

# Parsha Encounters

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Parshas Devarim – Rabbi Akiva Niehaus

## Dissenting Views

**“Eicha Esah Levadi Torchachem U’masachem V’rivchem.” (Devarim 1:12)**

When describing to Bnai Yisrael the need to appoint judges, Moshe declares, “How can I alone carry your contentiousness, your burdens and your quarrels?” The prevalent custom in many communities is to recite this possuk to the mournful tune of Megillas Eicha (see Eishel Avrohom M’butchach O.C. Siman 138). This custom requires explanation. What is the sad message of this possuk that it merits such a sorrowful tune? Surely this is not solely due to the similar use of the word “Eicha”.

The Shem Mishmuel (Shnas 5679) offers an explanation based on a perplexing idea found in the Maharal. The Maharal states that the fact that most people have conflicting views from each other is not cause for concern. On the contrary, this is a sign of the amazing intellectual capabilities of the thinking man. This philosophy, however, demands clarification. Being that the second Bais Hamikdash was destroyed due to baseless hatred and quarreling, it would seem to be that love and acceptance are in order, whereas dissenting views should be frowned upon.

The Shem Mishmuel explains that unique individuality is indeed important, but only when it is used in the proper context. In the pursuit of intellectual and spiritual goals, dissenting views are welcomed and advisable. Through honest debate and careful analysis of an opposing view one can come to understand the real truth of the subject matter. Furthermore, if one truly appreciates and tries to understand the dissenting opinion, he will become fast friends with his opponent, as opposed to becoming his enemy (See Gemara Kiddushin 30B). Yet, this

applies only to spiritual matters. Regarding physical and non-spiritual endeavors, however, dissenting views are extremely dangerous. Differing opinions regarding the mundane only lead to hatred and bickering, and no good can come from it.

Moshe was telling Bnai Yisrael that they each possess a wonderful trait of individuality whereby everyone can formulate their own opinion. This trait is deemed admirable only when used for spiritual matters, but when used for the mundane it will lead to arguments and misfortune. Thus Moshe laments, “How can I alone carry your contentiousness, your burdens and your quarrels?” all of which come from dissenting views regarding the mundane. It is for this reason that we read this passuk to the sad tune of Eicha. When people use their wonderful intellectual capabilities for mundane matters, to sow mistrust and arguments, this is surely cause for lamentations.

As we approach Tisha B’Av we must set aside time for internal contemplation. We are blessed with the ability to analyze concepts and form intelligent views and positions. Do we use our capabilities to further our spiritual goals, delving deeper into the truth of the Torah? Or perhaps do we advance our ideas for mundane and physical matters, thus causing strife and argument, and thereby perpetuating the destruction of the Second Bais Hamikdash?

If we take an honest look at ourselves and make an effort to eliminate all inconsequential arguments, we can then be sure that Hashem will rebuild the Bais Hamikdash speedily in our days.

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# Halacha Encounters

## The Restrictions of Motzei Tisha B'av

Rabbi Henoch Plotnik

**T**he Mishna at the end of Ta'anis teaches us that Tisha B'av is the anniversary of the destruction of both Batei Mikdash. In truth, as the Gemara tells us, the majority of the churban actually took place on the tenth of Av, leading one Amora to say that had he been present when the memorial day was established, he would have chosen the tenth. The Talmud Yerushalmi indeed records that Rav Avin fasted on both the ninth and tenth of Av, and only Rav Levi's weak constitution prevented him from doing the same. Yet, even he, fasted the night of the tenth as well. "Aschalta d'puramusa adifa", "the beginning of the tragedy is the most difficult", is the rationale the gemara offers to explain why the ninth of Av was chosen to commemorate and mourn the churban. The Shulchan Aruch (O.C. 558:1) however paskens, that it is nonetheless a commendable (and time honored) custom to extend the restrictions of the preceding nine days, prohibiting meat and wine, throughout the tenth as well. The Ramo, while acknowledging this minhag, only requires its extension until chatzos (halachic mid-day, usually close to one o'clock). Since this extended prohibition is termed a "minhag kasher", poskim allow consumption of meat and wine for a seudas mitzvah and after Birchas Hamazon if one is always accustomed to bentch over a cup of wine (M.B.). The Kof Hachaim, based on his understanding of the Bach, encourages scrupulous individuals to be stringent the entire tenth of Av.

The issues that need to be explored are the status of the other restrictions of the nine days, namely cutting hair, laundering, and bathing. Are they also included in this minhag and are there any exceptions if indeed they are included?

The Mishna B'rurah, citing Acharonim in the name of the Maharshal, does indeed extend the minhag to the above mentioned activities except when Tisha B'av falls out on a Thursday, such as this year 5766/2006. In such years, these restrictions are suspended in honor of the impending Shabbos. Although in Biur Halacha the Chofetz Chaim debates the force of this chumra, he is reluctant to challenge it because of the myriad Poskim that maintain it. This needs to be considered in a case of great need such as a family embarking on vacation immediately after Tisha B'av. A competent Rav needs to be consulted.

What is still open to clarification though, is when does the leniency of "kavod Shabbos" begin that would permit hair-cutting laundering and bathing? Is it only Friday morning or perhaps even Thursday night? The Kitzur Shulchan Aruch and Aruch Hashulchan both refer to "shacharis", morning, as the extent of this leniency. If this would be taken at face value, families with a large build up of laundry from Rosh Chodesh Av, or bungalows with limited facilities, or for that matter places with limited hot water reserves, would be hard pressed to make due in such a short time span.

R' Yaakov Emden in the Siddur Bais Ya'akov (p.313, chalon

#5:6) clearly states that activities l'kovod Shabos are permissible after the fast. It is noteworthy to point out that in his Sheilas Ya'avetz (#106 in the new editions, #96 in the old edition) he writes, "on the following day it is permitted immediately". This is a significantly slight variation from the above citation from the Siddur and seems to have been understood by the Kaf Hachaim to mean the morning of the tenth specifically (558:6).

Nonetheless, the Sefer Shmiras Shabbos K'hilchoso (42:5) follows the leniency to permit doing laundry on Thursday night in the name of R' Shlomo Zalman Auerbach Zt"l. His reasoning is based on a combination of considerations. Tosfos in Ms' Ta'anis (according to the printed text we have, although the Bais Yosef insists it must be incorrect) holds that activities l'kovod Shabbos are permissible even on Thursday afternoon- Tisha B'av itself! Even though we obviously do not follow this l'halacha, we may be lenient on Motzei Tisha B'av when it coincides with Erev Shabbos. Keep in mind that the whole chumra of restrictions besides wine and meat after Tisha B'av was a subject of debate in the first place. (see R' Ya'akov Emden's t'shuva that follows the same line of reasoning.) The Shmiras Shabbos K'hilchoso is not convinced that the wording of the Kitzur mentioned above necessarily contradicts this. In days gone by, it was not possible to launder clothing at night by the unlit lakes. Nowadays, when we have private washing machines, everyone would agree, in his opinion, that one could launder even at night. In Oz Nidbru (vol 8:40), Rav Binyomin Zilber also entertains such a suggestion but seems a bit reluctant to give a blanket heter unless the situation is overwhelming. (He has difficulty with the idea that the "morning" mentioned in regards to laundering was merely out of practicality, because haircutting and bathing is mentioned together with laundering in the same sentence and they certainly could have been mentioned as being permitted at night if indeed it was so).

It should be noted, as indeed the Shmiras Shabbos K'hilchoso points out (footnote #16), that the leniency of Kavod Shabbos would seem to be limited to things that are needed for Shabbos, and not every article of laundry. (See Sefer Piskei T'shuvos quoting Shevet Hakehosi, 3:182 who is even more lenient in this regard).

It always needs to be pointed out that the entire discussion only revolves around activities that are l'kovod Shabbos. Listening to music, swimming, etc. must all wait until chatzos. For that matter, if one would bathe l'kovod Shabbos on Friday morning, that would have to be their "Shabbos shower" and not merely a ruse to indulge early. The same thing applies to wearing freshly laundered clothing.

The above mar'eh m'komos are intended solely as a backdrop with which to gain a fuller appreciation of the issues being discussed. For an actual halacha ruling, one must seek the guidance of their own Rav as various factors must be considered as in any halachic inquiry.

We should never lose sight of the words of Chazal "Whoever mourns for Yerushalayim will merit to see it rebuilt" - speedily in our day.

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