

OVERVIEW of the Daf

1) **MISHNAH (cont.):** The Mishnah continues its discussion of the structure of catacombs.

2) Clarifying R' Shimon's position

The simple meaning of R' Shimon's statement concerning the two openings, one on the right and the other on the left of the opening, is challenged.

R' Yosi bar Chanina offers an alternative explanation of R' Shimon's statement.

This explanation is challenged from a statement of R' Yochanan.

An alternative explanation to account for R' Yochanan is recorded.

This explanation is challenged.

R' Ashi offers an explanation and cites support for this explanation.

R' Huna the son of R' Yehoshua refutes R' Ashi's proof.

R' Huna's explanation is successfully challenged.

Another configuration of the catacomb that complies with R' Shimon is presented.

3) Finding a corpse

A Mishnah is cited that elaborates on what should be done when one finds a corpse. ■

REVIEW and Remember

1. How many graves are in a standard catacomb?

2. What is קבורת חמרים?

3. According to R' Yehoshua ben Levi, how were the graves in the corners configured?

4. Where in a catacomb were stillborns buried?

Distinctive INSIGHT

Determining an area to be a burial ground

המוצא מת מושכב כדרכו

The Mishnah had described the layout of a burial cave and the opinions of Rabbanan and R' Shimon regarding the exact measurements and specifications of how the grave compartments are spaced. The Gemara refers to the Mishnah (O'halos 16:3) which teaches the halacha regarding finding graves in an area which was not previously identified as a burial cave. If one body is found, because we had no knowledge of this being a formal cemetery or burial ground, we assume that this place was, in fact, not a cemetery, and that this one person was buried here temporarily due to there not being enough time to bring the body to the cemetery. In this case, the body does not "acquire its spot," and it may be removed together with the soil surrounding it to be reinterred somewhere else. This is true if one body is found by itself, or even if two bodies are surprisingly found. The place is not a burial ground; the graves do not acquire their spot, and they may be moved to be reinterred. Rashbam concludes by explaining "והכי גמירי ליה," this is a halacha we have received from Moshe m'Sinai.

Tosafos notes that ר"י says that there is no reason for Rashbam to declare that this is a halacha from Moshe m'Sinai, when there is a very reasonable explanation for this law. When we find two bodies unexpectedly, even in the vicinity of one body which we did expect to find, we should not assume that this area was designated as a burial ground, because just as we were unaware of the other bodies, so too, the people who buried the one body may have also been unaware of the two that were already there. The three bodies were not necessarily part of a designated burial area. It is only when we unexpectedly find three bodies does the area become a שכונת קברות, and the bodies may not be disturbed.

רות יאיר (192:70) questions the objection of ר"י to Rashbam that because this halacha is logical, there is no reason to identify it as a הלכה למשה מסיני. Rashi (earlier, 12b, ד"ה ולא טעמא) clearly explains that a law that is הלכה למשה מסיני can certainly be a law which is logical, and even one which is intuitive.

Chasam Sofer (Y.D. 341) notes that the issue whether a law which is הלכה למשה מסיני should be analyzed and explained logically is subject of a disagreement between Tannaim whether the reasoning of a Torah law may be determined and then be applied to new circumstances. ■

HALACHAH Highlight

Walking on top of a gravestone

הא קמיתדשי להו

But they would trample them (existing graves)

Rema¹ mentions that there are those authorities that prohibit sitting on the stone that is placed atop of a grave but others disagree and permit the practice. These opinions are cited in Tur² where he writes that Rabbeinu Yishaya prohibits the practice since the stones are attached to the ground whereas according to Rosh the stones are just a marker for the grave and are not as such considered part of the grave. Pischei Teshuvah³ cites two explanations for the prohibition against sitting on the gravestone. One explanation is that it violates the prohibition against deriving benefit from a grave. Another explanation is that it is considered disparaging (בזיון) to the deceased for one to sit atop his gravestone. The practical difference between these two explanations is whether it is permitted to walk on a gravestone. According to the approach that is concerned with deriving benefit from the gravestone it would be permitted to walk on it. One does

not derive benefit from walking on the gravestone since it would be easier to walk on the ground. If, however, the concern is disparaging the deceased there would be a concern even when one merely walks on the grave. Therefore, if one is performing a mitzvah one is allowed to walk on a grave but one is not permitted to sit on a grave even in the performance of a mitzvah.

Taz⁴ cites Rashbam in our Gemara who indicates that when transporting a body for burial people would walk atop of graves that were in their path. From the language of Rashbam, Taz infers that it is permitted to walk on a grave in order to reach a specific destination. Korban Nesanel⁶ disagree with the parallel. Our Gemara discusses graves that are in catacombs and the earth that is atop of those graves is regular earth that was not placed there to serve as a marker on a grave. In contrast, a gravestone was placed over a grave for the specific purpose of marking a grave, therefore it is prohibited to walk on gravestones unless one is in a circumstance in which there is no alternative. ■

1. רמ"א יו"ד ס"י שס"ד סעי' א'.

2. טור שם.

3. פתחי תשובה שם סק"ב.

4. ט"ז שם סק"א.

5. קרבן נתנאל תענית פ"ב אות ג'. ■

STORIES Off the Daf

An honorable burial

"קבורת חמור"

On today's daf we find a reference to a dishonorable burial.

A certain man was found dead in the "Kerem" neighborhood of Yerushalayim. It seemed quite clear that the man had killed himself, ר"ל, and the chevra kadisha were at a loss as to what they should do. He was known to be a Godfearing man and they certainly did not wish to bury him dishonorably as is generally required for a suicide. But what choice did they really have?

The chevra kadisha asked this painful question to Rav Yosef Chaim

Sonnenfeld, זת"ל who immediately traveled to the home of the deceased. After thoroughly searching the elderly man's home, he found a folded paper with a final note from the deceased, explaining why he had taken such a drastic step. "Although I lack for nothing, I am still very troubled and feel compelled to take my own life. When I was a child, I contracted a terrible infection in my leg and was hospitalized in a missionary hospital in England. Hashem helped me and an exceptional doctor arrived at the hospital whose dedicated treatment saved my life, boruch Hashem. When I got well I went for a visit to the doctor to express my thanks for his devoted care. Unfortunately, during our conversation the doctor spoke very pointed words of kefirah which en-

tered my heart like poison. Throughout my entire life, I have tried to put what he said out of my mind, with mixed results. At times I have struggled terribly, but I have always overcome it in the end.

"But now that I am an old man, I am afraid that as my strength wanes, I may not have the stamina for this struggle. I have therefore decided that it is better that I die now as a faithful Jew than risk stumbling down the slippery slope of heresy, chas v'shalom."

After reading the man's last letter, Rav Sonnenfeld ruled that they bury him like a righteous man, in accordance with all the customs of Yerushalayim.¹ ■

1. הנהגות ופסקים הגר"ח זוננפעלד, ע' 160, אות ב' ■