

## OVERVIEW of the Daf

### 1) The Mishnah's example of תרביית (cont.)

Rava offers an alternative explanation of the Mishnah's example of תרביית that is based on a Baraisa of R' Oshaya.

Rava draws three conclusions from R' Oshaya's teaching.

### 2) Payment in advance

Rav maintains that a buyer may pay in advance for the future delivery of produce but may not expect cash if the value of the produce increases before the time of delivery.

R' Yannai disagrees and writes that there is no difference between delivering the produce or the cash value.

Rav's opinion is unsuccessfully challenged from a Baraisa.

Shmuel offers an alternative explanation of the Baraisa to deflect the challenge to Rav's position.

A Baraisa is cited that presents R' Yehudah's opinion regarding contingent interest.

Abaye suggests one explanation of the point of dispute in the Baraisa.

Rava suggests an alternative explanation of the Baraisa.

Rava draws an inference from R' Yannai's ruling.

Rava's inference is unsuccessfully challenged.

Rabbah and R' Yosef suggest an explanation for the position of Rabanan who permit payment in advance for merchandise the seller does not possess.

Two unsuccessful challenges to this explanation are presented.

Rabbah and R' Yosef assert that when a buyer pays in advance for produce, he must view the produce to confirm the sale.

The circumstances of this case are clarified.

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## Distinctive INSIGHT

### Resolving the Baraisa and the opinion of Rav

רבא אמר ריבית על מנת להחזיר איכא בינייהו

The Gemara brought a Baraisa in the name of R' Oshaya where Reuven owes Shimon one hundred zuz. Shimon came to Reuven to collect his money, as Shimon needed his money to buy grain. Reuven offered to sell Shimon, his lender, an amount of grain worth one hundred zuz as payment for the loan, and Shimon agreed. The hundred zuz of wheat was not yet delivered, and when Shimon later came to collect his wheat, it had increased in value. Reuven offered to supply wine instead, equal in value to the increased value of Shimon's grain now in his possession. Shimon agreed. The Baraisa rules that this scenario can legally continue as long as Reuven actually owns and is in possession of the commodity he offers to provide, even though Reuven will finally deliver a product worth much more than the one hundred zuz which he originally received. If Reuven does not have the product, he cannot promise a future commodity which might be worth more than his current debt.

Rava comments that this Baraisa indicates that we hold like Rav Yannai, who says that a borrower may offer fruit instead of payment of a loan, and when the time comes to pay, if the borrower no longer has fruit, he must pay cash per the increased value of what the fruit would have now been worth. This opinion of Rav Yannai is disputed by Rav who says that while the borrower may pay back fruit itself that has increased in value, "אין עושין אמנה בדמים—It is not permitted to pay back money instead of fruit that has increased in value." Rav understands that the Baraisa which rules that paying cash may be permitted (as long as the borrower owned the fruit being offered) applies only where the fruit of the borrower was actually acquired by the lender (משך) or where the fruit was set aside in a designated corner. In this case the fruit is considered owned by the lender, and it was in his possession as it increased in value.

Shmuel resolves the conflict between the Baraisa and Rav saying that the Baraisa is the opinion of R' Yehudah who says that it is permitted to arrange a case of צד אחד ברבית—where the possibility of interest will occur only under certain circumstances, but under others there will be no increased payment. Due to the uncertainty, even if the price does go up, the arrangement is legal. Rashi adds that this is only permitted in a sales context, but not one of a loan, so even R' Yehuda would say that lending סאה בסאה would be prohibited. Tosafos disagrees and says that the view of R' Yehuda to allow צד אחד ברבית applies to a sale as well as to a loan. סאה בסאה is prohibited when the borrower has no control over the price fluctuations and his payment. ■

## REVIEW and Remember

1. Explain עושין אמנה בפירות.
2. What is צד אחד ברבית?
3. Why is it permitted for a buyer to pay in advance for merchandise the seller does not yet possess?
4. How does R' Nachman capture the essence of interest?

# HALACHAH Highlight

## *Paying the lender more than the principal value of the loan* מתנה בעלמא הוא דיהיב ליה

*It is merely a gift that he is giving him*

**S**hulchan Aruch<sup>1</sup> rules that if a borrower repaid more money than he borrowed but it is given in a way that looks as though it is being given as a gift (as described in the Gemara) the lender is permitted to keep that money. Later authorities question this ruling. There is a prohibition against **ריבית מאוחרת** – money that is given to the lender after the loan is paid in full. Rambam<sup>2</sup> prohibits the lender from accepting this additional money even if the borrower does not specify that it is interest for the loan, and it certainly should be prohibited for the borrower to give the lender more money at the time he is paying back the principal of the loan, even if he does not specify that the additional funds are for interest.

Machaneh Ephraim<sup>3</sup> suggests that Rambam's prohibition against **ריבית מאוחרת** even when the borrower does not specify that the additional funds are an interest payment is limited to a case where the money is given without specifying its purpose. If, however, the borrower specified that the money is a gift there is no prohibition. Since the conditions and circumstances in our Gemara point to the fact that the money is a gift rather than an interest payment, it is permitted even at the time of payment of the loan.

Taz<sup>4</sup> suggests that Rambam's strict ruling applies only

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R' Ashi applies this ruling to an additional case.

### 3) R' Nachman's three interest rulings

R' Nachman states that interest involves a reward for waiting for one's money.

R' Nachman permits the seller to give the buyer a larger quantity for payment in advance if the seller has the merchandise in his possession.

The novelty of the ruling is clarified.

R' Nachman presents guidelines for when a borrower is permitted to keep the additional money the lender gave him.

The Gemara begins to clarify the circumstances of this halacha. ■

when the intent of the borrower is to make an interest payment. Therefore, in the case of our Gemara there is no prohibition upon the lender from taking additional money as long as it was not the intent of the borrower to make an interest payment. Rambam's ruling that **ריבית מאוחרת** is prohibited even when the borrower does not specify that the additional funds are an interest payment applies when the intent of the borrower was to make an interest payment even if that intent was not articulated. When his intent is to give a gift rather than to make an interest payment it is permitted. ■

1. שו"ע חר"מ סי' רל"ב.
2. רמב"ם פ"ה מהל' מלוה ולוה הי"א.
3. מחנה אפרים רבית סי' י"ז.
4. ט"ז יו"ד סי' ק"ס סק"ג. ■

# STORIES Off the Daf

## *A question of interest*

"האי מאן דיהיב זווי לקיראה ..."

**A** certain American traveled to England on important business. He was a fairly wealthy businessman and was well known and trusted by many people in the community. The American approached an English business associate and requested that he allow him to purchase British pounds sterling with dollars.

The associate explained that he would be happy to give him the amount of pounds that he wanted but he would prefer that the American

would deposit their dollar value into the bank when he returns to America since he owed a large sum to another American businessman. The American was happy to comply, but was worried about transgressing the prohibition against taking interest.

The American said, "Since you are loaning me money and I am repaying without receiving the commission you would have had to pay the bank, maybe we are transgressing the prohibition against interest?"

The Englishman asked a rav who replied as follows, "Since it is possible for you to find someone perfectly willing to exchange his dollars for pounds sterling with no commission, presuma-

bly, there is no problem of interest here."

But since the halachos of interest are very complex, this rav wished to consult with the Minchas Yitzchak, zt"l, just to be sure.

He answered, "This is not prohibited interest even if you cannot find anyone else willing to exchange pounds for dollars without a commission. This case can be compared to the Gemara in Bava Metzia 63. There we find that it is permitted to sell wax which will be delivered at a later time for a discount price in exchange for immediate payment. Your exchange of value for value in currency here is no different."<sup>1</sup> ■

1. שו"ת מנחת יצחק, ח"ד, סימן צ"ט, אות ג'