

OVERVIEW of the Daf

1) Dice-players (cont.)

The Gemara refutes the attempt to resolve the challenge to Rami bar Chama's explanation why dice-players may not testify or serve as a judge.

The assertion that the term "אימתי" indicates that there is no dispute is unsuccessfully challenged.

2) Interest

Rava states that one who borrows on interest is disqualified to testify and serve as a judge.

This explanation is challenged and explained to mean that all those involved in a loan on interest are disqualified.

A related incident is recorded.

Another incident is presented that involves a butcher who wanted to be reinstated after it was discovered that he was selling non-kosher meat.

3) Pigeon-flyers

Two explanations for the disqualification of being a pigeon-racer are presented.

Each position explains why he rejects the other's explanation.

The exchange between the two opinions is recorded.

A Baraisa is cited and explained that seems to support the opinion that the Mishnah refers to those who race pigeons.

This proof is rejected.

4) Disqualified to testify and judge

A Baraisa adds two more people who are disqualified to testify or serve as a judge.

The Gemara elaborates on the thief that needed to be added to the list.

The reason these two categories of people were added later is explained.

Another Baraisa adds three more categories of people to the list.

The reason these three categories of people were added later is explained.

Rava clarifies that the shepherd mentioned includes someone who watches small as well as large animals.

This explanation is unsuccessfully challenged from a Baraisa.

Support for the alternative interpretation of the Baraisa is suggested but rejected.

Further discussion on this matter is presented.

R' Yehudah suggests a distinction between the disqualification of a herder and a tax collector.

An incident involving a righteous tax collector is retold. ■

Distinctive INSIGHT

Disqualified due to borrowing a loan for interest

בר ביניתוס אסהידו ביה תרי סהדי חד אמר קמי דידי אוזיף בריביתא, וחד אמר לדידי אוזפי בריביתא. פסליה רבא לבר ביניתוס

The Gemara tells the story of Bar Binitos. Two witnesses came to the court of Rava and testified against Bar Binitos. One witness said that he had lent money to a borrower with interest, while the other witness said that he himself had borrowed money with interest from Bar Binitos. As a result of these two witnesses both saying that Bar Binitos had lent money with interest, Rava disqualified Bar Binitos from testifying. He was in violation of the sin of lending with interest, and, as a result, he was classified as a sinner who is disqualified from testifying in a Jewish court.

The Gemara asks, it is Rava himself who says that one who borrows with interest is also disqualified from testifying, so how can we accept the testimony of the second witness who said of himself that he borrowed money with interest from Bar Binitos? The Gemara answers that Rava also said (earlier, 9b) that a person is not believed to establish himself to be a רשע. Although the second witness is believed when he said that Bar Binitos lent with interest, he is not believed regarding his statement about himself when he said that he was the borrower.

Rosh writes that one who borrows with interest is also in violation of the sin of "לא תשיך." Although a person becomes disqualified to testify when he demonstrates that he is willing to violate a Torah law in order to gain financially, and here the borrower is actually paying money rather than gaining, nevertheless the actions of the borrower are still motivated for financial gain, as he wishes to borrow the money at all costs, even at the expense of paying interest in violation of the Torah's guidelines.

Meiri explains that both the lender and the borrower are in violation of the law not to lend money for interest, and they are considered sinners immediately the moment the loan is given,

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REVIEW and Remember

1. What is the halachic implication that a person is related to himself?

2. What are the two interpretations of the Mishnah's case of pigeon-flyers?

3. Why were people who steal lost objects found by minors disqualified from testifying?

4. Why is an ordinary tax-collector assumed to be a qualified witness in contrast to a herdsman?

HALACHAH Highlight

The disqualification of a dice-player

המשחק בקוביא אלו הן המשחקים בפיספסים

One who plays dice this refers to one who plays with wooden cubes

Rambam¹ ruled that dice playing is considered a form of rabbinic theft (גזל מדבריהם). Magid Mishnah² questions this from the fact that we follow the opinion of R' Sheishes that dice playing is not an אסמכתא and the reason dice-players are disqualified from testifying is that such people are not involved with something that is beneficial to society (אין עסוקין ביישובו של עולם). Why then does Rambam refer to dice-playing as a form of rabbinic theft?

Kesef Mishnah³ suggests that Rambam, in fact, holds like Rami Bar Chama that dice-playing is an אסמכתא and prohibited as a form of theft. This is limited, however, to one who plays dice with another Jew. However, if one plays dice with a gentile or even with a Jew but where money does not exchange hands, it is not considered theft. Although in these circumstances one does not violate the prohibition against theft, nevertheless, it is not considered productive behavior that is beneficial to society.

Tumim⁴ suggests an alternative explanation for Rambam. He writes that Rambam follows R' Sheishes that dice playing does not involve a form of rabbinic theft. However, he also follows the

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even before the borrower actually pays a penny of the interest. The fact that he is paying rather than collecting makes no difference in this regard, as his actions are driven for material gain, and this categorizes him as a רשע דחמס, a sinner who cares more about money that he does to be in compliance with Torah law. ■

opinion in the Gemara (27a) that even someone who is wicked in a way that does not involve money is disqualified from testifying. However, this is only true if the person violates a Biblical command but someone who violates a rabbinic injunction is disqualified only when it involves money. He also holds that according to R' Sheishes a dice-player is a thief, albeit only rabbinically since he holds that an אסמכתא is a binding agreement. Accordingly, Rambam elsewhere⁵ differentiates whether the dice-player engages in this activity for a living or only recreationally. If it is something he does for a living it is considered a rabbinic transgression involving money that disqualifies him from testimony but if he does so only recreationally it involves a rabbinic transgression that is done for pleasure but is not money-related and thus he would remain qualified to testify. ■

1. רמב"ם פ"ו מהל' גזילה ה"י.
2. מגיד משנה שם.
3. כסף משנה שם.
4. תומים חו"מ סי' ל"ד ס"ק ט"ו.

STORIES Off the Daf

The Gabbai's Teshuvah

"ההוא טבחא דאשתכח..."

A rumor began to circulate concerning a certain gabbai tzedakah. If what they said was true, he would have been obligated to step down from his position, but the local rabbi refused to accept the rumors and the gabbai continued at his job. A short time later, the gabbai admitted that the allegations were true and he had committed the crime of which he had been accused a number of times. The rabbi immediately revoked his semichas chaver and he was forced to step down from his position and confess his unseemly conduct in public. The gabbai did so in a very contrite manner and he later asked the rabbi what else he needed to do to regain his lost position, but the rabbi was unsure.

The rabbi also wondered if he had done right. Perhaps he should have listened to the rumors initially, and maybe it

had not been correct to order the gabbai to confess in public. It was also not so clear that they had a right to force him to abandon his position based only on a rumor and his own admission of guilt.

In order to gain clarity on these questions he told the entire story to the Chasam Sofer, ז"ל, and asked him to render a halachic ruling. "You certainly did right to ignore the rumor at first since it is wrong to invalidate a person's status merely due to a rumor, however persistent. When it comes to these kinds of allegations, we only give credence to witnesses. You therefore have no reason to doubt your original psak.

"The moment he confessed, it was definitely the community's duty to force him to resign his position since he is not worthy of a position of trust. You were also correct to force him to confess in public; since his sin was known to the public, his repentance should be in public. It is regarding just such a case that the verse in Mishlei writes, 'מכסה פשעיו לא יצליח'— 'He who hides his sin shall not succeed.'¹

"But regarding giving him a path to teshuvah, this is more complex. Of course by merely regretting his sin, admitting to it and resolving never to do it again, he has done teshuvah on a certain level and is a tzaddik, but this is certainly not enough to atone for a sin that invokes כרת. Yet even if he were to follow a path of atonement, this would not help us reinstate him to his position, since the motivation of the teshuvah could very well be to regain his position. As we find in Sanhedrin 25, the only repentance acceptable in such a case is if a person who fell in monetary matters goes to a distant place where he is not recognized and restores a large sum of money or admits that one of his animals is treifa and suffers a loss.

"Although Hashem knows the thoughts of man and will certainly accept his teshuvah if he is sincere, we are unable to judge and cannot rely on appearances alone."² ■

1. משלי, כ"ח: י"ג
2. שו"ת חת"ס, או"ח, סי' קע"ה ■