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 HaRav Yosef Grossman zt"l

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WASTE AWAY: THE DISTANCING OF PUBLIC NUISANCES

Adapted from the writings of Dayan Yitzhak Grossman

THE LAKEWOOD WASTE TRANSFER FACILITY

The Township of Lakewood plans to build a new "municipal solid waste transfer facility."

The proposed 300 tons per day (not to exceed) facility will consist of a permanent pre-engineered metal building which will facilitate the transfer of mixed municipal solid waste from Lakewood's solid waste haulers to semitrailers for onward transportation to a solid waste facility.¹

An online petition opposing the transfer facility, at the time of this writing signed by 919 people, asserts that:

The proposed solid waste transfer station will directly impact the quality of life of the residents and business establishments in its immediate vicinity...residents will hear loud equipment and see many more waste management vehicles including semitrailers coming and going. These facilities are known

to cause tremendously foul-smelling odors that will be a constant presence for all of the immediate area surrounding the facility. They also inherently generate large quantities of waste liquid. This is particularly concerning as the proposed site is within a half-mile of the Lakewood MUA (Municipal Utilities Authority) water tower as well as other freshwater bodies.

Located within a half-mile of the proposed facility are established residential neighborhoods, eating establishments with indoor and outdoor seating, health facilities, newly built office parks, urgent-care facilities and many schools with elementary school-age children. These will all be directly negatively affected if this solid waste management facility is built.²

Lakewood Mayor Ray Coles dismisses such concerns:

What people don't understand is that the garbage has been there all along. We're not

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² Stop the Lakewood DPW Solid Waste Transfer Station. Change.org.



PARSHAS TRUMAH INITIAL PUBLIC OFFERING

Excerpted and adapted from a shiur by
 Rav Moshe Zev Granek

And they shall make for me a sanctuary,
 and I will dwell among them.

Shmos 25:8

According to the Sefer Hachinuch (95), this *pasuk* includes the mitzvah of building the *Bais Hamikdash* in future generations. But he qualifies that the mitzvah applies only when the majority of Jews live in Eretz Yisrael. If so, the mitzvah would not apply yet, because less than half of the Jewish People currently does so.

Nevertheless, one opinion in the Gemara (Zvachim 108b) holds that *korbanos* may be offered even without a *Bais Hamikdash*. The Rambam explains that this is because the *kedushah* of the *mekom hamikdash* has never left. On the other hand, the Rambam also writes (*Hil. Psulei Hamukdashin* 3:22) that the *mizbeich* must be built properly and placed in the proper location in order to be valid.

Despite the technical difficulties of constructing a kosher *mizbeich*, some *Acharonim*, like the Yeshuos Malko, suggest that there is a mitzvah to build

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Q&A from the
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A Family Operation

Q My elderly father requires periodic finger-stick blood tests. Often his aide is not available to administer the test. May I do it myself?

A Wounding a parent is a capital offense in the Torah: "One who strikes his father or mother shall be put to death (Shmos 21:15)." Chazal (Sanhedrin 34b) say a "strike" means even a minor wound or shedding

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talking about bringing garbage in from somewhere else. We're not talking about storing garbage...

Yes [it will be in a building]. And it will filtration (sic) and things like that. It won't be out in the open. It won't be baking in the sun.

I honestly do not think that anybody who lives near there will notice any difference...³

While this writer is not sufficiently knowledgeable about waste transfer facilities in general, and the details of this one in particular, to have a position on the controversy, discussion of the basic issue appears as early as the Mishnah—and according to some *Rishonim*, it is even alluded to in Chumash.

ME'ARAS HAMACHPEILAH

The Torah relates that when Avraham negotiated the purchase of Ephron's field and the Me'aras Hamachpeilah for use as a burial crypt, he dealt not just with Ephron personally, but with the children of Cheis collectively.⁴ R' Yosef Bechor Shor and the Chizkuni explain the need for this as follows:

[Avraham] needed all of them, for even if Ephron had sold him the field, he would not have been permitted to make a cemetery there without the permission of *all the residents* of the city, lest they say: "You are not permitted to add a *mekom tum'ah* (a place of contamination) to our neighborhood."⁵

Other Ba'alei Hatsofas explain:

It appears that one must get permission from *all the great ones* of the city in order to make a cemetery, and therefore [Avraham] sought permission from them.⁶

In the same vein, the Torah relates that at the conclusion of the deal:

Ephron's field...was confirmed as Avraham's as a purchase...

The field with its cave was confirmed as Avraham's as an estate for a burial site,

from the children of Cheis.⁷

Some of the Ba'alei Hatsofas explain:

Why are there two confirmations? One that [Avraham] purchased the field from its owner, and one that he purchased the place from the ruler, for he would be unable to make a cemetery there without his consent.⁸

The Ralbag actually adduces this understanding of the narrative as a major halachic precedent:

It is inappropriate for someone to do something with his own land that will result in injury or distress to his neighbors, unless he has their consent. We therefore find that Avraham requested of the children of Cheis that they consent to his establishment of the field and the cave therein as an estate for a burial site, and Chazal have already derived from this principle many laws in [various] places in [Maseches Bava] Basra.⁹


NIMBY IN THE GEMARA

One of the mishnayos in Bava Basra to which the Ralbag alludes indeed explicitly includes graves on a list of things that must be located far enough from a city so as not to be a public nuisance:

One must distance animal carcasses, and graves, and a tannery fifty *amos* from the city. One may establish a tannery only on the east side of the city, because winds usually blow from the west, and the foul smells would therefore be blown away from the residential area. R' Akiva says: One may establish a tannery on any side of a city except for the west, as the winds blowing from that direction will bring the odors into the city, and one must distance it fifty *amos* from the city...¹⁰

GARBAGE CANS IN ERETZ YISRAEL

Contemporary applications of these halachos can be found in a pair of rulings of the *bais din* of Mitzpei Yericho, in cases involving residents who objected to the placement of municipal garbage receptacles near their homes on various grounds, including the



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of blood.

Even if the parent asks the child to wound him or her, almost all *poskim* still consider it a violation. But the *Minchas Chinuch* (*Asei* 48) and several other *Acharonim* maintain that an invited wound is not forbidden. In practice, we follow the former view, which is that of the majority (*Minchas Shlomo* 1:32).

Wounding a parent for medical purposes (e.g., a finger-stick or surgery) is discussed in the *Gemara* (*ibid*). According to the *Rif's* understanding of the *Gemara's* conclusion, it is forbidden, and the *Shulchan Aruch* follows this view. The *Rambam* understands the conclusion to be that it's permitted. The *Rama* rules this way, and contemporary *poskim* follow. Still, the *Gemara* only permits a child to inflict a medical wound when there is no one else available (*Rama ibid.*). If it's time sensitive, the child need not wait (even against the parent's will).

If others are present but the child is more qualified, he may do it by request of the parent (*Aruch Hashulchan ibid.* 6). If the others are equally qualified, but the parent feels more comfortable with the child doing it, the *Acharonim* disagree: *Chelkas Yaakov* (Y.D. 131) permits it (he combines the view of the *Minchas Chinuch* above), but *Minchas Yitzchak* (1:28) does not.



RAV ARYEH FINKEL

stench that they allegedly emitted. In both its rulings, the *bais din* accepted, at least in part, the plaintiffs' objections and ordered that the receptacles be moved, although the details of its analyses and the nuances of its rulings are beyond the scope of this article.¹¹

³ The Lakewood Shopper, reproduced here.

⁴ See Bereishis perek 23.

⁵ Bechor Shor and Chizkuni *ibid.* 23:7. The Chizkuni omits the explanatory phrase "lest they say..."

⁶ Hadar Zekeinim *ibid.* 23:4.

⁷ Bereishis *ibid.* 23:17, 20.

⁸ Hadar Zekeinim *ibid.* (23:4); Tosafos Al HaTorah (Riva) *ibid.* 23:17.

⁹ Ralbag *ibid.* to'eles 7.

¹⁰ Bava Basra 2:9.

¹¹ Bais Din Yishuv Mitzpei Yericho, *tik* #118: *Psak Din Besviah Shel Mishpachah Aleph Neced Netzgei Rechov Bais; Mikum Pach Ashpah*, 3 Shvat 5778 (Jan. 19, 2018).

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the *mizbeiach* so that *korbanos* can be offered.¹ The She'eilas Dovid says this is not required, and the *Gemara* above merely

permits *korbanos* to be offered but does not render it obligatory.

There may be another reason not to offer *korbanos* today: the *Rambam's* statement (*Melachim* 11:1) that *Mashiach* will ultimately rebuild the *Bais Hamikdash*. Although we said that the *mitzvah* to build the *Bais Hamikdash* (and the *mizbeiach*) could apply when the majority of Jews reside in Eretz Yisrael, perhaps the *mitzvah* to offer *korbanos* takes effect only after the *hashra'as*

haShechinah in the *Bais Hamikdash*, when Hashem expresses His desire for our offerings. This stage, according to the *Rambam*, will not occur until after *Mashiach* comes (see also *Megillah* 18a).

¹ As for the problem of identifying the *mizbeiach's* correct location, these *Acharonim* note that strictly speaking, the *mizbeiach* need only be 5 by 5 *amos* (while in the *Bayis Sheini*, it was 32 by 32 *amos*), and the *mizbeiach* may be placed within approximately 20 *amos* of its proper spot.



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