

HALACHICALLY SPEAKING

Volume 18 Issue 3



{ TOPIC }

Non-Kosher *Sefer Torah*



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► Halachically Speaking is a monthly publication compiled by Rabbi Moishe Dovid Lebovits, a former *chaver kollel* of Yeshiva Torah Vodaath and a *musmach* of Harav Yisroel Belsky zt"l. Rabbi Lebovits currently works as the Rabbinical Administrator for the KOF-K Kosher Supervision.

► Each issue reviews a different area of contemporary *halacha* with an emphasis on practical applications of the principles discussed. Significant time is spent ensuring the inclusion of all relevant *shittos* on each topic, as well as the *psak* of Harav Yisroel Belsky, zt"l on current issues.

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אין ל להקב"ה בעולמו אלא ד' אמות של הלכה כלבד... (ברכות ת.)

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NON-KOSHER SEFER TORAH | 3

The reason why thirty days is mentioned is because something is not called resting in a place within thirty days.⁷

Reasons

One of the reasons for not keeping the *sefer Torah* around for more than thirty days is because one will come to learn halachos from it, and if it is not kosher he may learn the wrong halachah and there is no greater misdeed than this.⁸

The Rambam says that the reason one should not have an unchecked *sefer Torah* around is because one will come to *lein* from it in shul and the *tzibur* will have used it to fulfill the mitzvah of *krias haTorah*.⁹

Which Other Sefarim Must Be Checked?

Rashi¹⁰ says that *Neviim* and *Kesuvim* must be checked as well.¹¹

The Meiri¹² says *Neviim* must be checked since *haftoras* are read from *Neviim* and they may not be read incorrectly.¹³

Some say one should be careful with this in regard to an unedited Gemara as well.¹⁴

7 Ritva, Maseches Kesuvos 19b. See Shitah Mekubetzes, Maseches Kesuvos 19b. Refer to Bnei Yonah, Y.D. 279, since one usually rolls a *sefer Torah* once in thirty days and he will if remember there is an error and it needs correcting.

8 Beis Yosef, Y.D. 279, Aruch Hashulchan 1. See Daas Kohen, Y.D. 174. Refer to Shulchan Govoha, Y.D. 279:1, who says this entire issue revolves around one who instructed a sofer to write a *sefer Torah* and it was not edited, and the *sefer Torah* is already in his home.

9 Daas Kohen, Y.D. 174.

10 Maseches Kesuvos 19b, "sefer."

11 This is also brought in the Ritva, Haga'os Maimonios, Hilchos Tefillin 7:12, Shitah Mekubetzes, Darchei Moshe Hakotzer, Y.D. 279. Refer to Teshuvos V'hanhagos 1:541 regarding a Chumash with a translation from an apikores.

12 Maseches Kesuvos 19b.

13 Meiri, Maseches Kesuvos 19b.

14 Ritva, Maseches Kesuvos 19b, Haga'os Maimonios, Hilchos Tefillin 7:12, Gra, Y.D. 279.

Others say any *sefer* that teaches halachos and the reasons for mitzvos must be checked.¹⁵

Fixing a Sefer

There is a *cherem* upon one who fixes an incorrect *sefer*.¹⁶ If does not erase the original wording but just adds his own notes it is permitted.¹⁷

Sofrim

A *sofer* is allowed to keep a *sefer Torah* that he did not check over for mistakes. There is no concern that he will learn from it since it is made to sell and not to be read from.¹⁸¹⁹

The Practice Today

Today, many shuls have non-kosher *sifrei Torah*. Isn't this contrary to what it says in the Gemara and halachah? Some suggest that there is no issue today since we have many *sifrei Torah*. If one is non-kosher we will not come to learn from it.²⁰ In addition, today when the *baal korei* reads from the Torah everyone else follows along with a Chumash, and if he makes a mistake he will be corrected.²¹ Furthermore, we don't learn any halachos from a *sefer Torah* since we learn from printed *sefarim*.²²

15 Beis Yosef, Y.D. 279; see Rema, Y.D. 279:1, Levush, Y.D. 279:1, Gra, Aruch Hashulchan 1, Daas Kedoshim, Y.D. 279:1, Shevet Halevi 8:225. See Yabea Omer, O.C. 4:48 regarding machzorim.

16 Darchei Moshe Hakotzer, Y.D. 279. See Birchei Yosef 1,3. Aruch Hashulchan 1.

17 Harav Shlomo Zalman Auerbach, zt"l, says one who finds a mistake in a sefer in yeshivah may make a mark with the correction (Chiko Mamtakim 2:page 3).

18 Birchei Yosef, Y.D. 279:3.

19 Kaf Hachaim, Y.D. 279:1.

20 Shulchan Govoha, Y.D. 279, Eretz Chaim, Y.D. 279, Kaf Hachaim 1.

21 Shulchan Govoha, Y.D. 279:1.

22 Daas Kohen, Y.D. 174.

The practice today is to place a *gartel* around a *sefer Torah* that needs to be fixed or is *passul*. This reminds us not to learn from it, and therefore there is no issue with keeping it around for more than thirty days.²³ This satisfies both reasons mentioned above for not keeping around a *sefer Torah* that is *passul* or not checked. According to the reason that we may *lein* from it, the *gartel* will remind us not to.

Sefarim with Mistakes

According to what we mentioned above, one would not be able to have in his home *sefarim* that teach halachah²⁴ and have mistakes, since one will come to learn the wrong halachah. If so, how is it that we have hundreds of *sefarim* at home that we know are filled with mistakes and yet we still learn from them?²⁵

There are those who maintain that perhaps the entire issue pertains to handwritten *sefarim* but not *sefarim* that are printed.²⁶ This seems to be difficult, since why should there be a difference between the two? In addition, *sefarim* were printed in the days of the Rema and no one suggested this answer. However, some reason that it is permitted since before a *sefer* goes to print it is checked for accuracy, although it is common to have errors after as well.²⁷

Some suggest that since today we know *sefarim* have errors, we will not come to learn from them if something looks wrong or out of place.²⁸

23 Rivevos Ephraim 2:page 97:94, Daas Kohen, Y.D. 174, Zecher Simchah 144, V'atah Kisvu, Y.D. 279:5.

24 If it does not teach halachah there is no issue (see Biur Halachah, Y.D. 279).

25 Mishneh Halachos 15:216. See Sheilas Rav 2:1:2:17-18.

26 Mishneh Halachos 12:208.

27 Biur Halachah, Y.D. 279:1.

28 Mishneh Halachos 15:216.

Gemaras

Gemaras have been edited and updated, and many mistakes have been corrected. However, perhaps there are still errors and we therefore cannot keep them in our homes until they are all corrected?

Since the Gemaras were edited and corrections were put in, there is no need to keep checking for errors. In addition, we don't learn practical halachah from the Gemara without learning the Shulchan Aruch, and so on.²⁹

What to Do with a Non-Kosher *Sefer Torah*

A *sefer Torah* that is non-kosher³⁰ and not checked³¹ should either be fixed or put into *sheimos*.³² However, we will discuss the parameters of this below.

If it can't be fixed one should bury it,³³ but if it can be fixed then one should fix it.³⁴

Burying it is not an obligation, since a *sefer Torah* that is ruined and impossible to be fixed is buried. Even then, it is not an obligation.³⁵

The Shulchan Aruch³⁶ says if a *sefer Torah* becomes worn

²⁹ *Shevet Halevi* 8:225.

³⁰ Shulchan Aruch, Y.D. 282:10.

³¹ Shulchan Aruch, Y.D. 279:1.

³² Rambam, Hilchos Tefillin 7:12, Tur, Y.D. 279, Shulchan Aruch, Y.D. 279:1. Refer to Asei Lecha Rav 6:65 regarding one who has multiple sifrei Torah to bury, and whether they can be buried in one grave or they need to be buried in separate graves.

³³ Aruch Hashulchan, Y.D. 279:1.

³⁴ Asei Lecha Rav 6:65, V'ata Kisvu, Y.D. 279:6.

³⁵ Igros Moshe, O.C. 4:38, V'ata Kisvu, Y.D. 279:7. See Pri Megadim, M.Z. 154:5, Biur Halachah, O.C. 154 "v'gonzin," Aruch Hashulchan, O.C. 154:8. Refer to Noded B'Yehudah Tinyanu, Y.D. 174.

³⁶ O.C. 154:5, Y.D. 282:10. Refer to Maseches Megillah 26b, Rambam, Hilchos Tefillin 10:3. See Chelkas Yitzchak 13.

out or *passul*,³⁷ one should place it in a pottery utensil³⁸ (since it lasts the longest)³⁹ and bury it near the grave⁴⁰ of a *talmid chacham* (but not inside the same box).⁴¹ However, the custom is that a *sefer Torah* that is not usable is placed in the *aron kodesh*.⁴² Some suggest the reason this is permitted and not considered an injustice to the *aron kodesh* is because the broken *luchos* were kept in the *aron*, and a *passul sefer Torah* is similar.⁴³ Others say that is not a proof since Hashem placed them there.⁴⁴

In addition, if one has a place in his home for the *sefer Torah*, it is better than placing it in the ground.⁴⁵ It may get ruined in the ground, as opposed to a safe place in one's home.⁴⁶

37 Refer to Be'er Moshe 8:110.

38 Today it is placed in a plastic utensil that lasts much longer (Ginzei Hakodesh 15:2:footnote 6).

39 Beis Yosef, Y.D. 282, Taz, O.C. 154:4, Y.D. 282:6, Bnei Yonah, Y.D. 282:10, Mishnah Berurah, O.C. 154:23, Aruch Hashulchan, Y.D. 282:16, Tzitz Eliezer 5:1:2:6, 8:30:2.

40 Be'er Moshe 8:110.

41 Refer to Shach, Y.D. 282:11, Kovetz Teshuvos 1:114, Chashukei Chemed, Maseches Niddah, pages 295-296 regarding which caliber of a *talmid chacham* this applies to.

42 Sefer Chassidim 934, Binyan Tzion 97, Nodeh B'Yehudah Kama, O.C. 9, Ner L'emor 29, Zecher Simchah 144, Igros Moshe, O.C. 4:38, Yesodo Yeshurin 2:pages 142-143, Shaarei Halachah, pages 49-50, Zechor Yehosef 37, Kinyan Torah 1:123, 3:107, Divrei Moshe 76-79, Daas Kohen, Y.D. 174, Asei Lecha Rav 6:65, Halichos Shlomo Tefillah 12:43:footnote 55, Ginzei Hakodesh 5:1. See Mishnah Berurah 154:31. The custom is that the crowns for the *sefer Torah* are stored in the *aron kodesh* (opinions of Harav Elyashiv, zt"l, and Harav Nissim Karelitz, shlita, quoted in Ginzei Hakodesh 5:footnote 30).

43 Binyan Tzion 97.

44 Nodeh B'Yehudah Kama, O.C. 9.

45 Aruch Hashulchan, O.C. 154:8, Igros Moshe, O.C. 4:38, Shevet Hakehasi 6:367:1. See Ateres Paz, Y.D. 3:4:page 146.

46 Ginzei Hakodesh 5:footnote 3.

The only time we bury *sifrei Torah* is when they are burned in a fire and not fixable, *R"l*.⁴⁷

The custom for those who bury a worn-out or *passul sefer Torah* is to bury it in its own grave, and not necessarily the grave of a *talmid chacham*.⁴⁸

Shabbos

There is a dispute whether a non-kosher *sefer Torah* may be moved on Shabbos. Some maintain that since one is careful not to learn from it and it is placed in the *aron kodesh*, it may not be moved on Shabbos. However, if one needs to move it in order to reach the *sefer Torah* that one is *leining* from, the non-kosher *sefer Torah* may be moved.⁴⁹ Others maintain that since one can learn from it, a non-kosher *sefer Torah* is not *muktzah*.⁵⁰

Simchas Torah

The custom is that all *sifrei Torah* are removed from the *aron* and danced with, even the *passul* ones.⁵¹

A Sefer Torah That Falls, Chas V'shalom

There is a *minhag Yisrael* that if one drops a *sefer Torah*,

47 Divrei Chaim Lekutim V'hashmatos 1. Refer to Tzitz Eliezer 8:30 for the procedure on burial for a burnt sefer Torah.

48 Asei Lecha Rav 6:65, Gesher Hachaim 33:3, Be'er Moshe 8:110, Zekan Aharon 1:9. See Halachah Berurah, O.C. 154:19, Tzitz Eliezer 15:8, 16:37:5. Some say the reason is that if it is buried near a talmid chacham, the other people nearby may not be learned and this would not be respectful for the sefer Torah. Refer to Tzitz Eliezer 15:8, 16:37.

49 Halichos Shlomo Moadim Tishrei 12:12:footnote 16, Tefillah 12:43, Shemiras Shabbos K'hilchaso 20:footnote 78.

50 Opinion of Harav Elyashiv, zt"l, quoted in Shalmei Yehudah 12:footnote 6, Ashrei Haish, O.C. 2:page 218, Orchos Shabbos 2:19:108:footnote 139.

51 Binyan Tzion 97 (end), Divrei Moshe 76-79, Halichos Shlomo Moadim Tishrei 12:12:footnote 16, Tefillah 12:43, Shemiras Shabbos K'hilchaso 20:footnote 78.

chas v'shalom, even if it's in its case, one must fast.⁵² Some say that even those people who were present at the time the *sefer Torah* fell must fast,⁵³ while others maintain this is not necessary.⁵⁴ If a *sefer Torah* falls in the *aron kodesh* itself, no fasting is necessary.⁵⁵ Some *poskim* say that one does not have to fast when the *sefer Torah* falls. Instead, one should give money in lieu of fasting.⁵⁶ Women do not have to fast.⁵⁷ If fasting will cause one not to learn as well, one does not have to fast.⁵⁸ Some *poskim* maintain that every Rav should decide on his own whether or not his *kehillah* should fast.⁵⁹

52 Ramban, Ki Savo 27:26, Magen Avraham 44:5, Be'er Heitiv 40:2, Elya Rabbah 40:5, Kitzur Shulchan Aruch 28:12, Mishnah Berurah 40:3, Aruch Hashulchan, Y.D. 282:8, Igros Moshe, O.C. 3:3, Maharsham 2:264, Birchas Naftali 5:13; in 5:12 he says if one did not place the *sefer Torah* in the *aron kodesh* properly and it fell one should fast, and if he is too weak he should ask a shailah. The minhag is to fast even if a *passul sefer Torah* falls (Chaim Shual 1:12, Minchas Elazar 3:52). The Rav Poalim 4:28 says one who dropped a *sefer Torah* should do *hagbah*. The Rivevos Ephraim 5:128 says one can fast only a half-day, and there is no need to fast an entire day.

53 Aruch Hashulchan, *ibid.*, Ma'asef Lechol Hamachanos 40:4, Mareh Yechezkel 39, Beis Hayotzer 14, Divrei Chaim 1:59, Pri Hasadeh 2:72, Igros Moshe, O.C. 3:3, Be'er Moshe 4:85-86, Yabea Omer, O.C. 2:28.

54 Refer to Chaim Shual 1:12, Zera Emes 3:143, Pri Ha'aretz 3:31, Kerem Shlomo 35, Krias Chana Dovid 2:77; the Mishpetei Uziel, Y.D. 19 says one should give money. If the *sefer Torah* slipped out of one's hand but he caught it with his other hand, one does not have to fast (Halichos Shlomo Tefillah 12:footnote 50, Atzei Levanon 1:71, Orchos Rabbeinu 1:page 73:38, see Avnei Yushfei 4:109:1, who is stringent..

55 Halichos Shlomo Tefillah 12:39, Avnei Yushfei 4:109:2; see Yad Yitzchak 2:197.

56 Refer to Yabea Omer 2:28.

57 Tuvcha Yabiu 2:page 323:2, quoting the opinion of Harav Elyashiv, shlita.

58 Tuvcha Yabiu 2:page 323:3, quoting the opinion of Harav Elyashiv, shlita. Refer to Ma'asef Lechol Hamachanos 40:4, Mahari Brona 127, Minchas Elazar, *ibid.*, Yaskil Avdi 7:21, Divrei Chaim 1:59, Yabea Omer 2:2.

59 Yaskil Avdi 7:21, Minchas Yitzchak 7:95.

The custom is to fast when a non-kosher *sefer Torah* falls as well.⁶⁰

Standing for a Non-Kosher Sefer Torah

One who sees a *sefer Torah* in transit is required to stand⁶¹. This is derived from a *kal v'chomer* of a *talmid chachum*.⁶²

One should stand for a non-kosher *sefer Torah* as well.⁶³

Selling to Museum

The *poskim* maintain that although selling a non-kosher *sefer Torah* to a non-Jewish museum may not be forbidden, it is not proper to do so.⁶⁴

Tachanun with a Sefer Torah

Many *poskim* say that *Tachanun* may only be recited if one is in a place that has a *sefer Torah*.⁶⁵ This is true even if the *sefer Torah* is in the shul and not placed in an *aron kodesh*.⁶⁶ Some are stringent with this.⁶⁷ An *aron kodesh* that only holds a *sefer Torah* on Mondays and Thursdays has the

60 Chaim Shual 1:12, Minchas Elazar 3:52, Shraga Hameir 3:51, Yad Yitzchak 3:220. See B'shvili Haminhag, page 541. Refer to Chasam Sofer, Y.D. 279.

61 Refer to Kiddushin 33b, Rosh 1:58, Ran, page 28, Rambam, Hilchos Sefer Torah 10:9, Tur, Y.D. 282, Shulchan Aruch Y.D. 282:2, Levushei Srad 2, Kitzur Shulchan Aruch 28:3, Mishnah Berurah 146:17, Aruch Hashulchan, Y.D. 282:3.

62 Shulchan Aruch, Y.D. 242:16.

63 Orach Yisrael 13, Rivevos Ephraim 6:14 (end), Halichos Shlomo Tefillah 12:footnote 55, opinion of Harav Elyashiv, zt"l, quoted in Doleh U'mashkeh, page 98:footnote 281. See Aruch Hashulchan, Y.D. 282:4, Doleh U'mashkeh, page 98, who argue.

64 Halichos Shlomo Tefillah 12:footnote 129. See Aprikasisa D'Yanu 1:31, Ateres Paz, Y.D. 3:4:page 147.

65 Beis Yosef, O.C. 131, Darchei Moshe 3, Rema 2, Shulchan Aruch Harav 3, Aruch Hashulchan 10, Shulchan Hatohar (Karmarna) 131:8, Shulchan Shlomo 131:2. The Aruch Hashulchan, ibid., says the rooms around the shul have the same din as a shul.

66 Taz 5, Mishnah Berurah 11, Igros Moshe, O.C. 4:21:1.

67 Teshuvos V'hanhagos 2:79; see Avodas Ephraim 1:page 129-131

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same *din* as if a *sefer Torah* was there throughout the week. Therefore, in the aforementioned situation, one may say *Tachanun* by putting his head down.⁶⁸ If one only has a *passul sefer Torah*, the regular *Tachanun* is still recited.⁶⁹

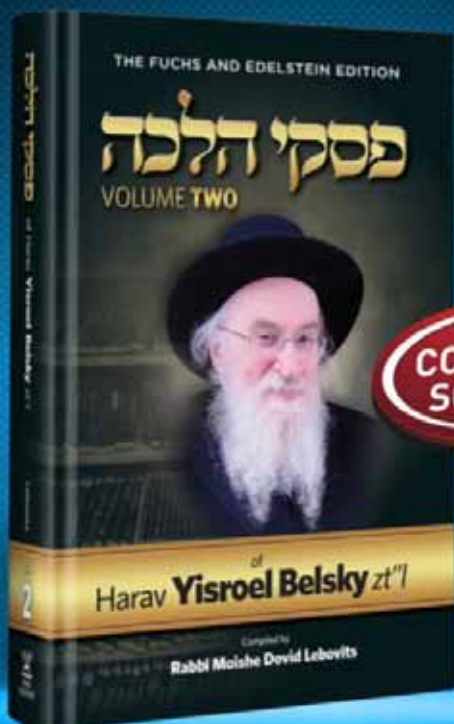
Other Injustice

One should not keep a paper that says he paid back a loan already.⁷⁰

68 Horav Yisroel Belsky, shlita; see Ishei Yisrael 25:footnote 36 (old), quoting the opinion of Harav Shlomo Zalman Auerbach, zt"l.

69 Ishei Yisrael 25:footnote 36 (old), quoting the opinion of Harav Chaim Kanievesky, shlita; Rivevos Ephraim 4:44:77, Piskei Teshuvos 131:11.

70 Maseches Kesuvos 19b, Rosh 2:11, Ritva, Shulchan Aruch, C.M. 57:1, Shach 1-2. Some poskim say that bringing a television into one's home is included in the concept that one should not bring an injustice into his dwelling (Yalkut Yosef Kitzur, O.C. 252:10, Yabea Omer, O.C. 6:12).



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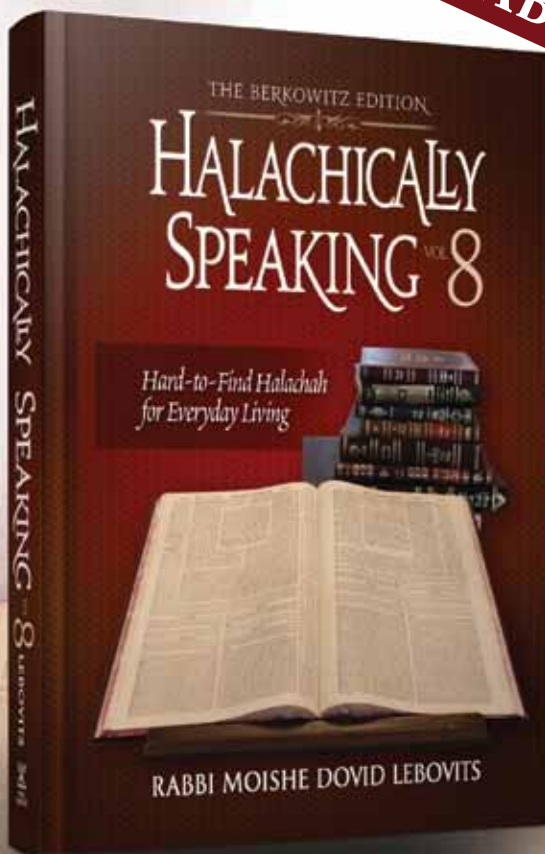
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