

A Note on Comforting Parents Who Suffer a Perinatal Loss

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It is the nature of Halakhah to establish holiness by imposing boundaries on an otherwise uninterrupted continuum in which one instant is indistinguishable from the next. Time is continuous, yet Shabbat begins at a particular point. One second before, striking a match lights up a room for *kibbud Shabbat*; a second later the same act desecrates the holiness of the day. One can walk out of town on Shabbat and with a single step—indistinguishable from its predecessor—violate the holiness of the day by crossing the limits of travel outside the city’s precincts that is permitted on Shabbat. Similarly, the concentric holiness of the Temple chambers and the districts of Jerusalem itself are defined according to their respective boundaries and proximities.

Human life unfolds in a continuum from the moment of conception to the moment of death (the exact time of which is itself a subject of debate). But only at a specific moment—“when its head emerges”—will the Halakhah forbid killing the infant to save the mother. So, too, there is a moment at the end of the thirtieth day when the Halakhah defines that the newborn is viable. Before that the death cannot be mourned as the passing of a viable human. The perinatal death—be it late miscarriage, stillborn or an early neonatal fatality—is designated as a non-viable *nefel* and is not mourned formally. This, though, does not negate the psychological verity included in the position that to the parents and relatives, a one-day-old child is already thought of as a *batan shaleim*.¹

While there are technical reasons for exempting the parents and siblings from *avelut* and *aninut*,² Ramban explains that in the case of a *nefel*, *ein libbo shel adam daveh ‘alav*, and since they are not broken-hearted they do not mourn.³

¹ Mishna *Niddah* 5:3 at 43b.

² For a discussion of halakhic and hashkafic issues regarding this bereavement, see R. Avraham Stav, *Ka-Halom Ya’uf* (Mossad HaRav Kook, 2010).

³ *Torat Ha-Adam* (Warsaw 5636) p. 53b.

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Ramban's focus on the psychological state of the bereaved is echoed in the explanation of Rabbi Joseph B. Soloveitchik ז"ל as to why an *onen* is exempted from *mitzvot 'aseh*:

Aninut represents the spontaneous human reaction to death. It is an outcry, a shout, or a howl of grisly horror and disgust. Man responds to his defeat at the hands of death with total resignation and with an all-consuming, masochistic, self-devastating black despair. Beaten by the fiend, his prayers rejected, enveloped by a hideous darkness, forsaken and lonely, man begins to question his own human singular reality....

The Halakhah has displayed great compassion with perplexed, suffering man firmly held in the clutches of his archenemy, death. The Halakhah has never tried to gloss over the sorrowful, ugly spectacle of dying man. In spite of the fact that the Halakhah has indomitable faith in eternal life, in immortality, and in a continued transcendental existence for all human beings, it did understand, like a loving, sympathetic mother, man's fright and confusion when confronted with death. Therefore, the Halakhah has tolerated those "crazy," torturing thoughts and doubts. It did not command the mourner to disown them because they contradict the basic halakhic doctrine of man's election as the king of the universe. It permitted the mourner to have his way for a while and has ruled that the latter be relieved of all *mitzvot*.⁴

Of course, the psychological insight regarding the nature of the bereaved mindset is meant to be paradigmatic, not descriptive of every individual. Once the halakhah is established, the fact that one might be devastated psychologically by the death of a non-related friend does not invoke the status of *aninut* with its exemption of *mitzvot 'aseh* or impose the obligations of *avelut*. And the fact that that one might be unmoved by the death of a relative does not provide an exemption to the obligations of *avelut* and *aninut*.

Nevertheless, a broken heart may well have halakhic consequence. It might well move the bereaved into the category of *holeb*, especially when recent research shows, "The death of a baby through stillbirth is recognized as one of life's most challenging bereavements with long-lasting

⁴ Rabbi Joseph B. Soloveitchik, *Out of the Whirlwind: Essays on Mourning, Suffering and the Human Condition*, eds., David Shatz, Joel B. Wolowelsky and Reuven Ziegler (Toras HoRav Foundation and KTAV Publishing House, 2003), pp. 1f.

consequences.”⁵ Indeed, the parent might well be described under the rubric of *holeh she-yesh bo sakkana*. This is not simply because “For those of faith, stillbirth can rock belief structure to its core especially where there is negative religious coping and expressed religious distress.”⁶ It is also that the parents’ relationship has a higher risk of dissolving after miscarriage or stillbirth, compared with live birth.⁷

Of course, parents bereaved after a perinatal death react in many of the same ways as do those who suffer the loss of an older child, but society responds differently, especially in the traditional Jewish community. There is no rabbi to instruct the parents to do *keri’a*, no community-supported funeral, no *shiv’a* where people could come to express their sympathy and encouragement. As a result, there may well be disenfranchised grief:

Parental grief following stillbirth may not [be] legitimised by health professionals, family and society. Parents felt isolated, noting their identity as parents was not recognised by society; they were a parent, but without a child. Fathers especially reported that they felt marginalised and unacknowledged as a grieving parent. Parents recounted experiences suggesting that relationships with others had changed irrevocably. Many parents found it hurtful when their baby was referred to as less than a person, as something replaceable and not to be remembered as part of their family. Many parents indicated that mourning the death of a newborn was taboo and not culturally acceptable.⁸

Indeed, lack of social support is among the predictors of development of complicated grief after such loss.⁹

This does not in itself necessarily allow halakhists to transfer the norms of regular *aninut* and *avelut* to these situations, but it surely means that the parents and their needs must be addressed up front. This means

⁵ Nuzum D, Meaney S and O’Donoghue K, *The Spiritual and Theological Challenges of Stillbirth for Bereaved Parents*, J Relig Health, DOI 10.1007/s10943-017-0365-5, Published online: 2 February 2017. Note the extensive bibliography cited there.

⁶ Ibid.

⁷ See, for example, Gold KJ, Sen A, and Hayward RA, “Marriage and Cohabitation Outcomes after Pregnancy Loss,” *Pediatrics*, 2010 May; 125(5): e1202–7.

⁸ Burden C et al, “From Grief, Guilt Pain and Stigma to Hope and Pride—a Systematic Review and Meta-analysis of Mixed-method Research of the Psychosocial Impact of Stillbirth,” *BMC Pregnancy and Childbirth* (2016) 16:9.

⁹ Kersting A and Wagner B, “Complicated grief after perinatal loss,” *Dialogues in Clinical Neuroscience*, 2012 June, 14(2): 187–94.

seeing people and not simply policies. Perhaps the most egregious negative example of this concerns the burial of the infant. Until recently *havarot kaddishot* in Israel regularly denied parents the right to attend the funeral or even know where the infant was buried.¹⁰ True, their motivation was good, yet, as the *Yam shel Shlomo* points out, one may come to comfort but with poor judgment can actually cause pain.¹¹ Rabbi Aharon Lichtenstein ז"ל strongly objected to a *hevra kaddisha* preventing parents from being present at the burial of their child.¹² In 2014, a directive of the Israeli Ministries of Religion and Health¹³ required the *hevra kaddisha* to offer the parents the opportunity to be at the burial. England's United Synagogue "Guide for the Jewish Parent on Miscarriages, Stillbirths & Neonatal Deaths"¹⁴ notes that "Some parents find it too difficult to be present for the burial whereas others derive a certain sense of comfort from being there. Both approaches comply with Halakhah and every family should do what they feel is best for them. Some close relatives or friends might also attend but it is not usual to have a large gathering of people at such an occasion."

Surely it is the local rabbi who knows the bereaved parents and their needs who should be counseling the parents on this issue. Similarly, it is the local rav who should be counseling bereaved parents on choosing a name for the stillborn, not leaving this to the *hevra kaddisha*.

But it is not only the bereaved parents who need counsel. When there is *avelut*, things move on automatic. *Shiv'a* is arranged and people know that they need no invitation to pay a condolence call. Here, however, lack of communal response to perinatal loss not only leaves friends without a mechanism for response, but creates additional isolation and depression for the parents. The question then is how to address the psychological needs of the parents absent the formal structures of *avelut* that would otherwise be available.

This requires no knowledge of texts but knowledge of human dynamics. Public recognition and expression can be as simple as arranging for *ma'ariv* at the home of the bereaved once or for a week, learning a *mishna*

¹⁰ "Parents Kept from Funerals of Stillborns," *Jerusalem Post*, March 6, 2012 available at <http://www.jpost.com/Jewish-World/Jewish-News/Parents-kept-from-funerals-of-stillborns>.

¹¹ *Yam shel Shlomo*, *Bava Kamma*, 4:10.

¹² Stav, p. 39, n. 74

¹³ The details available at Goo.gl/KOI5Ra.

¹⁴ <https://files.usintranet.org.uk/a879c35.A+Guide+for+Miscarriage+and++Stillbirth.pdf>

or two followed by *kaddish de-rabbanan*¹⁵ and reciting a *mi she-berakh* like the following after *davening*.

מִי שְׁנַחֵם אֶת הָאֲבוֹת וְהָאִמּוֹת
הַשְּׂכֻלִים מִיְלֵדֵיהֶם הָעוֹלָלִים
הוּא יְנַחֵם אֶת _____
וְיִשְׁלַח מְנוּחַ לְכָאֲבָם.
יֹשֵׁב בְּמְרוֹמִים,
בְּרַחֲמָיו הָעֲצוּמִים
יְצַרֹּר תַּחַת כַּנְּפֵי הַשְּׂכִינָה בְּמַגּוּתָהּ נְכוּנָה
אֶת נְשֵׁמַת הַיֶּלֶד הַרְדֵּף הַיֶּלְדָה הַרְפָּה
שְׂמֵהּ עוֹלָם הַזֶּה הַלְדֵּף הַלְכָה,
תְּהִי נְפִשׁוֹ נְפִשָּׁה צְרוּרָה בְּצַרֹּר הַחַיִּים.

Bereaved parents need not take off their shoes or sit on a low stool to be comforted by caring friends and family who stay afterwards.

A mourner ordinarily gets an *‘aliya* on Shabbat after *shiv‘a*, and there is no reason not to follow through here with such a *mi she-niham*, giving public expression to the tragedy (although this has the disadvantage of not involving the mother directly).

Keri‘a is not required for the death of a *nefel*, but the *berakha* is independent of *keri‘a* and may be said *be-shem u-malkhut* for this death, as the parent is indeed saddened by the news.¹⁶ In principle, the *berakha* should be said at the time of hearing of the death of a relative, but is deferred to the time of *keri‘a*, which is a *sha‘at himmum*. It would therefore be advisable here to defer the parents’ reciting this *berakha* for a moment of focus when they can be counseled, like at the burial, if they chose to attend, or perhaps before saying *kaddish de-rabbanan*. The parents can also be reminded that it would be appropriate for them to attend Yizkor each holiday if they wish.

It is not the purpose of this note to propose a series of possible responses, as the required response is as personal as each bereaved couple

¹⁵ On the general issue of women saying Kaddish, see Joel B. Wolowelsky, “Kaddish, Women’s Voices,” *Hakirah*, vol. 17, Summer 2014, pp. 165–178.

¹⁶ R. Aaron Felder, *Yesodei Semahot* (New York, 1976), page 2, note 12, quoting Rabbi Moshe Feinstein ז”ל.

might need. Indeed, it might well be the case that some parents—especially those who suffered a relatively early miscarriage—would not need or welcome the opportunity for communal expression, and there is nothing inherently unhealthy about that. Our focus here is to emphasize the need to change community dynamics in this *gemilut hesed* of *niḥum avelim*. The current generally silent response of the community can create distress instead of *neḥama*, and it is the communal rabbi and his supporting rabbinical associations and yeshivot who ideally should take primary responsibility to address it. This can happen only with a greater awareness regarding the needs of such bereaved parents.¹⁷ ❧

¹⁷ My thanks to Rabbi Jeffrey Saks, co-editor with me of *To Mourn a Child: Jewish Responses to Neonatal and Childhood Death*, who sensitized me to many of these issues.