

SUGYOS *from the* PARSHA

Rabbi Moshe Wolvovsky

SUGYA

Arvus (guarantor)

Based on Lekutei Sichos, Vol. 30

Rav Huna: **"I will be his guarantor..."**

Gemarah, Baba Basra 173b

א"ר הונא מנין לערב דמשתעבד
(באמירה בעלמא בלא קנין.
רשב"ם?)
דכתיב:

אנכי אערבנו מידי תבקשנו,

Rav Huna said: From where is it derived **that a guarantor becomes obligated** to repay a loan he has guaranteed?

As it is written that Judah reassured his father concerning the young Benjamin:

"I will be his guarantor; of my hand shall you request him" (Genesis 43:9). This teaches that it is possible for one to act as a guarantor that an item will be returned to the giver.

Rav Chisda: **"Hold him in pledge..."**

מתקיף לה רב חסדא הא קבלנות היא
דכתיב:

תנה אותו על ידי ואני אשיבנו
(כלומר כאילו קבלתיו בידי אחזירנו
לך. רשב"ם)

Rav Ḥisda objects to this: This incident involving Benjamin is not a case of a standard guarantor, but a case of **an unconditional guarantee, as it is written**, also in the context of Benjamin, that Reuben said:

"Deliver him into my hand, and I will bring him back to you" (Genesis 42:37). One who undertakes unconditional responsibility for a loan has a different status than a standard guarantor. Therefore, a biblical source has yet to be adduced to teach that one can become a standard guarantor.

Rav Yitzchak: **"Hold him in pledge..."**

אלא אמר רבי יצחק מהכא:

לקח בגדו כי ערב זר גוי ואומר
בני אם ערבת לרעך תקעת לזר
כפיך בו.

Rather, Rabbi Yitzḥak said that the source is **from here:**

"Take his garment that is surety for a stranger; and hold him in pledge that is surety for an alien woman" (Proverbs 20:16). The verse advises a creditor to take the garment of the debtor's guarantor as payment for the loan.

Related to another Machlokes

- “Lend him and I will repay” or “lend him and I will give”

	“Lend him & I will repay”	Yehuda’s status
Rav Huna	A guarantor	A guarantor
Rav Chisda	An underwriter	An underwriter

Questions:

- “Yehuda himself was the borrower” (*Sheiltos*)?
- How can we learn monetary law from the commitment of Yehuda?

Understanding the Position of an Arev

Point

- We are not learning the Din from Yehuda, rather from the fact that he described his commitment as a “guarantor”

Explanation

- 2 ways to explain the position of a guarantor:

	The anatomy of a guarantor	Comparing to Yehuda	Opinion
1	Only related to the debt	Not comparable	Rav Chisda
2	Replacing the debtor	Comparable	Rav Huna

- Rav Chisda was asking from his own perspective

A Deeper Explanation

- The bases of the Machlokes:

Gemarah: “Guarantors”

Gemarah, Shavuot 39a

כל ישראל ערבים זה בזה All Israel are responsible for one another.

Halacha: **He too is obligated...**

Shulchan Aruch Harav, Orech Chaim 167:23

אף מי שאינו מחויב בדבר מפני שכבר יצא י"ח יכול לברך למי שעדיין לא יצא. .
...One who is no [longer] obligated in the mitzvah because he already fulfilled his obligation can recite a blessing for another person who has not yet fulfilled his obligation...

לפי שבמצות שהן חובה כל ישראל ערבים זה בזה וגם הוא נקרא מחויב בדבר כשחבירו לא יצא י"ח עדיין.
[The rationale is that] all Israel are responsible for each other with regard to mitzvos that are obligatory. [Hence, even a person who fulfilled his personal obligation] is still considered as obligated in the matter, since his fellow Jew has yet to fulfill his obligation.

- Why it works – “Areivim” also means “mixed together”
- Parts of a single body
- Does this relate to monetary matters?

	The anatomy of a guarantor	“Areivim”	When “Areivim” applies	Opinion
1	Only related to the debt	Neshama	Only regarding spiritual matters	Rav Chisda
2	Replacing the debtor	Also Guf	Also including material matters	Rav Huna

Precisely Yehuda

- The “king” amongst the Shevatim
- The role of the king – to unite all of Klal Yisrael, creating a “Tzibur”

“Somach Melech Bavel”

The Asara B'teves Connection

- “Makdim Refuah Limaka”
- Complete Jewish unity, with complete “Yerushalaim” (Yiras Shomaim)