

A Most Unusual Moed

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It goes without saying that Tisha B'Av is marked as a day of unbridled mourning and sorrow as is reflected both throughout Eicha as well as throughout numerous passages in Chazal. From Hakadosh Baruch Hu's response in the *midbar* (desert) in which Tisha B'Av was designated as a day of *bechiyah l'doros* (crying throughout the generations), through Yirmiyahu's lament of *bacho sivkeh balayla* (you shall cry at night, Eicha 1:2), and inclusive of the long list of national tragedies, Tisha B'Av has clearly become the focal point for a collective national lament.

What is less clear, and what has emerged as a fundamental dispute among the Rishonim, is an understanding as to the exact character of the sorrow which one experiences on Tisha B'Av. On the one hand, Tisha B'Av seems to share characteristics with the type of mourning that one experiences during shiva. Conversely, Tisha B'Av is referred to both in the Navi Zechariah (8:19) as well as in the Mishna and Gemara (*Ta'anis* 26b, *Rosh HaShana* 18b) as a *tzom* and a *ta'anis*—a fast day that is certainly both more intensive and nationally significant than the other rabbinic fast days, but a fast day nonetheless. Complicating the question of Tisha B'Av as a *yom aveilus* (day of mourning) versus a *yom tzom* (fast day) is the designation of the Navi of Tisha B'Av as a *moed* (Eicha 1:15)—a "festival" of sorts. The term *moed* would seem to highlight the unique nature of the day of Tisha B'Av, qua the significance of the day, as opposed to emphasizing the specific practices of mourning.

This question about the nature of Tisha B'Av, and how the term *moed* affects its halachic status, is reflected in a famous dispute. The Ramban, based on the Gemara in *Rosh HaShana* 18b, writes:

It is logical that all four fast days are considered public fasts decreed by the prophets and are subject to all of the relevant stringencies: they begin at night, and one is prohibited to bathe, anoint, wear shoes and engage in marital relations, just like Tisha B'Av, and the verse even equates them to Tisha B'Av. However, nowadays, since we live in a time that there is no [widespread] persecution, the fasts are optional, but the people wanted and accepted upon themselves the custom to fast, but they didn't accept the additional stringencies. However, the original decree required all of these [stringencies].

Toras Ha'Adam, Inyan Aveilus Yeshana

ומסתברא דכולהו ארבע צומות
תענית צבור הן, ונביאים גזרו אותם
וכל חומרי תענית עליהן, מפסיקין
בהן מבעוד יום ואסורין ברחיצה
ובסיכה ובנעילת הסנדל ובתשמיש
המטה כת"ב, וקרא מקיש להו
לתשעה באב, אלא האידנא כיון
דבזמן דליכא שמד בטילין רצו ונהגו
להתענות בהן ולא רצו לנהוג בהם
בחומרות הללו, אבל מעיקר התקנה
ודאי אסורין הן בכולן.
תורת האדם, ענין אבילות ישנה

According to Ramban, originally every fast day was observed for 24 hours, but because we are no longer subjected to persecution the three other fast days are optional. Tisha B'Av, on the other hand, because of its intensive nature, is still observed for a full 24 hours.

This analysis is questioned by the Netziv (*HaEmek She'elah* 158), who maintains that the other fast days were always observed for only a partial day, but that Tisha B'Av, due to its unique nature, was extended to an entire 24-hour period. In understanding why Tisha B'Av is viewed differently than the other fast days, our two options stated earlier reemerge. The Netziv himself follows the approach that Tisha B'Av was extended to 24 hours and was viewed with a certain stringency because fundamentally, it is a day of mourning as opposed to just a fast day.⁴ The *Sefer HaChinuch* (at the end of mitzvah 313) takes a different approach and claims that Tisha B'Av's uniqueness lies in its comparison to Yom HaKippurim. Just as it relates to Yom Kippur, in which the *itzumo shel yom*, the day itself, is significant as a day of *teshuva* and *kappara* (repentance and atonement), so too, the *Chinuch* sees Tisha B'Av as a day whose significance lies in the fact that it has been designated as a day of *ta'anis* and perhaps viewed as something of a *moed*.

This characterization of Tisha B'Av as a *moed* is reflected in a number of issues in halacha including the following:⁵

- 1) The *Shulchan Aruch* (559:4) writes:

We do not recite Tachanun on Tisha B'Av and we do not fall on our faces because it is considered a festival.

Shulchan Aruch 559:4

<p>אין אומרים תחנון בת"ב ואין נופלים על פניהם משום דמקרי מועד.</p>	<p>שלחן ערוך תקנ"ט:ד</p>
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- 2) The *Minchas Chinuch* (toward the end of no. 313) explicitly discusses this issue in addressing the question of whether one is allowed to wash oneself with cold water on Tisha B'Av. At face value, Tisha B'Av shares similarities with a mourner who is also restricted from washing but who is permitted to wash himself with cold water. That said, Tisha B'Av, due to its status as a *moed*, is conceptually more akin to Yom HaKippurim in which all washing, even with cold water, is strictly forbidden.
- 3) This issue is reflected, perhaps less explicitly, in a different discussion of the *Minchas Chinuch*. The *Minchas Chinuch* asks whether or not there is an obligation of *tosefes Tisha B'Av* (an obligation to extend Tisha B'Av beyond its beginning and end) and that the practices of the day should begin already from *bein hashemashos* (the period between sundown and nightfall). This issue is actually raised as a questions in the Gemara in *Pesachim* (54b), and the Rambam rules that despite the fact that Tisha B'Av is only rabbinic in nature, we should in fact be stringent to begin Tisha B'Av before nightfall (nightfall is the time in which the day has definitely begun). While a mourner would only begin his *nihugei aveilus* (mourning practices) with the actual beginning of the day, if the character of Tisha

⁴ The Rambam, *Hilchos Ta'anios* 5:5 and 5:10, implies that generally, public fast days begin in the morning and that Tisha B'Av was extended to a 24-hour period.

⁵ For other issues that relate to this question, see *Mishnas Ya'avetz*, no. 46, *Avnei Shoham*, page 142 and *Mesorah*, Vol. VI page 26 in which Rav Soloveitchik lays out these positions in regard to the question of why we don't apply the principle of *miktzas hayom k'kulo* (a partial day counts as a whole day) to Tisha B'Av.

B'Av, with its *moed* motif, was more in line with Yom HaKippurim, then the requirement of *tosefes Tisha B'Av* would be eminently logical, just as there is an obligation of *tosefes Yom HaKippurim*. [In fairness, the Minchas Chinuch provides a different reason why there is *tosefes Tisha B'Av*.]

There is a more fundamental question than how the status of Tisha B'Av as a *moed* reflects itself in halacha. Why is Tisha B'Av described as a *moed* in the first place? One would be hard pressed to find any day whose character feels less like a festival than the ninth day of Av. These following four approaches can be suggested in order to resolve this conundrum:

1. The Talmud Yerushalmi in *Berachos* (2:4) as well as the Midrash *Eicha Rabba* (1:51), record that Moshiach has either been born or will be born on Tisha B'Av. The status of Tisha B'Av as a quasi-festival is reflected in the words of the *Aruch HaShulchan* (552:14) in our confidence that:

<p>[HaKadosh Baruch Hu] will still transform these days into festivals and days of rejoicing.</p>	<p>והעניין הוא לסימן כי אנו מובטחים בהשי"ת שעוד יתהפכו הימים האלה למועדים ושמחה וימים טובים.</p>
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2. The Midrash, as quoted by Tosfos (*Kiddushin* 31b), articulates the famous notion that HaKadosh Baruch Hu's wrath found its full expression on the *eitzim v'avanim*, the sticks and stones of the Beis HaMikdash, but that the nation itself was spared. The recognition of what was soon rebuilt in Bavel following *churban Bayis Rishon* and then in Yavneh after *churban Bayis Sheini*, certainly attests to Klal Yisroel's ability to restore itself to some semblance of its former glory.
3. Rav Shlomo Wolbe in *Alei Shur* (Vol. II page 411) expresses the beautiful concept that there are two distinct forms of *moed*. There is a *moed* of *kiruv*—a festival of coming close—marked by *aliyah laregel*, korbanos, simchas hachag and all the various forms that reflect an intimacy between G-d and the nation. There is also a *moed shel richuk*—a "festival" of distance whose character is wholly different than the *moed shel kiruv* but in many ways is even more profound. As Bnei Yisroel were leaving Yerushalayim and turned to watch the Mikdash turn to ashes, there was an immediate recognition of where they were in their lives and to what degree the *churban* was a reflection of their own actions and their disintegration as the *Am Kadosh*. Distance, both in human and Divine relations, has a redemptive quality when it brings with it the onset of self-reflection.
4. The Gemara in *Yoma* (54b) describes that upon entering the Mikdash, the Babylonians saw the *Keruvim* clinging to each other. In light of the Gemara in *Bava Basra* (99a) that states that the *Keruvim* only faced each other when the nation had done the will of HaKadosh Baruch Hu, the inward facing *Keruvim* during the *churban* would seem to defy logic. The *Shitta Mekubetzes* in *Bava Basra* sees the inward facing *Keruvim* as either a reminder to the nation of the intimate relationship once shared between G-d and the nation that was now no longer, or as a means of heightening Am Yisroel's shame in their expulsion from the Mikdash and from Eretz Yisroel. One could, however, take an approach that seems somewhat more optimistic than the ones expressed by the *Shitta Mekubetzes*. The inward facing *Keruvim* speak to an eternal bond between G-d and the nation that is heightened by the *makom HaMikdash* but is certainly not limited to it. There has been a gentle but present embrace

that has ushered us through the many victories and vicissitudes of the last two millennia. By the same token we, both in thought and deed, have not turned our back on the Mikdash with its accompanying *hashra'as HaShechinah* (*Divine revelation*). Nearly two thousand years after the *churban HaBayis*, a nation, en masse, still sits on the floor, rends its garments and prays for an edifice and for a state of being that, despite the passage of time, is still very much alive for us only through the pages of *sefarim*. Perhaps that is not what Yirmiyahu meant when he described the day as a *moed*, but the experience of *aveilus yeshana*, mourning for Yerushalayim, truly highlights the best of our national spirit and in and of itself can be truly uplifting and redemptive.

In the spirit of embracing the opportunities that present themselves through tragedy and loss, we should live to fulfill the Gemara's promise that "*kol ha'misabel al Yerushalayim zoche v'roeh b'binyana*—anyone who engages in mourning for Yerushalayim will merit to see its rebuilding. (*Ta'anis* 30b)" May that happen speedily and in our days.