

The Double Kindness: *Nichum Aveilim*

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A Dual Kindness

A prominent manifestation of *chesed* is the comforting of mourners, *nichum aveilim*. While Maimonides, as noted, considers the specific formats of *chesed* to be rabbinic institutions,⁴ Rabbenu Yonah, among others, asserts that comforting mourners is a Biblical obligation.⁵ God himself modeled this behavior, as the Torah tells us that He blessed Isaac after the passing of his father Abraham, apparently as an act of comfort.⁶

Maimonides states that the precept of *nichum aveilim* is of particular significance because it involves kindness to both the living and the dead.⁷ This idea is apparently derived from a statement in the Talmud that the soul mourns for itself for seven days. Consequently, the deceased benefits from the comfort offered by the visitors.⁸ Accordingly, even in a situation where there are no mourners, it is appropriate for ten men to go and sit together in the place where the deceased lived⁹. Maimonides understood this notion to imply that these men would

4 This is also the implication of *Rashi, Sanhedrin 70b, s.v. devar mitzvah*, particularly in reference to comforting mourners.

5 *Rabbenu Yonah, Berakhot 11b* in pages of the Rif. See R. Meir Auerbach, *Imrei Binah, Orach Chaim 13:3*. See also *Sefer Yereim Ha-shalem*, 219; *Ahavat Chesed 3:5* and *Bi'ur Halakhah, Orach Chaim 72, s.v. ba-yom*; R. Yitzchak Elchanan Spector, *Responsa Ein Yitzchak, Even Ha-Ezer II, 62:60*; R. Shlomo Schneider, *Divrei Shelomoh I, 6*; *Yad Ha-Melekh on Mishneh Torah*, and R. Mordechai Meshulam Babad, *Minchat Machvat I, 245*.

6 Gen. 25:11, per *Sotah 14a*; see *Torah Temimah*, Gen. 18:8. Similarly, God blesses Jacob when Isaac dies (Gen. 35:9). See also R. Yitzchak Oelbaum, *Responsa She'eilat Yitzchak II, 147*.

7 *Hilkhot Eivel 14:7*.

8 *Shabbat 152b*. An alternative interpretation of this idea can be found in R. Aharon David Grossman's *Ve-Darashita Ve-Chakarta al Ha-Torah IV*, 149, where he cites the *Penei Menachem* of Ger as explaining that the reference of "kindness to the deceased" is to allowing the deceased to accrue merit. As the earthly existence has ended, there are no opportunities to fulfill *mitzvot*; however, by being the cause for the fulfillment of *nichum aveilim*, the deceased is credited with causing the realization of *chesed* in the world.

9 It is noteworthy that the above scenario calls for ten men sitting at the house, while in a situation where there

serve as substitute mourners, remaining in that place and accepting visitors.¹⁰ The *Ra'avad*, in his glosses, objects and states there is no source for this concept. There is some discussion as to what exactly the *Ra'avad* found objectionable within Maimonides' formulation; according to the commentary *Lechem Mishneh*, the *Ra'avad* believed the role of these men is to gather in the home of the deceased, but not to actually take on the status of mourners. This notion, as expressed by Maimonides, is evidence of the aspect of honor to the departed contained within this *chesed*. This is explicit in the Talmudic commentary of the Meiri, who writes, "others come and surround [the volunteers] as if they are the ones who need comfort, and this is for the honor of the deceased."

This concept of voluntary mourning for a non-relative is found elsewhere in the Talmud, as noted in the commentary of the *Rashba*, who explains accordingly the actions of Rabban Gamliel, who sat *shivah* for his noble servant.¹¹ Similarly, the *Rama* rules that one who is not related may volunteer to join the family as part of the group of mourners.¹² R. Joseph B. Soloveichik was of the opinion that this was the appropriate model for adopted children, who are not obligated by the strict letter of the law to mourn, while the propriety of doing so is self-evident.¹³

Defining the *Mitzvah*

Central to the above discussion is the very definition of *nichum aveilim* itself. As with many categories of *chesed*, the name of the act appears simple and yet at the same time suggests a more complex mission. The literal translation of *nichum aveilim* is "the comforting of mourners." While it cannot be assumed that simply appearing in the home of the bereaved causes them to be "comforted," the mere presence of the visitors is certainly significant.¹⁴ As noted by the *Perishah*, the honor to the dead resulting from the visit contributes to the comfort of the mourners.¹⁵ Nonetheless, more is clearly called for.¹⁶

Traditionally, certain words are generally spoken during *nichum aveilim*, including the formula,

actually are relatives, there is no practice to add volunteers to complete a quorum of ten mourners. R. Betzalel Stern (*Responsa Be-Tzeil Ha-Chokhmah* III, 107) explains that this is due to the unique needs of one who dies without relatives to mourn; the obligation then exists to compensate with a more substantial display of honor.

¹⁰ *Hilkhot Eivel* 13:4.

¹¹ *Berakhot* 16b.

¹² *Yoreh De'ah* 374:6, citing *Teshuvot Ha-Rosh*.

¹³ Quoted in the journal *Mesorah* V, 47. See also R. Eliyahu Shlesinger, *Responsa Sho'alin U-Dorshin* II, 36.

¹⁴ See also *Sefer Charedim* 43:12, with *Cherdat Kodesh*, 11, where the implication is also that the *mitzvah* is simply "going" to the house of mourning.

¹⁵ *Perishah*, *Yoreh De'ah* 393:3.

¹⁶ It should be pointed out that Sephardic and Yemenite practice does place more of an emphasis on silent presence than on conversation; see *Beit Mo'ed*, pp. 586-588, and *Responsa Teshuvot Ve-Hanhagot* I, 691. In one sense, this tradition appears to be more consistent with the statement of the Talmud (*Berakhot* 6b): "The reward for [attending] a house of mourning [is earned by] silence." However, the application of this statement is unclear; see R. Raphael Silber, *Marpei Le-Nefesh to Berakhot*, 22, and the survey of views cited in R. Yechiel Meir Veingort, *Nachalei Orah*, *Berakhot*, 33-35.

“May the Almighty comfort you¹⁷ among the mourners of Zion and Jerusalem.”¹⁸ While this exact formulation does not appear in the Talmud,¹⁹ versions of it do appear in traditional commentaries to the codes of Jewish law.²⁰ This recitation is of great importance; it is simultaneously an expression of solace, support, perspective, and optimism. As R. Moshe Shternbuch interprets, the intent is to convey to the mourner that just as the destruction of Jerusalem is a tragedy of national significance, the whole Jewish people similarly shares in the loss of the departed individual. No less significant, however, is the other half of the association: just as the mourning over Jerusalem will ultimately be transformed into solace, the bereaved family will ultimately be comforted.²¹

The above translation of the formula is actually somewhat imprecise; the Divine appellation, rendered above as “Almighty,” is actually “*Ha-Makom*,” which is literally translated as “the Place.” While this usage is found in other blessings,²² there is some discussion as to why it is especially appropriate in this context. One possibility is that a more indirect reference is used so as not to overtly associate the Divine Name with tragedy.²³

R. Eliezer Yehudah Waldenberg suggests that the reference is to a description in the Talmud of God’s behavior following the destruction of the Temple and the exile of the Jewish people.²⁴ There we learn that as the glory was taken from the children of Israel, God set aside a hidden “place” for mourning over this situation, until such time as the crown will be restored and consolation will ensue. Thus, in comforting a bereaved family, we invoke “the Place” to convey that just as comfort will come to the mourners of Zion and Jerusalem, this family will also be comforted.²⁵

R. Eliyahu E. Dessler suggests that the term “place” is used to assert that, contrary to the popular

17 It is perhaps noteworthy that the practice is to use the plural Hebrew term for “you,” *etchem*, in this formula rather than the singular (*otkha* for a male or *otakh* for a female). R. Nachum Yavrov, *Divrei Soferim, Aveilut*, 376, in *Emek Davar*, 9, writes that this is also reflective of the dual aspect of *nichum aveilim* discussed above, and thus is understood, “May both of you, the deceased and the living, be comforted.” See *Beit Mo’ed*, 470-471, fn 4, for a similar explanation of the format used in Sephardic communities. This explanation is also found in R. Avraham Mordechai of Ger, *Imrei Emet, Likkutim*, 206. If so, this may explain the view attributed to R. Shlomo Zalman Auerbach (see Nachum Stefansky, *Ve-Alehu Lo Yibol* II, 52) that one should not alter the format even when comforting an esteemed Torah scholar usually addressed in the third person; in doing so, one would remove the plural language. (R. Yavrov notes elsewhere [*Emek Davar*, 317] that R. Yaakov Emden [*Siddur Ya’avetz, dinei kria*h, 10] does advocate adapting the language when talking to a single individual. See also R. Moshe Mendel Shklarsh, *Chayei Mosheh: Kelalei Ha-Mitzvot*, 243, n. 6.)

18 This formula is prevalent in Ashkenazi communities; in Sephardic communities, the phrase more commonly used is “*tenuchamu min ha-Shamayim*” (“You should be comforted from Heaven”), sometimes with the addition “*ve-lo tosifu le-da’avah od*” (“and you should not continue to have sorrow”). For a lengthy analysis of this phrase, see R. Shefatiah Ha-Levi Segal, *Chiddushei Rabbi Shefatyah*, 103, and also *Ma’avar Yabok, Siftei Ranenut*, ch. 19.

19 See *Arukh Ha-Shulchan, Orach Chaim* 287:2.

20 See *Peri Megadim, Orach Chaim* 287 in *Eishel Avraham*, and *Shulchan Arukh Ha-Rav, Orach Chaim* 287.

21 *Responsa Teshuvot Ve-Hanhagot* III, 378.

22 See, for example, *Shabbat* 12b, in the context of offering a blessing to one who is ill.

23 A version of this formula that appears in the *pesakim* of the Maharash Lublin (#40) does include the Divine Name directly.

24 *Chagigah* 5b, with Maharsha.

25 *Responsa Tzitz Eliezer* XVII, 7.

adage, it is not “time” that heals all wounds, but that comfort and the ability to be consoled is a gift from God. Thus, the word utilized is one that connotes Divine guidance and diminishes the role of the natural progression of time.²⁶

Another possibility is that the term “place” is used to evoke the place in the next world that the deceased now occupies. It is thus a reference to the spiritual attainments of the deceased, and accordingly a source of comfort as it conveys that the deceased is enjoying the rewards of a meaningful and noble life.²⁷

In any event, it is central that God, directly or indirectly, is invoked in this formula. As R. Yitzchak Shmuel Schechter notes, this reiterates the fact that it was God Himself who first modeled *nichum aveilim* when he visited Jacob upon the passing of his father Isaac.²⁸ Once again, the entire corpus of *chesed* is highlighted as an expression of the Divine example.²⁹

The significance of the *nichum aveilim* formula notwithstanding, it is still far from obvious that the mere recitation of that statement constitutes comfort. It appears, rather, that this statement is a blessing traditionally extended to mourners, and as such only a small aspect of what is required of the visitor.³⁰ The *Chafetz Chaim* identifies this recitation as a possible minimal level of fulfillment, while indicating that to go further than this is clearly preferable.³¹ Similarly, R. Moshe Feinstein asserts that the formula is primarily a way to close the visit, rather than the substance of the visit itself.³² Thus, the nature of the act of “*nichum aveilim*” demands further elucidation.

The Talmud contains many descriptions of great rabbinic figures performing *nichum aveilim*, and their models are instructive. In some cases, the visitors describe the deceased as one who is enjoying great reward.³³ In others, we find philosophical ruminations about the transient nature of life and how it remains a blessing despite its finite aspect.³⁴ Still other instances involve speculation that the tragedy involved accomplished atonement for the wider community, and thus can be interpreted as a type of heroic sacrifice.³⁵

The common element in all of these instances is that the visitor is engaged in an active effort to bring some measure of consolation to the grief-stricken.³⁶ This clearly goes beyond mere presence and formulaic recitations, and is not satisfied by the offering of blessings for a happier

26 *Mikhtav Mei-Eliyahu* IV, 342.

27 Attributed to an anonymous *shivah* visitor in *Yalkut Yosef*, 431, fn 3. See also *Keli Yakar*, Gen. 37:35, who considers the conveying of such a message to be the essence of comfort. See R. Moshe Michel Adler, *Mishnat Ha-Middot*, 315-317.

28 Gen. 35:9 with *Rashi*, citing *Gen. Rabbah*.

29 *Responsa Yashiv Yitzchak* VII, 30, citing an anonymous scholar.

30 See, at length, *Nechamat Sarah*, 7.

31 *Ahavat Chesed* III, ch. 5.

32 *Responsa Iggerot Mosheh, Orach Chaim* V, 20:21.

33 See, for example, *Mo'ed Katan* 28b.

34 See *Avot De-Rabbi Natan*, ch. 14, and *Ketubot* 8b.

35 See *Bava Kama* 38a, based on *Shabbat* 33b.

36 See the extensive discussion of this point in R. Yisrael David Harfenes, *Responsa Va-Yevarekh David* (*Kuntres Nechamat Sarah*, 7).

future. While a blessing is found in one of the above Talmudic texts,³⁷ it appears only after words of active consolation are spoken. This does not discount the value of focusing on the future; in fact, R. Joseph B. Soloveichik is quoted as asserting that convincing the mourners that their grief will be mitigated by the joys of the future is a key task of *nichum aveilim*.³⁸ But this point is made in the context of a conversation, rather than a recitation; it requires effort and insight.

This effort and insight is alluded to in several Rabbinic references in this context. The Talmud calls a house of mourning “*bei tamia*.” *Rashi* attributes this to the fact that consolation takes place there with words; he uses the phrase “*matimim oto be-devarim*,” which suggests words of “*ta’am*.” “*Ta’am*” means both “reason” and “taste,” and in this context, both meanings are appropriate; the words must contain substance, and the mourner must find them acceptable.³⁹ Early halakhic sources testify to the efforts made by rabbinic giants to tailor their comments to the specific needs of the mourner and to craft statements that would be effective on an individual level. R. Shmuel Wosner, referencing the *Zohar*, asserts that part of the obligation of this *mitzvah* is that before coming to visit, the visitor should consider and plan what to say in order to effectively bring comfort.⁴⁰

Often, effort is measured by accomplishment, and this is true in *nichum aveilim*, as well. Not only does the visitor have a task to fulfill, but the mourner is also bidden to “accept” the consolation.⁴¹ The Talmud refers to the mourner “nodding,”⁴² and the *Zohar* demands that the visitor convey words that evoke agreement from the mourner, who will come to adopt a philosophical perspective.⁴³ R. Aharon Berachiah of Modena, in his work *Ma’avar Yabok*, a treatise on the passage from this world to the next, asserts that *nichum aveilim* is most appropriately accomplished when the mourner is capable of appreciating the justice in God’s decision and will “bless the bad in the fashion of the good.” He notes further that there is an obligation for the mourner to express gratitude to those who come to comfort and eulogize.⁴⁴

The obligation of comfort applies not only in the emotional realm, but in a broader sense as well. Thus, it is incumbent upon those concerned to address the lack felt by the family in any way

37 *Ketubot* 8b

38 As quoted in *Mesorah* V, 48.

39 *Sanhedrin* 113a and *Rashi* s.v. *bei tamia*. As R. Harfenes notes, similar implications are found in the writings of Nachmanides, *Torat Ha-Adam, seder tanchumei aveilim*, cited in *Tur, Yoreh De’ah* 376; *Rabbenu Yerucham* 28:2; and the *Orechot Chaim*, 582.

40 *Responsa Shevet Ha-Levi* II, 213.

41 See *Mesorah* V and R. Shternbuch, *Responsa Teshuvot Ve-Hanhagot* I, 691, III, 377- 378 (referencing *Tzufunot, Nisan* 5749), both citing R. Chaim Soloveitchik, who understood this to be a commandment upon the mourner. *Imrei Emet (Likkutim)*, 206) cites the *Sefat Emet* in the same vein. R. Shternbuch offers possible Talmudic support for this idea, and suggests that it may be fulfilled by the mourner answering “amen” to the formula of “May the Almighty...” See also R. Gavriel Zinner, *Nit’ei Gavriel*, ch. 85, fn. 6, where it is related that when R. Yochanan ben Zakkai lost his son, he was told “Adam had a son, and he died, you, too, accept consolation.” See also R. Nachum Yavrov, *Divrei Soferim to Hilkhos Aveilut* 376:1:50, and in *Emek Davar*, who suggests a comparison to the priestly blessing, which, according to some authorities, is not only a commandment upon the *kohen* (to bless) but upon the community as well (to receive the blessing); see also *Chayyei Mosheh: Kelalei Ha-Mitzvot*, 244, fn 10 and 11.

42 *Mo’ed Katan* 27b.

43 *Zohar, Parshat Korakh*.

44 *Ma’avar Yabok, Sefat Emet*, ch, 34, based on *Mo’ed Katan* 28b. See also *Siftei Ran’nut*, ch. 19.

possible. For example, if the departed was the main financial support for the family, then taking up a collection toward this need would be an aspect of *nichum aveilim*.⁴⁵ Further, R. Avraham Yisrael notes based on a passage in the Talmud⁴⁶ that the mourner is comforted by actions that show him honor. Accordingly, that need should be factored in when considering the method and manner of performing *nichum aveilim*.⁴⁷

The *Shulchan Arukh* rules that one should not comfort “two mourners as one.”⁴⁸ R. Moshe Shternbuch notes a technical objection that some have raised against an attempt to comfort several mourners at once.⁴⁹ There is a halakhic rule known as “*ein ossin mitzvot chavilot chavilot*,”⁵⁰ which is a general exhortation against attempting to fulfill multiple *mitzvot* at once, giving the appearance that these obligations are a burden to be dispensed with as efficiently as possible.⁵¹ R. Shternbuch dismisses this concern on technical grounds, but observes that there are other reasons to discourage an attempt to comfort several mourners at once. Each family member experiences the bereavement in his own way, and each manifests a unique grief. By necessity, each mourner must be addressed individually, in an attempt to provide a personalized solace that will be effective.

Consistent with this approach, R. Eliezer Yehudah Waldenberg rules that the concern is only relevant when one is addressing the mourners in detail in an attempt to actually perform *nichum aveilim*. However, the formula of “*Ha-Makom*” may be expressed to many mourners at once, and this is indeed the practice at many synagogues on Friday nights when mourners come into the service.⁵²

The challenge of the task of adequate consolation is reflected in a halakhic ruling of the great medieval authority *Rashba*, who considers the question of why a benediction, often recited before the performance of a *mitzvah*, is not invoked before performing *mitzvot* such as the giving of charity, and presumably *nichum aveilim*.⁵³ The *Rashba* apparently roots his explanation in the concern not to recite an unwarranted benediction, which would result if another party fails to allow the *mitzvah* to be completed. The instance of *nichum aveilim* is particularly affected by this concern; while the intent may be to accomplish a *mitzvah*, there is no guarantee that the visitor will, even given his best efforts, actually succeed in bringing comfort.⁵⁴

45 See R. Joseph B. Soloveitchik, as cited in *Mesorah* II, 55; *Nit'ei Gavriel*, ch. 85 fn 5.

46 *Mo'ed Katan* 21b, with commentary of *Rashi*.

47 *Ve-Ein Lamo Mikhshol* VI, 305.

48 *Yoreh De'ah* 354:2.

49 *Responsa Teshuvot Ve-Hanhagot* I, 691.

50 *Berakhot* 49a; *Pesachim* 102b; *Sotah* 8a.

51 See *Rashi* to *Sotah* 8a, s.v. *chavilot*.

52 *Responsa Tzitz Eliezer* V, *Kuntres Even Ya'akov*, 13.

53 *Responsa of Rashba* I, 18.

54 See the extensive discussion of the *Rashba's* premise in R. Yaakov Farbshtein, *Mitzvat Bikkur Cholim*, 3. He notes that some Rabbinic sources do indicate a blessing on the act of comforting mourners, but asserts this is not a standard *mitzvah* blessing, but rather a blessing of praise in honor of the *chesed*. In this vein, he suggests that *nichum aveilim* is singled out for such a blessing due to the “dual *chesed*” component of the *mitzvah*; it is guaranteed that at least one of the aspects of the *chesed*, the kindness to the deceased, will be successful. This partial fulfillment, however, is insufficient to warrant a *mitzvah* blessing, and thus the *Rashba's* explanation still stands.

Finding the Proper Time

The necessity to perform *nichum aveilim* in the manner that will be most effective and most likely to be well received has an impact, at least theoretically, on the timing of the visit. Some halakhic works cite a practice not to visit a mourner during the first three days of *shivah*. The evident rationale for this approach is that when the grief is still fresh, it is unlikely that the mourner will be receptive to any attempt at comfort.⁵⁵ Alternatively, there are those who maintain that the issue is that the first three days are a time when unmitigated weeping is appropriate; they are days of “*bekhi*,” (wailing), and the offering of comfort at this time is premature. Within this view, R. Aharon Yehudah Grossman notes there would be no distinction between a visit in person and a phone call; both would be inappropriate.⁵⁶

Nonetheless, many rabbinic leaders did not accept this practice of waiting until after three days have passed,⁵⁷ and the widespread custom appears to be to visit on all the days of *shivah*; this seems to be explicit in the words of Maimonides.⁵⁸ R. Shaul Katzenellenbogen argues forcefully against waiting until the third day, which he asserts is a completely baseless practice (at least as far as non-Kabbalistic sources are concerned).⁵⁹ Some prominent rabbinic personalities make a point of performing *nichum aveilim* during the first three days out of concern that others will refrain from doing so and the mourners will be left alone.⁶⁰

Even if it is accepted that one does visit during the first three days, R. Moshe Shternbuch suggests that the timing of the visit affects the nature of the experience. As noted, the first three days are traditionally assigned for “wailing.” One who visits during that period should see his role as being present for support and companionship while the mourner is in a state of weeping, without necessarily striving to minimize that weeping. After three days, the tone shifts, and it becomes appropriate to extend efforts to alleviate the wailing of the mourners.⁶¹

55 See *Midrash Tanchuma*, Parshat Miketz, and Nachmanides, *Torat Ha-Adam, sha'ar ha-evel, inyan ha-aveilut*, 84; and see *Gesher Ha-Chaim* 20:5:5. R. Chanoch Dov Padwa, *Responsa Cheshev Ha-Ephod* III, 98, asserts that this waiting period is not sourced in *halakhah*, but does note a source in Biblical exegesis from the commentary of the Alshich to Gen. 37:34. See also R. Ze'ev Wolf Leiter, *Responsa Beit David*, 7; R. Shlomo Abraham, *Devar Torah*, Genesis, 261; and *Beit Mo'ed*, 589-590. R. Shlomo Kluger, *Responsa Tuv Ta'am Ve-Da'at* III, part 2, #239, invokes in this context the principle of *miktzat ha-yom ke-kulo*, “part of the day is considered as the complete day.” This principle is the reason that the seventh day of *shivah* ends shortly after it commences in the morning. Similarly, the third day would end at a comparable point. Concerning the application of this principle to the nighttime period, see R. Asher Chananyah, *Responsa Sha'arei Yosher* III, 23:1-2.

56 *Responsa Ve-Darashta Ve-Chakarta* I, *Yoreh De'ah* 56.

57 See *Nit'ei Gavriel*, ch. 86 fn 5, citing the Chazon Ish and the Steipler Gaon, and R. Shalom Mordechai Schwadron, *Da'at Torah, Yoreh De'ah* 376:1, who brings a number of proofs from earlier sources that there is no need to abstain from comforting mourners during the first three days.

58 *Hilkhos Eivel* 13:2.

59 *Responsa Magen Sha'ul*, 69. Concerning his analysis, see R. David Yoel Weiss, *Megadim Chadashim, Mo'ed Katan* 23a, s.v. *Shabbat rishonah*. See also *Responsa Shevet Ha-Kehati* IV, 293, and V, 211.

60 See *Penei Barukh, Aveilut*, ch. 11, fn. 11; *Aleinu Le-Shabeach*, Leviticus, p. 337; and R. Yosef Kohen, *Responsa Va-Yashev Yosef, Yoreh De'ah* 43.

61 *Responsa Teshuvot Ve-Hanhagot* III, 377.

The notion that the *mitzvah* should be performed at a time most conducive to acceptance of comfort is reflected as well in a custom referred to by R. David Shperber.⁶² He discusses a practice, apparently not widely accepted,⁶³ not to visit a mourner at night. As the goal is to convey the ultimate justice at hand, nighttime, with its heightened emotional atmosphere, is less conducive to this endeavor.⁶⁴ R. Nachum Yavrov notes further that at night, the mourners are tired and desirous of sleep. Therefore, the practice might simply be a reflection of sensitivity to the mourners, and thus adaptable to local custom.⁶⁵

A more significant timing concern is the accepted practice that one does not engage in comforting the family members prior to the burial. This is expressed by the *mishnah* in *Pirkei Avot*, which states, “R. Shimon ben Elazar says, ‘Do not comfort him at the time that his deceased [relative] lies in front of him [unburied].’”⁶⁶ The context of this dictum leaves some room open for discussion as to whether this is good advice or absolute *halakhah*.⁶⁷ The underlying principle appears to be that *nichum aveilim* is premature because at that time, when the grief is so fresh, it is inconceivable that the bereaved will accept consolation.⁶⁸ The commentary *Tiferet Yisrael* takes this further, suggesting that the family members will actually be anguished by the attempt, in that it implies that those around them are not sharing in their grief, but have already moved on.⁶⁹

R. Shimshon Chaim Nachmeni adds another point, suggesting that it is reflective of the dual nature of *nichum aveilim*, serving both the living and the deceased. To express comfort too quickly, before the body is even buried, is an act of disrespect to the departed, creating the impression that no loss whatsoever has taken place; such neglect for the honor of the deceased is counterproductive to the goal of *nichum aveilim* itself.⁷⁰

Nonetheless, the grief of the mourner is enough reason for this rule, as indicated by a ruling of R. Yaakov Ettlinger.⁷¹ He addresses the situation of an individual who has lost two relatives, one who has already been buried and one still awaiting burial. While it might be assumed that the mourner can accept consolation on the first loss during this period, R. Ettlinger rules otherwise,

62 *Responsa Afarkasta De-Anya IV, shonim*, 372:3.

63 See *Responsa Yabbia Omer X, Yoreh De'ah* 48, and *Nit'ei Gavriel*, ch. 86, fn 10. See also *Responsa Sho'alin U-Dorshin V*, 79:2, concerning this point as well as the issue of the first three days.

64 This explanation is found in the journal *Va-Yilaket Yosef*, 5670 (volume XII in current editions), #180, based on a comment of *Ma'avar Yabok*.

65 *Divrei Soferim to Hilkhotei Aveilut*, 376, in *Birur Halakhah*, 311. R. Yavrov also suggests a possible halakhic distinction; the laws of mourning may be less stringently applied at night. He notes a statement of the *Rama (Darkei Moshe, Yoreh De'ah* 380) that the mourner may leave his house at night if there is great need to do so. Accordingly, the custom may then reflect a desire to perform this *mitzvah* at a time when mourning is in full halakhic effect. If so, the intent would not be to discourage going at night, but rather to encourage going during the daytime, or, ideally, both times.

66 *Avot* 4:18

67 See R. Yitzchak Gottlieb, in *Ha-Darom XLIX*, 65-66.

68 See also *Keli Yakar*, Gen. 37:35, and R. Moshe Mishel Adler, *Mishnat Ha-Middot on Avot*.

69 *Tiferet Yisra'el, Avot* 4:18.

70 *Toldot Shimshon, Avot* 4:22. See also R. Shmuel Pinchasi, *Imrei Shefer on Pirkei Avot II*, 240-241.

71 *Responsa Binyan Tziyon I*, 112.

asserting that the language of consolation is broad, and would be understood to prematurely include the fresh loss as well.

However, the period of consolation does begin immediately after the burial, as the family members walk through a double line formed by all of those in attendance, who then recite the formula of comfort. As R. Shammai Kehat Gross notes, this would seem only to initiate the process of comfort, and does not exempt those in attendance from paying a visit to the house later on.⁷² This appears to be explicit in the words of Maimonides, who begins his formulation of the *mitzvah* of *nichum aveilim* by describing the formation of the line at the cemetery and closes with: “Then the mourners go home, on each of the seven days of mourning, condolence is tendered them, whether by the same visitors or new ones.”⁷³

In fact, one gets the impression from Maimonides’ formulation that one’s visit to the house of mourning should take place every day of *shivah*, rather than only once. To this end, R. Gross cites the Gerrer Rebbe, the *Imrei Emet*, as wondering why it is that most visitors do not make a point of coming every day.⁷⁴ He suggests that this is simply a consequence of lack of space, and the fact that in a sizable community, it is not feasible for everyone to come every day. However, in a smaller community, such frequency would indeed be recommended, at least for local residents.

The Format of the Visit

The *halakhah* dictates protocol within the *nichum aveilim* visit, mandating that the visitors not speak until the mourner has opened the conversation.⁷⁵ The Talmud derives this practice from the Biblical recounting of the grieving Job, who is described as “opening his mouth” (Job 3:1) prior to his guests speaking to him (4:1).⁷⁶ A number of distinct theories emerge in the commentaries as to the reason for this practice.

One perspective is that this protocol stems from the requirement for the mourner to affirm Divine justice, *tziduk ha-din*. In this view, the *tziduk ha-din* must take place before the comforting can begin. Accordingly, a number of early authorities record a practice that before the visitors would approach, a representative of the community would prompt the mourners, who would respond with the phrase, “Blessed is the true Judge” (*barukh Dayyan ha-emet*).⁷⁷ This understanding is favored by the *Arukh Ha-Shulchan*, who connects the notion to Job’s statement of “the Lord gave, and the Lord has taken away” (1:21).⁷⁸

⁷² *Responsa Shevet Ha-Kehati* V, 211. Concerning the status of this practice and its role in fulfilling *nichum aveilim*, see *Responsa Iggerot Mosheh, Orach Chaim* V, 20:21, and R. Moshe Tzvi Goldberg, in *Ha-Pardes* LIII, 9:49 (also published in LX, 5:27).

⁷³ *Hilkhos Eivel* 13:1-2. (Translation from Abraham Hershman, Yale University Press.)

⁷⁴ See also *Nit’ei Gavriel*, ch. 85 fn. 3.

⁷⁵ *Yoreh De’ah*, 376:1.

⁷⁶ *Mo’ed Katan* 28b.

⁷⁷ Nachmanides, *Torat Ha-Adam* (*Kitvei Ha-Ramban* II [*Mossad Ha-Rav Kook*], 152), cites R. Hai Gaon, and is cited in *Beit Yosef, Yoreh De’ah* 376. See *Perishah*, 376:6, who appears to link this practice to the Talmud’s derivation from Job.

⁷⁸ *Yoreh De’ah* 376:1. This idea is also sourced in the Zohar (*Parshat Korakh* III, 176b).

The second view is that the mourner must initiate the process by first expressing his anguish publicly. Once he has set the tone accordingly, it is appropriate for the visitors to begin the act of comforting. This appears to be the understanding of *Rashi*,⁷⁹ who writes “that the mourner open with his anguish,” and is adopted as well by the *Levush*.⁸⁰

A variation on this theme builds upon the point mentioned above, that *nichum aveilim* requires thoughtful, individualized words of comfort. Commenting on the source from the behavior of Job, the Biblical commentary *Metzudat David* implies that the necessity for the mourner to initiate is so that the visitors will be able to gauge his condition and emotional state and evaluate how to perform their task.⁸¹

If this last view is accepted, it may be possible to understand an intriguing notion found in some commentaries. The Talmud states that “the reward for [attending] a house of mourning [is earned by] silence.”⁸² This passage is difficult to understand, especially in light of the assumption noted above that consoling a mourner requires speech and that a silent visit is lacking. Among the various interpretations of this passage is that it is a reference to this notion of waiting to allow the mourner to speak first.⁸³ However, this interpretation is difficult as well. In that same passage, the Talmud lists a succession of different activities that are “rewarded” based on a specific variable factor. Choosing “silence” as that factor in the context of *nichum aveilim* is surprising. If it indeed refers to allowing the mourner to initiate the conversation, this is seemingly a secondary element, which is objectively either observed or neglected; it would not appear to be subject to quantification as a measurement of earned reward.

However, this interpretation may be better understood if the reason for allowing the mourner to speak first is so that this period of listening will give the visitor the opportunity to gauge the mindset of the mourner, and thus console him more effectively. The Talmud’s intent would then be that the reward for *nichum aveilim* is measured by the degree that the visitor listens first, in order to properly calibrate his efforts toward maximal effectiveness.

Another perspective on allowing the mourner to speak first is suggested by R. Raphael Silber, who understands this practice as a way of showing honor to the mourner. Protocol generally dictates that the most honored individual in a group speaks first, and the mourner is accorded that status as part of his comfort.⁸⁴

R. Yisrael Meir Lau observes that the first two understandings described above, that one waits for the mourner to speak in order to give him time for *tziduk ha-din* or to allow him to express his anguish, dictate two different practical frameworks, particularly in the modern era when the

79 *Rashi*’s commentary printed with the Rif, *Mo’ed Katan* 18a in pages of the Rif. The text of *Rashi* printed with the Rif’s commentary, particularly to the tractate *Mo’ed Katan*, is open to some question as to the authenticity of its authorship; see *Yad Melakhi*, klal 10.

80 *Yoreh De’ah* 376:1.

81 Note that R. Harfenes, *Nechamat Sarah*, 7, considers this explanation to be wholly separate from the perspective of *Rashi* and the *Levush*.

82 *Berakhot* 6b.

83 See commentary of *Maharsha* to *Berakhot*.

84 *Marpei Le-Nefesh*, *Berakhot* 6b (22).

practice of the early authorities to prompt *tziduk ha-din* is not observed. If the intent is, as the *Arukh HaShulchan* ruled, *tziduk ha-din*, then perhaps this is accomplished by the very act of talking. The fact that the mourner is able to open the conversation, to initiate an interaction with his visitors and not retreat into an isolated silence, is itself an expression of the recognition of Divine justice. It would follow, then, that at the very least, this protocol demands waiting for some sort of verbal expression on the part of the mourner.⁸⁵ Furthermore, it might be assumed that it would suffice for this to take place once for an entire group of visitors.⁸⁶ More broadly, R. Nachum Yavrov considers it likely that the mourner may only have to indicate to his acceptance of Divine justice once during the course of the *shivah*, thus enabling subsequent visitors to initiate conversation.⁸⁷

According to the second view, however, the focus is very different. If the need is for the mourner to first establish his disconsolation so that he may be comforted, then displaying his state of mind, even non-verbally, may be sufficient to allow others to begin to speak. However, it may be necessary for this to be established with each individual visitor. R. Lau notes that this *halakhah* is often not evident in contemporary practice, and, citing the behavior of great rabbinic figures,⁸⁸ he suggests that, following the second view, even a silent expression of grief is sufficient. As a rule, he recommends accommodating both theories, and thus advocates that the mourner verbally initiate the process at least when a group of visitors arrives, while sufficing with non-verbal expression for subsequent individual visitors.

However the conversation is started, it is important to be sensitive to the nature of the conversation that takes place. This is relevant to both purposes of the *mitzvah*. As far as the honor to the deceased is concerned, it is imperative that the conversation not become frivolous, or even simply irrelevant, as this detracts from the appropriate dignity and solemnity. This is similarly true as concerns the needs of the mourner; his grieving may be exacerbated if the conversation around him is unfitting to the context. R. Harfenes records an exchange on this issue that he had with R. Baruch Pinchas Goldberg, the author of the work *Penei Barukh*. According to the *Penei Barukh*, some amount of distracting conversation may be valuable in bringing a degree of comfort to the mourner. R. Harfenes, however, is inclined to disagree, arguing that the mourner is not permitted to divert attention from the deceased; the goal of *nichum aveilim* is to address the situation and evoke comfort and acceptance.⁸⁹

Just as the mourner opens the interaction, he ends it as well. This rule is more a matter of

85 *Responsa Yacheil Yisrael* III, 19.

86 This was the position of the Lubavitcher Rebbe; see *Yagdil Torah* 5741, # 198, and the journal *Noam* 24, 227. See also *Responsa Sho'alin U-Dorshin* V, 79:5.

87 *Divrei Soferim*, 317.

88 Including the Chazon Ish (who would open the conversation if he saw that the mourner seemed unable to speak for some reason; see *Pe'er Ha-Dor* IV, ch. 250); R. Shlomo Zalman Auerbach (see *Torat Rabbeinu Shmuel Mi-Salant* I, 16) and R. Eliezer Yehudah Waldenberg (see *Responsa Tzitz Eliezer* XVII, 45:4) would also do so. This is also the practice of R. Ovadiah Yosef, as cited in *Yalkut Yosef* VII, p. 119, and the volume on *Aveilut*, p. 432. See also *Responsa Shoalin U-Dorshin* V, 79:4.

89 See R. Moshe Shternbuch, *Responsa Teshuvot Ve-Hanhagot* III, 376-377, who uses stronger language in condemning extraneous conversation at a *shivah* house.

sensitivity than of protocol. The *Shulchan Arukh* rules that the visitors must leave once the mourner shakes his head and indicates that he no longer wishes for their presence.⁹⁰ The *Arukh HaShulchan* notes that this particular signal is no longer common, and visitors must thus be aware and discern any indication that the time has come to leave.⁹¹

As noted above, the recitation of the standard formula, “May the Almighty...,” is likely not a fulfillment of the obligation of comfort. R. Harfenes avers that it is actually an independent practice of offering a blessing, separate from the comfort. Accordingly, he feels that this recitation is not included within the protocol of waiting for the mourner to initiate.⁹²

In theory, the *halakhah* requires the visitor to sit on the floor together with the mourner;⁹³ in practice, this has not been insisted upon.⁹⁴ However, the ideal format of the visitor sitting is indicative of some of the goals of the act. R. Chaim Kanievsky asserts that it is important to sit down while comforting mourners, as well as while visiting the sick, in order to display intent and focus on the task.⁹⁵ Furthermore, the author of the *Penei Barukh* observes that one of the necessary aspects of *nichum aveilim* is to convey to the mourners a sense of joining in their bereavement. Sitting down with them, in contrast to standing ready to leave, is thus a far more effective position.⁹⁶

A complex question in the laws of *nichum aveilim* is the relevance of this obligation to the mourners themselves. According to some authorities, it is inappropriate for mourners to engage in acts of consolation; by doing so, they appear to abandon their own grief. This is mitigated, however, if they adapt the formula to “May the Almighty comfort you and us.”⁹⁷ Others feel that there is a role for mourners to play in this *mitzvah*. R. Gavriel Zinner suggests that by showing the mourner that he is not alone in his anguish, even if he can do no more than that, the fellow mourner is actually displaying a fundamental theme of *nichum aveilim*.⁹⁸ R. Nachum Yavrov suggests a distinction between a mourner leaving the house to comfort another mourner, which may constitute a distraction from his own process of consolation, and mourners sitting together comforting each other, which should be permitted and thus considered a *mitzvah*.⁹⁹

Parallel Issues in *Bikkur Cholim* and *Nichum Aveilim*

Just as with visiting the sick, the question is raised as to whether *nichum aveilim* can be effectively performed with a phone call or with a letter. To a certain extent, the discussions in

90 *Yoreh De'ah* 376:1

91 *Arukh Ha-Shulchan*, *ibid.*, #3

92 *Nechamat Sarah*, 7

93 This concept is found both in regard to comforting mourners and in regard to visiting the sick; see *Shabbat* 12b and *Nedarim* 40a, and *Shulchan Arukh*, *Yoreh De'ah* 335:3 and 387:1 with *Shakh*, #1.

94 See *Responsa Divrei Chakhamim*, *Yoreh De'ah* 133, citing R. Moshe Feinstein, and *Nit'ei Gavriel*, ch. 88 fn 1.

95 *Derekh Sichah*, p. 125.

96 In a letter to R. Harfenes, cited in *Nechamat Sarah*, 8.

97 *Piskei Maharash Mi-Lublin*, 40, and *Nishmat Yisra'el* 24:17.

98 *Nit'ei Gavriel* 85:6 and fn 8.

99 *Divrei Soferim*, 318-319, in *Emek Davar* 68. See also *Devar Torah*, Genesis, pp. 261-262, who suggests a proof that mourners may comfort each other, but goes on to refute it.

regard to both *mitzvot* parallel one another. However, there are differences as well: here again, the perception of *nichum aveilim* as a “double *mitzvah*” bears relevance. As some authorities assert, a telephone call is somewhat of a fulfillment of *nichum aveilim*, although not a complete one, in that it at least comforts the living.¹⁰⁰ A comparable position is taken by R. Moshe Shternbuch with respect to a letter. He cites a position of R. Yitzchak Ze’ev Soloveitchik (the Brisker Rav) that a letter is certainly effective, as nothing in the obligation specifically requires the spoken word.¹⁰¹ However, it is clearly only useful for the mourner, and not for the deceased, and is thus only a partial fulfillment.¹⁰² Consistent with this analysis, some have suggested that if one is only able to phone or write a letter, one should also learn some *mishnayot* in memory of the deceased, so that their need for comfort will also be addressed.¹⁰³

However, even the partial fulfillment of this *mitzvah* would appear to be incomplete. The honor shown to the mourners is certainly enhanced by the physical presence of the visitors, as is the ability of the visitors to properly respond to the cues of the mourners and address their needs. In a stronger formulation, R. Yitzchak Hutner was of the opinion that *nichum aveilim* is not accomplished via the telephone. Adducing Talmudic proof, he explains that the rabbinic enactment of mourning during *shivah* involves a specific physical structure, in which the mourner heads the room and is surrounded by those who would comfort him. Without the visitor being actually present, this format cannot be achieved. Thus, in his view, while certain aspects of the *mitzvah* are certainly addressed through a phone call, the obligation as rabbinically mandated cannot be considered “fulfilled.”¹⁰⁴

R. Harfenes notes that there is another issue with telephone visits, one relevant only to *nichum aveilim* and not to *bikkur cholim*. As was discussed above, the protocol requires that the mourner is to initiate the conversation, something he can not do when answering a phone call.¹⁰⁵ This may create a distinction between phone calls and letters, as the mourner may decide when to open up a letter.¹⁰⁶ Further, as R. David Rosenberg notes, a caller is unable to gauge if the mourner is not in an emotional state to converse, nor can he abbreviate his comments as he might in person if necessary. Again, these concerns are a reason to prefer a personal visit and not

100 See *Iggerot Mosheh, Orach Chaim* IV, 40:11; *Responsa Yashiv Yitzchak* VIII, 50; and *Nechamat Sarah*, 8. A similar observation made by R. Yosef Shalom Elyashiv, and agreed to by his son-in-law R. Chaim Kanievsky, is cited in *Derekh Sichah*, pp.124-125. The issue is also analyzed along these lines at length by R. Nisan Ekstein, in *Ha-Be'er* XIII, 2-3:56.

101 *Responsa Teshuvot Ve-Hanhagot* II, 587.

102 R. Ya’akov Farbstein, *Mitzvat Bikkur Cholim*, ch. 21, notes that accordingly, Maimonides’ prioritization of *nichum aveilim* over *bikkur cholim* would not apply in a situation where both acts are taking place via the telephone. See also *Responsa Sho’alin U-Dorshin* V, 79:1, who addresses the additional aspect of the letter arriving only after *shivah* is already completed. As he notes, while the primary obligation of *nichum aveilim* is during the period of *shivah*, the *mitzvah* continues into the time of *shloshim* (or twelve months, for a parent). See also R. Meir Bransdorfer, in *Or Yisra’el* I:3, 51-58.

103 See R. Chanan Aflalo, *Responsa Asher Chanan* I, 76, cited in *Ve-Ein Lamo Mikhsol* VI, 306-307.

104 *Pachad Yitzchak, Iggerot U’Khtavim*, 33:2. This is in distinct contrast to R. Hutner’s opinion concerning *bikkur cholim*, which he felt could be completely fulfilled through the telephone (*ibid*, 33:1).

105 See also *Responsa Sho’alin U-Dorshin* V, 79:4.

106 *Nishmat Yisra’el*, 24:6.

to exclude comforting by phone when no alternative exists.¹⁰⁷

Assuming that one is unable to come in person and is seeking an alternate method of *nichum aveilim*, R. Yitzchak Shmuel Schechter suggests a distinction between a phone call and a letter.¹⁰⁸ A conversation on the phone may be more effective when the one consoling is an actual friend or acquaintance of the mourner, and the give-and-take of the conversation will allow the caller to gauge the mourner's mindset and adjust his efforts appropriately. If the one consoling is a prominent personality who is interested primarily in showing honor to the deceased, this may be done more effectively with a letter, which can be crafted with the inclusion of words of Torah, and which the bereaved can keep as a testimonial.¹⁰⁹

Another question that is shared by the *mitzvot* of *bikkur cholim* and *nichum aveilim* is that of the appropriateness of one coming to comfort his enemy.¹¹⁰ Here, too, the concept of a "double *mitzvah*" may dictate a difference between the two obligations. As R. Zvi Ryzman notes, it is the aspect of comforting the living that is affected by animosity between the visitor and the mourner.¹¹¹ The honor to the deceased, however, would seem to be independent of this concern. However, one should note that if the interaction would lead to an actual hostile encounter, this itself would presumably seriously undermine the nature of the honor to the deceased.¹¹²

Conversely, if the deceased harbored enmity for the visitor, the aspect of *nichum aveilim* meant for the deceased's benefit would presumably not be accomplished by this visit.¹¹³ However, there are those who assume that an enemy is actually a particularly appropriate visitor; the Talmud advises that such acts of graciousness help to mitigate enmity.¹¹⁴ Accordingly, as the obligation to seek forgiveness applies even after the death of the victim, paying such a visit affords an opportunity for posthumous "reconciliation."¹¹⁵

As noted earlier, a *mitzvah* generally overrides the obligation of Torah study when this *mitzvah* cannot be performed by someone else. It appears that the nature of the obligation of *nichum aveilim* is such that it generally cannot be performed by others. Several factors contribute to this.

107 See also *Responsa Yabbia Omer X, Yoreh De'ah 48*, and the journal *Noam 24, 227*. R. Asher Chanayah, *Responsa Sha'arei Yoshier III, Yoreh De'ah 33*, writes that the protocol applies to a phone call as well, and if the mourner does not speak first, the caller should first wait and then recite the "Ha-Makom" formula and end the call.

108 *Responsa Yashiv Yitzchak III, Yoreh De'ah 31*.

109 See also *Responsa Va-Yashev Yosef, Yoreh De'ah. 43*, who cites in the name of *Ma'aseh Nissim* a preference for letters over phone calls for this reason.

110 See the journal *Va-Yilaket Yosef XIV, 195*, where a distinction is suggested between *bikkur cholim* and *nichum aveilim* in this regard.

111 *Ratz Ka-Tzvi: Yerach Ha-Eitanim 11:3*.

112 Compare R. Ovadiah Yosef, *Responsa Yabbia Omer, VII, Orach Chaim 23:4*, who advises a family, fractured by dissension on the issue of a proper memorial for a beloved relative, that the soul of the deceased will profit much more from harmony among his family than from any specific gesture marred by dispute.

113 R. Ryzman acknowledges that the *Shakh (Yoreh De'ah 335:2)* assumes that there is no restriction on attending the funeral of one's enemy. However, he suggests that a distinction exists between a funeral, which is an expression of respect, and visiting the *shivah* house, which, even in terms of the deceased, is meant to bring "comfort."

114 *Bava Metziah 32a*. See *Responsa Tzitz Eliezer V, Kuntres Ramat Rachel, 9*.

115 See *Shulchan Arukh, O.C. 606:1-2*. See also R. Yisrael Eisentein, *Responsa Amudei Eish, Kuntres Dinei Aveilut 19:1* who suggests various distinctions between *bikkur cholim* and *nichum aveilim* in regard to this issue.

One factor is the complex chemistry needed in order to succeed in evoking comfort. As every individual is unique, no substitute can exist for the contribution a given individual can make to the solace of the mourner. This is even more of a factor if the potential visitor is particularly skilled at speaking with people in a way that confers comfort. Moreover, if the potential visitor has a personal relationship with the bereaved, there is the genuine risk that the mourner will feel anguish at the absence of the visitor. Additionally, every guest adds quantitatively to the honor provided both to the deceased and to the mourners.¹¹⁶

As such, *nichum aveilim* is a prime example of the unique contribution each individual makes in the realm of *chesed*. Personality, perspective, and personal chemistry are merged with sensitivity, empathy, and kindness in the service of a magnificent expression of a Godly ideal.

¹¹⁶ See *Nechamat Sarah*, 8, and *Nishmat Yisrael* 24:2.