ליקוטי ופסקי הלכות

"חוקי חיים"

ותלמדם "חוקי חיים" לעשות רצונך בלבב שלם

חוקי חיים

שע"י "חדר הוראה" שכונת מנחת יצחק פעיה"ק ירושלם תובב"א - בראשות הרב חיים אהרן בלייער שליט"א

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Halachos of Tattooing | Parshas Kedoshim 5784

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Principles of the Issur of Tattooing

The Issur

1. The halachos of tattooing are almost inapplicable in practice among those who keep Torah and mitzvos. Still, it is one of the 613 mitzvos which we are commanded to keep, so it is necessary to know the halachos, as it is a part of Torah which we must also learn. Also, it is relevant to baalei teshuva who did aveiros in the past, ר"ל, and to geirim. As of late, it is also relevant at times for medical reasons or personal dignity, as will be explained, and people are not aware of this. Thus, we will not refrain from presenting the main halachos.
2. **Description.** A tattoo is the creation of permanent lettering, pictures, or symbols on the body, produced by etching the skin and injecting ink or pigment which penetrates into the lower layer of the skin so that it will remain permanently.
3. **The issur.** The Torah writes (פ' קדושים י"ט, כ"ח), "ושרט לנפש לא תתנו בבשרכם וכתבת קעקע לא תתנו בכם אני ה'." The meforshim explain that the issur is based on it being a non-Jewish practice [חוקות הגויים]; the non-Jews would tattoo their bodies for their deities (רמב"ם פי"ב ע"ז ה"א, חינוך מצ' רנ"ג). Thus, we are forbidden from tattooing our bodies.
4. **Not for avoda zara.** Although we mentioned that the basis of the issur is because of avoda zara, the poskim say that tattoos are assur in all circumstances, even when not done for deities or avoda zara, and even in an era when non-Jews do not do so. It is assur even for imagined beauty or plain madness, as the Torah forbade it in all circumstances; this is one of the chukim of the Torah (שו"ת משפטי עוזיאל ח"ב יו"ד סי' כ"ב, שו"ת אג"מ ח"ב יו"ד סי' נ"ג).

Both כתיבה and קעקוע

5. One is only chayav for a tattoo if he does the two actions of "כתיבה" and "קעקוע." Some explain that כתיבה is writing or marking with ink on the skin, and קעקוע is making the ink penetrate into the body with a needle or blade between the skin and the flesh (רש"י עה"ת, ריב"ן מכות). Others explain that כתיבה is etching the skin with a blade, and קעקוע is filling the etching with ink (רמב"ם פי"ב ע"ז ה"א, סמ"ג ל"ת ס"א, טור יו"ד סי' ק"פ). However, all poskim agree one is not chayav unless both actions are done.
6. If one only does one of the two actions, i.e., he writes on his skin without making it penetrate using a blade or he etches his skin with a blade but does not insert ink, he does not violate the issur d'oraisa of tattooing (ספרא פ' קדושים ג', סמ"ג ל"ת ס"א, סמ"ק מצוה ע"ב, רמב"ם שם).
7. **Is the order important?** Some Rishonim say the writing comes first, then the etching (רש"י מכות דף כ"א ע"א ד"ה כתובת קעקע, ריב"ן שם, ריטב"א שם). Other Rishonim say the etching in the skin comes first, then the etching is filled with ink (משנת חכמים אות נ"ז יבין שמועה בשם מהרש"ל בסמ"ג ובשם נימוק"י ורע"ב). However, most poskim agree that the order is not important, and if one does the two actions in any order, he violates the aveira (ב"ח סי' ק"פ סוף ד"ה כתובת קעקע, מנ"ח, ש"ך סק"א).
8. **Simultaneously.** The same is true if the writing and etching are done simultaneously – it is assur according to halacha (פתשגן הכתב להגר"ח קנייבסקי סי' ח"י ד"ה אמנם נראה).
9. **Writing without etching.** Some poskim say writing with ink on skin without etching into the skin is an issur d'rabanan if it is lasting (מנחת חינוך מ' רנ"ג). But most poskim argue. They hold writing with ink without etching into the skin at all is mutar even l'chatchila (תוס'); common practice follows this opinion (שו"ת שבט הלוי ח"ג סי' קי"א, פתשגן הכתב סי' ח"י).
10. **Etched in the skin, didn't fill with ink.** Some poskim say etching into the skin without filling it with ink is assur d'rabanan (בית שמואל אבהע"ז סי' קכ"ד סקט"ז, חת"ס גיטין דף כ' ע"ב), but others say this too is not even an issur d'rabanan (משנת חכמים הל' עכו"ם וחוקותיהם סי' נ"ז אות א).

Lasts Forever or for a Long Time?

11. The poskim discuss whether one is chayav for the issur of tattooing only if the inscription lasts forever or even if it lasts for a certain amount of time but not forever.
12. **Lasts forever.** Some infer from the wording of the Rishonim that one is only chayav for tattooing if it lasts forever (רש"י עה"ת, ריב"ן מכות דף כ"א, ריטב"א שם, חינוך מצוה רנ"ג).
13. **A long time.** However, others hold one is chayav for the issur of tattooing if it lasts for a long time, even if it will not last forever (נמוק"י מכות דף כ"א ע"א, פי' רבינו יונתן שם). The fact that the poskim (הרמב"ם הטור והשו"ע) do not mention an amount of time implies that the issur includes anything in the manner of a tattoo.
14. Even according to the opinion that one is only chayav if it lasts forever (above, 12), there is certainly an issur d'rabanan even if it will not last forever (פוסקים, פתשגן הכתב סוף סי' ו').

Letters, Marking, Image

15. The poskim also discuss whether one is chayav for the issur of tattooing only if there are letters which are considered "writing"; even when there is just a significant marking; or even when there is a picture.
16. **Only letters.** Some hold one is not chayav for a tattoo unless letter-like shapes are etched into the skin with ink; only that is called כתיבה (פסקי תוס' מכות סי' ל"ב, פי' רבינו יונתן שם, תוס' ישנים שם, פי' הרע"ב). Some are unsure whether there must be at least two letters, like the chiyuv in hilchos Shabbos (מוצא מאש סי' נ"א); others hold one is chayav even for one letter (חינוך מצוה רנ"ג).
17. **Even a marking.** However, many poskim hold it does not need to specifically be letters. Rather, any sort of marking or picture violates the issur of tattooing (ראב"ד תו"כ קדושים ספ"ו, ר"ש משאנץ, לשון הרמב"ם, רבינו ירוחם).
18. **Mere scratch.** Even according to the opinion that one is chayav for a marking, some hold it has to at least be some sort of marking, picture, or complete letter, i.e., something with meaning. A mere scratch without any meaning does not violate the issur (יד הקטנה, משנת חכמים, תפארת ישראל, תרגום יונתן). Some are very machmir and hold that even a mere scratch without any meaning is chayav (מנ"ח).
19. Here, too, it should be noted that even if one is not chayav for a tattoo unless he writes one or two letters, a picture, a marking, or a mere scratch – each posek according to his opinion, as mentioned – there is certainly an issur d'rabanan even when making just a scratch (מעיל צדקה סי' ל"א הובא בפתח"ת סי' ק"פ סק"א, פתשגן הכתב סוף סי' ח').

The One Tattooing and the One Getting a Tattoo

20. The poskim say that if one person tattoos another person's skin, both of them violate the issur. Thus, if they both did it knowingly and the one getting the tattoo assisted during the procedure, they are both chayav malkus. If the one getting the tattoo did not assist at all, he is patur from malkus because he did not do an action, but he still violates the issur d'oraisa. If one of them did it mistakenly, he is patur and the one who did it knowingly is chayav (תוספתא פ"ג מכות ה"ט, טור וב"י סי' ק"פ, פתשגן הכתב סי' י"ג).
21. **By a non-Jew.** If a Jew got a tattoo from a non-Jew and the Jew assisted the non-Jew in his work, he is chayav. If he did not assist at all, he violates the issur d'oraisa but is patur from malkus (תוס' שבועות דף ג' ע"א ד"ה ועל, יד הקטנה, דרכי תשובה בשם זרע אמת).

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Practical Shailos

Removing a Tattoo

22. **Baal teshuva.** It often happens that a person straying from the path, ר"ל, gets a foolish impulse to tattoo himself. When he then gets a spirit of tahara and does teshuva, he usually regrets and is embarrassed of what he did, particularly the tattoo he got as a permanent reminder. As one gadol described it, "A tattoo is a permanent sign of temporary madness…" (הג"ר אביגדור מילר). Hence, shailos on this topic come up.
23. **Chiyuv to remove.** The poskim explain that after one gets a tattoo and regrets it, there is no chiyuv to employ tactics to erase it or remove it via laser or a painful, expensive procedure. The action is the aveira, not the result (הגרשז"א הובא ע"י מו"ר בשו"ת שבט הקהתי ח"ה סי' קנ"ד, פתשגן הכתב). Still, it is proper to remove it due to mar'is ayin where possible (מנ"ח במוסך השבת במלאכת מוחק סק"ד, שו"ת שבט הקהתי ח"ה סי' רע"ו אות ב'). However, those who went through the extermination camps and had a number etched on them in the spot of the tefillin straps have no reason to remove the mark, as it is clear it was done forcibly by the cursed resha'im, ימ"ש. On the contrary, they have something to display on the Yom HaDin (שבט הקהתי שם).
24. **Tattoo to cover an existing tattoo.** The poskim discuss the case of a person who regretted his tattoo and wants to cover it with another tattooing process that injects ink with a natural skin color to cover the first tattoo. The consensus of the poskim is that in a situation where a baal teshuva's dignity is at stake and he will be very embarrassed, he may have a non-Jew do this (above, 21) without assisting him at all (ibid.). This is not writing at all; it is erasing, as in the end, all that is visible is the natural skin color.
25. Some even allow injecting colored ink to blur the repulsive picture he tattooed on himself, since the presence of the picture shows that his intent is to ruin, not to tattoo (שו"ת משנת יוסף חט"ו סי' קל"ד). However, this does not seem reasonable, as in practice, he is making a real tattoo with colored ink.
26. **Issur to erase Hashem's Name.** Rav Shimon bar Yochai holds one is only chayav if he tattoos Hashem's Name, as the posuk says, "וכתובת קעקע לא תתנו בכם אני ה'," i.e., "Do not put My Name, ה', on you" (ספרא ו, ט' הובא ברבינו בחיי פ' קדושים). Once, a spiteful sinner, ר"ל, who wanted to violate the issur of tattooing according to all opinions tattooed this posuk with Hashem's Name on himself. Later, Hashem, Who orchestrates everything, caused a spirit of tahara to enter him, and he was chozer b'teshuva. Now, his shaila is whether he may erase what was written, or if it's a problem of erasing Hashem's Name.
27. Since it is considered real writing, there is an issur of erasing Hashem's Name (שו"ת שבט הקהתי ח"ה סי' קנ"ד). Thus, when entering an area with filth or a bathroom, he should make sure it is covered. Similarly, after 120 he will require geniza…

Chatzitza

28. A tattoo presents no concern of chatzitza as it is under the skin. Thus, there is no issue of chatzitza for netilas yodayim, tevila, tefillin, or the like.

Improper Thoughts

29. Someone had an inappropriate tattoo on the arm, where the tefillin go. He was chozer b'teshuva and asked whether he is allowed to make a bracha on his tefillin with the picture exposed.
30. The poskim say he should cover the entire area besides where the tefillin actually rest. He should try to get tefillin with a small bayis that does not take up a lot of space so that the small pictured area has no meaning on its own, and he should say the bracha with his arm completely covered (שו"ת מנחת יצחק ח"ג סי' י"א). Alternatively, he can use ink without substance to blur the area not in a manner of tattooing, such that the picture is covered and there is no chatzitza for tefillin (מו"ר בשו"ת שבט הקהתי ח"ו סי' ח"י), or he can use the method described above (24).

Mar'is Ayin

31. **Writing with a pen.** We mentioned (above, 9) that most poskim say one may write on his skin with ink without any etching whatsoever, and there is not even an issur d'rabanan. Thus, there is no issur to write with a pen on one's hand, e.g., a phone number. It is not an issue of mar'is ayin. Likewise a rubber ink stamp on oneself is no problem.
32. **Tattoo stickers.** Today, there are tattoo stickers which look just like tattoos but are just stickers that go on the skin. Strictly speaking, there is no issur, but one should not do this due to mar'is ayin. At the very least, it is a 'temporary sign of a temporary madness'…

Permanent Makeup

Description of Permanent Makeup

33. Lately, there has been a widespread shaila about permanent makeup. It should be noted that we are not giving backing or a haskama to any sort of women's makeup. What we are addressing is only based on the shailos that come before poskim. Permanent makeup is a form of tattoo women get to prevent the need to consistently put on their regular makeup. Sometimes it is on the eyebrows, the corners of the eyes, or the lips.
34. **Permanent makeup.** Skin has multiple layers. Permanent makeup is an injection of the cosmetic pigment substance under the uppermost level of skin, called the epidermis, using a digital needle tattooing machine to make the substance penetrate. This is unlike regular tattoos common among non-Jews, in which pigment is injected under the deeper layer of skin, called the dermis. Regular tattoos remain forever and do not fade with time, but this permanent makeup, which does not penetrate to the deeper layers of the skin, starts to fade after three to five years and continues until it is virtually gone.
35. **Microblading.** Another, more recent, method of permanent makeup used for the eyebrows is called microblading. A special blade dipped in ink is used to make an etching on the area of the eyebrows. The etching and inking happen simultaneously (above, 8) to create lines on the skin resembling eyebrows, like a tattoo resembling hairs in a half-moon shape in place of natural eyebrows. Here, too, the etching goes into the upper layer of the skin, so it fades after several years and does not last forever.

For Chronic Illness

36. Some poskim discuss allowing methods of permanent makeup for medical reasons, e.g., for a woman who suffers from the machala, ל"ע, and lost all her body hair due to treatments, or for a woman who suffers from the condition called alopecia totalis and lost all her hair, including her eyebrows, and is embarrassed to go around that way. Some allow her to get permanent makeup in place of her eyebrows so that it appears as though she has eyebrows.
37. **Reasons for the heter.** The heter is built on a combination of factors based on what we have mentioned. Some opinions hold there is no issur d'oraisa if it is not for avoda zara (above, 4). There is a machlokes whether it is d'oraisa or d'rabanan if it does not last forever (11). There is also a machlokes whether it is d'oraisa or d'rabanan if it is not in the form of letters (15). Thus, if there is a great need involving severe dignity, one can rely on the poskim who hold in all these disputes it is only an issur d'rabanan, and for the dignity of a cholah, there is reliable basis to allow one to be meikel for a triple d'rabanan.
38. **Non-Jew.** Still, even when there is a heter for permanent makeup in the above cases, it is better to have it done by a non-Jew (21) without the person getting the procedure assisting at all (ibid.) (שו"ת שבטי ישראל ח"ב סי' י"ט).
39. **Concealing a scar.** Similarly, some allow using permanent makeup methods to conceal a severe scar in a prominent area that bothers a woman and makes her embarrassed to go around in public. Since the color that is injected is the natural color of skin and is not actually noticeable at all, it is not called כתיבה (above 24) (פתשגן הכתב סי' ה'). This is in combination with the other heteirim mentioned above (שו"ת מנחת אשר ח"ב סי' נ"ו, שו"ת אמרי יעקב ח"ב סי' ס"ג).

For Beauty

40. **Lone opinion.** Some expand the above heter to allow a woman to use permanent makeup if there is a need for beauty purposes, based on the above heteirim, and hold that we can leave them to it (חכם ופוסק לאחינו בני עדות המזרח). Based on this, there are several cosmeticians who offer the service to anyone who wants to rely on the above. They also advertise it to attract the public.
41. However, almost all poskim argue. They hold there is no heter whatsoever unless there is a great need, e.g., for a chronic illness ר"ל, as mentioned. This should not be allowed for any woman simply for beauty, so that she does not need to put on makeup every day or because of thinning eyebrows. For each angle of heter, there are also Rishonim who hold it is an issur d'oraisa, and even according to the mekilim, it is still an issur d'rabanan. Therefore, they only give a heter for illness and severe dignity if there is a great need; beauty is not included in the heter or the definition of dignity [כבוד הבריות]. One should not, ח"ו do anything questionable in the issur d'oraisa of tattooing for the sake of convenience and beauty (הגרי"ש פישר, הגרי"א הגר"ח קנ"בסקי הובאו בנשמת אברהם יו"ד סי' ק"פ, שו"ת להורות נתן ח"י סי' ס"ד, חוט שני שבת ח"ג קובץ ענינים עמ' רמ"א, מגילת ספר יו"ד סי' ט"ז, שו"ת שבט הלוי ח"י סי' קלז, שו"ת שרגא המאיר אורייתא י"ח, היכל הוראה ח"ה הרואה ע"ו, שו"ת אמרי יעקב שם).
42. **Issur on both people.** This requires caution, as women rationalize to themselves, saying it is a chareidi woman who is performing the procedure. She might be relying on a lone opinion or on questionable kulos, but as we pointed out (above, 20), the issur is on both the one giving the tattoo and the one getting the tattoo. People should know this and be careful.
43. Thus, a woman who keeps Torah and mitzvos should not be involved in this at all. Even when circumstances of heter exist, as mentioned, it should only be done by a non-Jew (21). There is no room for this profession within our camp; parnassa is from Hashem.