



Working Around Nedarim

Much of this week we discussed cases where one person (*Reuven*) made a *neder* against gaining any benefit from another (*Shimon*). The *Mishnayot* discussed the scope of the *neder* in varying circumstances as well as how one can work around the *neder* in times of great need. For example the *Mishnah* (5:6) teaches that if *Reuven* has no food to eat, *Shimon* can gift supplies to another person who can in turn then provide *Reuven* with food, provided that *Shimon* did not expressly direct the third party to do so.

One *Mishnah* however restricts this solution by way of example. The *Mishnah* (5:6) records an incident in *Beit Choron*, where a father made a *neder* preventing him from gaining any benefit from his son. The son was soon to marry off his own son, so the son gave the meal he prepared for the wedding and his courtyard to another as a gift and said at the time that he was doing so only so his father could attend the wedding. The friend accepted and subsequently declared that if it is indeed his it is sanctified. The son objected. The *Mishnah* ends by teaching “that any gift that is not given such that the receiver can sanctify it, is not a gift.”

The *Tosfot Yom Tov* notes that we find in other areas that a gift that is given on the condition that it is returned is considered a gift while it is in the possession of the recipient. In this case however the son had no real intention of giving it to his friend at all. The son was only doing so to get around the *neder*.

At first glance it appears that the insincerity of the gift in our *Mishnah* is what is problematic. This raises a number of questions. The *Mishnah* presented the solution of using a shopkeeper, a tradesmen (4:7) or a fellow traveller (4:8) to provide *Reuven* with the means he requires as stated in our introduction. The *Mishnah* even taught that if *Reuven* and *Shimon* were travelling alone and *Reuven* had no food, according to the *Chachamim*, *Shimon* can declare the food ownerless and

Reuven can then take it. How are these cases different to the incident of *Beit Choron* in our *Mishnah*?

The *Tifferet Yisrael* (*Boaz* 2) addresses this issue. He explains that we cannot say that the difference is that in the other cases *Shimon* said nothing to the third party, because we find that in on case (4:7) *Shimon* explains the situation to the shopkeeper and exclaims, “I do not know what to do.” He continues that we also cannot suggest that as long as *Shimon*’s declaration is indirect then it is fine, since the other cases are only permitted when *Reuven* has nothing to eat, implying that even speaking indirectly is somewhat signification.

The *Tifferet Yisrael* answers that this case is different because the *ha'aramah* (trickery) is patently obvious. No one prepares and funds a wedding only to give it away to someone else. Since it is clear that the receiver has no freedom to use the gift any other way, then it is not considered a gift and the *neder* would be violated (*Ran*). Since however in the other cases, the sum of money is small and the *ha'aramah* is small and it is only in the end that the *ha'aramah* is revealed, it is prohibited on a rabbinic level and waived in times of need.

The *Rashba* differentiates by explaining that in case of *Beit Choron* the son gave the gift with a condition— so that his father could come – therefore it is not considered a complete gift. If however the gift was handed over without articulating any condition (*stum*), and the son only later request that his father be invited, it is the same as the other cases and permitted.

The *Rambam* (*Nedarim* 7:15) however rules that even if it was given *stum* and the intent was expressed later, it is still a problem. The *Kesef Mishnah* however explains that the *Rambam* means that the intent was expressed very soon after the gift was given. If it was later then that, then it would not be a problem.

Yisrael Yitzchak Bankier

Revision Questions

נדרימ ד' ב' ו' א'

- If a person makes a *neder* preventing any benefit from his friend, can his friend:
 - return his lost object? (ד' ב')
 - teach him *Torah*? (Careful)
 - provide food for his family?
 - provide food for his animals? (ד' ג')
 - visit him if he is unwell?
 - treat him medically?
 - eat at the same table? (ד' ד')
- What is the difference between one that makes a *neder* against gaining benefit from his friend before the *shmittah* year and during the *shmittah* year? (ד' ה')
- If a person makes a *neder* preventing any benefit from his friend can they do business with one another? (ד' ו')
- If a person makes a *neder* preventing any benefit from his friend yet then does not have any food to eat, how can his friend provide him with food? (ד' ו')
- If *Reuven* made a *neder* against gaining any benefit from *Shimon* and they were traveling together, and *Reuven* ran out of food, how can *Shimon* give *Reuven* food without breaching the *neder*? (ד' ח')
- If two people share a *chatzer* and make a *neder* against gaining benefit from each other: (ה' א')
 - Explain the debate regarding whether they can walk through the *chatzer* to get to there properties.
 - What other case shares this same debate? (ה' ב')
 - What are two thing that they cannot place in the *chatzer*?
- If *Reuven* made a *neder* against gaining any benefit from *Shimon*, when is *Shimon* forbidden from using an olive press that has been rented out by *Reuven*? (ה' ג')
- If one makes a *neder* against entering his friend's house, with what wording of the *neder* would he still be prevented from entering the house even if it was sold to another person? (ה' ג')
- If two people made a *neder* against gaining any benefit from each other, which public property would they be forbidden from entering? (ה' ד')
- Regarding the previous question, what is a possible solution to enable them to enter these properties? (ה' ה')
- Give examples for the following: (ה' ה')
 - *Davar olei bavel.*
 - *Davar shel otah ha'ir.*
- If *Reuven* made a *neder* against gaining any benefit from *Shimon*, then *Reuven* does not have any food to eat, what can *Shimon* do in order to give *Reuven* food? (ה' ו')
- Complete the following rule: (ה' ו')

"כל מתנה שאינה _____ אינה מתנה"
- If someone made a *neder* against cooked food, can he eat roasted food? (ה' ז')

Local Shiurim

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
 Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
Beit Ha'Roeh
 Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
 9:00am
Kollel Magen Avraham
 Reemon Neighbourhood

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
 Rabbi C. Brown
<http://www.dafyomi.co.il/calendar/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
 In US dial: 718 906 6400
 Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
16 th September כ"ט אלול	17 th September א' תשרי	18 th September ב' תשרי	19 th September ג' תשרי	20 th September ד' תשרי	21 th September ה' תשרי	22 th September ו' תשרי
Nedarim 6:2-3	Nedarim 6:4-5	Nedarim 6:6-7	Nedarim 6:8-9	Nedarim 6:10-7:1	Nedarim 7:2-3	Nedarim 7:4-5

