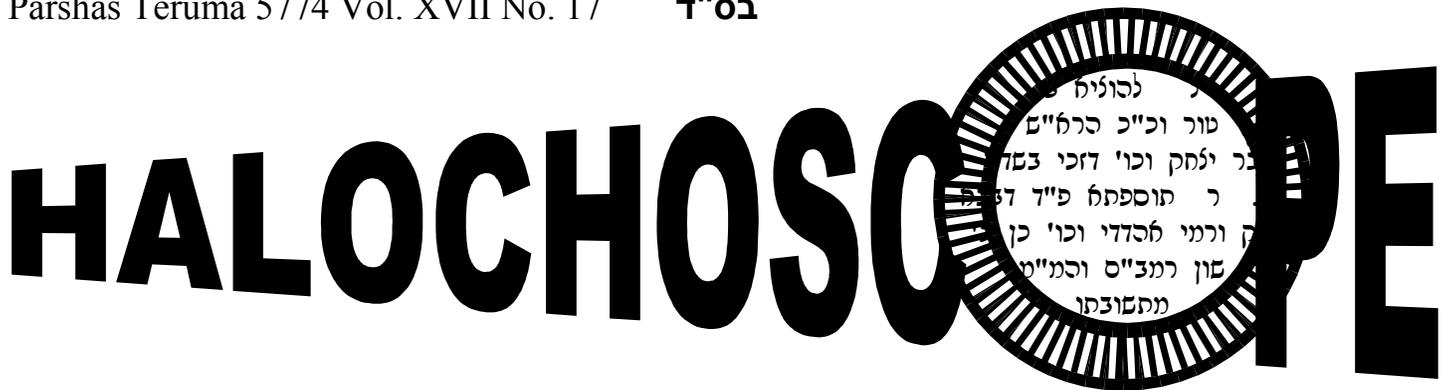


HALOCHOSCOPE



Notes on last issue:

A few questions have been raised with regard to the issue of making coffee on *Shabbos* using a cone filter. We shall address a few of them:

Q: Is there an issue of *makeh bepatish*, finishing a utensil, when using a paper filter?

A: If the filter and the coffee are already in the cone before *Shabbos*, this does not arise. If it is made on *Shabbos*, this can be an issue. If the filter is already made and shaped ready to place in the cone, opening it up is not considered *makeh bepatish*. If the edges are stuck together, one may not separate them. If the edges are pressed together, but not actually stuck, one may pry them apart. This does not constitute putting final touches, since the cone is fully made. Prying it apart does not actually add to the *kli*. However, if one uses a much cheaper basket filter but shapes it to fit in the cone, he is effectively creating a new utensil. This would be forbidden on *Shabbos*. The only way to permit this is if the filter was shaped ahead of time.

Q: What about using a French press?

A: The French press has an advantage and a disadvantage. One could add the coffee after the water was already placed there. This would mean that it is a true *kli shlishi*, rather than using *iruy kli shaini*. Usually, people would rather pour the water onto the grounds anyhow, using *iruy*. Most poskim equate *iruy kli shaini* to a *kli shlishi*. This is because even *iruy kli rishon* is debated. Some consider it an extension of the Scriptural restriction of *kli rishon* itself, albeit only affecting the paper thin surface layer. Others maintain that the paper thin surface layer is really either a *safeik*, doubt about whether it gets cooked, or a Rabbinical stringency. Due to the debate, we consider *iruy kli rishon* to be basically as strict as *kli rishon*. *Kli shaini* itself only cooks *kalei habishul*. Thus, many poskim do not extend this to *iruy*, and treat *iruy kli shaini* like *kli shlishi*. However, using a full *kli shlishi* satisfies the minority view as well. The disadvantage of the French press is that using it raises the *borair* issue. The only way to avoid this, to satisfy stringent opinions, is to remove the top before pouring the coffee out.

Q: What about coloring the water when making the coffee?

A: The poskim discuss whether the issue of *tzovaia*, dyeing applies here. Many poskim maintain that there is no *tzevia* with regard to foodstuffs. Some poskim suggest that one should rather pour the water onto the grounds than put the grounds into the water. This way, one avoids dyeing the water directly.

This week's question:

May neighbors make an arrangement to share the burden of shoveling snow? Each neighbor will shovel both sides of the sidewalk or shared driveway on alternating snowy days.

The issues:

A) *Ribis*, the prohibition against usury

B) Exchanging services

A) *Ribis* [mostly excerpted from Halochoscope XVI:30]

A loan is a transfer of funds for a given time. The lender gives up any claim on that

money for the agreed duration of the loan. In return, the borrower agrees to give other money back at the end of the loan period. Because the lender is deprived of the usage of his money, he would like to make up for potential gains or profits he could have made during this time. The simplest way to view this is either as payment or 'reward' for the fact that the lender's money is 'idle' – that is, it is unusable by him. Or 'reward' for waiting for the money to be repaid. A more complicated view would consider the money similar to durable goods. The lender would be renting the money to the borrower. One would pay for the usage of a rented tool or animal. This could be viewed as payment for the usage or for the time. In the same way, the interest would be like paying for the usage of the money or for the time that the money is made available.

Usury, or charging interest, involves several Scriptural and/or Rabbinical violations. A rate of interest, or an amount, stipulated at the time of the loan is known as *ribis ketzutzta*, fixed interest. In such cases, both lender and borrower violate directly two Scriptural *mitzvos*. In addition, they both violate *lifnai ivair*, aiding another in sinning. Each of them facilitates the other's violations. The scribe who writes up the document, any cosigners, and witnesses are all incriminated in some way. Some violations are violated from the time the charge is made, agreed, written up, signed, the time the money is handed over, or collected, and often even if the interest is not paid in the end. Stipulating includes fixing an amount or an interest rate (e.g. a percentage per day), and even, according to some, if no amount was agreed, but it was agreed that there would be some form of interest. *Ribis* applies to goods as well as cash. Once stipulated it is forbidden to collect the interest at any time, whether before the due date of the loan, at the time of payment or later. If it was collected it must be returned, with the help of a *Bais Din* if necessary.

Avak ribis, the 'dust' of usury, includes cases forbidden Rabbinically. The main type of *avak ribis* is forbidden because it resembles *ribis*. This need not be a 'visible' resemblance. If the transaction seems to have the flavor of *ribis*, or it seems to accomplish the same end as *ribis* – to compensate the benefactor for not having the availability of his own money for the duration. In *ribis she'aina ketzutzta* nothing is stipulated, but a lender demands it anyhow, or a borrower pays it voluntarily. *Ribis mukdemess ume'ucheress* is interest paid before a loan is granted or after it is paid (according to most poskim, this is forbidden Rabbinically. A minority consider it a type of Scripturally forbidden *ribis*.) *Derech mekach umemkar* is a purchase or sale based on interest. A merchant may not take an advance payment for goods as yet unavailable, if he grants a price reduction. He is rewarding the purchaser for the use of his money in the interim, like a loophole-type loan with interest. The Talmudic conclusion is that one who made forbidden gain through *avak ribis* may not be compelled to return it.

Mechzi keribis is a commercial transaction that does not involve *avak ribis*. However, money, rather than goods, were exchanged, and there was a net gain. For example, one put down money for goods when they were cheap, intending to take delivery in the expensive season. Then, he did not take delivery, but sold them back at the higher price, gaining the difference. This Talmudic debate has varying rulings by the poskim.

Ha'aramas ribis, trick usury, includes cases where the equivalent of the interest is earned quickly, by means of a double-deal. A lender loans goods to a desperate borrower,

worth the value of the requested loan. He then buys the goods back from his 'customer' at a lower price. He will still be paid in full for his original loan, but has contrived to save himself money through the loan. This is forbidden Rabbinically. A borrower may not do favors for the lender that he would not normally do, nor even greet him specially. Some consider this *ribis mukdemess*, since it is done at times other than the payment. [See Baba Metzia 60b-75b etc., Poskim. Tur Sh Ar YD160-161 163:3 175:6 etc., commentaries.]

B) Exchanging services

It is common for people to eliminate the payment for services when dealing with another service-provider. Thus, one might agree to paint his friend's home in return for the friend's landscaping his own home. This is a pure barter. It is permitted, especially if the costs are equal. If the costs are unequal, it would depend on how much each side is aware of the differences. If they both agree to the exchange of services, they have waived any claim that they might have been exploited. We have mentioned that waiving *ribis* does not help. Even a willing borrower is in violation. Since straightforward barter is not a loan, there is no *ribis* issue.

However, there could be a case of service exchange where *ribis* arises. If one of the services is needed earlier, and the person who needs it is willing to pay extra in kind later, he has agreed to a *ribis* deal. The poskim debate whether this is Scriptural *neshech*, or a form of loaning goods for repayment when the price has changed, which is Rabbinically forbidden. This is known as *seah biseah*, a measure loaned with the stipulation that the same measure is repaid. If the borrower has his own supply, but it is not accessible right now, he may take the loan. It is considered a straightforward exchange. Thus, in a case where each party agrees to do the same service at a time when each was able to do it, there is no issue of *ribis*.

To update the Talmud's example in modern terms: Suppose someone needs his hedges trimmed, but does not have a hedge-trimmer. He does own a leaf-blower. He approaches his friend, who has a hedge-trimmer, with the following offer: "If you trim my hedges now, when the leaves need to be raked in the fall, I will rake your leaves!" For the friend, this is an attractive bargain. He knows that trimming the hedges is a minor job, valued at a much lower cost than the leaf-raking. Even if there is no money calculation, the second person agrees to do a harder job. The person who needs his hedges trimmed has agreed to this, because he needs the service now. He cannot pay back right away, so he agrees to give extra in return – reward for the waiting period. This form of barter is considered *ribis*. In the Talmud's case, even on subsequent days, if the services are not the same, the *ribis* issue arises. One would be permitted to barter different services only if there is no specific time element involved.

Some equal services can be harder or easier depending on the weather or other conditions. For example, suppose two neighbors need assistance to get their gardening done. They agree to help each other. We already know that they may not agree to barter different services specifically on different days. This involves a delay that can be considered *ribis*, if the second service is harder. Bartering the same services is permitted, even on different days. However, the dates they choose can mean that the first one has an easier job than the second. Perhaps the second date is longer, or the ground is harder at that time

of year. Even this barter involves some *ribis*. However, the Talmud defines seasons as being equal, regardless of slight variations. Therefore, one may not agree to return a service in a different season. He may agree to return the service later in the same season. [The poskim deliberate a case where two equal workers/employees exchange time. It is possible that some times are paid better than others. They need to consider this.]

What about agreeing to barter a later service in an easier season? Here, the second person is agreeing to do a harder service now, in exchange for an easier service later. It should not be considered *ribis*. He is doing it as a favor. The poskim debate this. In a similar situation, at the time that the deal is made, the return service is easier. However, there are occasions when the same return service can become harder, depending on conditions. Therefore, one may not make this agreement. A chance of *ribis* is also forbidden.

In our case, the agreement is convenient for both parties. There is no intent to earn interest, but each would certainly be happy to have the easier job. At the time that the agreement is made, nobody knows which snowfalls will be heavier. It might never snow. If it does, alternate storms will never be exactly the same. Many variables apply here, that could make the jobs harder or easier. These include the amount of snow, the temperature, the thickness of the snow, the time of day and the like. Is this an example of agreeing to a deal that might become *ribis*?

According to the view that service lending is *seah biseah*, the same service in the same season is permitted because it is as though the 'borrower' has it in his possession. This should not apply here. When the first snow falls, the second person is not in "possession" of the service he will be repaying in kind. That will come into his possession when the second snow falls. However, it might not snow a second time. As for the possibility of *ribis*, the second person has not committed himself to any repayment. It might not snow, and if it does, it might not be heavier. To guarantee to avoid the *ribis*, they may agree to evaluate the services and to pay each other the differences. This way, each has agreed to pay for each service. There is now no *ribis*. [See Baba Metzia 75a-b, Poskim. Tur BY (Prisha) Sh Ar YD 160:9 162:1-2, commentaries. Bris Yehuda 11:1, notes.]

In conclusion, this arrangement does not involve *ribis*, It might not snow a second time. To avoid it totally, they could agree to pay each other for the difference in labor.

Note: We have not discussed who would be liable for damages due to the snow, or the sidewalk, after shoveling. This merits its own discussion. Also, the assumption is that the shared driveway is not owned in partnership. Partners may swap or alternate the work on their partnership.

on the parsha ... From each man who wishes to give voluntarily, shall you take ... [25:2] The word 'take' implies that it is taken from the person by force. This is a person who wishes to give it voluntarily. Why does it need to be taken from him! Let him give it! [See *Kli Yakar*] Perhaps the Torah is also describing those who wish to give, but want recognition for the value of their gifts. If so, they would want to wait until such time that the value goes up. The Torah says, in such cases, take it from them now! Their gift should not be used as a means to 'gain by waiting'.

Sponsored by the Silver family in fond memory of Joshua Sandler, Chaim Boruch a"h ben

Noach Avrohom, in recognition of his constant support. May his family have a *nechamah*. 

© Rabbi Shimon Silver, January 2014.

Subscriptions and Sponsorships available. (412) 421-0508. halochoscope@hotmail.com