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Bava Metzia Daf 72

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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

Interest in Conversion

The *braisa* says: A Jew borrowed money from a gentile with interest, which the gentile established it (*the principal plus the interest owed*) into a new separate loan. The gentile proceeded to convert. If he made the interest into a separate loan before he converted, he may now collect both the principle and the interest (*i.e. the separate loan*). If he first converted, he can collect the principle but not the interest.

Similarly, a gentile borrowed money from a Jew with interest, which the Jew established it (*the principal plus the interest owed*) into a new separate loan. The gentile then proceeded to convert. If he made the interest into a separate loan before he converted, he may now collect both the principle and the interest (*i.e. the separate loan*). If he first converted, he can collect the principle but not the interest.

Rabbi Yosi says: If a gentile borrowed money from a Jew with interest (*in the type of case mentioned above*), whether he converted beforehand or not, the Jew can collect the principle and the interest.

Rava says in the name of Rav Chisda in the name of Rav Huna: The law follows Rabbi Yosi. Rava says: What is Rabbi Yosi's reasoning? It is that there should be no suspicion that he converted in order to avoid paying interest. (72a)

An Invalid Document

The *braisa* states: If a document contained a provision to collect interest (*in a forbidden fashion*), we give him a fine. Not only is he unable to collect the interest, but he cannot even collect the principle. These are the words of Rabbi

Meir. The *Chachamim* say: He can collect the principle, but not the interest.

The *Gemora* asks: What is the crux of their argument?

The *Gemora* answers: Rabbi Meir holds that we fine what is permitted because of what is forbidden, while the *Chachamim* say that we do not do so.

The *Mishna* states: Pre-dated loan documents are invalid. Post-dated loan documents are valid.

The *Gemora* asks: Why are the pre-dated loan documents invalid? It is understandable that people cannot collect anything (*i.e. including sold lands*) based on the earlier date. However, we should let the person collect based on the real (*second*) date!

Rabbi Shimon ben Lakish says: This is actually an argument, and the stringent opinion quoted is Rabbi Meir (*who takes away what is permitted due to what is forbidden*).

Rabbi Yochanan says: This is even according to the *Chachamim*. This document is decreed invalid, lest the owner of the document try to use it to collect based on the earlier date.

There was a man who gave his vineyard over as collateral for a loan, and the lender ate from it for three years. The lender then said to him: If you sell it to me, everything will be fine. If not, I will just hide the document saying that it is collateral, and claim that I bought it from you. The borrower secretly gave it to his son, who was a minor, as a present in front of witnesses, and then sold the field to the lender. It is clear

that the sale was invalid, as it belonged to his son. However, what is the status of the money that the lender gave to the borrower for the vineyard? Is it like a loan document, which enables him to collect from properties with a lien? Or is it like an oral loan that does not enable him to collect from properties with a lien?

Abaye said: Isn't this Rabbi Assi's statement? Rabbi Assi said: If the borrower admits that he wrote a document, it does not need to be verified, and can be used to collect from properties with a lien. [*Being that the borrower agrees he wrote the sale document of the vineyard, which contains a provision to collect with achrayus (properties with a lien), he should have to fulfill this condition even though the sale itself was invalid.*]

Rava countered: Is this comparable? In Rabbi Assi's case, the deal was valid. Here, the entire deal was invalid (and therefore the achrayus provision is similarly invalid).

Mareimar sat and said over Rava's teaching. Ravina asked him: Didn't Rabbi Yochanan say that the pre-dated document was invalid because the person might try to use it to collect from the first date? Why didn't he say instead that the reason is because the document is invalid in this fashion? [*It must be that Rabbi Yochanan holds that just because there is an invalid detail, the document itself is not necessarily invalid (unless explicitly stated)!]*

Mareimar answered: In Rabbi Yochanan's case, the document was not allowed to be written from the pre-dated time, but would have been allowed to be written at the actual time. In this case (of the invalid sale), the document would always be invalid (as he had no property to sell). [*Rabbi Yochanan would agree that in such a case everything in the document is invalid.*]

The Gemora asks: The braisa discusses someone who stole a field and sold it to someone who proceeded to make improvements to it. When the field is taken away from him, he can collect the principle of the field (from the thief who

sold it to him) from property with a lien, and the amount of improvement from property without a lien. Why don't we say that he should not be able to collect from any property with a lien, as the document was never valid in the first place (as the field was stolen, similar to the case of the man who sold his son's field)?

The Gemora answers: When the Gemora earlier (15b) discussed a case where the thief wanted to buy back the property from the original owner, the Gemora said this could be for one of two reasons. Either the thief does not want to be called a thief any longer, or he wants to be known as a trustworthy person. This is why he wants to appease the original owner (i.e. the person he stole it from) and make his sale document valid. [*In our case as well, the buyer presumes that if the field is indeed stolen, the thief will try to appease the original owner. This is why the sale document has validity. (The Meiri even says that the buyer probably knew the field was stolen.)*] However, in the case of selling his son's field, it is clear that he wanted to distance the field from the buyer. He clearly does not want the document to be considered valid. (72a – 72b)

Mishna

One cannot enter into a forward contract on fruit until the official price (for this item) is set. Once the price is set, he may enter into a forward contract; and even though one person does not have, the other person does have. [*For example, if the market price for wheat is four sa'ah for a sela, one can buy from someone one hundred sa'ah by giving him twenty five sela. Even if the price of wheat goes up right afterward, he can still demand his one hundred sa'ah (see Rambam malveh v'loveh 9:1).*] If the seller was the earliest harvester (meaning he was not a merchant who committed to supply wheat, but he actually had wheat), he can enter into a forward contract on his harvest (without having to wait for the market to set a price). This can also be done with vessels full of grapes or olives, on "eggs" of pottery (before they are made into pottery), and on plaster when going into the furnace. One can enter into a forward contract for

fertilizer the whole year. Rabbi Yosi says: One can only enter into a forward contract for fertilizer if he has fertilizer in his garbage area. The *Chachamim* permit this. One can stipulate that he wants the best price (*even if there is a price decrease*). Rabbi Yehudah says: Even if a person did not explicitly stipulate that he wants the best price, one can say, "Give me the best price or give me my money." (72b)

Forward Contracts

Rabbi Assi says in the name of Rabbi Yochanan: One cannot enter into a forward contract based on the current price in a market (*since it is not a set price, it will most likely fluctuate*).

Rabbi Zeira said to Rabbi Assi: Even like this large central market (*for when they start selling in large quantities, the prices remain the same even in the small markets*)?

Rabbi Assi replied: Rabbi Yochanan only said his law regarding the markets in small towns that do not have set prices.

The *Gemora* asks: According to the original thought that Rabbi Yochanan even held that the large central market is not good enough to set a price, how could there be an explanation to our *Mishna*? Our *Mishna* stated that one cannot set a price on fruit until the official price (*for this item*) is set. Once the price is set, a price can be set. [*What would determine the official price if not the large markets?*]

The *Gemora* answers: One would think it is based on the price that is set once the storehouses and boatloads of these goods start to be sold. [*This price usually is the price that lasts the longest time. One would therefore think that this is the price referred to by the Mishna.*]

The *braisa* states: One cannot enter into a forward contract on fruit until the official price (*for this item*) is set. Once the price is set, he may enter into a forward contract, and even though one person does not have, the other person does have. If new grains were being sold at four (*sa'ah for a sela*)

and old grains at three (*sa'ah for a sela*), one cannot enter into a forward contract until the official price has been set for new and old grain. If gathered (*i.e. mixed*) grains were being sold for four (*sa'ah for a sela*) and regular grains for three, one cannot enter into a forward contract until the price is set for gathered and regular grains.

Rav Nachman says: One may enter into a forward contract of the gatherers like the cheap gatherers' price.

Rava asked Rav Nachman: How is a gatherer different? It must be that if he is missing some goods, he will just get from his friend who is also a gatherer. However, a regular storeowner will also do this!?

Rav Nachman answered: It would be denigrating for a regular storeowner to buy from a gatherer. Alternatively, when one gives money to a storeowner, he does so in order to get high quality goods. (72b)

Borrowing Money with a Forward Contract on Produce

Rav Sheishes says in the name of Rav Huna: One cannot borrow based on the market price. [*At the time of the loan, a certain amount of produce is evaluated to be equal in value to the amount of the loan based on the current price. They agree that if he does not repay the debt by a certain time, he will have to pay the specified amount of produce even if the price of the produce increases.*]

Rav Yosef bar Chama said to Rav Sheishes, and some said Rabbi Yosi bar Abba said to Rav Sheishes: Did Rav Huna really say this? Didn't they ask Rav Huna: The people from the house of Rav borrow (*money*) in Tishrei and pay back (*fruit based on the market price in Tishrei*) in Teves. Is this permitted or forbidden? Rav Huna answered: There is still wheat in Hini and in Shili (*names of places*). If they want, they can always pay back. [*This implies that one could borrow based on the market.*]

The *Gemora* concludes: Rav Huna originally held one cannot borrow based on the market price. However, once he heard that Rabbi Shmuel bar Chiya said in the name of Rabbi Elozar that one could do so, he also agreed that one could do so. (72b)

INSIGHTS TO THE DAF

Paying and Lashes

The *braisa* states: If a document contained a provision to collect interest (*in a forbidden fashion*), we give him a fine. Not only is he unable to collect the interest, but he cannot even collect the principle. These are the words of Rabbi Meir. The *Chachamim* say: He can collect the principle, but not the interest.

Shulchan Aruch (C”M 52:1) rules according to the *Chachamim* that the principle may be collected.

The Ketzos Hachoshen (38:1) asks: If we hold that when one violates a negative precept, he cannot be liable to pay even if he does not receive lashes (*chayvei malkos shogegin*); then how can the principle be collected? Behold, the borrower is violating the prohibitions of “*You shall not impose interest upon him,*” and “*You shall not give interest to your brother?*” If so, why should the borrower be liable to pay? [*This is a type of kim leih bid’rabbah minei (whenever someone is deserving of two punishments, he receives the one which is more severe)!?*]

He answers based on one opinion that holds that the borrower does not transgress the prohibition of giving interest until he actually gives it. Accordingly, we can say that the principle of *kim leih bid’rabbah minei* does not apply here, for the liability to pay and the action which would theoretically cause him to be liable for lashes are not simultaneous. In such types of cases, he will not be exempt from paying.

“Communist!” intended as an insult

Our sugya says that if someone calls another rasha’ (“wicked”), the person insulted may “ruin his life”. According to some commentators, the Gemara allows the insulted to undermine his detractor’s livelihood, such as by opening a competing business. Rashi, though, doubts that interpretation (s.v. “yored”): “It is hard for me to accept that our sages allow people to wreak revenge or ‘get even’”. Still, Rashi in Kiddushin (28a, s.v. “rasha”) adheres to the literal meaning.

Why may someone called rasha by another harm his livelihood? Commentators explain that the Gemara (ibid) mentions similar halachos: One who calls another a slave is punished with niduy (a sort of excommunication); if he calls him a mamzer, he gets flogged. By calling another a slave, the insulter includes him in the Torah’s imprecation: “Cursed is Canaan” (Bereishis 9:25) and is therefore placed under the curse of excommunication. Similarly, one who calls another a mamzer hints that that person has or intends to sin by pretending he is not so and may marry anyone; the insulter is therefore flogged, as though he himself has transgressed such a prohibition. One who calls another rasha’ also causes him considerable harm: “If your brother becomes [is becoming] poor”, says the Torah, “...support him!” (Vayikra 25:35). Chazal learnt that this mitzvah excludes a rasha’, who do not deserve support. One who calls another rasha’ in public or spreads such rumors prevents others from supporting him and the person insulted may therefore undermine his livelihood (Nimukei Rabbi Menachem meReseburk, s.v. “Din hakorei”; Shittah Mekubbetzes in the name of Rabbi Yonasan; etc.). A person is not allowed, though, to undermine the livelihood of just anyone who calls him rasha’ but may only do so to one who spreads rumors that he rebels against the Torah. About 450 years ago two people had a vehement argument. One called the other names, such as “slave”, and the person insulted asked a beis din to flog his detractor, as the Gemara demands. The question was sent to Rabbi David ben Shlomo Ibn Zimra (Responsa Radbaz, III, 480, in the name of the Geonim) who replied that as people give little importance to curses vociferated in arguments, such insults do not harm one’s reputation and are not intended by our Gemara. Radbaz



concludes, though, that “the insulter should be shamed verbally and warned to desist from calling another such a name...even if the other starts an argument”.

Still, one who always calls another derogatory names is excommunicated only if they are names specified by the Gemara. Maharam Galanti (Responsa 33) therefore ruled that a beis din must not flog one who always calls another Salak-el-Din (apparently Saladin, the Muslim warrior who conquered Eretz Israel from the Crusaders) though one so dubbed is deeply hurt: “He is”, however, “regarded as one of the derisive scoffers who do not meet the Shechinah”.

“Communist” intended as an insult: This question was referred to HaGaon Rabbi Moshe Feinstein zt”l in the McCarthy era when hatred for communism engulfed the USA. People suspected of communist links had their reputations ruined and anyone so called was very insulted. Such a person asked Rabbi Feinstein to allow him to undermine his detractor’s livelihood, as if he had been called rasha’, but was told that “communist” is not synonymous with rasha’ (Igros Moshe, C.M., I, 38): Many evil people are not communists whereas the detractor just implies that he forces his ideas on others in a communist fashion but is not necessarily a sinner. Rabbi Feinstein also cited Rashi’s above comment that there is no explicit permission to undermine the livelihood of one who calls another rasha’. In conclusion, we add the notion of some commentators that yored lechayav, usually understood as “ruin his life”, actually means that the insulted person may slap his insulter’s cheek: lechayav = “his cheeks” (see Tashbetz, Responsa, III, 204).

QUESTIONS AND ANSWERS FROM YESTERDAY’S DAF to refresh your memory

Q: Who is always allowed to lend with interest to a gentile?

A: A Torah scholar.

Q: When can an ordinary Jew lend with interest to a gentile?

A: He can lend with interest if he needs to for his livelihood.

Q: Can a convert be sold as a Hebrew servant?

A: No.

DAILY MASHAL

Conclusion of Paper Plates

Rabbi, that day I appointed someone in my place. A whole night I sat with a group of young and talented people and quickly taught each one some of my tasks. I became an expert lecturer, like Rabbis Neugerschall, Tehila and Amnon Yitzchak rolled into one. Two whole weeks I tried to convince the old woman to eat only kosher food. Her stubborn nature had become rock-solid over her 95 years but I used all my strength to convince her, citing all the midrashim I knew to change her mind. Rabbi, I did it! Two weeks later they returned and saw her eating on disposable dishes, happier than ever. ‘I’m satisfied’, she said, ‘I cancel my complaint.’

“Rabbi, you told me you never met anyone over 65 who wanted to change his ways. You said it’s hard for them. You’re right. Apparently, though, it all depends on willpower. I changed the thinking of a 95-year-old because I wanted it so much. I admit trying to convince her because I was afraid they’d revoke my license to run a home. Within a few days, though, I felt I had a holy mission. I pitied a forlorn Jewish soul, close to 120, who was prepared to eat treifos and my sincerity pierced the armor of her stubbornness.”

The Rabbi finished his tale, nodding, “If you want to succeed, you can. That’s true of anything, materially and surely spiritually. To benefit, a person will strive and struggle him to attain his goal. It’s all a matter of will!”