

OVERVIEW of the Daf

1) Damages to utensils in a בור (cont.)

The Gemara continues the exchange between Rabanan and R' Yehudah regarding liability for damages to utensils in a pit.

It is suggested that the words should make a **כלל ופרט** and one should only be liable for damages to oxen and donkeys.

The Gemara responds that an additional phrase makes a **כלל ופרט וכלל** that will include liability for other animals as well.

This exposition is successfully challenged and the Gemara cites another exposition that includes liability for other animals.

The Gemara explains how the term "death" applies to utensils.

It is explained how, according to Rav who maintains that liability for a בור is from **הבל**, utensils could be damaged from **הבל**.

The Gemara successfully challenges its present exposition that includes liability for other animals and cites an alternative exposition.

This exposition is unsuccessfully challenged.

R' Yehudah elaborates on the expositions he makes from the relevant verses.

2) Clarifying the Mishnah

R' Yochanan explains that the Mishnah refers to oxen that are deaf, insane or young rather than an ox belonging to an owner who is deaf, insane or young.

R' Yirmiyah explains that the Mishnah did intend to exclude liability if an intelligent ox falls into a pit.

R' Acha, after numerous attempts, successfully challenges R' Yirmiyah's ruling.

Rava rules that if an intelligent ox falls into a בור the owner of the בור is not liable since the ox should watch where it is walking.

A Beraisa is cited that supports this ruling.

3) **MISHNAH:** The Mishnah mentions several different contexts when the Torah uses the term ox or donkey and states that

(Overview...Continued on page 2)

REVIEW and Remember

1. What is the source that the owner of a בור is liable for the death of any animal?

2. What exposition does R' Yehudah make from the word **חמור** that appears in the parsha of בור?

3. Is one liable to pay if an intelligent ox falls into one's בור?

4. Is the term **כל** a **ריבוי** or a **כלל** and what is the difference?

Distinctive INSIGHT

The "death" of utensils

אמרי שבירתן זו היא מיתתן

The Gemara noted that payment for damage to utensils is not included in the category of pit (בור). The sages learn that payment for utensils is excluded based upon the word **חמור**. The Gemara asks why it is necessary to have a special verse to teach this lesson, when the paragraph of בור concludes by stating **והמת יהיה לו**—and the one that died shall be his," thus indicating that payment for digging a pit only applies to items which might suffer death in the pit. Utensils do not die, and we would have automatically excluded damage to utensils from the episode of a pit due to this technicality. What, then, asks the Gemara, is the need for the lesson excluding utensils which is taught from the word **חמור**?

The Gemara answers that breakage of utensils is technically regarded as the death of the utensil. The Rishonim discuss the meaning of this concept.

Ra'aved explains that there is no difference between damage to a utensil (which suggests partial loss) and complete loss (the death of the utensil). Both are monetary considerations, and once the Torah exempts total loss for utensils, even partial loss is excluded. Rashba understands that according to this, even if a garment becomes soiled in a pit, which entails a monetary cost to restore the garment, this also is excluded from the category of liability for having dug a pit. Chazon Yechezkel (ד"ה בן 6:4) explains that in regard to man, there is a major difference between his being injured or killed. If he is killed, **כופר** is paid, due to loss of life. When a man is injured, damages are paid. However, when a utensil is broken or simply damaged, either way we are dealing with a monetary loss.

In Shitta Mikubetzes, **הרב מלוניל** explains that damage to a utensil is as its death, as is the soiling of silk or blue-dyed wool garments. This seems to suggest that he holds that any other garment which would be soiled in a pit is "only damage" and payment would have to be made. We would also have to analyze what he would hold regarding denting or damaging metal pots, whether this is as their death or whether it is similar to soiling materials other than silk or dyed wool. ■

This week's Daf Digest is dedicated
לע"נ ר' אהרן בן ר' יעקב מאיר ע"ה
 By his children
 Mr. and Mrs. David Friedman

HALACHAH Highlight

Crossbreeding fish

If it refers to kilayim of crossbreeding etc.

Rav Shmuel Halevi ¹Wosner, the Shevet Halevi was asked whether it is permitted to place, in the same body of water, different species of fish so that they should crossbreed and produce fish of different colors and tastes. The crux of the question is whether this violates the prohibition against crossbreeding. He responded that the Biblical prohibition against crossbreeding does not include fish. This is clear from Rambam who wrote² that the prohibition includes crossbreeding domesticated animals, undomesticated animals, birds and even undomesticated animals of the sea (חיה שבים). Seemingly, only undomesticated animals of the sea are included in the prohibition but crossbreeding fish is not within the parameters of the prohibition.

He hesitates, however, permitting this practice. Although it is clear that one who crossbreeds fish has not violated the Torah prohibition and will certainly not be subject to lashes, nonetheless, it should not be practiced since the underpinning of the prohibition is manipulating nature (לשנות מעשי בראשית) and creating beings which were not part of creation. This sentiment is expressed by Chasam Sofer³ in the name of Ramban⁴ when he writes in opposition to grafting two non-fruit bearing trees.

Although Shevet Halevi entertains the possibility that crossbreeding fish is more stringent than grafting trees since it involves, to a greater degree, involvement in creating new species, nonetheless, in his conclusion he softens his position. Since there are many different species of fish and other sea creatures that all interact with one another it is impossible that some crossbreeding does not take place. Accordingly, one could assume that crossbreeding amongst fish is not something opposed by Hashem.

אי כלאים דהרבעה וכו'

(Overview...continued from page 1)

in all of these instances other animals and birds are also included.

4) Identifying the sources for the Mishnah's cases

The Gemara identifies the source that in the Mishnah's eight cases all animals and birds are included.

The source initially cited regarding Shabbos is challenged and refined.

The assertion that the term כל is a ריבוי is challenged.

The Gemara answers that the term בכל is a כלל but the term כל is a ריבוי.

Another resolution to the challenge that כל is a ריבוי is presented.

In light of this exposition the Gemara explains the exposition that is made from the words בהמתך in the first version of the Ten Commandments and the words שור וחמור in the second version of the Ten Commandments. This explanation is challenged and R' Pappa cites R' Acha bar Yaakov's resolution to this challenge.

5) Differences between the two versions of the Ten Commandments

R' Chanina ben Agil asked R' Chiya bar Abba to account for a difference between the two versions of the ten Commandments. ■

Therefore, one should certainly not strongly protest those who adopt a lenient attitude towards this practice but it still remains to be seen whether this is considered the practice of pious individuals. ■

1. שו"ת שבט הלוי ח"ח סי' רל"ה
2. רמב"ם פ"ט המל' כלאים ה"א
3. שו"ת חת"ס יו"ד סי' רפ"ז
4. פירוש הרמב"ן לויקרא י"ט: ט ■

STORIES Off the Daf

The lost sheep

שה דאבידה דברי הכל קשיא

During Parshas Ki Teizei, תשי"ט, the Beis Yisrael of Gur, זת"ל, gave over a message at his tisch which is clearly just as applicable today as it was then.

"It says in the verse, לא תראה את שור אחיך או את שיו נדחים והתעלמת מהם: השם בשיבם לאחיק— Do not see your fellow Jew's ox or sheep wander and ignore them. You shall surely restore them to your brother.' This verse hints that a man should encour-

age his fellow Jew to hold fast during our long exile to gather in the 'lost wanderers.' The mitzvah of returning lost objects alludes to uplifting the sparks of holiness that have gone lost and dispersed throughout creation. This is why the verse speaks of one who finds his friend's sheep; this alludes to the Jewish people, who are compared to sheep. The Maharsha writes in Makos 24 on the verse, תעיתי כשה אובד - I have strayed like a lost sheep; seek out Your servant... In this verse Dovid Hamelech requests that Hashem help him find his aveidos, to rediscover his true self by finding and slowly rectifying his spiritual flaws and character

defects. Each person must do what he can towards this goal as well throughout our exile until we are finally returned to our land. But during exile, especially this final exile, this is exceedingly difficult.

"This hardship is alluded to in Bava Kamma 54 when the Gemara states that, 'The sheep of aveidah is difficult according to everyone.' But to every question there is an answer. Each person finds his 'lost sheep' according to his efforts to find his spiritual self and aid his friend in a search for what he has lost. In this way, we will all find our spiritual aveidos and the true redemption will arrive!" ■

1. בית ישראל כי תצא תש"ט

