# The Ethics of Gambling

MAIMONIDES MOOT COURT COMPETITION SOURCEBOOK

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# **Table of Contents**

- 2 Introduction
- 3 The Case
- **6 Unit 1:** Gambling or *Gezel*?
- **16 Unit 2:** Additional Halakhic Considerations
- **Unit 3:**Do the Ends Justify the Means?
- **27 Unit 4:**Stolen Goods and Stumbling Blocks
- **35 Unit 5:** *Imitatio Dei*: Striving for Perfection
- 43 Scoring Rubric



# What is the Maimonides Moot Court Competition?

The Maimonides Moot Court Competition is the premier program for students to engage with contemporary ethical questions using Jewish legal wisdom. Our competitions are structured around a detailed case alongside a sourcebook of traditional and modern Jewish texts. Students construct arguments from the curated texts to address the questions presented by the case. Cases in recent years have addressed timely issues including criminal justice, tainted money, and social media.

Maimonides Moot Court Competition is a program of the Hadar Institute, a center of Jewish learning that builds vibrant, egalitarian Jewish communities around Torah study, Jewish practice, and the values of kindness and compassion.

### What is a Beit Din?

case.

A *beit din* is a Jewish court of law which makes rulings in accordance with *halakhah*, or the collective body of biblical and rabbinical law. The role of the *beit din* is to apply halakhic precedent to the particular circumstances of the case to reach a ruling.

In the Maimonides Moot Court Competition, your team is a *beit din* and you will be presented with a specific case. You will study the provided texts in the sourcebook to explore how Jewish tradition has approached the legal and ethical issues presented by the case. The aim is to articulate a position rooted in the provided texts—there is no single "correct" answer. The Talmud embraces multiple perspectives and outcomes, describing the opinions of Beit Hillel and Beit Shammai as "the words of the living God" (Eruvin 13b)—even when these opinions conflict.

This sourcebook contains texts spanning the full breadth of Jewish tradition; ancient and medieval texts are juxtaposed with contemporary perspectives. A strong argument will engage these sources and bring them into conversation with one another. Likewise it may be important to explain why certain sources are not applicable or relevant in your understanding of the

There is a hierarchy of sources, with earlier sources carrying more weight. Sources from Tanakh, the Written Torah, are the most authoritative.

Typically, later sources elucidate rather than dispute earlier resources. The power of later authorities stems from interpreting and applying earlier texts, much as your team will be doing. Collectively, these post-biblical teachings are known as the Oral Torah.

## Introduction

The case this year challenges you to explore a set of complex questions surrounding the legalization and regulation of gambling. On the one hand, this topic has been debated in Jewish texts for many centuries dating back to the Talmud. However, the advent of online gambling—and in particular the legalization of sports betting apps in many locales—has led to a surge in gambling activity and brings a renewed sense of urgency to these questions.

In 2018, the United States Supreme Court issued a ruling that allowed states to legalize sports betting, which most states then proceeded to do. Public sentiment has changed as well, with record numbers of people—71% of American adults according to a recent Gallup poll—holding that gambling is morally acceptable.¹ While some forms of gambling have been popular for many years, such as playing the lottery, the proliferation of online gambling options has especially appealed to younger people. Some studies have found that a majority of teenagers gamble at least once per year, though a precise number is hard to determine.

Advocates for online gambling make a number of claims, including that having regulated gambling provides for a safer experience than if only illegal options were available. Moreover, governments are able to tax gambling companies and use that revenue to benefit society. For example, Israel's government-owned lottery, Mifal HaPais, has contributed billions of shekels to schools, hospitals, and a wide range of cultural programs. Advocates claim that it is no worse than regulating and taxing other potentially harmful behaviors, like drinking alcohol or smoking cigarettes, which is commonly done.

But there is a darker side as well. While gambling can be a relatively harmless activity for most people, it can be highly addictive and lead to destructive consequences for others. The most recent edition of the DSM, which is a reference book published by the American Psychiatric Association that is used to diagnose mental disorders, contains a "gambling disorder" entry for the first time.<sup>2</sup> Researchers have found that gambling can activate the brain's reward system in a similar way to drugs or alcohol. Studies indicate that about 1% of adults have a severe gambling problem, and that 2-3% have a mild gambling problem. This has led to calls for increased regulation around gambling advertisements and other guardrails that protect consumers, as will be explored in the sourcebook.

This year's case challenges you to address these concerns and determine whether it is advisable for a city to legalize and regulate gambling in order to fund an important educational program. You'll be introduced to a variety of Jewish legal and ethical principles that have developed over the course of many centuries, in addition to the insights of contemporary researchers. We invite you to engage in the challenge of applying these ideas to the complex realities of our world today.

- Americans Say Birth Control, Divorce Most 'Morally Acceptable' (June 9, 2022) <a href="https://news.gallup.com/poll/393515/">https://news.gallup.com/poll/393515/</a> americans-say-birth-control-divorce-morally-acceptable.aspx
- 2 Impact of the DSM-IV to DSM-5 Changes on the National Survey on Drug Use and Health: <a href="https://www.ncbi.nlm.nih.gov/books/NBK519704/table/ch3.t39/">https://www.ncbi.nlm.nih.gov/books/NBK519704/table/ch3.t39/</a>

#### Case

# The Beit Zeitim Times

MARCH 30, 2025

# City Officials Divided About Funding Educational Program Through A Gambling Tax

A controversy in Beit Zeitim is raising important questions about how to promote academic excellence while limited by budget constraints. Over the past two years, the city began a partnership with an after-school engineering program called *Robotics Academy*, which enabled two local high schools to invest in teachers and technology needed to create robotics courses for the first time. *Robotics Academy* specifically partners with schools that have a majority of students who come from low-income families. Each session concludes with a healthy dinner for the students, who otherwise may not have access to a nutritious meal at home.

The program has shown promising results—the schools that took part in *Robotics Academy* have received extremely positive feedback from teachers, students, and parents. While there is enthusiasm for expanding the *Robotics Academy* program to additional schools, the current Beit Zeitim city budget does not allow for this. City council

officials raised numerous ideas about how to raise additional funds, but none of them received the necessary support for approval. Despite the widespread support for *Robotics Academy*, there was little interest in cutting other programs or for raising taxes on local households or businesses.

However, there was a possible solution that the city council wanted to explore further. The nearby city of Be'er Miriam had recently funded a similar educational program by legalizing gambling and imposing a significant tax on the profits that the gambling generated. Soon after this legislation was enacted, a casino opened in Be'er Miriam that has attracted customers from the broader area. In addition to the standard business tax paid by all companies in the city, the casino must pay an additional 30% gambling tax that helps subsidize educational programs for local students.

The Beit Zeitim city council is now debating whether to enact similar legislation

to help fund *Robotics Academy* by legalizing gambling in the city and imposing a tax on the profits. Some members of the city council have raised concerns about the negative impact that legalizing gambling might have on the city, such as the mixed message it might send to students. They argued that trying to fund an educational program through gambling would inevitably backfire and cause more problems than it solves.

On the other hand, some members of the city council felt that this proposal was a simple way to fund an essential educational program for underserved students. As one member pointed out, "If some residents of Beit Zeitim are already driving to Be'er Miriam in order to visit its casino, why shouldn't we find a way to use that money for a good cause here?" They argued that it was essentially no different than the city taxing harmful or addictive substances like alcohol or cigarettes, which it currently does.

Other members found themselves agreeing with aspects expressed by members on both sides of the issue and wondered whether there was room for a middle position that could satisfy the majority of the city council. Perhaps certain forms of gambling were less problematic than others, and there was a way to find common ground. One council member raised the idea of legalizing sports betting apps for city residents and taxing a percentage of each winning bet, while another city council member argued in favor of launching a city lottery.

The city council is attempting to raise \$1,000,000 a year in order to support *Robotics Academy* in five additional schools. According to its projections, it can generate revenue by doing some or all of the following:

- Allowing a casino to operate would generate up to \$600,000 a year for the city:
  - » \$300,000 from slot machines and other games of chance,
  - » \$100,000 from poker tables (where the casino earns a small percentage of each hand played),
  - » \$100,000 from sports betting,
  - » \$100,000 from restaurants and entertainment venues within the casino.
- Allowing city residents to use sports bettings apps would generate \$200,000 a year.
- A lottery run by the city would generate \$200,000 a year.

If not all of the ventures are approved and less than \$1,000,000 is raised, the city could opt to limit expanding *Robotics Academy* to fewer schools (\$200,000 is the price for each school).

Presently all forms of gambling are illegal within Beit Zeitim, but the city council has the authority to change the law. Before the city council makes a final decision, they have reached out to a number of community leaders to share their opinions. Although it is not legally bound to follow their advice, the city council has paid close attention to the input of these leaders in past decisions. Once this process is complete, the council will take a final vote on the matter.

#### The Role of the Beit Din

The Beit Zeitim *beit din* has been invited by the city council to offer guidance about a halakhic approach to this situation. In particular, the beit din has been asked by the city council:

- 1. Whether it is halachically justifiable to legalize gambling for the sake of funding *Robotics Academy*.
- 2. Whether the form of gambling has an impact on the issue. For example, does it make a difference whether the city legalizes:
  - Games of chance such as slot machines, where a person bets against the casino; in these games, an algorithm guarantees that the casino earns a fixed amount of profits over time.
  - Card games that involve both luck and skill, such as poker, where players bet against each other and the casino receives a small percentage of each hand played.
  - Betting on professional sports games, where the casino receives a small percentage of each bet.
- 3. Whether the context of the gambling affects the decision, and in particular whether legalizing a casino, a lottery run by the city, and/or sports betting apps is advisable.
- 4. Whether there are proposals for regulations that can be put in place to limit the harm caused by legalized gambling.

The Beit Din has been asked by the city council that their responses to these questions should also anticipate and address potential counterarguments to their position.

#### **UNIT 1**

# Gambling or *Gezel*?

#### disqualified

From serving as a judge or witness.

#### ofly doves

There is a debate in the Gemara whether this refers to betting on dove races, or a form of theft that involves training a dove to lure other people's doves.

#### Sabbatical Year

The seventh year is a Sabbatical Year during which most agricultural labor is forbidden. Produce of the seventh year is considered ownerless and may be collected and eaten, but not sold.

#### o kosher

Meaning they are fit to serve as judges or witnesses.

#### THE DISQUALIFICATION OF DICE PLAYERS

While the Torah does not explicitly address the permissibility of gambling, the topic is discussed in Rabbinic literature. One of the key passages that discusses gambling in the Talmud appears in the context of who is eligible to serve as a witness or judge. The mishnah below deals with people who are disqualified because of their behavior, while a subsequent mishnah disqualifies those who are related to a litigant.

Before reading the mishnah, ask yourself: is there anyone that you would disqualify from testifying in a court case? If so, what would be the basis for that disqualification?

#### SOURCE #1

#### מִשׁנָה סַנְהַדְרִין ג:ג

ואלו הן הפסולין המשחק בַּקבַיַא וָהַמַּלְוָה בַּרַבִּית וּמַפַרִיחֵי יוֹנִים וְסוֹחַרֵי

שביעית...

אָמַר רַבִּי יִהוּדָה אֵימַתִי? בומן שאין להן אמנות אלא הוא אַבַל יש לָהֵן אִמְנוּת שלא הוא כשרין:

#### Mishnah Sanhedrin 3:3

These people are disqualified. One who plays with dice, and one who lends with interest, and those who fly doves, and those who do business with the produce of the Sabbatical Year...

Rabbi Yehudah said: When does this law apply? If these people have no other occupation besides this activity. But if they have an occupation, they are kosher.

» Does the group of people listed in the mishnah share anything in common? If so, why do you think this makes them ineligible to serve as a witness or judge?

# understood literally

See Tosafot for a similar example (ד"ה בּל בִּי הַאי גַּוְנָא).

- » How do you understand Rabbi Yehudah's statement? Is he disagreeing with the first half of the mishnah or qualifying it?
- » What difference should it make whether a person has an occupation besides one of the activities listed in the mishnah?

The Gemara probes each of the categories listed in the mishnah to better understand why they are disqualified. We will dive into the rationales given for the disqualification of dice playing, since that will impact whether or not it should apply to all forms of gambling, such as the circumstances in our case.

#### SOURCE #2

תַּלְמוּד בָּבְלִי סַנְהֶדְרִין דַּף כד עַמּוּד ב	Talmud Bavli Sanhedrin 24b
מְשַׁחֵק בְּקָבְיָא מַאי קָא עָבַד?	Regarding one who plays dice, what makes them disqualified?
אָמַר רָמֵי בַּר חָמָא מִשׁוּם דְּהָוָה אַסְמַרְתָּא וְאַסְמַרְתָּא לָא קָנְיָא.	Rami bar <u>H</u> ama says: because gambling is a type of אַּלְמַלְּתָּא (asmakhta, will be translated below). And one cannot make an acquisition through an asmakhta.
רַב שֵשֶת אָמַר כּל כִּי הַאי גַּוְנָא לָאו אַסְמַכְתָּא הִיא אֶלָּא לְפִי שֶאֵין עֲסוּקִין בְּיִשוּבוֹ שֶל עוֹלָם	Rav Sheshet says: A case like this is not an asmakhta. Rather, those who play dice are disqualified because they are not involved in settling the world.

The Gemara lists two possible reasons that a dice player is disqualified. Rami bar Hama explains that the issue with dice playing is that it is a form of asmakhta. This refers to a situation where a person commits to doing something, but we have reason to believe that they were not sincere and never planned to follow through on the commitment. For example, if a person borrows an everyday item and promises to return it on time—and if not they will pay the lender one million dollars—it is obvious that they are exaggerating and this condition is not intended to be understood literally.

#### o gezel

In the following unit, we will discuss the nature of this prohibition. Most authorities understand this to be a rabbinic prohibition, rather than a transgression of the biblical prohibition of theft. The significance of this distinction will be explored further in the sourcebook.

Let's see how Rashi explains the position of Rami bar <u>H</u>ama for why dice playing is considered to be *asmakhta*.

#### SOURCE #3

רַשִּׁ"י עַל Rashi on בַּשְּ"י בַּל סַנְהֶדְרִין דַּף כד עַמוּד Sanhedrin 24b

אַסְמַכְתָּא - הַיְנוּ דָּבָר דְּאֵינוּ נוֹתֵן לוֹ מִדַּעְתוֹ אֶלֶּא סוֹמֵךְ עַל דָּבָר שָאֵינוֹ דְּסָבוּר שֶהוּא יָכוֹל לְנַצֵח וּפְעָמִים שֶׁמְּנַצְחִין אוֹתוֹ "Asmakhta"—this was not something that the person willingly consented to, since they assumed that they would win the game. But sometimes the other player wins.

לָא קָנָיָא - וַהֲנָה לֵיהּ כְּעֵין גזלה בּידוֹ

"One cannot make an acquisition"—and it is considered as a form of theft.

Rashi explains that, according to Rami bar <u>H</u>ama, the problem with dice playing is that the players never truly consider the possibility that they will lose. Therefore, when the winner takes money from the losing player, it is coercive to some degree and considered to be a form of theft, or in Hebrew, אַזֵל (gezel).°

» Do you agree with this explanation? Is it fair to say that a gambler who agreed to wager a certain amount of money did not **truly** consent to the terms? Why or why not?

While this is the position of Rami bar <u>H</u>ama, the Gemara above then cites the opinion of Rav Sheshet who disagrees and states that dice playing is **not** a case of *asmakhta*. Below, we will explore two explanations for this position of Rav Sheshet, beginning with Rashi:

#### SOURCE #4

רַשִּ"י עַל Rashi on בַּשְּ"י בַּל Sanhedrin 24b

בָּל בִּי הַאי גַּוְנָא לָאו אַסְמַכָתָא הִיא - וְהֵיכִי דָּמֵי

"A case like this is not an *asmakhta*"—what is a case of *asmakhta*? For example... someone

o third party
See Bava Batra
168a for the
context of this
discussion. This
case will be
explained below.

אַסְמַכְתָּא כְּגוֹן... מַשְלִיש אֶת שְּטֶרוֹ דְּגֵט פָּשוּט (בָּבָא בָּתְרָא דַּף קסח.) דְּסוֹמֵךְ עַל לֹא דָבָר דְּסָבוּר כָּל זֶה בְּיָדִי לַעֲשוֹת וּמֵרֵישָא כִּי מַתְנֵי אַדַּעְתָּא דְּלָא יָהֵיב לֵיהּ לְאַסְמַכְתָּא קָא מַתְנֵי דְּטוֹעֶה וְסָבוּר לֹא יַבֹּא לִידֵי כַּדְ

אֲבָל הָבָא לָא סְמִיךְ אַמִּידִי דְּהָא לֹא יָדַע אִי נָצַח אִי לָא נָצַח וַאֲפָלוּ הָבֵי אַתְנִי שְׁמַע מִנָּה מִסְּפִיקָא אַתְנִי נָּמַר וִאַקנִי וָלֹא גָּזֵלַה הִיא who gave a debt document to a third party. A person relies on the fact that it will not come to be, since it's in their control to prevent it from happening [by paying back the balance of the loan on time].

But here in a case of playing dice, a person knows that they cannot rely on their inclination, since it is unknowable whether they will win or lose. Because of this, a person playing dice accepts this uncertainty and it is not considered theft for the other person to acquire their money.

Rashi explains that the key factor for Rav Sheshet that makes something an asmakhta is the degree to which the outcome is in a person's control. The more it is under the person's control, the stronger the argument that it is a case of asmakhta since presumably they were confident that they could prevent the condition from being met.

As an example of this, Rashi cites a case of *asmakhta* that appears elsewhere in the Mishnah regarding giving a debt document to a third party. The case involves a borrower who agrees to pay more than they actually owe if they fail to pay back their loan on time. This type of condition is considered to be *asmakhta* and therefore it is not enforceable.

Say that a person lends another person \$100. At the time of a loan, the lender would hold the debt document, which would serve as the only form of evidence that the borrower owed this money to them. When the borrower repaid the loan, the borrower would then take the debt document from the lender, so that the lender could not later claim that the money was still owed.

Some time later, the borrower is able to pay back \$25 rather than the full \$100.

#### asmakhta

This is the ruling of the Shulhan Arukh, Hoshen Mishpat 55:1

O Rabbeinu Tam Rabbi Ya'akov ben Meir (1100-1171) was a leading halakhic authority in France and the grandson of Rashi. The adjective "tam" means simple or straightforward, and is used to describe the character of Ya'akov in the Torah. He was among the leading Tosafists, whose commentaries are printed opposite those of Rashi in many editions of the Talmud.

Rather than writing a new contract with the updated \$75 amount (which could be an expensive process), they agree that the debt document should be held by a third party. The borrower promises to pay the lender the remaining \$75 by a certain date, and that if they fail to do so, then the third party should return the debt document to the lender—this would penalize the borrower by obligating them to pay the full \$100 listed in the document (for a total of \$125).

Seemingly, the borrower is willing to agree to this condition since they are confident that they will pay the remaining \$75 by the agreed upon date. For this reason, it is considered to be a case of asmakhta<sup>o</sup> and not something they truly consented to. Therefore, even if the borrower did not repay the balance by the agreed upon date, they would only owe the lender the remaining \$75 and not the full \$100 amount listed in the document.

Rashi explains that Rav Sheshet would draw a distinction between this case of asmakhta—where paying back the debt by the agreed upon date is in the hands of the borrower—and the dice player, who understands that the outcome of the game is completely out of their control. Since it's totally out of their hands, the dice player understands that there is a real chance that they will lose the money. Therefore, Rav Sheshet holds that dice playing is not considered to be a case of asmakhta.

- According to this understanding of Rav Sheshet, what is the key characteristic that makes something an asmakhta?
- Given this approach for why dice playing is not asmakhta, are there cases of gambling that would be considered to be asmakhta? If so, what are they and why would you classify them this way?

Another explanation of Rav Sheshet's view for why dice playing is not asmakhta is offered by Rabbeinu Tam. He also draws on the case above where the debt document is given to a third party. However, he suggests a different key distinction between the case above and our context of dice playing.

#### SOURCF #5

תוֹסַפוֹת עַל סַנְהֵדְרִין Rabbeinu Tam, דַף כד עַמּוד ב ד"ה כֹל כִּי Tosafot on Sanhedrin 24b הַאי גַוְנַא

בֵּן נָרָאֵה לְרַבֵּינוּ תַּם לְפַרֵשׁ הַכִי כַּל כִּי הַאי גַּוְנַא לַאו

It appears to Rabbeinu Tam to explain as follows: the reason that our case of dice

אַסְמַרָתָּא הִיא דְּלָא הָוְיָא אַסְמַרְתָּא אָלָּא הֵיכָּא שָאֵין יָכוֹל לְהַרְוִיחַ כְּגוֹן מַשְלִיש שְטָרוֹ וְכוּ' דְּגֵט פָּשוּט (בָּבָא בָּתְרָא דַּף קסח.) אֲבָל הָכָא לָא הָוְיָא אַסְמַרְתָּא מִשּוּם דְּכֵיוָן דִּשְנַיִם הָם כַּל אָחַד (אָחַד מַקְנִי לְחַבְרָה

playing is not *asmakhta* is because it is only *asmakhta* where a person does not have the potential to profit, such as when one gives the debt document to a third party. But here with dice playing it is not considered to be a case of *asmakhta*, since there are two people [who can each benefit from the outcome of the dice playing] and acquire the winning amount from each other.

According to Rabbeinu Tam, the key characteristic that makes something an *asmakhta* is that a person cannot possibly benefit from the outcome. In the case of the debt document, there is no additional benefit to the **borrower** paying back the loan by the agreed upon date—there is only the chance of a penalty if they do **not** pay \$75 by the agreed upon date. In such a case, the borrower does not truly consider the possibility that they will be obligated to pay \$125. But in a case of dice playing, the fact that a person can potentially profit affects their mindset and it is not considered to be *asmakhta*.

- » According to Rabbeinu Tam, why do you think the possibility of profiting affects whether or not something is *asmakhta*? Do you agree with this assessment?
- » Contrast Rabbeinu Tam's explanation of Rav Sheshet's view with the explanation stated by Rashi (source 4). Rabbeinu Tam says that dice playing is not asmakhta since the bettors have the potential to profit. Rashi says that dice playing is not asmakhta since the outcome of dice playing is out of a person's control. Thinking beyond dice playing, are there cases of gambling where Rabbeinu Tam and Rashi would disagree whether or not it is considered asmakhta?
  - Consider the following three cases: (a) a sports enthusiast who feels confident that the team they bet on is going to win a game (b) a skilled poker player who expects to win money in the long term (c) a person who buys a lottery ticket because they are feeling lucky. According to Rabbeinu Tam and Rashi, how would Rav Sheshet rule about each of these three cases regarding asmakhta?

Returning to the Talmud, the opinion of Rav Sheshet is that the problem with dice playing is unrelated to asmakhta. Rather, the issue stems from the person not being involved in "יַשׁל עוֹלָם" (yishuvo shel olam, "settling the world"). The Gemara then asks for a practical difference between these two explanations of why a dice player is disqualified.

#### SOURCE #6

תַּלְמוּד בָּבְלִי סַנְהֶדְרִין דַּף כד עַמּוּד ב

מַאי בִינַיְהוּ? אָכָּא בֵּינַיְהוּ דִּגְמַר אָמֵנוּתֵא אָחָרִיתִי

#### Talmud Bavli Sanhedrin 24b

What is the difference between these two opinions? There is a difference—if the individual has an occupation [besides playing dice].

The Gemara explains that the difference between two positions is apparent when the person has a profession besides for dice playing. If the problem with dice playing is theft due to it being *asmakhta*, then even casual gambling would be problematic. But if the concern is related to not building up the world, then the implication is that casual gambling would not be a problem if the person had an honest livelihood and generally was involved in constructive pursuits.

- » How do you understand the position of Rav Sheshet for the disqualification of dice players? Why would not being involved in "settling the world" make someone ineligible to testify?
- » If a portion of the gambled money is being directed towards supporting an educational program, should that be considered to be "settling the world?" Why or why not?

#### **Questions for further reflection**

We will continue this discussion in the following unit and see how later authorities ruled in the debate between Rami bar <u>Hama</u> and Rav Sheshet. For now, consider the following questions:

- » What are the primary concerns expressed in these texts toward gambling? Are there forms of gambling (or gamblers) that are more or less problematic?
- » How relevant are these concerns for the specific circumstances of our case?
- What is the relationship between being disqualified from giving testimony and the questions posed in our case? Let's say a person does not mind being disqualified from giving testimony—is there still an issue with gambling? Why or why not?

#### CONTEMPORARY DISCUSSION: ASMAKHTA AND THE LAW OF SMALL NUMBERS

One of the key ideas discussed above is the notion of *asmakhta*. To what extent does a dice player seriously consider the possibility that they will lose money? Contemporary research into gambling indicates that the answer to this question may not be so simple.

For example, people can be overconfident about their likelihood of winning a game of chance. Say that a coin is flipped 10 times and lands on "heads" each time. This might generate the thought that the next outcome is more likely to be tails. As a result, a person might feel more confident placing a bet on the 11<sup>th</sup> coin toss, even though the actual probability remains the same each time. This type of cognitive distortion is often referred to as the "gambler's fallacy."

Israeli psychologists Daniel Kahneman and Amos Tversky pioneered research into risk and decision making. They explained that even highly trained scientists are susceptible to forms of the gambler's fallacy. One reason for this is the "law of small numbers," which is the expectation that patterns, even small patterns, will reflect their underlying probabilities. In reality, a small sample—whether it's a group of subjects in an experiment, or the spins of a roulette wheel in a casino on a given night—is far less likely to be representative of this balanced outcome than people might think.

#### "Belief in the Law of Small Numbers," Amos Tversky and Daniel Kahneman (1971)

Our thesis is that people have strong intuitions about random sampling; that these intuitions are wrong in fundamental respects; that these intuitions are shared by naive subjects and by trained scientists; and that they are applied with unfortunate consequences in the course of scientific inquiry.

We submit that people view a sample randomly drawn from a population as highly representative; that is, similar to the population in all essential characteristics... The tendency to regard a sample as a representation is manifest in a wide variety of situations. When subjects are instructed to generate a random sequence of hypothetical tosses of a fair coin, for example, they produce sequences where the proportion of heads in any short sequence stays far closer to .50 than the laws of chance would predict (Tune, 1964)....

Subjects act as if every segment of the random sequence must reflect the true proportion: if the sequence has started from the population proportion, a corrective bias in the other direction is expected. This has been called the gambler's fallacy.

The heart of the gambler's fallacy is a misconception of the fairness of the laws of chance. The gambler feels that the fairness of the coin entitles him to expect that any deviation in one direction will soon be canceled by a corresponding deviation in the other. Even the fairest of coins, however, given the limitations of its memory and moral sense, cannot be as fair as the gambler expects it to be. This fallacy is not unique to gamblers.

Tversky and Kahneman (who would later be awarded the Nobel Prize in Economics for research into judgment and decision making) argue above that people tend to be more confident than is warranted in drawing conclusions from small patterns.

- » If Tversky and Kahneman are correct about this argument regarding the Law of Small Numbers, does that impact whether or not gambling should be considered *asmakhta*?
- » Does it matter that not only gamblers, but even highly trained scientists can be susceptible to this fallacy? Why or why not?

While Tversky and Kahneman identified that many types of people can be fooled by the gambler's fallacy, it is possible that certain forms of gambling are more likely to create a feeling of overconfidence in the bettor's mind. The following article discusses the advent of online sports betting after it was legalized in many states across the U.S. As you read the article, pay attention to the comments made on the "illusion of control."

# "As sports betting goes mainstream, addiction experts are on high alert" *The Washington Post* (September 6, 2022)

While gambling has been part of American society from the start, the study of sports betting and the problems it causes is just beginning. A 2019 report in the *Journal of Gambling Studies* is, according to the authors, "first to our knowledge to examine risk factors for gambling problems specifically related to sports betting, rather than gambling in general."

And what experts have found is that sports betting may create problems worse than the traditional casino and cards. People who bet on sports often believe they have an edge because they follow the teams. The random bounce of a football or a blown call doesn't tend to factor into a bettor's belief system....

That can bring more problems when a bet goes awry. According to one study in the *Addictive Behaviors* journal, "Sports betting, relative to non-sports betting, has been more strongly linked

to gambling problems and cognitive distortions related to illusion of control, probability control and interpretive control."

The "illusion of control" may be enhanced by the rapidity of the technology in the bet-by-5G era. There's no extra step of physically withdrawing cash from an ATM, driving to the casino or even waiting for a blackjack table dealer...

You can play as fast as you want, as quick as you want. The technology makes it so fast and so easy," said Jim Maney, executive director of the New York Council on Problem Gambling. "All of a sudden, how much money are we spending? Before you know it, you're going down the rabbit hole."

- » Why do you think it would be the case that people who bet on sports have a greater "illusion of control" than other types of gamblers?
- » If it is indeed true that sports bettors experience a greater "illusion of control" than other types of gamblers, does that impact whether it is halakhically permissible? Would it make a difference according to Rashi or Rabbeinu Tam? Why or why not?



#### **UNIT 2**

# Gambling: Additional Halakhic Considerations

#### O Shulhan Arukh

Authored by Rabbi Yosef Karo (1488-1575), the Shulhan Arukh remains the most widely accepted compilation of halakhah. It is often the first source that is consulted when delving into a halakhic question.

#### o rabbinic law

The halakhic system recognizes a hierarchy between commandments that are listed in the Torah (דְאוֹרֵיתַא, de'orayta) and those that are derived by the rabbis (דְרַבְּנַן, de'rabannan). Rabbinic law is less severe and at times may be overridden by de'orayta obligations or competing factors, as will be evident later in the sourcebook. The prohibition of theft mentioned in the Torah refers to a classic case of stealing, whereas the Shulhan Arukh states that dice playing is only a violation of a rabbinic expansion of the prohibition of theft.

#### THE DEBATE OVER DICE PLAYERS

In the previous unit, we saw a debate in the Talmud between Rami bar <u>H</u>ama and Rav Sheshet about why a dice player is disqualified from testifying. According to Rami bar <u>H</u>ama, the issue is that playing dice is a case of *asmakhta* since the players did not truly entertain the possibility of losing money. According to Rav Sheshet, the primary concern is that dice players are not involved in a constructive pursuit.

Later authorities seem to disagree whether the *halakhah* is in accordance with Rami bar <u>Hama</u> or with Rav Sheshet. The Shul<u>h</u>an Arukh<sup>o</sup> rules that dice playing is a violation of a rabbinic form of theft, indicating that he rules like Rami bar <u>Hama</u>.

#### SOURCE #7

#### שַׁלְחָן עָרוּךָ, חשָׁן מִשְׁפָּט שע:ב

הַמְשַּחֲקִים בְּקוּבְיָא כֵּיצַד? אֵלּוּ שֶׁמְשַּחֲקִים בְּקוּבְיָא כֵּיצַד? אֵלּוּ אוֹ בַּצַצְמוֹת וְעוֹשִׁים הְנַאי בִּינֵיהֶם שֶׁכָּל הַנּוֹצֵח אֶת חֲבֵרוֹ בְּאוֹתוֹ שְׁחוֹק יִקַּח כָּךְ וְכָךְ הַמְשַּחֲקִים בִּבְהֵמָה אוֹ בְּחַיָּה אוֹ בְּעוֹפוֹת וְעוֹשִׁים הְנַאי שֶׁכָּל שֶׁהְנַצַח בְּהֶמְתוֹ אוֹ תָּרוּץ יוֹתֵר יִקַח מֵחָבֵרוֹ כָּךְ וְכָךְ וְכֵן כָּל כַּיוֹצֵא בִּדְבָרִים אֵלוּ הַכֹּל אָסוּר וְגַּוֵל מִדְּבָרִיהֵם הוּא

#### Shulhan Arukh, Hoshen Mishpat 370:2

Who is considered to be a "dice player?" Those that play with sticks, stones, or bones and make conditions between the players that whoever wins should take a certain amount from the others. Similarly, one who does so with animals or birds and makes conditions that whichever one runs faster will enable its owner to take from the other players, and all similar activities—all of this is forbidden and considered a violation of theft according to rabbinic law.

#### Rema

Rabbi Moses Isserles (1530-1572), also known as Rema, was a halakhic authority in Krakow. He is most well known for his comments on the Shulhan Arukh, which have had a great influence on the Ashkenazi Jewish community to this day.

- O Rabbi Ovadia Yosef
- Rabbi Ovadia Yosef (1920-2013) was the Sephardi Chief Rabbi of Israel from 1973 to 1983 and one of the most impactful halakhic authorities of the 20<sup>th</sup> century. In addition to his spiritual leadership, he had significant political influence in Israel as a founder of the Shas party.
- Yabi'a Omer

Yabi'a Omer is a collection of responsa from Rabbi Ovadia Yosef.

#### Rambam

Rambam is an acronym for Rabbi Moshe ben Maimon, who lived in Spain and Egypt (1135-1204). His most significant work is the Mishneh Torah, a comprehensive codification of Jewish law from the Talmud. In addition, Rambam wrote a commentary on the Mishnah and philosophical works, such as The Guide of the Perplexed.

- Why do you think the Shulhan Arukh lists all of these forms of gambling? Why not simply write that playing with dice is forbidden?
- » If gambling is considered a rabbinic form of theft, is there a justification for the city of Beit Zeitim to legalize gambling and use the money to support Robotics Academy? Why or why not?

While the Shulhan Arukh takes a hard line, Rema<sup>o</sup> seems to align with the position of Rav Sheshet from the Talmud that the primary issue with dice playing is that the person is not involved with "settling the world." For this reason, Rema states the following.

#### SOURCE #8

#### רמ"א עַל חֹשֶׁן מִשְׁפָּט שע:ג

אֲבָל אָם יֵשׁ לוֹ אֻמְּנוּת אַחֶרֶת... אֵינוֹ פָּסוּל

#### Rema on Shulhan Arukh, <u>H</u>oshen Mishpat 370:3

But if the individual has another profession... then they are not disqualified.

Given this debate, what is the ultimate outcome for contemporary halakhic authorities? Typically when there is debate between the Shulhan Arukh and Rema, most Sephardic authorities tend to follow the Shulhan Arukh, and most Ashkenazi authorities tend to follow Rema. For example, Rabbi Ovadiah Yosef, the most significant Sephardic halakhic authority of the 20<sup>th</sup> century, ruled in accordance with the Shulhan Arukh when he was asked about the permissibility of buying lottery tickets.

#### SOURCF #9

שו"ת יַבִּיעַ אֹמֶר חֵלֶק ז -חשון מִשִּבָּט סִימַן ו

נִשְאַלְתִּי הַאָם מֻתָּר מִן הַדִּין לְהִשְתַּתֵּף בִּקְנִיַת כַּרְטִיםֵי הַגָּרָלָה שֶׁל מִפְעַל הַפַּיִם?

ײַשָּאָמְנָם הָרַמְבַּ״ם וּמְרָן... הַשֻּׁלְחָן עָרוּךְ כָּתְבוּ בְּהֶדְיָא Rabbi Ovadia Yosef, Yabi'a Omer,° <u>H</u>oshen Mishpat 7:6

I was asked: is it permissible for a person to purchase lottery tickets from Mifal HaPais (Israel's national lottery)?

...According to Rambam<sup>o</sup> (Maimonides) and the Shul<u>h</u>an Arukh, the relevance

#### lost

See Tosafot Sanhedrin 24b (ד"ה כל כי האי גוונא) for an earlier formulation of this idea. יְוְהוּא שֶׁאֵין לוֹ אֻמְּנוּת אֶלָּא הוּא", אַךְ זֶהוּ רַק לְעִנְיַן לְפָסְלוֹ לְעֵדוּת, אֲבָל לְעִנְיַן אִפּוּר גָּזֶל מִדְּבְרִיהֶם מִפַעם אַסְמַכְתָּא, גַּם בְּשֶׁיֵש לוֹ אָמָנוּת אַחֶרֶת, אָפּוּרָא מִיהָא אִיבָּא, וְכַמְפֹּרָש בִּדִבְרִיהָם.

of the person having another profession only has to do with their disqualification from giving testimony. But regarding the rabbinic prohibition of theft due to *asmakhta*, even when the person has a profession—it is prohibited, as they explain.

Rabbi Ovadiah Yosef says it's important to draw a distinction between the discussion in the mishnah around a person's eligibility to be a witness, and between the actual permissibility of gambling. He suggests that while there is debate about the former, the consensus of Rambam and the Shulhan Arukh is that gambling is prohibited.

According to this approach, is it ever permissible to gamble? Does it matter whether the money from the lottery is helping fund a worthwhile cause? Why or why not?

Ashkenazi authorities tend to be more lenient if it is a case of casual gambling—as long as it meets the criteria for not being an *asmakhta* (see sources 4-5 for explanations of why dice playing is not considered to be an *asmakhta* according to Rav Sheshet). However, even according to this more lenient position, Rema adds that another condition must be met for the gambling not to be a case of *asmakhta*.

#### SOURCE #10

#### רמ"א עַל חשון מִשְפַּט שע:ג

בַּמֶּה דְבָרִים אֲמוּרִים? כְּשֶׁשוֹחֲקִין בְּמָעוֹת מוּכָנִים אֲבָל אִם שוֹחֲקִים בַּאֲמָנָה אֵין מוֹצִיאִין מִמֵּנוּ מַה שֶּׁהְפָּסִיד

#### Rema on Shulhan Arukh, <u>H</u>oshen Mishpat 370:3

When do we say that the dice playing is permissible? Only when the money is placed in front of the players, but if they are playing based on trust [that the money will be paid at a later time], then we do not take away the money from the person that they lost.

- » Why do you think that the money being present should have an impact on the permissibility of gambling?
- » Does the money being on the table make the situation more or less of an asmakhta? How so?
- What about if it's not actual money on the table, but chips at a casino? How about credits on a smartphone app? Which of these meet Rema's conditions for acceptable forms of gambling?

We have seen above that the Shulhan Arukh takes a stricter approach towards gambling by classifying these cases as *asmakhta*. However, there is a type of case where the Shulhan Arukh writes explicitly that even though a commitment is made in the conditional form of an *asmakhta*, we still enforce the person's commitment.

#### SOURCE #11

שָׁלְ**חָן עָרוּדְ, יוֹרֶה דֵּעָה רנח:י** נָדַר לִצְדָקָה בְּאַסְמַכְתָּא כְּגוֹן אָם אֶצֶשֶּׁה דָּבָר פְּלוֹנִי אֶתֵּן כָּדְ לִצְדָקָה

וַעֲשַאוֹ חַיַּב לְתֵּן:

#### Shulhan Arukh, Yoreh De'ah 258:10

If one makes a vow to charity that is *asmakhta*, such as "If I do that thing, I will give a certain amount to charity," then the person must give the charity if the condition is met.

- Why do you think that pledges to charity are valid and enforceable even if the pledge was formulated in the conditional language of asmakhta?
- » If a pledge to charity is valid even if it is asmakhta, what about gambling for a charitable cause? Should that also be considered to be an enforceable commitment even if generally gambling is considered by the Shulhan Arukh to be a form of theft?
- » What about if only a portion of the money is going towards a worthy cause, such as the circumstances in our case where a portion of the tax revenue will fund *Robotics Academy*?

#### **Questions for further reflection**

- » Considering all of the texts you have studied until this point, what are the primary concerns that would need to be addressed by Beit Zeitim before legalizing gambling in the city?
- » Are there steps that they can take to help mitigate these halakhic concerns towards gambling? If so, what are they?

#### CONTEMPORARY DISCUSSION: ASMAKHTA AND THE ABSTRACTION OF MONEY

In source 10, Rema states that in order for dice playing not to be an *asmakhta*, the wagered money must be present while the game is being played. He writes explicitly that it's not enough to make a wager based on trust that the money will be paid at a later time. While Rema does not write this explicitly, it is possible that underlying this requirement is the idea that when the money is physically present, the bettors are more likely to internalize the notion that their money is truly on the line.

Researchers have found that consumers are more willing to spend greater sums of money when the form of spending is more abstract. For example, there is evidence that consumers spend more when paying via credit card than with tangible cash. In a small study, researchers found that the same was true for poker chips: poker players were more likely to take greater risks while playing with poker chips than with actual cash. Below is a summary of a study performed on 40 poker players.

# "The Role of Chips in Poker Gambling: An Empirical Pilot Study" National Association for Gambling Studies (2010)

In the general consumer literature, it has been claimed that the more transparent the payment form, the less likely a person will spend the money. This means that people are more likely to buy goods and services with virtual representations of money (e.g., credit cards) than with real money. These observations have also been made in reference to people who spend money gambling. It has also been asserted that the psychological value of virtual representations of real money (e.g., chips, electronic cash [e-cash], tokens, smart cards, etc.) is less than real money. Therefore, this study examined how much money poker players (n=40) gambled when playing Texas Hold'em Poker using either chips or real money to make bets. Results showed that participants gambled significantly more with chips than with real cash.

On the one hand, there is a case to be made that people relate to cash in a different way than they do to more abstract forms of money. But at the same time, there is a big shift taking place in how consumers make payments. Cash payments are becoming increasingly less common and being replaced with alternatives such as credit cards and mobile payments. For example, the U.S. Federal Reserve estimates

#### o cash

2023 Findings from the Diary of Consumer Payment Choice

https://www. frbsf.org/cash/ wp-content/ uploads/ sites/7/2023-Findings-fromthe-Diary-of-Consumer-Payment-Choice. pdf that as of 2022, only 18% of transactions involve cash<sup>o</sup> and similar trends have been observed throughout the world. Given this trend, it is worth reflecting on whether making a distinction between cash payments and more abstract forms of money would still hold true today.

- » Given this data and in light of Rema's comments in Source 10, would there be reason to make a distinction between forms of gambling that involve cash payments and those that involve digital payments with regards to asmakhta? Why or why not?
- » How about drawing a distinction between in-person transactions vs. online transactions? Should one of these be more likely to be considered asmakhta?
- Are there practical takeaways from this discussion that offer insight into how the Beit Zeitim city council should respond to their dilemma?



#### UNIT 3

# Do the Ends Justify the Means?

#### o lulav

One of the four species that are part of the observance of the holiday of Sukkot. (Vayikra 23:40 )

In the previous sections, we explored some of the key concerns that appear in Rabbinic texts about gambling. We saw that some opinions viewed gambling as a rabbinic violation of theft due to *asmakhta*, while others held that the main problem with gambling only applied when it was the person's sole source of income. In addition, there were ethical issues raised.

In this section, we will further explore how the Beit Zeitim city council should move forward with all of this information in mind. Should the concerns raised above prevent the city council from legalizing any form of gambling? Or is there a case to be made that even if gambling is prohibited, perhaps the benefits of funding *Robotics Academy* outweigh the potential harms of legalizing gambling?

In the texts below, we will see several perspectives about whether problematic behavior can be justified in order to achieve a positive outcome. First we will look at a brief excerpt of a mishnah that describes a list of qualities that determine whether a *lulav* is kosher or not.

#### SOURCE #12 🖻

א:א סְבָּה לָבָה Mishnah Sukkah 3:1

א פּסוּל — לוּלְב הַגְּזוּל וְהַיָּבֵש A stolen or a dry lulav is invalid.

Commenting on this mishnah, the Gemara explains why a person cannot fulfill their obligation with a stolen *lulav*.

#### SOURCF #13

אַ בּבְלִי סָבָּה דַּף ל עַמּוּד א Sukkah 30a

Rabbi Yo<u>h</u>anan said in the name of אָמַר רַבִּי יוֹחָנָן מְשׁוּם רַבִּי שִּמְעוֹן Rabbi Shimon ben Yo<u>h</u>ai. Because it is a

#### **UNIT 3 | Do the Ends Justify the Means?**

#### o far from loss

The simple meaning of this phrase is a transaction where the orphans are likely to profit without needing to assume risks.

#### הַבָּאָה בַּעֲבֵירָה.

*mitzvah* (commandment) that is fulfilled through performing a transgression.

- » Why do you think that a person cannot fulfill a mitzvah through performing a transgression, like using a stolen lulav?
- » Is this principle applicable to the circumstances of our case? If so, what is the comparison to be made from a stolen *lulav* to gambling? If not, what is the distinction between the two cases?

While the general rule above is that a *mitzvah* may not be fulfilled through a transgression, there are certain instances where the Talmud indicates that the ends **do** justify the means, even if it entails violating a transgression. Below, the Talmud discusses what can be done with money of orphan minors that is being held by the courts until they are able to manage their own finances.

#### SOURCE #14 D

#### תַּלְמוּד בָּבְלִי בָּבָא מִצִיעָא דַּף ע עַמּוּד א

אָמַר רַבָּה בַּר שֵילָא אָמַר רַב חִסְדָּא, וְאָמְרִי לַהּ, אָמַר רַבָּה בַּר יוֹסַף בַּר חָמָא אָמַר רַב שֵׁשֶת: מָעוֹת שֶל יְתוֹמִים מוּתָר לְהַלְווֹתָן קָרוֹב לְשָׁכָר וְרָחוֹק לִהַפְּסֵד.

תָּנוּ רַבְּנַן: קָרוֹב לְשָׁכָר וְרָחוֹק לְהָפְסֵד – רָשָׁע. קָרוֹב לְהָפְּסֵד וְרָחוֹק לְשָׁכָר – חָסִיד. קָרוֹב לְזֶה וְלָזֶה, רָחוֹק מִזֶּה וּמִזֶּה – זוֹ הִיא מִדַּת כַּל אַדָם.

#### Talmud Bavli Bava Metzia 70a

Rabbah bar Sheila said that Rav <u>H</u>isda—but some say: Rabbah bar Yosef bar <u>H</u>ama said that Rav Sheshet—said: It is permitted to lend the money of orphans in a manner that is close to profit and far from loss.

Our Rabbis taught: [One who has a business venture that] is close to profit and far from loss is considered wicked. If they are close to loss and far from profit, then they are righteous. If it's close to both [loss and profit] or far from both, that is the quality of an average person.

#### **UNIT 3 | Do the Ends Justify the Means?**

#### o shade of interest

In other words, while this would not technically fall under the Torah's prohibition of "charging interest," our Rabbis expanded the category of "interest' to include this type of transaction.

The Gemara says that a guardian is allowed to lend the money of an orphans in such a way that is "close to profit and far from loss," meaning that the orphans would stand to profit but not be responsible for any losses. Generally speaking, this type of lending was forbidden by the Rabbis for being אֲבָק רָבִּית (avak ribit, a shade of interest°). However, the Talmud makes an exception and allows the assets of orphans to be invested this way, even though under normal circumstances it would be considered to be "wicked."

- » If this type of practice is considered wicked and something that the Rabbis forbade for being too similar to charging interest, then why would this practice be allowed when it comes to managing the assets of orphans?
- Why do you think this is not considered a mitzvah fulfilled through a transgression, as we saw in the Talmud's description of a stolen lulav?

In the text below, the Shulhan Arukh rules that there are several circumstances where you may engage in a transaction that generally would be considered a rabbinic violation against charging interest.

#### SOURCE #15

#### שַׁלְחָן עָרוּךְ, יוֹרֶה דֵעָה קס:יח

בָּל רִבִּית דְּרַבָּנָן מֻתָּר בְּמְעוֹת שֶל יְתוֹמִים אוֹ שֶל הֶקְדֵּש עֲנִיִּים אוֹ תַּלְמוּד תּוֹרָה אוֹ צֹרֶךְ בִּית הַבָּנֵסֵת

#### Shulhan Arukh Yoreh De'ah 160:18

All forms of rabbinic interest are permitted when managing the money of orphans, or that has been dedicated to the poor, or that has been dedicated to the study of Torah, or for the needs of a synagogue.

- » How would you describe what these cases have in common?
- » Why might they override the rabbinic prohibition against interest?

#### **UNIT 3 | Do the Ends Justify the Means?**

# • fixed interest This refers to a classic case of interest—i.e., lending someone \$100 on

condition that they repay you

\$110.

Commenting on this passage, Rema agrees with the Shulhan Arukh: for the causes listed above, it is permissible to generate profit from rabbinic forms of interest. However, he warns against taking this leniency too far.

#### SOURCE #16

#### רמ"א על יורה דעה קס:יח

יש מְקוֹמוֹת שֶנּוֹהֲגִים שֶׁאַפּוֹטְרוֹפּוֹס מַלְּוֶה מְעוֹת יְתוֹמִים בְּרִבִּית קְצוּצְה וּמִנְהַג טָעוּת הוּא וְאֵין לֵילֵךְ אַחֲרָיו.... אֲבָל בְּרִבִּית דְּרַבָּנָן שָׁרִי כָּל וְמַן שֶלֹא הִגְּדִיל הַיָּתוֹם לַעֲסֹק בִּמְעוֹתִיו כְּדֶרֶךְ שְאָר אֲנָשִים בּמְעוֹתִיו כְּדֶרֶךְ שְאָר אֲנָשִים אע"פּ שֻׁכְּבַר הוּא בֵּן י"ג שֻׁנָה

#### Rema on Yoreh De'ah 160:18

There are some places where an *apotropos* (guardian of an orphan's assets appointed by the courts) lends out the money with fixed interest<sup>o</sup>—this is a mistaken custom and one should not follow this practice... Rather, it is only with interest that is a rabbinic violation (and not a Torah prohibition) where it is permitted with an orphan's assets until they are mature enough to deal with their assets like other adults, even if they are more than 13 years' old.

- Why do you think Rema rules that an apotropos may engage in interest that is rabbinically forbidden, but not the classic form of interest that is forbidden by the Torah?
- » Does this leniency to override rabbinic law for the sake of a greater good have relevance to the circumstances of our case? Why or why not?

#### **Questions for further reflection**

- » Considering the debates about gambling that we saw in the prior two units, would the Beit Zeitim city council be justified in legalizing gambling in order to fund Robotics Academy? Why or why not?
- » What are the main arguments that would suggest that the ends justify the means? What are the main counterarguments?

#### CONTEMPORARY DISCUSSION: THE ETHICS OF THE "HOUSE ADVANTAGE"

The Gemara above reaches two conclusions regarding transactions that are "close to profit and far from loss" (Source 14). On the one hand, they are criticized and called "wicked," but at the same time there are some circumstances where it is permissible to engage in these types of transactions.

In certain ways, perhaps this description of "close to profit and far from loss" can be applied to the ways games of chance function in a casino. The odds are fixed so that the casino has an edge and is always expected to win over time, while the gambler is increasingly likely to lose money over time. Here is how the American Gaming Association explains the "house advantage."

#### "Casino Games – A Guide to Understanding Odds" American Gaming Association

No matter what casino game you play—slots, craps, blackjack, roulette, or any other—games of chance are primarily based on random outcomes and cannot be predicted. Every game in the casino is designed to give the casino an advantage—this is known as the "house advantage."

Some casino games involve an element of player skill. These include poker, blackjack, or skill-based slot machine games. In those games, skilled players can increase their chances of winning, however, their outcomes also favor the casino over time.

The house advantage is a mathematical certainty that is figured into every casino game. As a matter of arithmetic, it's a measure of how much the casino expects to win, expressed as a percentage of what you wager. The house advantage can vary from game to game, from casino to casino, and from region to region.

Depending on the game, the American Gaming Association estimates that the "house advantage" might be anywhere from approximately 1% (blackjack) to 5% (roulette, sports betting) to 10% or more (slot machines). The more that a gambler plays, the more likely they are to lose money over time, though any given person may lose more or less than the expected house advantage.

- » If gamblers willingly play games of chance even though the odds are stacked against them, is there anything inherently problematic with the house advantage? Why or why not?
- Does the answer to the question above depend on whether people are aware of the odds of winning or losing money in a given game? If so, should a casino have to be transparent about the odds of winning a particular game, or is that the responsibility of the bettor?

#### **UNIT 4**

# Stolen Money and Stumbling Blocks

#### o change

Meaning, you cannot exchange a \$20 bill for two \$10 bills from the corrupt tax collector.

#### o tax collector's

The Gemara suggests two possibilities for what makes this tax collector problematic. Either the person is forcing people to pay more money than they are obligated, or this "tax collector" is selfappointed and has no legitimate authority to begin with.

#### **BENEFITING FROM STOLEN ASSETS**

In the previous units, we explored multifaceted debates about the nature of gambling and whether the goal of raising money for *Robotics Academy* justified the potential issues with legalizing gambling. We will now continue this conversation from a different angle, looking more broadly into the question of whether you can use money earned through unethical means to support a worthwhile cause. Whether one holds that gambling is technically forbidden or not, this question will be essential for the city council to explore.

We'll start this discussion with the mishnah below, which discusses whether or not a person can use money that comes from a tax collector. The Gemara clarifies that this is not a regular tax collector—we are referring to a corrupt tax collector who is coercively taking more money from residents than they are authorized to collect.

#### SOURCE #17 🖻

# אין בּּבָא קַמָּא י:א Mishnah Bava Kama 10:1 ח אין פּוֹרְטִין לֹא מִתֵּבַת One may not make change from a tax collector's box, nor from the tax collector's purse. Nor may one take tzedakah (charity) from them. אַבָּל נוֹטֵל הוֹא מִתּוֹךְ בֵּיתוֹ But one may take money from them that comes from their home or from the market.

Here, the Mishnah creates a key distinction about whether you can interact with the tax collector's ill-gotten money. When it comes to interacting with the actual "tax" money that comes directly from the person's collection box, you cannot use that money nor accept it as *tzedakah*. But if you come across the tax collector in

#### o was stolen

See Bava Kama
119a for a debate
on whether a
person may
purchase from
a thief only if a
majority of their
possessions
truly belong to
them, or if you
may do so even
if a minority of
their possessions
belong to them.

their home or at the market, then you are allowed to use money that they have on them or accept it as *tzedakah*.

- » What do you think is the difference between interacting with money that's taken directly from the tax collector's purse vs. interacting with money that they take out of their wallet at the market?
- » Why do you think the former may not even be used for tzedakah? Why doesn't the positive value of giving charity override any concerns we have about interacting with the tax collector's ill-gotten money?
- » Does this mishnah have relevance for whether Beit Zeitim can use tax revenue generated from a casino or other gambling ventures? Why or why not?

The next text also discusses whether one can benefit from a thief. The Shulhan Arukh states that the key factor is how much of the thief's belongings, if any, actually belong to them.

#### SOURCE #18

#### שַׁלְחָן עָרוּךְ, חשֵן מִשִּפָּט שסט:ג

אָסוּר לֵהָנוֹת מֵהַנּוְלָן וְאִם הָיָה מִעוּט שֶלוֹ אַף עַל פִּי שֶרב מָמוֹנוֹ נְּזוּל מֻתָּר לֵהָנוֹת מִמֶּנוּ עַד שֶׁיֵדַע בִּוַדָּאי שֵׁדַּבָר וֵה נֵּזוּל בִּיָדוֹ

#### Shul<u>h</u>an Arukh, <u>H</u>oshen Mishpat 369:3

It is forbidden to benefit from a thief. If a minority of their assets belong to them—even if most of their money is stolen, it is permissible to benefit from them until you know with certainty that this particular item was stolen.

- » Why do you think it is permissible to benefit from something that belongs to a thief if only a minority of their possessions belong to them?
- » Does this caveat relate to the circumstances of our case—if so, how might it impact the form(s) of gambling that Beit Zeitim can legalize?

#### **LIFNEI IVER: DO NOT PLACE A STUMBLING BLOCK**

We have now seen two texts that warn against interacting with or benefiting from stolen goods—but what exactly is the source of this prohibition? Rambam suggests the following rationale in the context of why purchasing a stolen item is prohibited.

#### SOURCE #19 🗖

#### מִשְׁנֶה תּוֹרָה, הִלְכוֹת גָּוֵלָה וַאֲבַרָה ה:א

אָסוּר לִקְנוֹת דָּבָר הַגָּזוּל מִן הַגּּוְלָן... שֶׁבָּל הָעוֹשֶׁה דְּבָרִים אֵלּוּ וְכַיּוֹצֵא בָּהֶן מְחַזֵּק יְדֵי עוֹבְרֵי עֲבַרָה וְעוֹבֵר עַל (וַיִּקְרָא יט יד) "וְלִפְנֵי עִוַּר לֹא תתו מכשל":

#### Mishneh Torah, Laws of Robbery and Lost Property 5:1

It is forbidden to purchase an object obtained by robbery from the thief... for whoever acts in this manner or similarly strengthens the hands of transgressors and violates the prohibition of "Lifnei iver: Do not place a stumbling block before someone who is blind" (Vayikra 19:14).

- » How do you understand Rambam's explanation for the prohibition of purchasing stolen goods? In what way does purchasing a stolen item "strengthen" or encourage the thief?
- » Why does he cite the verse about not placing a stumbling block before a person who is blind?

To better understand Rambam's position, we will take a closer look at the prohibition against placing a stumbling block. Let's begin with the verse itself.

#### SOURCE #20 D

#### וַיָּקרָא יט:יד

#### Vayikra 19:14

לא־תְקַלֵּל חַרֵשׁ וְלְפְנֵי עִוֵּר לֹא תִתַּן מִכְשׁל וִיָרֵאתָ מֵאֱלֹקִיךָ אֲנִי יקוק:

You shall not curse a deaf person. You shall not place a stumbling block before a blind person, and you shall fear your Lord. I am God.

» Based on the plain meaning of the verse, how would you understand the prohibition of *lifnei iver* (not placing a stumbling block before a blind person)?

# NegativeCommandment

The Sefer HaMitzvot is divided into 365 prohibitions or "negative commandments," and 248 positive commandments.

#### Sifra

Sifra is a collection of *midrash* on the book of Vayikra, focused on expounding the parameters of the *mitzvot*. It was produced in the 3<sup>rd</sup> century CE and is cited in many talmudic passages.

While the simple meaning of the verse may seem to be referring only to placing a physical stumbling block before someone who is unable to see, our Rabbis understood the prohibition to be much broader. In his work Sefer HaMitzvot, which details each of the Torah's 613 commandments, this is how Rambam explains this prohibition.

#### SOURCE #21

#### םַבֶּר הַמִּצְווֹת, מִצְווֹת לֹא תַּעֲשֶה רצט

וּלְשוֹן סִפְּרָא לְמִי שֶׁהוּא סוּמָא בַּדָּבָר וְנוֹטֵל עֵצָה מִמְּךָ אַל תִּתֵּן לוֹ עֵצָה שָׁאֵינָה הוֹגֶנָת.

וְלָאו זֶה כּוֹלֵל גַּם כֵּן מִי שֶּיַעֲזֹר עַל עֲבֵרָה אוֹ יְסַבֵּב אוֹתָה... וּמֵאֵלוּ הַפָּנִים אָמְרוּ בְּמַלְנֶה וְלֹנֶה בְּרִבִּית שֶּשְנֵיהֶם יַחַד עוֹבְרִים מִשּוּם וְלִפְנֵי עִוַּר לֹא תִתֵּן מִכְשֹל, כִּי כָּל אֶחָד מִשְנִיהֶם עֵזֶר אֶת חֲבֵרוֹ וְהַכִין לוֹ לְהַשְּלִים הַעֲבֵרָה

#### Sefer HaMitzvot, Negative Commandment<sup>o</sup> #299

The language of the Sifra<sup>o</sup> is, "To the one who is blind about a certain matter and who takes advice from you, do not give advice that is not proper."

This transgression also includes one who helps another perform a sin or enables it... From this perspective, our Sages said about a lender and borrower with interest that both of them transgress "you shall not place a stumbling block before a blind person." For each one of them assisted their fellow and enabled the other to complete their sin.

Rambam writes that you can transgress this prohibition by offering someone misleading advice, or by enabling a person to sin. For this reason, a lender and borrower of interest both violate this prohibition, since they are each enabling the other to sin. Without a lender **and** a borrower, the violation would not have taken place.

- » Based on this understanding of *lifnei iver*, would this prohibition apply to the Beit Zeitim city council legalizing gambling? Why or why not?
- » Is our case similar or different from the example of the lender and borrower who have agreed to a loan with interest? Would it depend on the form of gambling that is approved?

#### o nazir

Described in Bemidbar 6, a nazir (or nazirite) takes a vow that involves a number of abstentions for a period of time, including not drinking wine and not cutting their hair.

#### O Noah?

Halakhah deems all people to be obligated in seven commandments referred to as the Noahide laws. One of these laws is a prohibition against eating the limb of a living animal.

#### o river

In other words, the *nazir* could not have easily accessed the wine without the assistance of the other person. In order to answer this question about whether the prohibition of not placing a stumbling block is relevant to our case, we will look at one final text. The passage discusses whether the prohibition only applies to situations where the transgression could only have taken place with the assistance of the person placing the "stumbling block," or if it applies in all situations where a person assists someone else in violating the Torah.

In context, the Talmud is discussing a prohibition against selling an animal to an idolator within three days of an idolatrous festival that involves animal sacrifices. One explanation offered in the Talmud is that selling the animal is prohibited due to placing a stumbling block before the buyer, since it is almost certainly going to result in the buyer violating the prohibition against worshiping idols. With this backdrop, the Talmud states the following:

#### SOURCF #22

OUNCE #ZZ E	
תַּלְמוּד בַּבְלִי עֲבוֹדָה זֶרָה דַּף ו עַמוּד ב	Talmud Bavli Avodah Zarah 6b
מְנַּיִן שֶלּא יוֹשִיט אָדָם כּוֹס שֶל יַיִן לְנָזִיר וְאֵבֶר מִן הַחַי לְבָנֵי נֹחַ תַּלְמוּד לוֹמַר (וַיִּקְרָא יט, יד) וְלִפְנֵי עִוַּר לֹא תִתֵּן מִבְשׁל	From where is it derived that a person may not extend a cup of wine to a <i>nazir</i> , and that one may not extend a limb severed from a living animal to descendants of Noah? The verse states: "And you shall not put a stumbling block before the blind" (Vayikra 19:14).
וְהָא הָכָא דְּכִי לֶא יָהֲבִינַן לֵהּ שֶּקְלִי אִיהוּ וְקָעֶבַר מִשׁוּם לִפְנֵי עַוַּר לֹא תִתֵּן מִכְשׂל	But here, the person can take it (the wine or the prohibited limb) themselves, and yet the one who provides it to him transgresses due to the prohibition of not placing a stumbling block?
הָכָא בְּמַאי עָסְקִינַן דְּקָאֵי בִּתְרֵי עֶבְרֵי נַהֲרָא	[The Gemara clarifies:] We are dealing with a case where they are standing on the two sides of a river.

The Talmud questions above whether the prohibition of *lifnei iver* only applies to situations where the person could not have performed the transgression without assistance. At first, the example of providing wine to a *nazir* would seem to

indicate that the prohibition applies regardless, since the *nazir* could have just taken the wine on their own.

However, the Talmud then clarifies that we are dealing with a unique situation where they are on "two sides of a river"—meaning that the *nazir* could only have received the wine with the assistance of the other individual. The implication from this passage is that the prohibition only applies when the transgression could not have taken place without the assistance of the person placing the "stumbling block." But if the *nazir* already had easy access to wine, then going ahead and offering wine to the *nazir* would not be considered a "stumbling block."

- » If Beit Zeitim legalizes gambling, would it be an example of being on "two sides of the river" like in the Talmud's passage above? Why or why not?
- » Does the answer to the question above depend on the form of gambling that is legalized? If so, how does the form of gambling affect whether it should be considered a case of being on "two sides of a river"?

#### **Questions for further reflection**

We have seen above that a primary concern about engaging with stolen assets is that it is a violation of *lifnei iver*— placing a stumbling block in front of the other person.

- » Based on the various texts in this unit, is this prohibition applicable to the circumstances of our case? Why or why not?
- » If so, are there steps that the city council of Beit Zeitim can take to avoid this prohibition while legalizing some forms of gambling?

# CONTEMPORARY DISCUSSION: ADVERTISEMENTS, GUARDRAILS, AND THE NEAR-MISS EFFECT

The core idea in the unit above is the prohibition of placing a stumbling block in front of someone who cannot see it. As it relates to our case, it can be argued that the opening of a casino or legalizing other forms of gambling may in itself be a stumbling block that causes harm to people. However, it is important to consider whether there are regulations that Beit Zeitim can put in place to mitigate some of these concerns and prevent people from "stumbling," even while legalizing forms of gambling.

One area where there is active debate around the need for regulations is in limiting gambling advertisements. In the United States, there are currently few restrictions in place that limit how and when gambling companies can advertise. You can hardly watch a professional sporting event without being exposed to numerous ads for sports betting websites. Some of the language in these advertisements has been described as deceptive. For example, gambling websites promote signup bonuses that sound "risk-free," but the actual terms are often far less favorable than it initially sounds. These ads typically use famous athletes or other celebrities that specifically appeal to younger audiences.

## youth-oriented locations

Alcohol and Gaming Commission of Ontario: https:// www.agco.ca/ en/book/export/ html/245421

#### proposed legislation

The SAFE Bet
Act: https://
tonko.house.gov/
uploadedfiles/
fact\_sheet\_safe
bet\_act\_3.24.pdf

#### o near-misses

"Gambling Near-Misses Enhance Motivation to Gamble and Recruit Win-Related Brain Circuitry" https:// www.ncbi.nlm.nih. gov/pmc/articles/ PMC2658737 Some lawmakers are beginning to push back and argue that regulations need to be put in place on gambling advertisements. For example, the government of Ontario recently passed legislation that prohibits "advertising and marketing materials that communicate gambling inducements, bonuses, and credits" except in limited circumstances after a user has actively consented. To better protect younger users, gambling ads may no longer "use or contain cartoon figures, symbols, role models, social media influencers, celebrities, or entertainers who would likely be expected to appeal to minors." Ads may not use "active or retired athletes" and may no longer "appear on billboards or other outdoor displays that are directly adjacent to schools or other primarily youth-oriented locations."

A congressman from New York has proposed similar legislation that would include restrictions on advertisements, as well as other guardrails around payments that would protect consumers from gambling excessively. The proposed legislation would do the following:

- » Ban sportsbook advertising during live sporting events.
- » Ban language from sportsbook advertisements promoting "bonus" or "no sweat" bets.
- Prohibit sportsbooks from accepting credit cards from customers seeking to make deposits. (This would help ensure that gamblers do not wager money that they cannot repay and fall into debt).
- » Require sportsbooks to accept no more than five deposits from a single customer within a 24-hour period.
- Prohibit gambling operators from using artificial intelligence to track a player's gambling habits or to use AI to create customer-specific bets.

In addition to misleading advertisements, sometimes a game itself can send deceptive signals. Slot machines are some of the most profitable games for casinos. One of the ways that casinos keep users playing slot machines for long periods of time is by taking advantage of the "near-miss effect," which is what happens after a person feels that they narrowly missed winning a jackpot. Research shows that "although near-misses were rated as more unpleasant than full-misses, they simultaneously increased the desire to play the game." Slot machines can take advantage of this effect by misleading users into thinking that they were close to hitting a jackpot, when in reality there is no such thing as being "close" to winning a jackpot on a slot machine—a loss is a loss.

Dr. Debi LaPlante, a professor of psychiatry at Harvard Medical School, describes another way that players can be misled by slot machines.

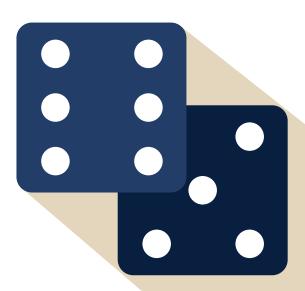
#### "Harvard Health Blog: Is Online Gambling Harming You?" (October 2, 2023)

Gambling games can affect people at the neurobiological level. Many games have features that trick the brain into thinking a loss is actually a win. For example, a slot machine displays celebratory music, sounds, and lights for a \$3 return on a \$5 bet.

"Research has found that our sympathetic nervous system responds to losses celebrated as wins the same way it responds to actual wins," says LaPlante. "This is a powerful reinforcer, and just one example of games affecting brains."

As you conclude this unit, reflect on how the discussion above impacts the dilemmas facing the Beit Zeitim city council.

- » Can Beit Zeitim legalize some form(s) of gambling while also steering clear of the prohibition against placing a stumbling block?
- » For example, are there regulations that the city council can put in place that would help ensure that it is not placing a stumbling block before anyone? If so, what regulations would you recommend that Beit Zeitim enact?
- » Or is this an impossible balance to maintain—and any legalization of gambling would necessarily lead to violations of placing a stumbling block—even with protective regulations?



#### **UNIT 5**

# Imitatio Dei: Striving for Perfection

# Rabbi Samson Raphael Hirsch

Rabbi Samson Raphael Hirsch (1808-1888) was a German rabbi who wrote a commentary on the Torah and other works of Jewish thought. His philosophy explored how to live in the modern world as a religious Jew. The text above is translated from his commentary which was written in German.

#### o moral perfection

A similar approach is offered by Rambam in the Guide of the Perplexed (1:54): "For the primary aim of each person should be to make themselves, as much as possible, similar to God: that is to say, to make their acts similar to the acts of God."

Until now, we have been dealing primarily with legalistic concerns with gambling, such as asmakhta or placing a stumbling block before the gambler. However, there are also ethical reasons to be wary of gambling that might impact the decision making in our case. We conclude the sourcebook with several texts that raise moral or spiritual concerns that may be relevant to gambling. Irrespective of whether you are ultimately in favor of Beit Zeitim legalizing gambling or not, these are texts that should be considered.

We will first look at a verse that has often been a launching point for broader understandings of the Torah's ethical ideals.

#### SOURCE #23

#### וַיִּקְרָא יט:א-ב

וַיְדַבֵּר יקוק אֶל־מֹשֶׁה לֵאמֹר: ²דַבֵּר אֶל־כָּל־עֲדַת בְּנִי־יִשְׂרָאֵל וְאָמַרְתָּ אֲלֵהֶם קְדשִׁים תִּהְיוּ כִּי קָדוֹש אֲנִי יקוק אֵלֹקִיכֵם:

#### Vayikra 19:1-2

<sup>1</sup>God spoke to Moshe saying. <sup>2</sup>Speak to the entire Israelite community and say to them, "You shall be holy, for I, God your Lord, am holy."

- » From the verse alone, are there any textual clues about what it means to be "holy"?
- » How would you articulate this obligation in your own words?

In his commentary on this verse, Rabbi Samson Raphael Hirsch<sup>o</sup> understands the phrase of "you shall be holy" as an obligation for each and every person to strive for moral perfection.<sup>o</sup>

#### **UNIT 5** | *Imitatio Dei*: Striving for Perfection

o suggested by the Talmud Shabbat 113b: "Just like God is compassionate and merciful, so too you should be compassionate and merciful." This is done by emulating God's behavior (*imitatio dei*), as suggested by the Talmud. But what exactly does it mean to be holy, and how does a person achieve holiness? Rabbi Hirsch suggests as follows.

#### **SOURCE #24**

#### Rabbi Samson Raphael Hirsch on Vayikra 19:2

Holiness is the product of the complete, divinely aligned sovereignty of the moral, free human being over all of their powers and faculties, along with the associated impulses and inclinations. This mastery over oneself, absolutely the highest art a person can practice, does not consist in neglecting, stunting, killing, or destroying any power or faculty. Not a single one of the powers and faculties granted to humans—from the most spiritual to the most sensual—are inherently good or bad. They are all given for purposes that are beneficial and fulfill God's will on earth....

Mastery of this highest moral art of humanity is achieved, as in every art, only through practice—through the practice of the morally free will to master existing inclinations. However, this practice should not be conducted within the realm of the forbidden, where a failure would already constitute wrongdoing, but rather within the realm of the permitted. It is here that the moral resolve must be tested and strengthened. Through exercises in mastering permitted, but closely related, satisfactions of inclination, one acquires the mastery to subjugate all powers and faculties to the pure fulfillment of God's will.

- » How does Rabbi Hirsch understand the relationship between holiness and self-control?
- » Why is Rabbi Hirsch concerned with behaviors that are technically permissible according to halakhah? Should this concern be relevant to the Beit Zeitim city council? Why or why not?
- » How might this perspective impact how we should (or should not) spend our time? Does it have particular relevance to gambling—why or why not?

We will conclude this section with three passages that raise moral or spiritual concerns that are particular to gambling or the pursuit of money. Commenting

#### **UNIT 5** | *Imitatio Dei*: Striving for Perfection

#### o wisdom

In addition to his intellectual and spiritual leadership within the Jewish community, Rambam was also a leading physician of his generation. He served as the personal physician of the ruler Saladin.

#### Rivash

Rabbi Ya'akov Beirav (1474-1546) was a rabbinic authority born in Spain and eventually moved to Israel after the expulsion of Spanish Jewry. He had unique ideas for centralizing rabbinic authority and reintroducing the classical semikhah (ordination) of rabbis.

on the mishnah about dice playing with which we started our learning, Rambam explains that there is a moral concern aside from the issue of *asmakhta*.

#### SOURCE #25

#### פַרוּש הַמִּשְׁנָיוֹת לְהָרַמְבָּ"ם סַנָהַדִּרִין ג:ג

ואָסוּר זֶה לְפִי שֶהוּא מִתְעַפֵּק בְּדָבָר שָאֵין בּוֹ תּוֹעֶלֶת לְיִשוּב הָעוֹלֶם וּמִיְסוֹבִי הַתּוֹרָה שֶׁהָאָדָם אֵין רָאוּי לוֹ לְהִתְעַפֵּק בָּעוֹלֶם הַזֶּה אֶלָּא בְּאֶחָד מִשְנִי דְּבָרִים אוֹ בַּתּוֹרָה כְּבִי שׁתִּשְלַם נַפְשוֹ בְּחָכְמָתָה אוֹ בַּמְלָאכָה שֶׁתּוֹעִיל לוֹ בְּהַתְמֶדַת הַמְצִיאוּת אוֹ הַאָּמָנִיוֹת וְהַפְּחוֹרוֹת

# Commentary of Rambam on Mishnah Sanhedrin 3:3

It is forbidden since the person is involving themselves with something that has no constructive purpose. A foundation of the Torah is that it is only appropriate for a person to involve themselves in this world with one of two pursuits: either the study of Torah to fill yourself with wisdom, or work that serves a person by providing stability, such as a craft or a business.

- » How would you describe Rambam's concern with dice playing here?
- Why might Rambam be especially troubled with the wasting of **time** that comes with gambling? Is that a reasonable concern as it relates to our case?
- » Can we adopt this approach and still conclude that gambling can be condoned at times, even if it might be considered problematic in other instances? Why or why not?

Rambam was far from the only major authority who expressed a deep skepticism towards gambling. Writing in the 14<sup>th</sup> century, Rivash<sup>o</sup> warns that even if there are no technical halakhic problems with gambling, there are deep moral concerns that must be considered.

#### SOURCE #26

תְשׁוּבוֹת הָרִיבָ"שׁ תלב:ג נַאֲפִילוּ לְרַב שֵשֶׁת דִּסְבִירָא לֵה הַתָּם דְּלֵיבָּא אֵסְמַכְתַּא

#### Responsa of Rivash 432:3

Even according to Rav Sheshet who ruled that playing with dice is not

בְּקוּבְיָא מִבֶּל מֶקוֹם דָבָר מְכֹעֵר וּמְתֹעָב וּמִשְקֵץ הוּא.

*asmakhta*, nonetheless it is repulsive, abominable, and detestable.

- » Rivash uses harsh language to describe the practice of gambling—why do you think the Rivash takes such a strong stand?
- » Is this a fair reading of Rav Sheshet's position (Source 2)? Why or why not?
- » Should this type of language affect how the Beit Zeitim city council weighs the pros and cons of legalizing gambling?

The final source we will look at is from the Sefer HaHinukh, which is a 13<sup>th</sup> century work that discusses each of the 613 mitzvot (commandements). In the context of detailing the prohibition of benefiting from idolatry, the Sefer HaHinukh says the following about earning money through corrupt means:

#### SOURCE #27

#### סַפַר הַחִנוּךְ תכט

שֶׁלֹּא לֵהָנוֹת מִתְקָרֶבֶת עֲבוֹדָה זָרָה:

שֶׁלֶּא נְדַבֵּק שוּם דָּבָר מֵעֲבוֹדָה זָרָה עם מְמוֹנֵנוּ וּבִרְשוּתֵנוּ לֵהָנוֹת בּוֹ. וְעַל זֶה נֶאֱמַר, "וְלֹּא תָבִיא תוֹעֵבָה אֶל בֵּיתֶךְ" וְגוֹ' (דְּבָרִים ז:כו). מִשְּרְשֵי הַמִּצְוָה: כְּדֵי לְהַרְחִיק כָּל עִנְיַן עֲבוֹדָה זָרָה הַנִּמְאֶסֶת...

וּמִן הַנְּכְלָל בְּמִצְנָה זוֹ: שֶׁלֹּא יַדְבִּיק הָאָדָם אֶל מְמוֹנוֹ שֶׁחֲנָנוֹ הָאֵל בְּצֶדֶק מְמוֹן אַחֵר שֶׁהוּא שֶׁל גָּזֶל אוֹ חָמָס אוֹ מֵרִבִּית, אוֹ מִכָּל דָּבָר מְכֹעָר, שֶׁבְּל זֶה בִּכְלַל מְשַּמְשֵי עֲבוֹדָה זָרָה הוֹא... וּכְעִנְיָן שֶּאָמְרוּ זִכְרוֹנָם לִבְרָכָה הוֹא... וּכְעִנְיָן שֶאָמְרוּ זִכְרוֹנָם לִבְרָכָה , שֶׁפְּרוּטָה שֶׁל רָבִּית מְכַלֶּה בַּמְּה אוֹצְרוֹת שֶׁל מְמוֹן, שֶׁבָּא זֶה וּמְאַבֵּד אֶת

#### Sefer HaHinukh Mitzvah 429

To not benefit from an offering to idolatry:

Not to attach any item of idol worship to our money or property, in order to gain pleasure from it. About this it is stated, "And you shall not bring an abhorrent thing into your house" (Deuteronomy 7:26). The root of the commandment is to distance from all matters of rotten idolatry...

Included within this commandment is that one should not attach to one's own money, which God graced you with, the money of another which was gained through theft, extortion, or interest, or from any disgusting element, because all of these are included in the elements of idol worship... as our Rabbis of blessed memory say, "The inclusion of even one coin gained by extorting interest will destroy large treasuries of money."

#### **UNIT 5** | *Imitatio Dei*: Striving for Perfection

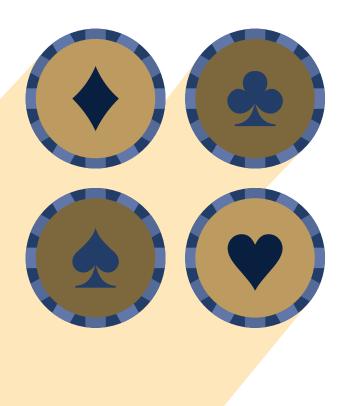
While the Sefer HaHinukh does not reference gambling, he does mention other forms of earning money through ill-gotten means, such as "theft, extortion, or interest."

- Why do you think the Sefer HaHinukh considers earning money through unethical means to be a form of "benefiting from idolatry"? What is the connection between these actions and idolatry?
- » Does this harsh description of earning money through corrupt means have relevance for our case? Why or why not?
- » Considering the other texts we have seen, does the perspective of the Sefer HaHinukh seem aligned with the majority view, or is this viewpoint an outlier?

#### **Questions for further reflection**

In this final unit, we have seen a number of texts that cite broader spiritual and ethical concerns that may relate to our case. Rooted in the broader *mitzvah* of emulating God and being holy, as well as specific concerns about gambling, these texts suggest that there is plenty for the Beit Zeitim city council to deliberate.

- » Which of these perspectives do you think is most relevant to our case, and in what way?
- » Are there any concerns that are mentioned above that the Beit Zeitim can safely ignore with respect to legalizing gambling? Why or why not?
- » Irrespective of the technical halakhic concerns with gambling, would it be advisable for the city to legalize gambling? What could be done to mitigate the concerns raised in the texts above?



o "Gambling Disorder" Mayo Clinic: https://www. mayoclinic. org/diseasesconditions/ compulsivegambling/ symptomscauses/syc-20355178

# CONTEMPORARY DISCUSSION: THE DANGER OF PROBLEM GAMBLING

While gambling can be a harmless activity for some people, there is no question that for others it can be highly addictive and lead to destructive consequences. In order for Beit Zeitim to formulate a responsible path forward, it will be imperative to understand the nature of problem gambling and whether the harm that it causes can be prevented.

As mentioned in the introduction, studies performed in the United States estimate that about 1% of adults have a severe gambling problem, and that 2-3% have a mild gambling problem. Researchers have found similar results throughout the world. Here is how Mayo Clinic, a leading hospital system in the U.S., describes gambling disorder:

#### Mayo Clinic, "Gambling Disorder"

Compulsive gambling, also called gambling disorder, is the uncontrollable urge to keep gambling despite the toll it takes on your life. Gambling means that you're willing to risk something you value in the hope of getting something of even greater value.

Gambling can stimulate the brain's reward system much like drugs or alcohol can, leading to addiction. If you have a problem with compulsive gambling, you may continually chase bets that lead to losses, use up savings and create debt. You may hide your behavior and even turn to theft or fraud to support your addiction.

Compulsive gambling is a serious condition that can destroy lives. Although treating compulsive gambling can be challenging, many people who struggle with compulsive gambling have found help through professional treatment.

Signs and symptoms of compulsive gambling (gambling disorder) can include:

 Being preoccupied with gambling, such as constantly planning gambling activities and how to get more gambling money

#### **UNIT 5** | *Imitatio Dei*: Striving for Perfection

#### ODSM-5

DSM stands for "Diagnostic and Statistical Manual of Mental Disorders," a reference book used by health care professionals to diagnose mental disorders. The American Psychiatric Association (APA) publishes the DSM, which is used in the **United States** and much of the world. https:// www.ncbi.nlm. nih.gov/books/ NBK519704/ table/ch3.t39/

- Needing to gamble with increasing amounts of money to get the same thrill
- Trying to control, cut back or stop gambling, without success
- Feeling restless or irritable when you try to cut down on gambling
- Gambling to escape problems or relieve feelings of helplessness, guilt, anxiety or depression
- Trying to get back lost money by gambling more (chasing losses)
- Lying to family members or others to hide the extent of your gambling
- Risking or losing important relationships, a job, or school or work opportunities because of gambling
- Asking others to bail you out of financial trouble because you gambled money away...

Most casual gamblers stop when losing or set a limit on how much they're willing to lose. But people with a compulsive gambling problem are compelled to keep playing to recover their money—a pattern that becomes increasingly destructive over time. Some people may turn to theft or fraud to get gambling money.

Below, Dr. Howard Jeffrey Shaffer of Harvard Medical School underscores the significance of understanding gambling disorder as a form of addiction:

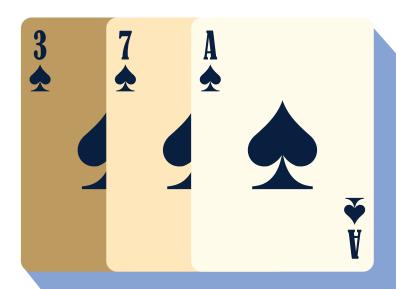
#### Harvard Health Blog, "When Gambling Might Be a Problem"

Gambling disorder is now a part of the American Psychiatric Association's latest version of its diagnostic manual (DSM-5)°. Gambling is the first "behavioral" addiction included in the substance-related and addictive disorders section of the manual. For the first time, the APA recognizes that substance-related addiction and difficult-to-control behavioral addiction are similar enough to be grouped as comparable

#### **UNIT 5** | *Imitatio Dei*: Striving for Perfection

expressions of addiction.... You can become addicted to gambling just like you can become addicted to alcohol or other drugs.

- » How should the Beit Zeitim city council balance the fact that gambling disorder can cause tremendous harm against the fact that the overwhelming majority of people who gamble do not develop an addiction?
- » Does the fact that compulsive gambling can be understood as an addiction—a behavioral disorder as opposed to a moral defect—shed light on any sources in this unit? If so, how?
- » Are there steps that Beit Zeitim can take to legalize gambling while preventing or mitigating the harm caused by gambling addictions?



# **Scoring Rubric**

	9-10	6-8	3-5	1-2	Score
Mastery of Source Material	All major points are supported by textual evidence. Sources are interpreted correctly and compellingly.	Most points are supported by textual evidence .Most sources are interpreted correctly and compellingly.	Some points are supported by textual evidence. Multiple sources were misinterpreted.	The argument was not supported by textual evidence.	
Comprehension of Case	The team understood and addressed the central concepts and questions presented in the case.	The team understood and addressed some of the central concepts and questions presented in the case.	The team understood and addressed few of the central concepts and questions presented in the case.	The team misunderstood key concepts in the case.	

	4-5	3	2	1	Score
Clarity & Persuasiveness	Arguments were clear, persuasive&, organized.	Arguments were satisfactorily clear, persuasive&, organized.	Arguments lacked some clarity or persuasiveness	Arguments were not clear or persuasive.	
Quality of Questions to other Teams	Questions posed to other teams were thoughtful and relevant.	Questions posed to other teams were satisfactorily thoughtful and relevant.	Questions posed to other teams were fairly thoughtful and relevant.	Questions posed to other teams were not thoughtful or relevant.	