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Nedarim Daf 33

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Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

### **Items that the Vower may Borrow**

The *Mishnah* had stated: Someone who vows that his friend cannot benefit from his food should not lend him sifters, strainer, grinders, or an oven.

The *Gemora* asks: Why is he forbidden to lend these (*food preparation*) utensils; his *neder* was explicitly regarding food?

Rabbi Shimon ben Lakish answers: The *Mishnah* is discussing a case where the vower said, “The benefit of your food is forbidden to me.” (*We have no other way of understanding this expression except to assume that he meant to include anything that produces edible food*).

The *Gemora* asks: Perhaps he means to prohibit the chewing of wheat kernels to place on a wound?

Rava answers: The vower declared, “The benefit of anything that will bring to the eating of your food is forbidden to me.”

Rav Pappa said: A sack for bringing fruit, a donkey for bringing fruit, and even a mere basket, are all items of benefit that will lead to the eating of food.

Rav Pappa inquired: What would be the *halachah* regarding a horse to ride on or a ring to be seen with (*so he should appear important at the feast*)?

Would he be permitted to take a shortcut through the other fellow’s property (*on his way to a feast*)? (The *Ran* explains that these things are more indirect than the sack, donkey or basket which acts directly upon the food.)

The *Gemora* says: Let us resolve this from our *Mishnah*, which states: However, he may lend him a shirt, a ring, a cloak, and earrings. How is this to be understood? Shall I say it is not to appear in them, need this be stated?<sup>1</sup> Isn’t the novelty of this *halachah* that even though he wishes to appear like this at the feast (*in order to be served generously*), the other fellow is nevertheless permitted to lend him these things?

The *Gemora* rejects the proof and says that the *Mishnah* is actually referring to a case where he is borrowing these items for reasons not related to eating at all. There is no novelty in this *halachah*. It is only said because the *Mishnah* stated a case which is prohibited; it wanted to teach a case where something is permitted. (32b4 – 33a2)

### **Mishnah**

The *Mishnah* states: Any utensil that is not involved in the preparation of food will be forbidden for the vower to borrow if it is in a place where these items are usually rented (*for the money in which he is saving, he can now use to buy food*). (33a2)

<sup>1</sup> For then he does not benefit at all, and it is obvious that he may lend them to him.



### **Gratuities**

The *Gemora* infers from this *Mishnah* that the previous *Mishnah* (which prohibited the lending out of utensils used for food preparations) was referring even to a case where the utensils are not usually rented out.

The *Gemora* asks: Who is the *Tanna* that holds this way?

Rav Adda bar Ahavah said: This is Rabbi Eliezer (who maintains that even something people usually forgo is forbidden from someone who is forbidden to have benefit from that person). (33a2)

### **Mishnah**

The *Mishnah* states: If one vows not to derive benefit from his fellow, the fellow may still pay his *shekel* (coin obligatory for each person to give in order to fund the public offering of the year in the *Beis Hamikdash*). He may also pay back his loan and return his lost objects. In a place where people usually give a finder's fee for returning a lost object, the finder's fee should go to *hekdesh*. (33a2)

### **Chasing Away a Lion and the Horns of a Deer**

The *Gemora* notes: It would seem that these payments are regarded as merely chasing away a lion from someone else's property (he is not giving anything to the other; he is just preventing a loss and that is why it is permitted).

The *Gemora* asks: Who is the *Tanna* that holds this way?

Rav Hoshaya answers: It is the opinion of Chanan (If a person went overseas and someone supported his wife in the interim, Chanan ruled that he has lost his money; he is not benefiting the husband, but rather "chasing away" the wife.)

Rava said: It can actually be going according to all viewpoints, for in our *Mishnah*, we might be referring to a case where his friend whom he cannot benefit took a loan

on the condition that he does not have to pay back if he does not want to (accordingly, he did not really benefit him as he did not have to pay).

The *Gemora* asks: What does Chanan say?

The *Gemora* cites a *Mishnah*: If a person went overseas and someone supported his wife in the interim, Chanan ruled that he has lost his money.

The sons of the *kohanim gedolim* argued that the supporter may swear how much he gave his wife and collect the monies from him. Rabbi Dosa ben Harkinu agreed. Rabbi Yochanan ben Zakai said: Chanan is correct; the supporter has placed his monies on the horn of a deer.

The *Gemora* notes: Rava did not give the answer of Rav Hoshaya, as he wanted the *Mishnah* to be according to the Rabbis as well (not only according to Chanan). Rav Hoshaya did not answer like Rava because the Rabbis decreed that settling a debt that need not be repaid is forbidden as a preventive measure on account of a debt that must be repaid. (33a2 – 33b1)

### **Rav Yosef's Perutah**

The *Mishnah* had stated: He may return his lost objects.

The *Gemora* presents an Amoraic dispute between Rabbi Ammi and Rabbi Assi regarding this: One of them said: This is only when the property of the finder is forbidden to the owner of the lost object, so that in returning it to him, he is returning to the owner what is his own. But if the property of the owner is forbidden to the finder, he may not return it, because he is benefiting him through Rav Yosef's *perutah*. (If a poor person were to come and ask him for charity while he was busy returning it, he would be exempt from giving a *perutah* of *tzedakah*, for someone who is occupied with one *mitzvah* is exempt from fulfilling another *mitzvah*. Rav Yosef holds that because of this, he is regarded as a paid custodian.) But the other maintained: Even if the finder may



not benefit from the owner's property, he may return it, and as for Rav Yosef's *perutah*, this is extremely uncommon. (33b2)

## INSIGHTS TO THE DAF

### ***Distinction between Charity and Returning a Lost Object***

The *Gemora* states regarding one who is forbidden by a vow to derive benefit from his fellow; the fellow is permitted to return his lost property to him. This is permitted because his primary intention is to fulfill the *mitzvah*, and he is not intending to provide pleasure to his friend.

This, explains the *Shitah Mikubetzes*, is in contrast to the *mitzvah* of giving charity, which would be forbidden. What is the difference between the two *mitzvos*? He explains: When charity is given to him, he is benefiting directly from the money; therefore, it is forbidden. When his lost object is returned, he is not deriving pleasure from the item; he is getting benefit from the fact that his fellow troubled himself to return the object to him. Regarding his fellow's exertion, it may be said that his intention is to fulfill the *mitzvah*, and not to provide pleasure.

Others make the following distinction: Charity may be given to any poor person; it does not have to be given to this specific poor person. That is why it is prohibited to give this particular poor person charity. However, in order to fulfill the *mitzvah* of returning a lost object, it must be returned to the one who lost the item, and therefore, it would be permitted.

### ***Paying Up a Debt of his Fellow***

The *Gemora* rules regarding one who is forbidden by a vow to derive benefit from his fellow; the fellow is prohibited to repay his debt (*in a regular case*).

Reb Elchonon Wasserman discusses the rationale behind this ruling. Is it prohibited because the one who pronounced the vow is directly benefiting from the money that is being used to repay his debt? Or, perhaps it is because the fellow is causing the lender to forgive the borrower for his debt (*once he has the money from elsewhere*), and it emerges that he is indirectly receiving pleasure from the fellow?

This question is actually dependent upon a different question: Can someone pay up the debt of his fellow and cause that the debt has been paid? Or, perhaps only the borrower can repay a debt; his friend may give money to the lender with the stipulation being that the lender will forgive the borrower from the debt which he owes?

## DAILY MASHAL

### ***Placing Money on the Horns of a Deer***

The *Gemora* cites a *Mishnah*: If a person went overseas and someone supported his wife in the interim, Chanan ruled that he has lost his money.

The sons of the *kohanim gedolim* argued that the supporter may swear how much he gave his wife and collect the monies from him. Rabbi Dosa ben Harkinu agreed. Rabbi Yochanan ben Zakai said: Chanan is correct; the supporter has placed his monies on the horn of a deer.

What is the meaning of the expression, "He has placed his money on the horn of a deer"?

The *Tosfos Yom Tov* explains: Just as a deer runs very fast, and one chasing it will probably not catch it; so too, one who "lends" money in this manner will be unlikely to recover the money.

*Tosfos Chadashim* offers a different explanation: It is common for a deer to bob its head back and forth when it is running. One who places his money on the horn of a deer is likely to lose the money for the money will fall off the horns of the deer.