

# HALOCHOSCOPE TOI PE

May one tie the knots on *Tefilin* by night? If the knots were tied at an improper time, is there an issue of *Taaseh, Velo Min He'asuy*, using an item that must be prepared for the Mitzvah specially, and not used ready made? Does the problem also arise when the knots already existed, but were changed to comply with a slightly different *Minhag* or adjusted for size? If such problems apply to Tefilin that were blackened by night, may one simply blacken them again by day?

The issues:

- (A) *Ta'aseh Velo Min He'asuy*
  - (B) A similar question; the basis for part of our discussion
  - (C) The time for the Mitzvah of Tefilin
  - (D) The knots on the *Retzuos*, straps; Blackening the *Tefilin*
- (A) *Ta'aseh Velo Min He'asuy*

This principle is applied to many situations where part of a Mitzvah involves preparing the item used for its performance. An ideal example would be the Mitzvah of *Sukah*. While we follow the opinion that provided a booth is made for its shade it is also considered a valid *Sukah*, it may not utilize ready-made *Sechach*. Thus, if one took a solid haystack and hollowed out a living area, leaving a covering suitable for *Sechach*, this "Sukah" is unacceptable. The *Sechach* was not placed on top, but was ready made. If a vine is growing over a *Sukah*, one may only use the foliage as *Sechach* if he cuts it from the ground and then physically raises it up and places it back down.

The same or something similar applies to the process of making Tefilin. Writing Tefilin must be done with specific intent. Tying its knots are considered writing as well. Forming the *Batim*, boxes, the straps and blackening them is also done with such specific intent. Though this does not necessarily preclude a ready-made item, (it only precludes a man-made item made without intent, the one problem is an issue of the thought, the other, the act) it is assumed that Tefilin may not be ready-made. The Tefilin must be blackened for the purpose of the Mitzvah. This need not be specifically due to *Ta'aseh Velo Min He'asuy*, but due to the other requirements for their manufacture. if any part of their manufacture was done by the wrong people, that part is invalid and must be redone

in a valid manner.

**(B) A similar case**

By way of introduction, the question raised here is discussed in a similar situation. The Mitzvah of *Tzitzis*, according to our practice, does not apply by night. What if they are tied onto the garment by night? Assuming that they are Kosher, may one go ahead and tie them by night, or should it be done by day, but if done by night are still Kosher? If tied on Shabbos, and are forbidden to be worn that Shabbos, are they kosher after Shabbos?

The background of the question is that the applicability of *Tzitzis* by night is actually a matter of debate. It is clear that the Torah exempts night time from the Mitzvah in some way. However, the Talmud applies the exemption in two ways. One way is to make it a function of the time of day (night). The other is to make it a function of the garment. Consequently, there are two opposing views on how this exemption is applied. In one view, by night, one is not obliged to have *Tzitzis* on any garment. By day all garments, including those reserved for night wear, require *Tzitzis*. There would be no objection to wearing a day garment by night, with *Tzitzis*, despite the exemption, according to this view. In the other view, a garment reserved for night wear is always exempt, even by day. A garment reserved for day wear is never exempt, even by night. A major point of difference between the two is when one is wearing a day garment by night, and the *Tzitzis* are suddenly torn off. According to the first view, one need not fix it until morning. According to the second view, one should fix it immediately, or remove the garment.

The Poskim assume the stringencies of both of these opinions. Accordingly, the question arises whether one should fix the *Tzitzis* of a torn garment by night. According to one view, this is important anyhow, if one wishes to continue wearing the garment. The other view does not require it, but should not object to it. However, it is possible that the lack of an obligation means that making them at such a time makes the *Tzitzis* "ready-made" when the time of their obligation comes around. This raises the possibility of *Ta'aseh Velo Min He'asuy*. These *Tzitzis* will be ready made when the day begins.

The Poskim maintain that there is no problem with these *Tzitzis*. The terminology used does not imply that one may go ahead and tie them by night, but that if it was done they are Kosher. Furthermore, the same Posek probes the permissibility of *Tzitzis* tied on Shabbos, unintentionally. He maintains that they are even more likely to be Kosher than those tied at night. This is because Shabbos is the right time for *Tzitzis* (by day). The issue is that it is forbidden to tie knots on Shabbos,

and benefitting from the result of *Melacha* on Shabbos has its own problems. The implication is that the *Tzitzis* made by night are somewhat less permissible, possibly due to the nagging issue of *Ta'aseh Velo Min He'asuy*, which though permitted when done might not be permissible to do. Nonetheless, many Poskim are cited to permit tying them outright. Among the proofs are the fact that *Sukah* is a classic example of a Mitzvah that must be specially made. Yet, in order to fulfil the Mitzvah of *Sukah* one must build it ahead of the time of its obligation. [See *Menachos* 40a-b 43a-b, Poskim. *Tur Shulchan Aruch Orach Chaim* 17-18 *Mishbetzos Zahav* 18:1, *Aruch Hashulchan* 14:7. *Imrei Shalom* I:1 II:4.]

**(C) The time for Tefilin**

The Talmud debates whether *Tefilin* is a time-bound Mitzvah. We do not wear *Tefilin* on Shabbos or *Yomtov*. There are two reasons given by the Talmud. One view is that the terminology of the Torah teaches us that on Shabbos one does not wear them. The other view is that the *Tefilin* serve as a sign of our connection to Hashem. Shabbos and each *Yomtov* have their own signs and do not need the sign of *Tefilin*. According to the second view, though we do not wear them, it is not necessarily because of the time factor per se. It could be viewed as the time for *Tefilin*, but that it is overridden by the other sign. Night is the matter of more debate, meaning that it can not be shown definitively that the reason we do not wear *Tefilin* at night is in accordance with the view that considers it a day only Mitzvah. It seems to be due, really to the concern that one might fall asleep wearing them. While asleep, his physical functions will be considered disrespectful to the *Tefilin*. Women are exempt from time bound Mitzvos. They are also exempt from *Tefilin*, but this is not necessarily due to their being time-bound. The Torah juxtaposes the Mitzvah of *Tefilin* to Torah study, a Mitzvah which women are exempt from on other grounds. Accordingly, though we do not put them on (with a *Brocha*) until it is light enough to recognize an acquaintance, we may not conclude that it is a time-bound Mitzvah, nor that it does not apply by night. In regard to our question, we should take it into consideration. However, it seems to be less of an issue than it is with *Tzitzis* at night. [See *Eruvin* 96a *Kidushin* 35a *Menachos* 36a-b, Poskim. *Tur Sh. Ar. O.C.* 30-31, commentaries.]

**(D) The knots on the Retzuos**

The Talmud says that three letters are formed by the outside containers and straps of *Tefilin*. They make up one of the Holy Names of Hashem. The *Shel Rosh*, head *Tefilin*, has a *Shin* on its surface. At the back, where it is tied in a knot, it has

the letter *Daled*, and on the *Shel Yad*, hand Tefilin, the end of the strap attached to the box is formed as a letter *Yud*. With regard to certain laws making these knots is considered a form of writing the Tefilin. One should even try to write them in order, to form Hashem's Name.

There are different Minhagim on tying these knots. The *Daled* at the back of the *Shel Rosh* is either made as a single right angle, or a square, i.e., made up of two opposing *Daleds*. Both are considered acceptable. Our question is whether one may change the knots to another Minhag's way of tying them, by night.

The *Retzuos* are an integral part of the *Mitzvah* item of Tefilin. They must be made of leather from a kosher animal, with intent for Tefilin (a requirement that some *Poskim* do not make for the tanning of the parchment inside the Tefilin). They must be black on the outside, and according to some on the side edges as well. This is *Halacha Lemoshe Misinai*, orally transmitted directly by Hashem, equating it with Scriptural law. There is debate on how deeply black they must be, jet-black (two or three coats of paint) or blue black (one coat). The paint may not contain non-kosher ingredients, and painting must be done with intent for the *Mitzvah*. If it was not done this way, most *Poskim* invalidate the Tefilin. The *Poskim* debate whether they may be repainted with correct intent, or whether they must be sanded down to remove their blackness. The issue is, if they are already black painting them again can not be considered blackening them. One view suggests painting them red, then black, but remains doubtful about it.

They must be black at all times. If they lose their blackness in use they must be recoated. In our case, if the blackening was done by night, and was not meant to be, the same issues as blackening them with the wrong intent are raised.

There is a prevailing rumor that one may not blacken Tefilin at night. The considerations are the same as those for not tying *Tzitzis* at night. However, this author has not yet found a credible source for this idea. Furthermore, there seems to be no problem with writing Tefilin at night. The Talmud discusses writing them on *Chol Hamoed*, a time when most Jews do not wear Tefilin. Tying the knots should be no different than writing the *Parshiyos*. Accordingly, there is no reason to refrain from tying the knots at night, nor to retie them by day. So far no source has been found to forbid painting Tefilin at night. [See