**The Mitzvah of Burial**

Transitions Series

1. **From Dust to Dust**

|  |
| --- |
| בְּזֵעַת אַפֶּיךָ תֹּאכַל לֶחֶם עַד שׁוּבְךָ אֶל הָאֲדָמָה כִּי מִמֶּנָּה לֻקָּחְתָּ כִּי עָפָר אַתָּה וְאֶל עָפָר תָּשׁוּב:*By the sweat of your brow shall you eat bread until you return to the ground from which you were taken; For you are dust, and to dust you shall return.*(*Genesi*s 3:19) |

1. **Purification and Renewal**

|  |
| --- |
| [After the sin of Adam and Eve] Man must die and everything else that was corrupted with him also must perish. The soul cannot purify the body until the body dies and deteriorates and a new structure is composed, that the soul can enter and purify. The entire world must likewise be destroyed and cease to exist in its present form, and it must then be renewed in a new state worthy of perfection. It was therefore decreed that man should die and then be brought back to life. This is the concept of the Resurrection of the Dead (techiyas ha’mesisim). The entire world must similarly be destroyed and then renewed. This is the meaning of what our Sages taught, “Six thousand years will the world exist, and for one thousand it will be desolate. At the end of this thousand years, Gd will again renew His world.”(*Derech Hashem* I 3:9) |

1. **Biblical Obligations**

|  |
| --- |
| לֹא תָלִין נִבְלָתוֹ עַל הָעֵץ כִּי קָבוֹר תִּקְבְּרֶנּוּ בַּיּוֹם הַהוּא כִּי קִלְלַת אלקים תָּלוּי וְלֹא תְטַמֵּא אֶת אַדְמָתְךָ אֲשֶׁר ה' אֱלֹקֶיךָ נֹתֵן לְךָ נַחֲלָה*His body shall not remain for the night on the gallows, rather you shall surely bury him on that day, for a hanging person is a curse of God, and you shall not contaminate your land, which Hashem, your God, gives you as an inheritance* (*Deuteronomy* 21:23). |

1. **Rambam Explains**

|  |
| --- |
| כל המלין את מתו עובר עליו בלא תעשה הלינו לכבודו להביא לו ארון ותכריכין אינו עובר עליו:Anyone who leaves his dead unburied overnight violates a prohibition [*His body shall not remain for the night*]. If you left him overnight for his honor, such as to procure for him a coffin or shrouds, you do not violate the prohibition. (*Rambam, Hil. Sanhedrin* 15:8)מצוה רלא - היא שצונו לקבור הרוגי בית דין ביום שנהרגו והוא אמרו ית' כי קבור תקברנו ביום ההוא ולשון ספרי כי קבור תקברנו מצות עשה והוא הדין בשאר מתים כלומר שיקבר כל מת מישראל ביום מותו ולכן יקרא המת שאין לו מי שיתעסק בקבורתו מת מצוה כלומר המת שמצוה על כל אדם לקברו לאמרו ית' קבור תקברנו(*Rambam, Sefer HaMitzvos Asei* 231) |

1. **Who is Obligated?**

|  |
| --- |
| * The Heirs
* The Husband for his wife
* In the absence of the above, the people of the city.
	+ More specifically, the *beis din* and the heads of the community
	+ If there’s a chevra kadisha – then it devolves upon them

(*Gesher HaChaim* 15:1:2) |

1. **Buying a Plot**

|  |
| --- |
| It is proper for a person if he is buried in a plot that is bought and specific for him, as we find by Abraham who bought a plot of land [the *Machpeilah* cave] for him and his family, for full value.(ibid. 15:1:4) |

1. **By the Hands of His Fellow Jews**

|  |
| --- |
| Just like the *taharah,* clothing, and carrying of the body are done by Jews, so too the burial, digging of the plot, and closing it in should be done by Jews… Only where it is not possible is it to be done by non-Jews. For two reasons: 1) It’s a spiritual benefit for the dead that his burial is done by Jews and 2) burial is a mitzvah, and as such should be done by Jews.(ibid. 15:1:5) |

1. **Cremation?**

|  |
| --- |
| It is a severe transgression to burn a dead body. One who does so nullifies the mitzvah to bury, and causes great damage to the [soul of the] departed. … It’s considered a disgrace, similar to burning a *sefer torah …* and is considered a wretched end in Scripture … A person who left a directive to be cremated denies the eventual resurrection of the dead and [unlike other departed Jews] his remains have no holiness, and if one were to bury such ashes he would not be preparing him for eventual resurrection... One is not permitted to fulfill the departed person’s directive to be cremated. (Ibid 15:9:1-2) |

This does not apply to those who were burned against their will (ibid)

1. **Family Plot Background**

|  |
| --- |
| וַיָּקָם הַשָּׂדֶה וְהַמְּעָרָה אֲשֶׁר בּוֹ לְאַבְרָהָם לַאֲחֻזַּת קָבֶר מֵאֵת בְּנֵי חֵת*Thus the field with its cave was confirmed as Abraham’s as an estate for a burial site, from the children of Heth* (Genesis 23:20).----------------------------------(כט) וַיְצַו אוֹתָם וַיֹּאמֶר אֲלֵהֶם אֲנִי נֶאֱסָף אֶל עַמִּי קִבְרוּ אֹתִי אֶל אֲבֹתָי אֶל הַמְּעָרָה אֲשֶׁר בִּשְׂדֵה עֶפְרוֹן הַחִתִּי:(ל) בַּמְּעָרָה אֲשֶׁר בִּשְׂדֵה הַמַּכְפֵּלָה אֲשֶׁר עַל פְּנֵי מַמְרֵא בְּאֶרֶץ כְּנָעַן אֲשֶׁר קָנָה אַבְרָהָם אֶת הַשָּׂדֶה מֵאֵת עֶפְרֹן הַחִתִּי לַאֲחֻזַּת קָבֶר:(לא) שָׁמָּה קָּבְרוּ אֶת אַבְרָהָם וְאֵת שָׂרָה אִשְׁתּוֹ שָׁמָּה קָבְרוּ אֶת יִצְחָק וְאֵת רִבְקָה אִשְׁתּוֹ וְשָׁמָּה קָבַרְתִּי אֶת לֵאָה*Then he instructed them; and he said to them, “I shall be gathered to my people bury me with my fathers in the cave that is in the field of Ephron the Hittite. In the cave that is in the field of Machpelah, which faces Mamre, in the land of Canaan, which Abraham bought with the field from Ephron the Hittite as a burial estate. There they buried Abraham and Sara his wife; there they buried Isaac and Rebecca his wife; and there I buried Leah* (ibid. 49:29-31).---------------------------------------תָּנוּ רַבָּנָן— The Rabbis taught in a Baraisa:הַמּוֹכֵר קִבְרוֹ— If ONE SELLS HIS BURIAL PLOT, דֶרֶךְ קִבְרוֹ — THE PATH TO HIS BURIAL PLOT …. וּבֵית הֶסְפֵּדוֹ— OR THE SITE designated FOR HIS EULOGY ,בָּאִין בְּנֵי מִשְׁפָּחָה— THE MEMBERS OF HIS FAMILY MAY COME forward after his death,וְקוֹבְרִין אוֹתוֹ עַל כָּרְחוֹ— AND BURY HIM in his proper place WITHOUT [THE BUYER’S] CONSENT, מִשּׁוּם פְּגַם מִשְׁפָּחָה — BECAUSE OF THE SLIGHT TO THE honor of the FAMILY which would result if the deceased were not buried in his proper place. [They must then reimburse the buyer the amount that he paid for the land (*Rashbam*)].(*Bava Basra* 100b) |

1. **Some Laws of Family Plot**

|  |
| --- |
| If possible, one should be buried next to his parents and family members…If one’s father is buried in one place and his mother elsewhere, he is [preferably] buried next to his father.… A wife is buried next to her husband (unless they asked to be buried differently), but a divorcee is buried with her ancestors.If a woman had two husbands, and you know she had a better relationship with the second, bury her next to the second. If she had children from the second and not the first, you always bury her next to the second (unless we know her will to have been otherwise). Same if she had children from the first and not the second. If she had children from both, or no children from either, and we do not know her desire, we bury her next to the first.(*Gesher HaChaim*27:7:1-2) |

1. **Burial In Eretz Yisrael (Israel)**

|  |
| --- |
| אָמַר רַב עָנָן— Rav Anan said כָּל הַקָּבוּר בְּאֶרֶץ יִשְׂרָאֵל — Whoever is buried in Eretz Yisraelכְּאִילּוּ קָבוּר תַּחַת הַמִּזְבֵּחַ — is considered as if he were buried under the Altar in the Temple, as regards the great atonement he receives(*Kesubos* 111a)---------------------------------[The earth under the Altar is the same from which Adam was created]Some of the other benefits (besides for atonement) that burial in Eretz Yisrael produces:1. Resurrection without *gilgal mechilos*
2. No chibut hakever
3. The soul rises straight to heaven through the *shaar ha’shamyim.* Indeed all other souls must traverse through Yerushalayim.

There are however statements in chazal that denegrade those who come to Eretz Yisrael after their passing, rather than before (“They have come to make impure My Land”), nevertheless most assume that it is a benefit.(based on *Gesher HaChaim*27:9:1)It is generally not permitted to dig up a body to reinter it elsewhere … unless it is to his family plot or to Eretz Yisrael. (*Shulchan Aruch, Yoreh Deah* 363:1) |

[It is customary for those who are buried out of Eretz Yisrael to be buried with some earth from Eretz Yisrael]

1. **Some No-No’s in Terms of Cemetery Neighbors**

|  |
| --- |
| We do not bury a wicked person next to a righteous one, nor even a very wicked person next to one who was only slightly wicked. Similarly we do not bury a good and upright man or an average man next to a supremely devout individual. [However we may bury a baal teshuvah next to a perfectly righteous man (*Rama*).]Two people who hated one another [in their lifetimes] should not be buried together [next to one another.](*Shulchan Aruch, Yoreh Deah* 362:5-6) |