
Honour of Hashem and His Children

ברכות דף י"ט : – דף כ'. ושלחן ערוך יורה דעה סימן ש"ג וסימן שע"ב [עפ"י פסקי ערוך השלחן]

רמב"ם הלכות כלאים פרק י הלכה כט

הרואה כלאים של תורה על חבירו אפילו היה מהלך בשוק קופץ לו וקורעו עליו מיד, ואפילו היה רבו שלמדו חכמה, שאין כבוד הבריות דוחה איסור לא תעשה המפורש בתורה, ולמה נדחה בהשב אבדה מפני שהוא לאו של ממון, ולמה נדחה בטומאת מת הואיל ופרט הכתוב ולאחותו, מפני השמועה למדו לאחותו אינו מטמא אבל מטמא הוא למת מצוה, אבל דבר שאיסורו מדבריהם הרי הוא נדחה מפני כבוד הבריות בכל מקום, ואף על פי שכתוב בתורה לא תסור מן הדבר הרי לאו זה נדחה מפני כבוד הבריות, לפיכך אם היה עליו שעטנז של דבריהם אינו קורעו עליו בשוק ואינו פושטו בשוק עד שמגיע לביתו ואם היה של תורה פושטו מיד.

רמב"ם הלכות כלאים פרק י הלכה לא

המלביש את חבירו כלאים אם היה הלובש מזיד הלובש לוקה והמלביש עובר משום ולפני עור לא תתן מכשול, ואם לא ידע הלובש שהבגד הוא כלאים והיה המלביש מזיד המלביש לוקה והלובש פטור.

רמב"ם הלכות אבל פרק ג הלכה ה

המטמא את הכהן, אם היו שניהם מזידין הרי הכהן לוקה וזה שטמאו עובר על ולפני עור לא תתן מכשול, היה הכהן שוגג וזה שטמאו מזיד הרי זה שטמאו לוקה.

If one sees another Jew wearing כלאים, should he rip it off him?

The גמרא writes that when there is חילול השם at stake, we do not take notice of another's pride. However, the ראשונים, based on the גמרא, write that this only applies if there is an איסור דאורייתא; in the case of the Rabbinical institution, they have the right to waive their honour.

Hence, if one was walking in the street or sitting in the בית המדרש, when he suddenly realises that he is wearing שעטנז, if it is דאורייתא, כלאים, he must take it off, there and then, even if the embarrassment will be immense. If it is דרבנן, he may wait until he arrives home.

If the person, himself, is unaware of the עבירה he is doing, the רא"ש, quoted by the רמ"א [at least as a י"ש אומרים], rules, that another person should not say anything, until he reaches his home. However, the רמב"ם, cited by the מחבר, argues that the bystander is obligated to actually rip it off him; unless it is דרבנן, in which case, writes the נחלת צבי that, he should wait until he reaches his house, before ripping it off him. The שאגת ארי" sides with the רמב"ם.

[This, writes the Rogatchover Gaon וצוק"ל, would seem to follow the שיטה of the רמב"ם who writes that if one wittingly places כלאים on someone who does not realise that there is שעטנז in the בגד, then this is not merely a case of לפני עור; rather, the first one is עובר on the transgression of לבישת and would receive מלקות for this. The רא"ש finds this impossible to understand.]

Someone is נפטר in the house. Should the sleeping כהן be woken and informed?

The רמ"א cites the ruling of the מהרי"ל, that one must awake the כהן to get him out of the house. However, the ש"ך understands from the terminology that if the טומאה is only of a דרבנן nature, one need not wake him up. [Earlier, he maintains that the rule 'יסוף טומאה לצאת' – any route that the מת may take to leave the building, is טמא באהל, until the מת has been removed – is only דרבנן. However, there are many who disagree with this and the final הלכה is a matter of much debate; see, for example, פתחי תשובה סק"ג.] Likewise, adds the ערוך השלחן, one would not need to awake a קטן.

If the כהן is not appropriately dressed, one should not startle him with the news that there is a corpse in the אהל, which, if of a דאורייתא level, the תרומת הדשן and רמ"א rule, would require him to run out immediately. [Although there are those who would allow him to at least put on very basic clothing, the ערוך השלחן writes that the הלכה is, as above. See the פתחי תשובה סק"ד; if, when he entered the building, there was no מת, perhaps he would not be required to run out, without clothes.] Rather, one should advise him, without telling him why, that he is required outside. In this way, he will be a שוגג, and, as such, can be left to get dressed first. The ערוך השלחן adds that, if he is involved in a מצוה, they do not need to inform him of the מת. [Would the רמב"ם agree with all of this?]

Are non-Jewish מתים a problem?

and תוספות the מרוטנובורג מהר"ם rule that they are מטמא even באהל. The רמב"ם argues that they are only מטמא through touching or carrying; not באהל. The יראים goes further; namely, they are not מטמא at all. The ערוך השלחן concludes that one should be careful even באהל. The ערוך השלחן explains that strictly speaking, the הלכה follows the רמב"ם [seemingly along the lines of the רא"ש who simply concludes that one who is stringent, תבא עליו ברכה. However, there are those who argue that even מעיקר הדין, one must follow תוספות; see פתחי תשובה סק"ו.]

Either way, Jewish apostates most definitely are מטמא, writes the רשב"א. [He also writes that if one finds an unidentified קבר, even if it is near the house of a ישראל, still, if the majority of the city are not Jewish, he may assume it is a gentile מת. How would this affect a כהן going into a hospital in חוץ לארץ? Inevitably, there are going to be bodies and body parts, somewhere in the building. Even if one keeps the door of the room shut, thus blocking the טומאה from entering, remember the rule of 'יסוף טומאה לצאת'; namely, since the body will be leaving the building, any route that it could take to leave, is seen to be טמא באהל. Hence, the entrance of the hospital and the corridors are likely to come under this category. On the other hand, according to the above mentioned ש"ך, this טומאה is only מדרבנן. Furthermore, in חוץ לארץ, the vast majority are those of גוים. It is worth mentioning the

opinion of the ראב"ד, although we do not pasken like him, who holds that, since nowadays a כהן is already טמא, there would be no איסור in, or at least there would be no מלקות for, becoming טמא again. The ר"ת holds that on the day he became טמא, at least מדאורייתא, there is no איסור to become טמא again; see the פתחי תשובה סק"ט.

For example, the ערוך השלחן seems to equate ביקור חולים with ניחום אבלים and would, thus, allow him to go through a בית הפרס, a place of טומאה דרבנן, in order to be מקיים this מצוה. On the other hand, one may argue that the case of ניחום אבלים in the גמרא, refers to a situation where he is already there and, not following the אבליים down the path of טומאה, would actually be insulting. Furthermore, even in the בית הפרס, it would seem that he should do what he can, to avoid becoming טמא. This would concur with the פסק of the אגרות משה, in יו"ד ח"ב סי' קס"ו, where he writes that only if it is absolutely necessary, a כהן may rely on the fact that the majority of bodies and body parts in a hospital in חוץ לארץ will be those of גוים. However, one should try to be מברר whatever he can, before entering the building.

This will also have ramifications on a כהן entering a hospital for medical reasons; obviously, we are only talking of instances where there is no risk to life. How does this apply to a כהן becoming a doctor in a hospital?]

Do the above דינים apply to all איסורים?

No. The נודע ביהודה writes that it is only in the above cases, when it is simply prolonging the איסור that we may remain silent and allow him to be a שוגג. Generally speaking, however, if one sees another transgressing an איסור, even if שוגג, one has a חיוב to gently explain to him the איסור.