

## **The Tattoo Taboo and Permanent Make-Up Too**

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### Jews and Tattoos

There is a widespread myth, especially among secular American Jews, that a Jew with a tattoo may not be buried in a Jewish cemetery.[1] This prevalent belief, whose origin possibly lies with Jewish Bubbies wanting to ensure that their grandchildren did not stray too far from the proper path, is actually a common misconception without basis in Jewish law.

One who gets tattooed has quite definitively committed a grave sin of Biblical magnitude, especially as its roots lie in idolatry and paganism.[2] However, practically, a Jewish burial is not dependant on whether or not one violated Torah Law, and tattooing is no different in this matter than violating other severe Biblical prohibitions.

This erroneous belief was personally hammered home to this author several years back, when my chavrusa, the indefatigable Rabbi Jeff Seidel, requested our hosting several secular youth for a Rosh Hashana meal. One stood out in particular, due both to his gargantuan buff size, as well as his every movement screaming military. This former U.S. soldier, in Jerusalem discovering his roots after returning from a tour of duty in Afghanistan, sported a few tattoos. Our then four-year old daughter stared fascinated at the artwork along his arms and asked innocently why he had colored on himself. He replied, (as he dipped his challah into sugar),[3] that it was a “mistake”, but she shouldn’t worry because he was going to get them taken off since he wished to be buried in a Jewish cemetery.[4]

### The Torah vs. Tattoos

In Parashas Kedoshim, the Torah states: "You shall not etch a tattoo on yourselves, I am Hashem".[5] The term used by the Torah to refer to tattooing is "kesoves ka'ka", literally "writing incisions". This teaches us that this Biblical prohibition is transgressed only if an individual performs a two-step tattooing process: perforating the skin and filling the resulting hole(s) with ink, causing the mark to become (at least semi-) permanent.

The Mishnah[6] and Gemara clarify that the Torah attached the extra "I am Hashem" to this proscription, demonstrating the significance that is inherent in this prohibition, as tattooing is fundamentally connected to idolatry. The Rambam, Sefer Hachinuch, and Tur[7] explain that this prohibition originated as a Jewish response to idol worship and paganism, as it was common practice for heterodox adherents to tattoo themselves, essentially publically branding themselves as idolaters, enslaved to whichever god they served. Judaism prohibited tattoos entirely, in order to completely disassociate itself from other religions.

### Micro-pigmentation

Micro-pigmentation, also known as derma-pigmentation or permanent make-up, is a recent development in the world of beauty aids. This process entails a needle depositing colored pigments into the skin's dermal layer, the layer between the permanent base layer (where full tattoos are done, making them permanent) and the constantly changing outer layer, the epidermis. This procedure, usually done on the lips and around the eyes, giving a "just made-up" look, eliminates the need for tedious daily make-up application, and is semi-permanent, lasting between three to five years.[8] The question becomes, is derma-pigmentation permitted by Torah law, or is it intrinsically just another form of prohibited tattooing?

The answer is based on understanding several nuances in the Biblical prohibition.

## What is Writing?

As mentioned previously, the Torah refers to tattooing as “kesoves ka’ka”, literally “writing incisions”. The fact that the Torah calls tattooing a form of writing, leads many Rishonim to infer that the Biblical prohibition expressly refers to writing at least one actual letter.[9] Others do not accept this conjecture, and maintain that all tattooing is assur min HaTorah.[10] However, all agree that any other type of tattoo, such as a picture or shape would still be forbidden at least M’Derabbanan.

## Pondering Permanence

One of a proper tattoo’s hallmarks is its permanence, with a lifetime guarantee. This is due to ink being injected deep in the subcutaneous dermis, and showing through the epidermis (outer layer of skin). Many Rishonim therefore conclude that the Biblical prohibition specifically refers to a permanent tattoo which will last a lifetime; all other tattoos involving skin piercing would only be assur M’Derabbanan.[11] However, it must be noted that other Rishonim make no mention of such a condition of permanence in their understanding of the original Biblical prohibition.[12]

## Idolatrous Intent

Additionally, it is possible that one only truly violates the prohibition of tattooing on a Biblical level if his intention is for idolatrous purposes. As mentioned previously, one of the objectives of this commandment was to noticeably keep the Jews separate from their paganistic and idolatrous neighbors. Several authorities, including the famed Chasam Sofer, surmise that if one would tattoo himself for an entirely different purpose, he would have violated a Rabbinic injunction against tattooing, as opposed to the full Biblical one.[13] Yet, it is important to note that

other authorities are hesitant to recognize this supposition and maintain that intent is irrelevant; all tattooing is assur min HaTorah.[14]

### Managing Micro-pigmentation

So where does that leave us with micro-pigmentation? It would seem to be that at the very least, it would fall under the Rabbinic prohibition of tattooing, if not the full Biblical one. Yet, dependant on how the Rishonim understood the Biblical prohibition, there are some mitigating factors. First of all, cosmetic tattooing of permanent make-up is not "written" in letters, nor is it actually permanent, instead lasting for several years. Additionally, since there is no idolatrous intent, rather it is performed in the name of beauty, has led several authorities to permit its use.[15] However, the vast majority of contemporary authorities reject such leniency, with the near-unanimous view forbidding such procedures, maintaining that even with such rationales, derma-pigmentation would still at the very least, fall under the Rabbinic prohibition of tattooing.[16]

Yet, in case of extraordinary circumstances, such as pressing medical need, or preserving human dignity (Kavod Habrios) such as scar removal or blemish correction, many contemporary authorities are inclined to permit such procedures, as according to most Rishonim cosmetic tattooing would merely violate a Rabbinic injunction, and the Gemara teaches that "one may violate a Rabbinic prohibition to preserve human dignity." [17] This would be similar to undergoing elective cosmetic corrective surgery, which would be permitted, even though there is a general prohibition against inflicting a wound upon oneself.[18] [19] However, the contemporary consensus is that "just for the sake of beauty" does not seem to be enough of a reason to allow a halachic dispensation for cosmetic tattooing.

To sum up the Torah perspective on the matter, I quote the words of my"r Rabbi Yonason Wiener in a related interview with the Jerusalem Post:[20] "The ancient Greeks worshipped their bodies and tried to annihilate the small Jewish minority who saw man as more than muscle and flesh. This was a battle of superficiality against spirituality. Tattooing represents the Greek ideal that beauty is skin deep. We won the battle of Chanuka but the war continues to this day. The Jewish religion is more than skin deep!!"[21]

The author would like to acknowledge Rabbi Chaim Jachter's related comprehensive article which appears in his recent book "Gray Matter" vol. 3 (pg. 67 – 78), which served as the impetus for my interest and research for this article.

L'Iluy Nishmas Rav Shlomo Yoel ben Moshe Dovid zt"l - niftar eruv-Erev Pesach and Yisrael Eliezer ben Zev a"h - my dear Great-Uncle Larry Spitz, who was recently niftar; L'Zechus for Shira Yaffa bas Rochel Miriam v'chol yotzei chalatzeha for a yeshua teikif u'miyad, and l'Refuah Sheleimah for Shoshana Leah bas Dreiza Liba, Rina Geulah bas Dreiza Liba, Rochel Miriam bas Dreiza Liba, Mordechai ben Sarah, and Shayna bas Fayga.

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[1] See Rabbi Dr. Ari Z. Zivotofsky's excellent article on the OU website: Jews With Tattoos.

[2] As will be explained further on in the article.

[3] This former soldier astoundingly claimed that he followed all minhagim of the 'Ben Ish Hai' (as he put it). See Ben Ish Chai (Year 1, Parashas Nitzavim 4), who writes that one should eat an apple cooked in sugar on Rosh Hashana, and Kaf Hachaim (O.C. 583: 4), who writes that on Rosh Hashana one may also dip his challah into sugar and not necessarily honey. Rav Yitzchak Palag'i (Yafeh LaLev vol. 2, pg. 118b: 2) explicitly writes that one should dip his apple into sugar and not honey. This is also mentioned as the proper minhag in Shu"t Maaseh Avraham (Y"D 30) and Shu"t Torah L'Shmah (generally attributed to the Ben Ish Chai; 500; however he concludes to still use salt as well as the sugar). There is also a halachic debate whether or not this dipping in honey or sugar supplants or supplements the customary dipping into salt. For more on this topic see R' Zvi Ryzman's recent Ratz KaTzvi on Maagalei HaShana (vol. 1, 3, Ch. 3 and 4) at length. For more on issues related to salt and sugar and their possible interchangeability, see previous article titled "Salting With Sugar".)

[4] However, generally one is not obligated to try to get his tattoo removed. See Shu"t Mimamakim (vol. 4: 22, from Rav Efraim Oshry, a Holocaust survivor himself) who advised Holocaust survivors not to remove their tattoos, but to rather wear them as badges of honor. Regarding someone who had an inappropriate tattoo on his arm where lays his tefillin, see Shu"t Minchas Yitzchak (vol. 3: 11) and Shu"t B'tzeil HaChochma (vol. 5: 81). In his next responsum, Rav Betzalel Stern (Shu"t B'tzeil HaChochma vol. 5: 82), discusses at length the halachic permissibility of various options of tattoo removal. See also Shu"t Shevet HaKehasi (vol. 5: 154), who although quoting Rav Shlomo Zalman Auerbach's ruling that one is not required to remove a tattoo, nevertheless advises that if possible, they should still try to get it removed (with the noted exception of Holocaust survivors). See also Rav Eliyahu Bakshi Doron's maamar in Techumin vol. 22 (pg. 387 - 391). Rav Yosef

Shalom Elyashiv (cited in Kav V'Naki Y"D 271) as well, ruled that one may remove a tattoo b'makom kavod habrios, even though its removal will probably be considered transgressing the prohibition of wounding oneself – see footnote 19 at length.

[5] Vayikra (Ch. 19, verse 28).

[6] Makkos 21a and following Gemara.

[7] Rambam (Hilchos Avodah Zarah Ch. 12: 11), Sefer Hachinuch (Mitzvah 253), Tur (Y"D 180). This issur is also codified in the Shulchan Aruch (Y"D 180), and later authorities, including the Chochmas Adam (89: 11), Ben Ish Chai (Year 2, Parashas Masei 15), and Kitzur Shulchan Aruch (169: 1).

[8] There are three different methods of "permanent make-up", all of which use a needle to pierce the flesh and have ink added: Manual method (Softap), Reciprocating Machine (Coil), and Rotary Machine (Pen Machine).

[9] Including Tosafos Yeshanim (m'ksav yad; cited in sefer Nassan Piryo on Gemara Makkos 21a), Tosafos Rabbeinu Peretz (ad loc.), Piskei Tosafos (Makkos, 32), Sma"K (Mitzvah 72), Sefer Hachinuch (Mitzvah 253), Bartenura (Maakos Ch. 3, Mishna 6 s.v. kasav), Orchos Chaim (vol. 2, 22: 4), Shu"t Me'il Tzedaka (31; cited in Pischei Teshuva Y"D 180: 1), Shu"t Mutzal Me'aish (51), Shu"t Zera Emes (vol. 3, Y"D 111), and the Chida (Birkei Yosef Y"D 180: 1 and 2 and Machzik Bracha O.C. 340: 3).

[10] Including the Raavad (commentary to Toras Kohanim, Parashas Kedoshim 86), Ra"sh M'Shantz (Makkos Ch. 3, Mishnah 6: 10), Yad Haketanah (Hilchos Avodah Zarah, Lo Taaseh 37, Minchas Ani 87), Minchas Chinuch (Mitzvah 253: 5 and 7),

and Aruch La’Ner (Makkos 21a). Additionally, the Rambam and Rashi make no mention of the “requirement” of tattooing actual letters.

[11] Including Rashi (Vayikra, Parashas Kedoshim Ch. 19: 28 and Gittin 20b s.v. kesoves), Ritva (Makkos 21b s.v. hakosev), Rivan (Makkos 21b s.v. hakosev), Ohr Zarua (vol. 1: 716), Sefer Hachinuch (ibid.), and Piskei Tosafos (Gittin 73). See also Rav Chaim Kanievski’s Passhegen HaKsav (Ch. 6) who proves that most Rishonim hold this way as well, that there is no issur Deoraysa unless the tattoo is permanent.

[12] Nimukei Yosef (Makkos 21a) and Peirush Rabbeinu Yonason (ad loc.). Additionally, neither the Rambam nor Shulchan Aruch mention a specific requirement for permanence in the Biblical prohibition of tattooing. See also Shu”t Lehoros Nossan (vol. 10: 64, 10) who maintains that lasting several years may also be considered “permanent”, similar to the laws of tying on Shabbos, where a knot that would last several months is nonetheless referred to as a permanent knot.

[13] Tosefta (Makkos Ch. 3: 9; cited in Biur HaGr”a Y”D 180: 1), Rabbeinu Yerucham (Sefer Ha’Adam, Nesiv 17, cheilek 5), Chasam Sofer (glosses to Gittin 20b, Tosafos s.v. bkesuva), Maharam Shick (Sefer HaMitzvos, 254), Shu”t Shoel U’Meishiv (Tinyana, vol. 1: 49), and the Get Pashut (124: 30; cited in Minchas Chinuch 253: 6). See also Rav Chaim Kanievski’s Passhegen HaKsav (Ch. 9) who proves that most Rishonim hold this way as well, that there is no issur Deoraysa unless the tattoo is done expressly ‘l’sheim Avodah Zarah’.

[14] See Tosafos (Gittin 20b s.v. b’ksoves), Aruch La’Ner (ibid.), and Minchas Chinuch (ibid.), who concludes tzarich iyun to say such a leniency. Additionally, the Rambam and Shulchan Aruch make no mention of the “requirement” of tattooing



exclusively for idol worship, strongly implying that no matter what one's intent is, tattooing would still be prohibited Biblically.

[15] They maintain that if one's purpose in getting permanent make-up is exclusively for beauty, then that is enough to override '3 Derabbanans'. These poskim include Rav Ovadiah Yosef (Taharas HaBayis vol. 3, Dinei Chatzitza 8, pg. 29 - 34), Rav Avigdor Nebenzahl (cited in Taharas HaBayis ibid.), Rav Ezra Batzri (Techumin vol. 10, pg. 282; author of Shu"t Shaarei Ezra) and the Palgei Mayim (of Antwerp; Shu"t vol. 2, 52). Rav Matis Deutsch (Shu"t Nesivos Adam vol. 1: 43) is inclined to permit it for beauty purposes as well, but concludes that most authorities do not accept this reasoning.

[16] Including Rav Yosef Shalom Elyashiv (cited in Techumin vol. 18, pg. 114), Rav Yisrael Yaakov Fischer (ibid.), Rav Shmuel Halevi Wosner (Shu"t Shevet Halevi vol. 10, 137; who adds that it should be forbidden due to the 'srach issur' of tattooing, as well as it being a 'maaseh shachatz'), Rav Shlomo Zalman Auerbach (cited in Nishmas Avraham vol. 2 -Y"D 180, pg. 132 s.v u'lechorah; who maintains that in a similar case, when the prohibition was Derabbanan, Rav Shlomo Zalman only permitted it to correct an actual blemish, and not for beauty purposes), Rav Chaim Kanievsky (cited in Shu"t Nesivos Adam ibid., 24), the Mishpetei Uziel (Shu"t, new edition vol. 2, Y"D 22: 3, pg. 89; who, in a similar case, only permitted for medical reasons), the B'tzeil HaChochma (ibid., who, in a similar case only permitted for medical need, extenuating circumstances, or b'makom Mitzvah), the Lehoros Nossan (Shu"t ibid.; who maintains that we should pasken each of these machlokesim lechumra, as if they were all Deoraysa), the Shraga HaMeir (Shu"t vol. 8: 44 and 45; who only permits for medical need), the Rivevos Efraim (responsum published in Shu"t Shav V'Rafa vol. 1, pg. 156 - 157; who only permits for medical need), the Megillas Sefer (on Orach Chaim and Yoreh Deah, 16), the Shav V'Rafa (of Holland; Shu"t vol. 1: 45, who only permits for medical need), and

Rav Baruch Shraga (Techumin vol. 18, pg. 110 – 114; who only permits for medical need). Rav Asher Weiss (the renowned Minchas Asher) recently told this author (and more extensively in the recent Shu"t Minchas Asher vol. 2: 56) that it is very problematic to rule leniently and allow permanent makeup unless there is medical need or extenuating circumstances such as 'Kavod HaBrios'.

[17] Brachos 19b.

[18] Regarding the prohibition of wounding oneself, see Mishnah and Gemara Bava Kamma (91b), Tosafos ad loc. (s.v. ela hai), Rambam (Hilchos Chovel U'Mazik Ch. 5: 1), and Shulchan Aruch (C.M. 420: 31) and main commentaries; not like the permissive minority opinion of the Rama"h (cited by the Tur ad loc.).

[19] See Shu"t Igros Moshe (C.M. vol. 2: 66), Shu"t Chelkas Yaakov (vol. 3: 11; new print C.M. 31), Shu"t Minchas Shlomo (Tinyana 86: 3), Shu"t Mishnah Halachos (vol. 6: 246), Shu"t Shevet Halevi (vol. 10: 292), Shu"t Yabea Omer (vol. 8, C.M. 12), Shearim Metzuyanin B'Halacha (vol. 4: 190, 4), Kovetz Noam (vol. 6, pg. 273; maamar by Chief Rabbi Lord Immanuel Jakobowitz), and Nishmas Avraham (Third edition, vol. 4, C.M., pg. 127 - 134). Rav Yosef Shalom Elyashiv (cited in Kav V'Naki Y"D 271 and 272) ruled this way as well, that we are not concerned with the prohibition of self-wounding b'makom tzaar gadol and kavod habriyos. A notable dissenting minority opinion, is that of the Yaavetz (Mor U'Ketzieh O.C. 328 s.v. aval), Shaarei Tzedek (Paneth - Dej; Y"D 143), Avnei Nezer (Shu"t Y"D 321) [although there are those who argue that as medical knowledge and surgical procedures and their survival rates have exponentially improved since their days, perhaps they would not object so strenuously to an elective surgery nowadays], Minchas Yitzchak (Shu"t vol. 6: 105, 2), and Tzitz Eliezer (Shu"t vol. 11: 41 and vol. 12: 43), who maintain that doctors may not interfere with non-health related matters, especially since the surgery itself has its own set of

risks and is a 'chashash sakana' in of itself. Meaning, these authorities are of the opinion that if there is no actual sakana to warrant a surgery, one may not place themselves in sakana by having said surgery.

[20] In a related interview with the Jerusalem Post, "Tattoo Crazy Israelis", February 12th, 2009.

[21] See Shu"t Shevet Halevi (vol. 6: 33, 2, s.v. ul'idach) who, in a discussion unrelated to tattoos, discourages women from wearing excessive make-up, citing the Gemara Shabbos 62b, which states that excessive cosmetics was one of the reasons for the destruction of the Beis Hamikdash. In a subsequent responsum, (Shu"t Shevet Halevi vol. 10: 137), Rav Vosner further adds permanent make-up to this category as well.

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda.