

## *Mourning the Hurban in a Rebuilt Jerusalem: Qeria, a Case Study*

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The Talmud (*Mo'ed Qatan* 26a) instructs one to rend his garment (*qeria*) upon seeing the Cities of Judah, Jerusalem, and the site of the Holy Temple (*Maqom ha-Miqdash*) in a state of destruction (*hurban*):

One who sees the Cities of Judah in their destruction says, 'Your holy cities have become a wilderness,' and rends. [One who sees] Jerusalem in its destruction says, 'Zion has become a wilderness; Jerusalem a wasteland,' and rends. [One who sees] the Holy Temple in its destruction says, 'The Temple of Your holiness and our splendor, where our fathers praised You, has become a fiery conflagration, and all that we desired has become a ruin,' and rends.<sup>1</sup>

But today Jerusalem is not laid in ruin. With over 500,000 Jewish residents, Jerusalem is teeming with life, her skies lined with new buildings, as the city continues to grow by leaps and bounds. Observers cannot help but feel they are witnessing before their very eyes the fruition of Zechariah's prophecy, "Old men and women will once again sit in the streets of Jerusalem... and boys and girls will play in her streets" (*Zech.* 8:4-5).

In fact, following the miraculous birth of the State of Israel, and the dramatic reclamation of Jerusalem and the Temple Mount, the question of *qeria* for the *Hurban* became the subject of much discussion and debate. Later, following the Oslo Accords and the Disengagement, scholars would debate the status of territories under the administration of the Palestinian Authority, and whether or not *qeria* is warranted.

At the heart of the controversy is the question of how *hurban* is defined, and how the political reality impacts on the *halakha*.

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<sup>1</sup> Cf. *Yerushalmi Mo'ed Qatan* 3:7; *Semaḥot* 9:19. See also Rambam, *Hilkebot Ta'aniot* 5:16; Rambam, *Hilkebot Eivel* 9:2; *Tur*, *Orah Hayyim* 561 and *Yoreh De'ab* 340; *Shulḥan Arukh*, *Orah Hayyim* 561:1-5 and *Yoreh De'ab*, 340:38.

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## ***Hurban***

In his work on the laws and geography of the Land of Israel, *Kaftor va-Ferah*, Ishtori ha-Parḥi defines *ḥurban* as the absence of Jewish settlement.<sup>2</sup> Should an area be settled, one would be exempt from rending his garment. *Beit Yosef* at first accepts this definition, but concludes instead by defining *ḥurban* as subjugation under foreign rule.<sup>3</sup> It is Jewish Sovereignty that determines whether an area is considered to be in a state of *ḥurban*, and whether one must rend his garment. Most authorities accept this latter definition of *ḥurban*.<sup>4</sup>

## **Cities of Judah**

Cities in the Biblical portion of the Tribe of Judah, as opposed to other Israeli cities, were designated for this practice. *Baḥ* explains that the Cities of Judah have a greater importance than other cities in Israel.<sup>5</sup> *Levush* writes that it is due to their proximity to Jerusalem, which makes them unique.<sup>6</sup> Some suggest they possess a greater level of sanctity than other cities.<sup>7</sup> But according to *Pe'at ha-Shulḥan*, the Cities of Judah share a unique status as the seat of the monarchy.<sup>8</sup> Their destruction represents the destruction of *Malkhut Yisrael*, reinforcing that it is indeed sovereignty, or the lack thereof, that defines *ḥurban*.

Historically, rending one's garment for the Cities of Judah, and even for Jerusalem, fell out of practice.<sup>9</sup> Rabbi Yeḥiel Mikhel Tukachinsky of-

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<sup>2</sup> *Kaftor va-Ferah*, Chap. 6.

<sup>3</sup> *Orah Hayyim* 561, s.v. *haro'eh*.

<sup>4</sup> See *Baḥ*, *Orah Hayyim* 561, s.v. *haro'eh*; *Magen Avraham* and *Taz*, *Orah Hayyim* 561:1; *Pe'at ha-Shulḥan*, *Hilkhot Erets Yisrael* 3:1; *Mishnah Berurah*, *Orah Hayyim* 561:2; *Kaf ha-Hayyim*, *Orah Hayyim* 561:4. But see Rabbi Yehudah Herzl Henkin, *Bnei Banim*, Vol. 2, no. 24, where he writes that in addition to sovereignty, a city must also be settled to exempt one from *qeria*.

<sup>5</sup> *Orah Hayyim*, 561, s.v. *haro'eh*. See also *Mishnah Berurah*, *Orah Hayyim* 561:1.

<sup>6</sup> *Orah Hayyim* 561:1.

<sup>7</sup> See Rabbi Moshe Nahum Shapira, *Har ha-Qodesh* (Jerusalem, 1992), pp. 1-2; Rabbi Shlomo Goren, *Meishiv Milḥamah* (Jerusalem: ha-Idra Rabbah, 1996), Vol. 3, pp. 339-340. This would also appear to be the position of Ramban. See Rabbi Yaakov Zisberg, *Nahalat Ya'akov* (Har Berakha, 2005), Vol. 2, p. 579.

<sup>8</sup> See *Pe'at ha-Shulḥan*, *Hilkhot Erets Yisrael* 3:1 and *Beit Yisrael*, ad loc.

<sup>9</sup> See *Teshuvot ha-Radvaz*, Vol. 2, no. 646; *Birkei Yosef*, *Orah Hayyim* 561:2; *Sha'arei Teshuvah*, *Orah Hayyim* 561:5. See also *Mishneh Halakhot*, Vol. 6, no. 110; *Divrei Yoel*, *Orah Hayyim*, no. 30:6; *Divrei Yetsiv*, *Orah Hayyim*, no. 89; *Halikhot Shlomo al*

fers two defenses for the laxity in observance: Firstly, he writes, the identity and exact location of the ancient Cities of Judah is not clear today.<sup>10</sup> (There is, for example, a doubt regarding the status of Hebron, which was a City of Refuge.<sup>11</sup>) Secondly, most of those traveling to the Land of Israel would disembark in one of the port cities, like Jaffa or Haifa, and then travel to Jerusalem before visiting the Cities of Judah. Once one has already performed *qeria* for Jerusalem, he is exempt from rending a second time for the Cities of Judah.<sup>12</sup>

Following the founding of the State of Israel, a number of authorities ruled that one is no longer obligated to rend his garment when seeing the Cities of Judah.<sup>13</sup> Some, however, questioned whether a secular State, not governed by Jewish Law, should be considered a Jewish Sovereignty.<sup>14</sup> This controversy would remain dormant for another nineteen years, as Judea was captured and remained under Jordanian control until June 1967.

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*Hilkebot Tefilah* (Jerusalem: Yeshivat Halikhot Shlomo, 2000), p. 288, fn. 116; *Iggerot Moshe, Oraḥ Ḥayyim*, Vol. 5, no. 37:3; *Teshuvot ve-Hanbagot*, Vol. 4, no. 131; *Mo'adim u-Zemanim*, vol. 7, no. 257. *Ir ha-Qodesh ve-ha-Miqdash* (Jerusalem, 1969), vol. 3, p. 215.

<sup>10</sup> *Sefer Erets Yisrael* (Jerusalem, 1966), p. 68; *Ir ha-Qodesh ve-ha-Miqdash*, Vol. 3, p. 215.

<sup>11</sup> *Birkei Yosef, Oraḥ Ḥayyim* 561:1; *Sha'arei Teshuvah, Oraḥ Ḥayyim* 561:1; *Kaf ha-Hayyim, Oraḥ Ḥayyim* 561:3. See also Rabbi Betsalel ha-Kohen, *Reishit Bikkurim*, Vol. 1, no. 9; Rabbi Hershel Schachter, *B'ikvei ha-Tson*, (Brooklyn, NY: Flatbush Beth Hamedrosh, 1997) pp. 105-106; Rabbi Seraya Deblitzky, *Kuntres Aḥar Kotleinu* (Bnei Beraq, 1967), p. 9; Rabbi Betsalel Zolty, *Mishnat Yavets, Oraḥ Ḥayyim* (Jerusalem, 1984), no. 48.

<sup>12</sup> *Ir ha-Qodesh ve-ha-Miqdash*, Vol. 3, p. 215, based on *Shulḥan Arukh, Oraḥ Ḥayyim* 561:3. Cf. *Sefer Erets Yisrael*, p. 68.

<sup>13</sup> See, for example, Rabbi Reuven Katz, *Sha'ar Reuven* (Jerusalem, 1952), p. 32; Rabbi Shlomo Yosef Zevin, *ba-Mo'adim ba-Halakha* (Jerusalem, 1983), Vol. 2, p. 442.

<sup>14</sup> *Divrei Yoel, Oraḥ Ḥayyim*, no. 30:6; *Shevet ha-Levi*, Vol. 7, no. 78; *Be'er Moshe*, Vol. 7, *Dinei Bnei Erets Yisrael ve-Hutz la-Aretz*, no. 561; Rabbi Menahem Mendel Schneersohn, *Teshuvot u-Bi'urim be-Shulḥan Arukh* (Brooklyn, NY: Kehot, 1987), p. 213; Idem, *Sha'arei Halakha u-Minhag*, (Jerusalem: Heikhal Menahem, 1993), vol. 2, p. 186; Rabbi Seraya Deblitzky, *Zikbron Betsalel* (Bnei Beraq, 1977), p. 144. See also the story cited in *Pri Megadim, Eishel Avraham* 561:1. But see Rabbi Hershel Schachter, *Be-Ikvei ha-Tson*, p. 106, fn. 10, where he notes that even during the First Temple period, many Kings of Israel were idolaters and yet Israel still maintained its status as "*Malkhut Yisrael*." See also Rabbi Ovadiah Yosef, *Ḥazon Ovadiah, Arbah Ta'anot* (Jerusalem, 2007), p. 438, note 4, and Rabbi Moshe Nahum Shapira, *Har ha-Qodesh*, pp. 325-326, fn. 1.

After the Six Day War, many authorities ruled it no longer necessary to perform *geria* upon seeing the Cities of Judah, as they now were under Jewish Sovereignty.<sup>15</sup> Rabbi Moshe Feinstein wrote:

Because of the kindnesses of Hashem, the Nations do not rule over the Cities of Judah and Jerusalem, and additionally they are settled, it is a great reason not to rend. Even though the Redemption has not come through the King Messiah, and we still fear the Nations, [one should] not rend [his garment].<sup>16</sup>

### Jerusalem

In addition to the Cities of Judah, many authorities ruled that one is no longer obligated to rend his garment upon encountering Jerusalem, following the events of June 1967.<sup>17</sup> Rabbi Shlomo Zalman Auerbach, however, felt that since Jerusalem contains within it gentile houses of worship, gentile graves, and gentile culture, it is still to be considered in a state of *hurban*, thereby warranting *geria*.<sup>18</sup>

Additionally, some extend the requirement to rend for the *Maqom ha-Miqdash* to the city of Jerusalem.<sup>19</sup> Rabbi Seraya Deblitzky rules that since the Holy Temple is not standing, Jerusalem is to be considered in a state of *hurban*, and one should be stringent and rend his garment upon seeing

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<sup>15</sup> See *Iggerot Moshe, Orah Hayyim*, Vol. 4, no. 70:11, and *Orah Hayyim*, Vol. 5, no. 37:1; *Minhat Shlomo*, vol. 1, no. 73; Rabbi Eliezer Waldenberg in *Ha-Pardes, Tishrei*, 5728, p. 12, and *Shevat*, 5728, p. 15; Rabbi Seraya Deblitzky, *Zikbron Betsalel*, p. 142-143; Rabbi Shlomo Yosef Zevin, *Ha-Moadim ba-Halakha*, Vol. 2, p. 442; Rabbi Haim David ha-Levi, *Meqor Hayyim ba-Shalem* (Jerusalem, 1986), Vol. 2, p. 207; Rabbi Ovadiah Yosef, *Hazon Ovadiah, Arbah Ta'aniot*, p. 437; Rabbi Moshe Shternbuch, *Mo'adim u-Zemanim*, Vol. 5, no. 348, note 2.

<sup>16</sup> *Iggerot Moshe, Orah Hayyim*, Vol. 5, no. 37:1.

<sup>17</sup> See *Iggerot Moshe, Orah Hayyim*, Vol. 4, no. 70:11, and *Orah Hayyim*, Vol. 5, no. 37:1; Rabbi Eliezer Waldenberg in *Hapardes, Tishrei*, 5728, p. 12, and *Shevat*, 5728, p. 15; Rabbi Ephraim Greenblatt, *Rivevot Ephraim, Orah Hayyim*, Vol. 3, no. 384; Rabbi Shlomo Goren, *Meishiv Milhamah*, Vol. 3, pp. 329-330; Idem, *Torat ha-Medinah* (Jerusalem: Ha-Idra Rabbah, 1996), p. 105; Rabbi Ovadiah Hedaya, *Yaskil Ardi*, Vol. 8, *Orah Hayyim*, no. 43; Rabbi Haim David ha-Levi, *Meqor Hayyim ba-Shalem*, Vol. 2, p. 207; Rabbi Ovadiah Yosef, *Hazon Ovadiah, Arbah Ta'aniot*, p. 437.

<sup>18</sup> *Minhat Shlomo*, Vol. 1, no. 73. See also the position of Rabbi Dovid Jungreis, cited in Rabbi Avraham Horowitz, *Orhot Rabbeinu* (Bnei Beraq, 1991), p. 318, concerning the influence of the United States on the State of Israel and Jerusalem.

<sup>19</sup> See Rabbi Yaakov Ariel's comprehensive discussion in his *Be-Ohaloh Shel Torah*, Vol. 2, no. 76.

the Old City.<sup>20</sup> Similarly, Rabbi Yosef Dov Soloveitchik explained that since Jerusalem shares some of the sanctity of the Holy Temple itself, one should rend his garment when seeing Jerusalem, just as he would at the *Maqom ha-Miqdash*.<sup>21</sup> Nevertheless, Rabbi Hershel Schachter explains that the custom is *not* to rend for Jerusalem, as we follow the lenient opinion in matters of mourning (*halakha ke-divrei ha-meikil be-eivel*).<sup>22</sup>

### ***Maqom ha-Miqdash***

Motta Gur's famous battle cry, "*Har ha-Bayit be-yadeinu*—the Temple Mount is in our hands," is forever etched into our collective consciousness. The imagery and sounds of those fateful days in 1967 still resonate with us, today. The question, however, arose whether to rend or not when visiting the Temple Mount, as suddenly the *Maqom ha-Miqdash* was under Jewish Sovereignty.

In a moving description, Rabbi Mordekhai Fogelman, who served as Rabbi of Qiryat Motskin and was a member of the council of the Chief Rabbinate, captured the scene in a responsum:

On the 7th of *Sivan* 5727, following a conference of rabbis at Heikhal Shlomo in Jerusalem, I visited the liberated Western Wall together with a number of rabbis. Whoever did not see the joy at the Kotel, has not seen joy in all his days. Thousands flocked to the Kotel and their faces shone with joy and delight. They prayed with fervor and joy and thanksgiving to Hashem. Among those celebrating, there were many who had rent their garments...

When I saw this, I turned to those with me and said, 'Now, after the victory against our enemies... and after the liberation of the Old City of Jerusalem, and with it the *Maqom ha-Miqdash* and the Western

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<sup>20</sup> *Zikbron Betsalel*, p. 144. See also his *Kuntres Aḥar Kotleinu* pp. 9-10, and his article "Be-Inyan Ḥiyyuv Qeria al Yerushalayim be-Sha'ab she-Hi Tahat Shilton Yehudi," *Ha-Ne'eman* 35 (*Tishrei-Heshvan*, 5728), pp. 18–22.

<sup>21</sup> Rabbi Hershel Schachter, *Be-Ikvei ha-Tson*, pp. 107-108; Idem, "Be-Din Qeria al Arei Yehudah be-Hurbanan be-Zeman ha-Zeh," *Torah she-Ba'al Peh* 22 (1981), pp. 182-183. See also Idem, *Nefesh ha-Rav* (Brooklyn, NY: Flatbush Beth Hamedrosh, 1994), p. 79. Similarly, Rabbi Soloveitchik objected to changes made to the liturgy of the *Nafem* prayer, as Jerusalem today is still considered in ruins without the Holy Temple standing. See *Nefesh ha-Rav*, *ibid.*, and the Orthodox Union's *Mesorah* 7 (Elul, 5752), p. 19.

<sup>22</sup> *Be-Ikvei ha-Tson*, pp. 107-108. See also the position of Rabbi Moshe Shternbuch in *Mo'adim u-Zemanim*, Vol. 5, no. 348, fn. 2, and *Teshuvot ve-Hanhagot*, Vol. 4, no. 131.

Wall, we should no longer rend when visiting—rather, we should recite the Blessing of *Shebehiyanu, be-Shem u-Malkhut...*<sup>23</sup>

Rabbi Fogelman continues and justifies his ruling, arguing that Jewish Sovereignty obviates the need to rend, and that *qeria* is an expression of mourning—inappropriate considering the great salvation Hashem has provided for the Jewish Nation.<sup>24</sup>

Rabbi Tsvi Yehudah Kook issued a similar ruling in the Religious Zionist newspaper *Ha-Tsofeh*,<sup>25</sup> as did Rabbi Shlomo Goren.<sup>26</sup> However, the initial euphoria of those days in June would ultimately give way to a starker reality. Rabbi Goren would later retract his ruling when it became clear that the Temple Mount was not under true Jewish Sovereignty, as administration over the site was given to the Islamic Waqf.<sup>27</sup> Rabbi Ovadia Hedayah ruled that had true sovereignty been achieved, one would still rend his garment out of mourning, as entrance to the area is prohibited without proper purification by the ashes of the Red Heifer, with the coming of the Messiah.<sup>28</sup> Rabbi Hayyim David ha-Levi wrote that while in theory one need not rend when seeing the Temple Mount, the matter awaits a formal decision by the Chief Rabbinate.<sup>29</sup>

Today too, one may question whether there exists Jewish Sovereignty over the Temple Mount, as Jewish groups attempting to visit areas permitted by Jewish Law are regularly harassed by Muslims worshippers and at times forbidden to visit the site by Israeli police.

But questions of sovereignty and control aside, many authorities rule that one is indeed obligated to rend his garment upon seeing the *Maqom ha-Miqdash* today, as the Holy Temple is not standing, and therefore in a state of *hurban*.<sup>30</sup> As mentioned above, it is *Beit Yosef's* definition of *hurban* as a lack of Jewish Sovereignty that becomes adopted by later authorities.

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<sup>23</sup> *Beit Mordechai*, Vol. 1, no. 33.

<sup>24</sup> *Ibid.* See also his article in *Ha-Tsofeh*, 22 *Sivan*, 5727.

<sup>25</sup> *Ha-Tsofeh*, 13 *Tammuz*, 5727. On the position of Rabbi Kook, see also Rabbi Eliezer Melamed, *Peninei Halakha be-Inyanei ha-Am ve-ha-Arets* (2005), p. 198, fn. 2.

<sup>26</sup> *Ha-Tsofeh*, 13 *Av*, 5727.

<sup>27</sup> *Meishiv Milhamah*, Vol. 3, p. 333. Cf. *Torat ha-Medinah*, p. 108.

<sup>28</sup> *Yaskil Ardi*, Vol. 8, *Orah Hayyim*, no. 25, 43. Cf. *Idem*, “*B’she’eilat ha-Shtahim she-Shubr’ru al Yedei Yisrael be-Milhemet Sheshet ha-Yamim*,” *Noam* 11 (1968), pp. 178-179.

<sup>29</sup> *Meqor Hayyim ha-Shalem*, Vol. 2, pp. 207–209.

<sup>30</sup> *Iggerot Moshe, Orah Hayyim*, Vol. 5, no. 37. Cf. *Iggerot Moshe, Orah Hayyim*, Vol. 4, no. 70:11. See also *Be-Ikvei ha-Tson*, p. 106, and *Nefesh ha-Rav*, p. 79; Rabbi Hayyim David ha-Levi, *Meqor Hayyim ha-Shalem*, pp. 207–209; Rabbi Ovadiah Yosef, *Haẓon Ovadiah, Arbah Ta’aniot*, p. 438.

However, upon careful inspection of the text itself, *Beit Yosef* defines *hurban* vis-à-vis the Cities of Judah, and not explicitly the *Maqom ha-Miqdash*. In addition, while the Beraita (*Mo'ed Qatan* 26a) instructs one to rend upon seeing the site where the Temple stood (*Makom ha-Miqdash*), the Talmud (ad loc.) instructs “[one who sees] the Holy Temple in its destruction” to rend, suggesting that it is indeed the state of the Holy Temple itself that is the determining factor, and not control over the site.

### Post-Oslo

Following the Six Day War, Rabbi Shlomo Goren questioned if the Cities of Judah can indeed be considered under Jewish Sovereignty, as the State of Israel never formally annexed Judea and Samaria, instead implementing Israeli Civil Administration.<sup>31</sup> He concluded that even though Israeli Law is not imposed, Israel’s military rule suffices as governance in this regard.<sup>32</sup>

But since the implementation of the Oslo Accords, the status of these cities has changed. Cities in the West Bank designated as Area ‘A,’ Bethlehem for example, are under the full administrative authority of the Palestinian Authority. Even entry is prohibited to Israeli citizens. A number of contemporary authorities, among them Rabbi Hershel Schachter,<sup>33</sup> Rabbi Mordechai Eliyahu,<sup>34</sup> Rabbi Avigdor Nebenzahl and Rabbi Dov Lior,<sup>35</sup> have therefore ruled that since these cities are not currently under Jewish Sovereignty, one must rend his garment upon seeing them.

Rabbi Eliyahu Bakshi-Doron writes that while Bethlehem is not currently under Jewish Sovereignty, the custom is not to perform *qeria* today as generally one passes through Jerusalem first, and *qeria* for Jerusalem exempts one from rending for the other Cities of Judah.<sup>36</sup> In addition, he expresses concern for the prohibition of destroying property unnecessarily.<sup>37</sup>

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<sup>31</sup> *Meishiv Milhamah*, Vol. 3, pp. 330–332. Cf. *Torat ha-Medinah*, pp. 105–107.

<sup>32</sup> *Ibid.*

<sup>33</sup> Rabbi Chaim Jachter, *Gray Matter 2* (Brooklyn, NY: Yashar Books, 2006), p. 71.

<sup>34</sup> See Rabbi Mordechai Friedfertig, *Qum Hithalekh ba-Arets* (Ma’aleh Adumim, 2008), p. 78.

<sup>35</sup> See the letters of Rabbis Nebenzahl and Lior published in Rabbi Yaakov Zisberg, *Nahalat Ya’akov*, Vol. 2, pp. 598-599.

<sup>36</sup> *Binyan Av*, Vol. 4, no. 30, based on *Shulhan Arukh, Oraḥ Hayyim* 561:3. See also *Ir ha-Qodesh ve-ha-Miqdash*, Vol. 3, p. 215; *Sefer Erets Yisrael*, p. 68.

<sup>37</sup> *Binyan Av*, *ibid.* Concerning *qeria* and the prohibition of destroying property, see *Pithei Teshuvah, Yoreh De’ah* 340:1.

While Area 'A' is under the Palestinian Authority's administration, the Israeli Defense Forces can enter when necessary to carry out military operations. Rabbi Shlomo Aviner makes a distinction between "autonomy," and "sovereignty," and suggests that while the Palestinian Authority may have autonomy, they do not have sovereignty in the form of Statehood. Therefore, according to Rabbi Aviner, one is not obligated to rend his garment, but may do so if he wishes.<sup>38</sup> Similarly, Rabbi Aharon Lichtenstein rules that, while one is not obligated to rend his garment for those Cities of Judah in Area 'A,' he may do so as an expression of pain and anguish.<sup>39</sup>

### The Disengagement

In August of 2005, the State of Israel unilaterally withdrew from the Gaza Strip, dismantling a bloc of seventeen Jewish settlements in Gush Qatif, and evicting some 8,600 Israeli citizens from their homes. In addition, four settlements in Northern Samaria were also dismantled. During this turbulent time, contemporary authorities discussed the obligation to rend one's garment.

The most glaring objection to *qeria* for Gush Katif is that this territory is not part of the Biblical inheritance of the Tribe of Judah.<sup>40</sup> But according to some authorities, the Gaza Strip is indeed part of the Biblical portion of Judah.<sup>41</sup> Additionally, some question the intent of the Beraita (*Mo'ed Qatan* 26a) when it refers to the "Cities of Judah." Rabbi Shlomo Goren<sup>42</sup> and Rabbi Moshe Nahum Shapira<sup>43</sup> suggest that the intent of the Beraita is the Kingdom of Judah (i.e., the Southern Kingdom that began

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<sup>38</sup> *Qum Hithalekh ba-Arets*, pp. 78-79.

<sup>39</sup> *Ibid.*, p. 78.

<sup>40</sup> See Rabbi Avraham Danziger, *Sba'arei Tsedek, Sba'ar Mishpat ha-Arets, Hokhmat Adam* 11:7, where he explicitly refers to the "portion of Judah," suggesting that this law applies only in the Biblical portion of the Tribe of Judah.

<sup>41</sup> See *Kaftor va-Ferah*, Chap. 7, 11. See also Pinhas Raz, "*Hyyuv Qeria al Pinnai Yishuvei Gush Qatif*," *Beit Hillel* 22 (Adar II, 5765), pp. 47-48.

<sup>42</sup> *Meishiv Milhamah* (Jerusalem: Ha-Idrah Rabbah, 1994) Vol. 2, no. 141, p. 333. But see *Idem, Meishiv Milhamah*, Vol. 3, pp. 333-340, where Rabbi Goren concludes that today one need rend only for the Cities of Judah, as they enjoy a greater sanctity than the rest of the Cities of Israel.

<sup>43</sup> *Har ha-Qodesh*, pp. 1-2.



following the Civil War described in the Book of Kings). In fact, Maharsha<sup>44</sup> and Rabbi Yaakov Emden<sup>45</sup> assume that the author of the Beraita, writing after the destruction of the Second Temple, includes all areas settled during the Second Commonwealth when he writes “Cities of Judah,” as it was the Tribes of Judah and Benjamin who ascended from Babylonia to settle the Land.<sup>46</sup> Both of these suggestions encompass a much larger territory, and include the Gaza Strip.

In addition, there exists a minority opinion that suggests that the requirement of *qeria* applies to *all* Israeli cities in a state of *hurban*.<sup>47</sup> In fact, the verse cited by the Talmud as the proof text for rending for the Cities of Judah mentions cities in Northern Israel, suggesting that people had already rent their garments in those cities: “Men came from Shekhem, from Shiloh, and from Shomron, eighty men with shaven beards and rent garments...” (Jer. 41:5). Many, however, explain that the men described in the verse originated from those Northern cities, but rent their garments later, upon reaching the Cities of Judah and hearing of the destruction of the Temple.<sup>48</sup>

Based on the above, some authorities encouraged rending one’s garment during the Disengagement.<sup>49</sup>

But even if Gush Qatif is not part of the “Cities of Judah,” *qeria* may still have been warranted. For while the Beraita (*Mo’ed Qatan* 26a) obligates *qeria* for Cities of Judah and Jerusalem, it also obligates *qeria* upon hearing tragic news (*shemu’ot ra’ot*). Indeed many, including soldiers, rent their garments out of anguish during the Disengagement itself, with the endorsement of leading authorities. Rabbi Shlomo Aviner ruled that even

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<sup>44</sup> *Mo’ed Qatan* 26a.

<sup>45</sup> *Mor u-Q’tsia*, *Orah Hayyim* 561.

<sup>46</sup> But see Rabbi Yehosef Schwartz, *Divrei Yosef*, Vol. 3, p. 31, and Rabbi Mordekhai Gimpel as cited in *Iggerot le-Reiyah* (Jerusalem, 1986), p. 257, where a distinction is made between the “Portion of Judah,” and the “Land of Judah.”

<sup>47</sup> This opinion is attributed to Tosafot. See Rabbi Moshe ibn Haviv, *Qol Gadol*, Vol. 1, no. 51; Rabbi Betsalel ha-Kohen, *Reishit Bikkurim*, Vol. 1, no. 9; Rabbi Yehudah Herzl Henkin, *B’nei Banim*, Vol. 2, no. 24. This too would appear to be the position of *Tur*, *Orah Hayyim* 561. But see *Bah* and *Beit Yosef*, ad loc., and compare with *Tur*, *Yoreh De’ah* 340. See also *Mor u-Q’tsia*, *Orah Hayyim* 561; Maharsha to *Mo’ed Qatan* 26a; *Hatam Sofer*, *Yoreh De’ah*, no. 234.

<sup>48</sup> See *Kaftor va-Ferah*, Chap. 6; *Beit Yosef* and *Bah*, *Orah Hayyim* 561. See also Rashi and Radak to Jer. 41:5.

<sup>49</sup> See Pinhas Raz, “*Hyyuv Qeria al Pinnai Yishuvei Gush Qatif*,” and the approbations of Rabbis Zalman Nehemiah Goldberg and Meir Mazuz, ad loc.

one seeing the images on television should rend his garment and recite the blessing of *Dayan ha-Emet* with the Divine Name.<sup>50</sup>

Following the Disengagement, however, Rabbi Dov Lior and others ruled that there is no longer an obligation to rend when seeing the remnants of the uprooted communities of Gush Qatif.<sup>51</sup>

### Conclusion

Over the last half-century, attitudes towards the obligation of *qeria* have changed based on the changing political landscape. Rending one's garment for the *Hurban* today expresses a dialectical tension: After 2,000 years we have returned to the Land of Israel and Jerusalem, but still mourn the absence of the Holy Temple. We recognize how far we have come, and yet how far we still are. We live during confusing and challenging times, but also during exciting times. We live at a unique moment in history. By observing these customs of mourning, may we merit to see the fulfillment of the Talmudic dictum: "All who mourn for Jerusalem will merit to see her in her joy" (*Ta'anit* 30b; *Bava Batra* 60b). ❧

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<sup>50</sup> *Itturei Kobanim* 254 (Heshvan, 5766), p. 19.

<sup>51</sup> See *Qum Hithalekh ba-Arets*, p. 80.