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בס"ד

Intro

Today we will בע"ה learn דף ל"ב of מסכת בבא מציעא of מסכת בבא מציעא some of the topics we will learn about include.

The Mishnah's Halachah of

מצאה ברפת

אין חייב בה

If a person finds an animal in a barn that was not locked and the animal could possibly escape, he is not obligated to take the animal and return it, because the animal is not considered lost, because we assume that the animal won't escape from its barn.

ברשות הרבים

חייב בה

If he finds the animal in a public area, he is obligated to take it and return it, because the animal is considered lost.

The Gemara discusses a possible distinction in whether the רפת and רשות הרבים are located חוך לתחום, inside the city boundaries, or חוץ לתחום, outside the city boundaries.

אם היתה בבית הקברות

לא יטמא לה

If the lost item was in a cemetery and the finder was a Kohen, he may not become טמא and return the item.

The Mitzvos of פריקה, to help someone unload his animal, and טעינה, to help someone load his animal;

פרק וטען אפילו ארבעה וחמשה פעמים

If a person helped someone unload and load his animal, even if this pattern repeated itself four to five times, he is still obligated to help him,

הלך וישב לו

פטור

If the owner sat down and told the person to do all the unloading on his own and fulfill his Mitzvah, he is not obligated to do so, because the word wyteaches that the owner must work together with him.

However,

אם היה זקן או חולה

חייב

If the owner was old or weak and unable to work, one is obligated to do all the unloading for him.

The Machlokes תנא קמא and רבי שמעון regarding טעינה בשכר

Whether one may demand payment for helping load someone's animal.











They both agree that פריקה בחנם

One may not demand payment for helping unload someone's animal.

The discussion of צער בעלי חיים דאורייתא Whether the prohibition for a person not to cause distress to an animal is מדרבנן or only?









So let's review ...

Zugt Di Mishnah

מצאה ברפת

אין חייב בה

If a person finds an animal in a barn;

And as the Gemara explains;

Even though it is not locked and the animal could escape; He is not obligated to take the animal and return it, because the animal is not considered lost, because we assume that the animal won't escape from its barn.

ברשות הרבים

חייב בה

If he finds the animal in a public area, he is obligated to take it and return it, because the animal is considered lost.

The Gemara gives two versions of qualifiers:

1.

רבי יצחק says regarding the רישא

מצאה ברפת

אין חייב בה

והוא שעומדת תוך לתחום

אינו חייב

Only if the רפת was within the city boundaries, he is not obligated to return the animal; but,

ברפת חוץ לתחום

חייב

If the רפת was outside the city boundaries, he is obligated to return the animal;

While in the סיפא;

ברשות הרבים

חייב בה

ואפילו בתוך התחום

נמי חייב

Even if the רשות הרבים was within the city boundaries he is obligated to return the animal.

2 2.

A second version:

איכא דמתני לה אסיפא

סיפא says regarding the סיפא

ברשות הרבים

חייב בה

והוא שעומדת חוץ לתחום

חייב בה

Only if the רשות הרבים was outside the city boundaries, he is obligated to return the animal; but,

תוך לתחום

פטור

If the רשות הרבים was within the city boundaries he is not obligated to return the animal

While in the רישא;

מצאה ברפת

אין חייב בה

אפילו עומדת חוץ לתחום

נמי אינו חייב בה

Even if the רפת was outside the city boundaries, he is not obligated to return the animal.

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Dedicated By: _











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The Mishnah continues ואם היתה בבית הקברות לא יטמא לה

If the lost item was in a cemetery and the finder was a Kohen, he may not become שמא and return the item.

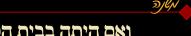
אם אמר לו אביו היטמא או שאמר לו אל תחזיר לא ישמע לו

If a father told his son, a Kohen, to become NDO and return the item, or he forbade him to return the lost item in a permitted area, the son shall not listen to his father, because the Pasuk states

יאיש אמו ואביו תיראו ואת שבתותי תשמרו אני ה כולכם חייבין בכבודי

Everyone is obligated to honor Hashem – the parent may not instruct the child to do an Aveirah - and this supersedes the Mitzvah of כיבוד אב ואם.

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ואם היתה בבית הקברות לא ישמא לה

If the lost item was in a cemetery and the finder was a Kohen, he may not become אטט and return the item.

אם אמר לו אביו היממא או שאמר לו אל תחזיר לא ישמע לו

If a father told his son, a Kohen, to become **xnv** and return the item, or he forbade him to return it in a permitted area, the son shall not listen to his father, because the Pasuk states

איש אמו ואביו תיראו ואת שבתותי השימרו אין די

Everyone is obligated to honor Hashem

The parent may not instruct the child to do an Aveirah

and this supersedes the Mitzvah of pk ak ak acceptable.







4

The continuation of the Mishnah discusses the Mitzvos of פריקה, to help someone unload his animal, and טעינה, to help someone load his animal:

פרק וטען פרק וטען אפילו ארבעה וחמשה פעמים חייב

If a person helped someone unload and load his animal, even if this pattern repeated itself four to five times, he is still obligated to help him, because the Pasuk states עזב תעזב עמו

As the Gemara in the previous Daf explains, the word עוב alone implies

אפילו מאה פעמים משמע

Even one hundred times;









The Mishnah continues מצוה מו התורה לפרוק

אבל לא לטעון

The Torah obligates a person to help only in unloading the animal, but he is not obligated to help load the animal. רבי שמעון disagrees and says

The Torah obligation is to both unload and load the animal.

As the Gemara explains all agree that there is a Torah obligation for both פריקה and טעינה because there are two Pesukim:

One Pasuk states עזב תעזב עמו And a second Pasuk states הקם תקים עמו

The Machlokes is merely regarding טעינה בשכר

Whether one may demand payment for helping load someone's animal.

The תנא קמא holds

דלית בה צער בעלי חיים

פריקה בחנם

טעינה בשכר

One may not demand payment for פריקה, but one may demand payment for טעינה, because לכתוב רחמנא טעינה ולא בעי פריקה

The Torah should have mentioned only one Pasuk for טעינה and we would have derived פריקה through a יסעינה; If one is obligated in יטעינה, loading,

In which there is no significant distress to the animal; and וליכא חסרוו כיס

There is no monetary loss to the owner, since the packages are not yet loaded on the animal; Certainly, he is obligated in פריקה, unloading, in which there is both צער בעלי חיים, since the packages are already loaded on the animal.

If so, why then did the Torah include a second Pasuk for פריקה;

לומר לך פריקה בחנם טעינה בשכר

It must be to differentiate between פריקה and טעינה in that for פריקה one may not demand payment, while for טעינה one may demand payment.









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While רבי שמעון holds

זו וזו בחנם

For both פריקה and טעינה one may not demand payment, because the Torah needed to mention a second Pasuk for פריקה:

משום דלא מסיימי קראי

Had the Torah written only one Pasuk, we would have assumed that it refers only to פריקה but not to טעינה because there is no explicit mention of טעינה in the Pasuk. Therefore, the Torah needed to write two Pesukim to teach פריקה and טעינה and there is no reason to differentiate between them.

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זו וזו בחנם

For both פריקה and טעינה one may not demand payment, because the Torah needed to mention a second Pasuk for פריקה;

משום דלא מסיימי קראי

Had the Torah written only one Pasuk, we would have assumed that it refers only to פריקה but not to טעינה because there is no explicit mention of טעינה

Therefore, the Torah needed to write two Pesukim to teach טעינה and פריקה and there is no reason to differentiate between them.

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The Gemara proceeds with a question of צער בעלי חיים דאורייתא

Is the prohibition for a person not to cause distress to an animal מדרבנן or only מדרבנן?

And brings several proofs as follows;

1.

From our Mishnah;

That רבי יוסי הגלילי certainly holds

צער בעלי חיים לאו דאורייתא

Since רבי יוסי הגלילי says

אם היה עליו יתר על משאו

אין זקוק לו

If the owner overloaded his animal, one is not obligated to help him unload the packages, because the Pasuk states רובץ תחת משאו

The word משאו is exclusive and teaches

משאוי שיכול לעמוד בו

The obligation is only if the animal can usually support this load, but not if the animal cannot support this load.

And even though the animal is in distress because of the heavy load, there is no obligation. Apparently, because צער בעלי חיים לאו דאורייתא



צער בעלי חיים דאורייתא

Is the prohibition for a person not to cause distress to an animal מדרבנן or only?



רבי יוסי דיאואי certainly holds אוריינא און דאוריינא אין דאוריינא אין דיאוריינא

נבי יוםי דישאיאי

אם היה עליו יתר על משאו אין זקוק לו

If the owner overloaded his animal, one is not obligated to help him unload the packages, because the Pasuk states

רובץ תוזת משאו

תלאני ליכול לצמוד בו

The obligation is if the animal can usually support this load, but not if the animal cannot support this load.

And even though the animal is in distress because of the heavy load, there is no obligation. Apparently, because

צער בעלי תיים לאו דאורייתא







The Gemara says however, that there is no proof from the that תנא קמא

צער בעלי חיים דאורייתא

As the תנא קמא says

אם היה עליו יתר על משאו

If the owner overloaded his animal, one is nevertheless obligated to help him in unloading the packages.

Because the מנא קמא's reason is not necessarily because of צער בעלי חיים דאורייתא

But because

לא דרשינן תחת משאו

The word משאו is not exclusive, and therefore כל משא שעליו משמע

The obligation applies to all loads.

The Gemara says however,

that there is no proof from the תנא קמא that

צער בעלי חיים דאורייתא As the תנא קמא say

אם היה עליו יתר על משאו זקוק לו

If the owner overloaded his animal, one is still obligated to help him unload the packages.

Because the תנא קמא's reason is not necessarily because of - צער בעלי חיים דאורייתא

But rather because

לא דרשינן תחת משאו

The word משאו is not exclusive, and therefore כל משא שעליו משמע The obligation applies to all loads.

The Gemara brings another proof from the רישא's Halachah of

הלך וישב לו ואמר לו הואיל ועליך מצוה לפרוק פרוק פטור

Apparently, because

צער בעלי חיים לאו דאורייתא

And the Mishnah is understood simply that he is completely פטור from פריקה, even though the animal is in distress.

The Gemara answers however, that if we hold צער בעלי חיים דאורייתא

The Mishnah can be understood that he is not completely פטור from פריקה, because the animal is in distress; rather means פטור

פטור בחנם

וחייב בשכר

He is exempt from helping without payment, and in this case he may demand payment for פריקה, because כי איתיה למריה בהדיה

עבד גביה בחנם

Only if the owner does help him he may not demand payment for the פריקה;

ליתיה למריה בהדיה

עבד גביה בשכר

If the owner does not help him he may demand payment

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The Gemara proceeds to bring several other proofs to this question that are alluded in the

סימ"ן בהמ"ת בהמ"ת אוה"ב שונ"א רבצ"ן

We will review one of them;

3.

בהמ"ת

The Braisa states

בהמת עובד כוכבים

מטפל בה כבהמת ישראל

A Jew is obligated to help unload an animal of a non-Jew just as he is obligated to unload an animal of a Jew.

However.

אם היתה טעונה יין נסר

אין זקוק לה

If the non-Jew's animal was loaded with forbidden wine, the Jew is not obligated to help unload the animal.

Apparently, because

צער בעלי חיים לאו דאורייתא

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The Gemara proceeds to bring several other proofs סימ"ן בהמ"ת בהמ"ת אוה"ב שונ"א רבצ"ן



בהמ"ת

The Braisa states

בהמת עובד כוכבים מטפל בה כבהמת ישראל

A Jew is obligated to help unload an animal of a non-Jew just as he is obligated to unload an animal of a Jew.

However.

אם היתה טעונה יין נסך אין זקוק לה

If the non-Jew's animal was loaded with forbidden wine, the Jew is not obligated to help unload the animal.

Apparently, because צער בעלי תיים לאו דאורייתא

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The Gemara answers however, that if we hold צער בעלי חיים דאורייתא

The Mishnah can be explained as follows:

The רישא refers to פריקה, and

מטפל בה

Because there is צער בעלי חיים;

While the טעינה refers to טעינה, and

אין זקוק לה

Because there is no צער בעלי חיים;

And if we hold

צער בעלי חיים לאו דאורייתא

Both the סיפא and סיפא refer to פריקה, and in the רישא

מטפל בה

משום איבה

Because the non-Jew will bear ill feelings against the Jew for not helping him as he would his fellow Jews.

While in the סיפא

איו זהוה לה

Because there is no concern for איבה, as the non-Jew is told that the obligation for פריקה applies only to a permissible item but not to a forbidden item such as יין נסך.

This discussion continues into the next Daf.

The Gemara answers however...



If we hold

צער בעלי חיים דאורייתא

The Mishnah can be explained as follows:

The רישא refers to

פריקה

and

מטפל בה

Because there is

While the סיפא refers to

טעינה

and

אין זקוק לה Because there is no

ז צער בעלי חיים: צער בעלי חיים:

And if we hold צער בעלי תיים לאו דאורייתא

Both the פריקה and סיפא refer to פריקה,

The רישא refers to

מטפל בה משום איבה

Because the non-Jew will bear ill feelings against the Jew for not helping him as he would his fellow Jews. While the סיפא refers to

אין זקוק לה

Because there is no concern for איבה, as the non-Jew is told that the obligation for פריקה applies only to a permissible item but not to a forbidden item such as יין נסך.



