

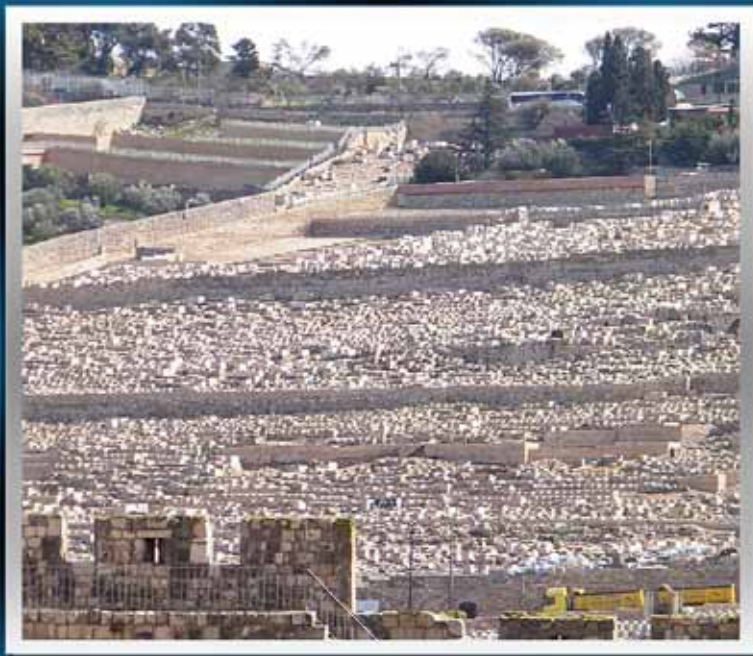
# HALACHICALLY SPEAKING

Volume 10 Issue 2



{ TOPIC }

## Burial in Eretz Yisroel



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► Each issue reviews a different area of contemporary *halacha* with an emphasis on practical applications of the principles discussed. Significant time is spent ensuring the inclusion of all relevant *shittos* on each topic, as well as the *psak* of *Harav Yisroel Belsky, Shlita* on current issues.

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# Burial in Eretz Yisroel

People are frequently sent to *Eretz Yisroel* for burial, especially with the advent of modern air travel. Is there a reason for one to choose to be buried in *Eretz Yisroel*? What if one instructs his family that he does not wish to be buried there? Is there a preference for burial in *Yerushalayim* over other cities in *Eretz Yisroel*? Is it permitted to exhume a grave in order to bring the *niftar* to *Eretz Yisroel*? Sometimes the *chevra kadisha* will place dirt from *Eretz Yisroel* in the coffin; what is the source and reason of this custom? All these issues and others will be addressed in this issue.

## Burial in *Eretz Yisroel*

It is apparent from the *Gemorah*<sup>1</sup> that there is a benefit to be buried in *Eretz Yisroel*. This is learned from the fact that *Ulah* died in *Chutz La'aretz* and was brought to *Eretz Yisroel*. The *Gemorah* says that although he was buried in *Eretz Yisroel*, there is a difference between living in *Eretz Yisroel* and be buried there, and living in *Chutz La'aretz* and being brought to *Eretz Yisroel* for burial.<sup>2</sup> The *Yerushalmi*<sup>3</sup> says one who dies and is buried in *Chutz La'aretz* in essence has two deaths (disadvantages). One who dies in *Chutz La'aretz* and is buried in *Eretz Yisroel* only has one death. We know that *Yaakov Aveinu* commanded *Yosef* to bury him in *Eretz Yisroel* (see below).<sup>4</sup> In addition, *Yosef* instructed the *B'nei Yisroel* to remove his bones from *Mitzrayim*.<sup>5</sup>

1. Kesubos 111a.

2. Gesher Hachaim 1:27:8:1.

3. Meseches Kelayim 9:3.

4. Rambam Hilchos Melachim 5:11.

5. Bereishis 50:25.

איך ללמוד מהלכות של הלקה בלילי... (ברכות ח)

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Many *poskim* mention the custom to be buried in *Eretz Yisroel* as well.<sup>6</sup> Today the custom of many is in fact to be buried in *Har Ha'zeisim* outside of the Old City of *Yerushalayim*.<sup>7</sup>

## Reasons

There are a number of reasons for burial in *Eretz Yisroel*.

The *Gemorah*<sup>8</sup> says that one who is buried in *Eretz Yisroel* is considered as if he is buried under the *mizbe'ach*. Furthermore, one who is buried in *Eretz Yisroel* is considered as if he has no sin.<sup>9</sup> This latter reason is quoted in the *Rambam*<sup>10</sup> as well as other *poskim*.<sup>11</sup>

## Why Did Yaakov Wish to Be Buried in *Eretz Yisroel*?

When *Yaakov* was about to die he requested of his son *Yosef* not to bury him in *Mitzrayim*.<sup>12</sup> *Rashi*<sup>13</sup> quotes three reasons for this request: First, the dirt will turn into lice. Second, those who die in *Chutz La'aretz* will only merit *techiyas ha'meisim* by their bones rolling to *Eretz Yisroel*. Finally, he was concerned that the Egyptians would make him into an *avodah zarah*.

## Parent Do Not Wish to Be Buried in *Eretz Yisroel*

There is an opinion in the *poskim* who maintains that it is a *mitzvah* for a child to make arrangements for a parent to be buried in *Eretz Yisroel*. However, if the parent specifically

6. Refer to Keser Shem Tov 2:page 676, Shevet HaLevi 2:207, Minchas Yitzchok 7:136, Chelkes Yaakov Y.D. 206, Tzitz Eliezer 11:75, Gesher Hachaim 1:27:8:1, Beer Moshe 7:page 325:5.

7. Gesher Hachaim 1:27:8:1.

8. Kesbuos 111a.

9. This is quoted in Medrash Tanchuma Vayichei 6.

10. Hilchos Melachim 5:11.

11. Shach Y.D. 363:3. See Meseches Kesubos 111a.

12. Bereishis 47:29-30.

13. Bereishis 47:29 "al."

כל השווה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (תדה עב)

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said not to bury in *Eretz Yisroel* then the child should not go against the words of the parent.<sup>14</sup>

### ***Yerushalayim vs. Other Cities in Eretz Yisroel***

There is a discussion in the *poskim* if there is any preference for burial in *Yerushalayim* versus other cities in *Eretz Yisroel*. The opinion of some *poskim* is that *Yerushalayim* is preferred over other cities in *Eretz Yisroel*.<sup>15</sup> One reason is that since burial in *Eretz Yisroel* is as if one is buried under the *mizbe'ach*, one should be buried as close to the *Bais Hamikdosh* as possible.<sup>16</sup>

### **Opinion of *Harav Moshe Feinstein zt"l***

It is recorded that *Harav Moshe Feinstein zt"l* did not advise burial in *Eretz Yisroel*. However, he wondered aloud why a certain *gadol hador* was not buried in *Eretz Yisroel*. Based on this, his family decided to bury him in *Eretz Yisroel*.<sup>17</sup>

### **The Case Against Burial in *Eretz Yisroel***

Many times when one is buried in *Eretz Yisroel* the relatives do not have the opportunity to visit the *niftar* too often. The *Sefer Chassidim*<sup>18</sup> says that it is beneficial for the *niftar* when people come to visit and *daven* for the *neshama* of the *niftar*. Others say based on the *Zohar* if one did not live in *Eretz Yisroel* during his life he should not come to *Eretz Yisroel* and defile the ground to be buried after he died.

14. Maharlbach 63, Pischei Teshuva Y.D. 363:2.

15. Tzitz Eliezer 14:79:2, Shevet HaLevi 2:207:2.

16. Ibid.

17. Stated in the Journal of Halacha and Contemporary Society 36:page 28.

18. 710. Refer to Tosfas Meseches Sotah 34a "avosi."

אין על להקדיש"ה בעולמו אלא י  
אמות של הלכה בלבד... (ברכות ה')

כל השנה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (תדה עב)

*Harav Henkin zt"l*<sup>19</sup> was against this custom, as he felt that it exhibited haughtiness and arrogance. It used to be the custom to bury a dead person with lavish clothing. Poor people who could not afford this would leave the dead person in the street. Because of this, *Rabban Gamliel* left a will that he should be buried in a simple shroud and plain box. From that point on this became the custom. We see that one is not supposed to spend a lot of money on a burial. Even if one argues that it is a *hiddur* to be buried in *Eretz Yisroel*, it is uncertain if one has a right to spend a lot of money on this. He says, this is considered stealing from the widows and orphans since this will become the custom of many, and if they do not do it, the *niftar* may be disgraced. Perhaps it may be permitted for a *gadol hador* in order to show *kovod hatorah*. However, for others it is definitely not proper to do. One who has received a large inheritance should not waste it on caskets, marble monuments, and the cost of the trip to *Eretz Yisroel*. Rather, he should use the money to support Torah and give *tzedakah*.<sup>20</sup>

The *Satmar Rebber zt"l*<sup>21</sup> was also not in favor of this: "We have not seen or heard that any of the righteous people or leaders of the generations did this."

### **Exhuming the Grave to Bury the Niftar in Eretz Yisroel**

Generally one is not allowed to exhume a grave in order to bury the *niftar* in a different place.<sup>22</sup> The *Bais Yosef*<sup>23</sup> explains that this is difficult for the *niftar* since he

19. Am Hatorah 1:15;page 5, Teshuvos Ivrei 66, 68:3.

20. Teshuvos Ivrei 66;page 90.

21. Divrei Yoel 2:103, see Divrei Yoel on Vayichei pages 515-516, Teharas Yom Tov 6;pages 112-113.

22. Tur Y.D. 363, Shulchan Aruch 363:1. Refer to Shevet HaLevi 5:185:3, B'nisivi Chesed V'emes 5747;pages 43-49 in depth.

23. Y.D. 363.

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is scared of the *yom hadin*. Others say it is a disgrace for the *niftar*.<sup>24</sup> Typically, it is only permitted after the body has decomposed and one only moves the bones.<sup>25</sup>

One exception (among others)<sup>26</sup> to this is for the purpose of burying the *niftar* in *Eretz Yisroel*.<sup>27</sup> One can see from here that burial in *Eretz Yisroel* is desirable. Based on this, the *Har Tzvi*<sup>28</sup> was asked if the *Karliner Rebbe zt"l*, who died in *Chutz La'aretz*, was allowed to be taken to *Eretz Yisroel*. In addition, the *Rebbe zt"l* yearned to live in *Yerushalayim* and those close to him knew he wanted to be buried there; therefore, it was permitted to bring him to *Eretz Yisroel*.

There is an opinion in the *poskim* that if one is buried in *Chutz La'aretz* on condition that he is brought to *Eretz Yisroel* later on then he may be disinterred and brought to *Eretz Yisroel*.

### **Moses Montefiore**

*Harav Moshe Feinstein zt"l*<sup>29</sup> was asked whether or not *Moses Montefiore* and his wife may be brought to *Eretz Yisroel* for burial. *Harav Moshe zt"l* ruled that "only a child has the authority to exhume the grave, not a third party. In addition, this would be a disgrace for all the *Sefard* and *Ashkenaz Rabbonim* who are buried in *Chutz La'aretz*. Furthermore, *Montefiore* instructed his relatives to bury him in *Chutz La'aretz* even though he knew about *Eretz Yisroel*. If he wished to be buried in *Eretz Yisroel* he should have come in his later years to *Eretz Yisroel* in order to die there. Therefore, one should not go against his will."

24. Refer to *Gesher Hachaim* 1:26:9.

25. *Gesher Hachaim* 1:26:2:1.

26. *Shulchan Aruch* Y.D. 263:1.

27. *Tur* Y.D. 363, *Shulchan Aruch* Y.D. 363:1. Refer to *Am Hatorah* 1:15:page 5.

28. Y.D. 274.

29. *Igros Moshe* Y.D. 3:153.

איך ללהקט"ה בעולמו אל תי אמות של הלהקט"ה (ברכות מ)



כל השנה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (מדה עב)

## Easier to Visit

A question was posed to *Harav Moshe Feinstein zt"l* if a child is allowed to exhume the grave of his parent in order that it is easier for him to visit the grave. He ruled that this is not permitted especially since this is not for the benefit of the *niftar* but for the benefit of the child. In addition, going to visit a grave of one's parents is not an obligation.

## Grave Site Not Protected

If the cemetery is not protected properly from vandalism it would be permitted to move the body to *Eretz Yisroel* or even to a different cemetery in the same country.<sup>30</sup> This question arose when Gaza was given to the terrorists and there were many Jews buried there.

## Dream

The *Chelkes Yaakov*<sup>31</sup> was consulted by someone who was instructed in a dream to move his relative's body to *Eretz Yisroel*. One who has this question should discuss it with his local *Rabbinic halachic* authority.

## Wicked Person

One who was known to be a wicked person should not have his body dug up and brought to *Eretz Yisroel* for burial.<sup>32</sup>

## Dirt from *Eretz Yisroel*

The custom is to place dirt from *Eretz Yisroel* on a *niftar*.<sup>33</sup> It would seem that this is only if one is buried in *Eretz Yisroel*. The custom of where to place the dirt varies. Some

30. Shulchan Aruch Y.D. 363:1. Refer to B'nisivi Chesed V'emess 5747:pages 43-49 in depth.

31. Y.D. 206. Refer to Shevet HaLevi 2:207:5.

32. Chelkes Yaakov Y.D. 206:2.

33. Rama Y.D. 363:1.

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have the custom to put it on the *niftar's* forehead; others place it on the shrouds, while others place it under his head.

Even those who are buried in *Chutz La'aretz* have some connection to *Eretz Yisroel*. The custom in *Chutz La'aretz* is to place some dirt from *Eretz Yisroel* in the coffin. Some question why bringing dirt from *Eretz Yisroel* to *Chutz La'aretz* is of any benefit.<sup>34</sup>

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34. Gesher Hachaim 1:27:9. Refer to *ibid* who has an explanation. Also see Refer to *Keser Shem Tov* 2:page 677.



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