

IN HONOR OF

Mr. Claude and  
Lynn Ganz

Thank you for your dedication to building a strong Jewish community in San Francisco, for your amazing hospitality in hosting our class and for encouraging all of us to open our hearts and minds to Jewish learning.

Anna & Leo Hmelnitsky

IN HONOR OF

Rabbi Joey and  
Sarah Felsen

Thank you for your tireless efforts  
bringing Jewish learning to San Francisco

Stella & Lenny Katz

Anna & Leo Hmelnitsky

# The Jewish Study Network

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# FOCUS

No. 5 Summer 2006

*A Tisha B'Av Reader*

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# FOCUS

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Focus is a forum for the rabbis of the Jewish Study Network to present the community with a sample of their teachings in writing. The JSN is an independent 501(c)(3) nonprofit organization dedicated to raising the level of Jewish literacy in the greater San Francisco Bay Area.

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# Preface

Previous editions of Focus dealt with joyful holidays, but now it is time to move on to a painful topic. Tisha B'Av, the ninth day of the Jewish month of Av, begins this year at sunset August 2 and ends at nightfall the next day. Tisha B'Av has been witness to much misfortune in Jewish history. It is the saddest day of the year.

To be perfectly honest, Tisha B'Av does not rank very high in terms of popular observance. This might be due to the fact that Jewish schools are out in the summer and many never get a chance to study Tisha B'Av properly. Whatever the cause, the Jewish Study Network is proud to present the community with this much needed Tisha B'Av Reader. It is our hope that the fascinating articles of this edition of Focus will serve to inspire the community to embrace the traditional observances of this period.

The title of this edition of Focus is actually a misnomer. It isn't really a "Tisha B'Av Reader." Tisha B'Av is a time for fasting and mourning; these articles are far too enjoyable to be read on such a day. Instead of a "Tisha B'Av Reader," consider it a "Three Weeks Reader."

We say "Three Weeks Reader" because mourning the loss of the Temple does not begin on Tisha B'Av; rather, it begins three weeks earlier on the seventeenth of Tammuz. On that day, in the year 423 B.C.E., the Babylonian king Nebuchadnezzar breached the walls of Jerusalem. It was only a matter of time before he reached the Temple and burned it to the ground. Each year on this day, Jews start contemplating the tragedy and the mourning begins.

Tisha B'Av has much to say. It speaks of days long gone; days of peace when the Jewish people were one with G-d and the Temple stood in all its glory on a hill in Jerusalem. Tisha B'Av reminds us of our history, our identity and the miracle of our survival. It reminds us that we are all family, and that we should fix our relationships with our fellow Jews. And Tisha B'Av reminds us of our eternal homeland, the Land of Israel.

We would do well to listen to its message.

Rabbi Joey Felsen  
Founder, Jewish Study Network

Rabbi Yisroel Gordon  
Editor



# Introduction

Tisha B'Av is approaching. On Tisha B'Av, Jerusalem was lost and the Temple was destroyed. It is the day we were exiled from our homeland and the day the Diaspora began. It is a day for tears.

Of all the Jewish days on the calendar, Tisha B'Av is probably the most difficult to observe. Nobody has trouble relating to the festive holidays. All year we look forward to Rosh Hashanah, Sukkot, Pesach and Shavuot. Everybody loves Chanukah and Purim. Even when it comes to Yom Kippur, as hard as it may be for us to face the challenge of personal growth, we still manage to experience the holiness of the day by giving repentance our best shot. Tisha B'Av, however, is another story. On Tisha B'Av you can't satisfy yourself by going through the motions. There are no motions. There are only tears. Either you have them or you don't.

On Tisha B'Av there is no Shofar to blow, no Seder to lead, and no Menorah to light. It does not call for any external action at all. What it calls for is emotion. Fasting and mourning are simultaneously the means to inspire somber reflection and the natural reaction to the burning issues of the day. Tisha B'Av demands consciousness of our national history, empathy for our national pain, and sharing our national aspirations. Tisha B'Av is aimed directly at our hearts, and that is why it is such a challenge.

There is a popular misconception that observing Tisha B'Av is only for Jews who are passionate about Judaism. Nothing could be further from the truth. Such mistaken thinking is the result of an ignorance of how mitzvot operate. Jewish identity is by no means a required prerequisite for the observance of Tisha B'Av. Quite the opposite. The observance of Tisha B'Av itself generates Jewish identity.

It is not expected that people will naturally feel joy on the holidays or grief on Tisha B'Av. If it came to us naturally, there would be no mitzvah. Our job is to make the effort to inspire these feelings within. By focusing on the tragedies of our history, by empathizing with the suffering of our people, and by recognizing that Divine intervention is our only hope, we connect with our past, we unite with our people, and we awaken our souls. That is the mitzvah of Tisha B'Av.

The Talmud tells us that the Second Temple was destroyed because of baseless hatred. A breakdown of community is something G-d does not tolerate. So He left. After functioning as a sanctuary for G-d's Presence for 420 years, the Temple became no more than an empty building. Having been destroyed spiritually, it was only a matter of time before it was destroyed physically. It stands to reason that as long as hatred exists among Jews, the Divine Presence will not return to Jerusalem.

But it is not the mere eradication of hate that we are after. Love is our goal. How can we uproot the evil of hate, replace it with love, and put an end to our exile? Tisha B'Av is the answer.

It is very easy to talk about love, unity, and identity, but how do you know if it is real? We convince ourselves that we have fulfilled the mitzvah of loving our fellow Jews, but have we? The question we need to ask ourselves is this: Do we share the joys of our brothers and sisters? Do we feel their pain? Do we feel for the nation as a whole? Such feelings do not materialize by themselves; they need to be cultivated and developed. It is for this reason that we have Tisha B'Av. On Tisha B'Av we move beyond self-centeredness into other-centeredness. We deepen our relationship with our fellow Jews by allowing the suppressed love and concern within our souls to break through to the surface.



Today we have been over-saturated with tragedy and our hearts have hardened. We have lost our sensitivity and we have forgotten how to cry. Tisha B'Av restores our hearts back to the warm, empathetic Jewish heart that it was designed to be. By mourning the tragedies of our history right down to the present day, we teach our hearts to feel again. The sadness of Tisha B'Av is not a depression that breaks you; it is a compassionate sadness that fixes and heals.

On Tisha B'Av, we mourn our distance from G-d, we cleanse any residue of hate from our hearts, and we forge a more meaningful relationship with our people, our land, and our G-d. Every Jew needs Tisha B'Av. But in order to have a successful Tisha B'Av, one cannot wait until the ninth of Av. Preparations must begin weeks in advance.

The inner work of Tisha B'Av is too important and too difficult for just one day. The mourning period therefore begins three weeks earlier on the seventeenth of Tammuz. The mourning starts on a low level, easily accessible to all. Slowly, as we enter the month of Av, the mourning intensifies until the climax is reached on the fast of Tisha B'Av.

There are no shortcuts. It is difficult to experience a meaningful Tisha B'Av if the earlier stages are skipped. But if one prepares properly during the "Three Weeks," learning the lessons of our painful history, observing the mourning practices of the period and slowly increasing consciousness of the sad state of the Jewish world, then Tisha B'Av will be what it was meant to be. A day on which the core of our Jewish identity is revealed in all of its beauty. There is no other day like it.

# From Tammuz to Av:

## Fixing the Tablets in Twenty-Two Days

*Rabbi Joey Felsen*

The Jewish calendar marks not only celebrations and holidays, but days of national mourning as well. A dark three-week period begins this year on Wednesday night, July 12. Known as “Bein HaMetzarim”<sup>1</sup> or “Between the Constraints,” this period of mourning and introspection is marked, beginning and end, by fast days – “Shivah Assar B’Tammuz,” the fast of the seventeenth of Tammuz and “Tisha B’Av,” the fast of the ninth of Av.

Understanding this period requires a review of some biblical history. In the Book of Exodus we find a detailed description of the sin of the Golden Calf and its aftermath. When Moshe comes down from Mount Sinai and sees the Jews worshipping an idol, his reaction is swift and irreversible. Throwing down the Two Tablets to the ground, he shatters G-d’s great gift to the nation. The date of this tragic event? The seventeenth day of the month of Tammuz.

One year and three weeks later, the Jewish people receive the report from the spies who scouted out the land of Canaan. The spies returned from their expedition with terrible news. The enemy was too strong – the country was unconquerable.

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The people had been promised by G-d that this land would be theirs (Exodus 3:17, 13:2). How could that promise be reconciled with the spies' report? Was it all a cruel trick? Had G-d deceived His nation and led them through the desert only to die in battle? Accepting the spies' report was tantamount to heresy. But the people accepted it and were devastated. "The entire assembly raised their voices and the people wept that night" (ibid 14:1).

The people suffered severe consequences for their lack of faith. The entire generation that left Egypt was doomed to die in the desert – only their children would be privileged to enter the land of Israel.<sup>2</sup> The date of this tragic event? The ninth day of the month of Av – Tisha B'Av.

These two events—the breaking of the Tablets and the Sin of the Spies—were separated not by three weeks, but by more than a year. The Tablets were broken three months after the Exodus and the Sin of the Spies took place thirteen months later. While they are about three weeks apart on the calendar, that would not seem, at first glance, to be of special significance. Why then is this entire three-week period considered a season of sadness and tragedy? What's more, the Maharal of Prague suggests that the twenty-two days from the seventeenth of Tammuz to the ninth of Av correspond to the twenty-two letters of the Hebrew alphabet.<sup>3</sup> What is the meaning of this apparent coincidence?

To answer these questions, we will take a closer look at the tragedies which occurred on the seventeenth of Tammuz.<sup>4</sup>

### I

The first tragedy which occurred on the seventeenth of Tammuz was the breaking of the Tablets. The Tablets were as powerful in their form as they were in their content. The Torah

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relates that they were written by G-d (Exodus 31:18) and thus the letters themselves had a supernatural quality. Although the engraving went straight through the Tablets, the letters did not appear inverted when viewed from the back. Furthermore, the solid centers of the circular letters<sup>5</sup> were miraculously suspended in midair (Talmud, Shabbat 104). These amazing letters were indicative of a Torah of immeasurable potency. The depth of Torah wisdom and the intimate relationship with G-d enabled by the Tablets was more powerful and more wonderful than we can imagine. The tragedy is that with the exception of Moshe, no one got an opportunity to achieve the spiritual heights offered by these Tablets. They were shattered before the people had a chance to access their miraculous Hebrew letters. As a result of the sin of the Golden Calf, the Jews were no longer worthy of such a close relationship with G-d. They could not receive these Tablets, so Moshe broke them. However, the wonderful letters did not simply disappear. The Talmud teaches that when the Tablets were broken, the letters flew off into the air (Pesachim 67b).

The original Tablets were replaced with a second set, but it was not the same. This time it was not G-d who carved out the Tablets, it was Moshe. "G-d said to Moshe, carve for yourself two tablets of stone like the first ones..." (Exodus 34:1). The nation may have been forgiven for the sin of the golden calf, but inescapable consequences remained. The intimate relationship of Sinai was severed and G-d became far less accessible. But the original letters are out there waiting to be brought back.

## II

Before we discuss the other events which occurred on the seventeenth of Tammuz, we need to understand the Jewish concept of the calendar and time. Unlike the linear view

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accepted in Western thought,<sup>6</sup> Jewish theologians describe time as flowing in a repeating spiral. As time progresses forward, it completes an annual orbit through the spiritual ether of the Hebrew months. We are thus always reexperiencing the same time as our ancestors. This is what is meant by the blessing recited on Chanukah: “Blessed are you G-d... who performed miracles for our fathers in those days and at *this time*.”

The Jewish calendar is not spiritually uniform. Biblical events formed everlasting imprints on the fabric of the progressive spiral we call time. Every year, as time brings us back to the seminal dates of our history, we reenter the spiritual energy imprinted into the calendar by the great events of the Torah. The cyclical nature of time thus grants a tremendous potency to both the holidays and the fast days of the Jewish year.

The breaking of the Tablets defined the seventeenth of Tammuz. It forged the eternal nature of this date, and the tragedies that occurred in subsequent generations on the seventeenth of Tammuz all necessarily flow from this defining moment. With a little study, it is not difficult to see how later events are merely different expressions of the original breaking of the Tablets on this day.

### III

The Mishnah (Taanit chap. 4) records five major episodes which occurred on the seventeenth of Tammuz. The first was the shattering of the Tablets. The second was the cessation of the daily sacrificial offering in the Temple due to shortages resulting from the siege of Jerusalem. Third was the breach of the walls of Jerusalem by the invading Roman army. A public burning of a Torah scrolls by Apostomos the Greek general was

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the fourth event. The final event recorded by the Mishnah was the erection of an idol in the Jerusalem Temple by the corrupt king of Judah, Menasseh.<sup>7</sup> As we shall explain, each one of these episodes demonstrates a disintegration of the bond between G-d and Israel – a direct consequence of the breaking of the Tablets at Sinai.

The biblical description of the daily offering explicitly states that this practice began at Sinai: “The constant offering that was done at Mount Sinai” (Numbers 28:6). The termination of this offering on the seventeenth of Tammuz was the end of a daily practice that had begun at Mount Sinai and continued without interruption for centuries. Despite the travels of the Jews in the desert, the wandering of the Tabernacle in the newly conquered land of Israel and the occupation of the enemy, this sacrifice had been a constant. It offered the nation a daily opportunity to present something tangible to G-d; it was a very real and meaningful expression of their relationship with G-d. But like the Tablets before it, the daily offering and the relationship it represented came to an end on the seventeenth of Tammuz.

The connection between the breaking of the Tablets and the burning of the Torah scrolls is straightforward. The Torah scroll is the divine document that communicates G-d’s instructions to His people. A public burning of a Torah represents a breakdown of the Jewish people’s connection with the Sinai experience.

At Sinai we were “shown to know that the Lord is our G-d and there is none other than He” (Deuteronomy 9:35). Our relationship with G-d demands our acknowledgment that no other power in the universe exists independent of the One G-d. All things depend on Him for their existence. The first two of the Ten Commandments both emphasize this fundamental principle of Jewish faith. When King Menasseh placed an idol in the sanctuary of G-d’s Temple, the heresy was clear. Monotheism was under attack. For other nations to impose their

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paganism on the Jewish nation is to be expected. But for a king of Judah to profane G-d's Temple with an idol is another demonstration that the nation's connection to Sinai continued to disintegrate.

Finally, we have the breach of the walls of Jerusalem. Three times a year at the pilgrimage festivals, Jerusalem was the meeting place for the nation. When the masses arrived in Jerusalem, they entered a private, walled domain. The breach in the city walls transformed the space into a public domain and constituted a breach in national security. At that point, the fall of the Temple became only a matter of time.

But this breach was not merely a physical event. The walls of Jerusalem symbolized the unity of the nation and a breach in the walls therefore symbolized a breach in national unity. There was a time when all Jews would enter the city by way of the gates and the nation would live together within the city walls. Now that was no longer possible. At Sinai, the Jews stood at the mountain as one nation, "like one person with one heart" (Midrash Mechiltah 19:2) – unity was a prerequisite for receiving the Ten Commandments. A breach in the walls of Jerusalem thus represents a further departure from Sinai.

### IV

The seventeenth of Tammuz is observed by fasting from morning until night. It is a day of national mourning that initiates the "Three Weeks." The common denominator of the recurring tragedies of this day is the disruption of the relationship between G-d and the Jewish people, but the catalyst is the sin of the Golden Calf and the breaking of the Two Tablets.

There is an interesting element of the liturgy of this period of mourning. The Scroll of Lamentations is read publicly on

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the ninth of Av and its verses are all alphabetical; each chapter runs through the entire Hebrew alphabet. Furthermore, many of the Kinot<sup>8</sup> recited on Tisha B'Av are also alphabetical. Virtually all the liturgy of the day has its verses following the order of the Aleph-Bet, the twenty-two letters of the Hebrew alphabet. What is the significance of this?

The authors of the Tisha B'Av Kinot, all great masters of Kabbalah, embedded the order of the Hebrew letters into the liturgy of the day. This is because the destruction of the Tablets sent the Hebrew letters into chaos. The letters lost their home in the Tablets and were sent floating in spiritual space. Somehow, constantly reciting the letters in their proper order achieves some degree of fixing and atonement for the broken Tablets. The mourning period of the "Three Weeks" is also twenty-two days long corresponding to those same Hebrew letters. On some mystical level, these days of commemoration are part of a process which restores the incorporeal letters of the broken Tablets to their rightful place in our souls. By experiencing the tragedy of this period and recognizing the relationship with G-d that is missing from our lives, we can merit to regain the Torah letters lost by our forefathers.

The second set of Tablets gives us a clue as to how to approach the loss of the original Torah letters. Unlike the First Tablets which were made by G-d, Moshe was commanded to carve the second set himself. Apparently, after the destruction of the First Tablets, it became our responsibility to carve tablets for ourselves. And the object that we sculpt is our hearts.<sup>9</sup>

Each one of us can recapture the lost letters and etch them into our own subconscious. All it takes is a renewed dedication to meaningful and penetrating Torah study. In these dark times, we should strive to regain the miraculous letters and repair the relationship of Sinai. When we do that, we will mend the very fabric of time itself and the seventeenth of Tammuz will transform into a day of joy.



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<sup>1</sup> Jerusalem Talmud, Taanit 5:4

<sup>2</sup> Cf. Exodus 13:22-23

<sup>3</sup> See Netzach Yisrael chap. 4

<sup>4</sup> This essay was inspired by a talk delivered by R. Moshe Shapiro of Jerusalem.

<sup>5</sup> *Samach* “ס” and final *Mem* “ם”

<sup>6</sup> Standard dictionaries define time as a “nonspatial linear continuum.”

<sup>7</sup> This list is obviously not in chronological order.

<sup>8</sup> Poetic dirges which describe the destruction of Jerusalem and the other tragedies of the day.

<sup>9</sup> Cf. Proverbs 3:3

# The State of the Union in Exile

*Rabbi Yaacov Benzaquen*

**H**istory appears to unfold naturally, in a logical sequence of cause and effect. Historians point to societal and political conditions, turning points and key players which drive events and create history. This is all very true – everything can be explained rationally. The perspective of our sages, however, is quite different. Their vision pierced the façade of nature and recognized root causes. When they looked at Jewish history, they saw the guiding hand of G-d.

Jewish tradition teaches that despite the natural appearance of cause and effect, history is actually being guided by the Creator. There is Divine Providence, and the nature of this providence depends on us. The primary engine of Jewish history is the behavior of the Jewish People themselves, both vis-à-vis each other and vis-à-vis G-d. Our national success or failure – autonomous and secure in the land of Israel or subjugated by other nations in exile – is not a question of historical forces. It is our own actions which determine our political fate.

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When tragedy befell the Jewish People, the sages did not waste time investigating the superficial sequence of events. Instead, they asked the fundamental question: What did the people do to deserve such a fate? The destruction of the two Temples and the exile of the Jewish People from their homeland is a case in point.

### I

To appreciate the Temple's immeasurable significance for the Jewish people we need to understand the Temple's true purpose. Centuries before King Solomon built the First Temple, before the Jewish People even entered the Holy Land, they constructed a portable, miniature Temple in the Sinai Desert known as the Tabernacle or the "Mishkan." The language of the Divine command to build the Mishkan was this:

Make Me a sanctuary and I will dwell within you.

Exodus 25:8

The Mishkan, and its grander cousin the Holy Temple, were sanctuaries that enabled the Divine Presence to reside in the midst of the Jewish People. The destruction of the Jerusalem Temple may appear to be the result of Babylonian or Roman imperialism, but its root cause was simply that G-d no longer desired to reside amongst the Jews. Why would G-d leave? The answer is sin.

The Temple was the vehicle through which man connected with G-d and G-d connected with man. When the Jews were no longer worthy of that connection, when their sins severed their relationship with G-d, the Temple was destroyed. The absence of a Temple thus indicates a need to renew the G-d/man relationship. It is not difficult for G-d to rebuild the Temple –

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history is in His hands. As soon as we are worthy of it, when we restore the national relationship with G-d, Divine Providence will see to it that the Temple is speedily rebuilt. It is up to us.

In light of the above we can understand a critical teaching of the sages:

Every generation in which the Temple is not rebuilt it is as though it caused its destruction.

Jerusalem Talmud, Yoma 1:1

As long as the Temple is not rebuilt, it is a clear sign that the original causes of its destruction have not been rectified. This truth was so clear and obvious to the sages, they held each subsequent generation responsible for the absence of the Temple. It is therefore critical that we identify the real reasons for the Temple's destruction. If we want the Temple rebuilt, we need to know why it was destroyed. Which specific sins ruined our relationship with G-d? This kind of historical inquiry can be highly productive. If we learn from our history, if we take its lessons to heart and correct our ways, the Divine Presence will once again return to Jerusalem.

## II

Why was the First Temple destroyed? Because of three things: idol worship, adultery and murder.

Talmud, Yoma 9b

These three cardinal sins are the only sins for which the Torah insists that the Jew rather forfeit his life than commit. They are the three most severe transgressions in Judaism, but there is a deeper and more specific reason why they caused the Temple's destruction. As observed by the Maharal of Prague,<sup>1</sup>

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these three sins are all described by the Torah as sources of “Tumah,” i.e. spiritual defilement.<sup>2</sup>

The Hebrew word “Tumah” is etymologically related to the word “Atum” which means “sealed” or “blocked.” Tumah is a spiritual blockage. It is a state of being that prevents Divine blessings and goodness from flowing into the world.

In the days of the First Temple, the nation was guilty of the three cardinal sins. These sins created Tumah, blocking the Divine Presence from dwelling among the people. The Temple could no longer fulfill its purpose as a sanctuary for G-d and was therefore destroyed. In the view of the Maharal, this was not so much a punishment, but an inevitable consequence of the behavior of the Jews.

Truth be told, this Tumah was never really cleansed. Even when G-d ended the Babylonian exile and blessed us with a second Temple, the Tumah was still there. This explains the mixed reaction of the Jews at the second Temple’s dedication. With the new Temple, the Jews could once again reinstate the sacrificial order and perform the divine service as described in the Torah. We would have expected them to be overjoyed. But it was not so:

[When] the builders laid the foundation of the Temple of G-d, they stationed the Kohanim, attired with their trumpets, and the Levites the sons of Asaph with cymbals, to praise G-d through [the psalms of] David, King of Israel. They sang to one another with praise and thanksgiving to G-d: “For [G-d is] good; His kindness endures forever toward Israel.” The entire nation burst into a great shout of praise for G-d at the laying of the foundation of G-d’s Temple.

But many of the Kohanim and Levites and heads of families, the old men that had seen the First Temple standing on its foundation wept loudly when this Temple

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was before their eyes. Many [others] raised their voices in shouts of joy.

The people could not discern the shouting of joy because of the sound of the peoples' weeping; [despite the fact that] the people shouted with a loud shout...

Ezra 3:10-13

A perplexing scene! On one hand, multitudes of people were full of joy, singing and making music at the rebuilding of the Temple. On the other hand, some people were crying and wailing. The crying was so loud, its volume competed with the sounds of the celebration party! What was going on here? Why would anyone cry at such a joyous event?

The verse itself answers our question: "...the old men that had seen the First Temple standing on its foundation wept loudly when this Temple was before their eyes."

The elders among them who had experienced the sanctity of the First Temple could not celebrate the dedication of the new Temple, for at that moment they realized that the Shechina, the Divine Presence, had not returned. This is the sad truth. The Shechina did not enter the Second Temple (Talmud, Yoma 10a).<sup>3</sup>

The young people who had never witnessed the revelation and glory of the First Temple were overcome with excitement; they were shouting with joy. Compared with exile in Babylon, this was a euphoric state of redemption. But those who knew what they were missing broke down and cried.

The Tumah of the three cardinal sins lingered. The people still lacked spiritual purity and the Divine Presence could not dwell in the new sanctuary. But this raises a simple question. If the Temple is a sanctuary for G-d, what is the purpose of a Temple which the Shechina cannot occupy? In short, why was the Second Temple built?

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The answer is communal unity.

The Temple was fundamentally different the second time around. It was built not so much as a sanctuary for G-d, but as a symbol and a catalyst of Jewish unity. Unity enabled the creation of a Temple dedicated to divine service and Torah, even in the absence of the Shechina. It was unity, not sanctity, which supported the new Temple.<sup>4</sup> This reality would have serious consequences for the future.

### III

If [in the Second Temple era] the Jews were engaged in Torah learning, mitzvot and acts of kindness, why was [the Temple] destroyed? ...The Second Temple was destroyed because [of the sin] of baseless hatred.

Yoma 9b

Although it sounds extreme, the Talmudic term “baseless hatred” actually refers to feelings of dislike which are far milder than we would expect. The Talmud (ibid) records that princes of Israel would enjoy dining together, but would put each down at the same time. The Talmud describes such behavior as “baseless hatred.” Apparently, the Talmud’s “baseless hatred” is not hatred as we commonly use the term, but rather insensitivity to other people’s feelings.<sup>5</sup>

Maimonides gives us additional insight into the Jewish concept of “hatred.” The Torah states that a person guilty of accidental homicide is exiled to a city of refuge. However, the Torah makes an exception for a “Soneh,” i.e. someone who hates. A person known to hate his fellow who then accidentally kills him is not sent to the city of refuge. How do we define hate? Maimonides provides the definition:

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If a Soneh kills unintentionally, he is not sent to the cities of refuge... Who is a Soneh? One who does not speak with his fellow for three days because of ill will.

Laws of Murder and Preservation of Life 6:10

In other words, the degree of ill will which results in people not speaking to each other for three days is classified as “hatred.” If the ill will is not justified, it would be baseless hatred. Again we see Judaism’s high standards for interpersonal relationships. Even a lack of unity and love is already considered baseless hatred.

The Second Temple was built on a foundation of national Jewish unity. When that unity crumbled and conflict became widespread, the foundation vanished – and the Temple collapsed.

We have gained some insight into the destructions of the two Temples. Now we turn to the two exiles which followed.

### IV

We learned that the First Temple was lost due to the cardinal sins of idolatry, adultery and murder, and the Second Temple was destroyed because of baseless hatred. The sins that led to the destruction of the First Temple seem far more severe than those that caused the destruction of the second. Certainly murder is more criminal than mere feelings of hatred. Nonetheless, we have suffered far longer under the current exile than after the First Temple’s destruction. Why?

The Talmud states:

The earlier generation (i.e. the generation of the First Temple) whose sin was revealed, had the end to their



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exile revealed, whereas the latter generation (i.e. the generation of the Second Temple), whose sin was not revealed, did not have the end to their exile revealed.

Yoma 9b

This is a difficult Talmudic passage. Let's turn to the commentators for some help in deciphering it.

Rashi observes that the murder, idolatry and adultery which brought about the First Temple's destruction were committed publicly, and therefore immediately open for all to see. Measure for measure, the end of that exile was also quickly revealed and the Jews were restored to their land after only seventy years in Babylon. However, the baseless hatred of the Second Temple was an internal, private matter, concealed from public view by acts of kindness and mitzvot. The exile which followed is therefore equally veiled, with no end in sight.

The Maharsha<sup>6</sup> illustrates this idea with a metaphor. In Judaism, a major distinction is made between burglars, who steal stealthily, and thieves, who steal out in the open. According to Halacha, a burglar deserves a more severe punishment than a thief.<sup>7</sup>

Why is this so? A thief who steals openly and publicly has no fear of anyone. He doesn't care if people know that he is a sinner. He is a criminal, but at least he's consistent. He doesn't make distinctions between G-d and man. He fears neither. A burglar, on the other hand, is different. He is concerned about his reputation in society. He cares what people think of him; he just doesn't care what G-d thinks. This demonstrates a deeper flaw in his religious character, as it puts man on a higher plane than G-d.

In short, it is more criminal to fear people and not G-d than to fear neither.

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The generation before the destruction of the First Temple at least had consistent values. They were sinners, plain and simple. They didn't fear man more than G-d. But the generation before the destruction of the Second Temple was guilty of a deeper type of corruption. They were ashamed to commit crimes in the presence of man but had no such qualms about sinning in the presence of G-d. They were therefore doomed to a much longer exile.

### V

Rabbi Yerucham Lebovitz<sup>8</sup> offers a different interpretation of our Talmudic passage. According to Reb Yerucham, when the Talmud speaks of sins being “revealed,” it does not refer to sins being made public, as interpreted by Rashi. Rather, it refers to the revelation of the sin to the sinner himself.

The three cardinal sins are undeniably horrific crimes, but at least they are open and straightforward. They are “revealed sins” – the nature of the sin is right there on the surface – and that is exactly the problem. People who lack self-control and fail to curb their passions are capable of terrible things. From a moral perspective, this does not necessarily indicate a deeply rooted, hidden problem. The people simply need to learn how to combat evil inclinations and practice self-control. Not necessarily easy to do, but straightforward.

As a consequence, G-d brought an enemy to destroy the First Temple and exile the Jews from their land. This form of communal “therapy” was painful, but necessary. With independence, wealth and honor now gone, pride, arrogance and pursuit of pleasure were at a low point. The destruction of the first Temple was thus not merely a punishment but a means to humble the people and provide the antidote to their evil inclinations. A few years of the hardships and humiliations of

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exile were sufficient to steel the people against the weakness of character which led to the exile.

At the end of the Second Temple era, the situation was quite different. While the people might have been innocent of clear and obvious “superficial” sins, under the surface there were deep problems in Jewish society. The people were not even conscious of the fact that they were guilty of hate. The hatred was so subtle and pervasive; people were unaware that something was wrong. Their sin was not revealed to them. This kind of inner corruption can take a lot longer to fix.

### VI

Now that we have explored the root causes of the two exiles, it is time to turn to the question of return. What does it take to rebuild a Temple?

When it came to rebuilding the Second Temple, Jews merely had to strengthen their character and fix their behavior; even complete repentance was not a prerequisite.<sup>9</sup> But there was one condition. Unity.

Without unity there cannot be a Temple. If the Jewish people are not united they cannot come before G-d as a nation, and that is what the Temple is all about. The daily services of the Temple are on behalf of the national community, not individuals. But unity alone is insufficient to bring the Shechina down from heaven to earth.

The divine presence of the Shechina was forced to depart due to the Tumah of the cardinal sins. G-d gave us a second chance to achieve purity with the Second Temple, but the nation failed and that Temple too was lost. It follows that the only way to bring the Shechina back is to cleanse the Tumah with a national house cleaning. It is not enough that the Jewish People

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are no longer transgressing those sins and it is not enough for us to be united. We, collectively, need to cleanse the lingering residue of the spiritual corruption of our past. We need to raise our standards. We need to elevate ourselves to higher levels of sanctity. We need to transcend the indulgences, self-centeredness and promiscuity of the media and secular society. Only then will the Shechina be able dwell among us as in the days of old.

This is the way our sages studied history. Uncovering root causes, new perspectives emerge; perspectives with very real lessons for the future of our people.

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<sup>1</sup> R. Yehudah Loew, 1526-1609. Prolific author and chief rabbi of Prague, the Maharal is recognized as one of the most profound Jewish thinkers of the post-medieval period.

<sup>2</sup> Netzach Yisrael chap. 4

<sup>3</sup> The Midrash states, “The Shechina will never depart from the Western Wall” (Shemot Rabba 2:2). How is this reconciled with the Talmud’s contention that the Shechina never entered the Second Temple? The answer is that the presence of the Shechina is measured in relative terms. Relative to the First Temple, the Shechina wasn’t there, but relative to the rest of the world, the Divine Presence was in the Second Temple and still remains at the Western Wall.

<sup>4</sup> Netzach Yisrael chap. 4

<sup>5</sup> Cf. Leket Sichot Mussar vol. II, pg. 217. The author of this work, R. Yitzchak Isaac Sher (d. 1952), founded Yeshivas Slabodka in Bnei Brak, Israel.

<sup>6</sup> R. Shmuel Eliezer Edels (1555-1631)

<sup>7</sup> A burglar who is caught must return the stolen goods and pay a 100% fine. A thief who steals openly is exempt from this fine and need only return the object or repay its value.

<sup>8</sup> Da’at Chochmah U’Mussar vol. III, pg. 15. A leading figure of the Mussar movement, Reb Yerucham (1875-1936), was the Mashgiach Ruchani, or spiritual counselor, in the great yeshiva of Mir.

<sup>9</sup> Cf. Ramban, Commentary to Torah, Leviticus 26:16

# It's My Party and I'll Throw You Out If I Want To

## The Tragedy of Kamtza and Bar Kamtza

*Rabbi Daniel Steinberg*

As a result of the Kamtza / Bar Kamtza incident, Jerusalem was destroyed.

Talmud, Gittin 55b

**T**his statement complements another Talmudic teaching: “The Second Temple, where the people were involved with Torah, mitzvot and acts of kindness, was destroyed on account of baseless hatred” (Yoma 9b). It is in the Kamtza episode where that baseless hatred is illustrated, in bright Technicolor. Here is the first part of the story, as related by the Talmud:

*There was a certain man who had a close friend by the name of Kamtza and an enemy named Bar Kamtza. It happened once that this man was making an exclusive banquet, at which he requested the presence of his good friend Kamtza. He sent his personal assistant to summon*

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*Kamtza, but instead, the assistant accidentally invited Bar Kamtza.*

*The host found Bar Kamtza seated there. He said to him, "That man (i.e. you) is an enemy of that man (i.e. me). What are you doing here? Get up and get out!" Bar Kamtza said, "Since I'm here already, let me stay, and I will pay you for what I eat and drink."*

*The host responded, "No!"*

*"I will pay for half the cost of the banquet."*

*"No!"*

*"I will pay the entire cost of the banquet!"*

*"No!" Grabbing Bar Kamtza, he stood him up and threw him out!*

*Bar Kamtza thought, "Since the Rabbis were there, saw the whole thing, and did not protest, obviously they had no objection to my embarrassment! I'll go now, and slander the Jews to the king."*

Talmud, Gittin 55b

The entire contents of the Talmud, whether legal or narrative in nature, cannot be approached in the same manner as you would an ordinary reference work. Remember, this is the *Oral* Torah; it was never meant to be written down. What the sages did write is often cryptic; the information contained here is just enough to insure the continuity of its message. Moral and ethical lessons are often encoded and hidden beneath the surface of the text. The job of the student of Talmud is to recognize the potency of every word, assume nothing and analyze critically. The Talmud does not reveal its secrets lightly, but the dedicated student is never disappointed with the fruits of his labor.

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Let us travel down the road of the Talmud student as we attempt to extract the message from the information the Sages left us regarding the destruction of the Temple.<sup>1</sup>

### **Twist of Fate**

*There was a certain man who had a close friend by the name of Kamtza and an enemy named Bar Kamtza... He sent his personal assistant to summon Kamtza, but instead, the assistant accidentally invited Bar Kamtza.*

Wait. His *personal assistant* confused his enemy with his friend? I could understand if one of the host's friends or a different employee of his made this mistake. But the entire job of a personal assistant is to closely arrange his employer's affairs. The assistant maintains his rolodex and his diary. He makes his lunch and dinner dates for him and greets his visitors. He knows who his boss' friends are and he knows who his enemies are. This seems like a highly improbable blunder to have been made by somebody's personal assistant.

If somebody uses all the means and resources available to him to execute an action and the *opposite* action occurs, how do you interpret the occurrence? Judaism maintains that such events are a sure sign that G-d 'overrode' the regular program and stepped in to guide the event toward the direction He wanted it to go.

But this leads to us to another question. Why would G-d engineer events so that the banquet host was brought face to face with his worst enemy, at his own exclusive affair? Let's put that question on hold and continue with the story.

## The Depths of Hatred

*...Grabbing Bar Kamtza, he stood him up and threw him out!*

*Bar Kamtza thought, "Since the Rabbis were there, saw the whole thing, and did not protest, obviously they had no objection to my embarrassment! I'll go now, and slander the Jews to the king."*

This is strange. If the rabbis were indeed witness to the host's shameful behavior, why didn't they step in and do something about it?

And why did Bar Kamtza slander the nation to the Roman government? If you're angry, usually you lash out at the target of your anger. We might have expected Bar Kamtza to burn down Kamtza's house or do something terrible to the rabbis. But why did he take out his anger on the entire Jewish people? Wasn't he also Jewish?

Let's examine another statement of the Talmud:

The earlier generation (i.e. the generation of the First Temple) whose sin was revealed, had the end to their exile revealed, whereas the latter generation (i.e. the generation of the Second Temple), whose sin was not revealed, did not have the end to their exile revealed.

Talmud, Yoma 9b

This statement implies that the sin of the generation of destruction of the Temple was unknown, in contrast to the sin of the generation of the First Temple, who openly practiced idol worship and engaged in murder and immorality. But this statement immediately succeeds a statement quoted earlier, that the destruction was on account of baseless hatred. If that's the case, then what can the words, "their sin was not revealed,"



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possibly mean? Unless it means, their sin was not revealed *to them*; i.e. they were unaware that they were doing anything wrong.

Remember, we've been told that during the Second Temple era "they were involved with Torah, mitzvot, and acts of kindness." What this must mean is that the hatred they possessed for one another was latent; it went unnoticed amidst an extraordinary façade of righteousness, detected only in disastrous hindsight. One can only speculate in what high esteem the populace held themselves, and the rude awakening the departed Sanctuary brought with it in its aftermath. This concept of their "unrevealed" sin is the key that unlocks the story of Kamtza and Bar Kamtza, and ultimately it will help us achieve a deeper understanding of why the Second Temple was destroyed.

When G-d visits punishment upon a person, He intends it as a lesson. G-d "has no pleasure in the death of the wicked, but that the wicked turn from his way and live" (Ezekiel 33:11). The hope is that the person will take the time out for introspection, consider what he may have done to warrant such suffering, and make some positive changes for the future. Punishment isn't merely G-d being vindictive; it is an opportunity for the derailed to get back on track. It follows then, that if G-d were to punish someone who was unaware that he was sinning, His punishing him would not only be non-educational, it would be detrimental to his whole relationship with G-d. The potential for change is all there, but the person doesn't realize there's anything to fix. All he can do is sit in the corner, hurt, and lick his wounds. True, "if a person is beset by misfortune, he should investigate his deeds" (Talmud, Berachot 5a), but what if the reason is buried so far down that he can't access it?

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We had asked, why would G-d engineer events so that the host was brought face to face with his worst enemy, at his own exclusive affair?

The answer is slowly starting to emerge: In order to bring out the latent into the wide open. In order to lay bare what was previously covered up. As long as these two people, who apparently were typical of the rest of their generation, had steered clear of each other, the underlying spiritual defect remained hidden. But at this party, the cover was blown right off. Hatred reared its ugly head. Now that it was obvious to everyone that this is what was lurking beneath the surface all along, can G-d demonstrate to the Jewish people the grave consequences of baseless hatred by allowing the Romans to destroy His house.

### **“Baseless” Hatred?**

The Talmud reported that the Jewish people at that time were involved in Torah, mitzvot and acts of kindness. This would lend one to believe that in the area of their relationship with G-d all was in order. But that would be a mistake. A deficiency in the realm of human relationships *directly* expresses a deficiency in the realm of man's relationship with G-d.

Consider their defect of baseless hatred. By definition, the term baseless hatred means that there is no real reason for the hatred. But hatred is an emotion, triggered by a cause. If there's no cause for the emotion, the emotion ceases to exist. You don't experience anger or become happy for no reason at all. How can you hate someone without a reason? Probe the depths of hatred and invariably you'll discover jealousy at the bottom floor (unless it's in response to a definite or perceived

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injustice perpetrated against you). People hate people who they feel threatened by. And people feel threatened when they sense somebody is attempting to wrest from their hands what rightfully belongs to them, like a job opening, or a spouse, for example. If you represent a threat to my world, then I can't tolerate your existence in it.

So if hatred can't exist without a basis for it, what *does* the term "baseless hatred" really mean? It means that there *is* a reason for the hatred, but the reason is not a valid reason, it is baseless. If a person truly believed that everything in his possession was given to him by G-d, and that nobody can detract one iota from what G-d wants him to have, he wouldn't feel threatened by other people. A person who hates someone else, perceiving him to be a serious competitor for what he himself wants, is in effect saying, "G-d is not in the picture. He is powerless to prevent anybody from taking it away from me." This type of hatred implies that either there is no G-d, or that G-d has no power whatsoever. This is a form of heresy, one which affects human relationships. When people get along in a society, it doesn't necessarily mean that all is well on the G-d/man front. But the converse *is* true. If people are at odds with each other, it can generally be traced to a flaw in the way they relate to G-d.

This is what G-d wanted to expose. The story of Kamtza and Bar Kamtza is the story of the subtle, but active hand of G-d, gently nudging and prodding seemingly inconsequential events towards an explosive encounter. A generation about which was said, "they were involved in Torah, mitzvot, and acts of kindness" was delivered a stress test. How deeply had they incorporated the religious values they professed to have? How do you react when your guard is down?

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### Reactions

We arrived at the conclusion that it was G-d who invited Bar Kamtza to the banquet, but apparently the host didn't arrive at the same conclusion. If he had, he would have undoubtedly realized that his enemy's presence there couldn't just be a coincidence, and he would have dealt with it in a more deliberate manner. Among the guests at the party were rabbis. Very likely, these were the host's spiritual advisors. Why doesn't he consult with them now? They would have told him that this is obviously a test. Deal with it in a dignified manner. If you can tolerate your enemy's presence, great. If not, then *we'll* approach him and explain the mix-up, and ask him to quietly slip out and nobody will be any the wiser. But instead there was a complete breakdown.

The Torah teaches, "One who embarrasses his neighbor in public has no share in the World-to-Come" (Bava Metzia 59a). But in the heat of the moment, the Torah and the World-to-Come are flung aside. What would the host have answered if we had tried to remind him of this Talmudic teaching?

"Don't talk to me about Divine Providence, it's just an unexplainable fluke; mix-ups like this happen every now and then."

"I can't think about the Afterlife right now. My enemy is sitting here drinking champagne on my tab!"

Rage welled up inside Kamtza. At first he could not even bring himself to address Bar Kamtza directly. "That man is an enemy!" It was probably at this stage that the musicians on stage stopped playing and laid their instruments on their laps, waiting to see what would happen next. The host screamed at Bar Kamtza. "What are you doing here? Stand up. Now get out!"

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What about Bar Kamtza? What should his reaction have been? The moment he realized he was invited accidentally, not because the host wanted to make amends with him, he should have also realized that it wasn't a coincidence. The Torah outlook is that receiving an insult is the equivalent of a payment towards your spiritual credit card bill. Over a lifetime, a person can rack up an enormous debt to G-d through his failure to take advantage of all the opportunities G-d extends him. Suffering insults with dignity chips away at that debt. That is because it exhibits a tremendous strength of character where weakness previously existed, and if related back to G-d, fortifies his belief in Him. A great rabbi was once heard complaining, "Nobody ever insults me!"

Bar Kamtza should have said to himself, "For whatever reason, G-d ordained that I should end up here and suffer this indignity."

The Torah teaches that someone who's insulted should chalk it up to one of the greatest atonements a person can receive in this world.

With that in mind, Bar Kamtza should have gotten up and left. Instead, Bar Kamtza was prepared to go into debt to stay at the banquet and maintain his honor. To which the host responded, "Your honor isn't worth all the money in the world to me." Here are two representatives of a generation said to have been involved in Torah, mitzvot, and acts of kindness, locked in a power struggle, with G-d relegated to the sidelines.

### Aftermath

After being ejected from the hall, Bar Kamtza tried to make sense out of what had just happened to him.

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*Bar Kamtza thought, "Since the Rabbis were there, saw the whole thing, and did not protest, obviously they had no objection to my embarrassment! I'll go now, and slander the Jews to the king."*

Let's consider that claim for a moment, because it seems like a valid one. Bar Kamtza should have dusted himself off and realized that G-d had delivered him a love tap, as mentioned above. If he was still upset, he should have stormed into the office of his personal rabbi and vented his complaint. Bar Kamtza's rabbi would then ask him to tell over what had happened to him. The rabbi would listen to the story objectively. He'd stress the enormous atonement Bar Kamtza just received, and he'd ask Bar Kamtza, "Are you absolutely positive that all the rabbis witnessed the proceedings?"

"Absolutely."

"Would you swear in court to it?"

"Well, I... They *were* at the party. I can't necessarily swear that they *all* saw what Kamtza did."

The rabbi would promise Bar Kamtza that he'd investigate the apathetic behavior of the rabbis at the banquet and assure him that he'd get to the bottom of it. If Bar Kamtza was indeed right, he'd get a formal apology out of them. Bar Kamtza would go home, feathers ruffled, and the matter would sort itself out. When the Talmud states, "There were prominent Rabbis seated there and they didn't object to the host's treatment of me. Obviously it's because they approved of it," it is not as a statement of historic fact. It is an unsubstantiated claim. It may be true, it may not. This is not the Talmud's point. The Talmud's intention in recording it is as part of Bar Kamtza's impetuous reaction. We should study it as such.

Finally, the Talmud relates Bar Kamtza's evil plan for revenge. "I am going to go to the royal palace and slander the

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Jews.” We had asked, why didn’t he take it out on the host or the rabbis? After profiling the character of Bar Kamtza, it becomes evident that despite all the devout motions he was going through on the outside, inside he was spiritually vacant. He didn’t just have an issue with the banquet host and the rabbis there, he had a bone to pick with G-d Himself.

Bar Kamtza didn’t really believe in G-d, and to validate his personal philosophy he had to prove G-d didn’t exist. What better way than to strike at the area where G-d’s presence had historically been most recognizable, the existence of the Jewish people in the land of Israel.

The Jews at the time of the Temple’s destruction did not understand what a grave threat the unchecked malady of “baseless hatred” posed. The Talmud told us that for such an unrevealed sin, the end of our exile also remains unrevealed. It becomes clear now that this is not a punishment, but rather a consequence. For until we fearlessly wield the surgeon’s scalpel and root out all of the decay in our relationship between ourselves and G-d, it will spill over into every other area of our lives and keep the construction of the Third Temple at bay.

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<sup>1</sup> This essay was inspired by a talk delivered by R. Shlomo Brevda.

# Of Man, Temple and Divine Desire

*Rabbi Yisroel Gordon*

“**W**hen G-d created the universe, He desired to have a residence below just as He had a residence above. [So] He called Adam and commanded him:

‘Eat from all the fruit trees of the garden, but from the Tree of Knowledge do not eat’ (Genesis 2:16-17).”<sup>1</sup>

This short, enigmatic Midrash sums up Jewish theology in two basic points:

- G-d created the world because He “wants” to dwell down here, on planet Earth.<sup>2</sup> And not just anywhere on Earth. G-d desires to dwell within the pinnacle of creation, within Man.<sup>3</sup>
- G-d’s ability to rest His presence within man is dependent on man’s fulfillment of mitzvot. This is why G-d commands man.<sup>4</sup>



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And so it was. After creation was complete, G-d moved down from the heavens. His new address: Planet Earth, Garden of Eden, Adam. This move was the fulfillment of G-d's original 'desire,' and it had some extraordinary consequences.

"Clouds of Glory" always materialize at the revelation of the Divine Presence,<sup>5</sup> and when G-d took up residence within Adam the situation was no different:

What did Adam wear? ...A cloud of glory covered him.<sup>6</sup>

G-d's move downstairs was also the cause of considerable confusion up in Heaven:

When G-d created Adam, the Malachei HaShareit, the administering angels, made a mistake. They began to call [Adam], "Kadosh," holy.<sup>7</sup>

Not that the angels thought Adam was G-d; they were well aware that Adam was a created being just like them.<sup>8</sup> However, now that G-d's main residence was within Adam, the angels were confused. This resulted in some amusing angelic behavior:

Adam was lounging in the Garden of Eden and the Malachei HaShareit were barbequing meat and filtering wine for him.<sup>9</sup>

It is the job of the administering angels to serve G-d, not man! What is going on here? The truth is, the angels weren't serving Adam at all; they were serving G-d. G-d was *in* Adam and the administering angels understandably assumed that the proper way to serve G-d in this new world order is to worship Him through the medium of man. They therefore performed their Divine Service by serving meat and wine to Adam.<sup>10</sup>

Life was good in the Garden; everyone was happy. But Utopia didn't last very long. Adam sinned and the Divine Presence, the "Shechina" departed.

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When Adam sinned, the Shechina departed to the first firmament.<sup>11</sup>

For many years G-d remained in heaven, but His 'desire' to dwell below never waned. G-d bode His time, patiently awaiting the appearance of a new sanctuary He could call home.

The first to create such a sanctuary were the patriarchs and matriarchs. Their extraordinary righteousness fixed the sin of Adam and Eve<sup>12</sup> and the Shechina was once again able to return to earth and establish its residence below. It resided within them just as it had resided within Adam.<sup>13</sup>

The Midrash put it this way:

The forefathers themselves are the Merkavah, the 'chariot' of G-d.<sup>14</sup>

As hosts of the Shechina, the forefathers were the vehicle which brought G-d down to earth; the Shechina necessarily went wherever they did.<sup>15</sup> They are aptly described as the "Merkavah," G-d's chariot.

It is no surprise to discover that, just like Adam, they too were surrounded by Clouds of Glory:

As long as Sara was alive... a cloud hovered over her tent. When she passed away it departed but when Rebecca arrived [the cloud] returned.<sup>16</sup>

## II

The Ramban,<sup>17</sup> in a brief but extraordinary introduction to Exodus, redefines freedom:

The exile is not over until the day that [the people] return to their [original] location and achieve the status of their

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fathers. When [the people] left Egypt, even though they left the house of slaves, they still had the status of exiles. After all, they were in a foreign land, wandering through the desert. However, when they came to Mt. Sinai and built the Mishkan (Tabernacle), G-d returned and rested His Shechina amongst them. [At that point,] the Jews regained the status of their fathers... and were then [truly] redeemed. This is why the book (i.e. Exodus) ends with the construction of the Mishkan and the Divine Presence taking up residence within.

In short, the goal of the Exodus was for the Jews to return to stature of their forefathers, which is really the level of Adam and Eve in the Garden of Eden. Like their ancestors before them, the Jews were destined to provide a terrestrial sanctuary for the Shechina. In fact, it was for this very purpose that G-d took them out of Egypt:

I will dwell among the Jews, I will be a G-d for them and they will know that I, G-d your Lord, brought them out of Egypt in order to dwell among them.

Exodus 29:45-46

Meaning, they will then know that I took them out of Egypt solely for the purpose of their building a Mishkan for me so that I can dwell among them.

Ibn Ezra<sup>18</sup>

The Ramban, famed antagonist of the Ibn Ezra, praises the Ibn Ezra's reading of this verse. The Ramban goes on to say that if this reading is indeed correct, this verse is introducing a radically innovative idea. Popular conception is that the Shechina dwells among us because we need G-d in our lives. While this is certainly true, our verse indicates that the Shechina dwells below not in fulfillment of a human need but in fulfillment of a "Divine need." The Ramban finds a precedent:

“G-d *desires* [Zion] as a dwelling place for Himself” (Psalms 132:13).

This idea is also found in the Midrash:

G-d said to the Jews, “You left Egypt only for the purpose of building Me a Mishkan so that I can rest my Shechina among you.” This is the meaning of the verse, “They will make a sanctuary for Me and I will dwell among them” (Exodus 25:8).<sup>19</sup>

It turns out that the construction of the Mishkan sanctuary was no less a fulfillment of G-d’s original desire to dwell below than creation itself. It is therefore understandable that it brought G-d just as much pleasure:

On that day [of the Mishkan’s inauguration] there was a Divine rejoicing like the day of the creation of Heaven and Earth.<sup>20</sup>

### III

What is the source of this mysterious “Divine Desire” that drives our history? Why does G-d want to dwell below? Wouldn’t a Heavenly Palace be a more appropriate residence for G-d?

The answer to this question is straightforward. G-d wishes to live with those whom He loves. And G-d loves the Jews.

G-d says, “I love you” (Malachi 1:2). See how much He loves you. From the Earth to the firmament is a five-hundred year journey. The same is true of the distance from the first firmament to the second and from the second to the third and from the third to the fourth and from the fourth to the fifth and from the fifth to the sixth

and from the sixth to the seventh – and this is without calculating the domain of the [angelic] *chayot*. The Divine Throne is beyond all [of these regions]. See how great My love is for you – I abandoned it all and told you to prepare some goat skins for Me so I could come and dwell with you.<sup>21</sup>

This love is vividly portrayed in King Solomon’s Song of Songs. King Solomon utilized the metaphor of a man’s love for a woman to express G-d’s passion and longing for His people and the metaphor of a woman’s love for a man to express our love for G-d. This is why R. Akivah considered the Song of Songs to be the holiest of the all the works of Scripture.<sup>22</sup>

G-d’s love is not reserved for the nation as a whole. As the Rambam writes, the Song of Songs is a description of G-d’s ‘feelings’ for the individual, not the nation.<sup>23</sup> G-d loves every member of His chosen people and that love drives His desire to dwell within every single Jew. The concept of the sanctuary is thus not merely a national project, but a personal one. G-d wants each one of us to build an internal sanctuary for the Shechina.<sup>24</sup>

#### IV

In light of the above, Rabbi Chaim Volozhiner’s (1749-1821) understanding of the Mishkan makes perfect sense. He offers a novel reading of the verse, “They shall make Me a sanctuary and I will dwell among them” (Exodus 25:8):

G-d is saying the following: Let no one make the mistake of thinking that My intent in the construction of the sanctuary is about the physical building itself. Not at all. Rather, you should know that the *sole objective* of the Mishkan and its furniture is to serve as a model to contemplate and emulate. Your own behavior should be

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as wonderful as the Mishkan and its furniture, completely holy and worthy of the Divine Presence. This is the meaning of the verse, “They shall make Me a sanctuary and I will dwell among *them*.”

Nefesh HaChaim 1:4

In other words, the function of the Mishkan is to inspire the Jews to transform themselves into living sanctuaries. If the Divine Presence could rest within a building, certainly it could rest within man! After all, that was man’s ultimate purpose in creation – to serve as an abode for G-d. With the help of this idea, we can understand an otherwise impenetrable verse:

You, son of Adam! Tell the House of Israel about the Temple, and let them be ashamed of their iniquities. Analyze the [Temple’s] design.

Ezekiel 43:10

Why would studying the Temple cause the people to be ashamed of their sins? Because the people understood that the Temple, like the Mishkan prototype before it, is a symbol. Its design is an abstract representation of the body and soul of the ideal Jew.<sup>25</sup>

When the Jew raised his eyes to the Temple, he saw a sanctity that should have been his own. With a vision of his spiritual potential before his eyes, the Jew became ashamed of the sins that chased the Shechina out of his heart. He repented and was cleansed. That’s why the prophet encouraged the people to study the Temple’s design.<sup>26</sup>

This was the inspirational power of the Mishkan and the Temple, and this was its function for the Jew of old. But somehow, the system failed and the Temple was destroyed. What went wrong?

## V

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The Talmud states that the First Temple was destroyed because the Jews stopped reciting the blessing on the Torah (Nedarim 81a). This is a bit difficult to comprehend. For a relatively minor infraction like that the Temple was lost? How can this be?

Rabbi Yoel Sirkes (1561-1640) answers our question with an exposition that goes to the very heart of the Jewish mission:

This is very strange. Why did G-d do such a thing, punishing them with such a great and harsh punishment for not reciting the blessing before studying Torah – an apparently minor sin?

It was G-d's intent that we would study Torah in order to fortify our souls with the power, spirituality and holiness of the Torah...

...If they would have toiled in Torah with that goal in mind, they would have become a Merkavah and a sanctuary for the Shechina... The Divine Presence would have set up its residence within them, and the whole earth would have shone with the glory of it...

But they broke the rules. They studied Torah for their own material pleasure, in order to learn civil law or to show off their scholarship. They did not intend to fortify themselves, to connect with the sanctity and spirituality of the Torah and bring the Divine Presence down to earth...

This created a disconnect. The Shechina departed from the world, returning to its heavenly abode. The world was left with its own physicality, devoid of sanctity. And the Temple was destroyed...<sup>27</sup>

The Jews forgot that the Torah was the medium for connecting to G-d and bringing the Shechina down to earth.

Eventually, they even stopped reciting the blessing on it. Once the Jews were no longer building themselves into living sanctuaries through Torah, there was no longer any purpose for a Temple. In the end, it was not the missed blessing per se, but the deeper problem it symbolized which led to the Temple's destruction.<sup>28</sup>

## VI

Do not pollute the land in which you live; it is blood that pollutes the land. When blood is shed in the land, it cannot be atoned for except through the blood of the person who shed it. You must not defile the land upon which you live and in which I dwell, since I, G-d, dwell among the Israelites.

Numbers 35:33-34

The Torah seems to be saying that homicide becomes an even more horrific crime when committed in Israel, for G-d's presence is there. The Midrash, however, reads these verses differently:

Rabbi Natan taught, "The Jews are beloved [by G-d], for wherever they are exiled the Shechina goes with them... as it says in the verse: "I, G-d, dwell among the Israelites" (ibid).<sup>29</sup>

How can the Midrash bring this verse in support of its contention that the Shechina accompanies the Jews into exile? Seen in context, the statement "I, G-d, dwell among the Israelites" is clearly referring to G-d's presence in the land of Israel. Nowhere did the verse say that G-d will join the Jews in the Diaspora.



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The Netziv<sup>30</sup> suggests that we read these lines a little more closely. When the Torah wrote, “You must not defile the land upon which *you live* and in which *I dwell*,” the Torah is saying that if you do defile the land, it will result in the exile of both of the land’s inhabitants: the Jews and G-d.<sup>31</sup> The verse then explains why: We will both be forced to leave “since I, G-d, dwell among the Israelites.” That is the structure of the verse.

Now, it is understandable how the phrase “since I, G-d, dwell among the Israelites” explains why G-d needs to leave. He is in the land; He cannot tolerate spiritual pollution; He must leave. O.K. But why is this a reason for the Jews to leave? Had the verse simply stated that the Jews would be punished with exile, that would be understandable. But the Jews must leave because G-d dwells among them? What kind of reason is that?

The Midrash has the answer. “The Jews are beloved, for wherever they are exiled the Shechina goes with them.” Given that the only place for the Shechina in this world is within the Jewish people,<sup>32</sup> if G-d cannot remain in Israel – the Jews must go out with Him! If G-d leaves and the Jews remain, G-d will have no place to be in this world. G-d does not want to abandon the earth; He desires to remain below. So the Jews must be exiled to create a home for G-d in the Diaspora.

It is exactly as the verse said: “You must not defile the land upon which you live and in which I dwell, since I, G-d, dwell among the Israelites.” I dwell only among the Israelites, so if I am exiled they must be exiled with Me.<sup>33</sup>

Of course, G-d’s presence among the Jews in exile is greatly diminished compared to what it was in Israel. The Divine Presence in exile is a faint echo of the intensity of the Shechina in the Holy Land. But a relationship remains. A relationship that we must deepen and strengthen until G-d’s love for His nation overflows into the final redemption and the building of the Third Temple.

## VII

Megillat Eichah ends with a plea:

G-d, return us to You and we will return. Renew our days  
as of old.

Lamentations 5:21

These plaintive words are not really all that innocent. G-d has a sharp rejoinder:

The Jewish Nation said to G-d: “Master of the World, it is in Your hands. Return us to You!” G-d replies, “It is in *your* hands, as the verse states, “Return to me and [then] I will return to you, says G-d” (Malachi 3:7).<sup>34</sup>

In the reconciliation process of damaged relationships, there is often a struggle over who must make the first move. Both commit to respond in kind, but each side is waiting for the other to reach out. Fixing our relationship with G-d is no different.

Jews expect G-d’s love to drive the redemption. We assume that just like the Exodus from Egypt, G-d’s desire to rest His Shechina among us will be reason enough for Him to put an end to our exile. But G-d says no. You must first return to Me. Only then will I return to you. And so the matter rests, stuck at an impasse.

How painful this must be for G-d!<sup>35</sup> The great Divine Desire is left unfulfilled and the entire purpose of creation is put on hold as history awaits the renewal of G-d’s relationship with His chosen people. This state of affairs does not go unnoticed by the Jewish calendar.

On Tisha B’Av, we mourn not only the tragedies of our history; we mourn the tragedy of today. Day in and day out, our souls suffer the agony of unfulfilled spiritual desire and

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unconsummated love. The saddest part is that we have gotten used to it. One day a year we reawaken ourselves to the reality of our broken world. It is this pain of our nation and yes, this pain of G-d, that brings us to tears on Tisha B'Av.

May this year's Tisha B'Av be the last.

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<sup>1</sup> Midrash Tanchuma (Buber) Naso 24. Cf. Tanchumah Yashan, Bechukotai 65

<sup>2</sup> Of course, G-d doesn't really want anything; He is entirely self-sufficient (cf. Nefesh HaChaim 2:4). However, there is a reality to G-d's relationship with His people and, as long as we do not take our words literally, we have license to use human language to describe this relationship. Recognizing the limitations of human concepts and language, we use words as metaphors for the incomprehensible Divine reality. See, for example, Rashi's commentary to the Song of Songs.

It is important to note that both the metaphors we use to describe this relationship and the biblical names of G-d all exist solely within the context of the created universe. The ultimate, infinite reality of G-d is beyond any description or name (Nefesh HaChaim 2:2). Similarly, when we speak of the "Divine Presence," or the "Shechina," we do not refer to the infinite reality of G-d Himself. In the words of R. Moshe Chaim Luzzatto: "Understand that the elevated, exalted and completely unfathomable G-d, blessed be He, allowed different types of 'holinesses' to emanate from Himself to the lower worlds. However, even this holiness is not like the concealed and unfathomable holiness of G-d Himself, but [something else] which corresponds to the preparedness of the recipient" (Da'at Tevunot, R. Friedlander ed., pg. 182). R. Yerucham Levovitz (1875-1936) said it quite plainly: "We have already mentioned many times that when we speak of "G-d" the intent is not the ultimate reality of G-d, for this is concealed beyond all concealments. Rather, we speak of G-d's attributes – that which He wishes to reveal to His creations. This is explained at length in the book Da'at Tevunot" (Da'at Torah, Genesis 12:2). See also Nefesh HaChaim 3:7.

<sup>3</sup> It would follow that this Divine 'desire' to dwell within man was the impetus behind creation itself. The Vilna Gaon says as much in his

commentary to Song of Songs 3:1, “The purpose of the afterlife is for the soul to return to its source and connect with the Shechina. Of course, the ideal state would be for the Shechina to connect [with us] down below, which is, [after all,] the purpose of creation, as is well known.” See, however, R. Moshe Chaim Luzzatto, *Derech Hashem* 1:2:1.

<sup>4</sup> Such a statement is admittedly an oversimplification of a profound theological question. There are several schools of thought on this issue and the complete answer is probably beyond human comprehension. However, this Midrash does indicate that G-d commanded Adam in order to ennoble, elevate and sanctify him into a sanctuary for the Divine Presence.

<sup>5</sup> See Exodus 19:16, 40:35; Rashi to Leviticus 16:2

<sup>6</sup> *Pirkei D’Rebbi Eliezer* 14

<sup>7</sup> *Bereishit Rabba* 8:10

<sup>8</sup> G-d consulted with the angels before He created Adam (Rashi, Genesis 1:26). See *Yefeh Tohar* to B.R. 8:10.

<sup>9</sup> *Sanhedrin* 59b

<sup>10</sup> Compare Talmud, *Yoma* 71a, “R. Berachya taught, “One who wishes to pour wine libations on the [Temple] altar should fill the throats of Torah sages with wine.” Cf. *Mesilat Yesharim*, chap. 26.

<sup>11</sup> *Bereishit Rabba* 19:5. “When he ate the fruit of the tree... the Cloud of Glory departed from him” (*Pirkei D’Rebbi Eliezer*, *ibid*).

<sup>12</sup> See, for example, *Reb Yerucham, Da’at Torah*, Genesis, pgs. 81-82, 160.

<sup>13</sup> Adam was on a higher level. The *Shaarei Orah* (R. Yosef Gikatilla, 1248-1305) writes that the Divine Presence was not as “entrenched” within the forefathers as it was within Adam before the sin (quoted by the *Shelah*, *parshat Terumah*).

<sup>14</sup> *Bereishit Rabba* 82:6

<sup>15</sup> This conception of the forefathers as G-d’s ‘chariot’ may give new meaning to G-d’s command to Abraham to walk the length and breadth of the land of Israel (cf. Genesis 13:17).

We find a slightly different version of this idea in the Midrash: “G-d appeared to Avraham and said to him, ‘I am G-d Almighty. Walk before Me and be perfect’” (Genesis 17:1). The Midrash quotes *Reish Lakish*, “What is [G-d’s relationship with] Avraham comparable to? To a king who was walking in the dark. His friend came, saw him and lit [the way] for him. The king said, ‘Now that you are lighting [the way] for me, go and walk before me.’ Similarly, in the days of Avraham, all the

inhabitants of the world were evil but he was righteous. G-d said to him, ‘Now that you are illuminating the East for Me, walk before Me.’”

Tanchumah Yashan, Lech Lechah, 26

<sup>16</sup> Bereishit Rabba 60:16

<sup>17</sup> R. Moshe ben Nachman (1194-1270)

<sup>18</sup> R. Avraham ibn Ezra (1092-1167)

<sup>19</sup> Tanchuma Yashan, Bechukotai 65

<sup>20</sup> Talmud, Megillah 10b

<sup>21</sup> Tanchuma (Buber) Terumah 8

<sup>22</sup> Mishnah, Yadayim 3:5

<sup>23</sup> Cf. Laws of Repentance 10:3. R. Yosef Dov Soloveichik (1903-1993) pointed out an apparent dispute between the Rambam and Rashi on this issue. As is made clear in his commentary, Rashi understands the Song of Songs to be an expression of G-d’s relationship with the nation, not the individual. Regardless of how the Song of Songs is interpreted, it is unlikely that G-d’s love for the individual could be debated. See, for example, Ezekiel 33:11: “Say to them: As I live – the word of Hashem our G-d – Do I desire the death of the wicked? Just that the wicked change his ways and live!”

<sup>24</sup> See Malbim (R. Meir Lob Weiser, 1809-1879) to Exodus 25:8, “Every individual should construct a Temple within the chambers of their heart, preparing themselves to be a Mikdash for G-d and an abode for His powerful Presence.” Truth be told, transforming man into a sanctuary for G-d is no simple matter. It requires an extraordinary degree of self-discipline, righteousness and refinement. One must climb the steep ladder of Torah, mitzvot and personal development to achieve the required sanctity. R. Moshe Chaim Luzzatto dedicated an entire volume, Mesillat Yesharim, to describing this process. But if a sanctuary is what we were designed to be, it is certainly an attainable goal. Achieving fulfillment may not be easy, but the climb is a thrill and the rewards are eternal.

<sup>25</sup> This concept of the Mishkan is well established in the Midrashic and Kabbalistic literature. See Nefesh HaChaim 1:4.

<sup>26</sup> See Nefesh HaChaim 1:4 (gloss); Mishnas Reb Aharon vol. III, pg. 96

<sup>27</sup> Bayit Chadash to Tur O.C. 47

<sup>28</sup> Elsewhere, the Talmud gives a different reason for the Temple’s destruction: “Why was the First Temple destroyed? Because of the presence of idolatry, adultery and murder” (Yoma 9b). This apparent contradiction is resolved by the Jerusalem Talmud: “We find that G-d could have overlooked the idolatry, adultery and murder, but their

rejection of Torah He could not ignore... for the light of Torah would have brought them close to Me” (Chagigah 1:7). In Eichah Rabba (intro), we find a slightly different version: “...for the light of Torah would have brought them back to goodness.”

<sup>29</sup> Sifre Numbers, end

<sup>30</sup> R. Naftali Tzvi Yehudah Berlin (1817-1893)

<sup>31</sup> The context of these verses is the issue of exile; see Numbers 35:9-32.

<sup>32</sup> After the sin of the Golden Calf, “Moshe requested three things of G-d and G-d granted [them all]... He asked that the Shechina rest on the Jews and [the request] was granted... He asked that the Shechina not rest on idolaters and [the request] was granted, [as G-d said to Moshe,] ‘I and your people will be distinct’ (Exodus 33:16).” Talmud, Berachot 7a

<sup>33</sup> Cf. Ha’amek Davar ad loc.

<sup>34</sup> Eichah Rabba, intro., 32

<sup>35</sup> Known as “Tza’ar HaShechinah” in Kabbalistic terminology, ideally it is empathizing with this “Divine Pain” that drives our Tisha B’Av prayers and mourning (cf. Nefesh HaChaim 2:11-12). It goes without saying that the infinite G-d has no needs and does not experience emotion. However, like G-d’s “desire” or “love,” this “pain” is simply a metaphor for a Divine reality which is beyond human comprehension. See note #2.

# Is it a Mitzvah to Live in Israel?

## A Survey of Rabbinic Responsa

*Rabbi Avi Lebowitz*

**E**retz Yisrael, the Land of Israel, is the land of the Jews. From Creation this land was destined for our people; G-d promised it to our forefathers and He gave it to us. Regardless of who may inhabit it, the Holy Land forever remains the national property of the Jewish people.

According to the Midrash, the entire book of Genesis is wholly dedicated to informing the world of our rights to the land:

Rabbi Yitzchak taught: G-d did not have to begin the Torah with the story of creation. The Torah could have begun with the mitzvah to set up a calendar, which was the first mitzvah that the Jews were commanded to observe. Why then, does the Torah begin with the story of creation?

“He declared to His people the power of His works, in order to give them the portion occupied by the nations” (Psalms 111:6). If the nations of the world were ever to confront the Jews, claiming that they are thieves and

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occupiers of a land that does not belong to them, the Jews would have a legitimate response. The world belongs to G-d, He created it and He gave it to whom He saw fit. With His will He gave [Israel] to them (i.e. the seven nations who originally occupied the land) and with His will He took it from them and gave it to us.

Yalkut Shemot 187<sup>1</sup>

The Creator who chose to allow other nations to occupy the land of Israel can decide when their lease is up so that the Jews, for whom the land was predestined, can inherit their rightful portion.

G-d told Avraham to walk the length and breadth of the land (Genesis 13:17) as a formal act of acquisition (Talmud, Baba Batra 100a).<sup>2</sup> G-d made vows to Abraham (Genesis 15:8), Isaac (Genesis 26:3) and Jacob (Genesis 28:13) promising them that their descendants would inherit this land. Clearly then, the religious significance of Eretz Yisrael is a primary theme of the Torah. Its importance to Judaism must never be understated.<sup>3</sup>

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<sup>1</sup> This Midrash is quoted by Rashi (R. Shlomo Yitzchaki, 1040-1105) at the very beginning of his seminal biblical commentary. Some mistakenly assert that the R. Yitzchak quoted here is Rashi's father – See Divrei David.

<sup>2</sup> The Talmud states that this made it easier for Abraham's descendants to conquer the land in the days of Joshua. Rashbam (ad loc.) explains that Abraham's descendants would now be considered inheritors with a justified claim to the land, rather than thieves who are taking the land by force. Abraham's formal acquisition of the land made G-d's gift to His nation a legal reality.

<sup>3</sup> Many nations are united by a piece of property and the identity of the nation's citizens finds its source in their common homeland. History has shown that when a people lose their land, their culture is lost too. Within a few generations they assimilate and vanish. The Jewish people are different. We were a nation while traveling as nomads through the Sinai desert, we were a nation in the days of King Solomon when we had a Temple, and we remained a nation when we were exiled from our land. Jewish identity is deeper than a common homeland. Jewish identity finds its source in the Torah. It is the Torah alone that acts as our lifeline and enables us to survive as a nation throughout millennia of dispersion and persecution. Meshech Chochmah (Leviticus 23:21) points out that while nations



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While Jewish ownership of the land of Israel is a worthy subject of study, it is not the topic of this essay. Nor is it the purpose of this essay to discuss the significance of Eretz Yisrael for our people. Rather, the purpose of this essay is to determine if there is a mitzvah for the Jew to live there. Eretz Yisrael belongs to all of us as a nation, but does Judaism mandate that we settle the land?

This issue first appears as a debate between two of the most eminent medieval Halachic authorities. The Rambam<sup>4</sup> compiled a list of all the 613 biblical commandments in a work aptly titled, “The Book of Mitzvot.” The Rambam’s list does not contain a mitzvah to dwell in the land of Israel. It would seem that the Rambam does not consider *aliyah* to be a mitzvah. The Ramban,<sup>5</sup> however, takes issue with the Rambam’s omission. Basing his opinion on this verse, “When you pass over the Jordan to come and inherit the land that Hashem your G-d has given you, you should inherit it and settle in it” (Deuteronomy 11:31), the Ramban contends that there is a biblical commandment for Jews to conquer the land and bring it under Jewish sovereignty. The Ramban also believes that this same verse obligates every individual Jew to dwell in the land of Israel.

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are typically united by common goals and values which develop from sharing a land, “not so the nation of the Jews” – their connection and national pride is the Torah, and through Torah all Jews share a common bond with G-d.

<sup>4</sup> R. Moshe Ben Maimon or Maimonides (1135-1204) was one of the leading Jewish scholars of the Middle Ages. His works include such classics as his Arabic commentary on the Mishnah; the *Yad HaChazakah*, a comprehensive 14 volume code of Jewish law; and the *Guide of the Perplexed*, a masterwork of Jewish religious philosophy.

<sup>5</sup> R. Moshe Ben Nachman (1194-1270) was a sage, a mystic and a leader of the Jewish community in Spain. A prolific writer who authored a commentary on the entire Talmud, his biblical commentary is a classic, second only to Rashi. The Ramban successfully defended Judaism from Christian attack at the famous Barcelona debate of 1263.

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Any serious discussion of this mitzvah must begin with an analysis of the respective positions of those who first wrote on the issue, the Rambam and the Ramban.

### **The Rambam**

One of the commentaries on the Rambam's Book of Mitzvot is an extensive work named "Megillat Esther."<sup>6</sup> The author is dedicated to defending the Rambam from the objections of the Ramban and this case is no exception. The Megillat Esther offers a justification for why the Rambam omitted this mitzvah from his list. He suggests that the mitzvah for individuals to settle the Land of Israel is applicable only while the Temple is standing in Jerusalem, but in the absence of the Temple, no such obligation exists.<sup>7</sup> To support his claim, the Megillat Esther marshals a surprising quote from the Talmud: "One who leaves Babylon to go to the land of Israel is in violation of a positive commandment" (Talmud, Ketubot 110b). Backed by a verse from the Prophets, this ruling was passed at a time when Babylon was the recognized center of Torah scholarship and Jewish life. Moving out of the Babylonian

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<sup>6</sup> Not to be confused with the scriptural scroll of the same name, this work of rabbinic commentary was authored by R. Yitzchok De Leon (16<sup>th</sup> century). He titled the work "Megillat Esther" because "Esther" means "hidden" and his goal was to reveal the hidden logic behind enigmatic positions of the Rambam. In addition, he dedicated the work in memory of his mother, Esther, who passed away shortly before the work was published.

<sup>7</sup> A probable rationale for why the mitzvah to live in the land of Israel would be dependent on the presence of a Temple in Jerusalem is because the Temple is a symbol of G-d's presence. The Temple brings with it a higher and more apparent degree of Divine Providence. The approach of the Megillat Esther is that the mitzvah to live in the land of Israel is a mitzvah whose purpose is to create a more intimate relationship between the Jewish people and G-d by obligating them to reside in close proximity to His presence. In the absence of a Temple there would be no mitzvah. See note #11.

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community could conceivably result in a decline in religious observance. Nonetheless, the prophets and the Talmud would never make a statement forbidding a move from Babylon to Israel if there was a biblical mitzvah to live in Israel! The Rambam therefore ruled that this mitzvah is dependent on the existence of a Temple, and does not apply in the absence of a Temple. It therefore does not qualify to be included on the Rambam's listing of the 613 eternal mitzvot.

The Avnei Nezer (Y.D. 454:4) strongly opposes this suggestion of the Megillat Esther. Even if the Rambam believed that this mitzvah is dependent on a Temple, that would not justify his omitting this mitzvah from his list of mitzvot. Mitzvot such as Terumah, Ma'aser and Challah are not in force biblically in the absence of a Temple, yet they all appear on the Rambam's list. Why should this mitzvah be different?<sup>8</sup> The Avnei Nezer concludes that the Rambam agrees with the Ramban that even today there is a biblical mitzvah to live in the land of Israel. The reason it is not on his list is because the Rambam considers the mitzvah to live in the land of Israel to be a subsidiary of a different mitzvah, the mitzvah to conquer the land, and that mitzvah is already on the Rambam's list.

The Avnei Nezer also rejects the proof of the Megillat Esther that if there would be a mitzvah to live in the land of Israel, the Rabbis could not have forbidden moving there from Babylon. The Avnei Nezer (454:7) explains that the mitzvah is not traveling to the land of Israel; the mitzvah is living in the land of Israel. It is plausible that the Rabbis wanted to maintain Babylon as a Torah center and therefore forbade Jews to move

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<sup>8</sup> Some suggest that the intent of the Megillat Esther in his defense of the Rambam's position is that this was a one-time mitzvah that existed only in the days of Joshua and functioned to obligate and sanctify the original conquest and settlement of the land. Such a mitzvah would not belong on the list of the 613 eternal mitzvot. (In contrast, mitzvot that require a Temple are eternal and must be listed, for whenever there is a Temple these mitzvot are operative.)

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out. A prohibition against travel out of Babylon would not technically be in conflict with a mitzvah to live in the land of Israel. The Rabbis could introduce a ban on travel even in the face of this mitzvah and there is therefore no evidence that the mitzvah was not operative at that time.

In his code of Jewish law, the Rambam writes that residents of Israel may not move out and settle elsewhere (Laws of Kings 5:9). While this ruling is only binding on Jews who live in the land of Israel, the Rambam continues with the following: “Great sages would kiss the borders of Israel and its stones, and they would even roll in its dirt [as an expression of their passionate love for the land]” (ibid 5:10). It is highly unusual for the Rambam to digress from his code of law to tell stories about sages. Rambam's work is a legal code, not an inspirational poem. Clearly then, this is not a meaningless digression; rather the Rambam is encouraging his readers to settle in the land of Israel. While it may not be a bona fide mitzvah, the Rambam feels that encouraging *aliyah* has a place in a code of Jewish law.

The Rambam writes that calculating the new moon and establishing the Jewish calendar is ineffective when done outside the land of Israel (Book of Mitzvot, positive commandment no.153). To be effective, any such calculation must rely on the existence of a Jewish community in the land of Israel.<sup>9</sup> Writing about the possibility of a land of Israel bereft of

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<sup>9</sup> Chasam Sofer (Responsa, O.C. 203) is troubled with the position of the Rambam. Since the days of Hillel the Elder, the Jewish calendar is fixed and operates on auto-pilot. Why would it be necessary to have Jews present in the land of Israel in order for the calendar to function? The Chasam Sofer explains as follows: Although the calendar is set, it requires a constant Jewish presence in the land of Israel for Rosh Chodesh to be sanctified. If, Heaven forbid, the land of Israel would be empty of Jews, the sanctification put into motion by Hillel and his court would be invalid. The Chasam Sofer concludes, “It is therefore our responsibility to ensure to the best of our abilities that a Jewish community is always present in the land of Israel.” In a different responsum (Y.D. 234) the

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Jews, the Rambam declares, “G-d forbid such an occurrence! G-d promised that the Jewish nation will never be wiped out.” Apparently, the Rambam assumes that the survival of the nation requires a community in the land of Israel.

In a different context, the Rambam rules that if a man wishes to live in the land of Israel, but his wife does not want to make the move, the law supports the husband. The same is true in the reverse situation, i.e. if a woman wishes to move to Israel but the husband does not want to go, the law supports the wife (Laws of Women 13:20). The fact that consent of both husband and wife is not required clearly demonstrates the weight granted to fulfilling the dream of dwelling in the land. Being that the Rambam neglected to qualify his statement by limiting it to a time when the Temple is standing, we can infer that although there may not be an absolute obligation to live in the land of Israel in our day, it still remains an idealistic value with ramifications in Jewish law.

### **The Ramban**

The Ramban writes:

We were commanded to settle the land that G-d gave Abraham, Isaac and Jacob and not allow it to remain under the sovereignty of other nations... In my opinion, it is this mitzvah to live in the land of Israel that our sages were referring to when they said, “Leaving the land of Israel to live outside of Israel is tantamount to idolatry...” This source, together with other sources which emphasize the importance of living in Israel, clearly demonstrate the

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Chasam Sofer reiterates the importance of settling the land of Israel and states that a Jewish community in Eretz Yisrael is critical for the survival of both Torah and the nation.

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existence of a positive biblical commandment to settle the land of Israel and dwell within it. This is a positive commandment that applies for all future generations for each and every Jew, even at a time of exile [in the absence of a Temple] as is made clear by several Talmudic passages.

### Ramban, Forgotten Mitzvot of the Rambam #4

As his primary proof that there is a mitzvah to live in the land of Israel, the Ramban quotes a Midrash (Sifre, Parshat Re'eh):

Rabbi Yehudah, Rabbi Matya, Rabbi Chananya, Rabbi Yehoshua and Rabbi Natan were once traveling out of the land of Israel. When they reached the border city and remembered the land of Israel, they began to cry. They tore their clothes and quoted the verse, “Inherit [the land of Israel], dwell in it and be sure to observe the mitzvot...” (Deuteronomy 11:31). They further commented that living in the land of Israel is equal in “weight” to all the mitzvot of the Torah.<sup>10</sup>

This episode seems to indicate that even in the days of those rabbis, after the destruction of the Temple, a mitzvah to live in the land of Israel remained. This would be in conflict with the theory of the Megillat Esther. The Megillat Esther responds by positing that the mourning of the sages was not because they had left the land and were no longer fulfilling the mitzvah of living there, but because the entire mitzvah of living in the land of Israel was no longer in existence after the destruction of the

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<sup>10</sup> There are many places in the Talmud where the sages stress the importance of living in the land of Israel. The Talmud in Ketubot 110a quotes G-d's sentiments on this matter: “I will be a G-d for one who lives in the land of Israel, but one who chooses to live outside the land of Israel is tantamount to being an idolater.” This statement is recorded by Rashi to explain the verse, “...to give you the land of Canaan, to be a G-d unto you” (Leviticus 25:38). See Ketubot 111a, Pesachim 113a, Shekalim 9b.

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Temple. However, the Avnei Nezer (Y.D. 454:3) counters that the context of the Midrash indicates that the mitzvah remained in full force. The Avnei Nezer therefore concludes that this Midrash is strong evidence in support of the Ramban's position.<sup>11</sup>

### Terumat HaDeshen

One of the foremost Halachic authorities prior to the codification of Jewish law in the Shulchan Aruch was the Terumat HaDeshen.<sup>12</sup> In dealing with the question of whether we are obligated to settle the land of Israel, the Terumat HaDeshen (responsum 88) writes the following:

You should know that praiseworthy and exalted is one who lives in the land of Israel, especially in the holy city

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<sup>11</sup> R. Y.S. Tochtel (Eim HaBanim Semeicha 3:7) cites many authorities who agree with the position of the Avnei Nezer and explain that the Rambam considers settling of the land of Israel to be a mitzvah for all time. For technical reasons, the Rambam did not include it on his list of mitzvot; it is not the type of mitzvah which qualifies for the list. Nonetheless, it remains a Torah obligation.

A colleague made light of the Avnei Nezer's objection and playfully invoked a verse in support the position of the Megillat Esther: "The words of Esther are binding" (Esther 9:32). The Shem MiShmuel (son of the Avnei Nezer) retorted that the two "Esthers" have nothing to do with each other. He cites a Shach (C.M. 28:14) who, in an entirely different context, takes issue with the Megillat Esther's justification of the Rambam (Avnei Nezer c.f. 456), intimating that the Megillat Esther is not infallible.

Although some authorities support the Megillat Esther's approach to the Rambam (see Minchas Elazar 5:12), the overwhelming majority of commentaries maintain that the Rambam considers moving to the land of Israel to be a laudable act, if not an actual mitzvah. See Shelah in Sha'ar HaOsiyos; Yeshuos Malko 66; Eim HaBanim Semeicha pg. 200 citing the Rebbe of Ger; Yosef Da'as 372; Maharam Shik Y.D. 225; Maharsham 1:18; and Eizor Eliyahu 194. All the aforementioned authorities reject the limitation of the Megillat Esther on this mitzvah.

<sup>12</sup> Authored by R. Yisroel Isserlin (1390-1469). One of the unique aspects of this work of responsa is that both the questions and the responses were composed by the author. In the writing of the Shulchan Aruch, R. Yosef Cairo relied heavily upon the rulings of the Terumat HaDeshen.

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of Jerusalem... However, we have heard of many situations where wicked inhabitants of the land cause great grief and difficulty to those who try to observe the Torah in Israel. Furthermore, one can hardly earn a living and it is not possible to start a profitable business. Who can withstand the difficulty of the situation? It is imperative that every individual evaluate carefully according to his ability and monetary means, how he will be able to fear G-d and keep mitzvot properly [in the land of Israel], for that is the purpose of Man.<sup>13</sup>

When we pay close attention to the language of the Terumat HaDeshen we notice that he never claims that living in Israel is in fact an absolute obligation. His language only indicates that it is a praiseworthy endeavor, but not one which should be pursued at the expense of Torah observance. The Terumat HaDeshen seems to subscribe to the position of the Rambam, and not the Ramban. Also, had the Terumat HaDeshen agreed with the Ramban that there is an absolute obligation to settle in Israel, the concern of potential financial challenges associated

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<sup>13</sup> The Avnei Nezer (Y.D. 454:56) echoes this sentiment. There is no mitzvah to go to the land of Israel unless an opportunity exists to settle among G-d-fearing people who are interested in mitzvah observance. Otherwise, there is more to lose than to gain. "A community of good people is absolutely necessary to achieve the goal of observing mitzvot, and certainly the additional mitzvot that are dependent on the land." The son of the Avnei Nezer reiterates his father's position that it is impossible that the Torah would obligate an individual to live in a non-observant community for "we do not find that the mitzvah of living in the land of Israel trumps every other mitzvah in the Torah!" (ibid 457:1). The Chasam Sofer (Y.D. 234) offers a similar approach in explaining why such great sages as the Beit Yosef and the Ari z"l chose to establish their place of residence in Tzefat, rather than settling in Jerusalem which is certainly holier than Tzefat. (Despite the ancient Jewish cemetery of Tzefat, resting place of many great scholars and tzaddikim, the Chasam Sofer declares: "What city can be compared in its holiness to Jerusalem?") In the Roman Period, Jews were severely persecuted in Jerusalem. Over time, other cities such as Tzefat developed into greater centers of Jewish life and Torah scholarship. Since dwelling in a vibrant Torah center supersedes the advantages of living in the holy city of Jerusalem, many scholars moved to Tzefat and not to Jerusalem.



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with the move would not be grounds in and of itself to exempt one from pursuing this mitzvah. We therefore maintain that the Terumat HaDeshen agrees with the Rambam that there is no obligation to live in the land of Israel at a time when we lack a Temple.

Nonetheless, although there may be no obligation, the Terumat HaDeshen considers dwelling in the land of Israel even in the post-Temple era to be a lofty and praiseworthy goal. In this too, the Terumat HaDeshen follows the precedent set by Rambam.

### **R. Chaim Cohen**

Until now we have understood the mitzvah to live in the land of Israel as being entirely independent of the agricultural mitzvot of the land. While it may be true that the borders of the land within which one fulfills the mitzvah of settling the land are identical to the borders within which one is obligated in the extra agricultural mitzvot, the two concepts are not interdependent.<sup>14</sup> Regardless of the opportunity to fulfill many more mitzvot by living in the land of Israel, the Rambam does

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<sup>14</sup> Rabbeinu Kreskras to Talmud Gittin (2a) understands things differently. He believes that while the agricultural mitzvot of the land are only active within the borders of the sanctified Eretz Yisrael, there may well be another, wider set of borders for the mitzvah to dwell in the land. Tosafot in Gittin (2a s.v. Ashkelon) points out that while the Mishnah considers the coastal cities of Akko and Ashkelon to be outside of the land of Israel proper, the boundaries delineated in Joshua seem to include these cities within the land of Israel. This discrepancy led the Rabbeinu Kreskras to posit his novel theory. Places outside of the special sanctified area which obligate the agricultural mitzvot may still be considered part of the country as far as the mitzvah to settle in the land is concerned. Tosafot (ibid), who originally raised this question but did not offer the Rabbeinu Kreskras's solution, apparently believes that the two concepts cannot be divided - any area which does not have the sanctity to obligate the agricultural mitzvot cannot be considered part of the Holy Land for fulfillment of the mitzvah to live there either.

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not obligate one to live in Israel. Conversely, the Ramban did not stipulate that the mitzvah to live in Israel is dependent on the ability to fulfill the additional mitzvot of the land. Tosafot<sup>15</sup> (Talmud, Ketubot 110b), however, cites R. Chaim Cohen, a Tosafist from Paris, who has an entirely different approach to this mitzvah. R. Chaim Cohen writes the following:

There is no mitzvah to live in the land of Israel today. This is because there are many mitzvot which apply only in Israel, and one is at risk of facing divine judgment for failing to observe those mitzvot properly.

Clearly, R. Chaim Cohen agrees with the Ramban that there is in fact an obligation to live in the land of Israel even in the absence of a Temple. How then can the difficulty of additional mitzvot exempt one from fulfilling this mitzvah? Is there a precedent in Jewish law for this type of exemption?

It has been suggested that a precedent might be found in the Talmud. The Talmud teaches that it is at times advisable for one to forfeit a mitzvah or even transgress a minor infraction to avoid transgressing a major sin (Shabbat 4a). True, one should do their best to strive to live in the land of Israel and keep all the mitzvot properly, but practically this may not be feasible. Therefore, R. Chaim Cohen pragmatically rules that most people will lose more by not adhering to the obligatory mitzvot which apply there, than will be gained by fulfilling the mitzvah to live in the land of Israel.<sup>16</sup>

Although the aforementioned approach is plausible, it does not conform well to the language of R. Chaim Cohen. If the above approach is correct, then R. Chaim Cohen would have written “it would be better not to attempt to fulfill the mitzvah

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<sup>15</sup> Talmudic glosses of the French and German sages of the 12<sup>th</sup> – 13<sup>th</sup> centuries.

<sup>16</sup> R. Pinchas HaLevi Horowitz (1730-1805) in Sefer Hafla’ah. A devotee of the young Hasidic movement, the author was chief rabbi of Frankfurt, Germany. The influential R. Moshe Sofer of Pressberg was his student.

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to live in the land of Israel.” However, his wording “there is no mitzvah to live in the land of Israel today” implies that there is in fact no mitzvah at all.

In order to understand the position of R. Chaim Cohen, we must first study a passage of Talmud:

R. Simlai taught, why was it that Moshe so desperately wanted to enter into the land of Israel? Did he desire the fruits of the land? [Certainly, our great master had loftier intentions.] Moshe prayed, “There are so many extra mitzvot that can only be observed in the land of Israel. Perhaps I can enter the land to fulfill these mitzvot?” G-d responded, “If it is the divine reward you want for the additional mitzvot, I will consider your yearning to perform them equivalent to the actual fulfillment!”

Talmud, Sotah 14a

This episode seems to contradict the position of the Ramban quoted above. If the Ramban is correct, and there really is a mitzvah to live in the land of Israel, would that not be reason enough for Moshe to want to enter the land? Why does the Talmud claim that Moshe's yearning to enter Israel persisted only because of the agricultural mitzvot? Is it not more straightforward to assume that his desire was driven by the mitzvah of living there?<sup>17</sup>

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<sup>17</sup> Meshech Chochmah Parshat Re'eh (Deuteronomy 11:31) raises this question. He posits that the mitzvah to live in the land of Israel could have been fulfilled by settling on the eastern side of the Jordan River. After all, the tribes of Reuven, Gad and part of Menashe settled on the eastern side of the Jordan, and it is unlikely that they would willingly forfeit the mitzvah to live in the land of Israel. The Talmud was very precise in questioning why Moshe yearned to *cross the Jordan*. If the eastern side of the Jordan also qualifies as being part of the land of Israel, why does Moshe need to cross the river? The Talmud answers that although the eastern side of the Jordan is part of the land of Israel as far as settling the land is concerned, it does not have the sanctity which obligates the agricultural mitzvot of the Holy Land. In this interpretation the Meshech

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Faced with this difficult Talmudic passage, perhaps we should rethink this mitzvah. Maybe the mitzvah to live in Israel does not stand alone. Although the Ramban lists it as an independent mitzvah, it is reasonable to assume this mitzvah is a means to an end. The purpose is not merely to change one's geographic location, but rather to enable the Jew to perform the unique agricultural mitzvot of the Holy Land. The mitzvah to live in the land of Israel is the Torah's method of encouraging every Jew to fulfill these mitzvot.<sup>18</sup>

An example of this type of mitzvah is the last mitzvah in the Torah, the mitzvah to write a Sefer Torah, a Torah scroll. All authorities list the mitzvah to write a Sefer Torah as an independent mitzvah, but mindlessly increasing the number of Torah scrolls in the world is probably not what G-d had in

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Chochmah is following the opinion of the Rabbeinu Kreskras, cited in footnote #14, who proposed that the boundaries of Israel in respect to settling the land may be more expansive than the boundaries in regard to the agricultural mitzvot of the land.

<sup>18</sup> The existence of additional mitzvot that can only be observed in the land of Israel is not sufficient cause to obligate one to move there. For example, there is a mitzvah for a physician to heal the sick. However, R. Moshe Feinstein (Igros Moshe Y.D. 2:151) considered it absurd to suggest that Jews are obligated to go to medical school in order to fulfill this mitzvah. Just as there is no mitzvah to become wealthy in order to distribute charity, there is also no commandment to become a physician for the sake of healing the sick. Therefore, had there not been an independent mitzvah to live in the land of Israel, one would not be required to move to the land of Israel in order to perform the mitzvot of the land.

It is important to distinguish between one who takes measures to exempt himself from a mitzvah which he is currently obligated to perform, and one who remains passive by not taking measures to obligate himself in a mitzvah from which he is presently exempt. See Talmud Berachot 35b. A similar illustration of this idea is found in Tosafot (Pesachim 3b) who assumes that one is not obligated to go to Jerusalem to bring the Paschal offering in the Temple unless they are presently in the land of Israel. Although one who is in Israel is obligated to go to Jerusalem to offer the Paschal offering, one who is not in the land of Israel is not required to go to Israel in order to create this obligation. See Minchas Chinuch, Mitzvah #5 who proves this position from the Talmud in Pesachim 70b.

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mind. The Tur<sup>19</sup> (Y.D. 270), quoting his father, the Rosh, states that G-d's intent is to increase Torah study and scholarship.<sup>20</sup> By making Torah scrolls ready available to every Jew, this mitzvah serves this purpose. The mitzvah to live in the land of Israel can be understood in a similar vein. While living in the land of Israel is an independent mitzvah and obligation on every Jew, its function is to encourage the fulfillment of the mitzvot of the land.

Now we can understand the Talmud. Why did Moshe want to enter into the land of Israel? His intention was not merely to fulfill the mitzvah of living in the land of Israel which is itself only a means, rather his intention was to fulfill the end – the additional mitzvot that can only be done in the land of Israel.

We can now understand the approach of R. Chaim Cohen. R. Chaim Cohen considers the mitzvah to live in the land of Israel an independent mitzvah following the approach of the Ramban. However, he defines this mitzvah as a means to performing the agricultural mitzvot of the Holy Land. Therefore, moving to Israel and not performing the mitzvot of the land would not qualify as a fulfillment of the mitzvah to live there. It thus follows that at a time when it is not feasible to fulfill the mitzvot of the land there would be no mitzvah at all to

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<sup>19</sup> R. Yaakov (1275-1340), son of the Rosh, compiled a comprehensive code organizing Halacha into a format later utilized by R. Yosef Caro for the Shulchan Aruch. Called the "Tur," this work was an historic development in the codification of Jewish law.

<sup>20</sup> The Tur writes, "My master, my father, the Rosh rules that the mitzvah for every Jew to write a Torah scroll was only in effect in its literal sense in earlier generations when Torah scrolls were used as texts for personal study. However, nowadays when Torah scrolls are... stored in the synagogue, reserved only for public readings, the positive commandment manifests itself slightly differently. There is a positive commandment on every capable Jew to write (or print) the five books of Moshe, Mishnah, Talmud and their commentaries and to use these texts for personal study and for teaching children" (Y.D. 270). See Sha'agat Aryeh (36) for a discussion as to whether the obligation to record Torah commentaries and texts is an actual fulfillment of the mitzvah to write a Torah scroll.

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move to the land of Israel.<sup>21</sup> This approach accurately fits the language of R. Chaim Cohen: “*There is no mitzvah to live in the land of Israel today.* This is because there are many mitzvot which apply only in Israel, and one is at risk of facing divine judgment for failing to observe those mitzvot properly.”

### Maharit

A Jew who took a vow to settle in the land of Israel wrote to the Maharit<sup>22</sup> (2:28) to determine what should be done. Out of fear of violating his vow, he had left his wife and children and moved to the land of Israel.<sup>23</sup> In his response, the Maharit cites a responsa of the Rosh<sup>24</sup> where he allowed one to nullify such a

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<sup>21</sup> Although the language of the Vilna Gaon on this issue is unclear (cf. Hagahot HaGra E.H. 75), he seems to take the position that in the absence of a Temple, the mitzvah to live in Israel is very much tied to the agricultural mitzvot of the land. Therefore, men, who are generally more involved in farming than women, have a higher level of responsibility to live in Israel than women. See Avnei Nezer (Y.D. 454:32) where he cites a disagreement between the Tashbetz and Maharit whether the right to force a spouse to live in the land of Israel is due to the additional mitzvot of the land or due to the mitzvah to live in the land of Israel.

<sup>22</sup> R. Yosef Trani (1568-1639) was a community leader in the Galilean town of Tzefat. His collected responsa are classic expressions of creative rabbinic thought.

<sup>23</sup> The Maharit makes an important distinction between living in the land of Israel and visiting the land of Israel. Although many agree that there is a mitzvah to live in the land of Israel, “the primary mitzvah is not traveling to Israel, rather the mitzvah is to establish one’s primary residence there. To visit the land of Israel with the intent of returning [home to the Diaspora] is not a clear cut mitzvah.” The Maharit indicates that there are spiritual advantages to being in the land of Israel even temporarily (see Tosafot Baba Batra 21a in reference to Jerusalem), but one certainly cannot classify this as a fulfillment of a biblical commandment. See also Igros Moshe (E.H. 4:32:8) who states that touring Israel would not exempt one from the mitzvah of Sukka on the grounds that they are involved in another mitzvah.

<sup>24</sup> R. Asher ben Yechiel (1250-1327) was the Jewish leader of Toledo, Spain. His primary contribution was an authoritative Halachic work written in the form of a commentary on the Talmud.

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vow following the standard procedure for vow nullification. Although vows to fulfill mitzvot cannot be easily nullified, it seems that the Rosh does not regard living in the land of Israel to be a mitzvah. The Rosh apparently agrees with R. Chaim Cohen that since it is, at present, too difficult to observe the additional mitzvot of the land, there is no mitzvah to live there. The Maharit continues by disagreeing with the position of R. Chaim Cohen and ruling in accordance with the Ramban that there is a mitzvah to live in the land of Israel even at the present date. The difficulty of adhering to the additional mitzvot of the land does not exempt one from this mitzvah. Furthermore, the Maharit maintains that R. Chaim Cohen's ruling would no longer apply – in the days of the Maharit fulfilling the mitzvot of the land had become quite feasible.

Whatever the assessment of the Maharit was in his own time, the ease of performing mitzvot in the land of Israel certainly progressed over the years, and today we are more than able to fulfill all the mitzvot of the land. R. Chaim Cohen's concerns are no longer relevant. Even if we are to assume that R. Chaim Cohen is correct and the mitzvah to live in the land of Israel is contingent on our ability to fulfill the agricultural mitzvot of the land, in the present day and age when it is possible to observe these mitzvot without great expense or discomfort, the mitzvah to live there would be fully operative. In any case, the majority of opinions rule in accordance with the Ramban that the mitzvah to settle and live in the land of Israel applies even in the absence of a Temple and is not contingent on the other mitzvot. All Jews would therefore be obligated to strive to fulfill this mitzvah today.<sup>25</sup>

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<sup>25</sup> The Avnei Nezer (Y.D. 454:8) articulates a similar argument. He argues that for many years the land of Israel has been controlled by a reasonable government which manages to keep the local anti-Semites under control. Regarding the argument of earning a living, he points out that some Jews in the Diaspora are supported by community funds and they could just as easily live in the land of

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### **Me'il Tzedaka**

The Me'il Tzedaka<sup>26</sup> (cited by Pischei Teshuva, E.H. 75:6) discusses a situation where a group of three families decided to move together to the land of Israel. The local Beit Din, the communal Jewish court, was considering a ruling to forbid these families from making the move, claiming that such a treacherous journey would pose a danger to the children. In an attempt to circumvent the court, the litigants appealed to the Me'il Tzedaka.

In his response, the Me'il Tzedaka gives a brief synopsis of the earlier rabbinic positions. Ramban holds that even in modern times we have a mitzvah to live in the land of Israel. The Terumas Hadeshen does not declare it to be obligatory, but he does praise the drive to live in the land of Israel. Although R. Chaim Cohen quoted in Tosafot holds that this mitzvah is no longer applicable, the Maharit rejected this notion. The Halacha is therefore clear that there is in fact a mitzvah. As far as the potential health hazard of the journey, the Me'il Tzedaka contends that it would not pose any danger to the children. He thus rules that the local Beit Din would not be justified if it prevented these families from moving to the land of Israel. He states further that if they do issue such a ruling, the families would not be bound to adhere to it since it is a clear and obvious mistake. "It would be equivalent to a Beit Din ruling that the sun had set while it was still shining – such a ruling is not binding."

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Israel and be supported by the community there. Therefore, unless we introduce a new argument, many Jews would be compelled to move to the land of Israel. See the end of this essay for the position of the Avnei Nezer.

<sup>26</sup> R. Jonah Landsofer, Prague (1678-1712)



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Nevertheless, the Me'il Tzedaka stipulates that there must be a viable plan for these families to earn a living in the land of Israel. The Talmud states explicitly that a famine is grounds to leave the land (Baba Batra 91a) – certainly one is not obligated to move to the Holy Land if they cannot earn a living there. The Meil Tzedaka makes this point in no uncertain terms:

Praiseworthy is one who takes advantage of an opportunity to move to the land of Israel. That is, if they can earn even a meager living so that they can serve G-d properly and will not have to fall back on others to feed their family. But not everyone merits this opportunity. Therefore, it has become the accepted norm not to attempt the move with small children because of the difficulty involved in supporting a family in the land of Israel...

Those who are in a position to earn a fine living outside of Israel, but move to the land of Israel with the intention of living off charity, are not to be commended for it is important for a Jew to be self sufficient.<sup>27</sup>

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<sup>27</sup> The opinion of the Me'il Tzedaka requires further clarification. Although the mitzvah to drink four cups of wine at the Passover Seder is only a Rabbinic obligation, a Jew who cannot afford the wine is obligated to collect charity in order to fulfill this mitzvah (Mishnah, Pesachim 10:1). If that does not suffice, they are required to sell the shirt off their back (sic!) in order to have the money to purchase wine (Rashbam ad loc.). How is the Me'il Tzedaka certain that the mitzvah to live in the land of Israel, which is a biblical obligation, does not require one to make this heavy financial sacrifice? The answer is that only mitzvot which publicize miracles, such as the four cups of wine and the Chanukah lights, which have this extraordinary requirement (see Maggid Mishnah, Hilchot Chanukah 4:12). Generally speaking, one is not required to spend more than 20% of their assets on a mitzvah (see Tosafot Baba Kamma 9b and Rama O.C. 656) and the mitzvah to live in the land of Israel is no different. The Halacha limits the expense of mitzvot (and charitable contributions) to 20% of a person's assets because to spend more might lead to financial ruin and the consequential need to turn to charity, an end result the Torah does not want (cf. Rashi, Ketubot 50a and Maharshal cited in Biur Halacha O.C. 656). Following the same logic, one is exempt from the mitzvah to live in the land of Israel if doing so would require living off of charity.

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### Rabbi Moshe Feinstein

Rabbi Moshe Feinstein<sup>28</sup> concurs that the primary ruling is in accordance with the Ramban that the mitzvah to live in the land of Israel is operative today. However, R. Feinstein states that this mitzvah has an unusual nature and is fundamentally different than virtually every other biblical mitzvah. The mitzvah to live in the land of Israel is not like the mitzvah of matzah, for example, which a failure to perform would constitute a sin. Rather, this mitzvah belongs to a small subset of mitzvot which are encouraged but not technically required.<sup>29</sup> One who lives in the land of Israel is not permitted to leave (unless the conditions outlined by the Rambam in Laws of Kings 5:9 are met). However, one who does not yet live in the land of Israel is not obligated to make that move.

R. Moshe Feinstein supports his view with a simple observation. If Jewish law truly required a Jew to live in Israel, then living outside of Israel would be a violation of that mitzvah and thus a sin. However, nowhere in Halachic literature do we ever find a prohibition against living outside of Israel (cf.

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<sup>28</sup> As the leading Halachic authority of the postwar era, R. Moshe Feinstein (1895-1986) taught American Jewry how to maintain fidelity to Jewish law in the modern world. He addressed contemporary issues in thousands of published responsa, in addition to authoring voluminous commentaries on Talmud.

<sup>29</sup> Although it is difficult to identify an exact parallel, we do find other mitzvot of this type. The mitzvah of eating matzah is understood by the Talmud to be an obligation only on the first night of Passover. Nevertheless, the Vilna Gaon writes that one who eats matzah on any of the seven days of Passover fulfills a *voluntary* positive commandment (M.B. 475:45). Along the same lines, Maimonides rules that acts of kindness are included under the heading “Love your neighbor as you love yourself” (Laws of Mourning 14:1). Pursuing specific acts of kindness cannot be deemed obligatory, yet by performing such acts one is fulfilling a biblical mitzvah. The Pri Megadim (Pesichah Kolleles O.C. 2) cites two other examples of acts which are not obligatory but still constitute the fulfillment of a biblical mitzvah: The mitzvah of sending away a mother bird prior to taking her eggs, and the distribution of charity beyond the percentage required by Halacha.

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Rambam, *ibid* 5:7). We must therefore conclude that living in the land of Israel is a fulfillment of a biblical mitzvah, but one which is not obligatory.

Based on this approach, we can offer a new understanding of the Me'il Tzedaka quoted earlier. It was difficult to understand why the Me'il Tzedaka considered financial viability to be a factor in the fulfillment of this mitzvah. However, in light of R. Feinstein's contention that there is no real obligation, the Me'il Tzedaka's considerations are perfectly reasonable.

### **Avnei Nezer**

The Avnei Nezer<sup>30</sup> (454:14) combines religious philosophy with brilliant Halachic analysis in developing his approach to this mitzvah. His thoughts have their source in the Ramban's biblical commentary, where, in a lengthy piece based on kabbalistic traditions, the Ramban describes the nature of the Holy Land's sanctity (Leviticus 18:25). We will attempt to summarize his words.

Every country on earth has an angel appointed by G-d as a spiritual ambassador. G-d does not deal with countries directly; rather, He uses these angels as intermediaries. It is only through them that divine providence can flow from heaven to earth. This is the way G-d operates with all the countries of the world.<sup>31</sup> All countries, that is, besides Israel.

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<sup>30</sup> R. Avraham Borenstein (1839-1910) was a Hassidic Rebbe known for his creative and wide-ranging responsa.

<sup>31</sup> Although this is how G-d relates to those who live outside the land of Israel, our method of relating to G-d should not follow this procedure. Our focus in prayer and practice should be exclusively on G-d himself. Worshiping an intermediary is an act of idolatry. There are rare passages in the Siddur which ask that certain angels present our prayers to G-d, but in no way are we praying to the

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The land of Israel is unique – it does not have an angel. G-d Himself deals with the Holy Land directly. This reality is what makes the Holy Land holy. It is G-d's palace on earth. When G-d chose the Jewish nation, He desired an intimate relationship with them without any intermediaries. This is why G-d wants the Jews to live in the land of Israel.

Due to the special relationship that G-d has with the land of Israel, mitzvot are more potent there – the land was literally designed for mitzvah observance. But the converse is also true. The Holy Land is highly sensitive to sin. The fact that the Jews are exiled from their land when they sin is not merely a punishment; it is an inescapable consequence. The land just cannot tolerate sin. This is what the verse means when it says, “The land will vomit out its inhabitants” (Leviticus 18:25). Once outside of the Holy Land, sinners are safer. More distant from G-d, their bad behavior is more tolerable.<sup>32</sup>

In light of this spiritual reality, we can better understand an otherwise mysterious Midrashic teaching: “Living outside of Israel is tantamount to idol worship” (Ketubot 100b). Life outside the land of Israel is life in a place where the land and its

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angels. See *Igros Moshe* (O.C. 5:43:6) who cites dissenting opinions that frown on any mention of angels in prayer.

<sup>32</sup> Rashi (ad loc.) illustrates this idea with a parable. A prince, brought up in the royal palace, has eaten only the finest of foods. When fed something putrid, his sensitive stomach reacts by vomiting. Similarly, the land of Israel is the palace of G-d and is highly sensitive to sin. This is why it vomits out sinful inhabitants. The *Tashbetz* (559), cited in *Eim Habanim Semeicha* (157), offers guidance to someone moving to the land of Israel. “From here on in, take precautions against sin and properly observe all the mitzvot that apply in the land of Israel. If one sins in the land of Israel, the punishment is amplified. Rebelling outside the palace is not the same as rebelling inside the palace of the king. This is why the verse describes the land of Israel as, ‘a land that consumes its inhabitants’ (Numbers 13:32).” Interestingly, this verse is quoting the spies in their disparaging report about the land of Israel. Apparently, the *Tashbetz* accepts their report as an accurate description of a spiritual reality; it refers to one who does not properly observe mitzvot in the land of Israel. *Eretz Yisrael* is a sensitive land which cannot tolerate sin. Sinful inhabitants are thus “consumed.”

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economy are guided through G-d's servants. In such countries, G-d's providence is less perceptible and people thus tend to put their faith not in G-d but in the "natural" course – breaking the intimate G-d/man relationship. This is akin to idol worship, for idol worship is putting one's faith in angelic or natural forces, which also functions to destroy the ideal, direct relationship between man and G-d.

In the land of Israel, the land and its economy are controlled directly by G-d Himself. The mitzvah to live in the land of Israel can therefore be understood to be a mitzvah to place our faith and financial stability completely in G-d's hands. Based on this definition, the Avnei Nezer maintains that one can only properly perform this mitzvah when their finances are wholly dependent on the divine economy of the land of Israel. A resident of the land of Israel who sustains himself and his family by receiving financial aid from outside the country, is not fulfilling this mitzvah properly. The mitzvah to live in the land of Israel must include a rejection of the "natural" or "angelic" order and an acceptance of G-d as the sole and direct provider. To live off funds that come from outside the land and were generated without direct divine providence is to undermine the point of the mitzvah. In the words of the Avnei Nezer, "People who live in the land of Israel but receive financial support from the outside, in my humble opinion they are at least diminishing this mitzvah, and it is not entirely clear to me if they are fulfilling the mitzvah at all."

The Avnei Nezer suggests that it is for this reason that many great scholars did not make an effort to move to the land of Israel. They realized that even if they did move there, they would still have to rely on financial aid from the Diaspora; hence, they would not be properly fulfilling this mitzvah.<sup>33</sup>

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<sup>33</sup> The Avnei Nezer supports his position with the law that a slave who escapes from his master and flees to the land of Israel is automatically set free. He

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### In Conclusion

Our sages have taught that living in the land of Israel is equal in “weight” to all the mitzvot of the Torah. However, in order to help sustain one’s commitment to Judaism, it is imperative that one move to a community in Israel where Torah study and mitzvah observance are priorities. After all, the land of Israel is the Holy Land, the palace of G-d. It would be both ludicrous and reckless to sacrifice all the mitzvot of the Torah in order to fulfill this one mitzvah.<sup>34</sup> Beyond that, mitzvah

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explains that when the slave escapes to the land of Israel his master’s dominance over him is broken because the slave receives his sustenance from his master who is not in the land of Israel. The mitzvah to live in the land of Israel, which is incumbent upon the slave, takes precedence over the master’s ownership of the slave. Since the master’s control, based as it is in the Diaspora, is in direct opposition to the mitzvah of living in the land, the master’s rights are lost. The Shem Mishmuel dilutes his father’s point by noting that although it is not the ideal way to perform the mitzvah, one is still technically fulfilling the mitzvah of residing in the land of Israel even if support is received from the outside (ibid 457:8).

<sup>34</sup> The entire mitzvah may not even apply unless one is a great Tzaddik and on an exalted spiritual level. The Avnei Nezer posits that one is only required to live in Israel if they are on a level of righteousness which if most of the Jewish people were to be on that level, the nation would merit the ultimate redemption (454:24). His source for this assertion is the Talmud in Berachot (57a) where R. Zeira comments that he did not decide to go to the land of Israel until he saw barley in a dream. ‘Barley’ is ‘*seorim*’ in Hebrew which the Talmud understands to be a compound of the words ‘*saru avonot*’ – ‘sins have turned away.’ This indicates that until one is pure from sin they do not belong in the Holy Land. (See, however, the Maharshah ad loc. who apparently interprets the Talmud to mean that the land of Israel itself will cleanse a person from sin. See Ketubot 111a and Pesachim 113a which state that living in the land of Israel is a guaranteed pass into the world to come. The language of the Jerusalem Talmud, Shekalim 9b, limits this guarantee only to one who establishes his primary residence in the land of Israel.) Later in the essay (454:34,39), the Avnei Nezer qualifies this statement by explaining that regarding the actual mitzvah to live in the land of Israel, there is no distinction between one who is extra righteous and an ordinary person. All mitzvot in the Torah were given equally to all Jews and are not at all dependent on their state of righteousness. Nevertheless, this distinction may still exist in another realm. The Avnei Nezer delineates three advantages to the land of Israel.

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observance has a transformative effect on the land itself. The Avnei Nezer (454:62:5) states that just as a person's holiness is increased through the performance of mitzvot, similarly the fulfillment of the agricultural mitzvot of the land of Israel increases the holiness of the land. As more and more Jews move to Israel and perform these mitzvot, the land is continuously elevated. Being that unique biblical blessings of the land of Israel (Leviticus 26:4) are dependent on the land's sanctity, as the holiness of the Holy Land increases, the blessings will also increase.

To conclude, one who can live a fully Jewish and self-sufficient life in the land of Israel is encouraged to fulfill this mitzvah. Today, many good jobs are available in Israel, especially in the technology sector. The government also offers financial incentives and benefits to help ease *aliyah*. Under such conditions, the Avnei Nezer would likely rule that many

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First, the fulfillment of the actual positive commandment to dwell in the land. Second, the advantage of living in a place that provides an opportunity for the fulfillment of more mitzvot. Regarding this category, Jerusalem would have an advantage over the other areas of Israel since it is the only place where the mitzvah of eating sacrifices can be performed. The third advantage of the land of Israel is to dwell in a place which has been sanctified with a higher level of holiness. Certainly this category would also consider Jerusalem more ideal than the rest of the land of Israel. (See also Chasam Sofer Y.D. 234 where he explains that the holiness of both the land of Israel and Jerusalem is everlasting, but the city of Jerusalem is the holiest place to reside.) The Avnei Nezer postulates that a person who is righteous and worthy of residing under the wing of the Shechina has a greater responsibility to live in a sanctified area.

The Avnei Nezer maintains that after the destruction of the Temple, only the land of Israel proper has sanctity, to the exclusion of the land east of the Jordan River. Although the Alshich indicates that even the east side of the Jordan has direct influence from G-d, without any angelic intermediary, the Avnei Nezer believes that this is not always true. After the destruction of the Temple, the holiness of the land of Israel was diminished and therefore does not extend to the east side of the Jordan. However, the land of Israel proper retains its holiness to this day, just as it was regarded as holy by Jacob (cf. Genesis 28:17) prior to the construction of the Temple.

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Diaspora Jews are required to make the move.<sup>35</sup> R. Moshe Feinstein, however, does not believe that this mitzvah creates an absolute obligation.

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<sup>35</sup> This essay would not be complete without explaining a fundamental Talmudic teaching which addresses the mitzvah of settling the land of Israel. The Talmud relates that R. Zeira was hiding from R. Yehuda, because R. Zeirah wanted to leave Babylon and go up to the land of Israel, but R. Yehuda took the position that it is improper to leave the greatest Torah center in order to move to the Holy Land. Their disagreement revolved around the interpretation of a verse in the Song of Songs, "I made you vow, daughters of Jerusalem..." (Shir Hashirim 2:6). This verse indicates that the Jewish people took a national vow not to move to the land of Israel without a divine prophecy to do so. R. Yehuda believed that this vow forbade Jews from leaving Babylon and traveling to the land of Israel, but R. Zeira was of the opinion that this vow only forbids an armed attack to take the Holy Land by force (cf. Ketubot 110b). The Avnei Nezer (454:45) interprets the Talmud to mean that the "national soul" of the Jewish nation swore that they would not move to the land of Israel unless explicitly instructed to do so by G-d. He suggests that this might be the rationale of the many great scholars throughout our history who never took the initiative to move to the land of Israel. In the opinion of the Avnei Nezer, this vow is not limited to Babylon; it applies to all the lands of the Diaspora equally. (This assumption is highly debatable. Many authorities assume that this law was in fact specific to Babylon and it was a penalty for the failure of the bulk of the Babylonian Jewish community to join Ezra the Scribe when he returned to the land. Yeshuos Malko 66, quoted in Eim HaBanim Semeicha pg. 15). Being that this vow was national and not personal, it does not forbid the individual Jew from moving to Israel. However, there cannot be a requirement for every individual to move to the land of Israel because that would result in a mass immigration to the land which would violate our forswearing to ascend by force.

Incidentally, the net result of this approach of the Avnei Nezer is similar to that of R. Moshe Feinstein, namely, that one who moves to the land of Israel is fulfilling a biblical mitzvah even in the absence of a requirement to do so. Just like R. Feinstein, the Avnei Nezer makes the parallel to the mitzvah of Tzitzit. Just as one can choose not to wear a four-cornered garment and thus not be obligated in the mitzvah of Tzitzit, so too one can also choose not to live in the land of Israel (454:61:4).

However, this vow is only relevant prior to the establishment of a Jewish government. Once a Jewish government is in control of the land of Israel, the Avnei Nezer states that there is no longer any problem with a mass *aliyah* because it would be with the permission of the government and is certainly not a forceful revolt against the powers that be (454:56,61:4-5). According to this analysis, the national vow would not be relevant in our times.



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The Avnei Nezer recommends that Jews who are unable to make the move, purchase real estate in Eretz Yisrael. He maintains that a partial fulfillment of the mitzvah to live in the land is accomplished through private ownership of real estate.<sup>36</sup>

With the coming of Mashiach and the rebuilding of our Temple, every Jew will experience the bliss of a Torah life in the Holy Land. May that day be soon.

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Avnei Nezer (456) rejects the interpretation of R. Yonatan Eibshitz (Ahavas Yonasan) who claims that one may be in violation of “going up by force” even when it is done with the permission of the local government. The Avnei Nezer claims that in the context of Halacha, even R. Yonatan Eibshitz would agree to Rashi's understanding that it is only the use of actual force that is forbidden. Some limit the statement of R. Yonatan Eibshitz to a time when Jews are treated well outside the land of Israel. Persecution and mistreatment are divine signs that the Jews should return to the land of Israel (Eim HaBanim Semeicha). R. Y.S. Tochtel supports this theory with a statement made by R. Yonatan Eibshitz himself (Parshat Eikev, Haftarah) where he praises the cause of returning to our homeland as a step in the coming of the Moshiach.

<sup>36</sup> Avnei Nezer (454:62:5). In a situation where the land is being purchased from a non-Jew, some authorities consider the purchase of the land to be a primary fulfillment of this mitzvah. The Rivash (Responsa 101), as recorded in Eim HaBanim Semicha (pg. 16), states that “those who maintain that purchasing land is inferior to actually moving to the land of Israel are wrong. The opposite is in fact true, purchasing land from a non-Jew is greater than *aliyah*, because *aliyah* is a temporary and personal fulfillment of this mitzvah, whereas the mitzvah of buying the land of Israel is something that lasts for eternity and is productive for the entire nation.” Similarly, R. Yehoshua of Kutna (Yeshuos Malko 66) compares the move to Israel to the purchasing of flour with which to bake matzah, whereas the mitzvah of bringing the land under Jewish control is comparable to the eating of the matzah itself. However, he does not minimize the importance of *aliyah*, and considers the ingathering of Jews to Israel to be the early stages of the final redemption.

# Mourning for Jerusalem

## A Halachic Guide

*Rabbi Zev Jacobs*

*The prophets and sages of Israel instituted a period of national mourning to commemorate the destruction of the two Temples. Beginning with the seventeenth of Tammuz and ending on the tenth of Av, the entire period is called “the Three Weeks.” Halacha, however, divides the period into four distinct parts: the “Three Weeks;” the “Nine Days,” i.e. from the first of Av until the ninth; the day before Tisha B’Av; and “Tisha B’Av” itself.<sup>1</sup> As we move through the different stages, the intensity of the mourning increases gradually, finally reaching its climax on the ninth of Av. This Halachic digest describes the laws of mourning of each of these stages.*

### I. The “Three Weeks”

1. In light of the fact that this three-week period is historically a time of great national calamities for our people,<sup>2</sup> we refrain from engaging in any potentially dangerous ventures.<sup>3</sup>

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<sup>1</sup> There is a fifth division, which begins on the Sunday before Tisha B’Av. According to Ashkenazic custom, however, this period does not distinguish itself from the earlier part of the Nine Days.

<sup>2</sup> The Mishnah records five tragedies that occurred on the seventeenth of Tammuz and five that occurred on Tisha B’Av. These events are dispersed throughout our

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2. Celebrations are restricted during this period.<sup>4</sup> Marriage ceremonies are postponed until after Tisha B'Av,<sup>5</sup> even if the ceremony will not be followed by festivities. A couple may announce their engagement.
3. It is proper to refrain from reciting the "Shehecheyanu" blessing during the Three Weeks.<sup>6</sup>
4. Ashkenazic custom prohibits haircutting and shaving during this three-week period.<sup>7</sup> Sephardic custom restricts grooming only during the week in which Tisha B'Av occurs.<sup>8</sup>

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long history. On the seventeenth of Tammuz the First Tablets were broken; the "Tamid," the twice daily sacrificial offering was suspended due to the animal shortage caused by the Babylonian siege; a pagan statue was erected in the Temple, the Babylonians breached the walls of Jerusalem; and the Greek general Apustumos burned a Torah scroll. On Tisha B'Av, G-d decreed that the Jews traveling in the desert would not enter the Land of Israel; the First and Second Temples were destroyed; the city of Jerusalem was plowed by the Roman general Turanus Rufus; and the city of Beitar was conquered (Taanit chap. 4).

<sup>3</sup> There is a general biblical prohibition against endangering oneself (cf. Deuteronomy 4:15 and Leviticus 18:5). However, this prohibition does not include activities practiced by the majority of the population (cf. Talmud, Yevamot 72a). During the three weeks, even these activities are avoided (cf. Shulchan Aruch O.C. 551:18). Piskei Teshuvot cites a Chassidic source (Shaarei Halacha U'Minhag Lubavitch 2:225) which recommends avoiding surgery during this period.

<sup>4</sup> Festive dancing and listening to live music are both prohibited during the Three Weeks. A Jew who is a professional musician may perform for gentiles until the first of Av (cf. Beur Halacha 551 s.v. Mema'atim).

<sup>5</sup> A Jewish man has a biblical commandment to marry and procreate (cf. Genesis 1:28 and Talmud Yevamot 65b). However, the restrictions on festivities take precedence and we therefore postpone marriage ceremonies until after Tisha B'Av (Shulchan Aruch 551:2).

<sup>6</sup> This blessing is customarily recited before eating a fruit for the first time during its season or upon the wearing of a new garment or jewelry which brings joy to the owner. One should therefore abstain from engaging in activities that would require a Shehecheyanu blessing. One may recite a Shehecheyanu on Shabbat and on the Rosh Chodesh Av, the first of the month. However, new clothing may not be worn during the Nine Days (see #9).

<sup>7</sup> This custom was not adopted in cases of monetary loss (Sefer Igrot Moshe O.C. 4:102). If one's unshaven appearance would be considered unacceptable in the workplace, the common practice is to shave. One should attempt to avoid the

## II. The First through the Ninth of Av: The “Nine Days”

5. The Talmud (Taanit 29b) advises against scheduling court appearances during the month of Av<sup>9</sup> if the opposing litigant is a gentile.
6. Home-improvement projects that can be postponed should not be scheduled during this period.<sup>10</sup>
7. Beginning with the first of Av, business ventures are limited in order to create a somber mood.<sup>11</sup> Some prohibit buying things for formal celebrations, such as purchases for an upcoming wedding. Others maintain that all extraneous business activities should be halted, and allow only ordinary financial activity for maintaining one’s business.<sup>12</sup> Where there is no prevalent custom, one should at least limit business ventures that directly relate to a joyous occasion.<sup>13 14</sup>

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foreseeable need for personal grooming by getting a haircut before the Three Weeks.

<sup>8</sup> Cf. Rama O.C. 551:4 and Shulchan Aruch ad loc. 3. Ashkenazic custom follows the customs recorded by Rama (R. Moshe Isserlis, 1530-1572) and Sephardic custom follows the legislation of Rabbi Yosef Caro, author of the Shulchan Aruch. With regard to nail cutting, the Taz (R. Dovid HaLevi Segal, 1586-1667) restricts it during the week within which Tisha B’Av falls while Magen Avaraham (R. Abraham Abele Gombiner, 1637-1683) permits it, cf. Shaar Hatziyun 551:27.

<sup>9</sup> The Zohar indicates that after Tisha B’Av there is no longer any such concern, cf. Shaar Hatziyun 551:2.

<sup>10</sup> Wallpapering, painting, renovating and planting of trees and gardens are projects that should be postponed until after Tisha B’Av. Cf. Shulchan Aruch O.C. 551:2 and Piskei Teshuvot ad loc. 8. There is no need to postpone an urgent repair.

<sup>11</sup> Ibid.

<sup>12</sup> Cf. Shaar Hatziyun 551:1. The Mishnah Berurah (M.B.) 11 asserts that the opinion of the Shulchan Aruch is to restrict all extraneous business activity.

<sup>13</sup> Cf. Shaar Hatziyun 555:13. He cites the Taz who permits purchases even for parties. Taz reasons that one might not have ample time to prepare if purchases are delayed. Shaar Hatziyun concludes “it is good to be stringent in this matter.”

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8. Ashkenazic custom is to refrain from eating meat and drinking wine during the “Nine Days.”<sup>15</sup> On Shabbat or at meals held to mark the occasion of a mitzvah,<sup>16</sup> we do not impose this restriction.<sup>17</sup>

9. The purchase and wearing of new garments and footwear is restricted,<sup>18</sup> even if the Shehecheyanu blessing would not be recited.

10. We do not launder or iron clothing during the Nine Days.<sup>19</sup> Even clothing which was not freshly laundered may not be ironed or pressed.<sup>20</sup>

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<sup>14</sup> In #14 we refer to the customs regarding work on the day before Tisha B’Av. It should be noted that our discussion here concerns additional financial activity while in the later section we deal with regular and necessary activity. The two issues are mutually exclusive; one might not have a custom to refrain from business activity on the day before Tisha B’Av but should still place limits on extraneous business activity from the first of Av.

<sup>15</sup> Mishnah Berurah 551:58. This includes the first of Av as well (ad loc.). We permit eating meat again immediately following the fast of Tisha B’Av yet there are customs that forbid meat and wine until midday of the tenth of Av, cf. Rama 558:1.

<sup>16</sup> Such as a “Brit Milah,” a “Pidyon HaBen” or a meal celebrating the completion of a tractate of Talmud. Guests at such meals may also enjoy the meat and wine, even though they did not personally participate in the mitzvah.

<sup>17</sup> This custom has many details, see Shulchan Aruch O.C 551:9-11.

<sup>18</sup> If one forgot to purchase (leather-free) footwear for Tisha B’Av, footwear may be purchased and worn on Tisha B’Av. See upcoming section entitled “Bathing and Footwear.”

<sup>19</sup> If one does not have ample supply for Shabbat, soiled garments may be brought to a gentile laundromat.

<sup>20</sup> Shulchan Aruch O.C. 551:7, cf. M.B. 47-48. A Jewish tailor or shoemaker may make clothing and shoes for a gentile or for another Jew if the order was placed before the first of Av. Biur Halacha (s.v. Venahagu) places a restriction on this during the week in which Tisha B’Av falls based on the ruling of the Vilna Gaon (R. Eliyahu Kramer, 1720-1797).

Since our better clothing which is reserved for Shabbat and festivals appears freshly laundered and pressed, there is a custom to refrain from wearing them on the Shabbat that falls between the first and ninth of Av (Shabbat Chazon). The Vilna Gaon, however, ruled that Shabbat clothing should be worn. Cf. M.B. 44 and Shaar Hatziyun 46.

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11. Freshly laundered clothing is not worn even if it was laundered prior to the Nine Days. Fresh linens and tablecloths are also not used.

12. The custom is to restrict pleasurable bathing beginning from the first of Av.<sup>21</sup>

### III. The Day before Tisha B'Av

13. There is a custom to desist from Torah study at midday.<sup>22</sup> Torah brings joy to the hearts of its students and therefore conflicts with the spirit of the day. However, the Maharshal,<sup>23</sup> and the Vilna Gaon<sup>24</sup> were opposed to this custom since it may lead people to squander their time frivolously.<sup>25</sup> It goes without saying that leisure activities should cease at midday.

14. With respect to work and business on the day before Tisha B'Av, we should note that even when it comes to the day of Tisha B'Av itself there were different customs in Talmudic times. Some refrained from work and business on Tisha B'Av while others carried on as usual (cf. Pesachim 54). The extension of such a restriction to the eve of Tisha B'Av would be a non-Halachic stringency.

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<sup>21</sup> This includes swimming and any unnecessary bathing. Soap, shampoo and warm water may be used if necessary for the removal of dirt or sweat.

<sup>22</sup> Rama O.C. 553:2. Many authorities upheld this custom for one may study somber Torah texts (Mishnah Berurah ad loc.).

<sup>23</sup> R. Shlomo Luria (1510-1574)

<sup>24</sup> R. Eliyahu Kramer, "Genius of Vilna" (1720-1797)

<sup>25</sup> The Rama asserts that when the day before Tisha B'Av is Shabbat, the customary study of Pirkei Avot ("Ethics of Our Fathers") should be omitted. The Taz was hesitant to follow this ruling. He maintained that even when Tisha B'Av itself falls on Shabbat studies should continue, since it is the nature of Shabbat to suspend the laws of mourning. The Mishnah Berurah rules in accordance with the Taz. He bases his leniency on the fact that some authorities even permit Torah study on the day before Tisha B'Av when it is a weekday.

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15. A meal known as “Seudah HaMafseket,” the “breaking meal,” is eaten before sundown. The Seudah HaMafseket is limited to certain symbolic foods, so this meal will not suffice to prepare most people for the next day’s fast. It is therefore customary to eat a proper, nourishing meal before the ceremonial Seudah HaMafseket. Ideally, the proper meal would be eaten in the early afternoon and the Seudah HaMafseket would be eaten late in the day.<sup>26</sup> It is improper to simply eat an ordinary meal and at its conclusion eat the Seudah HaMafseket.<sup>27</sup> Of course, all eating must end before sundown.

16. With the Seudah HaMafseket, the mourning of Tisha B’Av officially begins. This meal is eaten sitting on the ground, as a sign of mourning.<sup>28</sup> We limit the meal to one cooked food,<sup>29</sup> the custom is to eat bread dipped in ashes, cold hard-boiled eggs and water.<sup>30</sup> People say, “This is the meal of Tisha B’Av” as they dip their bread in ashes.<sup>31</sup>

Without a specific intent to begin the fast early, the restrictions of Tisha B’Av go into effect at sundown.<sup>32</sup>

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<sup>26</sup> Chayeh Adam 134:6. This is in order to avoid eating the Seudah HaMafseket when one is full.

<sup>27</sup> Ibid. 134:1. Chayeh Adam notes that one may not simply end the first meal with the Grace after Meals and then begin the Seudah HaMafseket for that would cause an unnecessary repetition of blessings.

<sup>28</sup> Shulchan Aruch O.C. 552:7. No more than two men should sit down together for this meal (ad loc. 8). The Rama notes that one need not remove their leather shoes at this point.

<sup>29</sup> There is no limitation on baked foods (Eshel Avraham [Butchatch] O.C. 552, cited by Piskei Teshuvot 552:5).

<sup>30</sup> Ibid. 552:5-6

<sup>31</sup> Jerusalem Talmud cited by Bet Yosef 552 and Shaar Hatziyun 12. The Chasam Sofer had the custom of dipping his bread in his tears, based on the verse, “My tears have been my food day and night, when all day they say to me: ‘Where is your G-d?’” (Psalms 42:4).

<sup>32</sup> Shulchan Aruch O.C. 553:1. Intent alone is insufficient and in the absence of an expressed statement of acceptance, the laws of Tisha B’Av will not take effect before sundown (Rama ad loc.). However, the Mishnah Brurah cites authorities who disagree with the Rama’s ruling.

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### IV. Mourning on Tisha B'Av

17. On Tisha B'Av we are all mourners. The Talmud thus states that in addition to fasting on this day, we also have all the Halachic restrictions of a mourner (Taanit 30a). These restrictions include bathing, leather footwear, application of oils or lotions, marital intimacy and Torah study.<sup>33</sup> We refrain from social niceties; greeting someone with a “good evening” or a “good morning” is not permitted.<sup>34</sup> Like mourners, we sit on the floor<sup>35</sup> or, if this is difficult, on a low stool.<sup>36</sup> Sitting on proper seats is resumed after midday, when the intensity of mourning is relaxed somewhat.<sup>37</sup>

18. As mentioned earlier, the Talmud offers two customs with regard to work on Tisha B'Av. Some refrain from routine work and business while others carry on as usual. One who does conduct business on Tisha B'Av should limit it as much as

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One who declares, “I am fasting tomorrow,” even if there was no intent for the fast to begin immediately, the fast nevertheless goes into effect at that moment (Magen Avraham ad loc.).

<sup>33</sup> These issues will be dealt with in the upcoming sections.

<sup>34</sup> Shulchan Aruch O.C. 554:20. This restriction has its source in the Tosefta and the Jerusalem Talmud (cf. Be'er HaGolah ad loc.). Note, however, the language of the Rambam (Maimonides, 1135-1204): “Torah scholars do not exchange a greeting of ‘Shalom’ on Tisha B'Av” (Laws of Fasts 5:11). This phraseology comes from the Tosefta (Taanit 3:11) and it clearly implies that laypeople may exchange greetings.

It would seem that a standard “hello” or “goodbye” would be permissible being that it does not constitute an inquiry into the other’s well-being. See Magen Avraham (21) to Shulchan Aruch 554 that the greeting of “Shalom Aleichem” should not be said. Blessing someone with a “Mazel Tov” and a handshake is permitted (Responsa Lehorot Natan 2:37).

<sup>35</sup> Shulchan Aruch O.C. 559:3. One may utilize a pillow (Mishnah Berurah ad loc.).

<sup>36</sup> M.B. ad loc. The stool should be lower than 12 inches (*A Summary of Halachos of the Three Weeks*, Rabbi S. Eider).

<sup>37</sup> Shulchan Aruch 559:3, M.B. 12.



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possible. Our sages teach that one who conducts business on Tisha B'Av will not reap its profits (Taanit 30b).<sup>38</sup>

### V. Bathing and Footwear

19. Due to the somber nature of the day, pleasurable bathing is restricted. This includes any unnecessary contact with water.<sup>39</sup> Washing dishes or using water to remove dirt from one's body is permitted.<sup>40</sup> When exiting the restroom, hands may not be washed beyond the minimal halachic requirement, i.e. the fingers.

20. Leather footwear is forbidden due to the protection and comfort afforded by leather.<sup>41</sup> This includes not only shoes with leather soles, but also shoes with leather uppers.<sup>42</sup>

If one forgot to purchase appropriate non-leather shoes before Tisha B'Av, and the available footwear would provoke ridicule if worn in public, it is permissible to wear leather shoes outdoors.<sup>43</sup>

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<sup>38</sup> Cited by Shulchan Aruch O.C. 554:25. The Shulchan Aruch also cites another relevant Talmudic teaching, "Anyone who does not mourn Jerusalem's destruction will not merit the experience of its ultimate rejoicing."

<sup>39</sup> Shulchan Aruch O.C. 554:7.

<sup>40</sup> Although actual mourners are permitted to wash their face, hands and feet with cool water and sensitive mourners may even bathe their entire body with hot water (cf. Shulchan Aruch Y.D. 381), on Tisha B'Av the law is more stringent. Underscoring the magnitude of the day, Halacha mandates a higher level of mourning for the Temple's destruction than for the mourning over the loss of a relative. On Tisha B'Av, a sensitive person may wipe his face with a cool, damp washcloth if he cannot relax without this measure.

<sup>41</sup> An early source for this law is found in Evel Rabati 5:10 (cited by Hagahot Maimoni). Cf. Shulchan Aruch O.C. 554:16-17.

<sup>42</sup> Shaarei Teshuva O.C. 554:9. He cites sources that commend walking barefoot.

<sup>43</sup> The Rama (O.C. 554:17), citing the Tur, rules that Jews should only remove their leather shoes when walking on the "Jewish street." The Bet Yosef explains that this leniency was established for fear of anti-Semites who would ridicule a

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### VI. Torah Study

21. A fascinating law of Tisha B'Av is the restriction set on Torah study.<sup>44</sup> Since Torah study brings joy to the student, we are limited to the study of somber topics, such as the books of Job, Lamentations and parts of Jeremiah.<sup>45</sup>

### VII. In the Synagogue

22. In public display of mourning, the curtain is removed from the Ark at the onset of Tisha B'Av and the synagogue lighting is dimmed. Both the evening service and the Book of Lamentations are read in a sorrowful tone.<sup>46</sup>

23. Since we all have the status of mourners on Tisha B'Av, one who is in the weeklong mourning period for a close relative (*shivah*) may leave home to participate in both the nighttime and daytime services. A mourner may even be called to the Torah.<sup>47</sup>

24. The Tisha B'Av prayer service has several unique elements. Aside from the expected insertions and the Torah reading of this

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Jew walking barefoot; however, the Bet Yosef rejects this ruling, arguing that mere ridicule is not grounds for leniency in this Halacha. The Halacha remains in accordance with the Rama and may therefore be applied when relevant.

<sup>44</sup> Torah study is always a mitzvah (Shulchan Aruch Y.D. 246:1). Mourners are the exception; it is forbidden for them to learn Torah. However, mourners may engage in the study of sorrowful Torah topics (Shulchan Aruch Y.D. 384:1,4. Cf. O.C. 554:1-2). Tisha B'Av follows this rule.

<sup>45</sup> A complete list of appropriate texts is cited in Taanit 30a and Shulchan Aruch O.C. 554:1.

<sup>46</sup> Shulchan Aruch O.C. 559:1-3.

<sup>47</sup> Machazik Beracha, cited in Gesher HaChayim 1:21:13. However, Mishnah Berurah 559:24 cites Rabbi Shlomo Kluger who ruled that during the first three days of Shiva a mourner may not even leave home to attend the evening Tisha B'Av services. See M.B. and Shaar Hatziyun there for details regarding an Onen (a mourner prior to the burial of their relative).

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day, we also read “Kinot,” poetic liturgy lamenting the destruction of the two Temples and other horrific tragedies that occurred during our long exile.

The recitation of Kinot should not be interrupted in any way, in order to maintain a focus on the tragedies of our history and generate intense feelings of sadness and mourning over all we have lost.<sup>48</sup> The Kinot service concludes with prayers of hope and consolation.

Kinot are customarily recited until midday.<sup>49</sup> At the conclusion of the morning services, some have a custom to visit a cemetery.<sup>50</sup>

### VIII. Talit and Tefillin

25. When Titus entered the Temple, he walked up to the Holy of Holies and slashed its curtain with his sword.<sup>51</sup> To

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<sup>48</sup> Shulchan Aruch O.C. 559:5.

<sup>49</sup> The intensity of mourning subsides after midday, cf. Shulchan Aruch 559:7 and M.B. 26.

<sup>50</sup> Rama O.C. 559:10. The Talmud states that on the fast days decreed in the event of a famine, the entire community goes to a cemetery to pray (Taanit 16a, Shulchan Aruch O.C. 579:3). This is clearly the source for the custom to visit a cemetery on Tisha B’Av (Tosfot ad loc.). The Talmud explains that it is advantageous to pray in a Jewish cemetery, for the departed will entreat for mercy on our behalf. If there is no Jewish cemetery nearby, the Talmud advocates visiting a gentile cemetery. [However, prayer is forbidden if icons or crosses are on the graves (cf. Mishnah Berurah ad loc.)]. Although we have no expectation that the deceased gentiles will pray for us, going to a gentile cemetery is our way of saying that we are comparable to the dead if we fail to repent (Talmud ad loc.). Based on this teaching, we can suggest an additional meaning to a cemetery visit on Tisha B’Av. The Temple is the lifeline of the Jewish people; without it, we are not fully alive as a nation. This idea is expressed every Shabbat in the blessings recited after the Haftorah reading: “Have mercy on Zion for it is the source of our life.”

One should rather stay home and not make the customary visit to a cemetery if the visit will necessitate wearing leather footwear (Mishnah Berurah 559:41).

<sup>51</sup> The Talmud describes the incident: “Titus took a sword and slashed the curtain. Miraculously, blood spurted out. Titus thought he had killed G-d” (Gittin 56b).

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commemorate this sacrilege, we do not don a Talit for the morning service. It appears that the original custom in Germany was to refrain from wearing any four-cornered garment; even the Talit Katan, the small tzitzit garment, was not worn. Later, some began wearing the Talit Katan but not the Talit.<sup>52</sup>

26. Tefillin are a symbol of “splendor.”<sup>53</sup> We thus refrain from donning Tefillin for the morning service, for with the Temple’s destruction the splendor of Israel was lost.<sup>54</sup> This concept finds its source found in a verse we read on Tisha B’Av: “He cast down from heaven to earth the splendor of Israel” (Lamentations 2:1).

27. It is only in the afternoon of Tisha B’Av that we perform the mitzvot of Talit and Tefillin.<sup>55</sup> Doing so is a statement of

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The Maharal (Rabbi Yehuda Lowe of Prague, 1525-1609) explains that the blood that poured from the curtain symbolized the departure of the Divine Presence. (Netzach Yisrael, chap. 5.)

<sup>52</sup> Both customs are recorded in Hagahot Maimoni, Hilchot Taanit 5:3 citing Maharam in Hilchot Semachot 60. Today, the custom is to wear the Talit Katan.

<sup>53</sup> Cf. Ezekiel 24:17. According to Targum Yonatan (ad loc.) the verse is referring specifically to the head-Tefillin.

<sup>54</sup> Following Targum Yonatan and other rabbinic sources which imply that Ezekiel is only describing the head-Tefillin as a sign of splendor, it would follow that only the head-Tefillin should not be worn on Tisha B’Av, but arm-Tefillin should be worn. Indeed, the language of the Rambam does seem to indicate just that (cf. Laws of Fasts 5:11). However, when it comes to a mourner the Rambam writes explicitly that even the arm Tefillin should not be worn (Laws of Mourning 4:9). Rabbi Yosef Caro deduces from the language of the Rambam (ibid.) that one should wear arm-Tefillin on Tisha B’Av, but then cites Rabbeinu Yerucham who asserts that the Rambam’s position is that on Tisha B’Av the Halacha is the same as that of a mourner prior to burial (i.e. an “Onen”) who does not wear any Tefillin at all (Bet Yosef to Tur O.C. 555:1). In the Shulchan Aruch, Rabbi Yosef Caro rules in accordance with Rabbeinu Yerucham and does not distinguish between a mourner and Tisha B’Av (O.C. 551:1).

A further point: The Rambam’s language seems to indicate that this law is only a custom, and one which was not universally practiced. “Some Torah scholars refrain from wearing the head-Tefillin” (Laws of Fasts 5:11). The Rambam writes the same for the restriction on greetings.

<sup>55</sup> Shulchan Aruch O.C. 555:1. If one has the custom to put on the Talit Katan on the morning of Tisha B’Av, some maintain that the “Al Mitzvat Tzitzit” blessing

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faith; even in mourning we strive to recognize divine compassion and mercy. After all, G-d released His wrath on the wood and the stones of the Temple. He spared His nation.<sup>56</sup>

### IX. The Tenth of Av

28. Since the Babylonians set the First Temple alight on the ninth of Av,<sup>57</sup> our primary mourning is on that day.<sup>58</sup> However, the Temple burned throughout the tenth of Av as well. Accordingly, we continue to observe a low level of mourning until midday on the tenth of Av.

Unless it's a Friday, bathing, grooming, laundering and attending live musical performances remain prohibited until midday on the tenth of Av. There is also a custom to abstain from eating meat and drinking wine until midday.<sup>59</sup>

*“Those who mourn the loss of Jerusalem  
will be privileged to witness the city’s joy.”*

Talmud, Taanit 30b

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must be recited at that point, for one cannot rely on the blessing on the Talit which will only be said much later in the day. (M.B. ad loc.).

<sup>56</sup> Mishnah Berurah (ad loc.) citing Seder HaYom.

<sup>57</sup> Cf. Jeremiah 6:4 and Talmud Taanit 29a.

<sup>58</sup> Rabbi Yochanan declared, “Had I been present when the date to mark the destruction of the Temple was chosen, I would have established [the fast] on the tenth of Av, not the ninth” (ibid). After all, the Temple was only set aflame on the ninth; it burned on the tenth. However, the prophets chose to establish the ninth as the day of commemoration and mourning, for ‘it is preferable to mark the beginning of the calamity’ (ibid).

<sup>59</sup> Shulchan Aruch O.C. 558 and M.B. ad loc.