YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Contemporary Halakha**

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**Shiur #03: *Hanachat Ha-tefillin* – Donning the *Tefillin***

 In previous *shiurim*, we introduced the mitzvah of *tefillin*, exploring its reasons and whether the donning the two phylacteries is one mitzva or two separate *mitzvot*. We also discussed times when *tefillin* are not worn (night, Shabbat, Yom Tov), whether one must wear tefillin on *Chol Ha-moed*, and whether the *tefillin* should be worn for the entire day.

 This week, we will begin our discussion of the *hanachat tefillin*, i.e., the way the *tefillin* are to be worn.

***Tallit* and *Tefillin* – Which is First?**

For those men who wear a *tallit* during Shacharit, which should be put on first, the *tallit* or the *tefillin*? The Mishna (*Horiyot* 3:6) teaches:

Any mitzva that is more frequent than another mitzva precedes that other mitzva if the opportunity to fulfill one of them coincides with an opportunity to fulfill the other. And anyone who is more sanctified than another precedes that other person.

The Mishna mentions two characteristics which may determine precedence: *tedirut* (frequency) and *kedusha* (sanctity). In our case, we have a clash between these two characteristics: while the *tallit* is worn more frequently (Shabbat, Yom Tov, etc.), the *tefillin* certainly has greater sanctity. In other context, regarding the order of the daily sacrifice (*korban tamid*) and the *mussaf* of Shabbat and Yom Tov, the Gemara (*Menachot* 49b) concludes that when faced which a choice between a mitzva which is performed more frequently (*tadir*) and another which is more sanctified (*mekudash*), one may choose either of the *mitzvot* to perform first.

The *Nemukei Yosef* (*Hilkhot Tzitzit* 12) rules that the *tallit* should be worn first, as the mitzva of *tzitzit* is equivalent to all the other *mitzvot* (*Menachot* 43b). Furthermore, the mitzva of *tzitzit* is “*tadir*,” i.e., it is performed more frequently as the *tallit* is worn on both Shabbat and Yom Tov.

 The *Shulchan Arukh* (OC 25:1) rules the same way but offers another reason. He explains that the *tefillin* should be put on after the *tallit* due to the principle: “One elevates in sanctity and does not descend (*ma’alin be-kodesh ve-ein moridin*).” The *Levush* (ibid.) adds that *tzitzit* precede *tefillin* as they are meant to be worn immediately upon rising and getting dressed. He notes, however, that some still insist on donning the *tefillin* first, as they have a greater level of sanctity.

 Some *Acharonim* (see *Dagul Merevava* OC 25 and *Sha’agat Aryeh* 28) question the ruling of the *Shulchan Arukh*. Indeed, the *Levush* rules that one should first put on the *tefillin*, and the *Sha’agat Aryeh* rules that one may choose which to wear first! The *Arukh Ha-shulchan* (OC 25:1) defends the *Shulchan Arukh*, and explains that although the Gemara cited above (*Menachot* 49b) implies that one may choose which mitzva to perform first, it is appropriate in our case to wear the *tzitzit* first and then further sanctify oneself (*ma’alin bekodesh*) by donning the *tefillin*.

 The *Shulchan Arukh* (25:2) adds that one who puts on his *tallit katan* upon rising, thus fulfilling the mitzva of *tzitzit* first, should then don his *tefillin*, and only afterwards put on the *tallit gadol*. The Rema notes that the custom is to wear the *tallit gadol* first in any case. The *Arukh Ha-shulchan* (25:2) explains that this debate is based upon the *Zohar* (*Va-etchanan* 265), which emphasizes the merits of wearing one’s *tallit* and *tefillin* before entering the synagogue. He explains that the *Shulchan Arukh* reflects a reality in which it was not customary to wear the *tallit*, publicly, to shul, and therefore wearing the *tallit* *katan* sufficed. In the Rema’s time, however, one could wear both one’s *tallit* and *tefillin* to shul, and therefore it was preferable to put on one’s *tallit* before his *tefillin*, at home. The *Arukh Ha-shulchan* concludes that since nowadays, due to our great sins, we are unable to walk to shul in our *tallit* or our *tefillin*, therefore it is customary to put on both at shul.

 It is customary to keep the *tallit* and *tefillin* in the same bag. The *Shulchan Arukh* (25:1) writes that one should be careful to place not to place the *tefillin* on the top of the bag, such that one touches the *tallit* before the *tefillin*. He explains that due to the principle of “*ein ma’avirin al ha-mitzvot*” (one may not bypass one mitzva in order to perform another mitzva), if one were to touch his *tefillin* first, he would have to don the *tefillin* first. The Ari *z”l* (*Sha’ar Ha-kavanot Derush* 2) argues, based upon mystical reasons (“*sod*”), that the *tallit* should always be worn before the *tefillin*.

This principle is found in the Talmud (*Yoma* 33a). Rashi (*s.v. ein ma’avirin*) cites a well-known *Mekhilta* (12:17) which states:

“And you shall watch over the *matzot*" – R. Yoshiya says: Read it not, "And you shall watch over the *matzot*," but, "And you shall watch over the *mitzvot*." Just as *matzot* are not permitted to become *chametz* (i.e., to sour), so a mitzva should not be permitted to become *chametz*; rather, if the opportunity of a mitzva presents itself to you, perform it immediately.

These sources indicate that when one happens upon a mitzva, it should not be delayed.

The *Magen Avraham* (OC 25, *s.k*. 1) rules that this principle only applies if one touches the *tefillin* first. However, if he first touches the **bag** which hold the *tefillin*, he can still put on the *tallit* before the *tefillin*. The *Be’ur Halakha* (OC 25 *s.v. shelo*) argues that numerous *Acharonim* (Levish, Bach, Taz) disagree, and therefore, although the *Shulchan Arukh Ha-Rav* (25:2-3) rules in accordance with the *Magen Avraham*, he insists that in even in this case one should first put on his *tefillin*. The Arukh Ha-shulchan (25:3) concurs.

The *Be’ur Halakha* (25) notes that one who is in shul, in front of other people, may be embarrassed to put his *tefillin* on before his *tallit*. He writes that since some *Acharonim* explain the principle of “*ein* *ma’avirin*” is a biblical rule (*mi-de’oraita*), therefore we do not take his potential embarrassment into account.

However, the *Yalkut Yosef* (*Hilkhot Tefillin* 25:28) rules that the principle of “*ein ma’avirin*” is Rabbinic, and he therefore invokes the principle of “*kavod ha-briot*” (human dignity), which sets aside Rabbinic prohibitions, applies. He writes that one who touches his *tefillin* before his *tallit* “should distract himself from the *tefillin*, read the *parshiot* of the *korbanot*, and some time later, put on his *tallit*, and then the *tefillin*.”

**The Order of the *Tefillin shel Rosh* and *Tefillin shel Yad***

The Talmud (*Menachot* 36a) teaches that the *tefillin shel yad* should be donned before the *tefillin shel rosh*, based on the order in which the *tefillin* are mentioned in the verse:

It is further taught: When one dons phylacteries, he first dons the phylacteries of the arm and afterward dons the phylacteries of the head. And when he removes his phylacteries, he first removes the phylacteries of the head and afterward removes the phylacteries of the arm. The Gemara asks: Granted, the ruling that when one dons phylacteries, he first dons the phylacteries of the arm and afterward dons the phylacteries of the head, is understood, as it is first written: “And you shall bind them for a sign upon your arm,” and then it is written: “And they shall be for frontlets between your eyes” (*Devarim* 6:8).

 The *Shulchan Arukh* (OC 25:6) rules that despite what we learned above regarding one who touches his *tefillin* before his *tallit*, one who touches the *tefillin shel rosh* before the *tefillin shel yad* should set aside the *tefillin shel rosh* and put on his *tefillin* in the order described above. (In the *Beit Yosef* (25), he cites the *Nemukei Yosef*, who disagrees.)

 What if one accidently put on the *tefillin shel rosh* first? The *Abudraham* (*Hilkhot Betzi’at Hapat* 317) rules that he should remove his *tefillin*, then put on the *tefillin shel* *yad* followed by the *tefillin shel rosh*. The *Taz* (OC 684:4) disagrees. The *Beur Halakha* (ibid. *s.v. aga*) rules in accordance with the *Taz*.

 Next week we will continue our discussion of the *hanachat tefillin*.