

# KRIAT SHEMA 3:10-11

*by Rabbi Yitzchak Etshalom*

**10.** If there was a glass divider between him and the \*tzo'ah\* (feces), even though he sees it through the glass, it is permissible to read [K'riat Sh'mal] by its side. If he put a \*r'vi'it\* (approx. 3.5 oz.) of water into the urine all at once, it is permissible to read [K'riat Sh'mal] within 4 Amot of it.

**11.** If there was tzo'ah in a hole [in the ground], he may place his shoe on top of the hole and read - as long as his shoe is not touching it.

[RABD: It seems that he is interpreting "on his shoe" as referring to the case in the hole, that it is touching; and this is unclear, since there is a distinction between "touching" and "stuck" and it seems [from the sugya] that if it is in the hole, even if [the shoe] is touching, it is permissible; however, if he walked on the tzo'ah itself and it got stuck onto his shoe - that was the question [under discussion in the Gemara] and it was not resolved and we rule stringently.]

If he was facing a tiny piece of tzo'ah - as in a small drop - he may spit on it with a heavy gob of spit which covers it and then read.

[RABD: In the Yerushalmi, [it says] that this is only [if he reads] right away, while the spit is still thick; however, after a while, when the spit dissipates, the tzo'ah is uncovered.]

If there was a small, displaced piece of tzo'ah on his skin, or his hands were dirty from the Beit haKissei (outhouse), but they had no bad odor due to the small amount of dirt or its dryness, it is permissible to read because they have no bad smell.

However, if [the tzo'ah] was in its [original] place - even though it is invisible while he is standing, since it is visible when he is seated, it is forbidden to read until he wipes very well; because tzo'ah is wet and has a bad smell.

Some of the Ge'onim (heads of the Academies in Babylonia, 7-11th century) instructed that it is forbidden to read if his hands were filthy, and this is appropriate.

S'TAM YADAYIM LIV'RAKHAH

(The status of unwashed hands for a B'rakhah)

Yitzchak Etshalom

[refer to the posting at K'riat Sh'ma 3:01 for an additional discussion on the topic; some of this shiur is

"borrowed" from that posting]

I.

## THE SOURCES

The Gemara near the end of Berakhot (60b) lists those activities from waking up until the beginning of workaday activity for which we bless God: "Upon waking, he says: 'My God, the soul that you have put into me is pure...'. When he hears the crow of the rooster, he says: 'Blessed...Who gives the heart understanding to distinguish between night and day'; when he opens his eyes, he says: 'Blessed...who opens the eyes of the blind'...(etc.)"

Near the end of this list, after having gotten dressed, put on shoes and put on Tzitzit and Tefillin, the Gemara states: "When he washes his hands, he says: 'Blessed...Who sanctified us through His Mitzvot and commanded us regarding Netilat Yadayim'..."

A straightforward reading of this Gemara posits hand-washing after all of these activities; such that washing hands, even after a full night's sleep, is not a necessary prerequisite in order to say Berakhot.

There are two possible challenges to this conclusion.

### A: RU'ACH TUM'AH

There is an assumption, held by some Rishonim, that there is an "unclean spirit" on the hands from the time of waking up. This is either associated with a specific "spirit" (See Shabbat 109a and Rashi's first approach there), or with the idea that upon waking, we are similar to a "new creation" and, having just been "resurrected", need to shed our "death-connection". (see Teshuvot Rashba 1:191).

### B: YADAYIM 'ASKANIOT HEIM

There is a general rule in the Gemara that "hands are \*askaniot\* (lit. "busy")". This rule is based on a Mishnah in Tohorot (7:8):

"...[referring to someone who is eating food in a state of ritual purity] if his hands were pure and he decided to stop eating [that meal], even if he [afterwards] said 'I know that my hands did not become impure', his hands are [nevertheless] impure, since hands are \*askaniot\*. Rambam (MT Avot haTum'ah 13:3) presents this ruling within the context of \*Ma'alot haTum'ah\* - stringencies instituted by the Rabbis to protect the sanctity of ritual purity and associated foods - leading us to believe that the assumption of \*askaniot\* is Rabbinic and applied uniquely to the areas of \*Kodoshim\* and \*Tohorot\* (sancta). (See also Avot haTum'ah 8:8 in this context.)

The rule is also applied to several other areas of law:

(a) In Niddah (58a) the Gemara rules that if a woman found a spot of blood on her hand (this rule varies depending on the time of menses), this is ruled a "Ketem" (and she is therefore a "Niddah"),

since \*yadayim 'askaniot heim\* - i.e. that her hand possibly has menstrual blood on it, because of inadvertent pudendal contact. (See also Tosefta Niddah 6:12 and MT Issurei Bi'ah 9:8 for context).

(b) The Yerushalmi (Terumot 8:3) states that human sweat is dangerous - except for facial sweat. Based on this, Rambam rules (MT Rotzeach uSh'mirat haNefesh 12:5) that it is forbidden to put your hand in a sweaty place on your own body (e.g. under the arm) - since your hands may have touched something else which is poisonous - since \*yadayim 'askaniot heim\* - and then you would transfer that poison to yourself. (see RABD there for an alternate understanding of the passage in the Yerushalmi).

(c) The Gemara in Sukkah (26b) discusses the (highly unlikely) case where someone had sexual intercourse while wearing Tefillin (which is forbidden) - that he should not touch the straps or housing until he washes his hands - since \*yadayim 'askaniot heim\* and, as Rashi points out - \*\_v'shema'\_ nag'u b'makom hatinofet\* - "\_perhaps\_ they touched an unclean place". In other words, it isn't intercourse itself that generates the problem - but the possibility/likelihood that in the process, his hands touched an unclean place (this is not a moral statement - rather one of physical cleanliness) - see MT Tefillin 4:21.

## II. EVALUATING THE CASES

Based on the applications of the rule of \*yadayim 'askaniot heim\*, do we face a challenge to the straightforward reading of the Gemara in Berakhot - and, therefore, a requirement to wash hands before saying Berakhot in the morning?

The primary source (Mishnah Tohorot), as mentioned, seems to be a uniquely stringent assessment for purposes of \*Tohorah\* - (ritual purity). Thus, whatever concerns we find there - to the point of requiring a fresh hand-washing from the moment you decided to finish eating (and then changed your mind) - would not apply to B'rakhot. Even for a regular meal, you can wash in the morning and plan to maintain that level of "purity" all day and continue eating later on, after an interruption, without washing again. (See Hullin 106b, MT Berakhot 6:17). How much more so would this apply to Tefillah and K'riat Sh'ma, where washing is considered less stringent - and even more so regarding B'rakhot.

The Niddah case is also (possibly) irrelevant to ours; here, we are not dealing with otherwise clean hands that we have to judge whether or not they "strayed" to dirty places - her hand has blood on it, and we are trying to assess the source of that blood. (Obviously she has no open wound on her hand).

The Yerushalmi in Terumot, besides the fact that it is subject to various readings and understandings, seems to also be inapplicable to our case. Even if we understand it like Rambam, all it is saying is that since our hands wander to places of which we are not aware, we must be careful

to avoid contact with sensitive parts of our own body without washing first.

The upshot of these three sources is that our hands do wander under normal circumstances - and that we may not be aware (at least, not retrospectively) of where they have been.

Note that all of these cases deal with "hand-wandering" while we are awake.

The final case may come closer to home - because here the prohibition deals with hands that probably/likely touched dirty places on a body should not handle Tefillin without first washing. However, again there are two significant differences:

- (a) The activity engaged in (intercourse) is most likely to involve touching such places;
- (b) The sanctity of Tefillin may not be an appropriate model for B'rakhot - since there are other restrictions associated with Tefillin (e.g. we don't wear them at night because we may fall asleep with them on - and then experience flatulence, which violates the necessary sanctity of Tefillin).

Nevertheless, many Rishonim were of the opinion that we may not say Berakhot upon waking without first washing our hands.

III.

### REASONS FOR THE CHALLENGE

Why would the problem of \*yadayim 'askaniot\* be introduced here? It seems that a simple \*Kal vaHomer\* (a fortiori) logic is at work. Since, even while awake, we assume that our hands "rove"; how much more so is this the case if we are asleep. And, since we have already learned that K'riat Sh'ma and Tefillah demand some type of hand-washing, it is possible to extend this idea to all Berakhot, as follows:

The Gemara (Shabbat 50b) states that a person should wash his hands, face and feet every day "for his Maker" - (Rashi - "in honor of his Maker"), as it says: "All of YHVH's work is for His sake" (Mishlei [Proverbs] 16:4). This statement could be understood to be positing handwashing as a necessary prerequisite to any form of worship - and since Berakhot are a form of worship, it is appropriate to show this honor first.

Thus, we first wash to show honor to God (possible explanation - to "clean up" the body which He gave us), then may enter the general world of worship. An added level of preparation, based on the verse "Prepare to meet your God, Israel" (Amos 4:12 - see BT Shabbat 10a), is necessary for Tefillah and perhaps K'riat Sh'ma.

In any case, we are now faced with a Gemara in Berakhot which seems to indicate that handwashing comes after a whole series of B'rakhot - as against the widely held approach (which already appears in the work of the Ge'onim) that we must wash first. How do we reconcile these sources?

#### IV. POSSIBLE RESOLUTIONS

##### **RITBA, R'AH**

Ritba (Berakhot 60b, s.v. b'Khol hani) and R'ah (Berakhot Ch. 9) maintain that it was never the intention of the Gemara that we say these Berakhot at that time. The association in the Gemara is to tell us which activity is the focus of praise (e.g. \*Ozer Yisra'el biG'vurah\* for a head-covering etc.) The activities (and their attendant B'rakhot) are listed out of order and, indeed, the first thing one must do upon arising is to wash hands;

##### **R. AMRAM GA'ON**

R. Amram Ga'on (Otzar haGe'onim, Berakhot p. 133 ff.) explains that the handwashing listed in that Gemara was a second washing (for Tefillah - over which the appropriate B'rakhah is to be said) but, of course, there is an earlier washing, done before any of the B'rakhot are said.

##### **RAMBAM, ROSH**

Rambam (MT Tefillah 7:3-9) and, even more explicitly, Rosh (Berakhot 9:23) maintain that our sugya should be read in a straightforward fashion and that there is no need for hand-washing until before K'riat Sh'ma/Tefillah. The activities are listed in order and hand-washing is unnecessary for B'rakhot.

##### **RABBENU YONAH, RAAV'IAH**

Rabbenu Yonah (Berakhot 44b in Rif pages) claims that times have changed - in the times of the Gemara, the people were holier and the concerns about \*yadayim 'askaniot\* were not as serious; however, by his time, this sanctity had lessened and the concerns for "roving hands" during the night necessitate increased washing.

Ra'aviah (#146) has an interesting twist on this. He maintains that there was a later ordinance to say these Berakhot "out of order", which was accompanied by the ordinance to recite 100 Berakhot a day. We will discuss this topic in Hilkhos Tefillah, Ch. 7.

now, to the questions:

**Q1:** Why is a glass divider sufficient, even though the tzo'ah is visible?

**A:** In the Torah (Devarim [Deuteronomy] 23:14), we are commanded to "cover up" our excrement (see previous posting, K'riat Sh'ma 3:06-09, Q7, for a more detailed presentation of that Parashah). "Covering up" does not necessitate removing from visual contact (unlike sexually arousing parts of the body - see later in our chapter); the main point here is to bury the tzo'ah, which can also be accomplished with a glass cover. The very act of covering (or standing on the other side of a divider - even though it is made of glass) indicates an awareness of necessary distance and separation from tzo'ah, to be in a "holy camp." We are also assuming that no pungent odor reaches the person in

questions from the other side of the divider.

**Q2:** What is the meaning of "all at once" in the second half of this Halakhah?

**A:** If water is added in small amounts, each bit becomes nullified in the urine. However, if a \*r'vi'it\* is added at one shot, it can dilute and, thus, nullify the stench of the urine. We may be dealing with theoretical and categorical - as opposed to practical - considerations. Once we define that bunch of liquid as \*mei rag'layim\* (urine), it then prohibits saying words of Torah in the vicinity. In order for it to lose its designation as \*mei rag'layim\*, that must happen because so much water "flooded" it. However, if drops of water slowly drip in - at each step, it remains \*mei rag'layim\* - with a bit of water in it.

**Q3:** What is the basis for the Rambam/RABD dispute about the tzo'ah in the hole?

**A:** The Gemara in Berakhot (25b) states: Rava said: If there is tzo'ah in a hole, he may place his shoe over it and read K'riat Sh'ma. Mar b. Ravina asked: What if tzo'ah is stuck (\*d'vukah\*) to [the bottom of] his shoe? \*Teku\* (no resolution).

Rambam understands that the question is built upon the first statement - that if his shoe is totally covering the hole (but not touching the tzo'ah) - he may read. To that statement, Mar v. Ravina asked: "What if it is covering it - but also touching?". Since there was no resolution, we rule stringently (as the prohibition associated with K'riat Sh'ma in the vicinity of tzo'ah is Torahic).

RABD understands that Mar b. Ravina's question is associated with Rava's statement - but not built upon it, since there is a middle case (where the shoe is covering the hole but also touching the tzo'ah).

**Q4:** Are Rambam and RABD disputing about the spit, or is RABD merely "adding on" to Rambam's ruling?

**A:** Kessef Mishneh explains that they don't disagree - that if the spit ran off and the tzo'ah become re-exposed, that it wouldn't be considered "thick"; this is why Rambam didn't include the qualification suggested by RABD from the Yerushalmi.

**Q5:** What is the final ruling about filthy hands? In the middle of this Halakhah, Rambam rules that filthy hands are acceptable for reading K'riat Sh'ma, yet, at the ends, he seems to support the ruling of the Ge'onim.

**A:** See shiur above. In addition, the ruling of the Ge'onim seems to be relevant to a case of known filth - associated with tzo'ah, not just "dirt". Also - Rambam suggests that it is appropriate - but not Halakhically necessary. See Rabbenu Yonah, quoted in Kessef Mishneh.

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