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

Overview

Siman 38 Seif 5:

On the first day of mourning one may not wear *tefillin*. After that one is obligated to wear *tefillin* even if new people come.

- Even if the burial is not the same day as death, since it is the first day of mourning the mourner does not put on his *tefillin*. (M.B. 16)
- There is a disagreement whether a mourner puts on his *tefillin* if his relative died or was buried on *Chol HaMoed*. (M.B. 16)
- According to some Poskim the mourner should not put on his *tefillin* before *hanetz* on the second day and one should be stringent in accordance with that opinion. (M.B. 19)
- Although Shulchan Aruch's wording indicates that one may put on his *tefillin* in the presence of "new faces" later authorities maintains that he should not put them on in the first place in their presence. (M.B. 20)

Siman 38 Seif 6:

On *Tisha B'Av* there is an obligation to put on *tefillin*.

Siman 38 Seif 7:

A *chosson* and his attendants (meaning his friends who bring him joy) **and all the people who participate in the *chupah* are exempt since it is common for them to be drunk and behave in a lightheaded manner.**

- There is a dispute whether the exemption from *tefillin* still applies nowadays and Mishnah Berurah in the name of others notes that the custom seems to be that the *chosson* and his attendants wear *tefillin* and daven *shema* and *shemone esrei*. (M.B. 23)

Stories to Share

In Time

ש"ע סי' ל"ח, ה': "אבל ביום ראשון אסור להניח תפילין.."

A certain person lost a close relative early Friday morning. The niftar had left a request that his relatives fly him to Eretz Yisrael for burial. Since the earliest flight was on Sunday, the funeral was delayed until then. Although, as we find on today's amud, a person is forbidden to put on tefillin on the day that he loses a close relative, this man wondered whether this applied to his situation. Perhaps the problem was only if the first day was also the day of the funeral? Since the poskim use the expression יום קבורה to describe this situation, perhaps if the funeral is postponed it is permitted to don tefillin until the day of the burial?

When this question reached Rav Yosef Shalom Eliyashiv, zt"l, he ruled that it is forbidden for the mourner to put on tefillin even though the niftar was not going to be buried that day. "The reason why this is prohibited is because on the day that one loses his relative, the day is very bitter for him. On that day, one certainly cannot wear tefillin."

קובץ תשובות, ח"ג, ס' קס"ז

Halacha Highlight

A mourner wearing tefillin on the first day of mourning

Shulchan Aruch Siman 38 Seif 5

אבל ביום ראשון אסור להניח תפילין

A mourner is prohibited to wear tefillin on the first day

Shulchan Aruch (סע' ה') rules that on the first day of mourning a mourner is prohibited from wearing tefillin. Mishnah Berurah (ס"ק י"ז) explains that the prohibition is due to the description of tefillin as פאר—a beautiful adornment - and that is incongruent with a mourner who is "wallowing in the dirt." This explanation, however, raises a question. The reference to tefillin as a פאר is limited to the shel rosh. Accordingly, it would seem that it should be permitted and perhaps even obligatory for the mourner to wear the shel yad (ע' חיי משה סע' ה' ד"ה אבל). Pri Megadim (משב"ז סק"ג) in the name of Levush explains that the mourner may not wear tefillin since we are concerned that pain that he is experiencing will cause him to become distracted from his tefillin. This concern applies to the shel yad as well as to the shel rosh.

Be'er Heitev (סק"ד) cites the commentary of Maharitatz who asserts that the prohibition against wearing tefillin on the first day of mourning applies only when the death and the burial of the relative take place on the same day. If, however, the death occurred on one day and the burial was done on a different day the mourner is obligated to wear tefillin on his first day of mourning. Pischei Teshuvah (יו"ד סי' שפ"ג) cites authorities who disagree with Maharitatz and rule that the mourner does not wear tefillin on his first day of mourning even if it is not the day of burial. Mishmeres Shalom in the name of Sefer Ma'avar Yabok relates that he saw individuals who did not refrain from wearing tefillin even on the first day. He suggests that they hold that prohibition against a mourner wearing tefillin applied only when people wore their tefillin for the entire day. Since nowadays we only wear our tefillin for davening, they are not exempt. Mishmeres Shalom rejects this position and confirms that the halacha is that a mourner does not wear tefillin on the first day of mourning (ע' חיי משה שם ד"ה ביום ראשון).

Many sources write that one should always daven as early as possible. The most obvious reason is because of zerizim makdimim l'mitzvos. Another reason why davening as early as possible is beneficial is because that way he has a full day to serve Hashem. If a person must get to work by nine in the morning and he davens at six he has much more time than one who makes a minyan which barely leaves him time to get to work. (עלים לתרופה) But there is a third reason why davening early is beneficial. No one knows when his last day has come. It is surely better to leave the world having davened than if he didn't have a chance to daven! (שיחות הר"ן) And if, chas v'shalom a close relative's time is slated for early in the morning, isn't it so much better if one managed to put on tefillin beforehand?"