

TORAH & HORAAH



Shoftim 5777

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Dear Reader,

The Midrash (Eichah Rabbah) writes that at the time of the Destruction, the Ministering Angels of heaven asked Hashem three terrible questions.

“Master of the World! You have commanded in Your Torah that the blood of a slaughtered animal must be covered with earth. But here, the blood of Israel is spilled like water, and they are not brought to burial? You have commanded in Your Torah that a plagued house is emptied of its contents before the Kohen sees it (to protect the contents from the possible fate of the house). But here, the Temple and all its treasures go up in flames? You have commanded in Your Torah that a mother

This week's article discusses the mitzvah of writing a Sefer Torah. We will outline its laws, and in particular ask the question: Why is it that we don't all invest in ink, parchment, and plenty of time, as required for writing the Torah scroll? How, indeed, do we fulfill the Torah mitzvah of writing a Sefer Torah? And are women obligated in the mitzvah? These questions, among others, are discussed in this week's article.

This week's Q & A addresses the question of making charity donations to non-Jewish charities

Writing, Buying, Partnering - The Mitzvah of Writing a Sefer Torah

Parashas Shoftim talks about the king of Israel. Among the directives to the king, is the obligation to write a Torah scroll for himself: “And it will be, when he sits upon his royal throne, that he shall write for himself this *Mishnah Torah* on a scroll from before the Levitic kohanim” (*Devarim 17:18*).

This obligation is noted by the Mishnah (*Sanhedrin 21b*). While it is incumbent upon every Jew to write a Sefer Torah, the king's obligation goes beyond this. As the Gemara explains, he must write two Sifrei Torah, one that remains in his royal treasury, and another than he carries with him wherever he goes. As the Torah states, “It shall be with him, and he shall read it all the days of his life” (*Devarim 17:19*).

The Rambam cites this halacha in his Laws of Kings (3:1): “During a king's reign, he must write a Torah scroll for himself in addition to the scroll which was left to him by his ancestors. ... If his ancestors did not leave him a Torah scroll or that scroll was lost, he must write two Torah scrolls: one, in whose writing he is



and its son must not be slaughtered on one day. But here, Hannah and her seven children are killed on one day?”

The Midrash does not reveal the answer to these frightening questions. Yet, we find an answer in the Likkutei Torah of Rav Chaim Vital: It is because of “a dispute in your cities” (Devarim 17:8).

The verse writes: “If a matter of judgment is hidden from you, between blood and blood, between verdict and verdict, between plague and plague, matters of dispute in your cities.”

The first part of the verse presents the questions. “Between blood and blood” refers to the spilling of Jewish blood as water, unlike the blood of slaughtered animals that is covered by earth. “Between judgment and judgment” refers to the murder of Jewish mother and son, in contrast to prohibition for animals. “Between plague and plague” refers

obligated as is every individual Israelite and which he places in his treasury; the second, which should not move from his presence.”

The Kessef Mishnah notes that the halacha noted by the Rambam, whereby if a Torah scroll is inherited the king need write only one scroll, is special to the king. For a regular Jew, even if he inherits a Sefer Torah from his fathers, he still must write a new Sefer Torah for himself.

This is in keeping with the Torah instruction, “And now, write for yourselves this song” (*Devarim 31:19*), which is interpreted as an instruction to write the entire Torah. As the Rambam explains, we read the verse as instructing us to “write the Torah, which includes this song” (see *Beis Yosef, Yoreh De’ah 270*). Since it is forbidden to write individual sections of the Torah, the instruction to write the Song must refer to the entire Torah.

In the present article we will seek to address the parameters of the mitzvah to write a Sefer Torah. We will outline its laws, and in particular we will seek to understand: Why is it that we don’t all invest in ink, parchment, and plenty of time, as required for writing the Torah scroll? How, indeed, do we fulfill the Torah mitzvah of writing a Sefer Torah?

Purchasing a Sefer Torah

The Rambam (*Hilchos Sefer Torah 7:1*) writes: “It is a positive commandment for every man in Israel to write a Sefer Torah for himself.” As noted above, the Torah source for this mitzvah is the verse: “And now, write for yourselves this song.”

The Gemara makes a point of the great virtue of performing this mitzvah, explaining that somebody who writes a Sefer Torah is considered as if he received the Torah directly from Sinai (*Menachos 30a*). Elsewhere (*Sanhedrin 21b*), the Gemara clarifies that it is not sufficient to inherit a Torah scroll from one’s parents. In order to fulfill the mitzvah one must actually write the Torah himself.

A closer look at the Gemara in *Menachos (30a)* reveals that the mitzvah might not require actually writing the Torah: “One who purchases a Sefer Torah from the market is considered as if he has grabbed a mitzvah from the market; one who writes a Sefer Torah is considered as if he has received it at Sinai. Rav Sheishes

said: One who corrects even one letter is considered as if he has written the entire Torah.”

Rashi explains that one who purchases a Sefer Torah fulfills the obligation of writing the Torah, yet this is not the optimal method of fulfilling the mitzvah. Only one who actually writes the Sefer Torah (or appoints an agent to do so) is considered as though he had received the Torah from Sinai. The *Nimukei Yosef* explains that purchasing an already completed Sefer Torah involves little effort, and therefore is not the same as actually writing the Torah.

According to Rashi, it thus emerges that the basic mitzvah does not require writing a Torah, but rather bringing a Sefer Torah into one's possession in any way. Based on this approach, we can understand the ruling given by the *Toras Chayim* (*Sanhedrin* 21b), whereby if a Sefer Torah is lost, or donated to a shul, the person who wrote the Torah loses his fulfillment of the *mitzvah*. The fulfillment of the mitzvah requires the continual holding of the Torah in one's possession.

Writing the Torah

The Rambam, however, makes no mention of the option of purchasing a Sefer Torah, but speaks only of writing one. The *Minchas Chinuch* (*Mitzvah 613*) explains that according to the Rambam, a person must literally write a Sefer Torah, or if he is unable to write the Torah, he must appoint a scribe to do so on his behalf.

The *Rema* (*Yoreh Deah 270:1*) sides with this approach, ruling that one who purchases a Sefer Torah that requires no correction has not fulfilled the mitzvah at all. This is based on the final sentence of the above-cited Gemara, which notes that somebody who corrected a Torah is considered as though he wrote it. Absent a correction, no mitzvah is fulfilled.

This opinion squares well with the ruling of several authorities, as cited in the *Pischei Teshuvah* (*Yoreh De'ah 270:3*), who state that a person does not lose his fulfillment of the mitzvah if he loses his scroll, or donates it to a shul. The mitzvah, based on this approach, is writing, rather than owning.

However, the Vilna Gaon agrees with Rashi (*Yoreh Deah 270:3*),

to the destruction of the Temple and its contents, unlike the plagued house that is emptied before destruction.

Why does all of this come upon us? The answer is revealed in the second half of the verse: It is because of “matters of dispute in your cities.”

Such is the awful power of rift and conflict. When Israel is not at peace with itself, Hashem judges them not with compassion, but with strict judgment. Indeed, Chazal state that “one who is not particular about his honor, is forgiven for all his sins.” Hashem deals with us as we deal with our fellow Jews.

In the month of Elul, as we prepare ourselves and mend our ways towards the great Day of Judgment, let us not neglect “matters of dispute in your cities.” If we do our part towards finding Shalom among ourselves, Hashem will do His part in judging us with corresponding compassion.

and rules that bedeviled one can fulfill the mitzvah even by purchasing a complete Sefer Torah. This is also the ruling of the *Aruch HaShulchan* (270:2). Rav Moshe Feinstein (*Iggros Moshe, Yoreh De'ah* Vol. 1, no. 163) even expresses wonder at the Rema's ruling, adding that the Rambam in no way implies that one cannot fulfill the mitzvah by buying a Sefer Torah.

Modern Applications

The *Sefer HaChinuch* (613) writes that the purpose of writing a Sefer Torah is for Torah study: “[T]he Holy One, blessed be He, commanded that each and every man of Israel have a Sefer Torah at hand from which he can always study, so that he should not need to seek one at his friend's house. In this way, he will learn to fear Hashem, and he will know and understand His mitzvos, which are more precious than gold, and even much fine gold (*Tehillim* 19:11).”

Based on this understanding, it may be surprising that even one who inherited a Torah scroll from his parents has to write his own Sefer Torah. However, the *Sefer Hachinuch* explains that the Torah wants there to be many Torah scrolls so that even one who cannot afford to purchase a Torah scroll will find one available. Furthermore, he argues that it is harder to study from an old Torah scroll, and a person will be more inspired to study the Torah from a Torah scroll that he himself wrote (or purchased).

The *Rosh* (*Sefer Torah* 1) similarly writes that the purpose of the mitzvah is for Torah study. Based on this rationale, he goes on to write that today, the mitzvah is fulfilled by writing other Torah works: “Nowadays, when Sifrei Torah are written and placed in synagogues for public Torah readings, it is a positive commandment

for every Jewish male who can do so, to write *chumashim*, volumes of *Gemara*, *Mishnah*, and their commentaries.”

The *Rosh* proceeds to write that since the purpose of the mitzvah is Torah study, to understand the mitzvos and their laws, it follows that a person today is obligated to write the *Gemara* and its commentaries, from which we derive the laws.

This understanding of the mitzvah is echoed by the ruling of the *Shulchan Aruch* (270:1). According to the *Shach* (270:5) and the *Perishah*, the ruling implies that there is no longer a Torah mitzvah of writing a Sefer Torah, and the mitzvah is fulfilled specifically by writing books of Torah practice that are commonly studied since people no longer study Torah from Torah scrolls.

Another interpretation is offered by the *Beis Yosef* and other authorities, who explain that *Rosh* means to expand the mitzvah, which is fulfilled *not only* by writing a Sefer Torah, but also through works that are commonly studied. Writing (or purchasing) such works is included in the mitzvah of writing a Sefer Torah, and this is actually superior to writing the Sefer Torah itself, which is now used for public Torah readings alone.

Note that the Rambam makes no mention of any change in the mitzvah, which implies that even today, the mitzvah is fulfilled by writing a Sefer Torah (alone). The *Chafetz Chaim* (*Sefer HaMitzvos HaKatzar*) initially states that one should write, designate someone else to write, or buy a Sefer Torah, yet subsequently cites the position of the *Rosh*. The *Chafetz Chaim* concludes: “Whoever is able to fulfill both interpretations—fortunate is his lot.”

Obligation for Women

Based on the underlying rationale behind the mitzvah (as presented above), we can understand the position of *Sefer HaChinuch*, whereby women are exempt from the mitzvah of writing a Sefer Torah. Since women are not obligated in Torah study, the mitzvah of writing a Sefer Torah does not apply to them.

The *Shaagas Aryeh* (35), however, questions this premise, commenting that this mitzvah does not fall within the category of time-related mitzvos from which women are exempt. He also notes that although women are not obligated in Torah study on the same level as men, they are obligated to study those parts of Torah relevant to their lives, which is why women recite the daily blessing over the Torah.

Moreover, the *Shaagas Aryeh* argues that the mitzvah of writing a Sefer Torah is not related to the obligation of Torah study. Rather, it is related to the idea of continuing the written tradition of the Torah from generation to generation, which applies irrespective of the obligation to study the Torah.

Yet, although he writes that women are in principle obligated in the mitzvah, the *Shaagas Aryeh* argues that nowadays even men are exempt from the Torah mitzvah, since we are not *beki'im* (expert) in how some words in the Torah are written. Because our tradition is not accurate, it follows that the Torah mitzvah does not apply, and the obligation to write the Torah today is rabbinic alone. (He adds that the rationale for the rabbinic obligation is to ensure that Torah is not forgotten. Because this is directed at Torah study, it is possible that women are indeed exempt.)

Another source for the opinion that women are

exempt from the mitzvah is suggested by the *Minchas Chinuch*, who explains that because women may not serve as scribes to write a Sefer Torah (*Yoreh De'ah* 281:3), it follows that they are likewise unable to appoint agents to write the Torah on their behalf. The *Shaagas Aryeh* refutes this view, arguing that women are obligated in the mitzvah of *mezuzah* (for instance) even though they may not write one. The same can apply to a Sefer Torah.

The Rambam lists writing a Sefer Torah as one of the 18 mitzvos that women are exempt from, and the consensus of virtually all later authorities is that women are exempt from the mitzvah (see *Iggros Moshe, ibid.*)

Partnership in Writing

Due to the high cost of a Sefer Torah, the matter of writing a Torah scroll in partnership with others has great practical interest and indeed later authorities discuss whether the mitzvah can be fulfilled in a partnership.

According to several authorities, the mitzvah cannot be fulfilled with a partner, because the mitzvah is that every person should write (or own) his own Sefer Torah (see *Pischei Teshuvah* 270:1, who cites authorities expressing doubt over the matter; *Aruch Hashulchan* 270:11 maintains that one does not fulfill the mitzva). However, other authorities write that the mitzvah can be fulfilled in a partnership, provided that each of the partners has a perutah's worth of interest in the Sefer Torah. (*Iggros Moshe, ibid.*)

Therefore, where this is the only way to fulfill the mitzvah, it is proper to contribute towards writing a Sefer Torah. If possible, one should stipulate that the contribution gives him a legal partnership in the Sefer Torah (according to the

Toras Chaim, this is a required stipulation). Rav Moshe Feinstein adds that the combination of writing a Sefer Torah in partnership, and buying *sefarim* that are commonly studied, is sufficient to fulfill the mitzvah according to all opinions.

In 1933, Rabbi Chaim Ozer Grodzensky called on Jews everywhere to participate in writing a Sefer Torah in memory of the *Chafetz Chaim*. Announcements bearing Rav Chaim Ozer's signature called on each man and woman to participate and "thereby fulfill the mitzvah of writing a Sefer Torah." This, indeed, is the common custom for many in fulfilling the mitzvah.

A Pricey Mitzvah

As we know, a Sefer Torah does not come cheap. Writing an Ashkenazi Sefer Torah will cost upwards of **\$30,000**—an expenditure not everyone can afford. If one does not want to join a partnership we must ask to what extent must a person strive to fulfill the mitzvah, in spite of the high cost?

Rav Moshe Feinstein discusses this issue, writing that according to most authorities, there is no obligation to spend a large proportion of one's money for fulfilling the mitzvah. Although he mentions opinions that one must spend up to a fifth of one's wealth, he writes that according to most authorities there is no obligation to spend even one tenth of one's available funds.

Rav Moshe explains that Chazal do not criticize somebody who spends one tenth of his wealth to fulfill the mitzvah, but that if one spends more than a fifth "it is possible that the Sages will criticize the practice, because if he will spend a fifth of his wealth on a Sefer Torah, he will not be able to perform other mitzvos and to donate to charity,

for it is forbidden to spend more than a fifth."

Based on this principle, the obligation to write a Sefer Torah only applies to an individual for whom the cost of a Sefer Torah is less than one tenth of his wealth. One who does not possess such wherewithal is exempt from the mitzvah.

This ruling emerges from the wording of the *Rosh* and the *Tur* (*Yoreh De'ah 270*), who write that the mitzvah applies to "any man of Israel who has the means." This implies that only those possessing the means to write a Sefer Torah are obligated to perform the mitzvah (see also summary, below).

Summary

The optimal way to perform the mitzvah to write a Sefer Torah is to actually write a Torah scroll with ink and parchment, or to appoint an agent to do so on one's behalf. According to many authorities, one also fulfills the mitzvah by purchasing a Sefer Torah, though this is not optimal. If one wishes to fulfill the mitzvah by purchasing a Sefer it is best to ensure the Sefer is incomplete, and completed by the purchaser or an envoy.

According to the *Rosh*, whose opinion is cited in the *Shulchan Aruch*, the principle mitzvah today is not the writing of a Sefer Torah, but writing and purchasing *sefarim* that are commonly studied from (*Chumashim, mishnayos, gemaros, etc.*). Authorities differ over whether there remains a mitzvah to write an actual Sefer Torah.

The majority opinion is that women are exempt from the mitzvah of writing a Sefer Torah.

The obligation to actually write a Sefer Torah applies only to individuals who are able to pay the expense with one tenth (or less) of their available wealth.

Authorities dispute whether the mitzvah can be fulfilled as a partnership. One who donates towards writing a Torah scroll and wishes to fulfil his obligation by doing so, should preferably stipulate that his donation buys an actual share in the Sefer Torah.

Halachic Responsa to Questions that have been asked on our website dinonline.org



The Question:

Is it permitted to give donations to non-Jewish charities and worthy causes? One of my children's teachers told him that this is forbidden. Is this true? Should I approach the rebbe and speak to him about it?



Answer:

It is permitted to make contributions to non-Jewish charities, although one's first concern should be for Jewish charities.

Non-Jewish charities like leukemia or cancer research are good for the entire world: non-Jews and Jews alike. They are definitely a worthy contribution.

I would not take the issue up with the rebbe. You can simply tell your son that according to your own halachic research (or after asking a rabbi) you have ascertained that it is permitted.

Best wishes.



Sources:

Donations to non-Jewish charities are unrelated to the prohibition of *lo techanem*, which refers to giving gifts to idolaters. Many authorities rule that the principle does not apply to non-idolaters, and in any case leukemia research is of course entirely different to giving gifts to an individual non-Jew.

In addition, the Gemara and the Shulchan Aruch rule that we give charity even to regular non-Jews (and even to idolaters), and according to the Rambam this reflects a principle of emulating the ways of Hashem, who is "good to all." As noted, for such charities as cancer research there is no need to reach this rationale.

For sources on this see Gittin 61a; Yoreh De'ah 251 (one gives charity to non-Jews and Jews together). For the rationale, see Rashi; according to the Rambam, Laws of Kings, end of Chap. 10, the rationale extends beyond the simple interpretation of 'darchei shalom' (ways of peace), and involves emulating the ways of Hashem in being good to all.

For sources concerning *lo techanem* our answer concerning selling houses in Israel, for which many authorities (based on a responsum of the Rashba) write that the prohibition does not apply to non-Jews who are not idolaters. Some, however, including the Chazon Ish and others, rule stringently on this matter.