Final Kindness

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There are many basic Jewish principles and customs that are very familiar to us, and yet when we go to look for their origins in Biblical law, we often have to be very creative in order to find that key passage.

One example is the principle that saving a life overrides the other commandments. It is typically stated as *"Pikuach Nefesh Docheh et ha Shabbat,"* the saving of a life overrides even the observance of the Sabbath, a core Jewish observance. But how do we know that, the rabbis ask. Creatively they explain it from the passage, "and you shall live by them" (Leviticus 18:5). Live by them, these commandments, they explain, and not die through their observance (Babylonian Talmud Yoma 85b).

I'd like to discuss another example, where the verse upon which the case is made comes from this week's Torah portion.

Everyone knows that it is Jewish custom to bury the dead. We may be familiar with the story in Genesis of Abraham going to great lengths to buy land for a burial plot for his wife Sarah. That same Torah portion also describes Ishmael and Isaac coming together to bury their father, Abraham. We might remember that the sons of Jacob made a great effort to return his body for burial to the land of Israel, and that Joseph, on his deathbed, makes his brother and their descendants promise to take his body back with them when they leave Egypt.

Creating a cemetery is often the first thing a Jewish community does as it comes together. That was the case locally in San Jose, where the purchase of land for a Jewish cemetery by the Bikur Cholim association in 1869 preceded the building of a synagogue.

You might be surprised at the halachic derivation of this obligation to care for the body of the dead. In this week's Torah portion we are told that even someone who was guilty of a capital crime needs to be buried: "And if there will be a sin bringing a sentence of death on a man and he will be put to death, and you will hang him on a tree, you shall not leave his corpse on the tree, but you shall bury him on that day, because a hanged person is an offense to God, and you shall not make impure your land that the Eternal, your God is giving you as a legacy." (Deut. 21:23) The Hebrew here has some challenges, but the import seems to be that failure to care for the body of the deceased, even of the worst criminal, is a violation of the sacredness that inheres in the human body. This stands in contrast to Egyptian practice and also the Middle Assyrian law, where those guilty of a capital crime were left unburied so that their flesh would be eaten by carrion birds. But it is consistent with the idea expressed in the Bible in a number of places, including the curses at the conclusion of the book of Deuteronomy, where your carcass being left "as food for the fowls of the air and the beasts of the land" is the greatest disaster (Deut. 28:26). For the rabbis of the Talmud, failure to care for the body of the deceased would be a violation of the respect owed to the human body created in God's image.

And so as Jewish law developed, it was from this obligation to bury the criminal that they conclude, if even this violator of God's commandments is honored with

burial, how much the more so should the body of every Jew be respected in this way. They called this care for the deceased *chesed shel emet,* true kindness, as it was a kindness for which one could not expect any reciprocation.

This might leave you with the impression that burial as we know it now is the only way that Jews have cared for their dead through history, but that is not the case. If you have been to Israel you might have visited the burial place of some of the great rabbis at Beit Shearim, outside of Haifa. There, important personages from the Mishnah including we believe Rabbi Yehudah HaNasi were buried in stone crypts. Two-stage burials were the norm for many centuries, where after a first placement of the body, later the remains would be placed in an ossuary.

This raises interesting questions for today, when we estimate that half of all Jews choose to be cremated. The Central Conference of American Rabbis, the Reform movement, has been debating the appropriateness of cremation since 1891. One story brought forth in these debates is that of King Saul and his sons, killed in battle, then cremated by their loyal followers, the men of Jabesh Gilead, with the cremains brought back to Israel for burial (I Samuel 31:9–13, II Samuel 2:5). In this context cremation was understood as a form of care for the dead, and thus not a violation of the ban on leaving the body untended. In the second half of the twentieth century cremation was considered offensive to Jews because of the experience of victims of the Holocaust, though I have found that many survivors ask to be cremated to join their families in death.

Every year during Elul, I take on a commitment at this time of year for the year to come. One year it was not to complain, and I still have one of those plastic

bracelets to remind me, as I moved it from wrist to wrist each time I complained. One year it was to eat less meat, by restricting my red meat consumption to Shabbat, holidays, and special occasions. This year it is to do what I encourage so many of our members to do, that is, to make final arrangements and take that burden off children and family members.

Elul is more than a quarter past. Let's consider the commitments we are ready to make for the coming year.