

## OVERVIEW of the Daf

### 1) Making things on Chol Hamoed

Rav permits making fish traps on Chold Hamoed but prohibits making bird nets.

R' Yehudah permits making new ovens and sieves.

The lenient ruling regarding making ovens is unsuccessfully challenged.

2) **MISHNAH:** The Mishnah discusses the parameters for making various types of repairs during Chol Hamoed. The Mishnah permits pickling food if it will be eaten on Chol Hamoed.

### 3) Clarifying the Mishnah

Two examples of amateur railing repair are presented.

The Mishnah's ruling regarding the use of a roller to repair a roof is clarified.

### 4) The use of tools on Chol Hamoed

The Mishnah's ruling regarding the use of tools for repairs is challenged.

Four different resolutions are presented, the first of which is rejected.

### 5) Pickling food

An incident related to pickling food is presented wherein Rava permitted pickling food for use after Yom Tov.

Abaye unsuccessfully challenges this ruling.

An alternative version of this exchange is recorded.

Two more incidents related to eating fish are presented.

The Gemara mentions four statements of Rav regarding the eating of fish.

### הדרן עלך משקין בית השלחין

6) **MISHNAH:** A dispute is presented regarding the extent of olive pressing that is permissible during Chol Hamoed to prevent a loss.

### 7) Clarifying the Mishnah

It is noted that the Mishnah began discussing mourning and concluded with Chol Hamoed.

R' Shisha the son of R' Idi infers from this that the laws of mourning are more strict than the laws of Chol Hamoed.

R' Ashi maintains whatever is permitted on Chol Hamoed is permitted during mourning.

A Baraisa is cited at length that supports R' Shisha the son of R' Idi.

### 8) Work done with the mourner's property

An incident is recorded that relates to the ruling in the Baraisa that it is permitted to use the property of a mourner if it was in the hands of others before the mourning began.

The details of the incident discussed are presented, in an unsuccessful challenge to the Baraisa. ■

## Distinctive INSIGHT

*What may be done on Chol Hamoed to avoid a loss?*

אמר ליה כיון דמעיקרא אדעתא דאכילה אייתינהו ואי שביק להו פסדי כפרקמטיא האבד דמי ושרי

The Bedisa River dried up on Chol Hamoed and an abundance of fish were left stranded on the river bed. Rava permitted the people to collect the fish and to preserve them. Abaye asked about this ruling, because the Mishnah allowed preserving food only that can be eaten on the festival, whereas Rava permitted pickling fish for much longer than that. Rava answered that the people had initially collected the fish to eat, and they had extra which was too much to eat. In order to prevent a financial loss, they were allowed to preserve the remaining fish to prevent them from being wasted. According to a second version, Rava explained his ruling based upon the fact that each piece of fish that was salted was not necessarily being designated for post-festival consumption. Any of the salted pieces could each be pressed as needed, and eaten after the salt was thereby removed.

Rosh (#28) cites Raaved who asks why Rava had to resort to these particular explanations to justify his leniency. The Yerushalmi clearly rules that if a caravan passes through the town on Chol Hamoed, and a timely opportunity to acquire merchandise at a discount presents itself, one may buy these goods, even though he has no need for them on Yom Tov. Losing the opportunity for financial gain of buying at a discount is halachically equivalent to a potential loss, and it is allowed on Chol Hamoed. Why, then, do we need the excuses of Rava in his allowing the people to gather many fish?

Rosh gives two answers. A found object, such as by the fish, is a total gain, and not being able to gather more is not a

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## REVIEW and Remember

- Under what conditions would it be prohibited to make house repairs on Chol HaMoed?
- What is the best way to eat fish, according the Adda the fisherman?
- Why does the Mishnah begin with mourning and conclude with Yom Tov?
- Under what conditions may a mourner continue to work?

# HALACHAH Highlight

## Building a railing for one's roof

עושיין מעקה לגג ולמרפסת מעשה הדיוט אבל לא מעשה אומן

*We make a railing for a roof or balcony in an unskilled manner but not the work of a craftsman*

Ritva<sup>1</sup> writes that the Mishnah refers to a roof that is not required to have a railing because the Mishnah also mentions constructing a railing for a balcony, and Sifri explicitly exempts a balcony from a railing. Additional proofs are cited that indicate that the Mishnah's ruling refers to cases where the mitzvah is not being fulfilled. This implies that in a case where the railing does fulfill the mitzvah it would be permitted to construct the railing even if it is constructed like the work of a craftsman. Biur Halacha<sup>2</sup>, however, notes that the majority of Poskim cite the halacha of the Mishnah without qualification, thus indicating that under all circumstances a railing may not be constructed using the work of a craftsman.

The Shevet HaLevi<sup>3</sup> offers a proof to the conclusion of Biur Halacha that during Chol HaMoed one should not do the work of a craftsman even when fulfilling the mitzvah of building a railing. The Gemara Bava Metzia<sup>4</sup> rules regarding the rental of property that the landlord is responsible for the door and all other repairs that require the work of a craftsman, but the tenant is responsible for the railing. Since the obligation to construct a railing rests upon the tenant, it is sufficient to make a railing in an unskilled manner. This clearly indicates that even when fulfilling the mitzvah it is acceptable for the railing to be built in an unskilled manner. Therefore, on Chol HaMoed, there is no reason

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loss, just less of a gain. This is not allowed without extenuating conditions. Secondly, to secure a gain via buying and selling is not a genuine melachah. It is a normal transaction, and there is no physical exertion, per se. Salting and preserving a large amount of fish is a physical labor, and it is not permitted without the justification which Rava gave.

According to the first answer of Rosh, one is allowed to do a melachah to avoid a lost business opportunity. The second answer holds that in order to avoid a loss, one may only do an act which is rabbinic (buying and selling), but never an outright melachah (salting fish). Magen Avraham rules according to the second answer, and melachah may not be done to avoid a loss. Rabbi Akiva Eiger and the Gr" a say that Shulchan Aruch holds according to the first answer (see O.C. 533:3). ■

to permit craftsman work in the construction of a railing if a railing constructed in an unskilled manner will fulfill the mitzvah.

Rav Moshe Shternbuch<sup>5</sup> challenges this restrictive ruling against constructing a railing with the work of a craftsman. If there is an ongoing mitzvah to construct a railing, the construction should be considered a Yom Tov need, and there would not be a restriction against constructing the railing using the work of a craftsman. He therefore concludes that the only time the restriction against using the work of a craftsman will apply is in a case where a railing constructed in an unskilled would be sufficient to fulfill the mitzvah. ■

1. ריטב"א לסוגייתנו.
2. ביאור הלכה סי' תקי"מ סעי' א' ד"ה וכן.
3. שו"ת שבט הלוי ח"ז סי' רכ"ט.
4. גמ' ב"מ קא:
5. מועדים וזמנים ח"ז סי' קנ"ו. ■

# STORIES Off the Daf

## The Partner's Loss

"אמר רב אשי גברא רבה כמר בריה דרב אחא עביד הכי..."

Two business partners were in court, and it was decided that if one would consent to swear he would save his friend a large monetary loss. Naturally, the partner who stood to lose the money insisted that his partner take an oath. The other partner, however, declined to do so.

He said, "I have never sworn in court before, and I don't plan to start now. Although I am very sorry about your problem, the loss you will incur if I refrain from swearing makes no difference to me." This partner felt that since taking an

oath is not considered a praiseworthy thing to do, he was within his rights to refuse his partner's request.

The man justified his position, "The fact that this is causing you a loss may be painful, but is not enough to force me to swear. A proof can be found in Moed Katan 11b, where we find an aggadata about Mar, the son of Rav Acha bar Rava, who was a partner with Mari in the ownership of a pair of oxen. When Mar was in mourning, he did not allow Mari to harness his ox to the plow even though Mari could not possibly plow without the second ox. Because Mar was considered a person of significance, there was no grounds to force him to consider his partner's loss over his own principles. This is also true of swearing!"

When this reasoning was presented to

Mahari HaLevi, zt"l, he dismissed it. "That is not a proof. Who said that Mar didn't compensate Mari for his monetary loss!"

When the Tchebiner Rav, zt"l, discussed this reasoning he said, "In the Ritva in Moed Katan there are two opinions about this. The first says that Mar paid for Mari's loss, and this is also the opinion of the Meiri, zt"l. The second opinion is that he didn't have to pay his partner since he is a Tzurba d'Rabanan and there will be a chillul Hashem if people see the oxen of such a prominent person at work when he is forbidden to engage in commerce! Mari was therefore required to forgo his profit to avoid this. These opinions are exactly parallel to the case of the partners that was brought before the Mahari HaLevi!" ■