

*Writing a Sefer Torah: A Synagogue's
Responsibility or an Individual's Obligation?*



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Introduction

One of the less known commandments of the six hundred and thirteen commandment of the Torah is the mitzvah of writing a proper Torah scroll- a *Sefer Torah*. This is in fact it is not only one of the six hundred and thirteen commandments but it is in fact the very last one of them. The *Torah* tells us (*Devarim* 31:19), “*So now write this song for yourselves and teach it to the Children of Israel, place it in their mouth*”. This verse is understood by the Talmud¹ to be saying that each and every Jew write for himself a proper Torah scroll- a *Sefer Torah*. This mitzvah is not only mentioned in the *Talmud* and codified by the Rambam and the *Shulchan Aruch*.²

The question that must be dealt with is why is it that the Jewish people in the past few hundred years have not engaged in this mitzvah on an individual basis, as the nature of the mitzvah requires. Although one may suggest that the reason for this widespread neglect is the great financial expense involved in fulfilling this mitzvah, there are several reasons why this cannot be accepted as the only reason for this phenomenon. Firstly, although such a reason may have been true for almost all members of the Jewish community in the past centuries, this cannot be accepted as being the ultimate reason in the case of American Jewry in the 21st century. Although having been now through five years of a difficult recession, it is fair to assume that there are still people in our community for whom the expense of buying a *Sefer Torah* does not exceed twenty percent of their wealth-the amount of money one is required to spend on a positive scriptural

¹ *Sanhedrin* 21b

² *Sanhedrin* ibid, Rambam, *Hilchot Sefer Torah* Chap. 6, *Shulchan Aruch* YD:260.

commandment.³ Secondly, we do not find in all of the halachic literature dealing with this issue, suggestions of this being the reason⁴ for this phenomenon.

Possible Solution

The *Shaagat Aryeh*⁵ (Rabbi Aryeh Leib Ginzburg, 1695-1785) has suggested an answer to this question that has drawn the criticism of many great scholars. We have a principle, explains the *Shaagat Aryeh*, that a *Sefer Torah* that is missing even one letter does not have the same status or holiness of a proper *Sefer Torah*.⁶ This means that one may not fulfill their obligation of reading the Torah in public (*kri'at ha'Torah*) from such a Torah scroll and this Torah scroll does not have the regular laws of handling and

³ See *Mishnah Berurah* 656:8.

⁴ One noteworthy exception to these arguments is the opinion of Rabbi Moshe Feinstein (*Iggerot Moshe* YD:163, based on an innovative idea discussed more in length in *Dibrot Moshe to Bava Kama* 69:21). Rabbi Feinstein is of the opinion that the *Talmud's* statement that one may not spend more than a fifth of their wealth on a mitzvah does not mean, as it is commonly understood, that up to that amount one must spend of their own wealth on a positive biblical commandment. What it means is, argues Rabbi Feinstein, one may not spend more than that amount even if they wish. However if a positive mitzvah involves a significant expense then even if that expense does not constitute more than a tenth of a person's wealth, one is not obligated to spend that money. This, however, is not consistent with the opinion of the *Mishnah Berurah* (OC 656:8 and in *Biur Halacha*). Rabbi Feinstein goes on to say that this may be another reason why this mitzvah is not commonly practiced. Since fulfilling this mitzvah involves a great expense, even if this expense is not more than ten percent of one's wealth, one is not obligated to spend that amount of money in order to fulfill this mitzvah, although it is permissible.

⁵ *She'elot U'tshuvot, Siman* 36.

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treatment resulting from the holiness of a proper *Sefer Torah*.⁷ In addition to this, says the *Shaagat Aryeh*, already in the times of the Talmud the scholars of that generation were not sure which words exactly were to be spelled fully with the letters that indicate their vowels and pronunciation⁸ and which were to be spelled without all of their vowels. This implies that even back in those days, there were certain inaccuracies and discrepancies in the exact spelling and placement of vowels in certain words in the *Sefer Torah*.⁹ It would therefore make sense, maintains the *Shaagat Aryeh*, that the original mitzvah of writing a *Sefer Torah* no longer applies nowadays since our Torah scrolls are probably missing some letters and can no longer be regarded as “real” Torah scrolls.¹⁰ We no longer have “real”

⁷ This is not to say that all contemporary *Sifrei Torah* are to be treated with diminished respect as we do to a *Sefer Torah* that lost some of its letters (See *Rema* and *Turei Zahav* (YD 282:18)) since the inaccuracies in our *Sifrei Torah* are not ones that we know of we can therefore not expect them to be changed (*Iggerot Moshe* *ibid*).

⁸ Which include the Hebrew letters *Alef, Hay, Vav, and Yud*.

⁹ An interesting halachic manifestation of this idea is found in the *Rema's* ruling (OC 143:4) that we do not correct a *Sefer Torah* when we find one of the vowels missing even if we find that in a different *Sefer Torah* we see otherwise (although others argue on this ruling). The reason for this is because we cannot be sure which is the correct version. For a seemingly dissenting approach see Ramban in his introduction to his commentary to the Torah who says that the entire *Torah* is an intricate composition of God's names and it is for this reason that if a *Sefer Torah* is missing even one letter it is no longer *Kosher*. Another argument that seems to reflect the same question is the argument between the *Abarbanel* and the *Radak* (in the *Abarbanel's* introduction to *Sefer Yirmiyahu*) on the reason for the occasional discrepancies between the way we read and the way we spell certain words (the *kri* and *k'tiv*) throughout the Bible. Special thanks to Rabbi Zvi Romm, *Mara De'atra* of the *Bialystoker Shul* in the Lower East Side, for these comments and insights.

¹⁰ It should be pointed out that even according to the *Shaagat Aryeh* the obligation to write a *Sefer Torah*

Torah scrolls, so we no longer attempt to fulfill this mitzvah of writing a proper *Sefer Torah*.¹¹

Criticism

This unique approach of the *Shaagat Aryeh* has drawn sharp criticism from various directions.¹² The *Minchat Chinuch*¹³ (Rabbi Yosef Babad, 1801-1874) challenges this idea of the *Shaagat Aryeh* i.e. that since our Torah scrolls are inaccurate with the spelling of certain words they can no longer be regarded as proper Torah scrolls. The *Minchat Chinuch* maintains that if our Torah scrolls can no longer be regarded as “real” Torah scrolls then our *tefillin* cannot either- a notion that no one, including the *Sha'agat Aryeh*, would find acceptable. Since there are certain differences of rabbinic opinions regarding the exact spelling of certain words in the *Torah* that are also part of the of *tefillin* and are written in the parchments that are put into the *teffiln* and render those *teffilin* proper., following the *Shaagat Aryeh's* line of logic, our *tefillin* can no longer be regarded as

has not been completely removed. There is still a rabbinic obligation to write a *Sefer Torah* because otherwise the mitzvah and the *Torah* itself would be forgotten from the Jewish people.

¹¹ It is interesting to note that Rabbi Moshe Sofer, the Chatam Sofer (responsa, OC 52 and 54), when discussing why is it that we do not recite blessing when writing a *Sefer Torah*, also uses the same reason as the *Shaagat Aryeh* does. Since we are not familiar with the exact spelling of certain words, maintains the Chatam Sofer, one may not recite a blessing for writing a *Sefer Torah*.

¹² Although having drawn all this criticism, it is important to note that this *Shaagat Aryeh* is taken quite seriously as a halachic consideration by some of the greatest rabbinic authorities (see *Iggerot Moshe* YD I:163 and 164)

¹³ Mitzvah 613:3 cv “*Ve'od ani chozer*”.

kosher either-an unacceptable idea for many reasons.¹⁴

The *Minchat Chinuch* then goes on to explain the logical flaw in the *Shaagat Aryeh's* calculation. There are two types of mistakes that can be found in a *Sefer Torah*, says the *Minchat Chinuch*. One is a mistake in the actual spelling of the word that can change the meaning, like spelling the word “בת” with an extra letter which would turn it into a different word, like “בית” or changing the word "נפשות" into "נפשת".

The other type of mistake one can make when writing a word in the Torah scroll is adding or omitting a letter which functions in the word as a vowel, like spelling the word "אהרן" with an extra letter, making it "אהרון", a change that although possibly being out of place does not necessarily change the meaning of the word. It is only the former type of mistake, argues the *Minchat Chinuch*, whose existence disqualifies the Torah scroll. Being that the mistakes in our Torah scrolls are only in ones that involve the vowels or the lack thereof, the assumption of the *Shaagat Aryeh* that there cannot really be a proper Torah scroll nowadays, is no longer applicable.

Rabbi E.M. Schach (1898-2001) in his magnum opus *Avi Ezri* argues with the *Shaagat Aryeh* and for a different reason. As with many other fields in Judaism, argues Rabbi Schach, the only way to know what exactly the *Torah* refers to is through the continuum of the Jewish tradition- the *mesorah*. For example the only way to know what a *lulav* or an *etrog* is, is through our tradition of what they are.

Similarly, since the only way to know what a proper Torah scroll is through our

¹⁴ The most important of them being that although finding extensive discussion of many intricate details in the laws of *tefillin* (such as in what order to place the written parchment into the *tefillin*), there is no mention whatsoever of such a basic issue such as are our *tefillin* actually kosher or not.

mesorah of what a Torah scroll is, therefore when one wants to know how a proper *Sefer Torah* should be written they must look at what their *mesorah* is regarding this issue, and not be bothered by the fact that other communities have different traditions regarding this issue, just like one need not be bothered by the fact that other communities have different traditions regarding what a proper *etrog* is.

All this said we are back to our original difficulty of why is it that this mitzvah of writing a *Sefer Torah* is not widely practiced.

The Rosh's Solution

The Rosh, in his *Hilchot Sefer Torah*, says that in its simple form, the mitzvah of writing a Torah scroll is fulfilled nowadays with the writing of the chumash—the five books of Moses, *the Mishana*¹⁵ and *gemara*. This is because, says the Rosh, that only when all *Torah* was transmitted orally and the central text used to learn from was the *Sefer Torah* was the mitzvah fulfilled through writing a *Sefer Torah*. However, since nowadays that most learning is done with *chumashim*, *mishnayot*, as well as later *Talmudic* and halachic works, one fulfills the mitzvah of writing a *Sefer Torah* by writing these books.¹⁶

¹⁵ This term is used colloquially to refer to the Jewish literature that transmits our *Torah* through the written word.

¹⁶ This notion, that an integral part if not the very foundation of this mitzvah is the aspect of it enabling and enhancing one's ability to fulfill the mitzvah of *Talmud Torah*, is implicated by the Rambam as well. The Rambam (*Sefer Hamitzvot*) when numbering the commandment of the Torah in which men are obligated and women are not lists the mitzvah of writing a *Sefer Torah*. The *Shaagat Aryeh* wonders why this should be the case since this mitzvah is not a time bound positive mitzvah (*mitzvat aseh she'Hazman gerama*.) The *Shaagat Aryeh* then says that the only possible reason for women not to be included in this

The question is, however, what does the *Rosh* mean when he makes this statement? Does he mean that in order to fulfill one's obligation to write a *Sefer Torah* nowadays one needs to write the *chumash* and other classic Jewish texts in addition to the obligation of writing a *Sefer Torah*, or does he mean that the obligation to write a *Sefer Torah* is replaced with the obligation of writing other classic Jewish texts. This fundamental issue is debated among later Jewish commentaries commenting on the *Tur* who has quoted this *Rosh* as a halachic ruling.

The *Beit Yosef* (Rabbi Yosef Karo 1488-1575) maintains that it is obvious that the basic obligation of writing a *Sefer Torah* cannot be replaced with a different obligation, for it would be hard to imagine that a scriptural obligation which is one of the 613 commandments will be uprooted from its original form. It is rather, maintains the *Beit Yosef*, that in addition to writing a *Sefer Torah*, one should also write for himself other classic Jewish texts that will enhance their learning. The logic of this being that since the underlying reason for writing a *Sefer Torah* is that one should be able to learn and gain

obligation is because this obligation is there for those who are also obligated to study *Torah*. Since women are not obligated to study *Torah*, they are not included in this obligation. The *Shaagat Aryeh* then goes on to question this assumption of the Rambam and asks why is it that the mitzvah should be anything other than its simple form and obligation: to write a kosher *Sefer Torah*. Furthermore, Argues the *Shaagat Aryeh*, even if indeed the essence of this mitzvah is to facilitate *Torah* study, why should this exclude women from being obligated in this mitzvah? Although women are not obligated to learn *Torah* they are still able to do so. In fact, says the *Shaagat Aryeh*, the same *Rosh* who implies that the nature of this mitzvah has to do with the study of *Torah*, also rules that women may recite the blessing, “*Asher kideshanu be'mitzvotav ve'tzivanu la'asok be'divrei Torah*”. Therefore, they are definitely not excluded from this mitzvah. Cf. Shelot U'Teshuvot *Beit Halevy* (Soloveitchik, Vol. I: 7) who answers this question of the *Shaagat Aryeh*.

Torah knowledge, it would make sense that in a time where most learning is achieved via other texts one should make sure to have those texts as well and thus fulfill the mitzvah in its fullest way.

The *Prisha* (Rabbi Joshua Falk 1555-1614), however, maintains that the *Rosh* is introducing a much more revolutionary idea. The idea the *Rosh* is introducing is that since the underlying reason for this mitzvah is to enable the study of *Torah*, now that most learning takes place with sources other than a *Sefer Torah*, the obligation is transformed to writing texts that facilitate this generation's learning. This obligation replaces of original form of this mitzvah.¹⁷

This ruling of the *Prisha* is codified by the *Shach* who wonders why this mitzvah is so widely neglected nowadays and concludes that people rely on this *Rosh* as the *Prisha* understands him. We don't write our own Torah scrolls because most, if not all, of our learning is done with texts other than a kosher *Sefer Torah*.

Rav Moshe's Approach

Rabbi Moshe Feinstein takes a unique approach to this debate. Rabbi Feinstein

¹⁷ Rabbi Shlomo Gantzfried (*Apiryon, Devarim 31:19*) makes an interesting observation on this halachic notion from the perspective of *Drush*. The verse from which we derive the commandment to write a *Sefer Torah* begins with the word “*Ve'atah*“, which translates as “and now”. Why is it that the verse telling us about a commandment that applies for generations using a word that is described when discussing the present? Rabbi Gantzfried maintains that this is because the verse is alluding to the fact that the mitzvah in the form of writing a proper *Torah* scroll will only be in place for a limited amount of time. Once the oral Torah will be in the form of written texts then the mitzvah will be transformed to the writing of those texts and will no longer be in its original form.

maintains that there is essentially no debate between the *Beit Yosef* and the *Prisha* on what the ramifications of the *Rosh's* ruling are; all agree that the *Rosh* means that nowadays one may fulfill their obligation of writing a *Sefer Torah* by writing the texts necessary for contemporary learning. It would make no sense to say, Rabbi Feinstein maintains, that the *Rosh* is just telling us that there is an obligation to write classic Jewish texts in addition to the obligation to write a *Sefer Torah* (as the *Beit Yosef* is commonly understood), for if that were the case, argues Rabbi Feinstein, why would the *Rosh* find it necessary to emphasize that nowadays we no longer learn from Torah scrolls. If the *Beit Yosef* means to say this, the only issue the *Rosh* would need to mention is that today that we learn from texts other than the Torah scroll one should make sure, when trying to fulfill this mitzvah, to write also classic Jewish texts in addition to writing a *Sefer Torah*.

Out of this observation Rabbi Feinstein draws the following conclusion—one may fulfill their personal obligation in one of two ways: either write a *Sefer Torah* with all requirements and all of the expenses that this entails; alternatively, one may fulfill their obligation by acquiring classic Jewish texts that help one fulfill their obligation of studying *Torah*. The *Rosh* did not come to give a substitute or a supplement to the commandment of writing a proper *Sefer Torah*. The *Rosh* tells us that nowadays one can fulfill their obligation either the way it was always done with a *Sefer Torah*, or by obtaining the means with which to fulfill the mitzvah of learning *Torah-Talmud Torah* in a contemporary fashion.

The Contemporary Challenge

There is, however, a fundamental difficulty with relying on both the *Shach* and the

Prisha nowadays for the simple following reason: it would seem that the logic behind the *Rosh's* innovative interpretation of this mitzvah, the way it is understood by the *Prisha*, is that the obligation is not defined as writing a *Sefer Torah per se* but rather to write whatever is necessary to accomplish the mitzvah of *Talmud Torah*. Thus, the unchangeable aspect of this mitzvah is that one should write these words that compose the text necessary for one's fulfillment of their obligation of *Talmud Torah*. This line of logic would be appropriate only until the advent of the printing press. However, once the printing press was invented and everything is printed, including texts for Torah study, we can no longer rely on this *Shach*; how can we assume that we fulfill our obligation if we do not actually write our own classic Jewish texts? We are now faced with a more serious question than we have faced before. Not only do those of us who do not write their own *Sefer* not fulfill the mitzvah of writing a *Sefer Torah*, but even those who do write a *Sefer Torah* seem to fail to fulfill this obligation since the way to fulfill this obligation, according to the *Prisha*, has been transformed and replaced by the obligation to write *chumashim* and other classic texts that assist our learning.

The Halachic Status of Printed Materials

A possible answer one may try to suggest is that printing is indeed a form of writing and that one can fulfill their personal obligation with printed *chumashim*, and other texts. This would seem like a quite reasonable argument especially in light of the fact that many of the most prominent halachic authorities do consider printing to have the equivalent status as regular handwriting. Among these are the *Magen Avraham*,¹⁸ the

¹⁸ (OC 32:57)

Taz,¹⁹ and many others²⁰. Those who hold it is considered a proper form of writing hold so even with regard to writing *Sefer Torah*. What is the difference, they argue, between one who brings the letters to the parchment, as is the case when a scribe manually writes the letters, and one who “brings the parchment onto the letters”? One can therefore argue that we fulfill our obligation to write *chumashim*, and other texts, that are necessary for our learning by printing and buying printed books that help us study the *Torah*.

This, however, cannot be considered a viable solution for several reasons. Firstly, although some of the most prominent *poskim* have taken the lenient side on this matter the accepted ruling is that print is indeed not to be considered as a proper form of writing.²¹ Furthermore, even if we do consider print to be an appropriate form of writing we must bear in mind that Jews do not operate that most of the printing machinery. As some *poskim* have pointed out that even if we believe print to be considered by halacha an acceptable form of writing, this would not be the case if a non-Jew is operating the machinery.²² This being the case, one would not be able to fulfill their personal obligation of writing a *Sefer Torah* by a non-Jew (who does not bear the responsibility of this obligation) executing the action necessary for its fulfillment.

Contemporary *poskim* point the following highly relevant issue concerning this discussion, an issue that has become increasingly relevant in the past century. Even if we assume that printing is to be considered a proper form of writing, this can no longer be the

¹⁹ (YD 271:8)

²⁰ cf. *Sdei Chemed* II p69 cv “*Defus*”.

²¹ (Rabbi E.Y. Waldenberg, *Tzitz Eliezer* IV 10:9)

²² *Mishneh Halachot* (Klein) IIV 212

case nowadays for the following reason. Those *poskim* who have ruled that print can be considered a legitimate form of writing have done so in an era where printing was a manual action that had incorporated into it a direct human action (referred to in halacha as “*koach gavra*”). The ink press was manually forced upon the paper leaving the writing on the paper. This however, is no longer the case. Nowadays, as the printing industry uses increasingly sophisticated machinery that requires less and less human involvement, all parties would seem to agree that printing does not have the same status as hand written documents.²³

Solutions to Contemporary Difficulties

We are thus still left with a difficult issue to resolve: in what way is it that we go about fulfilling this mitzvah nowadays. The key to properly resolve this issue is in the way the *Prisha* reasons in his unique ruling. The *Prisha* says that since we no longer learn from an actual *Torah* scroll: “*Lama lanu levazot Sefer Torah be'chinam*- why should we degrade a *Torah* scroll for no reason?”. That is to say that since no learning will take place with this specific *Sefer Torah* then not only is writing it no longer a mitzvah, but insisting on using it for learning would be considered compromising the scroll’s sanctity and writing it for that purpose would definitely not be a fulfillment of this mitzvah. Following this train of thought we can now understand why we need not try and satisfy the *Prisha*’s

²³ (*Tzitz Eliezer* Vol.15 citing the *Chazon Ish*). It should be pointed out, however, that this does not necessarily mean that printed material has no sanctity at all. Many contemporary halachic works point out that although we do not regard printed material as having the same status of manually written material it still has sanctity to it and should be treated appropriately.

ruling by manually writing *chumashim* and other Jewish texts. Since we have established that one cannot fulfill this mitzvah with a text that will not serve his learning in a satisfactory way, then writing such a text is not only not a fulfillment of this commandment but it is also a compromise of the text's sanctity. In contemporary times, once we have the fruits of the printing press and all of our Jewish literature is printed, having handwritten literature is of no use since no one will bother learning from hand written scrolls. Thus even if one would actually produce these items manually they will not be fulfilling the mitzvah since these texts will not be enhancing or facilitating *Torah* learning.²⁴ Not only would this not be a fulfillment of the mitzvah, it would even be a compromise of the respect with which a *Sefer Torah* must be regarded.

What this would seem to indicate is that the mitzvah of writing a *Sefer Torah* in modern days can no longer be fulfilled according to this commonly accepted *Prisha*; since the obligation is to write that which enhances, facilitates and enables the study of *Torah*, and currently we do all that by means of printing, then we are longer able to fulfill this mitzvah. However, although not being able to fulfill the mitzvah, we are not in violation

²⁴ A similar approach can be found in the *Iggerot Moshe*. Rabbi Moshe Feinstein (*Iggerot Moshe* OC IX:39) writes that since it would be impossible for anyone to manually write all the material necessary for their learning, and even if technically one would be able to do so it would take him a great amount of time, then doing so is not only not a fulfillment of the mitzvah but it would even be considered *Bitul Torah*- an unnecessary disturbance of one's Torah learning, to do so. Since the underlying logic of reestablishing the mitzvah to now be fulfilled with contemporary tools of learning is the assumption that the fundamental nature of the mitzvah is to enhance our learning, then dedicating such a great amount of time to the writing rather than the learning cannot be considered a proper form of its fulfillment (especially in times where great quantities of learning can be produced speedily and at low cost).

of it since the mitzvah in its original form cannot be fulfilled in our time and in the society in which we live.

Alternative Solutions

Alternatively one can argue the following. Just as we are willing to accept, according to the *Prisha's* understanding, that the literal meaning of the mitzvah is overridden by the nature of the mitzvah (i.e. the simple obligation to write a Torah scroll which is composed of the five books of Moses) is overridden by the obligation to write texts which are more conducive to contemporary learning, so too we should be able to say that the actual execution of that mitzvah should also be able to change towards that same goal. That is, since the essence of this mitzvah is that we provide ourselves with the necessary tools to study *Torah*, therefore not only are the exact details of what text we are producing changeable; how we are obligated to produce texts that can also be changeable.

Similarly one can also suggest, that just as we see that *poskim* say that in order to satisfy this obligation of writing a *Sefer Torah* one need not actually write their own *Sefer Torah* but one may also do so by buying themselves their personal *Sefer Torah*.²⁵ The

²⁵ Although the *Rema* (YD 270:) is of the opinion that one does not fulfill their obligation by purchasing a *Sefer Torah*, the commonly accepted ruling among halachic deciders is that of the Gr"m and others that one may fulfill their obligation by purchasing a *Sefer Torah* (Rabbi J.J. Weinberg *Seridei Esh* II 77:3). It should be noted that even according to the *Rema* who does not see the act of purchasing as a satisfactory way to fulfill the mitzvah, still if one asks a scribe to write a *Sefer Torah* on his behalf then he does satisfy his obligation (cf. *Pitchei Teshuva* ibid 9). Additionally, if a person buys an incomplete *Sefer Torah* and completes it even by writing just one letter that person has properly fulfilled their obligation even according to the *Rema*).

implication of this would be that it is not the action of writing the *Sefer Torah* that is most important but rather the final result of obtaining the *Sefer Torah* that counts. Therefore once we establish that today's necessary texts are printed *chumashim* and other printed texts from which we learn, then buying handwritten Torah texts is no longer a fulfillment of the mitzvah but it is rather the acquisition of these modern day tools of learning (such as printed books of Torah knowledge and perhaps even computer software that assists one's learning) that is the fulfillment of this obligation.

A Synagogue's Responsibility

One of the areas where the difference between having a *Sefer Torah* and not having a *Sefer Torah* manifests itself most in contemporary Jewish life is in the synagogue. The halacha that requires the public reading of a *Sefer Torah* on every Monday, Thursday, Shabbat, and Jewish Holidays- *Yom Tov*, is one that is uniformly followed in all orthodox synagogues. The question thus becomes: Whose obligation is it to buy a *Sefer Torah* that will enable this *Torah* reading? Is it the individual's or the community's obligation? Does the answer to this question depend on the previously discussed question as to the extent of the individual's obligation to write himself a *Sefer Torah* or not?

This question seems to be addressed already in very early sources. The *Tosefta*,²⁶ codified

²⁶ *Tosefta Bava Metiza* (11:12) quoted by the *Rif* in his commentary to the *gemara* in *Bava Batra* 7b and by the *Rosh Ibid.* 1:23. It is also codified by the Rambam in *Hilchot Tefilla* 11:1 and *Hilchot Sh'chenim*, 6:1 and codified by the *Shulchan Aruch* OC 150:1 and CM 163:1).

by the *Rif*, *Rosh*, Rambam, and *Shulchan Aruch*, tells us that members of a city can force one another to partake in the construction of a synagogue and in the purchase of a *Sefer Torah*. The *Shulchan Aruch* adds that the reason for this is so that whoever wants to read the *Sefer Torah* can do so.²⁷ One can assume, however, that just as in the case of a synagogue, if there is an existing synagogue, there would be no justification to impose on each other to build another synagogue, so too if there is a already written *Sefer Torah* in the community that the owner does not mind lending to the public there would be no need to buy a communal *Sefer Torah* since the community can fulfill their obligation to read the *Torah* in the necessary times. Whether there is an individual obligation to write a *Sefer*

²⁷ CM 163:1. There is an important disagreement in the commentaries as to the nature of this mutual obligation of a community to buy a *Sefer Torah*. Although the *Shulchan Aruch* reasons that the obligation exists so that “whoever wishes to read the *Sefer Torah* can do so”, implying that the primary reason for this possession is so that those who wish to engage in *Talmud Torah* and which would therefore imply the need to purchase not only a *Sefer Torah* but other scriptures as well. The *Prisha* (CM 161:1) points out that since nowadays it is common that people have other scriptures members of a community cannot force one another to buy scriptures other than a *Sefer Torah*. He concedes, however that they can force one another to buy a *Sefer Torah*. The *Magen Avraham* (OC 160:1), on the other hand, writes that nowadays that learning is not just from a *Sefer Torah* community members have a mutual responsibility to buy also *gemarot*, *mishnayot*, and other texts. Both seem to agree that the obligation of community members to buy a *Sefer Torah* serves two purposes, one is to facilitate *Torah* learning, and the other is to facilitate the communal obligation to read from the *Torah* (see *Tzfnat Pa'anech*, *Tinyana* p173 on this duality) and that the mutual responsibility to buy a *Sefer Torah* is one that needs to be fulfilled as long as there is no *Sefer Torah* there. It would seem that all agree that if there happens to be a *Sefer Torah* available for the community's use they need not buy a new one. Support to this can be found in the *Mishnah Berurah* (OC Ibid. footnote 3) who takes the position of the *Magen Avraham* that if there are no *sefarim* available to learn from then

Torah or not would not matter in this case. If there is a *Sefer Torah* from which they can read then there is no justification to require all to participate in the purchase of a new *Sefer Torah*. If there is no *Sefer Torah* available for them to read from then the entire community must participate in the purchase of a *Sefer Torah* so that they can execute their communal obligation to read from a *Sefer Torah*.

Conclusion

We have seen that, although possibly not well known, one of the 613 *mitzvot* is the mitzvah that each and every individual²⁸ write themselves their own *Sefer Torah*. Someone who wishes to follow the simple reading of this mitzvah should write a proper and kosher *Sefer Torah*.²⁹ In this way they would fulfill their obligation the way the

²⁸ Although the *Shulchan Aruch* states that one may not fulfill their obligation with an inherited *Sefer Torah*, it is the opinion of Rabbi J.J. Weinberg (*Seridei Esh* II 77) that one may fulfill their obligation with a *Sefer Torah* they receive as a present. The reason for this, argues Rabbi Weinberg, is that whereas in the case of inheritance one did nothing in order to obtain the *Sefer Torah*, but rather merely inherited it, in the case of receiving the *Sefer Torah* as a gift one must perform an act of acquisition (*kinyan*) and thus through performing an act of obtaining the *Sefer Torah* may fulfill their own personal obligation.

²⁹ When undertaking the fulfillment of this mitzvah there is an important point one should be conscious of in a case one is doing so by writing an actual *Sefer Torah*. There is an argument that originates from earlier halachic authorities with regard to a person who wrote a *Sefer Torah* and then the *Sefer Torah* got lost or destroyed. Do we say that once one has fulfilled their obligation they no longer need to write a *Sefer Torah* or do we say that since the reason and essence of this commandment is that one should possess a *Sefer Torah* so that they could learn from it then once the *Sefer Torah* is no longer in existence the mitzvah can no longer be considered fulfilled (see *Pitchei Teshuva* YD 270:3). Following the stringent opinions in this argument many halachic authorities (see Rabbi Akiva Eiger YD *ibid.*) maintain that, similarly, once a person

mitzvah is written in the verse, codified by the *Shulchan Aruch*, and understood by the *Beit Yosef*. The common custom is not to write our own *Sifrei Torah* relying on the opinion of the *Rosh*, as understood by the *Shach*, who says that the mitzvah today is fulfilled through writing of *chumashim* and other Jewish texts that are commonly used to facilitate our *Torah* learning in contemporary times. It has been suggested that according to the line of logic of this school of thought, it is possible that fulfilling this mitzvah nowadays is impossible. This is because it is unlikely that manually written texts will be used for the sake of *Torah* study. Since the mitzvah is to write the text necessary for our learning and our learning is not accomplished via manually written texts then it is no longer possible to fulfill this mitzvah.

It should be pointed out, however, that according to the common and well-accepted understanding of this *Shach*, one does fulfill this mitzvah through purchasing and obtaining these books and texts that facilitate and enhance one's *Torah* study.

Additionally, although being an acceptable fulfillment of the mitzvah, Rabbi Moshe Feinstein points out that if one wishes to execute the mitzvah in a fashion that is satisfactory according to all opinions they should do the following: In addition to buying

takes a *Sefer Torah* and dedicates it to a synagogue, or to any other institution, the mitzvah can no longer be considered fulfilled by that person. Rabbi Moshe Feinstein (*Iggerot Moshe* OC I 52) seems to be of the opinion that once the *Sefer Torah* leaves one's possession one can no longer be considered as having fulfilled this mitzvah. However, this being the reality, argues Rabbi Feinstein, we can assume that when the person gave the *Sefer Torah* to the synagogue it is impossible that they meant to relinquish their possession of this *Sefer Torah* and that it should now belong to the synagogue, for then they would lose the mitzvah they have fulfilled, but rather to merely allow the synagogue to use the *Sefer Torah* until the owners discontinue this agreement.

Torah books and literature, they should financially participate in a communal writing of a *Sefer Torah*. This way, they have partial ownership in that *Sefer Torah* and they fulfill the mitzvah according to all opinions.

Whatever position taken, whether we assume it is an individual's imperative or not, there is still an obligation for every community to make sure that they have a *Sefer Torah* available for fulfilling the obligation of reading the *Torah* publicly (*kri'at HaTorah*), just like a community has an obligation to make sure that there is a place to pray together. If an individual has a *Sefer Torah* that they are willing to avail to the public for carrying out this obligation of *kri'at ha'Torah* then there is no communal obligation to buy a *Sefer Torah* as the mitzvah can be carried out with the individual's *Sefer Torah*.