

ליקוטי ופסקי הלכות "חוקי חיים"

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"חוקי חיים"
לעשות רצונך
בלבב שלם



שע"י "הדר הוראה" שבונת מנחת יצחק פעה"ק ירושלם תובב"א - בראשות הרב חיים אהרן בלייער שליט"א

Halochos compiled by HaRav Chaim Bleier – Translated from the Hebrew edition by R' Zerachya Shicker

Dinim of Passing in front of a Mispallel 2

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לעשות רצונך
בלבב שלם



שע"י "חדר הוראה" שבגנת מנחת יצחק פעיה"ק ירושלם תובב"א - בראשות הרב חיים אהרן בלייער שליט"א

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Please do not
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Passing in Front of Someone Davening – 2 | Chayei Sorah 5784

312

Some Principles

Introduction

- In the previous issue (311), we cited some principles about the halachos of passing in front of a mispallel. We will review some of them as an introduction to the present issue.
- Reasons for the issur.** Some explain that passing in front of a mispallel ruins his kavana (ibid., 10). Others explain that the Shechina is present in front of a mispallel who stands before the King, and walking between the mispallel and the Shechina does not show proper honor or reverence for the Shechina (ibid., 11).
- Where one may not pass.** We mentioned that the issur agreed upon by all poskim is to pass directly in front of a mispallel within four amos (17). Unless one is careful about the Zohar, one may pass directly to the side of a mispallel (18). Some poskim say one may not pass in front but to the side, i.e., at a diagonal (19); others say one may (20). We mentioned that in a pressing situation or for a mitzva purpose, one may pass in front but to the side (ibid.).

Definition of a Mispallel

- Shemoneh Esrei.** The issur is to pass in front of someone davening Shemoneh Esrei, from when he starts until he takes three steps back at the end (מ"ב סי' ק"ב סק"ג).
- Shema.** One should similarly not pass in front of someone saying the first posuk of Krias Shema, as that also requires the mispallel's kavana (אליהו זוטא בשם הש"ה הובא בביאור"ל סי' ק"ב ס"ה אסור).
- Kaddish.** One may not pass in front of someone saying Kaddish, which is like tefilla (שע"ת סי' נ"ו סק"א בשם ברכי יוסף). It is proper to be machmir until the person takes three steps back at the end of Kaddish, or at the very least, until "דאמירן בעלמא וכו'" (בן איש חי פ"י ויחי) "דאמירן בעלמא וכו'". Many people do not know that this halacha also applies to Kaddish.

Whose Tefilla Is Included in the Issur?

Women

- Woman davening.** One may not pass in front of a woman davening Shemoneh Esrei either, as the Shechina is also present before her and she also needs to have kavana. Also, the issur of sitting in front of a mispallel is derived from Tefillas Chana (גמ' ברכות דף ל"א ע"ב) – hence, a woman is also included (א"א בוטשאטש). Thus, a woman davening at home should make sure to daven in front of a wall or where people will not pass in front of her so as not to cause others to violate this issur.
- Woman passing.** Similarly, a woman may not pass in front of a man davening or another woman davening. Thus, a woman must also be careful about this in the ezras nashim.

Child

- Child davening.** Some say one may be meikel to pass in front of a child davening, even if he is of chinuch age, since children do not have the thinking faculties (גמ' חגיגה דף ב' ע"ב) to daven properly; accordingly, the Shechina is not present by them (א"א בוטשאטש, דעת). This is certainly true if it is clear from his movements and conduct while davening that he is not having proper kavana (אמות) (של תפלה סי' ב' הע"ט).
- However, many gedolim were careful not to pass in front of a child davening Shemoneh Esrei (ארחות איש שער י"א סי' ג', הגרשו"א) (הליכות שלמה פ"ח אות ל"ח, מו"ר הגרי"י בלויא חנוך לענר פ"א הע"ה תורה).
- Child passing.** A chinuch-aged child should be trained not to pass in front of a mispallel (די אמות של תפלה סי' א' הי"ג).

Rav

- A rav must also keep the halacha about passing in front of a mispallel. We have seen many gedolim who were careful about it (ראה סי' ד' אמות של תפלה ח"ב סי' י') (הגר"מ) (א"א בוטשאטש).

(פיינשטיין). My rebbi the Gaavad זצ"ל was also very careful not to sit until there was no one davening behind him. Also, even when he needed to leave in the middle of davening, he would not leave if doing so entailed passing in front of a mispallel.

- Davening behind one's rebbi.** One should not daven behind his rebbi (גמ' ברכות דף כ"ז), as the rebbi might finish before the talmid and not be able to step back. Rather, one should stand a distance behind the rebbi and not align himself directly behind the rebbi (רבינו יונה שם, שו"ע סי' צ"א ס"ד ומ"ב שם).
- Tzibbur waiting for the rav.** If a rav or other distinguished person finished his personal tefilla and the shliach tzibbur is waiting for him, he can step back even if there is someone davening behind him so as not to burden the tzibbur by delaying Chazaras HaShatz while they wait for him (ערוה"ש סי' ק"ב סי"ג). It is preferable to go to the side where possible.

Non-Jew

- Ordinary Aku"m.** A Jew may pass in front of an ordinary aku"m praying, as he prays and bows to vanity and emptiness.
- Arab.** Some hold that since an Arab's prayer takes the form of a prayer to G-d and not to their false prophet (רמב"ם באגרת תימן), when an Arab [who does not have blood on his hands...] prays, it is like he is praying to our G-d, and thus one cannot pass in front of him within four amos (שמעתי מהג"ד משה שפירא והגר"ג הכהן רבינוביץ בעל) (הט"ב סי' ש"ך נהג המהר"ל דיסקין כשהיה בעיר העתיקה ירושלים). This can be relevant at times, e.g., when an Arab does whitewashing or some other work in a Jew's house and prays while he is there.
- However, others say there is no issur to pass before them since even if they pray to our G-d, it does not have the kedusha of Shemoneh Esrei, where the Shechina is present; it is just an ordinary prayer (מו"ר הג"ר שמאי קהת הכהן גראס).

Sitting Mispallel

- Choleh.** If someone ill is davening Shemoneh Esrei sitting, one may still not pass in front of him for the two reasons of Shechina and kavana (above, 2) (קצות השלחן בבדו"ש סי' כ' סק"ו).
- Davening sitting while traveling.** However, if someone is davening sitting down while traveling, e.g., on a bus or plane, the person in front of him does not need to stand up, as it is not a spot designated for tefilla (ע"פ שו"ע סי' ק"ב ס"ג ומ"ב סק"ג).

Some Proposed Reasons to Allow It Today

Widespread Disregard

- Since the poskim bemoan and decry the fact that people are not so careful about the halacha of passing in front of a mispallel (א"א בוטשאטש), some try hard to defend Klal Yisroel with various reasonings and considerations. Since we are l'chatchila concerned for both reasons for this halacha, ruining kavana and honor for the Shechina (above, 2), the reasons to be meikel must also l'chatchila be compatible with both reasons. We will site some of them.

Mispallel Does Not See Him

- Covered by his tallis.** Some allow passing in front of a mispallel whose eyes are covered by his tallis. This works according to the reason of ruining kavana, not the reason of honor for the Shechina, and it is proper to be machmir (ב"א ד"ה אסור, כף החיים סק"ב) (ביאור"ל ד"ה אסור, כף החיים סק"ב). Nevertheless, if there is a heter for the Shechina reason, e.g., it is for a mitzva (below, 31), it is mutar, and one can rely on this.
- Eyes closed.** Some expand the heter of a tallis covering the eyes, i.e., if the mispallel's eyes are closed and he cannot see what is in front of him, one may pass in front of him, because it will not ruin his kavana – at least if there is some barrier in front of him or it is for a mitzva purpose, in which case the reason of Shechina is also taken care of (א"א בוטשאטש).

23. However, many Acharonim argue, and by not specifying, the poskim also seem to argue (ש"ת אז נדברו ח"ג סי' מ"ו). This makes sense: we do not know that the mispallel's eyes will remain closed the whole time the person is passing in front of him. He can open his eyes at any moment and get distracted right away by the person passing in front of him. It is not comparable at all to someone covered by his tallis, as the status quo of that situation is that he will remain covered. Also, the fact is that even with one's eyes closed, it is sometimes possible to identify movement and lose kavana. Thus, it is very hard to rely on this heter.

We Do Not Have Kavana Today

24. **Ruining kavana.** In an effort to find some sort of defense for the widespread lack of care in these halachos, some write that it is because today we do not have so much kavana in tefilla anyway, as the Rama explains (סי' ק"א ס"א). This is the reason we do not repeat the first bracha of Shemoneh Esrei if we did not have kavana even though strictly speaking we should need to daven again (ש"ע שם) – even if we would daven again, we would likely not have kavana. Since we do not really have proper kavana, our Shemoneh Esrei is not a tefilla for which passing in front is assur (דעת קדושים, דעת תורה). This heter seems to be based on the reason of ruining kavana – our kavana is not really ruined since we do not have such kavana and are distracted to begin with.
25. However, many dispute this heter. In fact, since today it is so difficult to have proper kavana, there is all the more reason not to do things that will disturb a mispallel, who is so easily distracted. Also, this logic was really said with respect to children or amei ha'aretz who simply do not have kavana or know what they are davening. It was not said with respect to people who keep Torah, are meticulous with halacha, and strive to have proper kavana.
26. **Shechina.** Some even expand this heter and say that since there is no kavana today, the Shechina reason is not an issue, as our Shemoneh Esrei is not a tefilla to which the Shechina comes (א"א שם).
27. However, others argue and refute this logic. Chas v'shalom to say that the Shechina is not present before someone davening Shemoneh Esrei today. We should not remove the Shechina from our tefilla to defend those who are lax in these halachos. It is better to have proper care for the halachos and believe in Chazal's words that the Shechina is present before a mispallel even today, despite the fact that the generation is weak and has less kavana (הקדמה לסי' ד' אמות של תפלה).

Does Mechila Work?

28. The poskim discuss whether mechila works for this halacha, i.e., whether a mispallel can be mochel and allow others to pass in front of him. If mechila were to work, that would have a great benefit, as everyone could be mochel others so they do not violate issurim.
29. However, the consensus of the poskim is that mechila does not help. This is certainly true for the reason of Shechina, as a mispallel cannot be mochel on the honor of the Shechina. And even for the reason of ruining kavana, Chazal presumably intended to prevent distraction of Klal Yisroel's tefillos with this decree. Accordingly, a mispallel has no right to be mochel on Chazal's decree (סי' ד' אמות של תפלה ח"ב סי' א' אות י"ד).

Let Us Strengthen Ourselves!

30. We have seen that none of the kulos and reasons to be meikel in this area are agreed upon. Also, they were only said in the first place to give somewhat of a defense of those who are not careful about this, but they certainly do not serve as a heter or a source to erase the entire siman from Shulchan Aruch! All we have is Chazal's decree, the Shulchan Aruch, and its commentaries, which apply eternally.

Things for Which One May Pass Before a Mispallel

For a Mitzva

31. Some allow one to pass in front of a mispallel if he must do so for a real mitzva that cannot be deferred or delayed. For the reason of Shechina, the idea is that it is also honor for the Shechina to fulfill a time-sensitive mitzva, so doing so is not inconsistent with the Shechina's honor (הגריש"א הובא בס' ד' אמות של תפלה עמ' שצ"ט אות ג'). And for the reason of ruining kavana, we must say that it was part of Chazal's decree that for a mitzva, one may enter a mispallel's space even though doing so might disturb his kavana.
32. Even when the mitzva heter exists, one should minimize walking in front of a mispallel as much as possible by choosing an alternative route. It is also better to pass by when it is in front but to the side.
33. **Minhag or good practice.** One may not pass in front of a mispallel to fulfill some minhag or good practice that is not a full-fledged mitzva, as one should not ruin another person's tefilla for that.
34. **Public mitzva.** One may pass in front of a mispallel for a public mitzva, e.g., to complete a minyan if they will otherwise not be able to have a minyan or to teach Torah publicly.

Birkas Kohanim

35. **Kohen.** Kohanim may pass before mispallel to wash their hands before Birkas Kohanim or to go up for Birkas Kohanim, as it is a time-sensitive mitzva and a public mitzva. If there are at least two Kohanim, it is also a mitzva d'oraisa (בשם החזו"א).
36. **Levi.** A Levi should not pass in front of a mispallel to wash a Kohen's hands, as that is not essential (84 סי' ז' הע' 84).
37. **To stand in front of the Kohen.** Those at the front of the shul who want to go back and stand in front of the Kohanim (ק"ב), as well as those from around the shul who come to stand directly in front of the Kohanim during their bracha, should not pass in front of mispallelim, as these are just minhagim, not full-fledged mitzvos.

Gabbai Tzedaka

38. **Collecting tzedaka during davening.** Since collecting tzedaka is not a time-sensitive mitzva and it is not a mitzva specifically connected to tefilla, there is no heter to pass in front of a mispallel to collect tzedaka, as the collector can wait until he finishes Shemoneh Esrei. Sometimes, the large number of tzedaka collectors mid-davening truly disturbs and distracts the mispallelim, especially when they jangle the coins in their hands or pushkas.
39. Gabbai tzedaka should not go around: during Krias Shema (מ"ר ד' בספרו צדקה ומשפט פ"א הע' ד' (תשובה ח"א סי' ס"א)); during Birkas Krias Shema perhaps [not even to collect from those who have not yet started, as the collector passes in front of mispallelim, which is assur (see above)]; during Chazaras HaShatz (פמ"ג משב"ז י"ד רמז סק"ג, א"א קלב סק"א); during Krias HaTorah (מ"ב סי' צ"ב סי' ט"ו); or during Hallel (הליכות שלמה ח"א פ"ז ס"ד).
40. **Guideline.** Thus, it would be good if gabbaim in batei medrash were to institute a guideline with a notice that no one should collect tzedaka from Yishtabach until Ashrei-Uva L'Tziyon. This way, mispallelim will not be distracted or disturbed during their tefillos when they may not be disturbed. We have seen such a guideline in several batei medrash. We must protect and reinforce the little kavana in tefilla we still have.
41. To prevent collectors from being harmed by such a big rule, it is advisable for each person to give a bit more than he usually does to collectors who uphold the rule, as a reward for waiting.

Krias HaTorah

42. If one is called up for an aliya, he may pass in front of mispallelim to go up. A baal korei or shliach tzibbur may also go to the bima or amud if there is no one else, even if he will pass in front of a mispallel, as that is a public mitzva.
43. **Looking at the Torah during hagboh.** One should not pass in front of a mispallel to look at the letters of the Torah during hagboh, as that is not a full-fledged mitzva.
- Relieving Oneself**
44. If one has to leave shul to relieve himself and he will violate the issur if he does not go out, i.e., it is urgent, he may pass in front of a mispallel (א"א בוטשאטש סי' ק"ב).

Issur to Sit Next to Someone Davening

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45. **Not involved in tefilla.** If one is just sitting quietly, not involved in any tefilla, he may not sit within four amos of someone davening Shemoneh Esrei, i.e., in front of the mispallel, within four amos [some say as far as the eye can see]; to the side or diagonally [front and side], within four amos; and some say one may not sit behind a mispallel within four amos either (ש"ע סי' ק"ב ס"א).
46. **Involved in Torah.** Some say a person involved in verbal Torah learning may sit within four amos of a mispallel (ש"ע שם). Nevertheless, l'chatchila he should not sit within four amos to the front or side of a mispallel [behind is fine] unless it is a pressing situation (מ"ב סק"ו), e.g., he is weak or there is no place to sit outside his four amos (כף החיים סק"ז).
47. **Involved with tefilla.** Someone involved in any of the sections of tefilla, even saying מקומן, may sit to the side of a mispallel or diagonally [front and side] within four amos. Some say in front is mutar within four amos too (ד"ע ראשונה בש"ע, פ"ח); others say within four amos is assur (בדעת ש"ע) and others say it is assur as far as the eye can see (א"א בש"ע ומ"ב בשם אחרונים).

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