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## חציצה בהנחת תפילין הרב שבי איינשטטר

Parshas Tetzaveh, as we all know, discusses the bidgei kehunah. There is one din in Hilchos Bidgei Kehunah which is practical to all men over the age of bar mitzvah. This is the halacha, brought by the Rambam in יהלכות כלי המקדש י, ז that the Kohen must be careful not have any dust, or even a single louse, or even any wind blowing between his skin and his begodim while performing his avodah. This is part of hilchos chatzitzah mentioned in the previous halocho by the Rambam, where he quotes the posuk which says "יעל בשרו...ולבשם" (ויקרא טו, ד), which teaches that there can be no separation between the *begodim* and his skin.

The Chida, one of the foremost poskim on this inyan, learns from here the halachos of chatzitzah regarding hanochas tefilin. We can see how particular we are in this regard, to not have any separation at all by the bidgei kehunah. Even one hair, one thread, or a little bit of dust would be an issue.

The :גמי סוכה דף גמי and in many other places, states a *halacha* that only something which is רובו ומקפיד can be a *chatzizah*. If it is minor or if the person does not mind (he does not want to remove it), then it is not a chatzitzah m'de'oraisa. How, then, can the din by bidgei kehuna be that even one hair is a chatzitzah!

We will share three possible answers to this question:

The first answer is from the גולות עליות, one of the main *seforim* on *Mikvaos*, who was a *talmid* of R. Shneur Zalman- the שלחן ערוך הרב. The Steipler Gaon quotes him in טהרות סיי נח, that there is a big yesod in hilchos chatzitzah: We only say a chatzitzah is ok if it is attached to the guf. We can then say that it is tafel and batel to the guf. Therefore, if it is only a מיעוט we can say that it is batel. However, if it is loose then even the smallest size *chatzitzah* is an issue. Based on this, we can explain that all the items listed by the Rambam are not davuk to the body. We should note, however, that according to this peshat dirt could be ok if it was indeed davuk and still only a מיעוט.

We don't find any of these *denim* by *hilchos tevila*. The reason for this is simply because the *gemara* says the water will travel beneath anything which is not attached to the body. In our *inyan*, bidgei kahuna, we are dealing with anything lying on the skin so it is altogether a different *geder* of *chatzitzah*.

The second answer is from the Chida himself, in שלחן ערוך סימן כא. He says that the words "יעל בשרוי. denote a special *chumra* by *bidgei kehuna* that anything on the skin causes a *chatzitzah*. By *tevila*, on the other hand, the language is simply "במים" and one can still say that the person is submerged in the water even if there is a *chatzitzah*.

Our third answer is from אויית פני אריה סיי ש where he says a *yesod gadol*. In מסי ערובין דף ד: , there is a אחלוקת רשייי-תוספות: When the gemara says that chatzitzah is only when it is רובו ומקפיד, these are the two requirements. Rashi explains that this "leeway," so to speak, is limited to one's hair. However, the rest of the guf cannot have even a מקטי chatzitzah, i.e. even if he is not מקפיד. Tosafos disagrees because they maintain the *gemara* does not sound like it differentiates between the hair and the body, and bring proofs to that affect. Rather, they hold that the רובו ומקפיד rule applies to all tevilos- hair, body, and even keilim.

The Pnei Aryeh explains this *machlokes*. He says there is a סברא חיצונה by *chatzitzah*, even before any derasha or limmud, and that סברא is that any chatzitzah is an issue. Then, the gemara shares a הלכה למשה מסיני that we are meikel by chatzitzah to only be when it is רובו ומקפיד. The מחלוקת רשייי-תוספות is where, or to what extent, does this הלכה למשה מסיני pertain? Rashi holds it was said on the hair and the guf follows the סברא חיצונה, whereas Tosafos holds that it wasn't limited to anything. The Pnei Aryeh says that this machlokes is only by tevila. However, by any other parsha of chatzitzah, everyone agrees that we follow the סברא חיצונה any size separation is a *chatzitzah*.

It would seem the Vilna Gaon had already said this in סיי תרנא סעיף זי. The Rema states that when one shakes the arba minim, he must remove any rings from his fingers (man or woman). We could ask our original question- isn't the ring only a מיעוט שאינו מקפיד: Why are we calling it a *chatzitzah?* The Vilna Gaon answers that we see many cases where מיעוט שאינו מקפיד is still a chatzitzah, such as bidgei kehuna. He quotes the din of even one hair or one miniscule piece of dirt being a *chatzitzah*. It seems that the Vilna Gaon holds like the Pnei Arych that the סברא חיצונה applies uniformly by *chatzitzah*, unless the Torah says הלכה למשה מסיניa to supersede it, i.e. by *hilchos tevila*.

Based on all of this, let us move over to hilchos tefilin.

The first point to make is that there is a big *machlokes Rishonim* whether *hilchos chatzitzah* applies to *hanochas tefilin* at all. The Rashba holds that there is no *inyan* of *chatzitzah* at all in *hilchos tefilin*, and even a full separation between the *tefilin* and one's head or arm is not an issue. The Rosh, on the other hand, argues and says the words (יוֹחִיה לאות על ידְדִיי (שמות יג, טז) denote that one cannot have a *chatzitzah*. The Shulchan Aruch *paskens* in יוֹחִים סיי כז סעיף די that we must be *makpid* for the Rosh. However, in the next *sif* he writes that if someone, *chas v'shalom*, has severe wounds and cannot wear his *tefilin* without a *chatzitzah*-he should still do so in order to *yotzei* according to the Rashba. However, the Mishna Berura adds that he does not make a *beracha* in such a case because *rov poskim* hold like the Rosh.

What constitutes chatzitzah by hilchos tefilin?

The Chida, mentioned briefly by the Shaarei Teshuva in אות הי, says that based on his own *peshat* by bidgei kehuna that we are machmir because of the words "יעל בשרוי, we would say likewise by tefilin because of the words "יעל ידך". Therefore, all the chumros of chatzitzah by bigdei kehuna carry over to tefilin as well.

If we go according to the גולות עליות, that all unattached items are an issue no matter their size, then the same would apply to *tefilin*. However, if one had a מיעוט שאינו מקפיד which was stuck onto either the bottom of the *tefilin* or one's arm or head, it would not be a *chatzitzah*.

The Vilna Gaon would be *machmir* like the Chida and tell us that any and every separation would be an issue of *chatzitzah* because we don't have a הלכה למשה מסיני to take us away from the סברא חיצונה.

One practical case is when someone takes a haircut. What if he still had one cut hair left on his head the next time he put on *tefilin*? We would say that according to all three *shitos* it is a *chatzitzah* issue. However, if something was stuck on his hair, then the גולות עליות would say that is not a *chatzitzah*.

I was once asked a good question: If this is true, then why do the Mishna Berura, Kitzur Shulchan Aruch, and Chayei Adam never mention this or warn us about it if it is seemingly a big problem by *hanochas tefilin*? The truth is I don't know the answer, but I will mention that there are two *Acharonim* who are *meikel*.

The Tehila L'Dovid offers a sevara that tefilin cannot be as machmir as bigdei kehuna. He reasons that the Rambam includes air as one of the chatzitzos by bigdei kehuna. We cannot say that this applies equally to tefilin because we all have rounded heads and arms on which precludes our rectangular tefilin from sitting perfectly flush. However, I would respond to this by pointing to the Rambam where he explains the chatzitzah of avir. Rambam qualifies that the wind should not pass between the begodim and his skin to the extent that it is "מתרחק הבגד מעליו". That lashon seems to indicate that the begodim need not be airtight, rather they cannot billow with the wind. If so, then by tefilin we would view them as sitting on the body without any air pulling them away from it.

The יי<u>על</u> בשרוית קרן לדוד סיי יי offers another good point. He says even if we go with the Chida that יי<u>על</u> בשרויי tells us to be extra *machmir* by *bigdei kehuna*, we can limit that to only *bigdei kehuna*. The reason is because those words are entirely extra. The Torah could have written only "ולבשם" to tell us that the Kohen wears his begodim, which means that "י<u>על</u> בשרוי" is teaching us this *chumra* of *chatzitzah*. However, by *tefilin* the words "יעל ידך" are necessary to simply tells us where we put our *tefilin* at all. Even though it is the same expression, maybe we only say the *chumra* when the expression is seemingly extraneous.

The Oneg Yom Tov wants to bring a ראירה to this from a question on hilchos chalitzah. The Torah says, "וחלצה נעלו מעל רגלוי", and the Be'ur haGr"a writes in Hilchos Chalitzah that we only say it is a chumra b'alma to not have any chatzitzah. We see from this that even when the Torah employs the word "מעל", it does not necessarily mean that one cannot have a chatzitzah. Others respond that this is not a האיה because that scenario is an action- taking off his shoe from upon his foot. The action of removing a shoe will always be judged as removal from his foot regardless of a chatzitzah being present. This is because purpose of the action is to have his foot made bare, to which chatzitzah bears no consequence. That is why chatzitzah is not an issue. However, bigdei kehuna and tefilin are examples of the Torah describing passive scenarios, telling us where and how each item is supposed to lay, in which case we would be medayek in the lashon and say the chumros of chatzitzah.

Even though we brought *poskim* who are *meikel*, it is definitely *kedai* to be *medakdek* not to have any *chatzitzah* at all beneath his *tefilin* to his head and arm as this is a מצות עשה מדאורייתא.

We should be zoche to be mekayem this great mitzvah of Tefilin and be zoche to all the berachos mentioned by חז"ל (see משנה ברורה סיי לז סק"א) which come to those who wear Tefilin, k'din.