

THE ABCDGEFGHIJ FAMILY EDITION

ערוך השולחן

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הלכות אבלות

סימנים של"ה-ת"ג

ARUCH HASHULCHAN

by Rabbi Yechiel Michel HaLevi Epstein

Av Beis Din of Novardok (1829-1908)

LAWS OF AVEILUS · YOREH DE'AH 335-403

With interlinear translation, comparative halachah
from the Chochmas Adam, Pischei Teshuva,
and Geshet HaChaim, and a practical summary of every siman



Kesser Shem Tov
PUBLISHING

Aruch HaShulchan

Yoreh De'ah: The Laws of Aveilus (Sections 335–403)

Compiled by Aryeh Niski



KESSER SHEM TOV PUBLISHING

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Imprint: Independently published

A NOTE ON METHODOLOGY

The Nature of this Work

This volume presents an original English elucidation and commentary, prepared through a combination of advanced language and translation technology and experienced human editorial oversight. The methods employed were carefully configured to adhere to Orthodox Jewish *hashkafa* and to preserve fidelity to the original Hebrew text, and portions of the work were reviewed by an experienced translator and editor of Torah literature. Even so, this edition does not carry the authority of a translation prepared and certified by a full team of rabbinic scholars.

Usage and Limitations

This translation is intended as a tool to help advanced learners access the depth of the original work. It is **not** intended to replace the original Hebrew source, nor to serve as a substitute for study under a qualified teacher.

Because the nuance of Torah study often transcends any single method of preparation, we ask the reader to keep two things in mind:

1. **Verification:** Any novel insight, ruling, or conclusion drawn from this translation should be checked against the original Hebrew.
2. **Consultation:** All practical questions or derived lessons should be discussed with and verified by a qualified rabbinic authority before being relied upon.

The goal of this edition is to make these teachings accessible to a wider audience, but the responsibility for accurate understanding and practical application remains with the reader.

BS"D

*With heartfelt gratitude to Hashem,
this sefer is lovingly dedicated
in loving memory of*

**R' Avraham ben Yaakov z"l
and Sarah bas Moshe a"h**

*who cherished every letter of the holy Torah
and lived by its light*

The ABCDEFG Family
(full-page dedication — sample)



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Introduction

The laws of aveilus are learned, almost always, at the worst possible time. A family returns from the cemetery with a hundred questions, and the sefer that answers them must be clear, complete, and honest about what is settled halachah and what is not. It is for that reader — and for the student who wishes to learn these halachos properly before the need arises — that this volume was prepared.

The text presented here is the *Aruch HaShulchan* of Rabbi Yechiel Michel ha-Levi Epstein, Sections 335–403 of Yoreh De’ah: from the laws of visiting the sick and the final illness, through kriah, aninus, burial, and the laws of the kohen, to shivah, sheloshim, and the mourning year. The Aruch HaShulchan was chosen as the spine of this edition because no other codifier walks the reader through these halachos as he does — always beginning from the Gemara, always giving the reasoning, and always arriving at a clear ruling. Every paragraph has been translated in full, with nothing abridged and nothing passed over.

How This Volume Is Arranged

The interlinear text. Each paragraph alternates between the Aruch HaShulchan’s own Hebrew, fully vocalized, and a bold English translation, joined by brief elucidation in plain type. Words added for clarity that are not in the Hebrew appear in [square brackets]. The Aruch HaShulchan’s own source citations remain in place exactly as he wrote them.

Comparison boxes — “Halachic Divergences & Insights.” Where the *Chochmas Adam*, the *Pischei Teshuva*, or the responsa of the *Tzemach Tzedek* — the halachic literature of the Aruch HaShulchan’s own era and the generations just before him — diverge from his ruling, sharpen it, or add a practical detail, the comparison appears in a bracketed box near the relevant paragraph.

“Later Authorities” boxes. The green boxes carry the rulings of the great poskim of the twentieth century — Rabbi Moshe Feinstein, Rabbi Shmuel Vosner, Rabbi Eliezer Yehuda

Waldenberg, and Rabbi Yitzchok Yaakov Weiss — on the questions of modern life that the Aruch HaShulchan, who passed away in 1908, never saw: employment during shivah, hospitals and end-of-life care, travel, and the changed circumstances of communal life. They also carry the practical guidance and recorded minhagim of Rabbi Yechiel Michel Tucatzinsky's *Gesher HaChaim*, the classic Yerushalayim compendium on the final illness, burial, and mourning. These boxes summarize each posek's ruling in the editor's own words, with precise citations for study of the original.

Additional References. At the end of many sections stands a short list of further responsa that engage that section, each with a one-line note of its subject — a starting map for deeper research.

The Tamtzis section. Each siman closes with a compact digest — *Tamtzis Aruch HaShulchan* — set apart between gold rules in two columns: the siman's practical rulings in brief, with in-line source-pointers and its own notes. The full translation shows how the Aruch HaShulchan reasons; the Tamtzis shows, at a glance, what he rules.

A word of caution. Throughout the boxes, care has been taken to distinguish the accepted ruling from a later stringency, a communal custom, or a matter of genuine dispute. Where the sources disagree on a question of practice, this volume says so and does not decide. In the laws of the goses and the final illness especially (secs. 335–339), no printed summary can replace a rav: questions touching life and death must be brought to a competent moreh hora'ah immediately.

The Poskim of This Volume

Presented in order of birth.

Rabbi Avraham Danzig (1748–1820) — Chochmas Adam

Born in Danzig and active in Vilna in the generation of the Vilna Gaon, Rabbi Avraham Danzig served as a dayan there while refusing rabbinic pay for most of his life, supporting himself in trade. His *Chayei Adam* (on Orach Chaim) and *Chochmas Adam* (on Yoreh De'ah) reorganized practical halachah for the layman and the scholar alike, and were accepted almost immediately throughout Lithuania and beyond. The laws of aveilus occupy klalim 151–169 of the *Chochmas Adam*, together with his kuntres *Matzeves Moshe*, written out of his own mourning for his son.

Rabbi Menachem Mendel Schneersohn of Lubavitch (1789–1866) — Tzemach Tzedek

Grandson of the Baal HaTanya and third Rebbe of Chabad, the Tzemach Tzedek led Russian Jewry through some of its darkest decrees while producing one of the great responsa collections of the nineteenth century. His teshuvos on Yoreh De'ah, drawn upon in the comparison boxes of this volume, combine the lomdus of the Lithuanian yeshivos with the mesorah of Chassidus; where his ruling reflects a distinctly Chabad practice, the box says so explicitly.

Rabbi Avraham Tzvi Hirsch Eisenstadt (1813–1868) — Pischei Teshuva

Rav of Utian in Lithuania, Rabbi Eisenstadt created in the *Pischei Teshuva* an indispensable apparatus: a running digest of the responsa literature arranged on the Shulchan Aruch itself. On the laws of aveilus his notes gather the rulings of the Noda BiYehudah, the Chasam Sofer, and dozens of other authorities — very often the same questions that return, in modern dress, in the twentieth-century responsa quoted later in this volume.

Rabbi Yechiel Michel ha-Levi Epstein (1829–1908) — Aruch HaShulchan

The author of our text. Born in Bobruisk, brother-in-law of the Netziv of Volozhin and father of Rabbi Baruch Epstein (the *Torah Temimah*), he served as Av Beis Din of Novardok for over three decades. His *Aruch HaShulchan*, spanning all four sections of the Shulchan Aruch, rebuilds every halachah from its talmudic sources to its practical conclusion — written, as he says in his introductions, so that the halachah should be understood and not merely obeyed.

Rabbi Yechiel Michel Tucazinsky (1871–1955) — Gesher HaChaim

Born in Lyakhavichy and raised in Yerushalayim, Rabbi Tucazinsky headed Yeshivas Eitz Chaim and stood at the center of the city's halachic life for half a century. His *Gesher HaChaim* is the classic practical compendium on the final illness, burial, and aveilus — a work born of decades of direct communal practice, recording with particular care the minhagim of Eretz Yisroel and Yerushalayim where they differ from the practice of chutz la'aretz. Its guidance appears throughout the green boxes and reference lists of this volume.

Rabbi Moshe Feinstein (1895–1986) — Igros Moshe

Born near Minsk and rav of Luban under Soviet rule, Rabbi Feinstein arrived in New York in 1937 and became, from his yeshiva Mesivtha Tiferes Yerushalayim on the Lower East Side, the posek of American Jewry and far beyond. The *Igros Moshe* confronts the new world directly

— workplaces, hospitals, distances, changed family life — and its teshuvos on aveilus are the backbone of the “Later Authorities” boxes in this volume.

Rabbi Yitzchok Yaakov Weiss (1902–1989) — Minchas Yitzchak

Dayan of Grosswardein before the war, rav of Manchester after it, and finally Gaavad of the Eidah HaChareidis in Yerushalayim, Rabbi Weiss carried the piskei halachah of Hungarian Jewry across three continents. The *Minchas Yitzchak* is marked by breadth of sources and caution in ruling, and is cited here especially on questions of burial, exhumation, and communal practice.

Rabbi Shmuel ha-Levi Vosner (1913–2015) — Shevet HaLevi

Born in Vienna and a student of the Yeshivas Chachmei Lublin, Rabbi Vosner served for some seventy years as rav of the Zichron Meir quarter of Bnei Brak, where his beis din and his shiurim shaped the halachic life of Torah Jewry in Eretz Yisrael. The eleven volumes of *Shevet HaLevi* span the entire Shulchan Aruch; his rulings on aveilus and minhag appear throughout this volume as a second Ashkenazic voice beside the Igros Moshe.

Rabbi Eliezer Yehuda Waldenberg (1915–2006) — Tzitz Eliezer

A Yerushalmi from birth, dayan and av beis din in Yerushalayim, Rabbi Waldenberg became the leading halachic authority on medicine of his generation through his decades of rulings for the doctors of Shaare Zedek hospital. The twenty-two volumes of the *Tzitz Eliezer* are quoted in this volume above all on Sections 335–339 — the sick, the dying, and the duties of those who stand at the bedside.

Further Sources

Beyond these principal companions, the comparison boxes and the Additional-References lines draw on a wider library, cited each in its place: among the rishonim and early poskim — the *Sefer Chasidim*, the *Maharil* (minhagim and responsa), *Maharam Mintz*, *Maharashdam*, the *Levush*, the *Prisha*, and the *Shiltei HaGiborim* on Moed Katan; from the literature of kabbalah and mussar — the *Ma’avar Yabok* of R’ Aharon Berechiah of Modena and the *Kav HaYashar*; among the achronim — the *Mateh Efraim* of R’ Efraim Zalman Margolios, the *Tzlach*, the responsa of the *Chasam Sofer* and of R’ Akiva Eger, the *Birkei Yosef* and *Chaim Sha’al* of the Chida, *Rav Pealim*, *Maharam Schick*, *Beis Shlomo*, *Melamed LeHo’il*, and the *Emek Brachah*; and, among the sources of Chabad custom, *Sefer HaMinhagim*. Their appearance here is owed to the reference lists of a Chabad handbook of aveilus whose apparatus guided part of this volume’s enrichment.

May the study of these halachos be a merit for all whose names are recalled through them, and may the One who comforts Zion and Yerushalayim wipe away every tear.

סימן שצד

Section 394: Not to Grieve Excessively Over the Dead

§1 — שְׁלֹא לְהִתְקַשּׁוֹת עַל הַמֵּת יוֹתֵר מִדִּי • וּבֹד' סְעִיפִים — That one should not grieve over the dead excessively • containing four paragraphs This is the heading of the section.

— אֵין בּוֹכִין עַל הַמֵּת יוֹתֵר מִשְׁלוֹשָׁה יָמִים, וְאֵין מְסַפְּדִין יוֹתֵר מִשְׁבָּעָה. — We do not weep over the dead more than three days, and we do not eulogize more than seven. These are the standard time limits for the general population. אָבֵל. בְּשָׂאֵר הָעָם. — In what case is this said? Regarding the rest of the people. But for Torah scholars — everything is according to their wisdom. The greater the scholar's wisdom, the longer he may be mourned. וּמִכָּל מְקוֹם אֵין בּוֹכִין עַלֵיהֶם. — Nevertheless, we do not weep over them more than thirty days, for even over Moshe Rabbeinu they did not weep longer, This is derived from the verse: "וַיִּכְפּוּ בְנֵי יִשְׂרָאֵל אֶת מֹשֶׁה וְגו'" — as it is written: "And the Children of Israel wept for Moshe... thirty days, and the days of weeping in the mourning for Moshe ended." Thus thirty days is the maximum for weeping over even the greatest scholar. וְכֵן אֵין מְסַפְּדִין יוֹתֵר עַל שְׁנַיִם עָשָׂר חֹדֶשׁ, כְּדִמְצִינוּ בְּכַתּוּבּוֹת (פְּתוּבוֹת קג ב) שֶׁעַל רַבֵּינוּ הַקָּדוֹשׁ מְסַפְּדִין יוֹתֵר — Likewise, we do not eulogize more than twelve months, as we find in *Kesubos* (*Kesubos* 103b) that for Rabbeinu HaKadosh they eulogized twelve months and no longer. Twelve months is the outer limit for eulogizing even the greatest sage. וְכֵן חָכָם שֶׁבָּאָה שְׁמוּעַת פְּטִירָתוֹ אַחֲרֵי שְׁנַיִם עָשָׂר חֹדֶשׁ — אין מְסַפְּדִין — And similarly, a sage the report of whose death came after twelve months — we do not eulogize him, This is derived from the following statement: כְּדִאֲמַרְיֵנָּה בִּיבְמוֹת: — as we say in *Yevamos* (*Yevamos* 79a): David said: Twelve months of the year have passed for Shaul, and it is not customary to eulogize him. Since the Gemara reckons in months rather than in a year, an inference can be drawn: שְׁמַע מִיָּנָה — שְׁמַע מִיָּנָה — שְׁמַע מִיָּנָה — And since it makes this dependent on months and not on a year, we learn from this that even in a leap year they would not eulogize him after twelve months, In a leap year of thirteen months, the eulogy limit remains twelve months, not the full year. וְכִמּוֹ שֶׁכְּתִבְתִּי גַּבִּי קִדִּישׁ בְּסוּף סִימָן — שֶׁעָ"ו, עֵי"ו, עֵי"ו, עֵי"ו — as I wrote regarding Kaddish at the end of Section 376, see there.

❖ LATER AUTHORITIES ❖

Are the Three Days of Weeping Reckoned as Full Days?

Gesher HaChaim 21:1: The three days set for weeping, like the seven and the thirty, are governed by *miktzas hayom k'kulo*, so that on the morning of the third day their added stringencies have already lapsed. The *Chochmas Adam* held that these must be three complete days measured hour for hour, but the accepted ruling follows the language of the *Rema* (393:1) that a part of the third day counts as the whole. Proof is drawn from what people actually do: those who are careful not to come for *nichum aveilim* during the first three days nevertheless come on the third day itself. Since these three days are of rabbinic origin, there is room to be lenient in this reckoning.

§2 — וְאַל יִתְקַשֶּׁה אָדָם עַל מֵתוֹ יוֹתֵר מִדָּאִי, שְׁנֵאֲמַר: "אַל תִּכְבּוּ לְמֵת, וְאַל תִּנּוּדוּ לוֹ." §2 — **A person should not grieve over his dead excessively, as it is stated: "Do not weep for the dead, and do not lament for him."** The verse must be understood as prohibiting only excess: — כְּלוּמַר: יֵתֵר מִדָּאִי, שְׁוֵהוּ מִנְהֲגוֹ שֶׁל עוֹלָם. — **That is to say: [do not weep] excessively, for this [death] is the way of the world.** Death is inevitable and universal, so grieving beyond measure is inappropriate. וְהַמְצִיעַ עֲצָמוֹ יוֹתֵר עַל מִנְהֲגוֹ שֶׁל עוֹלָם — הֲרִי זֶה — **And one who pains himself more than [is fitting given] the way of the world — this one is a fool.** How, then, should one act? (מוֹעֵד) כִּי אָמְרוּ חֲכָמִים — **Rather, how should he act? So said the Sages (Moed Katan 27b): Three [days] for weeping, seven for eulogy, and thirty for laundering and haircutting.** These are the graduated stages of mourning. — מִכָּאֵן וְאַיִלָּה אָמַר הַקָּדוֹשׁ בְּרוּךְ הוּא: אִי אַתֶּם רַחֲמָנִים יוֹתֵר מִמֶּנִּי? — **From then on, the Holy One, Blessed is He, said: Are you more merciful than I?** One should not mourn beyond the ordained periods. — עַל מֵת אַחֵר — **And anyone who grieves over the dead excessively — he is, God forbid, weeping over another death [yet to come].** The Gemara illustrates this with a story: הָיָא אִיתְתָּא דְהֻנָּה בְּשִׁיבְבוּתִיָּה דְרַב הוּנָא, הָיָא לָהּ שְׁבַע בָּנִי. מֵת חֵד מִיְנֵיהוּ, הָוִית — **There was a certain woman who lived in the neighborhood of Rav Huna, who had seven sons. One of them died, and she was weeping excessively.** Rav Huna sent word to her: שְׁלַח לָהּ רַב הוּנָא: לֹא תַעֲבֹדִי הַכִּי. לֹא אֲשַׁחֲחָהּ בֵּיהּ וְכו', לְסוּף מִיתָהּ — **Rav Huna sent to her: Do not do this. She did not heed him, etc.; in the end they all died, see there.** Her excessive grief for one son ultimately foreshadowed the death of all. — (וְלֹא יִנָּשֵׁק לְשׁוּם מֵת, כִּן כָּתַב בְּסֵפֶר הַחֲסִידִים.) — **(And one should not kiss any dead person, so wrote the Sefer Chassidim.)**

❖ HALACHIC DIVERGENCES & INSIGHTS ❖

Kissing the Deceased

***Pischei Teshuva* (sk. 1) / *Sefer Chassidim*: A qualification of the accepted ruling:** Whereas the *Aruch HaShulchan* cites the *Sefer Chassidim* in an unqualified form — that one should not kiss any dead person — the *Pischei Teshuva* records the qualification, that it applies specifically to one’s son or daughter, but kissing other deceased relatives is permitted, as it is written concerning Yaakov, “and he wept over him and kissed him” (Genesis 50:1).

❖ LATER AUTHORITIES ❖

Excessive Grave-Visiting

Shevet HaLevi 7:192: Reading the Rambam’s phrase “*lo yifneh adam*” (“a person should not turn to visit the graves”), *Shevet HaLevi* observes that many people make constant grave-visiting the center of their devotion, going “from cemetery to cemetery,” which he says is not the proper path. Although these are holy places fitting for prayer, one’s true bond with the departed tzaddikim and with prior generations is forged far more through their Torah and teachings — “*agurah be’ohalcha olamim*.” This reinforces the section’s theme that mourning and attachment to the dead must be kept within measured bounds.

וְכֹן לְהִיפֹךְ: כָּל מִי שֶׁאֵינוֹ מִתְאַבֵּל כָּלֵל כְּמוֹ שֶׁצִּוּוּ חֲכָמִים – הֵרִי זֶה אֶכְזָרִי, וְהִיא אֵינָה §3
 And so too the reverse: anyone who does not mourn at all as the Sages
 commanded — this one is cruel, and that is not the way of the Torah. Rather, the
 appropriate response is: — אֲלֵא יִפְחַד וְיִדְאָג וְיִפְשָׁשׁ בְּמַעֲשָׁיו, וְיִחְזֹר בְּתַשׁוּבָה. — Rather, he
 should fear, and be anxious, and examine his deeds, and return in repentance. A death
 should prompt self-examination. — וְאֶחָד מִבְּנֵי הַחֲבוּרָה שָׁמַת – תִּדְאָג כָּל הַחֲבוּרָה כּוּלָּהּ. —
 And when one member of a group dies — the entire group should be anxious. As the
 Sages said: (שָׁם): שְׁלוּשָׁה יָמִים הָרִאשׁוֹנִים יֵרָאֶה אֶת עַצְמוֹ כְּאִילוֹ חָרֵב. —
 And so said the Sages (there): During the first
 three days one should view himself as though a sword is resting upon his neck (this is
 the correct reading). The sense of imminent danger gradually recedes: מְשֻׁלוּשָׁה וְעַד שֶׁבָּעָה.
 — From three until seven — as though it is resting in
 a corner. The danger is less immediate but still present. — כְּאִילוֹ עוֹבְרֶת כְּנֶגְדּוֹ. —
 From then on — as though it is passing before him in the marketplace. This
 diminished sense of judgment continues until twelve months. — וְזֶהוּ עַד שְׁנַיִם עָשָׂר חֳדָשׁ.
 כְּדֹאִיתָא בִּירוּשְׁלָמִי שָׁם: כָּל שֶׁבָּעָה הַחֲרֵב שְׁלוּפָה, עַד שְׁלוּשִׁים הִיא רוֹפֶפֶת, לְאַחַר שְׁנַיִם
 — And this is until twelve months, as it is
 stated in the *Yerushalmi* there: All seven [days] the sword is drawn, until thirty it is
 loosened, [and] after twelve months it returns to its sheath. End of quote. Only after
 twelve months does the judgment fully subside. — וְכָל אוֹתָהּ הַשָּׁנָה הַדִּין מִתּוֹחָה כְּנֶגֶד אוֹתָהּ.
 — And throughout that entire year, judgment is stretched taut against that
 family. The family remains under a measure of divine scrutiny. — וְאִם נוֹלֵד בֶּן זָכָר בְּמִשְׁפָּחָה –
 But if a male child is born into the family — the entire family
 is healed. The birth signals that the harsh judgment has passed. — (וְהָא דְאִמְרִינָן בְּשִׁבְתָּ קָנָא
 — ב: רַבִּי חֲנִינָא שְׂכִיבָא לִיה בְּרִיתִיה, וְלֹא הָוָה בְּכִי וְכוּ', עֲיִין שָׁם –

say in Shabbos 151b: Rabbi Chanina’s daughter died, and he did not weep, etc., see there — This apparent lack of weeping requires explanation: **צָרִיךְ לוֹמַר שֶׁלֹּא בָכָה הָרַבָּה** (עֵינָיו שָׁם). **יֹתֵר מִפְּשִׁיעוֹר. וְאִשְׁתּוֹ רָצְתָה לְבָכּוֹת יוֹתֵר, וְדָחָה לָּהּ בְּדִבְרֵי, עֵינָיו שָׁם).** — one must say that he did not weep much beyond the measure. And his wife wished to weep more, and he deflected her with words, see there.)

❁ HALACHIC DIVERGENCES & INSIGHTS ❁

Why a Male Child Specifically Heals the Family

***Chochmas Adam* (167:8):** A supplementary detail the *Aruch HaShulchan* omits: While the *Aruch HaShulchan* states simply that the birth of a male child heals the family from the year’s harsh judgment, the *Chochmas Adam* (167:8) adds the reason: specifically a male, for “a male comes into the world, peace comes into the world.” He also frames the underlying image cited by the Sages — the family is like an arch of stones: when one stone is dislodged, all are shaken — meaning the attribute of judgment is stretched against the whole family until it gradually relaxes.

❖ LATER AUTHORITIES ❖

Why the First Three Days Are the Heaviest

Gesher HaChaim 21:1: The graded image of the sword tracks the stages of the soul's parting from the body. During the first three days the form of the face is still recognizable and the soul still hovers over the body, and the wound of the tragedy has not yet begun to close — and therefore these days carry the weight of the mourning: he does no work even in the pressed manner permitted after three days, he does not return a greeting, and he does not leave his home at all. From there the observance eases into the seven, then the thirty, and for a father and mother the twelve months.

אֵתָא בְּשִׁמְחוֹת (פֶּרֶק שְׁמִינִי): יוֹצְאִין לְבֵית הַקְּבָרוֹת וּפּוֹקְדִים עַל הַמֵּתִים שְׁלוֹשָׁה יָמִים, §4. שָׂמָא עֲדִיין הוּא חֵי, עֵינֵין שָׂם. — It is stated in [Tractate] *Semachos* (chapter eight): They go out to the cemetery and check on the dead for three days, lest one is still alive, see there. This practice was suited to the burial method of that era: וְזֶהוּ בִּימֵיהֶם, שֶׁהָיוּ מְנִיחִין — אֶת הַמֵּת בְּכוֹכֵין, וְהָיָה אֲפָשָׁר לְגַלוֹת אוֹתוֹ וְלִרְאוֹתוֹ. — And this was in their times, when they would place the dead in burial niches, and it was possible to uncover and view him. Such niches allowed the body to be inspected during those days. וּבִימֵינוּ לֹא שִׁיּוּרָא זֶה, — וְאֵין אָנוּ קוֹבְרִין בְּלֹא מִיתָה וּדְאִיתָ. — But in our times this is not applicable, and we do not bury without certain death.

❖ HALACHIC DIVERGENCES & INSIGHTS ❖

Checking the Grave for Signs of Life

Chochmas Adam (167:7) / Pischei Tesbuva (sk. 2): Historical context of the accepted ruling: The *Chochmas Adam* (167:7) records that in Talmudic times, when burial was in niches, they would go out and check the dead for three days — and this involved no trace of the forbidden “ways of the Amorites,” for it was done to see whether one was still alive; indeed there was a case where one so checked was found alive, lived another twenty-five years, and fathered five sons. **PT:** The *Pischei Tesbuva* (sk. 2) notes that the *Chasam Sofer* (Responsa, sec. 338) discusses this matter; the practical concern of verifying death before burial is one that, in a contemporary case of doubt, must be brought to a competent rav.

LATER AUTHORITIES

Why We No Longer Check Graves After Death

Shevet HaLevi 3:162 and 7:192: The *Aruch HaShulchan* (following the *Perishah* and *Shach*) explains that the *Semachos* practice of returning to the grave for three days worked only in their day, when the dead were placed in accessible burial niches. *Shevet HaLevi* strengthens this using the *Chasam Sofer* (YD 338): the permission applied when burial was in temporary graves (*mehamoros*) without earth piled on, so a person could still rise; but once we bury deep and cover with earth, one could no longer emerge, so checking is pointless and — per the Radbaz’s reading of the Rambam — forbidden as *darkei emori* even within three days. He notes the classical authorities (*Ribash*, *Kesef Mishneh*, Radbaz) preserved the Rambam’s text “*lo yifneh adam levaker hakevaros*” and that one may not emend it.

ADDITIONAL REFERENCES

Gesher HaChaim 21:1 — The twelve-month period is not subject to *miktzas hayom k’kulo*, since only a count reckoned by days admits it and not one reckoned by months — so one who died on the first of Adar completes twelve months at the end of the twenty-ninth of Shevat.

Gesher HaChaim 21:2 — The three-day limit for identifying a corpse is traced to the *Yerushalmi* that the soul hovers over the body for three days, after which the features change — and those three days too are not measured hour for hour.

תמצית ערוך השולחן

TAMTZIS ARUCH HASHULCHAN

The siman’s dinim in brief — Not Grieving Excessively Over the Dead

THE LIMITS OF WEEPING AND EULOGIZING

One does not weep over the dead more than three days, and does not eulogize more than seven. (AH §1)

This applies to ordinary people; for a Torah scholar, it is all according to his wisdom. (AH §1)

Nevertheless, one does not weep even over a scholar more than thirty days, for even Moshe Rabbeinu was not wept over longer. (AH §1)

One does not eulogize beyond twelve months, as was done for Rabbeinu HaKadosh. (AH §1; Kesuvos 103b)

If word of a scholar's death arrives after twelve months, he is not eulogized. (AH §1; *Yevamos* 79a)

- Since the reckoning is by months and not by a year, even in a leap year he is not eulogized after twelve months. (AH §1; *Siman* 376)

EXCESSIVE GRIEF IS FORBIDDEN

A person may not grieve over his dead more than is fitting, for **אֵל תִּבְכּוּ לְמַת וְאֵל תִּגְדּוּ לוֹ** — meaning, not excessively; this is the way of the world. (AH §2; *Jeremiah* 22:10)

One who afflicts himself beyond the way of the world is a fool. (AH §2)

The measures are: three days for weeping, seven for eulogy, and thirty for pressing garments and haircut; beyond that the Holy One says, “Are you more merciful than I?” (AH §2; *Moed Katan* 27b)

Whoever grieves excessively over the dead brings about, God forbid, weeping over another death. (AH §2)

One should not kiss any corpse. (AH §2; *Sefer Chassidim*)¹

ONE WHO DOES NOT MOURN AT ALL

Conversely, one who does not mourn at all as the Sages commanded is cruel, and this is not the way of the *Torah*. (AH §3)

Rather, one should fear, worry, examine his deeds, and repent; and when one of a group dies, the entire group should be concerned. (AH §3)

The first three days one should see himself as though a sword rests on his neck; from three until seven, as though it rests in the corner; from then on, as though it passes before him in the marketplace — and this lasts until twelve months. (AH §3; *Yerushalmi Moed Katan*)

The whole year, judgment is stretched taut against that family; and if a male child is born into the family, the whole family is healed. (AH §3)

VISITING THE GRAVE AFTER BURIAL

In their times, they would go out to the cemetery and check the dead for three days, lest he still be alive — for they placed the dead in burial niches and could uncover and see him. (AH §4; *Semachos*, ch. 8)²

Nowadays this does not apply, and we do not bury without certain death. (AH §4)

NOTES

1. see *Pischei Teshuva* (“*yoser mida'i*”), who limits the *Sefer Chassidim*'s prohibition to kissing one's own son or daughter, but permits kissing other dead — as Yaakov was kissed.

2. see *Pischei Teshuva* (“*u'pokdim*”), pointing to the *Chasam Sofer* (*siman* 338) on the practice of checking the dead.