

Asking a Child to do a Melachah on Shabbat

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When one finds oneself in a pinch on Shabbat, availing oneself of the services of a minor to do a *melachah*, a prohibited Shabbat action, often could seemingly solve the problem. It appears to be widely believed that this is acceptable and that one may hint to or even directly ask a young child to perform a prohibited act on Shabbat, such as turning a light on or off. Furthermore, this is not a new idea but seems to have been in circulation for generations. As will be seen, this is a complex issue with many nuances, but in general children should not be used to do, and certainly not asked to do, what is prohibited for an adult to do. Herein, we will try to clarify that some of the factors involved in having a child do a prohibited action include the specific circumstances, the age of the child, and for whom the action is being done.¹

Talmudic Sources:

In several places the Talmud discusses children engaging in prohibited actions on Shabbat in order to help adults.

The Mishnah (*Shabbat* 16:6 [121a]) teaches that if a fire breaks out in a Jewish home on Shabbat [and there is no danger to life] and a non-Jew comes to extinguish it, he may not be told explicitly to put the fire out because that violates the rabbinic prohibition of “*amirah l’akum*,” but on the other hand he need not be prevented from doing so on his own. However, if a Jewish child wants to put it out, he must be prevented from doing so “because his resting [on the Shabbat] is their [i.e., his father’s]

¹ It is important to note that this discussion is not concerning life-threatening matters. When life is in danger, Shabbat must be violated if that is the best option to save the life and there is no need to search for a non-Jew or a child but rather a knowledgeable, adult Jew should take the lead in violating Shabbat in order to save the life (*Shulchan Aruch*, OC 328:12).

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responsibility.” In explaining the rationale of the ruling regarding a minor, the Gemara explains that the child acts as he does in order to please his father, and thus he must be prevented from violating the Shabbat in this circumstance when he appreciates that it directly benefits his father.

The Talmud (*Yevamot* 113b) relates an incident in which Rav Yitzchak bar Bisna lost keys to the *beit midrash* in a public place on Shabbat. He approached Rabbi Pedat for advice, who suggested to him to bring some young boys and girls to play in that area and if they “happen” to find the keys they will bring them to the owners. In this scenario, the children were not being instructed to violate the biblical prohibition of carrying on Shabbat, but on the other hand Rabbi Pedat did not see a need to prevent them from carrying. As Chatam Sofer (*Shu”t OC* 83) explains, the kids would be carrying the keys on their own initiative and for their own benefit and not, as far as they were concerned, for the benefit of any adult. The Talmud spends the next page and a half bringing proofs and counterproofs to Rabbi Pedat’s position, ultimately without definitively resolving the issue. Many of those proofs shed further light on this issue and are scrutinized by the later authorities as they formulate their positions.

The commentators were divided on when a person must stop a child from violating a prohibition and thus in what circumstances Rabbi Pedat’s suggestion was permissible. *Tosafot* (*Shabbat* 121a s.v. *shema*) suggest that the kids involved were below the age of *chinuch*. As will be seen, the Rema (*OC* 343:1) adopted this position. Others suggest that even if they were above *chinuch* it would be permitted because *chinuch* applies to positive commandments, not negative. Thus, children have to be trained to perform mitzvot, but don’t have to be stopped from violating prohibitions (*Tosafot Yesbanim, Yoma* 82a, s.v. *ben shemoneh*, quoting Rav Eliezer of Metz in *Sefer Yereim*). A third opinion sees the obligation as being wholly on the father, such that others need not prevent someone else’s child from violating a prohibition (*Tosafot Yesbanim, Yoma* 82a, s.v. *ben shemoneh*; Rambam, *Hilchot Ma’achalos Asuros* 17:28). This is the position that the *Shulchan Aruch* (*OC* 343:1) follows.

The Mishnah (*Shabbat* 24:1 [153a]) discusses what a person should do with his money if he is traveling on Erev Shabbat and the sun begins to set before he arrives in town. The preferable option is to give it to a non-Jew who is accompanying him. If there is no non-Jew present, then he may place it on his donkey. The Gemara (*Shabbat* 153a–b) introduces additional variables such as what to do if some combination of donkey, deaf person, *shoteh* (mentally incompetent person), and child (the last three are Jewish) are present. The final question is what to do if only a deaf individual and a minor are available, and the Gemara presents both sides, i.e.,

give it to the child or to the deaf individual, and leaves it unresolved. Rambam (*Hilbot Shabbat* 20:7) and *Shulchan Aruch* (OC 266:5) similarly did not rule on the matter and left it up to the person's discretion. The *Mishnah Berurah* (*Biur Halachah* 266 s.v. *bagab*) was troubled as to why it might be permissible to give it to a child² if it is agreed that a minor must be stopped from extinguishing a fire. He seems to remain unsatisfied with his answer, but suggests that maybe the father's obligation to stop him is only rabbinic (as opposed to what he said in *Sha'ar HaTziyun* 334:54 where he said it is a biblical obligation) and the rabbis did not make their enactment in a case of great financial loss such as with the wallet.³

These Talmudic passages have generated a wide variety of positions amongst the early authorities in how to precisely understand them in context. That, in turn, has led to different positions regarding practical issues, most frequently having to do with having a child carry an object in the street on Shabbat. Those discussions can be extrapolated to contemporary applications such as having a child turn on a light on Shabbat.

Lo Lisfu—Do Not Feed

In the course of the discussion in *Yevamot* about the lost keys, the Talmud derives from three seemingly superfluous biblical verses regarding the prohibitions of eating creeping creatures (*sbratzim*, *Vayikra* 11:42), eating blood (*Vayikra* 17:12), and a Kohen contracting corpse *tumah* (*Vayikra* 21:1), that a child may not be directly fed non-kosher food or directly instructed to violate any biblical prohibition.⁴ This obviously includes not

² There is a debate amongst the *Rishonim* (early authorities) regarding how one should give it to the child and if it differs from how one places it on the donkey. See also near the end of the famous responsa of the Chatam Sofer (OC 83) that discusses placing a developmentally disabled child in a special facility where kosher food was not available where he explains that Shabbat violations may be more stringent with respect to a donkey than a child because animals are included in the prohibition of forbidden labor on Shabbat (*Shemot* 23:12) while children are not. The Maggid Mishnah, *Hilbot Shabbat* 20:7, suggests that this may be the position of Rambam as well.

³ It is difficult to understand why this is a case of loss while the fire is not. The *Aruch HaShulchan* (OC 266:16) understands that in this case the child can be viewed as acting on his own as opposed to the fire case where he understands that he is pleasing his father. That too is difficult to understand. Another distinction is that the wallet case may involve only a rabbinic prohibition and one with no biblical link (see *Piskei Teshuvot* 266:1).

⁴ These exegeses are also found in the *Sifra* (*Shemini* 12:1 [to 11:41], 12:2 [to 11:42]; *Acharei Mot* 10:6 [to 17:12], 11:12 [to 17:14] and with slight modification *Emor*

being instructed to do *melachah* on Shabbat. This prohibition is known as *lo lisfu l'hu b'yadayim* or *lo ta'achilum*—that any adult Jew may not actively feed a Jewish minor something that is prohibited (*Shulchan Aruch*, OC 343:1; MB 343:4). *Trumat HaDesben* (as discussed extensively in the first section of *Shu"t Achiezer* 81) explains that the reason for this prohibition is so that the child will not get into the habit of violating the prohibition. The term “feed” is not only literal, but is taken to mean that an adult may not instruct or in any manner directly cause a child to violate a prohibition.⁵ It applies even if the child could have and would have violated the prohibition on his own.⁶ This applies even to infants with no understanding (MB 343:4; *Sba'ar HaTzzyun* 343:6), is not limited to one's own child, and according to most authorities applies even if it is for the child's own benefit. The Rashba and Ran hold that regarding rabbinic prohibitions, if it is for the benefit of the child he may be actively fed. However, *Tosafot* (*Shabbat* 121) and Rambam (*Ma'achalot Asurot* 17:27) disagree, and the halachah generally follows their opinion. Thus, it is clearly prohibited to instruct a child to turn on a light on Shabbat. As is always true regarding *lo lisfu*, even a non-explicit indication would be problematic. Thus, for example, if a young child turned off the bathroom light on Shabbat and is old enough to understand that a parental scold indicates displeasure such that it would lead him to turn it back on, it is prohibited to scold him for his action (*Piskei Teshuvot* 343: note 53).

A classic example of *lo lisfu* is that it is prohibited to give a young child a live, non-kosher grasshopper to play with lest it die and he eat it (cf *Shabbat* 90b). This would be like directly causing him to eat non-kosher (*Shulchan Aruch HaRav*, OC 343:9). In contrast, one may give a child something on Shabbat with which he can possibly, for his own benefit, violate a prohibition. A common example in the sources is eating letters on a cake. Although it is generally prohibited to cut letters on a cake on Shabbat, a cake may be placed in front of a child even though he will likely erase the lettering. The adult should just not put the cake directly in the child's mouth (*Shulchan Aruch HaRav*, OC 343:10).

Shu"t Imrei Yosher (1: OC 3) was presented with a case where right before Pesach someone was stuck with *chametz* because the local priest

1:1 [to 21:1]). The commentators discuss whether this prohibition as applied to prohibitions other than these three is biblical or rabbinic.

⁵ Verbal instruction is generally viewed as the same as physically feeding. Rav Shlomo Kluger had suggested otherwise but seems to have changed his mind (see *Yabia Omer* 2: OC: 13:2).

⁶ In other words, it is different than the rules of “*lifnei iveir*” which is prohibited only “*b'trei abra d'nabara*,” i.e., in a case where the other person could not violate the prohibition without the assistance of the enabler (see *Achiezer* 81:7).

had forbidden all Christians from buying *chametz* from Jews. This person wanted to give it to a child and thus avoid the prohibition of *bal yeira'eh* and *bal yimatzei*. Rav Yosher responded that even though the child would not actively violate the prohibition but rather passively as Pesach began, nonetheless it is prohibited and one would thereby violate the biblical prohibition of *lo ta'achilum*. So too *Shu"t Achiezer* (3:81:28) says that giving a kid *chametz* before the time of the prohibition knowing that he will keep it past the time violates the prohibition of giving a minor a prohibited substance. Rav Shlomo Zalman Auerbach (*Halichot Shlomo* 3:4:82) disagreed and said that in a pinch one can possibly give to a child before Pesach.

Preventing a Child From Violating a Prohibition

The unequivocal statements pertained to directly feeding the child non-kosher or instructing him to violate Shabbat. However, if a child violates a prohibition on his own, the appropriate response of adults will depend on several factors. Beit Yosef (*OC* 343) concludes that it is the position of Rambam, Smag, Tur, and Ramban that if a minor on his own is violating even a biblical prohibition, there is no obligation on *beit din* (meaning anyone other than a parent⁷) to stop him. This, he says, is true even if the child is past the age of *chinuch*. *Tosafot* (*Shabbat* 121a s.v. *shma mina*) and Rashba (*Yevamot* 114a s.v. Rav Yochanan) disagree and opine that anyone who sees a child over the age of *chinuch* transgressing a biblical prohibition is obligated to stop him, with no difference between a parent and another adult.

The *Shulchan Aruch* (*OC* 343:1) rules like the majority and against *Tosafot* that the child's father is obligated⁸ to rebuke him for violating Shabbat⁹ but other bystanders need not stop him. Those other bystanders have

⁷ In this regard there is no difference between son and daughter (*Kaf HaChayim*, *OC* 343:8). Some authorities limit it to father (based on *Nazir* 29a), while others equate mother and father in this regard (*Kaf HaChayim*, *OC* 343:9; cf. *Shu"t Shevet HaLevi* 1:67 and end of note 15 to *Yalkut Yosef* 308:11).

⁸ Rambam (*Ma'achalot Asurot* 17:28) and others (see *Mishnah Berurah* 343:2) derive the obligation of *chinuch* from *Mishlei* 22:6. *Meshech Chochmah* (*Bereishit* 18:19) says that the source for *chinuch* is from Avraham Avinu.

⁹ While the context in the *Shulchan Aruch* is Shabbat and the examples cited related to prohibited food, the Chafetz Chaim availed himself of the opportunity to explain that a parent's job is not only Shabbat and kashrut. He wrote (*Mishnah Berurah* 343:3) that if a parent hears his son or daughter speaking *lashon bara* he must stop them. This applies as well if they are involved in strife, lying, or cursing. He continues by noting that, unfortunately, many fail in this and permit

no obligation in his *chinuch* and thus are not required to prevent him from sinning.¹⁰

The Rema (OC 343:1) disagrees, based on an alternate understanding of the Rabbi Pedat story. In this approach, only children old enough to have some understanding but below the age of *chinuch* would have been allowed to find and retrieve the lost keys because any adult who sees an above-*chinuch*-age child violating a (biblical, see MB 343:7 in the name of the Chayei Adam 66:3) prohibition should stop him. Based on this ruling, it would certainly be prohibited to place an above-*chinuch*-age child in a situation in which he would violate a prohibition.

These rules are in a situation where the child is doing the activity for his own benefit. However, if he is doing it because he realizes that his parent or another adult is pleased with the outcome, as in the Talmudic (*Shabbat* 121a) example of putting out a fire on Shabbat, then even if he is below the age of *chinuch*, he should be stopped by any adult (MB 334:64–66; *Sha'ar HaTzzyun* 334:54).¹¹

From these sources it emerges that there are three age ranges that are discussed:

So young that they have no understanding (an age at which it is nonetheless prohibited to actively cause them to violate a prohibition); some understanding but below the age of *chinuch*; and above the age of *chinuch*.¹²

their children to speak *lashon hara* and to curse and they become accustomed that when they grow older and learn just how grievous the sins involved in such speech are, it is difficult for them to stop.

¹⁰ On the other hand, if another adult “gave” the child the prohibition such as directly instructing him to violate Shabbat, although a non-parent might not be required to stop the child if they were doing the action on their own accord, because they were “fed” the prohibition by an adult, a bystander must stop them so that the other adult does not violate his prohibition of *lo lifsu* (*Achiezer* 81:9). In other words, the bystander must intervene to prevent the sin of the adult, not of the child.

¹¹ See *Aruch HaShulchan*, OC 343:1–3, 5–8 for an analysis of the primary sources on this topic.

¹² These ages are individual and child dependent (MB 343:3). Approximations are: No understanding is until approximately age 2–4; some understanding but below *chinuch* age is from then until about 6 or 7 years old, and *chinuch* age is from then until bar/bat mitzvah (see *Piskei Teshuvot* 343:7).

Rav Shlomo Zalman Auerbach (*Minchat Shlomo Tinyana* 82) took it as self-evident that a child above the age of *chinuch* is personally obligated to abide by halachah and, for example, may not violate Shabbat nor wear a four-cornered garment without *tzitzit* even if no one sees him

The Uniqueness of Shabbat

In those instances where a child should be stopped from violating Shabbat, there are a variety of opinions as to the source of the obligation that the adult has. Some view it as a fulfillment, either biblically or rabbinically, of the mandate to educate, i.e., “*chinuch*.” Others understand that when the Talmud was concerned that the child is doing it to please the parent it is as if the parent instructed him and thus it is a transgression of the general “*lo lisfu*” prohibition. Others, typified by Rav Yaakov ben Aharon Bruchin of Karlin (*Teshuvot Mishkenot Yaakov*, OC 118 in 5720 ed.; OC 107 in original 5598 [1837] ed.), view Shabbat as a unique case in which a parent violates a biblical law whenever a child violates a Shabbat prohibition. In the Ten Commandments it states (*Shemot* 20:10): “But the seventh day is Shabbat to G-d your L-rd; do not do any work; not you, your son, your daughter, your slave, your maid, your animal,¹³ and the foreigner in your gates.” Adult children are included in their own right and thus the mention of son and daughter in the verse must perforce be taken as an explicit inclusion of one’s¹⁴ minor children. Although mentioned in the context of Shabbat, it might be possible to understand this as a mere statement of the general prohibition of “*lo lisfu*” and the obligation to prevent the child from acting on his own falls on the father only when the prohibited activity benefits the father and it is as if the father requested him to do it.¹⁵ Rav Yaakov of Karlin forcefully rejects this interpretation. He

¹³ Alternatives to an adult Jew doing a necessary *melachah* on Shabbat might include a non-Jew, a child, an animal, and today a mechanical or electrical system. While there is much discussion about the first two, there is less discussion about the third. Rav Yitzchak Yosef wrote (*Yalkut Yosef* 307:10) (and he says his father Rav Ovadiah agreed) that one may signal to a trained dog or monkey on Shabbat such that they will do a forbidden action for him, as long as the animal does not belong to him. He also notes that Rav Tzvi Pesach Frank disagreed and ruled that it is forbidden to motion to any trained dog to adjust a light on Shabbat (*Shu”t Har Tzvi*, OC 1:174). The final option is the subject of much contemporary discussion.

¹⁴ *Aruch L’ner* (*Yevamos* 114a s.v. *b’gemara*) thinks that if the need to prevent a child from violating Shabbat is learned from the verse in the Ten Commandments it should apply to all adults, not just the parents.

¹⁵ *Mechilta* (7:10 to *Shemot* 20:10; Rashi to *Shemot* 20:10 as understood by Ramban (*Emor*); see *Leket Babir* to Rashi, *Shemot* 20:10). Most sources treat this as a biblical source. *Shu”t Beit Efraim* (YD 62) sees it as an *asmachta*, a rabbinic law linked to a verse. Rav Shmuel HaLevi Vozner (*Shevet HaLevi* 7:104) systematically analyzes the various positions regarding this prohibition and also discusses whether it applies to *Yom Tov* or only Shabbat.

says that any *melachah* done by a child that benefits the parent is a biblical transgression by the parent of this verse found in the Ten Commandments and is not merely an instance of *lo lisfu*. Thus, one may also not permit a child to do a rabbinic prohibition on Shabbat. And he strongly advocates that people should be alerted to the gravity of this prohibition. He notes that in his day there were some people who were lax in this regard and had kids carry items for them in the street. He says that those who are lenient should be scolded. Essentially he holds, and believes this is the position of Ramban, that if a child does *melachah* for his father, the age of the child is irrelevant; the parent has violated a biblical prohibition found in the Ten Commandments.

Rabbi Chaim Ozer Grodzinski (1863–1940; *Shu"t Achiezer* vol. 3, 81: end of 23) explained in the name of Rav Chaim of Volozhin¹⁶ (d. 1821) that this prohibition transforms the sin attached to the parent because of a child's action from a mere prohibition to a Shabbat violator, with all its ramifications, such as that a Shabbat desecrator is comparable to an idolator.¹⁷ Rav Moshe Sternbuch (who quotes this idea in the name of Rav Chaim of Brisk; *Teshuvot V'Hanbagot* 2:205) used this idea to stress the importance of not being lax in allowing one's child to carry or do other prohibited activities on his behalf on Shabbat. Because of the severity of this, and that having a child do *melachah* on Shabbat may be a biblical prohibition for the parent, Rav Sternbuch suggests (*ibid.*) that in a case of need it is preferable for the adult to do the action "*keil'achar yad*," which makes it definitely only rabbinic, rather than have the child do the action. It is reported that it once happened in the days of Rav Yosef Zev Soloveitchik (Griz) of Brisk that the *eruv* in town ripped and someone gave something to his son to carry in the street, to which the Griz responded that if he does not cease immediately he is concerned that his wine is prohibited like *yayin nesech* (cited in Rabbi Asher Weiss, *Minchat Asher, Shemot* (5771) p. 241)!

Minchat Chinuch (32) questioned *Sefer HaChinuch's* assertion that a parent is obligated to ensure his child does not violate Shabbat and says that the prohibition is only the usual "*lo ta'achilum*." Rav Asher Weiss (*Minchat Asher, Shemot* [5771] page 240) expresses surprise that *Minchat Chinuch* seems to have missed the *Mechilta*, etc.

¹⁶ Rav Asher Weiss (*Minchat Asher, Yitro* 34:2) erroneously quotes it as Rav Chaim of Brisk.

¹⁷ See also *Shoel u'Meishiv, mabadurah* 3, 2:53, regarding the need for this additional prohibition.

Practical Applications

In the 21st century, the biggest “need” for the services of a minor is often related to electrical usage such as lights, refrigerators, and air conditioners. For many of the previous centuries, the primary issue was carrying in a public thoroughfare. While *eruvim* existed in many communities, others did not have one, and thus the question of how to get books or a key to shul, or food home from a communal kitchen, were the common needs. Based on the plethora of responsa literature on the topic, it seems to have been an old, common practice in Europe to have kids carry chulent from a central oven to the house on Shabbat and to carry a *siddur*, *tallit* or key in the street even when there was no *eruv*.

A correspondent of Rabbi Akiva Eiger (d. 1837) suggested relying on the Rashba’s position that for a rabbinic prohibition there is no prohibition of *lo lisfu*¹⁸ and thus one may directly instruct a child to carry if the neighborhood does not contain a biblical *reshut harabim*. Rabbi Akiva Eiger (*Shu”t* 15) rejected this because the Ran explicitly stated that even the Rashba only permitted this if the action is for the child’s benefit. In conformance with this understanding, Rabbi Akiva Eiger, seemingly against the *Shulchan Aruch*, accepted the Rashba’s position and suggested that a child may be given a *siddur* or *chumash* to carry to shul for himself and the adult may then also use it. This position seems to be accepted by the *Mishnah Berurah* as well (*Biur Halachah* 343 s.v. *mi’divrei sofrim*). Based on the opinion of the Rashba and Ran that for the child’s benefit one may even instruct him to violate a rabbinic prohibition, it may be permissible to instruct the child to carry his own books. This leniency is only if the child will benefit and thus, Rabbi Akiva Eiger would not permit a child to carry his father’s *tallit* (even on his own initiative) to shul for him on Shabbat. *Shemirat Shabbat K’hilchatah* (18:54) rules like Rabbi Akiva Eiger, and similarly emphasizes that it is permitted only in the specific case where there is no biblical prohibition and where the child is doing it for his own use. Otherwise, he stresses, it is strictly forbidden to have a child carry in a place where it is forbidden. It is based on the same principle that *Shemirat Shabbat K’hilchatah* (16:3) permits giving children noisy toys on Shabbat. Rav Ovadiah Yosef disagrees (see *Yalkut Yosef* 308:11) and therefore rules that a child with some understanding about Shabbat should be stopped from building in a sand box.

¹⁸ Rashba to *Yevamot* 114a. Note that Beit Yosef (*OC* 343) cites a responsum of the Rashba (92) that seems to reject this position and thus his commentary on the Gemara may have been merely theoretical.

Rav David HaLevi Segal, the Taz (d. 1667; OC 346:6), had previously introduced a novel leniency. He derives from a statement that the Mordechai made in passing that one can instruct a child to bring a key through a public thoroughfare, just as a non-Jew may bring it. And as for why Rav Pedat did not suggest to directly instruct a child to get the key, that is because that case involved a real *reshut harabim* while today we only have a *carmelis*, an area in which the prohibition to carry on Shabbat is merely rabbinic. The Taz then says that in his opinion, if only a rabbinic prohibition is involved, such as a *carmelis* without an *eruv*, a child, like a non-Jew, may carry a key even for an adult. Pri Megadim (*Mishbetzet Zabav* 346:6) explains that just as it is permitted to ask a non-Jew to violate a “double *shvut*” (an action that violates double layered rabbinic prohibitions) for a mitzvah, so too it might be acceptable to have a child carry the shul key, a *siddur* or *chumash* in a *carmelis*, although he does end with a *tzarich iyun*, i.e., further thought is needed.

It seems that a community rabbi ruled that this leniency of the Taz can be relied upon practically and another rabbi was upset about this and therefore, in 5581 (1821) he asked the Chatam Sofer (1762–1839), son-in-law of Rabbi Akiva Eiger, for his opinion of the Taz’s ruling. The Chatam Sofer (*Shu”t* 6:13) said it is clear that a child cannot do such things on Shabbat, for otherwise Jews for generations would not have spent so much money hiring a “Shabbos *goy*.” Even if no non-Jew is available, the Chatam Sofer felt that a child should not be permitted to carry without an *eruv* and that the Taz’s ruling is limited to cases such as a child carrying a *siddur* to shul for his own use.¹⁹ The Chatam Sofer said he could understand why the community rabbi erred—he did not study the Taz carefully enough.²⁰ He further asked that his letter be forwarded to the errant rabbi.

Rav Yosef Shaul Natansohn (d. 1875; *Shoel u’Meishiv*, 3:117) was concerned about the concept of *ati l’misrach*—that the child will get accustomed to this (prohibited) behavior. Although the Taz held that this concern was greater in the case of a mitzvah, he disagreed and thus ruled that because today there is no biblical *reshut harabim* a child may carry a *siddur* to shul but that this is allowed only on a one-time basis (such as a place with an *eruv* that is now down) but not as a regular occurrence.

Rav Moshe Schick (1807–1879; *Shu”t Maharam Schick*, OC 173), a student of the Chatam Sofer, wrote that there are many people who use a minor to carry when there is no *eruv* and that he has repeatedly railed

¹⁹ Similar to the position of Rabbi Akiva Eiger.

²⁰ Rav Asher Weiss (*Minchat Asher, Shemot*, p. 243) thinks that the Chasam Sofer erred and that the prohibition is only for one’s own child while the Taz was permitting if it is not your child.

against this practice in his sermons because there is no clear *heter* for it. Nonetheless, he does provide what he views as a possible justification based on the fact that there are essentially no biblical *reshut barabim* today. He even notes that having a child bring to shul books from which to pray and read has educational value, as it teaches diligence in prayer and study of Torah, and thus it qualifies as *chinuch*. He points out that the Magen Avraham (343:3) rules that it is permissible to have a child violate a rabbinic prohibition as part of *chinuch* and this may qualify.²¹ While it is conceivable to view it as bad *chinuch* to have a kid carry a *siddur* to shul on Shabbat, the Maharam Schick observes that it does train him to daven and might thus be viewed as *chinuch*. Maharam Schick concludes that for non-mitzvah purposes there is no room for leniency and even for a mitzvah it is proper to be stringent.

Rav Avraham Shmuel Binyamin Sofer (1815–1871; Ktav Sofer, OC 37) was asked by his younger brother Shimon Sofer (the Michtav Sofer), then chief rabbi of the flourishing Cracow Jewish community, whether and how they could greet the non-Jewish king who was expected to visit on Shabbat Yom Kippur.²² It was traditional to greet the king carrying a Torah, yet there was no *eruv* and thus carrying would be prohibited. Ktav Sofer explained that in general, rabbinic prohibitions may be suspended in order to see a king but they may not be violated in order to honor the king. On the other hand, to not greet him with the Torah would be viewed as an affront. He discounted having a non-Jew carry it as that is considered disrespectful to the Torah. He suggests having a child bring it to the street, based on the leniency of the Taz and noting his father's hesitation and why this case was different. He then suggested that a child carry in less than 4-amah increments in the street. The older brother's bottom line for his scholarly younger brother was that it was preferable to have a minor violate whatever Shabbat and Yom Kippur prohibitions necessary rather than an adult.

²¹ *Be'er Moshe* 6:18 quoting *Pri Yitzchak* 1:11 notes that the examples for this principle are usually such that the questionable action also fulfills the mitzvah, e.g., blowing *shofar* or eating *korban Pesach*, while here there is no mitzvah accomplished while carrying, only later while using the items. Thus, applying it to this case would seem problematic. *Be'er Moshe* nonetheless explained why he thinks the analogy still applies.

²² The response was written in 1868, shortly before Rosh Hashanah of 5629. That year, Yom Kippur in fact fell on Saturday, Sept 26. In September 1880, just days before Rosh Hashanah (and Yom Kippur was on a Wednesday), Emperor Franz Joseph I of the Austro-Hungarian Empire paid a well-publicized visit to Cracow and was indeed greeted by Rabbi Shimon Sofer and a delegation carrying Torah scrolls.

In 1865 Rabbi Natta Kalman, a student of the Ktav Sofer, wrote to the Ktav Sofer that he had been ill on Shabbat and unable to attend shul. In order to hear the Torah reading he instructed a child to bring the Torah from the shul to his house. A member of the congregation was furious at what he thought was an erroneous ruling of the rabbi and locked the *aron*. He asked the Ktav Sofer for his opinion of the incident. In great length, the Ktav Sofer (47) analyzes the entire issue of children violating Shabbat and concludes that in his opinion the rabbi should not have ruled as such but that once he had made the request of the child, the other individual should not have acted in the manner that he did.

Rav Rafael Baruch Toledano (1892–1970) wrote a Sephardi *Kitzur Shulchan Aruch* and ruled (214:17) like the Taz in the name of the Mordechai that a child may be used to bring the key to shul on Shabbat (similar to having a non-Jew carry it) through a public thoroughfare because today carrying in public is only a rabbinic prohibition and in this case it is for a mitzvah. He sent a copy of his work to Rav Ovadiah Yosef to review and among the 20 or so comments Rav Ovadiah made was to strongly disagree with this ruling (*Yabia Omer* 6: OC:48:19). Rav Ovadiah Yosef cited numerous other authorities who disagree, as well as explained the logic from various perspectives why this ruling is incorrect.

The long-running halachic debate notwithstanding, it seems to have been common in 19th-century Europe to utilize children to carry shul keys, books, and even *chulent* from a communal oven on Shabbat in locales without an *eruv*. Rav Yitzchak Meir Alter, the first Gerrer Rebbe, (d. 1866; *Shu"t HaRim* 3), in a lengthy *teshuvah*, justified the practice primarily based on the fact that to violate Shabbat one needs intent for the action (*melechet machshevet*), something that is lacking in children. Rav Yosef Shaul Natansohn (*Shoel u'Meishiv* 3:2:53) and *Shu"t Achiezer* (3:81:23) differed with the definition of “*melechet machshevet*” and thus held that ruling to be flawed. Rav Samuel Mohilever (d. 1898; *Shu"t Maharash Mohilever* 5) also strongly disagreed with the reasoning of *Shu"t HaRim* but for other reasons and, as far as he was concerned, disproved the essence of the *Shu"t HaRim*'s argument. He then takes on the leniency of the Taz that permitted having a child carry keys and explains that it can only be used on a temporary basis if on a one-time basis the keys to the shul were forgotten and no non-Jew is available. This is because it is for a mitzvah, but is only a one-time event so the child will not mistakenly learn from it that this is a permitted action. Rav Mohilever concludes that Heaven forbid to regularly have a child carry in public on Shabbat even for a mitzvah purpose because it is clearly prohibited.

Rav Yisrael Lifschitz (1782–1860) described (*Tiferes Yisrael*, introduction to *Eruvin*) the problem of a *tzurat hapetach* (the “wires” of the *eruv*)

coming down on Shabbat and how there were times and places where the non-Jews would regularly destroy it. He ruled that if the wire is ripped, and thus the *eruv* not in effect, a child should carry the books to shul. He was surprised that Rabbi Akiva Eiger disagreed with him. After all, it is common practice, he notes, to give a child to drink the wine at a *brit milah* on Tishah b'Av so that an adult has not recited a blessing in vain.²³ Furthermore, if the Mordechai and Taz permitted carrying keys, certainly books should be permitted. Finally, if none of that is acceptable, Rav Lifschitz concludes with his irrefutable proof—he has seen that this is widely practiced in Jewish communities and “if they are not prophets, they are sons of prophets.”

It is interesting to note that two of the leading rabbis who weighed in on this question, the nearly contemporaneous Chatam Sofer and Rav Yisrael Lifschitz, used a similar meta halachic argument (in addition to their halachic reasoning) and reached diametrically opposite conclusions. Rav Lifschitz observed that many Jews were using their minor children to carry and thus concluded that there must be a basis for the practice. The slightly older Chatam Sofer pointed out that for generations Jews had been hiring a “Shabbos *goy*,” something that would be unnecessary if children could fulfill the same role, and thus it must not be true that children can be used to do prohibited actions on Shabbat.

The widespread nature of this questionable practice led Rabbi Shmuel HaKohen Bernstein of Shatava (*Minchat Shabbat* on *Kitzur Shulchan Aruch*, *Hilchot Shabbat* [1905], 82:2 [p. 202–204 in 5773 ed.]) to provide a summary of the debate with a roster of who were the *machmirim* and who the *mekilim*. He states that the *mekilim* are few and one can see that the *machmirim* outnumber them. He quotes a summary from the author of the *Misgeret HaShulchan* that one should not have a minor carry, as is the simple understanding of the *Shulchan Aruch* and like the Chatam Sofer. If there is

²³ With all due respect, the cases do not seem to be parallel. On a fast day, there is no prohibition for a child or sick person to eat. Thus, the wine is often given to the post-partum mother and can also be given to another sick person. No one would suggest giving them to carry on Shabbat. On Shabbat there is a prohibition for a child (and obviously a sick person) to carry. Furthermore, even if no one drinks the wine it is not a *berachah l'vatalah* as the *berachah* is part of the ritual (see *Shulchan Aruch HaRav*, OC 190 and OC 343:8) regarding a child drinking the wine at a Yom Kippur *brit* so that it does not appear to be in vain. See Rema OC 621:3, *Magen Avraham* 621:3; *Halichot Shlomo* 2, chap. 6, note *tet-var*. Note that the *Mechaber* (OC 621:3) obviates this whole discussion by ruling that on Yom Kippur there is no wine at a *brit milah*. The *Mechaber* is ruling like *Tosafot* (*Pesachim* 103b s.v. *Rav Ashi*) while the Rema is ruling like Rashi (*Eruvin* 40b s.v. *l'yatvei l'yanuka*). See Rav Akiva HaLevi Grosnas, *b'inyan hamevarech tzarich she'yitom*, *Kol HaTorah*, *Tishrei* 5778, 85:280–286.

a great need, such as to bring a *siddur* or *chumasb* to shul, a non-Jew should be used. If there is no non-Jew available and he wants to rely on the *mekilim* one may, as long as there is some benefit to the child himself such as he uses the books too. Rav Bernstein concludes with a discussion if one may even benefit from and use items improperly carried by a minor when there is no *eruv*.

This seems to have been an old practice. The Rema (*Darkei Moshe* 325:8) quotes that *Kol Bo* (approx. 14th century) notes that many people are lenient to request from a non-Jew or a child to carry because we do not have a true *reshut harabim*. The Rema opines that one should be stringent. However, he does add that for a mitzvah or a great need one can be lenient. It seems that, as the Gerrer Rebbe later wrote, those who penned the lenient response were doing so as a “*limud zechul*” (a post facto justification for a less than ideal practice), but the standard opinion is not to have any child do any prohibited activity on Shabbat.

Rav Asher Weiss (*Minchat Asher, Shemot*, p. 243–4), in a novel leniency, suggests a permissible way to have a child do *melachah* on Shabbat: instruct one minor to instruct another minor to do the action. He says that for children under the age of *chinuch* there is no prohibition in that.²⁴ Furthermore, he suggests that a very young child who has no understanding of what he is doing may be placed in a situation where he will violate a rabbinic prohibition. Thus, he says that a very small child may be placed near a boiler switch so that he will shut it off (a rabbinic prohibition; igniting it is biblical) and an intercom can be placed in an infant’s bedroom so the parents can hear him.²⁵

Recent Rulings

The principles are multi-factorial and thus it is worthwhile to present a few other examples from contemporary authorities. Rav Sternbuch (*Teshuvot V’Hanbagot* 3:82) ruled that if a child does a prohibited action on Shabbat for the sake of the parents, they are required to stop him. Therefore, if the light in the refrigerator was left on and the child wants to open it for the parents, they must stop him even if he has no understanding

²⁴ Eishel Avraham (Butshatch; *OC* 314:7) discusses a case of near danger when a door needs to be broken down and suggests that it is preferable to ask a child to ask the non-Jew rather than to ask the non-Jew directly.

²⁵ This is as long as the sound is not heard outside the house. Thus, Rav Sternbuch (*Teshuvot V’Hanbagot* 1:230) prohibits putting an intercom in an infant’s room so the parents can sleep in the *succah* because of “*mashmi’a kol*.” He does discuss the possibility that it is in any event prohibited because any Shabbat violation of a child is prohibited for a parent, even if the child is an infant.

that opening the door will turn on the light or that such is prohibited. Similarly, although the child may be left alone to carry a *siddur* to shul for his own use, he may not be given an additional one to take for a parent.

Rav Moshe Stern (Debreceener Rav, 1914–1997; *Shu"t Be'er Moshe* 6:18) was asked if a child can be allowed to carry candies to shul on Shabbat and he ruled that if he is below *chinuch* age he may carry for himself, but no more. He stresses (*Be'er Moshe* 6:19:12) that one has to be very, very careful that a parent not permit a minor child to do Shabbat work on their behalf. This is true even if the parent does not directly request it but the child understands it pleases the parent. And this is true even if it is only a rabbinic violation. However, for his own use, a child may carry. But nothing may be added to what he is carrying. Thus, a *siddur* the child uses an adult may then use, but the child may not be given a second *siddur* to carry. Similarly, he may carry challah for his own use but may not be given a larger challah because he clearly will not eat it all and some is for the adult (*Be'er Moshe* 6:22:24).

Rav Natan Gestetner (1932–2010; *L'horot Natan* 6:21) permits a child to carry food in the street on Shabbat as long as it is for his use and does not seem to be concerned that the pot may have significantly more than the child can eat.

Rav Aryeh Tzvi Frumer (1884 – [murdered by Nazis in] 1943; Eretz Tzvi 75) offers a very lengthy defense of those who carry via a child. As part of his justification he distinguishes between carrying and other prohibitions, thus possibly limiting the applicability of his argument. He also suggests that once the child is carrying something there is no issue of adding items. Thus, not only can he carry a big challah or a whole *chulent*, if he is carrying something of his own, he can be given the *chulent*.

Rav Chaim Pinchas Scheinberg (1910–2012) developed (*Am HaTorah*, 2:12[5747/1987]:244–248) an interesting position on this question in order, as he says, to ease the pressure on large families on Shabbat. He concluded that a child who does not understand secondary consequences of an action may be asked directly to perform an otherwise permitted act that will result in a *psik reisha*, an inevitable but prohibited consequence of another action. Thus if a lightbulb was left connected in a refrigerator, a small child who does not realize that opening the door turns on the light may be directly requested to open the fridge door on Shabbat.²⁶

²⁶ Rabbi Dovid Weinberger wrote (*Shema B'nee*, a Halachic Compendium on the Laws of Child Rearing, 1994, p. 120) that: “If accidentally a bedroom light was left on for *Shabbos*, it would be permissible to carry a child below age three near the light so that he would play with the switch and eventually close the

Rav Simcha Rabinowitch (*Piskei Teshuvot* 343:4) rules that it may be allowed to place a child who is younger than age three (and preferably not one's own child) next to a light switch and then walk away and if the child on his own happens to play with the switch and turn the light on (or off) that is OK. He stresses that one may not hold the child but must leave him; if there are other children present it may lead to a *zilzul*, a denigration, of Shabbat in their eyes and should not be done; it is preferable it not be the parent who places the child there; and if the child has an understanding of what the adult wants it may not be done.

There is a ruling of Rabbi Yaakov Yisrael Kanievsky (the Steipler Gaon, 1899–1985) germane to this topic. He was once asked (*Orchot Rabbenu*, 1: page 268 in 5774 ed.; p. 144 in 5751 ed.) about a family with a 4-week-old infant whose food was in the refrigerator but the light was left on. He ruled that because an infant is considered at risk, it was 25 minutes after sunset so it was still considered *bein ha'shmoshot*, and turning on the light was an unintended and unwanted action, a child under age six should be instructed to open the refrigerator which should then be left ajar.

Rav Ovadiah Yosef suggests a scenario where a minor may indeed be used. According to Rav Ovadiah (*Yechaveh Da'at* 1:56), if there was no absolute prohibition but rather a *chumrah* that is barring the adult from performing an action, in that instance, a child may be asked to do the action. For example, if a person does not use an *eruv*, but a valid *eruv* exists, one can ask a child under bar mitzvah age to carry a *machzor* on Shabbat.²⁷ He explains (*Yabia Omer* 4:47; cf. *Yabia Omer* 3:YD:3) that because there is an acceptable *eruv* and thus many permit it for adults, even one who has a personal stringency can be lenient for a child. Indeed, one of his children reported that as a kid he had carried his father's *tallit* on Shabbat (Harari, *Mikraei Kodesh: Rosh Hashanah*, p. 372, no. 11). In another example, Rav

light.” It would be important to include here all of the constraints mentioned above in the name of Rav Simcha Rabinowitch. That first part was a significant leniency, yet Rabbi Weinberger continues: “According to other *poskim* it would be permissible to even instruct such a child directly to shut the switch.” In the footnote, he cites Rav Scheinberg's article, which seems to not be relevant to this case at all. I am not sure to whom he refers and why this should be permitted.

²⁷ See also *Piskei Teshuvot* 343:note 48 who gives examples of opening a bottle cap on Shabbat or opening a fridge with the motor off. This may also be the basis for what is reported in *Orchot Rabbenu*, 1: pp. 266–7 (5774 ed.; p. 143 in 5751 ed.) that once they forgot to disconnect a fridge in Sarah Schenirer seminary from the electricity and the Chazon Ish instructed that a 4-to-5-year-old should open the fridge when the motor is running and leave it open all Shabbat. Similarly, in the Steipler's house, if they forgot to disconnect the fridge from the (prohibited) electricity, they would have a child open the door while the motor was running and put a towel in to prevent it from closing.

Ovadiah Yosef (*Yabia Omer* 10:28) says that if a fridge with the light in was accidentally opened on Shabbat it may be closed “*keil’achar yad,*” by pushing it with one’s body. He says this is permissible because it is a *psik reisha* in a double *d’rabbanan*. He notes that Rav Shlomo Zalman Auerbach disagrees (*Shemirat Shabbat K’hilchatah*, p. 101, no. 45), but sticks to his ruling. As an alternative, he suggests having a child close it. Because (in his opinion) it is actually permitted to close it, even if someone is stringent on himself, he can certainly have a child do it. However, he emphasizes, one may not have a child open a refrigerator if the light will go on, although a non-Jew may be asked to open it (*Yabia Omer* 9: OC:108:187).

Rabbi Simcha Bunim Cohen (*Children in Halachah*, Mesorah, 1993, pp. 66–70) provides some practical examples. He writes:

... one may not tell a very young child to turn on a light even if it is for the child’s own benefit. It is likewise forbidden to place the child’s hand on the switch if one is certain that the child will turn it on. ... one is permitted to place a child of less than *chinuch* age in front of a light switch so that the child may turn the light on or off ... [one must remember, though, that if switching off the light will benefit only the parent, and the child realizes that, the parent must stop the child from doing so.]. ... However, turning a light *off* is only Rabbinically prohibited (*m’ d’Rabbanan*).²⁸ Thus, it is permissible, in a case of great necessity,²⁹ to instruct a child (who is below *chinuch* age) to turn off a light (e.g., if the light is disturbing the child).

Conclusion

Shabbat observance is a precious gift from G-d that includes certain restrictions. As Rav Scheinberg had noted, finding legitimate work-arounds may ease the difficulties that sometimes arise when observing Shabbat. Yet, there is a need to be careful for, as Rav Chaim Ozer pointed out, a Shabbat desecrator is comparable to an idolater. The ease, and hence the temptation, of availing oneself of the service of a minor makes the question of how and when this may be done both common and significant. When may a child’s services be employed on Shabbat? The answer is not simple and depends on many factors including: if the one requesting is a parent or an outsider, if the action is prohibited biblically or rabbinically,

²⁸ Note that this is Rabbi Bunim writing. The severity of turning a light on or off may depend on the type of light and one’s understanding of the reason for the prohibition.

²⁹ See *Chayei Adam* 66:6. Defining what is a great need for the child is a subjective decision.

the age of the child, if it is for his benefit as well, if it is a regular occurrence or a one-time event, if the child is acting independently or being requested, the level of need, etc. There are so many factors that a simple answer is not possible or appropriate. But what is obvious is that this has historically been a contentious issue and that it is far from a *carte blanche heter.* ❧