The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן ש"נ סעיף א'-ב'

Overview

Siman 350 Seif 1:

A person standing in a private domain may extend his hand to the public domain and move objects for which he has no use where he is standing and move them from one place to another provided that he does not transport them four *amos*. We are not concerned that he will transport that object to where he is standing since he has no need for the object where he is standing. Consequently, it is permitted to stand in the public domain and take a key that is in a private domain and open a door there and the same is true from a private domain to a public domain. One may not stand in a private domain and extend his head to the public domain and drink there or vice versa unless he extends his head and the majority of his body to the place where he is drinking. Since he needs the water we are concerned that he will transport them to where he is standing. It is permitted for one to stand in a private domain or public domain and drink from a *karmelis* or vice versa. Some commentators interpret the phrase, "utensils that he needs" as referring to nice looking utensils that he needs but if the utensils are not nice it is permitted to drink from them even if he extends only his neck rather than his head and the majority of his body. Moving other items that are unrelated to drinking, even if the utensils are beautiful, may be moved since the injunction was directed at beautiful drinking utensils which one brings to his mouth.

- If he transported it he is liable even if he lifted it more than ten *tefachim* since he eventually placed it down. (M.B. 2)
- We are not concerned he will bring it to himself. (M.B. 4)
- In other words, he is standing in a private domain and takes a key from the public domain and opens there a store. Additional *halachos* can be found in Rema and Mishnah Berurah to *siman* 346:3. (M.B. 5)
- The same is true for food and clothing or any other item that a person needs where he is standing. (M.B. 6)
- We do not issue a decree on a decree. (M.B. 7)
- The first opinion is primary. (M.B. 8)

Siman 350 Seif 2:

One may not stand in the public domain and urinate or spit into a private domain or a *karmelis* or vice versa, even if he extended the necessary body part into the other domain.

- Taking the fluid from one's body is an act of "lifting." (M.B. 9)
- The same is true if he urinated or spit a distance of four *amos* in a public domain or a *karmelis*. (M.B. 10)
- We are not concerned with where it exits the body, our concern is the place from which it was uprooted. Gra maintains that there is room for leniency in a *karmelis*. (M.B. 11)

Halacha Highlight

Drinking and spitting from one domain to another

Shulchan Aruch Siman 350 Seif 1

אבל לא יעמד ברשות היחיד ויוציא ראשו לרשות הרבים וישתה שם

But one may not stand in a private domain and extend his head to the public domain and drink there

Shulchan Aruch (סע' א') writes that, generally, it is permitted for one to stand in one domain and extend his arm to another domain and move objects in that second domain provided that he does not move the object more than four *amos*. This allowance, however, is limited to objects which one does not need in the domain in which he is standing so that there is no concern that he will transport the object from the domain in which it is resting to the domain where he is standing. Accordingly, one may not stand in a private domain and stretch his head into a public domain and take a drink there. The reason is that since he wants the water we are concerned that he will transport the water from the public domain to the private domain. However, if he extends his head and the majority of his body to the public domain it is permitted since in such a case we are not concerned that he will transport the water to the domain where he is standing.

Shulchan Aruch implies that Biblically, it is permitted for one standing in a private domain to extend his head into a public domain and drink there. In contrast, in *seif* 2, Shulchan Aruch rules that one may not stand in a public domain and spit into a private domain, even if he extends his head into the private domain. Mishnah Berurah (ס"ק י"א) explains that when it comes to spitting we consider the "lifting" to occur in inside the body from the place where the saliva separates from the body and as such when spitting the saliva is transported from the public domain, where his body is located, to the private domain, where the saliva is deposited, and the location of his mouth is irrelevant. Chazon Ish (או"ח סי' ק"ה סק"ו) explains that when spitting the intent of the act of "lifting" is to separate the saliva from the body so that it could be eventually be discharged from the body. In contrast the intent of drinking is for the water to become part of the body and that occurs at the time one swallows.