

# Ribbis Fundamentals: Part I

## THE PROHIBITION OF RIBBIS

HaRav Chaim Weg

### THE SEVERITY OF THE PROHIBITION:

The Tur begins his discussion of the laws of *ribbis* by saying: “*M’od m’od tzarich adam lizaher b’ribbis.*” A person must be very, very careful not to transgress the laws of *ribbis*.

This is one of only five places where the Tur uses this extreme verbiage to describe the stringency of a prohibition. These five prohibitions are not necessarily the most severe, but the Tur issues a strongly worded warning about them because they are all very easy to transgress and all of them have a very strong seduction to attempt to contravene.

Lending money with interest is a very profitable way to make an income and a very acceptable practice in society. Furthermore, the lender could excuse himself by claiming that the borrower is happy to pay interest in order to receive a loan. Since there is such a strong pull to make excuses for engaging in lending with interest, the Tur warns people to be very, very careful to avoid this prohibition in both his business and personal life.

The Shulchan Aruch also says that one must be very careful with regards to the laws of *ribbis*, adding that one can transgress up to six Torah prohibitions when he lends with interest.

Another unique aspect of *ribbis* is that although the lender is the only one who gains financially from the interest, he is not the only one who transgresses a prohibition. As the Mishnah in Bava Metzia says, the borrower is also Biblically prohibited from agreeing to repay a loan with interest. Furthermore, the Shulchan Aruch says that anyone who helps facilitate a loan with interest transgresses a prohibition. This includes a cosigner and witnesses who sign onto the loan.

The Shach adds that some opinions say that even the *sofer* who writes the loan document transgresses a prohibition if the loan contains *ribbis*. Accordingly, anyone who has any part in bringing the loan to fruition does as well. This would include a lawyer, a broker, a notary public and even office workers who help facilitate the deal.

From all of this, we see that the prohibition of *ribbis* is very far-reaching and very severe; therefore, before anyone signs any contract – be it a loan document or rental agreement – he should make sure to read it carefully and ensure that nothing is written in it that might be considered *ribbis* according to halacha.

In standard documents, there are numerous clauses that could be considered *ribbis*. A lawyer must be very careful when he drafts such documents to look over each clause and see that none contain such problematic language.

If one has any doubt about a document, he should consult with a *Rov* who is well versed in the laws of *ribbis* before proceeding.

### LEGAL ISSUES:

Sometimes, even when the borrower and lender have no intention of charging or paying interest, there are legal reasons why certain clauses that could be considered *ribbis* have to be included in the contract. The Poskim say that if it is clear to all sides that there is no intention of charging *ribbis*, it is permitted to sign such a document. Still and all, it is best to write a separate document that clearly states that the clause was put into the loan document for legal reasons only and that no *ribbis* will actually be charged.

Oftentimes, utility and phone companies put a clause in their contracts that state that interest will be assessed if a payment is late. In Eretz Yisroel, where the supplier is probably Jewish, this could present a problem. The Poskim say it is permitted to sign such a contract if necessary, as long as the user always pays on time so as not to be in a position where he would have to pay *ribbis*.

### LENDING AND BORROWING FROM A NON-JEW:

The Shulchan Aruch rules that it is only prohibited for a Jew to lend money to a Jew with *ribbis*. If either the lender or borrower is a non-Jew, there is no prohibition.

Poskim point out that there is a prohibition known as “*lo sichaneim*,” which means that it is forbidden to provide gifts to non-Jews. Accordingly, since it is permitted to lend money to a non-Jew with interest, it would be forbidden to forgo the interest, as this would be considered a gift; therefore, one must charge interest when lending money to a non-Jew.

The Gemara says that although it is permitted to lend money with interest to a non-Jew, the *chachamim* decreed that it is forbidden to do so unnecessarily because it will lead to interacting in a business setting with him, which will cause one to learn improper practices from him. Apparently, the reason they specifically prohibited lending with interest is because Jews would be more inclined to do business with non-Jews in such transactions in order to make a profit they could not make off of a Jew, which could lead to improper mingling and the learning of bad behavior.

The Shulchan Aruch says that this prohibition of Chazal does not apply today. The Rishonim offer several reasons for this. First of all, they say that Chazal only prohibited a person from making extra, supplemental income by lending with *ribbis* to a non-Jew. In later generations, however, when the cost of living went way up, no income was considered “extra.” Whatever money a person makes is considered essential, and Chazal never prohibited lending to a non-Jew with interest when the earnings are needed on a basic level.

A second reason offered by the Rishonim is that Chazal only made this prohibition for a time when Jews lived separately from non-Jews and they wanted to limit their business interactions to Jews only so as not to learn from the behavior of the non-Jews. In later generations, Jews live together and do business together with non-Jews in any case. It is not considered possible to make a living from dealing only with Jews. Since Jews are interacting with non-Jews anyways, the reason behind the prohibition no longer applies.

The Bris Yehuda discusses contemporary situations where people live in all-Jewish cities, such as in many cities in Eretz Yisroel today, and do not have to do business with non-Jews to survive. In such instances, does the decree of Chazal still apply?

The Bais Yehuda says that one should try to be stringent in such cases and not lend money to non-Jews with interest. The Chut Hashani, however, says that even in such cases, the halacha would be the same as in the general society and it would be permitted to lend to non-Jews with interest.

According to all opinions, it is permitted to put one's money in a non-Jewish bank, even if the bank pays interest. This is because the decree of Chazal was only said about cases of *ribbis d'ohraysa*. Since banks are owned by corporations, most Poskim hold that depositing with them is only an issue of *ribbis d'raban*, which Chazal never forbade.

## LENDING TO A MUMAR:

---

There are some individuals who are born Jewish but are sometimes treated as non-Jews in the eyes of halacha, such as a *mumar* (someone who converts to another religion), and one who is *mechalel Shabbos* publicly.

The Poskim discuss whether or not it is permitted to lend money to a *mumar* with *ribbis*.

Borrowing money from a *mumar* with *ribbis* is definitely prohibited. Since he is still a Jew, he is prohibited from accepting *ribbis*; therefore, if a Jew were to give him interest on a loan, he would be guilty of *lifnei iver*, facilitating a prohibition. However, the question remains whether one can charge interest when he lends money to a *mumar*. Since he is treated as a non-Jew in some areas of halacha, is it permitted to take interest from him?

Rabbeinu Tam says that it is permitted. He notes that the halacha regarding a *mumar* is “*moridim oso*,” which basically means that it is technically permitted to indirectly cause his death by convincing him to descend into a pit and then removing the ladder, thereby trapping him there. Rabbeinu Tam says that if it is permitted to be unconcerned about his life, it is certainly permitted to be indifferent about his money.

The opinion of the Mishnah L'Melech is that Rabbeinu Tam's rule is not always true. He says that even though one may cause the death of a *mumar*, he is only allowed to cause harm to his person, but not to his children. Since it is possible that a *mumar's* son will return to the proper path, one would not be permitted to take away money that the child would have inherited. Therefore, he rules that one could only charge a *mumar* interest if he is raising his children in a completely non-Jewish atmosphere, in which the children would have no likelihood of ever rejoining the Jewish community.

Other Rishonim agree with Rabbeinu Tam that it is permitted to accept *ribbis* from a *mumar*, and offer other justifications. The Ramban says that the Torah only prohibits lending with interest to “*achicha*,” your brother, and he says a *mumar* is not called our brother. Others offer similar explanations.

However, while most Rishonim permit lending money with interest to a *mumar*, Rashi forbids it. The Shulchan Aruch rules that it is permitted, but the Rema cites Rashi that “some say” it is forbidden and he says that it is laudable to be stringent if possible.

The Pischei Teshuva and Rav Moshe Feinstein point out that in order to avoid any issue one should avoid lending money altogether to someone who would qualify as a *mumar*, because if one is permitted to accept interest from them then he must do so as mentioned with lending to a non-Jew. If one has to lend him money, it would be best to get them to sign a *heter iska*, which permits lending with interest according to halacha. If even that is not possible, one should rely on the majority of Rishonim who permit lending such a person money with interest.

## TODAY'S SECULAR JEWS:

Whether the secular Jews of today are in the category of *mumar* is also a matter of debate.

The Chazon Ish famously says that most secular Jews today are *tinokim shenishbu*, rather than *mumarim*. According to the Gemara, a *tinok shenishba* is a Jew who was captured and raised with no connection to Jewish people. Since he had no way of learning anything about Judaism, he is not considered a *mumar*. Although today's secular Jews may have been raised near a Jewish community, the Chazon Ish held that since they grew up with constant provocation and propaganda against religion, they are considered to have had no chance of learning from the nearby religious Jews and are categorized as *tinokim shenishbu*, until the proper amount of outreach is initiated to

them. According to his opinion, it is forbidden to lend them money with *ribbis*.

Rav Moshe Feinstein argues and applies the title of *mumar* to most secular Jews in our times.

In any event, the opinion of the Chazon Ish is another reason not to lend money to a secular Jew with interest in today's times and another reason to try to convince them to use a *heter iska*.

To watch the video or listen to the shiur given by the Dayan, visit:

[www.baishavaad.org/yorucha-topics](http://www.baishavaad.org/yorucha-topics)

Or signup to receive them via whatsapp: [732.232.1412](https://www.whatsapp.com/channel/002997322321412)



# SIGN UP NOW TO LEARN IN-DEPTH

☎ 888.485.8223 (VAAD) ✉ YORUCHA@BAISHAVAAD.ORG ↗ BAISHAVAAD.ORG/YORUCHA

## Want to receive practical Q&A daily videos on the Yorucha topics?

↗ [baishavaad.org/daily](http://baishavaad.org/daily) ☎ 732.232.1412