

RESPONSE TO MISCARRIAGE: A DISSENT

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This paper was submitted as a dissent to “Response to Miscarriage” by Rabbi Debra Reed Blank. Dissenting and concurring opinions are not official positions of the Committee on Jewish Law and Standards.

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.

I rejoice that the Law Committee has affirmed a paper on the subject of miscarriage, a profound event in the lives of families, one which hitherto had received very little response from the traditional halakhic system. I also have a great deal of enthusiasm for much of the material presented in Rabbi Blank’s paper. Her paper serves as a valuable tool for all of us involved in educating Jews about the mitzvah of ביקור חולים. I was especially delighted to hear some of her specific observations on more and less helpful ways to observe the mitzvah, her emphasis on the personal visit rather than ביקור חולים by answering machine, her wonderful suggestions about specificity (“Is chicken okay for dinner tonight?” rather than “Is there anything I can do?”), and about the broad applicability of the mitzvah to all illness, not just life-threatening diseases. However, it is my belief that her use of the category of ביקור חולים in response to miscarriage is an unhelpful application of the mitzvah, because it distorts and denies the essence of the experience of miscarriage.

A mother, and a father, who have lost a fetus by miscarriage, are not sick. They are grieving. This is not a disease, not illness; their experience has nothing to do with pathology – either physical or mental. What they have suffered is a loss, and what they need most of all is acknowledgment of the reality and profundity of that loss, and support in their grieving process.

This flaw in Rabbi Blank’s approach becomes apparent in the paper, in my opinion, when she attempts to explain why the mitzvah of ביקור חולים should be applied to the fetus’ father as well as the mother. After all, he is obviously not sick. Rabbi Blank must apply considerable rhetorical energy to this question: how, in her approach, can we include the father as one of the people needing care in this situation, when he is obviously suffering no physical illness? She concludes that he is suffering from “mental distress,” thus making his experience into a pathological psychological process.

This whole section of the paper highlights what is, for me, its central flaw. Miscarriage is not illness. The father is not sick, but then neither is the mother. Yes, she may be exhausted, sore, weak; she may even have some minor medical complications following the miscarriage. She is, almost always, less sick than a woman with the flu.

Even still, it would not hurt the bereaved parent to receive the benefits of *ביקור חולים*, especially as Rabbi Blank envisions it, including meals, child care for older children, sensitive offers of support. But the message that accompanies the care for these “sick” people is that when “illness” passes, very soon, they will no longer be sick. Thus, the well-meaning visitors of the “sick” carry with them two implicit messages: (1) the central problem these people are struggling with is “illness,” or even the vague and judgmental “mental stress,” rather than the truth—they are experiencing bereavement; and (2) that this “illness” is a one-time event that will heal quickly, with appropriate medical care, and then be over.

In short, to apply the model of *ביקור חולים* to miscarriage is to convey to the bereaved parents two highly dysfunctional messages about pregnancy loss: their primary problem, loss, is denied and distorted, and they are encouraged to think in highly unrealistic terms about the grieving process. Grieving, unlike illness, takes time – a lot of it. This is not because grieving is “sick;” it is not. But healthy grieving takes time, far more than the few days these parents could imagine themselves to be *חולים*. Bereavement professionals agree that grieving a pregnancy loss quite normally may take a full year.

I will never forget a nurse I worked with some years ago. She was a mature woman, self-aware and psychologically healthy. In the course of a brief conversation about her children, I stopped and asked, “How many children do you have?” Instantaneously, she responded, “Four. Well, that includes the one I lost by miscarriage.” It emerged that this had been a first-trimester miscarriage suffered fifteen years earlier. Still, fifteen years later, in the course of casual conversation this woman still counted the lost fetus as one of her children. I carry this experience with me as I work with parents who have suffered miscarriage. These people know that, while the loss may be different from other losses, it is a loss nonetheless, and one that desperately needs to be acknowledged.

Surely the loss of a fetus is significantly different from the loss of a grown person, even of a child who lived long enough to have developed a relationship with his or her loved ones. For that matter, each loss is unique and requires its own unique bereavement process: the loss of a child is different from the loss of a parent; the loss of one’s first parent is different from the loss of one’s last parent; a sudden loss is different from an anticipated one; a loss from natural causes is different from a traumatic loss. Many would argue that the loss of a fetus is fundamentally different, because the fetus never became a person – halakhically or philosophically. But grief is not a philosophical category; it is an emotional experience, something which the Rabbis understood with exquisite sensitivity. Women, and their partners, who experience miscarriage, know that the loss of a fetus, the loss of their hopes and dreams for this child, is a significant loss. They know, too, that many of their loved ones deny this loss, with misguided if not insensitive approaches like, “You can always have another one” or “At least you never had the chance to know him or her and love him or her.”

There is now a voluminous literature on the psycho-social dynamics of pregnancy loss. The insights of this literature have filtered down throughout the medical and mental health community. In hospitals around the country, nurses, doctors, social workers and chaplains work with newly bereaved parents to help them acknowledge and grieve the loss of their fetus. The parents are encouraged to give the baby a name, to hold him or her one last time if possible, to save whatever hair or blankets or hospital gear may have accompanied

the baby, to plan a memorial service, to keep a memory book. In short, medical and mental health professionals around this country are now highly sensitized to the need for bereavement ritual around this particular loss.

No, this fetus is not a baby – halakhically, philosophically, or legally – nor need these new insights affect in any way the national debate on abortion. This fetus is not a baby by any objective standard. But walk into any maternity unit, and you will hear nurses and parents alike talking about the fetus as “baby.” This language is used because it matches the emotional experience of parents. They may have already chosen a name, connected this baby-to-be with a deceased, beloved relative, they may have felt it move within the mother’s body, they may have made all kinds of changes in their lives to prepare to accommodate a new member of their family. This fetus, whom they have never met, who was philosophically not a person, was emotionally very real. Thankfully, hospital personnel are increasingly willing to support the family in their emotional reality: this being was very real in their lives, and needs to be grieved before they can be open to moving on. To refuse Jewish parents the essential comfort of hearing their rabbi and community acknowledge the reality and pain of their loss – because of the philosophical consideration that our use of the word “baby” may affect the Supreme Court debate – is, I believe, to communicate to the parents something very sad. Your doctor understands what happened to you, your nurse understood, the social worker at the hospital understood. Your rabbi is not willing to call this loss by its right name. In short, your Jewish community is not here for you.

What saddens me about Rabbi Blank’s approach is the failure to use the available option which would provide so much help to these parents. After all, Jewish law has a superbly developed approach to bereavement – a set of rituals and perspectives that affirm the essence of grief: it needs to be acknowledged and ritualized immediately after the loss, and it takes time and support and ongoing acknowledgment to resolve healthfully. We have precisely such a system, and we are not using it.

In a paper that I prepared for the Law Committee on the same subject, I suggested that for some bereaved parents, full halakhic bereavement rituals might be appropriate and helpful. The committee rejected this approach. Perhaps instead there needs to be a modification of the practices of אכלות for the occasion of pregnancy loss, acknowledging that this particular loss is different from the death of a living person. But Jewish bereaved parents need so desperately to hear and feel that their community, and the halakhah itself, is capable of responding to what really hurts them – and what really hurts here is grief. I would advocate some modification of halakhic bereavement rituals: קריעה, a modified burial service, a סעודת הבראה with perhaps a small circle of family and friends, and modified אכלות – at least one day of private shivah, including those family and friends whom the parents can trust to be appropriately supportive, and kaddish for thirty days. Such a ritual response would distinguish this loss from the death of a living person, but would communicate powerfully to the family that this loss was real, and that the Jewish community understands and wants to provide support as the bereavement process gradually unfolds.

Finally, I am grateful that this issue has come to the attention of the Conservative movement. Any new halakhic response to pregnancy loss is a step forward, in demonstrating to members of our movement that halakhah does respond to the most profound events in their lives. It is my profound belief that an approach which has the courage to call this particular loss by its right name is the one which ultimately brings most honor to Torah in our day.