The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Fri, Aug 30 2024 ■ כ"ו אב תשפ"ד
סימן ש"נ סעיף ג'-סימן שנ"א סעיף א'

Overview

Siman 350 Seif 3:

There is an opinion that maintains that once saliva became dislodged and is ready to be spit out is charged one may not walk four *amos* in the public domain until he spits.

- Elya Rabba asserts that this applies when the saliva gathered and he is ready to spit it. (M.B. 12)
- One should not abandon this opinion since it is the majority opinion. (M.B. 13)
- It is also prohibited to walk from one domain to another until he spits. (M.B. 14)

Siman 351 Seif 1:

A person may not stand in the public domain and put his hands next to a מזחילה which is a long pipe that runs the length of the roof, to receive water if the מזחילה is within three *tefachim* of the roof. Since the מזחילה is within three *tefachim* of the roof it is as if it is part of the roof and thus it is prohibited regardless of whether he is higher than ten *tefachim* or within ten *tefachim*. It is permitted to collect water from the air, even if his hand is within three *tefachim* of the מזחילה. If the מזחילה extended beyond three *tefachim* from the roof or if another pipe extends three *tefachim* from the roof, it is permitted to place one's hand next to it to collect water provided that it is not four *tefachim* by four *tefachim* even if it is higher than ten *tefachim*. If it contains an area of four *tefachim* by four *tefachim* or even if it did not but it was higher than ten *tefachim*, it is prohibited.

- The same is true regarding his mouth or a utensil. (M.B. 1)
- It is certainly prohibited to collect water from the wall. (M.B. 2)
- This constitutes transporting water from the roof to the public domain. (M.B. 3)
- The airspace higher than ten *tefachim* is *makom patur* and if the roof is lower than ten *tefachim* then the transfer is all taking place in the public domain. (M.B. 4)
- מזחילה is the gutter and the צינור is the downspout. (M.B. 6)
- As such it is a *karmelis*. (M.B. 9)
- The injunction is based on the concern that it will be four *tefachim* by four *tefachim* which would constitute a private domain and thus prohibited. (M.B. 10)

Halacha Highlight

Walking with food in one's mouth

Shulchan Aruch Siman 350 Seif 3
רקו שנתלש בפיו
Saliva that became detached in one's mouth

Shulchan Aruch (סי' ש"נ סע' ג') cites an opinion that maintains that once saliva became detached from the body and one is prepared to discharge it from his mouth it is prohibited for him to walk four *amos* in the public domain until he first discharges that saliva. Mishnah Berurah (ס"ק י"ב) in the name of Elya Rabba writes that this ruling applies only when the saliva has already turned over in his mouth and is ready to be discharged. Sha'ar HaTziyun (סק"י) in the name of Pri Megadim adds that when it comes to phlegm one may not walk with it in his mouth even if he did not turn it over so that it is ready to be discharged. Biur Halacha (ד"ה ברשות הרבים) questions whether this prohibition is Biblical or Rabbinic in that it resembles transporting a load. The practical difference between these two approaches is whether the prohibition applies in a *karmelis* as well. After offering two proofs that the prohibition is Biblical, he writes that *l'ma'aseh* the matter is unclear since there are authorities who maintain that the prohibition does not exist even in a public domain. Accordingly, one should be able to rely on their opinion, at least for a *karmelis*. He concludes that one should not be lenient other than in a true *karmelis*, i.e., an open field or *karpeif,* but not in our streets since many *Poskim* maintain that they qualify as a public domain.

Regarding leftover food that remains in one's mouth, Sefer Minchas Shabbos (מובא בשו"ת מנחת יצחק ח"ה סי' ל"ח) adopts a lenient position. His reasoning is that transporting the food in this manner is a *melacha she'aina tzricha l'gufa* being that one does not need the food in the location that he is going. Additionally, it is considered an unusual manner of transporting food and the volume that would be transported would not be a significant amount. However, if he can clean his teeth before going outside, one should be strict and do so. Rav Shlomo Zalman Auerbach (שמירת שבת כהלכתה פי"ח הע' ח') adopts a lenient approach even in a public domain unless one feels the presence of the food and it is disturbing to him so that it is comparable to saliva that one is ready to discharge from his mouth. He does, however, conclude with the words וצ"ע indicating some hesitation.