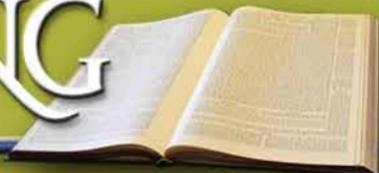


HALACHICALLY SPEAKING

Volume 12 Issue 16



{ TOPIC }

TEFILLIN AND CHOL HAMOED



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► Each issue reviews a different area of contemporary *halacha* with an emphasis on practical applications of the principles discussed. Significant time is spent ensuring the inclusion of all relevant *shittos* on each topic, as well as the *psak* of *Harav Yisroel Belsky, zt"l* on current issues.

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TEFILLIN AND CHOL HAMOED

There are many *halachos* that apply to Chol Hamoed. Some were discussed in other issues of *Halachically Speaking* and others will *iy"H* be discussed in future issues. In this issue we will discuss the well-known issue of whether or not to wear *tefillin* on Chol Hamoed. Why do some have the custom, and what is the reason for those who do not? Can one who wears *tefillin daven* in a shul where they do not? Regarding those who do wear *tefillin*, when should they be removed? Is a *brachah* recited? Are *Rabbeinu Tam tefillin* worn? These and other questions will be addressed in this issue.

Tefillin and Chol Hamoed – the Stringent Opinion

The Torah says that Shabbos and Yom Tov are *osi'os*¹ (symbols).² The same designation is given to *tefillin* as well.³ Therefore, on Shabbos and Yom Tov it is not necessary to display the symbol of *tefillin*, and one who does so shows disrespect for those days.⁴ In addition, wearing *tefillin* on days when there is no obligation may be a violation of the *issur* of *bal tosif* – not adding to the mitzvos.⁵ The opinion of

1. *Shemos* 31:13. Refer to *Mishhnah Berurah* 31:7, *Kaf Hachaim* 4, *Aruch Hashulchan* 3.

2. *Shulchan Aruch O.C.* 31:2.

3. *Shemos* 13:16, *Maseches Menachos* 36b, *Eruvin* 96a, *Shulchan Aruch* *ibid.* See *Os Chaim V'shalom* 31:1 in depth. Refer to *Siach Yitzchak* 16.

4. Refer to *Rabbeinu B'chai Devarim* 28:10, *Birchei Yosef* 31:2.

5. Refer to *Maseches Menachos* 36b. See *Kol HaTorah* (33:page 36) if according to the opinion that one does not put on *tefillin*, is he exempt or forbidden from putting on *tefillin* on Chol Hamoed.



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many *poskim* is that wearing *tefillin* on Chol Hamoed is not allowed.⁶

The *Zohar* maintains that *tefillin* may not be worn on Chol Hamoed, and one who does so deserves death.⁷

The *Zohar* offers the following parable in regard to *tefillin* on Chol Hamoed:⁸

A king wanted to make sure to protect his slave, so he told him to make a copy of the king's insignia. Anyone who thinks of hurting him will see the insignia and flee. Out of his great love, the king eventually gave the servant his own insignia. Since he now has the insignia of the king, he removes the makeshift insignia. If the servant would ignore the king's insignia, he would be killed since it is a great disrespect for the king. So too, Hashem in a way wears *tefillin* on Yom Tov and Chol Hamoed. How can we ignore them and use our own *tefillin* in place of the *tefillin* that Hashem wears?

The custom of chassidim is not to put on *tefillin* during Chol Hamoed.⁹

The Lenient Opinion

The opinion of some *poskim* is that one should wear

6. *Tosafos Maseches Moed Kattan* 19a "rebbe," *Shulchan Aruch* 31:2, *Rav Akiva Eiger* 1. See *Rambam Hilchos Tefillin* 4:10, *Tur* 31, *Gra* 31:1, *Chachmas Adam* 31:2. See *Avnei Nezer O.C.* 2. For a detailed discussion on the ramifications this has on the *muktzah* status of *tefillin* refer to *M'Beis Levi* 7:pages 126-131 in great depth. Also see *Sha'agas Aryeh* 41, *Mishnah Berurah* 31:2-4, *Aruch Hashulchan* 308:17.

7. Brought in *Beis Yosef* 31 and *Kaf Hachaim* 31:6-7. See *Beis Hillel* (journal) 36:pages 18-21. Refer to *Os Chaim V'shalom* 31:1 in depth.

8. As mentioned in *Metzuvei V'osah* page 251. See *Shulchan Hatohar Zer Zahav* 31:1 which says if those who hold that one should put on *tefillin* on Chol Hamoed would have seen the *Zohar* about not wearing *tefillin* they would have said not to wear *tefillin*.

9. *Mishmeres Shalom* 33:8, *Mishneh Halachos* 8:168, *Moadim U'zmanim* 4-5:299.



most of Europe was to put on *tefillin*.¹⁹ The Beis Halevi *zt"l* had the custom to wear *tefillin* on Chol Hamoed.²⁰

The Dispute²¹

From the above we can clearly see that there is a major dispute regarding wearing *tefillin* on Chol Hamoed.²² There are a few different ways to understand the argument. Those against wearing *tefillin* say that Chol Hamoed is an *os*, as there are mitzvos that are unique to Chol Hamoed (no *chametz* on Pesach, and *lulav* on Sukkos).²³ Therefore, *tefillin* are not worn on Chol Hamoed. Those in favor of wearing *tefillin* hold that only the *issur* to do work is an *os*. This only applies for Shabbos and Yom Tov and not for Chol Hamoed, since work is permitted in some forms on Chol Hamoed.²⁴ Therefore, *tefillin* are worn.²⁵ The *Pri Megadim*²⁶ explains that the entire dispute is based on the issue of work: if the *issur* of *melachah* on Chol Hamoed is *d'Rabbanan* in nature (since *mid'Oraisa* Chol Hamoed is not an *os*), then *tefillin* are worn. If the *issur* of *melachah* is *d'Oraisa* in nature, then *tefillin* are not worn.

Bal Tosif

Those who wear *tefillin* are not concerned with *bal tosif*, since one's intention is to fulfill the mitzvah, and not to add

19. *Igros Moshe* O.C. 5:24:6. See *Lekach Hakemach Hachadash* 31:2:4. The practice of Harav Moshe Feinstein *zt"l* was to put on *tefillin* but without a *brachah* (*V'dibarta Bam* 5, *Yad Moshe* pages 40-41:33).

20. *Teshuvos V'hanhagos* 2:29 (end), see 1:369, 3:12.

21. For a detailed discussion on this topic see *Avnei Nezer* O.C. 2.

22. For a nice discussion on this see *Mei Oz* 31:2.

23. *Levush* 31:2.

24. *Magen Avraham* 31:2, *Mishnah Berurah* 6.

25. *Taz* 31:1. Refer to *Shiltei Giborim Maseches Moed Kattan* 3, *Rama M'Pano* 108, *Rashba* 1:690, *Be'er Heitiv* 2.

26. *M.Z.* 31:1. Refer to *Radvaz* 4:8, *Mishkenos Yaakov* 37, *Teshuras Shai* 1:187.

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to the mitzvah of wearing *tefillin*.²⁷ Others suggest that before placing *tefillin*, one should say that if he is obligated then this is for the mitzvah; otherwise, this is not done for mitzvah purposes.²⁸

Brachah

Some *poskim* say that one should recite a *brachah* on the *tefillin*, but not in a loud voice as one uses throughout the year.²⁹ This indicates that one does not want to enter into the dispute regarding the requirement of placing *tefillin* during Chol Hamoed,³⁰ as well as showing that it has some kind of *kedushah*.³¹

Others question this ruling.³² Even if one did not recite a *brachah* he did not lose out,³³ especially since many *poskim* hold that no *brachah* is required at all.³⁴

Walking in the Street

One should not walk with his *tefillin* in a public area on Chol Hamoed.³⁵ All efforts should be utilized to minimize the disgrace to the symbol of Chol Hamoed.³⁶

27. *Magen Avraham* 31:2, *Pri Megadim Eishel Avraham* 2, *Shulchan Aruch Harav* 31:2.

28. *Pri Megadim Eishel Avraham* 2, *Mishnah Berurah* 31:8. Refer to *Halichos Yisrael* 14:page 68, *Moadim U'zmanim* 4-5:299, *Teshuvos V'hanhagos* 5:page 21:4.

29. *Rama* 31:2, *Mishnah Berurah* 8, see *Taz* 2.

30. *Elyah Rabbah* 31:3, *Mishnah Berurah* 31:8

31. *Shulchan Aruch Harav* 31:2.

32. Refer to *Be'er Heitiv* 31:2, *Elyah Rabbah* 2, *Kitzur Shulchan Aruch* 10:25.

33. *Taz* 31:2.

34. *Teshuvos HaRosh* 23:3, *Ritva Maseches Erubin* 96a, *Moed Kattan* 19a, *Tur* 31, *Taz* 2, *Machatzis Hashekel* 2, *Shulchan Aruch Harav* 31:2, *Mishnah Berurah* 8. See *Eishel Avraham Butchatch* 31.

35. *Magen Avraham* 31:4.

36. *Pri Megadim Eishel Avraham* 31:4.

איך ללמוד להלכה של אמונת ה' בעולמו אלא י' (ברכות ה')

When to Remove Them

The *poskim* say that those who wear *tefillin* should remove them before Hallel,³⁷ or at least before *Krias HaTorah*.³⁸ Hallel is recited because of the *moed*, as is *Krias HaTorah*. Since they are the main symbol, *tefillin* should not be worn at that point.³⁹ The overwhelming custom is that the *tefillin* are removed after *kedushah* of *chazaras hashatz*, but one should make sure to listen to *chazaras hashatz*.⁴⁰

Putting on *Rabbeinu Tam Tefillin*

Many people have the custom to wear *Rabbeinu Tam tefillin* during the year.⁴¹ The custom is not to wear them on Chol Hamoed.⁴² Since it is possible that there is no obligation to place *tefillin* on Chol Hamoed, it is sufficient to wear *Rashi's tefillin*.⁴³

Father's Custom

If the father⁴⁴ has a custom to put on *tefillin* on Chol Hamoed and the son does not want to follow this custom, or he lives in a place where this custom is not followed, what

37. *Taz* 31:2, *Pri Megadim Eishel Avraham* 31:2, *Chayei Adam* 14:16, *Mishnah Berurah* 7, *Nitei Gavriel Pesach* 3:7:7, *Divrei Yatziv Likutim* 9. This is except for the *shatz* who removes it after Hallel, since it is a bother for the *tzibbur* to wait for him (*Taz* *ibid*, *Magen Avraham* 25:31, *Shulchan Aruch Harav* 40, *Mishnah Berurah* 25:60, *Kaf Hachaim* 490:9).

38. *Taz* 31:2.

39. *Ibid*.

40. *Pri Megadim M.Z.* 31:2, *Mishnah Berurah* 7. Refer to *Eishel Avraham Butchatch* 31.

41. *Shulchan Aruch* 34:2.

42. *Pri Megadim M.Z.* 31:2, *Mishmeres Shalom* 33:8, *Likutei Maharich* 1:page 21 (old print), *Mishnah Berurah* 8, *Zera Yaakov* 22:page 132:34. Others argue with this (*Yad Yitzchak* 3:289, *Shoel U'meishiv* 3:1:247. For a discussion on this see *Birur Halachah* 31). Refer to *Likutei Maharich* 1:pages 21-22 (old).

43. *Pri Megadim M.Z.* 31:2. Refer to *Eishel Avraham Butchatch* 31.

44. Refer to *Teshuvos V'hanhagos* 1:369 regarding a *ba'al teshuvah* whose father was a *mechalleh Shabbos* and has no customs from his father's home.

should he do?⁴⁵ Since this is a sensitive topic, one should ask his *rav*.

Different Customs

There are many different customs in Klal Yisrael, and wearing *tefillin* on Chol Hamoed is one of them. It is common for some people in shul to place *tefillin* while others do not. There is an issue regarding separate customs in one shul, and much literature has been written on this topic.⁴⁶ The *Mishnah Berurah*⁴⁷ maintains that it is not proper to have some who place *tefillin* and some who do not because of the *issur* of *lo sigsodedu*.⁴⁸ Some interpret this *Mishnah Berurah* that it is not proper, but it is not *assur*.⁴⁹

Harav Moshe Feinstein *zt"l*⁵⁰ maintains that it is well known that there are people with different customs from different places who live in one area and *daven* in the same shul. Therefore, there is no issue of *lo sigsodedu*. This is especially the case in New York where people come from every background.⁵¹ The same argument applies to a *shtiebel*,

45. Refer to *Shevet Halevi* 3:11:2, *Tzitz Eliezer* 22:75, *Halichos Yisrael* 14, *Halachos V'halichos Bar Mitzvah* page 100:25, *Beis Avi* 3:15 (lenient), *Divrei Shalom* 4:130 (lenient).

46. Refer to *Chai Aryeh* 9, *Meishiv Halachah* 7, *Sdei Chemed Mareches Chol Hamoed* 14, *Os Chaim V'shalom* 31:1 in depth, *Beis Avi* 3:15, *Shaarei Halachah U'minhag* 2:pages 75-76, *Banim Chavivim* pages 210-213. The entire *Banim Chavivim sefer* is written on the topic of *lo sigsodedu*.

47. 31:8.

48. *Devarim* 14:1, *Maseches Yevamos* 13b-14a, see *Beis Yitzchak Y.D.* 2:88, *Aruch Hashulchan* 31:4, *Yechaveh Daas* 4:36. Refer to *Magen Avraham* 493:6, *Rema* 493:3, *Aruch Hashulchan* 493:8.

49. Refer to *Banim Chavivim* pages 210-211.

50. *Igros Moshe O.C.* 5:24:6. See *Igros Moshe O.C.* 4:34, *Beis Avi* 2:15, *Rivevos Ephraim* 4:16:10, *Yechaveh Daas* 4:36.

51. *Beis Avi* 3:15.

where it is common for people from all backgrounds and customs to *daven* together.⁵²

However, if a shul has a specific custom regarding *tefillin* on Chol Hamoed, then one should be stringent.⁵³ In a *minyana* where *tefillin* are worn, the *shatz* must wear *tefillin* even if this is not his personal custom. Since he represents the *tzibbur*, he has to follow their custom.

Additionally, if any individual would ask what to do, we would rule that he should wear *tefillin*.⁵⁴

Some *poskim* opine that one who wears *tefillin* and *davens* with a *tzibbur* that does not wear *tefillin* should *daven* without *tefillin* and then put them on later at home.⁵⁵

East Meets West

Many people go to Eretz Yisrael for Sukkos or Pesach,⁵⁶ where the majority of people do not wear *tefillin*. The question arises regarding how one should conduct himself.⁵⁷

On days that are *Yom Tov Sheni* for the *ben chutz la'Aretz* in Eretz Yisrael some opine that there is no need to put on *tefillin* while others say he should wear them at home.⁵⁸

While wearing *tefillin* on Chol Hamoed, one should not do

52. *Teshuvos V'hanhagos* 2:31.

53. *Teshuvos V'hanhagos* 1:44. Also refer to *Levushei Mordechai O.C.* 2:123, *Beis Yitzchak Y.D.* 2:88, *Chasan Sofer* 127, *Me'asef L'chol Hamachanos* 31:7, *Sha'arei Halachah U'minhag* 2:page 75.

54. *Igros Moshe O.C.* 5:24:6.

55. Opinion of Harav Chaim Kanievsky *shlit"a* quoted in *Halichos Yisrael* 14:page 71:footnote 9.

56. This is different than one who comes to live in Eretz Yisrael from *chutz la'Aretz* (*Igros Moshe O.C.* 4:105:5, *Mivakshei Torah* 32:page 86).

57. Refer to *Mishnah Berurah* 496:13, *Os Chaim V'shalom* 31:1 in depth, *Kol HaTorah* 33:pages 39-40, *Halichos Yisrael* 4:pages 72-73. Refer to *Divrei Yatziv O.C.* 1:10-12 which differentiates between a married person and a *bachur*. Also see *Os Chaim V'shalom* 31:1 in depth.

58. *B'tzel Hachachmah* 6:15:2. Refer to *Teshuvos V'hanhagos* 3:13.

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so in public. He may place them on in his house⁵⁹ and all he has to do is recite *Krias Shema*. Others say he should do like he does in *chutz la'Aretz*.⁶⁰

People from *chutz la'Aretz* should not make their own *tefillin minyan* on Chol Hamoed since this contradicts the custom of Eretz Yisrael.⁶¹

Becoming Bar Mitzvah on Chol Hamoed

There is a discussion in the *poskim* if a child who becomes bar mitzvah on Chol Hamoed should wear *tefillin* even if his family custom is generally not to wear *tefillin*. Some argue that since this is his first opportunity to wear *tefillin* he should do so. Others ask why this is different than other days when we are obligated in *tefillin* and still do not wear, this should be the same for a new bar mitzvah boy.⁶² The custom is that the bar mitzvah boy does not put on *tefillin* on Chol Hamoed.⁶³

59. *Avnei Yushpei* 4:69:1, *Yom Tov Sheni K'hilchaso* 19:6, *Halichos Shlomo Tefillah* 4:20:page 50, *V'aaleihu Lo Yeibol* 1:page 54:118, *B'tzel Hachachmah* 6:15:1, *Teshuvos V'hanhagos* 3:12. Also refer to *Halichos Yisrael* 14:pages 73-75 in depth, *Moadim Uzmanim* 4-5:299. A person who is visiting Eretz Yisrael for Yom Tov does not put on *tefillin* on the second day of Yom Tov even though in Eretz Yisrael it is not Yfggom Tov (*Avnei Yushpei* 4:69:2).

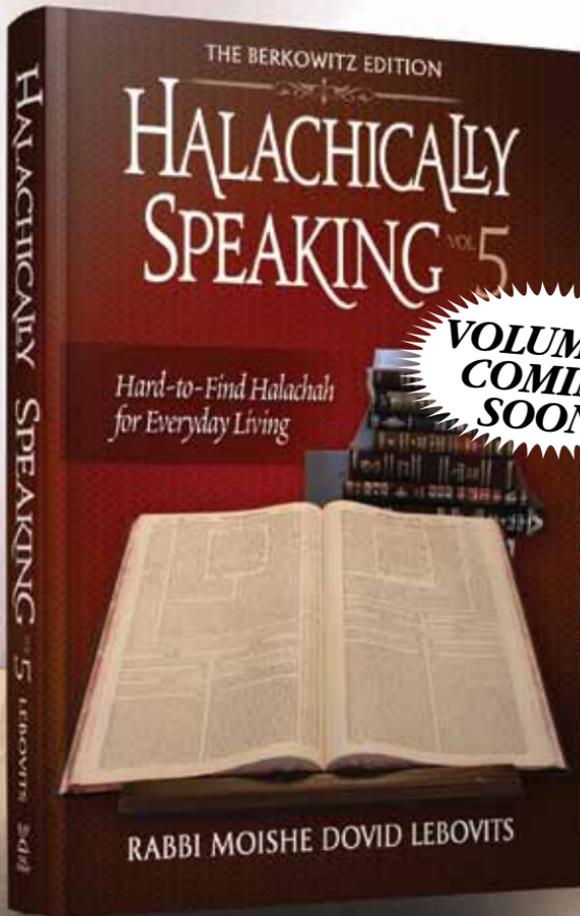
60. Refer to *Orchos Rabbeinu* 2:page 126:29, *Maaseh Ish* 3:page 124, *Yalkut Yosef O.C.* 2:31:6, *Minchas Yitzchak* 9:54:1, *Ashrei Haish O.C.* 3:page 73:2.

61. *Banim Chavivim* page 213.

62. *Teshuvos V'hanhagos* 3:12. Refer in depth to *Yalkut Yosef* 2:31:pages 472-473. See *Minchas Elazar Likutim* 6, *Divrei Yatziv O.C.* 10-14.

63. Harav Yisroel Belsky *zt"l*. Refer to *Ashrei Haish O.C.* 3:page 73:3.

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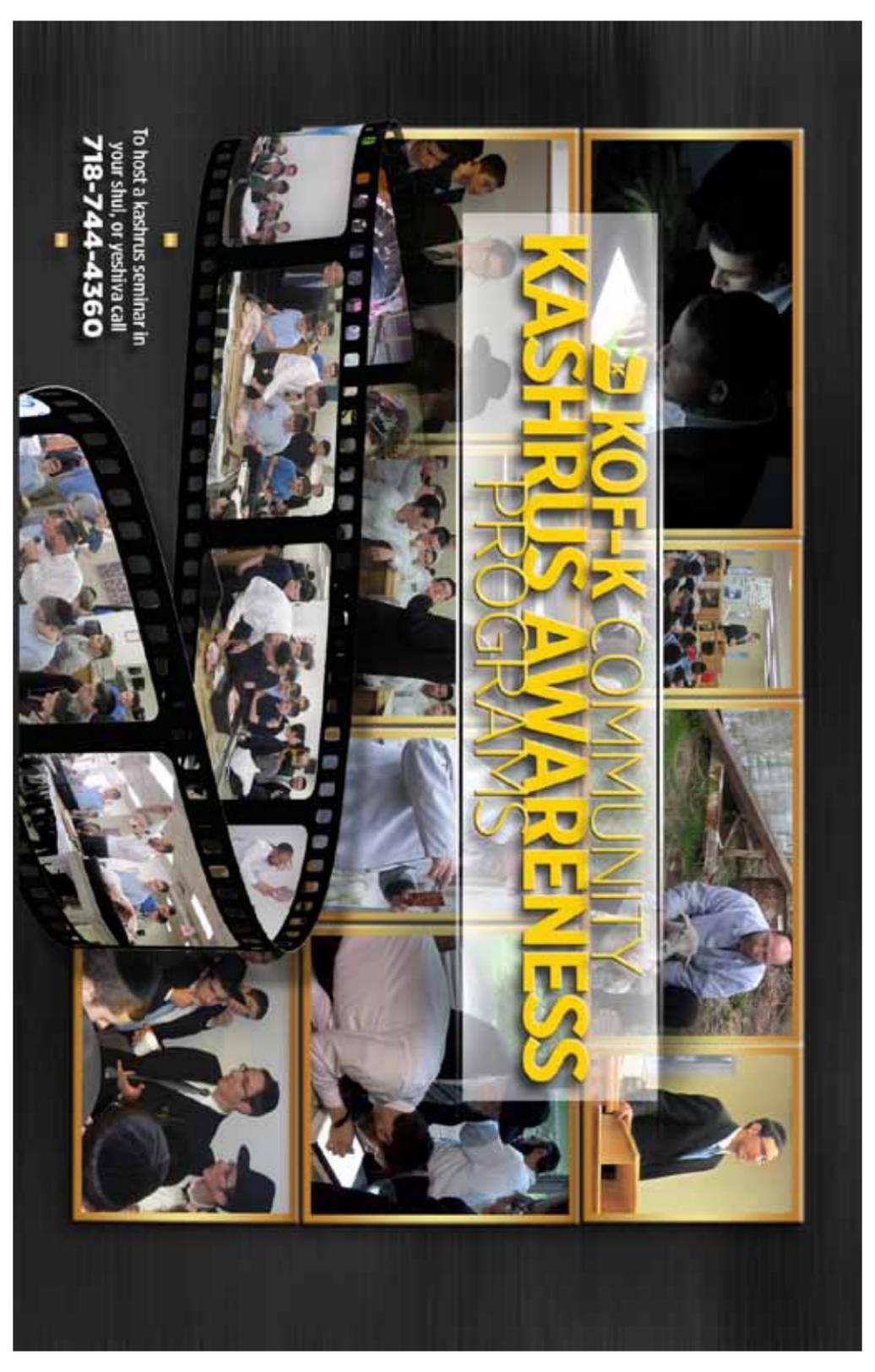


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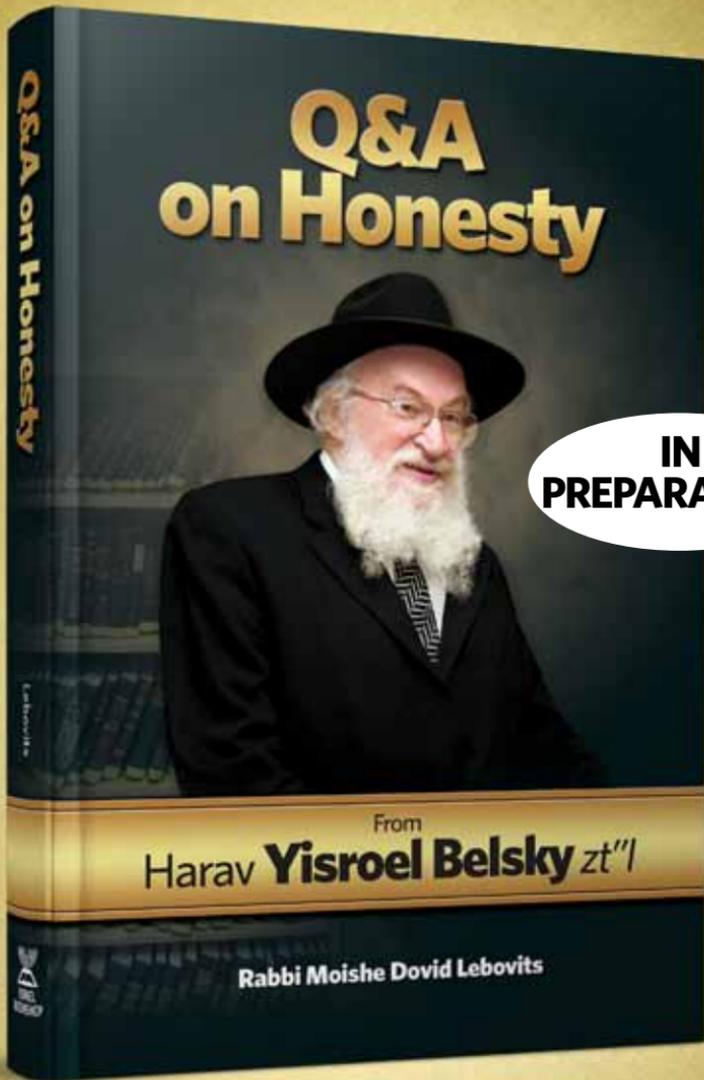
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