

## OVERVIEW of the Daf

### 1) The blessing of **בכל**

A Baraisa teaches that three – Avrohom, Yitzchok and Yaakov – were given a taste of the World-to-Come while yet in this world.

The Baraisa also teaches that Avrohom, Yitzchok and Yaakov were not controlled by the Yetzer Hora and according to others Dovid Hamelech is also included in this list.

Another Baraisa enumerates those who were not under the control of the **מלאך המות**.

A third Baraisa discusses those whose bodies were not affected by worms and maggots after burial.

A Baraisa lists those who died as a result of the serpent rather than from their sins.

### הדרן עלך השותפין

2) **MISHNAH:** The Mishnah begins with a discussion of how far away one must be from a friend's property before digging. The Mishnah also discusses the steps one must take to prevent causing damage to a friend's wall.

### 3) The language of the Mishnah

It is noted that the Mishnah begins with a discussion of a pit and moves to discussing a wall.

Abaye or R' Yehudah suggests that the wall reference refers to the wall of the pit.

The reason the Mishnah was not more explicit is explained.

### 4) Digging a pit

Abaye and Rava disagree whether one must leave space between the pit he is digging on his property and the boundary that marks his neighbor's property.

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## REVIEW and Remember

1. Which people in history were not killed by the Angel of Death?

2. Who are the people whose death was not due to their sins?

3. What is the issue under dispute between Abaye and Rava?

4. Is extra space required if one is digging a pit in soft soil?

## Distinctive INSIGHT

*Excavating a pit so that it does not threaten existing structures*

פתח בבור ומסיים בכותל, אמר אביי ואיתימא רב יהודה מכותל בורו שנינו

The Mishnah taught that one may not dig a pit in his own yard next to the pit of his neighbor, unless he maintains a distance of three tefachim from the wall of his neighbor. The Gemara begins its analysis of the Mishnah by noting that the Mishnah introduced a case of digging a pit next to a neighbor's pit, but then concludes its statement by dealing with keeping a pit a certain distance from the neighbor's wall.

The explanation given by Abaye, and some say it in the name of Rav Yehuda, is that the entire Mishnah is dealing with one consistent case, that of keeping a proper distance from a previously existing pit of one's neighbor. The second phrase which describes keeping a new excavation away from a wall refers not to a standing wall, but from the wall of the neighbor's pit. In other words, the edge of a pit is also referred to as "a wall".

Rambam (שכנים ט: א) writes that a person may not dig a pit in his own property unless he keeps a distance of three tefachim from a wall of his neighbor, and he must also coat his pit with lime to prevent water from leaking into the ground and damaging the foundation of the ground under the neighboring wall.

We see that Rambam learns that the halacha in the Mishnah applies to digging a pit next to a neighboring yard whether there is a pit next door, or whether there is a wall standing there. From where does Rambam understand to apply the law of the Mishnah is both of these contexts? Beis Yosef, in his commentary Bedek HaBayim (to Choshen Mishpat 155, #12), explains that it is clear that the Gemara was willing to accept that the Mishnah teaches the requirement for a pit to be distant from either a neighboring pit or an above-ground wall, and it was only bothered when it felt that the context of the Mishnah was not consistent.

Tur (C.M. 155) writes that the basis for Rambam's ruling is both in logic, and in the fact that the Mishnah continues and lists substances and conditions that are dangerous to be situated next to a wall. This indicates that precautions must be taken to protect a wall, as well as a pit.

Drisha (ibid. #12) explains that Rambam notes that even with the Gemara's explanation that the case in the Mishnah is discussing staying away from the "wall of the pit" of one's neighbor, it is still peculiar that the Mishnah did not write explicitly to stay clear of "כותל בורו," but instead it writes to stay away from "כותל חבירו". Rambam holds that this is in order to hint to the halacha to build a pit far from either a wall of a pit or from an above-ground pit. ■

# HALACHAH Highlight

## The guidelines of neighborly damages

לא יחפור אדם בור סמוך לבורו של חבירו

A person may not dig a pit close to the pit of his neighbor

The Mishnah provides guidelines for determining when one is restricted from particular uses of his own property because it may cause damage to his neighbor. Rosh<sup>1</sup> analyzed the many different examples discussed in the Mishnayos and Gemara and drew the following conclusion. He asserts that whenever Chazal knew the necessary distance to assure that one would not cause damage to his neighbor's property they mentioned the exact measurement or steps that one must take. Whenever they did not know the exact distance needed they used the phrase **בכדי שלא יזיק** – in order that it should not cause damage. The underlying rationale behind all these halachos explains Rosh, is that the ways of the Torah are pleasant – **דרכיה דרכי נועם** – and the Torah does not allow a person to do something that will indirectly cause damage to another's property even if the action is done on his own property.

Chazon Ish<sup>2</sup> suggests that the parameters of implementing these halachos were given to the rabbis of each generation to determine what is acceptable and what is not. It is under-

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Two alternative explanations of the dispute are presented.

An unsuccessful challenge to Rava is presented.

According to an alternate version it was an unsuccessful challenge to Abaye's position.

Another unsuccessful challenge to Abaye's position is recorded. ■

stood that it is almost impossible for people to live as neighbors and not do things that will impact on one another. It may involve digging a pit on the boundary of the neighbor's yard, planting a tree so that the roots go into the neighbor's ground or even opening a window that allows one to see into his neighbor's backyard. Whatever the case is there is potential for conflict and thus the rabbis are charged with the responsibility of determining what is acceptable and what is not. Once the determination is made by the rabbis those parameters must be honored by each party. Therefore, if Shimon decides to protest against something Reuven is permitted to do he is causing damage to Reuven by denying him a permissible use of his property which is akin to theft. On the other hand, if Reuven decides to do something that the rabbis prohibited he is categorized as a damager. ■

1. שו"ת הרא"ש כלל ק"ח אות י'

2. חזו"א בבא בתרא י"א: ■

# STORIES Off the Daf

## The prayers of Dovid Hamelech

"ואיך היה רחמי הוא דקא בעי..."

A certain merchant from Metz would earn his living by selling furs, primarily at the seasonal market fair in Vilna. Everyday this merchant, who knew how to learn a little, would finish selling for the day and go to the beis midrash of the Vilna Gaon and say Tehillim.

The Gaon noticed that he was no ignoramus and was a bit perplexed as to why he said Tehillim instead of using his time to learn. He decided to ask him why.

The merchant replied, "I do this because of something I heard from our Rav in Metz, Rav Yonasan Eibeschutz, zt"l. He taught from our sages that Dovid Hamelech asked Hashem that Tehillim should be considered like learning the

hardest areas of Torah. Surely we see from this the greatness of Tehillim since Hashem certainly did not refuse Dovid Hamelech."

"But why do you think that Hashem would not refuse Dovid Hamelech?" countered the Gaon. "In Bava Basra 17 we find that the gemara entertains the possibility that Hashem did refuse Dovid a request. There we see that the gemara entertains the possibility that Dovid was one of the very few whom the worms could not overcome after death. One opinion cites Dovid's prayer in Tehillim 16 where he pleads that his flesh be protected from worms. The other opinion disregards this proof out of hand since this was merely what Dovid asked for, not what he got. Please ask your Rav how he answers this question which seems to show clearly that a request of Dovid's may not have been accepted?"

The next year, the merchant was

back and sure enough he had an answer from Rav Yonasan. "My Rav said that that is not how he learned the Gemara at all. The opinion that says that this was merely prayer does not mean that Dovid was not protected from the worms. He requested this in Tehillim and surely it was granted. This opinion merely posits that Dovid should not be included in the list of those who were protected because of their righteousness since Dovid was merely protected because of his prayers, not because he deserved it as a result of his personal purity. Similarly, no one would really believe that Dovid requested something from Hashem which he did not receive without a clear proof that he was not answered. Since we see no indication that Dovid was not answered one may definitely continue to say Tehillim in the beis midrash, and have it considered Torah study."<sup>1</sup> ■

1. שמן לנר, ח"יב, ע' רל"ב ■