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EXTINGUISHING ON SHABBOS: THE SHIFTING STATUS OF HOUSE FIRES, PART II

Adapted from the writings of Dayan Yitzhak Grossman

In the previous article on the changing of conditions affecting the level of danger posed by house fires, we discussed the rulings of the Gemara and the *Rishonim*; in this part, we discuss those of earlier as well as contemporary *Acharonim*.

THE ACHARONIM

The Gemara does not consider house fires generally dangerous to life, as discussed in the previous article, presumably because people could generally avoid danger by leaving the burning house. The *Rishonim* of Ashkenaz did, but only due to the danger of murderous looters and draconian legal punishments inflicted upon those blamed for outbreaks of fire.

It is not until about three and a half centuries ago that we find the idea that

house fires are generally inherently dangerous in contemporary times. The Knesses Hagedolah infers from the rule that extinguishing a fire is permitted even in a case of *safeik sakanah*, that in contemporary times a fire may be extinguished in any circumstance,

since it is possible that if they do not extinguish it, it is inevitable that the city will contain an elderly or ill individual who will be unable to flee, and the fire will come upon him.

Another reason: Since most of the time they enter homes to loot and plunder, people are anxious about their property, and when they attempt to defend what is theirs, [the looters] will kill them.

But it is inappropriate to publicize

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PARSHAS YISRO

HEARSAY

Excerpted and adapted from a shiur by
Dayan Yosef Greenwald

He said to the people, "Be ready for three days; do not go near a woman."

Shmos 19:15

Ezra instituted that a *ba'al keri* (one who experiences a seminal emission) must immerse in a mikveh before speaking words of Torah.¹ According to the Gemara (see Brachos 20b), this enactment was derived from *Matan Torah*, where B'nei Yisrael were given the status of *ba'al keri* and had to purify themselves before hearing the *Aseres Hadibros*. The Gemara comments that although there is a dispute whether *hirhur kedibur dami* (thought is like speech), all agree that a *ba'al keri* may think *divrei Torah*.

Tosafos notes that if *Matan Torah* is the basis for the *takanah*, then B'nei Yisrael's listening to the *Dibros* should prove that a *ba'al keri* may not even listen to *divrei Torah*. Tosafos rejects this on account of the principle of *shomeia ke'oneh* (hearing is like speaking), due to which B'nei Yisrael

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¹ This enactment was later abolished (*Shulchan Aruch* O.C. 88:1).

Q&A from the
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Repeat Offense

Q You recently wrote ("Stop-Loss Order," Parshas Bo) that one who began to recite *birkas hamazon* out of uncertainty and remembered in middle that he had said it earlier, must stop. This appears to contradict the *Shulchan Aruch* (O.C. 76:7-8), which says that if one is unsure whether a puddle on the floor is urine or water, he may recite *brachos* nearby, because *safeik deRabanan lekula*. Even if he later discovers that it was urine, the *bracha* he made need not be repeated, because he acted correctly in making

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this leniency to the ignorant (*amei ha'aretz*).¹

It is unclear whether the Knessess Hagedolah's concluding caveat applies only to his second reason, or even to his first, and either way, the caveat is difficult to understand: As we have seen above, where there is a concern of *sakanah*, refraining from publicly expounding a leniency in this area is considered negligence with respect to the preservation of human life! In any event, some later *poskim* cite the first reason of the Knessess Hagedolah without any caveat against publicizing it.²

It is noteworthy, however, that other later *poskim* make no mention of the Knessess Hagedolah's first reason,³ and some reject it outright, arguing that if there really is a concern that perhaps someone will be unable to flee the fire, why were Chazal not concerned about it?⁴

The Chayei Adam acknowledges the concern for individuals who are unable to flee, but he does not therefore grant a blanket dispensation to extinguish fires in contemporary times, instead allowing their extinguishment only

where we know of particular individuals who are unable to flee and there is accordingly at least a *safeik sakanah*. (He goes so far as to consider the question of whether in such cases it might be preferable to simply remove the individuals in danger from the burning buildings—violating the prohibition against carrying—and allow the buildings to burn rather than to extinguish the fire.)⁵

CONTEMPORARY AUTHORITIES

The Chazon Ish is cited as having held that in contemporary times, fires may be extinguished on Shabbos even where there is no concern for looters, although his rationale for this is not entirely clear.⁶

The Sheivet Halevi, on the other hand, is reluctant to allow the extinguishing of fires on Shabbos today in the absence of any concern for murderous looters. He is initially critical of those who seem to be unjustifiably lenient (*mezalzelim*) in this matter, particularly with respect to “the houses of today (in Eretz Yisrael), which are of stone.” But he subsequently concedes that in some scenarios, where not everyone has been removed from danger, and people are terrified (i.e., and their terror may prevent them from escaping the fire), or they are unable to escape because the fire surrounds them on all sides, extinguishing the fire is permitted, because these are certainly situations of *safeik sakanah*.

If everyone can escape or has already escaped, there is apparently no

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it. If that *bracha* is valid, why must one stop in middle of *birkas hamazon* if he correctly recited it *misafek*?

A Once a person has *bentched*, his second *bentching* is meaningless, because he already fulfilled his obligation. Therefore, if he remembers in middle that he already recited it, he must stop. In the case of the puddle, the *bracha* he made is inherently valid; the question is only whether he was permitted to recite it. Because he followed the halacha that says he could recite the *bracha* in a case of *safeik*, it was valid, so there is no need to repeat it.



DAYAN YOSEF GREENWALD

justification for calling the firemen merely to save their homes and property, but the Sheivet Halevi ultimately concedes that even in this scenario, extinguishing the fire may perhaps be justified, since homes today contain gas tanks, which if caused to explode by the fire can create absolute *sakanah*.⁷

R' Nissim Karelitz is cited as ruling that if there a concern that the fire may spread, it is permitted to desecrate Shabbos in order to extinguish it.⁸

1 Shiyarei Knessess Hagedolah O.C. end of Hagahos Bais Yosef ibid.

2 Elyah Rabah ibid. s.k. 25; Mishnah Brurah ibid. s.k. 73.

3 Shulchan Aruch HaRav ibid.; Kaf Hachaim ibid. The latter simply mentions the concern (attributed to the Bais Yosef) for property owners being killed by looters in the course of defending their property, and not the concern for the danger posed by the fire itself, and then cites the Knessess Hagedolah's caveat against publicizing the leniency.

The Aruch Hashulchan ibid. *se'ipim* 43-44 states that the custom is to put out fires on Shabbos, and he justifies this based on the rulings of the early *poskim* we have seen that in contemporary times, fires are generally assumed to be dangerous, but he does not specify whether he is referring to the danger posed by human killers or by the fire itself.

4 Tehilah LeDovid ibid. s.k. 44; Shu"t Sheivet Halevi *cheilek* 8 *siman* 177 (I) end of halacha 3.

5 Chayei Adam *Hilchos* Shabbos end of *klal* 45-46 *se'if* 15.

6 Orchos Rabeinu, cited in the *Dirshu* Mishnah Brurah ibid. n. 71.

7 Shu"t Sheivet Halevi ibid.

8 Chut Shani, cited in *Dirshu* ibid.

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were considered to have spoken when listening to Hashem.

The Or Sameiach (*Hilchos Krias Shma* 4:9) asks that according to Tosafos, a *ba'al keri* should be forbidden to listen to *divrei* Torah as well, but the Yerushalmi says a *ba'al keri* may do so. How,

then, can *Matan Torah*, where B'nei Yisrael listened to the *Dibros*, serve as the source for the *takanah*? He answers that perhaps the Yerushalmi holds that *shomeia ke'oneh* means one fulfills his obligation, not that he is considered to have spoken the words he heard (an issue the *Acharonim* debate). But the Mechilta says Klal Yisrael affirmed each of the *Dibros*, and that response was certainly actual *dibur*.

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