

Customs and Laws from the Parsha: Chukas

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This is the law: if a man dies in an ohel, anyone entering the ohel and anything in the ohel shall be unclean for seven days. (Bamidbar 19:14)

The Torah forbids kohanim (priests) to become defiled from contact with a dead body (Leviticus 21:1). Maimonides (d. 1204) explains that there are three ways in which tumah (spiritual impurity) could be conveyed; touching, carrying and entering an ohel with a dead body (Laws of Impurity from the Dead 1:1). The term ohel means a tent although the practical meaning is much more general and includes any covering.

The Mishnah explains that anything which overhangs an area containing a dead body or place of burial which is at least a tefach wide (handbreadth, approximately 9.6 cm) constitutes an ohel (Ohalot 3:7). Therefore, anything which overhangs a cemetery such as roofing or branches of a tree also constitutes an ohel. The Talmud indicates that the branches of a tree which also overhangs a walkway or path should be trimmed to allow kohanim to pass without violating the prohibition of contracting tumah (Bava Batra 27b).

There is some discussion as to whether a non-Jewish cemetery should be included in this prohibition. While a non-Jewish body does impart tumah by touching or carrying, Maimonides, based on the Talmud (Yevamot 61a) ruled that a non-Jew does not impart tumah via an ohel. It is therefore permitted for a kohen to enter a non-Jewish cemetery (Laws of a Mourner 3:3). While most authorities side with Maimonides, many such as Maharam of Rothenberg (d. 1293) disagree.

In deference to these stringent views, the Shulchan Aruch (Code of Jewish Law published in 1565) rules that it is correct for a kohen to refrain from entering a non-Jewish cemetery (Yoreh Deah 372:2).

A number of questions arise as a significant amount of the earth's surface probably contains dead bodies, from ancient graveyards to former battlefields. Many buildings have been constructed on ancient cemeteries. This is a complex question but essentially the Talmud rules that in a case of doubtful impurity in a public area, we may rule that the area is pure and a kohen may enter (Nazir 57a).

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