

# HALOCHOSCOPE

**This week's question:**

**assuming one may make tzedakah pledges on Shabbos to address communal needs, may they be made for personal reasons? For example, one might undertake a pledge in times of personal need. One's child might be seriously ill, or it might be something small like misplacing an item. There are prayers accompanied by a pledge to deal with such situations. Is making such a pledge included in the dispensation for the sake of tzedakah?**

**The issues:**

- A) *Mimtzo cheftzecha vedaber davar*, the restriction on business on *Shabbos***
- B) *Cheftzei shamayim*, the dispensation for *tzedakah***
- C) *Neder b'ais tzarah*, pledges in times of distress; *Uvechanuni*, making 'deals' with Hashem in return for *tzedakah***

**A) *Mimtzo cheftzecha vedaber davar***

*Mekach umemkar*, literally, buying and selling, is forbidden on *Shabbos*. All commercial activity is included in this prohibition, including anything to do with one's business. This is not limited to situations where actual *melacha* will necessarily be violated by a party or his agents. In the view of most poskim, *mekach umemkar* is not forbidden Scripturally. In one view it is considered a prophetically instituted ordinance. It is alluded to in a passage in *Yeshayahu* [58] and in a passage in *Nechemia* [13]. In *Yeshayahu* the verse says [... if you honor *Shabbos* by refraining] *mimtzo cheftzecha vedaber davar*, from seeking your affairs and speaking mundane words. The prophet proclaims this conduct worthy of a reward. The opposite was condemned. It was institutionalized practice at that time. Prophetic institutions have more stringency than regular Rabbinic institutions. They are somewhere in between Scriptural *mitzvos* and Rabbinical institutions.

A careful study of the words of the Prophet shows that the general theme of the restriction would be enjoying *oneg Shabbos*, delighting in *Shabbos*. Certain activities that actually bring *oneg Shabbos* are permitted, within the framework of these restrictions. An example would be fasting for a bad dream. Certain bad dreams should be a sign to adopt a type of fast, the same day, when one wakes up from his sleep. Fasting violates *oneg Shabbos*. Due to this person's distress, being unable to fast would detract from his *oneg Shabbos*. One who fasted such a *taanis chalom* would have to compensate for his lack of *oneg Shabbos* by fasting a day in the week.

The words of the Prophets are considered the Word of Hashem, relayed through His emissaries to determine *halacha*. If Hashem mentioned these institutions in the Prophecies He sent to the Jews, there is an inherent endorsement. Thus, the institutions mentioned by the 'Sofrim', writers of the Prophecies, have quasi-Scriptural significance.

Another view maintains that the entire prohibition is Rabbinical. It was introduced

as a precautionary measure to prevent writing. Records are written at the time of a transaction. *Kosaiv*, writing or making permanent impressions, is a *melacha* on *Shabbos*. In this view, the prohibition might have been instituted in the times of the Prophets, but does not have the power of a Prophetic institution. A prophet conveys the words of Hashem Himself, making it the equivalent of a *mitzvah* commanded directly by Hashem. A Rabbinic institution is created entirely by the Rabbis, for the reasons they see fit, with authority granted to them by Hashem in the Torah.

There is a view that it is forbidden Scripturally, as a positive *mitzvah* of *Shabason*, to rest or desist. One should not be spending all day doing business. In a town with walls and an *eruv* one could load up his wares, buy and sell, and the entire day would pass no differently than a regular workday. For this reason the Torah gave the *mitzvah* of *Shabason*. Some add that the terminology used by *Nechemiah* implies that the commercial activity would be considered Scriptural *chilul Shabbos*. References to a Rabbinic ordinance forbidding business on *Shabbos*, refer to occasional buying and selling. A fixed business open on *Shabbos* involves a violation of *Shabason*. [See Emor 23:24, Ramban.]

In addition to actual commerce, checking up on and discussing a transaction, business or work, is forbidden. This is included in the words cited earlier from the passage in *Yeshaya*, *vedaber davar*. Such discussion could be with a partner, client, prospective employee or associate. If mention is made of something forbidden on *Shabbos*, it violates *vedaber davar*. In addition, one must take care not to violate *hachanah*, preparing on *Shabbos* for after *Shabbos*. This would be forbidden even if the activity being arranged is not forbidden on *Shabbos*. It is a desecration of the sanctity of *Shabbos* to prepare for after *Shabbos*. This is linked to the Scriptural requirement to prepare for *Shabbos*. Week-days may prepare for *Shabbos*, but not the other way around. [See Yeshaya 58:13-14, Nechemiah 13:15-22. Brochos 31b Shabbos 19a 113a-b 116b 148a-151a 126b etc. Taanis 12b, Poskim. Tur Sh Ar OC 246 288: esp. 4 306 307, commentaries.]

### **B) Cheftzei Shamayim**

Since the verse discusses 'your' affairs, the Rabbis imply that one is only forbidden to discuss personal matters. Communal matters, and matters relating to *mitzvos*, that are not for personal gain, are permitted. Thus, one may do many of the things that we listed as restricted, for the needs of a wedding or funeral. These are *mitzvos*. They will not be taking place on *Shabbos*, but may be planned, to a point. *Vedaber davar* forbids certain types of speech, but clearly permits speaking about *mitzvos*. In fact, it is a *mitzvah* to speak about these matters, especially on *Shabbos*. Therefore, *mimtzo cheftzecha*, which is linked to *vedaber davar*, is also relaxed for these purposes.

Some poskim forbid mentioning a monetary amount when discussing plans or costs of a *mitzvah* matter. Others maintain that if there is no other way, one may mention an amount. Some explain, this view holds that as long as a transaction was not completed, there is no *mekach umemkar*. Only real *mekach umemkar* is forbidden for a *mitzvah*. Preparatory arrangements are permitted. The consensus is to follow the stricter opinion.

A pledge is in the category of binding speech. One may discuss the expenses of a *tzedaka* fund. One may make arrangements with a teacher to teach his son. This applies

to Torah or to teaching a trade, since that is also a *mitzvah* that the father is obliged to perform or to hire a teacher. One may discuss the job and make arrangements. A monetary amount may not be mentioned, and a hiring agreement may not be completed.

The poskim discuss the type of pledges made in *shul* on *Shabbos*. Some *shuls* auction various honors, with the participants committing to give the final amount, but not the difference. This has the clear appearance of a transaction as opposed to a pledge. Others ask one who had an aliyah to pledge a gift to the *shul*. Making this a condition of the honor has some minor connotation of a transaction. Both of these are donations to *tzedakah*, or to the communal needs. However, doing it in a way to avoid the appearance of a transaction is preferred. Donating a specific item is a form of gift-giving that raises the issues mentioned. Some say that the concept of *cheftzei shamayim* does not allow an exemption for this, based on the separate prohibition against *hekdesh*, consecration, on *Shabbos*. Some say that a specific item may not be pledged. One may pledge to donate a type of item without having a specific one in mind. Others maintain that one may also pledge a specific item. *Hekdesh* is transferred to Hashem's 'ownership'. *Tzedakah* nowadays belongs to all of Israel, including the donor. Therefore, while it enters the ownership of the rest of Israel, it does not leave the ownership of the donor. This view would not allow for a pledge to a specific person. [See refs as above. Specifically *Shabbos* 113b *Beitza* 37a, *Poskim*. TSA OC 306:6 339:4, commentaries. *Tzedakah Umishpat* 4:3.]

### **C) *Neder b'ais tzarah; uvechanuni***

In our case, the pledger has in mind a 'deal' that he wishes to make with Hashem. Is this really a 'transaction'? In addition, since one wishes to attend to a personal need with this *tzedakah*, it combines *cheftzei shamayim* with *cheftzecha*. Is this permissible, due to the *shamayim* content, or forbidden due to the *cheftzecha* content? Should this be permitted anyhow, since it is done to alleviate stress? Would restricting this type of pledge be a violation of *oneg Shabbos*, like restricting *taanis chalom*? Assuming that one makes the pledge to alleviate his stress, must he compensate after *Shabbos* in the way one who fasted *taanis chalom* compensates with a second fast?

Generally, it is forbidden to make pledges or to undertake vows. The Torah considers it a sin, especially since many people are unable to fulfill their commitments. Nonetheless, in times of distress it is permissible, and is in fact considered a *mitzvah*. When Yaakov was in distress he made a vow 'saying'. The term 'saying' indicates the suggestion of this practice for future generations. The Talmud says that one who dedicates a coin to *tzedakah* "on condition that my son will live", is considered giving regular *tzedakah*. Usually one may not do a *mitzvah* in return for a reward! Furthermore, one may not test Hashem, a scriptural prohibition. One answer is that Hashem actually wants us to test Him in this way. He puts us in distress to arouse us to do this *mitzvah*.

The concept of *tzedakah* pledged as a test is found in a verse: "*Uvechanuni na bazos ...*, test Me please with this [*mitzvah* of tithing, and see if] I do not open the windows of heaven and pour down blessings ..." [Malachi 3:10.] Some maintain that this applies only to tithes, and some even say that it only applies to tithes of crops. The prevailing practice is to apply it to all pledges of *tzedakah*. Accordingly, there is a custom to pledge a dona-

tion to the *tzedakah* called *R Meir* [*baal haness*, the master of the miracle], based on an incident in which this Talmudic sage was miraculously saved from distress. He suggested that others could use his formula for deliverance. The practice is to pledge money, invoking *R Meir*, to the poor of Israel. This pledge is used even for mundane purposes, such as to succeed in a business venture. Nonetheless, the *poskim* say that it is better to donate the money ahead of time, rather than to wait for the successful outcome first.

Some say that one may not make his pledge doubly conditional. He may not say “If my son lives, I pledge, but if he dies I do not pledge!” Doing so constitutes doing *mitzvos* for the sake of a reward. Others maintain that even this way, *tzedakah* is the exception to the rule. The merit of the *mitzvah* should help the person in distress, or even add merit for the mundane business venture. There is also a practice for one who mislaid something to donate to *tzedakah*. He invokes a dictum that basically acknowledges that he will only be able to find it if Hashem wishes to open his eyes.

One may not cry out in prayer for non-*Shabbos* needs. It is permitted to pray for one in imminent danger to be healed on *Shabbos* as a *Shabbos* need. Certain exceptions apply, including prayer for *mezonos*, food necessities, and to be protected from imminent attack. While such public prayer for relief from distress is forbidden, the *poskim* debate private supplication, based on *taanis chalom*. Some permit it. Others forbid it, because only a dream is helped specifically with a fast. Some say that it is permitted to alleviate an immediate stress. Presumably, this is due to *oneg Shabbos*. Since the pledge in our case requires the additional prayer, it would seem to be in this category. The additional donation is like an aid in the supplication. It cannot be considered an independent donation for *cheftzei shamayim*. [See *Vayetzei* 28:20, *Midrash Psachim* 8a *Rosh Hashanah* 4a *Taanis* 14a 19a *Baba Basra* 10b 91a, *Poskim*. *Tur Sh Ar OC* 288:6-10 (*Kaf Hachaim* 72) 576:10 12-13 577 *YD* 203:1-5 (*Bircei Yosef*) 220:15 *Sdei Chemed*, *erezt Yisroel* 7-8. *Tzedakah Umishpat* 1:34 4:1 10, notes.]

In conclusion, for an immediate need, such as a patient in imminent danger or to find an item needed right now, such as a *sefer*, one may make the pledge.

**On the Parsha ...** Hashem said to Moshe to say: And you speak to *Bnai Yisroel* saying “But keep My *shabbos* ... [31:12-13] Though I have commanded you about constructing the *Mishkan*, let it not be light in your eyes to push off *Shabbos* in its favor. [Rashi] Why does the Torah repeat the instruction 'saying'? Why does Hashem say “You”? Why does the passage begin with 'and Hashem said' (*vayomer*), rather than 'spoke' (*vayedaber*)? [See *Ibn Ezra*, *Or Hachaim*] Hashem had already commanded them about *Shabbos* itself. This was to connect it to the *Mishkan* project, and to add the concept of *oneg Shabbos*. Moshe was to be the one presenting this. While people would refrain from the actual construction, they would be tempted to discuss it. They would claim that it was both a communal need and a *mitzvah*. Nonetheless, sanctify *Shabbos* by resting even from these matters, and this will bring you *oneg Shabbos*..

**Sponsored by Noah Bass and Debbie Rotenstein to mark the *shloshim* of Rose**

**Rotenstein, Rochel bas Chaim, a”h, on the 18<sup>th</sup> of Adar I. **

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