

OVERVIEW of the Daf

1) Finding a corpse (cont.)

The Gemara continues to cite the Mishnah that discusses the proper procedures for one who finds a corpse or corpses.

It is noted that one of the statements in the Mishnah does not conform to the dimensions of a catacomb described by Rabanan or R' Shimon.

The Gemara explains how that Mishnah conforms to the position of R' Shimon.

The assertion that the Mishnah follows R' Shimon is successfully challenged and the Gemara decides that the Mishnah follows the position of Rabanan.

This explanation is challenged.

Two resolutions to this challenge are presented.

The second resolution is unsuccessfully challenged.

A contradiction is noted between two rulings of R' Shimon and Rabanan, one from the previous Baraisa and a Mishnah.

The two contradictions are resolved.

הדרן עלך המוכר פירות

2) **MISHNAH:** The Mishnah discusses when ditches or rocks are excluded from the measurement of a field.

3) Ditches and rocks

A Mishnah in Arachin is cited that discusses whether rocks and ditches are included in the area of a land that is to be redeemed. ■

REVIEW and Remember

1. What is a שכונת קברות?
2. What is the point of dispute between Rabanan and R' Shimon concerning the distance one must measure to look for additional graves?
3. Why does an area with numerous graves not qualify as a cemetery?
4. When are ditches measured as part of a field?

Distinctive INSIGHT

Checking the burial grounds for more graves

ובודק ממנו ולהלן עשרים אמה

The Mishnah from O'halos (16:3) which began on yesterday's daf concludes and rules that once three graves are discovered within a prescribed area (within a range of four to eight amos apart), the graves constitute a burial ground, and the graves may not be moved. We then require an inspection to be conducted up to twenty amos from where the found graves are found, to search for other unmarked graves which may be in the area.

Rashbam explains that when three graves are found within a four amos range, we must assume that they might lay along the width (the narrow dimension) of a burial chamber, and from the foot of these graves we begin to measure twenty amos. It is also the opinion of Rambam (Hilchos Tum'as Meis, 9:3) that the measuring begins from beyond the bodies that are found. This twenty amos comprises the eight amos length of the chamber in which we find these three bodies, another six amos for the yard outside this burial chamber, and another eight amos for the length of the chamber across the yard from the first chamber. (This adds up to twenty-two amos, and the discrepancy of the two extra amos is addressed by the Gemara). Tiferes Yisroel (O'halos 16, #7) points out that this twenty (or twenty-two) amos reaches to through the first chamber, where the bodies were found, and through the yard outside that chamber and then through the eight amos length of the chamber which is across from the first one. Yet, it does not provide for checking of the graves that might be in the far wall of the second chamber.

In any case, along this entire length we check to the right and to the left along what would be the walls of the chambers. We also check both sides of the yard to see if other burial chambers have been dug along the right and left. Rashbam implies that checking for additional chambers along all sides of the yard is only necessary according to R' Shimon who says that four chambers are dug around each yard. According to Chachamim, it is necessary to check for two chambers, one across from the other. Sefer **סדרי טהרות**, however, explains that it is necessary to check for four chambers even according to Chachamim. The reason is that although the seller is only required to provide a burial area with two chambers, it was common that four chambers were actually provided.

Today's Daf Digest is dedicated
 ל"נ אבי מורי ר' משה בן ר' אהרן ז"ל

by the Rabbi and Mrs. Aharon Gulkowitz, Brooklyn, NY

(Continued on page 2)

HALACHAH Highlight

How much space is required between graves?

מצא שלשה אם יש ביניהם מארבע עד שמנה וכו'

If he found three graves, if there is between four and eight amos between them etc.

Ramban¹ writes that one can prove from our Gemara that it is inappropriate to bury two bodies next to one another. One must leave six tefachim of space between the two graves, three tefachim for each grave. Shulchan Aruch² rules that two bodies cannot be buried next to one another, i.e. within six tefachim, unless the wall of the grave separates them. Teshuvos Shvus Yaakov³ writes that although halacha is clear that two bodies may not be buried next to one another unless there is a distance of six tefachim between them, nevertheless, if one observes what is commonly done one will see that bodies are regularly buried in close proximity to one another without leaving the required six tefachim of space between the bodies. The rationale for this practice, he suggests, is out of the practical consideration that there is not that much land available for burying the deceased. When space is not an issue the mandate of six tefachim between graves applies but when land is difficult to obtain these guidelines are put aside.

Aruch Hashulchan⁴, however, questioned the application of the Mishnah's guidelines to our cemeteries. In the

(Insight...continued from page 1)

Rashbam adds that we must also consider that these three graves within four amos and up to eight amos of each other lay along the length of a burial chamber, but that all the burial spots were not yet filled. This requires checking what would be across the four amos width of the chamber, and then along what would be the other wall of that chamber. Again, a twenty amos investigation in each direction of the graves would then be necessary. ■

time of Chazal the practice was to bury the deceased in a catacomb for a period of time and then gather together the bones for permanent burial in another location. When that is the custom it is necessary to allot six tefachim between graves so that bones from different bodies do not become intermingled. Nowadays, when we no longer follow that practice it is unnecessary to allot six tefachim between graves and one does not have to leave any more than three tefachim between graves. Teshuvos Maharia Halevi⁵ suggests that the practice of leaving minimal space between graves is derived from Rashbam⁶ in our Gemara who writes that only two tefachim of space between graves is necessary. ■

1. רמב"ן בתורת האדם קבורה אות ל'.
2. שו"ע יו"ד סי' שסי"ב סעי' ג'.
3. שו"ת שבות יעקב ח"ב סי' צ"ה והובא בפת"ש שם סק"ג.
4. ערוה"ש יו"ד סי' שסי"ב סעי' ז'.
5. שו"ת מהרי"א הלוי ח"א סי' ל"ט.
6. רשב"ם ד"ה מצא. ■

STORIES Off the Daf

A question of honor

"מצא שלשה..."

On today's daf we find that sometimes a body is moved from its original grave.

A certain woman was once buried in the first three rows of the cemetery, since that was what was available. But the family noticed that near the place of interment was the doghouse of the hound that guarded the cemetery, and they felt that this was a disgrace to their mother. In addition, they recalled that their mother had always asked not to be buried near the gates of the cemetery. For both these reasons, the family

went to the local vaad harabanim to request that she be moved.

Although at times it is permitted to reinter a Jewish body, the vaad did not believe that this was one of them. After all, many rabbanim were buried there and clearly it was a respectable burial place, so why move her?

When this question was put before Rav Moshe Feinstein, zt"l, he agreed with the vaad. "It is obvious that the area near the fence of the cemetery is at least as respectable a burial place as the middle of the cemetery, and perhaps it is even more respectable. This section of the cemetery is the place where kohanim and their wives should be buried to ensure that the relatives do not enter the cemetery and defile themselves, as we find in the Rambam and Shulchan

Aruch.

"Although some kohanim bury in the middle of the cemetery since they rely on Rabbeinu Tam who is lenient in this matter, this does not detract from the respectability of the woman's burial place. Now, if there were wicked people buried near her then the family would have had a valid claim, but since there are rabbanim, there is certainly no diminishment of the respectability of her resting place.

"As far as the claim of the doghouse's proximity, I don't think this is a disgrace to the deceased at all. And if the family disagrees, they can pay to distance the dog house from the fence for a fraction of the cost of reinterment!"¹ ■

1. אג"מ, יו"ד א', סי' רמ"ב. ■