The Chicago Center
Digest
Mishna Berura
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סימן ע"ט סעיף ד'-ח'

Halacha Highlight

Davening near a garbage can

Shulchan Aruch Siman 79 Seif 8
אסור לקרות כנגד אשפה שריחה רע
It is prohibited to read *shema* opposite a garbage heap that has a foul odor

Shulchan Aruch (סע' ח') writes that it is prohibited to read *shema* opposite a garbage dump that has a foul odor. Mishnah Berurah (ס"ק כ"ט) writes that a garbage dump is comparable to human waste; therefore, one may not *daven* or study Torah if one can see a garbage dump in his line of vision. Even if one is certain that the dump does not contain waste or *mei raglayim,* it is prohibited. He adds that this law is Biblical.

Regarding garbage canisters, whether it is a garbage can in one's home or whether it is a garbage can that is in the street, *Poskim* have ruled that they are not categorized as a גרף של רעי —a utensil used for human waste (ע' פסקי תשובות אות ח'). Therefore, it is permitted for one to study Torah or recite *devarim she-b'kedusha* nearby. This applies even if the garbage can is open and there is garbage inside. The reason is that smelly garbage is usually put into bags before being thrown into the garbage can and the garbage is generally removed from the garbage can daily (ע' באור הלכה ד"ה אשפה שריחה רע). Additionally, the garbage in the garbage cans generally do not produce a foul odor that one could smell from a distance. If the garbage bin outside is overflowing and there are bags of garbage that are on the ground near the garbage bin one must be careful before he learns or recites *devarim she-b'kedusha* there. Once garbage begins to gather outside of the garbage bin it is more likely for the bags to rip and foul smelling garbage becomes exposed. Similarly, it is prohibited for one to study Torah or recite *devarim she-b'kedusha* behind a garbage truck since the garbage bags rip and the smelly garbage is left exposed. If one stands to the side or in front of a garbage truck and one cannot smell the garbage it is permitted to study Torah and recite *devarim she-b'kedusha* there.

Stories to Share

Clean Streets

ש"ע ס' ע"ט, ח': "אסור לקרות כנגד אשפה..."

Rav Yitzchak Blazer was appointed the Rav of St. Petersburg, Russia. Although virtually no Jews were permitted there—a Jew required a permit to even visit—the salary was extremely high. Being the official Rav there enabled him to learn in peace and also to afford to print his many original Torah works. Rav Yitzchak Blazer's dream was to move to Eretz Yisrael and he slowly saved his money to reach this important goal. When he finally had a large enough sum, he moved the Eretz Yisrael.

Later when he reminisced about the rabbinate in St. Petersburg, he said, "The only exceptional advantage of being Rav there is the streets. They were always clean and it was always permitted to learn there. In other cities, there is an odor in the streets, which often have garbage or excrement piled up waiting to be removed by garbage collectors. This was an exceptional advantage of St. Petersburg: I could learn without interrupting while walking through the streets."

מפי ספרים וסופרים, ח"ב, ע' רס"ז

A certain man liked to listen to shiurim while walking through the street. He enjoyed this for some time, until he learned the halchah on today's amud. When he learned that it is forbidden to learn near a garbage can he began shutting off his mp3 every time he got close to a bin. But this became very tedious for him since there were several bins on every block. It disrupted his flow of thought and sometimes he would forget to turn it off until he was right near a bin. Not surprisingly he wondered if there was any leniency to this halachah.

When this question reached Rav Yosef Shalom Eliyashiv, zt"l, he ruled that he could listen to the shiurim. "As long as one doesn't actually sense an odor emanating from a garbage can he can learn within its proximity. Even if it is open he need not suspect there is excrement or the like which forbids learning since most of the garbage is not excrement or some other problematic material."

נקיות וכבוד בתפילה, פ"ח, ס' י"ב, והערה י"ג

Overview

Siman 79 Seif 4:

If waste of a dog or pig was placed on animal hide one must distance himself from it as one would distance himself from human waste but if was not placed on animal hide it is the same as waste of other creatures from which one is not obligated to distance himself if it does not smell. In the event that it does smell it is the same as human waste.

- It can be assumed that the waste of dogs and pigs do not smell. (M.B. 22)
- A bad smell is defined as something that causes people distress. (M.B. 23)
- Chaye Adam writes that something that naturally smells bad does not pose a *halachic* problem. It is only something that smells due to rotting or spoilage. (M.B. 23)
- When something is categorized as comparable to human waste one must be four *amos* from where the smell dissipates if it is behind him and it may not be within his line of vision. It is also possible that it is treated like human waste even when it no longer smells. Magen Avrohom disagrees and maintains that as soon as the waste ceases to smell one need not distance himself from the waste. Derech Chaim rules that *shema* should be repeated if it was read within four *amos* and Mishnah Berurah rules that one should not repeat *shemone esrei*. (M.B. 24)

Siman 79 Seif 5:

Soft waste from a donkey that just returned from the road, the waste of a cat, a weasel and putrid animal carcass have the same *halacha* as human waste. One who is traveling on a road and sees animal waste – if it does not smell he does not have to be concerned that it is from a donkey. If he is near the city there are those who say that he must be concerned since the majority of the animals in that area are donkeys in a place where donkeys are common.

Siman 79 Seif 6:

The Yerushalmi prohibits reading *shema* in front of the *mei raglayim* of a donkey that returned from the road and in front of the waste of chickens that is red.

- Shulchan Aruch's wording implies that the waste is red but later authorities explain that the *halacha* refers to chickens that are red called "English hens." (M.B. 26)

Siman 79 Seif 7:

The waste of chickens that run around in the house is categorized as the waste of creatures but a chicken coop has a foul odor and is treated the same as human waste.

- It is known that the waste of birds that sit on their eggs is foul smelling and is treated like human waste. (M.B. 27)
- Chaye Adam writes that a stable is treated the same as a chicken coop. (M.B. 28)

Siman 79 Seif 8:

It is prohibited to read in front of a garbage heap that has a putrid smell.

- The guiding principle is that if a foul odor emanates from something that is spoiled or rotten similar to the items that were mentioned in Shulchan Aruch one must distance himself from them as one would from human waste. (M.B. 29)