



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Bava Metzia Daf Chuf Zayin

MISHNA

- A garment was also included in all of these. Why was it singled out in the pasuk? To compare all other lost items to it, and thereby teach, that just as a garment has simanim and has owners who will claim it, so too anything that has simanim and owners to claim it must be announced.

GEMARA

- **Q:** What does the Mishna mean “was included in all of these”? **A: Rava** said, it means that it is included in the phrase of “kol aveidas achicha”.
- **Rava** said, why does the pasuk have to write all the examples of “ox, donkey, sheep, and garment”? They are needed as follows. If we would only have said that a garment must be returned, we would say that only something that itself can be identified by witnesses, or that has a siman on the object itself must be returned. However, with regard to a donkey, where the witnesses or the siman is on the saddle, and not the donkey itself, we would think it need not be returned. Therefore the pasuk also says “donkey”. The example of “ox” teaches that even the hair from the end of an ox’s tail must be returned. The example of “sheep” teaches that even the shearing of a sheep must be returned.
 - **Q:** Why couldn’t the pasuk just say “ox” and we would know that the shearing of a sheep must be returned as well? **A: Rava** said, the example of “donkey” written regarding an animal damaged by a bor according to **R’ Yehuda**, and the example of “sheep” written regarding a lost item according to everybody, cannot be explained.
 - **Q:** Maybe it is written to teach that even animal wastes must be returned? **A:** An owner is mafkir animal wastes, and therefore it would not have to be returned.
 - **Q:** Maybe it is written to teach that a siman is effective in proving ownership, and that such proof is even valid D’Oraisa? **A:** The Mishna says we learn simanim from “garment”, so it is obviously not learned from “sheep”.
- A Braisa says, the words “asher tovad” teach to exclude a lost item that is worth less than a perutah. **R’ Yehuda** says that is learned from the word “umitzasah”.
 - **Q:** What is the difference between the shitos? **A: Abaye** says it is only a difference of how to darshen.
 - The **T”K** will use “umitzasah” for the drasha of **Rabinai**, who says it teaches that the lost item of a goy does not have to be returned even if the finder already picked it up. **R’ Yehuda** uses “asher tovad” to teach the drasha of **R’ Yochanan in the name of R’ Shimon ben Yochai**, who says that it teaches that something which is lost from the owner and everybody – i.e. something washed away by a river – does not have to be returned. **R’ Yehuda** will learn the drasha of **Rabinai** from the extra “vuv” of “umitzasah”. The **T”K** will learn the drasha of **R’ Yochanan** from the word “mimenu” (“from him”). **R’ Yehuda** does not darshen the word “mimenu”.
 - **Rava** said, the difference between the shitos is a lost item that was worth a perutah and then depreciated before it was found. The **T”K** would hold that “asher tovad” teaches that we follow the time it was lost, whereas **R’ Yehuda** says “umitzasah” teaches that we follow the time it was found.
 - **Q:** Even according to the **T”K**, the pasuk still says “umitzasah”, so it would surely need to be worth a perutah when it is found!? **A:** Rather, the difference between them is an object that was lost when it was worth less than a perutah and was found when it was worth more than a perutah. According to **R’ Yehuda** it would have to be returned, and according to the **T”K** it would not.

- **Q:** Even according to the **R' Yehuda**, the pasuk still says “asher tovad”, so it would surely need to be worth a perutah when it is lost!? **A:** Rather, the difference between them is an object that was lost when it was worth a perutah, and it then depreciated to less than a perutah, and again appreciated to a perutah before it was found. According to the **T”K** it will have to be returned. According to **R' Yehuda**, it must only be returned when it was worth a perutah from the time it was lost until the time it was found.
- **Q:** Is the halacha that something is returned based on a siman a halacha D’Oraisa or D’Rabanan? The importance of this distinction would be whether we return a get based on a siman. If siman is D’Oraisa, we would return it. If it is only D’Rabanan, the **Rabanan** only enacted simanim for monetary laws, not for issurim. **A:** The Mishna said that we learn out the halacha of siman from the word “garment” in the pasuk. This proves that it is a D’Oraisa.
 - The Gemara says this is no proof. It may be that the Mishna was referring to the characteristic that there is an owner to claim the garment when it made reference to the pasuk, and the concept of simanim was added into the conversation, but not meant as being based on the pasuk.
 - **Q:** The Mishna said that the example of “donkey” teaches that even a siman on the saddle would be sufficient for the donkey to be returned to the owner. We see that it is D’Oraisa! **A:** It may be that the pasuk teaches that if witnesses testify to ownership of the saddle that helps for the donkey, but the pasuk does not teach anything regarding a siman.
 - **Q:** A Braisa says that the lost item should remain with the finder until the owner looks and asks for it. Now, would we think we should give it before it is asked for (the finder doesn’t know who the owner is)!? Rather, it means that we must investigate whether the one claiming the item is its true owner. Presumably this is done with simanim, and we see it is based on the pasuk!? **A:** This too may refer to making a determination based on witnesses.
 - **Q:** A Mishna says that when identifying a dead person, the identification must be based on his face and nose. A siman on his body or clothing is insufficient. We see that simanim is not D’Oraisa!? **A:** It may be that the simanim which are considered insufficient is to say that the person was tall or short, and the reason the simanim on his clothing is not acceptable is because he may have borrowed the clothing. However, it may be that true simanim would be sufficient.
 - **Q:** If we are concerned for borrowed clothing, how can we return a donkey based on a saddle? Maybe it was borrowed? **A:** People don’t borrow saddles, because a borrowed saddle would harm the donkey’s skin.
 - **A:** We can also say that the siman given on the clothing was that they were white or red, which is not particular enough, and therefore unacceptable.
 - **Q:** A Braisa says that if a lost get was found tied to the wallet or signet ring of the shaliach, or it was found among his keilim, it is valid. Now, if we are concerned that keilim may have been borrowed, how can this get be valid? **A:** People don’t borrow wallets because of superstition, and people don’t lend signet rings, because they are concerned it will be used to forge a document.
 - **Q:** Maybe we can say that whether simanim are D’Oraisa or D’Rabanan is a machlokes among Tanna’im. A Braisa says that we do not accept testimony regarding identification of a dead person based on a birthmark. **Elazar ben Mihavai** says we do. It would seem the machlokes is that the **T”K** holds simanim are D’Oraisa and **Elazar Mihavai** holds it is D’Rabanan? **A:** **Rava** said, it may be that all agree that simanim are D’Oraisa. The machlokes is whether people born in the same mazal have the same birthmarks. The **T”K** holds that they do (and it therefore can’t act as a siman) and **Elazar Mihavai** says they don’t. **A2:** All agree that they don’t have the same birthmark, and the machlokes is whether this type of siman changes after death. The **T”K** says it does, and **Elazar Mihavai** says it does not. **A3:** All agree that this type of siman does not change after death, and all also agree that simanim are only D’Rabanan. The machlokes is whether a birthmark is a sufficiently identifying siman or not.

- **Rava** said, if you say that simanim are not D'Oraisa, how can we return a lost item based on a siman? **A:** The finder agrees to give it back based on a siman, so that if he loses something it will also be returned to him based on a siman.
 - **Q: R' Safra** asked **Rava**, how do we allow him to do a favor for himself and return it even though he may keep it so that if he loses something he can take it away from someone else who it rightfully belongs to? **A:** Rather, the owner who lost the item is happy with the enactment of simanim, because he doesn't have witnesses to prove ownership, but knows that he has better simanim than anyone else. He is therefore willing to take the risk of someone else making the claim, because he is still left with a better chance of getting back his item.
 - **Q:** We have learned in a Mishna earlier that **R' Shimon ben Gamliel** says that if three loan documents are found, with the lender in all three being the same person, the documents should be returned to the lender (and he may collect the loans with them). Now, in this case the borrower is surely not happy that the documents are returned to the lender based on these simanim!? **A: Rava** said, in that case it is returned to the lender based on the logic that if all three of those documents were together they must have fallen from him.
 - **Q:** The Mishna said that if a roll or bundle of documents was found it should be returned to the lender with a siman. Now, the borrower clearly is not happy to have the documents returned with a siman!? **A:** Rather, **Rava** said, simanim are D'Oraisa. The pasuk says that the lost item should remain with the finder until the owner looks and asks for it. Now, would we think we should give it before it is asked for (the finder doesn't know who the owner is)!? Rather, it means that we must investigate whether the one claiming the item is its true owner. Presumably this is done with simanim, and we see it is based on the pasuk and is therefore D'Oraisa.