

Rabbi Dr. Jacob J. Schacter

Tefillat Nacheim

It is rare that a prayer is recited only one time a year and it is rare that the text of a prayer that was first composed in ancient times and recited for over a millennium is still the subject of ongoing contemporary controversy and debate.

The earliest references to the text of what became the *Nacheim* prayer are found in two passages in the *Talmud Yerushalmi* (*Berakhot* 4:3 and *Ta'anit* 2:2; it appears nowhere in *Talmud Bavli*):

An individual on Tishah Be-Av needs to mention [a prayer] that reflects the occasion. And what does he say? May the Lord, our God, with Your great mercy and truthful kindness have mercy (*racheim*) on us, and on Your people Israel, and on Jerusalem Your city, and on Zion the dwelling place of Your honor, and on the city that is in sorrow, ruined, desolate, given to the hands of strangers, trampled by the hand of oppressors. [Foreign] legions have swallowed her and idolaters have praised her while [in truth] You lovingly gave it as a legacy to Israel, Your people, and to the descendants of Yeshurun You bequeathed it as an inheritance. For with fire You consumed it and with fire You will rebuild it in the future. As it is said, "And I Myself will be a wall of fire around it, says the Lord, and I will be its glory within" (*Zekhariah* 2:9).⁴¹²

It is cited, albeit with some changes, first in *Seder Rav Amram Ga'on*, then in *Siddur Rav Saadiah Gaon*, twice in *Machzor Vitry*, twice in the *Mishneh Torah* of Maimonides, *Seder Abudirham*, and elsewhere in medieval rabbinic literature,⁴¹³ and was incorporated into the prayer book in the following way:

Console (*nacheim*), O Lord our God, the mourners of Zion and the mourners of Jerusalem, and the city that is in sorrow, laid waste, scorned and desolate; that grieves for the loss of its children, that is laid waste of its dwellings, robbed of its glory, desolate without inhabitants. She sits with her head covered like a barren childless woman. Legions have devoured her; idolaters have taken possession of her; they have put Your people Israel to the sword and deliberately killed the devoted followers of the Most High. Therefore Zion weeps bitterly, and Jerusalem raises her voice. My heart, my heart grieves for those they killed; I am in anguish, I am in anguish for those they killed. For You, O Lord, consumed it with fire and with fire You will rebuild it in the future, as it is said, "And I myself will be a wall of fire around it, says the Lord, and I will be its glory within." Blessed are You, Lord, who consoles Zion and rebuilds Jerusalem.⁴¹⁴

I want to deal here with three issues relating to this prayer. (1) Note that the first word in the original *Yerushalmi* version is *racheim* while the text as it is currently recited begins with *nacheim*. What is the significance of this and is

⁴¹². Alter Hilewitz considers the *Ta'anit* text, quoted above, to be the more authentic one. See his *Chikrei Zemanim*, vol. 2 (Jerusalem, 1981), 447. For various medieval variants of these texts, see Baer Ratner, *Ahavat Tziyon Vi-Yerushalayim*, *Masekhet Berakhot* (Vilna, 1901), 108–09; idem., *Ahavat Tziyon Vi-Yerushalayim*, *Masekhet Ta'anit* (Vilna, 1913; Jerusalem, 1967), 75; Levi Ginzberg, *Peirushim Ve-Chiddushim Ba-Yerushalmi*, vol. 3 (New York, 1941), 308–11. See too N. Wieder, "The Old Palestinian Ritual – New Sources," in *Journal of Jewish Studies* 4:2 (1953):72; R. Shlomo Goren, *Ha-Yerushalmi Ha-Meforash*, *Masekhet Berakhot* (Jerusalem, 1961), 85a; Yosef Heinemann, *Ha-Tefillah Bi-Tekufat Ha-Tana'im Ve-Ha-Amora'im* (Jerusalem, 1964), 49; Yaakov Gartner, *Gilgulei Minhag Be-Olam Ha-Halakhah* (Jerusalem, 1995), 51. For suggestions as to why this prayer appears only in the *Yerushalmi* and not the *Bavli*, see Alter Hilewitz, *Chikrei Zemanim*, pp. 435–38; R. Chaim David Halevi, *Aseh Lekha Rav*, vol. 2 (Tel Aviv, 1978), 146, #36–39.

⁴¹³. See Aryeh Leib Frumkin, *Seder Rav Amram Ha-Shalem* (Jerusalem, 1912), 132a; Daniel Goldschmidt, *Seder Rav Amram Gaon* (Jerusalem, 1971), 132; Yisrael Davidson, Simchah Asaf, and Yissakhar Yoel, eds., *Siddur Rav Saadiah Gaon* (Jerusalem, 1970), 318–19 ("There are those who add"); *Machzor Vitry* (Jerusalem, 1963), 68, #92; 229, #269; Maimonides, *Mishneh Torah*, "Seder Tefillot Le-Khol Ha-Shanah," *Sefer Ahavah*, end; *Hilkhot Tefillah* 2:14 (shortened version); *Abudirham Ha-Shalem* (Jerusalem, 1959), 258. Both R. Amram Gaon and R. Saadyah Gaon are cited in R. Yitzchak Dov Halevi Bamberger, ed., *Sefer Sha'arei Simchah* by R. Yitzchak ibn Ghayyat, vol. 1 (Jerusalem, 1998), 32.

On the difference between the two Maimonidean versions, see Alter Hilewitz, *Chikrei Zemanim*, 439.

⁴¹⁴. Jonathan Sacks, *The Koren Siddur* (Jerusalem, 2009), 220–21.

there a way to honor both versions? (2) While it would appear from the formulation of the *Yerushalmi* that this prayer should be recited at each of the three services on Tishah Be-Av (*Ma'ariv*, *Shacharit*, and *Minchah*), similar to all other insertions added "to reflect the occasion" (like, for example, *Ya'aleh Ve-Yavo*), our custom is to recite it only during *Minchah*. Why? (3) Some maintained, particularly in the aftermath of the Six Day War in 1967, that the language used to describe the city of Jerusalem here ("laid waste," "robbed of its glory," "desolate," and more) needed to be changed for two reasons: 1) It had become anachronistic and simply untrue given that the Jewish people had merited to win control over the entire city and that hundreds of thousands of Jews lived there; 2) It reflected a striking lack of gratitude on the part of the Jewish people for the great kindnesses and blessings that God had bestowed on them. What were the issues that surrounded this proposal and what should be its status as the twenty-first century is well under way?

(1) Indeed, the opening word of the *Yerushalmi* text is *racheim* and it is also cited that way in the *Seder Rav Amram Gaon*, *Siddur Rav Saadia Gaon*, and the *Mishneh Torah*, among other places.⁴¹⁵ However, other medieval authorities like the Rif, Rabbenu Asher, and Me'iri begin their version of the text of the prayer with the word *nacheim*.⁴¹⁶ Most interesting is the position of R. Yitzchak b. Moshe of Vienna, author of the *Or Zaru'a*, which finds a place for both. He first quotes R. Yosef of Orleans as defining *racheim* as supplication (*tachanunim*) and *nacheim* as comfort (*nechamah*) and then suggests, citing *Teshuvat Ha-Ge'onim*, that the text begins with *racheim* when it is recited during *Ma'ariv* and *Shacharit* and with *nacheim* when it is read during *Minchah*. He goes on to state that the rationale for this distinction is that for most of the day of Tishah Be-Av the individual has the status of "one whose dead relative lies before him (*ke-mi she-meito mutal lefanav*)" and, therefore, an expression of comfort (*nacheim*) is premature. It is only at the time of *Minchah* when, figuratively, the burial has taken place ("*ke-mo she-nistam ha-goleil*") that such an expression can be considered appropriate.⁴¹⁷ This is in keeping with the practice in the case of personal mourning (*aveilut chadashah*), from which the terms of *meito mutal lefanav* and *nistam ha-goleil* are borrowed, where expressions of comfort commence only after burial.⁴¹⁸ This position is also recorded by the author of the *Sefer Ha-Manhig* who reports that he saw this practice being followed in France and Provence.⁴¹⁹

It is quite clear that this rationale is based on the talmudic passage (*Ta'anit* 29a) that the destruction of the First Temple did not start until late Tishah Be-Av afternoon. In attempting to solve the problem of an apparent contradiction between two verses identifying which day of the month the Temple was destroyed (one stating that it occurred on the seventh of the month of Av and the other on the tenth of that month), the Talmud states that the enemies entered the area of the Sanctuary on the seventh and engaged in destructive acts until they set fire to it towards evening on the ninth and it continued to burn the entire day of the tenth. Since the Temple began to be "buried" in the afternoon of the ninth, it is only then that an expression of comfort becomes appropriate.

However, this still requires explanation because the irony of this situation is most obvious. How strange it is that precisely at the moment the Temple is set afire feelings of comfort can begin to be expressed. On the contrary, should that not be the time when feelings of mourning first become even more heightened and intensified? Is that not precisely the time when the pain and suffering becomes most extreme?

(2) This brings me to the second question I raised earlier. Already the *Geonim* disagreed about whether *Nacheim* is to be recited during every *Shemoneh Esrei* on Tishah Be-Av (R. Amram) or only at *Minchah* (R. Saadia).⁴²⁰ Some *Rishonim* state that it should be recited during all three daily prayers but conclude that "there are those" who recite

⁴¹⁵. See too R. Tzidkiyah b. Avraham ha-Rofei, *Shibolei ha-Leket* (New York, 1959), 128b, 129a, no. 267, no. 269.

⁴¹⁶. Rif, *Ta'anit*, p. 10a in the *Dapei Ha-Rif*; Rabbenu Asher, *Ta'anit* 4:34; R. Menachem Meiri, *Beit Ha-Bechirah Al Ta'anit* (Jerusalem, 1967), 95*. All of them include only the first few words of the prayer. See too Moshe Hershler and Yehudah Alter Hershler, eds., *Peirushei Siddur Ha-Tefillah Le-Rokei'ach* (Jerusalem, 1992), 637.

⁴¹⁷. *Or Zaru'a*, vol. 1 (Zhitomir, 1862), 31a, #199; vol. 2 (Zhitomir, 1862), 84b, #416. See Alter Hilewitz, *Chikrei Zemanim*, pp. 443–44. For a similar rationale, see *She'eilot U-Teshuvot Ritva* (Jerusalem, 1959), 70, #63, cited in *Beit Yosef*, O.C. 557, s.v. *be-Tishah Be-Av*. See too David Avraham, ed., *Sefer Kol Bo*, vol. 4 (Jerusalem, 1993), 47; R. Aharon Ha-Kohen Mi-Lunel, *Orchot Chaim* (Jerusalem, 1956), 212; Moshe Hershler, ed., *Sefer Ha-Mikhtam on Rosh Ha-Shanah and Ta'anit* by R. David b. Levi of Narbonne, in *Ginzei Rishonim* (Jerusalem, 1963), 276–77; R. Asher b. Shaul, *Sefer Ha-Minhagot*, printed in Simchah Asaf, *Sifran Shel Rishonim* (Jerusalem, 1935), 146; *Tur*, O.C. 557; L. Ginzberg, *Zeitschrift für Hebraeische Bibliographie* 9:4 (1905): 107; and Yaakov Gartner, *Gilgulei Minhag*, p. 51, n. 10.

⁴¹⁸. *Shulchan Arukh*, Y.D. 341, 375.

⁴¹⁹. Yitzchak Refael, ed., *Sefer Ha-Manhig* by R. Abraham b. Natan Ha-Yarchi, vol. 1 (Jerusalem, 1978), 295.

⁴²⁰. This disagreement is cited in the *Abudirham Ha-Shalem*, 257, and, from there, in the *Beit Yosef*, O.C. 557, s.v. *be-Tishah Be-Av*. See too R. Avraham Ha-Yarchi, *Sefer Ha-Manhig*, *ibid.* R. Tzidkiyah b. Avraham Ha-Rofei, *Shibolei Ha-Leket*, above, fn. 4, mentions it in his presentations of each prayer service.

it only at *Minchah*.⁴²¹ The *Shulchan Arukh* rules that *Nacheim* is to be inserted in the *Shemoneh Esrei* recited on Tishah Be-Av and it would appear that this is the case for all the prayers of that day – *Ma'ariv*, *Shacharit*, and *Minchah* – but the Rama rules that it is to be recited only at *Minchah*.⁴²² While some note that the custom in Jerusalem was to recite *Nacheim* during all three prayers, the accepted *Minhag Ashkenaz* is to do so only at *Minchah*.⁴²³ The clearest formulation questioning why this should be the case is stated by Rabbenu Asher: “All my days I have wondered why they had the custom to say *Nacheim* only during the *Minchah* prayer because since it is stated [in the *Yerushalmi*] that ‘An individual on Tisha Be-Av needs to mention [a prayer] that reflects the occasion’ it follows that this is said with regard to all the prayers, *Arvit*, *Shacharit*, and *Minchah*.”⁴²⁴

This question is significantly compounded because there are a significant number of areas where Jewish ritual practice becomes more lenient precisely on Tishah Be-Av afternoon. For example:

The *Magen Avraham* rules that those who travel among Gentiles and are involved in business are allowed to wear shoes after *chatzot*;⁴²⁵

The Rama rules that the prohibition of “working” on Tishah Be-Av is only until *chatzot*;⁴²⁶

The *Mordekhai* notes that one may begin preparing for the evening meal after *chatzot*;⁴²⁷

R. Yosef Karo rules that one dons *tefillin* only at *Minchah*, not before;⁴²⁸

R. Karo also requires sitting on the ground only until *Minchah* and the *Taz* notes that “our custom” is to do so only until *chatzot*.⁴²⁹

There is also a surprising position taken by *Tosafot* that if Tishah Be-Av falls on a Thursday, washing clothes and hair cutting are permitted on that day after *chazot* out of an expression of honor due the Shabbat (*kevod Shabbat*).⁴³⁰ And, as I noted earlier, the Ashkenazi custom is to recite *Nacheim* only at *Minchah*. But, how is it possible that matters become easier precisely at the time that the Temple was starting to be destroyed? Is that not exactly the moment when the intensity of the mourning practices should become even more pronounced!

⁴²¹. Yaakov Freiman, ed., *Sefer Ha-Machkim* by R. Natan be-Rabi Yehudah (Jerusalem, 1968), 148. H. L. Ehrenreich, ed., *Sefer Ha-Pardes Le-Rashi* (Budapest, 1924), 256, states that it is recited only at *Minchah*.

⁴²². *Shulchan Arukh* and Rama, *O.C.* 557:1. See too *Otzar Ha-Geonim on Ta'anit*, vol. 5 (Jerusalem, 1933), 49; *Sefer Ha-Rokeiach Ha-Gadol* (New York, 1959), 312.

⁴²³. *Mishnah Berurah*, *O.C.* 557:1; Mordekhai Yehudah Leib Sacks, *Kuntres Minhagei Eretz Yisrael* (Jerusalem, 1951), 71.

⁴²⁴. R. Asher, *Ta'anit* 4:34, end. He is cited in Rabbenu Yerucham, *Sefer Toledot Adam Ve-Chavah* (repr. Israel, 1975), 164b (*netiv* 18, part 2); *Abudirham* pp. 257–58; *Tur*, *O.C.* 557.

Three other cases come to mind where there is a disagreement as to whether a prayer added on a particular occasion is to be recited during every *Amidah* of the day or only on one. First, and most directly relevant here, is the disagreement among rabbinic authorities as to when the *Aneinu* paragraph added on general fast days (*Ta'anit* 13b) is recited. Most rule, at least in theory, that it should be recited during each *Shemoneh Esrei* though our custom follows the opinion of the Rama (*O.C.* 565:3) that it is recited only during *Minchah*. See the essay by David Brofsky, <http://etzion.org.il/vbm/english/archive/moadim69/21-69moed.htm>.

Second, the position of the Ba'al Ha-Ma'or that the three additional blessings of *Malkhuyot*, *Zikhronot*, and *Shofrot* are added to each of the four *Amidot* recited on Rosh Ha-Shanah (*Ma'ariv*, *Shacharit*, *Musaf*, and *Minchah*). See *Ha-Ma'or Ha-Katan*, *Rosh Ha-Shanah* 12a (*Dapei Ha-Rif*). Finally, there is a debate as to whether the extra six blessings added on fast days declared for the lack of rain (*Ta'anit* 15a) are recited during each *Amidah* (*Shacharit*, *Minchah*, and *Ne'ilah*) or only during *Neilah*. See *Chiddushei Ha-Ramban Le-Masekhet Ta'anit* 15a; R. Chananel, *Ta'anit* 13a; Ran, *Ta'anit* 4b (*Dapei Ha-Rif*). My thanks to my rabbi, R. Yosef Adler, for bringing this issue, and the Ramban, to my attention.

⁴²⁵. *Magen Avraham*, *O.C.* 554:1.

⁴²⁶. *Shulchan Arukh*, *O.C.* 554:22.

⁴²⁷. *Mordekhai*, *Ta'anit* 636.

⁴²⁸. *Shulchan Arukh*, *O.C.* 555:1. On this matter, see R. Ovadia Yosef, *Yechaveh Da'at* 2 (Jerusalem, 1978), 247–50, no. 67; Mordekhai Yehudah Leib Sacks, “*Issur Tefillin Be-Avel U-Be-Tishah Be-Av*,” *Noam* 3 (1960): 157–61; Menasheh Elyashiv, “*Al Minhag Hanachat Tefillin Be-Tishah Be-Av*,” *Mechkerei Chag* 10 (1999): 91–94.

⁴²⁹. *Shulchan Arukh*, *O.C.* 559:3; *Taz*, ad loc., 559:4.

⁴³⁰. *Tosafot*, *Ta'anit* 30a, s.v. *ve-tarvayhu*. R. Yosef Karo, *Beit Yosef*, *O.C.* 551, s.v. *u-mah she-katav Rabbeinu*, rejects this position, as does the Gaon of Vilna, *Biur Ha-Gra*, *Shulchan Arukh*, *O.C.* 551:3.

Almost every year, in the late 1960s and 1970s, R. Joseph B. Soloveitchik would raise this question during his annual Tishah Be-Av teaching in Boston and he would draw attention to a passage in *Midrash Eikhah* commenting on the verse, “A psalm of Asaph (*Mizmor le-Asaf*). O God, nations have come into Your inheritance (*Tehillim* 79:1).” The *Midrash* notes that it would appear that the word *mizmor*, and the sentiment of song that it reflects, are wholly inappropriate at a time when God’s inheritance is being destroyed. The verse should, rather, have used the phrase “A weeping (*bekhi*) of Asaph, a lament (*nehi*) of Asaph, a dirge (*kinah*) of Asaph?”

In response, the *Midrash* parallels the situation of the destruction of the *Beit Ha-Mikdash* to a king who built a beautiful bridal chamber for his son. But his son behaved inappropriately and, in response, his father, the king, destroyed it. At that point the son’s tutor began playing a musical instrument. When asked how he could do this if his student’s chamber was just destroyed, he responded, “I play a tune because the king overturned his son’s chamber but did not pour out his anger upon his son.” So too the destruction of the *Beit Ha-Mikdash*, suggests the *Midrash*. After all, it was the people who sinned and, as a result, it was they who deserved to be punished. Why should the *Beit Ha-Mikdash* suffer? The mortar, brick, and stones, the *Shulchan* and the *Mizbei’ach*, did nothing wrong. But in the late afternoon it became clear that the building would be destroyed and the people would be spared and, at that moment, the people breathed a huge collective sigh of relief.

R. Soloveitchik explained that throughout the entire day of Tishah Be-Av it was unclear what would be destroyed, the Jewish people or the *Beit Ha-Mikdash*. But once they saw the *Beit Ha-Mikdash* starting to be destroyed they realized that God had decided to vent his anger on the building and not on them (“*shafakh Ha-Kadosh Barukh Hu chamato al ha-eitzim ve-al ha-avanim ve-lo shafakh chamato al Yisrael*”). Therefore, in a most paradoxical and ironic way, indeed, it is precisely the burning of the *Beit Ha-Mikdash* that elicited a song or a *mizmor*.⁴³¹ And, thus, suggested R. Soloveitchik, it is precisely in the afternoon of Tishah Be-Av when the intensity of the mourning becomes lessened and *Nacheim* can appropriately begin to be recited, whether as the first word of a prayer that until that point of the day started with the word *Racheim* or as a prayer which was then being recited for the first time.

This perspective explains the statement of Rama that, on the face of it, is difficult to understand. He rules: “The widespread custom is that *Nacheim* is recited only in the *Minchah* prayer because it was then that they set fire to the Temple and therefore we pray then for comfort.”⁴³² R. Yosef Karo formulated this in a slightly different way. *Nacheim*, he writes, is recited only during *Minchah*, “because towards evening they set fire to it, therefore at that time we invoke the degradation of Jerusalem and pray for its consolation.”⁴³³ Setting fire to the Temple is, indeed, a source of comfort.

This notion is most sharply, and almost shockingly, articulated by the Ari who also made this point: “For when Israel saw that on Tishah Be-Av in the evening they set fire to the *heikhal* they said a song (*mizmor*) because He poured His wrath on wood and stone *and they were exceedingly happy (samchu simchah gedolah)* for, if not for this, there would have been no recovery, God forbid. And then they experienced comfort.”⁴³⁴ This rather shocking formulation turns the common understanding of Tishah Be-Av on its head; contrary to the widely accepted and assumed consensus, the Jews were exceedingly happy with the destruction of the *Beit Ha-Mikdash*! It is precisely its destruction that was a source of comfort and it is precisely then that a whole range of more lenient practices can be introduced, including the recital of *Nacheim*.⁴³⁵

⁴³¹. *Midrash Eikhah Rabbah* 4:14. This *midrash* is quoted in Rashi and *Tosafot*, *Kiddushin* 31b, s.v. *istayi’a milta*. For R. Soloveitchik’s teaching, see my *The Lord is Righteous in All His Ways* (Jersey City, 2006), 32–33.

This explanation needs clarification because, indeed, many Jews were killed at that time. In fact, the text of *Nacheim* we recite explicitly mentions that, “Legions have devoured her; idolaters have taken possession of her; they have put Your people Israel to the sword and deliberately killed the devoted followers of the Most High.” It must mean that the Jewish people as a whole were spared.

⁴³². Above, fn. 11.

⁴³³. *Beit Yosef*, O.C. 557, s.v. *be-tishah be-av*.

See too the rationale given by the Ga’on of Vilna for why *tefillin* are worn only at *Minchah* and why other leniencies are practiced then: “And the reason is because then they set fire to the Temple.” See *Bi’ur Ha-Gra*, O.C. 555, s. v. *u-ve-minchah*. His position is cited in *Mishnah Berurah*, O.C. 555:3. This formulation is incomprehensible in my view in the absence of the explanation cited above. A similar explanation is offered by R. Barukh Frankel in his commentary on *Shulchan Arukh*, O.C. 557:1. See too Yaakov Gartner, “*Tefillat Nacheim, Sha’at Nechamah Ve-Ha-Kara’im*,” *Sinai* 89 (1981): 157–64.

For another, more conceptual, distinction between the insertion of *Nacheim* and other insertions, like those on Chanukah and Purim (the context is *Nacheim* in *Birkat Ha-Mazon*, should it be necessary), see R. Joseph B. Soloveitchik, *Igrat Ha-Gri’d Ha-Levi* (Jerusalem, 1981), 43–44.

⁴³⁴. *Sefer Ha-Kavanot* of the Ari, cited in Chida, *Birkei Yosef*, O.C. 559:7, s.v. *shuv ra’iti*.

⁴³⁵. See too Yitzchak (Eric) Zimmer, *Olam Ke-Minhago Noheig* (Jerusalem, 1996), 174–90.

The special closeness between God and the Jewish people precisely at the moment of the destruction of the Temple is also expressed in *Yoma* 54b (the *keruvim* then were intertwined with one another when the Gentiles entered the Sanctuary to destroy it). Related to this is

(3) For many centuries, more than one millennium, the overarching message of Tishah Be-Av posed no challenge to the Jew. For him or her, its basic themes and lessons reflected not only the distant past but also the current reality of exile, destruction, suffering, victimization, vulnerability, and discrimination which he or she was often experiencing first-hand in the present. But in the twentieth century the challenge of defining the contemporary relevance of Tishah Be-Av became a significant one, even within the traditional community. Already before the founding of the State of Israel, R. Baruch Halevi Epstein (d. 1942) questioned the appropriateness of the text of the *Nacheim* prayer at a time when Jerusalem could boast of beautiful buildings and a large Jewish population.⁴³⁶ His response, that the text was still relevant as long as the Land of Israel was under foreign domination, clearly lost its relevance with the founding of the State of Israel in 1948.

With the establishment of the State, a number of voices were raised questioning, in general, the role of Tishah Be-Av as a day of mourning for the loss of Jewish sovereignty. The new reality of the recently established state led a number of individuals to call for a reimagining of the day, introducing innovative changes into its character and practices.⁴³⁷ This argument gained much more urgency and currency after the Six Day War in 1967 when all of Jerusalem, including the Temple Mount, was brought under Jewish control. What role could this traditional day of mourning play given this new reality?⁴³⁸

At that point the issue became particularly pressing regarding the *Nacheim* prayer. Questions arose over the appropriateness of continuing to recite its traditional text with its reference to Jerusalem as a “city that is in sorrow, laid waste, scorned and desolate; that grieves for the loss of its children, that is laid waste of its dwellings, robbed of its glory, desolate without inhabitants.” Do these words not ring hollow and even false, it was suggested, in the face of the conquering of the Old City of Jerusalem and its coming under Jewish political control, the renewed access of hundreds of thousands of Jews to the *Kotel Ha-Ma’aravi* and the growing and expanding population and municipal boundary of the city? Does continuing to recite that text as is reflect a lack of gratitude on the part of the Jewish people for the great kindnesses and blessings God had bestowed on them? How strange is it, it was noted, to observe the holiday of Yom Yerushalayim joyously celebrating a vibrant united Jerusalem under Jewish control in the month of *Iyar* and less than three months later recite a prayer referring to a “scorned and desolate” city, “in sorrow, laid waste.”

Indeed a number of different suggestions were made and alternate texts suggested. They ranged from maintaining the basic integrity of the text but just framing it in the past, instead of the present, tense, emending the words to read “city that was [not ‘is’] in sorrow, laid waste, scorned and desolate” (R. Chaim David Halevi), to keeping the text of the prayer intact with the exception of removing the few problematic phrases (R. Aharon Lichtenstein), to proposing various alternative rewritings of the text that removed the problematic phrases in their entirety, thereby creating versions more in keeping with the historical reality (earlier version of R. Shlomo Goren), to essentially rewriting the entire prayer (later version of R. Goren; R. David Shloush, R. Yisrael Ariel).⁴³⁹

Ketubot 66b where the Talmud notes that Israel is praised (“*ashreichem Yisrael*”) even when they are not fulfilling God’s will. Both of these talmudic passages need to be fully analyzed in the context of the point being made here.

In a very interesting article, Shulamit Elizur notes that the motif of *nechamah* is significantly represented in the *kinot* of the morning of Tishah Be-Av but that it plays a much more central role during *Minchah*. See her “*Mei-Evel Le-Nechamah: Al Minhag Kadum Bi-Tfillat Minchah Shel Tishah Be-Av*,” *Tarbitz* 73:1 (2004): 125–38.

⁴³⁶ R. Baruch Halevi Epstein, *Barukh She-Amar* (Tel Aviv, 1979), 134. The book was first published in Pinsk in 1938. See A. Z. Tarshish, *Rabbi Barukh Halevi Epstein* (Jerusalem, 1967), 186. It was the last work published by its author.

⁴³⁷ There is a large literature on this subject. See, for example, Yeshayahu Leibowitz, “*Tishah Be-Av Be-Yameinu*,” *Ha-Dor* (Erev Shabbat Nachmu, 1949); repr. in his *Yahadut, Am Yehudi U-Medinat Yisrael* (Jerusalem and Tel Aviv, 1975), 88–90; R. Yehuda Gershuni, “*Atzma’ut Yisrael Ve-Daled Tzomot*,” *Or Ha-Mizrach* 6:3–4 (1959): 15–20; idem, “*Ha-Im Atzma’ut Yisrael Kochah Le-Vatel Daled Ha-Ta’aniyot?*,” *Shvilin* 3 (1962): 21–25; repr. in his *Kol Tzofayikh* (Jerusalem, 1980), 221–25.

⁴³⁸ Here too the literature is large. See, for example, R. Chaim David Halevi, *Aseh Lekha Rav*, vol. 1 (Tel Aviv, 1976), 43–46, #13; R. Yaakov Ariel, *She’eilot*

U-Teshuvot Be-Ahalah Shel Torah, vol. 2 (Kfar Darom, 1999), 269–73. As indicated there (p. 269, n.), the essay was written in the summer of 1967. In the summer of 1968 R. Joseph B. Soloveitchik delivered a *shi’ur* on this subject. An edited version, based on a tape recording of the presentation, was published in *Alon Shevut Le-Bogrei Yeshivat Har Etzion* 9 (1996): 131–35, 137–42.

⁴³⁹ See the versions suggested by R. Shlomo Goren, Professor Ephraim Urbach and Rev. Abraham Rosenfeld, printed and discussed in Yael Levine Katz, “*Nusach Tefillat ‘Nacheim’*,” *Techumin* 21 (2001): 73–79, 82–83; Saul Philip Wachs, “*Birkat Nahem: The Politics of Liturgy in Modern Israel*,” in Ruth Langer and Steven Fine, eds., *Liturgy in the Life of the Synagogue: Studies in the History of Jewish Prayer* (Winona Lake, 2005), 247–58; and Daniel Sperber, *On Changes in Jewish Liturgy: Options and Limitations* (Jerusalem and New York, 2010), 14; 128, n. 6; 162–64.

See too Abraham Rosenfeld, *The Authorised Kinot for the Ninth of Av* (Israel, 1970), 216–17, for both the traditional text as well as a version “substituted by the author after the recapture of the Old City of Jerusalem, during the Six Days War.” The first publication of this work, published five years earlier, in London, 1965, contains only the traditional text (p. 216). This is also the case in the republication of the work under the auspices of The Judaica Press in New York, 1999. There the revised version was removed (p. 216).

For R. Chaim David Halevi, see his *Aseh Lekha Rav*, vol. 1, pp. 46–47, no. 14, reconfirmed in *Aseh Lekha Rav*, vol. 2, pp. 139–48, nos. 36–39, and *Aseh Lekha Rav*, vol. 7 (Tel Aviv, 1986), 328, no. 35 (“*She’eilot U-Teshuvot Be-Kitzur*”), discussed in Yael Levine Katz, “*Nusach Tefillat*

Others were opposed to emending the text at all, for different reasons. R. Ovadia Yosef argued that, after all, the prayer was composed by the *Anshei Keneset Ha-Gedolah*, venerable men of great authority. How dare one have the chutzpah to change the words instituted by “our holy rabbis through whom spoke the spirit of God”? After all, every word and letter of the prayers they composed contain “exalted and wondrous secrets” full of deep mystical significance. Secondly, with all the real transformations wrought by Israel’s military victory during the Six Day War, the reality did not sufficiently change to warrant tampering with the traditional text. After all, continued R. Yosef, the Temple Mount and its environs are still under the authority of “strangers, haters of Israel.” The Old City is still full of churches whose leaders were responsible for the spilling of Jewish blood for many generations while once imposing synagogues there still lay in ruins. And finally, noted R. Yosef, what about the abysmal spiritual level of many of Jerusalem’s inhabitants? It is “at the lowest level”; many of them live lives distant from Torah and *mitzvot*. For all these reasons no changes in the text should be made, argued R. Yosef, and the prayer of *Nacheim* should be recited exactly as it had been for centuries.⁴⁴⁰ R. Tzvi Yehuda Kook is quoted as also having opposed any change to the text of *Nacheim* after the Six Day War because, he said, he remembered how the Old City of Jerusalem was once full of vibrant Jewish life and now it is full of Gentiles living there, causing his heart to shudder.⁴⁴¹ Most extreme is the position cited in the name of the Klausenberger Rebbe who is quoted as having said that there were times when he was so upset about the current sad state of Jerusalem that he even recited *Nacheim* many times during the year.⁴⁴² R. Shlomo Aviner also opposed changing the text, asserting that anyone visiting his yeshiva, Ateret Yerushalayim, in the heart of Jerusalem’s Old City, in a quarter referred to as “Muslim,” will be convinced of the correctness of his position.⁴⁴³

R. Joseph B. Soloveitchik also took a very strong position against emending the text but adduced a very different rationale for his position, one that reflects the lens through which he viewed the world in general. After also expressing an aversion against changing texts hallowed by virtue of their ancient rabbinic authorship, he quoted the Rambam who, in a number of different places in his *Peirush Ha-Mishnayot*, maintained that the city of Jerusalem had the halakhic status of *mikdash*. For example, when the *shofar* was sounded in ancient times on Shabbat in the *Beit Ha-Mikdash*, it was also sounded in Jerusalem. In addition, for the Rambam, the *mitzvah de-oraita* of *arba minim* on the holiday of Sukkot in Jerusalem was for all seven days, like in the *Mikdash*.⁴⁴⁴ Also, the sanctity of the city of Jerusalem was never abrogated because it, again

‘*Nacheim*’,” 84–86; Marc D. Angel and Hayyim Angel, *Rabbi Haim David Halevy: Gentle Scholar and Courageous Thinker* (Jerusalem and New York, 2006), 108–09; and supported by R. Chaim Navon, “*Nusach Ha-Tefillah Be-Metzi’ut Mishtaneh*,” *Tzohar* 32 (2008): 62, 65–66. For R. Aharon Lichtenstein’s position, see *idem.*, p. 66, n. 26.

For R. Goren’s position see “*Ha-Evkeh Ba-Chodesh Ha-Chamishi?*,” *Erev Shabbat Supplement, Ha-Tzofeh* (8 Av 5728=August 2, 1968): 2. For the earlier version of his text, outlined in a letter dated during the summer of 1968, see R. Shlomo Goren, *Terumat Ha-Goren* (Jerusalem, 2005), 308–09. See too the text printed in Gad Navon, ed., *Siddur Tefillot Le-Chayal* (Jerusalem, 1978), 271. For another, totally new text, see www.machonshilo.org.

For R. David Shloush’s version, see his *Chemdah Genuzah* (Jerusalem, 1976), 21, p. 233. For R. Ariel, see his *Siddur Ha-Mikdash, Nusach Sfard*, vol. 1 (Jerusalem, 1999), 208–10; *idem.*, *Siddur Ha-Mikdash Le-Eim U-Le-Vat Yisrael, Nusach Sfard* (Jerusalem, 2006), 176–77.

For additional supporters of changing the text and different versions of it, see Menachem Emanuel Chartom, ed., *Machzor Minhag Italiyani*, vol. 1 (Jerusalem, 2005), 128; Guy Ezra’s article dated August 4, 2014, www.srugim.co.il; R. Avi Geiser’s text in www.kipa.co.il, dated August 4, 2014 (my thanks to R. Nati Helfgot for bringing this to my attention). For a heartfelt and passionate plea to rabbis to authorize changing the text penned by a Holocaust survivor, including a new proposed version of the text, see Yosef ben Brit, “*Tefillat ‘Nacheim’ – Min ha-Lev O Stam Shigrah?*,” *Amudim* 36:10 (1988): 408–11.

⁴⁴⁰. See R. Ovadia Yosef, *Yechaveh Da’at*, vol. 1 (Jerusalem, 1977), 120–22, #43, discussed in Yael Levine Katz, “*Nusach Tefillat ‘Nacheim’*,” pp. 83–84. See too R. Yitzchak Yosef, *Kitzur Shulchan Arukh Yalkut Yosef*, vol. 2 (Jerusalem, 1999), 674. For a critique of R. Yosef’s position, see R. Chaim Navon, “*Nusach Ha-Tefillah Be-Metzi’ut Mishtaneh*,” pp. 63–65. For a very sharply worded critique, see R. Eliyahu Rachamim Zini, “*Al Nusach ‘Nacheim’ Be-Yom T”B Be-Yameinu*,” in www.orvishua.net. He claims, at the beginning of his article, that “there is no shadow of a doubt” that R. Yosef was reacting to the ruling of R. Chaim David Halevi discussed above. (R. Halevi’s ruling was first published in 1976 [see fn. 27] and R. Yosef’s in 1977 [see above].)

For a similar set of arguments, see R. Chaim Friedlander, *Siftey Chaim*, Mo’adim, vol. 3 (Bnei Brak, 1995), 331, n. 3.

⁴⁴¹. “*Korot Rabbenu*,” *Iturei Kohanim* 68 (1990): 41. My thanks to R. Chaim Rapoport for bringing this reference to my attention.

⁴⁴². See Uri Cohen, *Be-Zakheinu Et Tziyon* (Jerusalem, 2010), 387. See the notes entitled “*Mekor Tziyon*,” *ad loc.*, p. 388, that the state of spiritual life in Jerusalem is so compromised now that *Nacheim* should be recited even on Shabbat!

⁴⁴³. See his remarks, dated August 4, 2014, in www.srugim.co.il.

⁴⁴⁴. *Peirush Ha-Mishnayot, Rosh Ha-Shanah* 4:1. See too *Peirush Ha-Mishnayot, Sukkah* 3:12, *Ma’aser Sheini* 3:4, *Shekalim* 1:3.

This position of the Rambam needs further refinement based on his formulations in the *Mishneh Torah, Hilkhos Shofar* 2:8, *Hilkhos Lulav* 7:13, and *Hilkhos Ma’aser Sheini* 2:1. My thanks to my son-in-law, Corey Tarzik, for bringing this matter to my attention and for working through the various sources with me.

like the *Mikdash*, drew its holiness from the *Shekhinah* which could never be removed.⁴⁴⁵ Since, concluded the Rav, Jerusalem according to the Rambam has the halakhic status of *Mikdash*, as long as the *Mikdash* is destroyed, Jerusalem is considered halakhically destroyed as well. What was relevant for R. Soloveitchik is the conceptual halakhic status of Jerusalem, not who politically controls the city or how many hundreds of thousands of people may regularly stream to the *Kotel*.⁴⁴⁶

However, by the middle of the second decade of the twenty-first century, almost fifty years after the Six Day War, much has changed. The euphoria that gripped much of world Jewry in the aftermath of that miraculous event has largely dissipated and has given way to profound concerns for the very safety and security of the State. And this sentiment had normative halakhic ramifications already four decades ago. For example, after the liberation of the Old City of Jerusalem in 1967, R. Menachem Mendel Schneerson instructed his followers to remove themselves to a distance of fifteen *mil* from the city on Erev Pesach out of concern that, should they not do so, they might be obligated to bring a *korban pesach*. But, eight years later, in 1975, he changed his mind due to the fact that since “the situation has changed” it was no longer appropriate to even entertain the possibility that the sacrifice could be brought and therefore no such move was necessary.⁴⁴⁷ And, regarding the matter under discussion here, already in November, 1978, R. Goren wrote that he withdrew his new text of *Nacheim* and felt that after the “ethical, moral, and national decline” that took place in the wake of the Yom Kippur War and in light of the preparations then being made to return parts of *Eretz Yisrael* to the Palestinians, he saw no reason to change the existing form of the prayer. In 1967, he wrote, he believed that he had witnessed the realization of the millennia-old dream of the Jewish return to Zion and wanted the language of the prayers to reflect that new reality. A short twelve years later, he was no longer so sure.⁴⁴⁸

And what about today? The answer depends on one’s position on both general liturgical textual change and one’s assessment of the current political situation in the State of Israel. But, in any case, we continue to be blessed by *Medinat Yisrael* and pray every day for her safety and security. And we continue to pray that the city that was once “in sorrow, laid waste, scorned and desolate” will be the site of our rebuilt *Beit Ha-Mikdash*, *bi-mheirah be-yameinu*.

⁴⁴⁵. Rambam, *Mishneh Torah*, *Hilkhot Beit Ha-Bechirah* 6:16.

⁴⁴⁶. *Mesorah* 7 (1992): 19. The Rav’s position is discussed in R. Hershel Schachter, *Nefesh Ha-Rav* (Jerusalem, 1994), 79; Yael Levine Katz, “*Nusach Tefillat ‘Nacheim’*,” pp. 80–81; R. Chaim Navon, “*Nusach Ha-Tefillah Be-Metzi’ut Mishtaneh*,” p. 64; Dr. Arnold Lustiger, ed., *Machzor Mesoras HaRav Le-Yom Kippur: Yom Kippur Machzor* (New York, 2006), 817–18.

For a similar position, cited in the name of R. Tzvi Yehudah Kook, see R. Shlomo Chaim Hakohen Aviner, *Shalhevetyah* (Jerusalem, 1989), 5; idem., *Le-Mikdasheikh Tuv: Yerushalayim Ve-Ha-Mikdash* (Jerusalem, 1999), 11; idem., *Piskei Shlomo*, vol. 1 (Beit El, 2013), 94, 250. See too R. Moshe Shternbuch, *Mo’adim U-Zemanim Ha-Shalem* (Jerusalem, 1970), 348, n. 2 (p. 212); R. Yaakov Halevi Horowitz, “*Iyunim Be-Mishnat Chabad U-Minhagehah: Al ‘Yom Yerushalayim’*,” *Pardes Chabad* 11 (2003): 172–73. It would appear that R. Chaim Kanievsky took the same position. See R. Shmuel Zalman Feuer, *Sefer Halikhot Chaim*, vol. 2 (Lakewood, 2005), 104.

The Rav’s position found expression in another, albeit related, context as well. Jewish religious practice always required *kriyah* upon seeing the city of Jerusalem. Once it came under Jewish control, the question arose as to whether it would continue to be mandated there. Rabbi Moshe Feinstein ruled (*Igrot Moshe*, O.C., vol. 5, #37:1) that, under those circumstances, while *kriyah* would still be required upon beholding the Temple Mount, it would no longer be necessary for the city of Jerusalem. However, Rabbi Soloveitchik disagreed, utilizing the same rationale outlined here. Since, he reasoned, Jerusalem has the same halakhic status as *mikdash*, it too, like the *mikdash* would require *kriyah* even if it is controlled by Jews. For a presentation of the Rav’s position, see R. Hershel Schachter, *Be-Ikvei Ha-Tzon* (Jerusalem, 1997), 96–98.

It is interesting to note that the Rav’s father also saw the world, in his case the world of nature, through the lens of *Halakhah*. See the Rav’s well-known description of his father’s comments to him as a young boy upon witnessing the setting of the sun on Yom Kippur evening in the courtyard of their synagogue. On that occasion, it was not just a sunset; it was a source of *kaparah*. See R. Joseph B. Soloveitchik, *Halakhic Man* (Philadelphia, 1983), 38. For both father and son, real reality is defined as halakhic reality.

Relevant here as well is the Radak, *Yeshayahu* 62:9, s.v. *ki me’asfiv*, who states that the entire city of Jerusalem has a status of “*lifnei Hashem Elokekha*.” Cf. R. Meir Leibush Malbim’s commentary to *Vayikra* 6:7, “*Torah Or*” notes to “*Ha-Torah Ve-Ha-Mitzvah*,” 1. My thanks to Corey Tarzik for also bringing this reference to my attention.

For a summary of some of the positions on this issue, see R. Chaim Rapoport, “*Nusach Tefillat Nacheim: ‘Ha-Ir Ha-Aveilah Ve-Ha-Chareivah Ve-Ha-Shomeimah’*,” *Pardes Chabad* 17 (2006): 85–90.

⁴⁴⁷. See Yehoshua Mondschein, ed., *Otzar Minhagei Chabad: Nisan-Sivan* (Jerusalem, 1996), 101. My thanks to R. Daniel Yolcut for bringing this source to my attention.

⁴⁴⁸. R. Shlomo Goren, *Terumat Ha-Goren*, pp. 327–29. My thanks to R. Yehoshua Grunstein for bringing this source to my attention.

There was a spirited exchange on the List Serve of the Rabbinical Council of America (RCA Forum) in July, 2013 regarding whether R. Goren really did change his mind. Several posters reported that, when asked about this, members of R. Goren’s family emphatically insisted that he never retracted his position on the use of his revised text and that various synagogues as well as a *minyán* which still meets on the edge of *Har Ha-Bayit* on Tishah Be-Av continue to use it. While I appreciate this information, I have trouble reconciling it with what I consider to be his quite explicit retraction of it in his 1978 letter.