

## **VA'ETHANAN 2 - THE ORDER OF THE TEFILLIN PASSAGES**

There are four passages in the Torah that explicitly make reference to Tefillin. Two passages in Sefer Shemot - contain a verse that indicates that these words of Torah shall be a sign on the arm and a reminder or frontlets in the center of the head. 1 Two passages in Sefer Devarim - contain a verse that details the actual obligation to bind these words in the form of Tefillin to one's arm and to one's head. 2 These four biblical references serve as both a mandate and the content of the Tefillin passages. The four passages should be written on four slips of parchment and inserted into the four compartments of the Tefillin Shel Rosh - It is from a Beraita taught in the Bet Midrash of R. Hiyya that we are introduced to a Tannaic requirement of order to the passages inserted into the compartments. Tanu Rabbanan - Kesad Sidran? Qadesh Li Vehaya Ki Yeviakha Miyamin; Shema Vehaya Im Shamo'a Misemaul. 3 What is the order that the parchments are to be inserted into the four compartments? The passages from Shemot are to be inserted from the right. The passages from Devarim - namely the portion of Shema from our Parasha and Vehaya Im Shamo'a are to be inserted from the left. The Talmudic narrative continues - with a parallel Beraita introduced with the expression - "It was stated the opposite" - Vehatanya Iphkha. 4 We are not privy to the exact text of this Beraita. We are only advised that the order is the "opposite" of what was stated above in the school of R. Hiyya. Why do these Beraitot appear so cryptic? What are the expressions from the right and from the left? When the second Beraita claims the order to be the opposite; is the reference to the second part of the Beraita or is to be taken to the Beraita as a whole? What was the order at the time? The severity of a disruption in the passage order is found in a teaching in the name of Rav in the Southern Babylonian academy of Sura in the early 3rd century CE that appears to categorically invalidate any change of position of the passages from their prescribed compartments - Hehelif Parshioteha Pessulot. 5 We are privy to a discussion that took place a century later concerning the order of the four Parashiot on the bank of the Euphrates between the students of Pumbedita and their Rosh Yeshiva Abaye - during the first half of the fourth century. Abaye offers a ten word resolution to the apparently conflicting Beraitot. Lo Qashya - Kan Mimino Shel Qoreh, Kan Mimino Shel Maniah. 6 Abaye reconciles the two traditions by claiming that the first Beraita's wording "from the right" is a reference to the direction from the perspective of the reader while the apparent contradicting Beraita is referencing the order from the perspective of the wearer. True - Abaye's response might have been clear to his students and to the generations that followed. However, beginning a little more than a half a millenium later there emerged dissent in its interpretation which has provided us the numerous folios of this discussion on this topic in Rabbinic literature. As a result, what has emerged are two major views and a composite approach as to the correct order of the Parashiot as expressed in competing interpretations of this Talmudic source.

### **THE FIRST OF THE MAJOR OPINIONS - PASSAGES ARE PLACED IN SCRIPTURAL ORDER**

The first is known as Kesidran - according to the biblical order - It is also named after its most famous proponent Rashi. The four passages are placed in the order they appear in the Torah, in a manner that one facing a wearer can read them from right to left - Qadesh Li, Vehaya Ki Yeviakha, then Shema and finally Vehaya Im Shamo'a. Hence, if the passages were theoretically exposed he would read them all the way across from right to left in the order they appear in the Torah. When the second Beraita comes to teach a tradition that the passages should be placed "opposite" of what was taught in the initial Beraita - the intention is to teach the correct placement from the perspective of the wearer himself. Namely Qadesh Li and Vehaya Ki Yeviakha from the left of the wearer and continue with Shema so that the passage to his extreme right would be Vehaya Im Shamo'a. 7 - Earlier sources for this order include the Tannaic Midrash the Mekhilta, 8 it is also mentioned in at least two isolated places in the Zohar 9 and in the minor tractate Masekhet Tefillin. 10 We also know of its approval in at least one Geonic source 11 as well as in the works of numerous early authorities 12 including that of the Rambam who after leaving the west (Spain and Morocco) for the east (Egypt) espoused this scriptural order. 13

### **THE SECOND OF THE MAJOR OPINIONS - PASSAGES BEGINNING VEHAYA ARE TO BE PLACED IN THE INNER COMPARTMENTS**

The second is known as Havayot Be'ems'a - literally the passages beginning with the word Vehaya - are to be placed in the inner compartments. It is named after the orders most famous proponent Rabbenu Tam.- The passages beginning with Vehaya are placed in the center adjoining one another, in a manner that one facing a wearer can see them as follows Qadesh Li, Vehaya Ki Yeviakha and then Vehaya Im Shamo'a and finally Shema. - Accordingly the initial Beraita is also a ruling from the perspective of the reader. However it considers the peculiarity of the noted division of the four passages as being "two to the right" and "two to the left". So looking from right to left he would see the two passages in order from Shemot - Looking from left to right he would see the two passages in order from Devarim. The second Beraita which teaches the opposite - is with the intention to teach the correct placement from the perspective of the wearer. Namely Qadesh Li and Vehaya Ki Yeviakha from his left and Shema and Vehaya Im Shamo'a from his right. This would result in the passages beginning with Vehaya being placed in the inner compartments. 14 Earlier sources for this order include the Yerushalmi, Tikune Zohar Hadash and printed editions of Tikune HaZohar. 15 Some consider this order to be the one shared by the Geonim as it includes amongst its adherents - R. Saadya, R. Sherira, R. Hananel, R. Yom Tov Elem and Sefer Hakanah. 16 We also know of numerous early authorities including the early authorities of the west (Spain) as testified by the Rambam who also originally wore Tefillin of this order. 17

### **AN APPROACH TO THE CONFLICT - RULING OF MARAN**

Some of the later French-German Tosafists of the 13th century remained indecisive and hence adopted a novel approach in insuring they fulfill the religious requirement to don Tefillin. They were concerned that the proponents of each order invalidated the sequence of the other. They would don both pairs simultaneously or in immediate succession with the proviso that only one is legally valid. 18

Later in 15th century Germany the Maharil recognized that a new reality had evolved with the popular acceptance of the order of Rashi. He therefore opined that the previous pious act to try and take into consideration both views should be severely limited to those exhibiting sincere piety. 19 Maran in his mid 16th century Shulkhan Arukh recognizes that the custom adopted by the populace has been the scriptural biblical order according to Rashi. In Se'if Bet he rules in an authoritative form of Setam Halakha - that those who fear heaven adopt the stringency of the French-German Tosafists. He then continues in an apparent inferior halakhic standing to cite a position in the form of a Yesh Omrim - the ruling of the Maharil giving preference to the order of Rashi and allowing only those exhibiting piety to don Tefillin in the order of R. Tam after prayer. 20 We have explained these rulings of Maran according to the Ture Zahav which gives preference to the initial ruling as opposed to the Magen Avraham who views the latter two rulings as a composite. 21

#### **A COMPOSITE OPINION - THE RULING OF R. HA'ARI**

There is a third composite view popularly espoused by R. HaAri that both the orders of Kesidran and Havayot Be'emsas have Halakhic validity. 22 A review of the sources noted above indicates that prior to and likely during fourth century Babel both orders were extant amongst the Jews. Archeological and historical evidence from Nahardea and Yerushalayim 23 the caves of Qumran and the discovery at Murubba'at (Bar Kochba) 24 would lead us to conclude that both pairs were in use concurrently prior and during the Talmudic era. If they were both in use then each Beraita mentioned must be considered to reflect one of two acceptable opinions. This view which is also based on non Talmudic sources finds a reference in the Talmud Yesh Maqom Barosh Lehaniah Bo Shete' Tefillin. There is a place on the head to wear two Tefillin. 25 A premise here is that the reference cannot be merely discussing the physical ability to properly wear two Tefillin on one's head. For the Halakha states Orakh Verohav Vegovhan HaBatim En Lo Shiur - that the housings are not restricted as to a minimum dimension. 26 Hence the Talmud could easily have stated that there is a place on the head to place three sets - but specifically writes two sets. Apparently the two respective Beraitot reflect ancient traditions and the medieval exegesis is a product of both of them. A review of the writings from R. Hayyim Vital in the name of his teacher indicates that there is a special Tiqun (Keli Penimi) that is associated with wearing both pairs simultaneously prior/during Shaharit and under no circumstances should one consider one of these orders invalid or legally insignificant. 27 Apparently according to this view the Misva to don Tefillin can be fulfilled with either pair and the requirement to don both simultaneously are to assist in the general Tiqun attained by the prayer of Shaharit. 28 Furthermore it was the practice of R. HaAri to initially wear the Tefillin of Havayot Ba'emsas in order to effectuate the general Tiqun attained by the prayer of Minha. Though he later had Tefillin made for this purpose in accordance with the order of Kesidran but with the size espoused by the Geonic work called Shimusha Rabbah. 29 Furthermore there is no requirement for a wearer of two pairs simultaneously during Shaharit to be one who exhibits extreme piety. Earlier sources for this view include the Zohar in Parashat Pinhas which mentions both orders - while the Zohar and Tiquene' Zohar Hadash mention that both have halakhic validity and both are necessary to fulfill a certain Tiqun. 30

#### **HOW DO WE RULE**

What has emerged as outgrowths of the Rulings of Maran and R. HaAri are basically four opinions on the matter amongst the latter authorities. The Lithuanian Ashkenazim generally do not wear Tefillin according to R. Tam - 31 However some of their pious ones have begun to do so beginning in the 20th century in accordance with the Maharil. 32 With the exception of a few Admorim who don both pairs simultaneously during Shaharit - the custom amongst the Hasidim is to put on R. Tam after the prayer. 33 Their divergence from the practice of R. HaAri was possibly due to a misunderstanding or misprint in the commentary Ateret Zeqenim and in some earlier printed Ashkenaz Siddurim leading to an erroneous perception of an earlier source. 34 They do however consider both orders to have halakhic validity. Hakham Ovadya maintains that one of the two orders is invalid - but one no longer needs to be known to be pious to don both pairs. Though one can wear both pairs simultaneously - he preferred for practical reasons that the Tefillin of the order of R. Tam be donned after the Amida as is the custom of the Hasidim. 35 The vast majority of Sephardic scholars from the 17th century through 1950 adopted the ruling of R. HaAri - These include Harav Hida, 36 R. Hayyim Palachi, R. Yosef Hayyim and R. Yaakov Sofer. A rationale cited by the authorities to ignore the opinion of Maran in deference of R. HaAri is based on his own halakhic approach to follow the view of the Zohar when the Talmudic view lacks any clarity. Maran cites his ruling in his Bet Yosef - Me'ahar Shelo Nizkar Zeh BeTalmud Behedya - Since the matter does not appear resolved in the Talmud - Lo Shavqinan Divre' HaZohar Mipene' Divre' HaPosqim - We do not distance the ruling of the Zohar in favor of the decisions of the early authorities. 37 He actualizes this ruling throughout his Halakhic commentary on the Tur. 38 Apparently the ruling of the Zohar Hadash evaded him - that both orders are valid and are necessary 39 in completing the Tiqun related to the Shaharit Tefilah.

#### **Shabbat Shalom**

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