

THE BAIS HAVAAD

# HALACHA JOURNAL

Family, Business, and Jewish Life through the Prism of Halacha

VOLUME 5784 • ISSUE XLVI • PARSHAS RE'EI



## STRIKE ONE: SHOULD CHILDREN BE SUBJECTED TO CORPORAL PUNISHMENT?

Adapted from the writings of Dayan Yitzhak Grossman

### AP News reports:

This school year, Illinois will become just the fifth state in the nation to prohibit corporal punishment in all schools.

Legislation that Gov. J.B. Pritzker signed into law this month bans physical punishment in private schools while reiterating a prohibition on the practice in public schools implemented 30 years ago.

When the ban takes effect in January, Illinois will join New Jersey, Iowa, Maryland and New York in prohibiting paddling, spanking or hitting in every school.

State Rep. Margaret Croke, a Chicago Democrat, was inspired to take up the issue after an updated call by the American Association of Pediatrics to end the practice, which it says can increase behavioral or mental health problems and impair cognitive development...Croke wanted to send a clear message that "it never was going to be OK to inflict harm or pain on a child."

Much of the world agrees. The World Health Organization has decreed the practice "a violation of children's rights to respect for physical integrity

and human dignity." In 1990, the United Nations Convention on the Rights of the Child established an obligation to "prohibit all corporal punishment of children."

The U.S. was the convention's lone holdout. Americans seemingly take a pragmatic view of the practice, said Sarah A. Font, associate professor of sociology and public policy at Penn State University.

"Even though research pretty consistently shows that corporal punishment doesn't improve kids' behavior in the long run—and it might have some negative consequences—people don't want to believe that," Font said. "People kind of rely on their own experience of, 'Well, I experienced corporal punishment. I turned out fine.' They disregard the larger body of evidence..."

Today, 17 states technically allow corporal punishment in all schools, although four prohibit its use on students with disabilities. North Carolina state law doesn't preclude it but every school district in the state blocked its use in 2018. Illinois lawmakers in 1994 stopped the practice in public schools. Among states that have completely

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A PUBLICATION OF THE  
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### PARSHAS RE'EI

#### DONE DEAL?

Excerpted and adapted from a *shiur*  
by Dayan Yehonoson Dovid Hool

*When you send him away from you free,  
you shall not send him away empty-  
handed.*

Dvarim 15:7

If someone hires an employee and then reneges on the deal, the halacha depends on many factors, some of which follow.

If the employer reneges before the job commences, and the employee finds another job, *ein lo alav ella tar'omess*—he has nothing against him except valid cause for complaint—i.e., there is no monetary claim. The same is true if the employer finds him alternate employment, even if he refuses to accept it, because the employer can argue that the employee suffered no loss.

If the employee suffers financially due to the change, e.g., he relinquished another job to take this one, the employer must pay him, but only at the rate of a *po'el batel* (an idle worker), i.e., the amount of money a worker would accept to stay home and not have to work.

If the employer had obligated himself via a *kinyan*, or if he reneged after the job

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Q&A from the  
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### Predawn Reid

**Q** I work the graveyard shift. In the summer, I finish close to dawn. May I daven Maariv then?

**A** Maariv comprises three parts—*Krias Shma* (a mitzvah *de'Oreisa*), *Birchos Krias Shma*, and *Shmoneh Esrei* (both *deRabanan*)—all of which may only be recited at night.

Halachic daybreak has two stages: *alos hashachar* (dawn) and *haneitz hachamah* (sunrise). Generally, night ends and day begins at *alos hashachar*, but the time for *Krias Shma* extends *mide'Oreisa* until *haneitz hachamah*. This is because it is dependent not on night but on the time

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outlawed it, New Jersey took the unusual step of barring corporal punishment in all schools in 1867. Iowa eliminated it in private schools in 1989. Maryland and New York stopped private school use in 2023...<sup>1</sup>

The views of secular society on corporal punishment of children have generally changed. Many Torah authorities of our time also give different guidance on the matter than did those of the past, with a crucial difference: Secular society often feels that it simply knows better than earlier generations, whereas Torah authorities that adopt different perspectives from those of earlier generations are generally reacting to changes in circumstances.

In this article and a follow-up, we consider Torah perspectives on the corporal punishment of children from Tanach to our time. In this one, we survey many of the classic sources on the topic, and in the following one, we will *iy"H* discuss the positions of recent and contemporary authorities.

### Sefer Mishlei

In Mishlei, parents are repeatedly enjoined to discipline their children physically:

- "One who spares his rod hates his child, but one who loves him disciplines him in his youth."<sup>2</sup>
- "Discipline your son, for there is hope; let your soul not be swayed by his protest."<sup>3</sup>
- "Do not withhold discipline from the youth. If you strike him with the rod, he will not die. You should strike him with the rod and you will rescue his soul from the grave."<sup>4</sup>
- "The rod and rebuke provide wisdom, but a self-indulgent youth brings shame to his mother."<sup>5</sup>
- "Discipline your son and he will give you peace, and he will give pleasures to your soul."<sup>6</sup>

### The Gemara

The Gemara also takes for granted that children are to be disciplined physically, but within limits:

And Rav said to Rav Shmuel bar Sheilass: When you hit a child, hit him only with a shoelace.<sup>7</sup>

Indeed, Rava even says that children should occasionally be struck even when they have done nothing wrong:

There, even if he would learn his lesson without being hit, it is still a mitzvah to hit him, for it is written: "Discipline your son and he will give you peace, and he will give pleasures to your soul."<sup>8</sup>

The Gemara does, however, add one important caveat to its endorsement of striking children:

It once happened that a maidservant of Rabbi's household saw a certain man who was striking his mature son. She exclaimed: Let that man be in a state of excommunication, for he has sinned because of "You shall not place a stumbling block before the blind." (By striking a child that is prone

to retaliate, the parent puts him in jeopardy of violating the Torah injunctions against hitting and cursing parents—Rashi.)<sup>9</sup>

*Poskim* rule that a son is not considered mature in this context until the age of either 22 or 24.<sup>10</sup>

### Rishonim

The Rambam rules:

A teacher should strike [the children] to cast fear upon them. But he may not strike them as does an enemy or with cruelty. Therefore, he may not strike them with whips or sticks,<sup>11</sup> but with a small strap.<sup>12</sup>

The Ramban mentions in passing that "there is no man who does not strike his son and physically chastise his student."<sup>13</sup> Similarly, the Rosh indicates that it was common to strike children and pull them by their ears.<sup>14</sup>

### Acharonim

The *Acharonim* as well, at least until relatively recently, generally took for granted that hitting children was appropriate. R' Yaakov Reischer (author of *Shu"t Shvus Yaakov*) was asked whether a Torah teacher who became angry at his student and "struck him because of his learning" and injured him was liable to pay compensation. He responded that it is obvious that he is not, because by hitting him, the teacher was engaging in a mitzvah, and one so engaged is not liable for any injury that he causes:

And although the halacha is that one should hit (a *talmid*) with a shoe strap and not with cruelty, nevertheless, after the fact one should not penalize him for this. And I am not unaware of that which is written in the *teshuvah* of the Ra'anach (R' Eliyahu ibn Chaim) *cheilek 1 siman 111* that an agent of *bais din* who hits out of anger and fury (i.e., as opposed to the measured application of force to compel compliance with the court's ruling) is liable. Nevertheless, with respect to a *talmid* chacham, because it is his Torah study that angers him,<sup>15</sup> particularly since it is greatly distressing when one studies with a student and he does not take care to focus on his learning, we should hold him completely exempt.<sup>16</sup>

Interestingly, an apparently dissenting view appears in a *teshuvah* of Rav Reischer's own *talmid* R' Gershon Koblenz (author of *Shu"t Kiryas Chanah*). He discusses a very similar case (perhaps it was the same one) to that of his *rebbe*, and without mentioning his *rebbe's teshuvah* (which he may not have seen), he rules that the teacher is indeed liable. In the course of his discussion, he makes a distinction between a teacher and a father: The former is only allowed the use of moderate force (as per Rav's guidance to R' Shmuel bar Sheilass), whereas the latter, because of the great love a father has for his son, may apply more force, because "faithful are the wounds inflicted by a

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people sleep, because the Torah says (Dvarim 6:7) the mitzvah applies *uveshachbecha* (when you lie down), and people tend to sleep beyond *alos*.

To prevent people from missing the mitzvah, Chazal decreed that it cannot be fulfilled after *alos hashachar*, unless the delay was due to *oness* (circumstances beyond one's control; O.C. 235:4). They also enacted that *Krias Shma* must be recited *lechat'chilah* before *chatzos haleilah* (halachic midnight), lest one delay and forget. If *chatzos* passes, it may still be said *bedi'eved* until *alos* (O.C. *ibid.* 3).

The same rules apply to *Birchos Krias Shma*, except that the *brachos* of *Hashkiveinu* and *Baruch Hashem Le'olam* may not be said after *alos* (regardless of *oness*).

*Shmoneh Esrei* of Maariv may be recited all night until *alos hashachar* (regardless of *oness*), because it substitutes for the burning of the fats on the *mizbeiach* until that time (Sha'ar Hatziyun *ibid.* 41).

If, due to an *oness*, you have only a few minutes until *alos* and there's no time for all of Maariv, say *Shmoneh Esrei* before *alos* and then *Krias Shma* and its *brachos* (Kaf Hachaim *ibid.* 31). If you were not an *oness*, *Krias Shma* and its *brachos* take precedence, because they have no *tashlumin* (compensation) option, whereas, provided you erred and didn't miss it intentionally, *Shmoneh Esrei* does: You can daven an extra *Shmoneh Esrei* at Shachris (Piskei Teshuvos *ibid.* 12).

lover."<sup>17,18</sup>

In his famous letter to his family, the Vilna Gaon mentions his instructions to his wife to hit their children if they do not obey her.<sup>19</sup>

A relatively early source (from the early nineteenth century) cautioning against hitting children in contemporary times is R' Eliezer Papo (author of *Pelleh Yo'eitz*); we will *iy"H* discuss his position, along with those of various Torah thinkers of the past century, in the following article.

<sup>17</sup>Mishlei 27:6.

<sup>18</sup>Shu"t Kiryas Chanah *siman* 22 (cited in brief in Pischei Teshuvah Y.D. *siman* 245 s.k. 4). Cf. R' Yaron Ben-David, *Ho'ir Mutar Lemoreh LeChalos Talmid?*, Be'eiros Yitzchak, Makos 16b.

<sup>19</sup>19gers HaCra.

<sup>9</sup>Mo'ed Katan 17a.

<sup>10</sup>Bais Yosef Y.D. *siman* 334 (citing "Kundrisin"); Rama to Shulchan Aruch *ibid.* 240:20; Shach *ibid.* s.k. 21.

<sup>11</sup>It is unclear how to reconcile this injunction against striking children with a whip or stick with Sefer Mishlei's repeated endorsement of the use of the rod; perhaps the Rambam distinguishes between a child and a student, as per the view of Rav Koblenz cited below.

<sup>12</sup>Hilchos Talmud Torah 2:2. Cf. Tur Y.D. *siman* 245: "Vehamelamed yakeh osam lehatil eimah aleihem..."

<sup>13</sup>Milchamos Hashem Bava Kama 31a in Rif pagination.

<sup>14</sup>Piskei HaRosh Mo'ed Katan *siman* 94. Cf. Orchos Tzadikim, Sha'ar Harachamim (Sha'ar 7).

<sup>15</sup>Ta'anis 4a.

<sup>16</sup>Shu"t Shvus Yaakov *cheilek* 3 *siman* 140.

<sup>1</sup>John O'Connor, "Hitting kids should never be allowed", Illinois bans corporal punishment in all schools, AP News, <https://apnews.com/article/schools-corporal-punishment-paddling-discipline-54591cd8826079a2a6c22e063612abd9>.

<sup>2</sup>Mishlei 13:24.

<sup>3</sup>*ibid.* 19:18.

<sup>4</sup>*ibid.* 23:13-14.

<sup>5</sup>*ibid.* 29:15.

<sup>6</sup>*ibid.* 29:17.

<sup>7</sup>Bava Basra 21a.

<sup>8</sup>Makos 8a and 8b.

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began, he must pay the worker as a *po'el batel*. If the employer had to renege for reasons beyond his control (*oness*), he is exempt.

The Gemara gives the example of a worker that was hired to water a field, and a nearby river unexpectedly flooded the field before work began. If the employer knew that flooding

was possible but the employee didn't, the agreed-upon salary must be paid.

