



Volume 11. Issue 27

Is Heseq Yad Optional?

In the fourth *perek* we learnt more about the rule of *heseq yad* in the laws of *erchin*. This relates to the leniency afforded to one that cannot pay the full amount required of him. In the previous article we touched on how far the amount is reduced for one who makes an *erech*-vow. The *Mishnah* this week (4:1-3) compares this rule in how it applies to *erchin* with how it applies to (some) *korbanot*.

Regarding *erchin* the *Mishnah* discusses a case where the person's financial situation changes from the time he made the *erech*-vow and the time he came to pay. The *Chachamim* understand that for the person to be afforded the leniency he must be unable to pay both at the time he made the *neder* and at the time he came to pay. *R' Yehuda* however argues that if he were able to pay at any point during that time, he would be required to pay the full amount.

The *Gemara* explains that the *debate* is based on the *pasuk* (*Yayikra* 27:8): "But if he is too poor for the valuation, then he should cause him to stand before the *Kohen*, and the *Kohen* should evaluate him; according to what the person making the vow can afford should the *Kohen* evaluate him." "*Asher tasig yad hanoder*" (what the person can afford) implies that he must be unable to afford it at the time of payment. "*Al pi asher tasig*" (the person making the vow) implies that he must be unable to afford it at the time he made the vow as well. *R' Yehuda* however that the beginning of the *pasuk*, "*im mach hu me'ercha*" (if he is too poor for the valuation) implies he is too poor the entire time.

Can a person stipulate that the law of *heseq yad* will not apply to him? In other words, even if he is unable to pay, the obligation to pay the full amount will rest on him till he can?

The *Chazon Ish* (29:1-4) explains that the answer to this question depend on how we understand *erchin* and how it

differs from normal *nedarim*. One way to understand *erchin* is that it is like *nedarim*. The only difference is that when one makes the vow, they are committing themselves the amount set out by the *Torah*. With respect to everything else *erchina* is the same as a *neder*. For example, if one delays in payment he has violated the prohibitions of "*motze sfatecha*", "*bal yachel*" and "*bal te'acher*". That being the case, one would need to know about the concept of *erchin* and their associated fixed obligations when uttering the vow. Otherwise, his "mouth and heart" will not be aligned, which invalidates all vows.

Based on this understanding, the leniency of *heseq yad* applies only because when one made his *erech*-vow he was binding himself to the condition set out by the *Torah*. Consequently, one is able stipulated that the law of *heseq yad* would not apply. One is allowed to set the terms of their own *neder*.

The *Chazon Ish* however raises a number of difficulties. One of these is that we find that *R' Meir* holds that a *Nochri* cannot make *erech*-vow. If it is just a *neder* that uses the *Torah's* fixed figures, then it is difficult to understand what excludes a *Nochri* from making the vow.

The *Chazon Ish* however prefers this second understanding. *Erchin* is not binding because it is a form of *neder*. Instead that which obligates him is the (independent) *mitzvah* of *erchin*. If he does not pay, he has not violated *ba'al yachal*; rather he has violated the *mitvah* of *erchin*. That said, he adds that since the *erech*-vow was uttered, *ba'al yachal* would also apply, yet the obligation to pay would only occur once the valuation we performed by the *kohen*.

Understanding *erchin* this way, the *Chazon Ish* explains that if one said "[I accept] my *erech* on me on the condition that I will not be in the law of *heseq yad*" he has not said anything, because he is make a condition against the word of the *Torah* – against the laws of *erchin*.

Yisrael Bankier

Revision Questions

ערכין גי:הי וי:גי

- Describe how there is both a leniency and stringency in *Motzi Shem Ra'ah*. (גי:הי)
- What example is brought to demonstrate that the punishment for the spoken word is greater than a physical act? (גי:הי)
- How is an *erech*-vow ordinarily calculated both in terms of value and timing? (די:אי)
- What is the case of *heseg-yad* and how is the value determined? (די:אי)
- In what way is the calculation of an *erech*-vow different to one that vowed to bring a *korban* obligated to be brought by another (a *metzorah*)? (די:בי)
- About which case is there a debate about *heseg yad* for one whose financial status changed in between the time of making an *erech*-vow and fulfilling it? (די:בי)
- What is the law in the other cases? (די:בי)
- How does the law in the previous question differ compared to the law of *heseg yad* by *korbanot*? (די:גי)
- What is the law if someone made an *erech*-vow and the subject's age then changed before it was fulfilled, placing the subject in a different age bracket? (די:די)
- What age bracket does an exactly twenty year old fit into: 5-20 or 20-60? (די:די)
- What is the objection to the ruling in the previous question and based on what is the ruling confirmed? (די:די)
- What is the law if the person vows to volunteer his "weight" to the *Beit Ha'Mikdash*? (הי:אי)
- If a person volunteers to donate the weight of his hand how is it determined? (Provide both opinions.) (אי:הי)
- If someone volunteers to donate the value of their hand how is the value determined? (בי:הי)
- In what way are the laws of *erchin* stricter than *nedarim* and in what way are they more lenient? (הי:בי)
- What is the law if someone volunteers to donate the *erech* of their head? (בי:הי)
- What is the difference if the person volunteers to donate using the following language: (הי:גי)
 - "Half my *erech*" or "the *erech* of half of me"?
 - "Half my value" or "the value of half of me"?
- If someone made an *erech*-vow to donate the *erech* of another person, and both he and that person died, do the heirs need to pay? (די:הי)
- If someone volunteered to donate the value of another person, in what case would the *neder* not be paid? (די:הי)
- If a person made a *neder* and stated that "this house is a *korban*" and the house collapsed, when would they need to donate the value of the house and when would they be exempt? (הי:הי)
- As opposed to sin offerings, why do *Beit Din* not forcefully take a collateral until one offers a *korban olah* as they promised to do? (הי:וי)
- With respect to which three areas of law can *Beit Din* force one to act? (הי:וי)
- For how long is the sale of property announced for the following cases: (אי:וי)
 - When collecting a debt from the property of orphans?
 - For the sale of a field of *hekdesh*?
- Explain the debate regard one who sanctifies his field, but must pay his wife her *ketubah*. (אי:וי)
- What other case is debated in a similar manner? (אי:וי)
- How are the previous two cases dealt with in practice? (בי:וי)
- When *Beit Din* forcibly takes a collateral to ensure payment of an *erech*-vow, what must the leave behind? (גי:וי)

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/calendars/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 |
|-----------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|---------------------------------|---------------------------------|
| 27 th July כ"ט תמוז | 28 th July א' אב | 29 th July ב' אב | 30 th July ג' אב | 31 st July ד' אב | 1 st August ה' אב | 2 nd August ו' אב |
| Erchin 6:4-5 | Erchin 7:1-2 | Erchin 7:304 | Erchin 7:5-8:1 | Erchin 8:2-3 | Erchin 8:4-5 | Erchin 8:6-7 |

