

OVERVIEW of the Daf

1) Clarifying the terms **נשך** and **תרבית** (cont.)

The Gemara concludes citing the Baraisa that demonstrates that the terms **נשך** and **תרבית** apply to all forms of **ריבית**.

Ravina asserts that expositions are not needed to prove that both **נשך** and **תרבית** apply to food and money.

Ravina's assertion is unsuccessfully challenged.

2) The prohibitions of interest, theft and **אונאה**

Rava explains why it is necessary for the Torah to prohibit interest, theft and **אונאה** separately when seemingly any one of these laws should be able to be derived from one of the others.

The Gemara agrees that any one of the prohibitions could not be derived from one of the others, but the Gemara suggests that the Torah teach two of the prohibitions and the third should be able to be derived from those two.

The Gemara agrees that it was unnecessary for the Torah to mention theft and suggests that it is necessary for the prohibition against withholding an employee's wages.

This explanation is unsuccessfully challenged.

The reason the prohibition against **גנבה** is mentioned is explained.

The necessity for the Torah to directly refer to the prohibition against false weights and measures is explained.

A Baraisa elaborates on some of the details of the prohibition against false weights and measures.

3) Invoking the exodus from Egypt in connection with some **mitzvos**

Tangentially, Rava explains why the Torah invokes the exodus from Egypt in connection with interest, **tzitzis** and false weights and measures.

(Continued on page 2)

Distinctive INSIGHT

Why does the Torah prohibit collecting interest and theft?
 'אמר רבא למה לי דכתב רחמנא לאו ברבית לאו בגזל וכו'

Rava probes to determine why the Torah had to record a separate verse to prohibit taking of interest as well a verse to prohibit theft. Rashi explains that being that these cases all involve causing financial loss to another person, if the Torah would have just written this halacha in one form or the other we would realize that all forms of causing such a loss to a fellow Jew would be prohibited.

Chasam Sofer notes with surprise that Rava could think that we would know that taking interest would be prohibited if we would simply be taught that theft is sinful. Without an explicit verse to teach that taking interest is wrong, we would certainly think that taking interest is not illegal. Why should a person not be allowed to collect a fee for the time-value of money he lends, especially when the Gemara itself mentions that theft which is against one's will is different than interest which is given willingly? We must try to understand the Gemara's question when it asks the need for a verse to teach that taking interest is unnecessary, and that it could be derived from the law of theft.

Tosafos HaRosh explains that, in fact, the Gemara's knew that the verse prohibiting interest was definitely necessary, but the Gemara was only asking about the need for two verses, one for theft and another for overcharging (**אונאה**).

Ritva explains that there are two verses which prohibit collecting interest. One is for the lender not to collect interest (**אל תקח מאתו נשך ותרבית**), while the other is a warning for the borrower not to pay interest (**לא תשיך לאחיד**). He explains that the question of Rava was only in reference to the verse of the lender not to take interest, which is sometimes exacted against the will of the lender, and can be interpreted as a form of causing a financial loss for a fellow Jew. However, the verse for the borrower not to pay interest is clearly necessary, as we would not assume that it is prohibited. Once the Torah lists a special verse to teach that the borrower may not pay interest to the lender, we learn that this is a prohibited form of causing a financial loss to a fellow Jew. Now it seems unnecessary for the Torah to also teach that the borrower may not collect interest, as this would be a form of theft and obviously illegal. Chasam Sofer point out that this, then, is the question of Rava—why does the Torah list a separate prohibition for the lender when we would have known that this is not permitted?

Many Achronim concur that Rava's question was not that there is no need at all to have a verse to teach that interest is prohibited, but he rather questions the need for both verses. ■

REVIEW and Remember

1. What is the source that the prohibition against interest applies to the lender and the borrower?

2. What is derived from the Torah prohibition against **גזילה**?

3. Why is the exodus from Egypt invoked in connection with **tzitzis**?

4. What is the point of dispute between R' Elazar and R' Yochanan?

HALACHAH Highlight

Recovering interest from the lender

אי"ר אלעזר רבית קצוצה יוצאה בדינין

R' Elazar teaches that prearranged interest can be recovered through judges

Shulchan Aruch¹ rules that when a borrower pays prearranged interest, thus violating a Biblical prohibition, it can be recovered through judges. However, the judges may not forcefully take the money from the lender and give it to the borrower; instead they may apply pressure, even in the form of lashes, to get the lender to return the money out of his own volition. Taz² asserts that judges will not encourage the lender to refund the interest he collected unless the borrower files a claim to recover that money. Proof to this assertion is found in Rashi's comment to our Gemara³. Taz then reports that he applied this principle to an interesting case. Reuven borrowed money from Shimon and found himself without the means to pay back his loan. The only money that could be accessed was interest that Reuven had once paid to Levi. Shimon approached Levi and demanded that Levi release the interest that Reuven paid him so that he (Shimon) could be repaid the money that he lent Reuven. Taz ruled that Shimon did not have the authority to demand any money from Levi. Only the borrower has the right to demand a refund from his lender, but not a third party.

Rav Yaakov Emden, cited in Pischei Teshuva⁴, quotes Knesses Hagedolah who disagrees with Taz. Knesses Hagedolah argues that even if we were to accept the assertion that the lender does not have to refund the interest he collected unless the borrower asks for a refund, nevertheless, Beis Din should have authority to compel Reuven to ask Levi for a refund. Since paying back a loan is a mitzvah, we should demand Reuven to recover that money so

STORIES Off the Daf

"And you shall fear your G-d"

אל תקח מאתו נשך ותרבית ויראת מאלקיך

Rav Dovid of Tchoortkov, zt'l had exceedingly profound yiras shamayim. Some people felt that perhaps various issues he warned against were merely middas chassidus with no source in chazal, but Rav Meir Arik, zt'l, disagreed.

He would say, "First of all, the rebbe is a Sar HaTorah who fulfilled to the utmost the verse: 'ויראת מאלקיך'. For example, the verse states, 'אל תקח מאתו, נשך ותרבית ויראת מאלקיך' —'To not take from him נשך or תרבית, and you shall fear

your G-d.' Chazal discuss at great length the beginning of this posuk which adjures us not to take interest from our fellow Jews. Starting with the Mishnah: 'איזהו נשך, וזהו תרבית?'—What constitutes נשך, what constitutes תרבית?' Chazal dedicated an entire perek to explaining the precise answer to this pressing question. We find that the Rishonim and Achronim explain these halachos at very great length as do the Tur and Shulchan Aruch after them. The entire discussion is to clarify precisely what violates this prohibition.

Rav Meir Arik explained, "Just as we find that there are thousands of ways to explain the depth of the beginning of this verse, there are at least as many levels to the end of the verse which adjures us to

fear Hashem. Yet most people—even those who are learned—hardly give the end of the verse a single thought. It never crosses their mind that attaining this greatness does not take less effort and careful study than mastering the halachos of usury. But the Tchoortkover Rebbe is different. He has put in the work and achieved this elusive aim; he is a genuine yarei shamayim and merits to live the words of Chazal truly."

Rav Meir concluded, "I have also wondered at some of the rebbe's statements when I heard them. Yet I have never heard anything from him that I did not eventually find comes out of the words of chazal in one sefer or another!"¹ ■

1. שבט מישראל, ע' שפיג

(Overview. Continued from page 1)

Ravina explains why the exodus from Egypt is mentioned in connection with the prohibition against eating שרצים.

The intent of the word המעלה in connection with the prohibition against eating שרצים is explained by Ravina.

4) The two halves of the Mishnah

R' Avahu and Rava explain that the first half of the Mishnah refers to Biblical forms of interest whereas the second half of the Mishnah refers to Rabbinic interest.

R' Avahu also teaches that even with regards to Biblically prohibited interest a righteous child is permitted to benefit from the interest collected by his wicked father who charged interest.

R' Avahu teaches that the first part of the Mishnah involves prearranged interest whereas the second half of the Mishnah involves אבק רבית.

5) Recovering interest

R' Elazar rules that prearranged interest can be recovered through judges as opposed to אבק רבית.

R' Yochanan asserts that even prearranged interest cannot be recovered through judges.

Three different sources are presented that can serve as the source of R' Yochanan's position. ■

that he could fulfill the mitzvah of paying back the money he borrowed from Shimon. Rav Yaakov Emden supports the ruling of Taz and adds that at the very least, if Reuven waived the right to demand a refund from Levi or his actions indicate that he waived that right, he may no longer demand a refund from Levi. ■

1. שו"ע יו"ד סי' קס"א סעי' ה'.
2. ט"ז שם סק"ג.
3. רש"י ד"ה ע"כ רבית קצוצה.
4. פת"ש שם סק"ה. ■