YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

**In memory of Rabbi Moshe ben Avraham Shraga Furst z”l**

**Niftar 17 Tammuz  5771.**

**Dedicated by his family.**

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

**Tearing Garments Upon Seeing the Cities of Judea,**

**Jerusalem, and the Place of the Temple**

**Based on a shiur by Rav Binyamin Tabory**

Translated and adapted by Rav Eliezer Kwass

Just as one must tear his clothes when a close relative dies, the Halakha requires one to rip his garments when encountering three locations:

"The Sages teach: These are tears that are not to be mended ... over the cities of Judea, over Jerusalem, and over the Temple ..." (Mo'ed Katan 26a)

Let us relate to each of these separately.

I. THE CITIES OF JUDEA

The Tur (OC 521) writes, "One who sees the cities of ISRAEL in their destruction says ... and tears [his garments]." It seems that the obligation of tearing applies when witnessing all of the cities of Israel, not just those in Judea. In the Laws of Mourning (YD 340), however, he limits it to the cities of Judea: "If one sees the cities of Judea in their destruction ... he tears [his garments]." The Rambam and the Shulchan Arukh also mention only the cities of Judea, not those of all Israel.

What is special about the cities of Judea?

1. PROXIMITY TO JERUSALEM: There is no independent obligation to tear when seeing the cities of Judea; rather, it is an extension of the obligation to tear for Jerusalem. According to this approach, perhaps there is also an obligation to tear for the cities of Binyamin which are also in close proximity to Jerusalem (see the Levush).

2. SPECIAL STATUS: We find in the laws of sanctifying the new month (Sanhedrin 11b),

"Extending the year (through adding the leap month) is performed only in Judea ... Why? ... The verse says, 'You shall search for His dwelling place and come there.' All the searching that you do, should be in the vicinity of the Omnipresent."

The gemara assumes that only the cities of Judea are considered to be in the vicinity of the Divine Presence.

3. SEAT OF THE ONLY REAL ISRAELITE KINGDOM: Mourning over these cities is not connected to their destruction (for that should apply to all places in Israel), but rather to the loss of Jewish sovereignty. The fall of Judea is a symbol of the culmination of Jewish independence. Similarly, the Magen Avraham holds that one should rend his garments even upon seeing a city which is predominantly Jewish, if it is under gentile sovereignty. It would follow that one would not tear over a non-Jewish city which is under Jewish control. Rav Tukachinsky writes that for this reason, i.e. because the State of Israel has restored Jewish sovereignty, we do not tear today for the cities of Judea (see the Pe'at Ha-shulchan). [Editor's note: This question has been reexamined recently, in light of the transfer of sovereignty of Bethlehem and other Judean cities to the Palestinian Authority. For a variety of reasons, Rav Lichtenstein concluded that tearing over Bethlehem is not mandatory, but it is an acceptable expression of sorrow.]

II. THE TEMPLE

As opposed to the cities of Judea, tearing for the Temple seems to be directly connected to the Temple's destruction, not to our lack of control over the Temple Mount. Most authorities rule that we are still obligated to tear for the Temple today. After we merited the liberation of the Temple Mount in the Six Day War, however, there were those who ruled that there is no longer an obligation to tear for the Temple.

In order to understand why we tear upon encountering the Temple site, we first have to analyze why we tear for a deceased relative and then examine whether the same principles apply to the Temple. Even though, in general, we rule that "the halakha follows the lenient opinion regarding the laws of mourning" (Mo'ed Katan 18a), the laws of tearing are explicitly excluded. The gemara states there (26b), "Mourning and tearing are considered two separate realms." [Note that there are other occasions when one must tear his garments, such as when a Torah scroll is burnt (Mo'ed Katan 26a).]

There are two possible ways of understanding the special status of the laws of keria (tearing):

a. It is an exception to the rule. Even though tearing for a relative is one of the laws of mourning, we are still stringent when we encounter disputes in this area.

b. Tearing is an independent realm of Halakha and therefore we do not apply to it the rule that, "The halakha is according to the lenient opinion in disputes about mourning."

If it is the case that tearing is an exception to the general laws of mourning (a.), then tearing for the Temple would most likely be considered similar to tearing for a relative. Consequently, there would be an obligation to tear today for the Temple. If, however, tearing is considered a different realm of halakha (b.), we might distinguish between tearing for a person and tearing for the Temple.

One halakhic difference between tearing for a person and tearing for the Temple might indicate that the former is not a law of mourning whereas the latter is. When a child's relative passes away, an adult tears the child's clothes "to arouse anguish" (Mo'ed Katan 26b), even though the mourning laws do not apply to children. However, one does not tear a child's clothes when the child sees the Temple. The Magen Avraham (OC 562:6) writes that if a person is born in Jerusalem and does not leave for his whole life, he is never obligated to tear for the Temple. "When he is young," writes the Magen Avraham, "he is not yet obligated to tear, and when he grows up he does not go thirty days without seeing it." [This is based on the rule that one only tears when seeing the site of the Temple if he has not seen it for thirty days previously (Magen Avraham, ibid.).] Rav Hershel Schachter infers from this Magen Avraham that we do not tear a child's clothes over the Temple, the way we would over a relative. This seems to reflect a basic difference between tearing for a person and tearing for the Temple. Tearing for a person is a separate realm of Halakha, outside of the rules of mourning; tearing for the Temple is part of the laws of mourning. If this is accurate, we would rule leniently in this dispute over whether to tear for the Temple after the Six-Day War (based on the principle of ruling leniently in disputes over mourning laws).

[Rav Schachter's proof is not necessarily foolproof.

1) The reason a child does not tear for the Temple might be because he does not yet understand the import of the destruction of the Temple, in contrast to a personal loss.

2) Alternatively, tearing for the Temple might also be a separate realm of Halakha outside of the mourning laws. If so, we would follow the standard principle for dealing with disputes in Halakha - following the majority of authorities (see the Ramban's Torat Ha-adam, p. 63 in Rav Chavel's edition).]

LENIENCIES

Even if there is an obligation nowadays to tear for the destruction of the Temple, there are still situations where that obligation might not apply.

A. Some have suggested that one who does not want to tear for the Temple can legally transfer his garment to another. Then he is forbidden to tear, because the garment does not belong to him. There are several possible problems with this:

1. It might be an act of acquisition that does not take effect because it is based on trickery.

2. The gemara implies that one may not tear a friend's garment only if the other does not know about the need to tear. The gemara states (Mo'ed Katan 26b),

"Rabban Shimon ben Gamliel says: One said to his friend, 'Lend me your cloak and I will go visit my father who is sick [- if he passes away, I will not have to tear the cloak].' If he then goes and finds that his father has passed away, he should tear the cloak and then mend it. When he returns home he should return to his friend his garment and reimburse him for the tear. If he did not tell his friend [that he was going to visit his sick father], he may not damage it."

One is absolved from the need to tear a borrowed garment only when the owners do not know that he will encounter a situation that may require tearing.

B. The custom of Jerusalemites is not to tear for the Temple on days when the tachanun prayer is not recited. This custom is difficult to understand, for even on days when we do not say tachanun, one does tear for a relative who passes away. And even if we do accept this custom, this would merely dictate that one does not tear on these days themselves, but it would not exempt one from tearing altogether. If so, should the person not tear after the day is over?

The answer might depend on a dispute between the Rambam and the Ra'avad about how intense a tear for the Temple should be. The Rambam writes (Hilkhot Ta'anit 5:17):

"All of these tears (for the cities of Judea, Jerusalem and the Temple) should be done with one's hands, standing, and all garments he is wearing should be torn until he bares his heart ..."

The Ra'avad (ibid.) objects:

"The gemara (Mo'ed Katan 22b) implies that this is not so, for we have learned in the Tosefta that tearing for the Temple is similar to [tearing for] one's father and mother only with regard to the prohibition of mending the tear. However, with regard to the issues of cutting with a utensil, and cutting all layers of clothing until one's heart is bared, they are not similar."

The Ra'avad and the Rambam have differing views about the law of tearing for the Temple. According to the Rambam, it is in the same league as tearing for one's parents; according to the Ra'avad, it is only tantamount to tearing for other relatives. Therefore, according to the Rambam the tear must bare the heart; according to the Ra'avad this is not necessary.

There is another difference between tearing for parents and tearing for other relatives. If one is informed about a parent's death during Shabbat, one must tear right after Shabbat. (The common practice today is to tear at the funeral, but originally the custom was to tear as soon as one heard about the death.) For other relatives in this situation, there is no obligation to tear after Shabbat.

The suggestion offered to avoid being obligated to tear when visiting the site of the Temple, namely, going on a day when tachanun is not recited, might work only according to the Ra'avad's opinion. According to the Rambam, who believes that tearing for the Temple follows the rules of tearing for parents, there remains an obligation to tear after the day is over. The moment one visits the Temple site, he becomes obligated to tear, even though he temporarily cannot fulfill it because of the status of the day. When the day is over, though, the obligation remains. The Ra'avad, who compares tearing for the Temple to tearing for other relatives, would say that one who visits the Temple site on a day when tachanun is not recited would not have to tear when the day is over. For other relatives, there is only an obligation to tear at the moment of intensity (in this case, when he visits the Temple site), but that does not translate into an obligation that rests upon him until such time as he will be able to fulfill it.

Rav Shlomo Zalman Auerbach holds that even according to the Rambam there is no obligation to tear later in the evening if one visited the Temple site on a day when tachanun is not recited. According to him, the Rambam does not compare tearing for the Temple to tearing on the first day of the death of a parent, but rather to the day when a parent's bones are gathered. This is a lower-level obligation of tearing which does not require tearing even after the day is over.

III. JERUSALEM

Even though the gemara says that one tears upon seeing Jerusalem, the Rambam's formulation seems to imply that one does not. He writes (Hilkhot Ta'anit 5:16):

"One who sees the destroyed cities of Judea says, 'Your holy cities became a desert,' and TEARS. When he sees the destroyed Jerusalem he says, 'Jerusalem is a desert ...' When he sees the destroyed Temple he says, 'Our holy house and our splendor ...' and TEARS."

The omission of tearing for Jerusalem is glaring; he mentions it regarding the cities of Judea and the Temple, but not Jerusalem.

Rav Yose Rosen, the Rogatchover Gaon, explains that there is no special obligation of mourning for Jerusalem. Jerusalem is, in this respect, merely one of the cities of Judea. If one already tore for the cities of Judea, there is no individual obligation to tear for Jerusalem. One might suggest a variation of this, that Jerusalem is not one of the cities of Judea, but rather an extension of the Temple. If so, tearing for Jerusalem is subsumed under the law of tearing for the Temple.

Most commentators hold that there is a SEPARATE obligation to tear for Jerusalem. Whether there is an obligation to tear for Jerusalem nowadays might be dependent on what is being mourned. If we are mourning the loss of control over Jerusalem as our capital city and the symbol of the Jewish government, then we are no longer obligated to tear, since we have merited having Jerusalem as Israel's capital city and we exercise self-governing sovereignty over it. On the other hand, if Jerusalem is viewed as the city of the Temple, and tearing for Jerusalem mourns Jerusalem's sanctity, then one is obligated to tear for Jerusalem until the rebuilding of the Temple.

In practice, there are many halakhic authorities who rule that even today there is a mitzva to tear for Jerusalem's destruction. They offer the following reasons:

1. Tearing for Jerusalem is connected to mourning over the Temple, as we suggested above (Rav Yosef Dov Soloveitchik).

2. Although tearing for Jerusalem is connected to Jewish sovereignty over the city, even this is not complete today. The presence of foreign worship within the city, which we cannot uproot, indicates a lack of real control over the city (Rav Shelomo Zalman Auerbach, Minchat Shelomo #73).

On the other hand, former Chief Rabbi Shelomo Goren rules (Meishiv Milchama III:330) that today one does not tear for Jerusalem because there is Jewish sovereignty over the city and there is a Jewish majority in united Jerusalem.

"All those who mourn over Jerusalem will merit and see its joy."

(This article is based on a student summary of a shiur given on Shabbat Matot-Mas'ei 5746. It was not reviewed by Rav Tabory. Originally printed in Daf Kesher #94, vol. 1, pp. 382-384.)