

OVERVIEW of the Daf

1) Defining **אב** and **תולדה** (cont.)

The Gemara cites the Baraisa's source for the general category of **רגל** and unsuccessfully challenges this source.

While analyzing this source the Gemara discusses whether liability for **שן** and **רגל** depends upon the object's being totally destroyed (**מכליא קרנא**).

The Gemara cites the Baraisa's source for the general category of **שן** and unsuccessfully challenges this source.

While analyzing this source, the Gemara discusses whether liability for **שן** and **רגל** depends upon the owner's sending out the animal or not.

The Gemara suggests that only one verse is necessary to teach both **שן** and **רגל**.

It is demonstrated that both verses are necessary.

The Gemara identifies the subcategories of **שן** and concludes that the subcategories of **שן** are similar to the general categories and R' Pappa referred to the subcategories of **רגל** when he stated that some subcategories are not similar to the general category.

The Gemara identifies the subcategories of **רגל** and concludes that the subcategories of **רגל** are similar to the general categories and R' Pappa referred to the subcategories of **בור** when he stated that some subcategories are not similar to the general category.

The subcategories of **בור** are identified and the Gemara suggests that R' Pappa referred to one who leaves an object that caused damage in the public domain.

This assertion is rejected and the Gemara suggests that R' Pappa referred to **מבעה**.

It is demonstrated that R' Pappa could not have referred to **מבעה** so the Gemara suggests that he referred to fire.

This suggestion is also rejected and the Gemara concludes that R' Pappa referred to the subcategory of **רגל** called **חצי נוק צרורות**.

The reason **צרורות** are considered a subcategory of **רגל** is explained.

This explanation is unsuccessfully challenged.

2) Defining **מבעה**

Rav and Shmuel disagree about the meaning of the term **מבעה**.

Each Amora identifies the source for his definition and explains why he rejects the other opinion.

After noting that neither opinion has offered a convincing argument regarding the correct interpretation of the verses, Rav and Shmuel explain why they reject the other's interpretation of the Mishnah. ■

Distinctive INSIGHT

מבעה is "Man"

רב אמר מבעה זה אדם דכתיב אמר שומר אתא בקר וגם לילה אם בעיון בעיו

The third of the categories of damage mentioned in the Mishnah is **מבעה**. Rav explains that this refers to damage perpetrated by man. The word "**מבעה**" is used in reference to man, as we find in the verse (Yeshayahu 21:12): "The watchman says, 'Morning is coming, but also night. If you really desire it, repent and come.'" The interpretation of this verse, based upon Rashi, is that Hashem, who is the Watchman, is announcing that morning of the redemption is coming for the righteous, and the darkness of night is coming for the evil ones. If the people want to repent and ask forgiveness, they should do so. We see, though, that the expression "**בעיון**" is one that is used in terms of human involvement. Hence, the term "**מבעה**" is a reference to man and the damage he might cause. Tosafos HaRosh notes that although the verse is not discussing any type of damage that man does, it is appropriate to use the expression found in this verse to destruction wrought by man, as the simple translation of the verse speaks of bandits or robbers who are approaching a city as it sleeps securely. The guards of the city are awaiting the morning light, but the night is still pervaded with darkness. The guards are alert that the thieves might still come to search (**אם תבעיון בעיו**) for hidden treasures. We see, therefore, that the expression of **מבעה** does indicate man as a destructive force.

The Rishonim discuss why the Mishnah does not simply use the term "**אדם**," rather than the more obscure term of "**מבעה**". Nimukei Yosef explains that the term "**אדם**" might have referred to one's slave and maidservant, thus suggesting that the master would be responsible for any damage his servants cause. In order to avoid this misunderstanding, the Mishnah uses the expression "**מבעה**" which comes from the verse in Yeshayahu in reference to a Yisroel, a free man, and not to a servant.

Shitta Mikubetzes explains that the Mishnah does not use the term "**אדם**" because the first description in the Torah of man causing damage to his neighbor is in reference to a thief. The damage caused by a home intruder is done by his searching (**בעיו**), thus warranting the expression of man as a **מבעה**.

The Netzi"v explains that the Mishnah is not discussing man as a source of damage due to his acting intentionally. If this was the case, there would be no basis for the Mishnah's comparison of **מבעה** to **שור**. There would be no reason to say that a person must pay for his ox's damage, but that he would be exempt for his own wanton damage. Rather, we are speaking about man who causes damage even unintentionally. Accordingly, it is difficult for a person to guard against accidents. In order to avoid even such accidents, man must daven to Hashem for help. In this regard, man is referred to as a **מבעה** - one who must ask and seek assistance from Hashem regarding his daily interactions. ■

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 By the Okner family
 In loving memory of their mother
 Mrs. Anne Okner o.b.m
 מרת חנה בת ר' שמשון ושרה, ע"ה

HALACHAH Highlight

A woman's obligation to recite havdalah

דומיא דרגל

Similar to the case of רגל

The question of whether women are obligated to recite havdalah is a topic that has been discussed at great length by the Poskim¹. The first step in answering this question is to determine the source of the obligation to recite havdalah. Is havdalah a Biblical obligation derived from the word "זכור" or is it only a Rabbinic obligation? At first glance it would seem that if havdalah is Biblical we would conclude that women are obligated in the mitzvah. The reason is that since שמור and זכור were stated together we maintain that whoever is obligated to observe the restrictions of Shabbos is obligated to sanctify Shabbos at its beginning and at its end. On the other hand, if havdalah is an enactment of Chazal it would seem that women should be exempt since it would be an example of a Rabbinic time bound mitzvah (מצוה עשה דרבנן שהזמן גרמא) from which women should be exempt.

The assumption that if havdalah is a Rabbinic enactment women would be exempt is not universally accepted. Magid Mishnah² suggests that even if havdalah is a Rabbinic enactment women should be obligated. His rationale is based on the principle that Chazal set up their enactments to parallel Biblical laws. Consequently, just as women are obligated in the Biblical mitzvah of kiddush so too they will be obligated to recite havdalah, even though it is a Rabbinic time bound mitzvah. A counter argument

REVIEW and Remember

1. What type of damage is included in the term ושלח?

2. What is the defining characteristic of רגל?

3. Explain חצי נזק צרורות.

4. What are the two interpretations of the term מבעה?

to this is that the Rabbinic enactment should parallel the general principle that women are exempt from Biblical positive time bound mitzvos, so too women should be exempt from the Rabbinic enactment of havdalah. This complicates our analysis since both opinions agree that we will parallel the Rabbinic enactment to Biblical law but that parallel could lead us to two opposite conclusions. Should we compare havdalah to kiddush and obligate women or should we compare havdalah to other time bound mitzvos and exempt women? Rav Ovadiah Yosef³ cites Tosafos in our Gemara⁴ who states that the principle "לקולא ולחומרא" — When given the choice between comparing to draw out a stringency or a leniency we should draw out the stringency," is a Biblical principle and therefore we should conclude that women are obligated in havdalah even if it is a Rabbinic enactment. ■

1. עי' שו"ת יביע אומר ח"ד או"ח סי' כ"ג.
2. מגיד משנה ר"פ כ"ט מהל' שבת.
3. שו"ת יביע אומר הני"ל אות י"א
4. תוס' ד"ה דומיא דרגל. ■

STORIES Off the Daf

Pleading one's case

"שנאמר אם תבעיון בעין..."

One time, a certain man was very ill—he was on the brink of death. A gathering was called to offer prayers on behalf of the suffering man, which were attended by Rav Shlomo Zalman Auerbach, zt"l. Before they began, Rav Auerbach said, "We must all acknowledge that although we believe that when Hashem desires it, there will be תחיית המתים, our purpose in this gathering is not to demand the resurrection from Him at specifically this instant. Since, from the doctors' point of view, the sick man's recovery would require just such Divine intervention, we should only say one chapter of Tehillim for the benefit

of the choleh. Even so, although it is such a dire situation, we should not cease to hope that Hashem will have mercy and heal him. As the sages learned from the plight of Chizkiyahu HaMelech, 'Even if a sharp sword is poised over one's neck, do not despair from Hashem's mercy.' However, we should not offer a multitude of prayers for this end since it would appear as though we are begging for an outright miracle..."

Rav Shlomo Zalman explained further, "Although we do not presume to dictate to Hashem what He should or should not do, since every experience is surely a kindness, we beg that the mercy should be a mercy that is revealed so we can comprehend it. We are like a child begging from his father. Sometimes the father grants his request while at other times it is refused. The father surely calcu-

lates what is for the good of each child and acts accordingly. This is why every prayer for the departed begins with 'Merciful Father.' Although we do not comprehend it, everything we experience stems from Hashem's mercy."

He concluded, "The Gemara in Bava Kama 3 learns from a verse that מבעה—a claimant—indicates a person. We see from here that the identity of man is that he always petitions and begs Hashem for kindness."

Once, when the chazan of a certain minyan davened in a demanding manner, Rav Shlomo Zalman was so disturbed by the inappropriateness of this that he found a different minyan. One must always be a 'petitioner'—not a person presenting demands.¹ ■

1. הליכות שלמה, ח"א, פרק ח', ארחות הלכה אות 56