

The Or Shalom Cemetery
Community Teaching on related issues of Integral *Halacha*
Rabbi Hannah Dresner with Rabbi Susan Shamash

AGENDA

RABBI HANNAH'S TEACHING

45 minutes + questions

- Bracha and dedication of our study
- What is *halacha*?
- What is *halacha*, from a Jewish Renewal perspective?
- What is Jewish burial?
- What is the Or Shalom Cemetery?
- Three innovations proposed for the Or Shalom Cemetery:
 - Layered burial
 - Burial of cremains of Or Shalom members within the Or Shalom cemetery
 - Burial of non-Jewish members of Or Shalom within the Or Shalom cemetery
 - Standards and liturgy for non-Jews buried in the Or Shalom cemetery
 - Cooperation of Mountain View
 - *Chevra Kadisha* cooperation

Questions

Break

RABBI SUSAN'S TEACHING

30 minutes + questions

- Recommendation for contiguous demarcation of cemetery sections to accommodate both Jewish burial and inter-faith burial

Questions

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Relevant Texts

1

About the diametrically opposite views of Rabbis Hillel and Shamai expressed in the Talmud, it is written (*Talmud Eruvin 13b*): "*Eilu v'eilu divrei Elohim chayyim.*" - "These [opinions] and, also, these [opinions], are the words of the Living God."

2

During the process of redaction of the Mishnah, the divergent views and disputes among the various *tannaim* were preserved and recorded. One reason for this stated explicitly in the *Mishnah (Eduyyot 1:5)* is that should a later court of law see fit to rule in accordance with the individual (minority) opinion, it would be at liberty to do so. In the words of the *Tosefta (Eduyyot 1:4)*: "Rabbi Judah says: Why is the minority view recorded [in the *Mishnah*] alongside the majority view.... So that a [later] court that agrees with the minority view can rely on." There is no such thing as an absolute ruling. Every *talmudic* case has multiple considerations and although the majority determines the ruling in a particular age, a different majority, at a different time might arrive at a different conclusion.

Menachem Elon, "Majority Rule," *Encyclopedia Judaica*, 2008 Edition
(Rabbi Menachem Elon was Justice of the Israeli Supreme Court 1977-93)

3

The Talmud tells us (*Sanhedrin 6b*): A judge must be guided only by what s/he understands by his/her own insight and reason.

"What his own eyes see" means 'he understands by his own insight and reason.' In all matters in which a *dayan* has to make a decision, he must follow his own understanding. No other principle expresses more succinctly the human share in the application of Torah to an actual life situation.

Eliezer Berkovits, *Not in Heaven: The Nature and Function of Halakha*
(Eliezer Berkowits was an important Orthodox rabbi, halachist and theologian, chair of the Philosophy Dept., Hebrew Theological College, Skokie, IL, until his death in 1997)

4

The *Talmud*, itself (*Talmud Bavli, Rosh Hashana 25b*) asks: Would it occur to anyone to think that one should go to a judge who is not in his own time? Rather [the implication is] that one may not go to any but the judge in his own time, concerning which [*Kohelet 7:10*] says: "Say not, 'In what way the earlier times were better than these?'"

Reb Levy Yitzchak of Berdichev taught (*Kedushat Levi: Likkutim*, 452) that, as with song, our love of God, and our awe, can be repeated in higher and higher octaves. There is never a final modality to our service of God.

People have often asked me what I think about cremation. At one point in my life I said that I wanted to donate all my usable organs, and then have the remainder of my body cremated and the ashes interred at Auschwitz or Birkenau. In that way, a place of so much evil could be transformed by becoming the Jewish cemetery for the world. I thought that this would be a way in which we could say, "We forgive, but we don't forget." If we forget, then we are bound to repeat our mistakes; if we don't forgive, then we are locked in our anger, and also prone to repeat. In either case, we need to be careful and aware. So, the best way is to both remember and to use the process of *birur** It's the only way I know... In the end, this is really what psychotherapy is all about.

Rabbi Zalman Schachter Shalomi, in *The Kabbalah of Tikkun Olam*

A thousand-year custom should be respected and not lightly discarded. Nevertheless, we live in different times. Our relations to non-Jews are very different than in the past. Many of us have non-Jews in our families. All of us know non-Jews who are strongly connected to the Jewish community although they have chosen not to convert and retain their status as non-Jews. In regard to the question of interfaith marriages, we must be sensitive to their feelings and make them feel welcome in our communities. In addition, non-Jewish spouses and children who are involved in our synagogues, while not Jewish, are nevertheless part of our community. Our tradition has continually evolved in our understanding and differentiation of non-Jews. We must respect those who have married Jews and have raised Jewish families and are connected to the Jewish community. Since there is no specific prohibition in the Bible or the Talmud and the first mention of a prohibition is Rashi's interpretation, special provisions should be made to allow the non-Jewish spouses and children to be buried in Jewish cemeteries, in specially designated sections that are separated from the rest of the Jewish cemetery by a path or a road.

The 2010 Responsum of the Committee on Jewish Law and Standards
of the Rabbinical Assembly

Berachot 8a: And this concept, that *halakha* is the most sublime pursuit, is expressed in that which Rabbi Hiyya bar Ami said in the name of Ulla: Since the day the Temple, where the Divine Presence rested in this world, was destroyed, the Holy One, Blessed be He, has only one place in His world where he reveals His presence exclusively; only the four cubits where the study of *halakha* is undertaken. This statement has practical ramifications. Abaye said: At first I studied in the house and prayed in the synagogue. Once I heard what Rabbi Hiyya bar Ami said in the name of Ulla: Since

the day the Temple was destroyed, the Holy One, Blessed be He, has only one place in His world, only the four cubits of *halakha* alone, from which I understood the significance of the four cubits of *halakah*, and I pray only where I study.

Translation and commentary by Rabbi Adin Steinsaltz,
Koren Talmud Bavli, Koren Publishers,
Jerusalem, 2012, p. 4

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© Rabbi Hannah Dresner with Rabbi Susan Shamash

Hannah

I will speak for about 40 minutes, then take questions. I encourage you to take some paper to jot down your questions, as you think of them. While the first sections of my teaching are about *halacha*, more generally, I prefer to take questions, tonight, that are specifically about the ritual aspects of the Or Shalom cemetery.

In about an hour we will take a 15 minute break, and then resume with a fascinating segment of learning offered by Rabbi Susan. Then, we'll have questions, again, and wrap up before 9:30.

You should have a hand-out with an agenda, followed by some relevant texts for your enrichment. We have also prepared extra copies of the proposed cemetery guidelines, if you'd like to take them home.

And there are two interesting *teshuvot*, rabbinic papers we can make available to you electronically, upon request – one on interfaith burial and one on the interment of cremains.

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I'd like to begin by clarifying that this is the first of two community meetings on the Or Shalom Cemetery. In May, we'll meet to review the general policies that have been proposed by the cemetery committee. These proposed policies have been provisionally endorsed by the board, not to be passed until after our May community meeting and until after the community has had an opportunity to offer feedback. Your feedback will be collected via email to a special address set up for this purpose, and if you wish to speak in person, that can also be accommodated. All you have to do is ask.

Both the May meeting and this one are spaces in which questions can be asked; they are not decision making spaces. And tonight, particularly, we gather in a *learning* space. We will learn a little about *halacha* and what *halacha* is in a Jewish Renewal context, about what Jewish burial is, and about some *halachic* innovations we'd like to embrace in our Or Shalom cemetery.

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I want to dedicate this learning to my father, Rabbi Samuel Dresner z"l, who was at the forefront of Jewish funeral reform, championing traditional Jewish burial in non-Orthodox North America, in the 1960's, before the Conservative Movement had any policies or standards on Jewish burial, and at a time when Jewish funeral homes consistently sold elaborate coffins and embalming procedures to Jewish clients, strongly resisting the notion of a *tahara*, ritual preparation of the body, or a plain pine box, or burial in un-vaulted, natural graves.

My father's 17th *yahrzeit* is on the tenth day of the Omer, tomorrow night and Friday, and I know his memory will be honored by our commitment to extend the home we have established here, at the *Bayit*, to a home for our community, in death. And his work is honored by our endeavor to uphold our love of tradition and our balance of innovation, even as we reach beyond the great divide.

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Our learning this evening is about *halacha*, so let's begin with a brief answer to the question: What is *halacha*?

The word means "path," and *halacha* is our tradition's guidance as to how to walk the path of life.

There are those who will say that *halacha* means Jewish law, but *halacha* is not meant to be a fixed canon of law, rather, an ever-evolving *process* of law, a process of examining specific situations and determining appropriate guidelines for living Jewishly.

Surely, you know that Judaism is all about questions; right? This quintessential truism about Judaism derives from *halachic* thinking, the *discourse* that makes up the Talmud - *pilpul* - argumentation between the rabbis as they question how to interpret the laws of the *Torah* and *Mishna* and how to carry them out. The Talmud does not give us answers so much as questions, and even when one path is favored over another, the dissenting view remains in the record, in case an adjudicator, sometime in the future, might wish to uplift that view as a respected precedent, helping to change the *halacha* so that it serves the circumstances of his own time.

The assumption is that times will change, and circumstances will change, and *therefore* interpretation and implementation of the *halacha* will, *necessarily, change*.

Expressive of this process - continually evaluating a path for living in every age, and, indeed, every life circumstance, is the body of rabbinic literature called the *Sh'elot v'Teshuvot*, the "Responsa" literature, comprised of particular questions asked of rabbis over the generations, and their situationally specific answers. A typical, famous, example might be a rabbi's ruling that the obviously blemished and, therefore, un-kosher chicken brought to him by a poor member of his community is deemed by the rabbi to be kosher. Why? Because without this chicken, her family would have no Shabbat meal at all. There is a hard rule, but the *halacha*, the path of our people, is soft. Absolute law is softened by the judgment of the *mara d'atra* - the adjudicator of the community, who takes lots more into account than the basic rule.

The reality is that every *halachic* question arises because there is more than one *halachic* principle at play, and the challenge is this: which principle should be elevated and should guide, indeed, *rule*, in a particular time, place, and circumstance? Should *no blemished animal* prevail, or should *hanaat haShabbat* - enjoyment of the Shabbat - prevail? A *dayan* - an *halachic* adjudicator - is a rabbi the community trusts to have both a breadth of learning and sensitivity to a multitude of social and spiritual factors, such that he is able to decide what path to take in a given situation.

I hear, quite often, that Jews think of *halacha* as stricture – strict adherence. But if there's one thing all my Talmud and Rabbinics teachers have agreed upon, it is that the *halacha* is meant to be lenient,

and a good *halachist* is looking for a way to say “yes,” to the question before him. I have been told this by my teacher Sally Mendelshon, by my teacher Rabbi Judith Abrams z”l, by my teacher Harry Zeitlin, by my teacher Rabbi Daniel Siegel, by my teacher, Reb Zalman z”l, and by my teacher Rabbi Benay Lappe.

A *dayan*, an adjudicator, must consider whether people suffer because the law, as it is currently understood, is conflicting with our foundational Jewish values: *tzelem Elohim* – humans perceived as inherently equal, *v’chai bahem* – law meant to promote physical, mental and emotional wellbeing, *k’vod habriot* – the dignity of all creatures, *darkei noam* – a pleasant walk on the path of life, and *tikkun olam* – the evolution of the world toward higher and higher levels of consciousness, respect, and connection.

*

If we understand *halacha* as a path for righteous living and as a process evolving what that means in every age, how *torah* can be authentically lived in particular moments by individual communities or persons, we come to another question: What about the sorts of situations that the rabbis of the Talmud could not possibly have imagined?

What, for example, about the modern desire to treat women in a ritually and liturgically egalitarian manner? What, for example, about the reality of a 58% rate of intermarriage?

This is where what Reb Zalman called “Integral *Halacha*,” or “Paradigm Shifted *Halacha*” comes into play. What does it mean to be *halachic* from a Jewish Renewal perspective?

Integral *Halacha*, as conceived by Reb Zalman, aims to maintain continuity with the past while providing *halachic* flexibility for the present and future, honoring the past and going beyond it, for the sake of *tikkun olam*, for the sake of raising the world still higher.

The *Talmud*, itself (*Talmud Bavli, Rosh Hashan 25b*) asks: “Would it occur to anyone to think that one should go to a judge who is not in his own time? Rather, one may not go to any *but* the judge in his own time.”

It does not serve our world to be disempowered by the notion that each generation since the close of the Rabbinic Court understands less and less of what God wants from us. Rather, we simply must stand on the shoulders of our ancestors, so that we can look back and look forward with equal clarity. Reb Levy Yitzchak of Berdichev taught (*Kedushat Levi: Likkutim*, 452) that, as with song, our love of God, and our awe, can be repeated in higher and higher octaves. There is never a final modality to our service of God.

Attention to interfaith couples and families is a sensitivity unique to our time. About this, Reb Zalman (in his book *Integral Halacha*, co-authored with our Reb Daniel Siegel) says: “If this is our new situation, then we need to go beyond the limitations that the old system imposes, so that we can, again, practice in a way that leads to transformation.” Our old paradigm embraced our sectarianism and our overcoming of ethnic adversity as core motivations and values. The softening of boundaries that intermarriages engender necessitates a profoundly shifted attitude toward a new governing principle

that builds [not fences, but] bridges.

Because multi-faith families was not a phenomenon in the time of the Rabbinic Court, *halacha* would have difficulty perceiving support of interfaith burial as a *mitzvah* ensuring *shalom bayit* - familial and communal cohesion and peace. But Integral *Halacha*, with its emphasis on worldliness and timeliness, recognizes the importance of articulating the principles within our tradition that speak to the *mitzvah* of a cemetery that reflects the inclusive values of the community it serves.

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It is unusual for a community to have the opportunity to consciously create a cemetery reflective of its own values. And this brings us to the question: What is the Or Shalom Cemetery?

Simply put, the Or Shalom Cemetery is an eternal resting place that extends the values of our spiritual home, in life, to our communal home, in death.

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And what is Jewish burial, altogether?

Jewish cemeteries are spaces that are liturgically consecrated as holy ground, the consecration usually enacted by a ritual of walking its perimeter while reciting Psalms. On a practical level, even an individual grave can be sacralized in this manner.

One important element of a Jewish cemetery is a basin for washing, so that those leaving the cemetery can mark an energetic shift back into the vitality of life.

Another characteristic is the “green” nature of Jewish burial. Upholding the humble notion that we have come from dust, and to dust we return, traditional Jewish burial does not involve any processes or materials that will impede the disintegration of our bodies. We are not embalmed; we use biodegradable caskets, baskets, or body bags, and we eschew any kind of liner in the grave itself. (Although in some locations concrete grave vaults are required by civil law, this is not the case in Vancouver.)

Or Shalom’s proposed cemetery guidelines adhere to these strictures ensuring our return to the dust of the earth. As you will see in the landscape design to be presented at our next meeting, our ground-plan allows for demarcation of our consecrated sub-section of Mountain View, including a washing station. And we will ritually dedicate the site, hopefully, as early as this coming June.

We also recommend simplicity, modesty, and some measure of uniformity in the marking of our graves. This traditional value is grounded in Proverbs 22:2: “[In death,] the rich and the poor meet together,” and it is strengthened by Rabbi Shimon ben Gamliel’s explanation (Talmud Bereshit Rabbah 82:10) that “we need not erect monuments for the righteous; their *accomplishments* are their memorials.”

Jews also attend to the bodies of our *meitim*, our corpses, in a particular way. When a Jew in the

community dies, the body is taken and prepared for burial by the Jewish Burial Society - the *Chevra Kadisha* - which actually means the "Holy Fellowship." The *Chevra Kadisha* does the holy work of ritually washing the *meit*, the deceased, and dressing him or her in simple linen shrouds, then laying the *meit* in his or her casket, all while reciting a beautiful liturgy which concludes with the volunteers asking forgiveness from the *meit* for any way in which they have, inadvertently, handled the *meit's* body disrespectfully.

Then, our deceased is attended in vigil by a rotation of *shomrim*, watch-persons, the body never left alone...

We believe that *kavod ha-met*, respect for the deceased is the highest principle *halachicly* governing burial practices, and this includes the *mitzvah* to eulogize our dead. Further, the kindness we do in upholding the *mitzvot* associated with burial are considered the highest level of *mitzvah*, because we cannot be thanked by the one we honor.

*

Now we come to the three Or Shalom cemetery innovations. I say "innovations," but truth be told, one is common practice in Israel, one is in keeping with a responsum ratified by the Conservative Movement's Committee on Jewish Law and Standards in 2010, and enacted, since, in many communities across North America, and one issue was unanimously adopted by the Committee on Jewish Law and Standards in 1986.

First: layered burial. Mountain View Cemetery allows for burial of one body on top of another in a single grave. Before my arrival, Rabbi Sutker researched this issue, and, for financial reasons, with land in Vancouver at a premium, we propose offering the option of layering two bodies in a single grave, with an *halachic* measure of earth between the two. This practice has historical precedents in urban settings (15th C Prague being one example), and is common practice in Israel today.

Uplifting the *mitzvah* of *shalom bayit*, peace in our "home," and honoring the *halachic* principles of desisting from causing *tzaar gadol*, pain and anguish, and promoting *darkei shalom*, peaceable relationships between Jews and non-Jews and between more and less observant Jews, I have recommended two further measures of inclusion: 1) that we will bury the non-Jewish members of Or Shalom in our cemetery, and 2): that, without condoning cremation as a Jewish choice, we bury the remains of Or Shalom members within the Or Shalom cemetery.

*

The permissibility of interring remains rests largely in the principle of *kavod ha-met*, respect for the deceased. This is a powerful commitment in light of the fact that the cremation, itself, is *halachicly* argued against because burning of the body it is considered a *desecration* of the *meit*, desecration of the body of the deceased. But even though a rabbi might feel there is no good reason to deviate from the sacred established tradition of abstention from cremation, there is still a deep rabbinic desire to continue to honor the corpse, even in its ashen form, and not to let go of this member of the community, in death, whether he and she has a body to bury, or only ashes.

In other words, we do not shun or let go of our loving embrace of a community member if he or she deviates from a commandment. Regardless of what *mitzvot* you and I uphold or do not uphold, we are still brethren in our spiritual community, and it is not for me to marginalize you - in death, no less, when you are defenseless – based upon my judgment of personal choices you made in life.

Whether or not we think our fellow has moved outside of Jewish practice in choosing cremation, our responsibility is to hold onto them. In addressing the issue of shunning, the Conservative responsum, written by Rabbi Morris Shapiro, posits that even though cremation might not be in keeping with Jewish tradition, it is not a deviation from Jewish tradition any different in magnitude than any other breaks with Jewish observance. And he cautions us to consider that cremation is not, necessarily, a religious choice, rather, a psychologically or socially driven decision.

In choosing to honor cremains as a *meit*, and inter the cremains of Or Shalom members in the Or Shalom cemetery, we favor the principle of *darkei shalom*, peaceable relationships, in this case, between those who adhere more and less to the strictures of Jewish tradition. This, for the sake of *shalom bayit*, peace within the chosen family that is our spiritual community. Further, we favor the principle of *tsaar gadol*, the hugely important *halachic* desire to avoid causing pain of anguish. The potential pain, as expressed to me by one Or Shalom elder, is the pain of worrying that after a full adulthood of dedicated involvement and leadership and love at Or Shalom, her choice of cremation will set her outside the community, possibly not eulogized or mourned, possibly not buried in the context of her beloved community.

The opinion against interring cremains revolves around the argument (outlined in detail by Rabbi Mayer Lerner, in his book *Hayyei Olam*) that the *mitzvah* of burial does not apply to ashes. Essentially, the argument is that, after the burning, there *is no meit, no body, left to honor*. There is not enough corporeal matter left to hallow, not even a *k'zayit* of a *meit* – not even the corpse material equivalent to the volume of an olive (considered the minimum volume over which a *bracha* is recited, for example, a *motzi*).

Countering this, the Conservative Movement's responsum quotes the *RAMBAM* who elaborates on the rule (*Hilchot Sanhedrin* 15:8) that it is a positive command to bury all executed by the court on the day of their death. The word "*kol*" – "all executed" implies inclusion of those condemned to burning. Subsequent to quoting the *RAMBAM*, the responsum brings description of various executions by immolation that make it clear there was nothing left of these bodies, no *k'zayit, l'havdil*, and yet the ruling is that these decedents, too, must be buried on the day of their deaths.

It is interesting to know that, for many years, Reb Zalman said he would be cremated. For him, this was, in fact, a therapeutic choice: he said, if it was good enough for the 6 Million, it was good enough for him. If they weren't going to be resurrected, he didn't want to be. In the end, he decided not to be cremated, but he did send a member of his community on a mission to one of the camps to bring back some earth from a crematorium site. In Boulder, if a member of the Renewal community is cremated, some of this earth, presumably containing elements of the ashes of the 6 Million, *z"l*, are inter-mixed with those of the cremated deceased. Reb Zalman wrote that he hoped that the sparks of divinity hidden even in the evil of the holocaust crematorium, can be elevated in a conscious gesture to return holy sparks to their Source, and make spiritual and psychological reparation.

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Finally, it is imperative that we talk about burial of non-Jewish members of Or Shalom in the Or Shalom cemetery. I will open this topic, and then, after a break, Rabbi Susan will speak about a very specific aspect of interfaith burial, perhaps the one true innovation to be discussed this evening.

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Or Shalom is a spiritual community that includes non-Jewish partners and children and even non-Jewish couples and families, on their way to choosing Judaism. Our proposal is to be the same congregation in death that we are in life. Because of the paradigm shifting responsum written in 2010 by Conservative Rabbis Kass Abelson and Loel Weiss, it is not necessary to parse the *halacha* allowing for an interfaith section in a consecrated Jewish cemetery.

The Conservative responsum finds that there is no clear Talmudic source which requires separation between Jewish and non-Jewish graves. Even so, it has been a custom of our ancestors for thousands of years and *custom* is not an insignificant factor in *halachic* decision making. If one wants to cancel and ancient custom, one has to make the case that the custom is, in some way, no longer good or useful or healthy or in keeping with our foundational values (*tzelem Elohim* – humans perceived as inherently equal, *v'chai bahem* – law meant to promote physical, mental and emotional wellbeing, *k'vod habriot* – the dignity of all creatures, *darkei noam* – a pleasant walk on the path of life, and *tikkun olam* – the evolution of the world toward higher and higher levels of consciousness, respect, and connection, etc).

One positive value in separating Jews and non-Jews, as iterated in the responsum is the statement such segregation can make regarding the danger of intermarriage to the future of Judaism.

The desire to guard against intermarriage notwithstanding, The Conservative Movement's paradigm shifting *teshuvah* concludes thusly:

A thousand-year custom should be respected and not lightly discarded. Nevertheless, we live in different times. Our relations to non-Jews are very different than in the past. Many of us have non-Jews in our families. All of us know non-Jews who are strongly connected to the Jewish community although they have chosen not to convert and retain their status as non-Jews. In regard to the question of interfaith marriages, we must be sensitive to their feelings and make them feel welcome in our communities. In addition, non-Jewish spouses and children who are involved in our synagogues, while not Jewish, are nevertheless part of our community. Our tradition has continually evolved in our understanding and differentiation of non-Jews. We must respect those who have married Jews and have raised Jewish families and are connected to the Jewish community. Since there is no specific prohibition in the Bible or the Talmud and the first mention of a prohibition [against being buried alongside non-Jews] is *Rashi's* interpretation, special provisions should be made to allow the non-Jewish spouses and children to be buried in Jewish cemeteries, in specially designated sections that are separated from the rest of the Jewish cemetery by a path or a road.

The 2010 responsum allows for two options in one cemetery.

The issues, for us, are matters of detail: how do we honor our non-Jewish spiritual friends and family, even as we honor those in the Or Shalom community who may wish to be buried exclusively among Jews? And how do we honor *all* without creating barriers and boundaries that might undermine our desire to establish a cemetery that serves as a common sanctuary, and that conveys, in its physicality and design, a sense of our profound connection to one another, even as we are a community comprised of disparate sensibilities?

This is the piece that Susan has worked on so beautifully, and she will speak to this after the break.

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I'd like to return, for a moment, to the unique nature of our project, in creating a cemetery with interfaith burial from the *onset*, rather than adding this innovation to an existing Jewish cemetery, as so many other congregations have done. One strong *halachic* reason not to add an interfaith section to an existing cemetery is *kavod lamet* - respect for the dead – in the sense that such an addition imposes upon those Jews already interred a situation they didn't necessarily agree to, and now, being dead, they cannot object.

But we are in a position to be fully transparent about our plan; anyone electing to be buried in the Or Shalom Cemetery will know our values and the *halachic* policies that reflect them.

Mountain View, and specifically, the cemetery's director Glenn Hodges, has been incredibly accommodating of our *halachic* desire, and has agreed that we may populate the consecrated Or Shalom Cemetery from two ends of the strip of land, beginning to bury those who wish to be interred among Jewish neighbors at one end, and those who wish to be buried in an interfaith section at the other. Someday, as our cemetery comes close to filling, we will fashion the proposed separation between the sections (which Susan will discuss), and for now, the empty space between is exponentially adequate to answer any *halachic* need for separation.

And the *Chevra Kadisha* here in Vancouver will also accommodate our *halachic* desire.

Indeed, the *Schara Tzedek Chevra Kadisha* will not only serve our Jewish members, offering *taharah*, ritual preparation of our bodies, and *shemira*, a vigil of sitting with the *meit* until the funeral, the *Chevra Kadisha* will also prepare the bodies of the non-Jewish members of Or Shalom, to be buried in the Or Shalom cemetery, not with the ritual *tahara* prescribed for Jews, but with a dignified process we will negotiate, including provision of some sort of shrouding, and laying our non-Jewish members in plain pine boxes or willow baskets, as prescribed by *halacha*, chosen for green return to the earth.

There will be no non-Jewish symbols or clergy; our clergy will conduct the funerals of non-Jewish members. We propose as much uniformity in burial as possible, as an affirmation of embrace and inclusion.

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In conclusion, I want to thank the Cemetery Committee of John Fuerst, Pat Gill, Dodie Katzenstein, Marty Puterman, and Susan Shamash (now joined by Marianne Rev) for immeasurable work in acquiring the site and creating the proposed standards. And I want to thank all who have expressed

interest, and personal concerns, articulating questions, on all sides, that propelled the research and thinking I have brought forward this evening.

Susan

When I began my Senior Teshuva project, knowing that Or Shalom was in the process of acquiring the rights to a section of Mountain View Cemetery, wanting to ask a “live” question (as we are enjoined to do), the question I posed was whether it was possible to accommodate the needs/dreams/wishes/desires of those who wanted to be buried only with other Jews, those who wanted to be buried with their non-Jewish loved ones, and those who may not be in relationship with another but have committed themselves to our community without converting to Judaism. Once I found the 2010 Responsum of the Committee of Jewish Law and Standards of the Rabbinical Assembly, I considered/realized that the question had been well and truly asked and answered in a paradigm-shifted way.

The committee preferred a path, road or sidewalk of four *amot* to separate the mixed burial section from the rest of the Jewish cemetery because it did not send a message of exclusion which a wall or bush would because it is a physical barrier. But I was concerned about the width of the path. The piece of land to which Or Shalom has acquired the rights is not very big; most especially, it is very narrow, allowing for only two rows of graves. Creating a path of four *amot* to divide the mixed faith and the Jewish sections would deprive the synagogue of precious grave plots.

My question changed, as happens in the *halachic* process: must the interfaith/mixed section of the synagogue’s small new cemetery be separated from the Jewish section by a path that is four *amot* wide, given that such a wide path will affect the number of possible burial plots, or will something narrower suffice? This question also raises the question of whether there are other acceptable alternatives. What is the significance of four *amot*? In what contexts is it used? What does it mean *halachicly*? Is it a real measure of distance or a metaphorical one? Or both? It was like delving into a mystery novel!

First, what is an *amah*? It’s a Biblical and Talmudic unit of distance, known as the distance from your elbow to your middle fingertip (roughly 1 1/2 feet). It is equal to six *tefachim* (a measure that will become relevant shortly) which is roughly equal to a hand’s breath (less than 4 inches).

The phrase *arbah amot* is found only four times in the TaNaKh, once in *Melachim/Kings Aleph/One* describing the construction of the Temple undertaken by *Shlomo HaMelech/King Solomon*, specifically capitals that were of a lily design four *amot* high. The other three times are all in *Sefer Yechezkiel/the Book of Ezekiel* describing *Yechezkiel’s* guided vision of the restored Temple of the future, specifically the size of a side chamber, and the height and width of the altar.

The *p’shat*/simple meaning of these specific Biblical references is that they are referring only to measurements of size/length/height/distance of physical objects. However, in the *Talmud arbah amot* becomes a measurement that has much greater significance: the definition of the private or personal domain, the domain within which God is present, the distance one can travel on Shabbat in the public domain, the distance a *Kohen* must maintain from something that is *tamei*, the space occupied by a deceased, etc.

The first mention of *arbah amot* in the *Bavli* is in *Brachot* 8a about God's presence in the private domain/sphere. Here the Babylonian sage Ulla declared that since the day the Temple was destroyed, all that remains for the Holy One in this world are the four *amot* of *halacha*. This is understood to mean that since God's permanent dwelling in Jerusalem no longer stands, God is present in the private domain within which we act according to His will.¹

The sense of this seems to be that since the Temple was destroyed, the cite of God's permanent dwelling, God is present in the private domain within which we act. In **Integral Halachah**, Reb Zalman z"l quoted this passage when beginning his analysis of using the principles of Integral Halachah when discussing how *halacha* has been done until now:

What do they mean by saying that God's home in this world is limited to these *dalet*/four *amot* of *halachah*? Remember that the rabbis of the Talmud thought in terms of four levels of understanding anything in Torah. In *p'shat*, the literal meaning is pretty clear. The four cubits are my surround, one cubit in each of the four direction. I can count and say, "This is my space. I inhabit this space. It is my field." And so, the four cubit space of a person who lives life observing *halachah* is the *beit ha-mikdash* seen as a field replacing structure. ... It's like a *kinyan*/an acquisition, where the person says that this area is part of my *guf*/body, it's my aura, my *makif ha-karov*/my immediate surround and all that is in it.²

Rebbe Zalman went on to discuss the question of *davening* at a different time than wearing *tallit* and *tefillin* wondering how long he would need to wear them to meet the obligation/be *yotzei*, answering that the sources say - as long as it takes to walk four *amot*, thus measuring time by distance. He continued:

When I hear "as long as it takes to walk four cubits," I hear the four letters of the Divine Name and the four worlds they have come to represent in Kabbalistic and Chassidic teaching. In order to be *yotzei* on the *mitzvot* of *tallit* and *t'fillin*, I need to wear them at least as long as it takes me to ascend the four ells, to experience, however briefly, each of the four worlds.

The rabbis also talk about *Shabbat* using a four fold system. Here, each letter of the Divine Name would correspond to one of the four *t'shuyot*/domains that are discussed in relation to various prohibitions on *Shabbat* and which therefore connect with one another to create a complete reality. The *yod* is the *r'shut ha-yachid*/private domain; the *karmelit*/that which is between public and private domains corresponds to the upper *hei*; the *makom patur*/place which is exempt from restrictions altogether corresponds to the *vav*; and the *r'shut ha-rabbim*/public domain, is the lower *hei*.³

¹ Rabbi Julian Sinclair, "Dalet Amot", **The Jewish Chronicle Online**, March 6, 2009.

² Rabbi Zalman Schachter-Shalomi z"l and Rabbi Daniel Siegel, **Integral Halachah: Transcending and Including**, Trafford Publishing (2007), pp. 63-64.

³ *Ibid.*, p. 65.

That the Talmudic Sages were not invoking the four worlds in clear, since it is a Lurianic concept. The way Reb Zalman broke this down into four sets of two domains is also unlikely to have been something conscious in the Talmudic mind and sounds more like Eastern European Hassidut. However, the Talmudic Sages were aware of PaRDeS (P'shat/simple or plain meaning, Remez/hinted meaning, Drash/interpreted meaning, and Sod/hidden/secret meaning) and the notion of the Torah having 70 faces and multiple interpretations could then co-exist. Sefer Yetzirah may already have been composed and, if not exactly so, the conceptual underpinning of what becomes the books is known to them.

I worked my way through 24 entries in B.T. Brachot and concluded that, although the phrase *arbah amot* may have started out as an arbitrary distance, it had taken on spiritual significance to our Sages, a private/personal place/domain of ritual purity, and the amount of space the *Shechina* occupies as She surrounds one who is praying. Given that life is short, and the amount of time that one can reasonably spend on a Senior Teshuva is circumscribed, and the fact that the Talmud can't be relied upon as authoritative for purposes of a ruling, I redirected by energies to the *Shulchan Aruch*.

A search of the *Shulchan Aruch* in the Judaic Classics Library revealed 263 entries for *arbah* or *dalet amot* with grammatical prefixes. After working my way through all of them, not surprisingly, I concluded that *arbah* or *dalet amot* is used there in both real and metaphorical senses although it is sometimes difficult to discern the difference with certainty. This is interesting because, as a general rule, something which is equal parts physical and metaphorical becomes more literal over time. There is also a modern day concept of *dalet amot* which clearly is metaphorical while still referring to the personal domain. For example, you might tell someone that choosing to put on deodorant is their own business, as long as they stay of your *dalet amot*. Or, it might be used to refer to an area of expertise. For example, you might tell someone not to ask you about quantum physics because it is outside your *dalet amot*.⁴

Recalling that one of the *teshuvot* relied up by the CJLS in their 2010 Responsum was that of Rabbi David Golinkin⁵ and that they appeared to follow his ruling on the height and/or width of separation required between the two sections of a cemetery, I decided to obtain his full *teshuvah* in Hebrew to see if and how he explored that question. The title of the Golinkin *Teshuvah*, *The Burial of Non-Jews in a Jewish Cemetery*, is a bit misleading. It is specifically about establishing two sections in a cemetery, one of which would belong to the Masorti Movement and the other to a secular group in which intermarried Jews will be buried together with their non-Jewish spouses.

The question Rabbi Golinkin addressed himself to was how to separate the two parts of the cemetery. He identified eight different possibilities: a *mechitzah* or wall of 10 *tefachim* (80 or 96 cm), a "living fence" composed of bushes/shrubs of 10 *tefachim*, a distance of four *amot* (1.9 or 2.3 meters), a *mechitzah* of 10 *tefachim* together with a distance of four *amot*, a distance of eight *amot*,

⁴ Sinclair, *op. cit.*

⁵ Rabbi Golinkin is president and rector of the Schechter Institute of Jewish Studies in Jerusalem, where he teaches Talmud and Jewish law. He heads the Va'ad Halakhah (committee on Jewish law) of the Masorti, or Conservative, movement's Rabbinical Assembly in Israel.

a distance of eight *amot* together with a living fence, a distance of eight *amot* together with a fence of 10 *tefachim*, and stone pillars or an usually wide path.

Rabbi Golinkin concluded that the first three choices were preferable to the rest because a *mechitzah* and four *amot* are ancient means of separation mentioned in *Talmudic* sources in various contexts related to the laws of mourning. He concluded that the choices involving both a partition/*mechitzah* and a distance of separation were not necessary. With respect to the option of eight *amot*, he pointed out that this was a relatively late creation that was not based in the *Talmud*. He discounted the last choice, although most lenient, because it was without support in the sources. In the end, he concluded that the two sections should be separated either by a wall or bushes 10 *tefachim* high, or by a path, road or sidewalk four *amot* wide. His reasoning was also based on strong opposition to the phenomenon of intermarriage while at the same time recognizing that it is a modern phenomenon affecting more than 50% of marriages in most countries where Jews reside.

It is this *Teshuvah* that forms the basis of the choice made by the CJLS in their 2010 Responsum regarding the separation between the two sections. They concluded that a path, etc. of four *amot* would be the least “exclusive” of the two options because it is much less obvious that even a short hedge or fence. Their reasoning was much softer than Rabbi Golinkin’s, based more on a recognition of the existence of the phenomenon of intermarriage, particularly in North America, and a desire to make them and their families feel welcome.

And now I come to Or Shalom’s cemetery. For the time being, we actually don’t need to “decide” this question. If burial/interment starts from each end, one designated Jewish and the other designated mixed faith, it will be a (hopefully long) while before the two sections “meet up”. Meanwhile, there will be the unfilled space in between. Speaking to that future time, a separation of *arbah amot* is not a terrible option because the distance would not be much more than the standard distance between two burial plots and could be landscaped in some aesthetically pleasing way.

But there are two other options that would not result in the loss of any burial plots and which would be in complete “compliance” with the *halacha* of separation without engaging in a paradigm shifted understanding of four *amot*. First the other, *halachic*, option: a fence or hedge 10 *tefachim* high. It is not at all clear from the CJLS 2010 Responsum why they dismissed this option without comment, except that they opted for the least visually obvious choice - a flat path rather than a vertical hedge. But 10 *tefachim* is actually not very high. There are six *tefachim* in one *amah*, which is approximately 18”. So 10 *tefachim* is less than two *amot*, which means it would be less than three feet, probably about 2 1/2 feet high. My arithmetic may not be absolutely accurate but, my point is that it is not very high. Although I did not conduct an exhaustive search in the sources of the meaning of 10 *tefachim* like I did of *arbah amot*, I learned that it has a specific meaning in the laws of domain and represents the height over which impurity cannot travel because it is a separate domain.

The obvious argument against a fence or hedge/living fence is its visibility. Those in interfaith relationships/marriages or those who are *gerei toshav* and not in relationship/marriage with a Jew may already feel socially and/or communally segregated notwithstanding our synagogue’s efforts to welcome them because of other issues such as the fact that the synagogue does not accept patrilineal descent nor is the rabbi permitted to perform intermarriages. Having a visible barrier can create or perpetuate similar feelings of segregation/separation. The best response to that reasonable

objection is that the available space is small and compromise is thus necessary. I believe it can be done well and tastefully and made to feel like organic landscaping.

Although I concluded that the question can actually be resolved using either of these traditional categories, I went on to explore another option which stretches them and recognizes that we live in a paradigm shifted world. The central/core mitzvah is how Jews relate to and understand non-Jews who are *gerei toshav* and their purpose in the world in general and our synagogue in particular. Is there a question of integrity here as well? Can we pursue the ways of pleasantness? Is there a path of peace that does not involve holding on to principle and conflict beyond the point where it is useful? How would the principles of Integral *Halachah* be of assistance?

What about the concept of four *amot* itself? From my research, it is obvious that *arbah amot* does not just refer to an actual distance. It is also a metaphorical or figurative distance in many circumstances and is a formulaic way of saying something else. It is always speaking to personal versus public domain, but sometimes the domain itself is metaphorical/conceptual, figurative or representative of something else, or it is measuring time by distance, or it is being downright mystical (the place where the *Shekhina* resides). *Arbah amot* is about respect for the personal space of the other, whether because God dwells there, or because of the four methods of *Torah* learning/understanding, or of the four worlds. It is also, in modern Hebrew, quite prosaic.

I believe that it is very arguable the *arbah amot* is only referring to a respectful distance - my personal space, my area of expertise. Less than four *amot* could also be considered to be a respectful distance, particularly if we conceive of it in terms of a measurement of time - the distance should be as long as it takes to travel through the four worlds, for example. That may not be very far in the physical world even though it may be a tremendous distance in the mystical world. My personal space in the physical world of burial plots also could be smaller than four *amot*.

I have another option to suggest which I consider is more paradigm shifted and very worthy of consideration. It is kind of out of the box which, I believe, is at least part of what Integral *Halachah* is all about. What is the moral and ethical response, for that is the *halacha* we seek. What is the path to goodness (Godliness?) and holiness here? What does common sense/*svara* tell me. There is another way.

Given that there may (likely are) Jewish members of the synagogue who would be very happy, or at the very least not object, to being buried in the mixed section, there is a way to have the mixed section right next to the Jewish section with no greater separation whatsoever, beyond the graves of those "agreeable" Jewish Or Shalom members. The last row of graves of Jews who want to be buried in the Jewish section would be buried immediately next to Jews only on each side of them because the first row of those buried in the mixed section would also be Jewish. Thus the last graves of Jews buried in the Jewish section would be separated from the first non-Jewish graves by more than four *amot*. There would have to be a written, contractual "guarantee" that the first row of graves in the mixed section would only be occupied by Jews, whether or not they are double burial plots.

The problem with this option is that we don't know in advance where the meeting point will be, so we can't very well say "me, me!". At one of our cemetery committee meetings, I gleefully offered Yom and I to be part of the "mechitza" when Pat responded, "but where would we bury you?" Great

question! There could be a lot of people saying “me, me, I’ve always wanted to be a mechitza!” If this were the chosen option, we will begin to develop the culture of our community such that there will always be people saying “me, me”!