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SHOULD AMERICAN ORTHODOX JEWS HAVE FASTED ON JULY 12, 2024?

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A group of rabbinic leaders from American non-Zionist Jewish institutions[1] issued a call for Jews to fast on Friday, July 12, 2024.[2] In a proclamation sent a few days before the fast, these leaders of those institutions explained their philosophic and halakhic reasons for calling for the fast in response to the drafting of non-Zionist Orthodox[3]

[1] The views presented in this article are those of the authors alone and do not reflect the positions of the institutions with which they are affiliated.
Scholars and community members alike have long lamented the absence of a suitable, universally accepted term to accurately describe this particular segment of American Orthodox Judaism. The Pew Research Center generally refers to this group as "ultra-Orthodox" and "Haredim" (Pew Research Center, "Jewish Americans in 2020"). However, these terms carry connotations that suggest the group's unique practices represent a superlative form of Judaism, a notion that many Modern Orthodox Jews reject. In a recent sociological analysis of the group, two astute observers use the more colloquial term "*yeshivish*" and "*frum*" in their initial terms for the group—see Chaim Saiman and Avital Chizhik-Goldschmidt, "Materialism and the Rise of 'modern, Orthodoxy,'" *Tradition: A Journal of Orthodox Jewish Thought* 56, no. 2 (Spring 2024): 85-115. For a recent article that uses the term "Yeshivah World" to refer to this community, see Zev Eleff and Menachem Butler, "Papering over an Era of American Orthodox Pragmatism: The Case of College," in Zev Eleff and Shaul Seidler-Feller, eds., *Emet le-Ya'akov: Facing the Truths of History—Essays in Honor of Jacob J. Schacter* (Boston: Academic Studies Press, 2023), 298-318.
For the purposes of this essay, the term "non-Zionist Orthodox" is particularly suitable. This designation underscores the group's specific ideological stance on Zionism, setting them apart from Modern Orthodox Jews, who typically support the state of Israel, and from other Haredi factions, which may hold diverse views on Zionism.

[2] See "A Letter from the Moetzes Gedolei HaTorah: 'This is the Decree of the Torah,'" July 9, 2024, https://agudah.org/a-letter-from-the-moetzes-gedolei-hatorah-4.

[3] "Non-Zionist Orthodox" precisely captures the unique theological and philosophical outlook of this community. It acknowledges their strict adherence to Torah observance

young men into the army, without a comprehensive analysis of the halakhic issues involved. This essay is designed to fill that gap and analyze the halakhic appropriateness in calling for such a fast.

As a halakhic analysis, this essay intentionally refrains from addressing the political, ethical, sociological, and security-related considerations underlying the decision to fast. It is crucial to recognize that one could concur with the leaders on those underlying factors yet still disagree on the halakhic appropriateness of a fast. Conversely, one might argue that a fast is theoretically permissible according to Halakhah while philosophically opposing the leaders' underlying positions. These broader issues are significant and warrant discussion, but they should not overshadow a serious halakhic analysis of this question within Jewish law.

We also note at the introduction the sentiments of a far greater sage who, as part of a different disagreement about a halakhic matter in the contemporary non-Zionist Orthodox world, noted: "Though I don't often write about topics related to practical Halakhah, this time I step outside my fence, because it is a public matter and a risk that others will learn from this established precedent, and as a result make an error in the future."[4] It is imperative that Jews conduct serious discussion of halakhic topics, instead of

while highlighting their rejection of Zionist ideology, a stance that significantly influences their religious and social practices. Importantly, we choose not to use the term "anti-Zionist Orthodox" because it suggests a more active opposition to Zionism, which may not accurately reflect the stance of all individuals within this group. "Non-Zionist" is a broader term that includes those who do not actively oppose Zionism but simply do not support it, allowing for a more inclusive and accurate representation. This term, therefore, allows for a more nuanced and precise exploration of the ideological and religious dimensions that define this community, especially in the context of their response to contemporary issues and events.
For Agudath Israel's recent articulation of their position on contemporary Zionism, see their "Statement of Agudath Israel on Charedi Principles," issued on October 28, 2020, available online here (https://agudah.org/statement-of-agudath-israel-on-charedi-principles). This statement, along with the "Postscript: What The Statement Means… And Doesn't," reiterates Agudath Israel of America's longstanding theological stance on Zionism. Interestingly, their postscript includes the following caveat: "Nor does it mean that we will in any way change our support for Israel's needs. Agudath Israel of America has always advocated in the halls of government for Israel's security and economic needs and general welfare, and will always do so." This caveat is particularly noteworthy as it highlights the organization's nuanced approach—distinguishing between their non-Zionist theological stance and their pragmatic support for the state of Israel.

[4] Rabbi Yitzchok Lichtenstein, Rosh Yeshiva of Mesivta Torah Vodaath, addressed this issue in his "Letter to Rabbi Simcha Bunim Cohen," dated June 5, 2023.
The context of this letter is a keynote address at the annual Adirei HaTorah gathering in 2023, given by a great sage who at the time was in the middle of *shivah*. The leaders of the Adirei HaTorah movement received a halakhic responsum from Rabbi Simcha Bunim Cohen, justifying the attendance. The responsum argued that his appearance at the event would fall under the halakhic category of communal need, believing that the success of the event might be compromised by his absence. It was in response to this episode that Rabbi Yitzchok Lichtenstein issued his public letter. See Yair Hoffman, "The Adirei Torah Gathering and the Aveilus Heter: An Analysis of the Controversy," *VIN News,* June 12, 2023. The underlying conceptual argument is discussed in Rabbi Joseph B. Soloveitchik, *Shiurei Ha-Rav Al Inyanei Aveilut ve-Tisha B-Av*, ed. Eliakim Koenigsberg (Jerusalem: Mesorah Commission of the Union of Orthodox Congregations of America, 1999), 71.

assuming that "what's done is done," thereby missing the opportunity to learn valuable lessons from past disagreements in religious law.

I. Fasting on Friday

The two major Ashkenazi halakhic works of a century ago, *Mishnah Berurah* (*O.H.* 249:18) and *Arukh Ha-Shulhan* (*O.H.* 249:9), both rule that, absent any unusual or exceptional factors, Jews should not fast on Friday. This ruling is based on the interpretations of several earlier *aharonim* (*O.H.* 249) and ultimately based on *Tosefta Taanit* 2:7 and the final sections of *Megillat Taanit*. There are multiple reasons for this prohibition. First, fasting on Friday interferes with Shabbat preparations, thereby compromising the honor due to Shabbat (*kevod Shabbat*, see *Tur O.H.* 686). Second, a Friday fast inevitably extends into the start of Shabbat, causing some measure of discomfort and diminishing the joy and pleasure that should be experienced on Shabbat (*oneg Shabbat*, see *Bach, O.H.* 686). Halakhically, it is thus clear that, barring any significant countervailing considerations, no fast should be observed on a Friday. If a fast is necessary, it should be postponed to a different day to preserve the sanctity and enjoyment of Shabbat.[5]

The leaders of these institutions appear to be aware of this concern and address it tangentially in two ways. First, they note that there is halakhic precedent for fasting on the Friday before *parashat Hukat*, which was read on July 13, 2024, as this was the occasion when the Talmud was burnt in 1242.[6] Although this is not explicitly stated, the underlying argument seems to be that even if fasting on Friday is generally prohibited, the day before *parashat Hukat* constitutes an exception to this rule.[7]

Their second argument, again implicit, is that the issue of fasting on Friday can be mitigated

[5] One does fast on the 10th of Tevet even when it coincides with Friday, as this fast is specifically tied to the date and cannot be moved. For more on this topic, see Yaakov Jaffe, "Should the Davening of the Tenth of Tevet Take Sides in a Talmudic Debate?" *The Lehrhaus* (December 25, 2020), available here (https://thelehrhaus.com/timely-thoughts/should-the-davening-of-the-tenth-of-tevet-take-sides-in-a-talmudic-debate). The 10th of Tevet remains unique, irrespective of whether one accepts the striking view of Abudraham; see Yaakov Jaffe's letter to the editor, "The Lunar Calendar," *Hakirah: The Flatbush Journal of Jewish Law and Thought* 26 (Spring 2019): 11.

[6] *Magen Avraham* 580:9; cited also by *Mishnah Berurah* and *Arukh Ha-Shulhan*, ad loc.

[7] For further discussion of the fast of the Friday before *Hukat*, see Reuven Schwartz, *Sefer Gezeirat Oraita: Studies and Explanations on the Fast of Erev Shabbat Parashat Hukat* [in Hebrew] (New York: 2020), available online here (https://hebrewbooks.org/64371). For academic sources, not explicitly cited in the above book, about the events leading to the tragic burning of 24 cartloads of Talmudic manuscripts and commentaries in France in 1242 on the Friday of *parashat Hukat*, see Allan Temko, "The Burning of the Talmud in Paris," in Alan Corré, ed., *Understanding the Talmud* (New York: Ktav Publishing House, 1975), 124-140; Jeremy Cohen, "Judaism as Heresy: Thirteenth-Century Churchmen and the Talmud," in *Living Letters of the Law: Ideas of the Jew in Medieval Christianity* (Berkeley: University of California Press, 1999), 317-363; Paul Lawrence Rose, "When was the Talmud Burnt at Paris? A Critical Examination of the Christian and Jewish Sources and A New Dating: June 1241," *Journal of Jewish Studies* 62, no. 2 (Autumn 2011): 324-339; and Judah D. Galinsky, "The Different Hebrew Versions of the 'Talmud Trial' of 1240 in Paris," in Elisheva Carlebach and Jacob J. Schacter, eds., *New Perspectives on Jewish-Christian Relations: In Honor of David Berger* (Leiden: Brill, 2012), 109-140.

through the adoption of a partial fast. They state, "We add that since this day is designated by *halachic* authorities for fasting by select individuals, those who wish to accept a partial fast, as explained in *Shulchan Aruch siman* 562, will be blessed, and the merit of the many depends on them."[8] This implies that by observing a partial fast, which is less likely to interfere with Shabbat preparations and observance, individuals can still fulfill the intended spiritual goals of the fast without contravening halakhic principles regarding fasting on Friday.

It is indeed the case that *Shulhan Arukh* (*O.H.* 562:10) describes the scenarios for proclaiming a partial fast. According to *Shulhan Arukh*, based on *Taanit* 12a, a partial fast can occur in several situations: (a) an individual who unintentionally fasted for a portion of the day and then resolves to fast for the remainder of the day, (b) an individual who initially accepted to fast only for the morning and then decides to complete the fast later in the day, or (c) an individual who resolves to fast for the second half of the day and subsequently decides to extend the fast back to the beginning of the day.[9]

Yet, none of these scenarios effectively address the issue of fasting on Friday, which transitions into Shabbat, as they all involve abstaining from food for the entire day in practice, even if the status of the fast is a "partial fast." The concept of a "partial fast" in these contexts indicates that the formal declaration of the fast was for only part of the day, even though the individual refrained from eating throughout the entire day. This raises a critical question: What is the practical value of instructing the community to observe a partial fast instead of a full-day fast if the actual experience—fasting for the entire day—remains unchanged? It is possible that the leaders were alluding to *Shulhan Arukh, Orah Hayyim* 562:11, which discusses a situation where an individual refrains from eating for a few hours. In that case, the status of an official "fast" is not achieved, but rather an oath to abstain from food is made. This scenario suggests a more flexible approach, where the formalities of a fast day are not fully in place, yet the spiritual intent is maintained. Alternatively, they might have been considering *Shulhan Arukh, Orah Hayyim* 562:3, which describes a fast that is observed for the whole day but ends shortly before nightfall if *maariv* is concluded beforehand. This situation allows for the observance of a halakhically acceptable fast without extending it as much into Shabbat, thus preserving some measure of Shabbat preparation and enjoyment. The short letter fails to clarify what "partial fast" they had in mind and how this might solve the problem of fasting on Friday.

The same aforementioned group of heads of institutions proclaimed a similar partial-day fast in response to the coronavirus pandemic.[10] At that

[8] All references to the letter pertain to the authorized English translation presented alongside the original Hebrew text. It is acknowledged that there are nuanced differences between the two versions.

[9] For further discussion of this partial fast, see Rabbi Joseph B. Soloveitchik, *Shiurim Le-Zekher Abba Mari Z"l*, vol. 1 [in Hebrew] (Jerusalem: Mossad Ha-Rav Kook, 2002), 85-86.

[10] See "Moetzes Gedolei HaTorah Issues Proclamation in Response to COVID-19 Pandemic: 'An Urgent Call From The

time, many questioned their application of the concept of a partial-day fast for similar reasons. The body's recent ruling is consistent with their prior decision, yet it remains unexplained in both proclamations. This lack of clarity continues to leave the community uncertain about the precise halakhic basis and practical implications of such a fast.

II. Fasting on the Occasion of Intra-Jewish Conflict

The third chapter of *Taanit* and the second chapter of Rambam's Laws of Fasts in his *Mishneh Torah* consist of a detailed roster of occasions under which it is appropriate to proclaim a public fast. A superficial reading of the list might give the impression that one can call a fast in response to any precipitant, and that the reasons given in the halakhic literature are just a non-exhaustive list of *examples* when fasting is permitted, and not a comprehensive ruling for when fasting is appropriate. However, a closer look demonstrates that the reasons for fasting do appear to be exhaustive. In addition to providing occasions for when we might fast, a series of occasions are also identified under which one should *not* proclaim a fast, such as a serious plague with a death rate of fewer than three people dying per 500 residents per day (*Taanit* 21b; Rambam, *Mishneh Torah*, Laws of Fasts 2:5). If so, any occasion not on the list of reasons *to* fast should be considered a reason not to fast. Disagreement among Jews does not appear on either list, so it is hard to tell whether or not it is considered valid grounds to fast.

The new fast of July 12 was focused on conflict between Jews, and thus there is room to question proclaiming a fast for this reason. The immediate cause for the new fast was the contentious issue of the draft exemption for some Jews living in Israel which was the major issue in July; this issue is mentioned numerous times in the letter. The fast was not intended to address the ongoing war in Israel; the war had been ongoing since October, and there were many opportunities for fasting for the sake of the war long before mid-July.[11]

One might argue that any disagreement among Jews is intended to be resolved directly between the parties involved, making the act of fasting to appeal to the Almighty inappropriate. The Torah provides numerous tools and methods for Jews to resolve their conflicts directly.[12] Therefore, instead of fasting to seek divine intervention to alleviate present tensions, Jews are perhaps

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Moetzes Gedolei HaTorah,'" March 18, 2020. The proclamation, which also called for a "*ta'anis sha'os*" (a partial fast), was explicit that the fast would last until halakhic noon. It is available here (https://agudah.org/moetzes-gedolei-hatorah-issues-proclamation-in-response-to-covid-19-pandemic).

[11] The members of the Moetzes Gedolei HaTorah authored a public letter on the 17th of Kislev 5784 (November 30, 2023), available here (https://agudah.org/statement-of-the-moetzes-gedolei-hatorah-of-america), about the war in general. The letter focused on Torah study, prayer, and modesty as the appropriate responses to improve the safety of Israel but did not call for a fast. The level of risk to the state of Israel was far greater in November 2023 than it was in July 2024.

[12] See Leviticus 19:16-18 and 19:32-34, and *Tanhuma Mishpatim* 2, to give but a few examples.

intended to engage in dialogue and utilize these Torah-prescribed mechanisms to address and resolve their disagreements.

The proclamation of the heads of institutions gives two possible justifications for this fast, although again the argument is implicit. The first is by again appealing to the precedent of fasting on the Friday before *parashat Hukat*. Thus, even if intra-Jewish conflict is normally not grounds to fast, the group in this case is not proclaiming a new fast, so much as it is encouraging Jews to participate in a pre-existing optional fast: "Moreover, decrees are being issued against young children learning Torah, both in Eretz Yisroel and in the Diaspora. All of this is reminiscent of the [difficult situation][13] of burning the Torah."

The comparison is not exactly apt. Even fasting for the burning of the Talmud is questionable, as the Talmud notes that the appropriate response to the Torah being burnt is tearing one's clothing, not fasting.[14] Extending this law from the burning of the Torah to the Talmud is also significant expansion.[15] Third, equating a decree to enter the army in Israel (or to study secular subjects in the United States) with the decree to fast for the burning of the Talmud is a third, even more substantial extension. Finally, the fast of the Friday before *parashat Hukat* is a fast of mourning for the *past* event of Torah loss, while the fast of July 12 is a fast of entreaty to prevent *future* Torah loss. Though the comparison is incomplete, it provides one avenue to justify the idea of fasting: the fast is not because of the conflict; the fast is because of the anticipated Torah loss.

The proclamation letter also implicitly argues that the usual methods for resolving intra-Jewish conflict are not applicable in this situation:

> Policy-makers, with malicious intent, aim to disrupt the sanctity of Torah scholars, requiring the students of our holy *yeshivos* to abandon their study benches in the *beis medrash* and enlist in the military. They scheme with various tricks, and their hand is still outstretched, poised to persist.

According to this perspective, there is no possibility of working toward consensus or understanding with the policymakers because they are acting out of "malicious intent." Their position is not honest because "they scheme with various tricks." Essentially, this approach otherizes the antagonists within the community in Israel. The challenge is not seen as intra-Jewish; it is framed as a conflict between the "students of our holy *yeshivos*" and evil characters whose

[13] The English translation has "decree," but the word "*tzarah*" is best translated as calamity or a difficult, distressing situation. Indeed, the mourning of the burning of the Talmud was for the actual event and not just a decree about the burning.

[14] See *Shabbat* 105b.

[15] See *Pithei Teshuvah, Y.D.* 340:21 and the discussion in Rabbi Joseph B. Soloveitchik's *Shiurei Ha-Rav Al Inyanei Aveilut ve-Tisha B-A*v, ed. Eliakim Koenigsberg (Jerusalem: Mesorah Commission of the Union of Orthodox Congregations of America, 1999), 98-99.

focus is to do harm. Later in the letter, the term "wickedness" is used to describe these antagonists, further emphasizing their perceived malevolence. The Halakhah is clear that when the "enemies of the Jewish people" make a decree to destroy the Jewish people, fasting is the correct response (Rambam, *Mishneh Torah*, Laws of Fasts 2:3), and therefore, fasting could be justified on July 12.

The Orthodox Union recommended members of their community to participate in the fast day on July 12,[16] prescribing the exact same list of Psalms to be recited on July 12: Psalms 13, 79, 80, 121, 130, and 142. At the same time, the Orthodox Union took more conciliatory action toward the different sides in Israel, arguing:

> Neither side may cavalierly dismiss the concerns of the other. Many—though certainly not all—of the leaders and decision makers on both sides, including *Gedolei Yisrael* and army leaders, are working diligently to find ways to include haredim in the material efforts for Israel's defense in a manner that respects and preserves their haredi way of life and that does not force enlistment of those who are *Toraso Umnaso*, full-time yeshiva students. Both sides understand that this issue can no longer be kicked down the road and that they must acknowledge the problems and work together quietly and productively to address them.

Perhaps for that reason, the Orthodox Union was softer about actually *proclaiming* a fast, as fasts are limited to external threats and not to internal conflicts, saying instead:

> This Friday, while some of us fast, let all of us join together in our communities, in our shuls and *batei medrash*, in our schools, camps, and vacation places, to awaken Divine mercy by publicly reciting Tehillim 13, 79, 80, 121, 130 and 142, and by expressing our love, care, and appreciation for each other, for those serving in government, for the hostages and their families, for the soldiers of Tzahal who are fighting to protect us, for the *Gedolei Yisrael*, and for all those supporting and engaging in the Torah study and practice vital to our present and future.

In the aforementioned proclamation during the coronavirus pandemic, the leaders of these institutions called for a fast in response to the plague. This decision, as many pointed out at the

[16] Rabbi Moshe Hauer, "This Erev Shabbos: Am Yisrael's Response to Crisis," Orthodox Union, July 10, 2024, https://www.ou.org/this-erev-shabbos-am-yisraels-response-to-crisis.

time, does not align with the conventional reasons for fasting.[17] Once again, the position of this group remains consistent over the span of half a decade in expanding the roster of reasons to fasts, yet it lacks a full explanation in both contexts of what the grounds are for when fasting is appropriate under the conclusions of Jewish Law.

III. Can One Pray to Be Exempt from a Mitzvah?

The third halakhic concern is the most sensitive and nuanced, resting upon three primary assumptions. While one could contest either assumption and thereby diffuse the halakhic issue, we believe these assumptions are well founded, resulting in a significant halakhic dilemma.

The first assumption is that serving in the Israeli army constitutes the performance of a biblical mitzvah. Saving the life of another Jew, which the army clearly engages in, fulfills multiple biblical obligations.[18] While it may not be required for every Jew to save the life of every other Jew at every moment, it undeniably constitutes the fulfillment of the mitzvah. Moreover, the current work of the Israel Defense Forces (IDF) is likely classified as a *milhemet mitzvah*,[19] further solidifying it as a mitzvah.[20]

The second assumption is that those advocating for the exemption of Haredim from the draft, a topic referenced explicitly and implicitly in the letters, are employing the halakhic technique of a *petur* (exemption). This technique involves using extraneous factors to exempt an individual from an obligation, instead of arguing that the mitzvah does not exist. We will refrain from speculating on the specific nature of the *petur* being invoked. Possible exemptions could include: an extension of the biblical exemption from optional war of "one who is fearful and fainthearted,"[21] an extension of an exemption granted to those who

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[17] The death rate during the pandemic never reached as high as 0.6% of the population dying within three consecutive days.

[18] *Sanhedrin* 73a and *Shulhan Arukh, Hoshen Mishpat* 426.

[19] See Rambam's *Mishneh Torah*, Laws of Kings and Wars 5:1, which is based on *Sotah* 44b and differentiates between various types of wars: offensive wars (*milhemet reshut*), the initial conquest of Israel (which is obligatory), and preemptive strikes (which are subject to debate). Defensive wars are not explicitly mentioned, but Rambam holds that they are obligatory, as they are neither offensive nor preemptive. The *Yerushalmi* (*Sotah* 8:10:5) states that, according to the view of Rabbi Yehudah, defensive wars are obligatory.
See the sources quoted in Aviad Hacohen, "Neither Seen nor Found: Why is the 'Mi Sheberach' Prayer for IDF Soldiers Absent in the Lithuanian Haredi Community," in Aviad Hacohen and Menachem Butler, eds., *Praying for the Defenders of Our Destiny: The Mi Sheberach for IDF Soldiers* (Cambridge, MA: The Institute for Jewish Research and Publications, 2023), 265-318, esp. 295n10, available here (https://www.academia.edu/111273931); and most recently, Rabbi Yaakov Ariel, "The War of Shemini Atzeret: Is the War of Shemini Atzeret a Milhemet Mitzvah?" in *Yadav Emunah: War of Israel's Salvation from the Enemy* [in Hebrew] (Beit El: The Association of Hesder Yeshivot, 2024), 171-183.

[20] See also *Sefer Ha-Hinukh* no. 425, which localizes the obligation of the law on each individual Jew and not just the leadership and government, though others disagree.

[21] Those individuals might still be obligated to provide logistical support; see *Sotah* 44a.

exclusively engage in Torah study (*torato umnato*),[22] the principle of "*osek be-mitzvah patur min ha-mitzvah*" (one who is engaged in a mitzvah is exempt from another mitzvah),[23] or an exemption based on the argument that the religious risks of performing this mitzvah outweigh its rewards. While the exact type of exemption remains unspecified, it is clear that some form of *petur* is being applied.[24]

The third assumption is that these groups are praying to G-d to maintain the current realities that allow for the exemption from the mitzvah of military service. Their prayer is not aimed at altering the army to make it more accommodating for the eventual enlisting of those currently exempt, nor is it a prayer to end all war, thus eliminating the need for an army. Instead, their prayer seeks to preserve the conditions that enable the students to continue utilizing their exemption from military service.

May one pray to be exempted from a mitzvah? This question is addressed in *Taanit* 2a. The Talmudic discussion centers on the case of rain during Sukkot, which provides an exemption from the obligation to sit in the *sukkah*. Despite this exemption, rain during Sukkot also offers significant practical benefits, such as providing water for drinking and sustaining agricultural productivity. The timing of Sukkot, especially in years when it falls in late October according to the agricultural calendar, presents a unique context. However, even when Sukkot occurs after the customary agricultural period for initiating prayers for rain, the liturgy does not include a prayer for rain during the festival itself. The underlying rationale, as derived from Talmudic principles, is that one should not pray to God to alter natural circumstances merely to gain exemption from a mitzvah. This notion emphasizes a fundamental Jewish ethical and theological principle: the observance of *mitzvot* should be pursued with dedication, without seeking to circumvent obligations through changes in divine providence. Thus, praying for rain during Sukkot, with the intention of avoiding the mitzvah of dwelling in the *sukkah*, is considered inappropriate. This perspective reflects a broader commitment to engaging with *mitzvot* fully and sincerely, accepting the associated challenges and responsibilities.

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[22] *Shabbat* 11a exempts such individuals from prayer, and Rif (*Berakhot* 4a) permits such individuals to study Torah during Torah reading. *Iggerot Moshe* (*O.H.* 2:27) is reluctant to apply this rule today, explicitly weighing whether it applies to those studying in the Yeshiva in Lakewood.

[23] The term *osek be-mitzvah she-patur min ha-mitzvah* is used in *Sotah* 44b and elsewhere to indicate that one who is engaged in a mitzvah is exempt from other *mitzvot*. According to Rabbi Yehudah in the Mishnah in *Sotah*, anyone engaged in any type of war is participating in a mitzvah and is therefore exempt from other *mitzvot*, such as Torah study. The argument in the current context would be the reverse: just as one engaged in a required war is exempt from Torah study, so too one engaged in Torah study should be exempt from military service. Although this specific argument does not appear in the Gemara, it follows the same logic of prioritizing one mitzvah over another based on the circumstances.

[24] It is noteworthy that *Keren Orah* on *Sotah* 44b explicitly states that although Torah scholars are exempt from certain types of wars, they are required to participate in wars of self-defense, and the exemption of engaging in Torah study does not apply to these types of wars.

In view of this parallel, there is a strong halakhic argument against fasting or praying to specifically maintain an exemption from this mitzvah.

IV. Conclusion

This short presentation has attempted to be neutral to the question of whether all Israeli Jews should be drafted to the army or not. It has focused exclusively on the laws of fasting in Jewish law, in an effort to stimulate further conversation, and perhaps has offered an explanatory response to clarify the circumstances for when Jews participate in public fasts. Serving as the topic of an entire tractate of the Talmud, fasting is an important part of the repertoire of the religious Jew, and it is proper to have serious, deep discussion about when it is appropriate and when it is not. In the merit of the study of these laws, may the Jewish people never again be faced with the circumstances for when fasting is required or even recommended.

HA-KALIR'S KINOT – POETRY AND THEOLOGICAL NARRATIVE

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One of the transformative practices of R. Yosef Dov Soloveitchik was his annual study and explanation of *kinot* on Tishah Be-Av at the Maimonides shul in Boston during the 1970s and early 1980s. Beginning in the morning, he would deliver a thematic *shiur* followed by a recitation of the *kinot* with in-depth explanations, which lasted through *minhah* in the late afternoon. This was a significant departure from the regnant practice in most shuls in which the congregation mumbled through the extensive collection of elegies with a rare interruption of an explanation, a mournful tune, or a discussion of which ones to skip.[1] R. Soloveitchik's practice was copied and adapted by many, notably R. Jacob J. Schacter, primarily during his tenure as Rabbi at The Jewish Center in NYC, but afterward as well in a variety of other venues. In recent years, many organizations offer *shiurim* broadcast via the internet throughout the day.

The relative neglect of the study of *kinot* amongst the masses is likely the result of multiple factors. For sure, the fact that their Hebrew and poetic construction is difficult renders them fairly inaccessible. Compounding that is that they are recited only once during the year, and usually fairly quickly at that, not leaving much opportunity for reflection.[2] Even more, as will be discussed below, the *kinot* often assume intimate familiarity with Eikhah as well as with a broad swath of *midrashim* referenced throughout. Finally, the *kinot* themselves were often looked upon with a pariah status. These were, after all,

[1] One of the exceptions was the practice in some Orthodox summer camps to have inspirational sermons related to the *kinot* interspersed with the recitation.

[2] In those ways they are similar to the *piyyutim* about the *avodah* recited on Yom Ha-Kippurim. The *avodah*, however, is more accessible than the *kinot,* as it based on the text in Vayikra 16 and the *mishnayot* in Yoma, not on more obscure *midrashim*.

the prayers of destruction and mourning. Why would anyone want to invest in studying them when they would, please God, become irrelevant in the near future with the arrival of the Messiah? R. Soloveitchik repeatedly noted that *kinot* were traditionally printed without covers and on cheap paper, and rather than being saved after Tishah Be-Av, were put into the *genizah* from which they would be pulled out, if necessary, in the following year.

In light of that, Rabbi Abraham Rosenfeld's volume, *The Authorised Kinot for the Ninth of Av*,[3] was revolutionary. His translation and commentary made the *kinot* accessible to the English-speaking masses. People could understand, and not merely recite, what they were reading. The fact that it was published as a hardcover book was no less revolutionary, as it changed the way people related to the entire collection.[4]

Still, the *kinot* are difficult to understand. Below, I'll explore how the poetry of the *kinot*, particularly those by the master *paytan* R. Elazar Ha-Kalir, make them challenging to unpack. Then, I'll show that if one takes a step back from the poetry, the *kinot* composed by Ha-Kalir, when read in sequence, suggest a theological narrative of the mourning on Tishah Be-Av that helps provide greater meaning.

***Kinot* as Poetry**

One reason the *kinot* are unintelligible to many is because they are often written as *midrashim* to biblical texts, primarily, but not exclusively, to Eikhah itself. Without knowledge of the original text, it is difficult to follow or appreciate the *kinot.* Below are two examples of the midrashic nature of *kinot* and their intricate poetry.

Many of the *kinot* open with the word *eikhah* and follow an alef-bet structure for their twenty-two stanzas (corresponding to the twenty-two letters in the alef-bet), and are built on the structure of the first four of the five chapters of the book of Eikhah. The first example of this focuses on the *kinah* beginning with *Eikhah ashpato patu'ah ke-kever,*[5] which takes this patterning to an extreme. Each stanza consists of four lines, the first three of which have a double alef-bet, yielding a total of six alef-bet patterns. Each of those six

[3] Rosenfeld's volume was first published in 1965 by I. Labworth and Co. (London). A later edition was published by Judaica Press (NY) in 1979, with the omission of Rosenfeld's suggestion for an alternate text of the *Naheim* prayer, which focuses not on Zion sitting forlorn but on mourning those who died to defend it. The controversy over amending *Naheim* is fascinating, but beyond the scope of this article.

[4] Rosenfeld was preceded by Philip Birnbaum, who published a Hebrew-English edition of the service for Tishah Be-Av evening in 1949 (Hebrew Publishing Co, NY). But Birnbaum's edition included only the nighttime *kinot* and, like the traditional *kinot*, was a booklet, not a hardcover book. R. Soloveitchik found the hard-cover, graphically appealing edition of the *kinot* to be offensive to the spirit of Tishah Be-Av. Ironically, his own explanations of the *kinot* were later published as a hard-cover volume as *The Koren Mesorat HaRav Kinot* (Orthodox Union and Koren: Jerusalem, 2010), ed. Simon Posner. Other hard-cover editions with English translations are published by Artscroll and Feldheim.

[5] P. 113 (*kinah* 18) in the Rosenfeld edition. Rabbi Dr. Jacob J. Schacter noted that R. Soloveitchik always skipped this *kinah*.

corresponds to one of the six alef-bet structures in the book of Eikhah – one in the first chapter, one in the second, three in the third, and one in the fourth. In fact, each of the words in the *kinah* beginning with the representative letter of the alef-bet is actually the same word which appears in the corresponding line in Eikhah. This means that the first alef word of the first line in the *kinah* is identical to the first word of the first line of the first chapter in Eikhah (the word *eikhah*), the second alef word is identical to the first word of the first line of the second chapter of Eikhah (also *eikhah*), and so on. This continues for each of the letters, so that this entire *kinah* is interwoven with every single verse of Eikhah. The fourth line of each stanza opens with the first word of the corresponding verse in the fifth chapter of Eikhah, which also has twenty-two verses but is not structured on the alef-bet, so that, for example, the first word of the fourth line of the third stanza of the *kinah*, *yetomim*, is the same as the first word of the third verse in chapter five.

The second example is considerably different. The *kinah* opening with *Eikhah tifarti mei-rashotai hishlikhu*[6] also has twenty-two stanzas and follows the alef-bet structure, but it is built on the second chapter of Eikhah. In addition, while the first word of each stanza follows the alef-bet, the second word follows a reversed alef-bet, starting with tav and working its way back to alef, so that the combination of the first two words in each stanza form an *at-bash* pattern. The content of the *kinah* links it directly to Vayikra 26, which includes both the blessings for following God's word and the curses that come from disobedience (the *tokhahah*). The twenty-two stanzas of this *kinah* are divided into two distinct halves easily split by a pattern generated by the *at-bash* structure. The first pair of letters are numbers 1 and 22, the second pair are numbers 2 and 21, in which the leading letter is from the first half of the alef-bet and is followed by a letter from the second half of the alef-bet. Exactly halfway through, there is a natural switch, in which the leading letter is from the second half of the alef-bet and is followed by the letter from the first half. Thus, this first half of the *kinah* closes with the stanza whose letters are kaf (#11) and lamed (#12), while the second half of the *kinah* begins with a stanza whose letters are lamed (#12) followed by kaf (#11). In an extraordinary display of the interplay between content and structure, the content of the first half of the *kinah* focuses on the section of Vayikra 26 which contains the blessings, while the content of the second half, in which the alef-bet structure seems to be "led" by its second half, focuses on the section containing the curses.

***Kinot* as Theological Narrative**

The intricate poetic artistry displayed in both of these *kinot* is obviously lost in any translation. What they have in common is that they are both the product of the great *paytan*, R. Elazar Ha-Kalir. Ha-Kalir authored many, but not all, of the *kinot*. The standard printed editions of the *kinot* interweave non-Ha-Kalir *kinot* with those written by Ha-Kalir, resulting in the sense that the *kinot*

[6] P. 96 (*kinah* 11) in the Rosenfeld edition.

are a collection of poems and elegies written over the course of time and compiled in some random order – which is an additional factor that causes difficulty in trying to understand the *kinot.*[7] But when we separate the layers of the *kinot* and leave the ones written by Ha-Kalir, what emerges is not a collection of poems but a thematic story, with a progressive development of the ebb and flow of Ha-Kalir's grappling with the *hurban*.

That struggle begins, as does Eikhah*,* with denial and anger. The speaker is overwhelmed by the questions of how God could have done this—or allowed this to happen—to His people, to his Temple, to His city. It includes expressions of disbelief, graphic descriptions of desolation and suffering, accusations of betrayal and violation of the covenant, and challenges for God to act. The tone shifts at some point to self-reflection, acceptance of responsibility, acknowledgment of guilt, and remorse. Toward the end there is one final shift to God's consolation. It is these shifts and the flow of Ha-Kalir's *kinot* in the order printed which we will explore.

Many of the *kinot* have an extra closing stanza signature in which Ha-Kalir signs his name in an acrostic. That signature line provides two additional components – sometimes it serves as the introduction to the next *kinah* and sometimes it serves to capture the themed idea. Both of those components are designed to establish the unity of the collection, either literarily or thematically.[8] In the second-from-the-left column of the chart below are the closing lines of the Ha-Kalir *kinot*; the numbers in parentheses are the page numbers in the Rosenfeld edition. In the right column is its function in the overall arrangement of Ha-Kalir's *kinot*. Note – the shading of the sections reflects the three major sections within the collection and the shift that takes place.

[7] The absence of continuity in the book is exacerbated by the common practice to skip certain *kinot*.

[8] My thesis is based on the assumption that the order of the *kinot* in our printed editions is the same as Ha-Kalir's initial intent and that the bridges between the *kinot* are original. Daniel Goldschmidt, in *The Order of Kinot for Tishah Be-Av* (Jerusalem: Mossad Harav Kook, 1972), makes the same assumption about the bridges. Others question whether those connecting paragraphs are original and whether the order we have reflects Ha-Kalir's work or the work of an editor. See Tzvi Novick's piece at https://thelehrhaus.com/timely-thoughts/i-would-soar-to-the-sphere-of-heaven-aleph-and-i-in-a-tishah-be-av-lament/, particularly n. 5.

Kinah	The closing line	Literary function	Thematic function
Shavat, suru (#8, p. 91)	Remember, O God, what has befallen us (92)	Linking to the last chapter in Eikhah (the closing line is identical to the closing of Eikhah 5) Introducing the refrain of the following *kinah* (*Zekhor Adonai meh hayah lanu*)	How could You have done this to me?
Eikhah atzta (#9, p. 93)	I wish I could soar up to the vault of heaven (94)	Introducing the opening line of the following *kinah* (*A'adeh ad hug shamayim*)	How could You have done this to me?
A'adeh ad hug shamayim (#10, p. 94)	O, how they have cast my glory down from my head (95)	Introducing the opening line of the following *kinah* (*Eikhah tifarti*)	How could You have done this to me?
Eikhah tifarti (#11, p. 96)	How lonely does the rose of Sharon sit (98)	Introducing the opening line of the following *kinah* (*Eikhah yashevah*)	How could You have done this to me?
Eikhah yashevah (#12, p. 99)	Entertain at Your table the remnant of the priests of Hamat-ariah (101)		How could You have done this to me?
Eikhah eli (#13, p. 102)	My tent is forsaken (103)	Introducing the framework of the following *kinah* (*Aholi*)	How could You have done this to me?
Aholi (#14, p. 104)	How His anger brought darkness (105)	Introducing the opening line of the following *kinah* (*Eikhah*)	How could You have done this to me?
Eikhah et asher (#15, p. 105)	Where is the promise of *ko* (108)	Introducing the framework of the following *kinah* (*Ei ko*)	Where is Your promise?
Ei ko (#16, p. 109)	Until when will the enemy disgrace me (110)	Introducing the opening line of the following *kinah* (*Tzar*)	Where is Your promise?
Zekhor (#17, p. 111)	Awake, why do You sleep? (112)	Introducing the theme of the next *kinah* (*Eikhah ashpato*)	Where is Your promise?

Eikhah ashpato (#18, p. 113)	Restore us and teach us these statutes (120)	Introducing the theme of the next *kinah* (linking the theme of parents devouring their children with violation of God's *hukim* – see Lev. 26:29 and 26:46)	Please, return us.
Im tokhalnah (#19, p. 120)	They do not proclaim their sin of slaughtering a *kohen* and a *navi* in God's sanctuary (121)	Contrasting God's response to Israel's accusations with the theme of the next *kinah*, Israel's complaints against God's non-fulfillment of the covenant	God's rejection of Israel's claims and pleas
Atah amarta (#20, p. 122)	All this has come because of our guilt (122)	Introducing the theme of the next *kinah* (Israel's first acknowledgement of their own wrongdoing)	Israel's first acknowledgement of their own wrongdoing
Lekha Adonai ha-tzedakah (#21, p. 123)	Incline Your ear, my God, and hear (124)	Introducing the framework and theme of the next *kinah* (Israel's confession)	Israel's acknowledgement of wrongdoing
Hatei Elohai oznekha (#22, p. 124)	Bring Your face to shine upon Your desolate Temple (125)	Introducing the theme of the next *kinah* of Ha-Kalir (on 130), [9] (the destroyed Temple)	Israel's mourning the Temple
Al horban Beit ha-Mikdash (#26, p. 130)	I have forsaken My house and deserted My inheritance (132)	Introducing the theme of the next *kinah* of Ha-Kalir (on 135), [10] (God's acknowledgment of the disaster He wrought)	God's mourning the Temple

[9] Three medieval *kinot* are inserted here. The first (#23) is one of the versions of the story of the ten martyrs, the second (#24) relates to the Crusades, and the third (#25) recounts the story of the children of R. Yishmael the *kohen gadol*.

[10] A medieval *kinah* (#27) relating to the Crusades is inserted here.

Az ba-halokh Yirmiyahu (#28, p. 135)	I will bring your children back from exile (136)	Introducing the theme of the next *kinah* (God comforts Israel)	God's decision to comfort Israel
Az bi-mlot seifek (#29, p. 136)	The appointed time has come (137)	Introducing the theme of the next *kinah* (God comforts Israel)	God comforts Israel
Eikh tenahamuni (#30, p. 137)	And then I will be comforted (139)		Israel is comforted

The literary links bind one *kinah* to the next, sometimes with a single opening word, other times with a refrain, and eventually with a broad theme. The thematic links tell a story. It begins with Israel's cries, usually pointing a finger of blame at God. Although audacious, it follows the theme of the opening chapters of Eikhah itself, which challenges God with the question of, "How could you do this?" [11] That visceral cry of pain begins to shift to a theological one, with the cry of pain morphing into the question of what happened to God's covenant with Israel. Those pleas and complaints are all rejected by God – Israel has not done any reflection on their role in bringing about the *hurban*, and until they takesome responsibility for their actions, they are not yet ready to be comforted. Israel hears that message and begins to take responsibility. In a series of *kinot* broadcasting the language of Daniel 9:7-18, Israel confesses its sins and takes responsibility, sparking a double mourning for the Temple, one by Israel and the other by God mirroring theirs. The *kinot* written by Ha-Kalir climax with a series of *kinot* closing with God's comforting words to Israel and Israel's acceptance of that comfort. [12]

[11] Chapter 1 of Eikhah provides an initial foray into the accusations. Apparently speaking in the name of Zion, God sent fire into the author's bones, spread a net to entrap his feet, made the author desolate (1:13), delivered him into the hand of others (1:14), called an assembly to crush his young men, and trampled the young daughters of Judeah (1:15). The second chapter is even bolder: God brought darkness (2:1), has no pity (2:2), cut down the strength of Israel in Hs fierce anger (2:3), drew His bow like an enemy (2:4), increased mourning in Israel (2:5), laid His meeting place in ruins (2:6), rejected His altar (2:7), and is determined to destroy the wall of Zion (2:8).

[12] Interestingly, it appears that the compiler of the *kinot* understood this flow, as that final *kinah* of Ha-Kalir is followed by a series of *kinot* written by other authors who all conclude their *kinot* with words of comfort. These include Kalonymous (142), Menahem b. Ya'akov (143), unknown author (145), Barukh b. Shemuel (148), and Menahem b. Makhir (149). As Yosef Lindell notes, it includes the yearnings for Zion expressed in the Zionides. See https://thelehrhaus.com/commentary/shomron-kol-titein-let-the-silent-sisters-speak-and-be-consoled/, at n. 7.

The pivot point in this drama, the moment in which God is moved, is the *kinah* which describes the pleas of the shepherds and shepherdesses of Israel before God (*Az ba-halokh Yirmiyahu al kivrei avot*, 135). One by one, Yirmiyahu, Avraham, Yitzhak, and Moshe present their case before God as to why He should have mercy on His people, and each is brushed aside as God finds an appropriate retort. When the women who birthed the twelve tribes appear, however, God has no retort.

> Leah, beating her breast, sobbed bitterly; her sister, Rahel, wept for her children; Zilpah was bruising her face, while Bilhah wailed with both hands uplifted in grief. "Return to your resting place, O perfect ones, I will surely fulfill your requests."

There are many possible interpretations of what, according to Ha-Kalir, changed the course of God's approach. It seems, however, that there is a confluence of two factors – the petitioners and the nature of the petition. The prior four figures – Avraham, Yitzhak, Moshe, Yirmiyahu – are men, and their pleas before God are based on justice. "If I suffered X, then certainly You should be able to …" These four women, however, don't actually have arguments. They present themselves, women, ambassadors of the womanly *rahamim* (compassion), from its etymological source, the *rehem* (womb). God's justice cannot argue with *rahamim*. It is *rahamim* which reverses God's refusal to comfort Israel. [13]

Ha-Kalir's brilliance as a poet, building *kinot* on the literary foundations of Eikhah, weaving biblical and midrashic texts, and using form to express his content, is extraordinary. The exquisite poetry, however, has blinded most readers to the broader religious, emotional, and theological flow of Ha-Kalir's work.

In fact, a look at the chart above, and particularly at the shaded areas, reveals a striking pattern. Israel's mourning and challenging go unanswered until they begin to accept responsibility. Precisely at the point that they begin to acknowledge their culpability (#20) there is a shift in the *kinot*. Dramatically, soon after, their embrace of remorse and contrition is matched by God's. The close of *kinah* #26 presents God's confession, "I have forsaken My house and deserted My inheritance." This generates the transition into the final set of Ha-Kalir's collection, focusing on God's commitment to comfort Israel. Indeed, it seems that the arrangement of the collection is designed to generate movement – not only a literary one, but an experiential one – in which the mourners of Zion and Jerusalem transition from anger, disbelief, and denial to deep contrition and, finally, to God's comfort. Perhaps the most powerful element of that comfort is the understanding that God, like Israel, takes

[13] It should be noted that Ha-Kalir's version of the story is very different from the one which appears in *Petihta* 24 to *Eikhah Rabbah*. That version includes other male figures who petition God, and the only female figure is Rahel, who presents a lengthy argument before God.

responsibility for what He did. Israel's consolation is God's as well.