

## *Should Visiting the Cemetery be Encouraged or Discouraged?*

By: MOSHE ZURIEL

### **The Problem**

During the past few hundred years, a new custom has developed for people to visit the cemetery and pray there for Divine help. Some visit on a regular basis to honor the deceased, usually on the seventh and/or thirtieth day (*shloshim*) following the death of a dear one, or on the annual anniversary (*yahrtzeit*) of the *petirah*. In this Torah article we shall attempt to clarify what would be the best way to comply with *Chazal's* directives and teachings on this matter. So, too, we shall explore whether the deceased can “hear” visitors talking to them.

This essay is divided into three parts. The first addresses the advisability of praying or reciting *Tehillim* and/or *Mishnayos* at the graveside; the second explores whether the deceased hear our words; and the last discusses whether or not it is proper to visit the cemetery on specific days to honor the memory of the deceased.

Undoubtedly, there are many reputable rabbis who condone and encourage each of these practices and beliefs, while other reputable rabbis condemn and forbid them. In general, the former rely

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on kabbalistic sources (*Zohar*, Arizal, etc.), while the latter rely on Talmud Yerushalmi.

Talmud Bavli records both opinions, but, as we shall see, the general tendency even there is to discourage the above practices in line with the Talmud Yerushalmi. The goal of this article is to inform those who wish to practice true *Chassidus* (as taught by *Mesillas Yeshtarim*, chap. 18) to do so without getting entangled in a *machlokes ha'poskim*.

### 1. Whether or not to pray or read a Torah-section in the cemetery.

One should not be in the cemetery while wearing *tefillin* or reading Torah. One who does so is *loeg l'rash*, mocks the poor [i.e., the deceased] and insults thereby the Creator (*Berachos* 18a).

Rambam (*Aveilus* 14:13) adds the prohibition to pray there, as do the Rif (11a), Rabbi Yosef Migash (*Sh"ut* 47), and other *Rishonim*, and that is how it is codified in *Shulchan Aruch* (*Yoreh De'ah* 367:3). The additional prohibition to pray is based on the version of the Talmud in their possession (see *Dikdukei Sofrim*).

Rambam adds that if one recites *Krias Shema* in a cemetery, it is disqualified and he must recite it again after leaving the cemetery (*Hilchos Krias Shema*, chap. 3:2). He repeats this injunction concerning *Shemoneh Esreh* (*Hilchos Tefillah* 4:8), disqualifying it if recited in the cemetery.

During the 18th century there was a custom to organize a *minyán* to pray at the tombstone of great Rabbis. Rabbi Chaim David Azulai, the famous Chida, in *Shem HaGedolim* (article 199, "Rabbeinu Eliezer bar Nassan") discusses this custom, citing the *Shulchan Aruch* in *Orach Chaim* 71:4 who follows Rambam and prohibits saying *Krias Shema* at a graveside. Chida suggests that great Rabbis at whose graveside people pray are considered alive, based on the *Gemara* in *Berachos* 18b that *tzaddikim* are alive even after death. As additional support he quotes *Sefer Chassidim* (Section 1129) that Rabbi Yehudah HaNasi, the editor of the *Mishnah*, after his own funeral came to his home every Friday night to recite *Kiddush* for his wife and family. This can only be if he was deemed to

be alive and therefore obligated to do *mitzvos*, since the dead are released from that obligation and therefore cannot be a proxy for others. The problem with the Chida's suggestion is that there is absolutely no source either in the Talmud or in any *Midrash* that Rabbi Yehudah HaNasi, after being buried, recited *Kiddush* or did any other *mitzvah* (see *Kesuvos* 103a where the *Gemara* does not mention *Kiddush* at all). As to the account of *Sefer Chassidim*, it's true that it was originally composed by the great Rabbi Yehudah HeChassid, yet it is known that many disciples added additional sections.<sup>1</sup> This may be one of them, and therefore unreliable.

Another Talmudic source prohibiting Torah study in the cemetery is in *Bava Kamma* 16b. *Divrei HaYamim* 2 32:33 relates that at the death of King Chizkiyah, he was accorded great honor. The *Gemara* asks what the great honor was and answers that the rabbis of that period convened a Torah study session at his graveside. *Tosafos* (s.v. *she'hoshivu*) ask how that is permissible, since the *Gemara* above (*Berachot* 18a) prohibits this? *Tosafos* suggests that they distanced themselves from the grave at least four *amos* so as not to infringe upon the law. We must remember that the ancient custom was not to bury the dead in the earth, but rather to place them in caves, which had excavated shelves in the cave-walls upon which the coffins were placed.<sup>2</sup> Therefore, by placing their yeshivah outside the entrance to the cave, they were permitted to study Torah.

Rabbi Yosef Migash (*Sh"ut* chap. 47) has a different answer. He teaches that at the grave of a great Rabbi the above prohibition does not apply. Just as he taught Torah while alive, so we continue to honor him even after death. The problem (for us in our discussion) with this answer is that this allows learning only at the graveside of a teacher of Torah, and not all of the dead fit into this category. Another problem is the issue of "*loeg l'rash*" (insulting the dead).

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<sup>1</sup> See *Sefer Chassidim*, Parma, published and annotated by Yehuda Wistensky וויסטינעצקי שנת תרפ"ד *Mavo* p. 14 as reported in *Otzar Ha-Chochmah*. See also *Sefer Recanati* (14th century), *Parashas Bo*.

ד"ה ולכל בני ישראל לא יחרץ כלב לשונו כותב "וראיתי שכתב אחד מתלמידי ר' יהודה החסיד כי פעם אחת וכו' " וזה נמצא בספר חסידים פסקא תתשמ"ו

<sup>2</sup> See *Bava Basra* daf 101.

While it may be true that this deceased Rabbi is willing to have people learning by his grave, and is not insulted, what about the many others who are buried within a few short steps surrounding him, as is prevalent in modern-day cemeteries? Nevertheless, the *Shulchan Aruch* (*Yoreh De'ah* 344:17) permits reciting *pesukim* from Scripture and even *Torah derashos* at the cemetery if they honor the deceased.<sup>3</sup> Here we have a clear demarcation between learning Torah to fulfill the obligation of learning Torah, independent of the dead, which is prohibited in a cemetery, and Torah study in honor of the deceased, which is permitted.<sup>4</sup>

The *Gemara* in *Taanis* 16a explains the custom of visiting graves during droughts:

Why do they go to the cemetery? Rebbe Levi and Rebbe Chanina, one says that it is to express that if we have no rain we are as good as dead, and the other says that the reason is so that the dead should pray for us. What is the difference between the two answers? The difference is whether to visit the cemetery of the gentiles.

Rashi explains that in those settlements where we have no Jewish cemetery, if the reason to go there is to humble ourselves, to

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<sup>3</sup> The *Shulchan Aruch* uses the *Nimukei Yosef* as his source.

<sup>4</sup> We should mention that here Rabbi Yosef Karo, the author of the *Shulchan Aruch*, forsook his undertaking in his Introduction to the *Beis Yosef* on the *Tur*, that he would base his legal rulings upon the decisions of the Great Three *Rishonim*—the Rif, the Rambam and the Rosh. Here he decided as per Ri Migash et al., without paying attention to the rulings of the above three, who prohibit all and any Torah study in the cemetery. Why did he do so? The answer, I feel, is that it was the current custom in his day. He didn't want to record a ruling which would not be accepted by common practice. [We have several instances to cite, such as *Orach Chaim* (582:9), permitting the recital of the *tefillah* in a loud voice, due to the teaching of *Tosafos* and not that of the three *Rishonim* above. So, too, Rabbi Karo rules that one must wait to recite the blessing on the New Moon until seven days have passed from its inception (*Orach Chaim* 426:4). This is counter to the ruling of Rambam and other *Rishonim* that the benediction should be recited immediately at the first sight of the new moon. There are other exceptions to this rule in the *Shulchan Aruch*.]

inculcate our consciousness with the knowledge of our difficult situation, then going to the Gentile cemetery is fine. But if the reason is to have the dead pray for us, there is no benefit from notifying the dead Gentiles, since they will not pray for us.

Rambam, in *Hilchos Taanis* 4:18, rules according to the first reason. He explains that the rationale for going to the cemetery is to impress that “you will be as good as dead if you don’t repent your ways.” Generally speaking, the Rambam gives legal rulings without elaborating on the moral lesson involved. Here he does so, since he wants to reject the other explanation of the *Gemara*, i.e., to visit the dead so that they pray for us. Since we see that his habitual critic, the Raavad, doesn’t disagree, we can assume that the Raavad agrees with his decision.<sup>5</sup>

Rambam’s ruling is based on the Talmud Yerushalmi (*Taanis* 2:1) on this *sugya* which gives only one explanation for visiting cemeteries—that of teaching humility. Although in Talmud Bavli there is a dispute between two Rabbis, Talmud Yerushalmi accepted only the reason of humility. It is accepted that when we have an undecided Bavli versus a decisive Yerushalmi, we must rule according to the Yerushalmi (*Yad Malachi*, pt. 2, *Klalei Shnei HaTalmudim*, item 9).

The *Shulchan Aruch* (*Orach Chaim*, 579:3) copied the words of the Rambam verbatim, i.e., that the reason to go to the cemetery is to inculcate our spirit with humility. Here, too, the Rema is silent, apparently agreeing with the *Mechaber*.<sup>6</sup> Neither gives the other reason for visiting graves.

To summarize, we have here four of the major *poskim* who reject the opinion that we go to the cemetery to ask the dead to pray for us.

We still have to address the three instances where Bavli seems to suggest that visiting the cemetery is for the purpose of asking the dead to pray for us. [1] Kalev went to Chevron to ask the Patriarchs

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<sup>5</sup> This interpretation of Raavad’s silence is based on the *Knesses HaGedolah* (*Klalei HaPoskim*, item 35); *Sh”ut Radvaz* (pt. 1, chap. 34) and the *Pri To’ar* (chap. 52:12).

<sup>6</sup> See *Sh”ut Yabi’a Omer*, vol. 8, *Even HaEzer Responsa* 17, par. 2, who understands the Rema this way.

to pray for him to protect him from the cabal of the *meraglim* (*Sotah* 34b). [2] Rabbi Manny went to his father's grave (*Taanis* 23b). [3] A certain Rabbi had weakened eyesight and went to Rebbe Chiya's grave to request his intervention (*Bava Metzia* 85b).

All three of the above sources are *Aggados*<sup>7</sup> which are meant to teach moral lessons and not halachic practice; therefore *Chazal* say: "We do not learn from *Aggados*" (*Yerushalmi, Pe'ah* 2, end of *halachah* 4). The *Sefer HaKuzari* (end of *maamar* 3) explains that the editors of the Talmud included the *Aggados* without always giving us the key to unravel the riddles:

ויש שההגדות הן משלים שנשאו על סודות החכמות שאסור לגלותם, הואיל ולהמון אין בהם משום תועלת, ולא נמסרו כי אם ליחידים שיחקרו וידרשו בהם.

The *Noda BiYehudah* (*Sh"ut Tinyana, Yoreh De'ah* responsa 161) accepts this rule using the *Kuzari* explanation as the reason for it:

ובוודאי האדם לעצמו כשיש לו פנאי ראוי לחקור בכל כחו גם בדברי אגדה. אבל אני אמרתי שאין דרכי להשיב בהם לשואל, כי כל דברי רז"ל בדברי אגדה סגורים וחתומים וכולם קשים להבין.

The *Geonim*<sup>8</sup> (700–1000 CE) also write "the rule is that we do not rely on *Aggadab*." Rambam also agrees in his introduction to *Peirush HaMishnah*.<sup>9, 10</sup>

I want to make it clear that *Aggados* teach inner truths that are, however, not always evident to Torah students as they are written in code usually difficult to decipher. They therefore cannot be used in halachic rulings. Ignoring the above mentioned *Aggados*, we are left only with the halachic *sugya* of *Taanis* 16b, and there we see

<sup>7</sup> *Aggadab* includes even stories about *Amora'im*, so long as the *Gemara* is not ruling for us what to do, or what is forbidden to do. See *Maamar al HaAggadab* of Rebbe Avraham ben Rambam, republished in the 5-volume *Ein Yaakov* books. There, three paragraphs before the end, ד"ה, החלק השני, he includes the telling of stories about *Amora'im* as *Aggadab*, and holds that some of them are indeed dreams.

<sup>8</sup> *Otzar HaGeonim, Berachos*, p. 91, *Peirushim* par. 271, and so, too, *Otzar HaGeonim on Chagigah*, p. 60, par. 69.

<sup>9</sup> Mossad Harav Kook edition, pp. 19–20.

<sup>10</sup> The encyclopedic work *Sdeh Chemed (Klalim, alef, item 95)* enumerates many other important Rabbis who agree with this rule; see also *Encyclopedia Talmudis*, article *Aggadab*, footnotes 60–63.

that the most famous *poskim* relied on the Yerushalmi which disagrees with the explanation of visiting cemeteries to ask the dead for their intervention on our behalf.

So far in the discussion we have worked with the proposition that the reason for not learning Torah or praying while within the confines of the cemetery is so as to not “shame” the dead, not insult them because they cannot do these *mitzvos*. That is the meaning of the term used by the Bavli, “*loeg l’rash*.”

The Talmud Yerushalmi, however, does not use this explanation. The reason it gives is that cemeteries are places that are unclean. “A person who is occupied with interring the deceased in his grave and the appointed hour of *Krias Shema* has arrived, must move to another clean spot, put on his *tefillin*, read the *Shema* and pray [*Shemoneh Esrei*]” (Yerushalmi *Berachos* Chap. 2:3).

In the context, the Yerushalmi is talking about saying *Shema* in an unclean location. Under the ground are moldering flesh and blood and remnants of bones; it is thus considered a foul location. This point is aptly expressed by Rabbi Joseph Kapach in his article “*Krias Shema* and Prayer in an Area of *Tum’ah*,”<sup>11</sup> and is repeated in his commentary to the *Mishneh Torah* of Rambam, *Hilchos Aveilus* 14:14, p. 218. Rambam makes this clear in the *Moreh* where he writes:

וכל אלה הם גם דברים נגעלים כלומר נדה וזב וזבה ומצורע וַמַּת ונבלה ושרץ  
ושכבת זרע. והנה הושג בדינים אלו מטרות רבות, האחת הפרישה מן הגיעולים,  
והשנייה נצירת המקדש.<sup>12</sup>

We see no mention here of “insulting the dead.” As Rav Kapach explains, possibly the Bavli rabbis used this picturesque choice of language—“not to insult the dead”—to make sure that even the common folk comply properly with the law. The Rabbis may at times use extreme language, just like when they said that *lashon hara* is equivalent to murder, incest and idolatry, as a figure of speech, so as to exact compliance.

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<sup>11</sup> *Sefer HaYovel L’Rav YD Soloveitchik* [Jubilee book in honor of Rabbi Yosef Dov Soloveitchik] (Mossad Harav Kook, pp. 585–594).

<sup>12</sup> *Guide for the Perplexed*, bk. 3, chap. 43, p. 389 in the Rav Kapach translation.

This attitude of Rambam, his reliance on the Yerushalmi rationale rather than the Bavli rationale, is taken up in the same way by *Smag* (*mitzvos asei*, 18, 22). So, too, Rav Yaakov, author of *Turim* (chap. 45) prohibited praying or learning within four steps of the dead, without mentioning “insulting the dead.” According to this understanding, this rule applies to all deceased, whether the great teacher or the simple Jew, since they are all ritually unclean once no longer alive. Consequently, there is no “exception to the rule” to allow the saying of Torah *derashos* in honor of the dead next to the body or grave. Arguing that they are not insulted under the circumstances, mitigating “*loeg l’rash*,” is untenable since this reason is not accepted by Yerushalmi, Rambam, *et al.*

The *Shulchan Aruch*, which, as we saw earlier, seems to lean towards permitting certain Torah activities in a cemetery, is clearly ambivalent. We are all familiar with the contemporary practice to say *Kaddish* while standing next to the coffin during the *levayah*, and also after burial in the cemetery. But not many know that the *Shulchan Aruch* (*Yoreh Deah* 376:4) prohibits this!

ומרחיקין מעט מבית הקברות ואומרים קדיש.

This prohibition is reiterated by Shach (367:3) who quotes the Maharshah on this point. Clearly these *poskim* are ambivalent and at times inconsistent on the permissibility of saying *divrei Torah* in a cemetery.<sup>13</sup>

We conclude this section with the testimony of Rav Moshe Sternbuch (of the Edah Chareidis, Jerusalem) that when the Chazon Ish accompanied a coffin to its funeral spot, he was silent and didn’t recite *Yoshev B’saiser*, or any other *pesukim*.<sup>14,15</sup>

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<sup>13</sup> The prevalent custom to pray in the cemetery is based on the *Zohar* (Book 1, p. 225) which advises that when there is a great trouble for the community, they should go to the cemetery to arouse the dead to pray for us. Due to their intervention, many a time the *Ribbono shel Olam* cancels the trouble and saves His people. Rabbi Karo’s contemporaries constructed their way of life to accord with the *Zohar*’s words and therefore even gave it precedence over the Talmud Bavli.

<sup>14</sup> As aforementioned, we do have many Rabbis who permit praying by the graveside. Let us examine the words of one or two. The *Mishnah Berurah* (chap. 559:41) wrote concerning the custom to go to the cemetery on

*Tishah B'Av* “to the graves of Jews so that they beseech for us (the living) mercy,” etc. These words are a quote from the *Darkei Moshe*, the primary work of the Rema, from which he glossed his remarks on the *Shulchan Aruch*, based on each chapter of the *Shulchan Aruch*. The following is the Rema’s language regarding going to the cemetery on *Erev Rosh Hashanah* (chap. 581): “The Maharil wrote that it is customary to go to the cemetery on *Erev Rosh Hashanah* and *Yom Kippur* so to humble our hearts on the Days of Awe. The *minhag* is to recite entreaties and requests while there, because when the hearts are contrite the prayers are effective, and the wishes of the dead help as we find by Kalev who went to pray by the graves of the Patriarchs.”

Here the words of the Rema must be read carefully so as not to misunderstand the quote from the Maharil. We see two sections of his words. First he records the reasoning “so to humble our hearts.” Secondly he adds, “The *minhag* is to recite entreaties,” etc. In other words, the second clause is definitely NOT the Torah attitude, not the halachic reason. The matter of reciting entreaties and requests is common-folk activity, but not necessarily Torah-true. It is only *minhag ha’am*. Therefore, if the *Mishnah Berurah* would have been precise he wouldn’t have copied the words about praying there, which is only common-folk practice. It is not the real reason that the Maharil and the Rema wrote for going to the cemetery.

<sup>15</sup> Another *posek* whose words teach that it is proper to go to the graves of great Rabbis to pray is Rabbi Yaakov Emden. The Talmud Bavli (*Bava Metzia* 85b) tells us that Reish Lakish was wont to pour white plaster (*sid*) before the caves of burial of the Rabbis. Rashi comments: “So that the *Kohanim* are not contaminated by ritual impurity by stepping there. Why only the graves of the Rabbis (and not signify all of the graves then known)?” Rashi answers: “So that no *mich’shol* (problem) arise due to the *tzaddikim*.” Rav Emden, in his gloss to this *Gemara* (printed at the end of the volume, p. 56), disagrees with Rashi and explains, “So that the people know where to go to pray when the community is in trouble.” Therefore, we see that Rav Emden agrees with the practice we are discussing here.

Yet one must question, isn’t this counter to what *Chazal* (*Shekalim* 2:5) taught, that we are not to erect tombstones for the *tzaddikim*, since their memories are kept alive due to their words or many great good deeds? And the Rambam wrote this halachic decision (*Aveilus*, Chap. 4:4). If, as Rabbi Emden thought, it was a good matter to go pray by the tombstones of the great Rabbis, why did *Chazal* prohibit putting up tombstones there? True, this is a Yerushalmi dictum, but we find no place in Talmud Bavli to contradict that law!

## 2. Whether the deceased can hear what people tell them at graveside.

Is there is any sort of communication between the living and the dead?

We will start with a quote from *Koheles* 9: 5: “The dead don’t know anything.” *Chazal* debate the issue in *Berachos* 18 a–b. There is disagreement amongst the commentators about the conclusion of the *Gemara*. *Tosafos* (*Sotah* 34b s.v. *Avosai Bakshu Alai*) understand it as simply so: the dead don’t know. The living cannot deliver information to the dead. However, if somebody dies today he can notify those who already passed away, informing them of what is going on here in our world of the living. Rabbi Yeshayahu Pick (in the marginal notation *Masores HaShas*, in *Sotah*) questioned whether **this** conclusion of the *Tosafos* is indeed the final upshot of the deliberation in *Berachos*. Therefore, we append here the chart of the debate in *Berachos* 18b.

Question	Answer
<i>Kasbeh rimah l'meis.</i>	The corpse knows only of its own distress, not that of others
<i>Maaseh b'Chassid</i> , etc. He overheard a conversation between two spirits who knew that their conversation was being overheard by the living.	Maybe a third party died in the meantime and he told the spirits that their conversation is overheard.
Ze'iri deposited monies etc. A certain girl will die.	Maybe it was the angel Duma that notified in advance.
The deceased father of Shmuel, who knew in advance that his son would die.	Shmuel is unlike the others of the dead, since he was an important figure.
G-d commanded Moshe to tell the Forefathers of Israeli redemption.	This is ambiguous. If they know, why tell them? And if they don't know, how does telling help? Maharsha answers here, too: somebody else died in the interim and notified them.

Maligning the dead is like de-meaning a stone.	Some explain that the dead don't know, and some that they don't care at all.
A person slandered the deceased Shmuel. A stone fell from the ceiling and cracked his skull.	It is not that the deceased one knew at all. It was G-d who zealously punished the slanderer.

From the protracted deliberations, and the consistent repeal of the proposition that the dead hear what the living tell them, we see that the summing-up conclusion of the *Gemara* is that the dead do not know. When the *sugya* ends with the explanation that Rebbe Yonasan retracted his opinion, it is no contradiction to our conclusion. The Maharsha explains that Rebbe Yonasan retracted only his earlier position that the dead know nothing at all. But he now agrees that they do know, but not because of being informed by the living, but by those who died after them.

Actually this is quite simple and easy to understand. In most instances, after the passage of a year or two, the flesh of the dead disintegrates and is non-existent. If the physical “ears” are no longer there, how can they hear what the living are saying? Furthermore, the dead person is buried deep in the earth—at least five feet of dirt cover him; how can he physically hear the speech of the people above the ground? As to the claim that we are conversing with his soul, how do we know that we “connected”? The soul is a spiritual concept, above and beyond space. Who says that it is just there in the cemetery? It is everywhere, in the city as well as in the wilderness, not confined to any one area; why go to the cemetery to “make contact”?

One may argue that just as we dismissed the simple understanding of the *Aggados* earlier, so, too, this *sugya* (*Berachos* 18) should be considered irrelevant to our discussion, since it has no halachic basis. The response is that it certainly is halachic. We know that the principal *hesped* (eulogy) is the one held at the funeral. This is attested to by Ramban in his *Toras HaAdam* (Mossad HaRav Kook, pp. 80–85). The eulogies delivered after the thirty-day and twelve-month mourning periods are additional honors which the deceased himself doesn't hear at all, but they are dedicated so that the relatives and disciples of the deceased should give him his due honor. “Honor” is not necessarily what the honoree is cognizant of. We

know, for example, that Rava stepped backwards when leaving the presence of his great teacher Rav Yosef. Walking backwards barefoot (going barefoot was customary among the Babylonians of that period), his bare feet bumped against the raised stone threshold which served as a doorstep. Rava's feet were badly hurt to the point that the threshold was covered with blood. Rav Yosef was blind and was unaware of this. When his other disciples told him about it, he fervently blessed Rava that he should eventually be the head *Rosh Yeshivah* in the city (*Yoma* 53a).

What honor accrued to the blind Rav Yosef who was unaware of Rava's behavior? Clearly "honor" is judged based on the feelings of the one who honors—how it educates him and brings merit to him. Similarly, when a son mentions his dead father's name and adds "*zichrono l'vrachah*," certainly the father who is not here—his remains are possibly buried in some faraway place—is unable to hear those words of blessing and yet it is the duty of the son to honor his father thus. Similarly, there is an obligation to honor the deceased by giving a *hesped* (eulogy) long after the burial, even if the dead cannot hear it.

Is there a time period after death that the deceased can hear the words of the living eulogizers? Taz (*Yoreh De'ah*, chap. 344:1) teaches that the dead hear what is said until the grave is closed. He bases this on Talmud Yerushalmi (*Avodah Zarah* chap. 3:1).

Talmud Bavli records in *Shabbos* 152b: "Rabbi Avahu says: All that is spoken close to the dead he can hear until the grave is closed. But Rav Chiya and Rav Shimon, the son of Rebbe, one says that the corpse can hear until the grave is closed and the other says he can hear until his flesh is decomposed."

We already mentioned that when there are disagreements in the Bavli, and the Yerushalmi has a unanimous opinion, we follow the Yerushalmi; that is the reason for the Taz ruling.

But actually, Talmud Bavli comes to a similar conclusion. Rav taught that if one wants to know whether the deceased is deserving of *olam ha-ba* we should listen to the conversation of people at his funeral (*Shabbos* 153a). The *Gemara* bases this on the *passuk* (*Yeshayah* 30: 21):

וְאִזְנֵיךָ תִשְׁמְעֶנָּה דְבַר מֵאַחֲרֶיךָ לֵאמֹר: זֶה הַדֶּרֶךְ לָכֵן בּוּ כִּי תֵאֱמִינֵי וְכִי תִשְׁמְאִילוּ:

Your ears will hear, what is spoken after you, as follows: The path that this [deceased followed] you too follow; don't swerve to the right or the left.

Rashi (s.v. *v'oznecha tishmanah*) explains:

While **lying in your hearse and you hear** the mourners at the funeral say, "The path that this deceased person followed, do as he did," you can be reassured that you are a *ben olam haba*.

Why does Rashi add the words "While lying in your hearse"? Aren't a *hesped* and the accompanying praises of the dead done even later on, on the seventh day of mourning? On the thirtieth? After the twelve months? Clearly Rashi understands that the deceased no longer hears even if the *hesped* is delivered close to his grave.

Another important comment of Rashi on that same page in the Talmud should be noted. Rav requested of his student Rav Shmuel Bar Sheilat to show excitement during his eulogy so as to arouse the mourners' emotions "Since **I will be present there**" [and I will know what you are doing].

Rashi, s.v. *achim b'hespedo*, comments: "When I die, arouse yourself with vigor so that the people [at the funeral] get warmed up, they should feel compassion and weep (at my death)." Why does Rashi add the seemingly superfluous words "*b'she'as misasi*—at the time of my death"? Again, Rashi seems to emphasize that the dead are only capable of hearing **before** the burial, not afterwards, based on the *sugya* in *Berachos* 18 which now has a practical halachic application. Furthermore, it is important until when the dead can hear since it is nowadays customary that people (especially women) who are desperate for the intervention of an illustrious ancestor, a close relative, or of a great Rabbi, pour "their hearts out" and inform the dead of their needs. I quote here the words of Rav Avraham Danziger, the author of *Chayei Adam*, in his work *Chochmas Adam* (chap. 89:7):

איסור דורש אל המתים זה שמרעיב עצמו ולן בבית הקברות כדי שתשרה עליו רוח הטומאה (שם סעיף י"ג) ואותן נשים וכן עמי הארצות שהולכין על קברי מתים וכאילו מדברים עם המתים ואומרים להם צרותיהם, קרוב הדבר שהם בכלל זה. ונמצא שיש מן הגאונים היו רוצים לאסור להשתטח על קברי מתים.

The Torah (*Devarim* 18:11) prohibits to pray to the dead. Technically this refers to a person who fasts and spends the

night in the cemetery so that the unholy spirit should rest on him. The women and some *amei ha'aretz*, ignoramuses, who visit graves to tell the dead about their troubles, probably commit the prohibition of *doresh el ha'meisim*. Some of the ancient *Geonim* wanted to prohibit the custom of visiting graves to pray there.

As for the *Gemara* (*Yoma* 87a) that rules that if someone slandered a person who is now dead, he must go to the cemetery and request his forgiveness—the intent is to ask for G-d's forgiveness and not of the deceased victim. The following is the language of the Talmud:

ואם מת, מביא עשרה בני אדם ומעמידן על קברו ואומר חטאתי לה' אלהי ישראל ולפלוגי שחבלתי בו.

If [the insulted person] has already died, one must gather ten people, stand them at his graveside and say: I have sinned to G-d the Lord of Israel, and to this [now deceased] individual to whom I have inflicted pain.

Why is this formulated as if speaking to a third party? Why not address the deceased directly? Clearly we are not talking to him but to *Hakadosh Baruch Hu*, as the dead cannot hear. Then why go to the cemetery at all? Why not ask forgiveness in the synagogue? One should also ask, why bring ten people? Isn't it enough to ask person-to-person, at most in the presence of three people as is required when the insulted is still alive? The intent of *Chazal* is to humiliate the offender, to encourage him to desist from this evil habit and not repeat it again. Collect ten people, take the trouble to bring them all to the cemetery, involve the *Ribbono Shel Olam* in the ritual because the sin is now to G-d, not to the deceased who is already in another world. As *Chazal* said (in *Berachos* 19a) the deceased no longer cares that he was slandered. He is now in a higher spiritual world where these matters are insignificant to him, just as we no longer care what happened to us as young children in kindergarten or in elementary school.<sup>16</sup>

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<sup>16</sup> In the *Aggadah* of *Taanis* 23b, where Rebbe Manny went to his father's grave and exhorted him to help out, it is important to mention that in the Munchen manuscript of the Talmud (cited by *Dikdukei Sofrim*, item 5),

**3. Is it proper to visit the cemetery on the thirtieth day or on the *yahrtzeit*, or just to honor the dead, like those who visit the Maharal's grave in Prague, the Vilna Gaon in Vilnius, etc.?**

We find on this subject that the most prominent *poskim* frown on this matter. The *Mishnah Berurah* (chap. 559:41) writes: "All the above, i.e., to visit graves, is only if one stands four steps away from the grave, even from Jewish graves, since we fear the Evil Spirits."

The source for this is the Magen Avraham (end of chap. 559), who wrote: "We find in the writings of the Arizal that one should only go to the cemetery for the burial ceremony [not at other times] especially if one has not repented from the sin of nocturnal emissions, for then the Evil Spirit attaches itself to him." *Be'er Hetev* (chap. 559) quotes the Magen Avraham.

The *Aruch HaShulchan* (chap. 559:7) writes: "The Arizal was against visiting graves, other than at the time of burial. We already noted that nowadays people go there in groups and engage in idle chatter; it is better not to go."

The source of the Arizal's ruling is in *Shaar Ruach HaKodesh* (the block letter edition, p. 49) where it is recounted that Rav Chaim Vital asked advice from the Arizal regarding the obligation to go to the cemetery and ask forgiveness from a deceased Jew whom he had insulted. The Arizal advised him to walk around the entire cemetery on all four sides and to be careful not to enter with-

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the words "Abba Abba" are deleted, so to say he didn't speak directly to the dead but was praying to G-d. This proves our contention that the dead hear no communications directed to them by living human beings. The reason he went to the graveyard to pray was to arouse contrition and humility in his heart. About the *Aggadab* that Kalev went to Chevron to implore the Patriarchs to help out, we already mentioned that the *Tosafos* claim that he spoke to G-d, not to the dead. Beyond that, in the ancient version of the Talmud, the book called *Aggados HaTalmud* (first printed in 1511, way before the printed version of the Talmud as we have it today), in the expression "*amar labem*," the word "*labem*" is lacking. So, too, in *Sefer HaMe'orot* of Rav Meir Hame'ily, *Berachos* 182, the word "*labem*" is missing.

in four steps of any grave so that the Evil Spirits do not grasp hold of him, those spirits caused by the contaminated emissions.

So, too, the Vilna Gaon was against the *minhag* to visit graves. In the famous farewell letter that he wrote to his family when he traveled to the Holy Land, he writes to his wife and children: “Be very careful not to go to the cemetery at all, for there the Evil Spirits attach themselves unto you, especially women. All the troubles and the sins stem from this.”<sup>17</sup>

If a person is not praying there, but is only going there to honor the dead, is this a kosher *minhag*?

The Chasam Sofer (*Sh”ut Yoreh De’ah*, response 338, paragraph “*U’bezev Yuvenu divrei HaRambam*”) was against it, and even called it “*darkei Emori*,” a superstitious, idolatrous rite. He even based upon this the *Chazal* source of the Rambam’s words not to visit the graves (*Aveilus*, chap. 4, par. 4) as follows:

In *Maseches Semachos* (chap. 8, item 1), *Chazal* taught: “One may go to the cemetery to check the dead, up to three days without any fear of this being *darkei Emori*. It once happened

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<sup>17</sup> It is important to clarify a mistaken understanding widespread amongst *bnei Torah*. The famous Kabbalist Rav Shlomo Elyashiv (the grandfather of our contemporary Rav Elyashiv, *zt”l*) wrote in his book *Gilyonos HaLeshem* (p. 313), in his remarks to the commentary of the Vilna Gaon to *Tikkunei Zohar* p. 22b, that “in a period when there are no *tzaddikim* in the generation, the *Shechinah* rests upon the graves of the *tzaddikim*.” On the basis of these words, many *talmidei chachamim* in our day go to the graves of the *tzaddikim* to pray there, since the *Shechinah* is there. But alas, in my opinion the Leshem had an incorrect understanding of the Vilna Gaon’s words. The text involved (*Tikkunei Zohar*) has a Drashah of *gezeirah shavah* “*Ba’derech*.” “*Ba’derech*” is the word used by the Torah for the tribes who died in the desert (“*meitu ba’midbar ba’derech*”) and at the death of Rachel Imeinu (“*meitah alai ba’derech*”). The Vilna Gaon comments that *Sefiras Malchus* is called *Derech* and when there are not *tzaddikim* in the generation, the *Shechinah* rests upon the buried *tzaddikim*. The reference is only to Kever Rachel and to *meitei midbar* (who, as is well known, are called *Dor De’ah*, all the disciples of Moshe Rabbeinu). Neither the *Tikkunei Zohar* nor the Gaon of Vilna implies that this applies to *tzaddikim* in every generation. Even more so, it is well known that the Vilna Gaon was against visiting graves and didn’t even visit his mother’s grave (Aliyot Eliyahu) who was certainly a *tzaddekes*.

that the live visited the grave and found one (supposedly dead) and he lived afterwards for twenty-five years.”

The *Nachalas Yaakov* (a commentary printed on the page of *Maseches Semachos*) commented: “The visit is to verify whether the buried just passed out or is really dead. The *Prishab* (commentary on the *Tur*) *Yoreh De’ah* 394, item 3, writes that this law was applicable only in the days of *Chazal* since in that period the dead were placed in caves (and were not covered with earth) and the visit was only intended to move the stone blocking the cave and look in [and check to see if the interred had only fainted and was now awake.] But today that the dead are covered by earth, there is no use in going to visit and to check.”

This passage is explained by the Chasam Sofer as follows: “According to the *Prishab* [that in our age there is no need to check, since even if the supposedly dead man was really alive and we mistakenly thought him to be dead, after his being covered by earth for more than ten minutes, there is no point in checking as the person would be dead anyway by then], visiting the grave is once again *darkei Emori* [apparently a point in *doresh el ha’meisim*]. And this is the source of the Rambam’s words.”<sup>18,19</sup>

To summarize: the greatest of the prominent *poskim*—the Arizal, Vilna Gaon, Magen Avraham, Mishnah Berurah, Aruch

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<sup>18</sup> We know for a fact that that the Rambam had a source from *Chazal*, because whatever he adds as his own opinion, he precedes with the words “*Nir’im li ha’devarim*.”

<sup>19</sup> **Editor’s Note:** I believe that it is highly unlikely that Rambam or Chasam Sofer considered visiting graves to be *darkei HaEmori*. The relevant Rambam is in *Hilchos Aveilus* 4:4 where Rambam writes ולא יפנה אדם לבקר הקברות. Many explanations are given for this phrase. It is evident from Chasam Sofer’s *teshuvah* that he interpreted it to mean, as some *Rishonim* do (see Radvaz, *ibid.*, and *Teshuvos Rivash* 421), that it refers to opening the grave to examine the body. It is this that he considered *darkei HaEmori*. Radvaz says this is Rambam’s intent and states explicitly that the custom of Israel is to visit graves. According to *Kesef Mishneh* (*ibid.*) based on Rivash, Rambam indeed means to discourage attachment to the grave, but not necessarily visiting it—and in any event this prohibition is not *darkei HaEmori*. We suggest that the reader consult these sources and make his own judgment.

HaShulchan—all disapprove of visiting graves. The Chasam Sofer considers it an out-and-out *issur* as does Rambam in *Hilchos Aveilus*, chap. 4, paragraph 4. Therefore, although those who do visit graves have reliable Rabbis who taught them to do so, he who wishes to be 100 percent proper, and not to do anything which is possibly forbidden, should take into account our great Masters listed above.<sup>20</sup> ❧

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<sup>20</sup> Concerning the matter of women visiting the cemetery, this is even forbidden by the *Shulchan Aruch* (*Yoreh De'ah*, chap. 359. See there the words of the Shach). It is surprising that the most Orthodox Jewish women, *machmiros* in nearly all other matters, ignore this open and clear prohibition.