



Week 5: BM Chapter 5

Mishnah in Depth

מסכת בבא מציעא

Tractate Bava Metzia



Dr. Rachel Furst
Drisha, Fall 2024

Exodus 22:24

(20) You shall not wrong or oppress a stranger, for you were strangers in the land of Egypt. (21) You shall not ill-treat any widow or orphan. (22) If you do mistreat them, I will heed their outcry as soon as they cry out to Me... (24) If you lend money to My people, to the poor among you, do not act toward them as a creditor; exact no interest from them.

שמות כב:כד

(כ) וְגַר לֹא-תוֹנֶה וְלֹא תִלְחָצֶנּוּ כִּי-גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרַיִם: (כא) כָּל-אִלְמָנָה וַיְתוּם לֹא תַעֲנוּן: (כב) אִם-עָנָה תַעֲנֶה אֹתוֹ כִּי אִם-צָעַק יִצְעַק אֵלַי שָׁמַע אֲשַׁמַּע צַעֲקוֹתָיו... (כד) אִם-כֶּסֶף | תִּלְוֶה אֶת-עַמִּי אֶת-הָעֲנִי עִמָּךְ לֹא-תִהְיֶה לוֹ כְּנִשָּׂה לֹא-תִשִּׂימוּן עָלָיו נֶשֶׁךְ:

Exodus 22:24

(20) You shall not wrong or oppress a stranger, for you were strangers in the land of Egypt. (21) You shall not ill-treat any widow or orphan. (22) If you do mistreat them, I will heed their outcry as soon as they cry out to Me... (24) If you lend money to My people, to the poor among you, do not act toward them as a creditor; exact no interest from them.

Deuteronomy 23:20-21

(20) You shall not deduct interest from loans to your fellow Israelites, whether in money or food or anything else that can be deducted as interest; (21) but you may deduct interest from loans to foreigners. Do not deduct interest from loans to your fellow Israelites, so that your God יהוה may bless you in all your undertakings in the land that you are about to enter and possess.

שמות כב:כד

(כ) וגר לא-תונה וְלֹא תִלְחָצֶנּוּ כִּי-גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרַיִם: (כא) כָּל-אֲלֻמָּנָה וַיְתוּם לֹא תַעֲנוּן: (כב) אִם-עֲנָה תַעֲנֶנָּה אֲתוֹ כִּי אִם-צָעַק יִצְעַק אֵלַי שָׁמַע אֲשַׁמַּע צַעֲקוֹתָיו... (כד) אִם-כֶּסֶף | תִּלְוֶה אֶת-עַמִּי אֶת-הָעֲנִי עִמָּךְ לֹא-תִהְיֶה לוֹ כְּנִשָּׂה לֹא-תִשִּׂימוּן עָלָיו נִשְׂךְ:

דברים כג: כ-כא

(כ) לֹא-תִשִּׂיךְ לְאֶחִיךָ נִשְׂךְ כֶּסֶף נִשְׂךְ אֶכֶל נִשְׂךְ כָּל-דָּבָר אֲשֶׁר יִשְׂךְ: (כא) לְנֹכְרֵי תִשִּׂיךְ וּלְאֶחִיךָ לֹא תִשִּׂיךְ לְמַעַן יְבָרְכֶךָ יְהוָה אֱלֹהֶיךָ בְּכֹל מַשְׁלַח יָדְךָ עַל-הָאָרֶץ אֲשֶׁר-אַתָּה בָּא-שָׂמָה לְרִשְׁתָּהּ: {ס}

Exodus 22:24

(20) You shall not wrong or oppress a stranger, for you were strangers in the land of Egypt. (21) You shall not ill-treat any widow or orphan. (22) If you do mistreat them, I will heed their outcry as soon as they cry out to Me... (24) If you lend money to My people, to the poor among you, do not act toward them as a creditor; exact no interest from them.

Deuteronomy 23:20-21

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Leviticus 25:35-38

(35) If your kin, being in straits, come under your authority, and are held by you as though resident aliens, let them live by your side: (36) do not exact advance or accrued interest, but fear your God. Let your kin live by your side as such. (37) Do not lend your money at advance interest, nor give your food at accrued interest. (38) **am יהוה** I am your God, who brought you out of the land of Egypt, to give you the land of Canaan, to be your God.

שמות כב:כד

(כ) וגר לא-תונה וְלֹא תִלְחָצֶנּוּ כִּי-גֵרִים הֵייתֶם בְּאֶרֶץ מִצְרַיִם: (כא) כָּל-אֲלֻמָּנָה וַיִּתּוּם לֹא תַעֲנוּן: (כב) אִם-עֲנָה תַעֲנֶה אֹתוֹ כִּי אִם-צָעַק יִצְעַק אֵלַי שָׁמַע אֲשַׁמַּע צַעֲקוֹתָיו... (כד) אִם-כֶּסֶף | תִּלְוֶה אֶת-עַמִּי אֶת-הָעֲנִי עִמָּךְ לֹא-תִהְיֶה לוֹ כְּנִשְׂאָה לֹא-תִשְׁיִמוּן עָלָיו נֶשֶׁךְ:

דברים כג: כ-כא

(כ) לֹא-תִשֶׁךְ לְאֲחִיךָ נֶשֶׁךְ כֶּסֶף נֶשֶׁךְ אֶכֶל נֶשֶׁךְ כָּל-דָּבָר אֲשֶׁר יִשֶׁךְ: (כא) לְנֹכְרֵי תִשֶׁךְ וּלְאֲחִיךָ לֹא תִשֶׁךְ לְמַעַן יְבָרְכֶךָ יְהוָה אֱלֹהֶיךָ בְּכֹל מַשְׁלַח יָדְךָ עַל-הָאָרֶץ אֲשֶׁר-אַתָּה בָּא-שָׁמָּה לְרִשְׁתָּהּ: {ס}

ויקרא כה:לה-לח

(לה) וְכִי-יָמוּךְ אֲחִיךָ וּמָטָה יָדוֹ עִמָּךְ וְהִחֲזַקְתָּ בּוֹ גֵר וְתוֹשֵׁב וְחִי עִמָּךְ: (לו) אֶל-תִּקַּח מֵאֹתוֹ נֶשֶׁךְ וְתִרְבִּית וַיִּרְאֶת מֵאֲלֹהֶיךָ וְחִי אֲחִיךָ עִמָּךְ: (לז) אֶת-כֶּסֶפְךָ לֹא-תִתֵּן לוֹ בְּנֶשֶׁךְ וּבְמִרְבִּית לֹא-תִתֵּן אֶכְלָךְ: (לח) אֲנִי יְהוָה אֱלֹהֵיכֶם אֲשֶׁר-הוֹצֵאתִי אֶתְכֶם מֵאֶרֶץ מִצְרַיִם לְתֵת לָכֶם אֶת-אֶרֶץ כְּנָעַן לְהִיּוֹת לָכֶם לְאֱלֹהִים: {ס}

Mishnah Bava Metzia 5:1

The mishna asks: **Which is *neshekh*, and which is *tarbit*? Which is the case in which there is *neshekh*?** With regard to **one who lends another a *sela*, worth four dinars, for five dinars to be paid later, or one who lends another two *se'a* of wheat for three *se'a* to be returned later, this is prohibited, as it is taking interest [*noshekh*].** **And which is the case in which there is *tarbit*?** It is the case of **one who enters into a transaction that yields an increase in the produce beyond his investment. How so?** For example, **one acquired wheat from another at the price of one *kor* of wheat for one gold dinar, worth twenty-five silver dinars, with the wheat to be supplied at a later date, and such was the market price of wheat at the time he acquired it. The price of one *kor* of wheat then increased and stood at thirty dinars.** At that point, the buyer **said to the seller: Give me all of my wheat now, as I wish to sell it and purchase wine with it.** The seller **said to him:** Since it is ultimately wine that you want, not wheat, each *kor* of **your wheat is considered by me to be worth thirty dinars, and you have the right to collect its value in wine from me.** **And in this case, the seller did not have wine in his possession.** If wine then appreciates in value, the result will be an interest-bearing transaction, as the buyer collects from the seller wine worth more than the wheat for which he paid.

משנה בבא מציעא ה:א

איזהו נִשְׁךְ וְאיזהו תְּרִבִּית.
איזהו נִשְׁךְ,
הַמְלִיחַ סֵלַע בְּחֻמְשָׁה דִּינָרִין, סָאתִים חֲטִין
בְּשֵׁלֶשׁ, מִפְּנֵי שֶׁהוּא נוֹשֵׁךְ.
וְאיזהו תְּרִבִּית,
הַמְרַבֵּה בְּפְרוֹת.
כִּיצַד. לָקַח הַיְמָנוּ חֲטִין בְּדִינָר זָהָב הַכּוֹר, וְכֵן
הַשַּׁעַר, עָמְדוּ חֲטִין בְּשֵׁלֶשִׁים דִּינָרִין, אָמַר לוֹ תֵּן לִי
חֲטִי, שְׂאֵנִי רוֹצֵה לְמַכְרֵן וְלָקַח בְּהֵן יָיִן. אָמַר לוֹ
הָרִי חֲטִיךָ עֲשׂוּיֹת עָלַי בְּשֵׁלֶשִׁים, וְהָרִי לְךָ אֶצְלִי
בְּהֵן יָיִן, וְיָיִן אֵין לוֹ:

Bavli Bava Metzia 60b

The Gemara asks: **From** the fact **that** in explaining the term *tarbit*, the *tanna* **sets aside the topic** of interest by Torah law, which is interest decided upon at the time of a loan, **and** instead **explicates** a case of lending with interest that is prohibited **by rabbinic law**, one can conclude **by inference** that **by Torah law, *neshekh* and *tarbit* are one matter**, and there is no halakhic distinction between them. The Gemara asks: **But aren't** the **verses written** using the term *neshekh* for interest that is on a loan of **money and *tarbit* or *marbit***, which are cognates of the term *ribit*, for interest that is on a loan of **food**? This is as the verse states: “You shall not give him your money with *neshekh* and with *marbit* you shall not give him your food” (Leviticus 25:37). The Gemara asks: **And can you understand that there is *neshekh* without *tarbit*, and *tarbit* without *neshekh*?** The term *neshekh*, from a root meaning bite, connotes loss to the borrower, while the term *tarbit*, literally increase, connotes profit for the lender. The Gemara asks: **What are the circumstances** where there could be ***neshekh* without *tarbit*?**...

Rather, Rava said: You do not find *neshekh* without *tarbit* nor *tarbit* without *neshekh*, and the verse distinguished between them only so that lending with interest always involves violating two prohibitions.

בבלי בבא מציעא – ס, עמוד ב

מִדְּשָׁבִיק לְרִיבִית דְּאוֹרֵייתָא, וְקָא מְפָרֵשׁ דְּרַבְּנָן, מְכַלְל דְּאוֹרֵייתָא, (ד)נֶשֶׁךְ וְתַרְבִּית – חֲדָא מְלֵתָא הִיא. וְהָא קָרְאִי כְּתִיבִי: נֶשֶׁךְ כֶּסֶף, וְרִיבִית אוֹכֵל! וְתִסְבְּרָא דְּאִיכָא נֶשֶׁךְ בְּלֹא תַרְבִּית, וְתַרְבִּית בְּלֹא נֶשֶׁךְ? נֶשֶׁךְ בְּלֹא תַרְבִּית הִיכִי דְּמִי? אִי דְּאוֹזְפִיָּה מְאָה בְּמְאָה וְעֶשְׂרִים, מְעִיקְרָא קְיִימִי מְאָה בְּדִנְקָא, וְלְבִסוּף קְיִימִי מְאָה וְעֶשְׂרִים בְּדִנְקָא. נֶשֶׁךְ אִיכָא – דְּקָא נְכִית לִיה, דְּקָא שְׁקִיל מִינִיה מִיַּדִּי דְּלֹא יְהִיב. וְתַרְבִּית לִיכָא – דְּלִית לִיה רְוּחָא, דְּדִנְקָא אוֹזְפִיָּה וְדִנְקָא קָא שְׁקִיל מִינִיה. סוּף סוּף, אִי בְּתַר מְעִיקְרָא אֲזֵלְתָּ – הֲרִי נֶשֶׁךְ וְהֲרִי תַרְבִּית. אִי בְּתַר בְּסוּף אֲזֵלְתָּ, לֹא נֶשֶׁךְ אִיכָא וְלֹא תַרְבִּית אִיכָא...

אֵלָא אָמַר רַבָּא: אִי אַתָּה מוֹצָא לֹא נֶשֶׁךְ בְּלֹא תַרְבִּית, וְלֹא תַרְבִּית בְּלֹא נֶשֶׁךְ. וְלֹא חִלְקֵן הַכְּתוּב אֵלָא לְעִבּוֹר עָלָיו בְּשָׁנֵי לְאוּיָן.

Mishnah Bava Metzia 5:11

And these people violate a prohibition of interest: **The lender, and the borrower, and the guarantor, and the witnesses. And the Rabbis say: Also the scribe** who writes the promissory note violates this prohibition. These parties to the transaction **violate** different prohibitions. Some are in violation of: **“You shall not give him your money with interest”** (Leviticus 25:37), **and of: “Do not take from him interest or increase”** (Leviticus 25:36), **and of: “Do not be to him as a creditor”** (Exodus 22:24), **and of “Do not place interest upon him”** (Exodus 22:24), **and of: “And you shall not place a stumbling block before the blind, and you shall fear your God; I am the Lord”** (Leviticus 19:14).

משנה בבא מציעא ה:יא

ואלו עוברים בלא תעשה. המלוה, והלוה, והערב, והעדים. וחכמים אומרים, אף הסופר. עוברים משום לא תתן (ויקרא כה), ומשום בל תקח מאתו (שם), ומשום לא תהיה לו כנשה (שמות כב), ומשום לא תשימון עליו נשך (שם), ומשום ולפני עור לא תתן מכשל ויראת מאלהיך אני ה' (ויקרא יט):

Mishnah Bava Metzia, Chapter 5

- Mishnah 1** Prohibition to lend to a fellow Jew at interest; definitions of *neshekh* and *tarbit*
- Mishnah 2** Prohibited forms of usury
- Mishnah 3** Prohibited forms of usury
- Mishnah 4** Prohibited business partnerships that constitute lending at interest
- Mishnah 5** Prohibited business partnerships that constitute lending at interest
- Mishnah 6** Prohibited business partnerships that constitute lending at interest;
Permission to lend to non-Jews at interest
- Mishnah 7** When it is prohibited to pay for a purchase in advance, as it constitutes interest
- Mishnah 8** Prohibited and permitted cases of lending produce for produce
- Mishnah 9** Prohibited and permitted cases of lending produce for produce
- Mishnah 10** Prohibited and permitted work arrangements; general definitions of usury; verbal usury
- Mishnah 11** Transgressions and transgressors associated with the biblical prohibition to lend at interest

Mishnah Bava Metzia 5:2

One who lends another money may not reside in the borrower's courtyard free of charge, nor may he rent living quarters from him at less than the going rate, because this is interest. The benefit he receives from living on the borrower's property constitutes the equivalent of an additional payment as interest on the loan. **One may increase the price of rent to be received at a later date instead of at an earlier one, but one may not similarly increase the price of a sale. How so?** If a courtyard owner **rented his courtyard to a renter, and the owner said to the renter: If you give me the payment now, the rental is yours for ten sela a year, but if you pay on a monthly basis it will cost a sela for each month,** equaling twelve sela a year. Such a practice is **permitted**, despite the fact that he charges more for a monthly payment. If a field owner **sold his field to a buyer and said to him: If you give me the payment now, it is yours for one thousand dinars, but if you wait and pay me at the time of the harvest, it is yours for twelve hundred dinars,** this transaction is **prohibited** as interest.

משנה בבא מציעא ה:ב

המלוֹה אֶת חֲבֵרוֹ, לֹא יְדוּר בְּחִצְרוֹ חִנָּם, וְלֹא יִשְׁכַּר מִמֶּנּוּ בְּפָחוֹת, מִפְּנֵי שֶׁהוּא רַבִּית. מִרְבִּין עַל הַשְּׂכָר, וְאִין מִרְבִּין עַל הַמָּכָר. כִּיצַד. הַשְּׂכִיר לוֹ אֶת חִצְרוֹ, וְאָמַר לוֹ, אִם מַעֲכָשִׁיו אֶתָּה נוֹתֵן לִי, הֲרִי הוּא לְךָ בְּעֶשֶׂר סְלָעִים לְשָׁנָה, וְאִם שָׁל חֹדֶשׁ בְּחֹדֶשׁ, בְּסָלַע לְחֹדֶשׁ, מִתֵּר. מָכַר לוֹ אֶת שְׂדֵהוּ, וְאָמַר לוֹ, אִם מַעֲכָשִׁיו אֶתָּה נוֹתֵן לִי, הֲרִי הִיא שְׁלֶךְ בְּאֶלְף זוּז, אִם לְגֶרֶן, בְּשָׁנַיִם עֶשֶׂר מָנָה, אָסוּר:

Heter Iska – Beth Din of America

Jewish Religious Law strictly prohibits the paying or receiving of interest on loans made between Jews. However, when monies are advanced in the course of a business transaction, an agreement may be entered into, whereby the provider and receiver of these funds are considered equal partners. This partnership is based upon the stipulation that, upon request, every loss must be attested to by two trustworthy witnesses, and all profits verified by oath. All consequent profits and losses are then equally shared. However, in order to avoid these very stringent requirements, the provider of the funds, under this “Shtar Isko”, agrees to waive his share of the profits in lieu of receiving a fixed percentage of the money advanced. This percentage is then considered profit, rather than interest on a loan. This agreement becomes effective when the receiver of the funds executes a form as set below.

The Agreement

I, the undersigned, have received from _____, the sum of _____ repayable over _____ years for the purpose of transacting business in connection with _____ in which profits and losses are to be equally shared. However, the said _____ has agreed that in lieu of such sharing of profits and losses, which would require substantiation of all losses by two trustworthy witnesses, and verification of all profits by oath, he shall accept my payment of an annual percentage of _____% of the said sum of _____ and waive all other profits which may be earned from the advanced funds. I have received a token payment of \$1.00 from the said _____ for my efforts in connection with this undertaking, and have signed herewith the receipt of the said \$_____. SIGNED THIS _____ day of _____ at _____.

Recipient's Signature

Mishnah Bava Metzia 5:10 (1)

A person may say to another: Weed the wild growths from my field **with me** now, **and I will weed** your field **with you** at a later stage, or: **Till** my field **with me** today **and I will till with you** on a different day. **But he may not say to him: Weed with me** today **and I will till with you** a different day, or: **Till with me** today **and I will weed with you**, as due to the different nature of the tasks it is possible that one of them will have to work harder than the other did, which is a type of interest, since he repaid him with additional labor. **All the dry days** during the summer, when it does not rain, are viewed as **one** period, meaning that if they each agreed to work one day, the dry days are viewed as though they were all exactly equal in length, despite the slight differences between them. Similarly, **all the rainy days** are treated as **one** period. **But he may not say to him: Plow with me in the dry** season **and I will plow with you in the rainy** season.

משנה בבא מציעא ה"י (1)

אומר אדם לחברו, נכש עמי ואנכש עמך, עדר עמי ואעדר עמך, ולא יאמר לו נכש עמי ואעדר עמך, עדר עמי ואנכש עמך. כל ימי גריד, אחד. כל ימי רביעה, אחד. לא יאמר לו חרש עמי בגריד ואני אחרש עמך ברביעה.

Mishnah Bava Metzia 5:10 (2)

Rabban Gamliel says: There is a case of **pre-paid interest**, and there is also a case of **interest paid later**, both of which are prohibited. **How so?** If he **had hopes of borrowing** money from him in the future, **and he sends him** money or a gift **and says:** I am sending you this gift **in order that you will lend to me**, this is **pre-paid interest**. Similarly, if he **borrowed** money from him and subsequently **returned his money**, and he later **sends** a gift to him **and says:** I am sending you this gift in order to repay you **for your money, which was idle with me**, preventing you from earning a profit from it, **this is interest paid later**. **Rabbi Shimon says:** Not only is there interest consisting of payment of money or items, but **there is also verbal interest**. For example, the borrower **may not say to** the lender: You should **know that so-and-so has come from such and such a place**, when he is aware that this information is of significance to his creditor. Since his intention is to provide a benefit to the lender, he has effectively paid him an extra sum for the money he lent him, which constitutes interest.

משנה בבא מציעא ה"י (2)

רבן גמליאל אומר, יש רבית מקדמת ויש רבית מאחרת. כיצד. נתן עיניו ללוות הימנו, והיה משלח לו ואמר בשביל שתלוני, זו היא רבית מקדמת. לזה הימנו והסזיר לו את מעותיו, והיה משלח לו ואמר בשביל מעותיך שהיו בטלות אצלי, זו היא רבית מאחרת. רבי שמעון אומר, יש רבית דברים, לא יאמר לו, דע כי בא איש פלוני ממקום פלוני: