

SIMAN 45: THE LAWS OF TEFILLIN IN A GRAVEYARD AND BATHHOUSE

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45.1: It is forbidden to enter (1) a graveyard or (2) within 4 cubits of a corpse with Tefillin on one's head because of 'mocking the impoverished' (Lo'eg lo'rosh) but if they are covered (3) it is permitted.

[One should not openly demonstrate one's ability to perform Mitzvos in the presence of the dead, who no longer have this privilege.]

MB 1: *A graveyard - Even within four cubits of the start of the graves is also prohibited if there is no mechitza (halachik partition) in between. And the reason why the author of the Shulchan Aruch didn't join these phrases together and say 'It is prohibited to go within 4 cubits of a grave or of a corpse' is, according to the Magen Avraham, to indicate that from the start of the graveyard it is forbidden even if this is more than four cubits away from a grave. There are those who are lenient about this. And see in the Biur Halacha, [where the Mishna Brura says] that in the middle of a graveyard, where there are graves all around, it seems that one should be stringent even four cubits away from a grave, but at the edge of the graveyard, where there are no graves but the area is designated for them, one need not be stringent above the law requiring four cubits distance. Even so, it is correct not to enter the boundaries of a graveyard at all with Tefillin on one's head, lest one come within 4 cubits of a grave unawares.*

MB 2: *Within 4 cubits etc. - The Iturey Zahav writes that the whole room where a corpse lies is considered like 4 cubits. The Magen Giborim disagrees and writes that the corpse only takes up 4 cubits, see there. While one is wearing Tefillin, one should not even approach the grave of a minor who hadn't yet reached the age of obligation in Mitzvos, because of 'mocking the impoverished.'*

MB 3: *It is permitted - And the straps must also be covered. Therefore, even though it is permitted to enter with Tefillin shel yad alone because it is covered, one should take care that the straps that go around the fingers are covered as well.*

45.2: In a bathhouse: (4) in the outer room where everyone is clothed one can even put Tefillin on a priori; in the middle room where some are clothed (5) and some are naked one cannot put on Tefillin a priori, but if they were already on his head he need not remove them; (6) and in the inner room where everyone is naked he must remove them, even if he was already wearing them.

MB 4: *the outer room - It was common practice that after putting on one's shirt [or perhaps more correctly, tunic - a garment that covered part of the legs as well as the upper body] in the middle room one would go to the outer room and finish dressing.*

MB 5: *and some are naked - Some say that if at the present moment there is no one naked then one may put on Tefillin there and say the B'racha, but some prohibit this because since the place is designated for this it has the ruling of a bathhouse in part. It seems from the Taz in Siman 84, that a Mikvah has the rules of the middle room for all purposes and only the Bracha for the immersion is allowed to be said there, look there for his reason. [A Mikvah is a ritual bath - used by men daily, weekly, or even annually according to custom, and used by women one week after the conclusion of a monthly cycle. Women make a blessing after immersing themselves.] But from the Magen Avraham in this Siman, it seems that if there is no one presently naked in it, one may put on Tefillin and say the B'racha, because they were only stringent in a bath house because of the intense sweat as a result of the hot water - which is not the case in a mikvah. [And if they use hot water in the Mikvah as well, further examination is needed.] But if there is someone there naked, it is forbidden to enter with Tefillin or Holy Scriptures because it is forbidden to stand in front of G-d's Name naked. Look later in Siman 84 in the MB about this.*

MB 6: *The inner room - In this room everybody agrees, even if there is no one naked, that because of the intense sweat it is like a bathroom. [Bathroom in modern terms - a room with a toilet.]*

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