

BUSINESS WEEKLY



RESTORING THE PRIMACY OF CHOSHEN MISHPAT UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA

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לע"נ הרב יחיאל מיכל בן ר' משה אהרן אורליאן



CASE FILE

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לע"נ הרב אהרן בן הרב גדליהו ע"ה

MACHATZIS HASHEKEL

Yisrael was celebrating his bar mitzvah.

He prepared the *leining* of *Parashas Mishpatim*, as well as the *maftir* of *Shabbos Shekalim*, the *machatzis hashekel*.

Rabbi Dayan spoke in honor of the bar mitzvah, and expounded in his *drashah* upon the significance of becoming an active and responsible member of *Klal Yisrael*.

"Yisrael," Rabbi Dayan said to him, "you beautifully read about the *machatzis hashekel*, which united all of *Klal Yisrael* in the offerings of the Beis HaMikdash.

"On this day, as you become bar mitzvah, we wish you the privilege to see the rebuilding of the Beis HaMikdash. Your half-shekel will join with the half-shekel of another Jew - with the half-shekels of all the Jews around the world - to purchase the *korbanos*.

"In this way, your reading reflects the change you are undergoing this day as you turn thirteen and become bar mitzvah, a young man who is responsible and endeavors to take part in the undertakings of *Klal Yisrael*. *Mazel tov!*"

When Rabbi Dayan finished speaking, Yisrael leaned over and whispered to his father. "I don't understand," he said. "The Torah talks about people 20 and older. Why did he talk about the *machatzis hashekel* in the context of 'this day' as I turn thirteen?"

"I was wondering the same," replied Yisrael's father. "Why don't you ask him?"

After *davening*, Yisrael approached Rabbi Dayan. "I have a question," Yisrael said.

"From what age is one obligated to give *machatzis hashekel*?"

"The Torah (*Shemos* 30:3) requires a *machatzis hashekel* for adult males 20 and above," replied Rabbi Dayan. "However, the explicit context of the *parashah* is for conducting a census and the building of the Mishkan.

"The *Gemara* (*Megillah* 29b) expounds that the *parashah* alludes to three collections. The first was a *machatzis hashekel* for a census, which was used to form the *adanim* - the foundation blocks for the Mishkan. The second was a *machatzis hashekel* for the day-to-day expenses of operating the Mishkan, especially the costs of the sacrifices. The third was a donation of the various materials for the construction of the Mishkan.

"The *mitzvah* of *machatzis hashekel*, which remains as an obligation for generations, is the second kind, to cover the yearly operating costs of the Beis HaMikdash.

"*Sefer Hachinuch* (#105) writes that the *mitzvah* is for males 20 and above, whether living in Israel or outside Israel, during the times of the Beis

DID YOU KNOW?

Vendor agreements can have clauses that may be ribbis but can often be corrected with halachic guidance.

Ask your Rav or email
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for guidance and solutions.



BHI HOTLINE

לע"נ ר' שלמה ב"ר ברוך ז'וג' מרת רייכלה בת החבר יעקב הלוי ע"ה ווייל

PRICE CHECK

Q. "Sarah," one of my daughter's high school classmates, offered to pick up food at a store near the school. Each girl gave her money and a list of what they wanted. My daughter gave her a 50-shekel bill, and asked her to buy fries and an ice coffee, which were supposed to cost 16 shekel.

Two other girls wanted fries. For convenience, they each gave my daughter 10 shekel and Sarah would simply return 14 shekel in change to my daughter.

When Sarah returned from the store she realized, she didn't have change for my daughter.

She did not take the receipt from the cashier, so she could not explain what happened with the change.

The most logical explanation for this discrepancy was that the store had posted a notice that prices were scheduled to rise on January 1, 2023. According to the updated prices, the bill for the food would come out to exactly 50 shekel — but this transaction had taken place before January 1st!

The next day, however, a girl went to that store and picked up an ice coffee, and she realized that the price had already risen, even though it was still before January 1, 2023. It is probable, then, that the new prices had already been in effect the day before, in which case the total of 50 shekel was correct.

My daughter claims that she is owed money either way — if the prices had not risen on the day they made their joint purchase, then Sarah owed her change. If the prices had risen, then the other girls owed her the discrepancy between the 10 shekel they had given her and the actual price of the fries.

Is she correct that someone owes her money? And if yes, who?

A. If such a *sh'ailah* were posed to a *beis din*, they would likely refuse to accept the case; rather, they would send the litigants to the store to check when the prices rose, which would immediately resolve this case (see *Sma* 317:11, and *Bava Basra* 35a, *Rashbam* s.v. *Hasam*).

Teenage girls will often feel comfortable going into the store to discuss the matter, however, so what follows is an examination of this case if the girls do not want to



CASE FILE

Hamikdash.

"*Minchas Chinuch* (105:1) notes, though, that the Rambam (*Hil. Shekalim* 1:1, 7) writes that each adult Jewish male is obligated, whereas women and children (minors) are exempt, so the obligation seemingly is from bar mitzvah age (13), like all other *mitzvos*.

"Ramban (*Shemos* 30:12) writes explicitly that the obligation is from bar mitzvah age. He further notes that *Kohanim and Leviim* are also obligated, unlike the census in the beginning of *sefer Bamidbar*, which was from age 20 and did not include *Shevet Levi*.

"Some maintain that the obligation is from bar mitzvah, but we do not forcibly collect until age 20 (see *Aruch Hashulchan, He'asid, Hil. Shekalim* 83:7).

"The *Mishnah (Shekalim* 1:3, 5) teaches that even Jews who are not obligated can donate. A father who gave on behalf of his minor child should continue doing so in subsequent years.

"The *poskim* extrapolate from this the practice of giving three half-coins *Zecher l'machtzis hashekel* before Purim," concluded Rabbi Dayan. "*Rama* (O.C. 694:1) rules that only males from age 20 are obligated. However, *Mishnah Berurah* (694:5) cites the opposing opinion that those of bar mitzvah age are obligated. He further writes that the common practice is to give also on behalf of children, since the *machtzis hashekel* provides atonement. Many *poskim* write that the practice is to give also on behalf of women and girls for this reason" (*Kaf Hachaim* 694:27; *Shevet Halevi* 7:183; *Halichos Shlomo, Purim* 18:9[30]).

Verdict: The Torah obligation of *machtzis hashekel* in the times of the Temple is on adult males from age 20, or, according to many, from bar mitzvah age. The practice of *machtzis hashekel* nowadays is also for women and children, since it provides atonement.



MONEY MATTERS

Based on writings of Harav Chaim Kohn, shlita

MONEY MATTERS

Dayanim (Judges) #34

Bribery - Parameters

לע"נ ר' יחיאל מיכל ב"ר חיים וזוג' ח'י בת ר' שמואל חיים ע"ה

Q: What are the parameters of the prohibition against bribery?

A: The Torah already prohibits tilting justice in the verse, "Do not tilt justice" (*Devarim* 16:19). Hence, the prohibition against taking bribery (*ibid.*; *Shemos* 23:8) must also be interpreted to rule honestly. This is because the giver and the recipient become like one, so that the *Dayan* will not be able to see fault in him, and will instinctively tilt the judgment toward him even though intending to judge honestly (*Sefer Hachinuch* #83; Rambam, *Hil. Sanhedrin* 23:1; *C.M.* 9:1; *Sma* 6:1-2).

It is prohibited even to take bribes from both sides equally. Some explain that it is so as not to make distinctions in the prohibition; others explain that the *Dayan* will find it difficult to rule properly should one side be completely liable (*Drishah* 9:1; *Haflaah Kesubos* 105b).

One who gives a bribe violates *lifnei iver*, even he is not one of the litigants. Moreover, even if one party suspects that the other party is bribing, this does not allow him to bribe in parallel (*Pischei Teshuvah* 9:3).



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investigate what happened.

When Sarah took the money from your daughter, she became a *shomer chinam* (unpaid guardian) of the money. The question is, then, whether she behaved negligently, because a *shomer chinam* is responsible only in cases of negligence.

Now, if there is clear proof that the prices had not yet risen, and Sarah erred by not ensuring that she received the change, she would be liable to pay your daughter. As a *shomer chinam*, she would be absolved of liability only if she were to take an oath that she was not negligent. Since Sarah cannot take that oath, she would have to repay your daughter.

If, however, it is unclear whether the prices had risen by the day of the purchase, Sarah would not be obligated to pay, because it is possible that she wasn't supposed to get change (see *Shulchan Aruch, Choshen Mishpat* 296:2 and *Shach* 291:44).

Another angle to consider is whether Sarah is obligated to pay because of the halachos of *bari v'shema* (certainty and uncertainty). We are certain that Sarah received 50 shekel from your daughter, and we are uncertain whether she returned all of its value. If the prices rose, she "returned" the money in the form of the food she purchased. But if the prices did not yet rise, there should have been change. Since she doesn't know which of the two was the case, her claim is "*eini yodei'a im parati* — I don't know whether I repaid."

For the plaintiff (your daughter) to demand repayment in such a case, she must be certain that she is owed money (*ibid.* 75:9). Since your daughter is also uncertain, it is a case of *shema v'shema*, and the *poskim* are divided over whether a person should pay out such a claim *latzeis yedei Shomayim* (to avoid judgment in Heaven) (see *ibid.* 75:10 with *Taz*; 75:18 with the commentaries, and BHI issue #459).

It is possible, however, that Sarah was not negligent altogether. Often, stores near high schools are inundated during school breaks, and average customers don't take the time to check their receipt and their change because of the line waiting behind them. In such the case, then the girls who asked Sarah to buy food did not expect her to check the change and receipt, especially because the amount of money under discussion is not significant (see *Imrei Binah, Tshuvos Imrei Shlomo* 6).

As for the girls who gave your daughter 10 shekel each to cover their fries, it seems that their claim is "*eini yodei'a im nis'chayviti* — I don't know if I ever owed money," because we don't know if they ever owed more than the 10 shekel they gave your daughter (see *Choshen Mishpat* 75:10, where the ruling is that in such a case, the defendant isn't even required to pay *latzeis yedei Shomayim*).

Ultimately, if the girls are embarrassed to go back to the store to investigate what happened, it seems likely — based on the fact that the prices of these items were scheduled to rise to a total of 50 shekel, coupled with the fact that a day later they were already charging the higher price, even though it was still before January 1 — that the prices had risen on the day of the joint purchase. Therefore, it would be appropriate for the girls who gave your daughter 10 shekel to pay the difference between the old price and the new price.

For questions on monetary matters, arbitrations, legal documents, wills, ribbis, & Shabbos, Please contact our confidential hotline at 877.845.8455 or ask@businesshalacha.com

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