

לעילוי נשמת

הר"ר חשה הגר ז"ל
ב"ר יוסף דוד ז"ל
ת.נ.צ.ב.ה.

Dedicated by our friends
DAVID & JUDY HAGER

מאורות הדף היומי

Meorot HaDaf Ha Yomi

A Weekly Letter for Learners of the Daf Ha Yomi

לעילוי נשמת

הר"ר יוסף וולף ז"ל
ב"ר ברוך מנדל הי"ד
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י"ל ע"י ביהמ"ד למגיד שיעור "דף היומי" בראשות הגר"ד קובלסקי שליט"א וע"י קרן ברכה וחסי זיסר

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מסכת עירובין צ"ה-ק"א

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- The Sages have Authority to Uproot Aspects of the Torah
- Tying a Tefillin Knot on Shabbos

- Adjusting the Straps on Borrowed Tefillin
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דף צה/ב במצות צרכות כוונה קמפליג

Mitzvos Require Intent

In this week's Daf Yomi, the Gemara discusses the well-known *machlokes* whether mitzvos require intent. That is to say, if a person performs the action of the mitzva, such as blowing shofar, without intention of doing so for the sake of the mitzva, but rather to play a tune, does he fulfill his obligation? (See Rosh Hashanah 28a). Since this question was not resolved in the Gemara or Poskim, we must fulfill both opinions. Therefore, if a person performed a mitzva without intent, he must perform it again (in accordance with the opinion that mitzvos do require intent), but he may not recite another beracha (according to the second opinion it would be a beracha levatala, since he already fulfilled the mitzva) (Shulchan Aruch O.C. 60:4, Mishna Berura s.k. 10, see Biur Halacha).

From where do we know that mitzvos require intent? The Acharonim ask according to the opinion that mitzvos do require intent, is this requirement of Torah origin or of Rabbinic origin? The Imrei Bina (O.C. 14) poses this question over the course of a teshuva, which begins with the title, "From where did our Sages derive the principle that mitzvos require intent?"

Bal tosif for two pairs of tefillin: Our own sugya would seem to be a clear proof that according to the opinion that mitzvos require intent, this is a Torah-based condition, and not merely Rabbinic. In our Gemara, R' Shimon ben Gamliel says that if a person wears two pairs of tefillin without intending to fulfill a mitzva, he does not transgress *bal tosif*, (the prohibition against performing a mitzva beyond its specified constraints). In this case, the stringency of "mitzvos require intent" produces a leniency. Since he has not fulfilled the mitzva of tefillin, he cannot be accused of performing a mitzva beyond its constraints.

Were we to assume that "mitzvos require intent" is only a Rabbinic condition, this would mean that one did fulfill his obligation according to Torah law, and therefore transgresses *bal tosif* for the second pair of tefillin. Therefore, we must conclude that "mitzvos require intent" is a Torah-based condition.

The Sages have authority to invalidate a mitzva: The Imrei Bina challenges this conclusion. He cites proofs that the Sages have authority to attach conditions or stringencies to mitzvos. They may even stipulate that when these conditions are not met, even according to Torah law the mitzvos are invalid. The Gemara refers to this authority as "the ability to uproot aspects of the Torah" (see Yevamos 89b). For example, according to Torah law one may fulfill the mitzva of eating in a sukkah, although the table he eats from is outside the sukkah. The Sages prohibited this, out of concern that a person may be drawn after his table, and come to eat outside the sukkah. Tosefos (Sukka 3a) writes that if a person transgresses this Rabbinic prohibition, he has not fulfilled a mitzva of sukkah at all, even according to Torah law. The Rabbinic stipulation can render the Torah mitzva invalid.

The same can be said of "mitzvos require intent." Even if we were to assume that this stipulation is only Rabbinic, it may still render the mitzva of tefillin invalid according to Torah law. In the case of R' Shimon ben Gamliel and the two pairs of tefillin, lack of intent would invalidate the mitzva entirely, and thus prevent the transgression of *bal tosif*.

Two kinds of Rabbinic conditions: The Sdei Chemed ("Mem" 61, s.v. *V'ra'isi*) rejects the comparison between eating from a table outside the sukkah, and performing mitzvos without intent. Although the Sages do have authority to render a mitzva invalid even according to Torah law, they did not always choose to exercise this power.

דבר העורך

Our heartfelt thanks go out to Rabbi Shruga Simmons of Kiryat Sefer, for sharing with us this story from "More Shabbos Stories" by Rabbi Shimon Finkelman (Artscroll):

The construction of an eiruv for the city of Toronto was the result of a five-year process which involved much dedication, effort, fund-raising and, clearly, great *siyata DiShmaya*. Upon researching the matter, a group of rabbonim ascertained that most of the city's perimeter was surrounded by rail lines which bordered on populated areas. By law, these lines have to be fenced off for safety, and such fences could serve as sections of the eiruv. However, a train ride around the city showed that in many areas the rail fences were breached, while in other areas there was no fence at all.

A community activist who was then head of a large engineering firm had close ties to the heads of both rail lines, Canadian National and Canadian Pacific, as well as to the Toronto municipal government. Through his efforts, Canadian National appointed the chief of its construction sector, Joe Aktman, to serve as liaison with the eiruv committee. Though Mr. Aktman was a non-observant Jew, he showed great interest in the matter and was cooperative and helpful at every juncture.

In 1992, Canadian National began

IN MEMORY OF

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construction of new fencing around their rail lines, which stretched across two thirds of the city's perimeter. The work was supervised by Mr. Aktman, who was given halachic guidance by Rav Shlomo Miller. Later, Canadian Pacific began repairs of its lines in the city's southern district. In all, the two rail companies spent more than \$300,000 dollars on the project. The Jewish community spent \$75,000 dollars for the eiruv's construction. From time to time, the city's rabbanim would tour the city's perimeter to determine which problems had been rectified, which remained and how to deal with them.

On an inspection tour in the summer of 1993, Joe Aktman related that on the previous night, his grandfather had appeared to him in a dream and had enjoined him to satisfy the community's every request regarding the eiruv. "Know," his grandfather had told him, "that this is your purpose in this world." From then on, Mr. Aktman went about his work for the eiruv with added intensity, as he strove for both speed and perfection in the fencing work that remained.

That summer, the fence repairs were completed. However, numerous other details, much of them bureaucratic, remained. By Chanukah of 5756 (1996), the eiruv was completed and ready for use. When the rabbonim of Toronto phoned Mr. Aktman's home to inform him of the wonderful news, they were shocked to learn that soon after he had completed his work regarding the eiruv, Mr. Aktman had died suddenly at age fifty. His "mission in this world," the eiruv around the city of Toronto, has certainly enhanced Shabbos observance in the city, and surely is a great source of merit for his soul.



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Sincerely,

The Meoros Staff



A distinction must be drawn between two kinds of Rabbinic conditions. The prohibition against eating from a table outside the sukka was instituted to prevent people from being drawn to eat outside their sukka. In this case, they saw it necessary to enforce their ruling, by declaring that if their condition is not met, the entire mitzva is invalid.

The enactment that mitzvos require intent, on the other hand, was not instituted to prevent people from failing to perform the mitzvos. Rather, the Sages wished to add an important element of reverence to the mitzvos, by requiring people to perform them with intent. In this case, our Sages would not find it necessary to render the entire mitzva invalid. Rather, we must return to our original conclusion, that the sugya of R' Shimon ben Gamliel and the two pairs of tefillin is indeed a proof that "mitzvos require intent" is of Torah origin.

What is the source of this condition? Having established this, we must return to the Imrei Bina's question; from where in the Torah did the Sages learn that mitzvos require intent?

The Keren Ora (introduction to Maseches Zevachim) suggests that reason alone requires us to have intention when performing the mitzvos. A mitzva performed without intent cannot properly be considered an expression of obedience to the Creator.

Other Acharonim find hints from pesukim in the Torah that mitzvos require intent: "To serve Him with all your hearts" (Devarim 10:12), "This day, Hashem your G-d commands you to perform these statutes and these laws. You must guard and perform them with all your hearts and all your soul" (Devarim 10:16).

דף צ"א וליענבינהו מיענב אמר רב חסדא זאת אומרת עניבה פסולה בתפילין

Tying a Tefillin Knot on Shabbos

It is common practice for someone to borrow another person's tefillin, when his own are temporarily unavailable. If the tefillin are tied too tight or too loose for his head, he simply loosens the knot, adjusts the straps to fit his head, and then tightens the knot again. When he returns the tefillin to their owner, he readjusts the straps to their original size. However, the Avnei Nezer brings a proof from our sugya that in order to fulfill the mitzva of "Tie them as a sign on your arm, and a totafos between your eyes" (Devarim 17:8), one must make a permanent knot. When the tefillin-knot is tied to be used only once and then untied, it is not a kosher knot, and one does not fulfill the mitzva of tefillin. The Avnei Nezer (O.C. 183) notes that this is a common mistake and "it is a mitzva to publicize the correct halacha."

Tying the tefillin-knot each day: The Avnei Nezer's ruling is based on a fundamental machlokes between Rabbeinu Eliyahu and Rabbeinu Tam, two of the authors of Tosefos. R' Eliyahu interpreted the possuk, "Tie them as a sign," to mean that one must tie the tefillin-knot each time he wears tefillin. R' Tam argues, and rules that one need only tie the knot once, and may then slip the tefillin over his arm and head (as is our practice today – see Peninim).

R' Tam cites a proof from our Gemara, wherein we discuss what to do if a person finds tefillin lying in the street in disgrace on Shabbos. Since it is forbidden to carry them without an eiruv, the only way to preserve the sanctity of the tefillin is to tie them to his arm and head, as he would during davening, and wear them home. What should a person do if he finds a new set of tefillin, whose straps have not been tied in a knot? According to R' Yehuda, one may not tie them on Shabbos, since *koisher* (tying) is one of the 39 melachos. Since it is impossible to wear them without first tying a knot, one has no choice but to leave them in their place.

As we have learned elsewhere, a temporary knot is not a violation of *meleches koisher*. If R' Eliyahu is correct that one must tie and untie the tefillin each day, then a tefillin-knot is a temporary knot, which is permitted on Shabbos. From here, R' Tam proves that one may tie the tefillin once and leave the knot in place forever. Thus, tefillin knots are permanent knots, which are forbidden on Shabbos. The Mordechai (Hagahos Mordechai, Chullin ch. 1) rejects this proof. When we say that only a permanent knot is a violation of *meleches koisher*, we mean to say that the Torah defines a knot as a permanent connection. A temporary connection is not considered a knot at all, by Torah standards. However, in the case of a tefillin, even a temporary connection, which is tied and untied every day, is still considered a knot, since the possuk explicitly states, "U'kshartem - Tie them" in reference to tefillin. In other words, the mitzva of tefillin lends significance to the temporary knot, that would otherwise remain insignificant. This is true according to R' Eliyahu's opinion.

The Avnei Nezer infers from here that according to R' Tam (whom the halacha follows) this possuk refers specifically to a permanent knot, since according to R' Tam one need only tie the knot once. Therefore, as we said above, one may not borrow tefillin, adjust the straps to fit his head, and then readjust them to return them. This would be considered a temporary knot, which according to R' Tam is not considered a knot at all.

Two explanations have been offered to counter the Avnei Nezer's claim, and justify the common practice of adjusting tefillin for temporary use. Firstly, the Avnei Nezer's argument follows the opinion of the Taz (317), who holds that permanent and temporary knots are defined by a person's intention when he tied them. However, the Biur Halacha (317:1) rules that in regard to *melechtes koisher* on Shabbos, permanent and temporary knots are not defined by a person's intention. Rather, they are defined by the type of knot: whether they are generally tied for temporary or permanent use. Thus, if he made the type of knot that is generally tied for permanent use, though his intention was to soon untie it, he is still liable.

Tefillin knots are generally tied to be left in place indefinitely. Therefore, even if one intends to soon untie it, it is still considered a permanent knot, both in regard to hilchos Shabbos, and in regard to the tefillin knot being kosher.

The second argument against the Avnei Nezer was suggested by R' Shmuel Rotte, the rav of the Belzer community in Bnei Brak. He explained that only when the tefillin knot is completely untied and then retied, can we consider it a new knot. However, the common practice is only to loosen the knot slightly in order to pull the straps to the appropriate length. The knot remains in place, and therefore it is considered a permanent knot, which is kosher for tefillin even according to R' Tam (Shevet HaLevi V, 4).

דף ק/א

Rabbeinu Tam Tefillin

Many have the custom of wearing two sets of tefillin each day, Rashi and Rabbeinu Tam. This custom is especially prevalent among Sefardim and Chassidim. The parshiyos in both tefillin are the same, the only difference being the order in which they are arranged. In Rashi tefillin, the order is "*Kadesh*," "*V'hayah ki yeviecha*," "*Shma*," and "*V'hayah im shamaoh*." In Rabbeinu Tam tefillin, the order is "*Kadesh*," "*V'hayah ki yeviecha*," "*V'hayah im shamaoh*," and "*Shma*."

The Shulchan Aruch (34:1-3) rules that the halacha follows Rashi's opinion (which is also the Rambam's opinion). However, a person who is "G-d fearing and renowned for his piety, should take R' Tam's opinion into consideration, and wear two pairs of tefillin as a *chumra*."

The Biur Halacha (ibid s.v. *Yaniach*) questions why wearing R' Tam tefillin, which according to the accepted halacha are possul, is not a violation of *bal tигра* (the prohibition against performing a mitzva beneath its specified constraints). If a person wears tefillin with only three parshiyos instead of four, not only has he failed to fulfill the mitzva of tefillin, he has transgressed a Torah prohibition of *bal tигра*. So too in the case of R' Tam tefillin where two of the parshiyos are out of place according to the accepted halacha, it is as if the tefillin only have two kosher parshiyos.

One might think to answer that *bal tигра* applies only when a kosher object is used, such as a lulav and esrog without hadasaim and aravos (see Sifri, Devarim 13:1). In the case of tefillin with parshiyos out of order, since the tefillin are entirely possul, perhaps this is not considered a mitzva at all, and one cannot apply the principle of *bal tигра*. However, we find explicitly in the Rishonim (Smag, Prohibitive Commandment 365) that tefillin with three parshiyos are a violation of *bal tигра*, even though they are also entirely possul (see Menachos 28a). The same should apply to parshiyos that are out of order.

Perhaps one might challenge the assumption that a parsha out of place is considered as if it does not exist. Since the tefillin contain all four parshiyos, there is no violation of *bal tигра*, even if they are out place. The Biur Halacha proves that this is not so. We find in our sugya that when the halacha requires a kohen to throw blood from a korban onto four places on the mizbei'ach, and he throws blood onto only three, he violates *bal tигра*. This is so, even though a korban requiring four applications of blood, which received only one, is kosher *bedieved* (Zevachim 36b). Nevertheless, since the *le'chatchilah* mitzva of four was not fulfilled, this constitutes a violation of *bal tигра*. All the more so in our case wherein the tefillin are entirely possul, *bal tигра* is transgressed. (The Biur Halacha adds parenthetically that we see from here how important it is to fulfill mitzvos properly, in their *le'chatchilah* manner, and not rely on '*bedieved*'s).

פנינים

ק/ב אנשים חכמים וידועים ואילו נבונים לא אשכח

The Wise Desire Wisdom

The Gemara tells us that Moshe Rabbeinu searched for men of wisdom (*chachomim*) and understanding (*n'vonim*), to serve as judges over *Klal Yisrael*. He was able to find men of wisdom, but he could not find men of understanding. The Chasam Sofer asks how it is possible that in Moshe's entire generation, which was known as a Generation of Knowledge, he was unable to find suitable judges.

The Chasam Sofer answers by explaining the terms *chacham* and *n'von*. A *chacham* is someone who has received wisdom from his rebbes. A *n'von* is a person who can develop the wisdom he received from his teachers, and infer original deductions. Since at the time that Moshe Rabbeinu appointed judges, the Torah had not yet been granted, there was no wisdom to develop, and no deductions to infer. Therefore, there could be no *n'vonim*. However, they were still considered *chachomim*, even though they had not yet learned anything, since they desired to learn. The desire for wisdom is true wisdom (Chasam Sofer on Shas).

ק/ב אילמלא לא ניתנה תורה היינו למידין צניעות

מחתול

The World Was Created with Wisdom

The Zohar tells us that before Hashem created the world, He first created the Torah as a design plan upon which He based His creation. He then gazed into the Torah, and from the wisdom imbedded therein, He created the world. For this reason, the holiness of the Torah is to be found in all creation. The wise are able to learn Torah from everything that exists, as we found in our Gemara, "If the Torah had not been granted to Israel, we would have learned modesty from the cat, [abstention from] theft from the ant," and so on.

We can therefore understand how Avraham Avinu fulfilled the mitzvos of the Torah, before the Torah was even given (Yoma 28b). He looked deeply into the world around him, and thereby perceived the mitzvos of the Torah. With this, R' Simcha Bunim of Pshycha explained the *possuk*, "How abundant are Your works, Hashem, the world is full with Your possessions." By contemplating Hashem's wondrous abundant creations, one can come to possess a knowledge of His greatness (Pri Tzaddik on Rosh Chodesh Elul).



ק / ב וגזל מנמלה

Thievery from the Ant

If the Torah had not been granted to Israel, we would have learned from the ants how to abstain from theft. The Midrash Rabbah (Devarim 5, s.v. *Lech el nemala*) says in the name of R' Shimon ben Chalafta that once he saw an ant drop a grain of wheat, and the other ants would climb over it, smell the odor of the first ant, and leave the grain in its place. Later, the first ant returned to claim its wheat. Although the ants have no judges nor police to rule over them, they are naturally inclined to avoid theft. As Shlomo HaMelech said, "Go to the ant, o lazy one. See its ways and become wise. It has no officer, police or lord," (Mishlei 6:6-7) yet it shuns theft nonetheless.

קא/א טובם כחדק

Like a Fence of Thorns

In our Gemara, we find that an apostate affronted R' Yehoshua ben Chanania, by comparing the righteous to undesirable thorns, as the *possuk* says, "Their goodness is like thorns." R' Yehoshua responded with the continuation of the *possuk*, in which the righteous are praised as being, "Straighter than a fence" (Micha 7:4). The Ben Ish Chai explains that the tzaddikim protect the Jewish people like a fence of thorns protects a vineyard. To the vineyard and its owner, the fence is a necessary protection. To the thieves and wild animals who would destroy the vineyard, the fence is an undesirable nuisance. So too, Hashem and the Jewish people cherish the tzaddikim, for defending Israel from the yetzer hora. The wicked, however, despise the righteous for hindering them from their destructive goals (Ben Yehoyada).

For all these reasons, the Mishna Berura (s.k. 13) suggests that one should wear R' Tam tefillin bearing in mind the condition that if R' Tam is correct, the tefillin-wrapping should be considered a mitzva. However, if R' Tam is incorrect, he does not intend to do a mitzva, and therefore does not transgress *bal tigma*.

If one wears R' Tam tefillin without any particular intention, either to perform a mitzva or not to do so, he still transgresses *bal tigma*. We find in the Gemara that *bal tosif* does not require intent (Rosh Hashana 27b). The same is true of *bal tigma*. One must have specific intent not to fulfill a mitzva, as we explained above, in order to prevent *bal tigma*.

דף קב/ב

May one wear a hat on Shabbos?

One of the thirty-nine melachos of Shabbos is *boneh* (building). Building a permanent structure constitutes an *av melacha*. Creating a tent, canopy or other covering is a *tolda* of that *av*, entitled *ohel*. According to Torah law one violates *ohel* when he creates a firmly fastened tent. A flimsy *ohel* is forbidden only by Rabbinic law.

Our Gemara cites a contradiction between two teachings, whether it is permitted to wear a felt hat on Shabbos. The Gemara reconciles the contradiction by explaining that when the hat's brim is wider than a *tefach*, this is considered an *ohel* and is forbidden. When it is narrower than a *tefach* it is not an *ohel*. The Gemara asks that if a *tefach* of hat-brim is considered an *ohel*, one should be forbidden to pull his tallis a *tefach* over his face. To this the Gemara answers with the words, "Here it is firm, and there it is not." The Rishonim offer various explanations to this answer, with significant practical differences between the answers.

Rashi (s.v. *Ela*) explains that the Gemara does not mean to distinguish between a tallis and a hat. Rather, the Gemara returns to the original distinction between a wide hat and a narrow hat, and refutes that distinction. The teaching that permitted wearing a felt hat referred to a firmly attached, tight fitting hat, which will not blow off in the wind. The teaching that forbade wearing a hat referred to a loose fitting hat, which might blow off. One might then come to carry the hat in a *reshus harabim*. The discussion is therefore relevant to *hotza'a* (carrying) and has nothing to do with *ohel*.

The Rambam and R' Chananel argue, and explain that the Gemara continues with the discussion of *ohel*. The firm, felt brim of a hat is considered an *ohel*, whereas the shapeless, hanging cloth of a tallis is not.

According to Rashi, it is forbidden to wear a loose fitting hat in the *reshus harabim*, even if it has a narrow brim. However, there is never any prohibition against wearing a hat at home, no matter what its shape, since there is no question that one might come to carry. According to the Rambam, the only prohibition is against wearing a wide brimmed hat, since this is considered an *ohel*. It is equally forbidden to wear the hat inside one's house, since this too is considered creating an *ohel*. In practice, the Shulchan Aruch (O.C. 301:40-41) accepts both opinions, and the stringencies attached to each one. Therefore, one may only wear a hat in the street if it is narrow brimmed, and firmly attached. Furthermore, it is forbidden to wear a wide hat even in the home.

The question must therefore be asked how we justify the prevalent custom to wear wide hats on Shabbos, which do tend to be blown off in the wind, thus violating both opinions. The Poskim explain based on the Rif (Shabbos 138b) and other Rishonim, who write that it is only considered *ohel* if one wears the hat to protect himself from the sun. However, if he wears the hat simply to cover his head, and not to shield his body with its brim, this is not considered an *ohel* (see Biur Halacha, ibid). The Magen Avraham (s.k. 51) suggests that if one's hat is hard-brimmed, he should wear it at an angle, in order that it not be considered a roof-like *ohel*.

This explains why we do not violate the Rambam's opinions by wearing our hats. How do we justify ourselves according to Rashi? Our hats do tend to be blown off in the wind? Some explain that Rashi referred to hats that were worn to protect people from the sun. If such a hat were to be blown off, one would have no qualms against carrying it in the street. However, we wear our hats in order to fulfill the Jewish custom of not walking four steps with our heads uncovered. Therefore, when one's hat is blown off in the wind, one would immediately place it back on his head, and not walk with it in his hand (Mishna Berura s.k. 153). However, the Mishna Berura stipulates that if one wears a yarmulke under his hat, this reasoning does not apply. For this reason, many have the custom not to wear a yarmulke under their hat, when walking in the *reshus harabim* where there is no *eiruv*.

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