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DAF Notes
Insights into the Daily Daf
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Bava Metzia Daf 62

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o"h

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Restoring Prearranged Interest

Rav Nachman bar Yitzchak said: What is Rabbi Elozar's reason (*that prearranged interest is returned by Beis Din*)? It is because it is written: *your brother may live with you*. This teaches us that the money (*the interest paid*) should be returned to him so that he may live.

The *Gemora* explains that Rabbi Yochanan needs the verse for that which we learned in the following *braisa*: If two people were walking in a desert and one of them has a flask of water. If they both drink from it, they will both die. If one of them drinks from it, he will be able to reach the city. Ben Petura expounded that it is better for both of them to drink the water and die than for either person to witness the death of his friend. Rabbi Akiva used the verse: *your brother may live with you* to teach that your own life takes precedence over the life of your friend.

The *Gemora* asked on Rabbi Yochanan from the following *braisa*: If a father left to his children money accumulated from interest, even if the inheritors know that the money was taken as interest, they are not obligated to restore the money to the owners.

Now, does this not imply that it is only the children who are not obligated, whereas the father would be obligated to return the money!?

The *Gemora* answers: The *halachah* might be that even the father himself would not be obligated to return the money, and the reason why the ruling was stated with reference to the children was that since it was necessary to state in the following clause: If the father left them a cow or a garment or anything distinct, they are obligated to return it in order to uphold the honor of the father, the first clause similarly spoke of them.

The *Gemora* asks: But why should they be obligated to return it in order to uphold the honor of the father? Why not apply to them that which is written: *and a prince among your people you shall not curse*, which is explained to mean so long as he is acting in the ways of "*your people*" (*but if he is a sinner, there should be no obligation to honor him*)?

The *Gemora* answers: It is as Rav Pinchas answered elsewhere: We are referring to a case where the father had made repentance.

The *Gemora* asks: But if the father made repentance, why were these monies still left with him? Should he not have returned it?

The *Gemora* answers: It might be that he had no time to return it before he suddenly died.

The *Gemora* asks from a *braisa*: Robbers and lenders of interest, even after they have collected the money, they must return it.

The *Gemora* asks: But what collection could there have been in the case of robbers? If they robbed something, they committed robbery, and if they did not rob anything, they were not robbers at all? It must therefore read as follows: Robbers, that is to say those who lend with interest, even after they have already collected the money, they must return it. [*This is against Rabbi Yochanan who maintains that the interest should not be returned!?*]

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The *Gemora* answers that it is a dispute amongst the *Tannaim*, for we learned in a *braisa*: Rabbi Nechemiah and Rabbi Eliezer ben Yaakov exempt the lender and the guarantor (*from lashes when he lent with interest*) because they have a "get up and do" requirement (*their transgression can be rectified by returning the interest*). Now, what is meant by "get up and do"? Surely it must be that we instruct them to go and return the interest. It follows that the *Tanna Kamma* maintains that they are not obligated to return it.

The *Gemora* rejects this explanation. The *Tannaim* meant that they are required to tear up the document (*which states that interest is owed*).

The *Gemora* asks: But how do these *Tannaim* hold? If they maintain that a debt from a document which awaits collection is considered as if it has already been collected, they then have already committed their transgression! And if it is not as if it has already been collected, what have they done wrong?

The *Gemora* answers: Really, a debt from a document which awaits collection is not considered as if it has already been collected, and the *braisa* is teaching us is that the mere imposition of interest is already a transgression.

This also stands to reason. For we learned in a *Mishna*: The following people transgress the negative prohibition (*of interest*): the lender, the borrower, the guarantor and the witnesses. Now, with respect to all of them, it is understandable, since they committed an action. But what have the witnesses done? It surely must be that that the mere imposition of interest is substantive and is already a transgression. This proves it. (61b – 62a)

When is it Restored?

Rav Safra says: Wherever (*in cases of interest*) by their law (*the gentile law*), they would take (*the interest*) from the borrower and give to the lender, in our law, we would return it from the lender to the borrower (*if the interest was paid*); wherever by their law, they would not take (*the interest*) from the borrower and give to the lender, in our law, we would not return it from the lender to the borrower (*if the interest was paid*).

Abaye asked Rav Yosef: Can this be a general rule? Behold, there is the case of a *se'ah* for a *se'ah* (*when a se'ah is lent and a se'ah is repaid; this is Rabbinically forbidden, for perhaps the se'ah has increased in value*) which, by their law, they would take (*the se'ah*) from the borrower and give to the lender (*even if the se'ah increased in value*), yet by ours, we would not return it from the lender to the borrower!?

He replied: They (*the gentile law*) regard it as having come into his possession merely as a deposit (*and not as a loan; it therefore is not included in Rav Safra's rule*).

Ravina asked Rav Ashi: But in a case of security without deduction (*the borrower gives a field to the lender as security of which the lender can eat the fruit without deducting its value from the principal; this is prohibited because the fruit is regarded as interest on the loan*), which by their law, they would take from the borrower to the lender, yet by ours, we would not return it from the lender to the borrower!?

He replied: They (*the gentile law*) regard it as having come into his possession as a purchase (*and not as a loan; it therefore is not included in Rav Safra's rule*).

So, the *Gemora* asks, what is Rav Safra teaching us?

The *Gemora* answers: He is teaching us the following: Wherever by their law, they would take (*the interest*) from the borrower and give to the lender, in our law, we would return it from the lender to the borrower - and this refers to prearranged interest, and this would be in accordance with Rabbi Elozar. And wherever by their law, they would not take (*the interest*) from the borrower and give to the lender, in our law, we would not return it from the lender to the borrower – and this refers to prepaid (*someone gives a gift to a potential lender*) and postpaid interest (*the borrower sends a gift after paying off the loan*). (62a – 62b)

He had no Wine

The *Mishna* had stated: If someone bought wheat from a seller at a golden *dinar* (*equivalent to twenty-five silver dinars*) a *kor*, and this was the established market price. [*A buyer pays in advance for wheat that will be delivered to him later; the price is fixed in the beginning to protect the buyer from any future increase to the price of wheat; in the meantime, the seller is allowed to use the money; Later, the price of wheat increased to thirty dinars. The buyer said to the seller, "Give me my wheat, for I want to sell it and buy wine with it." The seller said to the buyer, "Your wheat is considered by me to be a debt of thirty dinars, and now you can make a claim against me for wine worth thirty dinars," but he has no wine. The Mishna rules that this is called tarbis and is forbidden.*]

The *Gemora* asks: Why is it forbidden because he has no wine? Did we not learn in a *Mishna* that one may not pay in advance for produce unless the market price has already been established? If the market price has been established, he may pay in advance for the produce even if the seller does not currently possess the produce. This is because it is easily available for the seller to purchase it. [*The Mishna's case, therefore, should be permitted!?*]

Rabbah answers that the *Mishna* is referring to a case where the seller accepts upon himself the value of the wheat as a debt (*and he plans to pay that off with wine; this would be forbidden since he did not receive any money at the time*).

Rabbah cites a *braisa* which supports his explanation: Behold in a case where someone held a claim of a maneh against his fellow, and he (the creditor) went and stood on his (the debtor's) threshing floor, and said (to the debtor), "Give me my money, for I wish to purchase wheat with it." He (the debtor) said to him, "Wheat I have that I can give you. Go and make (the money that I owe you into a debt of wheat) upon me at the present price, and I will give (the wheat) to you during the next twelve months." This is forbidden, because it is not similar to (a case where) his issar coin comes into his hand (because the seller is not being paid with cash).

Abaye asks: If it is not similar to (a case where) his issar coin comes into his hand (because the seller is not being paid with cash), why does our Mishna stipulate (that it is forbidden) because he (the seller) has no wine; it should be forbidden even if he (the seller) does have wine!?

Rather, Abaye explains the *Mishna* according to a *braisa* taught by Rav Safra. Rav Safra cited a *braisa* which was taught in the *Beis Medrash* of Rabbi Chiya, which discussed *halachos* of *ribbis*: There are things which should be permitted, but, nevertheless are forbidden because they are an evasion of interest (*it would seem that the parties are doing something in order to avoid violating the prohibition of interest*). What would be a case? If someone said to his fellow, "Lend me a *maneh* (*which is equivalent to twenty-five sela'im*)," and the other replied, "I do not have a *maneh*, but I have wheat worth a *maneh* that I can give you." He then gave him wheat worth a *maneh* and subsequently bought the wheat back from him for twenty-four *selaim*, this would be permitted, but, nevertheless is forbidden because it is an evasion of interest. [*It is forbidden because in conclusion, the borrower received twenty-four selaim and he must pay back twenty-five selaim.*]

So too, explains Abaye, is the case of our *Mishna*: Someone said to his fellow, "Lend me thirty *dinarim*," and the other replied, "I do not have thirty *dinarim*, but I have wheat worth thirty *dinarim* that I can give you." He then gave him wheat worth thirty *dinarim*, and subsequently bought the wheat back from him for a gold *dinar* (*which is equivalent to twenty-five silver dinarim*). [*The case then continued: The lender said to the borrower, "Pay me the thirty dinarim, which is the value of the wheat that I originally gave you, for I want to sell it and buy wine with it." The borrower said to the lender, "Your wheat is considered by me to be a debt of thirty dinars, and now you can make a claim against me for wine worth thirty dinarim," but he has no wine.*] Now, if the borrower would have wine, and he could give him wine worth thirty *dinarim*, it is produce that the lender is receiving from the borrower, and we would not be concerned at all.

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But if he does not have wine, he will be receiving money from him, and this then would appear like interest (*for he originally received a gold dinar, worth twenty-five dinarim, and now he is returning thirty dinarim*).

Rava said to him: If so, (why does the Mishna state) "Give me my wheat"? It should have said, ("Give me) the value of my wheat"?

Abaye answers: The Mishna should read: the value of my wheat.

Rava asked: If so, (why does the Mishna state) "Because I want to sell (the wheat)"? It should have said, "that I sold you"?

Abaye answers: The Mishna should read: that I sold you.

Rava asked: If so, (why does the Mishna state) "Your wheat is hereby assumed by me as a debt of thirty dinars"? Even in the beginning, this was the way they arranged it upon him!?

Abaye replied: This is what he (the borrower) said to him: "For the value of your wheat that you made into a loan of thirty dinars for me, you hereby have with me a claim of wine," but he has no wine.

However, Rava challenges Abaye from the end of the *Mishna*, where it states that the price of the wheat was one gold *dinar* per *kor* (*but according to Abaye, it was thirty dinarim*)!?

Rather, Rava explains the *Mishna* in accordance with Rabbi Oshaya (*and Rava says that Rabbi Oshaya will greet him when he passes away, because he often explains Mishnayos based on Rabbi Oshaya's statements*). Rabbi Oshaya says that if one's creditor came to his silo to collect his debt in order to buy wheat, the debtor may offer to convert the debt to his wheat, based on the current market price of wheat. When wheat has reached the market (*and the price of wheat is therefore now higher*), if the creditor came to collect the wheat, in order to buy wine, the debtor may offer to convert the debt of wheat to his wine, based on the current market price of wine. When wine has reached the marketplace (*and the price of wine is now higher*), if the creditor came to collect the wine, in order to buy oil, the debtor may offer to convert the debt of wine to his oil, based on the current market price.

Rabbi Oshaya stipulates that these debt conversions are permitted only if at each point of transfer, the debtor had the commodity to which he was converting. In that case, at each conversion point, the creditor owns the new commodity, and therefore receives the appreciation in its value at the next conversion point.

Rava says the *Mishna* is similarly a case where one first sold wheat at the current price, and when the buyer wanted to take ownership of the wheat, he converted the wheat debt to a wine debt. As Rabbi Oshaya says, if the seller has wine at that time, he may convert it, but otherwise, it is considered a form of interest, since he is paying the current price of the wine, while only receiving the wine at a later date. (62b – 63a)

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF

to refresh your memory

Q: Why can't we learn the prohibitions of *ribbis* and *ona'ah* from the prohibition of stealing?

A: Because stealing is a case where the one who is losing money is doing so unwillingly.

Q: Why can't we learn the prohibitions of *ona'ah* from the prohibition of stealing and *ribbis*?

A: Because *ona'ah* is done through a business transaction (*and we might say that this is the manner of trade*).

Q: Must the lender restore the interest he took in a case when it was prearranged?

A: It is a *machlokes*.

INSIGHTS TO THE DAF

There is a Talmudic principle known as chayecha kodmin – saving one's own life comes before all others. However, in the unthinkable situation in which one may additionally save only one's father or one's own son, as occurred all too often during the Holocaust, who has precedence?

YehudaH requests that Yaakov send Binyomin down to Egypt with him and entrust him with ensuring Binyomin's safe return, so that there will be food to eat so that we (the brothers), you (our father), and our children shouldn't die of starvation. Rav Yaakov Kamenetzky derives a fascinating inference from the wording of this verse. He maintains that the Torah is prioritizing for us who has precedence when it comes to saving lives. The Holy Torah, which contains the answer to every question, answers this one by mentioning the saving of their father Yaakov before that of their own children to teach us that one's father has priority.

DAILY MASHAL

In the spring of 1943 Rav Yosef Shlomo Kahaneman, known as the Ponovezher Rav, established an orphanage in B'nei B'rak to absorb and care for the many orphaned children who had been rescued from the Holocaust and were sent to Eretz Yisroel. Unfortunately, with the first group of children scheduled to arrive on a Sunday, the Ponovezher Rav found himself without any linens or pillows for the children to sleep on due to the dire situation in Eretz Yisroel at that time. On Friday, with two days remaining until their arrival, Rav Kahaneman announced that he would be speaking on Shabbos afternoon in the largest synagogue in town.

He began his speech by citing our Gemora, which discusses a case in which two people are lost in the desert with only one flask of water. If they split the water between them, both will die before they are able to reach the nearest settlement, but if one of them drinks it, he will be able to survive. Rabbi Akiva derives from our verse that "chayecha kodmin" – your life takes precedence over that of your friend, and therefore the one with the water should drink it all. On the other hand, the Gemora in Kiddushin (20a) teaches that a person who purchases a Jewish slave in a sense acquires a master for himself due to the Torah's requirement to equate the slave's standard of living to his owner's level of comfort. Tosefos adds that sometimes even this is not sufficient, such as in a case when the owner possesses only one pillow. If he takes it for himself, he violates the Torah's requirement to give his slave equal treatment, and he therefore has no choice but to give his only pillow to his slave, leaving himself with nothing on which to sleep.

Rav Kahaneman noted that this ruling of Tosefos seems to contradict the teaching of Rabbi Akiva. Just as the person who is lost in the desert is permitted to drink all of the water due to the principle of "chayecha kodmin," shouldn't this same reasoning allow the master to keep his sole pillow for himself?

The Ponovezher Rav explained that the two rulings are in fact compatible, as the requirement to give the pillow to the slave actually emanates from the Torah's concern for the primacy of the owner's well-being. If the master were to keep the pillow and lay down in comfort while observing his slave tossing and turning, his conscience would bother him so much that he wouldn't be able to enjoy the pillow and a good night's rest. Therefore, precisely in order to allow the master to be at peace with the arrangement, the Torah requires him to give the pillow to his slave for his own well-being so that he can sleep soundly through the night.

Similarly, the Ponovezher Rav continued, in only one day a large group of Jewish children would be arriving at the new orphanage in B'nei B'rak, which was completely lacking pillows and sheets on which they could sleep. Questioning how any of those present could go home and enjoy a comfortable night's sleep now that they were aware of this situation, he advised them that for their own well-being, they should immediately donate the only pillows and linens in their possessions, a suggestion which was fulfilled by the inspired and touched listeners as soon as Shabbos was finished.

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