

Are Children Obligated in Observances that Commemorate the Destruction of the Beis HaMikdash?

The Beraisa in *Moed Katan* 26a, teaches us that the obligation to tear one's garments (*keriah*) doesn't only apply when experiencing the loss of a relative. It applies when experiencing other tragic events including seeing the cities of Yehuda, Yerushalayim or the place where the Beis Hamikdash once stood.

What is the nature of the obligation to tear *keriah* upon seeing these places? Perhaps we can glean an insight from the comment of the *Magen Avraham*. The *Magen Avraham* (end of siman 561) writes that a minor who sees the cities of Yehuda does not tear *keriah*, even if he has reached the age of *chinuch* (training). This ruling seems to contradict an explicit law found in the Gemara, *Moed Katan* 14b, that *keriah* should be performed on a child who loses a relative. The Gemara states that the purpose of *keriah* is not for the child per se, but so that those who see the child's torn clothing will express sorrow (*agmas nefesh*). R. Akiva Eger (comments to *Taz*, Y.D. 340:15), notes that if the child has reached the age of *chinuch*, then there is an actual requirement of *keriah*. If the child has not reached the age of *chinuch*, then the *keriah* is only because of *agmas nefesh*. If this is the case, why isn't there an obligation of *keriah* when a minor who reached the age of *chinuch* sees the cities of



Rabbi Hershel Schachter

Rosh Yeshiva and Rosh Kollel, RIETS

Yehuda, Yerushalayim or the place where the Beis HaMikdash once stood?

Perhaps we could suggest that the nature of the obligation to tear *keriah* upon seeing these places is fundamentally different than the nature of the obligation to tear *keriah* for a loss of a relative. The Shach (*Nekudos HaKesef* to *Taz* Y.D. 340:15) writes that while *chinuch* does apply to tearing *keriah* for the loss of a relative, it does not apply to the observance of mourning. This is based on the statement of the Gemara, *Moed Katan* 26b, “*aveilus lechud keriah lechud*” — the laws of *aveilus* and the laws of *keriah* are two separate domains. Just because the laws of *keriah* apply to a child, does not mean that the laws of *aveilus* apply as well.

The Gemara, *Yevamos* 43b, categorizes the mourning practices that we observe leading up to Tisha B'Av as *aveilus yeshana* — mourning for events that happened a long time ago. The Gemara, *Moed Katan* 20b, also notes that regarding *keriah*, there is a distinction between one who hears

about the death immediately after it takes place (*sh'muah kerova*) and one who hears about it thirty days later (*sh'muah rechokah*). Regarding a *sh'muah rechokah*, there is no inherent obligation to tear *keriah* and the obligation only applies to the loss of a parent in order to honor their death. This law is best explained by a comment in the Gemara, *Moed Katan* 24a, that *keriah* should take place at the *she'as chimum* — at the most intense time of grief.

The *she'as chimum* concept proves that the obligation to tear *keriah* upon seeing Yehuda, Yerushalayim or the Beis HaMikdash is not a function of the formal obligation of *keriah*. *Keriah* only applies at a time of intense grief. The *keriah* that takes place upon seeing Yehuda, Yerushalayim or the Beis HaMikdash does not meet that criteria. We tear *keriah* even though the period of grief was thousands of years ago. One must conclude that the obligation to tear *keriah* upon seeing these places is not a function of *keriah* but of *aveilus* for the destruction of the Beis HaMikdash. Since children



do not observe *aveilus*, we can understand why the *Magen Avraham* exempted them from *keriah* upon seeing these places.

Chinuch for Aveilus of Tisha B'Av

The *Mishna Berurah* (*Bei'ur Halacha* 550:1) writes that a child does not have to fast on Tisha B'Av or the other “minor” fasts. This seems to be because these fasts are a function of mourning, and children — even if they reached the age of *chinuch* — don't observe mourning practices.

However, the idea that children are not required to observe mourning practices related to the destruction of the Beis HaMikdash seems to be contradicted by another halacha. The *Shulchan Aruch*, O.C. 551:14, writes that an adult cannot give a haircut to a child during the week in which Tisha B'Av occurs. The *Magen Avraham* 551:38, asks: if there is no *aveilus* for children, why is it prohibited to cut the child's hair? He answers that public *aveilus* is different. The *Magen Avraham* seems to be saying that while *aveilus* generally doesn't apply to children, it does apply to *aveilus* that the entire *tzibbur* (i.e. all of the Jewish people) participates in. How then can we attribute the exemption of a

child from *keriah* upon seeing Yehuda, Yerushalayim or the Beis HaMikdash to the fact that this type of *keriah* is a function of *aveilus*? Isn't mourning the destruction of the Beis HaMikdash a form of public *aveilus*?

Perhaps the explanation of why it is a prohibited to cut a child's hair the week before Tisha B'Av is not based on *chinuch*. Ordinarily, it is prohibited for an adult to provide a child a prohibited item, whether that activity is prohibited on a biblical level or a rabbinic level (see *Shulchan Aruch*, O.C. 343 and *Beur Halacha*). However, that is only true when the child is a *bar chiyuva* — he is obligated to observe that particular mitzvah. There is no problem to provide a child with an item that is prohibited to others but not that particular child. [It is prohibited to take a kohen child into a cemetery, but there is no prohibition to take a non-kohen child into a cemetery because the non-kohen is not a *bar chiyuva*.] Therefore, the *Magen Avraham* was bothered by the following problem: if there is no *chinuch* for *aveilus*, then with regards to the prohibition against cutting one's hair, the child is not a *bar chiyuva*. Why then is it prohibited for an adult to cut the child's hair? To this, the *Magen Avraham* answers that because we are dealing with public *aveilus*, every member of the Jewish people is considered a *bar chiyuva*, whether or not they have an actual obligation to observe those laws. As such, while the child himself is personally exempt from any *aveilus* practices related to mourning the Beis HaMikdash, an adult is prohibited from providing a haircut to the child. The *Magen Avraham*, in explaining why an adult may not cut a child's hair, never intended to say that the child himself has any personal obligation of *aveilus*.

This is evident from a ruling of the *Mishna Berurah* 551:82, who writes that the prohibition against cutting a child's hair only applies during the week of Tisha B'Av and not the whole Three Weeks. Ashkenazi practice is to observe many of the Tisha B'Av mourning practices for the entire Three Weeks between Shiva Asar B'Tamuz and Tisha B'Av, including refraining from haircuts. Why doesn't the restriction against adults cutting the hair of children apply the entire Three Weeks? If the restriction against adults cutting the hair of children is based on the child's inherent *chinuch* requirement to observe public forms of *aveilus*, then the child should be trained to do what an adult would do and refrain from haircuts the entire Three Weeks. However, based on our explanation, the restriction against an adult cutting the hair of a child is not based on *chinuch* but rather on the general prohibition against an adult providing a child with a prohibited item. While an adult is prohibited from providing a child with an item that is prohibited on a Torah level or on a rabbinic level, he is not prohibited from providing the child with an item that is prohibited based on *minhag*. For adults, cutting one's hair during the week in which Tisha B'Av occurs is a rabbinic prohibition. Refraining from cutting one's hair the whole Three Weeks is based on *minhag*. Therefore, the adult may not provide a child with a haircut during the week in which Tisha B'Av occurs, but may provide a haircut during the Three Weeks.

Meat and Wine During the Nine Days

If children don't observe the laws of mourning, why does the *Magen*

Avraham 551:31, write that children should not eat meat or drink wine during the Nine Days? One must conclude that the practice of refraining from meat or wine during the Nine Days is not a function of *aveilus*. A number of poskim (Maharil, the Vilna Gaon, and the *Aruch HaShulchan*, O.C. 551:9) note that the practice is based on a statement of the Gemara:

ת"ר כשחרב הבית בשנייה 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 ... פירות לא נאכל שכבר בטלו בכורים ... אמר להן בני בואו ואומר לכם שלא להתאבל כל עיקר אי אפשר שכבר נגזרה גזרה ולהתאבל יותר מדאי אי אפשר שאין גוזרין גזירה על הצבור אא"כ רוב צבור יכולין לעמוד בה ... אלא כך אמרו חכמים סד אדם את ביתו בסיד ומשייר בו דבר מועט ... מאי היא שנאמר אם אשכחך ירושלים תשכח ימיני תדבק לשוני לחכי וגו'.

Our rabbis taught: when the Second Temple was destroyed, there were many ascetics among the Jewish people who refrained from eating meat or drinking wine. R. Yehoshua approached them and said to them, "My children, why are you refraining from eating meat and drinking wine?" They said, "We should eat meat from which sacrifices are offered on the Altar and has now ceased? We should drink wine which was used for libations on the Altar and has now ceased?" [R. Yehoshua] said to them, "If so, we should not eat bread because the flour offerings have ceased ... We shouldn't eat fruit

because bikkurim have ceased." ... He said to them, "My children, come and I will tell you: We can't refrain from mourning altogether because there was a decree against us. We can't have excessive mourning because one cannot impose a decree on the public unless most of the public can keep it. ... Rather, our rabbis said that a person should plaster his house with plaster and leave a small part of it [without plaster]." ... [The source for these practices is] as it states "If I forget Jerusalem, let my right hand be forgotten. Let my tongue cleave to my pallet, etc."

Bava Basra 60b

R. Yehoshua's primary objection to refraining from eating meat and drinking wine was that it was not a reasonable response to the destruction of the Beis HaMikdash. It is not something that can be observed by most people. However, refraining from meat and wine during the Nine Days is reasonable and that is why we have the practice to do so. Yet the Gemara notes that the source for the practices that are meant to commemorate the destruction of the Beis HaMikdash is "*im eshkech Yerushalayim*" — if I forget Jerusalem etc. This is similar to the comment of the Gemara, *Rosh HaShanah* 30a, that the reason why we have certain mitzvos that are performed *zecher LaMikdash* (in remembrance of the Temple) is because we have an obligation to seek out and remember Yerushalayim. As such, one can suggest that the practices that R. Yehoshua was discussing are not a function of *aveilus* but a function of our obligation to

seek out and remember the Beis HaMikdash. Children have no obligation to observe *aveilus*, but if they have reached the age of *chinuch* they have an obligation to seek out and remember the Beis HaMikdash. Therefore, they must also refrain from eating meat and drinking wine during the Nine Days.

In summary, we find three different categories of halacha relating to tragedy and loss. Children are not obligated to observe *aveilus*, whether it applies to mourning the loss of a relative or mourning the destruction of the Beis HaMikdash. They are exempt from practices during the Three Weeks that are strictly a function of *aveilus*. *Keriah* that takes place at the time of a loss applies to children. If it is in response to a tragedy or loss that took place previously, such as *keriah* upon seeing Yehuda, Yerushalayim or the Beis HaMikdash, then the obligation is rooted in *aveilus* and children are exempt. Practices that are rooted in seeking out the Beis HaMikdash and remembering its destruction are not a function of *aveilus* and are applicable to children. Therefore, they cannot eat meat or drink wine during the Nine Days.

May it be His will that we will merit seeing the rebuilding of the Beis HaMikdash when all of these discussions will be hypothetical rather than practical, and the fast of Tisha B'Av will be transformed into a yom tov.



Find more shiurim and articles from Rabbi Hershel Schachter at <http://www.yutorah.org/Rabbi-Hershel-Schachter>