

YD 399:1.2018  
Daniel Greyber

### Comforting Mourners (Nihum Aveilim) on Festivals<sup>1</sup>

*This teshuvah was passed on October 17, 2018, with a vote of 21-1-0. Voting in favor: Rabbis Aaron Alexander, Pamela Barmash, Noah Bickart, Elliot Dorff, Susan Grossman, Reuven Hammer, Josh Heller, Jeremy Kalmanofsky, Steven Kane, Jan Kaufman, Gail Labovitz, Amy Levin, Jonathan Lubliner, Daniel Nevins, Micah Peltz, Avram Reisner, Rob Scheinberg, David Schuck, Deborah Silver, Iscah Waldman, Ellen Wolintz-Fields. Against: Rabbi David Booth.*

#### שאלה:

What are the community's obligations to provide comfort to 1) an individual whose shiva is cancelled by the festival? 2) a person in aninut--one whose father, mother, sister, brother, son, daughter or spouse died but is not yet buried--during a festival or Shabbat?

#### תשובה:

We begin by re-affirming the halakhah that gives rise to our question: It is established halakhah that if an individual suffers a loss and the burial takes place in the days before a festival, the festival prematurely ends an individual's seven-day period of shiva,<sup>2</sup> potentially after just a few hours of mourning. Festivals whose onset cancel an individual's observance of shiva include Passover, Shavuot, Rosh Hashanah and Yom Kippur, and Sukkot.<sup>3</sup> If the burial takes place during the intermediate days of a Passover or Sukkot, shiva is postponed until after the festival, a scenario that will be considered below.

What constitutes an individual's observance of shiva? Mourners are forbidden to work, including engaging in business such as the buying and selling of merchandise.<sup>4</sup> Mourners are forbidden to bathe and to anoint for pleasure, to wear leather shoes,<sup>5</sup> to engage in sexual

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*The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.*

<sup>1</sup> For the purposes of this teshuva, the word "festival" generally refers to those Jewish festivals which traditionally cancel observance of shiva: Passover, Shavuot, Rosh Hashanah, Yom Kippur, and Sukkot. Minor festivals such as Purim and Hanukkah do not cancel shiva.

<sup>2</sup> Moed Katan 14b, Shulhan Arukh, Yoreh De'ah 399:1, Orah Hayyim 548:7

<sup>3</sup> SA, YD 399:6

<sup>4</sup> SA, YD 380:3

<sup>5</sup> SA, YD 375:1, 376:4

relations,<sup>6</sup> to study Torah,<sup>7</sup> to inquire about another's welfare,<sup>8</sup> to sit on a regular bench or chair,<sup>9</sup> and to wash or iron clothing.<sup>10</sup> During shiva and during sheloshim (the first 30 days of mourning), mourners are also forbidden to get a haircut or shave.<sup>11</sup> For an individual to observe the strictures of shiva on yom tov (the festival day itself) or during *hol hamoed* (intermediate days of a festival) would violate accepted halakhic practice for generations.<sup>12</sup> Nevertheless, a mourner is obligated to recite kaddish because this is not considered among the activities restricted during Festivals.

However, for many people in our communities, the cancellation of shiva is experienced as something painful. They report feeling let down by Jewish tradition at a time when Jewish mourning rituals are sorely needed to create a space for mourners to express their emotions. While this teshuvah acknowledges that an individual's shiva is cancelled by the onset of a festival, we seek to clarify for our communities a misunderstanding: *the mitzvah of observing shiva is not the only way in which Jewish tradition powerfully addresses the emotional needs of mourners*. Two separate mitzvah frameworks are at play each time a death occurs in our communities: 1) the individual obligation to observe shiva and 2) the communal obligation of *niḥum aveilim*, comforting those who mourn.

### **Niḥum Aveilim: The Mitzvah of Consoling Mourners**

It is hard to overstate the importance Jewish tradition places upon the mitzvah of consoling mourners. In Laws of Mourning 14:1, Maimonides writes,

מִצְוַת עֲשֵׂה שֶׁל דְּבָרֵיהֶם לְבַקֵּר חוֹלִים. וְלִנְחָם אֲבֵלִים. וְלְהוֹצִיא הַמֵּת. וְלְהַכְנִיֵס הַפְּלֵה. וְלִלְוֹת הָאוֹרְחִים. וְלְהַתְּעַסֵּק בְּכָל צָרָכֵי הַקְּבוּרָה. לְשֵׂאת עַל הַכֶּתֶף. וְלִילָךְ לְפָנָיו וְלִסְפֹּד וְלִחְפֹּר וְלִקְבֹּר. וְכֵן לְשִׂמַח הַפְּלֵה וְהַחֲתֹן. וְלִסְעֻדָּם בְּכָל צָרָכֵיהֶם. וְאֵלֹו הֵן גְּמִילוּת חֻסְדִּים שֶׁבְּגוּפוֹ שְׂאִין לָהֶם שְׂעוּר. אִף עַל פִּי שֶׁכָּל מִצְוֹת אֵלֹו מְדַבְּרֵיהֶם הָרִי הֵן בְּכָלֵל (וַיִּקְרָא יְיָ) "וְאֶהְבֶּתָּ לְרֵעֶךָ כְּמוֹד". כָּל הַדְּבָרִים שֶׁאַתָּה רוֹצֵה שְׂיַעֲשׂוּ אוֹתָם לְךָ אַחֲרֵיכֶם. עֲשֵׂה אִתָּה אוֹתָן לְאַחֲרֶיךָ בְּתוֹרָה וּבְמִצְוֹת:

*It is a rabbinic positive commandment to visit the sick, comfort the mourners, escort the dead, dower the bride, accompany [departing] guests as well as to cheer the bride and groom and to assist them in whatever they need. Even though these commandments are of rabbinic origin, they fall under the rubric of*

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<sup>6</sup> SA YD 383:1. See also Moed Katan 15b where the Talmud cites as the source for this II Samuel 12:24: "And David comforted Bathsheba his wife [i.e. following her period of mourning] and he came unto her."

<sup>7</sup> Moed Katan 15a "The mourner is forbidden to study Torah since the Merciful One said to Ezekiel: "Sign in silence" (Ezekiel 24:17).

<sup>8</sup> Moed Katan 15a. "The Merciful One told Ezekiel: 'Sign in silence,'" (Ezekiel 24:17) and Rashi explains: "you should be silent and not inquire about another's welfare."

<sup>9</sup> Gesher Hahayyim 20:5:11

<sup>10</sup> SA YD 389:1

<sup>11</sup> See Moed Katan 14b where the Talmud derives this prohibition from when Aaron and his remaining two sons are told by Moses *not* to mourn after the death of Nadav and Avihu. Moses tells them, "Do not let your hair grow long" (Leviticus 10:6), from which the Talmud deduces that mourners are forbidden from having their hair cut or shaving.

<sup>12</sup> MK 14a, Maimonides, Laws of Mourning 6:3, Tur & SA OH 548, YD 499

*the biblical verse: "You shall love your neighbor as yourself" (Leviticus 19:18); that is, whatever you would have others do for you, do for your companions in Torah and mitzvot.*

While Maimonides begins by classifying *niḥum aveilim* as a rabbinic commandment, he quickly places it under the rubric of a biblical commandment, emphasizing its legal and religious importance. As our colleague, Rabbi Baruch Frydman-Kohl, has written in his teshuvah, "Welcoming Mourners on Shabbat,"<sup>13</sup> some commentators consider the mitzvah of *niḥum aveilim* to be of biblical status, while Maimonides classifies it of rabbinic status (Laws of Mourning 14:1); however, "all authorities regard this as a religious obligation of great importance."

Jewish tradition limits how much communities should mourn a communal tragedy, even something as terrible as the destruction of the Temple. The Talmud<sup>14</sup> tells the following instructive story:

תנו רבנן כשחרב הבית בשניה רבו פרושין בישראל שלא לאכול בשר ושלא לשתות יין נטפל להן ר' יהושע אמר להן בני מפני מה אי אתם אוכלין בשר ואין אתם שותין יין אמרו לו נאכל בשר שממנו מקריבין על גבי מזבח ועכשיו בטל נשתה יין שמנסכין על גבי המזבח ועכשיו בטל אמר להם א"כ לחם לא נאכל שכבר בטלו מנחות אפשר בפירות פירות לא נאכל שכבר בטלו בכורים אפשר בפירות אחרים מים לא נשתה שכבר בטל ניסוך המים שתקו אמר להן בני בואו ואומר לכם שלא להתאבל כל עיקר אי אפשר שכבר נגזרה גזרה ולהתאבל יותר מדאי אי אפשר שאין גזרין גזירה על הצבור אא"כ רוב צבור יכולין לעמוד בה דכתיב (מלאכי ג, ט) במארה אתם נארים ואותי אתם קובעים הגוי כולו

*The Sages taught in a baraita (Tosefta, Sota 15:11): When the Temple was destroyed a second time, there was an increase in the number of ascetics among the Jews, whose practice was to not eat meat and to not drink wine. Rabbi Yehoshua joined them to discuss their practice. He said to them: My children, for what reason do you not eat meat and do you not drink wine? They said to him: Shall we eat meat, from which offerings are sacrificed upon the altar, and now the altar has ceased to exist? Shall we drink wine, which is poured as a libation upon the altar, and now the altar has ceased to exist? Rabbi Yehoshua said to them: If so, we will not eat bread either, since the meal-offerings that were offered upon the altar have ceased. They replied: You are correct. It is possible to subsist with produce. He said to them: We will not eat produce either, since the bringing of the first fruits have ceased. They replied: You are correct. We will no longer eat the produce of the seven species from which the first fruits were brought, as it is possible to subsist with other produce. He said to them: If so, we will not drink water, since the water libation has ceased. They were silent, as they realized that they could not survive without water. Rabbi Yehoshua said to them: My children, come, and I will tell you how we should act. To not mourn at all is impossible, as the decree was already issued and the Temple has been destroyed. But to mourn excessively as you are doing is also impossible, as the Sages do not issue a decree upon the public unless a majority of the public is able to abide by it, as it is written: "You are cursed with the curse, yet you rob Me,*

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<sup>13</sup>[https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/frydmankohl\\_welcoming.pdf](https://www.rabbinicalassembly.org/sites/default/files/assets/public/halakhah/teshuvot/19912000/frydmankohl_welcoming.pdf)

<sup>14</sup> See B.T. Baba Batra 60b. This translation is from [www.sefaria.org](http://www.sefaria.org).

*even this whole nation” (Malachi 3:9), indicating that the prophet rebukes the people for neglecting observances only if they were accepted by the whole nation.*

In this story, Rabbi Yehoshua comes to correct the practice of those who mourn excessively for a communal tragedy, even one as terrible as the destruction of the Temple. Individuals too are limited in how much they may mourn the death of a loved one.<sup>15</sup> Maimonides writes,

אל יתקושה אדם על מתו יותר מדאי. שניאמר (ירמיה כב י) "אל תבכו למת ואל תגדו לו". כלומר יותר מדאי שזוהו מנהגו של עולם. והמצער [עצמו יותר] על מנהגו של עולם הרי זה טפש. אלא כיצד יעשה. שלשה לבכי. שבעה להספד. שלשים יום לתספורת ולשאך הסמשה דברים:

*One should not indulge in excessive grief over one's dead, for it is said, "Weep not for the dead, nor bemoan him" (Jeremiah 22:10), that is to say, weep not too much, for that is the way of the world, and one who frets over the way of the world is a fool. Rather, how should one mourn? Three [days] for crying. Seven [days] for eulogizing. Thirty [days one should refrain from] getting a haircut and the other five things (Laws of Mourning 13:11).*

According to Maimonides, individuals are limited in the length of time they may mourn. This may imply that Maimonides believes a community is only obligated to engage in formally consoling mourners corresponding to those same prescribed lengths of time: the first three days of shiva (understood to be a period of particularly intense grief), the seven days of shiva, and the thirty days of sheloshim. But, as will be discussed below, many sources describe *niḥum aveilim* as a mitzvah without limits and therefore as incumbent upon a community for as long as an individual in its midst grieves. Many sources also describe a process of consoling mourners that takes place even when the formal periods of shiva and sheloshim are cancelled, strengthening our contention that the communal obligation of *niḥum aveilim* is one without limits.

To understand our communal obligation to comfort mourners, it is important to remember that, while every death is sad, not every death is tragic. The death of an older person who has lived a good, full life and has had the opportunity to say goodbye to family is sad but is often not a tragedy. When that same person has endured an extended and painful illness, death can even be understood as a blessing or a relief for an overburdened caretaker. In these cases, much grieving takes place in the days and weeks before death, lightening the sense of loss experienced by mourners after death occurs.

On the other hand, when a young person dies prematurely due to illness or accident, or when someone dies by suicide or through circumstances that deny family and friends a chance to prepare or say goodbye, death is tragic, grief is intensified, and feelings of anguish will likely extend far beyond a week of shiva, thirty days of sheloshim, or even a year of kaddish.<sup>16</sup>

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<sup>15</sup> See an excellent presentation by Rabbi Jonathan Sacks in his commentary on parshat Re'eh, <http://rabbisacks.org/covenant-conversation-5770-reeh-the-limits-of-grief/>.

<sup>16</sup> Several years ago, I had coffee with a young woman whose husband had died tragically of cancer 18 months earlier. When asked how she was doing, she started to cry and described a “double loss”: not  
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According to Maimonides' ruling above, individuals should not extend Jewish mourning rituals beyond their prescribed measure, i.e., one should not sit shiva longer than seven days. But intense feelings of grief will often continue beyond periods of mourning mandated by Jewish law.<sup>17</sup> Below we will examine sources that demonstrate that the mitzvah of *niḥum aveilim* should be understood to have no set end point; rather it is incumbent upon Jewish communities at all times and to correspond according to the emotional needs of individuals who grieve.<sup>18</sup>

### **Niḥum Aveilim Exists Outside of Shiva**

According to some sources, the obligation of comforting mourners seems to exist only within the framework of shiva. Maimonides writes, after the burial "the mourner returns to his home. Every day within the seven days of mourning people should come to console [the mourner]" (MT Laws of Mourning 13:1-2), and Rabbi Menaḥem Meiri (Provence, 1249-1316) writes, "Consoling the mourners refers to [people] going to the mourner throughout the seven days to console him" (Moed Katan 24b). These sources seem to imply that the mitzvah of *niḥum aveilim* may only apply when the seven days of shiva are observed. Yet other sources seem to argue that the mitzvah of *niḥum aveilim* extends beyond the period of shiva.

- **Niḥum aveilim has no shi'ur:** As Maimonides wrote above, *niḥum aveilim* is recognized as an act of *gemilut ḥesed* and is included in rubric of the biblical commandment, "You shall love your neighbor as yourself" (MT Laws of Mourning 14:1). Mishnah Pe'ah 1:1 lists acts of *gemilut ḥesed* as one of a category of things that has no prescribed measure in Jewish law. Therefore, wherever and whenever a person is in mourning, a Jew retains the obligation to comfort.
- **Words of comfort are spoken for up to 30 days:** The Shulḥan Arukh (YD 385:2) says, "One who meets one's friend within 30 days speaks with him words of comfort (תנחומים)"

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only was she still grieving the death of her beloved husband, she also was pained because, once a year of kaddish had passed, some perhaps well-meaning people told her she was grieving "too much," and that it was time for her to "move on" and to find a new husband. These comments misrepresent Jewish tradition by interpreting its time-based mourning structures as placing maximum limits on our emotional experience of grief. Jewish law limits mourners' behaviors during periods such as a shiva and sheloshim limit, but even Jewish sources that limit mourning practices do not claim that these mourning practices must perfectly map onto an individual's experiences of grief. Whether these sources require an individual to curtail or "conquer" his/her emotions is a matter that will be discussed below.

<sup>17</sup> C.S. Lewis wrote in his book, *A Grief Observed*, "[Grief] needs not a map, but a history."

<sup>18</sup> Faith communities cannot, of course, be expected to fully heal someone whose grief may require mental health treatments, and knowing when this is the case is not clear even among mental health professionals. Here is one opinion according to the Mayo Clinic website: "There's currently no consensus among mental health experts about how much time must pass before complicated grief can be diagnosed. Complicated grief may be considered when the intensity of grief has not decreased in the months after your loved one's death. Some mental health professionals diagnose complicated grief when grieving continues to be intense, persistent and debilitating beyond 12 months."

<https://www.mayoclinic.org/diseases-conditions/complicated-grief/diagnosis-treatment/drc-20360389>

but does not ask about his peace/shalom.” In this case, shiva has ended but the mitzvah of “comforting mourners” is still enacted throughout the first 30 days. Speaking words of comfort—one of the ways in which the mitzvah of *niḥum aveilim* is fulfilled—takes place outside the framework of shiva.

- **Words of comfort are spoken during the festival:** According to *Maḥzor Vitry*, when a burial takes place on a festival, “he returns from there [the cemetery and] enters the house of mourning to comfort him and to speak to his heart.” In this case, the shiva does not begin until after festival, but *niḥum aveilim* still applies.<sup>19</sup>

**Niḥum aveilim was practiced on festivals:** A variety of sources indicate that the mitzvah of *niḥum aveilim* was observed on festivals throughout Jewish history.

1) The earliest is from the Tosefta (late 2nd century) Sukkah 2:10:

אמ' ר' לעזר בי ר' צדוק כך היו אנשי ירושלם נוהגין נכנס לבית הכנסת לולבו בידו עמד לתרגם ולעבור לפני התיבה לולבו בידו לולבו בידו נכנס לבית עמד לקרות בתורה ולישא את כפיו מניחו בארץ יצא מבית הכנסת לולבו בידו נכנס לבק' את החולי ולנחם המדרש נותנו לבנו או לשלוחו ומחזירו לתוך ביתו

*Rabbi Lazar son of Rabbi Zadok said: Thus would the people of Jerusalem practice. One would enter the synagogue, lulav in hand, stand to recite the Aramaic translation of the Torah reading or lead the service (literally “pass before the ark”) lulav in hand. When one rose to read from the Torah or to recite the priestly blessing, one would place it on the ground. One would leave the synagogue lulav in hand and enter to visit the sick and to comfort the mourners lulav in hand. When one entered the beit midrash, he would give it to his son or messenger and return it to his home.*

In this example, we are not told whether someone died before the festival, in which case shiva was cancelled, or during the festival, in which case shiva is postponed until after the festival, but it is clear that the practice was to visit mourners during the festival itself.

2) In a baraita cited by Abaye in *Moed Katan* 19b-20a, comforting mourners during the festival lessened the obligation to comfort mourners when shiva was formally observed after the festival.

הקובר את מתו שני ימים קודם הרגל מונה חמשה ימים אחר הרגל ומלאכתו נעשית ע"י אחרים ועבדיו ושפחותיו עושים בצינעא בתוך ביתו ואין רבים מתעסקין עמו שכבר נתעסקו בו ברגל. כללו של דבר: כל שהוא משום אבל - רגל מפסיקו, וכל שהוא משום עסקי רבים - אין רגל מפסיקו. קברו שלשה ימים בסוף הרגל - מונה שבעה אחר הרגל. ארבעה ימים הראשונים - רבים מתעסקין בו, שלשה ימים האחרונים - אין רבים מתעסקין בו, שכבר נתעסקו ברגל.

*If one buries his dead relative two days before a festival, he must count five days of mourning after the Festival, and during this period his work is performed for him by others. And his*

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<sup>19</sup> *Maḥzor Vitry*, Books Export Enterprises Ltd for Lyon Press INC, Brooklyn NY, p. 244.

*menservants and maidservants do this work in private inside his house, and the public need not occupy themselves with him by coming to console him, for they already occupied themselves with him on the festival. The general principle is: Anything that applies specifically to the individual mourner, the festival stops it. Anything that applies to the community, the festival does not stop it. If they buried 3 days at the end of the festival, he counts seven [days of shiva for himself] after the festival. During the first four days [of the shiva], they occupy themselves with him; during the last 3 days, they do not occupy themselves with him, for they already occupied themselves with him on the festival.*

Nihum aveilim took place on festivals because it is not an individual mitzvah like observance of shiva by the mourner, but rather it is a communal mitzvah that does not always correspond with shiva and, in this case, is not stopped by the festival.

3) Finally, Rav Sherira Gaon (Pumbeditha, 10c) wrote the following: “We have heard from our elders that this applies when the deceased expired on a holiday or a festival: the living are to follow the customs of mourning after [the holiday]. **Even though mourning is not instituted during the holiday, his companions visit him and sit with him to comfort him**, and the *tanna* [in the Tosefta cited above] compares this to one who has come to offer condolences to the mourners” (Ozar Ha-Geonim, Sukkah, p. 56.). In any event, the mourner is suffering internally, and his friends come to assuage his or her pain.

4) Based on the Talmud, this practice is codified in the Shulhan Arukh (OH 548:6) and in Gesher Hahayyim 20:5.

אף על פי שאין אבלות ברגל, אם מת לו מת ברגל מתעסקים בו ברגל לנחמו, ולאחר הרגל כשיכלו שבועה למיתת המת, אף על פי שיעדין לא פלה האבלות, מלאכתו נעשית על ידי אחרים בבתיהם ועבדיו עושים לו בצנעה בתוך ביתו; ואין צריכים לנחמו אחר הרגל מנין הימים שנתמיהו ברגל.

“Even though there is no [official] mourning on the festival, if someone dies on the festival, they [the community] busies itself on the festival to comfort the mourner. After the festival, once seven days have passed since the person died, even though the [official] mourning has not ceased, his [the mourner’s] work may be done by others in their homes and his workers may do for him in the privacy of his home, and there is no need to comfort him after the festival for whatever number of days they comforted him on the festival.”

This source indicates that the mitzvah of comforting mourners may be limited to seven days but that the mitzvah still applies even when shiva is not being observed.

5) Shulhan Arukh, Yoreh De’ah 399:1

שולחן ערוך יורה דעה הלכות אבלות סימן שצט סעיף א

הקובר מתו קודם הרגל, בענין שחל עליו אבלות, ונהג בו אפילו שעה אחת קודם הרגל, מפסיק האבלות ומבטל ממנו גזרת שבעה ..ב וימי הרגל עולים לו למנין שלשים... וכל ימי הרגל רבים מתעסקים בו לנחמו, ד הילכך אין מתעסקין בו לנחמו אחר הרגל

One who buries his dead before the festival, regarding the case where he observed even one hour of aveilut before the festival, the festival cancels his mourning and shiva and the days of the festival count towards sheloshim...**all the days of the festival the community busies itself to comfort him, and therefore they do not busy themselves after the festival.**

6) In the 20th century, Rabbi Maurice Lamm stated: "Visitors do not customarily pay condolence calls on the Sabbath or holidays as these are days when one should not mourn publicly. However, the mourner may receive company and condolences on these days" (Jewish Way in Death and Mourning, p. 139).

Lamm writes "A sacred obligation devolves upon every Jew to comfort the mourners, whether he is related to them or not, and whether he was a close friend or a passing acquaintance...The fundamental purpose of the condolence call during shiva is to relieve the mourner of the intolerable burden of intense loneliness. At no other time is a human being more in need of such comradeship...Recognizing this state of mind, the visitor comes to the house of mourning, silently, to join the bereaved in his loneliness, sorrowfully to sit alongside him, to think his thoughts and to linger on his loss. The warmth of such human presence is inestimable."<sup>20</sup> It is for these reasons—that the mitzvah of niḥum aveilim is so important and the comfort it provides so great—that we clarify that communities remain obligated to comfort mourners even if shiva is cancelled by the onset of a holiday. Below we will consider how the mitzvah of niḥum aveilim should be enacted during a festival. But first, another question will be considered: Does Jewish law require mourners to "push through" their grief and rejoice on the festival?

### **Must Mourners Rejoice on the Festival?**

Does requiring the community to comfort mourners violate the Torah's injunction, "Rejoice on your festivals" (Deuteronomy 16:14)? Not only could the community's festival joy be diminished, but perhaps there is wisdom in requiring the individual mourner to push beyond his/her feelings of sadness and partake in the communal joy of the festival?

In a 1998 lecture, our colleague and teacher, Rabbi Harold Schulweis (z"l), explained:

*My grandmother died before Sukkot...I saw my grandfather in a new heroic posture because he would not mourn during the Festival of Sukkot because he knew that the immortality of his wife was connected with the eternity of the Jewish people, and he would not allow his personal grief to destroy the celebration of the community. That is where believing and behaving and belonging is so important in the Jewish tradition. And one more thing: when I read the laws, especially through the eyes of the philosophers and the psychologically attuned rabbis, I recognize the great belief that Judaism has of the mastery of my emotions. When it came to this particular law, about the festival cancelling the shiva period: he [ed. I believe Rabbi Schulweis was quoting his teacher,*

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<sup>20</sup> Lamm, M. (2000). *The Jewish Way in Death and Mourning*. Middle Village, NY: David, p.133.



Rabbi Joseph B Soloveitchik<sup>21</sup>] writes: “Halakhah commands, “Rise up from your mourning, cast the ashes from your head, change your clothes, light the festival lights, recite over a cup of wine the kiddush extolling God for giving the people the festival of gladness, pronounce the shehehyanu in praise of God who has kept you in life.” What impressed me was the control of his depression. The remarkable conviction that death must not allow me to plunge into morbidity and immobility. The divine presence does not dwell in a moment of your sadness and depression, or in your paralysis, in your indolence, but in the joy of doing a mitzvah, and that is an extremely important matter.<sup>22</sup>

Rabbi Schulweis raises two important points: 1) that individual needs are sometimes superseded by communal needs and that one does not impose upon the community an obligation of sadness during a time of communal joy, and 2) that the process of pushing a mourner to celebrate reinforces Jewish belief in the ability of human beings to master their emotions.

Regarding the second point, while some people are indeed able to push themselves to celebrate on a festival even in the face of their personal loss, not everyone can. Such a practice should be considered a minhag hasidut / a pious practice attainable by some, but it should not be considered halakhah, a practice required of all. Many Jews are unable to feel the joy of the festival in the wake of a devastating loss and, while they should not observe individual shiva practices, denying them the comfort of visits by the community is experienced as adding insult to injury, and there is clear halakhic precedent to permit communal visits. Moses urges the people, “Observe them [the laws] carefully, for this will show your wisdom and understanding to the nations, who will hear about all these decrees and say, ‘Surely this great nation is a wise and understanding people’” (Deuteronomy 4:6). To the greatest extent possible, Jews and non-Jews should experience halakhah as wise and compassionate. Our communities should not merely be permitted to comfort those in mourning on festivals; they should be urged to do so and told that doing so is a fulfillment of a mitzvah so that nobody’s grief in our community is compounded by isolation.

Regarding Rabbi Schulweis’ first point, that visiting mourners on the festival risks diminishing the community’s joy (which must take precedence), that very concern applies not only to festivals but to Shabbat as well. It is the basis for why there is no public mourning on Shabbat.

In his book on Jewish mourning practices,<sup>23</sup> Shmuel Glick quotes at length from the responsa *Yakhin u-Bo’az* regarding the question of comforting mourners on Shabbat and festivals. Here is the responsum at length followed by Glick’s translation:

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<sup>21</sup> Soloveitchik, Rabbi Joseph B. “Catharsis.” *Tradition*, 17:2. Summer (1978). Thank you to Baruch Frydman-Kohl for helping me find the source of this quotation.

<sup>22</sup> Feb 11, 1998. Lecture by R. Schulweis at Keruv Center at Valley Beth Shalom “Death Dying and the Hereafter” minute 40.

<sup>23</sup> Glick, Shmuel. *Light & Consolation: The Development of Jewish Consolation Practices*. Jerusalem: Shoken Institute for Jewish Research of the Jewish Theological Seminary, 2004. Page 135.

עוד שאלתם ראוּבֵן נפטר בחש"מ = בחולו של מועד = היש מן הדין לנחם אבּליו במועד או לא דלא אשכחן התם שיבא אבילות כלל כי אם אחר המועד ובגמרא מ"ק מפורש כולי האי דאית מאן דאסר בההוא יומא לנחם אבילות וראייתו משום דבְּקוּשֵי הַתִּירוּ לנחם אבילות בשבת וה"ה ל"ט ואנן נהיר לן לפרש דוקא בקושי לא לכ"ע ומפורש לרב האי ז"ל לאו דוקא איתמר לנחם אבילות כי אם לישב עמו בביתו להקל מעליו שכן היה דרכן לעשות במועד ונדמה כאלו מנחמין אותו ובהכי אוקמה בעל המנהיג הגדול ומאי פ' בקושי דקאמר אף על גב דאית מאן דאמר לנחם דוקא וכן נהג ולא הודו. ואשכחן דעות בהכי ורבים השיבו שאין מנחמין אלא במקום אבילות וגם לגבי צדוק הדין לא הכשירו אלא לת"ח והוא כלהו כא' כדמפורש בספר האשכול ועל אלו המפרשים ז"ל סמכו קדמונינו בקסומטינא שאין לנחם בעל האבל במועד אבל נהגו לישב עמו בבית להקל מעליו בשיבה דוקא לא בנחמה וכן נהגו רבותי החכם השלם ר' מימון נגאר נ"ע ותלמידו מורי הר' משה אמ"ם ועליהם סמכו דלית אבילות והתם אין לנחם זולתי במקום אבילות ומנהגינו פשוט שאין לנחם לא בשבת ולא ברגל אלא במקום אבילו' אחר המועד מנחמין מה הדין בזה

תשובה בפ"ק דשבת גרסי' בש"א אין מנחמין אבילות ואין מבקרין חולים בשבת וב"ה מתירין ובתר הכי אמרי' בקושי התיירו לנחם אבילות בשבת ופירש"י ז"ל שמא יבא להצטער עמהם כלומר כיון שרואה האבל מצטער או החולה והוא בא לבקר החולה או לנחם האבילות ומתוך כך יבא להצטער עמהם ומטעם זה היה אפשר שלא להתיר לנחם אבילות בשבת אבל ב"ש וב"ה הלכה כב"ה לבד ממקומות ידועים שפסקו הלכה בפ"י כב"ש ולכן אמר שבמקום זה הלכה כב"ה אבל בקושי גדול פסקו הלכה כמותו ולא חיישינן שמא יבא להצטער עמו זהו כפירש"י ז"ל דפי' משום צער וכ"כ בס' ארחות חיים אבל הריא"ף ז"ל פירש שמא יבוא לצעוק וה"ה והוא הטעם שאין חוששין שמא יבא לצעוק וא"כ הדבר ברור שמותר לנחם האבילות בשבת ואם בשבת אין חוששין שמא יצטער או שמא יבוא לצעוק כ"ש בחולו של מועד וכל שכן לדברי הרמב"ם ז"ל שהביא דין זה של ביקור חולים ותנחומי אבילות בפכ"ד מהלכות שבת עם דיני הדבור יש דברים שאסורים לדבר בהם בשבת משום שנ' ודבר דבר שלא יהיה דבורך של שבת כדבור של חול כדאי' בפ' אלו קשרים ויש דברים שהם מותרים לדבר בהם בשבת והרמב"ם ז"ל כתב ביקור חולים ותנחומי אבילות מותר לדבר בהם בשבת א"כ שאין הדבר תלוי אלא משום ודבר דבר והתיירו בשבת כ"ש בחש"מ שאין לומר בו ודבר דבר ואין לבוא לדין זה מדין אבילות ונחמה ושאלת שלום בשבת וי"ט גם בחש"מ ודין צדוק הדין ואין להאריך בזה וזיל קרי בי רב הוא וכ"ז הבל ורעות רוח שאין הדין תלוי בזה אלא במ"ש. א"כ החולק עליכם שאמר שהוא מותר מן הדין כן הדבר ואתם אם אסרתם הדבר משום מנהג. ואעפ"כ הוא רוצה להתיר המנהג אתם רשאים ולא הוא וצריך להיות דעתו מעורבת עם הבריות ולהתנהג כמנהגכם על פי מדותיכם

And to that which you asked, if Reuben passed away during the intermediate days of a festival, **is it obligatory to console his mourners during the festival or not...** since there is someone who forbade consoling mourners on that day, and the proof is that they barely permitted consoling mourners on the Sabbath, and that is the rule concerning festivals....Our custom is simply that one should not console mourners either on the Sabbath or on festivals, but rather where there is a place of mourning after the festival, they do console [them]. What is the law on this?

Response: In Chapter One of tractate *Shabbat*, Bet Shammai states that people do not comfort mourners on the Sabbath. *Rashi*, of blessed memory, explained this as lest the person (who does the comforting) be saddened, as the person would see the mourner suffering...By coming to visit the sick or to comfort the mourners, he, too, will begin to suffer with them, and it is thus possible to not allow consoling mourners on the Sabbath. The rule, though, is that (in an argument) between Bet Shammai and Bet Hillel, the *halakhah* is in accordance with Bet Hillel, except for those specific places where the *halakhah* was ruled specifically like Bet Shammai. Thus, in this case, the *halakhah* follows Bet Hillel. Only with great difficulty did they determine *halakhah* in this manner, and

*they do not feel that [the visitor] might join the mourner in his sorrow. That is the explanation of Rashi, of blessed memory...If this is the case, it is clear that one is permitted to console mourners on the Sabbath if on the Sabbath the people are not afraid that they might become saddened thereby...How much more so (is this true) regarding the intermediate days of a festival...This is all the more true according to the words of Maimonides, of blessed memory, who cited this law of visiting the sick and offering condolences to mourners in chapter 24 of the Laws of Sabbath, in connection with the laws concerning speech. There are matters about which one is forbidden to speak on the Sabbath, since it states "Nor speaking your own words": that what you speak about on the Sabbath should not be what you speak about during the week...and there are topics that may be discussed on the Sabbath. Maimonides, of blessed memory, wrote that visiting the sick and offering condolences are topics which may be spoken about on the Sabbath. If so, the issue does not depend on any other factor than "Nor speaking your own words" and (the Rabbis) permitted this on the Sabbath, and all the more so the intermediate days of a festival where "Nor speaking your own words" does not apply...If so, whoever disagrees with you, saying it is permitted by law, is correct. If, however, you forbade this owing to custom, even though he wants to remove the restrictions of the custom, you are permitted (that is, to maintain the custom) and he cannot change it. He must be aware of the feelings of others and follow your customs according to your standards.<sup>24</sup>*

Glick summarizes as follows:

*"We find a question asked of R. Zemah Duran (Algiers 15<sup>th</sup> c.) about consoling mourners during the intermediate days of a festival. The person posing the question thought that one is not supposed to offer condolences on the Sabbath or a festival since 'there is no mourning' on those days. The inquirer felt that, despite the fact that even though ostensibly those who do allow comforting mourners on the Sabbath do have some authority to rely upon, the determining factor should be local custom, and in his place the local practice was that there was no consoling of mourners on the Sabbath. In his response, R. Zemah discussed the various aspects of the laws of mourning, which include offering condolences on the Sabbath and he makes clear that the matter goes according to community practice. If one wants to forbid speaking sad things on Shabbat or festivals, one may, but the reverse is also correct - i.e., communities may take it upon themselves to allow visiting."*

Glick also summarizes various modern customs (included below are his footnotes in brackets):

**The Custom Today** – The customs listed below refer to the Sabbath and holidays:

The Ashkenazic custom – One does not go to the mourner's home to offer condolences on Sabbath or holidays. (For some, it is customary to hold the Shabbat afternoon prayers in the mourner's home.) [2]

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<sup>23</sup>[1] Responsa *Yakhin u-Bo'az*, 1:117

The Jerusalem custom – It is customary for the community to go to the mourner’s home and study a while, recite *kiddush* and eat cake. [3]

The Sephardic custom – It is customary to go to the mourner’s home to offer condolences even on the Sabbath.

In Algeria – The custom is that “on the Shabbat [in the mourner’s home] they do not mention the deceased at all, as they had during the week, but go in and sit in silence; then the prayer leader rises, recites the *Rahmana* (the prayer, “May our merciful Lord”) ...and they leave. [4]

In Morocco – Relatives and friends come to the home of the deceased and upon leaving bless the mourners saying, “May the Sabbath comfort you.” [5]

In Egypt – Condolences are not offered at all in the mourner’s home on the Sabbath. Anyone who wants to perform an act of lovingkindness by comforting the mourners comes to the synagogue on the Shabbat, to where the mourner sits, and prays with him or sits with him for a short while in the synagogue. [6]

Rabbi Ovadia Yosef has ruled: “It is permitted to offer condolences on the Sabbath.... One who comes to do so should say, ‘Sabbath is for comforting, and consolation will soon come.’ One should not say, as they do during the week, ‘May you be comforted from Heaven’.... In any event, it is not customary to offer condolences on the Sabbath unless one goes to the mourner’s home to encourage him and give him strength when he is brokenhearted.” [7]

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[2] See *Gesher ha-Hayyim*, 1, p. 206:9.

[3] *Nehar Mizrayim*, p. 157.

[4] *Hesed ve-Emet, Customs of the Algerian Community*, p. 181.

[5] Z. K. Dabrinisky, *Ozar Dinim u'Minhagin shel Yehudei Sefarad*, pp. 82-83. See Asher Wasserteil, *Yalkut Minhagin*; S. Danimo, “Mi-Minhagei Yahudut Morocco,” Jerusalem 1977, p. 271.

[6] See *Nehar Mizrayim*, *ibid.*

[7] R. Ovadia Yosef, *Yalqut Yosef*, 4:287.

Current Sefardic practice is to accompany the mourner home. Earlier Ashkenazi practice was also to accompany the mourner home based upon the teaching in Masekhet Sofrim:

Behold Solomon! The importance of acts of lovingkindness was so great before God that when he built the Temple, he built two gates: one for grooms and one for mourners. On Sabbaths and Festivals, Jerusalemites sat between the two [gates] in order to console the mourners and congratulate the grooms...[saying to the mourners], “May the One Who Dwells in this house comfort you.” Once the Temple was destroyed, [the Sages] fixed that grooms and mourners should go to synagogue.

**What should be the custom regarding comforting mourners on festivals?**

The CJLS notes in the summary index (10:20), “Rabbis should be advised to permit home visits during hol hamoed, but to encourage davening in synagogue, as home davening would carry the appearance of mourning.” Similarly, customs such as removing the shoes should be postponed until after yom tov. (Minutes of the CJLS, 101177B).

While the law on the books may permit home visits, what takes place in many of our communities is quite different. Because shiva is formally cancelled by the festivals and therefore formal shiva minyanim are not held, many communities end up *not visiting mourners at all*. This could be either out of a mistaken sense that all such visits are forbidden by Jewish law or, because no minyan is scheduled, people lack a structure within which to express the community’s condolences. Whatever the reason, the end result is that individuals who lose a loved one just before or during the festival have sadness from their grief compounded by feeling let down by the Jewish community and Jewish legal tradition. *This must not be the case. This teshuvah seeks to strengthen our communal observance of niḥum aveilim, by explicitly encouraging Jews to comfort on festival days and hol hamoed those whose loved one has died either before or during the festival, regardless of whether shiva has been cancelled or postponed.* The obligation of niḥum aveilim is a communal one, not an individual one. If a particular individual is unable to visit a mourner on a Shabbat or Festival (for example, if they live too far away), that individual is exempt from doing so until she is able, but the community must take pains to organize itself, either through a hevra kaddisha or a community-of-care committee to ensure that mourners are comforted during a festival.

### **Non-Shiva Visits to Comfort Mourners on Festivals**

What should non-shiva visits on festivals look like? Non-shiva visits can include many things that are part of shiva visits such as 1) bringing of food to the home so that the mourners need not cook for themselves; 2) allowing the mourners and community members to share memories and reflections of the deceased; 3) sitting quietly with the mourners; and 4) taking care of small children. Dr. Ron Wolfson’s book, *A Time to Comfort, A Time to Mourn*,<sup>25</sup> includes sections specifically for comforters; many of the suggestions there continue to apply. Most important is to be present for mourners whenever possible.

In order to acknowledge that shiva is not being formally observed, mourners should not sit on low stools or on the floor, nor should they continue to wear the clothing or the black ribbon torn at *kriah*; also, mirrors should not be covered.

Below we will consider the question of whether formal services should be scheduled at a mourner’s home during a festival or on hol hamoed. Rabbis who believe that formal services of any kind are forbidden are nevertheless encouraged to announce a particular time when Torah could be taught and/or a psalm could be recited followed by Mourner’s Kaddish, thus creating

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<sup>25</sup> Wolfson, Ron. *A Time to Mourn, a Time to Comfort: a Guide to Jewish Bereavement*. Jewish Lights Pub., 2005.

a framework during which the community can be encouraged to fulfill the mitzvah of niḥum aveilim.

### **Aninut Visits During Shabbat and Festivals**

If someone dies for whom one would observe the laws of mourning, that person is considered an *onen/onenet* (plural: *onenim/onenot*) by Jewish law from the moment of death until burial takes place. Under regular circumstances, *onenim* should not observe positive mitzvot such as reciting grace after meals and praying; however, on the Sabbath or festival, they may eat meat and drink wine if so desired, they recite the benediction [before meals], and they are obligated to perform all religious duties except engaging in sexual relations, which is forbidden. *Onenim* are permitted, but not required, to go to synagogue on the Sabbath and festivals, though they should not lead the prayers,<sup>26</sup> nor should they lead morning prayers on any day when Hallel is recited unless no one else is available. What obligations devolve upon the community while a community member is an *onen/onenet*?

If visits are to be encouraged when a person was buried before or during the festival, how much the more (קל והומר) so should acts of kindness to comfort and support an *onen/onenet* be encouraged! Rabbi Nina Cardin's mother died erev Shabbat before Shavuot. She writes:

*I would not have wanted to be invited out - that would have felt too much like entertaining (though someone who is alone may welcome that, though even here, bringing food, utensils, etc and sitting and eating with the onen could be better than inviting them out)...the last thing not-yet-mourners are thinking about is food and eating, and the gift of someone bringing food to the house (even more than having it be sent in, but bringing it over themselves ideally) is so powerful...When my mother died erev shabbat of the shavuot weekend, the family began to gather - when we were not expecting them. A friend of mine dropped by with bottles of wine and bags of challot, knowing that we would have to feed a small army on very little notice and even less spiritual energy. That was one of the kindest gestures I experienced.*

The communal joy of the Sabbath and festivals does not negate the communal obligation to comfort those whose loved one has died. Aninut visits should be permitted and encouraged on Shabbat and festivals. Given the raw emotions of an *onen/onenet*, visits should be paid by clergy, close friends, and relatives.

### **Can Home Minyanim Be Permitted during Festivals?**

While all of the above activities should take place, a scheduled minyan still serves as a vital impetus to people in our communities visiting and comforting mourners. Therefore, it is still important to consider whether minyanim can be scheduled at a mourner's home on hol hamoed and yom tov. The CJLS index cited above seems to forbid minyanim at home "as home

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<sup>26</sup> YD 376:4.

davening would carry the appearance of mourning” and public mourning is forbidden on festivals. But what is public mourning?

### **What Defines Public Mourning?**

On the one hand, one way the Jewish legal tradition defines whether an event is public is by whether a minyan, a quorum of ten Jewish adults, is present. However, a mourner merely being in a place where a minyan is present is not, in and of itself, forbidden by Jewish law; minyanim are held in a mourner’s home and, on Shabbat during shiva, mourners attend Shabbat services where, of course, there is typically a minyan. What is forbidden as public mourning is when the individual mourner takes his/her signs of mourning—i.e. ripped clothing, non-leather shoes—into the public space. If this is what constitutes public mourning, then services held in a mourner’s home may be understood as private mourning and thus permitted on festivals and hol hamoed.

Support for this approach can be derived from the fact that Jewish legal tradition defines certain spaces as public and private. The fact that a minyan is convened in a mourner’s home does not necessarily define that as public mourning. Rather, the home and whatever happens there may be understood to be a private space, similar to how moving furniture in one’s house on shabbat is not melacha because that action is not taking place in a public space (*reshut harabim*). Therefore, services in a mourner’s home during a festival can be permitted without violating the prohibition on public mourning.

While services at home might be permitted even on hol hamoed or even a festival day, nevertheless a balance must continue to be struck between the community’s duty to comfort mourners and supporting joyous communal synagogue observance of the festival. This teshuvah makes the following recommendations for communities regarding the scheduling of minyanim in mourners’ homes on festivals and hol hamoed.

### **Recommended Practice for Nihum Aveilim on Festival Days**

In deference to the communal celebration of the festival, services should not be scheduled at mourners’ homes on festival days. Instead, mourners should be encouraged to come to the synagogue. At evening services prior to the onset of the festival, rabbis should acknowledge the death of the mourner’s loved one, and the community can be asked to offer the traditional phrase of comfort to mourners, “May God comfort you amidst all the mourners of Zion and Jerusalem.” On festival mornings, similar to when a shiva minyan takes place in a mourner’s home on Rosh Hodesh and Hanukkah,<sup>27</sup> Hallel is recited but mourners should be permitted, and perhaps encouraged, to leave the room during the communal recitation of Hallel, because

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<sup>27</sup> Asheknaz practice is that Hallel is not said in a mourner’s home. See Mishnah Berurah 131:20. Sefardic practice is for Hallel to be recited after the mourner leaves the room. See Chazon Ovadia (Aveilut v. 3 p. 27)

the particularly festive nature of Hallel is inappropriate for those in mourning.<sup>28</sup> For example, mourners should not be required to joyfully sing, “The dead do not praise God” (Psalm 115:17) so soon after burying a loved one.<sup>29</sup> As mourners return for the remainder of services, rabbis can welcome them and encourage the community to sit with them and offer condolences, similar to the Egyptian Shabbat custom described above. On Simḥat Torah, mourners should be encouraged to leave synagogue during the hakafot for the same reason regarding Hallel cited above. At all these times, mourners should not be left to sit by themselves, but rather should be accompanied by a family member, close friend, or representative of the congregation.

### **Synagogue Attendance on the Shabbat of Shiva and on Festivals Must Be Especially Encouraged**

Before moving on to the issue of home services on hol hamoed, we want to encourage rabbis to make a special plea as to the importance of communal synagogue attendance by mourners and by the community on the Shabbat during a shiva and on festivals.

In his book *A Time to Comfort, A Time to Mourn*, Dr. Ron Wolfson includes a powerful testimony about what happened when the community failed to show up on Shabbat during shiva.

RICHARD LOPATA: You know what really hurt? All those people who came to my house for the *shiva* - not one of them came to the synagogue to be with me on Friday night. Here they're gonna mention my daughter from the *bimah*, and no one was there. If my two brothers and their wives had not come, my son, Cynthia, and I would've sat there all by ourselves.<sup>30</sup>

While only conjecture, Lopata's experience may have been the result of a misunderstanding of halakhah: *while the mourner does not wear torn clothing or observe other individual mourning practices on Shabbat, the communal obligation to comfort mourners is not suspended to the extent that mourners are left alone on Shabbat!* Congregations should be encouraged to *continue visiting mourners* at Shabbat services during the week of shiva and at festival services after someone in the community has died. As Rabbi Frydman-Kohl has written, mourners should be ritually welcomed into synagogue after Lekhah Dodi on Friday night. This teshuvah recommends to welcome mourners officially at the onset of a festival as well. Community members should sit with mourners during all services so they do not feel alone. Mourners can choose to depart

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<sup>28</sup> See Kitzur Shulchan Arukh 207:6. “Hallel is not said in the house where the death occurred, if the mourner is present during the first seven days of mourning, (because it is considered like mocking the poor, for in Hallel we say, “The dead do not praise God.”)

<sup>29</sup> See Isaac Klein, “A Guide for Jewish Religious Practice,” page 288 where Klein gives this as a reason for Hallel not to be recited in a home of mourning, or for mourners to leave the room. The same reasoning applies for mourners excusing themselves when mourners (or *onenim*) are present in synagogue on festival days when Hallel is recited.

<sup>30</sup> Wolfson, Ron. *A Time to Mourn, a Time to Comfort: a Guide to Jewish Bereavement*. Jewish Lights Pub., 2005, p.169



immediately following Shabbat and festival services and receive visitors during specific hours at home. If it is not a particularly festive Shabbat, mourners can also choose to stay for the kiddush lunch. If they do so, others should bring them their food and sit with them to offer consolations, being especially mindful that conversations not become burdensome.

### **Home Services during Hol HaMoed**

Services may be scheduled at the mourner's home during hol hamoed, thus providing a framework to ensure the community does not forget or ignore the emotional needs of the mourner during the holiday. These services should be announced as a minyan of condolence, not a shiva minyan, to acknowledge that shiva is not being observed.<sup>31</sup> While this proposal risks the appearance of shiva and/or public mourning, as suggested by the CJLS Index above, such a risk is outweighed by the concern that communities must continue to perform the mitzvah of comforting mornings during festivals. When a sukkah is available, mourners should receive visitors in the sukkah.<sup>32</sup> At a Shaḥarit minyan, mourners should leave the room during the communal recitation of hallel. At Shaḥarit and Ma'ariv, Psalm 23 – rather than Psalm 49 – may be recited in addition to the psalm of the day.

### **Postponed Aveilut**

When a death takes place during a festival, shiva is postponed until after the festival. According to Maimonides, Laws of Mourning 1:1, “aveilut from the Torah is only one day – the day of death and burial. The rest of the seven days, however, are not Torah law.” Because postponed shiva takes place after the day of death and burial, its status is rabbinic.<sup>33</sup> Postponed shiva creates the awkward situation where mourners are consoled by the community during the festival but sit shiva for six days in the diaspora,<sup>34</sup> sometimes after the most severe emotional mourning has already occurred. The sitting of shiva in this case risks becoming a dry formality and diminishing the wisdom of halakhah in people's eyes.

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<sup>31</sup> See appendix for examples of language that can be used in synagogue communications.

<sup>32</sup> See BT Sukkah 25b where the Talmud clarifies that the mourner “must settle herself” from the sadness of mourning and fulfill the mitzvah of dwelling in the sukkah. Rabbi Aaron Alexander shared the following insightful reflection about this sugya on social media: “I am reading it differently – even if against the plain meaning (and grammar). At least the last 4 words--iyba'ye lay l'i'yatuvey daatey – needs settle herself. Maybe, instead, the sukkah can be for some of those who are experiencing loss, precisely the place in where the heart can feel like it is settling, nestling, into something that reflects what it is it actually feels. Cracked open, wounded, and awake to that vulnerability. That aliveness. Being surrounded, but also empty, precarious. The unbearable pain that is also embedded with a sober joyfulness of having had what is gone. Maybe the obligation...is the nudge toward sacred vessels for holding deeply felt emotions.

<sup>33</sup>For an analysis of the origins of the mitzvah of aveilut, see David Silverberg's analysis on parshat Vayechi from the Maimonides Heritage Center. <https://mhcny.org/parasha/1012.pdf>.

<sup>34</sup> See *Shulḥan Arukh*, Orah Hayyim 548:2 where it is explained that the second day at the end of the festival counts towards the seven days of shiva. In Israel, where two festival days are not observed, mourners sit a full seven days after the end of the festival.

In 1977, the CJLS debated the status of postponed shiva and entertained three papers prepared by Rabbis Eli Bohnen, Phillip Sigal, and Aaron Blumenthal. According to the minutes, the following formula was unanimously accepted by all those present:

If death occurred during the first yom tov or hol hamo'ed...full shiva [should] be observed [after the festival] for one calendar day—one full halakhic day after yom tov plus the following evening and morning. Thus, counting the last day of yom tov as a day of aveilut (without the observance of mourning customs), [this creates] shiva of three halakhic days, only one in duration by the calendar.

This teshuvah recommends adopting this formula as a permissible, alternative practice with a few clarifications. First, following the conclusion of Passover or Sukkot, mourners who wish to observe a traditional shiva—six days in diaspora, seven in Israel—may continue to do so, and communities should make every attempt to fully accommodate this practice. Second, this formula applies when someone dies on the first days, or on hol hamo'ed, of Passover or Sukkot and is buried before the onset of the seventh/eighth days of the festivals: shiva begins on *isru hag*, the first night after the last day of the festival, continues the intervening day and evening, and for a short time the second morning—a bit more than 36 hours. For example, if someone died on hol hamoed Passover or Sukkot and the festival ended on Monday evening, observance of shiva should begin on Monday evening and conclude on Wednesday morning after Festival. As noted in the RA minutes, “this formulation strengthen[s] hol hamo'ed [by not allowing shiva to be formally observed during the Festival], preserving the principle suspending aveilut, and taking into consideration contemporary developments...”

If someone dies on Shavuot, a full shiva should be observed beginning after the funeral. If someone dies on Rosh Hashanah, shiva should be observed from after the funeral<sup>35</sup> until Yom Kippur, which ends shiva. If someone dies on Yom Kippur, shiva should be observed from after the funeral until Sukkot, which ends shiva. The mitzvah of nihum aveilim continues during Sukkot for at least seven days after the funeral, but, as noted, nihum aveilim has no shiur, so it should continue longer if needed by mourners.

## **709:**

Jewish communities should engage in the mitzvah of nihum aveilim for a minimum of seven days after burial, including when burial takes place just before or during a festival, Rosh Hashanah, or Yom Kippur, even though full shiva rites are cancelled by the onset of the festival. Nihum aveilim includes: (1) visiting mourners in their homes; (2) providing food for them and their family; (3) taking care of small children. During a festival, mourners should not sit on low stools or the floor, nor should mirrors be covered.

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<sup>35</sup> Many communities schedule a Kever Avot memorial service on the Sunday between Rosh Hashanah and Yom Kippur during which people visit their loved ones' graves. When someone dies on Rosh Hashanah, burial must not be postponed because of this service.

Niḥum Aveilim is a mitzvah without a defined end point. The community should continue to comfort those in mourning for as long as needed by mourners, especially when grief is intensified by a death occurring before a person reached old age or if death occurred suddenly.

*Festival Days and Shabbat:* Services of condolence should not be held at a mourner’s home on festival days or Shabbat. Congregations should be especially encouraged to fulfill the mitzvah of niḥum aveilim at synagogue on Shabbat and festival days when mourners will be at services by sitting with them during services and bringing them food during a kiddush lunch so they experience the comfort of the community at those moments. Mourners should be officially welcomed to the synagogue at the onset of a festival and should be accompanied to leave the sanctuary when Hallel is recited and during hakafot on Simchat Torah. Niḥum aveilim visits may take place at the mourner’s home in the afternoon of festivals and Shabbat, but services should not be scheduled until the end of the festival or Shabbat.

*Hol HaMoed:* Services on ḥol ha’moed in mourners’ home are permitted to in order to create a framework for ensuring that the mitzvah of niḥum aveilim is practiced by the community even though shiva is not being formally observed. A sukkah, if available, should be used for services and receiving comforters on Sukkot. Mourners should fulfill the mitzvah of shaking the lulav and then may be accompanied out of the room when Hallel is recited.

*Postponed Aveilut:* See the following table for observance of postponed aveilut.

Day of Death	Shiva Observance
1st or 2nd Day or ḥol hamoed Passover / Sukkot (assuming funeral takes place before onset of 7th/8th day of holiday)	Option 1: Begin shiva on <i>isru ḥag</i> , continue on intervening day and evening, and conclude shiva after services the next morning (approximately 36 hours). Option 2: Begin shiva on <i>isru ḥag</i> and continue for six days in diaspora, seven days in Israel.
Shavuot	Full seven days of shiva beginning immediately after funeral.
Rosh Hashanah	Shiva begins after the funeral and lasts until Yom Kippur.
Yom Kippur	Shiva begins after the funeral and ends at Sukkot. Niḥum aveilim continues, whether in the synagogue on festival days or at the mourner’s home on ḥol hamoed, for a minimum of seven days following the funeral.

*Aninut Visits:* Visits to *onenim*, including sitting with the grieving, the delivery of food, care for small children and other acts of kindness should be permitted and encouraged on Shabbat and

festivals. Given the raw emotions of an *onen/onenet*, visits should be paid by clergy, close friends, and relatives.

## Appendix - Sample Language about Minyanim of Condolence for Synagogue Communications

### Example 1 - Abbreviated Shiva

#### *Barukh Dayan Ha-Emet – Blessed is the True Judge*

Beth El Synagogue extends condolences to **ploni and her family** on the death of ploni's sister, **ploni**, who passed away yesterday, September 13.

The funeral of \_\_\_\_\_ will be held on Sunday September 23 at 2:15 pm at \_\_\_\_\_

Shiva will follow the service at the family home at \_\_\_\_\_.

While according to Jewish tradition, shiva is abbreviated because of the Sukkot holiday, the community continues to have the responsibility to comfort the mourners during the festival.

### Festival Days

Please join the family at services on Monday and Tuesday<sup>36</sup>. In addition, the family will welcome visitors at home on Monday and Tuesday from 2:00-4:00pm at home.

### Hol HaMoed

On Wednesday through Friday, visitors will be welcome from 12:00-2:30 pm and 5:00-8:00 pm, with evening minyanim of condolence on Wednesday and Thursday evenings at 7:30pm and morning minyanim Wednesday through Friday at 8:00am.

### Example 2 - Postponed and Abbreviated Shiva

#### *Barukh Dayan Ha-Emet – Blessed is the True Judge*

Beth El Synagogue extends condolences to **ploni and his family** on the death of ploni's sister, **ploni**, who passed away on the second day of Passover, Sunday, April 1st.

The funeral of \_\_\_\_\_ will be held tomorrow, Monday, April 2nd at 2:15pm at \_\_\_\_\_

While according to Jewish tradition, shiva is postponed during the Passover holiday, the community continues to have the responsibility to comfort the mourners during the festival.

A minyan of condolence will take place after the funeral at the family home, and minyanim of condolence will continue on Tuesday morning and evening, Wednesday morning and evening, and Thursday morning. Please join the family at services on the 7th and 8th day of Passover and on Shabbat. Shiva will begin officially with the end of the festival on Saturday night and an

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<sup>36</sup> The local rabbi should clarify whether the family plans to come to services and, if not, this sentence can be omitted.

abbreviated shiva, including services at the home, will be observed from Saturday night until Monday morning.