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Graves on the black market

By Amiram Barkat

It is a bit hard to believe that the Menuha Nechona national network of burial societies, combining 18 non-profit organizations that handle civil burials, hopes Shas will enter the new government and attend to religious affairs in Israel. "My disappointment with Shinui is boundless," explains Menuha Nechona chairman Morris Chalphon. "They not only did nothing - they hurt the cause. When Shas controlled the Ministry of Religious Affairs, we at least had someone to talk to. The clerks offered advice and guided us in professional matters. Shinui dismantled the ministry but it didn't bother to make alternative arrangements and it left us facing closed doors."

At least two political parties, Kadima and Meretz, promised in recent elections to enact a civil burial law in Israel. The ignorance of Israeli politicians regarding this subject left us wondering whether to laugh or cry. They did not know that legislation regulating civil burial had existed since 1996. But leave law and reality aside. Attorney Yifat Solel, Menuha Nechona's legal advisor, says no real progress has been made to implement the law in the last five years. Rabbi Gilad Kariv of the Israel Religious Action Center makes an even less ceremonious statement: "Anyone looking for a significant example of the disintegration of government by law in the State of Israel may find it in what is happening in the arena of civil burial."

Civil burial is not necessarily secular burial. The burial in question is performed in a ceremony determined by survivors of the deceased and frequently according to his stated wishes. Rabbi Shaul (Seth) Farber of Itim, the Jewish Life Information Center, which assists individuals in matters pertaining to the Jewish life cycle, says that he has received more than a few requests from families that would like to arrange for a civil burial to be performed in the context of an Orthodox Jewish ceremony: "These are people who object in principle to the services of the Hevrot Kadisha [religious burial societies.] Others want a Jewish ceremony but they want a particular change in the ceremony that the Hevrot Kadisha perform, like burial in a coffin, as in military funerals." No one in Israel has comprehensive statistics regarding the scope of the civil burial market. The main reason for this lack of data is that some civil burials are performed in a black market. Research conducted by Itim revealed that 300 civil burials of Jews are performed in Israel annually - one percent of all Jewish funerals. Chalphon says 300 individuals per year are buried in the cemetery which he manages in Be'er Sheva. "I am convinced that if they would let us build a cemetery in the center of the country, at least half of the Gush Dan [greater Tel Aviv area] residents would choose a civil burial," he says. "The Hevrot Kadisha know this and they are very concerned.

That is apparently the reason we have not been granted a permit to build a cemetery in the center of the country."

Chalphon's statements are supported by data. A survey conducted by the Ministry of Religious Affairs in the 90s reveals that only half of those surveyed expressed satisfaction with the Hevrot Kadisha's handling of funerals. Despite that, the Hevrot Kadisha preserve their practical monopoly on legal, Jewish burial. The other organization which profits from the lack of a civil burial cemetery in the center or the north of the country is the black market. The main operators in this arena are kibbutzim that offer civil burials at inflated prices.

How much is free?

The law states that every citizen is entitled to free burial. National Insurance pays burial societies NIS 3,500-5,500 for the costs of burial and the plot. But if an individual wants to purchase a burial plot while he is still alive, the law limits the price to NIS 4,000 in small communities and up to NIS 11,000 in major cities.

There are 640 organizations in Israel which are licensed to bury the dead - more than half of them are kibbutzim and moshavim. The kibbutz burial license was intended to make it possible for kibbutzim to bury members and their families on kibbutz land. Sales of burial plots to the public at large are forbidden in the Planning and Building Law because they represent commercial use of state land designated for agriculture. But a few kibbutzim found creative ways to circumvent the law. Kibbutz Einat charges NIS 18,000 for the "landscaping and maintenance" of a burial plot for a 12-year period which begins on the day of burial. This payment is an addition to fees, totaling NIS 3,500 per plot, that the kibbutz receives from National Insurance to cover the costs of burial. The kibbutz says that, in principle, they may charge additional fees at the end of the 12-year period, but they have yet to do so.

The public cemetery in Be'er Sheva charges NIS 4,500 for a burial plot for an individual who is still alive and does not charge for a plot for a deceased individual. Despite that, the cemetery earned unusually high grades for maintenance and appearance in comparative investigations conducted by consumer columns in the press. "What is going on in certain kibbutzim is outright robbery," Chalphon says. "We contacted the Attorney General and demanded they examine whether there is cause to rescind their burial licenses but nothing was done."

The National Insurance Institute says it does not have the means to supervise burials on kibbutzim and moshavim. Shimon Navon, who leads the Institute's burial department says, "It is forbidden to charge for the burial of a deceased individual - period. It doesn't matter if they call it gardening costs or any other name - charging money is forbidden. A year ago, I received a number of complaints that maintained Kibbutz Einat charged thousands of shekels to bury the dead. I engaged in protracted correspondence with them and they finally returned money to dozens of families. Only last Thursday, I received a complaint from a family that purchased a plot four years

ago and the kibbutz will be required to return all their money."

Kibbutz Einat Secretary Doron Zalzberg responds, "It is true that our permit only covers the burial of residents of the community but no one can come to us with complaints because most of the people we have buried are people that National Insurance and the Ministry of Religious Affairs asked us to bury because these were people they called 'questionable Jews' and none of the Hevrot Kadisha were willing to bury them. Moreover, we do not advertise in the media, and if there is a commercial aspect, it is marginal. It is true that Shimon Navon contacted us and asked us to return money to people. He did not accept our claims and unfortunately we were forced to return the money. We charge fees for maintaining the appearance of the cemetery - not for the burial itself. So I don't see a problem with the National Insurance law."

Navon also says that he is concerned about private companies that have entered the market offering new burial solutions like cremation or burial at sea. "The law does not forbid that," Navon says, "but it is a problematic breach because there are no regulations pertaining to these activities and no supervision of the organizations involved, unlike in other nations in the world."

Show me the money

Civil burial societies note there is neither a lack of budget, nor land in the center of the country to facilitate the establishment of cemeteries. The problem is that the societies are mired in the halls of the Israeli bureaucracy. In response to a demand by Shinui, NIS 15 million was allocated to the development of civil cemeteries in 2005. The sum, which was sufficient to cover the cost of four, new civil cemeteries, was transferred to the religious services authority in the Prime Minister's Office. But the office only published the conditions of participation in the tender on December 20, 2005, just 10 days before the end of the fiscal year. If it were not for an appeal to the High Court presented by Menuha Nechona, the money would have returned to the Treasury coffers at the end of the fiscal year. In 2001, a cabinet committee pertaining to burial allocated NIS 650,000 to the cemetery in Be'er Sheva, but this sum is also lying on the desk of religious services authority as it waits for a High Court decision.

Allocation of land presents a problem which is not less complicated. Three years ago, the cabinet committee on burial decided that a civil cemetery to meet the needs of Gush Dan residents in the center of the country would be established near the Gan Raveh interchange. The cemetery was supposed to be built on 300 dunams of land appropriated for that purpose by the Israel Lands Authority. But the Lands Authority explains its failure to set aside the land to date, by maintaining that planning of the area must take place first. The Lands Authority only signed an agreement with Menuha Nechona to plan the area two weeks ago. "We had a problem with funding the planning, out of pocket, as long as the Lands Authority was not prepared to guarantee that we would receive the site," Solel says. "But we came to understand that if we did not take a risk, we would never get out of this vicious cycle."

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