


HALOCHOSCOPE



This week's question:

It is customary to learn *mishnayos* for the merit of the deceased on their *yahrzeit*. One may not study Torah on *Tisha b'Av*, except for certain select passages that deal with mourning and the Destruction. If one has a *yahrzeit* for a parent on the 9th of *Av*, or on the 10th when it is observed as the fast, is there any way he may study for the soul of the deceased?

The issues:

- A) *Mishna*-study for the merit of the deceased
- B) *Yahrzeit* observance
- C) Torah study on *Tisha b'Av*

A) *Mishna*-study for the *neschama* of the deceased

The *mitzvah* to study Torah applies at all times. One does not need an excuse for it. Nonetheless, there are secondary benefits from this *mitzvah*. Firstly, it is best performed with others. While it may seem that one is sharing the merit, in fact, each participant's merit increases exponentially. Thus, in both the performance and the merit, Torah study should be shared. There exists a standard procedure for sharing the merit of the study, even with others who do not participate in the study itself. This is modeled, in part, on the way Yisachar and Zevulun shared their work and study. Apart from this, one may always dedicate some of the merit of his study to others, without reducing his own merit.

The concept of the Torah study benefiting the soul of the deceased is mentioned by the Talmud, based on Scripture. When King Chizkiyahu passed away, they made a *yeshiva* at his graveside. Based on this, there is a practice in many circles to visit the grave of a departed scholar on his *yahrzeit*, and to study or recite Psalms there. Scripture uses the words *kavod gadol*, great honor. Some say that the idea was to honor Chizkiyahu, as is apparent from the context of the Talmudic passage. Some say that it recognizes his greatness. Others say that it refers to a benefit to the soul as well.

The concept of studying *mishna* for the soul is well established in all communities. Some connect the word *mishna* with the word *neschama*, as they have the same Hebrew letters. Some recommend specific *mishnayos* that relate to *neschama* or to purity.

In general, the idea is for the children to study the *mishna*. The deceased is now in a place where he is unable to do anything in his own merit. However, the children are able to gain merit for their parents. If there are no children, it is common for the person to designate others to study on his behalf. In many instances he will pay them for this. Thus, they can say that their *mitzvah* is also being supported by the deceased, who then gets a share in it. Some have the practice to pay for *mishnayos* even if they leave surviving children. One's disciples can also study for the merit of the soul. While we might assume that the scholar was righteous, he can always gain from extra merit. Even others unrelated to

the soul may dedicate a *zechus* in their memory and merit. [See Bava Kama 16b-17a, commentaries (Sedei Tzofim). Ar Hash YD 376:13. Moed Kol Chai 4. Even Yaakov 49.]

B) *Yahrzeit observance*

The *yahrzeit* is not mentioned directly in the Talmud. (The word is not Hebrew, but Yiddish. According to one source, this is because the observance began in *Ashkenaz*. The *Sefaradim* call it *nachala* or *hilula*.) However, there are ancient allusions to some observances and their possible meanings. The Talmud relates: Haman concluded that *Adar* was the best month for his plot to annihilate the Jews. He knew that Moshe Rabeinu passed away on the seventh of *Adar*, an ominous time for Jews. It is recorded that this day was adopted as a fast, possibly from the first anniversary of Moshe's passing. The final section of *Megilas Taanis* lists dates of *yahrzeits* of great people, observed as fasts. A fast is a part of *teshuva*, repentance. The loss of body mass is like partial death. It takes the place of an animal atonement offering, which in turn symbolizes the death of the offerer. Fasts can also be for mourning, to stimulate *teshuva*, express grief and sorrow, and honor the soul of the deceased. The anniversary of the passing of Jewish leaders is ominous. On that *yahrzeit*, the nation repents, mourns, laments their absence and honor them.

A child mourns a parent out of both grief and to honor the parent. In addition, the loss of the parent or any close relative indicates divine judgment. The *yahrzeit* is a day of judgment for the deceased. Merit may be gained in the next world through the actions of one's progeny in this world. The child is also judged on that day, as he is a part of the parent. *Reia mazlei*, his fortunes are in jeopardy. The Talmud mentions abstinence from wine and meat on the day of a parent's death. These restrictions are associated with mourning. Some communities derive from here the custom to fast on a *yahrzeit*. The poskim say it is appropriate to fast on the *yahrzeit* of a parent or of a *rebbe muvhak*, the teacher from whom one learned most of his Torah knowledge.

This fast is not obligatory. One may choose to adopt it as a personal vow. Some justify the laxity in observing the fast. This is a time of *kaparah*, atonement, a good thing. However, the same argument is made to require fasting. *Kaparah* is needed, so it must be time to repent. The two sons of Aharon died in Nissan, yet the Torah connects their deaths to *Yom Kippur*, a fast for *teshuva*. A righteous man's death means the people need *kapara*. A parent's death means that the parent and child need *kapara*. A teacher's death means that the teacher and student need *kapara*. A common practice is to offer *tikun*, a remedy for the departed soul. Food and drink are consumed. The *brochos* and the *amein* responses are attributed to the benefit of the soul.

Some poskim debate when a survivor should fast if the *yahrzeit* falls on *Shabbos*. Some say it is observed the day before, some say the day after, and some say that in this case, the fast is not observed. Rather, the *tikun* may be offered. The *yahrzeit* should always be observed on the right day, and one may not fast on *Shabbos*. If the *yahrzeit* is on a *Yomtov*, many poskim maintain that one should not fast at all, even before or after it.

Aside for studying during the year of mourning, there is a *minhag* to study on the *yahrzeit*. As mentioned, this is mainly understood as merit for the departed soul. However, some point out that it is also merit for the survivor, just as it would be for a mourner. The poskim debate the learning observances based on the fasting. Thus, those who say

that a fast should be observed early or late if the *yahrzeit* is *Shabbos*, say the same regarding the *mishnayos* study. Others maintain that the *mishnayos* should always be studied on the '*yahrzeit*!' [See Eruvin 2a-23a Taanis 29a Nedarim 12a Megilas Taanis 13 (Perek Acharon) Megillah 13b Moed Katan 15a 19a 21b 22b Yerushalmi 3:8, Kesubos 103b Yerushalmi 1, Kidushin 31b, Poskim. Sefer Chasidim 231-232. Tur BY Sh Ar OC 568:1 7 8 9 580 YD 380:25 (Ar Hash), 385:1 3, 391:2 Rema 395:3 Rema 398 402:12 Rema 403 end, commentaries. Sdei Chemed Availus 95 96 98. Moed Kol Chai 4.]

C) Torah study on Tisha b'Av

The Talmud states that everything forbidden to a mourner to study during his *availus*, mourning period, is forbidden to study on *Tisha b'Av*. Even studying with children is forbidden. The reason given is that the *passuk* in *Tehilim* says that Torah is *mesamchei lev*, gladdens the heart. Accordingly, the Talmud debates whether the restriction also applies to new material, that is a strain to study. We follow the view that forbids it anyhow. However, certain passages dealing with the Destruction may be studied. Similarly, the Talmud passages dealing with mourning may be studied by a mourner, and therefore, on *Tisha b'Av* as well. The source for this is worth analyzing for our case.

Interestingly, the Talmud uses a different source to forbid study for a mourner. When the prophet *Yechezkel* was told to demonstrate the mourning practices (or lack thereof) he was told to be silent from his study. Some poskim maintain that according to this source a mourner may study after his first day of mourning. This is because the same source for refraining from study is the source for refraining from donning *tefilin*. That restriction only applies to the first day. However, in accordance with the source forbidding study on *Tisha b'Av*, other poskim forbid it throughout *shiva*, because it brings joy. Furthermore, in those terms, the restriction is really an exemption from a *mitzvah*. *Tefilin* are pride and glory, while Torah study is joyful. Therefore, the *avail* is exempted, and indeed restricted from these *mitzvos*. The restriction makes sense on the first day. On subsequent days, when he is obligated in *tefilin*, he should be obligated in Torah study as well. However, there is the joy aspect.

Since the *avail* is obligated to recite *shema* morning and evening, if he were also obligated in Torah study, he would fulfill it minimally this way. *Shema* includes the *mitzvah* of studying a Torah passage. Thus, while the exemption might apply on the first day, the *avail* would not be in violation of his general obligation on the remaining days of *shiva* anyhow. Accordingly, he should not engage in other forms of study.

The poskim debate whether a mourner is permitted to study Scriptural passages that are sad and that discuss the Destruction. Some compare his situation to *Tisha b'Av*. Others maintain that just as an *avail* has certain stringencies that do not apply on *Tisha b'Av*, so too, he is restricted from studying these passages. The poskim ponder a practice for mourners to engage in the study of the passages in the Talmud that discuss mourning. Even so, the source that forbids Torah study in general seems to indicate that an *avail* may not study anything at all. It seems that the practice arose based on an understanding that as long as the mourner does not actively participate with others. If he learns by himself, these restrictions do not apply. Therefore, as long as the subject matter is sorrowful, he may study it. Alternatively, this is not truly Torah study, but is permitted anyhow due

to its mournful content.

Based on this practice, this subject may also be studied on *Tisha b'Av*. Since this is a (half) *perek* of *mishnayos*, this should resolve our question. Although it is customary to study other passages, such as *mishnayos* that begin with the letters of the name of the deceased, or that spell the word *neshamah*, this time, these *mishnayos* will have to suffice.

However, there might still be an issue here. The purpose of the Torah study in memory of the deceased is to dedicate the *mitzvah* to the soul. Thus, there must be an actual *mitzvah* performed. Under normal circumstances, the one performing it gains the merit. He may share the merit with others. This is especially true of Torah study, as mentioned in section A. In the case of a *yahrzeit*, the survivor mentions before he begins the study session that it is in the merit of the soul of the deceased. In our case, the question is whether there is a *mitzvah* to study these passages on *Tisha b'Av* at all, or whether the best thing to occupy one's time is studying these subjects, rather than wasting time or engaging in other matters that might not be in the spirit of the fast and the mourning.

Some maintain that there is no requirement to study at all. Indeed, joy is such an essential part of the *mitzvah*, that it is impossible without it. Torah is called a song. Others maintain that the basic requirement is fulfilled with *shema*. These studies are to occupy one's time. A third view maintains that there is an obligation, which is fulfilled by studying these sad passages. This raises a question in our case. If there is no actual *mitzvah*, can the study still be considered a merit for the soul? Is it even considered a voluntary *mitzvah*? If there is no *mitzvah*, and the person studies anyhow because he wants to bring merit to the soul, perhaps he is doing more harm than good! Perhaps it is actually a negative for the soul, or at least, for himself! Perhaps it is fine to occupy oneself personally with Torah anyhow, but maybe this does not work when the study is dedicated to others. Is there joy from giving merit to his deceased parent? Or is it really fear of the judgment?

It would appear that in terms of Mishna equating *neshamah*, there is still some significance. Furthermore, since the person studies these matters to focus on the mourning, there is indeed a *mitzvah* – that of mourning the Destruction. This merit, along with that of avoiding distractions, can be attributed to the deceased soul. In addition, since it is voluntary study, perhaps there is a different type of merit. Finally, since one view maintains that this is indeed a fulfillment of the *mitzvah*, one may certainly share this merit with the deceased soul. [See Taanis 12b 14b 26b 29a-b Megillah 5b Moed Katan 21a (Tosafos) Yevamos 43a-b, Poskim. Tur Sh Ar OC 47:1 (Levush) 551:1-4 (MB4 Dirshu, Kaf Hachaim 10), YD 384 (Bach) commentaries.]

In conclusion, one may study the permissible *mishnayos* (Moed Katan perek 3), and may attribute the merit to the *neshamah* of the deceased.

On Eicha ... Rise up, cry (sing) in the night ... pour out your heart ... before the face of Hashem [2:19]. The night refers to *Galus*, the song, to Mishna study (*Targum*). Apparently, the joy that is experienced through Torah study inspires the most heartfelt prayers for *geulah*. Perhaps, here we see that even the song of Torah study need not eclipse the feelings of sadness in *galus*.

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