The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Shabbos, May 17, 2025 ■ י"ט אייר, תשפ"ה
סימן תקכ"ו סעיף ב'-ג'

Halacha Highlight

Delaying burial until the second day of Yom Tov

Shulchan Aruch Siman 526 Seif 2
אסור להלינו עד יום טוב שני
It is prohibited to leave the deceased unburied until the second day

Shulchan Aruch (סע' ב') rules that if someone dies on the first day of Yom Tov it is prohibited to delay burying the deceased until the second day so that Jews should be able to bury the deceased. Mishnah Berurah (ס"ק ט"ו) explains that it is preferable for the deceased to be buried on the first day by gentiles than wait until the second day to be buried by Jews. The reason for the preference is that on the first day when the burial is performed by gentiles, although a Rabbinic prohibition is violated, the violation does not involve an action performed by a Jew. When a Jew performs the burial on the second day of Yom Tov although it involves only a Rabbinic prohibition, nevertheless, the prohibition is actively violated by a Jew and thus it is not the preferred course of action. Mishnah Berurah (ס"ק ט"ז) also notes that since Shulchan Aruch does not draw any distinctions the implication is that this rule applies even to a Torah scholar about whom one may have thought that it would be preferable for him to be buried by Jews rather than gentiles.

Mishnah Berurah (שם) writes that there are authorities whom maintain that if they delayed the burial of the deceased until the second day, the body should be buried by a gentile rather than a Jew as a penalty for not burying the deceased on the first day. Biur Halacha (ד"ה אסור) cites Elya Rabba who writes that if they did not have gentiles bury the deceased on the first day of Yom Tov and there are no gentiles available to bury the deceased on the second day, it may nevertheless, not be permitted for a Jew to bury the deceased on the second day of Yom Tov. Biur Halacha rejects this possibility since the deceased certainly did nothing wrong that he should be penalized and remain unburied for another day. After analyzing the relevant positions he concludes that although one should follow Shulchan Aruch's position that the deceased should be buried by gentiles on the first day of Yom Tov, nevertheless, if they delayed the burial until the second day one may follow the lenient opinion and have Jews bury the deceased.

Overview

Siman 526 Seif 2:

If someone dies on the first day of Yom Tov it is prohibited to delay burying him until the second day so that Jews will bury him.

- It is preferred for the deceased to be buried by gentiles on the first day since that involves overriding a Rabbinic prohibition without an action rather than on the second day by Jews which involves actively overriding a Rabbinic prohibition. (M.B. 15)
- It is also not allowed so that his wife or children should be able to travel beyond the *techum*. The implication is that we would not delay even to bury a Torah scholar for whom it would be more honorable to be buried by Jews. Some authorities write that if they waited until the second day, the burial should be done by gentiles. (M.B. 16)

Siman 526 Seif 3:

On Shabbos and Yom Kippur one should not do anything for the corpse, even by a gentile. It is prohibited even for a gentile to place the body in a tomb that was prepared before Yom Tov.

- Even though it is a gentile who will take out the body, Chazal did not wish to permit it as an expression of honor to the deceased since it is more honorable that Shabbos and Yom Kippur which are stringent should not be violated. (M.B. 17)