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Gambling

The *Gemara* asks: What is wrong with gambling?

Rami bar Chamah says: This is an *asmachta*, and therefore not a valid *kinyan*. [In other words, being that the gambler only puts his money on the line because he thinks he will win, he is not really agreeing that his money should be taken. Accordingly, when he loses, his money is being stolen from him.]

Rav Sheishes says: This is not called an *asmachta*. Rather, the reason he is unfit to give testimony is because he is not involved in furthering the general welfare of the public.

The *Gemara* asks: What is the difference between their opinions? The difference is in a case where he has another job. This is as the *Mishnah* says: Rabbi Yehudah says: When are they unfit for testimony and judgment, when they have no other job. However, if they have another job, they are fit to testify and judge. This implies that the reason they are unfit is solely because they are not involved in furthering the general welfare of the public (*working for a living*)! This is difficult for Rami bar Chamah, as he implies the reason is theft!

And you cannot answer that the Rabbis disagree with Rabbi Yehudah, for Rabbi Yehoshua ben Levi said that wherever Rabbi Yehudah introduces his remarks by saying: “When is this so?” or “In what case is it said?” he is merely explaining the words of the *Chachamim*. Rabbi Yochanan said: If Rabbi Yehudah said, “When is this so?” he is

explaining, but if he said, “In what case is it said?” he is disagreeing. It emerges that they all agree when he said, “When is this so?” he is agreeing!?

The *Gemara* answers by asking: Why are you asking from one *Amora* onto the other? Rami bar Chamah holds that the *Chachamim* and Rabbi Yehudah disagree, and Rabbi Yehoshua ben Levi holds that they do not.

The *Gemara* asks: But is there really no disagreement? Has it not been taught in a *Baraisa*: Whether he has another occupation (*besides gambling*) or not, he is disqualified!? [Evidently, there is a dispute in this case!]

The *Gemara* answers: That is the opinion of Rabbi Yehudah in the name of Rabbi Tarfon. For it has been taught in a *Baraisa*: Rabbi Yehudah said in the name of Rabbi Tarfon: (A person said, “I am a nazir if that man is So-and-so,” and another person said, “I am a nazir if that man is not so-and-so”) Neither of them is a *nazir*, for *nezirus* can only take effect when there is a clear expression (*without any doubt; even if later we find out that the condition was met*). [Rabbi Tarfon holds that an undertaking dependent on an unknown circumstance is not binding, and therefore the same applies to gambling. Each gambler accepts to pay, but the result is beyond his control; it is therefore regarded as an *asmachta* – theft; whether gambling is his sole occupation or not.] (24b3 – 25a1)

Disqualified Due to Interest

The *Mishnah* had mentioned that one who lends with interest is disqualified from serving as a judge or witness.



Rava said: One who borrows with interest is ineligible to testify.

The *Gemara* asks: But the *Mishnah* mentioned the lender only?

The *Gemara* answers: The *Mishnah* was referring to a loan with interest (*and in truth, both the lender and the borrower are disqualified*).

The *Gemara* relates an incident: Two witnesses testified against Bar Binitos. One of them said, "He lent money with interest in my presence." The other one said, "He lent me money with interest." Consequently, Rava disqualified Bar Binitos from serving as a witness.

The *Gemara* asks: But didn't Rava himself rule that one who borrows with interest is disqualified from testifying? Accordingly, the second witness (*who admitted that he borrowed with interest*) is a transgressor, and the Torah said: *Do not place an evildoer as a witness?*

The *Gemara* answers: Rava was following in accordance with another principle of his. For Rava said: Every man is related to himself, and he therefore cannot incriminate himself. [*His testimony is split; we believe him that Bar Binitos lent with interest; we do not believe him that he was the borrower.*] (25a1 – 25a2)

A certain slaughterer was found to have dispensed a *tereifah* (*an animal with a physical defect that will cause its death; it is forbidden to be eaten even if it was slaughtered properly*) as if it was kosher, so Rav Nachman disqualified him (*from acting as a witness*) and removed him (*from his position*). The butcher went and let his hair and nails grow (*as a sign of repentance*). Rav Nachman thought of reinstating him, but Rava said to him, "Perhaps he is tricking us!"

The *Gemara* asks: What then is his remedy?

The *Gemara* answers: He should do that which was suggested by Rav Iddi bar Avin, who said: He who is suspected of dispensing *tereifos* has no remedy unless he leaves for a place where he is not recognized and finds an opportunity of returning a lost article of considerable value, or of discarding *tereifah* meat of considerable value, belonging to himself. (25a2)

Pigeon-flying

The *Mishnah* had mentioned that one who flies pigeons is disqualified from serving as a judge or witness.

The *Gemara* presents two opinions regarding this: In Bavel they explained it to be referring to the people who race pigeons and one person says to the other, "If your pigeon precedes mine, I will give you a certain amount of money." Rabbi Chama bar Oshaya said: It is referring to a pigeon-decoy (*one who puts up decoy-birds to attract other birds into his cote*).

The *Gemara* explains why each opinion did not interpret like the other: The one who maintained that it is on account of "if your pigeon precedes mine," why didn't he say it is because of the "pigeon-decoy"? - He maintains that a pigeon-decoy is only forbidden out of the interest of peace (*it is not regarded as theft, for the pigeons are regarded as legally ownerless*). - The one who maintained that it is on account of "pigeon-decoy," why didn't he say it is because of the "if your pigeon precedes mine"? - He held that pigeon-racers are included in the category of those playing with dice (*and there is no reason to mention them both*). The first opinion maintains that there are two types of gambling: the dice-player relies on his own skill and the pigeon-racer relies on the skill of his pigeon.

The *Gemara* explains why they are both necessary to state. For had he dealt only with the case where a man relies

upon himself, [I might have supposed that] only there was his promise without serious intent, since he thinks, “I feel certain that I know more [than my opponent], [and so I am sure to win]”; but where he relies on his pigeon's ability, I should say [that the gain is] not [illegal]. Again, had the Mishnah dealt only with a case where he relies on his pigeon's ability, [I might have assumed that only then was the gain illegal], as he might have thought: “Surely winning the race depends on the use of the clackers, and I am the more skilled in its use,” but where he depends on his own abilities, I might have said that [the gain is] not [illegal]. Hence both are necessary.

The *Gemara* cites a *Baraisa* which shows that “pigeon-flyers” means “pigeon-racers” (and not pigeon-decoyers): Dice-players include the following:

- Those who play with wooden cubes: and not only with wooden cubes, but even with nutshells and pomegranate peels. And when are they considered to have repented (so they may be eligible to testify)? It is when they break up their wooden cubes and undergo a complete reformation, so much so, that they will not play even for free.
- One who lends with interest: this includes both the lender and the borrower. And when are they considered to have repented? It is when they tear up their documents and undergo a complete reformation, so much so, that they will not lend with interest even to an idolater (which is permitted).
- Pigeon-flyers: those who cause pigeons to fight against each other, and not only pigeons, but even domesticated animals, wild animals, or other types of birds. And when are they considered to have repented? It is when they break up their clackers (used to spur on the pigeons) and undergo a complete reformation, so much so, that they will not do this even in the wilderness (where the pigeons are certainly ownerless).

- *Shemittah* merchants: those who trade in the produce of *Shemittah*. And when are they considered to have repented? It is when another *Shemittah* year comes round and they desist from trading (and even picking their produce; they must declare it ownerless so the poor can take it). Rabbi Nechemiah said: The Rabbis did not mean a mere verbal repentance, but a reformation that involves a distribution of money. How so? He must declare, “I, So-and-so, the son of So-and-so, have amassed two hundred zuz of *Shemittah* produce, and behold, they are given over to the poor as a gift.

At any rate, the *Baraisa* had mentioned domesticated animals (as a type of pigeon-flyer). Now, according to the view that it means pigeon-racing, it is understandable, for racing of animals is also possible. But if it means “pigeon-decoyers,” are animals capable of doing this (to decoy other animals into his corral; the other animals would drive them away!)?

The *Gemara* answers: It is possible to be done in the case of the wild ox (if it is trained to do so); and the *Baraisa* is following the opinion that this is a type of domesticated animal. For we have learned in a *Mishnah*: A wild ox is a species of domesticated animal. Rabbi Yosi said: It is a species of a wild animal. (25a2 – 25b2)

Other Disqualifications

The *Gemara* cites a *Baraisa*: They added robbers and *chamsanim* (those who force others to sell them something).

The *Gemara* asks: But aren't robbers disqualified by Biblical law?

The *Gemara* answers: Yes, but it was necessary to state in respect of one who steals the findings of a deaf-mute, an imbecile, or a minor. [They acquire things only on a



Rabbinic level; the Rabbis decreed that it is regarded as stealing if one takes the items from them – they did this in order to avoid quarreling with their relatives who would want the items as their own.] At first it was thought that this was an uncommon occurrence (and it wasn't necessary to decree that one who steals their findings is disqualified), or that it was forbidden only in the interest of peace in general; but once it was seen that after all, it was someone else's money that was being taken, the Rabbis disqualified them.

*Regarding the *chamsanim*: At first they thought that since they do, in fact, pay money, and they are not intending to steal, there is no reason for a decree; but when they observed that they would first seize the goods (and then throw money in front of the "seller"), they made this decree against them. (25b2 – 25b3)*

*The *Gemara* cites a *Baraisa*: They added herders (who would let their animals graze in fields that did not belong to them), tax collectors and custom collectors.*

*The *Gemara* explains why herdsmen were not included initially: At first they thought that it was occasional, but when it was observed that they sent them there (to graze) intentionally, they made the decree against them.*

Tax collectors and custom collectors: At first they thought that they collected no more than the legally imposed tax, but when they saw that they took more than that, they were disqualified.

*Rava said: The herdsmen mentioned in the *Baraisa* include the herdsmen of both large and small cattle.*

*The *Gemara* asks: But did Rava actually say so? Did he not say that shepherds are disqualified only in *Eretz Yisroel* (where they were strict on account of the mitzvah of settling *Eretz Yisroel*), but outside of *Eretz Yisroel*, they are*

*eligible. Cowherds, however, are qualified even in *Eretz Yisroel*!?*

*The *Gemara* answers: Rava's ruling applies only to those raising animals (but not for grazing). [Small animals are hard to watch that they shouldn't graze in other people's fields, so they disqualified those who raised those animals in *Eretz Yisroel*, but not those who raised large animals; those that let the animals graze, however, are disqualified (even large animals).]*

Logic too supports this. For we learned in the Mishnah: [If one says,] Three cattle herders are acceptable to me [they become eligible]. Surely [that implies that they are normally ineligible] for witnesses? — No: for judges. This is also evident from the expression: Three cattle herders; for if it means, qualified as witnesses, why three? What then: it refers to judges? Then why particularly herders; the same applies to any court of three men unversed in law? — He [the Tanna] means this: Even such as these, who are rarely to be found in populous areas.

Rav Yehudah said: Ordinary herdsmen are disqualified, but an ordinary tax collector is qualified.

*The father of Rabbi Zeira acted as tax collector for thirteen years. When the head of the river would come to a town (to determine how much taxes they should pay), if Rabbi Zeira's father saw the Rabbis outside, he would tell them, "Go, my people, enter your rooms." And when he saw the ordinary inhabitants of the town, he would say to them, "The head of the river is coming to the city, and now he will slaughter the father in the presence of the son, and the son in the presence of the father (he will demand a high tax)." They all hid themselves. When the chief arrived (and demanded a high tax), he would say, "From whom shall I collect the money from?" Before he died, he said, "Take the thirteen *ma'ah* that are tied in my handkerchief and return them to So-and-so, for I once took them from him*



as taxes, but at the end, I did not need them.” (25b3 – 26a1)

HALACHAH ON THE DAF

Doing Teshuvah

The *Gemara* recounts that when Rav Nachman found out that there was a butcher who sold *tereifah* meat, he dismissed him from his post. This butcher went ahead and grew his hair and nails, in order to degrade himself as a form of *teshuvah* (*repentance*). Rava pointed out that this might be a clever way to get back his job, and it does not prove that the butcher sincerely repented. The *Gemara* concludes that the only way we can ascertain that the butcher has reformed, is to see how he acts in a place that no one recognizes him, and if in that place he returned a lost item to its owner, or if he declared that he had *tereifah* meat and he discarded it, then we know that he has sincerely repented.

The Rambam in Hilchos Teshuvah (2:1) rules that the highest form of repentance is when a sinner is presented with the exact same sin and he does not transgress it again due to *teshuvah*, and not because he is afraid someone will see or because he lacks the strength to sin. Although when a person does *teshuvah* in his later years, it is clear that his desire to do *teshuvah* stems more from a lack of strength to sin than sincere repentance, nevertheless, his *teshuvah* is still accepted. Furthermore, even a sinner that repents on his last day of life, all his previous sins are forgiven.

The Rambam explains what *teshuvah* entails. There are three steps which are vital for the sinner to do in order to have done *teshuvah* properly.

1) **Letting go of the sin:** The sinner must make a firm commitment never to repeat this sin.

2) **Remorse:** The sinner must feel sincere remorse that he has sinned.

3) **Viduy:** The sinner must explicitly say that he has sinned, and elaborate as to which sin he committed.

In addition to the above, it is also proper for the ex-sinner to cry out to Hashem, give *tzedakah*, and to exceedingly distance himself from the sin he had committed. Also it is commended to publicize his sins that are *bein adam l'chaveiro* and his subsequent repentance. The logic being so that the fellow whom he sinned against should forgive him (Kessef Mishnah).

DAILY MASHAL

HaGaon Rav Chayim of Brisk zt”l educated his son, HaGaon Rav Yitzchak Zeev zt”l, to be involved in Torah always, in the simplest sense, even when dealing with mundane matters. Once Rav Yitzchak Zeev celebrated a bris for one of his sons. Before the bris, when he was occupied with different urgent arrangements, his father approached him and asked him a deep question needing concentration. “Now?” wondered the people present. “Yes, indeed!” he replied.