

May One Choose Not to Bequeath his Estate to His Halachic Heirs?

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Question: A father who is, unfortunately, estranged from his children and wants to cut them out of his will entirely. Is he able to do that according to halacha?

Answer: No. The Gemara says that there is a halacha of "*havaras nachalah*", which means that transferring the inheritance away from the rightful heirs to someone who is not a rightful heir is prohibited. The Gemara is quite clear about this and forbids it even if the money would be going to a family member who is not a *yoresh* according to Torah law.

Question: What if someone doesn't have children and the halachic heir would be a distant cousin whom he never even met? He wants to give his assets to a close friend who took care of him at the end of his life. Is he allowed to do that?

Answer: There is one opinion – that of the Sefer Ha'Itur- who says that the prohibition of transferring an inheritance away from rightful heirs is specific to transferring it away from sons; however, that is very much a minority opinion. The strong consensus of the Poskim is that the prohibition of *havaras nachalah* applies to all *yorshim*. Even if the *yoresh* is a distant cousin, if he is the closest heir the prohibition would still apply.

In the particular case where a friend helped him and he feels *hakaras hatov* to him, there are opinions in the Acharonim that *havaras nachalah* does not apply if one gives away a part of his estate as an informal payment, in recognition of the services provided. Aside from that, however, if one just prefers to give his entire estate to his friend, most Poskim would say that it is prohibited even if the halachic heir is a distant cousin that he has never met.