



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Nedarim Daf Mem Ches

MISHNA

- If Reuven tells Shimon, "I am cheirem to you", Shimon is assur to benefit from Reuven, and Reuven is mutar to benefit from Shimon. If Reuven says "You are cheirem to me", Reuven is assur to benefit from Shimon, but Shimon may benefit from Reuven. If Reuven says "I am cheirem to you and you to me", then they are each assur to benefit from each other.
- People who are assur to each other based on a neder are still mutar to have benefit from the facilities that were set up by the people who came up from Bavel (it is not considered to be community property of which everybody has a share, rather they were set up as hefker). However, they are assur to use the facilities of the city in which the person they are assur to belongs (these are considered to be community property with each member having a share).
 - What is a "facility set up by those who came up from Bavel"? Examples are the Har Habayis, the Azaros, and the water wells on the way from Bavel to Eretz Yisrael. The "facility of a city" are things like the town square, the bathhouse, the shul, the Aron, and the seforim.
 - If these people don't want to become assur in the city facilities, they should have the shares of the person who they may not benefit from written over to the Nasi. (The actual words of the Mishna are "and one who writes his shares to the Nasi").
 - **R' Yehuda** says it may be given to a regular person as well. The reason why the Nasi is used as an example is because one need not make a kinyan when giving something to the Nasi, but must make a kinyan when giving something to a regular person. The **Chachomim** say that even a Nasi would need a kinyan. The reason that the Mishna used the Nasi as an example is because it was common for one to give their shares to the Nasi.
 - **R' Yehuda** says, the people of the Galil don't have to write their shares over to the Nasi, because the previous generations have already done so.

GEMARA

- **Q:** (Based on the actual words of the Mishna, the Gemara asks) Why does one become assur just because he gave his share to the Nasi? **A: R' Sheishes** said, the Mishna means, that if people are assur to use the facility based on a neder, they can become mutar if the shares are given to the Nasi.

R' YEHUDA OMER EIN ANSHEI GALIL TZRICHIN L'ZAKOS...

- A Braisa says, the people of the Galil were argumentative people who would often make nedarim prohibiting one to the other. Therefore, their fathers gave their shares of the cities' facilities to the Nasi.

MISHNA

- If Shimon is assur to benefit from Reuven based on a neder, and he has nothing to eat, Reuven may give food to a third person as a gift, and Shimon may then take the food from the third person.
- It once happened in Beis Choron that a father was assur to benefit from his son based on a neder. The son was marrying off his own son and wanted his father to be able to come and eat at the wedding. He went to another person and said "The entire chatzer and all the food are given to you as a gift, so that my father should be able to come and partake in the wedding". The person then said, if you are giving all this to me, I hereby give it all to hekdesch. The son said back to him, I only gave it to you to allow my father to come and you therefore don't have the

right to make it hekdesch! The person said, if so, they are not really mine and therefore your father is assur to come and participate! The **Chachomim** thereby said, any gift which doesn't give the recipient the rights to make the items hekdesch is not considered to be a gift at all.

GEMARA

- **Q:** The Mishna first states a Halacha and then brings a story that contradicts it!? **A:** The Mishna is missing words and should be read as saying, that giving it as a gift will be ineffective if we can tell that the gift was not given sincerely. To that statement, the Mishna then brings the story which proves that point.
- **Rava** said, the reason the gift in the story was ineffective was because of the *stipulation* that it was given only so that his father would be allowed to come. However, if he gave the gift and said "so that my father can come", but did not make it a stipulation, it would be a valid gift and the father would be allowed to come.
 - **Another version of Rava** is that even if he did not make a clear stipulation it would still be assur, because the fact that he is making the wedding and giving it away so that his father can come, is the same as if he made a clear stipulation. Therefore, the gift would not be a valid gift.
- There was a son who was a thief. The father was upset and said that his assets should be assur on this son. People said to the father, this son may have a son of his own who becomes a talmid chachom (and you would presumably want him to benefit from your possessions)!? The father said, let my son (the thief) get half my property so that if he has a son who is a talmid chachom, he can give it to him.
 - **Q:** Is this a valid gift? **A:** In Pumbedisa they said that it is giving a gift for one to be koneh only so that he can then give it to someone else, which is not a true kinyan or gift. **R' Nachman** said, we see that the kinyan of chalipin is done by giving a handkerchief only so that he can make the kinyan and then give it back, and yet it is a good kinyan. Therefore, in the story it would be a valid gift.
 - **R' Ashi** said, the case of chalipin is different, because the recipient of the handkerchief can decide to keep it! It is customary for him to return it, but he need not do so. That is different than the case of the story. Also, in the case of chalipin, the entire kinyan takes place immediately, before the return of the handkerchief. However, in the case of the story, when the kinyan was made from the father to the son the kinyan is not complete. It is not complete until this son has a son of his own who is a talmid chochom. By the time that happens the kinyan with the father was long over, and as such cannot be said to have been an effective kinyan.
 - **Q: Rava** asked **R' Nachman**, the case of the gift in Beis Choron in our Mishna is a case similar to making a kinyan for the purpose of giving it to someone else (both recipients have no real rights in the gift) and we see that it is *not* a valid gift!? **A:** Sometimes **R' Nachman** answered him that the case of the Mishna is different, because by giving away the entire wedding party that he just prepared it shows that the gift was insincere. Other times **R' Nachman** answered him that the Mishna follows **R' Eliezer**, who is very stringent in allowing benefit in the case of a neder, and as such would consider the gift in our Mishna to be invalid because of the neder. However, in a case other than a neder, such a gift would be valid.
 - **Q:** In our Mishna the **Chachomim** said that "any" gift which the recipient cannot make hekdesch is not a gift at all. The word "any" comes to include something, and presumably includes a case like the father who gives the possessions to his son the thief only so that he then give it to the grandson who is a talmid chachom, and we see that this too would *not* be a valid gift!? **A:** The word "any" comes to include that the gift of a wedding party is not valid even if there was no clear stipulation (like the second version of **Rava's** statement).