



שבת קודש פרשת ראה | מסכת נדרים דף מג'

## INSIGHTS FROM OUR CHABUROS

**Does the neder include prohibiting one's property or one's person from providing benefit**

המחדר הנאה מחבירו ואין לו מה יאכל

**S**hulchan Aruch (Yoreh Deah 221:8) rules according to this Mishnah, and the halacha is expressed in terms of a case where Reuven declared that he would personally not provide any benefit to Shimon. This seems to correspond closely to the wording of the Mishnah as we have it. Nevertheless, when Shimon has no food to eat, Reuven may go to the storekeeper and announce that Shimon has no food to eat. The storekeeper will understand that this means that he should provide Shimon with food, and Reuven may then pay for it. ר"ן explains clearly that Reuven may not appoint the storekeeper as his agent to give food to Shimon, as this would be a violation of the neder that Reuven not personally help Shimon. The Tur (ibid.), however, learns that this halacha applies where Reuven had expressed his neder in terms of prohibiting his property (נכסיו) from benefiting Shimon.

Rabbi Akiva Eiger, in his comments to the Taz (#16) writes that if the Tur is correct, and the case is where the property of Reuven is prohibited from Shimon, then Reuven would be able to directly appoint the storekeeper as his agent to feed Shimon, and the case would not have to be one where Reuven simply hinted that Shimon was in need. According to the understanding of the Tur, Reuven only declared that his property would be restricted from benefiting Shimon, and here it would be the storekeeper who would be providing the goods.

Chazon Ish explains that Tur understands that any time a person declares that his property can not be used to benefit someone else, the intent of the one who pronounced the neder is to limit personal aspects of benefiting the other person, as well. Therefore, even in a case as presented by the Tur, where the neder was to prohibit Reuven's property from benefiting Shimon, this is understood to also include Reuven's personal aid to Shimon, and Reuven's appointing an agent, such as the storekeeper, would be prohibited.

## REVIEW AND REMEMBER

1. Why is the person who prohibited another from benefitting from his property not permitted to borrow from that person?
2. What is a way to provide benefit for someone who, by virtue of a vow, may not benefit from your property?
3. In what way do we treat ownerless objects like gifts?
4. How long does a person have to retract a declaration that his field is ownerless?

## STORIES OF THE DAF

The inheritance

מתנת בית חורון

**A** certain couple fell upon hard times and had no choice but to borrow a huge sum of money. Eventually conditions improved and they were able to live within their means. Unfortunately, they remained unable to pay their colossal debt. The wife's elderly father was a fairly wealthy man. Understandably, he was uninterested in leaving his property as an inheritance to his only daughter only to have it all taken by her creditors after his demise. He had nothing against the idea of paying the debt; he just didn't want them paid from his assets.

He consulted with the local Rav and begged him to find a halachic way around this. If there was no solution, he would bequeath the money to someone else since, as things stood, his daughter would not enjoy his assets anyway. He was determined that his daughter's creditor should not inherit his estate! Even after a great deal of consideration, the Rav could see no way to help his wealthy congregant get around the creditor's lien.

He decided to consult the Rosh, zt"l. "You are like a malach Elokim and no secret escapes you. Do you have a solution for this man?" The Rosh replied, "Yes. If the father gives it to his daughter from a moment before he dies on the condition that it not be subject to any liens that either predated or were incurred after his demise. Surely you will ask why this is different from the case of Beis Choron where a man had vowed to give no benefit to his father and couldn't invite his father to the grandson's wedding which was to be held in his own courtyard.

To override his own oath, he declared the courtyard and banquet a gift to his friend just so his father could attend the wedding. This person declared the gift hekdesch because he didn't want the sin of having duplicitously tried to override an oath on his own account. The Chachamim declared that any gift which cannot be given to hekdesch is not a gift. The Rosh continued, "But our case is different: the general rule that a gift must include the right to do anything is only if the giver did not make any stipulations. If there was a rider attached, it will hold!"

## HALACHA HIGHLIGHT

Is a man permitted to send mishloach manos to a woman?

אבי אמר גזירה לשאול משום להשאיל

*Abaye said that there is a decree that one should not borrow out of concern that this will lead to lending*

**R**ema<sup>1</sup> rules that women are obligated in the mitzvah of mishloach manos just like men. Additionally, women should send mishloach manos to women and men should send to men but a man and woman should not send mishloach manos to each other since it could lead to a man sending mishloach manos to a widow which could raise a concern that kiddushin was done. This issue, however, is only a concern for mishloach manos but not for matanos la'evyonim.

The Shvus Yaakov<sup>2</sup> asks, if the concern is that the mishloach manos could raise a concern for kiddushin, why is it prohibited for a woman to send mishloach manos to a man? Since it is not possible for a woman to give kiddushin to a man there should be no concern, unless Chazal prohibited a woman from giving mishloach manos to a man because it is similar to the decree against a man giving mishloach manos to a woman (גזירה היא אטו היא) but that seems too farfetched.

Rav Yosef Engel<sup>3</sup> takes issue with Shvus Yaakov's assertion that this case seems to be too farfetched to warrant a decree. In our Gemara Abaye explains that the reason one who prohibits his friend from benefiting from his property may not borrow items from him is out of concern that borrowing may lead to lending. This explanation indicates that when Chazal have a concern that necessitates a decree they will structure that decree so that it works in both directions of the relationship rather than limiting it to the specific direction of concern.

Shvus Yaakov suggests as an alternative explanation why men and women may not send mishloach manos to one another is that it is an inappropriate gesture of affection as opposed to when the money is given as tzedaka, i.e. matanos la'evyonim. The B'Tzeil Hachochmah<sup>4</sup> suggests that one could infer from Rema that in general, it is permitted to send gifts to married women. Since the primary concern of Rema was the case of a man sending mishloach manos to a widow it would seem that sending to a married woman would not be an issue since she cannot receive kiddushin. He hesitates to draw a definitive conclusion on the matter since it is possible that Chazal allowed gifts to be sent only in the context of performing a mitzvah.

1. רמ"א או"ח סי' תרצ"ה סע' ד'
2. שו"ת שבית יעקב ח"א סי' מ"א
3. גליוני הש"ס ד"ה גזירה
4. שו"ת בצל החכמה ח"ה סי' נ"א

## PARSHA CONNECTION

**In this week's daf**, we find various examples of someone giving food or money to someone else in an indirect way. Although the recipient benefits from the מדייר it's permissible because it's indirectly given to them. We receive many things in life, and although most people realize that everything is really from Hashem sometimes people think that it comes as a result of their own actions. This point is beautifully illustrated by the אלשיך הקדוש on a fascinating Possuk in the Parsha. The Possuk in says: וכיירבה ממך הדרך כי לא תוכל שאתו כי ירחק ממך המקום אשר

יבחר ה' אלקיך לשום שמו כי יברכך ה' אלקיך. The Torah is talking about ירושלים and says that if it's too much for the farmer to carry all of his ירושלים he can exchange the produce for money and take the money to ירושלים. The difficulty in the Possuk is that it says "if the place will be far from you". Usually we would say that a person is far from a place, not that the place is far from the person. Second, the Possuk ends with "because ה' will bless you", which is seemingly not the reason for why the place is far from you? The אלשיך הקדוש explains that objectively, a farmer who is blessed with an abundance of produce should be thrilled to bring the מנעשר to ירושלים and would gladly hire any trucks necessary to make the journey. The Torah understood that this may not be the case, because the farmer is assuming that it's HIS hard work which produced the huge crop, and will view the trip as an annoyance. Therefore it says, "if the place will be far from you", meaning the kedusha of ירושלים is far from you, because you are completely consumed by your possessions, and therefore you view this Mitzvah as a chore, then you can exchange it for money, etc. The end of the Possuk is explaining, that this behavior/attitude, is the result of the person forgetting it was Hashem's blessing to him that gave him what he has.

ישמן ישרון ויבעט (כי יברכך ה' אלוך) This is similar to the notion of שמתנת עבית כשית ויטש אלוך עשה וינבל צור ישעתו. When everything is great, people sometimes forget where they got all the good from!

## POINT TO PONDER

The Gemara quotes a ברייתא that within 3 days one can undo his הפקר and reposses his property. According to this הלכה why aren't we concerned in the משנה where it says that he should be מפקיר the food? Maybe he will undo the הפקר tomorrow or the next day?

### Response to last week's Point to Ponder:

The Gemara says that if someone made a נדר before שביעית and then it became שביעית the מודר can eat from fruits which are leaning out of the field. Since the original נדר included all fruit, now that some are permitted, why don't we say מקצתו הותר כולו and everything should be מותר?

The ספר דבר יעקב answers that in our case one can not apply נדר because when the נדר was made, he couldn't have included in it שביעית, נדר פירות שביעית, which the Torah says are הפקר. Only when a נדר included certain items originally and these have now become מותר can we apply הותר הותר כולו.

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, [dafaweek.org](http://dafaweek.org), or download the app

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