The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Thurs, May 4 2023 ■ י"ג אייר תשפ"ג
סימן רס"ו סעיף ב'-ו'

Overview

Siman 266 Seif 2:

If a gentile is not present one should place it on the donkey but in order to avoid violating the prohibition of מחמר (leading a donkey) if there were to be an "uprooting" and "placing," one should place the item on the donkey after it "uprooted" a foreleg and a leg so that there is no "uprooting" of the item. When the animal stops one must remove the item and when it starts walking again one may replace it on the back of the animal. Some maintain that one must be cautious from leading the animal with his voice while the wallet is on its back. He should not ride on the back of the donkey and instead should walk. If it is necessary to leave the techum out of fear of armed bandits or other danger and even if one need not leave the techum, one may sit on the back of the animal and ride it.

- The same is true if one does not trust the gentile that is present. (M.B. 6)
- Leading a donkey that is carrying stuff is מחמר. Chazal understand the prohibition involves melacha that is done in partnership between the person and the animal. One violates the prohibition only when the animal uproots and places the item according to the person's instructions. For that reason the prohibition is not violated if one places his wallet on the animal after it began walking. (M.B. 7)
- When the animal is his he violates two prohibitions, מחמרand not assuring that his animal refrain from melacha on Shabbos. (M.B. 8)
- If necessary he may encourage the animal to start walking as long as it does not have a saddle on its back. If the animal is hitched to a wagon and due to one's voice the animal starts to pull it he violated the prohibition of מחמר. In such a circumstance if one cannot stay in that location for Shabbos he should contact a nearby gentile who will bring the wagon to an inn and he should also declare the animal ownerless so that he is not responsible for the fact that his animal is not resting on Shabbos. (M.B. 9)
- If the animal is pulling a wagon according to all opinions it is better for him to walk rather than ride in the wagon. Pri Megadim warns against raising one's voice in the public domain if there are animals hitched to wagons since one's voice may cause the animal to start pulling the wagon. (M.B. 10)

Siman 266 Seif 3:

If one is accompanied by a donkey as well as a deaf-mute, someone insane and a child, the wallet should be placed on the back of the animal rather than any of these three people.

Siman 266 Seif 4:

If one is accompanied by a deaf-mute and someone insane the wallet should be given to the one who is insane since he does not have any da'as.

Siman 266 Seif 5:

If the choice is someone insane or a child, it should be given to the one who is insane since the child will eventually possess da'as. If the choice is someone deaf-mute or a child one can give it to either one.

Siman 266 Seif 6:

Some maintain that when giving it to one of these people one should place it on them while they are walking and remove it when they have stopped. This applies only if one gives it to them after dark but if one gives it to them before dark it may be handed to them in any manner.

- It is not considered "feeding them something prohibited" since at that time it is not prohibited. Regarding an animal about which one is responsible to assure that it does not perform melacha and one may possibly lead it as well, even if one placed the item on the animal during the day it must be removed when the animal stops to urinate and then replaced after the animal starts walking. (M.B. 15)

Halacha Highlight

The prohibition of מחמר

Shulchan Aruch Siman 266 Seif 2
וכדי שלא יהא חיב משום מחמר
And in order not to be liable for מחמר

Shulchan Aruch (סעי' ב') discusses placing valuable objects on the back of a donkey. However, in order to avoid violating the prohibition of מחמר, one should not place the object on the back of the animal until the animal is walking. Mishnah Berurah (סקי"ז) explains that leading an animal that is carrying a load constitutes the prohibition of מחמר. He identifies the Biblical source for this ruling and then explains that Chazal understood that the prohibition involves a partnership between the person and the animal in the sense that they both contribute to the performance of the melacha. Ramban (שבת קנ"ג:) explains that the reason one who plows with an animal brings a Chatas in contrast to one who violated the prohibition of מחמר is that once one places the yoke and blade on the animal, it acts as a mere tool for the farmer and thus the melacha is attributed solely to him. Eglei Tal (חורש סעי' ז') answers that if the farmer does not hold the blade and insert it in the ground, the animal would not be able to plow on its own and thus it is attributed to the farmer. In contrast, an animal is capable of carrying something on its back by itself and thus they share in the performance of the melacha.

Poskim further explain that any melacha that is Biblically prohibited may not be performed by an animal and it doesn't matter whether one is the owner of the animal or not. Furthermore, the prohibition is violated only when the person intends for the animal to perform the melacha but if there is no intent for the animal to do the melacha, the prohibition is not violated. For this reason when Mishnah Berurah (סקי"י) cautions against raising one's voice near a horse that is hitched to a wagon he writes that if the animal moves as a result it is as if (כמחמר) he violated the prohibition of מחמר because since that was not his intent he does not actually violate the prohibition.