

CENTER FOR MODERN TORAH LEADERSHIP



Daf Yomi and Advanced Women's Learning

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A literate Jewish laity properly demands and eventually receives an even more learned rabbinate. The Daf Yomi program (founded by my grandfather z"l's rebbe Rabbi Meir Shapiro) is among the more remarkable lay literacy programs in history. And a rising tide lifts all boats; it takes a rabbinate that knows Shas deeply to genuinely lead a community that has learned through Shas.

The corollary is also true. It is very hard for a broadly ignorant culture to produce genuine talmidot chakhamot. As a passionate advocate of women's advanced Torah learning, I recognize the urgent need to produce more learned ba'alot bayit, both lishmoh and because they will create the demand for profoundly learned women leaders. Early last week, I noted on Facebook that YU was celebrating Daf Yomi's completion of Seder Nashim with an all-male panel of scholars, adding several exclamation points after Nashim. I did not mean to suggest that Seder Nashim is more about women than say Seder Taharot, which in Talmud includes only Tractate Niddah. Nor was I pushing for the affirmative action inclusion of a woman panelist who had not taught the daf throughout that Seder. I hope that everyone possible attended the event, to honor those who maintained this commitment and to inspire others to commit.

Rather, I wanted to focus attention on the extent to which women's lay learning is still so far behind men's, with relative attendance at Daf Yomi as a marker. We need women learning the daf to demand women teachers who already know the daf – and *then* insist that those teachers take their earned place on the dais at the next siyyum. We need women to learn through all of Shas if we want to produce women who command Shas. Such women are needed among other things for their insights on issues of Gittin and Kiddushin, and Niddah, and Bava Kamma.

Not that daf yomi suits every learning style. My only extended effort so far was a chavruta with Deborah Klapper that didn't quite make it through Seder Moed. But to affirm my support for its importance – and also to model some ideas about Talmud education – I will use this week's dvar Torah to teach the opening of Seder Nezikin.

(If you're inspired to want to learn the masekhta or seder this way – please email me.)

Mishnah Bava Kamma opens with a mnemonic:

Four Father-Cases (*avot*) of Damages

followed by a list of the four:

Shor (=ox), **Bor** (=pit), **Mav'eh** (=?), **Mav'ir** (=burning).

Talmud Bava Kamma's opening focuses on a related statement by the Amora Rav Pappa:

Some among them are like them;

Some among them are unlike them."

This is understood to mean that some *toladot*, or 'descendant' cases of damages, have the same consequences as the *av* from which they 'descend', but some do not.

Rav Pappa's claim seems odd; why would a descendant case have different consequences than the father-case? And why would only some of the descendant cases have those different consequences?

The Talmud begins by (re)constructing a *literary* justification for Rav Pappa's claim. The Mishnah uses the term *avot* in two other areas of halakhah: Shabbat, and Tum'ah.

With regard to Shabbat, there are 39 categories of prohibited labor, and the cases put in those categories entail the same punishment as the principle-cases.

With regard to Tum'ah, the terms *avot* and *toladot* don't refer to categories and cases, but rather to higher and lower categories. When an *av* source-of-tum'ah transmits tum'ah to an object, that object becomes a *toladah* source-of-tum'ah. *However, an av can transmit tum'ah to a broader set of objects than can a toladah.*

The upshot is that in Mishnah *avot* and *toladot* may (Shabbat) or may not (tum'ah) have the same consequences. So Rav Pappa's claim about the *toladot* of the *avot* in our mishnah is literarily plausible.

That brings us to a deeper question: In what sense is a case a *toladah* if it has different consequences than its *av*?

To explore this question, the Talmud lists the *toladot* for each *av*. Not surprisingly, we discover that each *toladah*

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shares all its abstract qualities with that *av*. We therefore can find no justification for giving it different consequences.

Except in one case— *chatzi nezek tzererot* (=paying only half-damages for damage caused by pebbles kicked up by an animal). *Chatzi nezek tzererot* falls under the category *regel* (=foot; commonly occurring damage), which is a subcategory of **Shor**. However, while *regel* usually generates an obligation to pay full damages, there is a Halakhah leMosheh Misinai (tradition received by Moses at Sinai but not recorded in the Written Torah) that one pays only half-damages for *tzererot*. Nonetheless, according to Rav Pappa, *tzererot* carries two other features of the category *regel*, and therefore is properly its *toladah*: one is not liable for *tzererot* kicked up in a public space (= *reshut harabim*), and one has to pay one's liability for *tzererot* "from the best". (Rava is unsure about "from the best".)

So the Talmud concludes that Some among them are unlike them refers specifically and exclusively to *tzererot*, and Rav Pappa's statement essentially reduces to a mnemonic for *tzererot*. Note, however, that Rav Pappa's statement no longer applies directly to the Mishnah. **Shor** includes a subcategory, *keren*, that pays half-damages for first offenses, so *tzererot* is not unlike **Shor**; it is unlike it's *av* only because it is placed in the subcategory *regel* rather than in *keren*.

That covers the overall formal structure of the first two *dafim*. However, the Talmud uses this formal structure as a scaffold on which it hangs as much halakhic information as possible. Or if you prefer: The formal structure is a scaffold built to serve as a mnemonic for as much halakhic information as possible.

So in the course of its discussion of *avot* on Shabbat, the Talmud tells us that

1. There is a Tannaitic dispute as to whether one is liable for multiple sacrifices for violating the same category on Shabbat in multiple ways, and
2. The father-cases on Shabbat are derived from the Mishkan.

In the course of its discussion of *avot* regarding *tum'ah*, the Talmud tells us that

1. an *av* can transmit *tum'ah* to humans, utensils, food, and drink, but a *toladah* cannot transmit *tum'ah* to humans or utensils.

The Talmud then conducts a Benjamin-and-his-brothers-search for the case Rav Pappa was referring to, making sure to bring up the correct case only after it has gone through all the others. In the context of that search, it makes sure to offer a precise definition of each *av*, and

also to list its *toladot*. (Since *regel* appears early in the search, which initially follows the order of a *beraita* listing subcategories of *Shor*, the Talmud leaves *tzererot* out of its initial presentation of the *toladot* of *regel*, and then revisits the category at the end. So we learn along the way that

1. There can be multiple *av*-cases for a single category, in addition to *toladot*
2. **Shor** includes the *av*-cases
 - a. *keren* (=horn), defined as intentional damage, whether or not the horn is "attached";
 - b. *shen* (=tooth), defined as damage which benefit the damaging animal; e.g, when it eats, whether or not the plant it eats will regrow;
 - c. *regel* (=foot) defined as commonly occurring damage by an owned animal
3. **Bor** includes the *av*-cases of pits deep enough to cause death, and pits only deep enough to cause injury. **Bor** is defined as damage by something that was created with the potential to harm. that belongs to you.
(Note that in this case "belongs to you" does not mean actual ownership, as the *av*-case is a pit dug in a public domain, but rather that we treat you as if you own it.)
4. Rav and Shmuel dispute whether **Mav'eh = Shen** = tooth, which should therefore be removed from **Shor**, or rather **Mav'eh = Adam** = human.
5. If **Mav'eh = human**, its *toladot* are damages caused by sneezing and spitting.
6. Goring a human being makes an ox *muad* to gore other animals, but goring an animal does not make an ox *muad* to gore human beings.
7. All humans are always *muad* to cause damage, even when asleep (because they stretch).
8. The *toladot* of **Mav'ir** =Esh (fire) include dangerous objects left on a rooftop which then fall off and injure somebody.
9. **Mav'ir** is defined as damage caused by a human being together with another force, by something that belongs to you, and that you must guard other people's property against.

Among the Talmud's brilliant achievements is the narrative voice that weaves all the above into a flowing conversation. I hope many of you will be adding your voices to that conversation. Shabbat shalom!

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