Interpreting the Talmud

The Talmud (*Menahot* 34b) states: "In what order [are the passages of *tefillin shel rosh* positioned]? *Kadesh* and *vehaya ki yevi'akha* on the right side, and *Shema* and *vehaya im shamowa* on the left side." Another *baraita*, however, states the exact opposite! Abaye reconciled this, explaining that one *baraita* describes the order from the perspective of a person looking across at the tefillin, and the other one describes the order from the perspective of the person wearing the tefillin.

"Rav Hanan'el cited Rav ruling that if someone inserts the passages into the *bayit* in the incorrect order, the tefillin are not kosher."

Rashi explained that the Talmud's list of the four passages is to be taken literally, and the four passages must be positioned according to the order they appear in the Torah. Therefore, the passage of *kadesh* must be positioned on the left end from the perspective of the person looking at them, which is the right side of the person wearing them. This is followed by the three passages of *vehaya ki yevi'akha*, *Shema*, and *vehaya im shamowa*, in that order.

Rabbenu Tam, cited in Tosafot, challenged Rashi: What is the significance of dividing the passages into pairs, saying, "These two are on the right side and these two are on the left side"? The *baraita* could just as well said, "This passage is on the right end and all the others are to the left of it."

Therefore, Rabbenu Tam interpreted the *baraita* as follows: "*Kadesh* is on the right end [from the observer's perspective], followed by *vehaya ki yevi'akha*, while *Shema* is on the left end with *vehaya im shamowa* to the right of it." Both Rabbenu Hanan'el and Rav Hai Ga'on concurred with Rabbenu Tam's interpretation. The *Bet Yosef* cited both opinions.

The *Mekhilta* and the Talmud Yerushalmi

It is likely that this debate, although we attribute it to Rashi and Rabbenu Tam, is actually a debate between the *Amora'im*, authors of the Talmud. The *Mekhilta* (at the conclusion of *parashat Bo*) lists the four passages in the same order as Rashi did. The Talmud Yerushalmi on *Kodshim*, according to the testimony of Harav Avraham ben David in his commentary to *Sefer Yetzira*, states that the two *havayot* are positioned in the center, concurring with Rabbenu Tam. Now, the Talmud Yerushalmi in our hands today does not include any material on *Seder Kodshim*, but it is clear that many *Rishonim* had copies of Talmud Yerushalmi on *Kodshim*, since it is cited numerous times in their writings. What's more, the *Tikune Zohar* (page 9) states clearly that *havayot ba'emtza*, supporting the position of Rabbenu Tam.

Tosafot suggest that the Mekhilta also agrees with Rabbenu Tam, and that it was listing the four passages according to the order in which they must be written, not the order of their positions in the four compartments of *tefillin shel rosh*. Rashb''a refuted this interpretation, claiming it is unlikely that this was the intent of the Mekhilta.

Maran the Rishon Letziyon (responsa *Yabia Omer* Vol. I, #3:5) pointed out that the Talmud Yerushalmi was composed several generations later than the Mekhilta, and therefore it is more authoritative regarding final halakhic decisions. This adds more weight to Rabbenu Tam's opinion.

The *Sefer Mitzvot Gadol* and the *Mordekhi* proved through historical fact that Rashi's interpretation is correct, since at one time the stage on top of the tomb of the prophet Yehezkel collapsed, and in the rubble people found an ancient pair of tefillin. Upon examining it, they discovered that its passages were positioned in the manner that Rashi described.

The *Derisha* related, however, that his mentor argued that this is no proof whatsoever. On the contrary, it is likely that this pair of tefillin was constructed incorrectly and for that very reason it was disposed of in the tomb. The *Bayit Hadash* countered that this would not have been any reason to dispose of the tefillin. It would have been sufficient to remove the scrolls from the four compartments and then insert each one in its proper place. It must be, therefore, that this had been a kosher set of tefillin that had eventually become too old and faded to be used, and thereupon it was disposed of.

Maran the Rishon Letziyon (responsa *Yabia Omer* Vol I, #3:2) refuted the argument of the *Bayit Hadash*. It is not possible to simply switch the scrolls' positions and change tefillin "of Rashi" into tefillin "of Rabbenu Tam." If the scrolls had been written according to Rashi's formula and then arranged according to Rabbenu Tam's formula, there would be no blank space at all between the end of *vehaya im shamowa* and the beginning of *Shema*, while the passage of *Shema* must be a *parasha petuha*.

In summary: Rabbenu Tam's interpretation concurs with that of Rav Sherira Ga'on, Rav Hai Ga'on, Rabbenu Hanan'el, Rabbenu Yehuda bar Barzilai, Rabbenu Yosef Tuv-Elem, Rabbenu Yitzhak Alfasi, Rabbenu Avraham ben David, Rav Sa'adya Ga'on (according to the testimony of *Sefer Ha'itur*), *Sefer Yere'im*, *Sefer Ha'eshkol*, and the *Nimuke Yosef*. Actually, the position of Rabbenu Yitzhak Alfasi concerning this matter is itself a matter of debate among the *Rishonim*.

Concurring with Rashi's opinion are Rambam, *Sefer Ha'itur*, *Sefer Hamakhri'a*, the Ramba''n, Rabbenu Yona, Rashb''a, *Sefer Hahinukh*, *Shibole Haleket*, and *Sefer Hamanhig*. In a responsum, Rambam asserted that Rav Hai later changed his mind and ruled like Rashi. The *Sefer Mitzvot*

Gadol, *Hagahot Maimoniyot*, *Mordekhi*, and the *Orhot Hayim* all testified that the common custom follows the opinion of Rashi.

Rambam's Responsum

The scholars of Luna (a town in southern France, near the Mediterranean Sea) sent a query to Rambam, explaining that they had a tradition ascribed to Rav Hai Ga'on to position the *havayot* in the center, like Rabbenu Tam. Rambam replied: "I also subscribed to that opinion originally, and when I lived in the west (Spain) that is how my tefillin were constructed, based on a halakhic treatise written by Harav Moshe of Cordoba. This treatise led me astray from the truth, and it had led astray the entire generation before me. In fact, Harav Yitzhak Alfasi concurred with that opinion in a responsum, as did Hakham Yaakov Kala'i.

"A great number of *Ge'onim* disagreed with this. Reliable, venerable scholars told me that they opened the tefillin that had belonged to Rav Hai Ga'on and they found that the passages were positioned in the manner that I described in my work [*Mishne Torah*] (which concurs with Rashi). When Harav Moshe Der'i moved from the west to the Land of Yisrael, he had tefillin that had been constructed in the manner that is common in your community (like Rabbenu Tam), but when he was shown the works of the earlier *Ge'onim* he immediately threw off his tefillin and had a set made according to my instructions."

Only One Set Can Be Kosher

It is clear from Rambam's response that the *Poskim* who subscribe to Rashi's opinion consider tefillin "of Rabbenu Tam" to be nonkosher. The fact that Harav Moshe Der'i threw away his tefillin shows that it would not have been sufficient to use them after simply switch the passages' positions in the compartments of the *tefillin shel rosh*; they had to be replaced altogether. This is likewise the opinion of the *Sefer Mitzvot Gadol*, Rabbenu Asher, and the *Shita Mekubetzet*.

The *Sefer Mitzvot Gadol* added that if someone puts on a set of tefillin constructed according to the incorrect opinion and recites the blessing, he would be guilty of reciting a blessing in vain. Therefore, he recommended putting on both types of tefillin at the same time, reciting the blessing once for both, since there is room on a person's head and arm for two sets of tefillin. If someone finds it difficult to manage putting on both sets at the same time, he may recite the blessing, put on one set, take it off and put on the second set relying on the blessing he already recited. Even though he interrupts for a few minutes before putting on the second pair of tefillin, in this case it is acceptable.

The *Sefer Hateruma*, Rabbenu Asher, and the *Arba'a Turim* all recommended putting on the two sets of tefillin at the same time, explaining that one must have in mind that one intends to fulfill the mitzvah with whichever set is the correct one, while wearing the second set simply as a set of straps. This is the ruling stated in the *Shulhan Arukh*.

The *Noda Bihuda*

The responsa *Noda Bihuda* (Vol. II, *O.H.* #4) deals with the following question: Just like we care to construct a set of tefillin with the passages inserted in the order prescribed by Rabbenu Tam, we should also insert the scrolls in the manner prescribed by Rabbenu Tam. We insert the scrolls upright, following Rashi's instructions, whereas Rabbenu Tam ruled that the scrolls must be inserted so that the words appear going up and down rather than right to left. Why are we careful to follow Rabbenu Tam's opinion in one aspect of tefillin construction but not his opinion in the other aspect?

He explained that regarding the order of the passages, Rabbenu Tam's opinion is supported by many *Ge'onim* and early *Rishonim*. Regarding the direction in which the scrolls are inserted into the compartments, Rabbenu Tam's opinion is not supported by any earlier authority. Therefore, we can ignore his opinion on this matter.

The *Sha'are Teshuva* (32:28) also dealt with the question posed to the *Noda Bihuda*. He answered that we follow both opinions regarding the order of the passages since the Arizal taught that both opinions are true and both must be followed. Regarding debates over any other aspect of tefillin, we follow the opinion of the majority of *Poskim* and ignore the other opinion. Maran the Rishon Letziyon refuted this resolution, since the *Sefer Mitzvot Gadol* and Rabbenu Asher both ruled that one ought to fulfill both opinions about inserting the scrolls into the compartments by wearing two pairs of tefillin. Therefore, it appears that the *Noda Bihuda's* resolution is superior.

According to the testimony of the *Ma'ase Rav* (*Kuntras Si'ah Eliyahu* #64), Harav Hayim of Volozhin once asked Harav Eliyahu of Vilna why he did not bother to wear tefillin "of Rabbenu Tam." He replied, "If someone would want to fulfill the mitzvah of tefillin while taking every opinion into account, he would have to put on sixty-four pairs of tefillin each day."

Day 62

According to the Kabbalah

The *Ben Ish Hai* (*parashat Vayera* halakha 21) commented that the *Poskim* originally thought that the debate between Rashi and Rabbenu Tam is similar to all other halakhic debates, where one opinion is actually correct and the others are incorrect. This was the case until Eliyahu the prophet revealed to the Arizal that both Rashi's and Rabbenu Tam's opinions are correct and that we must wear both types of tefillin. In fact, he added, all Jews since the time