners.

Why lentils? Because they are round like a wheel and mourning is a wheel that goes around in the world. Just as the lentil does not have a mouth, the mourner has no mouth, as they are not permitted to speak. Similarly, as eggs are round and have no mouth, they are served at the first meal.¹⁸

Some argue that it is because the lentil is round and ultimately mourning comes around to all of us.¹⁹

Other explanations of the egg are that in ancient times "the egg was regarded as a symbol of life and resurrection." Since the egg is surrounded and sealed by a shell, it is a reminder for mourners to be silent and refrain from idle talk.²⁰ This is even further evidence for the desire to keep a serious atmosphere.

A personal note: I remember that my parents (and now myself) only eat whole hard boiled eggs at this meal. Elsewhere, when there is a such an egg, we cut it in half before eating, so as to preserve the connection with that seudah.

C. WHEN WE DO NOT EAT THE MEAL OF CONSOLATION

Regarding the desire of a mourner who wishes to fast following the burial, the Shulkhan Aruch indicates that a mourner who opts to fast on the first day (following the funeral) may eat his own food when he does eat.²¹ Isserles adds that if his friends do not bring him (a meal) on the first day until the evening, he is permitted to eat in the evening of his own food, and he does not have to be given the meal.²² It was, however, the custom to fast on the day of the death of a scholar.²³

In the event of the death of an infant of less than thirty days, the mourner's meal is not provided unless one is certain it followed a full term pregnancy.²⁴

Regarding a burial which takes place on Friday afternoon, as it is close to the onset of Shabbat, one can deduce from the following Talmudic discussion that one should refrain from eating the mourner's meal until Shabbat:

A man must not eat on erev Shabbat and Festivals from (the time of) mincha and upwards in order that the Shabbat will be entered with an appetite.²⁵

And, the Shulkhan Aruch states that while there are authorities who would allow for the eating of the meal prior to Shabbat, since it is not an obligation to eat at this

time, it would be a greater honor to wait until Shabbat before eating.²⁶

The Kitzur Shulkhan Aruch clarifies that this applies if the burial takes place "after the ninth hour and upward."²⁷ Since the day began at 6:00 a.m., this would refer to 3:00 in the afternoon.

The Birkat HaMazon is recited following the Meal of Condolence (as are all meals in the house of mourning) with an added paragraph in place of "And rebuild Jerusalem...". The additional words include prayers for consoling the mourners of Jerusalem and to give them comfort, recognizing that God is the Judge of truth whose "...ways are just toward us who are His people and His servants."²⁸

I think it noteworthy that just as the Mourner's Kaddish reaffirms God and does not mention death, so too this Birkat Hamazon recognizes God as the supreme comforter who is always just.

D. ALTERNATE EXPLANATIONS

Other explanations of the Meal of Consolation and examples of a funeral feast in other cultures exist.

The Shulkhan Aruch discusses the laws of uncleanness in connection with a Kohen. For example, a Kohen is not to go within four cubits of a dead body.²⁶ Similarly, there are laws indicating which parts of a home are clean or unclean.²⁷

There is also a custom of removing all water in the area of a body.²⁸ Presumably it, too, took on impurities.

If that is the case, is it not also possible that food in the home of a body would also take on impurities? This is one explanation supplied by Maurice Farbridge for the community supplying the meal.²⁹

The second explanation is predicated on the view that it was important to leave food on the tomb or in the grave. The Algonquins of North America offered "dainty" foods to the dead.

And in Madagascar:

... the mausoleum of one of the kings was provided with a table, two chairs, and also

some wine and water in order that the spirit of the departed king might come there occasionally and taste some of the things he was known to be fond of in his lifetime. ²²

Farbridge sees this as a way of communion with the dead (and therefore a way to console the bereaved). It is a possible explanation of the origin of the funeral feast found in the Bible and of the Seudat Havraah.

CONCLUSION

There is a term in the tannaitic literature that is used to describe the punishment given to an offender that includes isolation from the community. The term is niddui.¹

One who was a menuddeh "had to conduct himself as if he were in a state of mourning, not being allowed to have his hair cut or his laundry washed or to wear shoes...forbidden to wash."² In fact, the primary way that a menuddeh differed from a muhram (one placed under a ban, or herem) is that a menuddeh was allowed to be with others for the sake of study.

It is clear that in a similar way, the prohibitions for a mourner were to foster some separation between the mourner and the general community.

However, the reasons for this separation may have been vastly different than those for the menuddeh. For in the case of niddui, it was primarily for the benefit of the community. And for the mourner, it was primarily -- although not exclusively -- for his benefit.

The rabbis went a long way to disrupt the daily life of the mourner. From the eleven prohibitions considered in this thesis, all of them reflect central aspects of routine

living. They desired a change in that physical routine that would also change the emotional pattern of the mourner.

While some of the mourning prohibitions have similarities to gentile practices of their day, many reflect the desire of the rabbis to break from gentile practices. For example, in Myth, Legend, and Custom in the Old Testament, Theodor Gaster writes:

Arab women in mourning...scratched their upper faces and breasts with their nails, beat and bruised themselves with their shoes, and cut off their hair (underline mine).

To this day similar practices are in vogue among the Arabs of Moab. As soon as a death has taken place, the women of the family scratch their faces to the effusion of blood...Similarly, in ancient Greece in mourning...cut off their hair and scratched their cheeks and sometimes their necks with their nails till they bled.²

There is additional evidence that Turks in mourning would cut their faces with knives, "so that their blood and tears ran down their cheeks together."³

If the Turks sound extreme their mourning practices are subtle when compared to the aborigines of Australia. Upon the death of his wife, a man mourns not only by cutting his forehead, but by burning his waist, "in three lines with a red hot piece of bark."⁴. It should be noted that the latter action only occurs in the case where a man particularly loves his wife.

Finally, as was pointed out on several occasions in the text, the rabbis desired a removal of activities that were pleasurable -- no doubt understanding that such actions would be inappropriate to a mourner.

But there was undoubtedly another motivation for removing such activities. Just as the change in the general routine was to bring a change in the emotional disposition of the mourner, the removal of specific pleasurable activities would have the same effect. The rabbis understood, behaviorally, that physical changes can bring about emotional changes. By physically mourning and removing pleasures, we would emotionally mourn as well.

As a friend put it, the rabbis understood that "the deed shapes the heart far more than the heart shapes the deed."

ENDNOTES

Chapter I

1. Genesis 23:2.
2. Genesis 37:34.
3. Genesis 50:10.
4. Leviticus 10:19.
5. Samuel 25:1.
6. Deuteronomy 34:8.
7. Nehemiah 1:4.
8. Joshua 7:7.
9. Genesis 37:34-35.
10. Leviticus 10:6.
11. Job 1:20.
12. Job 2:12-13.
13. Leviticus 19:28 and Deuteronomy 14:2.
14. Deuteronomy 14:2.
15. Encyclopedia Judaica, 1972 ed., s. v. "Mourning."
16. II Samuel 1:11.
17. I Samuel 31:13.
18. Daniel 10:2-3.
19. Daniel 10:4.
20. Isaiah 61:3.
21. M. Sefer Hamitzvot Aseh 37.
22. Maimonides, Mishneh Torah, Hilchot Avelut 1:1
23. Shulkhan Aruch, Yoreh Deah 398.
24. Leviticus 21:2-3.
25. Hilchot Avelut 2:1.

26. Ecclesiastes 7:2.

Chapter II

1. Leviticus 10:6.
2. Babylonian Talmud Moed Katan 14b-15a.
3. BT Moed Katan 18a.
4. BT Semachot 5:7.
5. BT Semachot 7:11.
6. BT Semachot 5:9.
7. Hilchot Avelut 5:2.
8. Hilchot Avelut 6:3.
9. Moses Isserles, Gloss to Yoreh Deah 390:4.
10. II Samuel 12:24.
11. BT Moed Katan 15b.
12. BT Ketubot 4b.
13. BT Ketubot 4b.
14. Hilchot Avelut 5:5.
15. Hilchot Avelut 5:5.
16. Yoreh Deah 383:1.
17. Gloss to Yoreh Deah 383:1.
18. Amos 8:10.
19. BT Moed Katan 15b.
20. BT Moed Katan 11b.
21. BT Moed Katan 11b.
22. BT Moed Katan 11b.
23. BT Moed Katan 11b.
24. BT Semachot 5:1.
25. BT Semachot 5:2.
26. Hilchot Avelut 5:7.

27. Hilchot Avelut 5:8.
28. Yoreh Deah 380:2.
29. Yoreh Deah 380:4.
30. Yoreh Deah 380:5.
31. Gloss to Yoreh Deah 380:5.
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33. Gloss to Yoreh Deah 380:17.
34. Yoreh Deah 380:21.
35. Ezekiel 24:17.
36. Psalms 19:9.
37. BT Moed Katan 15a.
38. BT Moed Katan 15a.
39. BT Moed Katan 15a and BT Semachot 6:1.
40. BT Moed Katan 21a.
41. BT Moed Katan 21a.
42. BT Semachot 10:10.
43. Hilchot Avelut 5:16.
44. Hilchot Avelut 5:16.
45. Yoreh Deah 384:1.
46. Yoareh Deah 384:1.
47. Gloss to Yoreh Deah 384:1.
48. Ezekiel 24:17.
49. BT Moed Katan 15a.
50. BT Moed Katan 21b.
51. BT Moed Katan 21b.
52. BT Moed Katan 21b.
53. BT Semachot 8:13.

54. BT Semachot 8:13.
55. BT Semachot 8:14.
56. BT Moed Katan 21a.
57. Hilchot Avelut 5:20.
58. Hilchot Avelut 5:20.
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88. Yoreh Deah 381:2.
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101. Rabinowicz, p. 121.
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107. BT Semachot 11:11.
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45. Sifte Kohen to Yoreh Deah 345:2.
46. BT Berakot 61b.
47. BT Berakot 61b.
48. Yoreh Deah 345:3.
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