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Bava Metzia Daf 73

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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

### ***Transporting Merchandise***

The *Gemora* cites a *braisa*: If a man was transporting a load from one place to another (*where it could sell for a higher price*) when his fellow met him and said, “Give it to me (*so I could sell it there*), and I will pay you for it (*later*) the (*higher*) price you would obtain there,” the *halachah* is as follows: If it remains in the seller’s domain (*he takes responsibility for any loss that might occur to the merchandise until it is sold*), it is permitted (*for it cannot be regarded as a loan; rather, the second person is acting as an agent of the first person to sell it*); if, however, it is in the buyer’s domain (*he takes full responsibility for it*), it is prohibited (*for he is buying it then; the fact that he can keep the money is regarded as a loan, and paying extra later constitutes interest*).

If a man was transporting produce from one place to another when his fellow met him and said, “Give it to me (*so I can eat it here*), and I will pay you for it (*later*) the same amount of produce in that other place” (*which is a case of lending a se’ah for a se’ah, which is forbidden, for maybe the price of the se’ah will increase*), the *halachah* is as follows: If the borrower has produce in that place, it is permitted (*for it is viewed as if the lender took possession of it right now*); otherwise, it is prohibited.

But donkey drivers supply in the expensive place at the prices of the cheaper (*for people that pay ahead of time*) without fear of violating the prohibition of interest (*even though the responsibility for the goods rests on the*

*drivers; this should be a problem for the buyers are receiving more than they paid because they paid early*).

The *Gemora* asks: Why was this permitted?

Rav Pappa said: They are satisfied because the sellers would open their gates to them. [*They became known to be high-class merchants because of the money that the rich customers advanced to them. Accordingly, they received special privileges from their suppliers. This benefit was why they charged less; not because of the ability to use the funds. They would have charged the same amount even if they would have been required to deliver the goods immediately.*]

Rav Acha the son of Rav Ika said: They are satisfied with the extra discount they receive (*from their suppliers*).

The *Gemora* notes that the difference between them would be in respect of a new merchant (*for although they are not offered a cheaper price from the suppliers, they do receive the benefit of becoming known as high-class merchants*). (72b – 73a)

### ***Payment in Advance***

In *Sura*, the price of produce was four *se’ahs* per *zuz*; in *Kafri*, they were going for six. Rav (*who was in Sura*) gave money to the drivers and he accepted upon himself the risks of the transport (*in order to avoid any ribbis issue – for the produce was regarded as his*), and he would receive from them five *se’ahs* per *zuz*. Why didn’t he take



six (*like the price in Kafri*)? For a man of great prominence, it is different (*and he acted meticulously*).

Rav Assi inquired of Rabbi Yochanan: Is the *halachah* the same regarding scrap metal (*do the drivers enjoy the same benefits as they do by produce; perhaps it is different, for it is not as regular as produce*)?

Rabbi Yochanan replied: Rabbi Yishmael the son of Rabbi Yosi wanted to do the same with linen clothing, but Rebbe did not permit him to do so. Others say that Rebbe wanted to do the same with scrap metal, but Rabbi Yishmael the son of Rabbi Yosi did not allow him.

Regarding a vineyard (*paying the cheaper price in advance for the wine which will eventually be produced; presently, the grapes were not even ripe yet*): Rav prohibited it. Shmuel permitted it. Rav prohibited it, since it will be worth considerably more in the future; it looks like payment for waiting. Shmuel permitted it, since a mishap may befall it (*the vineyard may be smitten with hail or rain*), it does not look like payment for waiting (*since the purchasers are accepting that risk, and since it is close to a loss and close to a profit, it is permitted, for he is gaining because of the risk, not because of waiting for his money*). Rav Simi bar Chiya said: Rav would agree where the grapes are harvested with the aid of oxen, since there is potential for a great loss (*for they would damage the vines through trampling*). (73a)

### **Avoiding Ribbis**

Shmuel said to those who lend seed grain to the sharecroppers to be returned in new grain (*which should be forbidden on account of lending a se'ah for a se'ah*): Cultivate the land for yourselves in the field that you may solely own this portion of the land (*and the seeds given back from this portion will be your seeds to begin with, and not a loan*), for if not, it will be accounted as a loan to you, and therefore forbidden.

Rava advised those who kept watch over the fields (*who waited for their payment until after the grain was threshed; they received extra for that, for in truth, their work was finished when the grain was harvested; this should be forbidden on account of ribbis*): Go out and turn over some grain in the barn, so that your wages may not be payable until then; and since wages are not payable until the end of the term, it is the employers who then are giving you extra pay.

The rabbis protested to Rava: You are enjoying interest, for everyone (*who leases land to sharecroppers*) accepts four *kor* as their share, and dismiss them in Nissan; while you wait until Iyar (*an extra month for them to pay*) and receive six (*as a reward for waiting*).

Rava replied: It is you who are acting contrary to the law, for the land is in bound to the sharecropper (*until the grain is fully ripe*). If you make them leave in Nissan (*before the grain is ripened*), you are causing them much loss (*for they must harvest the field before it is ready*). I, on the other hand, wait until Iyar, enhancing their profits.

A certain gentile gave a house in pledge to Rav Mari bar Rachel (*which he used; since the borrower was a gentile, there is no ribbis concern*). The gentile went and sold it to Rava. Rav Mari waited a full year (*since a lender keeps the pledge for at least a year*), took the rent, and offered it to Rava. Rav Mari said to him: I did not offer you rent before this because an unspecified pledge is for at least a year (*before the borrower can redeem it*). Had the gentile wished to evict me within the year, he would not have been able to; but now that it is yours, you should take rent for the house. Rava replied: Had I known that it was pledged to you, I would not have bought it. Now I will deal with you according to their laws. By the gentile law, until they redeem the pledge, they receive no rent; so I will take no rent from you until you are removed from the field after the debt is repaid.



### ***Protesting against the Rabbis***

Rava of Barnish said to Rav Ashi: My master should see how the rabbis enjoy interest, for they advance money for wine in Tishrei, and yet, they choose the wine in Teves!? [*They choose the best quality then. If they would have taken earlier, it might have spoiled. The market price was not established yet. And although the sellers had wine in stock (which usually alleviates the concern of ribbis), wine tends to sour, and the sellers accepted the loss as a reward for the rabbis' waiting.*] Rav Ashi replied: They too pay their money for wine, not vinegar, and from the very beginning, wine (*in Teves*) was wine (*in Tishrei*), and vinegar (*in Teves*) was vinegar (*in Tishrei; whatever caused it to become sour was there at that time*). It comes out that when they paid in Tishrei, that is when they selected the choice wine. [*The seller accepts the loss not because of the advance payment, but rather, it is because of the condition of the sale; it is therefore not regarded as ribbis.*]

Ravina gave money for wine (*before the grapes were harvested*) to the residents of Akra by the Shanvasa River (*but he paid according to the price that it would be worth then – therefore avoiding any ribbis concern*), and they used to pour for him an extra container. He asked Rav Ashi if this was permitted. Rav Ashi ruled that it was permitted, for they are merely giving you a gift (*since it was not prearranged, and it was not spoken out that this would be your reward for waiting*).

Ravina asked him further: But, the land is not theirs!? [*These rich people paid the land tax on behalf of the original owners, who, being poor, abandoned the fields; it should be regarded as stolen property and therefore should still belong to the owners; the rich people of Akra would have no right to dispose of the wine!?*] Rav Ashi replied that the land is pledged for the land tax, and the king has decreed that whoever pays the land tax is entitled to the produce. (73a – 73b)

Rav Pappa said to Rava: My master should see how the rabbis pay the head tax for others, and then they work them excessively. Rava replied: I might have died without ever having told you this thing: Rav Sheishes said: The seal of bondage of these people lies in the king's archives, and the king has decreed that he who does not pay his head tax should be made the servant of the one who pays it on his behalf.

Rav Seoram, Rava's brother, used to seize people of ill repute and make them carry Rava's litter (*a vehicle carried by people, consisting of a bed or couch, often covered and curtained; this was because Rava could not get through the throngs of people that came to hear his lectures*). Rava said to him: You have done well, for it has been taught in a *braisa*: If you see a man who does not behave properly, how do we know that you may make him your servant? It is written: *You shall work them forever and your brethren the children of Israel* etc. I might have that this is so even of one who behaves properly; therefore it is written: *And with your brethren, the children of Israel; a man with his brother (you shall not subjugate him with hard labor)*. (73b)

### **INSIGHTS TO THE DAF**

#### ***Subjugating their Poor Brethren***

Rav Pappa said to Rava: My master should see how the rabbis pay the head tax for others, and then they work them excessively. Rava replied: I might have died without ever having told you this thing: Rav Sheishes said: The seal of bondage of these people lies in the king's archives, and the king has decreed that he who does not pay his head tax should be made the servant of the one who pays it on his behalf.



Other Rishonim explain this *Gemora* differently: they say that the rabbis violated the prohibition of *ribbis*. This is because they paid the tax for their poor brethren, and by working them excessively, they were paid back more than what they laid out.

The Radvaz asks: How can the principle of “the law of the land is the law” trump the prohibition of subjugating a fellow Jew excessively?

He answers that since the excessive work is not regarded as money, for by law, they are obligated to serve them; the prohibition falls off by itself, for if there is no loan, there cannot be any *ribbis*.

The Ritva writes that by paying their taxes to the king, they acquire them as slaves until they are repaid; the money is not regarded as a debt at all.

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

Q: Does a gentile have “third-party acquisition” (*zechiyah*)?

A: No.

Q: Why is a gentile different than a minor with respect to “third-party acquisition” (*zechiyah*)?

A: The minor will eventually come into the scope of agency (*shlichus*), when he becomes an adult; a gentile will never get there.

Q: Can one collect with a predated document from land that the borrower sold after the loan actually took place?

A: Rish Lakish says that it is a matter of dispute between R’ Meir and the *Chachamim*. R’ Yochanan holds that everyone agrees that it cannot, for we are afraid that it

will be used to collect from encumbered properties from the predated time.

#### DAILY MASHAL

##### Not so Innocent Sleep

HaGaon Rabbi Yosef Chayim zt”l reveals a brilliant explanation of the topic (Ben Yehoyada’, 72b) of interest. Some interpret the verse “People of blood (damim, also meaning “money”) and deceit, their days will not approach half of their intended lifespans” (Tehillim 55:24) as referring to those who collect interest from other Jews. We see, though that many such transgressors live in wealth and peace into tranquil old age. The gemara in Shabos 89b, however, says that Yitzchak Avinu will justify the Jewish people. Among other claims, he will assert that as people spend about half their life asleep, HaShem should have mercy on them as they surely don’t sin then. He who lends for interest, though, transgresses a prohibition even when asleep and lacks that defense. “Their days will not be half”: they lack the defense of having their lives halved by sleep as, when others stop sinning, their money continues to accrue interest.