

Private First Class: Rabbeinu Gershom and the Mail  
*Adapted from the writings of Dayan Yitzhak Grossman*  
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Last week's article concerned the declaration of a number of New York State law enforcement officials that enforcing Gov. Andrew Cuomo's rule limiting gatherings in private homes to ten people was an impossible task because "without violating citizens' right to privacy and other constitutional rights," officers cannot know how many people are in the home. In halacha, one element of privacy rights was established by Rabbeinu Gershom's *cheirem* (anathema) against reading a letter addressed to someone else.[1] In this article, we discuss the question of whether the *cheirem* applies even where there is an exigent need to read the letter.

#### Forestalling personal harm

R' Yaakov Chagiz considers whether one may read a letter addressed to someone else if he is concerned that the information therein may cause him harm should it reach its addressee (like the letter David Hamelech sent with Uriah to Yoav instructing Yoav to arrange Uriah's death). He is unwilling to allow this, and he concludes that the only solution is to destroy the letter unread.[2]

R' Chaim Palagi discusses a Jew who had business dealings with a non-Jew and was concerned about the potential for the non-Jew to cause him financial harm. He came upon a letter from the non-Jew to another non-Jew, and he wished to open (and presumably read) it in order to forestall the possibility of harm. He rules that the defense of one's property is a valid justification for opening the letter, since Rabbeinu Gershom did not prohibit such an act of self-defense. Were such a case to arise with regard to the letter of a Jew, however, R' Chaim Palagi offers arguments both for and against allowing its opening.[3]

R' Yehoshua Zev Zand cites Rav Palagi's ruling, and he adds (possibly based upon the ruling of his teacher, R' Yitzchok Zilberstein) that it is possible to permit reading a letter addressed to another in order to forestall a wife's betrayal of her husband. (He further suggests that the *cheirem* does not apply between spouses, since they have committed not to keep secrets from each other. This seems to me a highly dubious argument.)[4]

R' Moshe Sternbuch also inclines to the view that Rabbeinu Gershom's *cheirem* does not prohibit reading another's mail in order to defend oneself against theft, at least if that is the only means available to do so. He bases this on the legitimacy of vigilante enforcement of one's property rights (*avid inish dina l'nafshei*), as well as other considerations. He nevertheless stipulates that we cannot "*chas v'shalom*" allow anyone to do this on his own, and he insists that the proposal must be brought before three *talmidei chachamim* (or at least a *rav*) for their approval.[5]

#### *Chinuch* purposes

R' Chaim David HaLevi considers whether an educational institution may

open and examine the correspondence between a girl who is a student at the institution and a boy, which it believes may lead to “extremely negative *chinuch* consequences.” He considers whether Rabbeinu Gershom’s *cheirem* against reading others’ mail applies in such circumstances, and he notes that while he has not found any discussion of this in the *poskim*, there is extensive discussion of whether Rabbeinu Gershom’s *cheirem* against polygamy applies even where it would prevent the performance of a mitzvah. He concludes that the halacha is that the *cheirem* does not apply in such a case, and he adds that it certainly does not apply where it would entail the commission of an *aveirah*. He therefore rules that insofar as the “extremely negative *chinuch* consequences” entail the girl straying from the way of the Torah, Rabbeinu Gershom’s *cheirem* does not apply, since we are dealing with “a severe *aveirah*,” or at least the failure to perform the mitzvah of educating the girl in the way of Hashem.

Rav HaLevi adds that if the *chinuch* goals of the institution could be equally served by simply banning the correspondence, that would be preferable. He also stipulates the firm condition that the correspondence be read only by her *mechanech*, with the clear understanding that anything he discovers is absolutely confidential and may not be disclosed to anyone else.[6]

Based upon a similar argument to that of Rav HaLevi, R’ Tzvi Shpitz also allows reading others’ mail or eavesdropping on them for purposes of “*kiyum haTorah*” and “*ha’amadas hadas al tilah*.” One example he mentions is the case of parents or teachers who “in particular circumstances” have a reasonable suspicion that their children or students are involved with people who are teaching them to do things that are prohibited by halacha.[7]

Similarly, R’ Doniel Neustadt writes:

There are, however, situations where it may be permitted—or even required—to open another person’s email. A parent or principal who suspects his child/student of communicating with undesirable persons, or an employer who suspects an employee of theft, are just some examples of people who may be permitted to search through personal emails in order to either confirm their suspicions or exonerate the innocent. Still, the decision to violate a *cheirem*—even for a compelling reason—is a serious issue which should not be undertaken without consulting *da’as Torah*. [8]

Some argue that Rav Chagiz must not agree with the broad dispensation to read another’s mail for religious reasons, since the potential harm in his case surely involved an *aveirah*, and he was still unwilling to allow the reading of the letter. Others, however, refute this inference.[9]

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[1] *Shu”t Maharam b. Baruch defus Prague siman 1022; Kolbo end of siman 116; Shu”t Maharam Mintz siman 102.*

[2] *Shu”t Halachos Ketanos cheilek 1 siman 173.*

[3] *Shu”t Chikekei Lev Y.D. siman 49.*

[4] *Binas Hashidduch pp. 379-80.*

[5] *Shu"t Teshuvos Vehanhagos cheilek 3 siman 388.*

[6] *Shu"t Asei Lecha Rav cheilek 1 siman 42.*

[7] *Mishpetei Hatorah cheilek 1 siman 92 os 4.*

[8] R' Doniel Neustadt, *The Internet: Halachic Guidelines*, Parshas Emor.

[9] See Prof. Nachum Rakover, *Hahaganah al Tzinat Haprat*, pp. 142-43. See also the discussion of our topic by R' Eliyahu Katz cited there on p. 145.