The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן ל"ח סעיף א'-ד'

Overview

Siman 38 Seif 1:

Someone who suffers from a stomach ailment is exempt from *tefillin* even if he does not feel pain. Others who are ill are exempt only if they are in pain and cannot settle their mind but if that is not the case they are obligated.

- The same *halacha* applies to one who drank something that will give him diarrhea. (M.B. 1)
- One may not be stringent and put on *tefillin* except for *shema* and *shemone esrei* if he knows that he can maintain a clean body during that time. (M.B. 4)
- One who is ill may be stringent if he feels he will be able to maintain concentration. (M.B. 5)
- One who is not wearing a shirt should not wear *tefillin*. (M.B. 5)

Siman 38 Seif 2:

Someone who is certain that he will not be able to daven without passing gas – it is better that he should allow the time for davening to pass rather than daven without a clean body. If it seems that he could maintain a clean body for *krias shema* he should put them on between אהבה and *shema* and recite the *beracha* at that time.

- Only one who is certain that he will pass gas should not daven but if he is not certain he should not miss davening with the *tzibbur*. (M.B. 6)
- The first halacha applies specifically to *shemone esrei* since during that time it is as if he is standing before the King. (M.B. 7)

Siman 38 Seif 3:

Women and slaves are exempt from *tefillin* since it is a positive time bound *mitzvah*. If women want to be stringent we protest against the practice.

Siman 38 Seif 4:

One who wears *tefillin* must avoid lustful thoughts about women. If one cannot control these thoughts it is better that he should not put on *tefillin*.

- A clean body includes having clean thoughts. (M.B. 14)
- One should make an effort to take control of his thoughts and focus on fear of Hashem. (M.B. 15)

Halacha Highlight

May women wear tefillin?

Rema Siman 38 Seif 3

ואם הנשים רוצין להחמיר על עצמן מוחין בידן

And if women want to be stringent [and wear *tefillin*] we protest against them

The Mishnah in Berachos (20b) teaches that women are exempt from the *mitzvah* of *tefillin* and the reason is that it is a positive time bound commandment. Yerushalmi (ברכות פ"ב ה"ג) relates that Michal the daughter of Shaul wore *tefillin* and the Gemara there records a dispute whether the sages of that time protested against her behavior. Interestingly, the Gemara in Eruvin (96a) also relates that the daughter of Shaul wore *tefillin* and only presents the opinion that maintains that the sages did not protest against her behavior. Tosafos in Eruvin mentions the stringent opinion and offers the following rationale for their position. A prerequisite for wearing *tefillin* is that it requires a clean body and women are not sufficiently careful to avoid uncleanliness. Kol Bo (סי' כ"א) cites Maharam M'Rottenburg who also writes that we do not allow women to wear *tefillin* even if they desire to do so since they are unable to watch over their bodily cleanliness.

Shulchan Aruch (סע' ג') only writes that women are exempt from wearing *tefillin* due to the fact that it is a positive time bound commandment. This clearly implies that if a woman chooses to wear *tefillin* she is permitted to do so the same as a woman may voluntarily fulfill the many positive time bound commandments. Rema, however, adds that if a woman wants to be stringent and wear *tefillin* we protest the practice. Mishnah Berurah (ס"ק י"ג) explains that this position is based on the concern of Tosafos that women are not sufficiently careful to maintain bodily cleanliness. Aruch HaShulchan (סע' ו') further develops this concept. Wearing *tefillin* with an unclean body is a terrible transgression. For that reason men, although obligated in the *mitzvah* of *tefillin,* only wear their *tefillin* while davening in order to avoid the risk of debasing the *tefillin* as much as possible. Women are not obligated to wear *tefillin* altogether so there is no reason for them to take the risk of having an unclean body while wearing *tefillin*.

Stories to Share

One Last Time

מ"ב ס' ל"ח, ס"ק ב': "משום דתפילין בעי גוף נקי"

A certain woman was very distressed. Her elderly father had suddenly become quite ill. He had been checked into the hospital where his situation had quickly worsened. When morning came it was clear that he was not long for this world.

The woman knew that her father had never missed putting on tefillin faithfully every day on time. She wished that on what was apparently his last day, he should not lose out on this great mitzvah. After thinking about it for a moment, she realized that she couldn't put the tefillin on him. For one thing, she wasn't certain this was permitted. Her more pressing concern was that she had no idea how tefillin are wrapped or exactly where they should be placed. Her only recourse was to find a religious man and convince him to lay tefillin on her father.

She approached Dr. Shlomo Dachs and asked him to put tefillin on her father.

The doctor followed her to her father's bedside and saw that he was really at the very end. He explained to the woman that he was afraid to lay tefillin on her father for two reasons. "Firstly, he may already be so close to death that he may not be moved according to halachah, since movement can hasten his passing. Secondly, it is quite possible that his body is not clean. If this is the case it is forbidden to put tefllin on him, as we find in Orach Chayim 38."

To ensure that he hadn't erred in his assessment, he asked Rav Yitzchak Zilberstein, shlit"a, if he had acted correctly. Rav Zilberstein answered, "You were definitely correct in abstaining in this instance. Even if the sick man had been a person who never wore tefillin in his life, it would still have been forbidden to lay them on him in such a delicate state."

Rav Zilberstein concluded with some encouragement. "Hashem will surely consider your good intentions as if you had put tefillin on the poor man."

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