

Reciting *Krias Shema*¹ In the Presence of Urine or Excrement

“For it is not an empty thing for you, for it is your life, and through this matter shall you prolong your days on the Land to which you cross the Jordan to possess it.” (Devarim 32:47)

The Gemara in *Brachos* (24b) asserts that this Pasuk is describing the reward for a person who interrupts his recitation of *Krias Shema* when walking through “*Mavo’os Metunafos*” – filthy alleys (containing excrement). Not only is it forbidden to begin *Krias Shema* in *Mavo’os Metunafos*, a person who has already begun *Krias Shema* and enters a *Mavoy Metunaf* while reciting it, must pause and wait until he leaves the area² before resuming.

Reciting *Krias Shema* in *Mavo’os Metunafos* is considered to be a grave sin. Much of the Halachic discussion on this topic relates to the issues one may encounter when saying *Krias Shema* on the street in the presence of garbage cans or animal feces. Certainly, everybody is aware that one may not say *Krias Shema* in the restroom.

In hospitals the question of *Krias Shema* and *Mavo’os Metunafos* is extremely common and complicated. Many inpatients must relieve themselves into disposable containers due to a lack of mobility. Some are completely unable to relieve themselves spontaneously and require a catheter. The catheter used most commonly is a tube attached to a sealed bag into which a patient’s urine flows directly from the bladder. However, unlike a disposable container that can be swiftly removed from the room, the catheter is fixed to the patient’s bed (until it is emptied by the hospital staff). May one recite *Krias Shema* in its vicinity?

The Gemara in *Brachos* (25a) explains that there is a basic difference between urine and excrement:

Said Rav Yehuda: If there is possibility that there is excrement in a house – it is permitted (to recite Krias Shema there). If (there is a possibility of excrement) in a garbage heap – it is forbidden (as in general there is excrement in the garbage heap). If there is a possibility of urine – even in a garbage heap it is permitted.

He (Rav Yehuda) held like Rav Hamnuna, for Rav Hamnuna said that the Torah only forbade (one from reciting Krias Shema) when facing urine that is streaming (and not after it has landed on the ground).

¹ Note: throughout this essay, the term *Krias Shema* includes all *Devarim sheb’Kedusha* (i.e. all *Tefillos* and *Divrei Torah*).

² The Gemara strongly condemns those who fail to do so.

He also held like R' Yonasan, for R' Yonasan asked: The Pasuk (Devarim 23:13, regarding the holiness of the camp of the Jewish people) states: "And you shall have a place outside of the camp and you shall go out to it" (in other words, in order to relieve yourselves you should exit the camp), but it also says (ibid. 14), "and you shall have a shovel... and you shall cover that which you excrete" (which implies that it is not enough to exit the camp, but one must also cover the excrement). How so? (The answer is that) this (second Pasuk) applies to excrement and this (first Pasuk) applies to urine. We see – that regarding urine the Torah only forbade it when facing the stream, but once it has landed on the ground – it is permitted.

However, the Chachamim forbade it (reciting Krias Shema near urine even when it is on the ground), but only in a case where it is a certainty (that there is urine in the vicinity) and not in a case of doubt. (This explains the distinction drawn by Rav Yehuda between excrement and urine in a case of doubt).

A number of Halachos stem from the Gemara's distinction between excrement and urine, including the case of "doubt" that is mentioned explicitly by the Gemara. Those Halachos are beyond the scope of this essay. However, we will make note of an important point.

The Gemara rules clearly that once urine has landed on the ground there is no longer an *Issur d'Oraisa* to recite *Krias Shema* when facing it. This implies that at any earlier stage, whether the urine is streaming out strongly (a "*Kiluach*"), or whether it is dribbling out slowly, there would be an *Issur d'Oraisa*. However, the *Rosh* (*Brachos* 3:23) maintains that there is only an *Issur d'Oraisa* when facing the *Kiluach*. The *Magen Avraham* (76:11) appears to hold that the Halacha is in accordance with the *Rosh* but the *Mishna Berura* (*ibid.* 27) cites the *Hagahos* of R' Chaim m'Sanz who forbids reciting *Krias Shema* even in the presence of a slow dribble.

This dispute has great relevance to the question of saying *Krias Shema* in the vicinity of a catheter. Generally, urine does not enter the tubing as a *Kiluach* because the catheter drains the urine passively without active contraction of the bladder. Therefore, even if one were to be concerned that urine would enter the catheter during the recitation of *Krias Shema*, since it would not be a *Kiluach*, it would not be an *Issur d'Oraisa* according to the *Rosh*. Moreover, since it is not certain that the urine is entering at that moment, it would be considered a "*Safeik Derabbanan*" where we are lenient³.

³ We see that the Gemara quoted earlier ruled leniently in a case where it wasn't certain that there was urine in an area.

In addition, the *Mishna Berura* (80:4) cites a *Teshuvah* ha'Rema (98) who rules that if a person suffers from a condition that causes a constant drip of urine, he may tie a cloth around the area and Daven. This is because the *Issur* of reciting *Devarim sheb'Kedusha* in these circumstances would only be *d'Rabbanan* and **“we shouldn't permanently ban him from Davening on account of an *Issur d'Rabbanan*”**. Admittedly, according to the *Mishna Berura*, at the actual moment when the urine drips out, there would be an *Issur d'Oraisa* but at least according to the *Rosh* there would be reason to be lenient since it is not a *Kiluach*⁴.

Though the *Mishna Berura* does not seem to rule like the *Rosh*, there are other Poskim (in addition to the *Magen Avraham*) who do. The *Pri Megadim* (76:11) appears to side with the *Magen Avraham* as do the *Elya Rabba* (ibid. 7) and *Chayei Adam* (3:28). Some contemporary Poskim rule leniently in the case of a patient with a catheter, based upon the *Rema* (above) who held that the *Chachamim* did not uphold their decrees when it would prevent a person from ever Davening. This implies that they hold like the *Rosh*, and any flow of urine which is not a *Kiluach* is only an *Issur d'Rabbanan* and not *d'Oraisa*.

The Steipler zt"l (quoted in *Orchos Rabbeinu*) argued that it may be permitted for a patient with a catheter to recite *Krias Shema* even according to the *Mishna Berura*. Since in situations of doubt we “follow the majority”, even in cases of a possible *Issur d'Oraisa*, and during the majority of the time, urine is not dripping into the catheter, one may be lenient and recite *Devarim sheb'Kedusha*.

Thus far, we have dealt with the question of reciting *Krias Shema* in the vicinity of a *Kiluach* or drops of urine. But what about the question of *Mavoy's Metunafos* – would we consider the room of a patient with a catheter a *Mavoy Metunaf* in which it is prohibited to say *Devarim sheb'Kedusha*?

There are two aspects to this question: First, does the presence of urine in the room render it as a *Mavoy Metunaf*? Second, there is the receptacle (the collection bag) that collects the urine. In Halacha, this is known as an “*Avit*” – does it render the room as a *Mavoy Metunaf*?

⁴ In the past there was a different sort of catheter that was widely used which did not constantly empty the bladder. Rather, it was closed with a cap, and every few hours the patient would open it and his bladder would empty. Since by that point his bladder was full, the urine would enter the catheter as a *Kiluach*, thus, one would need to be stringent about reciting *Krias Shema* but only while the cap was open (even according to the *Rosh*). In fact, the patient would also need to recite the Bracha of *Asher Yatzar* at that point whereas when if he would be attached to a catheter that constantly emptied his bladder he would only recite *Asher Yatzar* once a day when he woke up.

Regarding the urine itself, the Poskim contend that since it goes directly from the patient's body into a sealed, covered vessel, the room would not be considered a *Mavoy Metunaf*. (See *Igros Moshe* (O.C. 1:27) and other Poskim.)

Regarding the “*Avit*”, it is permitted to recite *Krias Shema* in the presence of a receptacle for urine (or excrement) made of glass or glazed earthenware if it has been washed well (*Shulchan Aruch* O.C. 87:1). According to the *Shemiras Shabbos Kehilchasa* (22, footnote 113), modern containers that are made of plastic have the same Halacha as glass. However, if they have not been emptied and still contain urine or excrement, it is forbidden to recite *Devarim sheb'Kedusha* (*Mishna Berura* 76:2)⁵.

Nevertheless, the Poskim conclude that since the catheter is closed and sealed, it does not render the room a *Mavoy Metunaf*. Therefore, it is permitted to recite *Kerias Shema* even when it is filled with urine (as long as it doesn't emit a smell). Rav Moshe Feinstein *zt"l* (*Igros Moshe* *ibid.*) rules that one is obligated to cover the catheter, but the Tzitz Eliezer (8:1) argues that doing so is merely *Middas Chasidus*. Rav Shlomo Zalman Auerbach *zt"l* maintained that there is no reason to do so at all as they do not even have the status of *Avit* since they are only used once and do not emit a smell (related by Professor Avraham S. Avraham).

⁵ If the *Avit* is in front of a person, he must distance himself to the extent that he can no longer see it. If it is behind him, he must distance himself four *Amos* from where he can no longer detect the smell it emits. (*Shulchan Aruch* O.C. 79:1)

The *Mishna Berura* (87:9) rules that if a bed is ten Tefachim high and its sides reach the ground on all four sides, it is considered to be a *Mechitza* and it is permitted for a person to recite *Krias Shema* on one side of it even if there is excrement or urine on the other side (as long as he cannot see or smell it). However, the standard hospital bed does not fulfill these requirements.