

HALOCHOSCOPE

This week's (and next week's) question:

The leaders of a Jewish institution asked a *shul* to loan them a *sefer Torah*. The Institution is not led by Torah-observant individuals, although it is formally known as a synagogue. May the *shul*, which is a Torah-observant institution, loan the *sefer Torah*?

The issues:

- A) A *kosher sefer Torah*
- B) Respect for a *sefer Torah*
- C) A *sefer Torah*'s 'owners' and 'home'; moving a *sefer Torah* from its 'home'
- D) Status of non-observant Jews

A) A *kosher sefer Torah*

Scripturally, there are basic requirements for a *kosher sefer torah*. These include the preparation of the materials and the way it should be written. The wording is precise. It may never be changed. Every letter must be formed perfectly. The arrangement of the portions, their spacing, the size and length of the parchment, scoring and all aspects of the writing must follow specific *halachic* guidelines.

Clearly, there are Scriptural *mitzvos* that require a *kosher sefer torah*. The most obvious is writing a *sefer torah*. This *mitzvah* is incumbent on everyone. It can only be fulfilled in compliance with the *halacha lemoshe misinai*, quasi-Scriptural. The next most obvious *mitzvah* is the *mitzvah* for a king to write his own special *sefer torah*, and to carry it along with him at all times. This seems to be a different version of the same *mitzvah*. The third *mitzvah* is *krias hatorah*. Every word of *krias hatorah* must be read from the scroll. Some poskim maintain that if some of it was read by heart the reading is still valid, and they rule that one may recite a *brocha* even on an invalid *sefer torah*. Nonetheless, the fact that one must ideally read it from the kosher scroll indicates a need for a kosher scroll. The *brocha* on *krias hatorah* is only recited on a kosher scroll.

In fact, there is no specific Scriptural *mitzvah* to do the type of *krias hatorah* that we do. There is, however, one *mitzvah* deals directly with a *krias hatorah*. That is *hakhail*, which is performed once every seven years. The king would read certain parts of the book of *Devarim* on *Sukos* in the year immediately following the *shvi'is*, seventh in the agricultural cycle. All Jews were obliged to attend. The Torah itself explains the reason for the *mitzvah*, to teach the people and to instill fear and awe of Hashem in them. On *Yom Kippur*, the *Kohain Gadol* read a portion, based on Scriptural references.

The *sefer Torah* must be copied exactly. It is used to teach all the *mitzvos* and their applications. It is forbidden to keep a *sefer Torah* with mistakes in one's possession. The scribe must be a skilled professional, as well as one known to be G-d-fearing. Each letter must be written with the correct intent, and the divine Names must be written with addi-

tional intent. This all invests a *kosher sefer Torah* with intense sanctity. [See Poskim and sources for Tur Sh Ar OC 32 36 143 YD 270-284, commentaries. Halochose XI:3.]

B) Kavod Sefer Torah

Each aspect of respect one is obliged to show for a *Sefer Torah* appears to have its own source. The main factor is the content of the *Sefer Torah*. As the Talmud says, it has within it the words of the *Luchos Habris*, tablets of the covenant, and must be treated with respect. We are commanded to respect students of the Torah, so we must certainly respect the Torah itself. The other factor is the sanctity with which a *Sefer Torah* must be written, and with which its materials are manufactured.

The sources for the *mitzvah* to respect a *Sefer Torah* include the *mitzvah, umikdashi tira'u*, revere [My] sanctuary. This applies to the *Bais Hamikdash*, but also to *shuls* and holy artifacts. A *Sefer Torah* is considered *kedusha atzma*, holiness itself. It is on the highest level of *kedusha* that we have nowadays. Due to this reverence, one may not sit on the same level as a *Sefer Torah*, nor do anything mundane in its presence. It must be treated with extra care, and a special place must be designated for it. Some derive this from the *pasuk* stating that the *Sefer Torah* written by Moshe was placed beside the *Aron Habris*, holy ark in the Tabernacle. This teaches us to treat the *Sefer Torah* with comparable reverence and to designate for it a place of honor. The same *pasuk* states that the *Sefer Torah* will serve as a witness. In its presence one must feel profound awe.

Mipnei saivah takum is a Scriptural *mitzvah* to rise for an approaching Torah scholar and to remain standing until he passes by or reaches his seat. This is also part of a more general *mitzvah* to respect a Torah scholar, which is, in turn, derived from the language of the *mitzvah* to revere Hashem Himself. From this *mitzvah* we learn that if one must rise for those who study the words, one must certainly rise for the *sefer* itself. From a further *passuk* we learn that one must walk along to accompany a *Sefer Torah*, as it says, 'you shall follow behind Hashem your G-d'. One may not behave disrespectfully in the presence of a *Sefer Torah*, even if the disrespect is not directed at the *Sefer Torah*. One may not turn his back on it. Certain bodily functions may not be performed in the presence of a *Sefer Torah*. One may not hold a *Sefer Torah* 'naked'. Most commentaries say this refers to holding it with bare hands, while the *sefer* is 'naked', without its wrappings.

In addition to respect, one must also beautify the *Sefer Torah*. This is part of the general *hidur mitzvah*, beautifying any *mitzvah*, but for this *mitzvah* in particular stronger terms than the usual are used. It must be written beautifully and adorned with beautiful coverings. The immediate coverings are the *mitpachas*, wrapping, which nowadays is the *gartel*, and *tik*, the pouch, which nowadays is the *mantel*. They must be made of superior quality materials. As mentioned, a special place must be designated for the *Sefer Torah*. The *aron hakodesh* has a special level of *kedusha*, by virtue of its housing the *Sefer Torah*. It is built into the Eastern wall of a *shul*, or is a self-contained chest. It is kept closed at all times, except when the *Sefer Torah* is removed or returned. The status of the *aron hakodesh* as a secure or honorable place for the *Sefer Torah* is debated. All agree that since it is kept closed, it is meant to separate the *Sefer Torah* from the room it is in. Therefore, as long as it is closed, certain activities that would otherwise be restricted in the presence of the *Sefer Torah* are relaxed. Nonetheless, the *aron hakodesh* commands

its own respect. [See Brochos 25b-26a, Eruvin 91a, Megilah 26b (Tosefta 3:14) 32a, Kidushin 33a-b, Avos 4:6, Sofrim 3:11-13, Poskim. Rambam Tefila 11:2 Sefer Torah 10:2-11 (Kiryas Sefer). Tur Sh. Ar. OC 147:1, 154:3-6, YD 282, commentaries.]

C) Owners and homes of sifrei Torah

Ownership of a *sefer Torah* affects: authority over its use, including loaning it; responsibility for its safekeeping; its sale, when permissible; and rights and responsibilities for its upkeep. A *sefer Torah* has the highest level of *kedusha*. It may not be degraded in any way. This includes selling it. It may only be sold to further Torah study, to marry and to redeem captives. If it is indeed sold, the sale sometimes takes effect. The money assumes the same *kedusha* as the *sefer Torah*. It may not be spent on anything with a lower level of *kedusha*. The poskim debate whether it may be used for another *sefer Torah*. By the same reasoning, a *sefer Torah* should not be given away. [There is a view that permits a private owner to sell or give away his *sefer Torah* for any reason.]

If an individual wrote, purchased or inherited a *sefer Torah*, ideally he should never give up ownership. There are varying rulings and customs on its storage. Some keep it at home. Others loan it to a shul long-term. One who donates a *sefer* to a *shul* retains certain rights. If a congregation or community writes or purchases a *sefer Torah*, they are the owners. There are restrictions on their rights of usage and loaning or selling, even for the reasons mentioned. In a large community it can sometimes be considered property of the Jewish nation. A community appoints leaders with limited authority to make decisions. In addition, the entire congregation can vote. If the majority vote to give a *sefer Torah* to a different congregation, the leadership can compel the minority to follow along.

A *sefer Torah* must have a permanent place. It is disrespectful to take it from its location to be used for *krias hatorah* elsewhere. This is based on a verse that indicates that the people should follow behind the *sefer Torah*, and not the opposite. When a *sefer* is needed in another location, its removal must comply with certain provisions. It must be taken for its use or maintenance, rather than for show. It must be taken to a secure and respectful place of honor. The poskim discuss removing it for an invalid, a *shiva*, or a jail *minyán*, and whether the *minyán* includes a highly respected personality. Moving it to another *shul* works, if it will be placed in the *aron hakodesh* there, treated with equal honor, and the people authorizing the move have the authority to do so. [See Refs to section A. [Zohar Naso (Idra) 149-151, commentaries.] Megilah 25b-28b Yerushalmi Yuma 7:1 Baba Basra 43a, Poskim. Tur Sh Ar OC 135:14 [Kaf Hachayim 80] 153:2-4 6-12 20 YD 270 282:16-18, commentaries. Nitei Gavriel Hach. Sefer Torah 5. Tzedakah Umishpat 9:24 14:13-18 27 16:1-7 40-42, notes. Igros Moshe OC:I:52 YD:I:163-4.]

D) A non-observant or anti-traditional Jew

Under normal circumstances, any Jew is *muchzak beakashrus*, considered an observant Jew, and is qualified to testify as a kosher witness. However, our situation raises the issue of *abaryan* or *mumar*, a known habitual violator. One who violates *mitzvos* can lose his *chezkas kashrus* for other purposes. Violations can be *shogaig*, unintentional, *maizid*, intentional but not necessarily habitual, or a *mumar*, literally, exchanged – having exchanged his religion. *Mumar lechol hatorah*, violator of the entire Torah, *le'avoda zara*, idolater, *lechalel shabbos befarhesia*, public desecrater of *Shabbos*, or one who professes

not to believe in the words of the sages, is equated with a gentile regarding certain *halachos*. Many of our uneducated brethren nowadays are considered *tinokos shenishbu*, captive from childhood, rather than *mumar*. Their violations are considered *shogaig*. There is also a view that public desecration of *Shabbos* was once considered the worst violation. It meant that the perpetrator was inevitably involved in violating everything else. Nowadays, unfortunately, it is the first thing people violate. Nonetheless, a religious functionary in an anti-traditional service is probably an educated *mumar*. He is also likely to have desecrated *Shabbos* in order to go to the service.

Our question is, may one allow a *mumar* to use a religious item in the knowledge that he will recite *brochos*? These might very well be considered blasphemy, depending on his beliefs. Furthermore, may one entrust a sacred item into his safekeeping? Does he have the basic respect required? Furthermore, may one move a *sefer Torah* to another location, that does not necessarily have the status of a kosher *shul*? Assuming the congregants would agree to it, it would still be forbidden to move it if it would not be accorded respect. It would appear that this is forbidden in our case. In accordance with the view that a private individual may sell his own *sefer Torah*, perhaps he may also allow others to use it at his own discretion. Nonetheless, this does not permit him to allow for disrespect to the *sefer Torah*. Selling it would also need to meet the standards of *kavod*. A non-kosher *sefer Torah* has the status of a *chumash*. This has a lower standard when it comes to selling or loaning it, but there should be some conditions on its treatment. If the *shul* has a *sefer Torah* that was brought there with unknown origins, and they did not necessarily undertake its upkeep and safekeeping, they might be able to claim that it has no known owner. In that case, while it could belong to the Jewish nation, it is unclear whether one Jew has the right to deprive another Jew of using it. The *shul* are now the *de facto* guardians of this *sefer Torah*. Its ownership is in doubt. There might be more leeway to loan it for dubious usage, but they must still insist on appropriate treatment. [See *Shabbos* 68b *Eruvin* 69a-b *Sanhedrin* 27a *Chulin* 5a, *Poskim*. *Tur Sh Ar OC* 189, *MA* 1. 385. *YD* 2 119 124 159 251 281:1-2, *Birkei Yosef*, *EH* 123:2 141:33, commentaries. *Divrei Binyomin* #5. *Tzitz Eliezer* VIII:17-20. *Igros Moshe OC* I:33 II:40 **YD:I:174**.]

In conclusion, the *shul* may not loan a *sefer Torah*, unless they can be assured that the second institution will not lower its level of *kavod* and *kedusha*.

On the Parsha ... *This is the sefer of chronicles of Adam. On the day that Hashem created Adam, He made him in the image of G-d. [5:1] This refers to the entire sefer Torah. This is why the term sefer is added here. The entire Torah is about chronicles of mankind. [Ramban] How does this connect to the rest of the passuk and the following pesukim? [see Kli Yakar] This happens to be the first usage of the word sefer. Perhaps the word sefer without additional sub-names automatically refers to a sefer Torah. [The Talmud condemns those who call an aron hakodesh an arna, or box. However, there is no such condemnation of those who call a sefer Torah a sefer.] Hashem invested kedusha in Adam, by making him in His own image. So that the human being is like a sefer written with intent. He should be respected accordingly.*

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