

HALACHICALLY SPEAKING



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READING ANOTHER PERSON'S LETTER

We are all familiar with the *cherem* of *Rabbeinu Gershom* not to read other people's mail. It is very common in the workplace for faxes to be placed in public bins. Are other Jewish workers allowed to read the fax? If letters are placed in a bin to be mailed can one read who the recipient is? Does this *cherem* also apply to the letters of a non-Jew? In general what is permitted what is not permitted to be read? Is an email the same as regular mail? Can a parent look at his sons e-mail to make sure he is not getting himself in trouble? After a relative passes away *r"l* the family discovers a mound of letters - are they permitted to read them? All these and other practical applications of the *cherem* will be discussed in this issue.

Who was *Rabbeinu Gershom*?

Rabbeinu Gershom was born in the year 960 ACE in the city of Metz. He later moved to Mainz where he eventually became the head of the Yeshiva of Mainz. Around the year 1000 *Rabbeinu Gershom* instituted his *cherems*. He had many accomplishments in his life; one



אין לו
להקב"ה
בעולמו
אלא ד'
אמות
של הלכה
בלבד...
(ברכות ת.)

of the more famous ones was his commentary on parts of the *Gemorah Bavli*. *Rabbeinu Gershom* died in 1040. *Rabbeinu Gershom* was referred to as the last *Goan* (the period right before the *Rishonim*).

The Cherem

Rabbeinu Gershom listed many items in his *cherems* which were agreed to by the *Rabbonim* of his time.¹ One of the items which is well known is not to marry two wives.² Another item is not to divorce one's wife against her will.³ The *cherem* which we will be focusing our discussion on is the *cherem* which is probably the most well-known, that is "not to read someone else's letter (writings)⁴ without permission."⁵ Some add to the *cherem* "unless it is thrown away."⁶ Some say the *cherem* is not to open the letter (no mention is made of actually reading the letter).⁷ Others say the *cherem* only applies if the following appears on the letter "pey gimmel yud nun daled reish gimel mem hey," which is an abbreviation of the following *posuk*⁸ פָּרַח גִּדְרָ יִשְׁכֵּנוּ נֹחַשׁ and the name of *Rabbeinu Gershom Hagoan*. This was common to write on a letter to serve as a reminder not to violate the *cherem* of *Rabbeinu Gershom*. According to this last reading of the *cherem*, if one did not write the above Hebrew letters on the letter there is no problem with someone else reading it.⁹

Some say the above *nusach* which some write on a letter would not work if the writer did not say the *nusach* as well. In addition the same opinion says the only problem with reading a letter is to open the letter and read it,¹⁰ but reading a letter which was opened already is permitted.¹¹

Reasons for this Cherem

The *Halachos Ketanos*¹² is of the opinion that the reason for the *cherem* of not reading someone else's letter is because one should not come to reveal gossip or a secret which falls under the *halachos* of *richeilos*, and by reading someone else's letter etc one is revealing the

1. Some include not embarrassing a *ba'al teshuva*, and many others see Be'er Hagolah Y.D. 334:123.

2. Rama E.H. 1:10.

3. Maharam M'Ruttenberg (Prag) 4:1022, Rama E.H. 119:6.

4. This is not only a letter but any written notes such as a diary, medical records, bills etc.

5. This is quoted in the Maharam M'Ruttenberg (Prag) 4:1022, Kol Bo 116, Be'er Hagolah Y.D. 334:123, Aruch Ha'shulchan Y.D. 334:21.

6. Aruch Ha'shulchan Y.D. 334:21.

7. Shiltei Gaborim Mesechtas Shavuos page 17a pages of the Rif. In regard to showing someone else's letter to one's relatives see Shevet Ha'kehusi 1:315:3-5.

8. Koheles 10:8.

9. Modanei Yom Tov 2:46.

10. Refer to Birchei Yosef Y.D. 334:14 who says "opening" a letter.

11. Kol Gadol 1:102.

12. 1:276.

כל השונה
הלכות
בכל יום
מובטח
לו שהוא
בן עולם
הבא...
(גדה ע"ג)

secret to oneself.¹³ The *Toras Chaim*¹⁴ says the reason why one may not read someone else's letter is because doing so is considered borrowing something which is not yours (i.e. the letter) and one is considered a *ganev*.¹⁵ Others say the *cherem* may be because of the *posuk* of “*v’ohavta l’rieacha k’mocha*” which means that something you would not want done to yourself you should not do to others.¹⁶

Non-Jew

According to the first reason this may not apply to a non-Jew since he is not “*b’ameicha*.”¹⁷ According to the reason of the *Toras Chaim* mentioned above it would make no difference if the letter was written by a Jew or non-Jew since one is not allowed to steal from a non-Jew either.¹⁸ However, the custom is that the above *cherem* does not apply to a non-Jews letter;¹⁹ however the *chilul Hashem* it would cause still applies.

Is it an Issue on the Writer or Receiver?

Some question if the *cherem* of reading someone else's letter is because it is unjust to the one who wrote the letter or the one who is receiving the letter.

The *Halachos Ketanos*²⁰ discusses a case where a letter with the above Hebrew letters written on it was found open in the street: He writes that it is not permitted to be read since the one who sent it may not want the contents to be read. However, if it is closed then the recipient may also not want it to be read.²¹

Is it always Applicable?

Some say the *cherem* was only meant to be intact until the year 1240 (end of the fifth thousand year in the Hebrew calendar). However, the overwhelming opinion is that the *cherem* is applicable throughout time (custom of the *Ashkenazim*).²² The custom of the *Sefardim* is not to be concerned with the *cherem* of *Rabbeinu Gershom*.²³

13. Refer to *Toras Chaim* 3:47.

14. 3:47.

15. *Ibid.* Refer to *Encyclopedia Talmudis Cherem of Rabbeinu Gershom* page 453.

16. *Chikikei Lev* Y.D. 49.

17. *Ibid.* Refer to *Encyclopedia Talmudis Cherem of Rabbeinu Gershom* page 453.

18. *Modanei Yom Tov* 2:46:page 237.

19. Opinion of Harav Elyashiv Shlita quoted in *Modanei Yom Tov* 2:pages 237-238.

20. 1:59.

21. Refer to *Modanei Yom Tov* 2:page 238.

22. Rama *ibid*, Maharam Alshaker 95. Also refer to Otzer Haposkim E.H. 1:76 in great depth who brings many opinions on this subject.

23. Refer to *Journal of Halacha and Contemporary Society* 11:page 37.



אין לו
להקב"ה
בעולמו
אלא ד'
אמות
של הלכה
בלבד
(בדמותה)

What is a *Cherem*?

The term of *cherem* means a number of different things.²⁴ Some say it is a *loshon of kodesh*.²⁵ Another mention of *cherem* is a form of dedication to *Hashem*.²⁶ A *loshon of cherem* can be like swearing.²⁷ Someone who sinned can be called someone who is in *cherem*.²⁸

Some say a *cherem* is an *issur kabbalah*,²⁹ while others say it is an *issur d'rabanan*.³⁰

Severity

One who transgresses a *cherem* carries with him a severe punishment.³¹ One can see how severe a *cherem* is from the following words of the *Rashba*³² who maintains one who transgresses a *cherem* is punishable by death. The *Medrash Tanchuma*³³ says one who transgresses a *cherem* is like he has transgressed all of the five books of the *Torah*. The *Shulchan Aruch*³⁴ says one who has transgressed a *cherem* may not serve as witnesses in a Jewish court.

Exceptions

Although the *cherem* was written and applies to many things, there are exceptions. For example, regarding the *cherem* not to divorce a woman without her consent, this may be waived if the woman acted improperly and her husband was instructed by Rabbis to divorce her.³⁵

The same would be true for the *cherem* on reading someone else's letter. However, one must be careful that the reason is valid and the *cherem* has to be waived by a *bais din* (see below).

Avoiding Loss

There is a discussion in the *poskim* if one is allowed to read someone's letter if he knows that by doing so he will avoid loss to himself or someone else.³⁶ The question is if in this situation the *cherem* was enacted at all. However, some say this should not be done since one

24. Refer to Chinuch mitzvah 357.

25. Yechezkel 44:29.

26. Vayikra 27:28.

27. Refer to Medrash Tanchuma Vayeishev (Varsha) 2.

28. Devarim 7:26.

29. Nodah B'Yehuda Y.D. 146.

30. Yabea Omer Y.D. 4:12:19, Teshuvos V'hanhugos 3:388.

31. Refer to Vayikra 27:29, Ramban. Refer to Terumas Hadashen 282.

32. 4:296.

33. Ibid. This is also the opinion of the Sefer Chasidim 106.

34. Choshen Mishpat 35:4.

35. Refer to Maharam Alshaker 95.

36. Refer to Chikikei Lev Y.D. 49.

כל השונה
הלכות
בכל יום
מובטח
לו שהוא
בן עולם
הבא...
(גדה ע"ג)

will always reason that if he does not read it there will be a loss. Therefore, the only way one should do so is if he goes in front of three learned people and they permit you to read it.³⁷

In Place of a *Mitzvah*

The *Rama*³⁸ says that the *cherem* will not apply in a situation where a *mitzvah* is involved. For example, on the *cherem* not to divorce a wife without her consent the *Rama*³⁹ says if one did not have children for ten years divorcing her is permitted. He then says “some say” the *cherem* still applies even if there is a *mitzvah* which is involved.⁴⁰ It is uncertain if the *Rama* is applicable to this *cherem*.⁴¹

Threw Out Letter / Ripped the Letter

When the *poskim* say if a letter is thrown in the garbage it is permitted to be read it is referring to an open place where one can tell the one who threw it there does not care if anyone reads it.⁴² However, when a letter is sent by someone else then even if it is thrown in the garbage by the recipient one should still not read it;⁴³ since it can be assumed that the sender would mind if the letter was read even if it was thrown away.⁴⁴ In addition, when one throws the letter in a private garbage can (i.e. in his house) it still could be that he does not want others to read the letter. Furthermore, if one rips the letter he is showing that he is *makpid* that the letter not be read by anyone.⁴⁵

Some say if one did not see the one who wrote the letter throw it in the street then he may not read it.⁴⁶

Open Letter

Some say that one is permitted to read letters which are sent open⁴⁷ (without an envelope), such as a post card.⁴⁸ Others argue that maybe the one who sent it does not mind if the postman reads it but minds if other people read it.⁴⁹

37. Teshuvos V'hanhugos 3:388.

38. E.H. 1:10.

39. Ibid.

40. Refer to Chikikei Lev ibid.

41. Refer to Journal of Halacha and Contemporary Society 55:pages 118-119. See Rambam Hilchos Ishus 15:7.

42. Shevet Ha'kehusi 1:315:1.

43. Halachos Ketanos 1:59.

44. Refer to Halachos Ketanos 1:59.

45. Shevet Ha'kehusi 1:315:1.

46. Kol Gadol 1:102.

47. Aruch Ha'shulchan Y.D. 334:21. This is the opinion of Harav Mordechai Gifter zt"l as quoted in Rivevos Ephraim 4:page 112:143.

48. Bnei Bonim 3:17.

49. Shevet Ha'kehusi 1:315:2.



אין לו
להקב"ה
בעולמו
אלא ד'
אמות
של הלכה
בלבד...
(בדמותה)

According to the above lenient opinion, one can argue and say a letter in a bin which is open to all employees may have the same status as a post card. However, this may not be so since the one who sent the letter may not want one to read it.

Based on this, if one walks into another home and sees a pile of mail on the table spread in the open one would be able to read who the mail came from.

Placing a note (*kvital*) in the *Kosel Hamaravi*

Many people have the custom to place a *kvital* in the cracks of the *Kosel Hamaravi*.⁵⁰ If a Jew placed a note in the *Kosel Hamaravi* one may not read the note based on the *cherem* of *Rabbeinu Gershom*.⁵¹ However, one can argue and say since the letters are out in the open it can be assumed that the one who writes the letter knows the letter may be read. On the other hand, since one sticks the note into the wall one is showing he is in fact *makpid* that one should not read it. One should be stringent in the above since we are dealing with the *cherem*.

Envelope not sealed

Sometimes one finds a letter in an envelope but the envelope is not sealed well and to open the envelope is rather easy. Nonetheless, one is not allowed to take out the letter from the envelope and read it since it is considered as opening a letter which is not allowed.⁵²

Fax

In an office it is very common to have one fax machine with which all the employees receive faxes. Another employee who may be receiving a fax is permitted to look at other names of top of the faxes which came in to see if his came yet. There is no concern of the *cherem* in this case.⁵³ In addition, both the one who sent the fax and the one who is receiving the fax know that many people can receive faxes at the same station and it can be compared to reading an open letter which was discussed above.

E-mail / Voice Mail

Although there is technical difference between a letter and an e-mail or voice mail, the *cherem* of *Rabbeinu Gershom* applies to these items as well.⁵⁴ Therefore, one should not look at someone else's e-mail by opening the email icon,⁵⁵ or listen to another employee's etc

50. Refer to Taamei Haminhagim page 270:footnote, Tzitz Eliezer 10:5:6, Tel Talpiot page 28:footnote 38, V'ei Lumo Michshal 5:page 251, see Orchos Rabbeinu 1:page 323:15. Many *tzadikim* did not stick *kvitals* in *Kosel* (Tel Talpiot page 28:footnote 38, Sharei Tzyion 4:page 106). Refer to Sharei Tzyion 4 whether or not the *kvitals* placed in the *Kosel* or at other holy sites require burying or if one is allowed to burn them (See Darchei Chaim V'Sholom 1070).

51. Shevet Ha'kehusi 1:315:1.

52. Opinion of Harav Yisroel Pesach Feinhandler Shlita (personal letter dated 10th of Kislev 5769).

53. Opinion of Harav Yisroel Pesach Feinhandler Shlita (personal letter dated 10th of Kislev 5769).

54. This is the opinion of Harav Chaim Pinchus Sheinberg Shlita as quoted on www.ohr.edu.

55. Opinion of Harav Yisroel Pesach Feinhandler Shlita (personal letter dated 10th of Kislev 5769).

כל השונה
הלכות
בכל יום
מובטח
לו שהוא
בן עולם
הבא...
(גדה ע"ג)

voice mail. Doing so violates the *cherem* of *Rabbeinu Gershom*. The above applies even if two people have a joint e-mail account one should only open his e-mail and not the other parties.⁵⁶ However, if a computer is open to an email page it may be similar to viewing an open letter.⁵⁷

Forwarding an e-mail

The same discussion regarding reading someone else's email is relevant to forwarding e-mails. Unless the party who sent the e-mail is informed that you want to send it and he agrees to it one should not forward an e-mail to another party.

Hanhalah of a Yeshiva / Parents

An interesting question arises regarding this *cherem* as to whether or not it applies in a situation where a child is sending e-mails etc and the *hanhalah* of the *Yeshiva* or his parents wish to look at his emails to see if he is getting himself into trouble.⁵⁸ Although others said in place of a *mitzvah* it may still apply, here we are dealing with a possible *aveirah* being done (i.e. making sure he is staying out of certain forbidden relationships).

The *Rashba*⁵⁹ speaking about another *cherem* of *Rabbeinu Gershom* says that the *cherem* was made in order that we comply with the *Torah*. If one is concerned that his child may be violating the *Torah* with his actions then even *Rabbeinu Gershom* would admit that his *cherem* is not applicable and one is permitted to read a students or child's e-mail correspondence.⁶⁰

Waiving the Cherem

As we said before the *cherem* may not apply to certain situations and some say the only way for one to waive the *cherem* would be through a *bais din*.⁶¹ Others say this would not help.⁶²

There is a discussion in the *poskim* if one is allowed to be *mochel* the *cherem*.⁶³ For example, may the one who receives a letter say he does not mind if others read his letter etc. However, maybe the one who receives the letter is *mochel* but not the one who sent it. Therefore, even if the sender did not write "do not show it to anyone" and if it will not harm the sender by showing it one should still not show the letter to others.⁶⁴

56. This is the opinion of Harav Chaim Pinchus Sheinberg Shlita as quoted on www.ohr.edu.

57. Opinion of Harav Yisroel Pesach Feinhandler Shlita (personal letter dated 10th of Kislev 5769).

58. Refer to Contemporary Halakhic Problems 2:pages 113-116.

59. 1:557.

60. Refer to Shmasin (journal) 48:pages 41-43.

61. Refer to Yehoshuas Malka E.H. 7.

62. Refer to Chikikei Lev ibid.

63. Refer to Teshuvos Haran 48.

64. Shevet Ha'kehusi 1:315:7. Refer to Halichos V'hanugos of the Steipler page 18b.



אין לו
להקב"ה
בעולמו
אלא ד'
אמות
של הלכה
בלבד...
(בדמותה)

Listening to someone's Telephone Conversation

It is very common especially in an office setting for one to listen to another's phone conversation since people work within close proximity to each other. In such a situation there is no need to leave the room since if the person wanted to he can either close the door to his office or talk in a private area (in his car).⁶⁵

However, one should not have in mind to intentionally eavesdrop on another person telephone conversation.

If one closes his door when speaking on the telephone it is a sign which indicates the telephone conversation or a meeting is private.⁶⁶ However, if he talks very loud and you end up hearing the conversation it is permitted.

Tapping into someone's telephone conversation

There are some people who know how to tap into someone's telephone conversation. This is forbidden under the *cherem* of *Rabbeinu Gershom* and may not be done. When one talks on the telephone it is a private matter.⁶⁷

Publishing Letters

It is very common for letters of a deceased person to be published after he dies. The question is if doing so falls into the *cherem* of *Rabbeinu Gershom* or not. One could argue that maybe since the person is not alive the many reasons of the *cherem* would not apply. In addition, one can say that if the letters do not say the Hebrew words on it mentioned above it may not apply. Furthermore, a public figure may be dealt in a different way than an ordinary person and if the letter is something that one can learn *Torah* from (i.e. a collection of *teshuvas*) then it may be permitted since it will not be hurting the individual who wrote them.⁶⁸ In addition if these letters were made public already by being placed in a library then one may be able to print them all in one book.

The above reasoning may not apply to writing a biography of a person if there will be derogatory information presented in the book.⁶⁹

Some *Gedolim* did not want certain *teshuvas* of theirs printed.⁷⁰

Nonetheless, there were those when they wrote *teshuvas* who did not publish the name of those who asked the question since the recipient of the letter was not sure if their sender wanted the name to be seen in the response if it would be published in a *sefer*. This was common among the writings of *Harav Moshe Feinstein zt"l*, in the *Igros Moshe* and other works of other *Gedolim*.⁷¹

65. Opinion of Harav Yisroel Pesach Feinhandler Shlita (personal letter dated 10th of Kislev 5769).

66. Opinion of Harav Yisroel Pesach Feinhandler Shlita (personal letter dated 10th of Kislev 5769).

67. Opinion of Harav Yisroel Pesach Feinhandler Shlita (personal letter dated 10th of Kislev 5769).

68. Refer to Torah U'maddah Journal 8:pages 242-250 in depth.

69. Refer to Journal of Halacha and Contemporary Society 55:pages 124-125.

70. Sredei Eish 2:71 (old print).

71. Refer to Journal of Halacha and Contemporary Society 55:pages 126-127.

כל השונה
הלכות
בכל יום
מובטח
לו שהוא
בן עולם
הבא...
(גדה ע"ג)

It is very common for people to send articles to a group of people for review, which has a chance of being published in a journal. Therefore, the journal has a right to publish such articles.⁷²

One who receives a letter is not allowed to publicize it without permission. However, if it is *Torah* it is permitted, since we know that *Torah* belongs to everyone. Therefore, the *cherem* does not apply.⁷³

According to this it would not make a difference if the letter was found after one died or an author publishing a letter which contains *Torah*.

Reading a Deceased Persons mail

Some say the permissibility of reading letters of a deceased person may depend on the reasons for the *cherem*. If it is because of “*lo seilech rochel*” this may apply even if one is not alive. However, if it is because of stealing then the inheritors can look at the mail because they inherit his belongings. The same is true for the reason of “*v’ohavta l’reiacha k’mocha*.”⁷⁴ However, the proper way to permit the reading of the letters is to go in front of three *Rabbonim* and they will be *matir* it for you.⁷⁵

Reading Mail even without the *cherem* of *Rabbeinu Gershom*

Aside from the above *cherem* of *Rabbeinu Gershom* there is another reason not to read someone else’s personal letters etc.⁷⁶

The *Gemorah* in *Berochos*⁷⁷ says when one wants to say an *eitzah* he should do so in the field. *Rashi*⁷⁸ says because “the walls have ears.” This is learned from the *posuk*⁷⁹ which says when *Yaakov* wanted to speak in private with his wives he said they should go to the field [in order that their brother *Lavan* should not hear]. In addition the *Gemorah* in *Mesechtas Bava Basra*⁸⁰ says the *Yiddin* in the desert did not have the entrance of the tents facing each other so one would not see what is doing by his neighbor, and therefore the *Shechina* was present there.

Based on this it would seem that reading someone else’s mail should not be allowed since this is a private matter.⁸¹ In addition the *Gemorah* in *Yoma*⁸² says we know that one

72. Bnei Bonim 3:18.

73. Opinion of Harav Yisroel Pesach Feinhandler Shlita (personal letter dated 10th of Kislev 5769).

74. Modanei Yom Tov 2:page 238.

75. Modanei Yom Tov 2:page 242.

76. Encyclopedia Talmudis *Cherem* of *Rabbeinu Gershom* page 453.

77. 8b.

78. Ibid “*elah b’sadeh*.”

79. Bereishis 31:4.

80. 60a. Refer to *Bamidbar* 24:2.

81. *Teshuvos V’hanhugos* 3:388.

82. 4b.



אין לו
להקב"ה
בעולמו
אלא ד'
אמות
של הלכה
בלבד...
(ברכותה)

should not repeat something which was told to him until he is given permission. As we see from *Hashem* who spoke to *Moshe Rabbeinu* in the *Ohel Moed* and he said “*le’omar*” which means “*lo omer*” not to say.⁸³ This is brought down in *halacha* as well.⁸⁴

Therefore, one is not permitted to say something which a friend told him unless he is given permission from his friend to do so (if it is not an issue of *loshon hara*).⁸⁵

Some say if the information was said publicly where other people can hear then it would depend on a number of *halachic* factors regarding *hilchos loshon hara* if one can say it over. The above regarding not revealing information was said when one was told the information in private.⁸⁶

Furthermore, the *Chofetz Chaim*⁸⁷ says if one is told something he is not allowed to reveal the secret since it will cause damage to the one who said the secret to him.

Based on the above, it would seem one is not allowed to read someone else’s mail if it is something which is private. As mentioned above, this is aside from the *cherem* of *Rabbeinu Gershom*.⁸⁸

In addition, if one announces “do not listen to my conversation” although it may not apply if he is talking in public still one should not listen due to the *mitzvah* to “*v’ohavta l’rieacha k’mocha*.”⁸⁹

Video Taping a Nanny

It has become common for people to wish to video tape their nannies with a “nanny cam”⁹⁰ to see if she is doing the right thing to ones child or if she is cooking etc. According to secular law there is no law against placing these cameras in one’s home.

However, as a matter of *halacha* there may be an issue. Some permit doing this based on the following: The *Gemorah*⁹¹ says if one wants to lose money he should hire workers and not watch them. We can learn from here that a boss can look over his workers in order not to lose his money. Therefore, according to this one is permitted to place a hidden camera in ones home to watch his workers.⁹² However, others say this should only be done once in a

83. Rashi “sh’hu.”

84. Magen Avraham O.C. 156:2, Chofetz Chaim Hilchos Loshon Hara klal 2:Be’er Mayim Chaim 27.

85. Chofetz Chaim Hilchos Loshon Hara klal 9:6. Similarly, police do not have a right to enter your house without obtaining a search warrant. However, they may be able to search your home etc if they think it will help with evidence.

86. Be’er Mayim Chaim *ibid*. Refer to Modanei Yom Tov 2:pages 241-242.

87. Hilchos Rechilos 8:5.

88. Modanei Yom Tov 2:page 242.

89. Opinion of Harav Yisroel Pesach Feinhandler Shlita (personal letter dated 10th of Kislev 5769).

90. See www.knowyournanny.com for a complete list of different kinds of nanny cams.

91. Mesechtas Bava Metziah 29b. Refer to Mesechtas Chullin 105a.

92. Opinion of Harav Yisroel Pesach Feinhandler Shlita (letter dated 13th of Cheshvan 5769). It is obviously permitted to place a video camera in a *shul* or other pubic place to make sure the place is secure (opinion of Harav Yisroel Pesach Feinhandler Shlita). However, doing so in ones friend’s house is obviously forbidden (*ibid*).

כל השונה
הלכות
בכל יום
מובטח
לו שהוא
בן עולם
הבא...
(גדה ע"ג)

while and not on a daily basis.

Checking in on Workers

Is it permitted for a Jewish boss to look at the websites or other places on the company computer where the worker may go to make sure it is business orientated (not during lunch or a break)?

This is permitted, since the workers agreed to work for the employer he also agreed that he may watch what he does.⁹³ However, others say the employer should only check up on the employee if there is reason to be concerned that what the employee is doing can be damaging to the employer.

Reading Someone Else Newspaper

One should not take someone else's newspaper from his mail box or steps even if he will put it back the same way that he took it.⁹⁴ This is very common for some people who wish to look at the headlines of a newspaper on *Shabbos* for a specific sports event which took place on Friday night.

In addition, if a neighbor's letter was placed in your mail box by mistake remove it and give it to your neighbor without looking at the content of the letter.



אין לו
להקב"ה
בעולמו
אלא ד'
אמות
של הלכה
בלבד...
(ברכותה)

93. Opinion of Harav Yisroel Pesach Feinhandler Shlita.

94. Shevet Ha'kehusi 1:341.

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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, shlita* on current issues.

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