



FROM THE VIRTUAL DESK OF THE OU VEBBE REBBE

RAV DANIEL MANN



Learning in a Cemetery

Question: I work in a cemetery on upkeep in the area of the graves. May I listen to Torah *shiurim* with earphones on site?

Answer: The *gemara* (Berachot 18a) forbids “holding a *sefer Torah* and reading it, wearing *tefillin* on his head,” wearing *tzitzit* in an obvious manner, *davening*, and reciting *Kri’at Shema* in a cemetery/ close to the deceased, due to the concept of *lo’eg larash* (literally, mocking the pauper). *Chazal* applied “One who mocks the pauper blasphemes his Maker” (Mishlei 17:5) to one who performs actions (especially *mitzvot*) in front of the deceased in a way that “reminds” them that they are now incapable of doing such special activities. The Shulchan Aruch (Yoreh Deah 367:3)

forbids speaking words of Torah there even if not from a *sefer*, and there is a question whether holding a *sefer Torah* without reading from it is forbidden (Pitchei Teshuva ad loc. 2). The Beit Yosef (Orach Chayim 23) infers from the *gemara’s* language of *tefillin* on the head that *tefillin shel yad* are not a problem because they are not visible. He rules, therefore, that covering *tefillin shel rosh* (Shulchan Aruch, Orach Chayim 45:1) and *tzitzit* (ibid. 23:1) is sufficient.

How should we view listening to recorded Torah with earphones? In certain contexts, *limud Torah* refers to that which is spoken. The Shulchan Aruch (OC 47:4) rules that one does not need a *birkat haTorah* before learning Torah in his head, and this apparently includes reading with his eyes only from a *sefer* (Taz ad loc. 3; Mor U’ketzia, OC 47 may disagree). The Gra (ad loc.) disagrees because contemplating Torah is included in the *mitzva*. In that context, the Shaarei Teshuva (47:2) reasons that listening to *divrei Torah* is like speaking them; it is unclear if that applies to listening to a recording rather than a person (see Hali-chot Shlomo 6:5).

However, it is likely that what defines *limud Torah* in our context is different. It is apparently assumed that one may not read Torah with his eyes from a *sefer* in a cemetery because it is clear what he is doing. Presumably all would forbid one to listen

CHESED FUND

Please help those less fortunate,
desperate for assistance.

Make checks (Israeli only) payable to
"The Chesed Fund"
and send to

ISRAEL CENTER CHESED FUND

att. Menachem Persoff

POB 37015 Jerusalem 91370

or donations can be brought to the
OU Israel Center.

The Orthodox Union - via its website - fields questions of all types in areas of kashrut, Jewish law and values. Some of them are answered by Eretz Hemdah, the Institute for Advanced Jewish Studies, Jerusalem, headed by Rav Yosef Carmel and Rav Moshe Ehrenreich, founded by HaRav Shaul Yisraeli zt"l, to prepare rabbanim and dayanim to serve the National Religious community in Israel and abroad. Ask the Rabbi is a joint venture of the OU, Yerushalayim Network, Eretz Hemdah... and OU Israel's Torah Tidbits.

to a shiur without earphones. In the other direction, we have seen that full-fledged *mitzvot* such as wearing *tefillin* may be done when the *mitzva* is concealed.

How noticeable must something be to be forbidden? Reciting *Kri'at Shema* and *tefilla* are forbidden even though they need not be audible or from a book (Shulchan Aruch, OC 62:4). Is that because it is usually discernable, or because it is active, which may make it worse than just leaving covered *tefillin* or *tzitzit* on? If so, is listening (and/or putting on the recording) to a *shiur* active, or do we view it as coming from an outside source to a passive listener?

Some sources may indicate that a *mitzva* can be forbidden even if not seen, if there is a visible sign that it is taking place. The Taz (OC 45:2, accepted by Mishna Berura 45:3) says that one needs to cover not only the *tefillin shel yad* but also the *retzuot* on the finger. Presumably it is not because of the *retzua* on the finger itself (which is not a

full-fledged *mitzva*), but because it is a sign that he is wearing *tefillin* on his forearm. Similarly, the Shiltei Gibborim (45:1) says that one may not carry a *sefer Torah* in a cemetery even if it is fully covered because people realize what the bulge is. Would we say, then, that someone who sees you with the earphone will figure out you are listening to a *shiur*? Is it enough that you might be using it for something else? Would we follow what one would guess about you or about most people?

We have been unable to conclude that your situation is discernible enough to be forbidden. We add in the leniency of the Netziv (Ha'amek She'ala 14:6) that since in our days, bodies are buried deeper than ten *tefachim*, *lo'eg larash* does not apply. So we will not rule to deprive you of the opportunity of *limud Torah*. You should seek your employers' agreement, to ensure you are not guilty of lowering the quality of your work or upsetting others around you. Also, try to conceal what you are doing as best as you can. ■



Rare In Baka

Townhouse, about 220m, pastoral, in a quiet side alley, private elevator, private entrance, terrace, storage room, parking



7,500,000 NIS MICHAEL 0523202488

Having a dispute?



For a Din Torah in English or Hebrew contact 'Eretz Hemdah - Gazit' Rabbinical Court: 077-215-8-215 • fax: (02) 537-9626
beitdin@eretzhemdah.org