

The Prohibition to Ask For Repayment From a Borrower Who Cannot Repay

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Question: Is a lender always allowed to ask for repayment of a loan? Is there ever a problem with asking for a payment?

Answer: There is a prohibition in the Torah of "*Lo sihiyeh lo k'nosheh*," which Chazal explain to mean that a lender may not press a borrower to pay if he doesn't have the money to do so.

Question: What if the lender happens to know where the borrower davens? Can he make sure to sit near him in shul so that he'll see him and feel motivated to find some way to pay?

Answer: Pressuring him in such a manner is also not allowed. There is some discussion as to whether that is forbidden *m'doraysa* or *m'derabanan*, but it is certainly prohibited.

There even is a discussion whether it is permitted to sit near him in shul, thereby putting pressure on him to pay his debt, even when the lender is not doing so deliberately and would have been sitting there anyway. Some Poskim say that since the lender is not trying to put any pressure on the borrower and is only davening where he always does, there is nothing wrong, and he doesn't have to change his regular schedule to avoid seeing the borrower. Others suggest that he gently tell the borrower in advance that he is going to be davening in that shul, but he should not feel pressured to pay back the loan if he sees him.

In any event, doing so deliberately would definitely be forbidden.

Question: What if the lender doesn't know the borrower's finances clearly, but suspects he might not have the money to pay up his debt? Is he allowed to ask for repayment if he is uncertain if the borrower can pay or not?

Answer: From the language of the Rishonim, it seems that it is only forbidden to ask for payment if the lender knows that the borrower doesn't have the money, but not if he is uncertain.

The Minchas Chinuch asks why this is so, noting that "*lo sihiye k'nosheh*" is *d'oraysa* and the general rule is that one must act stringently when there is uncertainty with regard to a *d'oraysa* prohibition. The Butchatcher Rov answers that the prohibition in the Torah was only said when the lender knows for certain that the borrower has no money. Therefore, asking for money in a case of uncertainty is thus permitted by the Torah. This seems to be the consensus of the Poskim.