



לע"נ ברוך בענדיט ובורה גרוס ע"ה  
by Mr. & Mrs. Duvy Gross

# The Hakuk Edition English Topics on the Daf

*Dedicated l'refuah sheleima for Yaakov ben Victoria*

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THE SIXTH PEREK OF YEVAMOS IS DEDICATED:

לע"נ גרשון בן החבר מרדכי

## Yevamos Daf 66

### Autopsies

At the bottom of amud b, Rava rules that if clothing are thrown on top of a niftar, he “acquires” them and they are forbidden to be used for other purposes. Rashi cites a Gemara that tachrichim, burial shrouds, are forbidden like hekdesch.

If we are not allowed to derive benefit from the garments of a niftar, certainly we may not use his actual body for our needs. Is there any instances of hetterim for autopsies or organ donation? (This is a complicated and extensive topic, but we’ll just touch on a few points.)

The first defining factor is if we’re dealing with an issur dioraisa or dirabonon. The Shulchan Aruch writes, “The tachrichim of a niftar, whether Jewish or not, are forbidden... But only if they were designated for his use and already placed upon him” (Y.D. 349:1). He then describes our Gemara, that if clothing are thrown onto the niftar with the intention for him to be buried with them, they are forbidden. The Shach says that they are ossur midirabonon, since they are too similar to tachrichim. This implies that real tachrichim are forbidden midioraisa.

Now, the Shulchan Aruch included non-Jews in this prohibition. Many other poskim argued, however. The Gr”a brings Rashba and Tosfos as permitting benefit from a non-Jewish corpse; others quote Rambam as such.

Another discussion is touched on by Rabbi Akiva Eiger here. He comments that tachrichim are forbidden even for medical purposes. However, many authorities permit even to amputate body parts to heal other patients, in certain circumstances. The Chazon Ish refers us to Pischei Teshuvah in Siman 363, who writes that if there is a patient “before us” whose life is in danger, the prohibition is overridden.

In Nishmas Odom (Siman 349) he negates the suggestion in our days, every case is considered “a patient before us.” With modern communication we can relay information derived from autopsies around the world instantaneously, and surely there is a patient somewhere. He points out, though, that no medical research is published until a great deal of time has passed, usually a year or more! He reports that Rav Shlomo Zalman Auerbach extended the hetter to include situations where an illness is so widespread it is

certain that a patient could be helped right away. Similarly, if one member of a family succumbs to a hereditary disease, he may be examined to try to find a cure for the rest of the family.

On the other hand, the Aruch L'ner in his *Shu"t Binyan Tzion* (170) takes an extreme stance in this, and does not permit dissecting a niftar in any situation. The *Noda B'Yehuda* implies that we may probe the body of someone who passed away from a certain disease if there is another patient at hand (mentioned in our article on daf 61). *Binyan Tzion* argues, citing the sugya in *Bava Kamma* that one may not save himself by stealing from another person. And even the lenient opinions there, as the *Shulchan Aruch paskens* (C.M. 359), stipulate that he must pay back afterwards. Here, however, the issue is the disgrace of the niftar, and that can't be paid back! So, he rules that under no circumstances may we permit it.

Rav Moshe Feinstein allows research on non-Jewish bodies, as most Rishonim say the issur is only on Jews. Even according to those who forbid it, the issur is only *midirabonon*. This is only as long as there is a compelling reason, like medical advancement (*Igros Moshe Y.D. 1:229*).

*Nishmas Odom* adds that the poskim debate if "sakanas eiver," danger of losing a limb, is included in the hetter of *sakanas nefashos*. For example, some poskim permitted transplanting a cornea from a niftar to save another person's eyesight.

See *Shu"t Tzitz Eliezer Vol. 4:14* for his summary of the issue. He adds that autopsies may be permitted in cases of suspected murder, or if the niftar consented to it prior to his death. He emphasizes that the honor of the body must be preserved: all other body parts must be restored, the body closed up

properly and buried immediately. No Jew may consent for his body to stay unburied for future research.