

## Sins of the Fathers

*May societal standards be enforced by sanctioning offenders' children?*

*Adapted from the writings of Dayan Yitzhak Grossman*

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A girls' school in Brooklyn, Bais Yaakov D'Chassidei Gur, recently suspended several students due to their parents' affiliation with a breakaway faction of Gerrer chassidim.[1] The school explained in a public statement that this step was taken after the parents, by "[choosing] to align themselves openly with that group by attending [its events],"[2] "blatantly violated" a "parent cooperation agreement" stating that

a child whose parent affiliates himself (sic) with, or supports, a group that expresses disrespect and contempt towards the Gerrer *chinuch* or toward our Rebbe, unfortunately has no place in the *chinuch* network of Ger.

We have no intention of analyzing the history of the dispute or assigning blame and responsibility; in this article, we will merely consider the general question of the legitimacy of suspending children from school as a means of enforcing social control or breaking the will of defiant parents. We shall see that although this may be jarring to modern sensibilities, the preponderance of traditional halachic opinion, from the Geonim to the Aruch Hashulchan, has indeed allowed such use of children in campaigns against refractory parents.

(It should be noted that the school's explanation for the suspensions reiterates numerous times that the continued presence of the students in question in the school is harmful to the *chinuch* of both them and their classmates, and causes "anguish" to the children and parents of "Gerrer homes," and concludes that

It is not a matter of spite—it is a matter of keeping a settled environment and to secure the *chinuch* that we are entrusted to promote.

In this article, however, we shall not consider the (admittedly important) *chinuch* aspects of the question, only the legitimacy of the tactic of suspending children as a mechanism of social control.)

### The Geonim

There is a ruling, attributed variously to Rav Paltoi bar Abaye Gaon or Rav Hai Gaon, setting forth various sanctions to be imposed upon someone who has been excommunicated for flouting the authority of the court or refusing to accept the prescribed consequences of a sin he committed, where the offender has remained obstinate and refused to concede his error. Among those sanctions is that his children are not to be taught Torah in shul.[3]

### The early *Acharonim*

R' Yosef Karo (in his *Bedek Habayis*) notes that all these sanctions are

“excessive stringencies” imposed by the Geonim upon those who flouted their edicts, by virtue of their singular authority, but were not practiced by later generations, who limited themselves to the Talmudic rules.[4]

Nevertheless, the Rama rules that:

The court has the authority to impose stringencies upon [one who has been excommunicated]...and to expel his children from school...[5]

For more than half a millennium, we have no record of any challenge to the position of the Geonim that children may be expelled from school due to the obstinacy of their parents; as we have seen, even R’ Yosef Karo does not dispute the possibility of doing so in principle, despite his limitation of the practice to the Geonim, due to their singular authority. The Maharshal, however—an authority noted for his boldness and independence—did strongly object to such expulsions, to the point of declaring that the Geonim could not possibly have issued such a ruling:

*Chalilah* to interrupt the breath of children (i.e., reciting words of Torah), upon which the existence of the whole world depends[6]...it is certainly obvious that there is no justification for [the interruption of] children’s study of Torah, [the neglect of] which cannot be made up, and about which it is said: “If you abandon me for one day, for two days will I abandon you...”[7] and presumably [this ruling] did not emerge from the mouth of the Gaon...

*Chalilah vechalilah* to remove the sons [of one who has been excommunicated] from the bais midrash or from the yeshiva. One time in my youth, such an incident came before me, where a certain scholar, an elder of his generation and a halachic authority, wrote to me requesting that I remove from the yeshiva the son of someone who had been excommunicated, and I paid absolutely no attention to him.[8]

#### Later Acharonim

The Shvus Yaakov cites the Maharshal’s objections but nevertheless rules that “we should not deviate an iota from the ruling of the Bais Yosef in the Shulchan Aruch[9] and the Rama, whom we follow, against the Maharshal.”

The Taz defends the Geonic ruling by explaining that it applies to young children, who do not yet have any independent merit, but depend on the merit of their parents...but not older ones, who are subject to the receipt of reward or punishment on their own account.[10]

R’ Ben-Zion Meir Chai Uziel explains that when the Taz excludes “older” children from expulsion, he does not mean only those who have reached majority, but even those who have merely reached the age of *chinuch*. [11]

The Chasam Sofer too defends the Geonic ruling,[12] as does the Aruch Hashulchan, who explains their position as follows:

And the court has the authority to impose stringencies upon [one who has been excommunicated]...and to expel his children from school...until he accepts upon himself the law, if they see that by this they will bend his head (i.e., secure his submission). But in the

absence of such considerations, we do not punish children for the sins of their parents...even small children. (And with this distinction, all the difficulties raised by the Taz, citing Maharshal, are resolved, since for the benefit of the matter they are permitted to act thus...)[13]

It should be noted that this entire discussion refers specifically to communal authorities such as courts, vested with formal authority over the community, and to the children of one who has been formally excommunicated, although it can be argued that at least some of the principles articulated in justification of using children in campaigns against their parents may be applicable in less-formal contexts as well.

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[1]VINnews. The Headlines Will Move On. But Will The Girls?

<https://vinnews.com/2021/11/09/the-headlines-will-move-on-but-will-the-girls/>;

Restraining Order Issued Against NY Gur School Which Suspended Children Of Rav Shaul's Adherents.

<https://vinnews.com/2021/11/16/restraining-order-issued-against-ny-gur-school-which-suspended-children-of-rav-shauls-adherents/>;

Gur School In Brooklyn Releases Explanation On Banning Students From Breakaway Faction.

<https://vinnews.com/2021/11/25/gur-school-in-brooklyn-releases-explanation-on-banning-students-from-breakaway-faction/>.

[2]Bais Yaakov D'Chassidei Gur. Clarification. Kislev [5]782. The school adds that "The day after their parents openly joined the group, children from such homes came to school with a defiance. Anti-Ger and ל"ר anti-Rebbe statements were thrown out into the open, in class and between friends..."

[3]Teshuvos HaGeonim (Lyck 5624) *siman* 10 p. 8; Shu"t HaGeonim (Yerushalayim 5720) *siman* 41; Shu"t Rivash *siman* 173, cited in Bedek Habayis Y.D. *siman* 334.

[4]Bedek Habayis *ibid*.

[5]Hagahos Shulchan Aruch *ibid*. 334:6.

[6]Shabbos 119b.

[7]See Rashi Devarim 11:13. Cf. here.

[8]Yam Shel Shlomo Bava Kama *perek* 10 *siman* 13.

[9]Earlier in his discussion as well, the Shvus Yaakov asserts that the Shulchan Aruch rules in accordance with the Geonim, but I do not understand where he sees this.

[10]Taz *ibid*. s.k. 3.

[11]Shu"t Mishpetei Uziel *kerech* 4-*Inyanim Klali'im*, end of *siman* 3 (*Mitzvas Tochacha*).

[12]Shu"t Chasam Sofer Y.D. *siman* 322 s.v. *Sarvan va'avaryan*.

[13]Aruch Hashulchan *ibid*. *se'if* 6. Cf. R' Shmuel Baruch Genuth, Hotza'as Yeladim Mimosad Limudi Eikev Hisnahagus Shlilis Shel Hahorim, Din-She'al Es HaRav.