

12 Tammuz 5777
July 6, 2017



Bava Basra Daf 165

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Daily Transgressions

Rav Amram said in the name of Rav that there are three transgressions from which no person is saved every day. They are: thoughts of sin, examining one’s prayers (*Rashbam – feeling overconfident that his tefillah will be answered positively; Tosfos – lack of concentration during tefillah*), and *lashon hara*. The *Gemora* explains that *lashon hara* refers to *avak lashon hara* (close to being *lashon hara*).

Rav Yehudah said in the name of Rav: Most people are guilty of some sort of thievery; a minority of people are guilty of sexual immorality; and everyone is guilty of *lashon hara*.

The *Gemora* asks: Is it true that all people are guilty of *lashon hara*?

The *Gemora* explains that *lashon hara* refers to *avak lashon hara* (close to being *lashon hara*). (164b – 165a)

Deviating Agent

The *Mishna* had stated: Rabban Shimon ben Gamliel says: All is in accordance with the custom of the place.

The *Gemora* asks: And the *Tanna Kamma* does not hold that we go according to the custom of the place?

Rav Ashi answers: Where it is the custom to write plain documents and one said to the scribe, “Write for me a plain document,” and the scribe prepared for him a tied

document, everyone agrees that he was being particular as to what he wanted (*and therefore the document is invalid*). Where it is the custom to write tied documents and one said to the scribe, “Write for me a tied document,” and the scribe prepared for him a plain document, everyone agrees that he was being particular as to what he wanted (*and therefore the document is invalid*). Their dispute relates to a place where the custom is to write plain and tied documents, and he said to the scribe, “Write for me a plain document,” and the scribe prepared for him a tied document. The *Tanna Kamma* holds that he was being particular as to what he wanted (*and therefore the document is invalid*). Rabban Shimon ben Gamliel maintains that he was merely showing him a way that it could be written (*the easier way; if the scribe chooses to bother himself and prepare a tied document, it is still valid*).

Abaye said: Rabban Shimon ben Gamliel, Rabbi Shimon and Rabbi Elozar all hold that when someone instructs an agent to do something in an easy way and the agent chooses to do it in a difficult manner, it is not regarded as deviating from the agency, but rather the principal was merely “showing him a (*simple*) way” to do it.

Rabbi Shimon ben Gamliel said this in the *Mishna* above (*when he said “plain,” he meant that the scribe may write it either way*).

Rabbi Shimon subscribed to this view in a different *Mishna*, for we learned in a *Mishna*: [*If a man says to a woman, “Be mekudshes to me with this cup of wine,” and it ended up being honey. A man says to a woman, “Be mekudshes to*

me with this cup of honey,” and it ended up being wine. A man says, “Be mekudeshes to me with this silver dinar,” and it ended up being gold. A man says, “Be mekudeshes to me with this golden dinar,” and it ended up being silver. A man says, “Be mekudeshes to me on condition that I am rich,” and he is actually poor. A man says, “Be mekudeshes to me on condition that I am poor,” and he is actually rich. In all of these cases, the kiddushin is invalid.] Rabbi Shimon says: If he led her to believe it/he was worth less and it/he was worth more (like in the case where he said “silver” and it was found to be gold), she is mekudeshes (for he is prepared to marry her with silver, and certainly with gold).

Rabbi Elozar also subscribes to this opinion, for we learned in a *Mishna*: If the wife said, “Accept my *get* for me in Such-and-such a place,” and the agent accepted it for her in a different place, the *get* is not valid. Rabbi Elozar said that it is valid. Evidently, he holds that the woman is not particular about the place to receive the *get*; she is merely indicating where the husband may be found. (165a)

Rabbi Yirmiyah’s Return

The *Mishna* concluded: A plain document requires two witnesses, while a tied document requires three witnesses. If a plain document contained one witness or a tied document contained two witnesses, they are both invalid.

The *Gemora* asks: It is understandable why it was necessary for the *Mishna* to rule that a tied document which only contained two witnesses, it is invalid. This is because I might have thought that since elsewhere, such testimony is valid, it is valid here as well; it was therefore necessary to teach us that it is invalid. In the case, however, where a plain document contained only one witness, is it not obvious that it is invalid?

Abaye replied: It was necessary for the following case: If in addition to the signature of the one witness, there was also the oral testimony of another, the document is nevertheless

invalid (and it cannot be used to seize land from the purchasers).

Ameimar ruled that if in addition to the signature of the one witness, there was also the oral testimony of another, the document is valid (and it may be used to seize land from the purchasers).

Rav Ashi asked Ameimar: Didn’t Abaye say differently?

Ameimar responded that he does not hold like Abaye.

The *Gemora* asks: So what is the novelty of the *Mishna* according to Ameimar?

The *Gemora* answers: It teaches us the following: Two witnesses on a tied document are like one witness on a plain one; just as there (by a plain document), the document is Biblically invalid (if only one witness signed), so also here (by a tied document), the document is Biblically invalid (if only two witnesses signed).

Proof to this can be brought from the following: The scholars in the Academy from *Eretz Yisroel* sent the following enquiry to Rabbi Yirmiyah: In the case where one of the witnesses signed on the document and the other testified orally, are they combined (to be considered like two witnesses signing on a document)? The *Gemora* explains: According to the *Tanna Kamma* of Rabbi Yehoshua ben Korchah (who holds that two witnesses cannot join together to offer testimony unless they saw the event together), the question does not arise, for even in the case where two witnesses signed the document, or the two witnesses gave oral testimony, they will not combine (if they did not witness the event together). The question, however, arises according to Rabbi Yehoshua ben Korchah (who holds that two witnesses may join together to offer testimony even if they did not see the event together). Perhaps they can only combine in the case where the two witnesses signed the document, or where



the two witnesses gave oral testimony, but not in the case where one witness signed the document and one testified orally; or is there no difference between the two?

Rabbi Yirmiyah sent to them the following reply: I am not worthy of having this enquiry sent to me, but your disciple is inclined to say that the witnesses may combine. [*This is a proof to Ameimar.*]

Rav Ashi said to Ameimar (*this is not a proof to you at all*): We learned that the scholars in the Academy from *Eretz Yisroel* sent the following enquiry to Rabbi Yirmiyah: In the case where one of the witnesses gave testimony at one *Beis Din* and the other testified at another *Beis Din*, may one *Beis Din* come to the other and combine to issue a ruling? According to the *Tanna Kamma* of Rabbi Nassan (*who holds that two witnesses cannot be combined if they do not testify together at one Beis Din*), the question does not arise, for even in one *Beis Din*, they will not combine with each other (*if they do not testify together*). The question, however, arises according to Rabbi Nassan (*who holds that two witnesses may be combined even if they do not testify together at one Beis Din*). Perhaps they can only combine in the case where they testify at one *Beis Din*, but not in the case where they testify before two different *Beis Din*; or is there no difference between the two?

Rabbi Yirmiyah sent to them the following reply: I am not worthy of having this enquiry sent to me, but your disciple is inclined to say that the witnesses may combine.

Mar bar Chiya reported that the scholars in the Academy from *Eretz Yisroel* sent the following enquiry to Rabbi Yirmiyah: In the case where two witnesses gave testimony at one *Beis Din*, and then they gave testimony at another *Beis Din* (*and then they gave testimony at a third Beis Din*), may one member of each *Beis Din* come to the other and combine to issue a ruling? According to Rabbi Nassan's opinion (*who holds that two witnesses may be combined even if they do not testify together at one Beis Din*), the

question does not arise, for if witnesses may combine, is there any question that judges can combine? The question, however, arises according to the *Tanna Kamma* of Rabbi Nassan (*who holds that two witnesses cannot be combined if they do not testify together at one Beis Din*). Perhaps it is only witnesses who cannot combine, but judges can; or is there no difference between the two?

Rabbi Yirmiyah sent to them the following reply: I am not worthy of having this enquiry sent to me, but your disciple is inclined to say that the judges may combine.

Ravina reported that the scholars in the Academy from *Eretz Yisroel* sent the following enquiry to Rabbi Yirmiyah: In the case where three judges sat down to certify a document (*and witnesses testified before them that they recognize the signatures*), and one of them died, is it necessary for them to write, "We were in a court of three and one is no longer with us," or not?

Rabbi Yirmiyah sent to them the following reply: I am not worthy of having this enquiry sent to me, but your disciple is inclined to say that it is necessary for them to write, "We were in a court of three and one is no longer with us."

And on account of this (*one of these answers*), Rabbi Yirmiyah was readmitted to the Academy. [*He was sent away for not asking properly; he was reinstated on account of answering properly.*] (165a – 165b)

Mishna

If it was written in the document, "*(He borrowed) a hundred zuz which are twenty sela'im*" (*and actually, one hundred zuz equals twenty-five sela'im*), the lender will only receive twenty (*for one who wishes to exact money from his friend must bring the proof*). If it was written, "a hundred zuz which are thirty *sela'im*", the lender will only receive a *maneh*. If it was written, "Silver *zuzim* that are...", and the rest was erased (*and we do not know how much was*



borrowed), it is not less than two (for it was written in a plural form). If it was written, "Silver *sela'im* that are...", and the rest was erased, it is not less than two. If it was written, "*Darkonos* (two *sela'im*) that are...", and the rest was erased, it is not less than two. If in the beginning of the document it was written, "*a maneh*," and at the end it was written, "two hundred," or, in the beginning of the document it was written, "two hundred," and at the end it was written, "*a maneh*," we follow that which was written at the end. If so, why do they write the one in the beginning? For if a single letter at the end got erased, we may learn from that which was written in the beginning. (165b)

Silver and Gold

The *Gemora* cites a *braisa*: If it was written, "Silver," it signifies that he has a claim of no less than a silver *dinar*. "Silver *dinarim*" or "*dinarim* silver" signifies a claim of no less than two silver *dinarim*. "Silver in *dinarim*" signifies a claim of silver for no less than two gold *dinarim*.

The Master had said: If it was written, "Silver," it signifies that he has a claim of no less than a silver *dinar*.

The *Gemora* asks: Might it not signify a silver bar?

Rabbi Elozar replied: We are referring to a case where "a silver coin" was mentioned in the document.

The *Gemora* asks: Perhaps it was meant to signify silver *perutos*?

Rav Pappa replied: We are referring to a case where silver *perutos* are not current.

The *Gemora* cites a *braisa*: If it was written, "Gold," it signifies that he has a claim of no less than a gold *dinar*. "Gold *dinarim*" or "*dinarim* gold" signifies a claim of no less

than two gold *dinarim*. "Gold in *dinarim*" signifies a claim of gold for no less than two silver *dinarim*.

The Master had said: If it was written, "Gold," it signifies that he has a claim of no less than a gold *dinar*.

The *Gemora* asks: Might it not signify a gold bar?

Rabbi Elozar replied: We are referring to a case where "a gold coin" was mentioned in the document.

The *Gemora* asks: Perhaps it was meant to signify gold *perutos*?

The *Gemora* answers: Gold *perutos* are not made anywhere. (165b – 166a)

DAILY MASHAL

Dear Customer, Please Note: This Book is not Proofread at all

Rav Yehudah asserts in the name of Rav that most people are guilty of some sort of thievery and, as Rashbam explains (s.v. *Rov begezal*), this means that most people transacting business allow themselves to deny others their due profit. In other words, fraud, false pretenses and financial conniving are considered *gezel*.

In his *Sefas Tamim* (Ch. 3), Rabeinu Yisrael Meir HaKohen zt"l, the Chafetz Chaim, proves that even one who **causes** his fellow a loss is considered a thief. True to his word, he was renowned for his extreme avoidance of anything **resembling** falsification or thievery, as evident from his behavior concerning the books he authored.

The Chafetz Chaim was in Warsaw when he first had his *Mishnah Berurah* printed and every day he would come to the printer to check that no smudged or otherwise defective pages were being sent out for sale. He left his learning for several months for this purpose and afterwards relied on his son to undertake the task. When he discovered that despite his great care, one of his books had been sold with a few defective pages, he hurried a sharp letter to his son, saying “What have you done to me, my son? All my life I’ve taken care to avoid anything resembling thievery but I never thought that I would err in outright robbery and because of you this has happened!” The Chafetz Chaim immediately ordered the printer to reprint those pages found defective and publicize in the press that anyone who had bought a defective edition should inform him of such in order to receive the corrected pages by post (*Michtevei HeChafetz Chaim*, p. 30).

The Chafetz Chaim knew no rest till he hired special proofreaders to examine each page of his printed books and, if approved, to mark the front page of each book as “proofread” (*HeChafetz Chaim Ufo*“*olav*”, I, Ch. 32). Some of these books are still extant.

The problem of printing errors also concerned other halachic authorities. For example, the students of the Tsadik HaGaon Rav Eliahu Lopian zt”l, led by the famed Yerushalmi *Magid* Rabbi Shalom Schwadron zt”l, published the popular *Lev Eliahu* with a warning on the front page: “Dear purchaser: This book is not proofread and I assume no responsibility – The Publisher.” We have no knowledge of the severity of the printing error discovered by the Chafetz Chaim but HaGaon Rav Yaakov Kanievski zt”l, the Steipler, states in a letter that the sale of a book containing minor errors that still allow readers to understand the text is not considered *gezel*. After all, anyone buying a book knows that the task of printing is complicated and hardly ever free of mistakes. In his opinion, a book with no pages missing may be sold even with some defects and therefore, when he found that the last letters on a page were omitted in an

entire edition of his *Kehilos Yaakov*, he continued to sell that edition as the defect did not prevent understanding the text (*Karyana D’igarta*, I, p. 351). Of course, this principle applies only to publishers of new books but one is not permitted to sell defective *sidurim*, as finely proofread *sidurim* are available on the market and they are expected to be free of errors.

All the above is just a fraction of the material pertaining to this broad topic. The *Gemora* in Brachos (6a) explains that one who fails to respond to a greeting is called a robber, indicating that depriving a person even of his due **word** is defined as *gezel* (*Sefer “Mamon Kasher”*).

Once, Rabbi Elazar Shulevitz zt”l, *Rosh Yeshivah* of Lomzha, was standing praying *Shemoneh Esreh* at the entrance to a synagogue and Rabbi Yisrael Salanter, standing near him, approached him and whispered, “Robber! The synagogue is packed full and you’re robbing the congregation of air!” Rabbi Shulevitz immediately interrupted his prayer to move away (*Lev Eliahu, Bereishis*). Similarly, though in an opposite circumstance, the Vilna Gaon zt”l would take care to shut the door to the bathhouse immediately after entering lest he rob the bathers of the warm air inside (*Tosefes Maaseh Rav, S.K. 29*). According to the Chafetz Chaim, even someone who participates in a wedding or *sheva berachos* meal without enhancing the joy of the *chassan*, about whom the *Gemora* in Berachos (ibid) states that he transgresses “five voices”, might be guilty of robbery (*Michtevei HeChafetz Chaim*, p. 46).