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Returning Lost Objects based on *Simanim*

When the *Torah* discusses returning lost objects it states as follows:

You must do the same to a donkey, a garment (*simla*), or anything else that your brother loses and you find. You must not ignore it.

The *Mishnah* (2:5) asks:

The *simla* was [already] included, so why was it singled out? To compare all things to it teaching that just as a garment is distinguished in that it has identifying marks (*simanim*) and it has claimants, so too any [lost object] that has identifying marks and has claimant must be announced (in order to find the owner).

From the above *Mishnah* it would seem that *Torah* is teaching us that we must return the object to person that provides the relevant *simanim*.

However this is the exact question of the *Gemara* (*Bava Metzia* 27a) – is the reliance on *simanim* biblical or rabbinic?¹

The *Ramban* asks, if *simanim* were rabbinic then why would anyone ever be required to return a lost object? The *Ramban* and *Ritva* explain that the question of *simanim* does not apply to unusual or rare *simanim* (“*simanim muvhakin*”) for they clearly work on a biblical level.² The *Rashba* and *Ran* add that such detailed *simanim* are equivalent to witness testimony and a *pasuk* is not required to support it. The question of the *Gemara* rather applies to regular *simanim*.

A number of attempts at answer this question are made, yet the matter is left unresolved. When our *Mishnah* is cited as a potential proof that *simanim* are

biblical, it is rejected. The *Gemara* explains that the focus of the *Mishnah* may be that when an object has claimants the object must be returned; i.e. the owners have not given up hope at finding the object (*me'ya'esh*). The point about *simanim* may have only been included “incidentally”. What does this suggestion mean?

Rashi explains that the “incidental” inclusion could have been to associate the rabbinic decree with the *pasuk*. Alternatively the *Tosfot* explain that even if *simanim* alone are rabbinic it is important for the other biblical criteria stated in the *Mishnah* – *yi'ush*. In others words, if an item has *simanim* it is indicative that the owner will not have given up hope.

Perhaps with this understanding we can explain in greater detail a *Gemara* from *Eiruvin* (54b). There the *Gemara* states: “*Rav Chisda* says, the *Torah* is only acquired (*kone*) through *simanim*”. *Rashi* explains that this refers to the abbreviated symbols that are used in order to aid in committing learning to memory. The *Maharsha* explains that these *simanim* are vital to ensure a true *kinyan banefesh* so that *Torah* will not be forgotten.

Perhaps we can offer another insight. If one learns *Torah* to the level that he can at provide *simanim* then this is at least indicative that there is no *yi'ush* – he has not given up hope. If however he learns and revises his *Torah* with intensity such that he can provide *simanim muvhakin*, then he has witness testimony that he has a *kinyan* on *Torah* – it is undoubtedly his.

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¹ The *Gemara* explains that the practical difference would be whether one can return a *get* based on *simanim*. If *simanim* is rabbinic, then they have the power to introduce this enactment in monetary laws, however for prohibitory laws (*issurim*) they could not.

² See the *Kesef Mishnah* (*Gezeilah ve'Aveidah* 13:3) that brings a similar distinction between *simanim muvhakin* and *simanim muvhakin be'yoter* when explaining an apparent contradiction in the *Rambam* in *Hilchot Gezeleiah ve'Aveidah* and *Hilchot Gittin*.

Revision Questions

בבא מציעא א' ב' – ב' א'

- What is the law if a person is riding a horse and another is leading it and each of them claim that the horse is theirs? (א' ב')
- If someone is riding a horse and sees a \$5 note on the ground and tells another person to retrieve it for him, when does the money belong to the rider and when does it belong to the person who retrieved it? (א' ג')
- If a person saw an (ownerless) object and jumped on top of it, yet another person came and grabbed it, to who does it belong? (א' ד')
- When can a person claim ownership of a stray animal by virtue of it being in his property? (א' ד')
- If an adult child who still lives at home finds an object, is it considered his? (א' ה')
- Consider a woman who is divorced but has not yet received her *ketubah*, if she found an object, to who does it belong? (א' ה')
- What should one do if he found a loan contract? In what case is there a debate? (א' ו')
- What should one do if he found a *get* in the street? (א' ז')
- What five documents listed in the *Mishnah* are returned if they are found? (א' ח')
- In what situation are all documents returned? (א' ח')
- According to *Rabban Shimon ben Gamliel* when are loan contracts returned to the borrower? (א' ח')
- Provide a number of examples of objects if found, can be kept. (א' ט')
- According to *R' Yehuda* what principle does he state regarding which object must be announced (in order to find the original owner)? (א' ט')
- Provide a number of examples of objects if found, that one is obligated announce. (א' ט')
- What should one do if he found an object behind a fence? (א' י')
- Can a person keep an object that he found:
 - Amongst rubble?
 - found tucked into a wall? (א' י')
 - found in a shop? (א' י')
- Can one keep money that he found in his shopping bag? (א' י')
- Why was a "*simla*" singled out when the *Torah* discussed the law of returning lost objects? (א' י')
- For how long is one obligated to try to identify the owner of the lost object he found? (Include both opinions.) (א' י')
- When is the object not returned even if the person claiming it provides the identifying marks? (א' י')
- What should one do while trying to identify the owner of the lost object if the object itself requires upkeep? (Include both cases.) (א' י')

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Between mincha & ma'ariv
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10 minutes before mincha
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
8 th July כ"ב תמוז	9 th July כ"ג תמוז	10 th July כ"ד תמוז	11 th July כ"ה תמוז	12 th July כ"ו תמוז	13 th July כ"ז תמוז	14 th July כ"ח תמוז
Bava Metzia 2:8-9	Bava Metzia 2:10-11	Bava Metzia 3:1-2	Bava Metzia 3:3:4	Bava Metzia 3:5-6	Bava Metzia 3:7-8	Bava Metzia 3:9-10

