

PIRCHEI SHOSHANIM SHULCHAN ARUCH LEARNING PROJECT©

Hilchos Ribis Shiur 1

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Ribis 1

Siman 160, Seif 1

The Prohibition of Ribis

Before embarking on our study of *ribis*, it is important to realize the severity of the prohibition. We will see in this lesson that seven of the three hundred sixty five *lavin* in the Torah can be violated when one lends money with interest! The **Maharal**¹ says, “There is no other *issur which* has been described in such a grave manner as *ribis*.”

Let us mention some of the dire consequences, which the **Chazal** say result from lending with interest. The **Gemara**² says that one who lends with interest becomes poor and never recovers. Others, who become poor, often recover, but not the one who lends for *ribis*.

It says³ that one who lends money with interest will not return to life at the time of *techiyas hamaisim*. As we know,⁴ *techiyas hamaisim* is given in reward for one’s body for having assisted his *neshomo* in carrying out the *mitzvahs*. Therefore, one suffers a total loss by failing to arise in *techiyas hamaisim*.

This is not a mere threat but it was an actual occurrence. It happened in the one instance recorded in *Tanach*, where **Hashem** showed the prophet, **Yechezkail** an

¹ Nesivos Olom; Nesiv Hatzedoko, Chapter 6.

² Bava Metsiyo 71, A.

³ Yalkut Shimoney; Yechezkail, number 375.

⁴ See the Da’as Tevunos.

occurrence of *techiyas hamaisim*, in order to give us a glimpse of the future. The **Midrash** records that when **Yechezkail** saw the dead return to life in his prophecy, he noticed one person who did not return to life. When he asked for an explanation, he was told that this man lent for *ribis*, which served to disqualify him from returning to life at *techiyas hamaisim*. This is especially foreboding since the entire purpose of this prophecy was to give us a clear picture of what *techiyas hamaisim* will look like in order to strengthen our *emuno*.

In another instance, the **Midrash**⁵ says that one who lends for interest violates all the commandment of the **Torah**, and will not merit having even one angel who will speak up on his behalf on the final day of reckoning.

In fact, the *posuk*⁶ itself states that one who lends with interest violates **Hashem's** purpose in redeeming us from Egypt and giving us Eretz Yisroel. The **Maharal** explains the basis for all these statements. The basic idea is that **Hashem** desires the unity of the Jewish nation and it is for this purpose that he redeemed us from Egypt and gave us Eretz Yisroel. When people assist each other, they are uniting the Jewish people by their act of kindness. One who takes interest acts in the diametrically opposite manner. Rather than assist his fellow Jew; he is taking advantage of his fellow Jew's misfortune in order to enrich himself. The **Maharal**⁷ says that taking interest is the exact opposite of *tzedoko*.

Let us begin by outlining the text of the **Shulchan Aruch** in seif 1.

Mechabair

- 1) One must be careful not to violate the prohibition of ribis.**
- 2) One who engages in this practice violates a number of Biblical prohibitions.**
- 3) Even the borrower, the guarantor and the witnesses violate the prohibition.**

⁵ Shemos Reblo, Chapter 31.

⁶ Vayikra 25.

⁷ Ibid.

Ramo

- 4) **It makes not difference if the borrower is poor or rich.**
- 5) **The borrower only violates a prohibition of ribis if the rives was forbidden by the Torah. When an action was only included by the Rabbonon in the violation of ribis, the borrower does not violate the specific prohibition of ribis which was placed on the borrower. However he violates the issur of lifnai evair. (This is the general prohibition that the Torah placed on one who causes other to sin.)**

Special Care to Avoid Ribis

The five statements which are given by the **Mechabair** and **Ramo** require further elaboration. Firstly, one must understand the need for the **Mechabair's** first statement since it would seem obvious that one must take heed to avoid prohibitions.

The **Tur**⁸ explains that one must be especially careful to avoid the issur of **ribis** because it is very attractive. If one starts by violating a minor infringement, he will eventually come to major infractions.

On another occasion,⁹ the **Tur** says, “One must be **very careful** to avoid the prohibition of **ribis**.” The **Bach**¹⁰ explains that the reason the **Tur** says one must be **very careful** is because it is very easy to stumble into a violation of the prohibition of ribis. For example, even if one derives a minute benefit from the borrower, he violates this prohibition. Furthermore, even by means of speech one can violate this prohibition.

In fact, the **Mechabair** writes in his heading that the purpose of this siman is to teach us the gravity of the infraction of **ribis**, and how one must be very careful to avoid violation. The actual content of this siman is the extent of the violation. The fact that the **Mechabair** seemingly states a different purpose lends credence the **Bach's** explanation that the reason one must be especially careful is due to its broad extent.

⁸ Section 18 (page 364).

⁹ Section 1 (page 357).

¹⁰ Commentary, *ibid*.

Thus, we should understand that the **Mechabair** is really telling us that we must be unusually careful when we deal with actions which could involve *ribis* because the extent is so broad and because it is so attractive.

Which Violations

Statement (2) of the **Mechabair** is that there are a number of Biblical violations. The **Rambam**¹¹ enumerates the following six Biblical violations.

- 1) One shall not act as a *noshe*. (The terminology of the Torah is “lo sechey lo *kenoshe*”The term “*kenoshe*” will be explained shortly.)
- 2) One may not lend money with interest.
- 3) One may not lend food for profit.
- 4) One may not take *ribis*.
- 5) One may not place on the borrower an interest-bearing loan (known as “*lo sesemen*”).
- 6) One may not cause others to sin. (*lifnai evair*)

Not Acting as a Noshe

There is a dispute between **Rashi** and the **Magid Mishno** how the wording of the first violation (1) implies that one may not charge interest. **Rashi**¹² says that the lender violates this prohibition when he pressures his borrower to pay the loan. The **Tosephos Yom Tov**¹³ finds **Rashi** problematic since it seems that this prohibition applies by every interest-bearing loan, whereas, according to **Rashi** there will be cases when one who loans with interest will not violate this prohibition.

¹¹ Hilchos Malve Ve'loveh (4,2). R. Akiva Eiger in his glosses on the Shulchan Aruch records them.

¹² Commentary to 75 B beginning words malve ovair.

¹³ Commentary to the Mishna--Bava Metsiyo, Perek 5, Mishna 11.

The cases where according to **Rashi**, the prohibition does not apply are those where the borrower voluntarily remits payments obviating the need for the lender to apply pressure.

The **Tosephos Yom Tov** continues that the following explanation of the **Magid Mishno** avoids this difficulty.

The **Magid Mishne**¹⁴ explains that the **Torah** includes in this prohibition all the tactics which are employed by one who wishes to pressure those who borrowed from him to pay up their debts. One of those tactics is lending with interest since the fact that interest accrues serves as an inducement on the borrower to pay up on time.

The **Divrei Sofrim**¹⁵ proves that the **Ramban**¹⁶ agrees with the **Magid Mishne** and not with **Rashi**. He further mentions that there is a notable distinction between **Rashi** and the **Magid Mishne** concerning the exact instance when one violates the *issur*. According to the **Magid Mishne**, as soon as one lends he violates this prohibition but according to **Rashi**, he only incurs a violation when he brings pressure on the borrower to pay. A further distinction between **Rashi** and the **Magid Mishno** is whether one rectifies the violation by returning the interest. According to **Rashi**, he will not rectify the violation because the prohibition is on the action of pressuring the borrower to pay and not for actually receiving the interest. Therefore, even if he returns the interest, he still took an action of bringing pressure to pay which has not been rectified.

Placing an Interest-Bearing Loan

The precise time when one is guilty of violating the fifth infraction is a matter of controversy as well. The question is whether one is already guilty when he sets up the loan or when he collects. This is an especially important *issur* since this is the *issur* which includes even the peripheral elements in a loan such as the guarantors and the witnesses. The controversy is based on a section of **Gemara**¹⁷ which specifically deals with this question. The text is the following:

¹⁴ Commentary to the Rambam, *ibid*.

¹⁵ Aimek Dovor, note 9.

¹⁶ Commentary to Bava Metsiyo 62 B.

¹⁷ Bava Metsiyo 62 A.

Braiso:

R. Nehemiah and R. Elazar b. Yacov: One is absolved from a (Rashi: 18 both the injunction and punishment for) ribis violation by fulfilling the positive commandment which is involved.

The **Gemara** discusses the meaning of this statement. At its conclusion, the **Gemara** explains that the positive mitzvah is to destroy the loan document. The **Gemara**, furthermore, notes that the *Braiso* implies that there are opinions known as the **Tanno Kamo** who disagree with these two tanaim. The **Gemara** explains that the two sides dispute whether destroying the loan document will negate the *issur* which one violated when he initially wrote the document. The **Tanno Kamo** maintains that it does not because the *issur* was violated when one set up the loan. Therefore, the *issur* has already been violated and tearing up the document will have no bearing on this *issur*. The opinion of **R. Nehemiah** and **R. Elazar b. Yacov** is that tearing up the document is effective since one only violates this *issur* when he collects the loan. One who tears up the document succeeds, therefore, in preventing the parties from violating this *issur*.

We have thus established that the issue whether one violates issue whether one violates *issur* 5) when the loan is established or when one collects is the subject of a dispute between the **Tanno Kamo** and the other two tanaim. The **Gemara** brings support for the opinion of the **Tanno Kamo** from the **Mishno**¹⁸ which includes the witnesses among those who violate this *issur*. The witnesses are not part of the collection process¹⁹ and yet the **Mishno** rules that they violate this *issur*. Therefore, it is clear that the **Mishno** maintains that they violate this *issur* when they witness the initial interest-bearing loan. The **Gemara** argues²⁰ that if as far as witnesses are concerned the *issur* is violated at the time of the initial loan, we can deduce that the other parties involved also violate the *issur* at that time.

¹⁸ Bava Metsiyo 75 B.

¹⁹ See Rashi on 62 A, beg. words detnan to learn how the guarantors are part of the collection process.

²⁰ See Rashi beg. words ello lav.

Which Opinion is Authoritative

There is a controversy among the poskim whether one should follow the opinion of the **Tanno Kamo** or the other **Tanaim**. The **Malava Sasson**²¹ is certain that we follow the opinion of the **Tanno Kamo**. He continues that one violates this prohibition regardless if the loan is written in a document. (*milve beshtar*) or is verbal (*milve ba'al peh*). In either case, all the parties to the loan violate this *issur* from the **Torah**.

The **Sha'ar Deoh**²² disagrees with the **Mahara Sasson** and maintains that we do not pasken like the **Tanno Kano**. He maintains, therefore, that if one does not collect the debt no one violates the *issur*. The **Bris Yehuda**²³ claims, however, that the majority²⁴ of poskim (he enumerates several) agree with the **Mahara Sasson**.

Lifnai Evair

The sixth *issur* mentioned by the **Rambam** is not specific to *ribis*. Whenever one enables someone else to violate the **Torah's** laws, (according some opinion, even rabbinic) he violates this *issur*. Since the lender enables the borrower (and vice versa) to violate the prohibition of *ribis*, he violated the *issur* of *lifnai evair* as well.

The reason why causing others to sin is included in this prohibition is because the full statement of the posuk is that, "One may not place a stumbling block in front of the blind." A person who violates the **Torah** is blinded by his desires, and *avairos* are stumbling blocks.²⁵

²¹ Responsa 162. See from paragraph beg. with the words kol zeh.

²² Commentary to Yoreh Deah 159. He is brought in the Birur Halocho of the Divrai Sofrim.

²³ Chapter 1, halocho 7 and footnote 34.

²⁴ For example, he brings Responsa 107 of the Chavos Ya'ir who clearly states that this is the halocho.

²⁵ See the commentary of the Rambam to the Mishna: Shevi'is (5, 6).

Another Jew is Available to Borrow With Interest

Concerning this *issur* there is a very interesting and basic question which is discussed by the **Mishne Lemelech**.²⁶ It is based on the **Gemara** in **Avoda Zora**.²⁷ The **Gemara** rules that one who hands a cup of wine to a nazir²⁸ violates the *issur* of *lifnai evair*. The **Gemara** continues that one only violates the *issur* if the nazir requires his assistance in order to obtain the wine. The illustration which the **Gemara** uses is where a nazir stands on one side of a river and the person who hands him the wine stands on the other side. However, the one who handed him the wine does not violate this *issur* if the nazir could have picked up the wine himself. The **P'nai Moshe**²⁹ deduces from this ruling that one who borrows with interest does not violate this *issur* if the lender could have lent the money to another person with interest. The reason is because this particular borrower was not needed in order to enable the lender to violate the *issur* of lending with interest.

The **Mishne Lemelech** takes issue with the **P'nai Moshe**. He argues that one avoids the *issur* of *lifnai evair* only if the *avairo* can be committed without the assistance of anyone who is included in the prohibition of *lifnai evair*. However, if another Jew is needed to assist, then the one who assists violates the *issur* in spite of the fact that someone else could replace him.

His argument is that in the case in the **Gemara** the one who actually handed the cup of wine to the nazir does not violate the *issur* of *lifnai evair*, if his assistance was not crucial, because no Jew was needed to assist. However, when the assistance of a Jew is necessary the one who assisted is guilty of violating *lifnai evair*. Therefore in our situation, if the alternative to this person borrowing the money is that some other Jew would have borrowed the money with interest and violated the *issur* of *lifnai evair*, the person who actually borrowed has violated the *issur* of *lifnai evair*.

²⁶ Hilcho Malve Ve'love 4, 2. This question is discussed at the beginning 6 B.

²⁷ See also Pirchas Teshuvo 1 in our siman who records and discussed the Mishne Lemelech. See also the Birur Halocho of the Divrai Sofrim who disagrees with the Pischai Teshuvo.

²⁸ The Torah does not allow a nazir to drink wine.

²⁹ Responsa, volume 2, responsa 105.

Others Violate the Issur of Ribis—The Issur of Lifnai Evair

The third element of the **Mechabair's** ruling is that the other people who are involved in the loan violate the prohibition of *ribis*. This is very important in practice because one may be involved with two irreligious³⁰ Jews who are not deterred from violating the **Torah's** precepts. This *halocho* teaches us that one cannot become involved in an auxiliary manner as well. For example, one cannot serve as the lawyer³¹ who arranges or registers the loan. Even the secretary³² who works in the office will violate this *issur*.

One prohibition which all of these people violate is again *lifnai evair*. As we mentioned, if the loan could not be consummated without their participation, the violation is based on this posuk which means that the prohibition is Biblical. Even when their participation is not an absolute necessity, the **Rabbonim** forbade their action. The *issur* is known as **mesayai'a leyday ovray avairo**.³³ (I.e. One is not allowed to assist someone who is performing an *avairo*.)

We can apply the dispute we studied earlier between the **P'nai Moshe** and the **Mishna Lemelech** to the *lifnai evair* of the guarantor. Obviously, if the loan would not have taken place without the participation of **this** guarantor, he is guilty of violating *lifnai evair*. If the interest-bearing loan would have taken place even without any guarantor, the guarantor does not transgress *lifnai evair* since the loan does not depend on him. If the loan would not have consummated without the participation of a Jewish guarantor there would be a dispute between the **P'nai Moshe** and the **Mishna Lemelech** since the alternate guarantor would transgress an *issur*. However, if a guarantor was crucial but he could be a gentile, even the **Mishna Lemelech** would agree³⁴ that the Jew who actually served as guarantor does not transgress *lifnai evair*.

³⁰ See siman 159, seif 2, which permits ribis in case the borrower converted to another religion. However, in practice, one cannot broaden this leniency to include irreligious Jews. See the commentaries there for further clarification.

³¹ Shach in note 1 on our siman. He records the Rambam who issues this ruling.

³² Ibid.

³³ It is based on the Gemara in Shabbos 3.

³⁴ This fact is explicitly mentioned by the Pischai Teshuvo in siman 151, note 2.

However, even in the case when he does not transgress *lifnai evair*, he does violate the *issur derabonon* of *meyayai' ledai ovrai avairo*.

Auxiliaries Violate Other Issurim As Well

Besides the *issur* of *lifnai evair*, the borrower violates a specific *issur* of the Torah. The **Torah** explicitly writes,³⁵ “One shall not borrow with interest.”

The guarantors, witnesses and scribe, all violate the *issur* of *lo sesemun* (*issur* 5 of the **Rambam**) besides the *issur* of *lifnai evair*.³⁶ The **Tur** thus writes,³⁷ “The **Torah** placed a prohibition on anyone who is involved in an interest-bearing loan.” The **Tur** views this injunction as indicative of the **Torah's** extreme efforts to prevent people from violating the laws against *ribis*. He attributes this stringency to the frequency that people violate these laws.

The intermediary, who arranges the loan and the advisors violate *lifnai evair* but not *lo sesemun*.³⁸ The reason they do not violate *lo sesemun* is that these individuals are not part of the actual placement of the loan.³⁹

The Ramo's Commentary

The **Ramo** adds two more rulings. Firstly, he informs us that the *issur* does not depend on the financial status of the borrower. The reason one⁴⁰ might have thought that the violation applies only to a borrower, who is poor, is due to the fact that the

³⁵ Devarim 23, 20.

³⁶ This is stated by the Mishno in Bava Metsiyo 75 B.

³⁷ Our siman, section 1 (page 359).

³⁸ Rambam, Ibid.

³⁹ See Lechem Mishno in his commentary, Ibid.

⁴⁰ Gro, note 1.

posuk⁴¹ chose to describe the prohibition of *ribis* in a situation where the borrower is poor.

Finally, the **Ramo** teaches us that whenever the *ribis* situation is only rabbinically prohibited, the lender does not violate any *issur* besides *lifnai evair*. The source of this fact is a **Gemara**,⁴² which discusses a contract which seemed to violate a rabbinic *issur* of *ribis*.

The one who was suspected of giving *ribis* was **Rav Illish**, an amoro. The phraseology used by the **Gemara** is, “Could it be that **Rav Illish** would provide someone with *ribis*?”

The **Rishonim**⁴³ note the strangeness of the **Gemara’s** expression. If the borrower violates an *issur* in his own right, the **Gemara** should question how could **R. Illish** violate an *issur* and not ask how he could enable others to sin. Based on the **Gemara’s** choice of terminology, the **Rishonim** deduce that since the *ribis* violation was only rabbinic, the borrower does not violate an *issur* of his own. Therefore, the only facet which the **Gemara** could question is how **R. Illish** could cause others to sin.

The reason⁴⁴ for this ruling is that the ruling of the **Torah** that one who borrows is included in the prohibition is quite unusual since he is the one who loses in this situation. When the **Rabbonon** extended the **Torah’s** prohibition to include additional circumstances, they did not extend this *chiddush*. The **Chavos Da’as**⁴⁵ questions whether the witnesses in a rabbinically prohibited situation transgress *lo sesemun* as in the case of **Torah** prohibited *ribis* or not. He rules that they too only violate the prohibition of *lifnai evair*. The **Divrai Sofrim**⁴⁶ disagrees. He bases himself on the rationale for this *halocho* which we just mentioned. The witnesses do not lose anything in this loan. Therefore, the logic for absolving the borrower does not carry over to the witnesses. As a result, the **Divrai Sofrim** disputes the **Chavos Da’as’** conclusion.

⁴¹ Vayiuero 25.

⁴² Bava Metsiyo 68 B.

⁴³ E.g. the Ritvo in his commentary is this section of Gemara, beg. words ose lekamay, the Rosh siman 42.

⁴⁴ Nimilay Yosef of page 39 B of the Rif.

⁴⁵ Biyurim 1. It is mentioned by the Pischai Teshuvo 3 as well.

⁴⁶ Note 8. See also Eimek Dovor 38 and the Barur Halocho thereon.

Conclusion

- 1) 1) One who lends with interest can violate six of the six hundred and thirteen *mitzvahs* of the **Torah**.
- 2) There is a dispute of one who lends with interest always violates “*lo sheheyeh lo kenoshe*.” We saw that according to **Rashi**, he does not, but according to the **Magid Mishno** and **Ramban** he does.
- 3) There is a dispute if one violates “*lo sesemun*” at the time of the loan or when it is collected. The majority opinion is that one violates the *issur* at the initial stage. The witnesses and cosigners are included in this *issur* as well.
- 4) One does not violate *lifnai evair* if his actions were not absolutely necessary in order to enable someone else to violate an *issur*. Therefore, the guarantor does not violate *lifnai evair* if the lender would have lent the money using a gentile guarantor. If the only other person who would have been acceptable as a guarantor is a fellow Jew, there is a dispute between the **P’nai Moshe** and the **Mishno Lemelech** if the one who actually guaranteed the loan violated *lifnai evair*. According to all opinions, the actual guarantor violates the rabbinic *issur* of *mesaye’a*.
- 5) Others whose actions are absolutely necessary to arrange an interest-bearing loan between two Jews also violate the *issur* of *lifnai evair*.
- 6) Besides these six *issurim*, there is an *issur* from the **Torah** which is specific to the borrower. This *issur* does not extend to rabbinically prohibited *ribis*. However, the borrower still violates an *issur* because he enables the lender to violate an *issur*.