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ב"ר משה גרוסמן זצ"ל

Dedicated in loving memory of
HaRav Yosef Grossman zt"l

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GREAT EXPECTORATIONS: ON SPITTING BEFORE IDOLS

Adapted from the writings of Dayan Yitzhak Grossman

In recent years, there have been several incidents in which Jews in Yerushalayim spat on the ground upon seeing a Christian priest wearing a cross or when passing a church. The phenomenon has been documented and criticized in the past, but it has regained public attention after an incident on Chol Hamo'ed in which some Jews were walking through the Muslim quarter near a church just as a group of Christians was carrying a huge cross out of the building, and several of the Jews spat on the ground. A video clip of the event spread on social media, prompting severe criticism.

One reaction incensed many: Elisha Yered, former aide to Limor Son Har-Melech (M.K., Otmah Yehudit) said that spitting near churches and Christian symbols is an ancient Jewish custom, and that there is a special bracha to be recited near a church praising

Hashem for showing forbearance to those who disobey his will.

Israeli Chief Rabbi David Lau also condemned the spitters, adding that "On Sukkos, we would bring 70 sacrifices for the welfare of all the gentile nations, and we will continue to pray for them."¹

In this article, we discuss the historic and halachic background of this controversy.

(Note that most of the classic sources on this topic date from times and places in which norms of religious tolerance and civil behavior, and relations between religious groups, were very different from the current ones, and a *she'eilas* chacham must

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¹ Yehuda Dov, Jews Spitting Near Church in Jerusalem Condemned By Political And Religious Establishment. <https://vinnews.com/2023/10/03/is-there-a-jewish-custom-to-spit-near-a-church-yes-according-to-former-mks-aide-elisha-yered/>. Cf. here.



PARSHAS BEREISHIS

MENS REA

Excerpted and adapted from a shiur by
Dayan Yitzhak Grossman

And Lemech said to his wives, "Adah and Tzilah, hear my voice; wives of Lemech, give ear to my speech: Have I slain a man by my wound and a child by my bruise?"

Bereishis 4:23

Rashi, citing the Midrash, says that Lemech was blind. When he went hunting with bow and arrow, his son Tuval Kayin would indicate to him where to shoot. Tuval Kayin mistook Kayin for an animal and directed Lemech to shoot him. In this *pasuk*, Lemech insists that he was not responsible for Kayin's death.

The Rama, discussing the case of a wagon passenger who unintentionally shot and killed the driver, writes that it was *karov le'oness* (nearly accidental), but the perpetrator should still observe certain *teshuvah* practices: He should wander in exile for a year, fast each day until Yom Kippur, fast every year on the yahrtzeit, and recite *vidui* daily.

The Panim Me'iros addresses the case of friends that were playing with a gun they believed wasn't loaded and one of them fatally shot someone. He rules that the perpetrator is not subject to the *galus*

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O&A from the
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Mail Server

- Q** I regularly receive mail addressed to previous occupants of my home, including invitations, promotions, and tzedakah solicitations. Am I required to get these items to their addressees?
- A** Someone else's mail found in your mailbox is subject to the mitzvah of *hashavas aveidah* (returning a lost object). You can fulfill your obligation by notifying the owner so he can come and pick it up; you are not obligated to deliver it to him (Pis'chei Choshen perek 7 footnote 2). Items that people generally consider to be junk may be discarded; things like credit card offers, however, are useful to some.

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certainly be made before invoking any of them today.)

As we have previously discussed,² the Gemara says that (at least in certain contexts) “it is preferable that one letter of the Torah be uprooted and the *shem shamayim* not be desecrated in public.”³ And the Yerushalmi records that R’ Shimon ben Shetach once returned a pearl that a non-Jew had mistakenly transferred to him, despite that fact that doing so was not required by halacha, explaining: “Do you think Shimon ben Shetach is a barbarian? Shimon ben Shetach wants to hear “Praised be the G-d of the Jews” more than any gain in this world.”⁴

The Gemara says:

The *Rabanan* taught in a *breisa*: One who sees an idol of Merkulis says: Blessed are You Hashem our G-d, King of the world, who has shown forbearance to the transgressors of His will.⁵

Opinions differ among the *Rishonim* as to whether this *bracha* is specific to Merkulis or applies to any idol;⁶ the halacha follows the latter view.⁷

Tosfos rules that

We are not now accustomed to recite this *bracha*, since we see it every day, and all these *brachos* recited by “one who sees” were previously said to apply only once every thirty days.⁸

This position is accepted by the Rama and later *Acharonim*.⁹

It seems clear that the word “it” in the phrase “we see it every day” refers to Christian churches or other Christian sites, and it thus follows that Tosfos and the *Acharonim* are assuming that in principle, the *bracha* would be recited upon seeing these things, were it not for the fact that this is such a

common occurrence.¹⁰ R’ Chaim Benveniste (the *Knessess Hagedolah*), however, offers an alternate explanation for the minhag not to recite this *bracha*: We rely upon the view cited above that its recital is limited to Merkulis, which is not commonly found today.¹¹

Regarding spitting and idolatry, there is a custom mentioned centuries ago in various Ashkenazic sources to spit during *Aleinu*¹² after saying

for He has not assigned our portion like theirs nor our lot like all their multitudes. For they bow to vanity and emptiness and pray to a god that cannot save.

The earliest records of the practice date back approximately six centuries. The *Sefer Maharil-Minhagim* records (twice) that R’ Yaakov Moelin (the *Maharil*) would expectorate¹³ “once, as per the general minhag” upon reciting the words “to vanity and emptiness.”¹⁴ R’ Dovid Segal (the *Taz*) mentions the custom and explains that the spitting is to express our contempt for idols.¹⁵ But while the *Maharil* himself practiced it and the *Taz* apparently condones it, other authorities, beginning with the *Maharil’s* contemporary, R’ Yom Tov Lipman Muhlhausen (author of *Sefer Nitzachon*),¹⁶ opposed it, largely due to its constituting an unnecessary provocation. The *Taz’s* older contemporary R’ Yeshayah Horowitz (the *Shelah Hakadosh*) is sharply critical of it on a variety of grounds, including the historical fact that *Aleinu* was composed by Yehoshua and thus refers to the genuine idolatry of his day, which is not prevalent in our society, and the concern that the custom entails “a great danger, lest contemporary nations think that ‘like all their multitudes, etc.’ refers to

¹⁰We have previously touched on the general question of whether contemporary Christianity is considered idolatry in Service Entrance: May One Go into a Foreign House of Worship? (Part 2). *Bais HaVaad Halacha Journal* (see note 2 there).

¹¹Sheyarei *Knessess Hagedolah* *ibid.* *hagahos* Tur os 1. Cf. *Kaf Hachaim* *ibid.* os 4.

¹²*Aleinu* has a long history of being perceived as offensive by Christians; see, e.g., *Sefer Nitzachon* (Muhlhausen) *siman* 347; *Minhagim* (R’ Isaac Tyrnau), *Minhag Shel Chol Hagahah* 14; *Otzar Yisrael cheilek* 8 *erech Aleinu Leshabeich* p. 81.

¹³“אָפּטאַן,” which is generally understood to mean “would expectorate.”

¹⁴*Sefer Maharil-Minhagim* (ed. Mechon Yerushalayim 5749) pp. 297 and 438. These reports have been omitted from earlier printed editions of the *Sefer Minhagim* (e.g. here and here), clearly due to either external or internal censorship.

¹⁵*Taz* Y.D. *siman* 179 s.k. 5, cited in *Ba’er Heiteiv* *ibid.* s.k. 6 and *Ketzos Hashulchan cheilek* 1 *siman* 24 se’if 11.

¹⁶*Sefer Nitzachon* *siman* 348, cited in *Sefer Maharil* *ibid.* p. 438 n. 12. I have been unable to locate the reference in the edition of the *Sefer Nitzachon* to which I have access (in either *siman* 347 or 348).

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Until the mail is picked up, you are a *shomer* (custodian) and must safeguard it. Some *poskim* consider a *shomer aveidah* to be a *shomer sachar* (paid guardian), others a *shomer chinam* (unpaid guardian, with less liability for loss).



RAV ARYEH FINKEL

All agree that it must be kept in a clean, safe place. If it is lost or damaged due to your negligence, you are liable (C.M. 267:16).

USPS offers 12 months of free mail forwarding (and longer for a fee) to someone that moves to a new address. It is the responsibility of the former occupant to order the free service, so as not to burden the new dweller with an overstuffed mailbox. If he fails to do so, the new occupant is exempt from *hashavas aveidah* under the principle of *aveidah mida’as* (willful loss), which says the mitzvah doesn’t apply where the owner is careless about the item (C.M. 161:4; see also *Machanei Efrayim Hilechos Hefker* 6). You may not discard the mail, but you’re exempt from a *shomer’s* obligation of safekeeping (*Divrei Mishpat* *ibid.*).

If you suspect that neglecting a piece of mail might lead to financial loss—e.g., a debt-collection notice that may involve penalties and interest—you must notify the addressee in all cases, as the prevention of impending financial loss is a form of *hashavas aveidah* (see C.M. 259:9).

them, but Yehoshua actually instituted it in his day, as above.”¹⁷ Similarly, R’ Ya’ir Chaim Bacharach (the *Chavos Ya’ir*) opposed the custom “lest the kid be swallowed among seventy lions, and we do not rely upon miracles.”¹⁸

¹⁷*Eimek Bracha, hagahah* to os 40.

¹⁸*Mekor Chaim* (Mechon Yerushalayim 5744) *cheilek* 2 *siman* 97 os 2 p. 39. Cf. *Mekorei Minhagim* (Lewison) *siman* 20; *Minhagei Yeshurun* (Hirshowitz) *siman* 69 (the latter work claims that in addition to the *Sefer Nitzachon* and *Eimek Bracha*, opposition to the custom appears in the *Chida’s* *Machazik Bracha*, but he unfortunately does not provide a more specific citation to the *Machazik Bracha*, and I have been unable to locate the reference); *Kovetz Bais Aharon VeYisrael shanah* 13 *gilyon* 1 (73) *Tishrei-Cheshvan* 5758 p. 72; *Ma’alal Aleinu Leshabeich* (Zevichi) pp. 129-32.

²Justice of the Peace: Externalities in Jurisprudence. *Bais HaVaad Halacha Journal*. Volume 5781 Issue LV; Sins of the Fathers: Paying for the Crimes of Others. *Bais HaVaad Halacha Journal*. Volume 5783 Issue XXII.

³*Yevamos* 79a.

⁴*Yerushalmi* Bava Metzia perek 2 halacha 5.

⁵*Brachos* 57b.

⁶*Tosfos* *ibid.* s.v. *Har’eh* (1) and s.v. *Har’eh* (2); *Talmidei Rabeinu Yonah* *Brachos* 43a in *Rif* pagination; *Rambam Hilechos Brachos* 10:9 (see *Kessef Mishneh* *ibid.*); *Tur* O.C. beginning of *siman* 224 (see *Bais Yosef* *ibid.*). (Note that the texts of the *Tur* and *Bais Yosef*, and the *Bach* cited below, are distorted and deficient in some editions of the *Tur*, e.g. here, clearly due to either external or internal censorship.)

⁷*Shulchan Aruch* O.C. 224:1.

⁸*Tosfos* *ibid.* (1).

⁹*Hagahos HaRama* *ibid.*; *Bach* *ibid.*; *Magein Avraham* *ibid.* s.k. 3, *Mishnah Brurah* *ibid.* s.k. 3, *Aruch Hashulchan* *ibid.* se’if 1.

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obligation of an unintentional (as opposed to accidental) murderer. He says this case is less severe than the Rama’s, because they had tested the gun a few times without result before it went off. He therefore requires only minor

teshuvah, consisting of twice-daily *vidui* and observing the *yahrtzeit* as a day of mourning. The *Mas’as Binyamin* treats a mother who intentionally slept alongside her infant and then inadvertently smothered him in her sleep as an unintentional murderer. He imposes a strict *teshuvah* regimen, including

fasting for 40 days, not eating meat or drinking wine even at night, not sleeping with blankets, and not wearing jewelry. Others are lenient if she did not intend to fall asleep.

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