



EUROPEAN AGUDAS YISROEL

EUROPEAN JEWISH CENTRE FOR EDUCATION IN EUROPE
EUROPEAN JEWISH CENTRE FOR LAWS AND PUBLIC AFFAIRS
EUROPEAN JEWISH SOCIAL NETWORK

JEWISH CEMETERIES AND MASS GRAVES IN EUROPE: PROTECTION AND PRESERVATION

*The Sacred Obligation of Burial
Life after Death in Jewish Belief*

**JEWISH CEMETERIES AND MASS GRAVES
IN EUROPE:
PROTECTION AND PRESERVATION**

*The Sacred Obligation of Burial
Life after Death in Jewish Belief*

*No part of this book may be reproduced in any form, photocopying, or computer retrieval systems - even for personal use without written permission from European Agudas Yisroel in Antwerp – October 2008
Address : Lange Leemstraat 285 - B-2018 Antwerpen
Phone : +32 32 30 40 61 - fax: +32 32 81 52 83 - Mobile : 0478 75 39 51
E-mail: info@agudasyisroel-eu.org*

RABBINAAT
van de
ISRAELITISCHE ORTHODOXE GEMEENTE
« MACHSIKE HADASS »

JACOB JACOBSSTRAAT 22 - 2018 ANTWERPEN
TEL. 03/232.00.21 - FAX 03/233.87.97

Antwerpen-Antwerp, Oct. 23, 07

בס"ד י"א חשוון תשס"ז

The burial and respect of the deceased are part of the 613 commandments ordered in the Bible.

These are the most holy and respected obligations in Judaism.

They express one of the fundamental principles of Jewish faith: the resurrection of the Virtuous.

Our Sages regard the human body as the cover of the soul and human remains keep this eternal holiness.

Graves and graveyards are sacred places - their holiness is even higher than of synagogues - and need to be respected as such.

In all generations the Jewish people has strived to acquire and to preserve its cemeteries all over the world, whatever their age.

This commitment continues from generation to generation in the same mind.

Praiseworthy is the one who fulfills this Divine commandment.



Respectfully yours,

Rabbi Y.Z. Pollak

Table of Contents

CHAPTER ONE:	Life after Death in Jewish Belief	4
CHAPTER TWO:	Halachic Ruling relative to the Treatment of Discovered Jewish Graves and Discovered Bones of Jewish Victims (Shoah victims, mass graves...)	9
CHAPTER THREE:	Selected Laws of Jewish Cemeteries	11

Life after Death in Jewish Belief

Whilst the belief in life after death is common to many religions, its significance in the Jewish religion as taught by our great Sages is quite different to that of other faiths.

According to the way it has been explained to me by leaders of other faiths, their belief in the eternal nature of the soul and spirit has no connection to the human body, which is considered of no great importance after death, when it slowly disintegrates with no connection to the soul.

In their belief, the burial is merely a mark of respect for the memory of the deceased and the respect shown to a cemetery is in the nature of a memorial to those interred there, with the tombstones being of principal importance as they serve this purpose of memorial to the deceased, recording their lives and their achievements.

This common belief caused us much difficulty during the first years of our sacred work in protecting and preserving Jewish cemeteries in the destroyed European Jewish communities. The authorities could not understand our concerns, as the gravestones had been removed and no sign of the graves existed. They would argue that the cemetery no longer exists, referring to it as the site of a 'former cemetery'.

☞ The Jewish soul remains in relation with the lifeless body

Our traditional Jewish concept of a cemetery is quite different. The connection between the soul and the human body after death is an essential aspect of our belief in the eternity of the soul. The soul suffers when a grave is disturbed or even when disrespect is shown to what appear to us to be merely dry bones.

The soul and spirit can only be at rest if the physical body in which they were located is at rest in the grave which had been acquired during lifetime or which had been allocated after death.

According to tradition, the soul itself revisits the body and frequents the grave at certain times. This belief is the basis for a different attitude to the respect and protection of graves in Jewish law and tradition. It is superfluous to say that cremation is forbidden in Jewish law, but even the removal of one single bone from its place of rest is strictly forbidden, as it would cause deep pain to the soul and spirit of the deceased. The carrying out of tests or investigations on human bones is of course also strictly forbidden.

☞ The peace of the Jewish cemetery

It is not the external appearance of a cemetery that is its essential aspect; it is the guarantee of total peace for those interred there that is significant.

The existence of tombstones or the lack of them is not the important point – what is essential is the assurance that the human remains within the graves are undisturbed.

As long as any human remains are present, the cemetery's status is maintained, whether or not the tombstones remain there.

☞ The Sacred Responsibility

It is the sacred responsibility of every Jew to preserve Jewish cemeteries. A Jewish cemetery is referred to in our tradition as a 'House of Life' and its sanctity is eternal.

A 'Memorial' of any sort cannot replace the existence of a Jewish cemetery in its entirety. The idea of a memorial, statue or monument has no basis in Jewish tradition.

The performance of a particular good deed, a donation to charity or sponsorship of Torah study can be carried out for the benefit of the soul of the deceased, but this can in no way minimise or substitute the obligation to ensure the protection of the grave which is the resting place of the soul's physical remains.

The above also explains the obligation to ensure that burial takes place at the earliest possible opportunity, so that the soul should be at rest.

☞ The sanctity of human bones and Divine Assistance

As a connection is maintained between the soul and the body after death, there are particular occasions and times of year when the soul visits the grave, such as the anniversary of death, the eve of the New Moon and when people come to pray at the grave.

The physical body with which the soul fulfilled its religious obligations in this world has attained a level of sanctity. Therefore the body of a saintly person will naturally acquire an even greater level of sanctity, resulting in the gravesite being a suitable place for prayer and for those seeking Divine assistance. The soul enjoys serving as a messenger to convey these prayers to G-d. The sanctity of a Jewish cemetery is greater than the sanctity of a Synagogue.

Our Sages teach us that certain physical senses remain with the body after death and the deceased can actually hear what is being said before its burial.

☞ The sanctity of the earth covering the grave

Jewish law dictates that the earth with which the grave is covered belongs to the deceased and no earth that covers the grave may be moved, as this would cause distress to the deceased and would be considered as being stolen from him/her.

☞ The Resurrection of the Dead

All the above is more easily understood and appreciated in the light of our firm belief, which we are obliged to accept, that all those of the dead who are worthy, will come to life again at some point in the future. They will be revived and will live again in the body and form in which they lived at the end of their lives, and then they will be cured by G-d from any ailments etc.

Even if the bones of the deceased have been scattered, G-d forbid, they will be gathered together and skin and flesh will form on them as they come to life, as described by our Prophets in the reading of the Pesach festival.

One who does not believe in this basic tenet of faith has excluded himself from the Community of Israel. (Maimonides)

☞ The scattered bones - the opened graves

There is a special obligation to bury the body of a person who has nobody to ensure his/her burial. This obligation overrides many other obligations and even the High Priest who may not come into contact even with the dead body of his own close relatives, is obliged to involve himself with the burial of someone who has nobody to ensure his/her burial. Bones from Jewish graves that are found exposed or scattered or graves that have been opened or disturbed, fall within this category.

☞ Conclusion

The above points indicate the seriousness of our obligation to ensure the protection and preservation of Jewish graves, wherever they may be located. In the same way, we are assured that the souls of the deceased are indebted to those who act for the protection of their graves and intercede on their behalf in the higher worlds.

Rabbi Elyokim SCHLESINGER

Head of the Committee for the Preservation of
Jewish Cemeteries in Europe

Halachic Ruling relative to the Treatment of Discovered Jewish Graves and Discovered Bones of Jewish Victims (Shoah victims, mass graves...)

↪ 1. The basic principle is that where a skeleton or skeletons are found in a place where they were killed or were buried, they may not be removed from that place. They should be covered with earth and then a concrete cement (or similar) covering for protection. If it is clear that the graves will not be protected at that location, the opinion of competent rabbinical authorities in matters of Jewish laws relative to cemeteries must be obtained as to how to proceed in consideration of local conditions and circumstances.

↪ 2. If individual bones of Jewish graves are found, they should be buried in a safe protected area, preferably in a Jewish cemetery.

↪ 3. The burial or covering of the graves or bones should be done at the earliest possible opportunity and it is forbidden to delay, unless the delay is for the benefit of the honour of the deceased. Any decision to delay burial must be taken by competent rabbinical authorities in matters of Jewish laws relative to cemeteries.

↪ 4. Carrying out any kind of scientific tests, destructive or non-destructive, on Jewish human remains is strictly forbidden.

⚡ 5. Once a grave has been covered (recently or in the past), whether it is an individual grave or a mass grave, it is strictly forbidden to open it, even if the intention is to re-cover it afterwards. Any investigations of graves of their location must be made externally without disturbing the graves in any way or inserting any scientific instruments, pipes, wires etc of any kind into the graves. It is strictly forbidden to remove the earth covering the graves.

⚡ 6. The greatest act of kindness that can be done to the deceased is to ensure that their graves are left undisturbed. In the case of those murdered as Jews who sanctified G-d's name by their death, there is not even the usual requirement of reciting Kaddish and other prayers for them, as their soul have risen to the most lofty level in Heaven—may their merits protect us.

⚡ 7. As regards to the questions of what action to take to protect the remains of Jews who died in cellars (cellars where they were hid during WWII) it would seem that in the circumstances, permission should be obtained to cover them with earth and cement as above. However, before reaching a final decision on this, an expert, representative of a competent rabbinical authority in matters of Jewish laws relative to cemeteries, should visit the location to report on the exact condition and circumstances of this tragic site.

Selected Laws of Jewish Cemeteries

☞ Immortality of the soul

The *Beith ha'hayyim* (house of the living), the *Beith ôlam* (dwelling of the world), the *place of purity*, the *place of holiness*, the *Beith hakevaroth* (the dwelling of graves), the *Eternal Resting Place*, and the *Dwelling of the Living* are various names of the Jewish cemetery.

This represents the aspect of immortality of a part of man, i.e. his ever living soul. This also includes the perspective of the resurrection of all dead at the coming of Messiah.

The term “dwelling” and not “field” implies that our stay in this world is only temporary whereas the world to come will have a more definite character just as a “dwelling” in our civilisation gives a feeling of security.

In biblical times, cemeteries were constructed according to various aspects and were taken care of with due respect, as we can still see when visiting the ancient cemeteries around Jerusalem. The Talmud tells us that King Nabuchodonosor was informed that “the cemeteries around Jerusalem were more admirable than his palace!”

☞ External appearance of Jewish cemeteries

Since the destruction of the Temple in the year 70 (Common Era), simplicity was always been the rule of the tombstones. It is not advisable to spend much money on a tombstone. The rabbinical literature recommends donating the money to the poor.

It is even written in this respect: “Those who think that an elaborate tombstone is meritorious for the deceased are gravely mistaken. In the world of truth, this is not a mark of respect”. Rabbi Gamliel, Prince of Israel, requested that - in spite of his high standing - he should be buried in a white linen shroud in order to show a good example to others.

As the Talmud says: “The Righteous are not survived by monuments, but by their actions and good deeds”.

In spite of the absence of luxury on the cemeteries, the graves must be oriented towards Jerusalem. They should be arranged in neat straight lines, one next to the other, with regular distance, and should be kept reasonably clean. The straight lines are meant to enable visitors to walk around the graves without hurting their feet and so that they should not step onto graves.

☞ Sanctity of Jewish cemeteries

Jewish cemeteries have even a higher holy religious status (*Kedusha*) than of synagogues as a result of their eternal dimension. They require the same respectful behaviour. One is not allowed to eat or to drink, nor to work or to relax leisurely.

Cattle may not graze in a cemetery, there may not pass a rivulet. In principle, the grass should not be cut. If necessary, it should be burned on the premises or sold. The profit should be used for the upkeeps of the cemetery. It is forbidden to behave frivolously on the whole cemetery, even at a distance from the graves.

Old cemeteries that are not in use any more must be kept neatly and protected. The ownership to the community should be preserved at costs of all efforts.

Rabbi Hayyim Elazar Shapira (1872-1937), author of *Minchat Eleazar*, permits, if necessary, to even sell a Torah Scroll to ascertain the eternal rest of the deceased.

The Chatam Sofer (Rabbi Moïse Sofer, 1762-1839) strongly suggests erecting a wall around the cemetery in order to protect it.

Distance between the graves.

A space of 50-60 cm should separate the graves, slightly less if necessary. If a cemetery is full to capacity and it is impossible to acquire a new plot of land, it is permitted to cover the ancient graves with a layer of sand of at least 50-60cm height in order to be able to bury other deceased or to dig so called “double graves” for this purpose.

Acquisition of a burial plot

The Jewish tradition places much importance upon the acquisition of his/her grave. Our Sages advise the acquisition of a grave during his/her lifetime so that it should be considered his/her own property.

We find the notion of this ownership in the Bible and in the books of Prophets. Patriarch Abraham was the first to be mentioned buying the field of Efron in order to bury his wife Sarah (Genesis 23,17) and later to be buried there himself. Patriarch Jacob, who passed away in Egypt, insisted to be buried in the cave of his forefathers (Genesis 49,19).

If no tomb has been bought previously, the duty falls upon the members of the family of the deceased, generally the heirs and mostly the sons, to take care of this financial obligation. It is customary to pay an account before the burial. If there are no heirs or if they are unable to pay, the grave is bought with funds of the community.

The transferring of a tomb

The origin of the prohibition to remove a grave is to be found in the Talmud. Various reasons are given to explain this law. Rabbi Joseph Caro (1488-1575) - author of *Beith Yosef*- mentions the following as most significant: “It is absolutely not advisable to disturb the rest of the dead because that makes them fear they are being judged”. (E.g. the biblical story of King Saul by using the services of a oneiromancian to bring back up the deceased prophet Samuel he scared him by disturbing his eternal rest).

Any transfer of graves is strictly forbidden by the Talmud; exception could be a case of extreme circumstances and then only with agreement of broadly recognized rabbinical authorities that are competent in this area of Jewish religious law.

☞ Use and Profit of a grave

It is formally forbidden to use neither sand nor clusters of earth coming from a tomb nor the gravestone marking it for any practical or profitable purpose whatsoever.