

## Bankruptcy in Halacha

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**Question:** According to modern law, a debtor who can't pay back his debt can file for bankruptcy, which allows him flexibility to pay off debts. Does halacha recognize any such concept?

**Answer:** Halacha has no inherent notion of bankruptcy. According to halacha, a loan exists forever until it is completely paid back or forgiven. There is a debate amongst contemporary Poskim regarding whether the rule of *dina d'malchusa dina* can be used to validate bankruptcy laws. Their discussion is based on a dispute amongst earlier Poskim regarding the extent of *dina d'malchusa dina*. The Rema has a broader interpretation of *dina d'malchusa* than other Poskim and says that it applies to any laws the government enacts for the general good of society.

Based on the Rema, some Poskim say that bankruptcy laws are recognized by halacha because they are meant for the welfare of society. Other Poskim reject this idea and say that bankruptcy laws would not be recognized by halacha, even according to the Rema, because they say that such laws are unjust and are basically theft. Basically, the *machlokes* hinges upon whether or not bankruptcy laws are beneficial to society or not.

A more compelling argument would be that of *minhag hamakom*, which is a separate discussion.