

# HALOCHOSCOPE

This week's question:

A boy's *tefilin* in their bag were knocked down to the floor by someone else. Does the boy need to give *tzedakah*? Is there any difference whether they were knocked out of his hands, or they were on a table and knocked off the table?

The issues:

A) Protecting the sanctity of *tefilin*

B) Fasting when *tefilin* fall

C) When the *tefilin* were in their pouch; knocked down by someone else

A) *Protecting the sanctity of tefilin* [Sections A and B excerpted from Halochoscope XVII:28]

*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 *mezuza* 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 *tashmishhei 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 *tashmishhei kedusha*. Others maintain that it is *kedusha atzma* even though no lettering appears on the actual casing.

The *retzuos*, straps, are *tashmishhei 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 *tefillin*, 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 *tefillin* 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 machamecha kadosh*, a positive *mitzvah* of the same kind.

The Talmud forbids sleeping with *tefillin*. 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 *tefillin'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 off the harsh condemnation of those who hang *sifrei Torah* or *tefillin*. One must also take care not to be involved in activity that could lead to *tefillin* 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: (i) One who dropped his *tefillin* was *mezalzel*, showed disrespect and treated lightly his *tefillin*. For this he must repent. An incident is cited in the Talmud. A great scholar realized that his *retzua* was turned in-

side out while he was wearing the *tefillin*. He observed forty fasts. While this is considered *chasidus*, extra piety, some poskim say it provides a source. Others maintain that his cause for concern was that he failed to perform the *mitzvah* correctly, but that there is no source for fasting due to any *bizayon*. (ii) The fallen *tefillin* 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 original source for fasting says that for boys a fast is not the best *tikun*. Rather, they should study an extra couple hours of Torah on that day.

The poskim debate whether others present need to fast as well. The consensus is that for *tefillin*, 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. [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) Tefilin that fall inside a pouch**

If the *tefillin* 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. Some say that fasting is only relevant if the actual *batim* fell to the ground. If the *retzuos* fell, there is no need for any *tikun*. If the *tefillin* were in their pouch a small coin (*perutah*) should be given to *tzedakah*. This is the consensus. When *tzedakah* is given by the feeble to redeem a fast, it is insufficient to give a *perutah*. The usual amount is the value of the meals one would have eaten that day. This is given to a poor man to eat. In certain situations, the *tzedakah* is given to another person who will be fasting. In some such situations, one can redeem the large amount with a smaller one.

As for the bystanders, the poskim debate this as well. The Talmud describes a situation where a *sefer Torah* is burned or torn and the onlookers need to do *kriah*, rending the garments. This is a sign of mourning. The Talmud qualifies this by saying it only applies when the *sefer Torah* was burned by force, rather than an accident. The Talmud cites an incident where a scholar took off his *tefillin* to relieve himself and put them down. A creature almost ate them up. The scholar wanted to tear *kriah*, but his colleagues said that this

was accidental. Accordingly, *kriah* would not be in order for bystanders witnessing an accidental dropping of a *sefer Torah*. However, fasting could still be a part of the repentance (rather than mourning) for having been present and witnessed it.

The main concern of the *poskim* with regard to *tefilin* is for the person holding them. If we are to interpret the concern with a bad omen, it could be for others present as well. If we are to interpret it as a sign that the person is negligent in some way, this would only apply to the person holding it. When a *sefer Torah* falls, the *poskim* also debate it. According to many, it is left to the *rav* of the *shul* to decide. Part of the issue is that when a *sefer Torah* is being carried in *shul*, the person carrying it represents the congregation, a type of *shliach tzibur*. Bad omens for the *shliach tzibur* can be viewed as bad omens for the entire *tzibur*. Furthermore, the *sefer Torah* belongs to the other members of the congregation as well, in most cases. Even if they don't actually own it, they all have a vested interest in it. It is used to discharge the obligation of the congregation. Thus, it is as though their personal *sefer Torah* fell down.

By this reasoning, if one's *tefilin* was dropped by someone else, both should have to fast. If the pouch fell with them inside, both should give a *perutah* to *tzedakah*. The one who dropped them has to be concerned about his negligence, and a possible bad omen. The owner should be concerned because they belong to him.

If the owner was holding them, and someone else pushed him or fell into him, the situation changes somewhat. On the one hand, it could be viewed as a sign from Heaven. Even though it was an accident, Hashem causes these things to happen. On the other hand, the owner was definitely not negligent in this situation. It could still be viewed as a sign that he has not been so careful in other situations, and that he is being shown in this way. The same could be said of the other person. Why would it happen to him? Just here! He caused *tefilin* to be dropped! While it was an accident, the fact that it happened this way could be an omen. Therefore, while fasting would seem to be an extreme measure, especially since the consensus is not fast when they were in their pouch, giving a small coin to *tzedakah* would seem to be appropriate. Since they are boys, some extra learning would also seem to be a good idea. [See Moed Katan 26a, *poskim*. Tur BY Sh Ar OC 40:1, commentaries. Teshuvos Mahari Bruna 127. Refs to last section.]

In conclusion, if he dropped his own *tefilin*, even if he was jostled by someone else, he should give a small coin to *tzedakah*. The person who jostled him should also give a *perutah* to *tzedakah*. If he did not drop them, but they were his *tefilin*, he should also give a *perutah* to *tzedakah*. A nice idea would be that both boys should learn extra that day.

**On the parsha ...** So that the *choshen* will not detach/move from [its position] above the *ephod* ... [28:28] This is a *mitzvah*. One idea and reason for this *mitzvah* is *noy*, to beautify the *Mishkan*. It would not be considered *noy* if the *choshen* would shake back and forth [Chinuch *mitzvah* #100]. Perhaps we could add: the *choshen* contained the *Urim Vetumim*, a sacred name of Hashem. Although the parchment was inside the folds of the *choshen*, similar to a pouch or even *batim*, nonetheless, one should not 'hang' the *choshen* with the *urim vetumim* inside it.

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