

Does The “Hefker-Koneh” Game Have Any Halachic Validity?

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Question: The “*hefker-koneh*” game has existed in yeshivas for generations. Does it have any halachic validity?

Answer: I assume that you are referring to scenario where a child doesn’t want his snack and calls out “*hefker*”, with all the children who want it yelling “*koneh*”, and the first child to call out the word getting dibs to the snack.

We previously mentioned the concept of *aveidah m’daas*, which means that parents understand that they may lose things that they give to their kids. Based on this rule, it is often better not to get involved and let the kids settle things as they wish.

From a Choshen Mishpat point of view, however, even an adult saying the word “*koneh*” will obviously not work to make a *kinyan* on an item that is *hefker*, because just saying “I called it” is not a recognized form of *kinyan*. As far as putting an item up for grabs by saying “*hefker*”, that would work for an adult, but it still would not work for a *katan*. The Poskim say that a *katan* cannot make an item *hefker*. The *chochomim* did enact that a child who has reached the status of *pe’utos*, which means he understands the concepts of commerce, can do certain transactions. However, this decree was made for the benefit of the child. If a child has no one taking care of him, he needs the ability to obtain his necessities in order to be able to survive, which is why the *chochomim* enacted that he can buy and sell moveable objects. There is no benefit, however, in granting a child the ability to make things *hefker*, so that was not part of the *takanah* of *pe’utos*. Accordingly, nothing really happens when a child says “*hefker*” or when another child says “*koneh*”. If the child is still holding the snack in his hand, he can change his mind and choose to give it to whomever he wants.