



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

Bava Kamma Daf Gimme!

- **Q:** Where do we find the avos of shein and regel written in the Torah? **A:** A Braisa says, the word "v'shilach" in the pasuk refers to regel, as we find another pasuk which says "mishalchei regel hashor v'hachamor", and the word "ubi'eir" refers to shein, as we find another the pasuk that says "kasher yiva'eir hagalah" (as the tooth consumes).
 - **Q:** The Braisa says that the pasuk of "mishalchei regel" tells us that "v'shilach" refers to regel. If not for that pasuk what would we think the pasuk is referring to? It can't be keren or shein, because they are listed separately in the pasuk!? **A:** We would have thought that both pesukim refer to shein, and two pesukim are needed – one to teach that he is chayuv when the animal totally destroys the item, and one to teach that he is chayuv even when there is less than full destruction.
 - **Q:** Now that we know the pasuk refers to regel, how do we learn that shein is chayuv for less than complete destruction? **A:** We learn from regel, that just like he is chayuv for regel even for less than a complete destruction, so too he is chayuv for shein for less than a complete destruction.
 - **Q:** The Braisa says that the pasuk of "kasher yiva'eir hagalah" tells us that "ubi'eir" refers to shein. If not for that pasuk what would we think the pasuk is referring to? It can't be keren or regel, because they are listed separately in the pasuk!? **A:** We would have thought that both pesukim refer to regel, and two pesukim are needed – one to teach that he is chayuv when the animal went to graze on its own, and one to teach that he is chayuv when he sent the animal to go graze in someone else's field.
 - **Q:** Now that we know that the pasuk refers to shein, how do we learn that regel is chayuv when the animal goes on its own? **A:** We learn from shein, that just like he is chayuv for shein even when the animal goes on its own, he is also chayuv for regel even when the animal goes on its own.
 - **Q:** Why couldn't the pasuk just say "v'shilach" and we could learn regel from there (based on the pasuk of "mishalchei regel") and shein from there (based on the pasuk of "v'shein biheimos ashalach bam")!? **A:** If we only had this one word we would think that we can learn either regel, which has the characteristic that its damage is common, or shein, which has the characteristic that the animal derives pleasure from this damage, but we would not think that we can learn out both of them.
 - **Q:** Regel and shein each have a stringent characteristic and are therefore somewhat equal. If so, they would both be learned, because there is no reason to learn one more than the other!? **A:** If we only had "v'shilach" we would think he is only chayuv if he sent the animal into the other person's field, but if the animal went on its own he would be patur.
- **Q:** What are the toldos of shein? **A:** When an animal rubs against a wall to scratch itself and damages the wall, or rolled on produce for pleasure.
 - **Q:** These toldos are just like the av of shein in that they all are damage that was done by the animal while pleasuring itself and therefore the owner of this animal is obligated to watch his animal and prevent him from doing the damage. It can't be that when **R' Pappa** said there are some toldos that are not like the avos, he was referring to shein!? **A:** It must be that **R' Pappa** was referring to the av and toldos of regel.
- **Q:** What are the toldos of regel? **A:** When an animal damages with its body as it walks, or with its hair as it walks, or with the package it is carrying, or with the bit in its mouth, or with the bell on its neck.
 - **Q:** These toldos are just like the av of regel in that they are all damage that is common, and therefore the owner of this animal is obligated to watch his animal and prevent him

from doing the damage. It can't be that when **R' Pappa** said there are some toldos that are not like the avos, he was referring to regel!? **A:** It must be that **R' Pappa** was referring to the av and toldos of bor.

- **Q:** What are the toldos of bor? It can't be that the av is a bor that is 10 tefachim deep and the toldah is a bor that is 9 tefachim deep (which is not deep enough to cause an animal to die), because neither of these measurements are written in the pasuk, so both should be considered an av!? **A:** The pasuk regarding bor says "v'hameis yihiyeh lo", which means that it is talking about a bor that can kill. The **Rabanan** determined that a bor that is 10 tefachim deep is a bor that can kill an animal. Based on this, the pasuk is discussing a bor that is 10 tefachim deep, and that is why only such a bor is labeled as an av.
 - **Q:** Based on this, both should still be an av – the bor of 10 tefachim should be an av with regard to causing death and a bor of 9 tefachim should be an av with regard to causing damage!? **A:** Rather, the toldah of bor is the case where one left his stone, knife, or package in the reshus harabim and they caused damage (to a person who tripped over them).
 - **Q:** What exactly is the case of these items left in the reshus harabim? If they were left there as hefker, then **Rav and Shmuel** both agree that it would be a case of bor. If they were not made hefker, then according to **Shmuel** it still has the classification of bor, and according to **Rav** it would have the classification of an ox, and not bor. Now in the case that these are considered as the toldos of bor, they are just like the av of bor in that from the very moment that a bor is created it stands ready to do damage, and therefore the one who created this bor is obligated to watch it and prevent it from doing damage. This can't be where **R' Pappa** said that the halacha of the tolda is different than the halacha of the av!? **A:** Rather, we must say that **R' Pappa** made his statement regarding the toldah of "maveh".
 - **Q:** What are the toldos of maveh? According to **Shmuel**, who says that maveh is shein, we have already said that the toldos of shein are exactly like the av of shein. According to **Rav**, who says that maveh is a person who does damage, what are the avos and the toldos? It can't be that the av is when he is awake and the toldah is when he is sleeping, and this is where **R' Pappa** said that the toldah is different than the av, because a Mishna clearly says that a person is always a muad – whether awake or sleeping!? **A:** It must be that **R' Pappa** refers to damage from a person's saliva or mucus.
 - **Q:** What is the case? If the saliva or mucus damaged as it was expelled from his body, that should be considered like his body itself. If they did damage after they came to rest, according to everybody that would be a case of bor!? **A:** Rather, we must say that the toldos of maveh are like the av, and **R' Pappa** must have been referring to the toldos of fire.
 - **Q:** What are the toldos of fire? It can't be the case of a person's stone, knife, or package that was placed on a rooftop and blew off with a regular wind and caused damage, because if it damaged on its way down, that would be the exact same thing as fire itself. The characteristic of fire is that it has another force mixed in with it (the wind blows it) and the owner must therefore watch it and prevent it from damaging. These toldos are exactly the same and would therefore certainly be treated exactly as the av is treated!? **A:** We must say that the toldos of fire are like fire itself, and when **R' Pappa** said that the toldos are not like the av he was referring to the toldos of regel.
 - **Q:** We already previously established that the toldos of regel are exactly like the av of regel!? **A:** **R' Pappa** was referring to the obligation to pay for half the damage when something is damaged by a pebble that shot out from under the foot of an animal ("tzroros"), which is based on a Halacha L'Moshe MiSinai. This is a toldah of regel, but is different than the av, in that it only pays half the damages. The reason it is referred to as a toldah of regel is that it is like regel in the respect that he must pay the amount he is obligated to pay even if that amount is more than the value of the damaging animal.

- **Q:** We find that **Rava** was unsure whether for this damage one must pay even if it is more than that value of the damaging animal!? **A: Rava** was unsure, but **R' Pappa** was sure.
- According to **Rava**, the reason it is referred to as a toldah of regel is that it is like regel in the respect that he is patur from this damage if it takes place in the reshus harabim.

HAMAVEH V'HAHEVER...

- **Rav** says maveh is a person who damages, and **Shmuel** says maveh is shein. They each base their view on a pasuk that uses a word similar to “maveh” to mean what they hold.
 - **Q:** Why doesn't each one hold like the other view? **A: Rav** says that the Mishna listed “shor”, which was meant to include all forms of damage inflicted by an animal, including shein. **R' Yehuda** explains, that **Shmuel** would say that “shor” refers to keren and maveh refers to shein. When the Mishna says that shor and maveh are not similar, it means that keren is different than shein in that the animal gets no physical pleasure from keren, whereas it does from shein, and shein is different than keren in that with shein the animal doesn't intend to do damage whereas by keren it does.
 - **Q:** We should say that there is a kal v'chomer – if he is chayuv for shein, when there is no intent to damage, surely he should be chayuv for keren, where there is intent to damage!? Why does the Mishna says that keren can't be learned from maveh!? **A:** We would think that just like an owner is patur for damage done by his slave, even though they have intent to damage, an owner should be patur for damage done by his animal even when there is intent to damage. That is why we could not learn keren from the kal v'chomer.
 - **Q: R' Ashi** asked, the reason a person is patur for the damage of his slave is because we are concerned that if he would have to pay, when his slave would be angry at him he would go and damage and thereby cause his master to have to pay huge sums of money every day. That reasoning does not apply to an animal, so we would not think to compare the animal to the slave!? **A:** Rather, we must say that the Mishna means that the fact that keren does not provide pleasure to the animal is the reason that keren cannot be learned from shein. That is why it must be taught separately.