

HALOCHOSCOPE

This week's question:

The tenth man in a minyan feels the need to use the rest-room. Should he leave, meaning that the minyan will need to wait? If he should not leave, may he continue davening? If he may not, can he still be counted with the others?

The issues:

- A) *Guf naki*, davening when one needs to relieve himself**
- B) *Bal teshaktzu*, holding oneself in**
- C) Participating in a *minyan***
- D) *Kavod Habriyos*, avoiding embarrassment**

A) *Guf naki* [based largely on Halochoscope Vol V No 35]

One must have a 'clean' body for the wearing of tefilin and for davening. This includes not having the urge to relieve oneself and refraining from expelling gas. This is based on a number of laws. Foremost is the obligation to prepare oneself before presenting himself before Hashem. Although it does not appear as a mitzvah in its own right, it would be considered part of the mitzvos to honor and fear Hashem. In addition, the Talmud links it to a passuk: *hikon likras Elokecha, Yisroel, prepare to meet your G-d, Israel* [Amos 4:12]. This includes preparing one's dress, mind and body (by checking whether he has the need) to be presentable before a great king – Hashem Himself.

In addition, when wearing tefilin, one must not show then disrespect. In former times, tefilin were worn all day. One might need to tend to nature's calls at any point. At these times, they would need to be removed. Passing water, in this particular respect, is not as serious a problem as relieving oneself of solid waste. If the tefilin were well covered, the act itself would not be considered disrespectful. However, entering a rest-room is disrespectful. In former times, it was not uncommon to find any private spot to relieve oneself, that hopefully had a screen for privacy, but not necessarily. [One's robes also served the purpose.] Thus, a *bais hakisai*, literally room for sitting, had a halachic designation of *arai*, temporary or hardly used, and *kavua*, 'permanent' or already used a few times. These, too, had their varying degrees of severity with regard to entry with tefilin.

Thus, one may not relieve the bowels while wearing tefilin. It is forbidden to expel gas from the bowels while wearing tefilin. Therefore, before davening, one must be sure that he is able to restrain himself in this regard. If he is unsure that he can hold out for the entire duration of davening, he should not wear the tefilin for longer than the essential parts of the service: *shema* and *shemone esrai*. During the remainder of davening while not wearing tefilin, one who feels an urge he is unable to control may expel. He should stop davening for that time period, as shall be explained shortly.

What if one is sure that he will not be able to contain the urge for the shorter period?

He should recite shema to avoid missing its time – the morning shema has a time limit. It must be recited before a quarter of the daylight hours pass. He should then wait until the situation improves before wearing tefilin and davening the remainder of the service. This could mean missing tefilah betzibur, davening with a minyan. If one has a permanent condition, so that every day he knows that he will be unable to control his gastric gases, he may wear tefilin with the condition. The restrictions affecting disrespect to tefilin in this manner are not serious enough to permanently miss tefilah betzibur.

Two Scriptural mitzvos preclude uttering holy things in the presence of filth or indecency. Vehaya machanecha kadosh, your 'encampment' shall be holy, is a positive mitzvah. Lo yir'eh becha ervas davar, [Hashem] shall not see within you[r midst] a nakedness, is a negative mitzvah. The Talmud says these refer to respect due to holy matters by refraining from associating them with indecency.

Scripturally, one may not recite anything deemed holy while relieving himself of solid or liquid waste matter. It is also forbidden to recite holy matters in the presence of unclad people, whether or not they are currently relieving themselves. It is also Scripturally forbidden to recite holy matters including brochos or davening or Torah study, in the presence of solid fecal waste or of the receptacle used for it, even after it is washed. In the presence of the receptacle for urine or collected urine, or in the presence of zuhama, roughly translated as grime from people's bathing, it is Rabbinically forbidden. Consequently, such utterances are forbidden in a rest room or bath room even when no unclad person is present. [A mikvah, ritual immersion room, is considered by many poskim an exception to this rule. The reason is debated. One suggestion is that people are required to be thoroughly clean before immersion. Therefore, no zuhama is present in the water.] Absorbed urine is not included in the Rabbinic restriction. Thus, in the vicinity of ground or clothing that absorbed it, including one's own clothing, one may daven.

These mitzvos also restrict uttering holy things with any amount of fecal matter attached to the body. It is for this reason that, besides trying to relieve oneself, one must clean himself thoroughly before davening or reciting brochos and the like. Indecent smells also restrict davening in their vicinity. This includes a smell coming from concealed waste or a raiach sheain lo ikar, smell of a gas that has no solid or liquid associated with it. This last form of smell has certain leniencies. The one emitting it must refrain from davening until it dissipates. The status of those nearby are a matter of debate. Furthermore, this is considered a Rabbinic prohibition of lesser order. It does not pose such strong restrictions on other parts of davening. Shemone esrai is always considered more stringent. It is as though one is in immediate presence of The King.

Ruach ra'ah, a bad spiritual presence, is associated with one in the process of relieving himself or being in a rest room.. this must be removed by netilas yadayim, washing the hands. This is for both cleanliness and to remove the ruach ra. Therefore, until washing the hands, one may not recite holy things or engage in Torah study. In emergency, such as when one urinated (minimally) suddenly during shemone esrai and it was all absorbed, one may clean his hands on anything, such as grass or furniture. He must later wash his hands when he is close to water. [See Brochos 23a-25ab Shabbos 49b, Poskim. Tur Sh Ar OC 40 43-45 73-87 90:13 26-27 91:1-2 92-99 103, commentaries.]

B) Bal teshaktzu

This is a general commandment: *Al teshakatzu es nafshosaichem*, do not do anything revolting, i.e., anything that causes revulsion or sickness. This includes a general prohibition forbidding eating disgusting things such as insects. The talmud includes restraining the natural urges to relieve in this mitzvah. There is some debate whether this is indeed considered a Scriptural part of the mitzvah, or a Rabbinical extension thereof. Restraining the urge to expel gas is not included. It is not considered unhealthy. Those revolted by restraining themselves might be personally disgusted, but are not in violation even if they do restrain themselves. This applies to everyday situations. Needless to say, there could be acute conditions and situations when this changes.

The mitzvah applies at all times, so that one may not unduly restrain himself. There is a time period during which one is not considered unduly restraining himself. Thus, one waits until he finds an appropriate place to tend to his needs. This reasonable time is measured as the time it takes for an average person to walk a *parsa*, or four mil. A mil may be assumed to be about $\frac{3}{4}$ of a mile, or a little less according to some poskim. It takes about 18 minutes to walk. Thus one could restrain himself for about seventy-two minutes without being in violation. There is some debate on whether this is a time period alone or whether it is also conditional on the person being able to physically walk a full *parsa* before finding himself unable to contain himself.

Some say that this time period may not be applied in a general manner to all types of restraining. Rather, it is applied specifically to the conflicts within *tefilah*. Thus, if one is afraid to miss the *zemanai tefilah* or that he might forget to daven or say a *brocha*, he may go ahead if he is able to contain himself for this period. Those matters take precedence on balance. Ideally, this should not be relied on for *tefilah betzibur*, but if one did so, he has fulfilled his obligation. Otherwise, one does not really have a time window. Thus, this could be more like a dispensation in the rules discussed in the previous section.

In addition, restraining can involve violating mitzvos to safeguard one's health. The Talmud also includes specific mitzvos involving tampering with one's reproductive system. However, this is often interpreted as an ethical dictum, rather than a Scriptural violation. Nonetheless, it demonstrates the seriousness with which the Talmud deals with such matters. [See *Brochos* 23a *Shabbos* 90b *Makos* 16b *Bechoros* 44b, Poskim. *Tur Sh Ar OC* 3:17 92:1 103 *YD* 116:6, commentaries.]

C) Minyan participation

The presence of ten adult men brings the Divine presence. Certain *tefilos* may only be said with a minyan. Certain *tefilos* are enhanced or have an added dimension with a minyan. Parts of the service, such as Torah reading, are not done collectively, but the *shliach tzibur* recites them on behalf of the congregation. Other parts require a response or a congregational reciting. Under certain circumstances, the congregation must all be involved, while in other situations, it is sufficient to include most of them, or even to include most of a quorum. For example, if one is present when *kaddish* is recited, he must participate. He need not be obligated, having already davened elsewhere. If one wishes to fulfill *tefilah betzibur*, he must daven *shemone esrai* together with the minyan. The repetition of *shemone esrai* by the *shatz* may proceed if ten men are present, even if they can-

not all participate in answering. For example, if one man is asleep, or is in the middle of a part of davening that precludes his responding, many poskim count him toward the ten.

May our questioner remain present and count toward the quorum? Must he respond to kaddish? Does he fulfill his obligation of listening to the Torah reading? Does his passive presence count? The Talmud debates whether one who had to interrupt for nature's call may resume where he left off. In one view, he was unfit to daven in the interval. The other maintains that he was personally fit, but unable to perform. We follow this view. This is invoked in addressing issues similar to ours. Therefore, it seems that our questioner could be counted toward the ten. [See Brochos 22b-23a, Poskim. Tur Sh Ar OC 42 45 90:9 etc. 92:2 109, commentaries.]

D) Kavod habriyos

To protect human dignity, the Rabbis sometimes suspend their institutions. If one is in a public place, he need not embarrass himself by relieving himself right there. He may wait until he finds a private place. He may do so and also use what he needs to clean himself even if this might involve violating a Rabbinic Shabbos law. The poskim also debate one who feels the urge in the middle of davening. Some say that he may continue, though it touches on bal teshaktzu. When davening in shul, all seem to agree that he may continue, due to kavod habriyos. Similarly, the poskim say that a shliach tzibur who feels the urge, may continue davening. He need not leave the amud immediately, which would show the entire congregation that he is attending nature's call. In these rulings there is no stipulation that there should be ten men besides himself. In addition, his active participation might also be critical. Moreover, some parts of the davening are performed by the shatz alone, with all others listening and fulfilling their own obligations through him. It would follow that a participant may also be counted toward the ten, especially if he also participates actively. For him to have to leave in this situation would be as embarrassing as a shliach tzibur leaving. Since his absence leaves the minyan lacking, the entire congregation will know where he went. This would appear to resolve our question. However, there is a caveat. Perhaps our questioner may remain in shul to avoid embarrassment, but may not participate. If his presence is sufficient to bring Divine Presence, without his participation, why should he be permitted to utter holy things! If he remains silent, the rest of the minyan might be fulfilling their obligation in less optimum ways. Should this person participate, thus reducing his own optimum service, to raise the optimum service of the other nine? Will this indeed make a difference for them, since his own participation is itself less than optimum? [See Brochos 19b Shabbos 81b 94b Eruvin 41b, Poskim. Tur Sh Ar OC 92:2, commentaries.]

In conclusion, the questioner may remain in shul. Since he is there anyhow, as long as he can concentrate, he may participate. If he feels uncomfortable doing so, he may remain silent. He need not be concerned that he reduces the potency of the minyan.

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