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## **The environment in Jewish law**

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The Use of Tobacco

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## THE USE OF TOBACCO

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**QUESTION:** Should not the use of tobacco be prohibited by Jewish law on the basis of the growing consensus of physicians that it is injurious to health? Also, what are the chief responsa which deal with the question of the use of tobacco? (Dr. S.Z. Hulman, Leeds, England)

**ANSWER:** Tobacco was introduced into Europe in the sixteenth century (in England, in 1565). The use of it in various forms spread immediately all over Europe. Both church and state expressed strong opposition to its use. At times the church threatened excommunication, and the state imposed fines, imprisonment, and even capital punishment.

Naturally the Jewish legal authorities, likewise, reacted to the sudden spread of this new habit. But the attitude of Jewish law was not entirely prohibitive. It could more properly be described as deprecatory and, to some extent, restrictive. The first full discussion of the use of tobacco was by Chaim Benvenisti of Constantinople (1603B1673) in his long supercommentary to the *Tur*, *K'nesset Hagdolah* (in the supplementary volume, *Shiurei K'nesset Hagdolah* 567, sec. 3). He gives a description of how smokers have become so deeply addicted that they cannot wait for the Sabbath to end. They watch eagerly for the stars to appear so that they can begin to smoke. He tells how smokers crowd the street corners, puffing clouds of smoke. Specifically, he deals with the legal question of whether tobacco may be smoked on fast days (on personal fast days, on semi-strict fast days, such

as the Fast of Esther, etc., and on the strict fast day of the Ninth of Av). In general he is opposed to smoking on any of the fast days because, he says, it brings Judaism to shame in the eyes of the Moslems, who strictly refrain from smoking on *their* fast days. He also discusses the fact that smokers claim that tobacco calms their nerves, making them forget their poverty and their troubles. He responds to that claim by saying that is the very reason why it should be prohibited on the Ninth of Av, when it is our *duty* to mourn and weep over the destruction of Jerusalem.

The next early authority to discuss smoking was Abraham Gumbiner, in his classic commentary to the *Shulhan Arukh* (*Magen Avraham to Orah Hayyim* 210, par. 9). The question is whether smoking requires a blessing before its use, as all foods do. His opinion given in commenting on the law in the *Shulhan Arukh* says that when a person is a mere taster, not an eater (as a woman at the stove who takes a small amount into her mouth and then spits it out), such tasting requires no blessing. Since tobacco is inhaled and then exhaled, is it not similar to mere tasting and, therefore, requires no blessing? But perhaps it is like incense, which does require a blessing. He leaves the matter undecided.

The next important discussion is by Isaac Lampronti of Ferrara (1679B1756). Isaac Lampronti was both the physician and the rabbi of Ferrara. His scientific alphabetical encyclopedia of Jewish law contains a number of articles on tobacco. First he has an article under the heading "*Apalto*," in which he discusses the question of a license granted to a Jew to have a monopoly in the tobacco trade. This article reveals the fact that the Jews were active, and perhaps leaders, in the tobacco business.

Under the heading "*Tobacco*," Lampronti has a whole series of articles on the matter. Perhaps the most significant of them is the one in which he describes the prevalence of the use of tobacco in the synagogue. He describes the conviviality this arouses and how it destroys the whole mood of sanctity of the synagogue, and he declares that if he had the authority, he would abolish its use in the synagogue.

Elijah of Lublin (d. 1735), in his responsa *Yad Eliyahu* #65, refers to the spread of the tobacco habit among women. He discusses a rather curious question. Since a husband must avoid any contact with his wife during her menstrual period (for example, he may not drink from the same cup), may they both take puffs from the same pipe?

There is an interesting statement about smoking by Moses Hagiz (b. 1671). Hagiz was an emissary from Jerusalem to collect funds, and so visited many Jewish communities. He finally settled in Amsterdam, where he compiled his work *Leket ha-Kemach*, which is composed chiefly of an epitome of the responsa literature. At the end of the volume, he speaks of the fact that many scholars have prohibited the use of tobacco on Yom Kippur, but he says the prohibition is not sound and that it is really permitted. Of course, he adds, those who are strict with themselves should remain strict. Naturally he refers not to pipes or cigarettes, which would require lighting, or to chewing tobacco, which might be swallowed; he refers to snuff. This statement is found on the last page of the original edition. The new edition is not yet complete and therefore does not contain this statement.

Another full discussion of the matter of smoking is given by Hayyim Mordecai Margolis (d. 1818), the author of the index commentary to the *Shulhan Arukh*, *Shaarei Teshuvah*. He has two lengthy discussions of the question, one to *Orah Hayyim* 210 and the other to *Orah Hayyim* 511. To *Orah Hayyim* 210, he mentions that no blessing is needed before the use of tobacco. He mentions the discussion of whether it is permitted to light a cigarette or pipe at the flame of a tallow candle, since tallow is prohibited food. By the way, Isaac Lampronti, in his discussion of this question, describes a scientific experiment he conducted to prove that the smoke of the prohibited tallow actually enters into the tobacco, and so such a lighting should not be permitted. To return to *Shaarei Teshuvah*, Margolis discusses the question frequently dealt with, whether tobacco may be smoked in the holidays. In *Orah Hayyim* 511, he discusses the relationship or a comparison of the use of tobacco with the use of incense. He tends to permit that use.

A more recent responsum is one by Abraham Sofer, the son of Moshe Sofer of Pressburg and his father's successor. In his responsum (*K'tav Sofer*, 66) he discusses smoking on the holiday. He must have been a pipe smoker himself, because he describes precisely the question of extinguishing the fire in the pipe (which would be prohibited on the holidays if the pipe has a cover which is not perforated).

The above includes most of the important responsa on the various questions involved in smoking, namely, whether a blessing is needed; whether it may be lighted from a candle made of

prohibited tallow; whether it may be indulged in on holidays or on fast days; and whether it can be used in the synagogue at all. But as to the second question raised by the inquirer, whether it should be prohibited because of the increasing medical opinion that it is dangerous to health, the fact is that the healthfulness or harmfulness of the use of tobacco was not especially discussed in the past. The opposition of Church and State to its use was based upon a general conservatism and a superstition that it was "burning incense to the devil." But, understandably, the users of tobacco in the early days praised it as beneficial. In fact it was called *herba panacea*, an all-healing herb; thus the only references to its effect on the body seemed to be, rather, in favor of its use. We mentioned above that smoker's would tell Chaim Benvenisti that tobacco calmed their nerves; moreover, Abraham Sofer, in his responsum, speaks of the fact that smokers would tell him that the smoking was good for their health, especially for their digestion after a heavy meal. But the idea that tobacco could be harmful to health is a modern one, and if it is proved to be fact, then certainly the Jewish traditional law would have a clear attitude toward its use.

It is distinctly a duty incumbent upon every person to protect his health. The Mishnah, in Baba Kamma 8:6 (and the Talmud in 91b), states that a person may not injure himself. The law continues that if one does what he is forbidden, he is not punished for it. The statement means that if a man injures someone else, the courts punish him, but the courts will not punish a man who injures himself, even though it is a sin. So, too, the law is that a man may not even live in a city that has no physician (San. 17b). The Talmud is full of laws which speak of what to do to prevent sickness and protect health. Maimonides, the great legalist and physician, said (*Yad, Hil. Rotzeah* 11:5): "Our sages have prohibited any thing because they involve bodily danger, and everyone who transgresses against and says, 'I am only harming myself and it is nobody else's affair,' or if he says, 'I do not pay attention to such things,' such a person deserves to be flogged." This statement of Maimonides is repeated at the very end of the *Shulhan Arukh*, which adds, after Maimonides' statement, that such a person deserves to be flogged: "He who is careful about such matters will receive the blessing of happiness." Isaac Rifkes, in his commentary *Be'er Hagolah*, explains this statement as follows: "The Torah warns us to be careful of our health because

God, blessed be He, created the world in Kindness, to do good to His creatures." In other words, he says to neglect one's health would be a denial of God's merciful intention to us.

Therefore, if, for example, a man has had a heart attack or has some lung infection or some other bodily ailment, because of which his physician orders him to stop smoking, it is not ordinary caution for this man to obey his physician, but it may be considered a mandate of Jewish law that he should do so.

As for other people who smoke, whether Jewish law would have them give up the habit would depend upon the degree of conviction that the medical profession has come to with regard to it. If ever the medical profession definitely agrees that the use of tobacco is of danger to every human being, then, of course, it could well be argued that Jewish law, which commands self-preservation, would prohibit its use. Until such time, we can only say that those for whom it is surely harmful would be carrying out, not only the recommendation of their doctor, but the mandate of Jewish law if they give up their use of tobacco.