

HALOCHOSCOPE



This week's question:

Someone dropped his *tefilin*. It is customary to fast when this happens. The person is very weak, and it will be difficult to fast. In addition, this happened during *Nissan*, when one does not accept personal fasts. Should he fast anyhow, postpone the fast until after *Pesach* is over, postpone it until after *Nissan* is over, or is he exempt from this fast? If he fasts anyhow on the same day, does he need to fast again on a permissible day, to atone for fasting during *Nissan*?

The issues:

- A) Protecting the sanctity of *tefilin*
- B) Fasting when dropping *tefilin*
- C) Fasting during the month of *Nissan*
- D) Exemptions from and exceptions to fasts

A) Protecting the sanctity of *tefilin*

Tefilin are made up of three parts: the *parshiyos* are parchment scrolls with four passages from the Torah. They are inside the *tefilin* and are not visible. They have the highest level of *kedusha*, sanctity. They are written with intent to instill the *kedusha* of *tefilin* and, where applicable, the *kedusha* of Hashem's Names. The writing then attains this *kedusha*. The parchment used is processed specially with these intentions in mind. This level is called *kedusha atzma*, inherent sanctity, and is the type of *kedusha* that applies to a *sefer Torah*, *tefilin*, *mezuzos* and other *sifrei kodesh*. A complete *sefer* of *Tanach*, when written in square Hebrew lettering, known as *ksav Ashuris*, is holier than *tefilin*, but otherwise, *tefilin* is the second holiest item nowadays, after a *sefer Torah*. Other *seforim*, and printed works also have *kedusha*, on a lesser level.

Anything with *kedusha atzma* may not be used for any other purpose than its originally intended use. That is, one may never lower *kedusha*, only raise it to a higher level, if that is possible. (One may not cut out the *parshiyos* for *mezuzah* or *tefilin* from a *sefer Torah*. Using them to patch a *sefer Torah* is also impossible, since they were not written with the higher sanctity in mind.) Therefore, once these items are no longer viable, they are placed in *genizah*, eternal storage, which usually means burial near a righteous individual. Some say that once the writing is illegible, the words no longer have the level of *kedusha atzma*, but that of *tashmishei kedusha*, items that 'service' *kedusha*.

The *batim*, square casings holding the *parshiyos*, must also be made with correct intent, but do not have the same level of *kedusha* as the *parshiyos*. *Kedusha atzma* usually involves writing. The *shel rosh*, box worn on the head, has a letter of Hashem's Name on it, though not written. This raises its level to *kedusha atzma*. The poskim seem to debate whether the higher level of *kedusha* applies to the entire *bayis*, or only to the parts with

the shin on them. The *shel yad* is a matter of debate. Some say that it is not *kedusha atzma*, but *tashmischei kedusha*. Others maintain that it is *kedusha atzma* even though no lettering appears on the actual casing.

The *retzuos*, straps, are *tashmischei kedusha*. There is a view that considers the parts of *retzua* that are knotted into a letter of Hashem's name to be *kedusha atzma* at that time.

Various *mitzvos*, Scriptural and Rabbinical, apply to respecting *kedusha*. The positive *mitzvah*, *umikdashi tira'u*, hold My sanctuary in awe, includes all sanctified items. The negative *mitzvah*, *lo saasun kain laHashem ...*, do not do the same (destroying and disrespecting idols) to Hashem, includes not mistreating or otherwise destroying, even in part, anything holy. There are varying levels of severity, depending on the level of *kedusha* and the amount of mistreatment. Other *mitzvos* are more specific to a *sefer Torah* or other *kedusha* items. Thus, one must not have improper thoughts while wearing *tefilin*, one must keep them safe, one may not place them on the ground, not on a chair or bench when people are sitting there, one may not sit on them or on the same level, and various other special conditions of their care. The Talmud is very harsh in condemning those who hang their *tefilin* on the wall. This applies to the *batim*. The *retzuos* are debated, and when they are in their pouch it is permitted. [A *sefer Torah* may not be hung up, even inside a pouch.] *Tefilin* may not be worn in the presence of indecency or while relieving oneself. This is included in the additional *mitzvos*, *lo yireh becha ervas davar*, a negative *mitzvah* to refrain from holy things in the presence of indecency, and *vehaya machanecha kadosh*, a positive *mitzvah* of the same kind.

The Talmud forbids sleeping with *tefilin*. There is a debate whether this refers to sleeping wearing them or holding them. There are also different reasons offered. One reason is that while sleeping, one might emit gas, which is disrespectful. While awake, one is able to control this. Another reason is that they might fall. This applies even when one is awake, but preoccupied, such as when immersed in prayer. Thus, the Talmud clearly regards *tefilin's* falling down as a bad thing. [See Brochos 23a-24a Sukah 9a 41b Megillah 25b-27a Menachos 32a, Poskim. Tur Sh Ar OC 40-45 253-254 YD 271 282 290, commentaries. Tzedakah Umishpat 12-16, 15:12 notes 31 34.]

B) Fasting when dropping tefilin

This custom is not mentioned anywhere in the Talmud or the main codifiers of *halacha*. However, it is cited by commentators as an established *minhag*. The poskim ponder the origins and sources of this *minhag*. There is a different *minhag* to fast when dropping a *sefer Torah*. This *minhag* is also researched by the poskim, since it also seems to be extra-Talmudical. The Talmud does cite a ruling that one should fast for bad dreams. Among those considered bad are seeing a *sefer Torah* burned. The Talmud also says that one who is present when this happens in real life must rend his clothing. This is obviously a much greater tragedy. The actual item is destroyed, rather than shown disrespect.

The poskim suggest that it is possible that the *minhag* to fast when it is dropped is based on this. We do know that a *sefer Torah* may not be left on the ground. We also know of the harsh condemnation of those who hang *sifrei Torah* or *tefilin*. One must also take care not to be involved in activity that could lead to *tefilin* falling down. It seems that its falling to the ground is an active form of such disrespect. This indicates

that this form of disrespect is extremely serious.

The poskim offer two possible reasons for the fast. One who dropped his *tefilin* was *mezalzel*, showed disrespect and treated lightly his *tefilin*. For this he must repent. The fallen *tefilin* is a bad omen, similar to a bad dream. This is a heavenly sign that he must repent in general. The sources indicate that the fast should take place on the same day, if possible. This is the rule for fasting after a bad dream. Normally, a fast is only valid when adopted verbally the previous day. In this case, if the person did not eat yet, he should finish the day fasting. Others disagree with this ruling. In any event, the poskim agree that one does not fast for this on a *Shabbos*. He makes it up after *Shabbos*. A dream fast can even be observed on *Shabbos*. The reason to refrain from fasting on *Shabbos* is *oneg Shabbos*. One who is distressed by his bad dream will get his *oneg* by fasting over it. Then, he must fast a weekday to compensate for having fasted on *Shabbos*.

The poskim debate whether giving money to *tzedakah* can take the place of the fast. In some contexts, this is acceptable or even recommended as a substitute for fasting. However, when ruling on a dream fast on *Shabbos*, there is never a recommendation to give *tzedakah* instead. This indicates that for these types of fast, *tzedakah* is no option. Fasting is a physical commitment, while *tzedakah* is merely monetary.

The poskim debate whether others present need to fast as well. The consensus is that for *tefilin*, this is unnecessary. For a *sefer Torah*, it is at the discretion of the local Rav whether to impose a fast on those present or the community. While the *retzuos* should also be protected from falling or dragging on the ground, many poskim say that a fast is not necessary if they do. If the *tefilin* fall inside their pouch, the poskim debate the severity. Some say that nothing is needed, while others require fasting or *tzedakah*. The same is mentioned with regard to others present. [See Kneses Hagedolah & MA OC 44:5 40:Beer Heitev & Shaarei Teshuva 2, Kaf Hachaim 5-8. Mahari Bruna 127. Mishpetei Shmuel 12. Kapos temarim (Sukah) 41b. Chaim Shaal 12. Tzedakah Umishpat 16:23. Tzitz Eliezer V:1:3.]

C) Fasting during Nissan

Sepharadic custom is to restrict public and communal fasting, but to permit personal fasts. *Ashkenazic minhag* restricts all fasting for the month, with the exception of fasting for a bad dream. The reason for the minhag is based on events. The first twelve days of the month celebrate the induction of the Tabernacle in the Wilderness. On these twelve days, the princes of each tribe brought an offering. On the day one brings an offering, one does not fast. It is a *Yomtov*. Since this *chanukas hamizbaiach* was for the entire nation, we celebrate it nowadays in this way. We also do not recite *tachanun*. The Thirteenth day has no obvious reason. One suggestion is that one of the offerings, a peace offering, is eaten for two days. Thus, the offering of Achira ben Ainan, of Naftali, was still being eaten. Another suggestion is that traditionally, the angels visited Avraham on the third day from his circumcision, which was the first day of *Pesach*. Accordingly, the Thirteenth of *Nissan* was the day of his *bris milah*, the first ever. We do not fast or say *tachanun* on the day of a *bris milah*. The Fourteenth is the day we offer the *korban Pesach*. The next seven or eight days are *Pesach*, followed by *Isru Chag*. Since most of the month has no *tachanun* or fasting, let it finish this way.

This is considered a *minhag*. Indeed, in Talmudic sources it appears that some days were originally official fast days. The first of *Nissan*, when the two older sons of Aharon died, and the Tenth of *Nissan*, when Miriam died, were observed as fasts. Thus, the poskim discuss one who feels the need to fast anyhow. Some suggest that one may choose these days to fast. It appears that the poskim debate whether this would apply to *Sepharadim*, or also to *Askenazim*. Furthermore, there is a *minhag* to fast on a *yahrzeit* of a parent. We follow the ruling that one should not fast for this during *Nissan*. However, there is a view that one may fast for this after *Pesach*, when there is no independent reason to refrain. It is only because the majority of the month passed without a fast. Furthermore, some suggest that one who has *yahrzeit* in the first part of the month should fast at the end to make up for missing his real *yahrzeit* fast. However, we do not follow this. A *yahrzeit* fast is considered a *minhag*, or a *chumra*, self-imposed stringency. The ruling to refrain from fasting in *Nissan* is also a *minhag*. One *minhag* overrides the other *minhag*. Moreover, one who chooses to fast of his own accord anyhow is showing disrespect to those sages who instituted the ban on fasting during the month.

Fasting for dropped *tefilin* during *Nissan* is not discussed by the poskim. Based on our discussion, it could be compared to bad dream fasting. If the reason is due to *teshuvah*, it is not the same. If the reason for fasting is the bad omen, it would be comparable. However, a bad-dream fast overrides *Shabbos*. Dropped *tefilin* fasting does not override *Shabbos*. It should not override the *minhag* to refrain from fasting during *Nissan*. It is more like a *yahrzeit* fast. Even the last part of the month should be restricted. The only question is whether one should fast after *Nissan* is over, or rather give *zedakah*. [See Tur Sh Ar OC 429:2, commentaries (Kaf Hachaim27-38).]

D) Exemptions and exceptions

The poskim say that the weak and feeble should not fast when they drop their *tefilin*. The fast is considered a *minhag*, based on the rules of *neder*, self-adopted ban. Thus, *adaata dehachi lo kiblu*, if it can be said that something was never intended by those who adopted it, it does not apply. Furthermore, those involved in intense Torah study should also refrain from fasting. The *minhag* should not override their holy work. Young people who could be harmed by fasting should rather study extra time. Presumably, *zedakah* would also be a good idea for those who cannot do the physical part. [See refs to B.]

In conclusion, if he is too weak, he should not fast. He should study extra hours and give *zedakah*. If he is strong enough, he should consider fasting in *Iyyar*.

On the parsha ... *When you offer a peace offering to Hashem, for your ratzon (appeasement - Rashi) you shall slaughter it. On the day it is slaughtered shall you eat it, and the morrow .. [19:5-6] Be assured that your will, peace with Hashem, will be accomplished [Haamek Davar].* This would certainly be cause for a *Yomtov*! Furthermore, eating the *korban* is clearly a *mitzvah*. one could not fast that day, or even the next day.

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