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Bava Kamma Daf 2

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Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h

Tzvi Gershon ben Yoel (Harvey Felsen) o”h

May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Mishna

There are four main categories of damages: An ox, a pit, *maveh* (will be explained in the Gemora), and a fire. The characteristic of an ox is not like *maveh*, and the characteristic of *maveh* is not like an ox. They are both unlike fire in that they are alive, while fire is not. All of these three are unlike a pit, in that they normally damage as they move while a pit does not normally move while damaging. The common characteristics of all of them are that they normally damage, and a person must watch them (to ensure that they do not damage). If they damage, their owner is obligated to pay for the damages from the best of his land. (2a)

Sub-categories

The Gemora asks: The Mishna’s terminology of “main categories” implies that there are sub-categories. Do the sub-categories have the same laws as the main category? [The Gemora is now going to discuss Shabbos, where the laws are the same, and impurity, where the laws are different, before answering the question.]

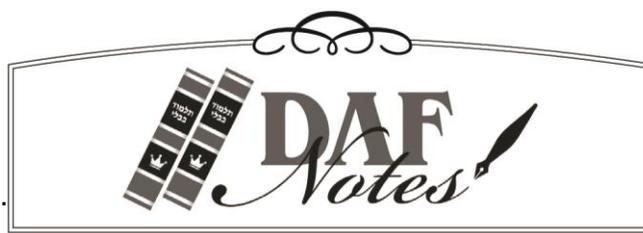
For example, we see regarding Shabbos that the Mishna states: There are thirty-nine main categories of melachos (that are forbidden to perform according to Torah law) on Shabbos. This implies that there are sub-categories as well. Regarding Shabbos, we say that the

sub-categories are like the main categories. Whether one transgresses a main category or sub-category unwittingly, he must bring a *korban chatas*. Whether one transgresses a main category or sub-category willfully, he is liable to be stoned. What difference, then, does it make that one is called a main category and one is called a sub-category? The difference is that if one performs two main category prohibitions or two sub-category prohibitions, he is liable twice. However, if he performs a main category prohibition and its sub-category prohibition at the same time, he is only liable for transgressing Shabbos once (and would only bring one *korban chatas*).

The Gemora asks: According to Rabbi Eliezer who says that one would be liable twice if he performs a main category and sub-category sin of Shabbos at the same time, why is one called a main category and one called a sub-category?

The Gemora answers: Any work done in the building of the Mishkan that was important is called a main category, and any work done in the building of the Mishkan that was not important is called a sub-category.

Regarding impurity, the Mishna states: The main categories of impurity are *sheratzim* (certain crawling creatures that have died), semen, and someone who has come in contact with a dead person. Their sub-



categories do not have the same laws as them. This is evident from the law that a main category of impurity defiles a person and vessels that come in contact with them, while their sub-categories transmit *tumah* to food and drink, but not to people and vessels.

The *Gemora* reiterates: What, then, is the law regarding damages? [*Do the sub-categories have the same laws?*]

Rav Pappa answers: Some have the same laws as the main categories, and some do not. [*The Gemora will later explain this answer further.*]

The *braisa* states: There are three main categories of damages said regarding an ox. They are: *Keren* (the horn), *shein* (the tooth), and *regel* (the foot).

The *Gemora* asks: Where do we see that one is liable for *keren* (the horn)?

The *Gemora* answers the question from a *braisa*. The *braisa* states: "When it will gore." Goring is done with a horn, as the verse states, *Tzidkiyah ben Kenaanah made for himself iron horns, and he said, "Hashem said, 'With these, you will gore Aram.'"* Additionally, the verse says: *The firstborn, his ox, is a glory for him, and the horns of a large animal are his horns, with them he will gore nations.* [*These verses prove that the word "yigach" in the torah refers to goring.*]

The *Gemora* asks: Why did the *braisa* say, "Additionally etc.?" [*What was it needed for?*]

The *Gemora* answers: If someone would claim that we cannot derive Torah laws from the verses in the books of Prophets, there is additionally a proof from the Torah itself.

The *Gemora* asks: There is no claim that we cannot derive Torah laws from the verses in the books of Prophets in this case, as here we are just deriving the definition of a word!?

The *Gemora* answers: Rather, one might think that when the Torah differentiates between a *tam* (an ox that did not yet gore three times; the owner only pays for half the damage) and a *mu'ad* (an ox that gored already at least three times; the owner pays the full amount of the damage), it is only when the horn is disconnected from the animal (in a case where the animal took its uprooted horn in its mouth and gored; as the case of *Tzidkiyah* was of an unattached set of horns). However, when an animal would normally gore with its horns attached to its head, it should always pay full damages. This is why the *braisa* quotes the additional verse from the Torah.

The *Gemora* asks: What are the sub-categories of *keren*?

The *Gemora* answers: Pushing intentionally, biting, pouncing, and kicking.

The *Gemora* asks: Why is goring considered a main category? It must be because the verse says, "When it will gore." Doesn't the verse similarly state "When it will push?"

The *Gemora* answers: That verse actually refers to goring (pushing with its horns), not pushing. This is as the *braisa* states: The passage started with the term "pushing" and finished with "goring" to teach that the "pushing" it had referred to actually meant "goring."



The *Gemora* asks: Why did the Torah use the term “goring” when the victim was a person, and “pushing” when the victim was an animal (*when in both instances it was actually discussing goring*)?

The *Gemora* answers: A person who has mazal is termed as being gored, while an animal that does not is termed being “pushed.” [A person, who has intelligence, must be forcibly attacked, and therefore it is more fittingly described as “gored,” than an animal, which can be a passive victim, who is described as being “pushed.”] This teaches us that a *mu’ad* for attacking people is automatically considered a *mu’ad* for attacking animals, while the opposite is incorrect.

The *Gemora* asks: Isn’t biting a sub-category of “shein” (teeth)?

The *Gemora* answers: No. The main characteristic of *shein* is that it derives physical pleasure from that which it damaged, not that the animal merely damages with its teeth.

The *Gemora* asks: Aren’t pouncing and kicking sub-categories of “regel” (feet)?

The *Gemora* answers: No. The main characteristic of *regel* its damages are common (*it tramples things while it’s walking*), and these (*pouncing and kicking*) are uncommon.

The *Gemora* asks: What are the cases where (*Rav Papa said*) the sub-categories are unlike the main categories? If it is “*keren*,” both the main category and sub-category are the same in that they are intentional damage and the money and obligation to watch the animal is that of the owner.

The *Gemora* answers: Rather, it must be that the main category of “*keren*” and its sub-categories are the same. Rav Papa must have been referring to “*shein*” and “*regel*.” (2a – 2b)

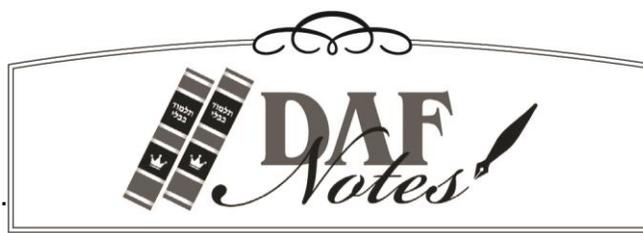
INSIGHTS TO THE DAF

An Av and its Toladah

The *Gemora* notes: We see regarding *Shabbos* that there are thirty-nine main categories of *melachos* (*that are forbidden to perform according to Torah law*) on *Shabbos*. This implies that there are sub-categories as well. Regarding *Shabbos*, we say that the sub-categories are like the main categories. Whether one transgresses a main category or sub-category unwittingly, he must bring a *korban chatas*. Whether one transgresses a main category or sub-category willfully, he is liable to be stoned. What difference, then, does it make that one is called a main category and one is called a sub-category? The difference is that if one performs two main category prohibitions or two sub-category prohibitions, he is liable twice. However, if he performs a main category prohibition and its sub-category prohibition at the same time, he is only liable for transgressing *Shabbos* once (*and would only bring one korban chatas*).

Rashi explains that when one performs an *av* (*main category*) together with its *toladah* (*sub-category*), he is liable for the *av*, and not for the *toladah*. For example, if one planted a tree (*av*) and watered a plant (a *toladah* of *zore’a*), he is liable for the *av*, and not for the *toladah*.

The commentators ask: What practical difference does it make if he is liable for the *av* or the *toladah*? The



bottom line is that he is required to bring one *korban chatas*!?

Reb Tzvi Pesach Frank suggests the following: The *Gemora* in *Shabbos* (71b) rules that if one eats two olive-sized pieces of *cheilev* (*forbidden fats*) in one state of unawareness, and he is apprised of the first and he brings a *korban*. If subsequently, he becomes aware of the second, he is now required to bring another *chatas* for that one (*for the bringing of one korban cannot exempt one from bringing a korban for a violation that he did not know about at the time*). Accordingly, if one would perform an *av* and its *toladah* together, and he would be apprised of the *av*, but not the *toladah*, he would bring a *korban* for the *av*. If afterwards he is made aware of the *toladah*, he would be liable to bring a *korban* for it, for according to Rashi, one is not liable for a *toladah* when it is done together with its *av*.

DAILY MASHAL

Why Are We Beginning to Study Bava Kamma?

With Hashem's help, the many Jews who study the Daf HaYomi are about to begin *Seder Nezikin*, which starts with *Bava Kamma*. The *Mishnah* and the *Talmud Bavli* are divided into six *sedarim* [orders]: *Zeraim*, *Moed*, *Nashim*, *Nezikin*, *Kodoshim* and *Taharos*. The *Gemara* (*Shabbos* 31a) also enumerates the six *sedarim* in this same order, based on the verse, "The faith of your times will be the strength of your salvations, wisdom and knowledge; fear of Hashem—that is [man's] treasure" (*Yeshayahu* 33:6). "Faith" is *Zeraim*, "your times" is *Moed*, "strength" is *Nashim*, "salvations" is *Nezikin*, "wisdom" is *Kodoshim* and "knowledge" is *Taharos*.

The *Tosofos Yom Tov* (in *Kaf HaNachas*, his introduction to *Zeraim* and *Nezikin*) writes that sometimes *Nezikin* is counted as the last of the six *sedarim*. This order follows the verses (*Tehillim* 19:8-10), "Hashem's Torah is perfect, restoring the soul...The judgments of Hashem are true, altogether righteous", which allude to the six *sedarim*. The last is *Nezikin*, which is hinted at in the words, "the judgments of Hashem." The above-mentioned verse in *Yeshayahu* alludes to *Nezikin* as the third order while the verse in *Tehillim* refers to it as the last.

The *Tosofos Yom Tov* explains this is actually not a contradiction. During the time of David HaMelech, when the Jewish Nation lived in *Eretz Yisrael*, it was fitting to begin with the halachos of *Kodoshim* and *Taharos*, which were actually in practice then. But *Yeshayahu* was prophesying for the *Diaspora* period, and since the halachos regarding *Kodoshim* and *Taharos* are not practiced outside of *Eretz Yisrael*, these *sedarim* were pushed to the end of the list.

Why is *Bava Kamma* the first *maseches*? In the opening to his *Commentary on the Mishnah* (s.v. *hachelek hashishi*), the *Rambam* points out that *Bava Kamma* is the opening tractate of *Nezikin* to teach us that "a judge is not allowed to do anything else before removing the potential damage from the people." Before attending to other matters, *dayanim* must remove and safeguard against anything harmful and damaging.