

CHABAD LUBAVITCH OF CHAUTAUQUA

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Everyday Talmudic Ethics – Week 3 – 2020

1. A person who borrows an object without the consent of its owner is considered to be a robber.
(Talmud, Baba Metzia 41a, 43b. Baba Basra 88a. Maimonides, Hilchot Gezaila Vavaida 3:15)
2. When a person borrows an article or an animal from a colleague without making any stipulation, the lender may require him to return it at any time. If he borrowed it for a set time, once he performs *meshichah* with it, he acquires it, and the owner may not compel the borrower to return it from his possession until the conclusion of the period for which it was borrowed.
(Maimonides, Hilchot She'aila Upikadon 1:5)
3. **MISHNA:** One can act in a person's interest in his absence, but one can act to a person's detriment only in his presence.
4. **GEMARA:** ...anyone who says: Give to so-and-so, is like one who says: Acquire on behalf of so-and-so.
(Talmud, Gittin 11b)
5. The following rules apply when a person transfers ownership over an article to a colleague through the agency of a third party. Once the third party takes possession of it... his colleague acquires the gift, even though it does not reach his hand. The giver can no longer retract.
6. The recipient by contrast has the option in his hand. If he desires, he may accept it. If he does not desire, he need not accept it. For a positive acquisition may be made for his person without his consent, and an obligation/compulsion cannot be undertaken on his behalf without his consent. If a person desires that a gift be given to him, it is considered to be a positive acquisition. If, however, he does not desire it, a person cannot be forced to accept a gift that is given to him.
(Maimonides, Hilchot Zechiya Umatana 4:2)
7. **MISHNA: And, so too,** this is the *halakha* at the **time when** the borrower **returns it** to the lender [...and through an agent]. The borrower is absolved of liability only once the cow is transferred to the lender himself or to someone who the lender agreed will bring it to him.
(Talmud, Baba Metzia 98b)
8. When the borrower returns the animal to its owner, if he sends it with another person and it dies before it enters the owner's domain, he is liable, because it is still the borrower's responsibility. If he returned it with another person with the consent of the owner and it died, he is not liable...
(Maimonides, Hilchot She'aila Upikadon 3:2)
9. **GEMARA:** It was stated: If someone instructs an agent: Deliver one hundred dinars to so-and-so, as I owe him that sum,
Rav says: The person who sends him the money bears financial responsibility for their loss. But if the sender seeks to retract this repayment after he has given it to the agent, he cannot retract it.
And Shmuel says: Since the sender bears financial responsibility for their loss, this indicates that the one hundred dinars are considered to be in his domain, which means that if he seeks to retract he can retract it.
10. ...It is taught in a *baraita* in accordance with the opinion of Rav (*Tosefta* 1:6): If one said to another: Deliver one hundred dinars to so-and-so, as I owe him that sum, or if he said: Give one hundred dinars to

so-and-so, as I owe him that sum, or if he said: Deliver one hundred dinars to so-and-so, as they are a deposit he has in my possession, or: Give one hundred dinars to so-and-so, as they are a deposit he has in my possession, in all these cases the sender bears financial responsibility for their loss, but if he seeks to retract he cannot retract.

11. In a case where the agent accepts upon himself to bring a deposit to its owners, let the sender, who is the bailee of the deposit, say to the agent: It is not the will of the owner of the deposit that his deposit will be in the possession of another. [Since this transfer is not in the interests of the owner of the deposit, the money should remain fully in the possession of the sender, and therefore he should be able to retract.]

12. Rabbi Zeira says: This is referring to a case where the sender, [the bailee of the deposit] is established as a denier of financial obligations. [For this reason, the owner of the deposit prefers the money to be transferred to someone else, and the sender cannot claim that it is not the will of the owner of the deposit that his deposit will be in the possession of another.]

(Talmud, Gittin 14a)

13. The debt is the responsibility of the borrower until he pays the lender or the lender's agent....
When Reuven owes Shimon a *maneh*, gives the *maneh* to Levi and tells him: "Give this *maneh* that I owe Shimon to him," Reuven may not retract. Nevertheless, he is held responsible for the *maneh* until it reaches Shimon.

(Maimonides, Hilchot Malve Velove 16:1-2)

14. The following rules apply when a person was in possession of an entrusted object belonging to a colleague and gave it to another person to bring to its owner. Since the first watchman is responsible for the article until it reaches its owner's domain, if he desires to retrieve the article from the second watchman, he may. If it is established that the first watchman has denied that property was entrusted to him [i.e. is not trustworthy], he cannot retrieve the article from the second watchman although he remains responsible for the entrusted article.

(Ibid, Hilchot Sechirut 1:6)

15. A person can only borrow from someone without permission if he is absolutely certain that the owner would allow him to borrow it.

(S'Me C.M. 292:45, *Shach* C.M 358:1; *Shulchan Aruch Harav, Hil. She'eilah* 5)

16. A question arose when a person entrusts an article to a colleague and then journeys overseas, and afterwards, the watchman also desires to travel overseas or depart in a caravan. There is an authority who ruled that if the watchman brings the entrusted article to the Jewish court, he is absolved of his responsibility.

These are well-reasoned words. For we do not imprison the watchman in this city because of the object entrusted to him by the person who departed overseas. The watchman cannot take the entrusted article with him, lest it be destroyed by factors beyond his control. The court should then entrust the article to a faithful person. This is like returning a lost object to its owner.

(Maimonides, Hilchot She'aila Upikadon 7:12)

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