The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן תקכ"ו סעיף ד'

Overview

Siman 526 Seif 4:

On the 2nd day of Yom Tov, even Rosh HaShanah, Jews should be involved in preparing the deceased for burial and this is true even if there was no delay in burying the body. It is permitted to cut myrtle branches, to make shrouds, a casket, dig a grave, heat water for the *taharah* or cut the deceased's hair. If there is no place in town to bury Jews, the body may be transported to another city that has an area for burying Jews, even if that area is beyond the *techum*. One may hire a ship for this purpose since the 2nd day of Yom Tov is treated as a weekday for these matters and even when gentiles are available, a Jew should perform the necessary procedures. In Ashkenaz and similar countries this is not the custom, rather when gentiles are available the make the grave, the casket and shrouds but other activities may be performed by Jews similar to the procedure for the 1st day of Yom Tov. If gentiles are not available it may be done by Jews. **It is not permitted to construct a monument over the grave on Yom Tov** but it is permitted to cover the body with dirt as one would do during the week which is not in accordance with the stringent position and this appears to me correct. **This is true when the deceased will be buried on Yom Tov but if the body will not be buried on Yom Tov, *melacha* may not be performed even by a gentile but the body may be moved.** (The *halachos* regarding *krias shema* when a relative dies on Yom Tov are above in *siman* 71:2 and below in *siman* 548:5)

- Cutting myrtle branches is permitted even though its purpose is to honor the deceased. (M.B. 18)
- This is allowed even if one could wrap the deceased in linen without sewing it into a garment. If shrouds that are approximately the correct size are available, they should be used. It is permitted to launder the shrouds if necessary. (M.B. 19)
- If necessary, it is permitted to manufacture boards. (M.B. 20)
- There are authorities that maintain that to the degree that one could minimize desecration of Shabbos, such steps should be taken. As such, if there is a group that buries the deceased they should do so rather than others but many authorities are lenient since we treat the 2nd day as a weekday. (M.B. 21)
- If a cemetery is available but the deceased instructed that he should be buried in his ancestral plot, one may not desecrate Yom Tov for him but if there is a concern the body will smell, it should be buried on Yom Tov. (M.B. 22)
- Only those who will bury the deceased may travel by ship but not those who wish to merely accompany the deceased. (M.B. 23)
- It is not fully treated as a weekday and any activity that is prohibited during *chol hamoed* is prohibited on the 2nd day of Yom Tov. Performing actual *melachos* is permitted only in the yard where the deceased is present so that people will realize that the *melacha* was done for the deceased. If it is well known that someone died it is permitted even in the market. (M.B. 24)
- If one would have to wait many hours for the gentile to arrive and the body would begin to swell, there is no requirement to wait for the gentile. (M.B. 25)
- It is permitted to perform the *taharah* on a sheet but one must be careful not to squeeze out the sheet. It seems to me that one should make sure the sheets are clean. (M.B. 26)
- It is even permitted to make a mound of dirt on the grave since that represents the completion of the burial. Rema implies that even for Ashkenazim this is permitted. (M.B. 28)
- Transporting the body even to a karmelis is prohibited. Moving the body is permitted only for the needs of the deceased but not for the needs of the living and even when moving the body there are authorities who require the use of a child or loaf of bread. (M.B. 30)

Halacha Highlight

Burying the deceased on the 2nd day of Yom Tov

Shulchan Aruch Siman 526 Seif 4

כחל שויוה רבנן

The rabbis treat the day as a weekday

Shulchan Aruch writes that we treat the 2nd day of Yom Tov as a weekday when it comes to dealing with someone who died. Accordingly, it is permitted to make shrouds and a casket as well as dig a grave into which the deceased will be interred. It is even permitted to cut myrtle branches to honor the deceased even though it is not an essential part of the burial process. Mishnah Berurah (ס"ק כ"ד) clarifies that we treat the 2nd day of Yom Tov similar to *chol hamoed* rather than an actual weekday and thus those activities that would not be permitted on *chol hamoed* are not permitted on Yom Tov.

Poskim debate the rationale why the 2nd day of Yom Tov is treated like a weekday and there is an important practical difference that emerges from these differing approaches. Rav Moshe Feinstein (אג"מ ח"ג סי' ע"ו) writes that the allowance for Jews to bury the deceased is not due to the prohibition of leaving the deceased unburied for the night. The reason for the allowance is so the body does not begin to decay and smell. Accordingly, Rav Feinstein contends that in our times when the body will be placed in a refrigerator so that it will not decay and smell, the allowance to perform the burial on Yom Tov no longer applies even if this means that the body will not be buried for three days. Rav Bentzion Abba Shaul (שו"ת אור לציון ח"ג פכ"ג תשובה י"ג) disagrees and rules that it is permitted to bury the deceased even nowadays. The reason is that the Gemara in Sanhedrin (46b-47a) explains that burial is beneficial to the deceased in that it assists in securing atonement for the deceased's sins. Since the soul is pained when it is not buried, it is permitted to bury the deceased in order to alleviate the deceased's suffering. Rav Feinstein also presents another issue for consideration. He was concerned that people who do not understand *halacha* will think that since *melacha* may be done to arrange the burial of the deceased, it is also permitted to make phone calls to inform people of the passing and upcoming funeral which is most certainly prohibited.