

TALMUDIC METHODOLOGY
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SHIUR #06: UNDERSTANDING THE CATEGORY OF *REGEL*

One of the primary categories of property damages is designated as “*regel*” and defined as “casual” damages without any distinct trigger or catalyst. If an animal is driven to damage by aggression, the ensuing damage is defined as “*keren*” and accordingly exhibits certain unique payment guidelines. If an animal causes damage while seeking pleasure, the resulting damage is defined as “*shein*” and is governed by different parameters. *Regel*-based damages appear to be similar to *shein* in that they aren’t incited by aggression, and indeed, *regel* damages exhibit almost identical *halakhot* to *shein*. It would appear, at least initially, that *regel* is merely a parallel of *shein*; damage spurred by pleasure-seeking is designated as *shein*, while damage without the pleasure catalyst is defined as slightly-related *regel*.

However, the fact that the *gemara* describes a separate category of *regel* seems to imply a **distinct** form of damage, and not merely a derivative of *shein* that lacks the pleasure component. Perhaps *regel* damage is not just typical or standard damage, but instead exhibits a unique qualifier distinct from *shein*.

The *mishna* portrays *regel* damages as “*derekh hilukha*,” damages performed during standard and routine walking. Is this merely the *mishna*’s manner to differentiate *regel* from aggressive *keren*-damage? Aggressive damages are abnormal whereas normal damages are associated with *regel/shein*. If this were true, *regel* would indeed be roughly similar to *shein* and it would not have a “positive” qualifier. It must be regular damage, unlike *keren*, and it does not stem from pleasure-seeking, unlike *shein*. Alternatively the *Mishna* may be identifying a unique quality of *regel*: the damage occurs during the animal’s walking, **without any distinct action**. Both *keren* and *shein* are triggered by a conscious activity; the former is driven by aggression and the latter by pleasure seeking. By contrast, *regel* occurs whenever damage happens without any halakhic **action** occurring. Walking is the most neurologically **basic**

part of animal life and damages caused by walking have not evolved from a distinct **act** of *nezek*. According to this approach, *regel* is a **unique** category of property damage, and not simply *shein* damage absent the component of pleasure-seeking.

This definition would affect the scope of the *regel* category. Can damages caused by body parts other than the legs, but while walking, be considered *regel*? For example, would damages caused by aimless head or horn movement be defined as *regel*? On the one hand, this doesn't qualify as *keren*, since the animal isn't **goring**; on the other hand, the damage does not result from effortless "walking." The Rashba (17b) claims that these damages qualify as *regel*, perhaps indicating that **any** non-pleasure driven damage is considered *regel*, even if it not related to the animal's gait. Alternatively, it is possible that the Rashba's willingness to define damages caused by bobbing heads and horns as *regel* may indicate that he views head movement as an element of animal mobility; since they do not walk upright, animals depend on head movement for leverage and momentum. Thus, the swinging of an animal's head may be incorporated as part of animal walking, and therefore defined as *regel*, even if *regel* is strictly defined as walking-related without a distinct action.

A related question may arise in the discussion in the *gemara* (19b) regarding damages caused by a stimulated sexual organ. Should such damage be classified as *regel* or *keren*? Quite possibly (and apparently, based on the language of the *gemara*), the question surrounds *keren* parameters. However, the *gemara* may have been probing whether damage stemming from movement unrelated to mobility can be classified as *regel*. Animal mobility is not considered an **action**, and its resultant damages are defined as *regel*. The swaying of sexual organs is unrelated to mobility, and hence considered a distinct **action**. It may not resemble action-less *regel* damage.

A similar question may surround damages caused by a snake bite. The *midrash* assumes that snakes were cursed with deadened taste buds, rendering all food with the taste of dust. In the absence of a pleasure component, a snake bite may not be defined as *shein*. Can it be defined as *regel*? Tosafot (16a) assume that it can and the Rashba (2b) cites two positions. Perhaps this debate surrounds the aforementioned question. Since a snake bite is not integral to snake mobility, it may not be compatible with the **action-less** category of *regel*.

A third example surrounds a pig foraging in a garbage dump for food (17b). The damage performed in the course of actively consuming food is clearly considered *shein*, but what about breakage while foraging? Rashi claims that this damage is *regel*, while Tosafot claim that it is *shein*. There are multiple factors that may influence this dispute (including the nature of pre-*shein* damages and the definition of indirect *tzerorot* damages), but it is possible that the debate surrounds the qualities of *regel*. This breakage is not pleasure driven, but it is also certainly not an **action-less** damage. Deciding whether to define it as *regel* or *shein* may depend upon a looser or stricter definition of the *regel* category.

Perhaps the most glaring instance of damage that is not driven by pleasure but also not natural to animal ambulation surrounds a situation of an animal squatting upon small objects. Squatting upon larger items is clearly an **act** of violence and is considered *keren*. Would squatting upon smaller objects classify as *regel*? Such an act is natural and non-violent, but it is not an integrated element of animal ambulation. Rashi (16a) indeed defines it as *regel* (consistent with his classification of breakage during foraging as *regel*), but the gemara leaves this question open-ended. If the *regel* category only contains **action-less** damages, squatting would not be included.

A completely different question may also be influenced by this question about the definition of *regel*. The *beraita* (17b) expands the *regel* category to include damages stemming from animal appendages (saddles and yokes). Would damages stemming from non-natural appendages be considered *regel*? Perhaps only **action-less** damages caused by the actual body of the animal may be considered *regel*. The *mishna* (17a) describes damages caused by entangled strings on the legs of chickens. This is fairly common occurrence and should be a candidate for *regel*. Tosafot presume that it would be *regel*, and are thus forced to redefine the scenario of the *mishna*, which does not appear to describe this as *regel*. This question is alluded to by the Ra'avad (whose conclusions are unclear) and fully explicated by the Pnei Yehoshua (19a), and it may be a direct function of the definition of *regel*. If *regel* is defined as action-less damages it may be limited to damage by the animal's body or by natural extensions of the animal's body. If *regel* includes all non-pleasure-driven damages then even damages through non-natural appendages can classify as *regel*.