



т"оэ

Intro

Today we will בע"ה learn מסכת בבא קמא of אים וearn מסכת בבא קמא of the topics we will learn about include.

The Machlokes in the Mishnah regarding השוחט ונמצאת טריפה

If a person stole and slaughtered an animal, but discovered that it was Treif.

OR

השוחט חולין בעזרה

He slaughtered a non-הקדש animal in the Bais Hamikdash;

The Tanna Kamma holds

משלם תשלומי ארבעה וחמשה

The גנב is liable to pay ז'ר'.

רבי שמעון holds he is not liable to pay ד'.

This Machlokes is based on another Machlokes, whether שחיטה שאינה ראויה

שמיה שחיטה

Whether, a שחיטה, in which the meat does not become permissible to be eaten, is considered a שחיטה or not?



A general Machlokes regarding

שחיטה The animal's two סימנים must be slaughtered to render the

animal fit for eating.

However, there is a Machlokes as to what defines the

However, there is a Machlokes as to what defines the Halachic act of שחיטה regarding transgressions or other Halachos that require.

רבי לוי סבא says

אינה לשחיטה אלא לבסוף

The act of שחיטה is Halachically defined by the very end of the act of שחיטה.

רבי יוחנן says

ישנה לשחיטה מתחילה ועד סוף

The entire act of שהיטה, from the beginning of the cutting until the end, is Halachically defined as the act of שהיטה. And the explanations of the Mishnah according to both opinions;









The Mishnah's cases of עדים זוממין, false testimonies, regarding יתשלומי ד' וה';

עדים זוממין

If two witnesses testify against someone in Bais Din and then two other witnesses come and testify

עמנו הייתם במקום פלוני

You were with us in a different location at the time when you claim that the supposed act occurred.

The first עדים become אוממין:

They are disqualified;

And they receive the same punishment they wanted to impose on their victim.

The Machlokes רבא and רבא regarding

עד זומם

If a witness was later discovered to be an עד זומם, from what point does he become פסול לעדות, disqualified to testify?

אביי holds

למפרע הוא נפסל

He becomes פסול retroactively from the time he testified falsely.

רבא holds

מכאן ולהבא הוא נפסל

He becomes פסול only from the time it was discovered that he is an עד זומם.





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1 So let's review ...

The previous Mishnah on ידף ע continues: גנב וטבח לרפואה או לכלבים

If a person stole an animal and slaughtered it to use its meat for medical purposes, or to feed his dogs, but not for normal eating;

OR

השוחט ונמצאת טריפה

The animal was discovered to be Treif;

OR

השוחט חולין בעזרה

He slaughtered a non-הקדש animal in the Bais Hamikdash, and the meat became forbidden;

The תנא קמא says;

משלם תשלומי ארבעה וחמשה

He is יחייב בד', because the Tanna Kamma holds שחיטה שאינה ראויה

שמיה שחיטה

It's considered a valid Shechitah, even though the meat of a טריפה and חולין בעזרה may not be eaten.

רבי שמעון פוטר

בשני אלו

רבי שמעון holds that only in the first case of לרפואה, he is חייב, because it was a שחיטה but regarding טריפה and חולין בעזרה he is פטור because

שחיטה שאינה ראויה

לא שמיה שחיטה

It is not considered a valid Shechitah.









2

The Gemara proceeds with a general Machlokes regarding

שחיטה

The animal's two טימנים must be slaughtered to render the animal fit for eating. However, there is a Machlokes as to what defines the Halachic act of שחיטה regarding transgressions or other Halachos that require שחיטה:

רבי לוי סבא says

אינה לשחיטה אלא לבסוף

The act of שחיטה is Halachically defined by the very end of the act of שחיטה.

רבי יוחנן says

ישנה לשחיטה מתחילה ועד סוף

The act of שחיטה is Halachically defined by the entire act of שחיטה, from the beginning of the cutting until the end. The Gemara elaborates on the Tanna Kamma's Halachah of

השוחט חולין בעזרה חייב

According to the opinion of אינה לשחיטה אלא לבסוף אינה לשחיטה אלא לבסוף He is חייב because, as Rashi explains בגמר שחיטה היא דמיתסר בהנאה וכל כמה דטבח דמריה קטבח

The animal becomes forbidden only at the end of the Shechitah, and

וטבחו כולו באיסורא

The animal belonged to its owner during the entire Shechitah,

However, according to the opinion of ישנה לשחיטה מתחילה ועד סוף He ought to be פטור because כיון דשחט בה פורתא אסרה

אידך לא דמריה קא טבח

The animal already became forbidden at the beginning of the Shechitah, and

וטבחו כולו בעינן וליכא

The animal did not belong to its owner during the entire Shechitah?

The Gemara answers that according to the opinion of ישנה לשחיטה מתחילה ועד סוף

We must say that the Mishnah refers to a case of כגון ששחט מקצת סימנין בחוץ

וגמרן בפנים

The animal stood outside the עזרה when the גנב started the Shechitah, and, at least, up to the midpoint of the Shechitah, and did not yet become אסור, and he then brought the animal inside the עזרה as he completed the Shechitah. In this case,

וטבחו כולו באיסורא

The animal belonged to its owner during the entire Shechitah.

OR,

We must say that the Tanna Kamma holds חולין שנשחטו בעזרה לאו דאורייתא

The Issur not to Shecht a non-שקה animal in the מזרה is only מדרבנן, and therefore, the animal did belong to its owner during the entire Shechitah מדאורייתא.









3 Zugt Di Mishnah

גנב על פי שנים

וטבח ומכר על פיהן

ונמצאו זוממים

If two witnesses testified that a person stole an animal and the same two עדים testified that he also slaughtered or sold the animal, and these עדים were then discovered to be עדים, they testified falsely;

משלמין הכל

These עדים must pay the complete עדים 'ד' to the accused, which is what they would have caused him to pay through their testimony of גיבה מכירה ומכירה ומכירה.

However.

גנב על פי שנים

וטבח ומכר על פי שנים אחרים

אלו ואלו נמצאו זוממין

If two עדים testified that he stole an animal, and two other עדים testified that he slaughtered or sold the animal, and it was then discovered that both sets were עדים זוממין;

הראשונים

משלמין תשלומי כפל

The first set pays כפל to the accused which he would have paid through their testimony of גניבה.

'ואחרונים משלמין תשלומי ג

The last set pays the additional ז' to the accused which he would have paid through their testimony of טביחה ומכירה.

The Mishnah continues:

נמצאו אחרונים זוממין

If only the last set was found to be עדים זוממין, but the first set was עדים נשרים,

הוא משלם תשלומי כפל

והן משלמין תשלומי ג'

The accused pays כפל to the owner for the animal that he stole, and the second set of עדים pays the additional κ to the accused which he would have paid through their testimony of טביחה ומכירה.

However,

אחד מן אחרונים זוממין

בטלה עדות שניה

If only one עד of the last set was an עד זומם, but the other א of the last set, and both עדים of the first set were עדים, the last is disqualified; and therefore, the accused pays כפל to the owner for the animal that he stole, but the שד זומם does not pay 't o the accused, because, as Rashi explains

אין עדים משלמין ממון

עד שיזימו שניהן

עדים are liable to pay only if both were זוממין, while here only one was a עד זומם.

אחד מן הראשונים זוממין

בטלה כל העדות

If only one עד of the first set was an עד, but the other עד, but the other עד of the first set, and both עדים of the last set were בשרים, the first and even the last עדים are disqualified; and therefore, neither the accused nor the עדים pay anything, because

שאם אין גניבה

אין טביחה ואין מכירה

Because without the first עדות, the last גניבה, is meaningless; since the accused might have bought it from the original owner and slaughtered or sold it legally;

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4 The Gemara

The Gemara cites a Machlokes regarding

If a witness was later discovered to be an עד זומם; From what point does he become פסול לעדות, disqualified to testify?

אביי אמר

למפרע הוא נפסל

says he becomes פסול retroactively from the time he testified falsely, because

מההוא שעתא דאסהיד

הוה ליה רשע

He was then already considered a רשע who is פסול לעדות, as the Pasuk states

אל תשת רשע עד

רבא אמר

מכאן ולהבא הוא נפסל

אמעה says he becomes פסול only from the time he became an אנד וומם, but not from before, because

עד זומם חידוש הוא

It is a novel Halachah that the second עדים המזימין can disqualify the first עדים זוממין through the testimony of through the testimony of מכוו הייתם a situation in which the second עדים המזימין acontradict, the first עדים המזימין as to their whereabouts at the time of their testimony; and if so

מאי חזית דציית להני ציית להני

Why do we accept the second עדות as truth, and the first עדות as false? Perhaps, the first עדות is the truth, and the second עדות is false?

It must be a גזירת הכתוב that we accept the testimony of the second עדות. Therefore,

אין לך בו אלא משעת חידוש ואילך

The first עדים are פסול only from the time of the הזמה, but not from before.

The Gemara mentions a second version to רבא that perhaps he does agree with אב" that

למפרע הוא נפסל

But even so, they only become פסול from the time of הזמה, הזמה משום פסידא דלפוחות

Because this will cause a loss to all buyers to whose purchases the עד ממם testified between the time of the עדות and the עדות.

The distinction between the two versions in רבא is in the following two scenarios where

משום חידוש ליכא

משום פסידא דלקוחות איכא

1.

דאסהידו ביה תרי לחד

ותרי לחד

If two עדים were מזים one עד and two other מזים were מזים the other עד:

The acceptance of the second חידוש it is not חידוש, because they are two against one, but there is a פסידא דלקוחות.











2.

דפסלינהו בגזלנותא

Not a case of הזמה; but rather the second עדים testified that first עדים were both thieves;

The acceptance of the second עדות it is not חידוש, because, as Rashi explains

מילתא אחריתי היא

This is not a situation of תרי ותרי as they did not testify against the testimony of the first עדים, but rather against the eligibility of the עדים themselves, for which the first עדים are not believed, but there is a עדים.

The Gemara concludes הילכתא כוותיה דאביי ביע"ל קג"ם

This is one of the six cases where we rule like אב" rather than רבא.





