

Bnei Brak Rabbinical Court

Founded by Rabbi Nissim Karelitz (obm)
Under the leadership of the Head of the Court Rabbi Sarel Rosenberg

Sunday, 14 Shevat 5780

Opinion and Holy Call

Re: Plans to renovate the building erected in the ancient Vilna cemetery and to turn it into a concert hall

As is known, in the Jewish community throughout the generations Jewish cemeteries – the final resting places of our sages of early generations, venerated as angels – are sacred places to which people come from near and far to pray to our Heavenly Father. As is known, in Jewish cemeteries burial is permanent and disinterment is not allowed even after many centuries.

Jewish law is quite clear and as stated in the *Shulchan Aruch (Yoreh Deah* chap. 368, section 1, and *Rema*, *ibid*) it is forbidden to behave in a light-headed manner in a cemetery e.g. take care of one's physical needs, or eat or drink there or to use it as a shortcut etc., due to the respect to be shown to the dead. The law is clear that if the graves were disinterred, G-d forbid, that place may not be reused for any purpose, as stated in the *Shulchan Aruch (Yoreh Deah* chap. 324, section 6) that a grave that has been disinterred may not be used to store grain or wood, nor as a store place for valuables, due to the respect to be shown to the dead (as explained in the *Shach*, subsection 14).

Besides the sanctity of the place, one should know that it is customary in Jewish communities world-wide that family members (or the person himself during his lifetime) purchase the burial plot for the deceased at the full price as a permanent purchase, and as explained in the Talmud (Bava Batra, 112a) it is a disgrace for a righteous person to be buried in a grave which does not belong to him. It is therefore clear and obvious that the place of the graves does not belong to the Community nor is a public area, but is the private property of the deceased and their descendants, whether they are ascertainable or not, and the Community bodies do not have the right to sell it, and if they do so, the sale is ultra vires and invalid. Similarly, if they agreed to the destruction of part of the cemetery, or to the carrying out of renovations in destroyed areas their agreement to the restoration project is ineffective, as it is not their property, and the descendants of those buried in this cemetery may take legal proceedings to ensure that no use be made of the place.

[In addition to the above, there is a real danger that during the renovation works damage may be done to as yet undamaged graves, or the bones of those buried in graves which have been previously destroyed may be uncovered. Furthermore even if the renovation is done under supervision, it is clear that such a large building needs periodic infrastructure works, and who will supervise these?]

Therefore, for all the above reasons, it is our opinion that according to Jewish Law the sanctity of the cemetery must not be harmed and that even after it has been destroyed in the past it is still consecrated ground, and is also a place that has been stolen from the deceased and their heirs. It is therefore forbidden to further aggravate the transgression and renovate the structure erected over the destroyed graves, and certainly should the area be turned into a place of entertainment, it would be a desecration of its sanctity. Therefore it is obligatory to seal up the existing building and leave it as it is.

Signed:

Rabbi Yehuda Silman (-)

Rabbi Sarel Rosenberg (-)

(stamp – "Bnei Brak Rabbinical Court under the presidency of Rabbi Nissim Karelitz")

(-) I also agree with the above Gershon Edelstein (Dean of Ponevezh Yeshiva, Bnei Brak)

(-) I also agree with the above Chaim Kanievsky (Bnei Brak)

(-) I also agree with all the above Moshe Hillel Hirsch (Dean of Slabodka Yeshiva, Bnei Brak)

(-) I also agree with all the above Aharon Dovid Halevy Goldberg (Dean of Telshe Yeshiva, Cleveland USA)