

HALOCHOSCOPE

This week's and last week's questions:

- (i) Someone's *rebbe* had no children, and his *yahrzeit* takes place in *Adar*. The *talmid* wishes to say *kaddish* for his *rebbe*. In a leap year, most *Ashkenazim* observe the first *Adar* as *yahrzeit* for those who passed away in a non-leap year. Many *Sepharadim* observe the second *Adar*. The *rebbe* was *Sepharadi*, and the *talmid* is *Ashkenazi*. To honor his *rebbe* properly, should he recite *kaddish* in *Adar II*?
- (ii) In a related question, if an *Ashkenazi davens* in a *Sepharadi shul*, or vice-versa, does he have the right to *kaddish* or a *kibud* on the day he observes *yahrzeit*, when he is in competition with other *chiyuvim*? Can the other *chiyuvim* object, based on the fact that the *minhag* of the *shul* is to observe the *yahrzeit* in the other *Adar*?
- (iii) Another related question: Two people would like to sponsor the same learning session for the month of the *yahrzeit* of a parent. One is *Ashkenazi* and the other is *Sepharadi* by paternal lineage, but is observing a *yahrzeit* for his *Ashkenazi* mother. Should the first sponsor *Adar I* and the second sponsor *Adar II*?

The issues:

Last week:

A) *Yahrzeit* observance

B) *Adar Sheini*, the Jewish leap year; which *Adar* is the main one?

This week:

C) Personal *minhag* vs *minhag makom*

D) Torah study as a benefit for the departed soul

C) *Shul minhagim*

If two people compete for a *kibud*, the *minhag* of the *shul* settles it. [See Halocho-scope VII:13.] If both have equal *zechus*, rights, based on what each observes that day, they are treated equally. Observance of *yahrzeit* in a leap year could be viewed as a *safeik*, doubt. When one *chiyuv* is in doubt, the other one, who is certain, has *kedimah*, priority. For example, if one does not know the exact date of death, he chooses a date for the *yahrzeit*. A second person who knows the exact date of the *yahrzeit* has *kedimah*.

The poskim discuss the issue with regard to one whose parent passed away during *bain hashmoshos*, twilight. In one view, *zrizin makdimin*, the conscientious hurry to perform a *mitzvah* at the first opportunity. Since this is an issue of *kibud av va'eim*, it should be done on the first day. In addition, if there is an issue of protection from danger through his *teshuva*, and a *kaparah* for his parents, he should do this sooner rather than later. If he does it the second day, he might have missed his chance! However, if there is no-one else who might be observing it on the correct day, the parent might miss out on his or her *tikun*. Therefore, in this case, the child should observe both of them, but only fast on the first day, and study Torah in their memory on the second day. Another view is to observe

both days either way, but to fast only on the first day. Others maintain that for the duration of definite day, his parent was alive. It cannot be considered *raia mazlei* during that day. In addition, one should not advance *pur'anus*, punishment. On the following day, he had definitely passed on. Does he have full rights on the day that he fasts? Can one whose parent definitely died on that date take *kedimah*? Some say that the *chiyuvim* of each day can ask him to prove his right against theirs. According to the last view, he cannot prove it. According to the others, it is not truly a case of doubt. The son knows when his parent died. The doubt is which day he should observe. Therefore, it would appear that he follows a ruling, and once it is decided, he has equal rights on that day. That is the day that has been determined to be the *yahrzeit*. Some say that on the first day, other *chiyuvim* can challenge his *zechus*. On the second day, it is known that his *zechus* for kaddish has arrived. Therefore, other *chiyuvim* cannot challenge him.

One observing *yahrzeit* has *kedimah* over an *avail* during the twelve months mourning for a parent. The *yahrzeit* has one day only. The *avail* can fulfill his *availus* on subsequent days. What if the *yahrzeit* is one of the cases of doubt? The *avail* could tell him to prove he has a *chiyuv*, or to yield the *kibud* to the one who has no doubt about his *chiyuv*.

In our second case, the *yahrzeit* observer claims a *chiyuv* on a day the main membership of the *shul* would not consider a *chiyuv* according to their own *minhag*. He happens to observe the other *minhag*. There is also an *avail* or a member who observes a leap-year *yahrzeit* on that day. The leap-year *yahrzeit* has no choice but to observe this day. The *yahrzeit* observer in our question could observe it in the other *Adar*, like other *shul* members. The *avail* has a definite claim to the *kibud*. The *yahrzeit's* claim is based on a ruling to resolve a *safeik*. He could also observe it in the other *Adar*. Nonetheless, as we have shown, his obligation is determined, partly based on Talmudic opinions. Therefore, he is not considered a *safeik*. [Those who apply the *yahrzeit* in both *Adars* are in two camps. One view considers it a *chumra*, to allay a doubt. Nonetheless, many say that this view considers the main obligation the first *Adar*. In the other view, both are part of the main obligation, but he only has *zechus* for one kaddish. He can follow the *shul's minhag*.]

However, the *shul* has a different *minhag* from that of the one observing *yahrzeit*. The *yahrzeits* for leap-year deaths do indeed take precedence over a regular *avail*. The *shul* members claim that all *yahrzeits* for non-leap year deaths should be observed in the same *Adar*. An *avail* is entitled to expect that his *kibud* will not be taken away by one observing a *yahrzeit* for a non-leap-year death in the wrong *Adar*. On the other hand, the one observing the *yahrzeit* claims that he observes it whenever his *minhag* dictates it. In response to the claim of the *avail*, the *yahrzeit* observer will not take away his *kibud* in the other *Adar*. The *avail* can counter that on that date in the other *Adar* there might be another *yahrzeit*. Had the two *yahrzeits* been observed in the same *Adar*, he would not lose out. The two *yahrzeits* would anyhow take precedence, and they would draw lots between themselves. In the other *Adar*, the *avail* would have the whole day to himself.

Can a *yahrzeit* observer maintain that his *chiyuv* is a personal matter? Or, since it is claimed as a *zechus* in a communal *shul*, should he be subject to their *minhagim*? Assuming he is subject to the *shul minhagim*, should he then observe the *yahrzeit*, at least for *kibud* purposes, in the other *Adar*, despite his personal *minhag*? If he is not observing the

fast and other observances on that day, is he entitled to a *kibud*? [If he is not entitled, this would mean that he loses out on both ends!]

The solution to this issue seems to lie in defining the reason for a *shul minhag*. This is based on *lo sisgodedu*, the *mitzvah* to avoid *machlokes*, arguments in one group of people. The *shul* cannot permit people to observe their own *minhagim*, since this will create a free-for-all. Therefore, the membership settles on a particular *minhag*, which is binding on all of them. Within the rules of *lo sisgodedu*, a visitor observes his own *minhagim* as well, if he plans to return home. However, he must also observe the host *minhag*. In the context of our question, a *Sefaradi* family would keep their own *minhagim*, as long as they plan to move to a *Sefaradi* community in the future. However, they may not observe these in a way that it causes strife within the host community. Rather, they observe the stringencies of both. Since the point of *lo sisgodedu* is to prevent strife, it follows that nothing they observe as a stringency can deny the rights of others.

[In regard to observing one of two days, we might compare it to reading the *Megillah*. If a resident of a walled city is in an open city on the 14th of *Adar*, he reads it with them, if he will not return home in time to read it with his home town. Our case is a little different. Nonetheless, the concept of leading the *tzibur* is similar to reading *Megillah*. Both ideally require participation of the congregation. Since the person is planning to be in this *shul* for the entire period of both *Adars*, he should follow their *minhag*.]

Accordingly, one may only observe the *yahrzeit* according to his personal *minhag* if it does not conflict with a competing *chiyuv* according to the *shul minhag*. Otherwise, he must observe the *shul minhag* either way. A *shul* member may also claim the *shul's minhag* of *Adar* as a *zechus*, while still observing the fast in the other *Adar* in accordance with his personal *minhag*. [See References to Halochoscope XVII:13. Psachim 50a-52a Megillah 19a Yevamos 13b-14a, Poskim. Tur Sh Ar OC 493:2-3 568:7 (MA20) 688:5 etc., commentaries. Teshuvos Chasam Sofer OC 161 162 163. Moed Kol Chai 2:11 13-17 19 21 13(:1). Machane Chaim III:17. Dudaei Hasadeh 98. Igros Moshe YD:III:159.]

D) Torah study as a merit for the neshama

There are secondary benefits from the *mitzvah* to study Torah. Firstly, it is best performed with others. Rather than sharing the merit, each participant's merit increases exponentially. Thus, in both performance and merit, Torah study should be shared. The standard procedure for sharing the merit with others who do not participate is modeled on the way Yisachar and Zevulun shared their work and study. Apart from this, one may always dedicate some of the merit of his study to others, without reducing his own merit.

The concept of the Torah study benefiting the soul of the deceased is mentioned by the Talmud, based on Scripture. When King Chizkiyahu passed away, they made a *yeshiva* at his graveside. Scripture uses the words *kavod gadol*, great honor. Some say that the idea was to honor Chizkiyahu, as is apparent from the context of the Talmudic passage. Some say that it recognizes his greatness. Others say that it refers to a benefit to the soul as well. Commenting on a passage in the Talmud, Rashi cites a practice of the *Gaonim* to convene a *shiur* by the grave of a Torah scholar on his *yahrzeit*, known as *rigali*. The *Midrash* relates that Asher, son of Yaakov, waits at the gates of *Gehinom* and stops anyone who studied *Mishna* from being brought in. Thus, it is especially beneficial for the

soul when *Mishna* is learned on its behalf. Some connect the word *mishna* with the word *neschama*, as they have the same Hebrew letters. Some recommend specific *mishnayos* that relate to *neschama* or to purity. Some study *Gemara* as well. The Hebrew word *gemara* is acrostic for the four angels of mercy: Gavriel Michael, Refael and Uriel.

The deceased is now in a place where he can do nothing in his own merit. Children are able to gain merit for their parents. If there are no children, it is common for the person to designate others to study on his behalf. In many instances he will pay them for this. Thus, they can say that their *mitzvah* is also being supported by the deceased, who then gets a share in it. Some have the practice to pay for *mishnayos*, even if they leave surviving children. Disciples can also study for the merit of the soul of their teacher.

Public study is most beneficial. Torah study should ideally be done in groups. The *mitzvah* is multiplied progressively many times, as is the glory, as is the merit. Part of the amplified merit of each individual also goes to the deceased. With a *minyan*, a *kaddish* can be recited after the study session. The larger the group, the more *ameins*. It is even better to sponsor public study, gaining *tzedakah* and the merit of the shared Torah study.

In our question, the two parties wish to sponsor the study in the merit of their parents. In reality, both may sponsor it. The merit will not decrease because both pay for it. On the contrary, the combined sponsorship could even benefit both more. This is not the same as a conflict over a *kibud*, where only one can perform. The partnership actually adds a dimension of communal participation.

If they each want to be the lone sponsor, can the one who always observes the first *Adar* push off the other one to the second *Adar*? [Note: *Adar Rishon* has one more day!]

This is not a *shul minhag*. Each should observe the Torah study part of their *yahrzeit* in accordance with their own personal *minhag*. Sponsoring public learning is but an extension of their own study. It would follow that each should keep the *Adar* that they usually observe. A married woman adopts her husband's *minhagim*, because she usually moves into his home. This part of *yahrzeit* observance is like a home *minhag*. [See Brochos 6a 63b Megillah 3a-b Yevamos 124a Bava Kama 16b-17a Avos 3:6, Poskim, commentaries (Sedei Tzofim). Ar Hash YD 376:13. Moed Kol Chai, 3rd approbation note 2, 1:note 3 2:26 4 likutim 9. Even Yaakov 49. Halocholescope XV:07.]

In conclusion, the *talmid* should observe the *yahrzeit* that his *rebbe* or his *rebbe's* children would observe. The *shul minhag* takes precedence for *kibudim*. The personal *minhag* should determine which month to sponsor public Torah study.

On the parsha ... *The people saw that Moshe delayed [Wondering whether the forty days included the final day ... (Rashi)] "... We do not know what happened to him!" ... Aharon announced "There will be a festival to Hashem tomorrow!" [Hoping Moshe returned before they worshiped (Rashi)] [32:1 5] Aharon knew intuitively that Moshe would be returning the next day. The people were unsure, a *safeik*. How did the Satan convince them that Moshe would not return? The Satan used a logical argument. "I say that Moshe is definitely dead! Can you prove otherwise? All you can say is it is a *safeik*. A *safeik* cannot challenge a *vadai*, certainty."*

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