The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Shabbos, Jan 3, 2026 ■ י"ד טבת, תשפ"ו
סימן ל"ט סעיף ד'-ז'

Overview

Siman 39 Seif 4:

***Tefillin* written by an *apikores* must be burned and according to others is should be buried.**

- It is assumed that an *apikores* writes the *tefillin* for his idol. (M.B. 13)
- According to the second opinion since an *apikores* does not wear *tefillin* it is assumed that he wrote the *tefillin* for a Jew to wear and did not write it for the sake of his idol. Shulchan Aruch follows the first opinion. (M.B. 14)

Siman 39 Seif 5:

***Tefillin* found in the possession of an *apikores* and it is not known who wrote them should be buried.**

- The *tefillin* are buried since we are concerned that the *apikores* wrote them. (M.B. 15)

Siman 39 Seif 6:

***Tefillin* found in the possession of a gentile and it is not known who wrote them are valid.**

- Since gentiles do not know how to write *tefillin* it is assumed that the *tefillin* were written by a Jew. Even when a *Sefer Torah* is found in the possession of a gentile, Shach ruled that it is valid since it is assumed that it was plundered from a Jew. (M.B. 16)

Siman 39 Seif 7:

One may not purchase *tefillin*, *mezuzos*, or *sefarim* from a Cuthean for a lot more than its value so they should not become accustomed to stealing them.

- One is obligated to pay a little bit more than its value. Even though according to some opinions the *Sefer Torah* taken from a gentile must be buried, nevertheless, there is an obligation to purchase it from the gentile to bury it so that it should not be disgraced. Similarly, if the *Sefer Torah* is invalid one is obligated to purchase it in order to bury it. If, however, it was written by an *apikores* and must be burned there is no need to purchase it from a gentile. (M.B. 17)
- One should not give up on purchasing sacred items from a gentile just because he asks for a lot of money since it is possible that he will lower his price. One should not offer too little so that he should decide to keep it and treat it disrespectfully. (M.B. 18)

Halacha Highlight

Finding *tefillin*

Shulchan Aruch Siman 39 Seif 6

נמצאו ביד אינו יהודי ואין ידוע מי כתבם כשרים

If *tefillin* were found in the possession of a gentile and it is not who wrote them they are valid

Shulchan Aruch addresses many different circumstances of *tefillin* found in the possession of different people and the *halacha* of whether it may be assumed that they were written by someone who is a reliable scribe or not. These *halachos* take into account presumptions and sometimes *halacha* mandates an examination of some of the *tefillin* in order to establish a presumption which then serves to permit other *tefillin* as well.

More recent Poskim wrote in very strong terms that nowadays we are much more cautious regarding *tefillin* whose exact origin is not known. There are many people who are in the *tefillin* business who are not reliable at all. Some scribes are not careful with the way they form the letters to make sure that they conform to the details of the *halachos*. They are not careful to sanctify their writing even when writing the name of Hashem. The laws regarding the restriction against carving out letters rather than writing the letters is completely ignored as is the *halacha* that demands that the letters are written in order. Therefore, if someone finds *tefillin* in the possession of a gentile or even a Jew but these *tefillin* can not be traced to someone who was careful in his observance of *mitzvos,* it should not be assumed to be valid *tefillin* since there is such a high percentage of invalid *tefillin* sold in the market. In such a case it is only if expert scribes look at the *tefillin* and determine that from their experience it seems as though the *parshiyos* were written by someone reliable may one use these found *parshiyos*. For example, Mishnah Berurah discusses the *halacha* of *tefillin* found in *genizah* (פסקי תשובות אות ה'). Teshuvas Mishnah Halachos (ח"ד סי' י"ד וח"ה סי' ו' וח"ו סי' י"א) notes that nowadays it is not uncommon to find quality pairs of *tefillin* in *genizah*. After a religious father passes away his non-religious children give away all his religious articles including his *tefillin* and they end up in *genizah*. For this reason they should be shown to an expert scribe to determine whether they look as though they were written and produced by someone reliable.

Stories to Share

The Origins of a Sefer

ש"ע סי' ל"ט, ד': "תפילין שכתבם אפיקורס ישרפו..."

We find on today's amud that a sefer Torah written by a heretic may not be used. Although the Tur holds it must placed in genizah, many authorities propose that it should be burned.

A certain scholar inherited a Shas and many other excellent Torah works. When he learned that they were printed by non-Jewish publishers he wondered whether he was allowed to use them or if they required genizah or burning, as we find regarding a sefer Torah or tefillin written by a heretic. After all, is there any real difference between that which is hand-printed on parchment and mechanically-printed works?

When this question reached the Halachos Ketanos he was inclined to be stringent. "I don't believe you should even use these works for study. Although it is not clear that written and printed works are the same, who can say they are different without conclusive proof?"

שו"ת הלכות קטנות, סי' ט"ו

But the Shevus Yaakov disagreed. "Although printed seforim may be the same as written ones—as is certainly the case regarding whether they require genizah—there is another reason to be lenient here. The seforim in question are of the oral Torah, which should not be committed to writing at all. The only reason that the oral Torah can be committed to writing is due to the maxim, 'עת לעשות לה' הפירו תותיך'. So even if such seforim were printed by non-Jews we may preserve them and use them just like we preserve any oral Torah that is written down.

"This is clear from the words of the Teshuvos HaRema. He writes that if not for printing teshuvos and the like, the oral Torah would have been forgotten. I therefore hold that these seforim have the same halachic status as seforim printed by Jews."

שו"ת שבות יעקב, ח"א, סי' ג'-ד'